



# MINISTER FOR EMPLOYMENT, TRAINING AND INDUSTRIAL RELATIONS

## PUBLIC SERVICE COMMISSIONER

**DIRECTIVE No. 9/04**  
**October 2004**

- 1. TITLE:** **Retrenchment**
- 2. PURPOSE:** To prescribe action to be taken in relation to public service employees who are retrenched and the conditions and entitlements available to these employees.
- 3. LEGISLATIVE PROVISIONS:** Sections 34 and 81 of the *Public Service Act 1996*.
- 4. APPLICATION:**
- 4.1 Schedules A and C** of this directive are the responsibility of the **Public Service Commissioner**.
- 4.2 Schedules A and B** of this directive are the responsibility of the **Minister for Employment, Training and Industrial Relations**.
- 4.3 Schedules A and B** apply to public service employees.
- The schedules do not apply to public service employees –
- who are engaged on a temporary basis under sections 112(2)(a) or 113(2)(a) of the *Public Service Act 1996*; or
  - who are engaged on a casual basis under sections 112(2)(b) or 113(2)(b) of the *Public Service Act 1996*; or
  - who are on contracts under the *Public Service Act 1996*\*; or
  - whose employment is terminated in accordance with disciplinary action, or retirement because of mental or physical incapacity.
- \*NOTE** - Officers under section 70 contracts who revert to tenured public service employment will regain their eligibility on reversion.
- 4.4 Schedules A and C** apply to senior executives or senior officers.
- 5. STANDARD:** The entitlements and requirements prescribed in the Schedules apply.
- 6. EFFECTIVE DATE:** This directive is to operate from **11 October 2004**.
- 7. VARIATION:** The provisions in Schedule B may be varied in accordance with certified agreements made under Chapter 6, Part 1 of the *Industrial Relations Act 1999* or a decision of an industrial tribunal of competent jurisdiction.

**8. INCONSISTENCY:** Sections 34 and 117 of the *Public Service Act 1996* and section 687 of the *Industrial Relations Act 1999* apply if there is a conflict with an act, regulation or industrial instrument.

**9. SUPERSEDES:** Directive 26/99 “*Retrenchment*”

**10. PREVIOUS REFERENCES:** Directive 2/98 “*Retrenchment*”  
Directive 22/97 “*Retrenchment*”  
Directive 7/97 “*Retrenchment*”  
Directive 7/96 “*Retrenchment*”  
*Public Sector Management Standard for Staffing Options to Manage Organisational Change in the Queensland Public Sector*  
Circular 8/91

**11. RESPONSIBILITIES:**

- 11.1 **The Minister for Employment, Training and Industrial Relations** has issued clauses 1, 2, 3, 4.1, 4.2, 5, 6, 7, 8, 9, 10, 11.1, and 12 and **Schedule A and B** of this directive.
- 11.2 **The Public Service Commissioner** has issued clauses 1, 2, 3, 4.1, 4.3, 4.4, 5, 6, 9, 10, 11.2 and 12 and **Schedules A and C** of this directive.

**12. SEE ALSO:** Government policy is to redeploy employees where possible. This directive must be read in conjunction with directives –  
*4/02 Deployment and Redeployment;*  
*4/99 Medical Deployment and Redeployment;*  
*10/01 “Voluntary Early Retirement”;*  
*the Employment Security Policy; and*  
*Proposals for Organisational Restructure - Policy.*

# SCHEDULE A

## RETRENCHMENT

### GENERAL REQUIREMENTS

#### 1. Definitions

- 1.1 **“Severance benefit period”** is the period of time which equates to the payment of the severance benefit expressed in weeks (note this period of time does not include recreation leave, long service leave or the notice period).
- 1.2 **“Week’s pay”** means the ordinary time rate of pay for the employee concerned. Provided that the following amounts are excluded from the calculation of the ordinary time rate of pay: overtime, penalty rates, disability allowances, shift allowances, fares and travelling time allowances and any other ancillary payments.

#### 2. How Retrenchment is to proceed

- 2.1 The Public Service Commissioner shall approve the retrenchment of public service employees, other than Senior Executive Service Officers, only in exceptional circumstances, upon the recommendation of the Chief Executive of the department in which the retrenchment package is to be offered.
- 2.2 A retrenchment of a surplus public service employee may occur after being provided with retraining, transfer and/or redeployment opportunities<sup>1</sup>.
- 2.3 If the Public Service Commissioner is satisfied that retraining, transfer or redeployment are no longer viable options, or that a surplus employee is not participating actively in the deployment process, that employee may be retrenched.
- 2.4 The Chief Executive shall ensure that the provisions of the *Income Tax Assessment Act 1936 and Regulations* are complied with when issuing a retrenchment package to an employee.
- 2.5 If applicable, the Chief Executive shall ensure that sections 90 and 90A of the *Industrial Relations Act 1999* are met for consultation with employee organisations and notification to the relevant Commonwealth department.

#### 3. Reporting

- 3.1 Each department shall state in its Annual Report the number of retrenchments made in the previous financial year and the total monetary value of the severance benefits.

#### 4. Reporting

- 4.1 A person who has received a retrenchment package and who is subsequently engaged in one Queensland Government entity<sup>2</sup> or more as a consultant, contractor, or employee for a total cumulative period of more than twenty (20) working days in the severance benefit period is required to refund to the Crown a portion of their severance benefit. The person shall be entitled to retain only that portion of the severance benefit which covers the period of time for which they were not engaged in a Queensland Government entity or a minimum of twenty days’ salary, whichever is the greater.
- 4.2 For example, a person who receives a severance benefit of 30 weeks’ pay may work only for a total cumulative period of 20 days in the 30 week period after the date on which the retrenchment becomes effective without having to refund a portion of the severance benefit.
- 4.3 Continuing this example, once the same person works in excess of 20 days within the 30 week severance benefit period, the person is entitled to retain that portion of the severance benefit applicable to the period of time for which they were not engaged in a Queensland Government entity. The person would be required to refund to the Crown the remainder of the severance benefit. Provided that the person would be entitled to retain a minimum of 20 days’ salary.
- 4.4 A part-time employee who receives a retrenchment package for the loss of one part-time job and who retains another part-time job in the Queensland public service, shall be required to refund the portion of severance benefit to which they are not entitled should they subsequently increase their part-time hours during the severance benefit period.
- 4.5 The Chief Executive of the re-engaging agency is responsible for implementing procedures to collect the refund.

<sup>1</sup> In accordance with the requirements of the Public Service Commissioner Directive relating to deployment and redeployment.

<sup>2</sup> As defined in section 21 of the *Public Service Act 1996*.

## SCHEDULE B

### RETRENCHMENT

#### ENTITLEMENT FOR EMPLOYEES OTHER THAN SES AND SENIOR OFFICERS

##### 1. Entitlement

1.1 Retrenchment packages provided by this directive are compensation for loss of job tenure.

1.2 A retrenchment package shall comprise the following:

- Accrued recreation leave<sup>3</sup>;
- Accrued long service leave for employees who have worked for at least one year, on the basis of 1.3 weeks for each year of continuous service and a proportionate amount for an incomplete year of service<sup>4</sup>;
- A severance benefit of two weeks' pay per year of service and a proportionate amount for an incomplete year of recognised service paid at the employee's substantive appointed level. The minimum payment is four weeks' pay, the maximum is 52 weeks, provided that no employee shall receive less than the severance benefit under the Termination, Change and Redundancy Statement of Policy issued by the Queensland Industrial Relations Commission.

##### 2. Tenured part-time employees

2.1 Tenured part-time employees whose work is declared surplus to requirements shall be entitled to a severance benefit. The benefit provides for two weeks' full-time pay per year of service and a proportionate amount for an incomplete year of recognised service (minimum four weeks, maximum 52 weeks). The benefit is calculated on total full-time equivalent years of service.

2.2 Employees who hold two or more tenured part-time jobs shall be entitled to a severance benefit calculated only on the proportion of full-time equivalent years of service applicable to the part-time job from which they are declared surplus.

##### 3. Recognition of prior service

3.1 Employees whose previous employment is recognised for the purpose of calculating long service leave entitlement are entitled to a severance benefit. This benefit is based on their period of previous recognised employment and current period of employment. The total severance benefit will not exceed 52 weeks' pay.

3.2 Employees whose previous employment is recognised for the purpose of calculating long service leave entitlement and who have received a severance benefit from their previous employer, shall be entitled to a severance benefit calculated only on their current period of employment.

##### 4. Superannuation

4.1 Superannuation benefit is calculated according to the formula prescribed under the conditions of the superannuation scheme of which the employee is a member.

##### 5. Relocation expenses

5.1 Public service officers who are retrenched will be entitled to relocation expenses consistent with the Ministerial Directive: *Relocation Expenses for Officers Retiring From the Service*.

<sup>3</sup> If the employee is performing higher duties at the date of termination, the calculation shall be consistent with the requirements of Ministerial Directive: *Higher Duties*.

<sup>4</sup> If the employee is performing higher duties at the date of termination, the calculation shall be consistent with the requirements of Ministerial Directive: *Higher Duties*.

**SCHEDULE C**  
**RETRENCHMENT**

**ENTITLEMENTS FOR SENIOR EXECUTIVE SERVICE (SES) AND SENIOR OFFICERS**

**1. Entitlement**

1.1 The Governor in Council shall approve the retrenchment of Senior Executive Service or Senior Officers after consultation with the Public Service Commissioner.

1.2 A retrenchment package shall comprise the following:

- Accrued recreation leave<sup>5</sup>;
- Accrued long service leave for officers who have worked for at least one year, on the basis of 1.3 weeks for each year of continuous service and a proportionate amount for an incomplete year of service<sup>6</sup>;
- A severance benefit of two weeks' pay per year of service and a proportionate amount for an incomplete year of recognised service paid at the officer's substantive appointed level. The minimum payment is four weeks' pay, and the maximum is 52 weeks, provided that no officer shall receive less than the severance benefit under the Termination, Change and Redundancy Statement of Policy issued by the Queensland Industrial Relations Commission.

**2. Part-time officers**

2.1 Part-time officers whose work is declared surplus to requirements shall be entitled to a severance benefit. The benefit provides for two weeks' full-time pay per year of service and a proportionate amount for an incomplete year of recognised service (minimum four weeks, maximum 52 weeks). The benefit is calculated on total full-time equivalent years of service.

2.2 Officers who hold two or more part-time jobs shall be entitled to a severance benefit calculated only on the proportion of full-time equivalent years of service applicable to the part-time job from which they are declared surplus.

**3. Recognition of prior service**

3.1 Officers whose previous employment is recognised for the purpose of calculating long service leave entitlement are entitled to a severance benefit. This benefit is based on their period of previous recognised employment and current period of employment. The total severance benefit will not exceed 52 weeks' pay.

3.2 Officers whose previous employment is recognised for the purpose of calculating long service leave entitlement and who have received a severance benefit from their previous employer, shall be entitled to a severance benefit calculated only on their current period of employment.

**4. Superannuation**

4.1 Superannuation benefit is calculated according to the formula prescribed under the conditions of the superannuation scheme of which the officer is a member.

**5. Relocation expenses**

5.1 Officers who are retrenched will be entitled to relocation expenses consistent with the Ministerial Directive: *Relocation Expenses for Officers Retiring From the Service*.

<sup>5</sup> If the employee is performing higher duties at the date of termination, the calculation shall be consistent with the requirements of Ministerial Directive: *Higher Duties*.

<sup>6</sup> If the employee is performing higher duties at the date of termination, the calculation shall be consistent with the requirements of Ministerial Directive: *Higher Duties*.