

- 1. TITLE:** **Higher Duties**
- 2. PURPOSE:** To prescribe conditions for the payment of higher duties when a public service officer, or temporary employee engaged to perform work of a type normally performed by a public service officer, assumes the duties and responsibilities of a higher classification level.
- 3. LEGISLATIVE PROVISIONS:** Section 34(2) of the *Public Service Act 1996* and section 686 of the *Industrial Relations Act 1999*.
- 4. APPLICATION:** This directive applies to -
 - public service officers; and temporary employees under section 113(2)(a) of the *Public Service Act 1996*.

This directive **does not apply** to

 - general employees under section 112(2)(c); or
 - employees engaged on a casual basis under sections 112(2)(b) and 113(2)(b) of the *Public Service Act 1996*.
- 5. STANDARD:** The conditions and entitlements prescribed in the Schedule apply.
- 6. EFFECTIVE DATE:** This directive is to operate from **1 November 2001**.
- 7. VARIATION:** The provisions of the Schedule may be varied in accordance with certified agreements made under Chapter 6, Part 1 of the *Industrial Relations Act 1999* and decisions of an industrial tribunal of competent jurisdiction.
- 8. INCONSISTENCY:** Sections 34 and 117 of the *Public Service Act 1996* and sections 686 and 687 of the *Industrial Relations Act 1999* apply if there is a conflict with provisions of an act, regulation or industrial instrument.
- 9. SUPERSEDES:** Directive 2/01: "Higher Duties Allowance"
- 10. PREVIOUS REFERENCES:** Directive 18/99: "Higher Duties Allowance"
Directive 14/97: "Higher Duties Allowance"
Sections 63 and 69 of the *Public Service Management and Employment Regulation 1988* as in force on 24 February 1995.
Determination No. 13
DEVETIR letter of 6 December 1993
Administrative Instruction No. 1 I 32
- 11. SEE ALSO:** Directive 12/99: "Study and Examination Leave"
Directive 26/99: "Retrenchment"
Directive 27/99: "Voluntary Early Retirement"
Directive 7/01: "Recreation Leave"
Directive 1/01: "Long Service Leave".

SCHEDULE

HIGHER DUTIES

GENERAL CONDITIONS

Entitlements

A public service officer or temporary employee under section 113(2)(a) of the *Public Service Act 1996* (referred to as “**employee**” for this schedule) who is directed to assume, for any applicable “minimum period” the duties and responsibilities of a “higher classification level” –

- of an employee who is on leave; or
 - of an employee who has been directed to perform other duties; or
 - of a position which is vacant
- is to be paid a higher duties amount as provided in this schedule.

Time limit on claims

Without the approval of the chief executive, a claim is not to be paid unless it is submitted within 12 months

- of the date of completion of the work; or
- incurring of the expense; or
- the conclusion of the circumstances leading to the claim.

Definitions

“**minimum period**” means

- **3 weeks** where the relevant percentage is less than 100%; or
- **more than 3 working days** where the relevant percentage is 100%.

“**higher classification level**” for the purpose of this directive, means a classification level which has a higher maximum salary than the maximum salary of the classification level actually held by the employee.

“**relevant percentage**” means the percentage that, in the opinion of the chief executive, represents the extent to which the employee has assumed the full duties and responsibilities of the “higher classification level”.

“**relieving**” means the period in which an employee has been directed to assume the duties and responsibilities of a “higher classification level”.

ENTITLEMENTS

Amount payable

The higher duties amount payable consists of the "relevant percentage" of the difference between the employee's substantive salary level and paypoint and the minimum paypoint of the higher level position in which the employee will be relieving. The exception is where the employee's substantive salary already exceeds this minimum paypoint or where the employee qualifies for the payment of an increment during the relieving period. .

Salary exceeds minimum

Where the substantive salary of the employee exceeds the lowest paypoint of the "higher classification level", the higher duties amount payable is to be based on the salary that is closest to but higher than the employee's salary at his or her substantive level and paypoint before relieving in the higher position.

No minimum period

A minimum period does not apply where the "higher classification level" is one that is vacant.

Leave not affecting minimum period

In determining whether an employee has satisfied the "minimum period" requirement, leave taken during the relieving period is to be counted as forming part of the relieving period if -

- the employee resumes duty in the "higher classification level" immediately upon returning from leave; and
- the leave taken is on full salary, or special leave without salary to claim workers' compensation or sick leave without salary.

Payment of higher duties amount during leave

The higher duties amount is to be paid for leave taken by the employee during the relieving period only if -

- the employee has assumed the higher duties and responsibilities for the immediately preceding 12 months; and
- during that 12 months the only leave which the employee has taken is leave that may be credited as service.

Note: *The higher duties amount is not paid if the relieving period has concluded before the taking of the leave.*

Where the employee has continuously relieved in higher positions at different levels for at least 12 months immediately before taking the leave the employee is to be paid at the rate of the classification and paypoint of the highest position in which he or she has relieved for twelve (12) months or more. Where the employee has not relieved in the higher of the relieving positions for twelve (12) months or more, the classification and paypoint of the lower level position is to be paid.

Example

If an employee relieves in an A04 position for 7 months or more immediately followed by an A05 position for 8 months. The employee is paid at the A04 rate as he or she has worked in at least an A04 position for 12 months.

Leave on full salary is granted to sit for examinations, or absences of less than 1 working day is authorised to attend lectures as part of a course of study approved under the ministerial directive: "Study and Examination Leave" or any directive issued to replace it.

Payment of increments during relieving period

An employee is to move to the next increment within the "higher classification level" where -

- the employee has been relieving continuously in the "higher classification level" for 12 months or more; and
- the relieving has complied with the recruitment and selection directive; and
- the employee has met the performance objectives of the "higher classification level".

Recreation leave taken during the first twelve months of relieving in the "higher classification level" is taken as service at the higher level for increment purposes.

Where the relieving continues for another 12 months, the employee should move to the next increment within the "higher classification level" subject to meeting performance objectives.

Recognition of higher duties upon appointment

The relieving period is to be recognised as service for the purpose of determining the paypoint and increment date of an employee who is subsequently appointed to a "higher classification level" where the following conditions are satisfied -

- the period of relieving has been continuous for a period of 12 months or more immediately preceding appointment to the "higher classification level by no more than 12 months; and
- the employee was selected for the relieving based on the applicable recruitment and selection processes; and
- the employee has met the performance objectives of the "higher classification level"; and
- the relieving was at the same or at a higher level to the classification level to which the employee has been appointed

Public holiday

Public holidays falling at the beginning or end of a relieving period are to count towards the qualifying period but no higher duties amount is to be paid for the public holiday. Public holidays falling within the relieving period are to count towards the qualifying period and higher duties allowance is to be paid for the public holidays.

Higher duties and provisions of the *Industrial Relations Act 1999*

The higher duties amount is paid in accordance with the conditions outlined above (i.e. after 12 months in the higher positions) when the employee proceeds on -

- long service leave, in accordance with s. 686(2)(d) of the *Industrial Relations Act 1999*; and
- recreation leave, in accordance with s. 686(2)(e) of the *Industrial Relations Act 1999*.

However, if an employee, acting in a higher position, has accrued recreation leave that is to be paid out at termination the payment is at the ordinary rate of pay the employee receives immediately before termination (i.e. the higher duties rate) in accordance with s. 14(5) of the *Industrial Relations Act 1999*.