

# Court Attendance and Jury Service

## Human Resources Policy

Effective Date: February 2009

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## **1 PURPOSE**

To outline employee entitlements for court attendance and jury service and the related expenses.

## **2 APPLICATION**

This policy applies to all permanent, temporary, full-time and part-time Queensland Health employees. Casual employees are not entitled to any court attendance and jury service leave provisions.

## **3 GUIDELINES**

Guidelines may be developed to facilitate implementation of this policy. The guidelines must be consistent with this policy.

## **4 DELEGATION**

The 'delegate' is as listed in the Queensland Health Human Resource Delegations Manual as amended from time to time.

## **5 REFERENCES**

- Directive 4/05 – Court Attendance and Jury Service
- Directive 9/08 – Domestic Travelling and Relieving Expenses
- Domestic Travelling and Relieving Expenses HR Policy D3

## **6 SUPERSEDES**

- IRM 2.6-1 Crown Witness Expenses
- IRM 11.5-2 Leave - Special - Expenses to Attend Court
- IRM 11.5-3 Leave - Special - Jury Service

## **7 POLICY**

### **7.1 Interpretation of policy**

This policy is to be interpreted in conjunction with specific Awards, Agreements, administrative arrangements and policies applying to occupational groups.

## **8 CROWN WITNESS EXPENSES**

The following procedures have been approved when employees are required to attend court as Crown witnesses:

### **8.1 Attendance on a normal working day**

Queensland Health pays the employee's salary or wage due in respect to any absence as a witness. Queensland Health makes a claim for refund from the Department of Justice and Attorney General for the witness allowance the employee would have received in respect of attendance as a witness.

## **8.2 Attendance on a rostered day off**

Queensland Health pays to the employee witness expenses due in accordance with the amount set out in the official schedule. Queensland Health makes a claim for reimbursement from the Department of Justice and Attorney General.

## **8.3 Travelling expenses**

In cases when an employee is required to travel, travelling allowance is to be payable in accordance with Directive 9/08 - Domestic Travelling and Relieving Expenses.

Queensland Health can claim reimbursement of travelling allowance from the Department of Justice and Attorney General. The current allowance for Crown witnesses can be obtained from a clerk of the court.

# **9 COURT ATTENDANCE**

## **9.1 Notification**

Employees are to notify the district manager/branch director or delegate as soon as possible of the date they are required to attend court as a witness.

## **9.2 Entitlements**

Entitlements for employees required to attend court as a witness are in accordance with Directive 4/05 – Court Attendance and Jury Service, when attending as:

- witness in an official capacity
- witness on behalf of the State or Commonwealth other than in an official capacity
- witness in a private capacity, civil action etc.

## **9.3 Part-day court attendance**

When reasonable, employees who are not required to attend court for a complete day are to attend work for the balance of their working day.

## **9.4 Official capacity**

An employee subpoenaed or called as a witness to give evidence in the employee's official capacity, is granted leave with pay not chargeable to any leave account. The employee is:

- to pay any allowance received for their attendance as a witness to Queensland Health for payment into Queensland Health funds
- entitled (when applicable) to be paid a travelling allowance as prescribed in the Domestic Travelling and Relieving Expenses HR Policy D3
- to continue to be paid the higher duties rate for court attendance falling within their relieving period, if performing higher duties. The higher duties rate is paid irrespective of the length of the employee's relieving period.

## **9.5 On behalf of State or Commonwealth**

An employee subpoenaed or called as a witness by the State or the Commonwealth to give evidence (other than in the employee's official capacity) is:

- regarded as being on official duty and granted special leave with pay not chargeable to any leave account for attendance and necessary travel time
- to pay any fees received in respect of their attendance as a witness, to Queensland Health for payment into Queensland Health funds
- entitled to retain any expenses or allowances received for travel, accommodation or meals while attending court as a witness
- to continue to be paid the higher duties rate for court attendance falling within their relieving period, if performing higher duties. The higher duties rate is paid irrespective of the length of the employee's relieving period.

## **9.6 Private capacity or civil action**

An employee subpoenaed as a witness, other than in the above circumstances, is:

- granted at their option, either special leave without salary, recreation leave, time off in lieu of overtime or accrued hours (when applicable)
- entitled to retain any attendance fees or expenses or allowances received in respect of their attendance as a witness.

# **10 JURY SERVICE**

## **10.1 Notification**

Employees are to notify the district manager/branch director or delegate as soon as possible of the date they are required to undertake jury service.

Employees are also required to:

- immediately notify the district manager/branch director on the receipt of a Notice to Prospective Juror
- produce a certificate of attendance from the sheriff's office on the conclusion of jury service.

## **10.2 Special leave on full salary and expenses**

Employees required to undertake services as a juror are entitled to expenses and to be granted special leave on full salary (in accordance with Directive 4/05 – Court Attendance and Jury Service).

## **10.3 Part-day jury service**

When reasonable, employees who are not required to attend jury service for a complete day are to attend work for the balance of their working day.

#### 10.4 Higher duties

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

#### 10.5 Jury service fees

All fees paid to employees for service as a juror during the period for which leave is granted, are to be paid to Queensland Health for payment to departmental funds.

When (on any day during the approved period for which leave is granted) the salary of an employee is less than the fees payable for that day, the employee is entitled to retain the difference between the salary and the fee.

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

#### 10.6 Travelling expenses

Employees are entitled to retain any expenses or allowances received or expenses reimbursed for travel, accommodation or meals while attending court as a juror.

#### 10.7 Recreation leave, long service leave or illness

When jury service is to be undertaken during a period when recreation leave or long service leave has been granted, an application to the sheriff is to be made for exemption from jury service because of the employee's leave. No employee absent from work through illness is required to undertake jury service, although a supporting medical certificate may need to be produced.

When a notice is received that an employee is required for jury service and the employee wishes to cancel all, or a portion of recreation leave or long service leave previously granted, action may be taken to cancel the leave not required (providing there is no contravention of Award provisions). Leave to undertake jury service would then be granted in accordance with the approved arrangements.

#### 10.8 Leave processing

In granting leave for jury service to employees, care must be taken to ensure that:

- special leave on full pay is only granted for the period necessarily required for jury service
- all fees payable to Queensland Health are received from the employee concerned.

### 11 DEFINITIONS

<b>Full salary</b>	Includes: <ul style="list-style-type: none"><li>• the ordinary hours worked by the employee</li></ul>
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	<ul style="list-style-type: none"> <li>• the amounts payable to the employee for those hours, including (for example) projected allowances, loadings and penalties but excluding reimbursement allowances</li> <li>• any other amounts payable under the employee's employment contract.</li> </ul>
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**12 HISTORY**

<b>February 2009</b>	<ul style="list-style-type: none"> <li>• Amended section 9.2 to correctly reflect the court attendance entitlements</li> <li>• Amended to reflect updated Directive 9/08 – Domestic Travelling and Relieving Expenses</li> <li>• Amended to correctly reflect the Domestic Travelling and Relieving Expenses HR Policy D3</li> </ul>
<b>April 2008</b>	Developed as a result of the HR policy consolidation project.