

# PUBLIC SECTOR INDUSTRIAL RELATIONS POLICY 2010

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## Key features of the Voluntary Departure Package

### **The standard VDP comprises:**

- 4 weeks' pay in lieu of notice on cessation.
- A lump sum voluntary departure incentive of up to \$10,000 (for a full time employee); plus 2 weeks' pay per year of continuous service up to a maximum of 15 years.
- 3-year restriction on re-employment in the Victorian public sector applies. However, in extraordinary circumstances, an agency head may approve earlier re-employment.
- The VDP is an early retirement scheme for taxation purposes attracting significant taxation concessions.
- Employers must obtain prior approval from the Australian Taxation Office (ATO) before conducting a VDP program. The ATO requires employers to establish the 'bona fides' of individual programs before it will issue an individual Class Ruling.
- Employers must invite employees in an identifiable group within the organisation to express interest in receiving a VDP offer. Groups must be identified on the basis of objective criteria such as location, division or branch of the organisation, or job category or classification.
- 'Redundant employees' are not an acceptable group to which a VDP program may be restricted. However, VDPs may be offered to an identifiable group, which includes employees whose roles are declared surplus to needs.
- Employers are not bound to accept any employee's expression of interest in a VDP or to offer any particular employee a VDP.
- Offers must be made on the basis of criteria established by the organisation which have regard to operational requirements and the availability of funding.
- Employees are not compelled to accept offers and may withdraw an expression of interest at any time prior to accepting an offer.
- The VDP is not appropriate to situations where there is no prospect of on-going work for employees whose roles are declared surplus to needs due to the winding-up of an organisation or facility. It is only applicable in circumstances where affected employees have a genuine choice as to whether they wish to voluntarily depart or remain as employees.
- Typical situations in which a VDP might be offered would include an overall reduction in employee numbers within a branch or division of an organisation to achieve budget targets; adjustment of employee numbers to reflect changes in work volume or the introduction of new technology and early preparation for a planned change in the mode of delivering the organisation's services. For example, plans may include reducing the existing number of employees as work practices and productivity levels are brought into line with industry standards.
- Recipients of a VDP are required to agree not to seek or accept re-employment or any other fee for service from any public sector employer for a minimum of 3 calendar years from the date of their termination. In extraordinary circumstances, an agency head may approve re-employment but there must be no undertakings made to this effect prior to an employee's departure as a VDP recipient.

- Employees must be on the payroll and in ongoing roles to be eligible for VDPs. Those not eligible include employees on unpaid leave, probation or trial, in fixed term (includes executives) or casual roles, as well as WorkCover recipients and essential services staff.
- The calculation of each week's pay is affected by part-time or former part-time work.
- The formulation is based on completed years of continuous service with the Victorian public sector only. Employment with the Commonwealth, other States or local government is not included.

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## Key features of the Targeted Separation Package

- The TSP is a bona fide redundancy scheme for taxation purposes. No prior approval is required from the ATO as long as it can be established that the separation was a bona fide redundancy.
- Decisions on which particular roles are declared excess or surplus must be made on objective, non-discriminatory criteria that are consistently applied. This is a key test in unfair dismissal claims.
- Departments and agencies should exhaust redeployment opportunities before applying a TSP.
- TSP's are not voluntary. They are compulsory retrenchment packages applied by the employer in circumstances where there is no opportunity for continued employment.
- Notice of termination via a TSP must be consistent with the period specified by the relevant award or agreement and given in writing, specifying the actual date of separation.
- The calculation of each week's pay is affected by part-time or former part-time work.
- TSPs should be used only in circumstances of bona fide redundancy. Bona fide redundancies will arise where facilities are closing, organisation are being wound up, or where employees' skills are no longer required in the public sector.

### **The standard TSP comprises:**

- 4 weeks' notice (or pay in lieu of notice) on cessation.
- if the employee is over 45 years of age and has completed at least 2 years of continuous service, the notice period is increased by 1 week;
- 2 weeks pay per year of continuous service up to a maximum of 10 years.

Both separation packages are Government benchmark standards and are not to be exceeded.