

Magistrates entitlements

July 2010

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Schedule A

Travel

1 Travel allowances

- 1.1 Travel allowances are provided to reimburse expenditure incurred during official travel and contain no compensation for inconvenience suffered.
- 1.2 Whenever possible a Magistrate should use the daily travelling rate rather than claim actual expenses.
- 1.3 A Magistrate is entitled to travelling allowances set out in DJAG Directive No. 9/09 *Domestic Travelling and Relieving Expenses*, as amended from time to time, as if the Magistrate were a public service officer.
- 1.4 To minimise the impost of GST, Magistrates are encouraged to book accommodation through the Department's purchasing officer and take only the meals and incidentals components as a cash allowance.
- 1.5 A claim for a prescribed travelling allowance does not need to be supported by itemized accounts.

2 Actual expenses

- 2.1 Where accommodation charges incurred by a Magistrate exceed the prescribed allowance, a Magistrate may be reimbursed for actual expenses considered reasonable by the Chief Magistrate.
- 2.2 Where the costs of meals incurred by a Magistrate exceed the prescribed allowance, a Magistrate may be reimbursed for actual expenses considered reasonable by the Chief Magistrate.
- 2.3 However, if reimbursement for actual expenses is claimed in lieu of a travelling allowance, all expenses must be detailed and itemised showing separate amounts for meals and accommodation.
- 2.4 A voucher should be prepared within 14 days after travel verifying the claim made or the expenditure incurred and seeking reimbursement of the same.

3 Spouse or partner accommodation costs

- 3.1 Unless specifically approved by the Director-General, the accommodation or other daily expenses of a Magistrate's spouse or partner accompanying the Magistrate whilst on official travel will not be met by the Department.
- 3.2 "Partner" is defined as 'any person who lives with the Magistrate on a genuine domestic basis as the partner of the Magistrate.'

4 Advances

- 4.1 In most circumstances a Magistrate is not to be provided with advance travel allowances.
- 4.2 However, in the instance of a Magistrate being required to travel on urgent matters, an advance payment may be authorised by the Chief Magistrate.

Funds advanced and spent not in accordance with the provisions of Schedule A must be refunded.

Schedule B

Air travel

1. Travel on official duty

- 1.1 Where a Magistrate is required to travel on official duty to a place that is more than four hours travel by motor vehicle from his or her headquarters, the Magistrate may travel by air.
- 1.2 Where a Magistrate is required to travel on official duty, and it is more economical to travel by air than by motor vehicle, the Magistrate may travel by air.
- 1.3 The economy of travelling by air compared to travelling by motor vehicle must consider:
 - any reduction in daily travel allowance which can be achieved by reducing travel time
 - any reduction in private motor vehicle allowance or departmental vehicle running costs
 - any increase in taxi or vehicle hire expenses which would be incurred during the trip
 - any pre-existing arrangements for the private charter of aircraft for remote circuits.
- 1.4 Where a Magistrate is entitled to travel on official duty by air, the Magistrate is entitled to travel at Business Class rates (including excess baggage charges) where available.

2. Family travel

- 2.1 A Magistrate who will be headquartered in Mount Isa for more than one year, and each family member who usually resides with the Magistrate, is entitled to an annual non-transferable return air fare between the headquarters and another intrastate location.

Schedule C

Hire vehicles and taxis

1. Taxis

- 1.1 A Magistrate is entitled to use taxis when travelling on circuit, travelling to and from official functions where the Magistrate is attending in his or her official capacity, and commuting to and from airports, where the use of a self-drive vehicle would be inconvenient.

2. Use of hire cars whilst on circuit

- 2.1 When a Magistrate is required to travel to a circuit centre by air, the Magistrate is entitled to a rental vehicle for his or her use on the weekends or during the week, whilst the Magistrate remains at the centre.

Schedule D

Private telephone and postage expenses

1. Telecommunications Allowance

- 1.1 A Magistrate may claim up to \$556.20 each financial year for the installation, service and actual costs of telecommunications services used by the Magistrate (telecommunication allowance). This includes fixed telephone, mobile telephone and broadband internet services and hardware devices attached to those services. The telecommunication allowance will increase in line with annual Brisbane (All Groups) Consumer Price Index increases.
- 1.2 A claim for a telecommunications allowance must be accompanied by evidence setting out the nature of the expense and payment. Where payment has been made by electronic means, for example using a telephone or internet payment system, a notation of the date of payment and receipt number, or other written endorsement of the Magistrate, is sufficient evidence of payment.
- 1.3 A claim for reimbursement must be made within one month of the payment being made by the Magistrate. Reimbursement is deducted from the Magistrate's available entitlement for the financial year in which the payment was made regardless of when the expense was incurred or reimbursement sought. The telecommunications allowance is not cumulative. Any unclaimed allowances do not carry over to subsequent financial years.

2. Postage

- 2.1 The Department will meet the cost of postage on all official documents and correspondence related to a Magistrate's office.

Schedule E

Departmental motor vehicles

1. Private use of departmental motor vehicles

- 1.1 The Chief Magistrate is entitled to a motor vehicle, supplied and fully maintained by the department through its contracted fleet provider, on the same terms and conditions as a District Court Judge.
- 1.2 No vehicles are supplied to other magistrates for private use.

2. Business use of departmental motor vehicles

- 2.1 Magistrates are entitled to the use of departmental motor vehicles in accordance with whole of Government and departmental policies as amended from time to time.

Schedule F

Remuneration other than salary

1. Locality allowance

- 1.1 A Locality Allowance, whilst remaining a condition within the Public Service, shall be paid to a Magistrate and such allowance shall be at the rate payable to Officers of the Public Service at the location where the Magistrate is stationed.

2. Superannuation

- 2.1 All Magistrates are required to be Members of the QSuper Superannuation Fund.
- 2.2 Magistrates are to be provided with the same superannuation plan options as those that are available to QSuper members who are core Queensland Government employees, including those of salary sacrifice (see subsection 7, below).

3 Higher duties allowance

- 3.1 For those periods in excess of three consecutive working days when the Deputy Chief Magistrate performs the full duties of the Chief Magistrate, the Deputy Chief Magistrate is entitled to be paid at the rate payable to the Chief Magistrate.
- 3.2 A Clerk of the Court acting as a Magistrate is appointed and remunerated pursuant to s.6 of the *Magistrates Act 1991*.

4 Co-ordinating magistrates allowance

- 4.1 When a Magistrate is nominated by the Chief Magistrate to be a Co-ordinating Magistrate at a place where more than one Magistrate is assigned, an additional salary component of \$2,000 per annum is payable.
- 4.2 This salary component shall only be paid whilst the Magistrate continues to hold the appointment as a Co-ordinating Magistrate.

5 Motor vehicle allowance

- 5.1 Where a Magistrate undertaking official duties uses his or her own motor vehicle, an allowance shall be paid according to:
- the distance actually and necessarily travelled
 - the type of vehicle used
 - the location of the Magistrate's normal headquarters.
- 5.2 The allowance shall be paid as provided for in determinations or rulings made from time to time by the Governor in Council for Public Servants.

6 Salary sacrifice

- 6.1 Magistrates are included in existing salary sacrifice arrangements.
- 6.2 Salary sacrifice is allowed on motor vehicles that are subject to novated lease agreements, superannuation and other allowable salary packaging non-cash benefits under the salary sacrifice scheme approved for Magistrates.
- 6.3 The approved benefits currently include:
- mobile phones (where used primarily for employee's employment)

- briefcases
- calculators
- tools of trade
- computer software to be used in employee's employment
- electronic diary or similar item
- notebook/laptop computer (limited to one computer per FBT year)
- airport lounge membership
- protective clothing that is required for the employment of the employee.

Schedule G

Security

The content of this schedule has been removed from the publicly accessible form of this document given it relates to the personal safety of judicial officers.

Schedule H

Car parking

1. Parking of private vehicles

- 1.1 A Magistrate shall, where available, be provided with car parking facilities within the precincts of the Court at which he or she is headquartered and to which he or she circuits.

Schedule I

Leave

1. Recreation leave

1.1 Entitlement

1.1.1 A Magistrate shall be entitled to the same leave conditions as are granted to Public Servants (ie. 20 days recreation leave per year unless they are living and working in the northern and western regions where they are entitled to 25 days recreation leave per year).

1.2 Conditions

1.2.1 The following provisions shall apply in respect of recreation leave:

- Applications for leave shall be made in writing in a form determined by the Chief Magistrate.
- A Magistrate shall give timely notice of the date from which leave is to take effect. A Magistrate shall be given timely advice of whether or not leave is approved. Where leave is not approved, a Magistrate shall be advised by the Chief Magistrate of the anticipated date from which leave may be taken.
- Leave approved to be taken at any one time shall not exceed the maximum accumulation provided that leave previously deferred may be taken either immediately before or after the taking of the maximum accumulation.
- Leave shall be taken in whole working days up to the total amount of leave accrued. The balance of leave not availed of shall be taken into account when determining a Magistrate's next leave entitlement.
- Where a Magistrate makes application for leave and leave is deferred for official reasons, the deferred leave shall be taken not later than such date as the Chief Magistrate shall determine, notwithstanding that an opportunity mutually convenient to both the Magistrate and the Chief Magistrate is not available.

1.3 Payment upon departure from the service

1.3.1 A person who ceases to be a Magistrate shall be paid, in lieu of recreation leave accrued, an amount equal to salary at the rate the Magistrate was receiving at the date of cessation, for the period of leave accrued.

1.3.2 Additionally, the person shall be paid in respect of any public holiday to be observed or special holiday appointed pursuant to the Holidays Act 1983 to which the person would have been entitled had the person still been a Magistrate and actually taken the leave.

7 Long service leave

2.1 Entitlement

2.1.1 A Magistrate who completes 10 years continuous service shall be entitled to long service leave at the rate of 1.3 weeks on full salary for each year of continuous service and a proportionate amount for an incomplete year of service.

2.1.2 A Magistrate is entitled to take pro rata long service leave after 7 years continuous service.

2.2 Conditions

2.2.1 The following provisions shall apply in respect of long service leave:

- (a) An application for leave shall be made in writing to the Chief Magistrate
- (b) Timely notice of the desire for leave shall be given by the Magistrate. The Magistrate shall be given timely advice of whether or not leave is approved
- (c) Leave may be taken up to the total amount of leave due as at the date of commencement of the leave, calculated by -
 - (i) determining the total period of the Magistrate's continuous service having regard to the provisions of these conditions in respect of leave credited for service
 - (ii) determining the total long service leave entitlement appropriate to that period of continuous service.
- (d) The minimum period of long service leave which may be taken at any one time shall be 2 weeks
- (e) Where a Magistrate becomes ill and is granted sick leave in lieu of long service leave approved, the period of long service leave actually taken shall not be subject to the minimum period requirement set out in paragraph (d)
- (f) Where a Magistrate is recalled from long service leave, the taking of the balance of the leave originally approved shall not be subject to the minimum period requirement set out in paragraph (d).

2.3 Payment in lieu of long service leave not taken

2.3.1 A person who ceases to be a Magistrate and who at the date of ceasing to be a Magistrate has an entitlement to long service leave as determined under sections 2.1 and 2.2, shall receive a payment in lieu of long service leave not taken.

2.3.2 The calculation of the amount of the payment shall be based on -

- (a) That entitlement
- (b) The rate of salary which the person was receiving at the date of ceasing to be a Magistrate.

2.3.3 For the purposes of this paragraph, the following provisions apply to the calculation of a person's entitlement to long service leave:

2.4 Pro-rata payment upon retirement

2.4.1 Where a Magistrate retires, before completing 10 years of continuous service, the number of years of continuous service required to have been completed by that Magistrate before being entitled to pro-rata long service leave shall be five years.

2.5 Payment following a Magistrate's death

2.5.1 Where a Magistrate dies, the amount which would have been payable to that Magistrate had that Magistrate retired or been dismissed on the date on which the Magistrate actually died shall be paid to the Magistrate's

dependants (if any) or, if there be no dependant, to the Magistrate's personal representative.

- 2.5.2 For the purposes of this paragraph, a dependant means, in relation to a deceased Magistrate, any person who, in the opinion of the Chief Magistrate, was being wholly or substantially maintained or supported (otherwise than for full valuable consideration) by the deceased Magistrate at the date of the Magistrate's death.

3 Sick leave

- 3.1 Magistrates are entitled to 10 days full pay accrued sick leave per year.

4 Military leave

- 4.1 A Magistrate shall be entitled to leave equivalent to that as set out in DIR Directive No.10/01 Special Leave, or as subsequently amended.

5 Leave for study and examination purposes

- 5.1 The Chief Magistrate may grant a Magistrate leave with or without pay equivalent to that set out in DIR Directive No.12/99 Study and Examination Leave, for a course relevant to the function of the position of Magistrate -
- (a) To undertake study or research (study leave); or
 - (b) To attend examinations (examination leave).

6 Bereavement leave

- 6.1 In the event of the death of a person who bears to a Magistrate one of the relationships set out below, the Chief Magistrate may grant the Magistrate bereavement leave on full salary for the purpose of attending the funeral of the deceased person for the whole or part of the three day period constituted by the following:

- the day of the funeral
- the day before the funeral
- the day after the funeral.

6.1.1 Relationships

Wife, husband or partner	Half-brother or half sister
Father	Step-brother or step-sister
Mother	Step father or step mother
Brother	Father-in-law
Sister	Mother-in-law
Child or step Child	Brother-in-law
Adopted Child or ex-foster child	Sister-in-law
Ex-nuptial child	Grandfather-in-law
Grandfather	Grandmother-in-law
Grandmother	Son-in-law
Grandson	Daughter-in-law
Granddaughter	

7 Short leave of absence

- 7.1 The Chief Magistrate may grant a Magistrate leave on full salary, which shall not be deducted from that Magistrate's entitlement to recreation leave but which shall not exceed a total of three working days in any period of 12 months, where such leave is reasonably required either in respect of an emergency situation or on compassionate grounds.

8 Leave in other cases

- 8.1 Where, in the opinion of the Chief Magistrate, a Magistrate should be granted leave of absence for a particular purpose, the Magistrate may be granted leave on such terms and conditions as the circumstances warrant.

9 Recognition of previous employment

- 9.1 A person appointed as a Magistrate and whose previous employment was with the Public Service within a period of 12 months shall be credited for service pursuant to DIR Directive 2/03 Recognition of Previous Service and Employment.

Schedule J

Insurance

A Magistrate shall be indemnified in the event that he or she suffers death or bodily injury in the course of performing his or her official duties as follows:

1. Personal accident indemnity for members of the magistracy

1.1 The Department, for and on behalf of the State of Queensland, will indemnify the following persons (referred to in this indemnity as 'the indemnified person') against personal accident, death or bodily injury:

- The Chief Magistrate
- Magistrates of Queensland

on the terms and conditions set out below.

1.2 Scope of the Indemnity

1.2.1 The Indemnity will provide to the indemnified person compensation for any injuries received by the indemnified person arising out of or in the course of his or her performing official duties, including travel to and from the place of performance of official duties or, in the event of death, to her or his legal personal representative who is to pay or apply the relevant payments to or for the benefit of the indemnified person's dependants.

1.3 Compensation Payable under the Indemnity

1.3.1 Compensation under this indemnity will be paid to the indemnified person in amounts calculated to be payable, *mutatis mutandis* and subject to the terms of this indemnity, in the same manner and circumstances in which a worker in employment in a department of government is entitled to receive compensation as is prescribed from time to time in the *WorkCover Queensland Act 1996* with respect to:

- personal injury
- total or partial incapacity
- permanent partial disabilities
- recovery of medical or other like expenses
- death.

1.3.2 The 'maximum entitlements' for the purposes of calculating compensation in the event of death, partial incapacity or total disablement will be calculated on the basis of the claimant's current annual salary at the time of such occurrence.

1.3.3 In addition to the above, at the discretion of the Director-General, compensation for certain consequential costs (for example the cost of domestic help) may also be awarded to the claimant.

1.3.4 Compensation will not be payable upon the occurrence of death or bodily injury that is directly or indirectly attributable to or consequential upon:

- intentional self injury or suicide
- the use of liquor, narcotics or drugs whereby the person indemnified is rendered less capable than usual of taking care of himself or herself.

1.3.5 A payment made or payable under the Personal Accident Indemnity will be repayable or reduced in the amount of damages recovered by the indemnified person consequent upon a common law damages claim.

1.3.6 An amount repayable under this clause will be a debt due by the indemnified person to the State of Queensland.

1.4 Payments

1.4.1 Payments are made without any admission of liability by the State of Queensland.

1.4.2 Appropriate documentation evidencing the claim as required by the accountable officer acting pursuant to the *Financial Accountability Act 2009*, for example, medical reports and relevant receipts, must be obtained from the indemnified person before a payment pursuant to this indemnity is made.

Schedule K

Maternity/paternity leave

1. Maternity leave

1.1 Entitlements

1.1.1 The Chief Magistrate may grant a Magistrate, if she becomes pregnant, leave being either:

- (a) maternity leave which shall be leave of six weeks duration on full salary with any additional leave to be taken without salary
- (b) sick leave in respect of a period of pregnancy related illness occurring prior to the commencement of maternity leave.

1.1.2 Maternity leave and any sick leave granted in lieu of maternity leave previously granted shall not, in total, exceed 52 weeks in respect of any one pregnancy except where, in the opinion of the Chief Magistrate, circumstances exist which warrant an extension of the leave.

1.2 Conditions of Granting Leave

1.2.1 The following provisions shall apply in respect of maternity leave:

- (a) a Magistrate shall make application in writing in sufficient time to allow approval for a minimum period of leave commencing not later than six weeks, or such lesser period as the Chief Magistrate may determine, before the anticipated date of confinement and concluding six weeks after the date the pregnancy ceases.
- (b) an application for maternity leave shall be supported by a certificate from a medical practitioner showing the anticipated date of confinement.

2. PATERNITY LEAVE

2.1 Entitlements

2.1.1 A Magistrate may take one period of paternity leave of not more than one week from the time of confinement of the Magistrate's spouse or partner.

2.1.2 A Magistrate may take one period of paternity leave of not more than 52 weeks from the birth of each child to the first birthday of each child.

2.1.3 A Magistrate is entitled to take approved paternity leave under clause 2.1.2 only if he is the primary care giver for the child for whom the application is made.

2.1.4 All paternity leave granted and taken shall be without pay.

2.2 Application for Paternity Leave

2.2.1 A Magistrate must give reasonable notice to the Chief Magistrate of his intention to apply for paternity leave.

2.2.2 The application must indicate the approximate starting and finishing dates of the leave.

2.2.3 The application should disclose the Magistrate's spouse's name or partner's name and particulars of the paternity leave to be taken.

Schedule L

Appointment and transfer expenses

1. Principal objective

The principal objectives of this schedule are:

- (a) to ensure that a judicial officer, who is required by virtue of their appointment or as a result of transfer or a decision by a relevant authority, to relocate their principal place of residence in order to perform their judicial office, is assisted with costs necessarily incurred by the judicial officer because of the appointment, transfer or decision; and
- (b) to align the monetary amount of the entitlement to reimbursement of those expenses to that of chief executives of the Public Service.

2. Definitions

In interpreting this schedule:

“appointment” means appointment as a Magistrate.

“employee” – where the word “employee” appears in the Directive, substitute the term “Magistrate”.

“Directive” means Directive 11/09 *Transfer and Appointment Expenses* issued under the *Public Service Act 2008* and if that directive is repealed and a new directive dealing with substantially the same subject matter is made to replace it, then, a reference to the repealed directive is taken to be a reference to the new directive.

“judicial office” means duties and functions associated with appointment.

“judicial officer” means Magistrate.

“principal place of residence” means a residence which has been continuously used and occupied by the person for residential purposes.

“relevant authority” means the authority with the power to transfer a judicial officer.

“transfer” means a decision by a relevant authority to require a judicial officer to be transferred from one centre to another.

3. Who does this schedule apply to?

This schedule applies to a Magistrate who will be required as a result of:

- (a) their appointment
 - (b) a transfer
 - (c) a decision of a relevant authority,
- to transfer from one centre to another.

4. Application of directive

Schedules A and B of the Directive apply, subject to the following amendments:

Schedule A Transfer Expenses

Clause 1 Principal Objective

Clause 1 does not apply.

Clause 2 Definitions

“employee” – where the word ‘employee’ appears in Schedules A and B of the Directive, substitute the word “Magistrate”.

Clause 3 Eligibility

Clause 3 of Schedule A is subject to an additional eligibility requirement equivalent to the conditions imposed on Chief Executive Officers of the Public Service:

“the Magistrate must be transferred or promoted to a centre more than 100 kilometres (by road distance) from the employee’s residence to new centre of appointment (the most direct route)”

Clause 4 Entitlement

The third paragraph of this clause (i.e relating to deployees) does not apply.

Clause 21 Maximum Insurance Liability

Delete the words “an agency transferring an employee is to” on the first line of the first paragraph and insert the words “The State will”.

Schedule B Appointment Expenses

Clause 1 Entitlement

Clause 1 of Schedule B is subject to the following eligibility requirement equivalent to the conditions imposed on Chief Executive Officers of the Public Service:

“To be entitled to appointment expenses, the Magistrate must be appointed to a centre more than 100 kilometres (by road distance) from their residence to the centre of appointment (the most direct route)”

Delete the words “or engagement” from the second line of the first paragraph.

Delete the following sentence from the second paragraph:

“The conditions relating to the sale or purchase of a home or land contained in Schedule A do not apply in the case of appointments from outside the Queensland Public Service unless the chief executive considers it to be in the operational interests of the department.”

Clause 4 Refund of costs on termination

Clause 4 does not apply.

Clause 5 Engagement of temporary employees

Clause 5 does not apply.

Accommodation in Mount Isa, Emerald and Charleville

1. Magistrates resident at these locations are entitled to live in government-provided housing. (SCHEDULE ENDS)