



Queensland

Industrial Relations and Other Legislation Amendment and Repeal Regulation (No. 1) 2013

Subordinate Legislation 2013 No. 260

made under the

City of Brisbane Act 2010
Hospital and Health Boards Act 2011
Industrial Relations Act 1999
Local Government Act 2009
Police Service Administration Act 1990
Public Sector Ethics Act 1994
State Penalties Enforcement Act 1999

Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Commencement	4
Part 2	Amendment of City of Brisbane Regulation 2012	
3	Regulation amended	4
4	Amendment of s 258 (Types of disciplinary action)	4
Part 3	Amendment of Hospital and Health Boards Regulation 2012	
5	Regulation amended	5
6	Replacement of s 7 (Movement of health service employees employed on a contract)	5
	7 Movement of health service employees employed on a contract.	5
7	Insertion of new s 11A	6
	11A Senior health service employees—Act, s 74A	6

Contents

8	Insertion of new sch 1A	6
	Schedule 1A Senior health service employee positions—Act, s 74A	
Part 4	Amendment of Industrial Relations Regulation 2011	
9	Regulation amended	8
10	Amendment of s 4 (Prescribed amount—Act, ss 72 and 276) . . .	8
11	Amendment of s 6 (Working out continuous service—Act, s 84(2))	9
12	Amendment of s 7 (Compensation for commission or piece rate employees—Act, s 85)	9
13	Insertion of new pt 2A.	9
	Part 2A Content of modern industrial instruments	
	7A Provision about consultation—Act, s 71M	10
	7B Provision about dispute resolution—Act, s 71MA . . .	10
	7C Provision about individual flexibility arrangements—Act, s 71MB	10
14	Amendment and relocation of s 9 (Agreement for certification to be accompanied by affidavit—Act, s 156)	10
	9 Information to accompany certified agreement—Act, s 71ME	10
15	Amendment of s 10A (Notice of protected action ballot order) . . .	11
16	Insertion of new pt 14A.	11
	Part 14A Continuing agreements	
	146A Extension of nominal expiry date—Act, s 828	11
	146B Wage increase—Act, s 830	12
17	Insertion of new sch 1AA	12
	Schedule 1AA Content of modern industrial instruments—Act, ss 71M, 71MA and 71MB	
18	Insertion of new sch 5C	19
	Schedule 5C Wage increases—Act, s 830	
Part 5	Amendment of Local Government Regulation 2012	
19	Regulation amended	20
20	Amendment of s 280 (Types of disciplinary action)	21
Part 6	Amendment of Police Service Administration Regulation 1990	
21	Regulation amended	21
22	Amendment of s 4.2A (Transfer).	21
Part 7	Amendment of Public Sector Ethics Regulation 2010	
23	Regulation amended	21

24	Amendment of schedule (Entities prescribed as public service agencies)	21
Part 8	Amendment of State Penalties Enforcement Regulation 2000	
25	Regulation amended	22
26	Amendment of sch 5 (Other legislation)	22
Part 9	Repeal	
27	Repeal of Industrial Relations (Transitional) Regulation 2012 . . .	23

[s 1]

Part 1 Preliminary

1 Short title

This regulation may be cited as the *Industrial Relations and Other Legislation Amendment and Repeal Regulation (No. 1) 2013*.

2 Commencement

This regulation commences on 1 December 2013.

Part 2 Amendment of City of Brisbane Regulation 2012

3 Regulation amended

This part amends the *City of Brisbane Regulation 2012*.

4 Amendment of s 258 (Types of disciplinary action)

Section 258(1), note, from ‘under’—

omit, insert—

that apply in relation to the local government employee under the *Industrial Relations Act 1999*, chapter 2A or 3.

Part 3 **Amendment of Hospital and Health Boards Regulation 2012**

5 **Regulation amended**

This part amends the *Hospital and Health Boards Regulation 2012*.

6 **Replacement of s 7 (Movement of health service employees employed on a contract)**

Section 7—

omit, insert—

7 **Movement of health service employees employed on a contract**

- (1) This section applies to the movement of a health service employee to another health system employer—
 - (a) under section 5 if, immediately before the movement, the employee was appointed on a contract; or
 - (b) under section 6.
- (2) The employee is taken to be employed by the health system employer under the contract under which the employee was employed before the movement.
- (3) If a provision in the employee's contract is inconsistent with a movement under this part, the movement takes effect despite the inconsistency.
- (4) If, immediately before the movement, the employee was appointed on a contract for a fixed term, the employee is appointed for the following period from the movement—

[s 7]

- (a) if a period is stated in the agreement or written direction given under section 5 or 6 for the movement—the period stated;
 - (b) if no period is stated in the agreement or written direction—the period remaining on the term of the employee’s contract.
- (5) The period stated in the agreement or written direction mentioned in subsection (4)(a) may not be more than the remaining term of the employee’s contract.

7 Insertion of new s 11A

Part 3—

insert—

11A Senior health service employees—Act, s 74A

For section 74A(1)(b) of the Act, the following positions are prescribed as senior health service employee positions—

- (a) a position at a classification level mentioned in schedule 1A, part 1;
- (b) a position mentioned in schedule 1A, part 2.

8 Insertion of new sch 1A

After schedule 1—

insert—

Schedule 1A Senior health service employee positions—Act, s 74A

section 11A

Part 1 Positions prescribed by classification level

- 1 The following classification levels under the ‘District Health Services - Senior Medical Officers and Resident Medical Officers’ Award - State 2012’ are prescribed—
 - L13 but only if the position has a pay point of C1-1 under the award
 - L14 to L29.
- 2 The following classification levels under the ‘Medical Superintendents with Right of Private Practice and Medical Officers with Right of Private Practice - Queensland Public Hospitals, Award - State 2012’ are prescribed—
 - MOR1-1
 - MOR1-2
 - MOR1-3
 - MSR1-1
 - MSR1-2
 - MSR1-3
 - MSR1-4
 - MSR2-1

[s 9]

- MSR2-2.

Part 2 Other positions

A position, known as a visiting medical officer position, in which a health service employee is employed if the employee—

- (a) is registered under the Health Practitioner Regulation National Law to practise in the medical profession; and
- (b) incurs ongoing private practice costs.

Part 4 Amendment of Industrial Relations Regulation 2011

9 Regulation amended

This part amends the *Industrial Relations Regulation 2011*.

10 Amendment of s 4 (Prescribed amount—Act, ss 72 and 276)

- (1) Section 4, heading, after ‘ss’—

insert—

71K,

- (2) Section 4, after ‘sections’—

insert—

71K(f)(iii),

11 Amendment of s 6 (Working out continuous service—Act, s 84(2))

- (1) Section 6, heading, after ‘s’—

insert—

71KC(2) and

- (2) Section 6(1), after ‘section’—

insert—

71KC(1) or

- (3) Section 6(4), after ‘section’—

insert—

71KB(1) or

- (4) Section 6(7), after ‘section’—

insert—

71KC(1) or

12 Amendment of s 7 (Compensation for commission or piece rate employees—Act, s 85)

- (1) Section 7, heading, ‘s’—

omit, insert—

ss 71KD and

- (2) Section 7, ‘section’—

omit, insert—

sections 71KD(3) and

13 Insertion of new pt 2A

After section 7—

insert—

[s 14]

Part 2A **Content of modern industrial instruments**

7A Provision about consultation—Act, s 71M

For section 71M of the Act, the provision mentioned in schedule 1AA, part 1 is prescribed.

7B Provision about dispute resolution—Act, s 71MA

For section 71MA of the Act, the provision mentioned in schedule 1AA, part 2 is prescribed.

7C Provision about individual flexibility arrangements—Act, s 71MB

For section 71MB of the Act, the provision mentioned in schedule 1AA, part 3 is prescribed.

14 Amendment and relocation of s 9 (Agreement for certification to be accompanied by affidavit—Act, s 156)

(1) Section 9, heading—

omit, insert—

9 Information to accompany certified agreement—Act, s 71ME

(2) Section 9(1), from ‘156(1)(f)’ to ‘an agreement’—

omit, insert—

71ME(b) of the Act, a certified agreement

(3) Section 9(1)(p)—

omit.

(4) Section 9(1)(q)—

renumber as section 9(1)(p).

(5) Section 9(3), ‘156(1)(f)’—

omit, insert—

71ME(b)

(6) Section 9—

relocate and renumber, in part 2A, as section 7D.

15 Amendment of s 10A (Notice of protected action ballot order)

Section 10A(1)—

insert—

- (h) words to the effect that under section 176A of the Act, industrial action is not authorised by the ballot if the claims in support of which the action is organised, or engaged in, have been added to or varied—
- (i) since the protected action ballot order was made; and
- (ii) to include a claim relating to non-allowable content under chapter 2A, part 3, division 4, subdivision 1 or 3 of the Act.

16 Insertion of new pt 14A

After section 146—

insert—

Part 14A Continuing agreements

146A Extension of nominal expiry date—Act, s 828

For section 828(1)(b) of the Act, 31 July 2014 is prescribed for the ‘Australian Agricultural College Employing Office Certified Agreement 2009’.

[s 17]

146B Wage increase—Act, s 830

- (1) This section prescribes, for section 830(1) of the Act, an increase in wages that applies to employees covered by a continuing agreement mentioned in schedule 5C, column 1 (a *continuing agreement*).
- (2) The increase stated in column 2 of the schedule opposite the continuing agreement applies to the annual wage rates stated in the continuing agreement.
- (3) The increase is taken to have applied on and from the day stated in column 3 of the schedule opposite the continuing agreement.
- (4) However, the increase applies only to an employee who is covered by the continuing agreement on or after the commencement of this section.
- (5) Column 4 of the schedule is included for information purposes only.

17 Insertion of new sch 1AA

Before schedule 1—

insert—

Schedule 1AA Content of modern industrial instruments—Act, ss 71M, 71MA and 71MB

sections 7A to 7C

Part 1 Consultation provision

Consultation

- (1) This term applies if—
 - (a) the employer has made a definite decision to introduce a major change to production, program, organisation, structure, or technology in relation to its enterprise; and
 - (b) the change is likely to have a significant effect on some or all employees (*relevant employees*) of the enterprise.
- (2) The employer must notify the relevant employees of the decision to introduce the major change.
- (3) The employer is not required to—
 - (a) notify the relevant employees or a representative of the decision until the time the employer considers appropriate; or
 - (b) consult with the relevant employees or a representative about the decision until the employer notifies the relevant employees or the representative of the decision; or
 - (c) consult with the relevant employees or a representative about the decision other than

[s 17]

- in relation to implementation of the decision; or
- (d) disclose confidential or commercially sensitive information to the relevant employees or a representative.
- (4) The relevant employees may appoint a representative for the purposes of the procedures in this term if the representative is a union entitled to represent the employees' industrial interests.
- (5) If—
- (a) the relevant employees appoint a representative under (4) for the purposes of consultation; and
- (b) the relevant employees advise the employer of the identity of the representative;
- the employer must recognise the representative.
- (6) As soon as practicable after notifying the relevant employees of the decision under (2), the employer must—
- (a) discuss with the relevant employees—
- (i) the implementation of the change; and
- (ii) the effect the implementation of the change is likely to have on the relevant employees; and
- (iii) measures the employer is taking to avert or mitigate the adverse effect of the implementation of the change on the relevant employees; and
- (b) for the purposes of the discussion—provide, in writing, to the relevant employees—
- (i) information about the implementation of the change including the nature of the change proposed; and

- (ii) information about the expected effects of the implementation of the change on the relevant employees; and
 - (iii) any other matters regarding the implementation of the change likely to affect the relevant employees.
- (7) The employer must give prompt and genuine consideration to matters raised about the implementation of the major change by the relevant employees.
- (8) In this term, a major change is likely to have a *significant effect* on employees if it is likely to result in—
 - (a) the termination of the employment of employees; or
 - (b) a major change to the composition, operation or size of the employer's workforce or the skills required of employees; or
 - (c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or
 - (d) an alteration of hours of work; or
 - (e) the need to retrain employees; or
 - (f) the need to relocate employees to another workplace; or
 - (g) the restructuring of jobs.

[s 17]

Part 2 **Dispute resolution provision**

Dispute resolution

- (1) This term applies to a dispute regarding—
 - (a) a matter arising under this industrial instrument; or
 - (b) the Queensland Employment Standards.
- (2) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term if the representative is a union entitled to represent the employee's industrial interests.
- (3) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee and relevant supervisors or management, or both.
- (4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the commission.
- (5) The commission may deal with the dispute as follows—
 - (a) the commission may first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation;
 - (b) if the commission does not resolve the dispute under paragraph (a), the commission may then deal with the dispute in accordance with its jurisdiction under the Act.

Note—

- 1 If the commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

2 Chapter 9 of the Act provides for appeals against particular decisions made by the commission.

- (6) While the dispute resolution procedure is being conducted, work must continue in accordance with this industrial instrument and the Act.
- (7) Subject to applicable work health and safety legislation, an employee must not unreasonably fail to comply with a direction by the employer to perform work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.
- (8) The parties to the dispute agree to be bound by a decision made by the commission in accordance with this term.

Part 3

Individual flexibility arrangements provision

Individual flexibility arrangements

- (1) An employer and employee covered by this industrial instrument may agree to make an individual flexibility arrangement to vary the effect of terms of this industrial instrument if—
 - (a) this industrial instrument deals with 1 or more of the following matters—
 - (i) arrangements about when work is performed;
 - (ii) overtime rates;
 - (iii) penalty rates;
 - (iv) allowances;
 - (v) leave loading; and

[s 17]

- (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
 - (c) the arrangement is genuinely agreed to by the employer and employee.
- (2) The employer must ensure the terms of the individual flexibility arrangement—
- (a) are only about matters required or permitted to be in this industrial instrument; and
 - (b) are not non-allowable provisions; and
 - (c) must not result, on balance, in an overall reduction in the entitlements or protections the employee has under this industrial instrument.
- (3) The employer must ensure the individual flexibility arrangement—
- (a) is in writing and signed by the employer and employee; and
 - (b) states—
 - (i) the names of the employer and employee; and
 - (ii) the terms of this industrial instrument that will be varied by the arrangement; and
 - (iii) how the arrangement will vary the effect of the terms; and
 - (iv) how the arrangement will not result, on balance, in an overall reduction in the entitlements or protections the employee has under this industrial instrument; and
 - (v) the day on which the arrangement commences; and

- (c) if the employee is under 18 years of age— is signed by a parent or guardian of the employee.
- (4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.
- (5) An individual flexibility arrangement may be terminated—
 - (a) by either the employee or employer giving written notice of—
 - (i) a period agreed between the parties of up to 12 months; or
 - (ii) if no period has been agreed—28 days; or
 - (b) by the employer and employee at any time if they agree in writing to the termination.

18 Insertion of new sch 5C

After schedule 5B—

insert—

[s 19]

Schedule 5C Wage increases—Act, s 830

section 146B

Column 1 Continuing agreement	Column 2 Increase	Column 3 Day increase took effect	Column 4 Nominal expiry date under s 828 of the Act
Australian Agricultural College Employing Office Certified Agreement 2009	2.2%	1 August 2013	31 July 2014
Health Practitioners' (Queensland Health) Certified Agreement (No. 2) 2011	2.2%	17 October 2013	17 October 2014
QFleet Certified Agreement 2012	2.2%	1 October 2013	17 October 2014
Queensland Urban Utilities (QUU) – Certified Agreement 2011	2.2%	17 October 2013	17 October 2014

Part 5 Amendment of Local Government Regulation 2012

19 Regulation amended

This part amends the *Local Government Regulation 2012*.

20 Amendment of s 280 (Types of disciplinary action)

Section 280(1), note, from ‘under’—

omit, insert—

that apply in relation to the local government employee under the *Industrial Relations Act 1999*, chapter 2A or 3.

Part 6 Amendment of Police Service Administration Regulation 1990

21 Regulation amended

This part amends the *Police Service Administration Regulation 1990*.

22 Amendment of s 4.2A (Transfer)

Section 4.2A(a), ‘section 149’—

omit, insert—

chapter 6, division 1, subdivision 3

Part 7 Amendment of Public Sector Ethics Regulation 2010

23 Regulation amended

This part amends the *Public Sector Ethics Regulation 2010*.

24 Amendment of schedule (Entities prescribed as public service agencies)

Schedule, entry for Queensland Workplace Rights Office—

[s 25]

omit.

Part 8 **Amendment of State Penalties Enforcement Regulation 2000**

25 **Regulation amended**

This part amends the *State Penalties Enforcement Regulation 2000*.

26 **Amendment of sch 5 (Other legislation)**

Schedule 5, entry for *Industrial Relations Act 1999*—
insert—

s 530A(2)		8
s 530A(5)		8
s 530D(1)	17	
s 530E(2)	17	
s 544		8
s 545(1)		8
s 545(2)		8
s 546		8
s 547		8
s 548		8
s 553A(1)		17
s 553F(2)		17
s 553I(1)		8
s 554(1)		8
s 554(2)		8
s 555(1)		8
s 555(2)		8

[s 27]

s 557A(1)		8
s 557A(3)	8	
s 557B(1)		8
s 557C(2)		8
s 557D(2)		4
s 557E(1)		8
s 557F		8
s 557G(2)		8
s 557H		8
s 557L(1)		4
s 557M(1)		8
s 557O		8
s 557W(1)		8
s 557X(1)		8
s 557Y(1)		8
s 558(1)		8
s 566		8
s 570(1)		8
s 570(2)		8
s 600	8	
s 601	8	8

Part 9 Repeal

27 Repeal of Industrial Relations (Transitional) Regulation 2012

The Industrial Relations (Transitional) Regulation 2012, SL No. 104 is repealed.

ENDNOTES

- 1 Made by the Governor in Council on 28 November 2013.
- 2 Notified on the Queensland legislation website on 29 November 2013.
- 3 The administering agency is the Department of Justice and Attorney-General.

© State of Queensland 2013
Authorised by the Parliamentary Counsel