

# Payment instead of taking long service leave application guide

Queensland Industrial Relations Commission



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### Contact for enquiries and proposed changes

The Registry of the Queensland Industrial Relations Commission is the custodian of this document. All enquiries regarding this document should be directed in the first instance to:

Industrial Registry [qirc.registry@qirc.qld.gov.au](mailto:qirc.registry@qirc.qld.gov.au) Tel: 1300 592 987

### Acknowledgements

This version of the document, *Payment instead of taking long service leave application guide* was developed and updated by the Registry of the Queensland Industrial Relations Commission.

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## Part 1: Purpose

This document is for guidance only. Individual applications may be managed differently if circumstances require.

This guide sets out an overview of the procedures that the Queensland Industrial Relations Commission (commission) will usually adopt in deciding Payment Instead of Taking Long Service Leave Applications (LSL applications) made pursuant to section 110 of the *Industrial Relations Act 2016* (Qld).

**These black boxes indicate items of particular importance. Pay attention to them.**

This guide is written for self-represented parties.

Legally represented parties, or parties represented by an agent, should note that the procedures outlined in this guide are centred on the directions orders issued in instances where the applicant is self-represented.

## Part 2: Introduction and overview

This section is intended to introduce you to the commission, its related jurisdictions, and its general structure.

### 2.1 What is the Queensland Industrial Relations Commission?

The commission has jurisdiction over the following areas:

- Industrial disputes involving state and local government employees
- Unfair dismissals and reinstatement applications for state and local government employees
- Workers' compensation appeals
- Work-related anti-discrimination complaints
- Public service appeals
- Trading Hours
- Work, health and safety reviews
- Long service leave payment applications
- Other matters prescribed under various Acts

In dealing with most of those jurisdictions, the commission holds conferences to try and assist the parties to understand their respective positions. Conferences are generally more informal. Matters that do not settle as the result of conference usually go to a "hearing." A hearing is a formal process presided over by a member of the commission. For LSL applications there is usually no conference or hearing and the applications are decided by the members on the papers.

There are four types of members at the commission:

- The President, who is also a judge of the Supreme Court of Queensland
- The Vice President
- Deputy Presidents
- Industrial Commissioners

How to address a member of the commission at a hearing or in a conference is simple:

- The President, Vice President, and the Deputy Presidents are all: "Your Honour"
- Commissioners: "Commissioner"

If you are writing to a member or the Registrar you should use their title as the salutation i.e. "Dear Deputy President", "Dear Commissioner", or "Dear Registrar".

Each of the members has an associate. The associate's role is to assist the member with their duties. Associates are unable to provide you, or any other party, with legal advice. Associates are the contact point between parties to a matter and the member, and between the Industrial Registry (**registry**) and the member's chambers.

Associates should only be directly contacted if the matter is urgent or if the commission directs you to contact the associate instead of the registry.

## 2.2 What is the Industrial Registry?

The registry is the support body for the commission and the Industrial Court of Queensland (**court**). It is where forms and materials are filed for appeals, applications, and notifications. The registry is headed by the Industrial Registrar and is supported by the Deputy Registrar and staff of the Registry. The registry is located at:

Industrial Registry  
Level 21 Central Plaza Two  
66 Eagle St  
Brisbane Qld 4000

The staff of the registry cannot provide parties with legal advice, but they can assist you with identifying which form to use in certain situations and other procedural matters.

If you ever need to write to the registry, or send an email ([girc.registry@girc.qld.gov.au](mailto:girc.registry@girc.qld.gov.au)), then you can address your message to the Industrial Registrar (i.e "Dear Registrar").

## Part 3: Applications

This part of the guide covers applications to the Commission and how to make them.

### 3.1 What is an application?

Applications to the Commission for payments instead of taking long service leave (LSL Payment Application) are governed by section 110 of the *Industrial Relations Act 2016*.

You may apply if you have an entitlement to Long Service Leave.

### 3.2 Basis of an application

There are two grounds on which you can make a LSL Payment Application:

1. Compassion; and
2. Financial hardship.

If you make an application you should make sure that you provide enough explanation to support one of those grounds.

If you are filing by email, and what you are filing is quite large, the Industrial Registry may require you to provide a number of hard copies too.

See: **APPENDIX B** to this guide on page 18 PN/2018/1 ELECTRONIC FILING AND HARD COPIES OF DOCUMENTS

### 3.3 Who are the parties to an application?

The person who files the application is called the applicant. This means that you will be described as the Applicant in documents which are issued by the commission/registry relating to your application.

Your employer will be described as the Employer. Your employer is involved in the application as it may be required to pay money to you, but they are not a party to the application.

### 3.4 How to apply – Form 13 - Application for payment instead of taking long service leave

Applications are made by filing a **Form 13 – Application for payment instead of taking long service leave**. You can access Form 13 from [www.qirc.qld.gov.au](http://www.qirc.qld.gov.au) under the Forms Tab on the commission's website.

Form 13, and all other forms, can be filed at the registry via the following methods:

- **By e-mail:** [qirc.registry@qirc.qld.gov.au](mailto:qirc.registry@qirc.qld.gov.au)
- **In person over the counter:** Industrial Registry  
Level 21 Central Plaza Two  
66 Eagle St  
Brisbane Qld 4000
- **By post:** Industrial Registry  
GPO Box 373  
Brisbane Qld 4001
- **By fax:** (07) 3221 6074

In most instances the registry will communicate with you by email. If you have not provided an email address on your Form 13 then the registry will be in contact with you requesting that you provide an email address. If you do not have an email address then the registry will communicate with you by post.

The office hours of the registry are: 8:30 am to 4:45pm, Monday to Friday, excluding public holidays and the compulsory Christmas to New Year closure.

### 3.5 How to complete the Form 13

**The more information and supporting material that you provide in your Form 13 Application the faster your matter will be progressed.**

Form 13 requires that you fill out your name, address, and contact details. If you have a legal representative you must also provide that information.

You must also complete the sections with your Employer's details; the date that your employment commenced; the ground/s on which you are applying; the amount of long service leave that you are applying for; and, you must sign the application and have your signature witnessed.

It is up to you to supply sufficient information to enable the Commission to determine whether you are suffering financial hardship or whether the application should be allowed on compassionate grounds. You are not obliged to complete all the requirements of Schedule 1, but if you do not your application may be weaker than if you did.

Schedule 1 asks you to outline the facts (also called "particulars") which support your application and those accompanying facts may also include, or be accompanied by, a list that outlines:

- all sources of income;
- all assets;
- all liabilities; and
- all expenditure.

See **Appendix A** for a template of the list. You can also download the template list, which can be filed with the application, from this address:

[https://www.qirc.qld.gov.au/sites/default/files/lsl\\_instructions\\_v1.pdf?v=1558071210](https://www.qirc.qld.gov.au/sites/default/files/lsl_instructions_v1.pdf?v=1558071210)

Schedule 1 should also be accompanied by documents which provide evidence of your income, assets, liabilities, and expenditure. Those supporting documents should be attached to the schedule 1.

If you are not able to attach the documents to an email (by scanning the documents and attaching the scan) then you may post your application with the completed schedule 1 and the attachments, to the registry.

### 3.6 What happens once your application is filed in the registry?

Once your properly completed Form 13 has been filed with the registry, it will be processed. A new file will be created with your details and a matter number will be given to the file. The matter number will look like this: **EC/2018/712**

You should use that number when contacting the registry so that staff can locate your file easily. The registry will also "date" your form 13. This means that it will be stamped and dated as in **figure 1**.

The Industrial Registrar's date stamp represents the date of filing of the form in the registry. If your form is received by the registry after office hours (see above) then it will not be stamped until the next business day.



Figure 1 – Date Stamp

After your file is created the registry will send you and your employer a stamped copy of the form 13 and a directions order. The attachments to the form 13 application will not be sent to the employer. This is the only instance where the registry will send documents to other parties for you. The directions order is discussed below in "Part 4: Directions order".

Your employer **must** comply with the directions order. The commission will contact your employer if it fails to comply with a direction on time.

### 3.7 Finding a justice of the peace and other witnesses for forms

Some forms require that your signature is witnessed by a justice of the peace, commissioner for declarations, lawyer, or other qualified person. If you are unable to find someone to sign your form then you will most likely find a justice of the peace or a commissioner for declarations at a bank, or a

post office. Alternatively, you can search for a justice of the peace or a commissioner for declarations who is nearest to you at:

[www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/about-justice-of-the-peace](http://www.qld.gov.au/law/legal-mediation-and-justice-of-the-peace/about-justice-of-the-peace)

### 3.8 Filing and serving documents

It is important to understand what "file" and "serve" mean as they are sometimes used by the registry and people who work at the commission.

**File**—means that you must provide the document stated in the directions order to the registry. You must do this in the way that the registry requires.

**Serve**—means that you must effectively provide a document stated in the directions order to the other party or parties in the matter. You must make sure that the other party or parties have a copy of the document. Effective service is your responsibility.

## Part 4: Directions order

This part of the guide covers what a directions order is, explains the way in which they are issued, and provides further detail on particular terms and concepts within the directions order.

### 4.1 What is a directions order?

The commission will organise your application around a directions order. A directions order is the road-map for the conduct of your matter, it governs: when documents are due to be filed; and, which documents should be filed and served on other parties.

A directions order itself is a formal document which directs the conduct of a matter, it will set out in numbered steps what must be done, by when, and by which party.

You **must** comply with a directions order.

Failure to comply with a directions order can have negative consequences for your application.

### 4.2 The directions order

On the following page, inside the black box, is a copy of the directions order which is issued by the registry after your Form 13 has been stamped and processed by the registry. That directions order is only an example of the directions order.

The content of the directions order will depend on how much material you filed in support of your application. If you filed a list that conforms with the template in **Appendix A** and all of the necessary supporting material then you may not be required to do anything further, but your Employer will still need to do what it was directed to do.

The directions order can look intimidating at first, but once you read through it you may notice that it is broken down into clear steps for each of the parties to complete. The text following the directions order directs you to other parts of this guide for further detail.

**QUEENSLAND INDUSTRIAL RELATIONS COMMISSION**

*Industrial Relations Act 2016*

John Citizen  
*Applicant*

*Matter No. EC/2018/712*

**APPLICATION FOR PAYMENT OF LONG SERVICE LEAVE**

**DIRECTIONS ORDER**

AFTER READING the application in the above matter filed on 2 April 2018, IT IS ORDERED:

1. That **John Citizen** provide to the Industrial Registry by **12 noon on 9 April 2018**:
  - (a) A list of assets and liabilities;
  - (b) A list of income and expenditure from all sources on a fortnightly basis;
  - (c) A copy of 2 recent payslips; and
  - (d) The grounds on which the application is made (i.e. whether it is for compassionate reasons or as a result of financial hardship) and how the money will be used.
2. That the **Employer** provide to the Industrial Registry by **12 noon on 9 April 2018** a statement containing:
  - (a) The **present entitlement** of the Applicant to long service leave represented in:
    - i. Hours; and
    - ii. The net and gross monetary value of the long service leave applied for.
  - (b) The title of the Industrial Instruments which apply to the Applicant (i.e. Award, Certified Agreement).

Dated 2 April 2018

Registry Officer  
For the Industrial Registrar

For more information about: "List of Assets and Liabilities" see page 14 below.  
"List of income and expenditure" see page 14-15 below.  
"A copy of 2 recent payslips" see page 15 below.  
"The grounds on which the application is made" see page 15 below.

### 4.3 What if you need more time to comply with the directions order?

If you are unable to comply with the timeframes of a directions order then you must seek an extension from the commission. An extension can be sought by putting the request in writing to [girc.registry@qirc.qld.gov.au](mailto:girc.registry@qirc.qld.gov.au) and explaining why the extension is sought.

### 4.4 List of assets and liabilities & List of income and expenditure

**It is strongly recommended that you use the template at Appendix A** or something similar to it so that the commission can have a clearer picture of your financial position.

**Assets** are things that you own. An asset can be any of the following:

- House
- Car
- Caravan
- Shares
- Money in the bank
- Superannuation
- Collectibles

There are many types of asset. Anything that could generate money if sold could be an asset. The list above is only an example.

**Liabilities** are debts or monies that you owe to other people. The following non-exhaustive list is of things which are liabilities:

- Personal Loan
- Credit Card Debt
- Car Loan
- Mortgage
- SPER Debt

**Income** is anything which creates money for you on a regular basis. The following non-exhaustive list is of things which could be considered income:

- Salary from employment
- Dividends paid by shares
- Interest generated from money in accounts
- Pension/Government Allowance
- Scholarship
- Income from weekend activities, i.e. Market Stall, Coaching etc.

**Expenditure** is anything that causes you to spend money. These things might be, but are not limited to:

- Utility Bills
- Car Maintenance
- Council Rates or Body Corporate Fees
- Grocery Shopping
- School Fees
- Entertainment/Dining Out
- Professional Memberships
- Clothing
- Insurance
- Medical Costs

If, when you file your application, you provide a comprehensive list (or, lists) which details your assets, liabilities, income, and expenditure, then the directions order which is issued will not request that you file this information.

#### 4.5 "A copy of 2 recent payslips"

The directions order above is only an example of what might be requested. If you supply documents which provide evidence of your assets, liabilities, income, and expenditure, there will be no direction that you provide supporting material.

If you are suffering from financial hardship you should, at a minimum, provide documents which show what is causing the hardship (i.e. if you cannot meet a loan repayment then you should provide a statement of the loan's balance) and evidence of your income and where it is spent.

#### 4.6 The grounds on which the application is made

As is required by the Form 13, you must identify the ground/s on which you are applying for the LSL payment. You must also, in Schedule 1, provide detail on why you are applying. The example Directions above requires that you indicate what the money will be spent on, but if you provide enough detail and explain what you need the money for then the directions order will not reflect that you must provide that information.

## Part 5: Order for payment

If a member of the commission agrees that you are suffering from financial hardship or that you have established compassionate grounds for the making of an order, then an order will be made and sent to both yourself and your employer.

Your employer must comply with the order. If your employer does not comply with the order then you should inform the commission. The commission will then review the situation and act accordingly. The commission has power to enforce the order.

## Appendix A – Application for Payment Instead of Long Service Leave Template

### Application for Payment Instead of Long Service Leave Instructions & Submission Template

*Industrial Relations Act 2016, section 110*  
*Industrial Relations (Tribunal) Rules 2011*

1. You must file the Form 13 and attachments by email at [qirc.registry@qirc.qld.gov.au](mailto:qirc.registry@qirc.qld.gov.au), or deliver it in person to the Queensland Industrial Relations Commission, Central Plaza 2, Level 21, 66 Eagle Street, Brisbane, or by post to GPO Box 373, Brisbane 4001.
2. We only require one copy of your application and you should keep a copy for your records.
3. Ensure you read the instructions in the Schedule 1 of the Form 13 and provide all required information and copies of any supporting documents.
4. You must provide contact details of your employer.
5. Whether you are applying on the basis of compassionate or financial hardships grounds please provide a complete list of your income, assets, expenses and liabilities. The template below is a guide only, however you may use it in addition to filing your Form 13.
6. Please ensure you include copies of 2 recent payslips and any supporting documents.

<b>List all assets</b> (House, Car, Furniture and contents, rental property, etc.)	<b>Approximate Amount \$</b>
<b>List all liabilities</b> (Mortgage, Loans, credit cards, debts, etc.)	<b>Approximate Amount \$</b>
<b>List all sources of income</b> (Payslips, shares, royalties, rental property income, etc.)	<b>Approximate Amount \$</b>
<b>Expenditure</b> (Mortgage repayments, bills, groceries, living expenses, etc.)	<b>Approximate Amount \$</b>

[Download a version of this template here.](#)

## Appendix B – PN/2018/1 Electronic filing and hard copies of documents

### PRACTICE NOTE NUMBER 1 OF 2018

#### INDUSTRIAL REGISTRAR

#### ELECTRONIC FILING AND HARD COPIES OF DOCUMENTS

This Practice Note applies to all documents sought to be filed with the Industrial Registry.

This Practice Note must be complied with. However, the Industrial Registrar may, in appropriate circumstances, waive compliance with this Practice Note. The Industrial Registrar may also stipulate other requirements for the filing of documents in addition to those contained in the *Industrial Relations (Tribunals) Rules 2011* (Qld).

In this Practice Note:

**electronically file**—means to file by electronic or computer-based means.

**soft copy**—means a document in a non-printed, electronic or computer-based format.

**hard copy**—means the original and printed version of a document.

**page**—means a page conforming to rule 13 of the *Industrial Relations (Tribunal) Rules 2011* (Qld).

1. A person may only electronically file a soft copy of a document with the Industrial Registry that is 30 pages or fewer in length.
2. If a soft copy of the document which a person seeks to electronically file is more than 30 pages then the document will not be accepted for filing until a hard copy of the document is supplied to the Industrial Registry.
3. If a person seeks to electronically file more than one document at a time, or within a short period of time, and the combined length of the documents is more than 30 pages then the documents will not be accepted for filing until a hard copy of each of the documents is supplied to the Industrial Registry.
4. If a person is required to file a hard copy of a document as a consequence of 2 or 3 above then the document will only be filed upon receipt of the hard copy by the Industrial Registry.
5. A document will only form part of the file once it is accepted for filing.
6. This Practice Note will commence operation on Monday 4 June 2018.

**M. P. Shelley**  
Industrial Registrar  
5 April 2018

