



LEGISLATIVE ASSEMBLY

Transport Administration Amendment (RMS Dissolution) Bill

MR PRESIDENT

The Legislative Assembly having considered the Legislative Council's message dated 15 October 2019 in which the Legislative Council requested the concurrence of the Legislative Assembly with amendments to the Transport Administration Amendment (RMS Dissolution) Bill, informs the Legislative Council that the Legislative Assembly agrees with amendment 3, but disagrees with amendments 1, 2, 4 and 5 because:

1. Amendment No. 1 is rejected as it is too broad and applies indiscriminately to executive and non-executive employees notwithstanding the very different rules and principles that apply to each category.
2. Amendment No. 2 is rejected because the reference to outsourcing would create uncertainty for the agency and would prevent the trialling of innovative service delivery models, such as on demand transport. This amendment would have also restricted the outsourcing of general programs commonly undertaken across the sector, including aspects of IT, fraud and corruption investigations and auditing exercises. The amendment would also prevent the engagement of, for example, road design consultant to assist in the delivery of the NSW Government's record infrastructure program.

3. Amendment No. 4 is rejected because it does not recognise the right of the parties to conduct normal negotiations and to work together if the unions that are parties to the relevant awards all agree to the awards being combined.
4. Amendment No. 5 is rejected because it would allow individual employees, including the most senior executives, to lodge disputes directly with the Industrial Relations Commission. This is contrary to the Transport Administration Act 1988, which provides the employment of transport senior executives and senior managers is not an industrial matter under the Industrial Relations Act 1996 – just as the employment of public service senior executives is excluded from the purview of the Industrial Relations Commission.

Accordingly, the Legislative Assembly proposes the following further amendments:

No. 1 No forced redundancies for RMS staff

Page 6, Schedule 1[35]. Insert after line 34—

No forced redundancies for RMS staff

(1) The employment of a Transport Service non-executive employee who, immediately before the dissolution of Roads and Maritime Services, was a member of staff of Roads and Maritime Services must not be terminated on the grounds of redundancy (other than voluntary redundancy).

(2) This clause continues to have effect only while any of the following awards apply to any non-executive employees in the Transport Service—

(a) the *Roads and Maritime Services Consolidated Salaried Award 2019*,

(b) the *Roads and Maritime Services School Crossing Supervisors Award 2019*,

(c) the *Roads and Maritime Services (Traffic Signals Staff) Award 2019*,

(d) the *Roads and Maritime Services (Wages Staff) Award 2019*.

No. 2 No privatisation of certain RMS work

Page 6, Schedule 1[35]. Insert after line 34—

No privatisation of certain RMS work

For the period of 4 years commencing on the date of the dissolution of Roads and Maritime Services—

- (a) any work that, immediately before that dissolution, was performed by Roads and Maritime Services must not be privatised to a non-government sector entity, and
- (b) any contract in force immediately before that dissolution for the carrying out of road maintenance work on behalf of Roads and Maritime Services in the Sydney metropolitan area (within the meaning of the *Regional Development Act 2004*) by a non-government sector entity must not be extended in scope.

No. 3 RMS awards not to be merged into Transport Service awards

Page 6, Schedule 1[35]. Insert after line 34—

RMS awards not to be merged into Transport Service awards

- (1) The Transport Secretary must ensure, for the period of 4 years commencing on the date of the dissolution of Roads and Maritime Services, that the existing RMS awards are maintained as separate awards and are not combined with any other award applying to employees in the Transport Service.
- (2) Subclause (1) does not apply to an existing RMS award if all the industrial organisations that are parties to the award consent to the combination.

(3) In this clause, ***existing RMS award*** means the following—

(a) the *Roads and Maritime Services Consolidated Salaried Award 2019*,

(b) the *Roads and Maritime Services School Crossing Supervisors Award 2019*,

(c) the *Roads and Maritime Services (Traffic Signals Staff) Award 2019*,

(d) the *Roads and Maritime Services (Wages Staff) Award 2019*.

No. 4 Disputes may be resolved by Industrial Relations Commission

Page 6, Schedule 1[35]. Insert after line 34—

Certain industrial disputes regarding dissolution of RMS may be resolved by Industrial Relations Commission

(1) If a person who, immediately before the dissolution of Roads and Maritime Services, was a member of staff of Roads and Maritime Services to whom an RMS award applied is of the opinion that the person has been materially disadvantaged by that dissolution or actions directly consequent on that dissolution, the person, or an industrial organisation acting on behalf of the person, may apply to the Industrial Relations Commission to have the matter determined by conciliation and, if necessary, arbitration.

(2) However, the person, or industrial organisation acting on behalf of the person, before making the application to the Industrial Relations Commission under subclause (1), must follow the dispute settlement procedure set out in the applicable RMS award as far as is reasonably practicable in the circumstances.

(3) The Industrial Relations Commission may conduct the dispute resolution process in a manner that the Commission considers appropriate.

(4) The Industrial Relations Commission may make orders in relation to the matter that the Commission considers are fair and reasonable in the circumstances.

(5) If a Transport Service senior executive or Transport Service senior manager who, immediately before the dissolution of Roads and Maritime Services, was a member of staff of Roads and Maritime Services is of the opinion that the executive or manager has been materially disadvantaged by that dissolution or actions directly consequent on that dissolution, the executive or manager, or an industrial organisation acting on behalf of the executive or manager, may apply to the Transport Secretary to review the matter.

(6) The Transport Secretary may, after reviewing the matter, make directions that

the Transport Secretary considers are fair and reasonable in the circumstances.

(7) The Transport Secretary may delegate any of the Transport Secretary's functions under subclauses (5) and (6) to a person employed in the Transport Service.

(8) In this clause—

industrial organisation means—

(a) an industrial organisation of employees within the meaning of the

Industrial Relations Act 1996, or

(b) an association of employees registered as an organisation under the *Fair*

Work (Registered Organisations) Act 2009 of the Commonwealth.

RMS award means the following—

(a) the *Roads and Maritime Services Consolidated Salaried Award 2019*,


(b) the *Roads and Maritime Services School Crossing Supervisors Award 2019*,

(c) the *Roads and Maritime Services (Traffic Signals Staff) Award 2019*,

(d) the *Roads and Maritime Services (Wages Staff) Award 2019*.

(9) To avoid doubt, nothing in this clause affects the operation of section 74 of the *Government Sector Employment Act 2013* or section 680 of this Act.

(10) Subclauses (1), (2) and (5) cease to have effect on the expiry of the period of 4 years commencing on the dissolution of Roads and Maritime Services.


12/11/19 Speaker