

Temporary employment

DIRECTIVE 08/17

Supersedes: 20/10

1. Purpose

- a) To encourage and maximise security of employment; and
- b) To ensure efficient and effective service delivery through the appropriate use of temporary employees.

2. Date of effect

1 July 2017

3. Legislative provisions

Sections 53, 147, 148 and 149 of the *Public Service Act 2008* (PS Act).

4. Previous references

15/08, 23/97, 19/97 and 1/97

5. Application

- 5.1 This directive applies where a chief executive has employed a person as a temporary employee on a full-time or part-time basis under section 147 or section 148 of the PS Act.
- 5.2 This directive does not apply where a chief executive has employed a person as a casual employee under section 147 or section 148 of the PS Act. In this case, agencies should refer to the conversion of casuals to permanent employment directive.
- 5.3 This directive relates to the review of the employment status of temporary employees following two years of continuous service and to all subsequent reviews, under section 149 of the PS Act.
- 5.4 The directive relating to recruitment and selection does not apply to the conversion of temporary employees under this directive. However, if an agency is seeking to permanently appoint an existing temporary employee prior to the employee becoming eligible for conversion under section 149 of the PS Act (i.e. before two years of continuous service has been completed), the appointment must comply with the advertising exemptions outlined in the recruitment and selection directive.
- 5.5 The directive relating to supporting employees affected by workplace change (SEAWC) does not apply to the conversion of an employee under this directive. This means that the review of the status of a temporary employee should occur without considering affected employees affected by organisational change under the SEAWC directive.
- 5.6 If an industrial instrument (for example, an Award or Certified Agreement) provides for the way a temporary employee can be converted to permanent that is different to this directive, a chief executive must comply with the industrial instrument rather than this directive.



6. Related information

- The directive relating to [recruitment and selection](#) outlines the requirements for filling vacancies, including on a temporary basis. Advertising exemptions apply to temporary vacancies for less than 12 months and for temporary vacancies at entry level classifications. The directive also allows for a chief executive to exempt a role from advertising, including where that role is to be filled on a permanent basis by a temporary employee following a review of their employment status.
- The directive relating to the [conversion of casuals to permanent employment](#) provides information on the conversion of casual employees from casual employment to employment on tenure.
- The directive relating to [appeals](#) provides information about appealing a decision by an agency not to convert a temporary employee.
- The [Employment Security Policy](#) sets out the Government's commitment to security of employment in Queensland Government agencies.

7. Principles

- 7.1 The Employment Security Policy outlines the Queensland Government's commitment to ongoing employment and limiting the use of temporary employment. Temporary employment should only be used when ongoing employment is not viable or appropriate. Where there is a need to employ a person on an ongoing basis, the chief executive of an agency should employ a person permanently rather than temporarily. In this regard, an agency should also take steps to proactively manage its workforce, including temporary employees, to ensure that workplace change can be managed effectively.
- 7.2 Circumstances that indicate an appointment should be on a temporary rather than permanent basis include, but are not limited to:
- when an existing employee is taking a period of leave (such as parental leave) and needs to be replaced until the date of their expected return from leave;
 - when skills are required for a one-off project with a specific end date;
 - where funding for a project or program after a specific date is uncertain;
 - when an existing employee is absent from their substantive role due to secondment; and
 - when skills are temporarily required prior to a permanent appointment being made in accordance with the directive relating to recruitment and selection.

8. Temporary employee rights and responsibilities

- 8.1 Section 26 of the PS Act requires managers to ensure that public service employees are aware of the work performance and personal conduct expected of them and to proactively manage that performance and conduct. Temporary employees who are engaged for a period of three months or more are required to participate in the formal performance management system of their agency. Participation in the formal system where a temporary employee is engaged for less than three months is at the discretion of the agency.
- 8.2 An agency must ensure that temporary employees are provided with:

- a) access to flexible working arrangements in accordance with the relevant industrial instruments; and
- b) a written notice of engagement for each separate period of engagement, including engagements which extend beyond the end date of the original engagement.

9. Review of the status of a temporary employee

- 9.1 A temporary employee can be converted to permanent following a review of their status as a temporary employee by the agency.
- 9.2 An agency must review the status of a temporary employee's employment (including an entry-level temporary employee) where the employee has been continuously employed as a temporary employee for two years in the same role in an agency.
- 9.3 The requirement to review an employee's temporary status also applies where a temporary employee has performed a cumulative total of two years' service in the same role, provided that the breaks in employment do not exceed a total of three months in the previous two year period.
- 9.4 Where an employee remains temporary, a subsequent review must be conducted after each additional year of continuous service in that same role in accordance with section 149 of the PS Act and this directive. An agency can review earlier than this date if the agency considers it appropriate.
- 9.5 The agency must notify the employee when the agency starts a review of the status of the temporary employee's employment. The notification must be in writing and include:
 - a) the name and contact details of the agency contact for the review;
 - b) the date by which the decision must be made;
 - c) that the employee or their representative may choose to provide a written submission for consideration during the review process;
 - d) that if the chief executive does not make a decision within 28 calendar days after the date the temporary employee became eligible for review, the chief executive is taken to have decided not to convert the temporary employee, as provided by section 149(4) of the PS Act; and
 - e) that a temporary employee may appeal a decision not to convert them to permanent employment, as provided for in sections 196(e) and 197 of the PS Act, and the timeframe for an appeal.
- 9.6 When reviewing the status of a temporary employee's employment and deciding whether their employment is to be converted to permanent, the chief executive of an agency must consider the following criteria:
 - a) whether there is a continuing need for the person to be employed in the role, or a role which is substantially the same, and the role is likely to be ongoing; and
 - b) the merit of the temporary employee for the role by applying the merit criteria in section 28 of the PS Act.
- 9.7 A temporary employee should have their employment converted to permanent unless there are genuine operational reasons not to do so or the temporary employee does not consent.

9.8 Where the employee has performed the same role but at different classification levels, the employee should be considered for conversion at both classification levels and assessed applying the criteria in clause 9.6.

10. Employee's right to notify that a review is required

- 10.1 A temporary employee may notify the employee's agency of its requirement to commence the review and that the employee would like to be converted to permanent employment.
- 10.2 The notification may be made by the employee or the employee's representative.
- 10.3 Notice may be given at any time provided it is not more than three months before the review must be undertaken under clauses 9.2 to 9.4 of this directive.
- 10.4 Where an employee does not notify their agency, the agency is still required to undertake the review in accordance with clauses 9.2 to 9.4 of this directive.

11. Outcome of a review

- 11.1 The outcome of a review must be decided, and the temporary employee notified in writing, within 28 calendar days of the date that the temporary employee became eligible for review.
- 11.2 If the outcome of a review is a decision not to convert the temporary employee the written notification must include the reasons for the decision.
- 11.3 If a chief executive does not make a decision within a period of 28 calendar days after the date the temporary employee became eligible for review, section 149 of the PS Act applies and the employee is deemed to continue as a temporary employee. An employee may lodge an appeal at this point.
- 11.4 A temporary employee who is converted could be subject to a probationary period following conversion in accordance with section 126 of the PS Act. However, given that a temporary employee can only be converted following consideration of their merit (which can include consideration of the way in which the person carried out any previous employment or occupational duties) and following a period of service, it is expected that agencies would use probation only in exceptional circumstances.

12. Appeals

- 12.1 A temporary employee has a right of appeal provided for in section 194(1)(e) of the PS Act in relation to a decision not to convert a temporary employee.

13. Transitional arrangements

- 13.1 Reviews commenced before the date of effect of this directive are to be finalised in accordance with the provisions of Directive 20/10.
- 13.2 Clause 9.5 does not come into effect until 1 September 2017 to allow agencies adequate time to review their policies and procedures.

14. Dictionary

Agency means a department or public service office as defined in sections 7 and 21 of the PS Act.

The same role includes a role which has the same or substantially the same capability requirements, either at level or at a higher classification (e.g. a payroll officer may provide a service to different client groups), or a role with a generic role description involving a range of duties (e.g. rotation through financial and payroll processing duties under a generic entry-level role description).

Permanent means an employee employed under the PS Act either as a general employee on tenure or a public service officer employed on tenure.