

LEGISLATIVE COUNCIL

Government Sector Employment Bill 2013

First print

Proposed amendments

- No. 1 Page 3, clause 3, lines 31 and 32. Omit all words on those lines. Insert instead:
senior executive bands regulation means a regulation made under section 35.
- No. 2 Page 6, clause 8, lines 10 and 11. Omit all words on those lines.
- No. 3 Page 10, clause 12. Insert after line 3:
- (4) Sections 40 and 41 of the *Interpretation Act 1987* apply to the government sector employment rules in the same way as they apply to statutory rules.
- No. 4 Page 12, clause 17, line 15. Omit “determination”. Insert instead “regulation”.
- No. 5 Page 21, clause 35, lines 1–14. Omit all words on those lines. Insert instead:
- 35 Regulations may prescribe bands in which senior executives to be employed**
- (1) The regulations may prescribe the bands in which Public Service senior executives are to be employed (the *senior executive bands regulation*).
- (2) The senior executive bands regulation may deal with matters related to bands.
- (3) The Commissioner may advise the Minister on the terms of any proposed regulation under this section.
- No. 6 Page 21, clause 37, line 27. Omit “determination”. Insert instead “regulation”.
- No. 7 Page 24, clause 41, lines 5–7. Omit all words on those lines. Insert instead:
- (1) The employer of a Public Service senior executive may, by instrument in writing, terminate the employment of the executive on any of the grounds authorised by the contract of employment of the executive. The instrument is to set out the ground or grounds on which the employment is terminated.
- No. 8 Page 24, clause 41, lines 10 and 11. Omit “(and to no other compensation or entitlement for the termination of employment)”. Insert instead “(and to such

additional compensation as the Statutory and Other Offices Remuneration Tribunal may determine on the application of any such executive)".

- No. 9 Page 25, clause 43. Insert after line 10:
- (3) Ongoing employment is to be the usual basis for employment of Public Service non-executive employees.
- No. 10 Page 26, clause 47, lines 32 and 33. Omit all words on those lines. Insert instead:
- (d) the employee is unable to perform the duties of the role assigned to the employee because of physical or mental incapacity that appears likely to be of a permanent nature, but only if the head of the Public Service agency has taken all practical steps:
- (i) to make reasonable adjustments to enable the employee to perform the duties of that role, and
- (ii) if those adjustments cannot be made, to reassign the employee to a suitable role,
- No. 11 Page 27, clause 47, line 9. Omit all words on that line.
- No. 12 Page 28, clause 49, lines 6 and 8. Omit "Secretary of the Treasury" wherever occurring. Insert instead "Secretary of the Department of Premier and Cabinet".
- No. 13 Page 29, clause 52, lines 1-3. Omit all words on those lines. Insert instead:
- (2) The conditions of employment of Public Service employees are, except in so far as provision is otherwise made by law, such as may be fixed by determinations under this section.
- No. 14 Page 29, clause 53, lines 13-17. Omit all words on those lines. Insert instead:
- (1) The Industrial Relations Secretary is not subject to the control and direction of any Minister in determining conditions of employment under this Division.
- No. 15 Page 30, clause 54. Insert after line 9:
- (2) Until those regulations are made, Public Service employees have the entitlements prescribed by Schedules 3 and 3A to the *Public Sector Employment and Management Act 2002*, as in force immediately before the repeal of that Act by this Act.
- (3) The entitlements to extended and other leave prescribed by regulations under this Act cannot be less favourable to the employees than the entitlements prescribed by Schedules 3 and 3A to the *Public Sector Employment and Management Act 2002*.
- No. 16 Page 48, clause 88. Insert after line 13:
- (c) the enforcement of government sector employment rules (including by the conferral of jurisdiction on the Industrial Court or the Local Court).
- No. 17 Page 70, Schedule 6.4, lines 8–13. Omit all words on those lines.
- No. 18 Pages 70 and 71, Schedule 6.4, line 22 on page 70 to line 4 on page 71. Omit all words on those lines.
- No. 19 Page 70, Schedule 6.4. Insert after line 29:

[11] Section 93 Publication of notices

Omit section 93 (2) (a) and (b). Insert instead:

-
- (a) the head of a Public Service agency and the person appointed or whose appointment is recommended is employed in on-going employment in that or any other Public Service agency, or

[12] Section 94 Right of appeal

Omit section 94 (1) (a) and (b). Insert instead:

- (a) employed in on-going employment in a Public Service agency—may appeal on the promotions appeal ground to the Commission against a decision of an employer (being the head of a Public Service agency) to appoint or recommend the appointment of another such employee to an office (being a separate role) in that or any other Public Service agency.

[13] Section 95 Excluded circumstances

Omit section 95 (c) and (j) (i).

[14] Section 96 Effect of failure to notify vacancy

Omit paragraphs (a) and (b) of the definition of *affected employee* in section 96 (2). Insert instead:

- (a) if the vacant office is not one in the Public Service—any public sector employee employed by the employer, or
- (b) if the vacant office is one in the Public Service—only public sector employees employed in the same Public Service agency of which the vacant office forms part, or

No. 20 Page 71, Schedule 6.4, lines 7–10. Omit all words on those lines.