

TASMANIA

STATE SERVICE REGULATIONS 2021
STATUTORY RULES 2021, No. 22

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STATE SERVICE REGULATIONS 2021

I, the Governor in and over the State of Tasmania and its Dependencies in the Commonwealth of Australia, acting with the advice of the Executive Council, make the following regulations under the *State Service Act 2000*.

Dated 12 April 2021.

C. WARNER
Governor

By Her Excellency's Command,

PETER GUTWEIN
Premier

PART 1 – PRELIMINARY

1. Short title

These regulations may be cited as the *State Service Regulations 2021*.

2. Commencement

These regulations take effect on 13 April 2021.

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3. Interpretation

(1) In these regulations –

Act means the *State Service Act 2000*;

carer's leave, in relation to an employee or officer, means leave granted to the employee or officer to enable the employee or officer to care for a relative of the employee or officer, or a member of the employee's or officer's household, who –

- (a) is sick and requires care and support; or
- (b) requires care due to an unexpected emergency;

dependant, in relation to an employee, means –

- (a) a relative of the employee who –
 - (i) normally resides with the employee; and
 - (ii) is wholly or substantially dependent on the employee for financial support; and
- (b) a person who –
 - (i) is not a relative of the employee; and

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(ii) normally resides with the employee and has done so for a period of at least 12 months; and

(iii) is wholly or substantially dependent on the employee for financial support;

dwelling includes any residential accommodation, of a kind commonly known as a flat or home unit, that is, or is intended to be, a separate tenement;

new locality, in relation to an employee, means the locality to which the employee relocates as a result of an assignment of duties to the employee;

old locality, in relation to an employee, means the locality from which the employee relocates as a result of an assignment of duties to the employee;

personal leave means sick leave or carer's leave;

reimbursable expenses means –

- (a) legal fees; and
- (b) agent's commission; and
- (c) stamp duty; and
- (d) fees payable to the Recorder of Titles or to a person in another

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State or a Territory of the Commonwealth performing duties of a similar nature to, and for the same purposes as, the Recorder of Titles; and

- (e) expenses relating to the execution or discharge of a first mortgage; and
- (f) in the case of a sale of a kind referred to in regulation 18(1)(a), the reasonable costs of advertising;

relative, in relation to an employee or officer or a relevant employee within the meaning of regulation 24, means –

- (a) the spouse of the employee, officer or relevant employee; and
- (b) a person with whom the employee, officer or relevant employee has resided for substantially the whole of the period of 12 months immediately preceding that person's illness or death; and
- (c) a person who is in a caring relationship, within the meaning of the *Relationships Act 2003*, with the employee, officer or relevant employee; and

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- (d) the parent or step-parent of the employee, officer or relevant employee; and
- (e) the father-in-law or mother-in-law of the employee, officer or relevant employee; and
- (f) a child or stepchild of the employee, officer or relevant employee; and
- (g) a brother or sister, stepbrother or stepsister, or brother-in-law or sister-in-law, of the employee, officer or relevant employee; and
- (h) a grandparent of the employee, officer or relevant employee; and
- (i) a grandchild of the employee, officer or relevant employee;

sick leave, in relation to an employee or officer, means leave granted to the employee or officer because of the illness or injury of the employee or officer;

spouse in relation to an employee, officer or relevant employee, includes a person who is in a significant relationship, within the meaning of the *Relationships Act 2003*, with the employee, officer or relevant employee;

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standing orders means standing orders made by a Head of Agency under section 34(2) of the Act.

- (2) For the purposes of the definition of *dependant*, a person is taken to be wholly or substantially dependent on an employee if that person receives or is entitled to receive an annual income that is less than the minimum wage as determined from time to time by the Tasmanian Industrial Commission.
- (3) An employee with dependants is taken to be an employee without dependants where any dependant of the employee receives or is entitled to receive allowances of a similar nature to the payments and allowances specified in regulation 17 by reason of any entitlement arising from any employment, other than as an employee, engaged in by the dependant.

4. Availability of Act and regulations

Each Head of Agency is to ensure that all employees employed in that Agency are advised that a copy of the Act, these regulations, Employment Directions and standing orders issued by the Head of Agency are available for their perusal, whether electronically or otherwise.

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5. Prescribed officers for the purposes of section 31(1)(b) of Act

The offices specified in Schedule 1 are prescribed for the purpose of section 31(1)(b) of the Act.

PART 2 – ADMINISTRATION

6. Authority to pay salaries

- (1) Salaries of officers and employees are to be paid in accordance with the *Financial Management Act 2016*.
- (2) An officer or employee may, at the request of the officer or employee, be paid, at the commencement of any period of recreation leave, or sick leave, granted to the officer or employee, the employee's salary in full in respect of the whole of that period.
- (3) On the death of an officer or employee, any salary owing to the officer or employee is to be paid –
 - (a) to the legal personal representative of the officer or employee; or
 - (b) if the relevant Head of Agency so directs – to the spouse of the officer or employee or to any person who the Head of Agency is satisfied was dependent on the officer or the employee at the time of the death of the officer or employee.
- (4) Subregulations (2) and (3) do not apply in respect of long service leave under the *Long Service Leave (State Employees) Act 1994*.

7. Deductions from salary

- (1) If an officer or employee –
- (a) occupies for the purpose of residence a building or part of a building that belongs to or is occupied by or on behalf of the Crown; or
 - (b) receives, or is provided with, fuel, lighting, power, board, or other facilities or amenities of a similar nature, the cost of which is paid by the Crown –

there is to be deducted from the salary payable to the officer or employee –

- (c) if an award is applicable to the officer or employee – the sum, if any, that is specified in the award; or
 - (d) if no award is applicable to the officer or employee – the sum, if any, that the Employer determines.
- (2) A deduction is not to be made from the salary of an officer or employee except as provided by these regulations or an award or by any Act regulating contributions to any superannuation fund.
- (3) Unless the Treasurer otherwise directs, an officer or employee may, by notice in writing to the Agency in which the officer or employee is employed, authorise, for each pay day that occurs while the notice is in effect, deductions, of the amount of money specified in the notice,

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for any purpose approved by the Treasurer, from the salary payable to the officer or employee and pay to the employee organisation, or any other organisation, specified in the notice.

- (4) A notice under subregulation (3) may authorise the making of deductions from the salary of an officer or employee either –
- (a) for the period that is specified in the notice; or
 - (b) until the notice is revoked by the officer or employee by a notice in writing to the Agency –

and deductions may be made from that salary accordingly.

- (5) If money is deducted from the salary of an officer or employee pursuant to a notice under subregulation (3), the money is to be forwarded, within 7 days after the deduction is made, to the secretary of the employee organisation, or another organisation, specified in the notice.

8. Employee records kept by Employer

The following details are prescribed for the purposes of section 15(3) of the Act to be kept in relation to each employee:

- (a) employment status;
- (b) family name;
- (c) given names;

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- (d) gender;
- (e) date of birth;
- (f) residential post code;
- (g) the date on which the employee commenced service;
- (h) the Agency in which the employee is employed;
- (i) the division, branch and section in which the employee is employed;
- (j) work location post code;
- (k) source of funding for the employment of the employee;
- (l) award identifier;
- (m) award level;
- (n) salary;
- (o) job title;
- (p) the date on which the employee was employed at the level which the employee currently holds;
- (q) the hours employed;
- (r) full-time equivalent factor.

9. Annual reports by Heads of Agencies

For the purposes of section 36(1)(c) of the Act, the following matters are prescribed for inclusion in the report of a Head of Agency:

- (a) a description, of the Agency’s objectives and structures, which covers –
 - (i) an overview of the Agency’s strategic plan, including its aims, functions and related programs; and
 - (ii) an organisation chart illustrating the Agency’s administrative structure, including regional offices, and showing officers of the Agency; and
 - (iii) a description of the relationship between the organisational structure and the program management structure of the Agency; and
 - (iv) details of, and reasons for, any major changes which have taken place in relation to the programs, aims, functions or organisational structure of the Agency; and
 - (v) details of the major initiatives taken by the Agency to develop and give effect to Government policy;

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- (b) the employment policies and practices of the Agency including details of and statistical information (where applicable) relating to –
 - (i) processes established to ensure employee participation in industrial relations matters within the Agency and any disputes affecting the Agency; and
 - (ii) occupational health and safety strategies;
 - (c) an outline of the means of public access to the Agency, including –
 - (i) where applicable, details of activities undertaken by the Agency to develop community awareness of the Agency and the services it provides, and any publications of the Agency; and
 - (ii) a list of contact officers and points of public access in relation to services provided by the Agency; and
 - (iii) an outline of the processes available for appeals against decisions made by the Agency;
 - (d) a description of other activities undertaken by the Agency, including details of legislation administered by the

Agency together with details of significant changes to that legislation.

10. Public notification under section 52 of Act

(1) In this section –

cessation, in relation to a permanent employee or officer, means any action that ends the employment relationship between the State Service and the employee or officer, including by resignation, retirement or termination but not including by the effluxion of time.

(2) The following actions are prescribed for the purposes of section 52 of the Act:

- (a) appointment of a person as a permanent employee;
- (b) appointment of a person as a fixed-term employee for a specified term of more than 12 months or for the duration of a specified task that is reasonably estimated to continue for more than 12 months;
- (c) a person becoming an employee pursuant to a determination under section 13(1) of the Act;
- (d) in relation to a person who is employed as a fixed-term employee for less than 12 months – an extension or renewal of the

- appointment that results in the term of employment being more than 12 months;
- (e) transfer of a permanent employee to perform duties in another Agency;
 - (f) promotion of a permanent employee;
 - (g) appointment of a person as an officer under section 31 of the Act;
 - (h) cessation of the employment of a permanent employee or an officer;
 - (i) transfer of an officer under section 33 of the Act.

11. Public statements by officers and employees

An officer or employee is not, without the permission of the Minister administering the Agency in which the officer or employee is employed, to make any communication or contribution, directly or indirectly, anonymously or otherwise, on any matter affecting the Agency in which the officer or employee is employed, or the functions or duties of the officer or employee, to any newspaper or publication of a like nature other than –

- (a) if the officer or employee is a member of a professional health organisation – a journal or publication relating to or relevant to the profession of that officer or employee; or

- (b) if the officer or employee is a member of an employee organisation – a journal or publication issued by or under the authority of that employee organisation.

12. Gifts

For the purposes of section 9(12) of the Act, a gift must be declared to the relevant Head of Agency.

13. Absence from duty

- (1) An employee is not to be absent from duty, without leave, unless reasonable cause for that absence is shown.
- (2) An employee who is absent from duty for a period of 14 days without notifying the employee's Head of Agency is taken to have abandoned the employee's employment.
- (3) If an employee is prevented by sickness or any other emergency from attending to duty, the employee is to immediately report the fact to the relevant Head of Agency or the employee's manager or supervisor.

14. Travelling time and expenses while stationed away from headquarters

- (1) An employee who is required for a period of 3 months or more to work away from the employee's usual workplace at a distance that requires the employee to live away from the

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employee's usual place of residence is entitled to travelling time for the purpose of visiting the employee's usual place of residence once at least in every period of 3 months while so engaged.

- (2) The travelling time referred to in subregulation (1) –
 - (a) is to be given to allow the employee to visit the employee's usual place of residence at a weekend; and
 - (b) is to allow for travelling on the last working day before a weekend and the first working day after a weekend.
- (3) Despite subregulation (2), if the employee is a shift worker, travelling time referred to in subregulation (1) –
 - (a) is to be given to allow the employee to visit the employee's usual place of residence during a day, or a period of days, on which the employee is not required to work; and
 - (b) is to allow for travelling on the last working day before that day or period and the first working day after the day or period.
- (4) An employee who travels to and from the employee's usual place of residence in travelling time to which the employee is entitled under subregulation (1) is entitled to recover the costs incurred in so travelling.

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**PART 3 – ALLOWANCES WITH RESPECT TO
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DUTIES**

15. Displacement allowance

(1) If an employee is assigned duties at another location, either as a result of promotion or otherwise not at the employee's request and, as a result of –

(a) the early retirement of the employee on the grounds of health or redundancy; or

(b) the death of the employee –

there has developed a hardship that can only be alleviated if the employee or surviving dependant of the employee moves from the employee's or surviving dependant's accommodation to other accommodation, the employee or surviving dependant is, subject to the approval of the relevant Head of Agency, entitled to an allowance (a *displacement allowance*).

(2) The displacement allowance is to be a sum determined by the Employer and is to be in the form of reimbursement, to the retired employee or the surviving dependant of that employee, of –

(a) removal expenses associated with moving the furniture and personal

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- belongings of the employee and the employee's dependants; and
- (b) expenses associated with the storage of that furniture and those personal belongings; and
 - (c) the cost of any interim accommodation that may be required by the employee or the employee's dependants, or both; and
 - (d) the cost of the conveyance of the employee and the employee's dependants.

16. Special accommodation payment

(1) If –

- (a) an employee is required in the performance of the employee's duties, either on appointment or transfer, or otherwise not at the employee's request, to relocate from the employee's place of residence to another locality; and
- (b) the relevant Head of Agency is satisfied that –
 - (i) the employee is unable to obtain accommodation for the employee or for the employee's dependants in that locality and as a result incurs additional expense; or

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- (ii) there is available in that locality for the employee or for the employee and the employee's dependants only accommodation that will, in the opinion of the Head of Agency, involve the employee in excessive expenditure –

the relevant Head of Agency may grant to the employee a special accommodation payment at a rate determined by the Head of Agency.

- (2) A payment under this regulation to an employee is to be payable for the period, of not more than 3 months, that the Head of Agency determines in relation to the employee, but the Head of Agency may extend that period for one or more additional periods, each of which period is of not more than 3 months.
- (3) The Head of Agency may at any time increase, reduce or revoke any payment made under this regulation.
- (4) An employee who receives a payment under this regulation is to immediately report to the relevant Head of Agency any alteration of the circumstances in consideration of which that payment was granted or in consideration of which a further payment under this regulation may be granted.

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17. Relocation expenses

- (1) If an employee is assigned duties at another location, either as a result of promotion or otherwise not at the employee's request, the employee is entitled to be reimbursed –
 - (a) the relocation cost involved in –
 - (i) the conveyance of the employee and the employee's dependants to the new locality; and
 - (ii) the removal of necessary household furniture and effects (not including livestock) to the new locality; and
 - (b) the premium in respect of a policy of insurance for a sum determined by the Employer against loss or damage in the removal of the employee's household furniture and effects.
- (2) If an employee is assigned duties at another location at the employee's request –
 - (a) the employee may be reimbursed the costs specified in subregulation (1)(a); or
 - (b) it may be made a condition of the assignment of duties that the employee receive none, or a proportion only, of those costs.

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- (3) If a person who is appointed as an employee resides at a distance of more than 16 kilometres from the place at which that person is to be located, the person may, at the discretion of the Employer, receive the reimbursement of the relocation costs specified in subregulation (1)(a) or the proportion of those costs that is determined from time to time by the Employer.
- (4) An employee or a person appointed as an employee is, before undertaking a conveyance and removal under this regulation, to obtain offers from at least 2 carriers in respect of the conveyance and removal and is to submit those offers to the relevant Head of Agency.
- (5) A relevant Head of Agency to whom offers are submitted in accordance with subregulation (4) may authorise the acceptance of the offer which, in the opinion of the Head of Agency, is the most suitable.
- (6) An employee or a person appointed as an employee is to submit to the relevant Head of Agency for certification all documentation in respect of any amounts expended by that employee or person in respect of the costs specified in subregulation (1) and the Head of Agency may certify the documentation accordingly.
- (7) An employee or a person appointed as an employee is to be reimbursed, by the Agency in which the employee is employed or to which the person has been appointed, any amounts,

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expended by the employee or person, that are certified under subregulation (6).

- (8) If a dependant of an employee is an employee, the dependant and the employee are each entitled to the reimbursements specified in this regulation and each may, with the consent of the relevant Heads of Agency, elect to treat any of the dependants of the employee or dependant –
- (a) as being a dependant of either the dependant or the employee; or
 - (b) as being a dependant of both the dependant and the employee.

18. Reimbursement of expenses incurred in sale and purchase of property

- (1) If an employee is assigned duties at another location, either as a result of promotion or otherwise not at the employee's request, the employee is entitled to the reimbursement of reimbursable expenses incurred by the employee –
- (a) in the sale of the dwelling which, at the date on which the employee received notice of the assignment of duties at the new locality, was –
 - (i) owned and occupied by the employee; or

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- (ii) being purchased by the employee, for occupation by the employee, under a contract of sale providing for vacant possession; or
 - (iii) being constructed by the employee for occupation by the employee; and
 - (b) in the purchase of –
 - (i) a dwelling, in the new locality, for occupation by the employee; or
 - (ii) land, in the new locality, for the purpose of erecting a dwelling on that land for occupation by the employee.
- (2) The reimbursement that an employee is entitled to be paid under subregulation (1)(a) and (b) is the amount determined by the Employer.
- (3) The reimbursement payable to an employee under this regulation is payable in addition to the reimbursements (if any) payable to the employee under regulation 17 or 19.
- (4) Subject to subregulation (5), an employee is not entitled to be reimbursed under subregulation (1)(b) unless the employee is entitled to be reimbursed under subregulation (1)(a).

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- (5) The Employer may approve the reimbursement under subregulation (1)(b) to an employee who is not entitled to be reimbursed under subregulation (1)(a), if the Employer is satisfied that it was necessary for the employee to purchase –
- (a) a dwelling in the new locality; or
 - (b) land, in the new locality, for the purpose of erecting a dwelling on that land for occupation by the employee.
- (6) An application by an employee for reimbursement under this regulation is to be accompanied by evidence, satisfactory to the Employer, of the payment by the employee of the reimbursable expenses.
- (7) Despite any other subregulation of this regulation, an employee is not entitled to reimbursement in respect of –
- (a) the sale, of a kind referred to in subregulation (1)(a), of a dwelling in the old locality; or
 - (b) the purchase by the employee of –
 - (i) a dwelling in the new locality; or
 - (ii) land in the new locality for the purpose of erecting a dwelling on that land –

if the sale or purchase was effected –

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- (c) more than 2 years after the day on which the employee took up duty in the new locality; or
 - (d) after the day on which the employee received, after being assigned duties in the new locality, notification of being assigned duties at the old locality, unless the relevant Head of Agency otherwise approves.
- (8) Despite the other provisions of this regulation, an employee is not entitled to reimbursement in respect of the purchase by the employee of a dwelling in the new locality, or land in the new locality for the purpose of erecting a dwelling on that land, if suitable housing in the new locality is provided to, or offered to, the employee by the Agency in which the employee is employed.
- (9) For the purposes of this regulation, it is immaterial that the purchase, ownership or sale of a dwelling or land is made by an employee solely, jointly or in common with a dependant or spouse of the employee.

19. Depreciation allowance

- (1) If an employee is assigned duties at another location, either as a result of promotion or otherwise not at the employee's request, the employee, on taking up residence, in the new locality, elsewhere than in any hotel, boarding-house or similar place, is entitled to be reimbursed for –

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- (a) the value of the increased depreciation of, and the additional wear and tear on, household furniture and effects resulting from the relocation; and
 - (b) the cost of the replacement or alteration of household furniture and effects necessitated by the relocation.
- (2) The reimbursement payable to an employee under this regulation is payable subject to, and in addition to, the reimbursement of the costs of relocation payable to the employee under regulation 17.
 - (3) Subject to subregulation (4), the reimbursement payable to an employee under this regulation in respect of the household furniture and effects of the employee is the amount that the Employer determines.
 - (4) An employee is not entitled to reimbursement under this regulation unless the employee submits to the relevant Head of Agency evidence that the value of the employee's household furniture and effects relocated by the employee on the employee's relocation from one locality to another locality is, immediately before the relocation, more than the amount determined by the Employer.

PART 4 – LEAVE

20. Additional sick leave for ex-servicepersons

(1) In this regulation –

forces to which this regulation applies means any naval, military or air forces raised –

- (a) in Australia for service in any war or warlike operations to which this regulation applies; and
- (b) in any country that is or was allied or associated with Australia in any war or warlike operations to which this regulation applies, for service in that war or those warlike operations;

war to which this regulation applies means any war in which Australia became, or becomes, engaged before or after the commencement of this regulation;

warlike operations to which this regulation applies means any warlike operations, whether commenced before or after the commencement of this regulation, in which any naval, military or air forces raised in Australia were or are engaged.

(2) Subject to this regulation, the relevant Head of Agency may grant to an employee –

- (a) who has been a member of any of the forces to which this regulation applies

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during any war or warlike operations to which this regulation applies; and

- (b) who is suffering from illness as a result of injuries received or disease contracted on active service during that war or those warlike operations –

(in this regulation referred to as an *ex-servicperson*) sick leave in addition to the sick leave to which the ex-servicperson is otherwise entitled.

- (3) At the date of an ex-servicperson's appointment, there is to accrue to that ex-servicperson, whether appointed before the commencement of this regulation or during any ensuing leave year –
 - (a) 46 working days sick leave (in this regulation referred to as *initial credit*); and
 - (b) 16 working days sick leave (in this regulation referred to as *cumulative sick leave*).
- (4) In addition to the initial credit and cumulative sick leave under subregulation (3), an ex-servicperson is entitled to a further 16 working days cumulative sick leave for every completed year of service as an employee, but so that the maximum period of cumulative sick leave to which the ex-servicperson is so entitled (together with the cumulative sick leave under that subregulation) does not exceed 46 working days at any one time.

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- (5) If an ex-serviceperson is granted sick leave pursuant to this regulation, that leave is to be granted –
- (a) from the initial credit until that credit has been exhausted; and
 - (b) after the initial credit has been exhausted in accordance with paragraph (a) – from the cumulative sick leave.
- (6) If, at the conclusion of a year of service as an employee, an ex-serviceperson who has exhausted the initial credit is entitled to less than 46 working days sick leave, the ex-serviceperson is to be credited with –
- (a) a period of 16 working days sick leave; or
 - (b) a period of sick leave equal to the difference between 46 working days and the number of working days cumulative sick leave to which the ex-serviceperson is next entitled –
- whichever is the lesser period.
- (7) An application for sick leave under this regulation is to be accompanied by –
- (a) a certificate of a medical practitioner that the applicant is suffering from illness as a result of injuries received, or disease contracted, on active service during any war or warlike operations to which this regulation applies; and

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- (b) a certificate of an officer employed in, or attached to, the Commonwealth Department of Veterans' Affairs that the applicant, at the time of being discharged from any of the forces to which this regulation applies, or at any subsequent time, was suffering from illness as a result of injuries received, or disease contracted, on active service during any war or warlike operations to which this regulation applies.
- (8) If an ex-serviceperson has exhausted the ex-serviceperson's sick leave under this regulation, the ex-serviceperson is entitled to any other sick leave to which the ex-serviceperson is otherwise entitled.

21. Leave for employees appointed to or voluntarily enlisting in Defence Force

- (1) Subregulation (2) applies to –
 - (a) a permanent employee who is a part-time member of any of Australia's Defence Forces; and
 - (b) a fixed-term employee who has completed 3 months' continuous service in any Agency or Agencies and who is a part-time member of any of Australia's Defence Forces.
- (2) Subject to this regulation, an employee to whom this subregulation applies may be granted leave of absence for –

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- (a) not more than 20 working days in any leave year to enable the employee to undertake Defence Force service; and
 - (b) not more than 10 working days in any leave year, in addition to any leave granted to that employee in that leave year under paragraph (a), to enable the employee to undertake initial training upon first becoming a part-time member of Australia's Defence Forces; and
 - (c) not more than 10 working days in any leave year, in addition to any leave granted to that employee in that leave year under paragraph (a), to enable the employee to undertake additional Defence Force service.
- (3) The following provisions apply to and in relation to leave granted to an employee under subregulation (2):
- (a) a certificate evidencing the necessity of the employee's attendance, or the employee's eligibility to attend, is to be submitted with the application for leave and, at the conclusion of the period of leave, the employee is to produce a certificate of attendance, and in each instance both certificates are to be signed by or on behalf of the person for the time being holding office as, or acting in the place of, the commanding officer in Tasmania of the relevant Defence Force;

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- (b) the employee is to be paid –
 - (i) if leave is granted under subregulation (2)(a) or (b) – an amount equal to the employee’s normal salary for the period of that leave; and
 - (ii) if leave is granted under subregulation (2)(c) – an amount equal to the employee’s normal salary for the period of leave, less any naval, military or air force pay or allowance received by the employee in respect of that period;
- (c) if the employee, during a period of leave granted, sustains injury, or contracts illness, necessitating the employee’s absence from duty beyond that period, the employee may be granted further leave on the following terms:
 - (i) if compensation is not paid to the employee on behalf of the Defence Force in respect of that absence – the leave may be granted as sick leave;
 - (ii) if compensation is so paid, and is equal to or exceeds the amount of remuneration which the employee would have received if the employee had been granted sick

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leave – the leave is to be granted without pay;

(iii) if compensation is so paid, and is less than the amount of remuneration which the employee would have received had the employee been granted sick leave – the employee is to be paid the difference, and the employee’s sick leave credit is to be reduced as if the employee had been granted sick leave with pay corresponding to the amount of the difference.

(4) If the term of service of a fixed-term employee to whom subregulation (2) applies will expire before the conclusion of the employee’s period of Defence Force service, leave may be granted under this regulation only to the date of that expiration.

(5) A permanent employee who is required to give continuous service as a member, other than as a part-time member, of any of Australia’s Defence Forces, as a result of the employee’s –

(a) voluntary enlistment at a time when Australia has been declared to be at war;
or

(b) call-out or conscription at any time under a law of the Commonwealth –

is to be granted leave, for the period that the employee is required to continuously serve,

without pay or on the terms that the Employer determines.

- (6) Subject to subregulation (7), any leave granted to an employee under this regulation is to count as service for all purposes.
- (7) If leave without pay is granted to an employee under this regulation, only the period not exceeding 6 months is to be taken into account for the purpose of accruing recreation leave.

22. Leave of absence with or without pay

- (1) The relevant Head of Agency may grant to an employee, on the terms and conditions, if any, that the Head of Agency considers reasonable, leave of absence for a period of not more than 3 years and may grant such leave of absence without pay or on reduced pay.
- (2) If an employee who has been granted leave under subregulation (1) requests an extension of the period of leave so granted beyond 3 years, the Employer may, on the recommendation of the relevant Head of Agency, extend –
 - (a) for the period determined by the Employer; and
 - (b) on the terms and conditions determined by the Employer; and
 - (c) without pay, or on reduced pay, as determined by the Employer –

the leave granted under that subregulation.

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- (3) If an employee who has been granted leave under subregulation (1) as extended, if at all, under subregulation (2), wishes to reduce the period of that leave, the relevant Head of Agency may reduce the period of the leave by the period, and on the terms and conditions, that the Head of Agency determines.
- (4) If the total period of leave without pay granted under this regulation amounts to more than 20 working days in any personal leave year, the whole of that leave is not service for the purposes of –
 - (a) calculating an employee’s entitlement to recreation leave; and
 - (b) determining the day on which an employee’s personal leave entitlement accrues; and
 - (c) determining the day on which an employee is entitled to any salary increment, unless an award prescribes otherwise.
- (5) An employee who has been granted a period of leave of more than 20 days under subregulation (1) is not entitled to any paid leave under these regulations while on that period of leave without pay.
- (6) Subregulations (4) and (5) do not apply in relation to a period of leave granted under subregulation (1) for the purposes of study.

23. Leave in special circumstances

- (1) The relevant Head of Agency may, subject to any Employment Direction, grant to an employee special leave of absence with pay –
 - (a) in the event of the serious illness of a relative of the employee; or
 - (b) in the case of other pressing necessity relating to the employee; or
 - (c) to enable the employee to participate in a sporting or cultural event at a national or international level; or
 - (d) if the employee has been subjected to family violence.
- (2) In any personal leave year –
 - (a) an employee who was an employee before 1 July 1990 may not be granted more than 5 working days, in the aggregate, of special leave of absence under this regulation; and
 - (b) any other employee may not be granted more than 3 working days, in the aggregate, of such special leave.

24. Leave because of COVID-19

- (1) In this regulation –

COVID-19 means the disease within the meaning of the *COVID-19 Disease*

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Emergency (Miscellaneous Provisions)
Act 2020;

personal leave entitlement, in relation to a relevant employee, means an entitlement of the relevant employee to leave –

- (a) due to personal illness or injury of the relevant employee; or
- (b) for the purpose of providing care or support to a relative of the relevant employee or a member of the relevant employee’s household;

relevant employee means –

- (a) an employee within the meaning of the Act; and
- (b) a person who is currently employed in an Agency and whose employment in the Agency is fixed-term casual, sessional, seasonal or relief in nature; and
- (c) a person appointed as an officer under section 31 of the Act; and
- (d) a person in respect of whom an arrangement under section 46(1) of the Act is in force.

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- (2) The relevant Head of Agency may, subject to any Employment Direction, grant to a relevant employee special leave of absence with pay if –
- (a) the relevant employee has exhausted the employee’s personal leave entitlements and –
 - (i) has contracted COVID-19; or
 - (ii) is required to provide care or support to a relative of the relevant employee, or a member of the relevant employee’s household, who has contracted COVID-19; or
 - (iii) has experienced side effects, following vaccination for COVID-19, consisting of COVID-19 symptoms; or
 - (iv) is required to provide care or support to a relative of the relevant employee, or a member of the relevant employee’s household, who has experienced side effects, following vaccination for COVID-19, consisting of COVID-19 symptoms; or
 - (b) the relevant employee –
 - (i) is required to enter isolation in accordance with a direction made in relation to an authorisation of

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- emergency powers made under section 40 of the *Emergency Management Act 2006* or a direction made under section 16 of the *Public Health Act 1997*; or
- (ii) is responsible for providing care or support to a relative of the relevant employee, or a member of the relevant employee's household, who is unable to attend school or other care arrangements, due to the school or care arrangements being unavailable due to COVID-19; or
- (c) the relevant employee is in self-isolation, awaiting test results, after the relevant employee –
- (i) has been tested for COVID-19; and
 - (ii) has been advised, by the employee or the employee's manager or supervisor, to self-isolate; and
 - (iii) is ready, willing and able to return to the relevant employee's workplace; and
 - (iv) is unable to work from home; or
- (d) the relevant employee is unable to attend work at the relevant employee's workplace, for any reason relating to

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COVID-19, other than a reason referred to in paragraph (a), (b) or (c), and is unable to work from home.

- (3) If the relevant Head of Agency grants leave under this regulation, the leave may be granted in respect of a relevant employee for –
 - (a) a period, in aggregate, of working days that is not more than the number of working days in a standard 4-week period of employment of the relevant employee; and
 - (b) if the Head of Agency considers it necessary in the individual circumstances of the relevant employee, a further period determined by the Head of Agency.
- (4) Leave granted under this regulation does not accumulate or carry forward.

25. Absence of employees due to injury sustained, or illness contracted, in the course of employment

- (1) If the relevant Head of Agency is satisfied that an employee is absent from duty as a result of an injury sustained, or an illness contracted, in the course of and arising out of the employee's employment as an employee and not caused by the default of the employee, the relevant Head of Agency may, subject to subregulation (2), grant to the employee leave of absence on full pay without prejudice to any leave to which the employee may be otherwise entitled.

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- (2) A period of leave of absence granted to an employee under subregulation (1) is not to be more than 52 weeks in respect of the same injury or illness.

26. Attendance at court

- (1) If an employee is required, due to being subpoenaed or called as a Crown witness in any court, to be absent from duty, the employee is to promptly notify the relevant Head of Agency.
- (2) An employee who is subpoenaed or called as a Crown witness in any court is not entitled to receive any payment for attending at court, other than out-of-pocket expenses approved by the Crown.
- (3) If an employee has attended at any court as a witness during the employee's normal working hours and has received payment for that attendance, the employee is to pay all amounts so received to the Treasurer and is to lodge a receipt for that payment with the relevant Head of Agency.
- (4) If an employee who is subpoenaed or called as a Crown witness in any court of law is on leave, the employee is not to lose the benefit of that leave, but –
 - (a) is to be credited with the time that the employee was required to attend at court as a Crown witness; and

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- (b) is to be permitted to take such extra leave, with pay, at the end of the original period of leave or at a later date according to the requirements of the Agency in which the employee is employed.

**PART 5 – TRAINING, EDUCATION AND
DEVELOPMENT**

27. Head of Agency to make provision for training

- (1) A relevant Head of Agency may make the provision that the Head of Agency considers necessary for the training, education and development of an employee.
- (2) For the purposes of this regulation, a Head of Agency may establish or approve the courses of instruction and training that the Head of Agency considers necessary.
- (3) A relevant Head of Agency may approve a particular course of instruction and training for the purpose of authorising an employee to attend that course of instruction and training during the employee's normal hours of duty.

28. Study assistance

- (1) An employee who, as a condition of the employee's appointment to the State Service or an award or legislation, is required to undertake and complete an approved course of study involving –
 - (a) the payment of fees and charges by the employee; or
 - (b) the attendance of the employee at lectures or courses of instruction during the employee's normal working hours; or

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- (c) both that payment of fees and charges and that attendance –

is to –

- (d) be paid an amount equivalent to the amount of the fees and charges payable for that approved course of study but not including any Higher Education Contribution Scheme charge, or Higher Education Loan Program charge, relating to that course; and
 - (e) be exempt, for the purpose of undertaking that approved course of study, from attending the employee's place of work for the period each week, being a period with pay, that the relevant Head of Agency determines.
- (2) An employee referred to in subregulation (1) may apply in writing to the relevant Head of Agency for approval to be paid study assistance comprising an amount equivalent to any Higher Education Contribution Scheme charge, or Higher Education Loan Program charge, relating to the approved course of study.
 - (3) A relevant Head of Agency who approves an application by an employee under subregulation (2) may authorise the reimbursement to the employee of the Higher Education Contribution Scheme charge or Higher Education Loan Program charge.
 - (4) An employee who wishes to improve the employee's qualifications for the performance of

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the employee's duties by undertaking a course of study involving –

- (a) the payment of fees and charges by the employee; or
- (b) the attendance by the employee at lectures or courses of instruction, whether during the employee's normal working hours or not; or
- (c) both that payment of fees and charges and that attendance –

may apply in writing to the relevant Head of Agency for approval to receive study assistance to undertake that course of study.

- (5) An application under subregulation (4) is to be accompanied by a report by the applicant stating whether the undertaking of the proposed course of study to which the application relates by the applicant will be in the interests of the State Service.
- (6) If the relevant Head of Agency approves an application for study assistance under subregulation (4) by an employee –
 - (a) the Head of Agency may, subject to subregulation (8), exempt the employee from attending the employee's place of work for –
 - (i) the period, being a period, with pay, of not more than 8 hours per week; or

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- (ii) for a total of 10 days leave per annum –

that the Head of Agency directs, for the purpose of undertaking the course of study to which the application relates (in this regulation referred to as *the study course*); and

- (b) the Head of Agency may authorise the reimbursement to the employee of all or part of the amount of the fees and charges paid by the employee in respect of each year of the study course on the successful completion by the employee of that year of the study course.
- (7) The relevant Head of Agency may specify the period in which it is expected that an employee who receives study assistance under subregulation (1) or (4) will complete the approved study course.
 - (8) The period for which an employee who receives study assistance is exempted from attending the employee's place of work pursuant to subregulation (6)(a) includes the time required by the employee to travel to and from the place at which the study course is being conducted.
 - (9) If an employee who receives study assistance fails to pass a subject forming part of the approved study course –
 - (a) being undertaken pursuant to subregulation (1), the employee is to

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- repeat the subject at the employee's own expense; or
- (b) being undertaken pursuant to subregulation (4) –
- (i) the relevant Head of Agency may require the employee to repeat the subject at the employee's own expense; and
 - (ii) the period for which the employee may be exempted from attending the employee's place of work pursuant to subregulation (6)(a) in order to repeat that subject may, if the Head of Agency so directs, be without pay.
- (10) The relevant Head of Agency may withdraw study assistance –
- (a) in the case of unsatisfactory progress by the employee who receives the study assistance for the study course; or
 - (b) in circumstances that are considered by the Head of Agency to be likely to prevent the completion by the employee of the study course; or
 - (c) for any other reason that the Head of Agency considers sufficient.

PART 6 – TERMINATION

29. Termination of employment for permanent employees

The following grounds are prescribed for the purposes of section 44(3)(d) of the Act:

- (a) termination of probationary appointment;
- (b) abandonment of employment as referred to in regulation 13(2).

PART 7 – REVIEWS

30. Timeframes in relation to reviews under section 50(1)(a) of Act

- (1) In this regulation –

application for selection review means an application for a review under section 50(1)(a) of the Act.

- (2) For the purposes of section 50(1)(a), the timeframe in which an application for selection review is to be lodged with the Tasmanian Industrial Commission is within 14 days from the date of the written notice given to the employee advising the employee of the selection.
- (3) For the purposes of this regulation, a timeframe specified in this regulation is to be calculated exclusive of any public holidays in the relevant part of the State that occur within that timeframe.

31. Timeframes in relation to reviews under section 50(1)(b) of Act

- (1) In this regulation –

application for a review means an application for a review under section 50(1)(b) of the Act.

- (2) An application for a review of the appointment of a person without advertising, in accordance

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with a determination of the Employer under section 39(1) of the Act, is to be lodged with the Tasmanian Industrial Commission within 14 days after the employee lodging the application knew, or reasonably ought to have known, of the appointment of the person.

- (3) An application for a review of the promotion of a permanent employee without advertising, in accordance with the intention of the Head of Agency as notified in the *Gazette* under section 40(2) of the Act, is to be lodged with the Tasmanian Industrial Commission within 14 days after the date on which the intention was so notified in the *Gazette*.
- (4) An application for a review of a State Service action, other than an action that may be the subject of an application for a review under subregulation (2) or (3), is to be made within 14 days from the date of the occurrence of the event that gave rise to the making of the application.
- (5) For the purposes of this regulation, a period specified in this regulation is to be calculated exclusive of any public holidays in the relevant part of the State that may fall within that period.

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**SCHEDULE 1 – OFFICES PRESCRIBED FOR
PURPOSES OF SECTION 31(1)(B) OF ACT**

Regulation 5

Column 1

1. Chief Parliamentary Counsel
2. Crown Solicitor
3. Director of Public Health

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Printed and numbered in accordance with the *Rules Publication Act 1953*.

Notified in the *Gazette* on 12 April 2021.

These regulations are administered in the Department of Premier and Cabinet.

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations –

- (a) prescribe conditions of service, not otherwise specified in awards, relating to the employment of persons in the State Service; and
- (b) prescribe other matters in relation to the State Service; and
- (c) are made consequentially on the repeal of the *State Service Regulations 2011* under section 11 of the *Subordinate Legislation Act 1992*.