

Responsive and Safe Employment Conditions

Employment Relations

Contents

Minimum Requirements	2
Delegations.....	2
1. Hours of Duty	3
Hours of Duty outside the Span of 8.00am to 6.00pm, Monday to Friday, inclusive	3
Public Holidays.....	3
2. Overtime Provisions	3
Time Off In Lieu of Overtime	3
Rest Period After Overtime	3
Permanent Part Time Employees	3
Overtime/TOIL to Employees whose Salaries exceed ASO5.....	4
3. Industrial Disputes.....	4
Standard Procedures - Absence due to Industrial Dispute.....	4
Standard Procedures - Attendance	4
Standard Procedures - Use of Government Facilities	4
Standard Procedures - Advice to Public Sector Workforce Relations	4
Reporting Requirements and Information Required	4
4. Union Delegates	5
Advice of Election.....	5
Role, Rights and Responsibility.....	5
Biennial Delegates Conference.....	6
Regional Council Meetings	6
Communications	7
Transfer of Delegates.....	7
Resolution of Complaints etc.....	7
Recrimination	7



Minimum Requirements

Chief executives must ensure compliance with the minimum requirements in this Standard as per the PSM Act and the appropriate industrial instrument/s.

Delegations

The Commissioner for Public Employment delegates to the chief executives in administrative units the authority under Section 30(1)(b) of the *Public Sector Management Act 1995* (PSM Act) to determine the hours between which PSM Act employees perform their duty.

Chief executives may delegate this authority in writing to other nominated employees within their administrative units (either by name or by reference to the person for the time being performing the duties of a nominated position). The power conferred by this delegation must be exercised in accordance with the provisions below and the provisions of the Remuneration Standard.

The Commissioner for Public Employment delegates to the chief executives in administrative units the authority under Section 30(1)(b) of the PSM Act to determine payment of overtime to non-executive PSM Act employees whose salaries exceed the maximum salary of AS05, limited to where employees are regularly required, and there is an ongoing need for such employees to work overtime.

Chief executives may delegate this authority in writing to other nominated employees within their administrative units (either by name or by reference to the person for the time being performing the duties of a nominated position). The power conferred by this delegation must be exercised in accordance with the provisions below and the provisions of this Standard.

1. Hours of Duty

Chief executives must ensure compliance with the minimum requirements in this Standard as per the PSM Act and the appropriate industrial instrument.

The ordinary working hours of full time employees will be an average of 37.5 hours per week or 38 hours per week (as previously determined by the Commissioner for Public Employment). Employees are required to perform their ordinary hours of duty between the hours of 8.00am to 6.00pm, Monday to Friday, inclusive, except as provided by either:

- an existing Standard of the Commissioner for Public Employment;
- an Enterprise Agreement; or
- a determination made by a chief executive under delegated authority from the Commissioner for Public Employment.

Chief executives of administrative units should also refer to specific hours of duty clauses contained in relevant industrial instruments, which may provide employees with benefits in addition to those contained in this Standard.

Hours of Duty outside the Span of 8.00am to 6.00pm, Monday to Friday, inclusive

- Refer to Clause 6.5 "Hours of Duty Outside the Span of 8.00am to 6.00pm, Monday to Friday inclusive" of the *S.A. Public Sector Salaried Employees Interim Award*.

When introducing any changes to an employee's ordinary hours of work, managers are required to consult with the employees concerned (and their delegate(s) as appropriate) and to give reasonable notice of the changes that will be occurring.

Public Holidays

Refer to the "Public Holiday Work" clause in the relevant Industrial Instrument/s.

2. Overtime Provisions

Refer to the "Overtime" clause of the relevant Industrial Instrument/s.

Time Off In Lieu of Overtime

Refer to the "Time Off In Lieu of Overtime" clause of the relevant Industrial Instrument/s.

Rest Period After Overtime

Where employees have been engaged in bushfire fighting, administrative units should refer to the specific determinations in lieu of the provisions of the "Rest Period After Overtime" clause in the relevant industrial Instrument/s.

Permanent Part Time Employees

The requirement to work overtime must be made with the agreement of the part time employee.

Time worked up to 7.5 or 7.6 hours whichever the case may be in one day, is not to be regarded as overtime but as an extension of the contract hours for that day and should be paid at the normal rate of pay.

Overtime will not be payable unless the total time worked on any day exceeds 8 hours. Part-time employees will be paid at the appropriate overtime rates in accordance with the provisions of the relevant Industrial Instrument.

Overtime/TOIL to Employees whose Salaries exceed ASO5

Refer to Clause 6.1 "Overtime" of the *S.A. Public Sector Salaried Employees Interim Award*.

3. Industrial Disputes

Standard Procedures - Absence due to Industrial Dispute

Employees are to be informed that they are required to attend for duty and that any absence will be regarded as unauthorised. Accordingly, any such absences shall have the same effect on other entitlements as does leave without pay. Flexi time cannot be used to cover any unauthorised absence. Where the action involves unauthorised absence from work, immediate steps should be taken to record the period of absence for each employee involved.

Standard Procedures - Attendance

All employees who want to work are to be permitted to do so and provisions should be put in place to enable this.

Standard Procedures - Use of Government Facilities

Government facilities such as telephones (including mobile telephones), faxes, computers etc. are not to be used for the purpose of promoting industrial disputation.

Standard Procedures - Advice to Public Sector Workforce Relations

Public Sector Workforce Relations, Department of the Premier and the Cabinet must be informed immediately when an industrial dispute and/or action occurs.

The information to be provided is detailed below.

Reporting Requirements and Information Required

In the case of industrial action, the following information must be provided in writing to Public Sector Workforce Relations, Department of the Premier and Cabinet:

1. Administrative unit(s) concerned, section(s) involved, and location(s).
2. Main activity undertaken at the location/by the group of employees.
3. Name(s) of Union(s) involved (if any).
4. Date and time action commenced.
5. Duration (actual and expected) of action.
6. Nature of Industrial Action e.g. ban, stoppage, strike, threatened ban.
7. Award coverage (if appropriate).
8. Remuneration Level(s) and number(s) of employees involved.
9. The number of employees involved in the dispute directly (eg physical presence at stop-work meeting) and the number of employees who were involved indirectly (eg having to pick up additional tasks to cover absences). Count each employee involved in the dispute once only. For example, if 10 employees stopped work for 2 days, then 8 of these stopped work for a further day, the total number of employees to be reported is 10.

10. Usual hours worked per day by the employees.
11. Cause of dispute (explanation of matter involved and demands being made).
12. Effect of action (particularly on health, welfare and security).
13. Any repercussive action that the industrial dispute may cause and how the administrative unit proposes to maintain workflow and minimise inconvenience to the public.
14. Process responsible for employees resuming work. This refers to the process directly responsible for ending the stoppage of work, and not necessarily to the process (or processes) responsible for settling all matters in dispute.

As soon as practicable after the industrial dispute has been terminated Public Sector Workforce Relations, Department of the Premier and Cabinet must be provided in writing with the following for:

PSM Act employees:-

- points 1 – 14 as listed above in the Reporting Requirements and Information Required section of this Standard;
- the payroll numbers of all employees involved and the actual times absent from duty.

Under no circumstances should any deduction of salary be made from PSM Act employees until the Executive Director, Public Sector Workforce Relations, (Department of the Premier and Cabinet) has directed pursuant to Section 47 of the PSM Act that employees are not to be paid for the time involved.

All other employees:

- the information required as listed above;
- the total number of employees involved; and
- the total amount of time absent from duty.

4. Union Delegates

Advice of Election

Following the election of a union delegate, the Secretary of the relevant association will advise the chief executive of the relevant administrative units, in writing, of each elected union delegate. The elected member will be issued with written credentials by the Secretary authorising that member to act in accordance with the duties of a union delegate as prescribed in the rules and/or by-laws of the relevant association.

Role, Rights and Responsibility

Union delegates are expected to maintain a representation role. Therefore, matters raised should only reflect issues that are raised by members employed at the worksite. Management should also ensure that when consultation with a union delegate is initiated, the views being sought are those of the members employed on the work site and not the personal views of the union delegate.

Should a member or members inform their elected union delegate of a matter as defined by the rules and/or by-laws of the association and request appropriate assistance, the union delegate will inform the immediate management of the department, division, branch or section (whichever is appropriate) of the nature of the matter.

Notwithstanding this procedure, the Chief Executive, Department of the Premier and Cabinet recognises the right of the union delegate to inform the association of

the matter or matters for the purpose of seeking advice and assistance where necessary.

Union delegates are required at all times to act in accordance with the rules and/or by-laws of the association and the agreement referred to herein, provided the relevant rules and/or by-laws of the association are not inconsistent with the PSM Act and Regulations.

Union delegates will be allowed reasonable time within normal hours of duty to perform their duties as elected union delegates within their respective electorates.

The relevant association, through its staff of full time officials has agreed that every assistance will be made available to elected union delegates.

The associations agree to determine and resolve all claims that a union delegate is acting contrary to its constitution rules and/or by-laws, and the association agrees that notification can be made to the association by the chief executive or the Commissioner for Public Employment where such a matter is recognised.

Biennial Delegates Conference

The Commissioner for Public Employment and the associations accept that, in the interests of the Public Service and the members of the associations, some reasonable time during normal hours of duty should be available to all accredited delegates to permit them to attend the Biennial Delegates Conference or equivalent.

The associations agree that such Conferences will be held at times which involve the minimum of interference with the normal working of departments. A maximum of three days every two years will be available for such purposes.

Accredited delegates should be granted time off without pay to enable them to attend the conference to the extent that it is held during normal working hours.

However, the use of recreation leave and flexi time, where appropriate and within the guidelines will be acceptable.

The associations agree to inform the Commissioner for Public Employment and the relevant chief executives at least 28 days prior to the conference of the persons eligible to attend, the date, venue and times.

It is the responsibility of the individual employee to make application for such leave of absence as may be required to attend the conference.

Regional Council Meetings

It is accepted that, due to the particular difficulties caused by the geographic dispersal of members of associations in country areas, some time off during normal hours of duty should be available to all accredited union delegates permanently stationed outside of the metropolitan area, to enable them to attend Regional Council meetings or equivalent.

Subject to departmental convenience, those union delegates who are permanently stationed outside of the metropolitan area, may be credited with up to one days leave without pay, not more than four times per year, for the purpose of travelling to and attending Regional Council meetings or equivalent. However, the use of recreation leave and flexi time, where appropriate and available within the guidelines of existing approvals, will be acceptable.

It is the responsibility to the individual employee concerned to make an application for such leave of absence as may be required to attend a conference.

Communications

There should be effective means of communication and consultation between local management and union delegates on matters of mutual interest and concern whether or not those matters are likely to give rise to a dispute. The attention of both local management and union delegates is drawn to both the informal and formal means of communication and consultation at each work site.

Where a union delegate raises a matter with local management on behalf of a member employed within the union delegates work site, local management should acknowledge the request and respond in a manner consistent with the level of authority of the particular manager.

Refer to "Dispute Avoidance/Settlement Procedures" in the appropriate Industrial Instrument.

Transfer of Delegates

Wherever possible, departmental management will discuss with union delegates matters that affect their ability to properly carry out their duties and responsibilities as union delegates. In particular, where it becomes necessary to transfer, relocate, or change the duties of an employee who is a union delegate, management will inform the union delegate to enable the relevant association reasonable time to make appropriate arrangements for continued representation at the worksite.

Resolution of Complaints etc.

To assist union delegates and local management in allowing reasonable time within normal hours of duty to permit union delegates to perform their duties within their respective electorates, it will be appropriate to have regard to the responsibilities of union delegates on the worksite as set out in the rules and/or by-laws of the relevant association.

A union delegate, having referred a matter to the organiser or the relevant association for industrial assistance, will normally not be required to be involved in further discussion occurring away from the worksite. As a general guide, the involvement of a union delegate in discussions away from the worksite would normally require acceptance by local management that the presence of the union delegate is essential to the appropriate resolution of the matter raised.

If a matter is not resolved by consultation and/or discussion between the union delegate and local management, the union delegates will normally refer the matter to an organiser. The organiser and union delegate should then seek to confer with the appropriate departmental management on the matter. Normally such a conference should commence within 24 hours. However, if there is agreement between the union delegates, organiser, and management, the period may be longer.

If the matter is not resolved at that conference or is such that it has wider implications than the particular worksite, then it would be appropriate for the organiser to seek further industrial assistance, and for departmental management to advise the chief executive and/or Public Sector Workforce Relations, Department of the Premier and Cabinet as the case may be. Normally a union delegate would not be required to participate in discussions other than those that involve local management.

Recrimination

A union delegate who carries out duties in accordance with the rules and/or by laws of the relevant association and acts on behalf of the members within that delegate's electorate, will be permitted by the chief executive to do so without

recrimination or detriment to that person's appointment as an employee of the Public Service.

Where it is claimed that an employee has been discriminated against or that some recrimination has occurred which is solely related to that employee's appointment as a union delegate, it is incumbent upon departmental management to make immediate enquiries to establish whether or not such discrimination or recrimination has occurred and for the chief executive to inform the union delegate of the decision in writing.

Where a union delegate is not satisfied with the finding of the chief executive the union delegate may, within the terms and conditions laid down, appeal to the Commissioner for Public Employment in accordance with the provisions of Section 64 of the PSM Act. It is pointed out that any grievance of the nature referred to above and associated with promotion is precluded from being dealt with under Section 64 as specified provision exists in Section 43.

Any union delegate who claims discrimination relating to their appointment as a union delegate would need to raise the matter separately under Section 64 of the PSM Act.

Nothing in this Standard overrides the powers of the Commissioner for Public Employment or a chief executive under Part 8, Division 8, "Conduct and Discipline" of the PSM Act and the Code of Conduct for South Australian Public Sector Employees.

In addition to the PSM Act, the *Fair Work Act 1994* now provides that there will be a fine for the use of offensive language to a duly authorised representative of an association of employees (insofar as the person is acting as such a representative). Refer to s225A of the *Fair Work Act 1994* for more detail.