

DIRECTIVE 01/17

Conversion of casual employees to permanent employment

1. Purpose

- a) To encourage and maximise permanent employment where possible; and
- b) To ensure efficient and effective service delivery through the appropriate use of casual employees.

2. Effective date

1 March 2017.

3. Legislative provisions

Sections 53, 147(2)(b), 148(2)(b) and 149A of the *Public Service Act 2008* (PSA).

4. Application

- 4.1 This directive applies to public service employees employed on a casual basis under sections 147(2)(b) or 148(2)(b) of the PSA.
- 4.2 If an industrial instrument (for example, an Award or Certified Agreement) provides for the way a casual 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.

5. Related information

- [Temporary employment directive](#) details arrangements for the employment of temporary employees and sets the criteria for review decisions about the status of temporary employees.
- The QIRC [Appeals Guide](#) and [Appeals \(Directive 03/17\)](#) provide information about appealing decisions by agencies not to convert a casual employee to permanent employment.
- [Employment Security Policy](#) sets out the government's commitment to permanent employment in Queensland government agencies.

6. Principles

- 6.1 The Employment Security Policy outlines the government's commitment to permanent employment where possible and limiting the use of casual employment.



6.2 Casual employment should only be used when permanent employment is not viable or appropriate. Examples of viable and appropriate casual employment include where the casual employee:

- backfills permanent or temporary staff on short-term emergent leave;
- covers short gaps in work rosters of permanent and temporary employees;
- is engaged in an ad hoc or “on demand” nature, each engagement standing alone; or
- works irregular, informal, flexible, occasional or unrostered hours.

6.3 An agency should periodically review the use of casual employees to limit casual employment and to proactively manage its workforce planning.

7. Application for conversion of casual employee to permanent employment

7.1 A casual employee may apply to have their employment converted to permanent employment if the person has been employed as a casual employee on a regular and systematic basis for at least 2 years, as provided by section 149A of the PSA.

7.2 Casual employees may apply in writing to the chief executive.

7.3 Conversion of a casual employee to permanent employment must only occur with the consent of the employee.

7.4 Upon receipt of an application for conversion of a casual employee, the agency must notify the casual employee in writing:

- the date the application for conversion was received by the agency;
- the name and contact details of the agency contact for the application;
- the date the decision must be made by (28 calendar days from the date the agency received the application);
- that if the chief executive does not make a decision within 28 calendar days after the date of the application for conversion, the chief executive is taken to have decided not to convert the casual employee, as provided by section 149A(4) of the PSA; and
- that a casual employee may appeal a decision not to convert them to permanent employment, as provided by section 197 of the PSA, and the timeframe for an appeal.

8. Criteria for a decision

8.1 When making a decision about an application of a casual employee for conversion to permanent employment, the chief executive must consider the following criteria:

- a) Is the person employed as a casual employee?
- b) Is the basis of the casual employment both regular and systematic?

The chief executive must look at the engagement as a whole and consider each application on a case by case basis.

Circumstances that may indicate the casual employment is regular and systematic include (but are not limited to):

| Regular | Systematic |
|--|--|
| <ul style="list-style-type: none"> • Usual, normal or customary • Recurs at a fixed time or periodically • Observes fixed times or habits <p>Evidence might include:</p> <ul style="list-style-type: none"> • Repetitive pattern • Frequent though unpredictable engagements • Regular days or hours of work or provided with shifts regularly | <p>Having, showing or involving <u>a system, method or plan</u></p> <p>Evidence might include:</p> <ul style="list-style-type: none"> • Pattern of engagement • A fixed roster (or predicable hours) • Unpredictable hours may also be evidence of a pattern of engagement • Degree of certainty about work hours • Ongoing reliance upon the worker's services |

Note: The evidence listed above are examples only. Other evidence may support a finding that the basis of the casual employment is regular and systematic.

c) Has the person been employed on a regular and systematic basis as a casual employee for at least two years?

Employment on a regular and systematic basis as a casual employee for at least two years includes:

- non-continuous service, where a casual employee has performed a cumulative total of two years' service in the same role in an agency, including periods of temporary and casual service, provided that the breaks in employment do not exceed a total of three months in the cumulative two year period.

d) Has the casual employee satisfactorily met the performance objectives of the role during their employment?

e) If all of the above criteria are satisfied, the chief executive must then consider:

Are there genuine operational reasons not to convert the casual employee? These may include (but are not limited to):

- whether there is a continuing need for the person to be employed in the role, or in a role which is substantially the same, and the role is likely to be ongoing;
- where the minimum hours set out in an industrial instrument if the casual is converted will not suit operational requirements; or
- where a closed merit selection process is more appropriate to determine an order of merit for casual conversions.

8.2 In line with the Employment Security Policy, the chief executive should convert the casual employee to a permanent employee at level, unless there are genuine operational reasons not to do so.

9. Outcome of the application

- 9.1 The outcome of the application for conversion of a casual employee to permanent employment must be decided, and the employee must be notified in writing, within 28 calendar days of the date the casual employee's application for conversion was received by the agency.
- 9.2 If the outcome is a decision not to convert the casual employee to a permanent employee, the written notification must include the reasons for the decision.
- 9.3 If the outcome is a decision to convert the casual employee to a permanent employee:
 - (a) the written notification must include the terms and conditions of the offer to convert to permanent employment (e.g. full-time or part-time, days and hours of work, pay, location of the employment and any other changes to entitlements);
 - (b) the days and hours of work in the offer to convert to permanent employment should reflect the regular and systematic casual employment, unless otherwise agreed; and
 - (c) the chief executive cannot convert the casual employee unless they accept the terms and conditions of the offer to convert, within the timeframe specified in the written notification.
- 9.4 If a chief executive does not decide the application for conversion of a casual employee within a period of 28 calendar days after the date the application was received by the agency, the chief executive is taken to have decided not to convert the casual employee, as provided by section 149A(4) of the PSA,. An employee may lodge an appeal at this point.
- 9.5 A casual employee who is converted could be subject to a probationary period following conversion in accordance with section 126 of the PSA. However, given that the casual employee has performed the required service with the agency, it would not be expected that agencies would use probation other than in exceptional circumstances.

10. Appeals

A casual employee has a right to appeal a decision not to convert their casual employment to permanent employment, as provided under section 194(1)(ea) of the PSA.

11. Transitional arrangements

- 11.1 An initial transition period of 1 year will apply from the date of effect of this directive.
- 11.2 All applications for conversion of a casual employee to permanent employment received during the transition period must be finalised and casual employees notified of the decisions made within 28 calendar days of the expiry of the transition period.

12. Dictionary

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

Industrial instrument has the same meaning as schedule 5 of the *Industrial Relations Act 2016*.

In 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 employment means employment as a general employee on tenure or a public service officer on a part-time or full-time basis.

Superseded by
Directive 08/20