

## DIRECTIVE 06/16

Supersedes: 11/14

# Minister for Employment and Industrial Relations Directive: Critical Incident Entitlements and Conditions

Pursuant to section 52(3) of the *Public Service Act 2008* and section 687(3) of the *Industrial Relations Act 1999*, this Directive prevails over an industrial instrument to the extent of any inconsistency. Industrial instrument means an award, certified agreement or decision of the Queensland Industrial Relations Commission. This Directive also prevails over other Ministerial Directives to the extent of any inconsistency.

### 1. Purpose:

To prescribe the entitlements and conditions for public service employees in critical incident circumstances.

### 2. Effective date: 8 January 2016

### 3. Legislative authority:

Sections 52(3) and 54(1) of the *Public Service Act 2008* and section 687 of the *Industrial Relations Act 1999*.

### 4. Application:

This Directive applies to departments and public service employees who are identified by the relevant chief executive as performing work essential to the resolution of the critical incident.

### 5. Previous references:

Directives 11/14, 24/10, 03/08 and 01/08

### 6. Related information:

- Directive relating to critical incident response and recovery
- Directive relating to hours, overtime and excess travel (including overtime meal allowance)
- Directive relating to special leave
- Directive relating to domestic travelling and relieving expenses
- Directive relating to motor vehicle allowances
- Directive relating to higher duties
- Directive relating to field staff

## DIRECTIVE

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### 7. When the Directive applies

#### 7.1 The provisions of the Directive apply from the date:

- a) when a critical incident situation is determined to exist by the Minister responsible for Police, Fire and Emergency Services or the Commissioner for Queensland Fire and Emergency Services (QFES); or

- b) when a critical incident or similar situation is declared under the *Disaster Management Act 2003*, the *Public Health Act 2005*, the *State Transport Act 1938* or the *Public Safety Preservation Act 1986*; or
  - c) determined by the chief executive of a department or public service office with approval to apply this Directive in accordance with section 8; or
  - d) the QFES declares an emergency situation exists and that situation is of such significance that it requires employees of QFES and, if required, other public service employees to work extended hours and/or temporary shift work to meet operational demands in preparing for and responding to the situation.
- 7.2 The Directive ceases to apply no later than 60 days after the start date or a later date approved by the chief executive of the department responsible for industrial relations.
- 7.3 Where the Directive is applied in accordance with section 8, the chief executive must cease to apply the Directive as soon as they are satisfied it is no longer required, or in accordance with clause 7.2, whichever is the earlier.

## **8. Chief executive may seek approval to apply Directive**

- 8.1 The chief executive of a department or public service office may seek approval to apply the Directive from the chief executive of the department responsible for industrial relations before, during or after a critical incident occurs.
- 8.2 The approval application must include confirmation that the critical incident is identified in the department's business continuity plan.
- 8.3 If the chief executive of the department responsible for industrial relations approves the application, conditions may be determined as part of the approval.
- 8.4 Approval will not be granted to address disruption to business as a result of lawful or protected industrial action.
- 8.5 At any time, the department may update their information and re-apply for a subsequent approval.

## **9. Employee entitlement and conditions**

- 9.1 The chief executive of the department approved to apply the Directive is to identify the employees performing essential duties and response and recovery duties who are to be remunerated in accordance with sections 10 to 14.
- 9.2 The relevant chief executive must advise affected employees when this Directive applies and when it ceases.

## **10. Flexitime**

- 10.1 Flexitime arrangements are suspended while employees receive entitlements under this Directive.

## **11. Excess Travel**

- 11.1 Provisions relating to official travel outside the ordinary spread of hours (excess travel) in the Directive relating to hours, overtime and excess travel are suspended while employees receive entitlements under this Directive.
- 11.2 Subject to section 11.1, employees who would have been entitled to compensation for excess travel under the Directive relating to hours, overtime and excess travel will instead be compensated for the relevant hours by an additional payment made at the usual hourly rate received by the employee at the time the excess travel occurred. Such travel does not constitute overtime.
- 11.3 Employees undertaking travel between locations and outside the ordinary spread of hours, as part of a single shift, will be compensated via overtime.

- *Example 1 – An employee who works in location A until 7pm, then travels to location B where they continue duty will be entitled to overtime.*
- *Example 2 – An employee who works in location A until 7pm then travels to location B but does not immediately resume duty will not be entitled to overtime.*

## 12. Overtime and TOIL

- 12.1 Overtime will be paid or time off in lieu (TOIL) will be credited to employees who are receiving a salary which does not exceed the full-time equivalent of AO8 paypoint 4.
- 12.2 Overtime is based on the salary the employee is receiving during the critical incident period.
- 12.3 Paid overtime or credited TOIL is calculated up to the cessation of duty at the employee's normal or temporary place of work.
- 12.4 Employees will elect if they wish to be paid overtime or credited with TOIL.
- 12.5 No overtime claim is to be approved where an employee elects to work solely for his or her own benefit or convenience.
- 12.6 An employee credited with TOIL and their manager will take all reasonable steps (subject to managerial approval and organisational convenience) to take the TOIL within six months of the end of the critical incident period.
- 12.7 After six months, any unused TOIL accrued under this Directive will be paid at time and a half (ordinary time plus half ordinary time) at the employee's salary rate paid on the last day of the employee performing essential duties or response and recovery duties.

## 13. Higher duties

- 13.1 There is no requirement for a minimum period of time before higher duties is payable when an employee is directed to assume the duties and responsibilities of an essential position at a higher classification during the critical incident period.

## 14. Domestic travel and hardship allowance

- 14.1 The Directive relating to domestic travelling and relieving expenses applies to employees who have been directed to work under critical incident conditions when, due to circumstances beyond their control, they are unable to reach their place of residence, or it is impractical for them to do so, or when they have been directed not to travel to and from their place of residence.
- 14.2 A hardship allowance of \$47.05 per night is paid when an employee is required to stay in accommodation below the 3 star rating used in RACQ accommodation directories.
- 14.3 Where a 3 star rating applies but facilities are not operational as a result of the critical incident (e.g. accommodation has no air conditioning or hot water), the chief executive or their delegate may approve the hardship allowance if they are satisfied that the accommodation would be considered less than a 3 star rating and a hardship allowance is warranted in the circumstances.

## 15. Definitions

Unless otherwise provided, the terms in this Directive have the meaning prescribed in the PSA.

**Critical incident** means any event requiring swift, decisive action by the Queensland Government in response to and recovery from such event and occurring outside of the normal course of routine business activities.

**Essential duties** means duties considered by the chief executive of the relevant department or public service office as vitally important, directly or indirectly, in resolving a critical incident as identified in the relevant department or public service office's business continuity plan.

**Flexitime** means a system where employees use an organisational accrued time working arrangement made in accordance with Schedule 5 of the *Queensland Public Service Award – State 2012*.

**Overtime** for employees **other than** to whom Schedule 5 of the *Queensland Public Service Award – State 2012* would ordinarily apply means all authorised work in excess of ordinary working hours or outside the ordinary spread of hours as defined in the relevant industrial instrument or award.

**Overtime** for employees to whom Schedule 5 of the *Queensland Public Service Award – State 2012* would ordinarily apply means all authorised work in excess of ordinary hours or outside the ordinary spread of hours.

**Time off in lieu** is credited in lieu of paid overtime on a time for time basis, or in accordance with the basis of time off for time work provided in an industrial instrument or a department's hours of work policy.