

Industrial Relations Amendment Regulation (No. 3) 2015

Explanatory notes for SL 2015 No. 149

made under the

Industrial Relations Act 1999

General Outline

Short Title

Industrial Relations Amendment Regulation (No. 3) 2015

Authorising law

Section 709 and 830 of the *Industrial Relations Act 1999* (IR Act)
Section 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. 3) 2015* (Amendment Regulation) is to amend the IR Regulation to prescribe an interim wage increase to employees covered by the *Queensland Public Health Sector Certified Agreement (No. 8) 2011* (Certified Agreement).

The IR Act provides for an award modernisation process and for transitional arrangements for continuing certified agreements that reach their nominal expiry date prior to the modernisation of the awards that underpin the certified agreement. Continuing certified agreements are extended by one year, unless an earlier date is stated in a regulation. A wage increase in a continuing agreement can also be provided for under a regulation.

The Certified Agreement nominally expired on 31 August 2015. The award underpinning this agreement was not modernised before the nominal expiry date. This agreement therefore became a continuing agreement on 31 August 2015 with a new statutory nominal expiry date of 31 August 2016.

Queensland Health (QH) has requested that a regulation be made to provide a wage increase of 2.5% be applied to the Certified Agreement.

Achievement of policy objectives

The Amendment Regulation will achieve the abovementioned objective by amending the IR Regulation to provide a wage increase of 2.5% effective from 1 September 2015 for employees covered by the Certified Agreement. Section 830 of the IR Act provides for a wage increase of this nature to be provided for in a regulation.

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

The IR Act prohibits bargaining for a wage increase as their certified agreement cannot be amended or bargained upon unless the underlying award has been modernised. The proposed regulation simply provides for an interim wage increase in line with the State 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 a wage increase for employees covered by the agreement are in accordance with the Queensland public sector wages policy.

Consistency with fundamental legislative principles

The commencement date of the increase is retrospective and raises an issue of inconsistency with section 32 of the *Statutory Instruments Act 1992*. It is considered that retrospectivity is justified as the proposed wage increase is beneficial to employees.

Consultation

The Department of the Premier and Cabinet, Queensland Health, Office of Best Practice Regulation (OBPR) and the Office of the Queensland Parliamentary Counsel were consulted on the drafting of the amendment to the regulation and have agreed with the proposed action. OBPR has advised that the amendments are exempted from regulatory impact statement requirements.