

Industrial Relations Amendment Regulation (No. 6) 2014

Explanatory Notes for SL 2014 No. 316

made under the

Industrial Relations Act 1999

General Outline

Short Title

Industrial Relations Amendment Regulation (No. 6) 2014

Authorising Laws

Sections 72, 73, 194(2)(a) and 709 of the *Industrial Relations Act 1999* (IR Act).

Section 4 of the *Industrial Relations Regulation 2011* (IR Regulation)

Policy objectives and the reasons for them

The objective of the *Industrial Relations Amendment Regulation (No. 6) 2014* (Amendment Regulation) is to amend the IR Regulation to clarify that senior health service employees employed under the *Hospital and Health Boards Act 2011* (HHB Act) on senior high-income guarantee contracts have access to remedies under the IR Act for unfair dismissals that are for an invalid reason.

Sections 72(1A) and 194(2)(a) of the IR Act make it clear that an ability to challenge dismissal on the basis that it was harsh, unjust or unreasonable, is not available to an employee to whom a high-income guarantee contract applies.

Section 72(1)(e) also excludes employees to whom a high-income guarantee contract applies from access to remedies for unfair dismissal that is for an invalid reason. It states that it does not apply to an employee;

- i. who is not employed under an industrial instrument; and
- ii. who is not a public service officer employed on tenure under the *Public Service Act 2008*; and
- iii. whose annual wages immediately before the dismissal are more than \$68,000 or a greater amount stated in, or worked out in a way prescribed under, a regulation (emphasis added).

For section 72(1)(e)(iii) the Amendment Regulation now prescribes a threshold amount of \$950,000. This removes any doubt about the application of section 73(1)(b) and allows senior health service employees (e.g. senior doctors), employed under the HHB Act and earning up to the threshold amount, access to

unfair dismissal for an invalid reason under the IR Act. This is a right they previously had.

Achievement of policy objectives

The Amendment Regulation will achieve its objectives by amending the IR Regulation to clarify application of unfair dismissal provisions for dismissal based on an invalid reason to senior Health service employees employed on high-income guarantee contracts. Specifically, they will be lifted from the exclusion category in section 73(1) which relates to whom chapter 3 (dismissals) does not apply to. This will be achieved by amending the threshold amount in section 72(1)(e)(iii) to \$950,000.

Consistency with policy objectives of authorising law

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 an avenue for the relevant employees to access the Queensland Industrial Relations Commission if they have been unfairly dismissed for an invalid reason.

No additional costs are anticipated as a result of this amendment.

Consistency with fundamental legislative principles

In respect of amendments to the IR Regulation, the Amendment Regulation is consistent with fundamental legislative principles.

Consultation

In respect of amendments to the IR Regulation, Queensland Health, the Public Service Commission, the Office of Best Practice Regulation (OBPR) and Office of the Queensland Parliamentary Counsel (OQPC) were consulted on the drafting of the Amendment Regulation. All parties consulted agreed with the proposed action.

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