

Public service above level allowances

Guidance for payment of allowances for above-level temporary assignments and above-level secondments.

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This guidance is for payment of allowances for above-level temporary assignments and above-level secondments when Public Service senior executive (senior executive) and non-executive (non-executive) employees are temporarily assigned or seconded to a role with higher salary or remuneration and work value within the Public Service.

Legal Authority

1. Government Sector Employment Act 2013 (GSE Act):

- Section 26 - Employer functions of Secretaries of Departments

- Section 31 – Employer functions of heads of agencies (other than Departments)
- Section 64 – Employee Transfers and Secondments

2. **Government Sector Employment Regulation 2014 (GSE Regulation):**

- Clause 14 – Increments
- Clause 20 – Allowance for temporary assignment to higher non-executive roles
- Clause 21 – Allowance for temporary assignment to executive roles
- Clause 22 – Allowance for secondments

3. **Government Sector Employment Rules 2014 (GSE Rules):**

- Part 1, rule 3 – Definitions (1) above-level and at-level
- Rule 11 – Temporary assignments
- Part 6 – Transfers and Secondments

When is an allowance payable?

Temporary assignments and secondments to higher non-executive roles

When a non-executive employee is temporarily assigned or seconded to a non-executive role at a higher classification of work than their current role, they are entitled to be paid an allowance which is the difference between the employee's usual salary and a point determined by the agency head in the salary range of the role to which the employee is temporarily assigned.

Temporary assignments and secondments from non-executive roles to Public Service senior executive roles

When a non-executive employee is temporarily assigned or seconded to a senior executive role, they are entitled to be paid an allowance which is the difference between the employee's usual salary and the notional salary* of the senior executive role.

***Treasury Circular 15/06** outlines the details of calculations for notional salary.

Temporary assignments of executives within a band (at-level)

When a Public Service senior executive is temporarily assigned to another executive role at a higher remuneration point within the same band as they are employed (at-level), the executive is entitled to an allowance that is the difference between the total remuneration package for the executive's current role and the total remuneration package for the role (at a point determined by the agency head) into which they are temporarily assigned.

Temporary assignments of executives to higher executive roles (above-level)

When a Public Service senior executive is temporarily assigned to another executive role in a higher band (above-level), the executive is entitled to an allowance that is the difference between the total remuneration package for the executive's current role and the total remuneration package for the role (at a point determined by the agency head) into which they are temporarily assigned.

Note 1: In these Guidelines, any reference to above-level allowances for senior executives also include allowances payable for at-level temporary assignments as outlined in section 4.3 - Temporary assignments of executives within a band (at-level).

Note 2: As outlined in Section 5.5 of the 'Assignment to Role Guidelines', temporary assignment for developmental purposes is a tool available to develop workforce capability. Temporary assignments for developmental purposes can be at-level or above-level. Section 4.2 of the 'Assignment to Role Guidelines' also elaborates the guiding principles for identifying opportunities for subsequent assignments based on overall workforce capability needs.

Proportional duties and part-time employment

Part payment for proportional duties

Where an employee is asked to perform a proportion of the duties of the temporary assignment or secondment, the employee is paid a proportional amount of the allowance, consistent with the proportion of the role they are performing. The duties the employee is to perform and the proportion of the above-level allowance to be paid are to be approved prior to commencement in the role.

For example, an employee temporarily assigned to perform 75 per cent of a role is to be paid their usual salary or total remuneration package plus 75 per cent of the above-level allowance. If there is a disagreement between the employee and the agency head (or delegate), the normal grievance procedures are to be followed.

Pro rata payments for part-time employees

Part-time employees can be paid the above-level allowance pro rata based on the number of hours worked per week divided by the full time equivalent hours.

Payment of the above-level allowance

Commencement rate of allowance

Generally, the above-level allowance would be paid at the minimum salary or remuneration for the temporarily assigned or seconded role. However, it may be paid at a higher salary or remuneration for the role if determined appropriate by the agency head, having regard to the employee's capabilities, knowledge and experience, including previous periods of temporary assignment or secondment at the higher level.

Duration of temporary assignment or secondment

The above-level allowance is not payable for above-level temporary assignments or secondments of less than 5 days duration unless determined otherwise by the agency head (Clause 20(4) (a) and 21(6) (a) of the GSE Regulation). For above-level temporary assignments or secondments 5 days or greater in duration, an allowance can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role's usual duties (Clause 20(3) and 21 (5) of the GSE Regulation).

Periods of leave

For above-level temporary assignments or secondments from 5 days to 3 months duration, the above-level allowance is not payable for any unbroken period of leave exceeding 5 ordinary working days. That is, the allowance is payable for any periods of leave that is less than 5 ordinary working days. For above-level temporary assignments or secondments of more than 3 months duration, the above-level allowance is payable for all periods of leave. (Clause 20(4) (b) and 21(6) (b) of the GSE Regulation).

Overtime

The above-level allowance is to be included in salary for the purposes of calculating overtime only if the duties carried out during the overtime are those of the above-level role. Please also refer to “clause 95 – Rate of payment of overtime” in the Crown Employees (Public Service Conditions of Employment) Award 2009.

Timing of allowance payments

The above-level allowance should be calculated and paid as per the normal pay cycle during the period of the temporary assignment or secondment. If the temporary assignment or secondment is for a short duration, the allowance may be paid at the completion of the period.

Payment for accrued leave on retirement, resignation or redundancy after 12 months

If the above-level allowance has been paid at the full rate for a continuous period of more than 12 months and the employee is still temporarily assigned or seconded to the higher level role, the higher rate of pay applies to any accrued recreation or extended leave and to final payments associated with retirement, resignation or redundancy.

Parental leave

If the employee has been temporarily assigned or seconded to the higher level role for more than 12 months at the full rate (i.e. not at a proportional rate) and the temporary assignment or secondment continues up to the day before the start of parental leave, the pay for parental leave should include the above-level allowance.

Payment of increments during above-level temporary assignments or secondments

Payment of increments is subject to the requirements in clause 14 of the GSE Regulations. In that context the following guidance is provided:

- Where 100% of the allowance has been paid continuously for a period of 12 months and the employee has met the performance and conduct requirements as determined by the agency head, the employee may progress by way of the allowance to the rate of the next incremental step.
- If the above-level allowance has been discontinued during a period of leave, the increment should be delayed by a period corresponding to the period or periods of leave taken.
- When an employee's above-level temporary assignment or secondment has been over broken time periods then the separate above-level temporary assignment or secondment periods are to be aggregated and taken into account for the purpose of incremental progression within the classification of work/band of the role. This applies irrespective of the nature of the work of the role(s).
- Aggregation does not apply over any break exceeding six months and any period of leave during which the above-level allowance was not paid is not counted in the aggregation i.e. if there is a break of more than 6 months between two periods of an above-level temporary assignment or secondment then the two periods are not to be aggregated for the purposes of incremental progression

Ongoing employment at the level of the temporary assignment or secondment

If an employee who has been temporarily assigned or seconded to an above-level role is subsequently employed at that level, then the principles set out at section 7 - Payment of Increments during above-level temporary assignments or secondments should be applied when determining salary and allowances in the new role.

Section 5.6 of the 'Assignment to Role Guidelines' provides further advice on ongoing employment at the level of a temporary assignment.

Special leave for voluntary emergency service

If employees have begun (or would have begun) an above-level temporary assignment or secondment, but are required to take special leave for voluntary duty with an approved NSW emergency service, then the special leave should be recognised as part of the period of the above-level temporary assignment or secondment as long as all the following conditions apply:

- An emergency exists

- The employee is trained in the particular emergency work
- The employee is either the only employee available, or their services are considered essential for the particular emergency
- The emergency is not confined to weekends or public holidays

The payment of special leave is limited to two days, during any one week period of above-level temporary assignment or secondment.

A further payment of one day's special leave is also available for each additional week of above-level assignment or secondment, up to a maximum of five days per annum.

If special circumstances exist and the agency head approves, the allowance may be continued beyond the five-day per annum maximum.

Notes and related documents

Notes

1. Temporary assignment to a higher classification or band replaces the separate Public Sector Employment and Management Act 2002 (PSEM Act) (now repealed) provisions for acting appointments (PSEM Act, section 24) and temporary transfers to a higher grade within agencies (PSEM Act, section 86A).
2. Secondments (section 64 of the GSE Act and rule 33 of the GSE Rules) replace the PSEM Act provisions for temporary staff transfers – secondments between agencies (PSEM Act section 86).
3. The concept of “relief staff” as defined under the previous Public Sector Employment and Management Regulation 2009 – (clause 17(8)) is no longer referenced in the GSE Regulation. The provisions for “Assignment to roles in work classifications” (section 46 of the GSE Act) and “Temporary assignments” (rule 11 of the GSE rules) allow for flexible deployment of Public Service employees.

Related Documents

1. Guidelines on assignment to role of Public Service senior executive and non-executive employees
 - Section 5.4 – Temporary Assignment Allowance
 - Appendix 3, 4 and 5 (replicated as Appendix 1,2 and 3 in this Guideline)

Appendix 1

Non-executive above-level temporary assignment - assessment and payment of allowance:

Duration of the above-level temporary assignment	What assessments are required?	Is temporary assignment allowance payable?	Is temporary assignment allowance paid for periods of leave?
Less than 5 days	Based on the delegate / manager being satisfied that the employee has the capabilities to perform in the role. No assessment required for periods up to 6 months. No advertising required.	Not paid unless determined otherwise by the agency head. (Refer clause 20(4)(a) of the GSE Regulation)	Not payable for any period of leave.
5 days to 3 months	Based on the delegate / manager being satisfied that the employee has the capabilities to perform in the role. No assessment required for periods up to 6 months. No advertising required.	Is to be paid at the full rate or, if the employee is performing only part of the role's usual duties, a pre-determined proportional rate. (Refer clause 20(3) of the GSE Regulation)	Not payable for any unbroken period of leave exceeding 5 ordinary working days. (Refer clause 20(4)(b) of the GSE Regulation)
3 to 6 months	Based on the delegate / manager being satisfied that the employee has the capabilities to perform in the role. No assessment required for periods up to 6 months. No advertising required.	Is to be paid at the full rate or, if the employee is performing only part of the role's usual duties, a pre-determined proportional rate. (Refer clause 20(3) of the GSE Regulation)	Paid for all periods of leave where the assignment is for a period of 3 months or more. Where the assignment is for a period of less than 3 months, not paid for any unbroken period of leave exceeding 5 ordinary working days. (Refer clause 20(4)(b) of the GSE Regulation)
6 months to 2 years (including where the total length of temporary assignment goes beyond 6 months due to extensions)	Comparative assessment from advertising across the Public Service.	Is to be paid at the full rate or, if the employee is performing only part of the role's usual duties, a pre-determined proportional rate. (Refer clause 20(3) of the GSE Regulation)	Paid for all periods of leave.

Appendix 2

Senior executive at-level temporary assignment – assessment and payment of allowance

Duration of the above-level temporary assignment	What assessments are required?	Is temporary assignment allowance payable?	Is temporary assignment allowance paid for periods of leave?
Less than 5 days	<p>Based on the delegate / manager being satisfied that the employee has the capabilities to perform in the role.</p> <p>No assessment required for periods up to 6 months. No advertising required.</p> <p>No advertising required.</p>	<p>Not paid unless determined otherwise by the agency head</p> <p>(Refer clause 21(6)(a) of the GSE Regulation)</p>	Not applicable.
5 days to 3 months	<p>Based on the delegate / manager being satisfied that the employee has the capabilities to perform in the role.</p> <p>No assessment required for periods up to 6 months. No advertising required.</p> <p>No advertising required.</p>	<p>Can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role’s usual duties.</p> <p>(Refer clause 21(5) of the GSE Regulation)</p>	<p>Not payable for any unbroken period of leave exceeding 5 ordinary working days.</p> <p>(Refer clause 21(6)(b) of the GSE Regulation)</p>
3 to 6 months	<p>Based on the delegate / manager being satisfied that the employee has the capabilities to perform in the role.</p> <p>No assessment required for periods up to 6 months.</p> <p>No advertising required.</p>	<p>Can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role’s usual duties.</p> <p>(Refer clause 21(5) of the GSE Regulation)</p>	<p>Paid for all periods of leave where the assignment is for a period of 3 months or more.</p> <p>(Refer clause 21(6)(b) of the GSE Regulation)</p>

Duration of the above-level temporary assignment	What assessments are required?	Is temporary assignment allowance payable?	Is temporary assignment allowance paid for periods of leave?
6 months to 2 years (including where the total length of temporary assignment goes beyond 6 months due to extensions)	Based on the known capabilities and performance of the employee and a suitability assessment for any focus capabilities not previously formally demonstrated. No advertising required.	Can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role's usual duties. (Refer clause 21(5) of the GSE Regulation)	Paid for all periods of leave where the assignment is for a period of 3 months or more. (Refer clause 21(6)(b) of the GSE Regulation)

Appendix 3

Senior executive above-level temporary assignment - assessment and payment of allowance

Duration of the above-level temporary assignment	What assessments are required?	Is temporary assignment allowance payable?	Is temporary assignment allowance paid for periods of leave?
Less than 5 days	Based on the employee having demonstrated they meet the capability requirements of the role and a suitability assessment for any focus capabilities not previously formally demonstrated. No advertising required.	Not paid unless determined otherwise by the agency head. (Refer clause 21(6)(a) of the GSE Regulation)	Not applicable.
5 days to 3 months	Based on the employee having demonstrated they meet the capability requirements of the role and a suitability assessment for any focus capabilities not previously formally demonstrated. No advertising required.	Can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role's usual duties.. (Refer clause 21(5) of the GSE Regulation)	Not payable for any unbroken period of leave exceeding 5 working days. (Refer clause 21(6)(b) of the GSE Regulation)

Duration of the above-level temporary assignment	What assessments are required?	Is temporary assignment allowance payable?	Is temporary assignment allowance paid for periods of leave?
3 to 6 months	<p>Based on the employee having demonstrated they meet the capability requirements of the role and a suitability assessment for any focus capabilities not previously formally demonstrated.</p> <p>No advertising required.</p>	<p>Can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role's usual duties..</p> <p>(Refer clause 21(5) of the GSE Regulation)</p>	<p>Paid for all periods of leave where the assignment is for a period of 3 months or more.</p> <p>(Refer clause 21(6)(b) of the GSE Regulation)</p>
6 months to 2 years (including where the total length of temporary assignment goes beyond 6 months due to extensions)	<p>Comparative assessment from advertising across the Public Service.</p>	<p>Can be paid at the full rate or a pre-determined proportional rate if the employee is performing part of the role's usual duties.</p> <p>(Refer clause 21(5) of the GSE Regulation)</p> <p>(Refer clause 21(5) of the GSE Regulation)</p>	<p>Paid for all periods of leave where the assignment is for a period of 3 months or more.</p> <p>(Refer clause 21(6)(b) of the GSE Regulation)</p>