

Industrial Relations Amendment Regulation (No. 2) 2015

Explanatory notes for SL 2015 No. 91

made under the

Industrial Relations Act 1999

General Outline

Short title

Industrial Relations Amendment Regulation (No. 2) 2015

Authorising law

Sections 709, 828 and 830 of the *Industrial Relations Act 1999* (IR Act)
Sections 146A, 146B and Schedule 5C of the *Industrial Relations Regulation 2011* (IR Regulation)

Policy objectives and the reasons for them

The objective of the *Industrial Relations Amendment Regulation (No. 2) 2015* (Amendment Regulation) is to amend the IR Regulation to extend the nominal expiry date in certain continuing agreements, provide for a wage increase in certain continuing agreements and make minor consequential amendments to clarify the wage increases.

The IR Act provides transitional arrangements to continue 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 award/s 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. However, the IR Act permits a regulation to be made to provide for a wage increase in a continuing agreement.

Achievement of policy objectives

The Amendment Regulation provides for wage increases in continuing agreements in accordance with the table below.

Name of Agreement	Date from which certified agreement became a continuing agreement (s.827 IR Act)	Increase to existing wage rates (s.830 IR Act)	Date increase takes effect
<i>Nurses and Midwives (Queensland Health) Certified Agreement (EB8) 2012</i>	31 March 2015	0.3% (an additional 0.3% to the 2.2% regulated from 1 April 2015 to provide 2.5% total)	1 April 2015
<i>Department of Education and Training (Education) Cleaners' Certified Agreement 2011</i>	18 January 2015	2.5%	1 April 2015
<i>Department of Education, Training and Employment State School Teachers' Certified Agreement 2012</i>	31 August 2015	2.08% (pro-rata amount of 2.08% for 10 months to 30 June 2016)	1 September 2015
<i>TMR Enterprise Determination 2011</i>	30 June 2014	2.5%	1 July 2015
<i>Transport and Main Roads Operational Employees' Certified Agreement 2011</i>	30 June 2014	2.5%	1 July 2015
<i>Queensland Health Building, Engineering and Maintenance Services Certified Agreement (No. 5) 2011</i>	31 August 2014	2.5%	1 September 2015
<i>QBuild Field Staff Certified Agreement 8 (2011)</i>	31 August 2014	2.5%	1 September 2015

The Amendment Regulation provides for the prescription of new nominal expiry dates earlier than 1 year after the following agreements became continuing agreements:

1. The *Department of Education and Training (Education) Cleaners' Certified Agreement 2011* became a continuing agreement on 18 January 2015. A new nominal expiry date of 31 August 2015 is prescribed.
2. The *Department of Education, Training and Employment State School Teachers' Certified Agreement 2012* became a continuing agreement from 31 August 2015. A new nominal expiry date of 30 June 2016 is prescribed.

Consistency with policy objectives of authorising law

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

Inconsistency with policy objectives of other legislation

The commencement date of some of the wage increases in continuing agreements are retrospective and raise issues of inconsistency with s32 of the *Statutory Instruments Act 1992*. It is considered that retrospectivity is justified as the proposed wage increase is beneficial to employees. The *Industrial Relations Act 1999* prohibits bargaining for a wage increase in a continuing agreement as it cannot be amended or bargained upon unless the underlying award has been modernised. The proposed regulation provides for interim wage increases in continuing agreements in line with the Public Sector Wages Policy.

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 wage increases for employees covered by the named agreements are a matter for the relevant public sector agencies.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The Department of the Premier and Cabinet, the Department of Education and Training, Queensland Health, the Department of Transport and Main Roads, the Department of Housing and Public Works and Public Sector Industrial Relations were consulted on the proposed Amendment Regulation.

The Office of Best Practice Regulation (OBPR) was consulted regarding the exclusion of this regulation from the Regulatory Impact Statement (RIS) process.

All parties consulted agreed with the proposed action.

OBPR advised that a RIS is not required.