

Determining Remuneration of Specialist Positions

Commissioner's Instruction 33

Statement of intent

Public sector bodies are able to remunerate people in highly specialised positions not usually found in the public sector which are beyond the scope of an approved classification system, award, order or industrial agreement.

Scope and application

This instruction applies to employing authorities of departments and SES organisations as defined in section 3 of the *Public Sector Management Act 1994* (PSM Act).

It relates to the functions of employers to determine remuneration under section 29(1)(h) of the PSM Act.

It does not apply to remuneration of chief executive officers, chief employees and positions included in the Special Division of the public service whose remuneration is determined through other mechanisms.

Instruction

1. An employing authority seeking to remunerate a person in a specialist position beyond the scope of an approved classification system, award, order or industrial agreement must:
 - a. consult the Public Sector Commission before making a submission
 - b. make a submission to the Public Sector Commissioner that addresses the:
 - value to the state of the function to be performed
 - uniqueness of the work to be performed
 - required specialised skills and knowledge of the person in the context of meeting an identified government priority
 - impact of particular recruitment and market pressures
 - assessment of the market rate for such a position.
 - c. receive approval from the Public Sector Commissioner (where a remuneration range is provided for recruitment purposes) for the remuneration amount to be offered before an employment offer is made
 - d. receive approval from the Public Sector Commissioner before entering into a contract with a person under this instruction.



2. A contract of employment entered into under this instruction must:
 - a. be for a fixed term as determined by the Public Sector Commissioner
 - b. cease on expiry of the contract term and not be extended
 - c. apply to a single person and not authorise the employing authority to remunerate another person when the person contracted under this instruction is on leave or otherwise unable to perform the role; however an employing authority may seek advice from the Public Sector Commissioner on alternative arrangements.
3. If a subsequent contract of employment is required, the employing authority must make a new submission in accordance with this instruction.
4. An employing authority must use the contract prepared by the Commission.
5. A position remunerated under this instruction:
 - a. is exempt from the advertising requirements of [Commissioner's Instruction 2: Filling a Public Sector Vacancy](#)
 - b. is exempt from seeking redeployment clearance under clause 5 of [Commissioner's Instruction 12: Redeployment and Redundancy](#)
 - c. remains subject to relevant [public sector standards in human resource management](#) policies and procedures of the employing authority.
6. During the contract term, the employing authority must endeavour to ensure that appropriate transfer of skills occurs to minimise the potential need for a subsequent contract of employment.