



ATTORNEY GENERAL AND MINISTER FOR INDUSTRIAL RELATIONS

DIRECTIVE No. 4/09
May 2009

In accordance with section 52(3) of the *Public Service Act 2008* and section 687(3) of the *Industrial Relations Act 1999*, this directive prevails over an industrial instrument and other directives to the extent of any inconsistency. Industrial instrument means an award, industrial agreement, certified agreement or decision of the Queensland Industrial Relations Commission.

1. **TITLE:** **Employment Arrangements in the Event of a Human Influenza Pandemic**
2. **PURPOSE:** To prescribe the specific employment conditions to apply in case of disruption caused by the occurrence of a human influenza pandemic.
3. **LEGISLATIVE PROVISION:** Section 54(1) of the *Public Service Act 2008*.
Section 686 of the *Industrial Relations Act 1999*.
4. **APPLICATION:** This Directive applies to "public service employees", as defined in section 9 of the *Public Service Act 2008*.

The Directive prevails over industrial instruments and other Ministerial Directives to the extent of any inconsistency.
5. **STANDARD:** The entitlements and conditions prescribed in the schedules apply.
6. **EFFECTIVE DATE** This Directive is to operate from 1 June 2009
7. **VARIATION:** This Directive can be varied by –
 - The Minister responsible for industrial relations; or
 - Legislation.
8. **INCONSISTANCY:** Sections 51 and 52 of the *Public Service Act 2008* and section 687 of the *Industrial Relations Act 1999* apply if there is a conflict with an act, regulation or industrial instrument.
9. **SEE ALSO** Directives on:
 - Sick Leave;
 - Recreation Leave;
 - Long Service Leave
 - Special Leave;
 - Bereavement Leave;
 - Hours and Overtime;
 - Critical Incident Entitlements and Conditions.

Family Leave (Queensland Public Sector) Award - State

**SCHEDULE A
PANDEMIC ENTITLEMENTS AND CONDITIONS**

GENERAL CONDITIONS

1. Implications of a human influenza pandemic

Pandemic is a critical health issue which will have significant impact on the public sector workforce, workplaces and delivery of services. It will directly affect many people's health and well-being, and potentially all the roles performed in the ordinary course of employment.

A pandemic will arise rapidly, spread quickly and likely come in waves of eight to twelve weeks. It will cause significant disruption to normal business conditions. Likely impacts on workplaces include:

- increased sickness and death;
- increased absence due to illness;
- increased absence to provide care and support to family members who are ill;
- increased absence due to social distancing/quarantine measures;
- increased absence due to the closure of schools, child care or public transport facilities;
- possible disruption to supply of goods and materials; and
- possible disruption to essential service delivery.

In October 2005 the multi-agency Queensland Pandemic Influenza Taskforce (the QPIT) was established to undertake whole-of-government planning for a human influenza pandemic. In October 2006 the QPIT published the *Interim Queensland (Whole-of-Government) Pandemic Influenza Plan*.

The aim of this plan is to

- support the minimisation of the health consequences of a human influenza pandemic; and
- minimise the social and economic consequences to the Queensland community.

This directive has been specifically designed to achieve an effective balance between the capacity of employees to continue in the workplace and the capacity of departments and agencies to manage the workplace and maintain service delivery under pandemic conditions.

2. Assumptions underpinning the Directive

This Directive is consistent with the relevant assumptions in the Interim Plan. It is underpinned by the following assumptions regarding agency preparedness:

- Agencies have local Pandemic Influenza Preparedness Plans that include action plans for staff deployment during a pandemic event and specific instructions to staff about workplace health and safety precautions required during a pandemic.
- Agencies have business continuity plans in place for maintaining essential services and critical human resource services such as payroll and employee support.
- Existing conditions of employment will be applied to employment arrangements during a pandemic wherever possible.

The following assumptions are critical to assessing impact on workplaces.

- A pandemic will last for a period of up to twelve months with cases occurring in waves across the community. Two or more waves of infection are expected and these may be separated by three to nine month periods. The duration of each wave of illness may be about 8 weeks with the second wave possibly having a more serious impact than the first.
- 15% of the workforce will be absent for approximately 8 weeks of the pandemic wave because closure of school or child care facilities oblige working parents to stay home and look after children. This proportion would vary according to the particular workforce.
- 35% of those remaining at work will become ill at some time during the 8 weeks of a pandemic wave.
- Every person who becomes ill during a pandemic wave has 7 shifts off work.
- There is a 100% additional absence rate. That is, for every person in the remaining workforce who gets ill, another is absent from work because they the need to look after a family or household member, or because public transport is not available for them to travel to work.

3. Objective of this directive

This directive aims ensure the effective management of the Queensland public sector workforce during a human influenza pandemic.

4. Policy

Government will make every effort to ensure that the employment conditions of its employees are not adversely affected during a pandemic event.

Agencies need to balance the requirement to continue their essential services with the well being and legitimate personal, family and community responsibilities of their employees.

Industrial health and safety arrangements need to support the key pandemic response aims of containing the spread of the virus and minimising economic and social disruption.

The provisions of existing employment legislation such as the *Industrial Relations Act 1999* and the *Public Service Act 2008* will continue to apply during a pandemic except to the extent needed to minimise the impacts of a declared pandemic as provided for in **Schedule B** below. These provisions will be used to maintain the remuneration levels of government employees.

Where workplace arrangements need to be varied to accommodate business continuity planning for a pandemic event, these arrangements will be:

- made in advance and in consultation with employees, employee representatives and/or relevant unions where required;
- within the relevant legislative framework; and
- applied fairly and equitably at the workplace.

Upon application, an employee who has exhausted their sick leave accruals will be entitled to 20 days paid "Special Pandemic Leave" for use when the employee is unable to attend work because they:

- have actual or suspected viral infection; and/or
- are required to care for family or household member/s who have actual or suspected viral infection; and/or
- are required to care for children as a result of the closure of school or child care centres; and/or
- are unable to access public transport to travel to work.

Once Special Pandemic Leave is exhausted, employees will be expected to access their existing recreation leave and long service leave entitlements.

Where an employee seeks to access accrued long service leave in accordance with this directive, the minimum continuous service period of seven years prescribed in the Ministerial Directive on Long Service Leave shall not apply.

Employees will be paid ordinary time salary if they are willing and able to attend work but are directed by the employer not to attend work.

When employees are directed to attend their usual place of work, the employer will have determined that the workplace poses minimum/no risk to that employee.

Employees who refuse a lawful direction to attend work for reasons other than those provided in this directive or another reasonable explanation may be disciplined or suspended without pay.

Employees who advise they are exhibiting symptoms of the virus should be directed to remain at home until they are cleared to return to work.

Employees who exhibit symptoms of the virus while at work should be directed to leave the workplace.

Employees who have had the virus or who have been exposed to the virus should be advised not to return to work until after the minimum prescribed time has elapsed.

Employees who are absent from work as a result of the influenza pandemic will not be required to submit a medical certificate. Instead, they will be required to provide a copy of a record of attendance at a Queensland Health Influenza Assessment Centre or such other document which satisfies agency requirements.

5. When entitlements under this Directive apply

The entitlements under this Directive will be activated **only** when a declaration of a public health emergency is made under Section 319 of the *Public Health Act 2005*.

In Queensland, the response to an influenza pandemic will be managed through the State Disaster Management System with:

- Queensland Health having the lead agency responsibility; and
- The State Disaster Management Group having responsibility for consequence management involving local and district disaster management groups.

Advice on changes to the national alert level will come through the Chief Health Officer to the Premier via the Director General, Department of the Premier and Cabinet.

Agencies and departments will then be advised to activate the entitlements under this directive.

SCHEDULE B

VARIATIONS TO MINISTERIAL DIRECTIVES AND OTHER CONDITIONS

<p>6. Absence due to closure of school/child care centres or public transport is unavailable</p> <p>6.1 Where employees need to care for their children due to closure of schools or child care centres or are unable to attend work because public transport is unavailable, they shall be able to access a maximum of 20 days paid Special Pandemic Leave once they have exhausted their sick leave accruals.</p> <p>If employees require more leave and need to access long service leave, the minimum period requirement of one week's leave shall not apply.</p> <p>7. Absence because of illness or need to care for ill family or household members</p> <p>7.1 Where employees have actual or suspected illness or need to care for ill family or household members, they shall be able to access a maximum of 20 days paid Special Pandemic Leave once they have exhausted their sick leave accruals.</p> <p>If employees require more leave and need to access long service leave, the minimum period requirement of one week's leave shall not apply.</p> <p>8. Undertaking volunteer roles in the community</p> <p>8.1 Where employees are absent from work because they are fulfilling volunteer roles in the community related to the pandemic (e.g. assisting in a hospital or an aged care facility), such absence is deemed to be included under the leave type "attendance at emergencies" prescribed at Part A or "Declared emergency situation or state disaster" as prescribed in Part B of the Ministerial Directive on Special Leave.</p> <p>These employees may, subject to departmental convenience, be allowed approved special leave on full pay.</p> <p>9. Requirement for medical certificates</p> <p>9.1 Where employees access paid Special Pandemic Leave or other leave as a result of illness, or need to care for ill family or household members, they are not required to provide a medical certificate.</p>	<p>Instead, employees will be required to provide a copy of a record of attendance at a Queensland Health Influenza Assessment centre or such other documentation which satisfies agency requirements. This documentation will be required for all periods of absence.</p> <p>10. Non-essential employees not required at work</p> <p>10.1 Where non-essential employees are directed by the agency not to attend work, such employees are to be paid ordinary salary (including work-related allowances) based on projected roster without debit to any leave account.</p> <p>11. Closedown of a workplace</p> <p>11.1 Where an agency closes down a workplace due to health and safety issues and/or unavailability of sufficient staff, any employees who normally attend work at that workplace shall either be directed to attend work at an alternative workplace or be directed not to attend any workplace.</p> <p>Where directed by the agency not to attend work such employees are to be paid ordinary salary (including work-related allowances) based on projected roster without debit to any leave account.</p> <p>12. Refusal by employee to attend work</p> <p>12.1 Where an employee refuses to attend work for fear of contracting the virus, such refusal is to be deemed as not reasonable. The CEO may then take disciplinary action and/or place the employee on leave without pay.</p> <p>13. Access to accrued long service leave with less than 7 years service</p> <p>13.1 Where an employee seeks to access accrued pro rata long service leave in accordance with this directive, the minimum continuous service period of 7 years prescribed in the Ministerial Directive on Long Service Leave shall not apply.</p>
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14. Access to Special Leave

14.1 The only Special Leave categories which can be accessed in pandemic situations are the leave types "attendance at emergencies" prescribed at Part A or "declared emergency situation or state disaster" as prescribed in Part B of the Ministerial Directive on Special Leave.

For purposes of consistency across the sector staff may not access the leave types "emergency or compassionate grounds", "flood, cyclones, bushfires etc" and "other exceptional circumstances" prescribed in Part A of the Ministerial Directive on Special Leave.

**SCHEDULE C
PANDEMIC SCENARIOS**

This Schedule describes the possible industrial relations scenarios that could occur during a human influenza pandemic and the available responses under legislative and administrative frameworks existing at the time of publication of this Directive. In due course, other Directives referred to may be superseded by replacement Directives.

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
1	Personal illness – suspected or actual – full time of part time	<p>Directive 19/05 – Sick Leave</p> <p>Up to 10 days for each completed year of service or part thereof.</p> <p>Additional sick leave available for meritorious service, war service and if illness is contracted because of performing official duties.</p> <p>Employees who use up all their sick leave may access any available recreation leave balances.</p>	<p>Access to paid Special Pandemic Leave (SPL) for full time and part time employees – 20 days maximum once sick leave accruals are exhausted.</p> <p>Where SPL exhausted, employees may access recreation and/or long service leave.</p> <p>Access to LSL with no 7 year qualifying period required.</p>	<p>Directive 19/05 (Sick Leave)</p> <p>Directive 13/08 (Long Service Leave)</p> <p>20/05 (Recreation Leave)</p>
2	<p>A casual employee is unable to attend work because of:</p> <ul style="list-style-type: none"> • actual or suspected illness; and/or • requirement to care for family or household members with actual or suspected illness; and/or • need to care for children as a result of the closure of school or child care centres; and/or • are unable to access public transport to travel to work. 	<p>Directive 19/05 – Sick Leave</p> <p>The Sick leave directive does not apply to employees engaged on a casual basis under sections 147 (2) (b) or 148 (2) (b) of the <i>Public Service Act 2008</i>.</p>	<p>Access to paid SPL – 20 days for long term casuals as defined by the <i>Industrial Relations Act 1999</i> and employed under sections 147(2)(b) and 148(2)(b) of the <i>Public Service Act 2008</i>.</p> <p>That is, is a casual employee engaged by a particular employer, on a regular and systematic basis, for several periods</p>	<p><i>Public Service Act 147(2)(b)</i> (Employment of General Employees)</p> <p><i>Public Service Act 148(2)(b)</i> (Employment of Temporary Employees)</p> <p>Family Leave (Queensland Public Sector) Award – State 2004</p> <p>Directive 19/05 (Sick Leave)</p>

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
			of employment during a period of at least 1 year immediately before the employee seeks to access special pandemic leave.	
3	Employee caring for sick family or household member/s.	Carer's leave debited against accrued sick leave.	Access paid SPL - 20 days maximum once sick leave accruals are exhausted.	Family Leave (Queensland Public Sector) Award – State 2004 Directive 19/05 (Sick Leave) Directive 20/05 (Recreation Leave) Directive 13/08 (Long Service Leave)
4	Employee caring for children due to closure of school and/or child care centres.	Emergent/compassionate leave (Special Leave) for all employees excluding casuals and general employees.	Access paid SPL - 20 days once sick leave accruals are exhausted. Other leave types (i.e. recreation and/or long service leave) may be accessed if required once SPL exhausted. Emergent/compassionate leave not to be utilised in these situations.	Family Leave (Queensland Public Sector) Award – State 2004 Directive 19/05 (Sick Leave) Directive 20/05 (Recreation Leave) Directive 13/08 (Long Service Leave)

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
5	Staff unable to travel to work because public transport is unavailable.	Telecommuting available on request subject to operational convenience.	Departments can enter additional telecommuting arrangements by agreement until public transport becomes available. Where this is not possible and employees are not able to attend work by their own means, employees can access sick leave, SPL and other available leave types when this exhausted.	Directive 19/05 (Sick Leave) Directive 20/05 (Recreation Leave) Directive 13/08 (Long Service Leave) Agency telecommuting arrangements
6	Employee absent due to pandemic related death of one or more close family members/.	Directive 5/06 - Bereavement leave. Two days leave on full pay on each occasion.	No variation required.	Family Leave (Queensland Public Sector) Award – State 2004 Directive 5/06 (Bereavement leave)
7	Employee refuses to attend work for fear of contracting the virus.	<i>Public Service Act 2008 – s187:</i> officers may be disciplined if absent without leave and without reasonable excuse. Employee can also be placed on leave without pay.	No variation required as CEOs will only require attendance if workplace is safe and healthy and determined to have minimal/no risk.	<i>Public Service Act 2008 – s187</i> (Grounds for Discipline)
8	Employee refuses to attend work after being directed to do so by the employer.	<i>Public Service Act 2008 – s187:</i> officers may be disciplined if absent without leave and without reasonable excuse. Employee can also be placed on leave without pay.	No variation required.	<i>Public Service Act 2008 – s187</i> (Grounds for Discipline)

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
9	Employee is absent from work while fulfilling volunteer roles in the community (e.g. State Emergency Service, local hospital, aged care facility, etc).	Directive 8/06 - Special Leave Leave on full pay as required at departmental convenience.	Chief Executive has the discretion to grant special leave with pay to fulfil additional and relevant volunteer roles in keeping with the intent of the "attendance at emergencies" as prescribed in part A and "Declared emergency situation or state disaster" as prescribed in Part B of the Ministerial Directive on Special Leave.	Directive 8/06 (Special Leave)
10	Non-essential employees not required at work.	Where an employee is willing and able to attend work, and is directed by the employer not to attend work, ordinary salary (including work-related allowances and based on projected roster) is payable.	No variation required.	Directive 10/96 (Prescribed Remuneration)
11	Employee shows symptoms of illness while at work.	Employee can be directed to leave the workplace and apply for sick leave etc.	This rule to be strictly enforced to stem spread of the virus. Employee may be asked to undertake a medical assessment.	<i>Public Service Act 2008 – Part 7 (Mental or Physical Incapacity)</i> <i>Public Service Act 2008 – s25 (Principles of Public Service Employment)</i>

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
12	Employee returns to work after a period of illness caused by the pandemic virus.	No special arrangements.	Employees should be advised not to return to work until after the relevant minimum period has elapsed (e.g. three days after the virus symptoms disappear for influenza). <i>Note: further advice will be sought from Qld Health.</i>	<i>Public Service Act 2008 – Part 7 (Mental or Physical Incapacity)</i> <i>Public Service Act 2008 – s25 (Principles of Public Service Employment)</i>
13	Employee returns to work after a period of caring for family members who have contracted the pandemic virus.	No special arrangements.	It may be necessary to screen employees before they enter the workplace. <i>Note: further advice will be sought from Qld Health.</i>	Family Leave (Queensland Public Sector) Award – State 2004
14	Staff present for work but the work location is not available because of reasons such as quarantine.	Staff normally paid and could be directed to attend work at alternative locations.	No variation required.	<i>Public Service Act 2008 – s120 (Secondment of Officers) and s133 (Transfer of Officers)</i>
15	Staff not observing health and safety protocols.	Employees can be directed to leave the workplace. Employer can implement discipline procedures and/or suspend without pay.	No variation required	<i>Public Service Act 2008 – s187 (Grounds for Discipline), Part 7 (Mental or Physical Incapacity), s25 (Principles of Public Service Employment)</i>

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
16	Employer decides to close down a workplace because insufficient staff are available.	Where employee is not on approved leave and is ready to attend work, and is directed by the agency not to attend work, ordinary salary (including work-related allowances and based on projected roster) is payable.	No variation required Refer Item 10 above	Directive 10/96 (Prescribed Remuneration)
17	Employer staggers working hours to minimise chance of spread of illness by increasing physical distance between staff members.	Generally, this can be done in accordance with existing award/EB hours provisions by agreement, including public servants under accrued hours arrangements.	No variation required	Relevant award or agreement
18	Employee is required to work in other locations or doing different work.	Employees can be directed to attend work at different locations.	<p>Employer needs to ensure</p> <ul style="list-style-type: none"> • employees are able to perform the alternative work; and • the workplace health and safety status of the alternative workplace. <p>Agreement is required from non-officers to perform different roles at same or different levels.</p>	<p><i>Public Service Act 2008</i> – s133 (Transfer of Officers)</p> <p>Directive 10/96 (Prescribed Remuneration)</p>

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
19	Employees working from home.	Telecommuting available on request subject to operational convenience.	Chief Executives may extend telecommuting arrangements, temporarily remove some requirements (e.g. OHS inspections) and encourage certain employees to work from home.	Agency telecommuting arrangements
20	Available staff work additional hours during the pandemic to cover for others who are ill or absent from the workplace.	Most staff would be subject to the Critical Incident Entitlements and Conditions Directive No. 03/08 for overtime remuneration during a declared pandemic. For those staff not subject to Directive 03/08, overtime would be payable as per the existing award entitlements.	No variation required	Directive 03/08 (Critical Incident Entitlements and Conditions Directive)
21	Some staff are required to work in lower level positions because of high levels of absenteeism.	Agreement should be sought from employees to temporarily perform lower level duties. Appointments to lower level should not occur and employee maintains normal substantive salary.	No variation required	<i>Public Service Act 2008</i> s133 (Transfer of Officers) Directive 24/99 (Transfer Within and Between Classification Levels and Systems)
22	Some staff are required to work in higher level positions because of absenteeism.	Higher Duties Directive applies	No variation required	Directive 2/05 (Higher Duties)

No	Scenario	Current Arrangements	Variation for Pandemic Flu	Legislative or other Reference
23	Staff are required to evidence that absence from work is a result of the declared pandemic situation – personal illness or carer’s responsibilities or unavailability of public transport.	Directive 19/05 – Sick Leave An application for sick leave or carer’s leave of more than three days is to be supported by a medical certificate or any other evidence of the illness that is acceptable the chief executive.	Medical certificate not required. Staff are required to provide a copy of a record of attendance at a Queensland Health Influenza Assessment centre or such other document which satisfies agency requirements – for self or other with actual or suspected illness. Employees are required to provide evidence of closure of relevant school of child care centre and unavailability of public transport to travel to work The documentation will be required for all absences.	Family Leave (Queensland Public Sector) Award – State 2004 Directive 19/05 (Sick leave)
24	Employee seeks special leave because of: <ul style="list-style-type: none"> • real or suspected illness; and/or • requirement to care for family members who have an illness related to the virus; and/or • requirement to care for children as a result of the closure of school or day care facilities; and/or • inability to access public transport to travel to work. 	Directive 8.06 – Special Leave CEOs may grant special leave in a range of circumstances which include but are not limited to: <ul style="list-style-type: none"> • emergency or compassionate grounds • floods, cyclones, bushfires etc • other exceptional circumstances. 	In order to ensure equity across the sector, special leave provisions will not be utilised in pandemic situations. The exception is “attendance at emergencies” as prescribed in Part A and “Declared emergency situation or state disaster” as prescribed in Part B of the Ministerial Directive on Special Leave. CEOs may extend this particular arrangement for employees attending emergencies directly related to the pandemic.	Directive 8/06 (Special Leave)

