

Queensland



PUBLIC SERVICE MANAGEMENT AND EMPLOYMENT ACT 1988

**Reprinted as in force on 1 October 1992
(includes amendments up to Act No. 34 of 1991 and Public Service
Management (Departmental Changes) Order (No. 1) 1992)**

Reprint No. 1

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 1 October 1992. As required by section 5 of the *Reprints Act 1992*, it—

- shows the law as amended by all amendments that commenced before that day; and
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

As required by section 6 of the *Reprints Act 1992*, the reprint includes, in a suitable place, a reference to the law by which each amendment was made—see List of legislation and List of annotations in Endnotes.

The opportunity has also been taken, under section 7 of the *Reprints Act 1992*, to do the following—

- omit the enacting words as permitted by section 7(1)(a) of that Act;
- use citations and references permitted by Division 2 of that Act;
- use updated references permitted by Division 3 of that Act;
- express gender specific provisions in a way consistent with current legislative drafting practice as permitted by section 24 of that Act;
- correct spelling, and use different spelling consistent with current legislative drafting practice, as permitted by section 26(2) of that Act;
- use punctuation and expressions consistent with current legislative drafting practice as permitted by sections 27 and 29 of that Act;
- use conjunctives and disjunctives consistent with current legislative drafting practice as permitted by section 28 of that Act;
- use aspects of format and printing style consistent with current legislative drafting practice as permitted by section 35 of that Act;
- omit provisions that are no longer required as permitted by sections 39 and 40 of that Act;
- omit unnecessary referential words as permitted by section 41 of that Act;
- use the numbering and renumbering of provisions and references permitted by section 43 of that Act;
- do anything else permitted to be done by that Act or a regulation made under that Act;
- make all necessary consequential amendments as permitted by section 7(1)(l) of that Act.

Also see Endnotes for—

- **details about when provisions commenced; and**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



**PUBLIC SERVICE MANAGEMENT AND
EMPLOYMENT ACT 1988**

TABLE OF PROVISIONS

Section	Page
PART 1—PRELIMINARY	
1	Short title 5
1A	Commencement 5
4	Interpretation 5
5	Administration of Act 8
PART 2—MANAGEMENT PRINCIPLES AND OBJECTIVES OF PUBLIC SERVICE	
6	Public Administration 8
7	Personnel management 9
PART 3—DEPARTMENTS	
8	Existing departments 10
9	Creation etc. of departments 10
10	Functions and duties of departments 11
PART 4—SENIOR EXECUTIVE SERVICE	
<i>Division 1—The Senior Executive Service generally</i>	
10A	Establishment of Senior Executive Service 12
10B	Purpose of Senior Executive Service 12
10C	Composition of Senior Executive Service 12
10D	Management principles applying to Senior Executive Service 13
10E	Creation of Senior Executive Service positions etc. 13
<i>Division 2—Chief executives of departments</i>	
11	Position of chief executive 14
12	Responsibility of chief executive 15

*Public Service Management and Employment
Act 1988*

13	Delegation of powers and functions	17
14	Basis of employment of chief executive	18
15	Acting as chief executive	18

Division 3—Other provisions relating to senior executives

15A	Tenure based on satisfactory performance	19
15B	Assignment within Senior Executive Service	19
15C	Terms and conditions of employment	19
15D	Senior executives not subject to industrial awards and agreements	20

PART 5—PROVISIONS AFFECTING STAFF

16	Authority to appoint officers	20
17	Assignment of power to appoint	20
18	Publication of appointments	21
19	Bases of employment in public service	21
20	Conditions of employment on contract	22
21	Creation of offices	24
22	Vacancies to be advertised	24
23	Appointment on probation	25
24	Officer not to refuse transfer	26
25	Resignation from public service	26
26	Retirement from public service	27
27	Mode of resignation or retirement	28
28	Retrenchment	28
29	Discipline	29
30	Suspension	30
31	Mode of dismissal or suspension	31
32	Public service general recruitment office	31
34	Engagement of staff other than officers	32

PART 7—MISCELLANEOUS PROVISIONS

38	Transitional provisions	33
39	Person in public employment is employee in industrial law	33
40	Cooperation between State and Commonwealth Services	34
41	Employment interchange	35

*Public Service Management and Employment
Act 1988*

42 Mode of service 35
43 Regulations 35
SCHEDULE 1 37
SCHEDULE 2 39

ENDNOTES

1 Index to Endnotes 40
2 Date to which amendments incorporated 40
3 List of legislation 40
4 List of annotations 42
5 Table of renumbered provisions 45
6 Provisions that have not commenced and are not
incorporated into reprint 46

PUBLIC SERVICE MANAGEMENT AND EMPLOYMENT ACT 1988

[as amended by all amendments that commenced before 1 October 1992²]

An Act to provide for the management of and employment in the public service of Queensland, and to make provision in relation to certain other public sector employees

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Public Service Management and Employment Act 1988*³⁻⁶.

Commencement

1A.(1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as is provided by subsection (1), the provisions of this Act shall commence on a day to be appointed by proclamation. The day so appointed is in this Act called the **“commencement of this Act”**.

Interpretation

4.(1) In this Act—

“appointment” includes appointment by way of promotion;

“award” has the same meaning as in the *Industrial Relations Act 1990*;

“Commission” has the same meaning as in the *Public Sector Management Commission Act 1990*;

“department” means an entity for the time being specified as a department in Schedule 1, and includes every organisational unit that, for administrative purposes, is related to the department;

“industrial agreement” has the same meaning as in the *Industrial Relations Act 1990*;

“industrial award” means an award;

“industrial tribunal” means an industrial authority within the meaning of the *Industrial Relations Act 1990*;

“misconduct” means—

- (a) disgraceful or improper conduct that shows unfitness to be or continue as an officer of the public service; or
- (b) behaviour that does not satisfy a standard of behaviour generally expected of officers of the public service;

“office” means a position in the public service ordinarily held by an officer, and includes a Senior Executive Service position within the public service;

“officer” means an officer of the public service, and includes a senior executive who is an officer of the public service;

“public employment” means employment for which remuneration is paid from expenditure of a department;

“public sector” has the same meaning as in the *Public Sector Management Commission Act 1990*;

“public service” means the framework within which persons employed in the departments specified in Schedule 1 give practical effect to the policies of the Government of Queensland;

“public service general recruitment office” means the office established under section 32;

“senior executive” means a person who is appointed to a Senior Executive Service position;

*Public Service Management and Employment
Act 1988*

“standards” means public sector management standards issued under the *Public Sector Management Commission Act 1990*;

“termination”, in relation to a contract of employment, includes a failure to renew the contract or to make a fresh contract;

“unit of the public sector” has the same meaning as in the *Public Sector Management Commission Act 1990*.

(2) The expression **“officers of the public service”** includes—

- (a) all persons and classes of persons who, before the commencement of this Act, were appointed to office under the *Public Service Act 1922*; and
- (b) all persons, however appointed, and classes of persons who, immediately before the commencement of this Act, are treated as **“officers”** for the purposes of the *Public Service Act 1922*; and
- (c) all persons appointed to office pursuant to Part 4 or 5 of this Act; and
- (d) except as provided by or under subsection (3) all persons appointed by the Governor in Council, before or after the commencement of this Act, to an office within a department, which office is expressly provided for by an Act that does not prescribe whether the office is to be held under the *Public Service Act 1922*;

and does not include—

- (e) persons or a class of person specified in Schedule 2; or
- (f) persons who, being members of a class referred to in any of paragraphs (a) to (d) have been removed from the application of the *Public Service Act 1922*, expressly or impliedly, by or under an Act; or
- (g) persons, other than those referred to in paragraphs (a) to (d) who may from time to time be employed in any capacity in public employment.

(3) Paragraph (d) of the definition **“officers of the public service”** does not include any person holding an office provided for by—

- (a) the *Transport Infrastructure (Railways) Act 1991*; or

- (b) the *Police Service Administration Act 1990*; or
- (c) the *Electricity Act 1976*;

or any other Act or provision of an Act for the time being declared for the purposes of this subsection by order in council or any person holding an office, or an office of a class, for the time being declared by order in council not to be an office within the public service.

(4) A reference in or under any Act to the permanent head, within the meaning of the *Public Service Act 1922*, of a department of government shall be construed as a reference to the chief executive under whose control the department is.

Administration of Act

5.(1) Subject to section 43(4), this Act shall be administered by the Minister of the Crown for the time being charged with the administration of this Act or by any person for the time being performing the duties of that Minister.

(1A) The person for the time being administering this Act is referred to in this Act as the Minister.

(2) A power conferred on the Governor in Council for the purposes of section 4(3), 7(4)(b), 9, 10, 10E(1) or (3), 11(5), 14, 15B, 17, 18, 22(1)(c) or (d), 26(1)(b)(ii), 28, 38 or 40 shall not be exercised except on the recommendation of the Minister.

PART 2—MANAGEMENT PRINCIPLES AND OBJECTIVES OF PUBLIC SERVICE

Public Administration

6. The management and administration of the public service shall be directed towards—

- (a) maintaining excellence, objectivity, impartiality and integrity in the

- formulation and delivery to the Government of Queensland of information and advice to assist in the processes of making decisions by the Government; and
- (b) maintaining standards of excellence in service to the community; and
 - (c) implementing the policies and priorities of the Government of Queensland responsively and responsibly; and
 - (d) reviewing and improving the efficiency and effectiveness with which services are provided to the community; and
 - (e) maintaining a proper nexus between responsibility and the authority required to discharge the responsibility and accountability for the proper discharge of responsibility; and
 - (f) deploying and utilising resources to the maximum of their effectiveness.

Personnel management

7.(1) Personnel management within the public service shall be directed towards achieving the following principles—

- (a) processes for selecting persons for appointment and appointment of persons to or within the public service to be directed towards and be based upon a proper assessment of the merit of the applicants;
- (b) officers to be treated fairly and not to be subjected to arbitrary or capricious acts or decisions;
- (c) officers to be accorded equal opportunities, having regard to their qualifications and callings, to secure promotion and advancement;
- (d) officers to have reasonable access to training and development, of self and skills, and to be employed in employment, where possible having regard to its availability, appropriate to their respective capacities;
- (e) officers to be provided with safe and healthy working conditions;
- (f) officers to be remunerated at rates that are commensurate with the

responsibilities undertaken by them.

(2) Subsection (1)(a) does not apply to the transfer of an officer to an office if the transfer is made under the regulations, the standards or any redundancy arrangements approved by the Governor in Council.

(3) The principles mentioned in subsection (1) have effect, in relation to senior executives who are officers, subject to—

- (a) the management principles mentioned in section 10D;
- (b) arrangements approved by the Governor in Council for the assignment of senior executives within and between units of the public sector.

(4) Subsection (1)(a) does not apply to the appointment of a senior executive if the appointment is made—

- (a) before 1 October 1991 or such later day as is prescribed; and
- (b) under arrangements approved by the Governor in Council for the establishment of the Senior Executive Service.

PART 3—DEPARTMENTS

Existing departments

8. The entities specified as departments in the column 1 of Schedule 1 are the departments of government of Queensland and shall continue to be such departments until it is otherwise declared under section 9.

Creation etc. of departments

9.(1) The Governor in Council may from time to time, by order in council, do 1 or more of the following—

- (a) bring a department into being—

- (i) by declaring any entity specified in the order to be a department of government of Queensland; or
- (ii) by amalgamating 2 or more departments or parts of departments, or by amalgamating any part or parts of a department or parts of 2 or more departments with another department, and declaring the entity so formed to be a department of government of Queensland;
- (b) amalgamate a department or part of a department with another department, having the effect that the first mentioned department or, as the case may be, that part thereby becomes part of the other department;
- (c) assign a name to a new department or change the name of a department;
- (d) create an entity and add the entity to any department;
- (e) discontinue a department or part of a department.

(2) When the Governor in Council has, by order in council, exercised a power conferred on the Governor in Council by subsection (1) Schedule 1 shall be amended if necessary by the same or a further order in council to reflect the change or changes effected by the exercise of power.

(3) When a department or part of a department is amalgamated with another department all officers and employees of the department or part shall, because of that amalgamation, become officers or, as the case may be, employees of that other department unless otherwise determined by the Governor in Council.

Functions and duties of departments

10.(1) The Governor in Council may, from time to time by order in council—

- (a) entrust to a department such functions and responsibilities as the Governor in Council believes can be efficiently discharged in that department; and
- (b) relieve a department of such functions and responsibilities as the Governor in Council thinks fit; and

- (c) transfer from 1 department to another department such officers and provide for all such arrangements and prescribe in respect of all such matters as the Governor in Council considers appropriate to give effect to an order in council made under this subsection;

and every such order in council shall have force and effect in law and shall be given effect by all persons concerned.

(2) The functions and responsibilities of a department in being at the commencement of this Act shall be those discharged by the department at the commencement of this Act as added to or diminished by order in council made under subsection (1).

PART 4—SENIOR EXECUTIVE SERVICE

Division 1—The Senior Executive Service generally

Establishment of Senior Executive Service

10A. A Senior Executive Service is established within the public sector.

Purpose of Senior Executive Service

10B. The Senior Executive Service is established to promote the efficiency and effectiveness of the public sector by attracting, developing and retaining a core of mobile, highly skilled senior executives who are responsive to government, industry and community needs.

Composition of Senior Executive Service

10C. The Senior Executive Service consists of the chief executives of departments and persons appointed to Senior Executive Service positions.

Management principles applying to Senior Executive Service

10D.(1) The following management principles apply to the Senior Executive Service—

- (a) merit and equity are to apply to the recruitment and selection of senior executives;
- (b) senior executives are to be encouraged to—
 - (i) develop a public sector wide perspective; and
 - (ii) continue their executive development; and
 - (iii) develop their skills through their assignment within and between units of the public sector; and
- (c) performance planning and review forms the basis of the assessment of work performance and executive development decisions.

(2) Standards may be issued under section 4.13 of the *Public Sector Management Commission Act 1990* with respect to the Senior Executive Service, including, for example, such provision as is necessary or convenient to carry out or give effect to the management principles mentioned in subsection (1) of this section.

(3) Those management principles are prescribed management principles for the purposes of section 4.13 of the *Public Sector Management Commission Act 1990*.

Creation of Senior Executive Service positions etc.

10E.(1) The Governor in Council may, by Gazette notice—

- (a) determine and alter Senior Executive levels; and
- (b) create and abolish Senior Executive Service positions within units of the public sector; and
- (c) allocate Senior Executive Service levels to Senior Executive Service positions on their creation.

(2) The Governor in Council may, by Gazette notice—

- (a) appoint and second persons to Senior Executive Service positions; and
- (b) revoke the appointments and secondments of senior executives.

(3) The chief executive (however described) of a unit of the public sector may, in accordance with arrangements approved by the Governor in Council, vary the Senior Executive Service level allocated to a particular Senior Executive Service position.

(4) The appointment or secondment of a person who is not an officer, but holds an office under an Act other than this Act, to a Senior Executive Service position does not affect the person's appointment to the office under the other Act, or the terms and conditions of that appointment, except so far as the instrument of appointment or secondment otherwise expressly provides.

Division 2—Chief executives of departments

Position of chief executive

11.(1) Each department shall be under the control of a chief executive.

(2) A chief executive shall be appointed to office by the Governor in Council, by notification published in the Gazette, who, in the instrument of appointment, shall specify the title of office by which the chief executive shall be known.

(2A) Every person who because of appointment to a particular office would become the chief executive of a department shall be appointed to the office under this subsection upon the conditions of employment prescribed by this Act for employment of chief executives, despite the provisions of any other Act.

(3) Subsection (2) does not extend to the appointment of the Auditor-General or the Commissioner of Police who shall continue to be appointed pursuant to the *Financial Administration and Audit Act 1977* and the *Police Act 1937* respectively.

(4) The chief executive in control of a department specified in Schedule 1

is the person holding the office referred to in the column 2 of that schedule opposite the reference to that department.

(5) If at any time the title of office of the chief executive in control of a department is changed or any other change occurs that makes Schedule 1 inaccurate, that schedule shall be amended by order in council to reflect the change.

Responsibility of chief executive

12.(1) Subject to the Minister of the Crown for the time being responsible for the department, the chief executive of a department is responsible for the efficient and proper management and functioning of the department in accordance with this Act and every other Act that provides for matters relevant to any activity within the administration of the department and is hereby authorised to do and suffer, subject to this Act and such other Act, all such acts and things as the chief executive thinks necessary or expedient to the proper discharge of his or her responsibility.

(2) In discharging his or her responsibilities, whether under this Act or any other Act, the chief executive shall—

- (a) observe the principles of public administration and of personnel management prescribed by this Act; and
- (b) observe any relevant industrial award or industrial agreement and any relevant determination or rule made by an industrial tribunal; and
- (c) subject to this Act, ensure compliance with all applicable Acts, regulations, lawful directives, rules, instructions, standards, policies and procedures; and
- (d) have regard to all relevant guidelines issued pursuant to this Act.

(3) Without limiting a chief executive's responsibilities under subsection (1) that responsibility includes responsibility for the following matters—

- (a) determination of priorities;
- (b) determination of the appropriate organisational structure of the department;
- (c) redesignation of offices;

- (d) control of the department's financial and other resources;
- (e) selection of staff and recruitment of staff other than recruitment for which the public service general recruitment office is responsible;
- (f) the determination of the number and deployment and the location of headquarters of staff;
- (g) determination of levels of salary of staff;
- (h) qualifications required for holding offices and duties attaching to offices;
- (i) recommendations for promotion of staff;
- (j) training and development of staff;
- (k) discipline of staff;
- (l) appraisal of staff performance;
- (m) approval and administration of leave arrangements;
- (n) redeployment and retraining of officers;
- (o) termination of employment of staff;
- (p) determination of the times between which each member of staff shall work ordinary hours of work;
- (q) development of means to ensure all staff members are treated justly and fairly;
- (r) maintenance of proper records.

(3A) Without limiting a chief executive's responsibility under subsection (1), that responsibility extends to Senior Executive Service positions within the chief executive's department and includes, in particular—

- (a) subject to Part 4, responsibility in relation to such positions for matters mentioned in subsection (3); and
- (b) responsibility for matters arising out of the chief executive powers under Part 4.

(4) As soon as is practicable after the commencement of this Act and from time to time after that commencement so that no more than 5 years

expire between publication of one notification under this subsection and the publication of the next such notification the Governor in Council shall, by notification in the Gazette, publish in respect of each chief executive of a department a list of—

- (a) the names of the department and all organisational units in the department for the efficient and proper management and functioning of which the chief executive is responsible; and
- (b) the titles of all Acts with the administration of which the chief executive is concerned.

Delegation of powers and functions

13.(1) The chief executive may, either generally or otherwise as provided by the instrument of delegation, by instrument in writing under the chief executive's hand delegate to any officer in the department or to the person who for the time being holds or performs the duties of any office in the department all or any of the powers or functions incidental in the discharge of the responsibilities of the chief executive.

(2) A delegation of a power or function may be made subject to conditions and limitations or absolutely and shall not prejudice the making by the chief executive of other delegations of the same power or function.

(3) A delegate to whom a power or function has been so delegated may, while the delegation subsists, do and suffer all such acts and things in accordance with the terms of the delegation as he or she thinks necessary or expedient to the proper exercise or discharge of the power or function.

(4) An act or thing done or suffered by a delegate acting in accordance with a delegation has the same force and effect as if the act or thing had been done or suffered by the chief executive.

(5) A delegation of a power or function incidental in the discharge of a responsibility of a chief executive shall not—

- (a) affect the exercise or discharge of the power or function by the chief executive; or
- (b) relieve the chief executive from his or her obligation to ensure that the responsibility is properly discharged.

Basis of employment of chief executive

14.(1) The conditions of employment of a chief executive—

- (a) shall be as approved from time to time by the Governor in Council and accepted by the person who is or is to be the chief executive; and
- (b) shall be governed by a contract of employment made or deemed to be made between the Crown and the chief executive.

(2) Where there has been made to any person an offer of a contract of employment with respect to his or her employment in a position that under this Act is a position of a chief executive (whether the offer is made before or after the commencement of this Act) it shall be deemed—

- (a) where the offer is made before the person's appointment to the position, that, upon accepting appointment to the position; or
- (b) where the offer is made after the person's appointment to the position, that, upon agreeing to being engaged under a contract of employment in the position;

the person has made with the Crown a contract of employment upon the conditions approved by the Governor in Council in relation to the position and conveyed to the person.

(3) The provisions of subsections (1) and (2) do not apply to employment in the position of Auditor-General or Commissioner of Police.

Acting as chief executive

15. If at any time a chief executive is unable to discharge the chief executive's responsibilities because of his or her absence or incapacity or if at any time there is a vacancy in the office of chief executive and it is expedient that someone should assume those responsibilities, the Minister of the Crown for the time being responsible for the department concerned may, by writing under the Minister's hand, authorise any other officer who, in the Minister's opinion, possesses appropriate qualifications to discharge the responsibilities of the chief executive, despite the provisions of any other Act, whereupon—

- (a) the Minister shall determine the remuneration payable to the officer so authorised, while the officer discharges those responsibilities, but in no case exceeding that payable for the time being to the chief executive or, as the case may be, to the last holder of the office; and
- (b) the person so authorised shall have and may discharge and exercise all the responsibilities, functions, duties and powers of the chief executive, while his or her authorisation continues despite the provisions of any other Act.

Division 3—Other provisions relating to senior executives

Tenure based on satisfactory performance

15A.(1) A senior executive is to have tenure at the Senior Executive Service level allocated to the position to which the senior executive is appointed.

(2) Tenure is conditional on continuing satisfactory work performance and is to be given effect to by performance planning and review.

(3) This section does not apply to—

- (a) a chief executive; or
- (b) a person engaged on a contract basis to perform duties of a Senior Executive Service position in accordance with arrangements determined by the Commission.

Assignment within Senior Executive Service

15B. The Governor in Council may, in a Gazette notice, approve arrangements for the assignment of senior executives within and between units of the public sector.

Terms and conditions of employment

15C. Senior executives are employed on such terms and conditions, not provided for by this Act or any other Act, as are prescribed.

Senior executives not subject to industrial awards and agreements

15D. Awards and industrial agreements do not apply to senior executives.

PART 5—PROVISIONS AFFECTING STAFF

Authority to appoint officers

16.(1) Authority to appoint any person as an officer of the public service or to appoint or second any officer to any office lies solely with the Governor in Council.

(2) Appointment to any office within a department provided for by any other Act shall be made under the authority conferred by subsection (1) upon the conditions of employment prescribed by or under this Act that are applicable to the office, despite the provisions of any other Act.

(3) This section does not apply to the appointment or secondment of a person (including an officer) to a Senior Executive Service position.

Assignment of power to appoint

17.(1) The Governor in Council may, by order in council, declare that the power—

- (a) to appoint to an office or class of office; or
- (b) to appoint or second any officer or member of a class of officer to an office or to a class of office;

may be exercised by the Minister of the Crown responsible for the department within which is the office to which appointment or secondment is to be made or by such other person within that department having authority conferred by the Minister in that behalf.

(1A) Every such order shall be effectual to confer the necessary power to appoint or second in accordance with its terms.

(2) This section does not apply to the appointment or secondment of a person (including an officer) to a Senior Executive Service position.

Publication of appointments

18. Notification of every appointment of a person as an officer of the public service or appointment or secondment of an officer to an office shall be published in the Gazette, except where—

- (a) the appointment is of officers for whose recruitment the public service general recruitment office is responsible; or
- (b) the appointment or secondment is to an office of a class of office for the time being approved by the Governor in Council as a class of office to which this section does not apply.

Bases of employment in public service

19.(1) Appointment to an office within the public service, including by way of promotion—

- (a) shall be made on the basis of full-time employment, if the office is not one or one of a class of office referred to in paragraph (b); or
- (b) may be made on the basis of part-time employment, if the office is one or one of a class of office approved by the Governor in Council to be open to appointment on that basis;

(2) Appointment to any office within the public service, including by way of promotion, shall be made as follows—

- (a) if the office is one declared pursuant to subsection (3), the appointment shall be made for a limited duration of tenure;
- (b) if the office is one not declared pursuant to subsection (3), the appointment shall be upon tenure that is not limited by time.

(3) The Governor in Council may, by order in council, declare any office or class of office, other than that of chief executive, to be an office or class of office to which appointment shall be made upon a contract basis.

(3A) While such a declaration subsists, appointment to the office so declared or to an office of a class so declared shall be made upon a contract basis.

Conditions of employment on contract

20.(1) Where appointment to an office within the public service is duly made under this Act upon a contract basis, the conditions of employment in that office—

- (a) shall be as approved from time to time by the Governor in Council and accepted by the person who is or is to be the holder of the office; and
- (b) shall be governed by a contract of employment made or deemed to be made between the Crown and the officer concerned and attested on behalf of the Crown by the chief executive of the department in which the appointment is made; and
- (c) shall not be subject to any industrial award or industrial agreement or any determination or rule of an industrial tribunal.

(2) Where there has been made to any person an offer of a contract of employment with respect to the person's employment in an office that under this Act is one to which appointment shall be made upon a contract basis (whether the offer is made before or after the commencement of this Act) it shall be deemed—

- (a) where the offer is made before the person's appointment to the office—that upon accepting appointment to the office; or
- (b) where the offer is made after the person's appointment to the office—that, upon agreeing to being engaged under a contract of employment in the office;

the person has made with the Crown a contract of employment upon the conditions approved by the Governor in Council in relation to the office and conveyed to the person.

(3) If at any time an appointment to an office purporting to have been made under this Act upon a contract basis is not duly so made, the appointment shall be deemed to have been made upon a tenure that is not limited by time and upon conditions of employment provided for by any

relevant industrial award or industrial agreement and the appointee shall hold the office accordingly.

(4) Where the contract of employment made or deemed to have been made with the Crown by an officer of the public service who holds an office upon a contract basis is terminated otherwise than by way of disciplinary action under this Act, the officer is entitled to elect to continue to be employed as an officer, though not upon a contract basis, at a level of salary determined by the chief executive of the department in which the officer held such office, but not less than the level of salary at which the person was employed at the time immediately before the person first accepted employment upon a contract basis, adjusted to accord with movements in rates of salaries since that time and, if the person does so elect, the officer shall renounce all entitlements secured to the person by the contract of employment in the event of its termination in the circumstances in which the termination has occurred.

(4A) Every such election—

- (a) shall be made in writing signed by the officer and given to the chief executive of the department in which the officer is employed no later than 14 days after notice of termination of the contract has been given to the officer; and
- (b) upon being duly made, shall have the effect that the elector's services as an officer shall be deemed not to have been terminated by the termination of the person's contract of employment but to have continued in accordance with the terms of election prescribed by this subsection.

(4B) Subsections (4) and (4A) apply only in relation to—

- (a) an office of a class prescribed by regulation; or
- (b) an officer who at the time the officer was first appointed to an office upon a contract basis held an office within the public service upon a tenure unlimited by time, and whose service in the last office and in any office or offices subsequently held by the officer until the termination of the contract in question has been continuous.

(5) Service of an officer shall be deemed to be continuous if it accords with a regulation (if any) relating to continuity of service in the public

service.

(6) If a person who is employed on a contract basis accepts appointment to a position in the public service, the contract is taken to be terminated by mutual agreement and the person is not entitled to a payment under the contract because of that termination.

Creation of offices

21. The Governor in Council may, on the recommendation of the chief executive of the department concerned, create or abolish offices within a department.

(2) This section does not apply to Senior Executive Service positions.

Vacancies to be advertised

22.(1) Where it is proposed to make an appointment to fill a vacancy in an office within the public service, a notification of the existence of the vacancy seeking applicants to fill the vacancy shall be published in the Gazette for a period prescribed by regulation before any appointment is made.

(1A) Subsection (1A) does not apply if the office in which the vacancy exists—

- (a) is an office for which the public service general recruitment office is responsible for recruitment; or
- (b) is of a temporary nature and the vacancy is not required to be advertised under the standards; or
- (c) is an office in relation to which a vacancy in the office need not be advertised under the regulations or the standards or under redundancy arrangements approved by the Governor in Council; or
- (d) is a Senior Executive Service position in relation to which a vacancy in the position need not be advertised under arrangements approved by the Governor in Council for the establishment of the Senior Executive Service.

(2) The upgrading of any office creates a vacancy in that office for the purposes of subsection (1).

Appointment on probation

23.(1) This section does not apply to an appointment as a senior executive.

(2) A person who is not already an officer of the public service and who is appointed to an office shall be so appointed on probation for a period not less than 12 months.

(3) A person who is already an officer and who is appointed by way of promotion to an office shall be so appointed on probation for a period not less than 6 months.

(4) Where a person has been appointed on probation in compliance with subsection (2) or (3)—

- (a) if immediately before appointment the person was not an officer, the prescribed authority may—
 - (i) at any time during a period of probation, terminate the employment in the public service of the person; or
 - (ii) upon the expiry of a period of probation, confirm the appointment, extend the period of probation, or rescind the appointment and thereby terminate the employment in the public service of the person; or
- (b) if immediately before appointment the person was an officer the prescribed authority may—
 - (i) at any time during a period of probation, rescind the appointment; or
 - (ii) upon the expiry of a period of probation, confirm the appointment, extend the period of probation or rescind the appointment.

(5) Where an appointment is rescinded under subsection (4)(b) the services of the officer shall be retained in the department in or to which the person was so appointed at a level of salary not less than the level of salary of the person immediately before the person was so appointed, until the

person is appointed to an office elsewhere or is otherwise duly dealt with in accordance with this Act.

(6) If a person who has been appointed on probation in compliance with subsection (2) or (3) is still serving a period of probation upon the expiry of 18 months after the date of appointment on probation, then, if within 1 month after that expiry the appointment has been neither confirmed nor rescinded, the appointment shall be deemed to have been confirmed upon that expiry.

(7) In this section the—

“**prescribed authority**” means the chief executive of the department in which the appointee is employed.

Officer not to refuse transfer

24.(1) An officer of the public service who is transferred from one office to another by being duly appointed to an office as holder of which the person will be entitled to a level of salary not less than the person’s existing level of salary, shall accept the transfer unless the person establishes to the satisfaction of the chief executive concerned reasonable grounds for not accepting the transfer.

(2) If the officer indicates his or her refusal of the transfer and fails to establish to the satisfaction of the chief executive concerned reasonable grounds for not accepting the transfer, the chief executive may direct the officer to accept the transfer and to attend for work in the office to which the officer has been so appointed.

Resignation from public service

25.(1) An officer of the public service whose conditions of employment are governed by a contract of employment that provides for the officer’s resignation and the manner of resignation may resign the employment in accordance with the contract of employment.

(2) An officer of the public service other than one referred to in subsection (1) may at any time resign his or her employment.

Retirement from public service

26.(1) An officer of the public service—

- (a) shall retire from the public service upon attaining age 65 years;
- (b) may elect to retire from the public service—
 - (i) on or at any time after attaining 55 years of age; or
 - (ii) under the regulations or the standards or under a voluntary early retirement scheme approved by the Governor in Council.

(2) If the prescribed authority suspects on reasonable grounds that an officer because of mental or physical infirmity has not the capacity or is unfit—

- (a) to discharge efficiently the duties of his or her office; and
- (b) to discharge efficiently any other duties that the chief executive of the department in which the officer is employed might reasonably direct the officer to discharge;

the prescribed authority shall obtain medical opinion on the officer's condition and to that end may appoint any medical practitioner or medical practitioners to examine the officer and report to whomsoever the prescribed authority directs upon the officer's mental or physical condition or both and may direct the officer to submit himself or herself to such examination.

(3) If the prescribed authority believes on reasonable grounds that an officer because of mental or physical infirmity has not the capacity or is unfit as prescribed by subsection (2), the prescribed authority may call upon the officer to retire from the public service within a time specified by the prescribed authority.

(4) If an officer called upon under subsection (3) to retire does not retire within the time specified, the prescribed authority may dismiss the officer from the public service.

(5) In this section—

“prescribed authority” means—

- (a) in respect of a chief executive—the Governor in Council; or
- (b) in respect of any other officer—the chief executive of the

department in which the officer is employed.

Mode of resignation or retirement

27. The resignation or retirement of an officer of the public service shall be effected by writing signed by the officer given—

- (a) in the case of a chief executive—to the Minister of the Crown for the time being responsible for the department of which the officer is chief executive; or
- (b) in the case of any other officer—to the chief executive of the department in which the officer is employed;

and shall be given and take effect as prescribed by regulation.

Retrenchment

28. Where the Governor in Council is satisfied that—

- (a) an officer no longer holds an office, or the office held by an officer is surplus to the requirements of the department concerned because—
 - (i) the duties of the office are no longer required; or
 - (ii) the duties of the office are being performed by the holder of another office; and
- (b) it is not practicable to retrain or redeploy the officer or the officer notifies the chief executive of the department concerned, in writing, that the officer elects not to be retrained or redeployed; and
- (c) redundancy arrangements under the regulations or the standards, or approved by the Governor in Council, have been complied with in relation to the officer;

the Governor in Council may terminate the services of the officer by way of retrenchment in accordance with those redundancy arrangements.

Discipline

29.(1) An officer of the public service is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the prescribed authority to exist, namely—

- (a) incompetence or inefficiency in the discharge of the duties of office;
- (b) negligence, carelessness or indolence in the discharge of the duties of office;
- (c) misconduct;
- (d) absence from duty except—
 - (i) upon leave duly granted as prescribed; or
 - (ii) with reasonable cause;
- (e) wilful failure to comply with a lawful direction issued to the officer by any person having authority over the officer;
- (f) wilful failure to comply with any provision of a code of conduct approved by the Governor in Council for officers of the public service.

(2) Where action against an officer is contemplated on a ground referred to in subsection (1)(d), the prescribed authority may appoint any medical practitioner or medical practitioners to examine the officer and to report to the prescribed authority or as the prescribed authority directs upon the officer's mental or physical condition or both, and may direct the officer to submit himself or herself to such examination.

(3) If the prescribed authority is satisfied that an officer should be disciplined under subsection (1), the prescribed authority may order that the officer be disciplined in a manner that appears to the prescribed authority to be warranted, having regard to any relevant standards that may have been issued in relation to the exercise of discipline.

(3A) Without limiting the range of disciplines that may be imposed under subsection (3), such disciplines may consist of—

- (a) dismissal; or
- (b) reprimand; or

- (c) forfeiture or deferment of a salary increment or increase; or
- (d) reduction in the officer's level of salary; or
- (e) a deduction from the officer's salary of an amount not exceeding \$100.

(3B) Every order made under subsection (3) shall take effect in law and shall be given effect.

(4) In this subsection—

“prescribed authority” means—

- (a) the Governor in Council—in respect of an officer who is a chief executive; or
- (b) in respect of any other officer, the chief executive of the department in which the officer concerned is employed.

Suspension

30.(1) Where it appears on reasonable grounds to the person who is authorised by this subsection to suspend the officer in question that the officer is liable to disciplinary action under section 29 or is suspected of involvement in circumstances such that the efficient and proper management of a department might be prejudiced if the officer's services are continued, the officer—

- (a) if the officer is a chief executive—may be suspended from duty by the Minister of the Crown for the time being responsible for the department of which the officer is chief executive;
- (b) if he is any other officer—may be suspended from duty by the chief executive of the department in which the officer is employed.

(2) A suspension imposed on an officer under subsection (1) may be lifted at any time by the person holding the office of the person who imposed it.

(3) An officer suspended from duty shall not be entitled to receive salary for any period during which the officer does not perform the duties of his or her office, unless the Governor in Council otherwise determines.

(4) An officer suspended from duty who is not entitled to salary for the period of suspension, if the officer resumes duty as an officer of the public service upon the lifting of the officer's suspension, shall be entitled to receive a sum equivalent to the amount of salary the officer would have received had the officer not been suspended diminished by the amount of salary, wages or fees (if any) to which the officer became entitled from any other source during the period of his suspension, unless the Governor in Council otherwise determines.

Mode of dismissal or suspension

31.(1) Dismissal or suspension of an officer of the public service shall be effected in accordance with this Act, any relevant standards and the principles of natural justice.

(2) Dismissal or suspension of an officer shall be effected—

- (a) in the case of dismissal of a chief executive—by writing signed by the Premier of Queensland and given to the officer; or
- (b) in the case of suspension of a chief executive—by writing signed by the Minister of the Crown for the time being responsible for the department of which the officer is chief executive and given to the officer; or
- (c) in any other case—by writing signed by the chief executive of the department in which the officer is employed and given to the officer.

Public service general recruitment office

32. The Governor in Council may establish in any department an office the functions of which shall be—

- (a) subject to any relevant standards, to determine the minimum qualifications required for appointment as an officer of the public service of officers of the class, Clerical and Administrative Personnel—Unclassified; and
- (b) to provide a centralised avenue for recruitment to the public service of officers of the class, Clerical and Administrative

Personnel—Unclassified and such other class as the Governor in Council may determine from time to time; and

- (c) to arrange for retraining of officers and their redeployment elsewhere than in the department in which they are officers.

Engagement of staff other than officers

34.(1) A chief executive may engage the services of a person in the department of which he or she is chief executive if—

- (a) the position in which that person's services are to be employed is of a kind ordinarily held by a person who is not an officer; or
- (b) the position being of a kind ordinarily held by an officer (other than a senior executive), the engagement is required to meet temporary circumstances existing in the department or is upon a basis not permissible for the engagement of an officer.

(1A) The appointment of a person whose services are engaged under this subsection shall be made in writing signed by the chief executive.

(2) An engagement of any person under subsection (1) may be on such basis, for such duration of tenure and on such terms and conditions as are agreed between that person and the chief executive, subject to any applicable industrial award or industrial agreement.

(3) A person appointed by a chief executive under this section shall not by the appointment become an officer of the public service.

PART 7—MISCELLANEOUS PROVISIONS

Transitional provisions

38.(1) Upon the commencement of this Act a reference in any other Act or in any regulation to the *Public Service Act 1922* shall, where practicable and the context permits, be read as a reference to this Act.

- (2)** No act done or decision taken before the commencement of this Act

by any person purporting to do the act or take the decision under the authority of an instrument that is or purports to be an assignment made pursuant to the *Public Service Act 1922*, by the Board within the meaning of the *Public Service Act 1922* shall be challenged as to its validity or lawfulness because the Board has ceased to exist or that there is a defect affecting the efficacy of the assignment.

(3) Where under the regulations made under the *Public Service Act 1922*, the Board within the meaning of the *Public Service Act 1922* is to discharge a function or may exercise a power, then, except as is otherwise expressly provided by this Act—

- (a) if the function or power relates to a matter prescribed by this Act to be a responsibility or within the authority of a chief executive or to a matter that is incidental in the efficient and proper management and functioning of a department, the function shall be discharged or the power may be exercised by the appropriate chief executive;
- (b) in any other case, the function shall be discharged or the power may be exercised by the Governor in Council;

and, in either case, the discharge or exercise shall take effect as if it had been a discharge of the function or an exercise of power by the Board.

(4) The validity of any regulation made under the *Public Service Act 1922* shall not be affected by the passing of this Act or the repeal of any Act repealed by this Act.

Person in public employment is employee in industrial law

39. An officer of the public service or a person in the employment of the Crown (other than as such an officer) who is in receipt of salary or wages is an employee within the meaning of the *Industrial Relations Act 1990* and the provisions of that Act apply in relation to such an officer or person.

Cooperation between State and Commonwealth Services

40.(1) The fact that a person is an officer of the public service of the Commonwealth shall not disqualify the person from also performing duties of an office within the public service of Queensland.

(2) The Governor in Council may make arrangements with the Governor-General of the Commonwealth for performance by an officer of the public service of the Commonwealth, for the Government of Queensland, of any work or services or of duties of any office within the public service of Queensland.

(2A) Such arrangements may include arrangements for determining—

- (a) the rate of payment to be made by the Government of Queensland to the Government of the Commonwealth for performance of the work, services or duties in question; and
- (b) any matters that may require to be adjusted in connection with performance of the work, services or duties in question.

(3) It is lawful for the Governor in Council, at the request of the Governor-General of the Commonwealth, to authorise and cause any work or services to be performed for the Government of the Commonwealth by an officer of the public service of Queensland.

(3A) Arrangements made for that purpose may include arrangements for determining—

- (a) the rate of payment to be made by the Government of the Commonwealth to the Government of Queensland for performance of the work or services in question; and
- (b) any matters that may require to be adjusted in connection with performance of the work or services in question.

Employment interchange

41. Arrangements may be made in accordance with standards—

- (a) for the performance of duties by an officer of the public service who holds an office in one department in any other department; or
- (b) for the performance of duties by an officer of the public service in any other employment; or
- (c) for the performance of duties by a person employed elsewhere than in the public service in any department;

and any such arrangement made may be performed.

Mode of service

42. Any notice or other writing required or permitted by this Act to be given to any person may be given to the person—

- (a) by delivering it to the person personally; or
- (b) by leaving it for the person at his or her place of work or place of residence last known to the person giving the notice or writing; or
- (c) by post addressed to the person at his or her place of work or place of residence last known to the person giving the notice or writing.

Regulations

43.(1) The Governor in Council may make regulations not inconsistent with this Act to provide with respect to—

- (a) all matters that arise in connection with—
 - (i) the conduct of the affairs of the public service or of any department; and
 - (ii) the entitlements, responsibilities, authorities, obligations and liabilities of officers of the public service; and
- (b) all matters that by this Act are required or permitted to be prescribed where no other method of prescription is provided for; and
- (c) all matters that may be necessary or convenient for the administration of this Act or to achieve the objects and purposes of this Act.

(2) Despite the provisions of any Act or rule of law, where a regulation or a provision of a regulation confers a benefit on officers of the public service, it may specify a date for its commencement or by its terms indicate that it is to take effect from a date, in either case being a date before the regulation or provision is made, and in that case the regulation or provision shall be deemed to have taken effect on and from the date specified or indicated and shall have retrospective effect accordingly.

(3) The regulations may prescribe with respect to any matter for which

the regulations may lawfully provide, other than duties or obligations of officers, by reference to determinations or rulings to be made from time to time by the Governor in Council or by reference to standards.

(4) The provisions of this section in so far as they authorise the making of regulations with respect to the attendance, hours of duty, credit for service, leave, court attendance, jury service, expenses and allowance of officers and other such entitlements and obligations shall be administered by the Minister responsible for the administration of the *Industrial Relations Act 1984*.

(4A) Subject to subsection (4), the provisions of this section shall be administered by the Minister and the power to make regulations under a provision so administered shall not be exercised except upon the Minister's recommendation.

(5) Regulations made under this Act may provide for the administration of them by a Minister other than the Minister within the meaning of this Act.

SCHEDULE 1

sections 4, 8, 9 and 11(4) and (5)

DEPARTMENTS OF GOVERNMENT

CHIEF EXECUTIVES

Administrative Services
Department

Director-General, Administrative
Services Department

Department of the Auditor-General

Auditor-General

Department of Business, Industry
and Regional Development

Director-General, Department of
Business, Industry and Regional
Development

Department of Consumer Affairs

Director-General, Department of
Consumer Affairs

Department of Education

Director-General, Department of
Education

Department of Employment,
Vocational Education, Training and
Industrial Relations

Director-General, Department of
Employment, Vocational
Education, Training and Industrial
Relations

Department of Environment and
Heritage

Director-General, Department of
Environment and Heritage

Department of Family Services and
Aboriginal and Islander Affairs

Director-General, Department of
Family Services and Aboriginal and
Islander Affairs

Department of Health

Director-General, Department of
Health

*Public Service Management and Employment
Act 1988*

SCHEDULE 1 (continued)

Department of Housing, Local Government and Planning	Director-General, Department of Housing, Local Government and Planning
Department of Justice and Attorney-General	Director-General, Department of Justice and Attorney-General
Department of Lands	Director-General, Department of Lands
Department of Minerals and Energy	Director-General, Department of Minerals and Energy
Department of Police	Commissioner of Police
Department of the Premier, Economic and Trade Development	Director-General, Department of the Premier, Economic and Trade Development
Department of Primary Industries	Director-General, Department of Primary Industries
Department of Tourism, Sport and Racing	Director-General, Department of Tourism, Sport and Racing
Department of Transport	Director-General, Department of Transport
Treasury Department	Under Treasurer and Under Secretary, Treasury Department

SCHEDULE 2

section 4(2)

Persons appointed by the Governor alone

Judges of the Supreme Court and their Associates

President of the Industrial Court and his or her Associate

Judges of District Courts and their Clerks

Members of the Land Court

Commissioners of the Industrial Conciliation and Arbitration Commission
and their Associates

Clerk of the Parliament and officers of and employees in the Parliamentary
Service

Agent-General for Queensland

Persons engaged by a chief executive under section 34

Persons employed in honorary positions

ENDNOTES

1 Index to Endnotes

		Page
2	Date to which amendments incorporated	40
3	List of legislation	40
4	List of annotations	42
5	Table of renumbered provisions	45
6	Provisions that have not commenced and are not incorporated into reprint . .	46

2 Date to which amendments incorporated

This is the day mentioned in section 5(c) of the *Reprints Act 1992*. Accordingly, this reprint includes all amendments that commenced operation before 1 October 1992. Future amendments of the *Public Service Management and Employment Act 1988* may be made in accordance with this reprint because of section 49 of the *Reprints Act 1992*.

3 List of legislation

Public Service Management and Employment Act 1988 No 52

date of assent 12 May 1988

ss 1–1A commenced on date of assent

remaining provisions commenced 18 July 1988 (proc pubd Gaz 16 July 1988 p 2876)

as amended by—

Parliamentary Service Act 1988 No 67 s 56 Sch

date of assent 21 October 1988

commenced 19 November 1988 (proc pubd Gaz 17 November 1988 p 1227)

Corrective Services Act 1988 No 89 s 4(2) Sch 1 Pt B

date of assent 1 December 1988

commenced 15 December 1988 (see s 2(2) and o in c pubd Gaz 10 December 1988 p 1675)

Statute Law (Miscellaneous Provisions) Act 1989 No 103 s 3 Sch

date of assent 25 October 1989

commenced on date of assent

*Public Service Management and Employment
Act 1988*

Public Sector Management Commission Act 1990 No 5 s 7.12 Sch

date of assent 4 April 1990

commenced 4 April 1990 (proc pubd Gaz 4 April 1990 p 1675)

Health Services Act 1991 No 24 s 7.3 Sch 3

date of assent 5 June 1991

commenced 1 July 1991 (proc pubd Gaz 22 June 1991 p 974)

Public Sector Legislation Amendment Act 1991 No 34 Pts 1–2 Sch 1

date of assent 12 June 1991

ss 1–3 commenced on date of assent

ss 4, 8–9, 10 (so far as it amends s 22) commenced 1 July 1991 (proc pubd Gaz 29 June 1991 p 1196)

s 10 (so far as it amends s 19) not yet proclaimed into force

remaining provisions commenced 4 July 1991 (1991 SL No 1)

orders published Gazette—

16 July 1988 p 2863

commenced on date of publication

23 July 1988 p 3081

commenced on date of publication

24 September 1988 p 393

commenced on date of publication

19 January 1989 pp 157–8

commenced on date of publication

17 June 1989 p 1216

commenced on date of publication

31 August 1989 p 3361

commenced on date of publication

25 September 1989 pp 790–1

commenced on date of publication

7 December 1989 pp 2489–92

commenced on date of publication

23 December 1989 p 2723

commenced on date of publication

12 November 1990 p 1280

commenced on date of publication

22 December 1990 p 2249

commenced on date of publication

13 April 1991 p 2208

commenced on date of publication

29 June 1991 p 1187

commenced on date of publication

*Public Service Management and Employment
Act 1988*

Public Service (Departmental Name Change) Order 1992

pubd Gaz 22 May 1992 p 702
commenced on date of publication

Public Service Management (Departmental Changes) Order (No 1) 1992

pubd Gaz 24 September 1992 pp 271–5
commenced 24 September 1992 (see s 2)

4 List of annotations

Key to abbreviations in list of annotations

RA	=	<i>Reprints Act 1992</i>
amd	=	amended
ins	=	inserted
om	=	omitted
renum	=	renumbered
sub	=	substituted
Pt hdg	=	Part heading
Div hdg	=	Division heading
Sdiv hdg	=	Subdivision heading
hdg prec	=	heading preceding
prov hdg	=	provision heading
cl	=	clause
orig	=	original
pres	=	present

Provisions not included in reprint, or amended by
amendments not included in reprint, are underlined

Long title amd 1991 No 34 s 10 Sch 1

Arrangement

s 2 om 1990 No 5 s 7.12(1) Sch

Repeals

s 3 om 1991 No 34 s 10 Sch 1

Interpretation

s 4 def “**appointment**” ins 1991 No 34 s 10 Sch 1
def “**award**” ins 1991 No 34 s 10 Sch 1
def “**Commission**” ins 1991 No 34 s 10 Sch 1
def “**Director**” om 1990 No 5 s 7.12(1) Sch
def “**industrial agreement**” sub 1991 No 34 s 10 Sch 1
def “**industrial award**” sub 1991 No 34 s 10 Sch 1
def “**industrial tribunal**” sub 1991 No 34 s 10 Sch 1
def “**office**” sub 1991 No 34 s 10 Sch 1
def “**officer**” sub 1991 No 34 s 10 Sch 1
def “**public sector**” ins 1991 No 34 s 10 Sch 1
def “**public service general recruitment office**” ins 1990 No 5 s 7.12(1)
Sch
def “**senior executive**” ins 1991 No 34 s 10 Sch 1

*Public Service Management and Employment
Act 1988*

def “**standards**” ins 1990 No 5 s 7.12(1) Sch
def “**unit of the public sector**” ins 1991 No 34 s 10 Sch 1

Administration of Act

s 5 amd 1990 No 5 s 7.12(1) Sch; 1991 No 34 s 10 Sch 1

Personnel management

s 7 amd 1991 No 34 s 4

PART 4—SENIOR EXECUTIVE SERVICE

Pt hdg sub 1991 No 34 s 5

Division 1—The Senior Executive Service generally

Div hdg ins 1991 No 34 s 6

Establishment of Senior Executive Service

s 10A ins 1991 No 34 s 6

Purpose of Senior Executive Service

s 10B ins 1991 No 34 s 6

Composition of Senior Executive Service

s 10C ins 1991 No 34 s 6

Management principles applying to Senior Executive Service

s 10D ins 1991 No 34 s 6

Creation of Senior Executive Service positions etc.

s 10E ins 1991 No 34 s 6

Division 2—Chief executives of departments

Div hdg ins 1991 No 34 s 6

Responsibility of chief executive

s 12 amd 1990 No 5 s 7.12(1) Sch; 1991 No 34 s 10 Sch 1

Basis of employment of chief executive

s 14 amd 1991 No 34 s 10 Sch 1

Division 3—Other provisions relating to senior executives

Div hdg ins 1991 No 34 s 7

Tenure based on satisfactory performance

s 15A ins 1991 No 34 s 7

Assignment within Senior Executive Service

s 15B ins 1991 No 34 s 7

Terms and conditions of employment

s 15C ins 1991 No 34 s 7

Senior executives not subject to industrial awards and agreements

s 15D ins 1991 No 34 s 7

Authority to appoint officers

s 16 amd 1991 No 34 s 10 Sch 1

*Public Service Management and Employment
Act 1988*

Assignment of power to appoint

s 17 amd 1991 No 34 s 10 Sch 1

Publication of appointments

s 18 amd 1990 No 5 s 7.12(1) Sch; 1991 No 34 s 10 Sch 1

Bases of employment in public service

s 19 amd 1991 No 34 s 10 Sch 1

Conditions of employment on contract

s 20 amd 1991 No 34 s 10 Sch 1

Creation of offices

s 21 amd 1991 No 34 s 10 Sch 1

Vacancies to be advertised

s 22 amd 1990 No 5 s 7.12(1) Sch; 1991 No 34 s 10 Sch 1

Appointment on probation

s 23 amd 1991 No 34 s 10 Sch 1

Retirement from public service

s 26 amd 1991 No 34 s 8

Retrenchment

s 28 amd 1991 No 34 s 9

Discipline

s 29 amd 1990 No 5 s 7.12(1) Sch

Mode of dismissal or suspension

s 31 amd 1990 No 5 s 7.12(1) Sch

Public service general recruitment office

s 32 sub 1990 No 5 s 7.12(1) Sch

Reinstatement following dismissal

s 33 om 1990 No 5 s 7.12(1) Sch

Engagement of staff other than officers

s 34 amd 1991 No 34 s 10 Sch 1

PART 6—OFFICE OF PUBLIC SERVICE PERSONNEL MANAGEMENT

Pt 6 (ss 35–37) om 1990 No 5 s 7.12(1) Sch

Transitional provisions

s 38 amd 1990 No 5 s 7.12(1) Sch

Person in public employment is employee in industrial law

s 39 amd 1991 No 34 s 10 Sch 1

Employment interchange

s 41 amd 1990 No 5 s 7.12(1) Sch

Regulations

s 43 amd 1990 No 5 s 7.12(1) Sch

*Public Service Management and Employment
Act 1988*

Amendment of Acts

s 44 om (see s 40 RA)

Sch 1 amd o in c pubd Gaz 16 July 1988 p 2863; 23 July 1988 p 3081; 24 September 1988 p 393; 19 January 1989 pp 157–8; 17 June 1989 p 1216; 31 August 1989 p 3361; 25 September 1989 pp 790–1; 7 December 1989 pp 2489–92; 23 December 1989 p 2723; 12 November 1990 p 1280; 22 December 1990 p 2249; 13 April 1991 p 2208; 29 June 1991 p 1187; 22 May 1992 p 702; 24 September 1992 pp 271–5

Sch 2 amd 1988 No 67 s 56 Sch

Sch 3 om (see s 40 RA)

5 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS
under section 43 of *Reprints Act 1992*

Original	Renumbered as
4(3) (1st unnum para)	4(3)(a)
4(3) (2nd unnum para)	4(3)(b)
4(3) (3rd unnum para)	4(3)(c)
5(1) (2nd sentence)	5(1A)
11(2) (2nd sentence)	11(2A)
17(1) (2nd sentence)	17(1A)
18(c)	18(b)
19(3) (2nd paragraph)	19(3A)
20(4) (2nd sentence)	20(4A)
20(4) (3rd sentence)	20(4B)
20(4)(c)	20(4B)(a)
20(4)(d)	20(4B)(b)
22(1) (2nd sentence)	22(1A)
24 (1st sentence)	24(1)
24 (2nd sentence)	24(2)
29(1)(d) (1st unnum para)	29(1)(d)(i)
29(1)(d) (2nd unnum para)	29(1)(d)(ii)
29(3) (2nd sentence)	29(3A)
29(3) (2nd sentence, 1st unnum para)	29(3A)(a)
29(3) (2nd sentence, 2nd unnum para)	29(3A)(b)
29(3) (2nd sentence, 3rd unnum para)	29(3A)(c)
29(3) (2nd sentence, 4th unnum para)	29(3A)(d)

para)		
29(3) (2nd sentence, 5th unnum		29(3A)(e)
para)		
29(3) (3rd sentence)		29(3B)
34(1) (2nd sentence)		34(1A)
40(2) (2nd sentence)		40(2A)
40(3) (2nd sentence)		40(3A)
43(4) (2nd sentence)		43(4A)

6 Provisions that have not commenced and are not incorporated into reprint

The following provision is not incorporated in this reprint because it had not commenced before the reprint date (see s 5(c) *Reprints Act 1992*).

Section 10 Sch 1 (so far as it amends s 19) of Act No 34 of 1991 reads as follows—

Sections 19(2) and (3)—

omit, insert—

‘(2) Appointment to an office within the public service is to be on a tenure that is not limited by time.

‘(3) Subsection (2) does not apply to—

- (a) the appointment of a chief executive; or
- (b) the engagement of a person on a contract basis to perform duties of a Senior Executive Service position in accordance with arrangements determined by the Commission; or
- (c) an appointment made on a contract basis before the commencement of this subsection.’