# MOBILITY ARRANGEMENT [TEMPLATE] – NOTES

**NB: PLEASE DELETE THIS NOTE BEFORE FINALISING ARRANGEMENT**

1. This template is for use when parties are seeking to enter into a mobility arrangement under section 82 of the *Public Sector Act 2022* (the Act). The template is intended to outline the details of the proposed mobility arrangement. This template is not intended to be used for a secondment under section 160 of the Act, which is a separate and distinct arrangement to a mobility arrangement.
2. **This template has been settled by Crown Law and does not constitute legal advice and is not a substitute for legal advice. Entities are encouraged to seek independent legal advice where necessary.**
3. This is a sample template only. Under section 82(3) of the Act *“the mobility arrangement may make provision for all matters necessary or convenient to be provided for under the arrangement”.* The sample provisions below should be amended and updated as appropriate according to the specific details of the mobility arrangement as agreed between the parties.
4. Entities must ensure the mobility arrangement complies with the provisions of the Act and Public Sector Commissioner Directive 03/25: Workforce mobility (the Directive).
5. Section 82 of the Act allows a chief executive of a public sector entity to enter into an arrangement under which a person can temporarily perform work or duties for or within the entity or another entity.
6. The mobility arrangement may only be made with the consent of the person undertaking the mobility arrangement, and where the work or duties are to be performed for or within another entity, the chief executive, or appropriate office holder, of the other entity.
7. Clause 9.11 of the Directive provides that the details of the proposed arrangement must be provided to, and agreed by, the person undertaking the mobility arrangement, prior to commencement.
8. Details of the agreed mobility arrangement must be documented and provided to all parties for their records.
9. To ensure information sharing between the home and host entity does not offend the *Information Privacy Act 2009*, consideration should be given to obtaining written agreement from the person undertaking the mobility arrangement, prior to the commencement date, to information sharing between the parties regarding the person’s work performance and conduct.

**PART C – ADDITIONAL CONDITIONS**

1. In addition to the agreed terms and conditions listed under Part B of the arrangement, depending on the nature and complexity of the arrangement, it may be necessary for the arrangement to include additional conditions.
2. The additional conditions (where necessary) will generally be specific and should be considered on a case-by-case basis. Entities are encouraged to seek legal advice where necessary.
3. Some examples of additional conditions may include (but is not limited to):
   1. flexible work arrangements or workplace adjustments
   2. criminal history or child-related duties screening
   3. intellectual property – which entity owns any intellectual property created during the mobility arrangement
   4. delegations – may be required if the person will be exercising a statutory power in the host entity to ensure there is no question about validity of decisions made or powers exercised
   5. conflicts of interest
   6. no sub-contracting conditions
   7. insurance arrangements / requirements
   8. licences, approvals or registrations as applicable.

# Mobility arrangement

A chief executive of a public sector entity may enter into a mobility arrangement as provided for under section 82 of the *Public Sector Act 2022* (the Act).

A mobility arrangement can only be made with the consent of the person undertaking the mobility arrangement, and where the work or duties are to be performed for or within another entity, the chief executive, or appropriate office holder, of the other entity.

Mobility arrangements are temporary in nature and do not change the employment relationship between an employee and their employer.

**This mobility arrangement is made in accordance with section 82 of the Act and Public Sector Commissioner directive 03/25: Workforce mobility (the Directive).**

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| Part A - Details | | |
| 1. Person undertaking mobility arrangement | **Name** | **Contact details** |
| 1. Duration of arrangement | **Start date** | **End date** |
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| 1. Home entity |  | |
| 1. Host entity | *Or the alternate area/entity where the work is to be performed / who the work is to be performed for*  e.g. Work will be performed for Queensland Fire and Emergency Services | |
| 1. Work or role to be undertaken and performance expectations | *Consider attaching basic role description of work for position* if *relevant/necessary* | |
| 1. Direction and supervision | [PERSON’S NAME] will perform **work within** [HOST ENTITY NAME] under the direction and supervision of [NAME, POSITION, HOST ENTITY].  OR  [PERSON’S NAME] will perform **work for** [HOST ENTITY NAME] under the direction of [NAME, POSITION, HOST ENTITY] and be supervised by [NAME, POSITION, HOME ENTITY]. | |
| 1. Work location (including travel requirements) | *Option to include which entity is responsible for providing resources at this location such as information and communication technology* | |
| 1. Applicable industrial instruments | *List applicable Award and Agreement (for industrial instrument employees)* | |
| 1. Remuneration | *Details of the applicable remuneration, remuneration scale or classification level and paypoint.*  *Note that the person is not to be financially disadvantaged as a result of consenting to a mobility arrangement.* | |
| 1. Hours of work |  | |
| 11. Payroll arrangements | *Insert details about the payroll arrangements, for example which entity is responsible for paying the persons salary, allowances, benefits, leave entitlements, superannuation, PAYG and what the arrangements are to ensure the employee is not over or under paid*.  *Note that an employer has obligations under the Industrial Relations Act 2016 to keep time and wages records. During a mobility arrangement where an employee is paid by the host entity, the home entity must obtain copies of these records from the host entity to meet this obligation.* | |
| 12. Leave arrangements | *Insert details about leave arrangements, including for example who is responsible for approving leave, arrangements to have leave entitlements reconciled with home entity, arrangements for leave accrued during mobility arrangement and for transfer at the end of the mobility arrangement, the remuneration level, remuneration scale or classification level and paypoint that leave will be paid at during the mobility arrangement.* | |
| 13. Primary duty of care under WHS legislation | *e.g. who has the primary duty of care during the mobility arrangement in accordance with WHS Act obligations – see Part B for further information* | |
| 14. Workers’ compensation obligations | *e.g. that the home entity maintains workers’ compensation insurance for the employee during the mobility arrangement in accordance with the Workers’ Compensation and Rehabilitation Act 2003. Additionally, that the host entity indemnifies the home entity for any workers’ compensation claim made by the employee for an injury sustained while performing work in the host entity – as outlined in Part B.* | |
| OPTIONAL DETAILS | | |
| 15. Contact details for person in home entity  (optional) |  | |
| 16. Contact details for person in host entity  (optional) |  | |
| 17. Right to review of employment status by home entity during arrangement (optional) | *Where a public sector employee enters into a mobility arrangement, insert details about the employee’s right to a review by home entity under chapter 3, part 9, division 1 (Review of non-permanent employment) and division 2 (Review of acting or secondment at higher classification level*) *of the Act (if applicable).* | |

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| Part B – Agreed terms and conditions |
| 1. Health and safety   Under the *Work Health and Safety Act 2011* (QLD) (WHS Act), the primary duty of care is imposed on a person conducting a business or undertaking (PCBU). The PCBU can be different from a person’s employer, and includes people whose activities are influenced or directed by the PCBU.  Under a mobility arrangement, both the home entity and the host entity have obligations under the WHS Act.  The primary duty of care will be on the entity who has the day-to-day responsibility for the person’s work, while the person is working. The host entity will ensure the person is properly inducted with the host entity including the host entity taking steps to ensure the person understands the host entity’s workplace health and safety policies, and any other policies or procedures that would normally be communicated to new employees of the host entity including emergency evacuation procedures for the location at which the person will be working for the host entity during the mobility arrangement. |
| 1. Workers’ compensation and rehabilitation   The home entity will maintain workers’ compensation insurance for the person as a worker of the home entity.  The host entity indemnifies the home entity in respect of any workers’ compensation claim made by the person for an injury sustained while performing work in the host entity. |
| 1. Confidentiality   Each party to the mobility arrangement agrees that it will maintain, and will ensure it or its employees, agents, contractors and associates maintain the confidence of the Confidential Information of the other party. Confidential Information means information that is by its nature confidential, is designated by the party as confidential and which the person or entity knows or ought to know is confidential. This includes Personal information under the *Information Privacy Act 2009*.  Each party will ensure that it and/or its employees, agents, contractors and associates do not disclose any Confidential Information of the other party to any person, except:   1. with the prior consent of the other party 2. where it is necessary to fulfil and perform the duties under this arrangement, or 3. where required by law or an order of the court.   Each entity party to the mobility arrangement acknowledges and accepts that the other entity may be required to disclose information, including Confidential Information, pursuant to the *Right to Information Act 2009.* |
| 1. Liability and indemnity   Where the mobility arrangement has the effect of the person performing work or duties within another entity, the host entity acknowledges that:   1. it accepts the person to perform work within the host entity at the host entity’s own risk; and 2. the home entity is not responsible for the standard of work carried out by the person for the host entity.   Despite any other section of this mobility arrangement, the home entity will not be liable for any claim, in contract, tort, or otherwise, to the host entity arising from any act or omission of the home entity or the person in connection with the person’s work for the host entity under this mobility arrangement, including any liability by way of negligence or arising from any duty of care which may exist. This paragraph does not apply to any liability arising under statute (including under the WHS Act) to the extent it cannot be limited or excluded.  The host entity indemnifies the home entity in respect of any claim made by, or liability to, any third party in connection with this mobility arrangement or the person’s work for the host entity on a full indemnity basis, except to the extent that the claim or liability is occasioned by fraud, serious misconduct or deliberate breach of duty on the part of the home entity. |
| 1. Conduct, behaviour and/or performance   Where the person is employed by a home entity to which the Code of Conduct for the Queensland Public Service (the Code) applies, the Code will continue to apply to the person for the duration of the mobility arrangement unless otherwise stated in the mobility arrangement. For example:  *If the host entity has a different (or additional) code of conduct or standard of practice, or additional policies or procedures that govern a person’s conduct and behaviour in their work for the host entity, those different (or additional) codes or standards may apply to the person for the duration of the mobility arrangement and should be provided for in the additional conditions of the mobility arrangement*.  Where the work performed by the person for the host entity under the mobility arrangement is being performed in a public sector entity, the person’s performance for the host entity will be managed in accordance with the positive performance management principles set out under the Act and the directive issued by the Public Sector Commissioner relating to positive performance management.  During the mobility arrangement the host entity may obtain from the home entity and provide to the home entity relevant information concerning the person’s work performance and conduct, subject to compliance with any relevant laws. |
| 1. Termination of mobility arrangement   The person’s chief executive, or the chief executive (or appropriate office holder) of the other entity may end the mobility arrangement, subject to the relevant notice period required in accordance with the Directive.  If, at any time, during the mobility arrangement, the person ceases to be employed by the home entity, the person’s mobility arrangement with the host entity automatically terminates on the date the person ceases employment with the home entity. |

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| Part C – Additional conditions (refer to NOTES section – add or delete rows as required or delete table if not required) |
| 1. Condition   [insert details] |
| 1. Condition   [insert details] |
| 1. Condition   [insert details] |
| 1. Condition   [insert details] |

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| Part D – Signed by the parties to the mobility arrangement | | |
| Party | **Signature** | **Date** |
| I, Chief Executive, [NAME OF HOME ENTITY], agree to enter into a mobility arrangement in accordance with the details, terms and conditions set out in this document |  |  |
| *(delete if not applicable)*  I, Chief Executive, [NAME OF HOST ENTITY], consent to the mobility arrangement in accordance with the details, terms and conditions set out in this document |  |  |
| I, [NAME OF PERSON UNDERTAKING MOBILITY], consent to the mobility arrangement in accordance with the details, terms and conditions listed above |  |  |