

Public Service Amendment Regulation (No. 1) 2017

Explanatory notes for 2017 SL No.6

made under the

Public Service Act 2008

General Outline

Short title

Public Service Amendment Regulation (No. 1) 2017

Authorising law

Section 222 of the *Public Service Act 2008*

Policy objectives and the reasons for them

The policy objective of the *Public Service Regulation 2008* (PS Regulation) is to apply provisions of the *Public Service Act 2008* (PSA) and nominated directives to public sector entities and their employees that are not otherwise subject to the PSA.

The amendments are required to:

- Update schedules of the PS Regulation to apply sections of the PSA or directives to a number of declared public service offices (PSOs).
- Prescribe nominated persons or office holders as persons to whom the civil liability protections apply under the PSA.

Achievement of policy objectives

The policy objectives will be achieved by amending Schedule 1 of the PS Regulation to apply provisions to two additional PSOs – Crime and Corruption Commission; and Trade and Investment Queensland.

Crime and Corruption Commission (CCC)

The provisions applied to the CCC will allow the CCC Chairperson to take disciplinary action against a public service officer who changes employment from a department to

the CCC including a former ambulance service officer or former fire service officer where the previous chief executive delegates the authority to the CCC Chairperson to make a disciplinary finding about the employee, or where there is agreement that the disciplinary action is reasonable.

The amendments allow the CCC Chairperson to request disciplinary information from another chief executive, relating to a current or former public service employee for the purpose of making decisions about the person's appointment or employment or continued appointment or employment. The amendments require a prosecuting authority to advise the CCC Chairperson where any CCC employee is charged, committed for trial or convicted of a related offence.

Trade and Investment Queensland (TIQ)

Provisions and rulings are applied to TIQ employees (other than TIQ contract employees and TIQ employees employed under the law of a jurisdiction outside of Australia) that include the assessment of the suitability of persons to be engaged in particular employment using criminal history checks and the requirement that a prosecuting authority advise the chief executive when any TIQ employee is charged, committed for trial or convicted of a relevant offence.

Extending the provisions that apply to the management of TIQ employees with a mental, and/or physical incapacity or disability whose absence from duty or unsatisfactory performance is suspected to be caused by mental or physical illness or disability, including referrals for medical examinations and the action that can be taken following the receipt of a medical report.

Extending to TIQ employees the option of appealing certain decisions under the public service appeal provisions of the PSA.

Applying nominated rulings relating to public service terms, conditions and entitlements.

Civil liability protections

Amending section 14A Prescribed State Employees of the PS Regulation to include a number of office holders of the CCC; persons employed by Legal Aid Queensland and persons employed by the Queensland Building and Construction Commission and employing office as persons to whom the civil liability protections of the PSA apply.

On 31 March 2014, amendments to the PSA came into effect to provide State employees with protection from civil liability. The PSA provides a definition of 'State employee', which includes public servants and employees and members of entities that represent the State. The PSA also allows for other employees to be prescribed under the PS Regulation as State employees to ensure the civil liability protections afforded under the PSA apply to them.

Further amendments

The PS Regulation will make a number of amendments to rulings (Schedule 3) that apply to PSOs, including:

- Hospital and Health Services and Department of Health – excess travel entitlements under the ruling relating to hours, overtime and excess travel; and the requirement to consider the temporary employment of employees for conversion to permanent employment.
- Queensland Building and Construction Commission and employing office – the ruling that applies to supporting employees affected by workplace change; and the ruling that applies to attendance, only to the extent of recording and reporting attendance.
- Updating a ruling to reflect a title change – amend employees requiring placement to employees affected by workplace change.
- Removing all references to a repealed ruling – protection of personal employee information.

Consistency with policy objectives of authorising law

The amendments to the PS Regulation are consistent with the objectives of the PSA to ensure a high performing public service, that promotes the effectiveness and efficiency of government entities and provides for the administration of the public service.

Inconsistency with policy objectives of other legislation

The *Public Service Amendment Regulation (No. 1) 2017* is consistent with the policy objectives of other legislation.

Benefits and costs of implementation

The application of the applied provisions will enhance the effective operation and management of public sector entities and their employees and allow for a broader application of the civil liability protection provisions of the PSA.

No other costs of implementation have been identified.

Consistency with fundamental legislative principles

The legislation is consistent with fundamental legislative principles. It has sufficient regard to the rights and liberties of individuals and the institutions of parliament.

Consultation

The relevant government agencies that will be affected by the proposed amendments support the proposed amendments.

The Queensland Productivity Commission was consulted about the requirement for further assessment under the Queensland Government Guide to Better Regulation and considered that the proposed amendments are excluded from further assessment as the amendments relate to the internal management of the public sector.

The Office of Industrial Relations consulted unions and no objection was raised in relation to the proposed amendments.