



# ATTORNEY-GENERAL AND MINISTER FOR INDUSTRIAL RELATIONS

**DIRECTIVE No. 13/10**  
August 2010

- 1. TITLE:** **Court Attendance and Jury Service**
- 2. PURPOSE:** To prescribe the entitlements for employees required to attend court as a witness or to undertake service as a juror.
- 3. LEGISLATIVE PROVISION:** Section 54(1) of the *Public Service Act 2008*.
- 4. APPLICATION:** This directive applies to “public service employees” as defined in section 9 of the *Public Service Act 2008*.
- This directive **does not apply** to trainees whose conditions are set out in the *Order Apprentices’ and Trainees’ Wages and Conditions (Queensland Government Departments and Certain Government Entities)*.
- 5. STANDARD:** The conditions and entitlements prescribed in the Schedule apply.
- 6. EFFECTIVE DATE:** This directive is to operate from **23 August 2010**
- 7. VARIATION:** The provisions in the Schedule may be varied in accordance with a certified agreement made under Chapter 6, Part 1 of the *Industrial Relations Act 1999* or decisions of an industrial tribunal of competent jurisdiction.
- 8. INCONSISTENCY:** 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. SUPERSEDES:** Ministerial Directive 4/05: “*Court Attendance and Jury Service*”.
- 10. PREVIOUS REFERENCES:** Ministerial Directive 5/01: “*Court Attendance and Jury Service*”.  
Ministerial Directive 15/99: “*Court Attendance and Jury Service*”.  
Sections 61, 62 *Public Service Management and Employment Regulation 1988* as in force on 24 February 1995.  
Administrative Instruction No. 1 | 45.
- 11. SEE ALSO:** Directive titled: “*Domestic Travelling and Relieving Expenses*”.

## SCHEDULE

### GENERAL CONDITIONS

#### 1. Entitlement

- 1.1 A public service employee (**referred to as an "employee" in the schedule**) subpoenaed to attend court as a witness shall be entitled to such expenses and leave as provided for in this schedule.
- 1.2 An employee who is required to undertake service as a juror shall be entitled to such expenses and leave as provided for in this schedule.
- 1.3 Casual employees shall receive payment for the hours the employee would have worked but for the requirement for court attendance or jury service.
- 1.4 Employees engaged on a casual basis are not entitled to be compensated for travel, accommodation or meals while attending court as a witness or juror.

#### 2. Notification

- 2.1 An employee is to notify the employer as soon as possible of the date the employee is required to attend court as a witness or to undertake jury service.

#### 3. Definitions

- 3.1 "full salary" means:
  - (a) the ordinary hours worked by the employee; and
  - (b) the amounts payable to the employee for those hours, including (for example) projected allowances, loadings and penalties, but excluding reimbursement allowances; and
  - (c) any other amounts payable under the employee's employment contract.

#### 4. Part day court attendance or jury service

- 4.1 Where reasonable, employees who are not required to attend court or jury service for a complete day are to attend work for the balance of their working day.

## COURT ATTENDANCE

### 1. Official capacity

1.1 An employee subpoenaed or called as a witness in the employee's official capacity –

- (a) is to pay any fees or allowances received for the employee's attendance as a witness to the chief executive for payment into departmental funds; and
- (b) is entitled to be paid all necessary expenses incurred by the employee in attending court, including travelling allowances prescribed in ministerial directive "Domestic Travelling and Relieving Expenses" (as amended from time to time) in the case of a public service officer or temporary employee, or the relevant industrial instrument; and
- (c) where performing higher duties, the employee shall continue to be paid their higher duties entitlements for court attendance falling within their relieving period. The higher duties period is not interrupted by the requirement to attend court in their official capacity.

### 2. On behalf of a State or the Commonwealth

2.1 An employee, subpoenaed or called as a witness by a State or the Commonwealth to give evidence other than in the employee's official capacity –

- (a) is to be granted court attendance leave on full salary for attendance and any necessary travel time; and
- (b) is to pay any fees received to attend as a witness to the chief executive for payment into departmental funds; and
- (c) is entitled to retain any allowances received or expenses reimbursed for travel, accommodation or meals while attending court as a witness; and
- (d) if performing higher duties the employee shall continue to be paid their higher duties rate for court attendance falling within their relieving period. The higher duties rate shall be paid irrespective of the length of the employee's relieving period.

### 3. Private capacity, civil action etc.

3.1 An employee subpoenaed as a witness other than in the circumstances set out above –

- (a) is, at the employee's option, to be granted either special leave without salary, recreation or annual leave, time off in lieu of overtime or accrued hours; and
- (b) is entitled to retain any:
  - allowances/fees received; or
  - expenses reimbursed for travel, accommodation or meals;while attending court as a witness

## JURY SERVICE

### **1. Leave**

1.1 An employee required to undertake service as a juror is to be granted leave on full salary for that purpose.

### **2. Jury service fees**

2.1 Fees received by the employee for serving as a juror during the approved leave are to be forwarded to the chief executive for payment into departmental funds.

2.2 However, where on any day during approved leave the employee's salary is less than the fees payable for that day, the employee is entitled to retain the difference between the salary and the fee.

2.3 Fees received by the employee can be retained when serving as a juror for a period which is not covered by leave under this directive, e.g. when 'locked up' to consider a verdict over a public holiday or over a weekend or when the employee is on any other form of paid or unpaid leave.

### **3. Travelling expenses**

3.1 An employee is entitled to retain any allowances received or expenses reimbursed for travel, accommodation or meals while attending court as a juror.

### **4. Higher duties**

4.1 Employees performing higher duties shall continue to be paid their higher duties rate for jury service falling within their relieving period. The higher duties rate shall be paid irrespective of the length of the employee's relieving period.