

MINISTER FOR EMPLOYMENT, TRAINING AND INDUSTRIAL RELATIONS

- 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)(a); or
 - employees engaged on a casual basis under sections 112(2)(b) or 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 **21 March 2005**.
This directive will apply only to employees performing higher duties as at this date and employees performing higher duties after this date. No entitlement to retrospective payments arises from the implementation of this directive. Periods of relieving prior to this date are to be taken into account in calculating current and future paypoints in accordance with this directive.
- 7. VARIATION:** The provisions in 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 11/01: “*Higher Duties*”
- 10. PREVIOUS REFERENCES:** Directive 2/01: “*Higher Duties Allowance*”
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 1/04: *"Recruitment and Selection"*
Directive 12/99: *"Study and Examination Leave"*
Directive 9/04: *"Retrenchment"*
Directive 10/04: *"Voluntary Early Retirement"*
Directive 8/04: *"Recreation Leave"*
Directive 1/01: *"Long Service Leave"*

SUPERSEDED

SCHEDULE

HIGHER DUTIES

1. Higher duties for 12 months or more

1.1 The Public Service Commissioner Directive: *Recruitment and Selection* is to be complied with where an employee is directed to assume the duties and responsibilities of a “higher classification level” for 12 months or more.

2. Definitions

2.1 “minimum period”:

- where one employee is directed to assume the duties and responsibilities of one position at a “higher classification level” and where the “relevant percentage” is 75% or higher, “minimum period” means more than 3 consecutive working days;
- where one employee is directed to assume the duties and responsibilities of one position at a “higher classification level” and where the “relevant percentage” is less than 75%, “minimum period” means 3 consecutive weeks;
- where two or more employees are directed to assume the duties and responsibilities of one position at a “higher classification level” and where the “relevant percentage” is 75% or higher, “minimum period” means more than 3 cumulative working days during the period of relieving;
- where two or more employees are directed to assume the duties and responsibilities of one position at a “higher classification level” and where the “relevant percentage” is less than 75%, “minimum period” means 3 cumulative weeks during the period of relieving.

2.2 “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.

2.3 “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”.

2.4 “relieving” means the period in which an employee or employees have been directed to assume the duties and responsibilities of a “higher classification level”.

3. Entitlements

3.1 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 (leave does not include accrued time leave, time off in lieu or rostered day off unless it is contiguous with other approved 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.

3.2 This Directive applies to temporary employees only if they are directed to perform higher duties during the temporary period of appointment.

3.3 Where two or more employees are directed to assume the duties and responsibilities of one position at a “higher classification level”, they shall each be paid a higher duties amount as appropriate, provided that the total higher duties amount does not exceed the full-time equivalent of the position at the “higher classification level”.

The cumulative total period of relieving of each employee assuming the duties and responsibilities of one “higher classification level” must comply with the relevant “minimum period”.

Example 1

Employee A is a part-time AO4 employee who works .6 of full-time hours. Employee B is a part-time AO3 employee who works .4 of full-time hours. Employee A and employee B share relieving for one AO6 position for a period of 3 weeks. Employee A relieves on Mondays, Tuesdays and Wednesdays while Employee B relieves on Thursdays and Fridays. Both employees will receive the appropriate higher duties amount ie. employee A for 9 days and employee B for 6 days.

Example 2

Employee A is a part-time AO3 employee who works .8 of full-time hours. Employee B is a part-time AO4 employee who works .6 of full-time hours. Employee A and employee B share relieving for one AO5 position for a period of 3 weeks. Employee A relieves on Mondays, Tuesdays, Wednesdays and Thursdays while employee B relieves on Fridays (and occupies their substantive position for the other 2 days of the week). Employee A will receive the appropriate higher duties amount ie. for 12 days. Employee B will not receive any higher duties amount as they have failed to satisfy the "minimum period" of "more than 3 cumulative working days".

4. Amount payable

4.1 The higher duties amount payable consists of the "relevant percentage" of the difference between the employee's substantive salary level and paypoint and the first paypoint of the "higher classification level" 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 or where the employee has qualified for a higher paypoint of the "higher classification level" through previous relieving in accordance with clause 8.3.

5. Salary exceeds minimum

5.1 Where the substantive salary of the employee exceeds the first paypoint of the "higher classification level", the higher duties amount payable is to be based on the paypoint 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.

6. Leave not affecting minimum period

6.1 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.

7. Payment of higher duties amount during leave

7.1 Where an employee has relieved for less than 12 months, payment for leave is at the employee's substantive rate of pay, except as provided for in clause 7.4.

7.2 The higher duties amount is to be paid for leave taken by the employee during the relieving period 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.*

7.3 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. Where the employee has not relieved in the higher of the relieving positions for twelve (12) months, the classification and paypoint of the lower level position is to be paid.

Example

If an employee relieves in an AO4 position for 4 months or more immediately followed by an AO5 position for 8 months, the employee is paid at the AO4 rate as he or she has worked in at least an AO4 position for 12 months.

7.4 The higher duties amount is to be paid during the relieving period if leave on full salary is granted:

- to sit for examinations, or
- absences of less than 1 working day are 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.

8. Payment of increments during relieving period

8.1 An employee is to move to the next paypoint within the "higher classification level" where –

- the employee has met the performance objectives of the "higher classification level"; and
- the employee has been relieving continuously in the "higher classification level" for 12 months; or
- the employee has been relieving non-continuously in the "higher classification level" for a period which aggregates in total a period of 12 months within the preceding 24 calendar month period.

8.2 An employee is to continue moving to the next paypoint(s) within the "higher classification level" where a previous paypoint as provided for in clause 8.1 has been received for a period of 12 months within the preceding 24 month period.

8.3 Where an employee has moved to the next paypoint within a "higher classification level" and the relieving ceases, the employee will maintain that paypoint if the break in relieving has been less than 12 months and the employee re-commences relieving at the same "higher classification level" or another level which is lower than that level but higher than the employee's substantive level.

Example 1

An employee who is a substantive level AO4 relieves in an AO6 position for a period of 12 months and progresses to the second paypoint. After 5 months on the second paypoint the employee ceases relieving and returns to his/her substantive AO4 position for a period of 9 months. The employee then commences relieving in an AO6 position. The employee is to be paid at the second paypoint of the AO6 scale.

Continuing this example, where the relieving in the AO6 position continues for a further period of 7 months the employee is to move to the third paypoint of the AO6 scale.

Example 2

An employee who is a substantive level AO3 relieves in an AO5 position for a period of 12 months and progresses to the second paypoint. After 3 months on the second paypoint the employee ceases relieving and returns to his/her substantive AO3 position for a period of 5 months. The employee then commences relieving in an AO4 position. The employee is to be paid at the second paypoint of the AO4 scale.

Continuing this example, where the relieving in the AO4 position continues for a further period of 9 months the employee is to move to the third paypoint of the AO4 scale.

8.4 All paid 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.

8.5 Part-time employees who are directed to assume the duties and responsibilities of a "higher classification level" shall be entitled to increments in accordance with the relevant award.

9. Recognition of higher duties upon appointment

9.1 Relieving period/s are 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 relieving was at the same or at a higher level to the classification level to which the employee has been appointed; and
- the employee has met the performance objectives of the “higher classification level” at which the employee relieved.

9.2 The relieving period/s which are 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” are the greater of:

- all continuous relieving service immediately preceding appointment; or
- non-continuous relieving service for a period which aggregates in total a period of 12 months or more within the immediately preceding 24 calendar months.

9.3 Notwithstanding clause 9.2, where an employee has qualified for a higher paypoint of the “higher classification level” through previous relieving in accordance with clause 8.3, the employee shall be appointed at that higher paypoint, provided that the employee has relieved at that “higher classification level” within the 12 months immediately preceding appointment.

10. Public holiday

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

10.2 Public holidays falling within the relieving period are to count towards the minimum period, and the higher duties amount is to be paid for the public holidays unless the public holiday falls during leave without pay.

10.3 The higher duties amount is to be paid for public holidays that fall during paid leave within the relieving period, irrespective of whether the higher duties amount is paid for the leave itself. (*Industrial Relations Act 1999*, sections 11(3) and 43(5), annual leave and long service leave are exclusive of a public holiday that falls during the leave).

11. Termination of services whilst on higher duties

11.1 Where an employee is acting in a higher position on the last day of employment and has accrued recreation leave and/or leave loading that is to be paid out on termination, payment is at the ordinary rate of pay the employee receives immediately before termination (ie. the higher duties rate) in accordance with section 14(5) of the *Industrial Relations Act 1999*.

11.2 Where an employee is acting in a higher position on the last day of employment and has accrued long service leave that is to be paid out on termination, payment is at the employee’s substantive rate of pay except where higher duties served has been continuous for a period of twelve months or more immediately preceding termination, in which case the long service leave payment shall be calculated at the higher duties rate.