



Queensland

Parliamentary Service Rule 2010

Subordinate Legislation 2010 No. 215

made under the

Parliamentary Service Act 1988

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Part 1 Preliminary

1 Short title

This rule may be cited as the *Parliamentary Service Rule 2010*.

2 Definitions

In this rule—

appeal means an appeal under section 43(1) of the Act.

award means the Parliamentary Service Award—State 2003 published in the Queensland Government Industrial Gazette on 30 January 2004 at pages 412 to 441.

Part 2 Appeals

3 Starting an appeal

- (1) A person who may appeal against a decision may start the appeal only by giving the Speaker a written notice stating—
 - (a) details identifying the decision appealed against; and
 - (b) why the person is appealing against the decision.
- (2) The notice must be given no later than 5pm on the twenty-first day after—
 - (a) for an appeal against an appointment—notice is given of the appointment in the gazette; or
 - (b) for an appeal against disciplinary action—receipt by the appellant of written advice about the disciplinary action to be taken against the appellant.

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4 Withdrawing an appeal

- (1) An appellant may withdraw an appeal by written notice given to the Speaker.
- (2) The notice may only be given before the Speaker gives the appellant the Speaker's written decision on the appeal.

5 Vexatious or frivolous appeal

- (1) The Speaker may decide not to proceed with an appeal if the Speaker considers the appeal is vexatious or frivolous.
- (2) Before deciding not to proceed with the appeal, the Speaker must give the appellant the opportunity to establish, by written submissions, an arguable case for the appeal.

6 Time, date and place for hearing etc.

The Speaker may—

- (a) decide the time, date and place for hearing an appeal; or
- (b) adjourn the hearing of an appeal.

7 Officer or employee to comply

An officer of, or an employee in, the parliamentary service must comply with any reasonable request by the Speaker for the proper conduct of an appeal.

8 Attendance at hearing by officer or employee

- (1) An officer of, or an employee in, the parliamentary service required to attend at the hearing of an appeal is taken to be on official duty while attending for the hearing.
- (2) This section does not apply to an officer or employee who is suspended from duty under section 41 of the Act.

9 Classes of offices where no appeal about appointment—Act, s 43(1)(b)(ii)

For section 43(1)(b)(ii) of the Act, each office or class of office mentioned in schedule 1 is a class of office for which no appeal lies in relation to an appointment to the office.

10 Requirements for appeal against an appointment—Act, s 43(2)(b)

- (1) For an appeal by an officer of the parliamentary service against an appointment to an office, the requirements for the officer for section 43(2)(b) of the Act are as follows—
 - (a) the officer applied for the office, whether or not the vacancy in the office was advertised; and
 - (b) for an advertised vacancy for an office—the officer's application was received on or before the closing date for receipt of applications for the office; and
 - (c) at the date on which the appointment to the office was made—
 - (i) the officer was an officer of the parliamentary service; and
 - (ii) the maximum salary for the office applied for was more than the maximum salary for the office held by the officer.
- (2) An appeal lapses if the appellant stops being an officer of the parliamentary service.

11 Right of address by Clerk, appellant and appointee

On an appeal against an appointment to an office, the Clerk or an officer for the Clerk, the appellant and the appointee may address the Speaker about—

- (a) the claims of the appointee and the appellant to appointment to the office, having regard to their qualifications and competence; and

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- (b) the appropriateness of any procedures used for the selection of the appointee.

12 Clerk to notify decision on appeal against appointment

For an appeal against an appointment to an office, the Clerk must notify the appellant and appointee of the Speaker's decision on the appeal as soon as practicable after the decision is made.

13 Successful appeal

- (1) This section applies if an appellant is appointed to an office as a result of a decision on an appeal.
- (2) The appellant is—
 - (a) entitled to be paid salary at the rate for the office on and after the date of the appellant's appointment, despite any delay in the appellant taking up duty in the office; and
 - (b) eligible to receive any applicable salary increment on the anniversary of the appointment of the officer originally appointed to the office.
- (3) The officer originally appointed to the office is to return to the office and classification from which the officer was appointed.
- (4) However, if the office from which the officer originally appointed was appointed is no longer vacant, the officer is to be retained at a salary level not less than the salary level for that office.
- (5) The revocation of the appointment of the officer originally appointed to the office must be gazetted.

14 Disciplinary action to be deferred until after appeal

- (1) If the Clerk makes an order under section 40 of the Act that a person be disciplined, no action may be taken to implement the order until—

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- (a) the time allowed for giving a notice of appeal against the order under section 3 ends without the notice being given; or
 - (b) if an appeal is started—the appeal ends.
- (2) For subsection (1)(b), an appeal ends if—
- (a) the appeal is withdrawn by the appellant; or
 - (b) the Speaker decides not to proceed with the appeal under section 5; or
 - (c) the Speaker decides the appeal.

15 Clerk to notify decision on appeal against disciplinary action

For an appeal against disciplinary action, the Clerk must notify the appellant of the Speaker's decision on the appeal as soon as practicable after the decision is made.

Part 3 Miscellaneous

16 Classes of office where no advertisement of vacancy—Act, s 32(2)(b)

For section 32(2)(b) of the Act, each class of office mentioned in schedule 2 is a class of office for which a vacancy need not be advertised.

17 Direct appointment

- (1) The Speaker may fill an office (the *relevant office*) by direct appointment of a person if—
- (a) the classification level of the relevant office is higher than the classification level of the person's substantive office; and

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- (b) the person has been seconded to, or temporarily employed in, the relevant office and the secondment or employment was on merit after advertisement of a vacancy in the relevant office; and
 - (c) the person has undertaken the relevant office's role for a period totalling at least 1 of the previous 2 years, and has been assessed by the Speaker as meeting the agreed performance objectives of the relevant office.
- (2) The Speaker may also fill an office (the *relevant office*) by direct appointment of a person if—
 - (a) the office is a reclassification of the person's substantive office; and
 - (b) the reclassification is 1 classification level higher than the classification level of the person's substantive office; and
 - (c) the person was not appointed to the substantive office at that classification level by a previous reclassification of the substantive office; and
 - (d) the person has undertaken the substantive office's role for a period totalling at least 1 of the previous 2 years, and has been assessed by the Speaker as meeting the agreed performance objectives of the relevant office.
- (3) However, the Speaker may not fill an office by direct appointment under subsection (1) or (2) if the Speaker considers the office's role is equivalent to a senior officer or senior executive role under the *Public Service Act 2008*.
- (4) The Speaker may also fill an office (the *relevant office*) by direct appointment of a person if—
 - (a) the person has been temporarily employed in another office at the classification level of the relevant office and the employment was on merit after advertisement of a vacancy in the other office; and
 - (b) the person has undertaken the other office's role for a continuous period of 2 years, and has been assessed by

the Speaker as meeting the agreed performance objectives of the relevant office.

- (5) The Clerk must keep a record of the number, type and classification level of direct appointments made under this section in each financial year.
- (6) For auditing and reporting purposes, the records must be kept for at least 1 year after the end of the financial year to which they relate.
- (7) In this section—

merit means merit having regard to the matters mentioned in the *Public Service Act 2008*, chapter 1, part 4.

18 Recurring vacancies

- (1) Subject to subsections (3) to (5), an application to fill a vacancy (the *original vacancy*) in an office the role for which the Speaker considers is less than equivalent to a senior officer role under the *Public Service Act 2008* may be used by the Speaker, during the period stated in subsection (4)(a)(ii), to consider the applicant for appointment to a relevant office.
- (2) A *relevant office* is an office, in which there is a vacancy after the original vacancy, that has the same title, classification level and role description as the office the original vacancy is in.
- (3) However, the respective role descriptions of the office mentioned in subsection (1) and the relevant office may vary—
 - (a) about the location of employment, if each advertisement by the Speaker for the original vacancy included a statement under subsection (4)(b)(i); or
 - (b) about whether employment is on a part-time or full-time basis, if each advertisement by the Speaker for the original vacancy included a statement under subsection (4)(b)(ii).

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- (4) When the original vacancy is advertised by the Speaker, the advertisement—
 - (a) must include a statement that an application to fill the vacancy—
 - (i) may be used by the Speaker to consider the applicant for appointment to a relevant office; and
 - (ii) remains current for a stated period of not more than 1 year after the closing date for the receipt of applications for the vacancy; and
 - (b) may include either or both of the following statements after that statement—
 - (i) the role for a relevant office could, however, vary from the role for the office the original vacancy is in about the location of employment;
 - (ii) the role for a relevant office could, however, vary from the role for the office the original vacancy is in about whether employment is on a part-time or full-time basis.
- (5) Subsection (1) applies only if—
 - (a) the office the original vacancy was in is permanent; and
 - (b) the relevant office is permanent.

19 Repeal

The Parliamentary Service Rule 2000, SL No. 222 is repealed.

**Schedule 1 Offices or classes of offices
where no appeal about
appointment**

section 9

- 1 an office designated to be—
 - (a) in the office of the Speaker; or
 - (b) in the electorate office of a member of the Legislative Assembly
- 2 the office of the Clerk of the Parliament
- 3 any of the following offices—
 - (a) administrative officer, classification level 1 or 2;
 - (b) operational officer, classification level 1 or 2;
 - (c) professional officer, classification level 1 or 2;
 - (d) technical officer, classification level 1 or 2
- 4 an office filled under a provision of the award providing for an officer's appointment to the office without the vacancy for the office being advertised
- 5 an office filled by an officer seconded to the office from another office at the same classification level as the office from which the officer was seconded
- 6 an office filled, on a temporary basis, for not more than 1 year
- 7 an office filled by an officer seconded to the office from another office for not more than 1 year
- 8 an office filled by a transfer or deployment of an officer at the same classification level as the office from which the officer was transferred or deployed
- 9 an office filled by redeployment at a lower classification level than the office from which the officer was redeployed

Schedule 2 Classes of office where no advertisement of vacancy

section 16

- 1 an office designated to be—
 - (a) in the office of the Speaker; or
 - (b) in the electorate office of a member of the Legislative Assembly
- 2 the office of the Clerk of the Parliament
- 3 any of the following offices—
 - (a) administrative officer, classification level 1 or 2;
 - (b) operational officer, classification level 1 or 2;
 - (c) professional officer, classification level 1 or 2;
 - (d) technical officer, classification level 1 or 2
- 4 an office that may be filled under a provision of the award providing for an officer's appointment to the office without the vacancy for the office being advertised
- 5 an office that may be filled by an officer seconded to the office from another office at the same classification level as the office from which the officer was seconded
- 6 an office that may be filled by an officer seconded to the office from another office for not more than 1 year
- 7 an office that may be filled by a transfer or deployment of an officer at the same classification level as the office from which the officer was transferred or deployed
- 8 an office that may be filled by redeployment at a lower classification level than the office from which the officer was redeployed
- 9 an office that may be filled by direct appointment under section 17

ENDNOTES

1. Made by the Speaker on 12 August 2010.
2. Notified in the gazette on 20 August 2010.
3. Laid before the Legislative Assembly on . . .
4. The administering agency is the Department of the Premier and Cabinet.

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