



MINISTER FOR TRANSPORT, TRADE,
EMPLOYMENT AND INDUSTRIAL RELATIONS
PUBLIC SERVICE COMMISSIONER

- TITLE:** Engaging Officers on Fixed Term Contracts of Employment
- 1. SUPERSEDES:** Directive 2/08 – *Contracts for a Fixed Term – Officers whose Remuneration is Less than that of a Senior Officer*
Directive 11/04 – *Contracts for a Fixed Term*
- 2. PURPOSE:** To provide public service agencies with the flexibility to attract and/or retain officers with critical skills for specific business needs by offering financial and/or other incentives.
- 3. LEGISLATIVE PROVISION:** *Public Service Act 2008 – Section 53, section 121 and section 122*
- 4. EFFECTIVE DATE:** 15 December 2008
- 5. APPLICATION:** This directive applies to public service officers appointed on a contract of employment for a fixed term. It is to be read in conjunction with the directive on *Recruitment and Selection* in force at the relevant time.
- 6. INCONSISTENCY:** Sections 51 and 52 of the Public Service Act 2008 and section 687 of the Industrial Relations Act 1999 apply if there is no conflict with an Act, regulation or industrial instrument.
- 7. DEFINITIONS:**
- Fixed term** means that the appointment of the officer on a contract of employment is for a defined period.
- Job Market Assessment** means the remuneration offered for the position is based on an assessment of what might be paid in the private sector for roles with similar responsibilities. Appropriate advice is generally sourced from a remuneration specialist. It is usually the practice for the remuneration for the position in question to be set in the bottom 25% of the private sector range.
- Non-tied Commercial Business Unit** means a commercial operation that truly competes with the private sector for business and revenue.
- Technical Specialist** means an officer employed because of his or her exceptional competency in a particular professional, technical or business discipline which would require tertiary qualifications and/or professional/technical expertise including industry or business experience and recognition.

8. DIRECTIVE – GENERAL CONDITIONS

8.1 Policy Objective

The objectives of engaging officers on fixed term contracts of employment are to provide:

- (a) a means to attract and retain officers with critical skills essential for a fixed term, significant project;
- (b) a means to attract and retain highly skilled technical specialists and/or officers with critical skills where there is a shortage in the job market;
- (c) a means to retain officers with critical skills until the completion of a significant and essential project, as determined by the chief executive of the agency concerned;
- (d) a means to attract officers to positions in areas of the State where the usual employment conditions attached to a particular vacancy or vacancies have proven to be inadequate to attract and/or retain appropriately qualified and experienced officers;
- (e) a means to provide special employment conditions for officers required to work overseas;
- (f) a means to attract and retain officers to work in non-tied commercial business units; and
- (g) a means to maintain existing employment conditions for officers who have been affected by machinery of government changes or other government initiated action.

8.2 Policy Requirements

8.2.1 The engagement of officers on fixed term contracts of employment must be in accordance with the objectives of this directive. In making a decision to engage an officer under section 122 of the Act, the chief executive must ensure that:

- (a) a job evaluation system, a benchmarking process, or a job market assessment, is used to determine and justify the appropriate remuneration level for the job;
- (b) any conflict with an industrial instrument is resolved so that there is no overall detriment in the employment conditions to the officer;
- (c) except for
 - i. technical specialist positions;
 - ii. service delivery jobs located in areas of the State where there is difficulty in attracting and retaining officers; or
 - iii. jobs that require special or unique employment conditions

fixed term contracts of employment are not to be used for continuing or on-going roles including roles that should properly fall within the Senior Executive Service.

- (d) the arrangement does not adversely impact on the ability of other agencies to attract and retain officers from similar occupational groups.

8.2.2 The use of fixed term contracts of employment under a scheme, initiative or employment strategy (including variations to the approved scheme, initiative or strategy) for an occupational group involving a number of roles (e.g. a proposal under the Government's *Attraction and Retention Remuneration and Incentive Policy*), must have prior approval from the Commission Chief Executive and/or the Director-General of the department responsible for administering the *Industrial Relations Act 1999*.

8.2.3 Remuneration and employment conditions offered under a contract of employment must be transparent, justified and defensible.

8.2.4 The level of total remuneration must not exceed that payable to senior executives (that is, SES 4), unless the chief executive of the agency believes there is a valid reason for doing otherwise. In these cases, approval of the Commission Chief Executive is required prior to engaging the person on a fixed term contract of employment.

8.2.5 For situations not clearly covered by the policy objectives set down in section 8.1, the chief executive must:

- (a) where it is intended that the officer will be remunerated above the minimum payable to a senior executive, obtain approval from the Commission Chief Executive; or
- (b) where the remuneration is intended to be below the minimum payable to a senior executive, obtain approval from the chief executive of the department responsible for administering the *Industrial Relations Act 1999*.

8.2.6 The maximum term of a fixed term contract of employment is five (5) years, or a lesser period appropriate to the employment situation. For technical specialist positions, a new contract may be offered if the officer's employment is to extend beyond five (5) years.

8.2.7 The template for a contract of employment issued under s.122 of the Act shall be in a form approved and issued by the Commission Chief Executive for positions remunerated in the Senior Executive Service salary range or above. The template for a contract for positions below that level will be approved and issued by the Director-General of the department responsible for administering the *Industrial Relations Act 1999*. Except for salary variations, any amendment to the standard template terms of a contract of employment issued under s.122 of the Act must be approved by the issuing authority.

8.2.8 Chief executives are required to:

- (a) report on the number and details of fixed term contracts of employment approved in their agencies through the Commission Chief Executive as required by the Premier; and
- (b) ensure that information to be reported in (a) above, is in a form required by the Commission Chief Executive.

8.2.9 Annual salary increases granted to officers employed on fixed term contracts under section 122 of the Act, must not exceed the increase approved for senior executives or tenured officers at the equivalent classification level. Officers remunerated at rates not tied to senior executive or tenured officer classifications may, at the discretion of the agency's chief executive, be paid annual increases based on the percentage increase approved for officers employed under the *State Government Departments Certified Agreement* applicable to the year in question.

8.2.10 In special circumstances and for a specific purpose, the Commission Chief Executive or the Director-General of the department responsible for administering the *Industrial Relations Act 1999* (depending on the level of remuneration payable) may grant an exemption from compliance with this directive.