

State Service Act 2000



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Title: TRANSPORT

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Purpose (Intent/Outcome)

This Direction specifies entitlements and administrative procedures in relation to:

- Calculation of salary
- Increments
- Leave
- Transport

for persons covered by the *Minister for Public Sector Administration and the Australian Municipal, Administrative, Clerical, and Services Union (Tasmanian Authorities and Services Branch) Agreement 1996*.

Legislative Basis and Related Documents

- *State Service Act 2000* Section 14
- *Minister for Public Sector Administration and the Australian Municipal, Administrative, Clerical, and Services Union (Tasmanian Authorities and Services Branch) Agreement 1996*

Directive

Pursuant to Section 14 of the *State Service Act 2000* I hereby direct that the following administrative arrangements with regard to persons covered by the *Minister for Public Sector Administration and the Australian Municipal, Administrative, Clerical, and Services Union (Tasmanian Authorities and Services Branch) Agreement 1999* shall have effect:

1. Interpretation

- (1) For the purposes of this direction, unless the contrary intention appears -
- “classification” has the meaning assigned by the *State Service Act 2000*;
 - “Controlling Authority” means the Minister administering the *State Service Act 2000*.
 - “dependent” has the meaning assigned by the *State Service Regulations 2001*;
 - “division” means a branch of the Commission referred to in section 24 (1) of the *Transport Act 1981*;
 - “employee” has the meaning assigned by the *State Service Act 2000*;
 - “employee in charge or sub-charge” means an employee in charge of a section or an employee for the time being exercising the powers of an employee in charge or sub-charge of a section;
 - “Head of Agency” means the Commissioner for Transport appointed under section 4 of the *Transport Act 1981*;
 - “relative” has the meaning assigned by the *State Service Regulations 2001*;
 - “relevant Award” means the *Minister for Public Sector Administration and the Australian Municipal, Administrative, Clerical, and Services Union (Tasmanian Authorities and Services Branch) Agreement 1996*
 - “relevant division”, in relation to an employee, means the division in which that employee is employed;
 - “section” means a section of a division which has been divided into sections for administration purposes;
 - “sick leave year” means, in relation to an employee, the period of 12 months commencing on-
 - (a) the day on which the employee first reports for duty, whether on probation or not; or
 - (b) such other day as determined by the relevant *Head of Agency* after taking into account a period of leave of absence without pay amounting to more than 20 working days; or
 - (c) the annual anniversary of a day specified in paragraph (a) or (b), as the case requires.
 - “working day”, in relation to an employee not on shift work, means a day other than -
 - (a) a Saturday; or
 - (b) a Sunday; or
 - (c) a State Service holiday.

A person who is employed or appointed as a temporary employee as defined in the *Tasmanian State Service Act 1984* is deemed to be employed or appointed as a fixed-term employee as defined in the *State Service Act 2000*.

2. Calculation of fortnightly and hourly salary

- (1) An employee's fortnightly salary is to be calculated by the following formula:

$$\frac{\text{Annual Salary}}{1} \times \frac{10}{\text{Total Number of Working Days}} = \text{Fortnightly Salary}$$

where the total number of working days represents the number of calendar days, exclusive of Saturdays and Sundays, within the financial year commencing 1 July each year (ie 260, 261 or 262).

- (2) An employee's hourly salary is to be calculated by dividing the fortnightly salary contained in paragraph (1) by the number of ordinary working hours per fortnight.

3. Increments

- (1) An employee who is, and for not less than 12 months has been, in receipt of a salary less than the maximum salary (if any) assigned to the position held by that employee -
- (a) by a classification for the time being in force under the Act; or
 - (b) if the salary assigned to that employee's duties has been prescribed by an Award, by that Award - is entitled to receive the annual increment (if any) prescribed in relation to that position by that classification or award until that maximum salary (if any) is reached, unless in any year that employee is deprived of the annual increment as provided in this clause.
- (2) An annual increment referred to in paragraph (1) shall not be paid to an employee unless, in the opinion of the Head of Agency, that employee's conduct, diligence and efficiency, during the 12 months immediately preceding the date from which the increment would become payable, have been satisfactory.
- (3) If the Head of Agency is of the opinion that an employee is not entitled to receive an increment referred to in paragraph (1), the Head may issue an order depriving that employee of that increment.
- (4) A copy of an order issued under paragraph (3) shall be served on the employee affected by that order, and that employee may appeal to the State Service Commissioner against that order.

4. Procedures for sick leave for permanent employees

- (1) A permanent employee shall, if practicable, within two hours after commencing to be absent, on account of illness or incapacity, inform the head of the relevant division or the employee in charge or sub-charge, as the case may require, of his or her inability to attend for duty, the nature of the illness or incapacity and the estimated duration of that absence.
- (2) An application by a permanent employee for sick leave shall be in writing and shall be submitted to the head of the relevant division on the day that employee resumes duty following the expiration of that employee's absence on account of illness or incapacity.
- (3) A permanent employee is not entitled to be granted sick leave with pay in respect of any illness or incapacity occasioned by reason of that employee's own misconduct.
- (4) A permanent employee who is absent on account illness or incapacity for a period exceeding five days shall obtain a medical certificate from a legally-qualified

medical practitioner and shall submit it, wherever practicable, to the head of the relevant division within three days after the commencement of that absence.

- (5) The Head of Agency may require any permanent employee who is absent from duty on account of illness or incapacity to be examined at that employee's residence or elsewhere, as the Head may determine, by a legally-qualified medical practitioner.
- (6) The Head of Agency may cause the cost of an examination referred to in paragraph (5) to be deducted from the salary payable to that employee.
- (7) A permanent employee who returns to duty after being absent on account of illness or incapacity may be required by the Head of Agency to obtain from a legally-qualified medical practitioner nominated by the Head a certificate stating that that employee is fit to resume duty.

5. Sick leave for permanent employees

- (1) Subject to this clause, a permanent employee is entitled, during a sick leave period, to leave of absence on account of sickness, either on full pay, half pay, or without pay, according to the following scale:-
 - (a) a permanent employee having not less than ten years' service -
 - (i) on full pay, 132 working days; and
 - (ii) on half pay, 66 working days; and
 - (iii) without pay, 66 working days;
 - (b) a permanent employee having not less than five years' service but less than ten years' service -
 - (i) on full pay, 66 working days; and
 - (ii) on half pay, 66 working days; and
 - (iii) without pay, 132 working days;
 - (c) a permanent employee having less than five years' service -
 - (i) on full pay, 22 working days; and
 - (ii) on half pay, 44 working days; and
 - (iii) without pay, 132 working days.
- (2) In this clause, "sick leave period", in relation to an employee, means the period of three years commencing on -
 - (a) the day on which the employee first reports for duty, whether on probation or not; or
 - (b) such other day as determined by the relevant *Head of Agency* after taking into account a period of unpaid leave, but not unpaid maternity leave, that exceeds a total of 20 days in any sick leave year; or
 - (c) the annual anniversary of a day specified in paragraph (a) or (b), as the case requires.
- (3) Leave of absence under this clause may be granted to an employee by the relevant *Head of Agency* on an application, in writing, made by or on behalf of that employee.

- (4) Where leave is granted under subclause (3) for a period of three or more consecutive working days, the third and any subsequent day is without pay unless the leave is supported by the certificate of a legally-qualified medical practitioner.
- (5) Where, in a sick leave year, an employee has been granted paid leave of absence under this clause in respect of an aggregate of five working days for which no supporting certificates of a legally-qualified medical practitioner have been given to the relevant *Head of Agency*, any further leave of absence on account of sickness granted under this clause is without pay unless the leave is supported by the certificate of a legally-qualified medical practitioner.
- (6) Where a permanent employee was, immediately before becoming a permanent employee, a fixed term employee, there shall be credited to that employee at the time of becoming a permanent employee (whether on probation or otherwise) the period of sick leave to which that employee would have been entitled at that time, as if that employee's total continuous service from the date of first reporting for duty as a fixed-term employee had been service as a permanent employee and the sick leave periods had commenced in accordance with subclause (2).
- (7) Service as a fixed-term employee shall be deemed to be service for the purpose of subclause (1) when determining an employee's entitlement under that subclause.
- (8) The sick leave entitlement under subclause (6) shall replace any sick leave entitlement a fixed-term employee may have had immediately before that employee became a permanent employee.
- (9) The sick leave entitlement referred to in subclause (8) shall apply only to the balance of the current sick leave period calculated in accordance with subclause (6).
- (10) Where any permanent employee has, as a result of the application of subclause (8)
 - (a) at the commencement of any sick leave period, less sick leave entitlement on full pay than that employee had under clause 6 at the time of becoming a permanent employee; and
 - (b) during that sick leave period, used the whole of the sick leave entitlement on full pay -

that employee may be granted such further sick leave on full pay as the relevant *Head of Agency* may determine to the extent that any part of that employee's previous entitlement under clause 6 at the time of becoming a permanent employee would then have remained had that employee not become a permanent employee or until the sick leave entitlement on half pay, reduced as provided by subclause (9), had expired, whichever occurs first.
- (11) Each working day of the further sick leave on full pay granted in accordance with subclause (8) shall be counted as two working days' sick leave on half pay against that employee's entitlement under subclause (1).

6. Sick Leave for fixed-term employees

- (1) A fixed term employee who has completed continuous service for 20 working days in the State Service may be granted by the relevant *Head of Agency*, in that Head's discretion, leave of absence on account of sickness -
 - (a) for ten working days, in respect of the first year of that employee's service; and

- (b) a further period of nine working days for each completed year of service, in respect of the second and each subsequent year of that employee's continuous service -

but any period of leave so granted shall not exceed the authorised period of employment of that employee.

- (2) The provisions of clause 5 (3), (4) and (5) apply to sick leave under this clause.
- (3) A fixed-term employee, for the purposes of this clause, does not include a fixed term employee who receives a rate of remuneration that excludes the right to any sick leave entitlements .

7. Sick leave for certain fixed-term employees

- (1) Subject to this agreement, a fixed-term employee -
 - (a) who has completed one year's continuous service and who the relevant *Head of Agency* certifies is likely to complete a further three years' continuous service; or
 - (b) has completed four years' continuous service -

is entitled, during any sick leave period, within the meaning of clause 5 (2), to leave of absence on account of sickness either on full pay, half pay or without pay, according to the scale in subclause 5 (1) as if that employee were a permanent employee.

- (2) A fixed-term employee for the purposes of this clause does not include a fixed-term employee who receives a rate of remuneration that excludes the right to any sick leave entitlements.
- (3) The relevant *Head of Agency* may limit the amount of sick leave granted to a fixed-term employee if that sick leave would extend beyond the authorised period of employment of that employee.
- (4) Subclauses (6) to (11) inclusive, of clause 5 apply to a fixed-term employee who is entitled to sick leave under subclause (1) as if that employee became a permanent employee when that employee became entitled to sick leave in accordance with that subclause.
- (5) Clause 5 (3), (4) and (5) applies to leave granted under this clause as if the fixed-term employee were a permanent employee.

8. Bereavement leave

- (1) In the event of the death of a relative of an employee, the relevant Head of Agency may, in that Head's discretion, grant to that employee leave of absence on account of bereavement, with pay, for a period -
 - (a) not exceeding five working days in the case of an employee who was an employee before 1 July 1990; and
 - (b) not exceeding three working days in any other case.

9. Special and bereavement leave not available in certain circumstances

- (1) Where an employee is absent on any leave, that employee is not entitled to special leave of absence under regulation 25 of the *State Service Regulations 2001* or bereavement leave under clause 8 during that absence.

10. Use of sick leave for maternity leave purposes

- (1) Where an employee is granted leave of absence for the purposes of maternity leave, that employee may notify the relevant *Head of Agency* that she desires to treat as leave of absence on account of sickness such amount of leave of absence for maternity leave purposes granted under the relevant award as is equal to the amount of leave of absence on the grounds of sickness to which she is entitled in this Direction.
- (2) The period of leave of absence which may, under subclause (1), be treated as leave of absence on account of sickness shall not exceed 61 working days.
- (3) A reference in subclause (1) to sickness shall be deemed not to include references to sickness arising out of or in the course of the employment of an employee or arising from her default or misconduct.

11. Transport allowance

- (1) An employee may, with the prior approval of the Head of Agency, be reimbursed for the actual cost paid by that employee for the use of alternative means of transport in the performance of that employee's duties when public transport is not available or convenient.

Application

This Direction applies to all persons covered by the *Minister for Public Sector Administration and the Australian Municipal, Administrative, Clerical, and Services Union (Tasmanian Authorities and Services Branch) Agreement 1996*.

Date of period of operation

This Direction will come into effect upon the date of proclamation of the *State Service Act 2000* and remain in force until such time that amendments are made to the *Minister for Public Sector Administration and the Australian Municipal, Administrative, Clerical, and Services Union (Tasmanian Authorities and Services Branch) Agreement 1996* with respect to the contents of this Direction.

Issued by authority of the Minister administering the *State Service Act 2000* pursuant to Section 14(1).

Date

Jim Bacon MHA
Premier