

Industrial Relations Amendment Regulation (No. 5) 2014

Explanatory Notes for SL 2014 No. 212

made under the

Industrial Relations Act 1999

General Outline

Short Title

Industrial Relations Amendment Regulation (No. 5) 2014

Authorising law

Sections 709, 827, 828 and 830 of the *Industrial Relations Act 1999* (IR Act)

Policy objectives and the reasons for them

The objective of the *Industrial Relations Amendment Regulation (No. 5) 2014* (Amendment Regulation) is to amend the *Industrial Relations Regulation 2011* (IR Regulation) to extend the nominal expiry date in certain continuing agreements and provide for a wage increase in a continuing agreement.

The IR Act provides transitional arrangements to continue the period of operation of existing certified agreements while the award modernisation process is implemented. Certified agreements become continuing agreements under those arrangements if they reach their nominal expiry date and their relevant underpinning awards have not been modernised. Continuing agreements are extended by one year unless an earlier date is stated in a regulation. Continuing agreements cannot be bargained upon or amended.

It is likely that awards underpinning certified agreements applicable to local governments will not be modernised by 1 October 2014.

Four affected certified agreements applicable to local governments each of which reach their nominal expiry date on 1 October 2014 have been identified (i.e. the *Ipswich City Council Local Government Civic Centre Employees Certified Agreement 2012*, *Ipswich City Council Local Government Employees Certified Agreement 2011*, *Ipswich City Council Local Government Waste Services Employees' (Domestic Commercial Drivers) Certified Agreement 2012* and *Ipswich City Council Officers' Certified Agreement 2011*). The Local Government Association of Queensland (LGAQ) has requested that the affected certified agreements be extended as continuing agreements for a short period pending the imminent modernisation of the awards that underpin those agreements.

The IR Act also permits that a regulation may provide for a wage increase in a continuing agreement.

The *Nurses and Midwives (Queensland Health) Certified Agreement (EB8) 2012* is due to nominally expire on 31 March 2015. The award modernisation schedule indicates that the award underpinning this agreement will not be modernised before the nominal expiry date. This agreement will therefore become a continuing agreement on 1 April 2015 with a new nominal expiry date of 31 March 2016 unless an earlier date is stated in a regulation.

As an earlier nominal expiry date is not being sought, Queensland Health has requested that a regulation be made to provide a wage increase of 2.2% in the named agreement effective from 1 April 2015.

Achievement of policy objectives

The Amendment Regulation will achieve its objectives by amending section 146A of the IR Regulation to prescribe a new nominal expiry date of 1 November 2014 for certified agreements applicable to local governments (other than the Brisbane City Council) that reach their nominal expiry date and become continuing agreements during the period starting on 30 September 2014 and ending on 31 October 2014. Rather than name specific agreements, the Amendment Regulation reflects the construction of similar amendments already implemented in the IR Regulation. The provisions of the Amendment Regulation affecting relevant local government certified agreements commence on 29 September 2014.

The Amendment Regulation, in accordance with section 146B of the IR Regulation, amends Schedule 5C of the IR Regulation to provide for a wage increase in the relevant certified agreement in line with the request of Queensland Health. The provisions of the Amendment Regulation affecting the relevant Queensland Health certified agreement commence on 1 April 2015.

Consistency with policy objectives of authorising law

In respect of amendments to the IR Regulation, the Amendment Regulation is consistent with the policy objectives of the IR Act. The principal object of the IR Act is to provide a framework for industrial relations that supports economic prosperity and social justice.

Inconsistency with policy objectives of other legislation

There are no known inconsistencies with policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Regulation supports economic prosperity and social justice by providing transitional provisions which ensure coverage of employees by continuing certified agreements during the award modernisation process.

Costs associated with a wage increase for employees covered by the named agreement will be a matter for Queensland Health, but the increase is in line with government wages policy.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The LGAQ, Queensland Health, the Office of Best Practice Regulation (OBPR) and Office of the Queensland Parliamentary Counsel were consulted on the drafting of the Amendment Regulation. All parties consulted agreed with the proposed action.

OBPR has advised that a Regulatory Impact Statement is not required in relation to any of the amendments.