

PUBLIC SECTOR MANAGEMENT COMMISSION ACT

No. 5 of 1990

ANALYSIS OF CONTENTS

PART I—PRELIMINARY

- 1.1 Short title
- 1.2 Commencement
- 1.3 Interpretation

PART II—THE COMMISSION

Division 1—Constitution and Membership

- 2.1 Constitution
- 2.2 Membership of Commission
- 2.3 Qualification for membership
- 2.4 Disqualifications for appointment to Commission
- 2.5 Advertisement for selection of members
- 2.6 Tenure of office of Commissioners
- 2.7 Commissioner's rights protected
- 2.8 Vacation of office
- 2.9 Removal of Commissioners
- 2.10 Appointment of acting members
- 2.11 Proceedings of Commission
- 2.12 Validity of proceedings

Division 2—Object of Commission

- 2.13 Commission's object

Division 3—Functions of Commission

- 2.14 Commission's functions
- 2.15 Commission's duty to report
- 2.16 Commission's duty to preserve independence
- 2.17 Discharge of functions

Division 4—Advisory Board to Assist Commission

- 2.18 Establishment of advisory board

PART III—STAFF AND ADMINISTRATION OF COMMISSION

- 3.1 Appointment of staff
- 3.2 Arrangements for assistance
- 3.3 Commission's control over administration

PART IV—POWERS OF COMMISSION

Division 1—Investigations

- 4.1 General power
- 4.2 Information to assist investigation
- 4.3 Production of records or things
- 4.4 Summonses
- 4.5 Duty to comply with notices
- 4.6 Restriction on exercise of powers
- 4.7 Claims of privilege
- 4.8 Protection to person bound by oath, etc. complying with requirement

Division 2—Procedures

- 4.9 Commission not bound by rules or practice
- 4.10 Commissioner's power to administer oath, etc.

Division 3—Reports

- 4.11 Commission's reports to Minister
- 4.12 Commission's reports to units of the public sector

Division 4—Public Sector Management Standards

- 4.13 Commission's standards
- 4.14 Approval of standards
- 4.15 Inconsistency between standards and Act etc.

PART V—COMMISSIONER FOR PUBLIC SECTOR EQUITY AND THE
CLASSIFICATION REVIEW TRIBUNAL

- 5.1 Object of Part
- 5.2 Commissioner for Public Sector Equity
- 5.3 Appeals against certain administrative actions
- 5.4 Classification Review Tribunal
- 5.5 Informal resolution of grievances
- 5.6 Matters concerning appeal tribunals
- 5.7 Determination by appeal tribunal final
- 5.8 General powers
- 5.9 Jurisdiction of Industrial Commission

PART VI—OFFENCES

- 6.1 Obstruction etc. of Commission
- 6.2 Non-compliance with requisition
- 6.3 Disobedience to summons
- 6.4 Disclosure of confidential information
- 6.5 Offence provision

PART VII—GENERAL

- 7.1 Act binds Crown
 - 7.2 Conflict of interest
 - 7.3 Protection from liability
 - 7.4 Remuneration, fees etc.
 - 7.5 Reimbursement
 - 7.6 Evidence
 - 7.7 Service of documents
 - 7.8 Proof of service
 - 7.9 Authority to administer oaths, etc.
 - 7.10 Annual Report of Commission
 - 7.11 Regulations
 - 7.12 Amendment of Acts
 - 7.13 Transitional provisions
- THE SCHEDULE**

Queensland



ANNO TRICESIMO NONO

ELIZABETHAE SECUNDAE REGINAE

No. 5 of 1990

An Act to provide for a Public Sector Management Commission, to amend the Public Service Management and Employment Act 1988-1989 in certain respects, to provide for appeals by public sector employees in relation to grievances and for related purposes

[ASSENTED TO 4TH APRIL, 1990]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1.1 Short title. This Act may be cited as the *Public Sector Management Commission Act 1990*.

1.2 Commencement. (1) Section 1.1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided by subsection (1), the provisions of this Act or such of them as are specified in the Proclamation shall commence on the day or days appointed by Proclamation in respect of those provisions.

1.3 Interpretation. (1) In this Act, except where a contrary intention appears—

“advisory board” means the advisory board established pursuant to section 2.18;

“appeal tribunal” means—

(a) the Commissioner for Public Sector Equity;

(b) the Classification Review Tribunal;

(c) a delegate of an appeal tribunal;

“Chair” means the Chair of the Public Sector Management Commission constituted by this Act and includes any person performing the duties of the Chair;

“Commission” means the Public Sector Management Commission constituted by this Act and includes one or more of the Commissioners discharging a function of the Commission;

“Commissioner” means any member of the Commission including the Chair;

“department” means a department of the State within the meaning of the *Public Service Management and Employment Act 1988-1990*;

“industrial agreement” means an industrial agreement within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1989*;

“industrial award” means an award within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1989*;

“Industrial Commission” means the Industrial Conciliation and Arbitration Commission within the meaning of the *Industrial Conciliation and Arbitration Act 1961-1989*;

“investigate” includes examine and consider;

“management of the public sector” includes all matters relating to—

(a) the establishment and dissolution of units of the public sector, the form in which units are established, the division

of the public sector into its units and the distribution of functions generally;

(b) the co-ordination of the activities of the units of the public sector;

(c) the operation and performance of units of the public sector;

(d) the implementation in any part of the public sector of the prescribed management principles;

“Minister” means the Minister of the Crown for the time being charged with the administration of this Act and includes any Minister performing temporarily the duties of the Minister;

“public sector” means all the units of the public sector, their officers, employees, operations and activities;

“public sector employee” means an officer or employee of a unit of the public sector;

“public service” means the public service within the meaning of the *Public Service Management and Employment Act 1988-1990*;

“record” means any material or collection of data in whatever form it is held, including in books, documents, papers, writings or on film, disc, tape, perforated roll or other device in which visual representations or sound are embodied so as to be capable of reproduction therefrom, with or without the aid of another process or instrument;

“remuneration standard” means a standard issued under this Act that provides for a method of classifying a position within the public sector for the purpose of setting the remuneration of the position under an industrial award or industrial agreement;

“standard” means a public sector management standard issued under section 4.13;

“State Superannuation Act” means the *Public Service Superannuation Act 1958-1989* or the *State Service Superannuation Act 1972-1989*;

“statutory declaration” means a declaration under and in accordance with the *Oaths Act 1867-1988*;

“unit of the public sector” means—

(a) every department;

(b) the Railway Department under and within the meaning of the *Railways Act 1914-1989*;

(c) every corporate entity (other than a Local Authority) that is constituted by an Act, or that is of a description of entity provided for by an Act, which in either case collects revenues or raises funds under the authority of an Act;

(d) every non-corporate entity established or maintained pursuant to an Act, which is funded to any extent with

- moneys of the Crown, or is assisted in a financial respect by the Crown;
- (e) the registries and other administrative offices of the courts of the State of whatever jurisdiction;
 - (f) a body or corporate person declared under subsection (4) to be a unit of the public sector;
- but does not include—
- (g) the Parliamentary Service;
 - (h) the Governor's official residence (known as "Government House") and the administrative unit maintained in association therewith;
 - (i) the Executive Council;
 - (j) the Legislative Assembly;
 - (k) the courts of the State of whatever jurisdiction;
 - (l) the Police Force;
 - (m) a university, university college, or a college of advanced education;
 - (n) a primary producer co-operative association or commodity board that is not in receipt of moneys of, or financial assistance from, the Crown;
 - (o) a body or corporate person declared under subsection (4) not to be a unit of the public sector.

(2) A reference in this Act to prescribed management principles means the management principles and objectives prescribed by section 6 and 7 of the *Public Service Management and Employment Act 1988-1990* and for this purpose a reference therein to—

the public service shall be construed as a reference to the public sector;

an officer shall be construed as a reference to a public sector employee.

(3) For the purposes of this Act, a person holds an appointment in a unit of the public sector if the person holds any office, place or position therein, whether appointment thereto is by way of election or selection.

(4) With a view to clarifying the application of paragraph (c), (d) or (n) of the definition "unit of the public sector" in subsection (1), or to excluding from the application of this Act a unit of the public sector within the meaning of paragraph (c) or (d) thereof, the Governor in Council, by Proclamation may—

- (a) declare that a specified body or corporate person is or is not a unit of the public sector;
- (b) vary or revoke a Proclamation under this subsection.

Section 28A of the *Acts Interpretation Act 1954-1989* (which requires regulations to be published in the Gazette and laid before the Legislative

Assembly as prescribed therein) applies in relation to Proclamations made for the purposes of this subsection as if they were regulations.

(5) A reference in this Act to the discharge of a function or to the performance of a duty includes a reference to the discharge of a function, the performance of a duty and the exercise of a power.

PART II—THE COMMISSION

Division I—Constitution and Membership

2.1 Constitution. (1) There is hereby constituted a corporation called the “Public Sector Management Commission” having perpetual succession and an official seal.

(2) Judicial notice shall be taken of the official seal of the Commission, and all courts and persons acting judicially shall presume the official seal affixed to any document to have been duly affixed until the contrary is proved.

2.2 Membership of Commission. The Commission consists of three full-time members qualified as prescribed, being a Chair and two other members, appointed by the Governor in Council, on the recommendation of the Minister, by notification published in the Gazette.

The *Public Service Management and Employment Act 1988-1990* does not apply in relation to the office of Commissioner.

2.3 Qualification for membership. (1) A person qualified for appointment as a member of the Commission is one who has extensive knowledge and experience in one or more of the following areas—

- management of organizations within the public sector of any government or in private enterprise;
- academic pursuit, teaching and publication of knowledge concerning public policy or public administration;
- human resource management;
- industrial relations;
- application of equity and merit principles.

(2) The Commission shall be so constituted from time to time that its members collectively have, as far as is practicable, a reasonable spread of knowledge and experience in the areas specified in subsection (1).

2.4 Disqualifications for appointment to Commission. A person who—

- (a) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankrupt or insolvent debtors;
- (b) is convicted in Queensland of an indictable offence (whether an indictment or summarily) or is convicted elsewhere in

respect of an act or omission that, if it occurred in Queensland, would constitute an indictable offence;

(c) is a patient within the meaning of the *Mental Health Services Act 1974-1989*;

or

(d) is convicted of an offence against this Act,
is not qualified to be or to continue as a member.

2.5 Advertisement for selection of members. With a view to the selection of persons for recommendation for appointment as members of the Commission, the Minister shall cause notification of the intention to make such selection to be advertised nationally, calling for applications from suitably qualified persons to be considered for selection.

2.6 Tenure of office of Commissioners. (1) Persons appointed as members of the Commission upon the initial appointment of members shall be appointed for a term not less than two, nor more than four years.

(2) Subject to subsection (1), each member of the Commission shall be appointed for a term of three years.

(3) A member of the Commission shall be eligible for reappointment at the expiration of the term of office but not so that the member would thereby serve as a Commissioner for three consecutive terms.

2.7 Commissioner's rights protected. (1) If a person who is an officer of the public service is appointed to the office of Commissioner—

(a) the person retains and is entitled to all rights that have accrued to him or her by reason of employment as such an officer of the public service, or that would accrue in the future to him or her by reason of such employment as if service as a Commissioner were a continuation of service as an officer of the public service;

(b) upon the expiration of the person's term or terms of office or resignation as a Commissioner, if the person has not attained the age of 65 years, the person shall be entitled to be appointed to some office within the public service at a level of salary not less than the current level of salary of an office equivalent to the one he or she held at the time immediately before appointment as Commissioner.

(2) Where a person to whom subsection (1) applies ceases to be a Commissioner and becomes an officer of the public service the person's service as a Commissioner shall be regarded as service of a like nature in the public service for the purpose of determining the person's rights as an officer of the public service.

(3) The Governor in Council by Order in Council may apply the provisions of subsections (1) and (2) in relation to a public sector employee other than an officer of the public service who is appointed

to the office of Commissioner with such variations and modifications as are specified therein.

Any such Order in Council shall have effect according to its tenor.

(4) If a person who is an officer within the meaning of the State Superannuation Act is appointed as a Commissioner, for so long as the person remains a Commissioner—

- (a) all entitlements (if any) which at the date of appointment have accrued or are accruing in respect of the person under that Act shall be retained;
and
- (b) the person shall be deemed to continue to be an officer within the meaning of that Act and the provisions of that Act shall apply accordingly.

2.8 Vacation of office. (1) The office of a Commissioner becomes vacant if the Commissioner—

- (a) dies;
- (b) resigns office by writing signed by him or her and given to the Minister;
- (c) is absent without prior leave granted by the Commission from three consecutive meetings of the Commission of which due notice has been given;
- (d) ceases to be qualified to continue as an appointed member;
or
- (e) is removed from office in accordance with section 2.9.

(2) The resignation of a Commissioner shall not take effect until it is accepted by the Minister.

(3) For the purposes of paragraph (c) of subsection (1)—

- (a) the non-attendance of a Commissioner at the time and place appointed for the meeting shall not constitute absence from such meeting unless a meeting of the Commission at which a quorum is present is actually held on that day;
and
- (b) the attendance of a Commissioner at the time and place appointed for a meeting shall be deemed to constitute presence at a meeting notwithstanding that, by reason of the lack of a quorum, a meeting is not actually held on that day.

2.9 Removal of Commissioners. The Governor in Council may remove a person from office as Commissioner upon the recommendation of the Minister upon the grounds of—

- (a) misconduct;
- (b) neglect of duty;
- (c) incompetence;
or
- (d) mental or physical incapacity to perform satisfactorily the duties of the office.

2.10 Appointment of acting members. (1) If a Commissioner is temporarily absent from the State, is suffering an incapacity or absent from duty for any reason, the Governor in Council may appoint, by notification published in the Gazette, a person to act as a Commissioner (including as Chair) in the person's stead during such absence or such incapacity and any such notification shall have effect according to its tenor.

(2) If a vacancy occurs in the office of a Commissioner during his or her term of office, the Governor in Council may appoint, by notification published in the Gazette, a person to act as a Commissioner (including as Chair) pending the advertisement prescribed by section 2.5 and the appointment of a Commissioner.

If a person so appointed to a vacancy in the office of Chair is not appointed as Chair, the Governor in Council shall appoint, by notification published in the Gazette, another of the Commissioners to be Chair.

2.11 Proceedings of Commission. (1) The Chair is the chief executive officer of the Commission.

(2) Meetings of the Commission shall be held at regular intervals of not greater than one month as prescribed, or, if not prescribed, as the Commission resolves, and may be held at such other times as the Chair determines.

(3) The Chair shall preside at every meeting of the Commission at which the Chair is present and in his or her absence the person who shall so preside is—

(a) the person appointed under section 2.10 to act in the Chair's stead;

or

(b) if there is no such person as that referred to in paragraph (a), a Commissioner appointed for the purpose by the members of the Commission present at the meeting.

(4) Business may be conducted at a meeting of the Commission at which a quorum is present and shall be decided by majority vote of the members present and voting thereon.

The person presiding at a meeting of the Commission is entitled to a deliberative vote and, in the event of an equality of votes, is entitled to a casting vote.

(5) A quorum of the Commission consists of 2 members.

(6) Conduct of meetings of the Commission shall be as prescribed by the Regulations or, insofar as not so prescribed, as the Commission resolves from time to time.

2.12 Validity of proceedings. An act or proceeding of the Commission shall not be invalidated or in any way prejudiced by reason only that at the time the act was done or the proceeding taken there was a

vacancy in the membership of the Board or a defect in the qualifications or appointment of a member.

Division 2—Object of Commission

2.13 Commission's object. The object of the Commission is to achieve efficiency, effectiveness, economy and impartiality in the management of the public sector of Queensland by providing leadership, oversight and direction.

Division 3—Functions of Commission

2.14 Commission's functions. (1) The functions of the Commission are—

- (a) as soon as practicable after the initial appointment of its members—
 - (i) to commence an investigation into units of the public sector for the purpose of reviewing the management of the whole of the public sector within two years or such longer period as the Minister may approve;
 - (ii) to investigate the establishment of a chief executive service, a senior executive service or other specialized divisions of service within the public sector and to advise the Minister thereon;
- (b) to conduct such reviews from time to time into the management of units of the public sector as are necessary for the Commission to achieve its object;
- (c) to monitor the implementation of its recommendations;
- (d) to develop, issue, and monitor the application of, standards;
- (e) to manage the chief executive service, senior executive service or such other specialized division of service as may be placed under its management upon the establishment thereof;
- (f) to make reports to the Minister and, through the Minister, other Ministers, and the Parliament, providing advice and recommendations concerning any aspect of the management of the public sector or any part of the public sector;
- (g) to assist units of the public sector in the discharge of their functions;
- (h) to achieve processes of appointment to positions within the public sector based upon a proper assessment of merit;
- (i) to ensure that public sector employees obtain fair and equitable treatment;
- (j) to ensure that equal opportunity principles apply in management and employment within the public sector;
- (k) to take all such action within the powers conferred upon it by this Act as may be necessary to achieve its object;
- (l) to discharge such other functions consistent with the object of the Commission as it may be required to discharge by the Minister or by the regulations.

(2) The Commission is directly responsible to the Minister with respect to all matters relating to the administration of this Act and the *Public Service Management and Employment Act 1988-1990*.

2.15 Commission's duty to report. It is the duty of the Commission—

- (a) within two years of the initial appointment of its members, or within such longer period of time as the Minister may approve, to furnish to the Minister reports covering the management of the whole of the public sector;
- (b) within six months of furnishing the reports prescribed by paragraph (a), to furnish a report to the Minister concerning the activities of the Commission since its establishment and whether or not it is necessary for the Commission or some similar body to continue to exist and related matters.

2.16 Commission's duty to preserve independence. It is the duty of the Commission—

- (a) to act independently, impartially, fairly and in the public interest;
- (b) to include in its reports to the Minister—
 - (i) its recommendations with respect to the relevant subject matter;
 - (ii) an objective summary and comment with respect to all considerations of which it is aware that support or oppose or are otherwise pertinent to its recommendations;
- (c) to consult as extensively as is practicable with a unit of the public sector before recommending or taking action affecting the unit or its officers or employees.

2.17 Discharge of functions. The Commission may discharge any of its functions by any one or more Commissioners as approved by the Commission.

The Commissioner or the Commissioners, at any time, discharging the Commission's functions, constitute the Commission.

Division 4—Advisory board to assist Commission

2.18 Establishment of advisory board. (1) In carrying out the initial reviews into the management of the whole of the public sector, the Commission shall be assisted by an advisory board, the members of which shall be appointed from time to time by the Minister and may be removed from office at any time by the Minister.

(2) For any review or class of review the advisory board shall consist of—

- (a) two persons appointed as members of the board for the purposes of all reviews carried out by the Commission whilst they are members and of whom—
 - (i) one shall have knowledge and experience in the area of trade or commerce;

and

(ii) one shall have knowledge and experience in the area of industrial relations or human resource management;

and

(b) three other persons appointed as members for the purposes of the review or class of review in question, who shall be drawn from, or appointed upon the nomination of, organizations with an interest in the review or class of review as prescribed.

PART III—STAFF AND ADMINISTRATION OF COMMISSION

3.1 Appointment of staff. Appointments may be made under and subject to the provisions of the *Public Service Management and Employment Act 1988-1990* of such persons to be officers of the Commission as are necessary for the discharge of its functions.

3.2 Arrangements for assistance. The Commission may make arrangements with any unit of the public sector or its chief executive officer under which an officer or employee of the unit is assigned to assist the Commission as part of the officer's or employee's duties with the unit.

3.3 Commission's control over administration. (1) For the purpose of the discharge by the Commission of its functions, officers or other persons appointed or seconded to an office in the Commission or engaged by the Commission or assigned to assist the Commission shall be subject to the control and direction of the Commission in the performance of their duties, and not to any other person or authority that, but for this provision, might be taken to have had control and direction of them.

(2) On and from the initial appointment of members of the Commission, sections 12 (1), (2) and (3), 13, 20, 21, 23, 24, 26, 27, 29, 30, 31 and 34 of the *Public Service Management and Employment Act 1988-1990* apply in relation to the administration of the Commission as if reference therein—

(a) to a department were a reference to the Commission and its staff;

(b) to a chief executive were a reference to the Commission.

Provisions of any regulations, Orders in Council, guidelines, determinations or other such instruments made under any Act shall apply and be construed in like manner to the extent necessary to give effect to the administrative arrangements provided for by this subsection.

(3) The power conferred upon the Commission under subsection (2) to delegate the discharge of a function under the *Public Service Management and Employment Act 1988-1990* includes the power to so delegate to any person holding office within the department of the Minister responsible for the administration of this Act or to the person who for the time being holds or performs the duties of such an office.

(4) Subject to the foregoing, officers or employees of the Commission are officers, or as the case may be, employees of the department of the Minister responsible for the administration of this Act.

PART IV—POWERS OF COMMISSION

Division 1—Investigations

4.1 General power. The Commission may investigate any matter relevant to the discharge by it of its functions under this Act and for that purpose may require, and shall be afforded, the co-operation of any unit of the public sector and its officers.

4.2 Information to assist investigation. (1) For the purpose of an investigation by the Commission, the Chair, by notice served on a person holding an appointment in a unit of the public sector who in the Chair's opinion has or might have information relevant to the investigation, may require that person to produce to the Commission a statement of information concerning the subject matter of the investigation.

(2) A notice under subsection (1)—

- (a) shall be signed by the Chair;
 - (b) shall specify a time at, by or within which it is to be complied with;
 - (c) shall describe briefly the general nature of the information sought by reference to a particular matter or to the type of information required;
- and
- (d) shall specify the place where or the person to whom the statement of information is to be produced.

(3) A notice under subsection (1)—

- (a) may provide that its requirement may be satisfied by some person acting on behalf of the person to whom the notice is directed;
- and
- (b) may specify the person or class of person who may so act.

4.3 Production of records or things. (1) For the purposes of an investigation by the Commission, the Chair, by notice served on a person holding an appointment in a unit of the public sector who, in the Chair's opinion, has or might have custody or control of a record or thing relevant to the investigation, may require that person—

- (a) to attend, at a time and place specified in the notice;
- and
- (b) to produce to a person specified in the notice, a record or thing identified in the notice or all records or things of a specified category.

(2) A notice under subsection (1)—

- (a) shall be signed by the Chair;
- (b) may provide that its requirements may be satisfied by some person acting on behalf of the person to whom the notice is directed;
- and
- (c) may specify the person or class of person who may so act.

4.4 Summonses. The Chair, by notice of summons served on the person to whom it is addressed, may—

- (a) summon a person holding any appointment in a unit of the public sector, or any other person, if in either case the Chair believes that the person has, or might have, information relevant to the subject matter of a Commission investigation, to attend before the Commission on a day and at a time and place specified in the notice and then and there to inform the Commission in relation to that subject matter;
- (b) require a person holding any appointment in a unit of the public sector, or any other person, if in either case the Chair believes that the person has or might have custody or control of any record or thing relevant to the subject-matter of a Commission investigation, to attend before the Commission on a day and at a time and place specified in the notice and then and there to produce to the Commission the record or thing.

The notice of summons shall be signed by the Chair.

4.5 Duty to comply with notices. A person required by notice issued under section 4.2, 4.3 or 4.4 to produce any information, record or thing shall comply in all respects with the notice, unless the person has a lawful excuse for not doing so.

4.6 Restriction on exercise of powers. A Commissioner or officers of the Commission shall not exercise a power or authority conferred by section 4.2, 4.3, or 4.4 if the information or record sought by the Commission is available for inspection, search and copying by the public.

4.7 Claims of privilege. (1) If privilege, in respect of any information, record or thing to which a notice under section 4.2, 4.3 or 4.4 relates is claimed by a person entitled to claim the privilege on the ground—

- (a) of privilege against self-incrimination;
- (b) of legal professional privilege;
- (c) of Crown privilege or other public interest;
- or
- (d) of Parliamentary privilege,

the person has a lawful excuse for not complying with the notice if it

is found by a Judge of the Supreme Court that the claim of privilege is valid and well-founded and, where the claim is made on the ground of Crown privilege or other public interest, that on balance the public interest is better served by withholding the information, record or thing than by disclosure thereof.

(2) A person has a lawful excuse for not complying with a notice under section 4.2, 4.3 or 4.4 if it is found by a Judge of the Supreme Court that on balance the use to be made by the Commission of the information, record or thing, production of which is required, does not justify—

- (a) the adverse or potentially adverse effect upon the financial interests of the unit of the public sector in question or of any person;
- or
- (b) the intrusion upon the privacy of an individual through disclosure of private or confidential matters concerning the individual,

that the production of the information, record or thing involves.

(3) An application may be made to a Judge of the Supreme Court for a determination of a claim—

- (a) that any information, record or thing is subject to a privilege referred to in subsection (1);
- (b) that the production of any information, record or thing is not justified for a reason referred to in paragraph (a) or (b) of subsection (2),

by the Chair or by a person making the claim.

(4) An application—

- (a) shall be made in accordance with the Rules of Court or, insofar as those rules do not provide, as directed by a Judge of the Supreme Court;
- and
- (b) shall be heard in Chambers.

A transcript of all proceedings upon an application shall be made and kept by the Court.

(5) The burden of proof upon an application shall be on the person who seeks to withhold the information, record or thing.

(6) Costs of an application shall be borne by the Commission, unless otherwise ordered by the Judge on the ground that the claim is frivolous or vexatious.

4.8 Protection to person bound by oath, etc. complying with requirement. A person bound by oath, affirmation, or declaration or

provision of an Act to maintain confidentiality with respect to any information, record or thing shall not—

- (a) breach the oath, affirmation or declaration or the provisions of any law relevant thereto;
- (b) commit an offence against the provision that requires the maintenance of confidentiality;
- or
- (c) be liable to disciplinary action,

because the person complies with a requirement of a notice issued under section 4.2, 4.3 or 4.4.

Division 2—Procedures

4.9 Commission not bound by rules or practice. The Commission is not bound by rules or the practice of any court or tribunal as to evidence or procedure in the discharge of its functions or exercise of its powers, but may inform itself on any matter and conduct its proceedings in such manner as it thinks proper.

4.10 Commissioner's power to administer oath, etc. A Commissioner, or a person nominated by a Commissioner, is authorized to administer an oath or affirmation or take a statutory declaration required by the Commissioner for the purposes of the Commission.

Division 3—Reports

4.11 Commission's reports to Minister. (1) For the purpose of discharging its functions under this Act, the Commission at any time may furnish a report concerning the management of any unit of the public sector—

- (a) to the Minister within the meaning of this Act;
- (b) to any Minister of the Crown responsible for the administration of the unit of the public sector in question.

(2) It shall be the duty of the Commission to furnish to the Minister within the meaning of this Act any report requested by the Minister relating to its prescribed object and functions or to its activities.

(3) A report such as is referred to in paragraph (b) of subsection (1) shall be furnished to the Minister in question through the Minister within the meaning of this Act.

4.12 Commission's reports to units of the public sector. (1) For the purpose of discharging its functions under this Act, the Commission at any time may furnish a report to a unit of the public sector or to its principal officer or other person holding an appointment therein providing information in the Commission's possession and recommending action on the part of the unit or person in question within a time specified therein.

(2) A unit of the public sector or person to whom a report under subsection (1) is furnished shall consider the report and provide to the Commission such advice in writing from time to time as the Commission

may require concerning the consideration given to the report and action taken in response thereto.

(3) If the Commission is dissatisfied with the consideration given to its report and the response thereto by a unit of public sector or person to whom it was furnished, it may furnish to the Minister of the Crown responsible for the administration of the unit a report concerning the matter pursuant to section 4.11.

(4) The Commission shall not furnish a report under subsection (1) or (3) without first giving to the unit of the public sector or person in question an opportunity to submit comments to the Commission within a time specified by the Commission or without first considering any comments so submitted.

Division 4—Public sector management standards

4.13 Commission's standards. (1) The Commission may issue public sector management standards—

- (a) within guidelines prescribed by the regulations, for the purpose of implementing the prescribed management principles within the public sector;
- (b) within guidelines prescribed by the regulations, for the purpose of discharging its functions and achieving its object;
- (c) for the purpose of a provision of this or any other Act or a regulation or instrument made thereunder that provides for the application of a public sector management standard.

(2) A standard may require or provide for—

- (a) application of the standard to all units of the public sector or to a specified unit or class thereof;
- (b) application of the standard to all activities of a unit of the public sector or a specified class thereof;
- (c) exceptions and exemptions;
- (d) a discretion to be exercised, or a direction to be given, by, or an approval to be required of, or a monitoring procedure to be carried out by, a specified body, person or class thereof;
- (e) a specific program, process or action or a class thereof;
- (f) the variation or revocation of a standard previously issued.

4.14 Approval of standards. (1) Before issuing a standard the Commission shall present the standard to the Minister for approval.

(2) Upon the approval of a standard by the Minister and its issue by the Commission, it shall have effect according to its tenor and become binding upon the units of the public sector, bodies and persons to which or to whom it applies.

4.15 Inconsistency between standards and Act etc. To the extent that a standard is inconsistent with this Act or any other Act, or any regulation made under this or any other Act, or to Treasurer's Instructions

or Public Finance Standards issued pursuant to the *Financial Administration and Audit Act 1977-1988*, the Act, regulation, instructions or Public Finance Standards shall prevail.

**PART V—COMMISSIONER FOR PUBLIC SECTOR EQUITY
AND THE CLASSIFICATION REVIEW TRIBUNAL**

5.1 Object of Part. The object of this Part is—

- (a) to enhance the access of public sector employees to appeal tribunals for the redress of grievances;
- (b) to preserve and declare the jurisdiction of the Industrial Commission to hear and determine matters relating to such grievances in certain cases and in general where it is in the public interest.

5.2 Commissioner for Public Sector Equity. There shall be a Commissioner for Public Sector Equity who shall be one of the Commissioners of the Public Sector Management Commission appointed for the purpose by the Governor in Council by notification published in the Gazette.

If the Commissioner appointed to be a Commissioner for Public Sector Equity pursuant to this section is temporarily absent from the State, is suffering an incapacity or absent from duty for any reason, a person appointed pursuant to section 2.10 to act in the stead of the Commissioner may also act as the Commissioner for Public Sector Equity.

5.3 Appeals against certain administrative actions. (1) An appeal lies to the Commissioner for Public Sector Equity in accordance with this Part, and not otherwise, in respect of—

- (a) every action taken or purportedly taken, or failure to take action, in compliance with or pursuant to a standard except an action or failure to act to which subsection (3) of section 5.4 applies;
- (b) all disciplinary action taken pursuant to the *Public Service Management and Employment Act 1988-1990* except dismissal of an officer;
- (c) every appointment to an office within the meaning of the *Public Service Management and Employment Act 1988-1990* that involves the advancement of an officer of the public service to an office with a higher maximum salary except—
 - (i) an office or one of a class of office declared by or pursuant to the *Public Service Management and Employment Act 1988-1990* to be an office or class of office to which appointment shall be made upon a contract basis;
 - or
 - (ii) an office or one of a class of office declared by Order in Council to be an office or a class of office in respect of appointment to which no appeal lies.

Section 28A of the *Acts Interpretation Act 1954-1989* (which requires regulations to be published in the Gazette and laid before the Legislative Assembly as prescribed therein) applies in relation to Orders in Council made for the purposes of subparagraph (ii) of paragraph (c) as if they were regulations.

(2) A person who may exercise the right of appeal is—

- (a) in the case of an action or failure to act referred to in paragraph (a) of subsection (1), a public sector employee—
 - (i) who is aggrieved by the action or failure to act;
 - (ii) who is entitled to exercise the right of appeal under the provisions of a standard;
and
 - (iii) who satisfies the requirements of any standard or regulations relating to appeals of the class of appeal in question;
- (b) in the case of an appeal in respect of disciplinary action referred to in paragraph (b) of subsection (1), an officer of the public service aggrieved by the decision that has resulted in disciplinary action against him or her or by the nature of the punishment or both;
- (c) in the case of an appeal against an appointment referred to in paragraph (c) of subsection (1), an officer of the public service who satisfies the requirements of the regulations in respect of appeals of the class of appeal in question.

(3) Jurisdiction is hereby conferred upon the Commissioner for Public Sector Equity—

- (a) to hear and determine all matters relevant to an appeal instituted to it pursuant to this section;
- (b) to give all such directions as may be necessary to give effect to determinations upon an appeal.

(4) In the case of an appeal against disciplinary action, the jurisdiction of the Commissioner for Public Sector Equity if the Commissioner allows the appeal includes the power—

- (a) to substitute such other lawful punishment as the Commissioner considers should have been imposed in lieu of the punishment imposed by the disciplinary authority concerned;
or
- (b) to remit the matter to the disciplinary authority concerned for further consideration with such recommendations or directions as it thinks fit.

5.4 Classification Review Tribunal. (1) There is established by this section a Classification Review Tribunal.

(2) The function of the Classification Review Tribunal is to hear and determine appeals from public sector employees concerning the application of any remuneration standard to positions held by them.

- (3) A public sector employee or public sector employees aggrieved—
by a decision made or purportedly made applying a remuneration standard to the position or class of position held by the employee or employees;
or
by a failure to take action to apply a remuneration standard to such a position,

may appeal to the Classification Review Tribunal for a review of the decision or failure.

(4) With respect to any such appeal the members of the Classification Review Tribunal shall be—

- (a) the Commissioner for Public Sector Equity who shall preside;
- (b) two other persons appointed as prescribed by the Commission.

Determinations shall be by majority vote of the members.

(5) Jurisdiction is hereby conferred upon the Classification Review Tribunal to hear and determine all matters relevant to an appeal instituted to it under this Part and in particular—

- (a) if it determines that there has been a failure to apply or properly apply the remuneration standard in question it shall allow the appeal and may give all such directions as are necessary to give effect to its determination;
- (b) if it determines that the remuneration standard in question has been properly applied it shall dismiss the appeal, but, if in its opinion such action is warranted, it may refer to the Commission for its consideration and such further action as the Commission may think fit the question of whether or not the standard in question should be varied.

5.5 Informal resolution of grievances. The Commissioner for Public Sector Equity may establish procedures within the Commission with a view to the disposal by agreement between the parties of matters relevant to an appeal instituted under this Part to an appeal tribunal without the necessity of a hearing and determination.

5.6 Matters concerning appeal tribunals. (1) In this section a reference to an appeal is a reference to an appeal instituted to an appeal tribunal pursuant to this Part.

(2) The institution and conduct of an appeal shall be as prescribed by the regulations or, in so far as the regulations do not prescribe, as

the Commissioner for Public Sector Equity determines from time to time having regard to the matter and to the principles—

- (a) that representation by counsel or solicitor shall not be permitted to a party to an appeal;
- (b) that the proceedings upon an appeal shall be as informal and simple as practicable.

(3) A party to an appeal may be represented—

- (a) except in the case of an appeal by a person against the promotion of another person, by an agent duly appointed in writing;

or

- (b) as the appeal tribunal may determine subject to any regulation.

(4) An appeal shall be by way of a fresh determination on the merits.

(5) Where an appeal tribunal and the parties to an appeal agree, the appeal tribunal may determine an appeal without holding a hearing.

(6) An appeal tribunal—

- (a) may decline to entertain an appeal if in its opinion the appeal is frivolous and vexatious;
- (b) shall not entertain an appeal unless it is satisfied that the appellant has sufficiently utilized processes established within the Commission or within the unit of the public sector in question with a view to disposing of matters relevant to the appeal.

(7) An appeal tribunal, by instrument signed by the Commissioner for Public Sector Equity, may delegate to any person or committee the discharge of such of its functions with respect to a particular appeal or class thereof as are specified in the instrument of delegation and may vary or revoke any such instrument.

A delegation may be made subject to conditions or absolutely and shall not prejudice the making of other delegations of the same function or the continued discharge by the appeal tribunal of the function so delegated.

An act or thing done by a delegate acting in accordance with a delegation shall have the same force and effect as if it had been done by the appeal tribunal.

(8) An appeal tribunal does not have jurisdiction to hear and determine an appeal in any case in which—

- (a) the Commission;
- (b) an officer or employee of the Commission;

(c) an organization or group of persons who substantially is only representing officers or employees of the Commission, is a party to the appeal.

5.7 Determination by appeal tribunal final. Subject to section 5.9, a determination of an appeal tribunal upon an appeal is final and conclusive, is binding on, and shall be given effect by all persons concerned.

5.8 General powers. For the purpose of the exercise of the jurisdiction conferred by this Part upon an appeal tribunal, the appeal tribunal shall have and may exercise all the powers and authorities of the Commission and the provisions of this Act shall apply accordingly as if the appeal tribunal were the Commission and the Commissioner for Public Sector Equity the Chair thereof.

5.9 Jurisdiction of Industrial Commission. (1) The provisions of this section are intended to be read and construed with the provisions of the *Industrial Conciliation and Arbitration Act 1961-1989*.

(2) The Industrial Commission has jurisdiction to hear and determine an industrial matter brought before it by an occupational group concerning—

a decision made or purportedly made applying a remuneration standard to the position or class of position held by an employee or employees represented by the occupational group;

or

a failure to take action to apply a remuneration standard to such a position,

notwithstanding that the Classification Review Tribunal has jurisdiction to hear and determine or has heard and determined the matter.

In exercising the jurisdiction preserved and conferred by this subsection the Industrial Commission may make an order varying or modifying a remuneration standard in its application to the employees represented before the Commission, and any such order has effect according to its tenor notwithstanding any other provision of this Act.

(3) Subject to subsection (2), the Industrial Commission does not have jurisdiction to hear and determine any matter that is within the jurisdiction of an appeal tribunal to hear and determine or that an appeal tribunal has heard and determined unless it is satisfied that it is in the public interest that it do so.

(4) The Industrial Commission has jurisdiction to hear and determine, as an industrial matter—

(a) an application for reinstatement by a person who has been dismissed from the public service pursuant to section 29 of

the *Public Service Management and Employment Act 1988-1990*;

- (b) an application by a person who is aggrieved by a matter that an appeal tribunal would have no jurisdiction to hear on appeal because—

the person is an officer or employee of;

other persons with whom the person would be joined in such an appeal are officers or employees of;

or

a party to such an appeal would be,

the Public Sector Management Commission.

(5) In addition to the powers conferred upon it by the *Industrial Conciliation and Arbitration Act 1961-1989*, the Industrial Commission in exercising the jurisdiction conferred upon it by subsection (4)—

- (a) upon reviewing any disciplinary action taken against a person pursuant to section 29 of the *Public Service Management and Employment Act 1988-1990*, may—

- (i) in lieu of punishment imposed by the disciplinary authority concerned, substitute such other lawful punishment as the Industrial Commission considers should have been imposed;

or

- (ii) remit the matter to the disciplinary authority concerned for further consideration with such recommendations or directions as it thinks fit;

- (b) by paragraph (a) thereof, upon ordering the reinstatement of a person dismissed from the public service, may determine the extent to which the person should suffer loss of salary in respect of the period during which the person was not an officer of the public service by virtue of the dismissal.

(6) An appeal tribunal has no jurisdiction to hear and determine a matter that has been heard and determined by the Industrial Commission.

PART VI—OFFENCES

6.1 Obstruction etc. of Commission. A person who resists, or wilfully obstructs or hinders, or improperly influences the discharge of a function or the exercise of a power by the Commission, a Commissioner, or an officer of the Commission, or attempts so to do, commits an offence against this Act.

6.2 Non-compliance with requisition. A person to whom a notice under section 4.2 or 4.3 is duly addressed who—

- (a) fails to comply with the notice;
- (b) in response to the notice, supplies information that to the person's knowledge is false in a material particular;
- (c) in response to the notice, produces a document that the person has rendered, or caused to be rendered, or to his or

her knowledge has been rendered, false in a material particular,
commits an offence against this Act, unless, in the case referred to in paragraph (a), the person has a lawful excuse for the failure.

6.3 Disobedience to summons. A person who, having been served with a notice of summons duly issued by the Chair—

- (a) fails to comply in all respects with the summons;
or
- (b) having attended before the Commission in response to the summons fails to continue in attendance until excused by the Commission from further attendance,

commits an offence against this Act, unless the person has a lawful excuse for the failure.

6.4 Disclosure of confidential information. (1) A person shall not disclose information that the Commission has communicated to the person or to any unit of the public sector or officer or employee therein, on the basis that the information is confidential, unless the disclosure is authorized by subsection (2).

(2) A disclosure of information referred to in subsection (1) is authorized if—

- (a) it is made to another person in order to take action recommended by the Commission when making a report under section 4.12, or to attain the purpose of the report;
or
- (b) it is made in good faith for the purpose of obtaining legal advice.

(3) A Commissioner or an officer or employee of the Commission shall not disclose information that comes to his or her knowledge—

- (a) in the course of discharging functions or exercising powers as Commissioner or, as the case may be, in the course of employment as an officer or employee of the Commission;
or
- (b) because of access to records had by him or her as a Commissioner or officer or employee of the Commission,

except for the purposes of the Commission or of this Act.

(4) A person who contravenes or fails to comply with a provision of this section commits an offence against this Act.

6.5 Offence provision. (1) A person who commits an offence against this Act may be prosecuted in a summary way under the *Justices Act 1886-1989* on the complaint of an officer of the Commission authorized generally or in a particular case by the Chair or the Minister.

(2) The identity of the complainant and the complainant's authority to lay the complaint, as stated in the complaint, shall be presumed in the absence of evidence to the contrary.

(3) A person convicted of an offence against this Act is liable where no other penalty is expressly prescribed to a penalty not exceeding 35 penalty units.

PART VII—GENERAL

7.1 Act binds Crown. This Act binds the Crown.

7.2 Conflict of interest. (1) If in relation to a matter a Commissioner, member of the advisory board, or an officer or employee of the Commission has a pecuniary or other personal interest which conflicts or may conflict with his or her official duty, the Commissioner, member, officer or employee shall disclose the nature of the interest to, and take no further action in relation to the matter except as may be authorized by—

- (a) in the case of a Commissioner, the Minister;
- (b) in the case of a member of the advisory board or an officer or employee of the Commission, the Commission.

(2) The Minister or Commission may direct a person to take specified action to resolve a conflict of interest reported by the person to, or that the person is required to report to, the Minister or, as the case may be, the Commission pursuant to subsection (1).

(3) A person who fails to comply with subsection (1) or with a direction given under subsection (2) commits an offence against this Act.

7.3 Protection from liability. (1) An act done, or omission made—

- (a) by the Commission, any Commissioner or an officer or employee of the Commission acting or purporting to act under or for the purposes of this Act;

or

- (b) by a person acting or purporting to act in response to a notice of the Chair or a requisition or direction of the Commission or a Commissioner,

does not render any Commissioner, any officer or employee of the Commission or any such person liable to any action, claim or demand, if the act is done, or the omission is made, in good faith and without negligence for the purposes of the discharge of the Commission's functions or exercise of its powers, or for the purposes of this Act.

(2) In proceedings for defamation in relation to a publication made in connexion with the discharge of any of the Commission's functions, there is a defence of absolute privilege in respect of a publication in good faith to or by the Commission, or an officer or employee of the Commission in an official capacity.

(3) The burden of proof of an absence of good faith is upon a person who alleges such absence.

7.4 Remuneration, fees etc. The members of the Commission, the advisory board and of an appeal tribunal shall be entitled to such remuneration—

(a) by way of salary;

or

(b) by way of fees,

allowances, benefits, and recoupment of expenses as are for the time being approved by the Governor in Council.

7.5 Reimbursement. A person who, at the request or direction of the Commission or the Chair, attends before the Commission to produce any information, record or thing is entitled to be paid a sum, on account of reasonable expenses (if any) incurred by the person in so attending, in an amount in accordance with the prescribed scale, or in the absence of such a scale, in a reasonable amount determined by the Commission.

7.6 Evidence. In any proceedings—

(a) if it is relevant to prove the doing of any act or the taking of any step by the Commission or any Commissioner, a certificate purporting to be that of the Chair in relation thereto shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained therein;

(b) a document purporting to be a publication by the Commission of a standard shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the standard.

7.7 Service of documents. (1) This section does not apply to a summons to a person to answer a charge of an offence against this Act.

(2) If service of a document on a person for the purposes of this Act might be a fact that must be proved in proceedings against the person for an offence against this Act, service of the document may be effected—

(a) on an individual, by delivering it personally;

(b) on a corporate entity, by leaving it with a person at the head office or registered office of the entity.

(3) Service of a document (other than one referred to in subsection (2)) on a person for the purposes of this Act may be effected—

(a) on an individual, in accordance with subsection (2), or by leaving the document at, or sending it by pre-paid post to the residential or business address of the individual last known to the Commission;

(b) on a corporate entity, in accordance with subsection (2), or by leaving the document at, or sending it by pre-paid post to, the head office or registered office of the entity.

(4) Subsection (3) shall not be construed to prejudice any other mode of service whereby a document may be effectively brought to the notice of any person, including any means of substituted service, if it is approved in a particular case by the Chair.

7.8 Proof of service. Service of a document for the purposes of this Act shall be sufficiently proved to the Commission and, in any proceedings in which service of the document must be proved, by means prescribed by the *Justices Act 1886-1989* in relation to service of a summons.

7.9 Authority to administer oaths, etc. Any justice is authorized to administer any oath or affirmation or to take any statutory declaration for the purposes of this Act.

7.10 Annual Report of Commission. (1) The Commission shall in each year report to the Minister in respect of the Commission's activities during the preceding period of 12 months.

(2) The Commission's annual report shall be tabled in the Legislative Assembly within ten sitting days after presentation of the report to the Minister.

7.11 Regulations. (1) The Governor in Council may make regulations consistent with this Act with respect to—

- (a) all matters required or permitted by this Act to be prescribed by regulation or to be prescribed and in respect of which no other means of prescription is specified;
and
- (b) all matters necessary or expedient to be prescribed for the proper administration of this Act or to achieve the objects and purposes of this Act.

(2) Regulations may provide—

- (a) for the application thereof generally or with any limitations, exemptions or exceptions;
- (b) for the exercise by any person of a discretion or a delegated power.

(3) Without limiting the generality of subsection (1), the Governor in Council may make regulations for or with respect to—

- (a) forms to be used for the purposes of this Act;
- (b) attestation of documentary material required for the purposes of this Act;
- (c) procedures to be observed by the Commission or its officers;
- (d) procedures at meetings of the Commission or at hearings of the Commission or of any person or body under this Act;
- (e) procedures for the selection of persons as members of the advisory board or an appeal tribunal and all matters relating

to the operation and activities of the board or an appeal tribunal;

- (f) institution and conduct of appeals or other proceedings provided for by this Act;
- (g) penalties not exceeding 10 penalty units for not complying with a regulation.

7.12 Amendment of Acts. (1) A provision of an Act specified in the first column of the Schedule is amended as specified in the second column of that Schedule opposite the reference to that provision and the Act, as so amended, may be cited as specified in the third column of that Schedule in relation to that Act.

(2) The provisions of the Schedule or such of them as are specified in the Proclamation shall commence on the day or days appointed by Proclamation in respect of those provisions.

7.13 Transitional provisions. (1) It is declared that the advertisement carried out nationally by the Queensland Government before the commencement of this Act seeking persons for appointment as members of the Commission is a sufficient compliance with section 2.5 for the purpose of the initial appointments of members of the Commission, and that section shall not be construed to require a further advertisement for the purpose of those appointments.

(2) Subject to this section, a chief executive of a department shall continue to have regard to guidelines referred to in paragraph (d) of section 12(2) of the *Public Service Management and Employment Act 1988-1990* in existence at the commencement of this Act until the Commission revokes them (which it is hereby authorized to do) or they are effectively varied or revoked by a standard.

(3) On and from the amendment of subsection (3) of section 29 of the *Public Service Management and Employment Act 1988-1989*, and the amendment of subsection (1) of section 31 of that Act, pursuant to the Schedule, guidelines issued pursuant to that Act for the purposes of each of those subsections shall continue to apply as if they were standards until they are revoked by a standard.

(4) On and from the repeal of section 32 of the *Public Service Management and Employment Act 1988-1989* pursuant to the Schedule—

- (a) in relation to every disciplinary action or appointment such as is referred to in paragraph (a) or (b) of subsection (2) of that section with respect to which there exists immediately before the repeal thereof—

an appeal pending to the Commissioner for Public Service Appeals;

a right to appeal to the Commissioner for Public Service Appeals pending the expiration of any period of time within which an appeal may be instituted,

it is hereby declared that the provisions of that section and of section 33 of the *Public Service Management and*

Employment Act 1988-1989 shall continue to apply as if this Act had not been passed and for this purpose the Commissioner for Public Sector Equity shall be deemed to be the Commissioner for Public Service Appeals referred to in those sections;

- (b) Orders in Council made for the purposes of paragraph (ii) of subsection (2) (b) of the repealed section shall be deemed to be Orders in Council made for the purposes of paragraph (ii) of section 5.3 (1) (c) of this Act;
- (c) regulations made under that Act with respect to appeals under the repealed section in existence immediately before the repeal thereof, with such modifications as allow them to be read sensibly and consistently with the provisions of this Act, shall continue in existence, shall apply as if they were made under this Act and as if reference therein to the Commissioner for Public Service Appeals were a reference to the Commissioner for Public Sector Equity.

(5) On and from the repeal of section 36 of the *Public Service Management and Employment Act 1988-1989* pursuant to the Schedule—

- (a) determinations made for the purposes of paragraph (a) of subsection (1) thereof shall be deemed to have been made for the purposes of paragraph (a) of section 32 of that Act as substituted by the Schedule;
- (b) subject to this section references in any regulation, Order in Council, determination, guideline or other instrument under that Act which continues to have effect after the repeal of section 36 shall be construed as if references therein to the Office of Public Service Personnel Management and its Director were references to the Commission, unless the context indicates to the contrary.

(6) The power of the Governor in Council under this Act to make regulations includes the power to make provisions concerning the transition of matters consequent upon the enactment of this Act.

THE SCHEDULE

[s. 7.12]

Provision amended	Amendment	Citation as amended
<i>Corrective Services (Administration) Act 1988</i>	omit the words " <i>Public Service Management and Employment Act 1988</i> " and substitute the words " <i>Public Sector Management Commission Act 1990</i> ".	<i>Corrective Services (Administration) Act 1988-1990</i>
<i>Government Printing Office (Employees Appeal) Act 1945-1988</i>	<p>(a) omit the words "to 33" and substitute the words "to 31";</p> <p>(b) insert after "Act 1988" the words "and Part V of the <i>Public Sector Management Commission Act 1990</i>";</p> <p>(c) omit the words "that Act" where they twice occur and insert in each case the words "those Acts";</p> <p>(d) omit the words "Commissioner for Public Service Appeals" and substitute the words "Commissioner for Public Sector Equity".</p>	<i>Government Printing Office (Employees Appeal) Act 1945-1990</i>
<i>Parliamentary Service Act 1988</i>	omit from paragraph (a) the words " <i>Public Service Management and Employment Act 1988</i> " and substitute the words " <i>Public Sector Management Commission Act 1990</i> ".	<i>Parliamentary Service Act 1988-1990</i>

THE SCHEDULE—*continued*

Provision amended	Amendment	Citation as amended
<i>Parliamentary Service Act 1988—continued</i>		
s. 46 (8)	omit the words “ <i>Public Service Management and Employment Act 1988</i> ” and substitute the words “ <i>Public Sector Management Commission Act 1990</i> ”.	
<i>Public Service Management and Employment Act 1988-1989</i>		
s. 2	section 2 is repealed.	<i>Public Service Management and Employment Act 1988-1990</i>
s. 4 (1)	(a) omit the definition “Director; (b) insert after the definition “public service” the following definitions:— “public service general recruitment office” means the office established pursuant to section 32; “standards” means public sector management standards issued under the <i>Public Sector Management Commission Act 1990</i> .”	
s. 5	(a) in subsection (1), omit the words “This Act” and substitute the words “Subject to subsection (4) of section 43, this Act”	

THE SCHEDULE—*continued*

Provision amended	Amendment	Citation as amended	
<i>Public Service Management and Employment Act 1988-1989—continued</i>	<ul style="list-style-type: none"> (b) in subsection (2)— <ul style="list-style-type: none"> (i) omit the expression “32 (2),”; (ii) omit the expression “40 or 43” and substitute the expression “or 40” 		
	s. 12	<ul style="list-style-type: none"> (a) in paragraph (c) of subsection (2) insert after the words “rules, instructions,” the words “standards,” (b) in paragraph (e) of subsection (3), omit the words “Office of Public Service Personnel Management” and substitute the words “public service general recruitment office” 	
	s. 18	omit from paragraph (a) the words “Office of Public Service Personnel Management” and substitute the words “public service general recruitment office”.	
	s. 22	in subsection (1), omit the words “Office of Public Service Personnel Management” and substitute the words “public service general recruitment office”.	
	s. 29 (3)	<ul style="list-style-type: none"> (a) omit the word “guidelines” and substitute the word “standards” (b) omit the words “under this Act” 	

THE SCHEDULE—*continued*

Provision amended	Amendment	Citation as amended
<p><i>Public Service Management and Employment Act 1988-1989—</i> continued</p>	<p>s. 31 omit the words “any relevant guidelines that may have been issued in relation thereto under this Act” and substitute the words “any relevant standards”</p>	
<p>s. 32</p>	<p>section is repealed and the following is substituted:—</p> <p>“32. Public service general recruitment office. The Governor in Council may establish in any department an office the functions of which shall be—</p> <p>(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;</p> <p>(b) to provide a centralized 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;</p>	

THE SCHEDULE—*continued*

Provision amended	Amendment	Citation as amended
<p><i>Public Service Management and Employment Act 1988-1989—</i> continued</p>	<p>(c) to arrange for retraining of officers and their redeployment elsewhere than in the department in which they are officers.”.</p>	
	<p>s. 33 Part VI</p>	<p>section 33 is repealed.</p> <p>(a) omit the heading “PART VI—OFFICE OF PUBLIC SERVICE PERSONNEL MANAGEMENT” where it occurs immediately after section 34;</p> <p>(b) sections 35 to 37 (both inclusive) are repealed</p>
<p>s. 38</p>	<p>(a) omit subsections (2), (3), (4), (5) and (6);</p> <p>(b) renumber subsections (7), (8) and (9) as subsections (2), (3) and (4) respectively</p>	
<p>s. 41</p>	<p>omit the words “guidelines issued by the Director and may be performed” and substitute the word “standards”</p>	
<p>s. 43</p>	<p>(a) in subsection (1), omit paragraph (c) and redesignate paragraph (d) as paragraph (c)</p>	

THE SCHEDULE—continued

Provision amended	Amendment	Citation as amended
<p><i>Public Service Management and Employment Act 1988-1989—</i> continued</p>	<p>(b) in subsection (3) omit the words “standards to be set or adopted from time to time by the Governor in Council” and substitute the word “standards”</p> <p>(c) add at the end of the section the following subsections:—</p>	
	<p>“(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 <i>Industrial Conciliation and Arbitration Act 1961-1989</i>.</p>	
	<p>Subject to the foregoing, the provisions of this section shall be administered by the Minister and the</p>	

THE SCHEDULE—*continued*

Provision amended	Amendment	Citation as amended
<p><i>Public Service Management and Employment Act 1988-1989—</i> continued</p>	<p>power to make regulations pursuant to a provision so administered shall not be exercised except upon the Minister's recommendation.</p> <p>(5) Regulations made under this Act may provide for the administration thereof by a Minister other than the Minister within the meaning of this Act."</p>	
<p><i>Queensland Industry Development Corporation Act 1985-1988</i></p>	<p>add at the end of the subsection the following words:—</p> <p>"This subsection shall apply as if the <i>Public Sector Management Commission Act 1990</i> had not been passed."</p>	<p><i>Queensland Industry Development Corporation Act 1985-1990</i></p>
<p><i>Suncorp Insurance and Finance Act 1985-1988</i></p>	<p>add at the end of subsection (3) the following words:—</p> <p>"This subsection shall apply as if the <i>Public Sector Management Commission Act 1990</i> had not been passed."</p>	<p><i>Suncorp Insurance and Finance Act 1985-1990</i></p>