

## Title: Implementing changes introduced in Ministerial Directive 2/05 *Higher Duties*

This circular has been developed to provide some information to assist agencies in implementing changes introduced in Ministerial Directive 2/05 *Higher Duties*, which became operative on 21 March 2005.

### Payment of increments during relieving period

#### Clause 8.1

Clause 8.1 of the directive extends the payment of increments during the relieving period to employees who have been relieving non-continuously for a period of 12 months within the preceding 24 months.

Whilst no entitlement to retrospective payments arises from the implementation of directive 2/05, periods of non-continuous relieving prior to the operative date are to be taken into account in calculating current and future paypoints in accordance with this directive. Therefore, for an employee relieving as at 21 March 2005, any non-continuous relieving at the same level or higher in the period from 22 March 2003 to 21 March 2005 must be taken into consideration in determining the employee's paypoint for higher duties.

The following examples illustrate the intent of this clause:

#### **Example One**

A substantive AO3 employee is relieving in an AO5 position as at 21 March 2005. The employee has relieved non-continuously at the AO5 level between 22 March 2003 and 21 March 2005 for periods totalling 18 and a-half months. On 21 March 2005 the employee will commence to be paid at paypoint 2 of the AO5 level. If the employee relieves continuously at the AO5 level for a further 5 and a-half months after 21 March 2005 they will move to paypoint 3 of the AO5 level.

Whilst exact dates of relieving have not been used in this example, note that the date of 21 March 2005 is used for initial paypoint adjustment but will be irrelevant for future increment purposes. Also note that this employee is not required to relieve for a

further 12 months after 21 March 2005 before moving to paypoint 3.

The employee does not have an entitlement to any retrospective payment or back pay prior to 21 March 2005.

#### **Example Two**

A substantive AO4 employee is relieving in an AO6 position as at 21 March 2005. The employee had relieved continuously at the AO6 level between April 2003 and June 2004 (14 months). The employee had moved to paypoint 2 in April 2004. The employee ceased relieving and returned to their substantive position between July 2004 and November 2004 (5 months). The employee commenced relieving again in the AO6 position in December 2004 at paypoint 1 (in line with the old directive). The employee continued to relieve in the AO6 position from December 2004 up to 21 March 2005 (3 and a-half months) and continues to relieve beyond this date.

On 21 March 2005 the employee will commence to be paid at paypoint 2 of the AO6 level. The employee has relieved for periods totalling 17 and a-half months between 22 March 2003 and 21 March 2005. If the employee relieves continuously at the AO6 level for a further 6 and a-half months after 21 March 2005 they will move to paypoint 3 of the AO6 level.

Whilst exact dates of relieving have not been used in this example, note that the date of 21 March 2005 is used for initial paypoint adjustment but will be irrelevant for future increment purposes. Also note that this employee is not required to relieve for a further 12 months after 21 March 2005 before moving to paypoint 3.

The employee does not have an entitlement to any retrospective payment or back pay prior to 21 March 2005.

#### **Example Three**

A substantive AO3 employee commences relieving in an AO4 position on 6 June 2005. The employee has relieved non-continuously between 6 June 2003 and 6

June 2005 for periods totalling 10 months in relation to positions at AO4 level and 4 months in relation to positions at AO5 level (14 months at AO4 or higher). On 6 June 2005 the employee will commence to be paid at paypoint 2 of the AO4 level.

If the employee relieves continuously at the AO4 level for a further 10 months after 6 June 2005 they will move to paypoint 3 of the AO4 level.

Whilst exact dates of relieving have not been used in this example, note that the date of 6 June 2005 is used for initial paypoint adjustment but will be irrelevant for future increment purposes. Also note that the employee is not required to relieve for a further 12 months after 6 June 2005 before moving to paypoint 3.

The employee does not have an entitlement to any retrospective payment or back pay prior to 6 June 2005.

#### **Example Four**

A substantive AO3 employee is relieving in an AO5 position as at 21 March 2005. The employee has relieved non-continuously at the AO5 level between 22 March 2003 and 21 March 2005 for periods totalling 15 months. The date on which non-continuous relieving periods totalled exactly 12 months was 13 September 2004. On 21 March 2005 the employee will commence to be paid at paypoint 2 of the AO5 level. The employee ceases relieving on 1 June 2005. The employee will move to paypoint 3 of the AO5 level only if the employee's periods of relieving between 13 September 2004 and 13 September 2006 total 12 months.

In this example the employee's relieving periods between 13 September 2004 and 1 June 2005 will count as part of the 12

months relieving required for movement to paypoint 3.

#### **Increment date**

The information in this circular should ensure that employees are not incorrectly allocated an increment date of 21 March in relation to higher duties. In relation to higher duties, employees would have an increment date of 21 March only where this is coincidental with the operative date of the new Higher Duties Directive.

#### **Payment of higher duties amount during leave**

The new Higher Duties Directive does not alter the requirement for employees to have relieved for the immediately preceding 12 months before the higher duties amount is paid for leave (see clauses 7.1 and 7.2). This requirement applies regardless of whether employees have reached paypoints 2, 3 or 4 of their higher classification level.

#### **Example Five**

A substantive AO5 employee relieves continuously in an AO6 position for 8 months between June 2004 and February 2005. The employee then ceases relieving, returning to their substantive position for two months before commencing relieving at the AO6 level again in April 2005. If the employee continues relieving in the AO6 position, in four months time the employee will be able to progress to paypoint 2 of the AO6 level, however they will need to relieve a further 8 months continuously (12 months continuously in total) before they are able to access paid leave at the higher duties rate

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The Division of Public Sector Industrial and Employee Relations provides policy advice and consultancy and training services to Queensland Government departments and agencies. It is part of the Department of Industrial Relations. Enquiries about this circular should be directed to Nick Gillespie on telephone 07 322 52449 or Emma Yabsley on telephone 07 324 74967.

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