

Queensland



**INDUSTRIAL RELATIONS
LEGISLATION
AMENDMENT BILL (No. 2)
1995**

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(No. 2) 1995**

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1995

A BILL

FOR

An Act to amend the *Industrial Relations Act 1990* and the *Public Service Management and Employment Act 1988*, and for related purposes

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The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause **1.** This Act may be cited as the *Industrial Relations Legislation Amendment Act (No. 2) 1995*.

4

5

Commencement

6

Clause **2.(1)** Section 13 commences on 1 January 1996.

7

(2) The remaining provisions of part 3 commence on a day to be fixed by proclamation.

8

9

**PART 2—AMENDMENT OF INDUSTRIAL
RELATIONS ACT 1990**

10

11

Act amended in pt 2

12

Clause **3.** This part amends the *Industrial Relations Act 1990*.

13

Amendment of s 8 (Membership of Court)

14

Clause **4.** After section 8(4)—

15

insert—

16

‘Example—

17

The President may nominate a person to act in a temporarily vacant office.’.

18

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	Amendment of s 74 (Jurisdiction of Industrial Magistrate)	1
Clause	5. Section 74(a)—	2
	<i>insert—</i>	3
	‘(viii)claims for compensation payable under section 293; ¹ ’.	4
	 Amendment of s 79 (Industrial Registrar and staff)	 5
Clause	6.(1) Section 79(1) and (2)—	6
	<i>omit, insert—</i>	7
	‘ 79.(1) There is to be an Industrial Registrar and an Assistant Industrial Registrar.	8 9
	‘ (2) The Industrial Registrar and Assistant Industrial Registrar are to be appointed under the <i>Public Service Management and Employment Act 1988</i> .’.	10 11 12
	(2) Section 79(3), ‘each’, first mention—	13
	<i>omit.</i>	14
	 Amendment of s 80 (Functions etc. of Industrial Registrar)	 15
Clause	7.(1) Section 80(1)(c), ‘has and may exercise such powers, and’—	16
	<i>omit.</i>	17
	(2) Section 80(1)—	18
	<i>insert—</i>	19
	‘(d) has any other function conferred on the Industrial Registrar under this Act.’.	20 21
	(3) Section 80(2)—	22
	<i>renumber</i> as section 80(4).	23

¹ Section 293 (Notice of dismissal or compensation to be given)

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(4) Section 80— 1

insert— 2

‘(2) The Industrial Registrar has the power to do all things necessary or 3
convenient to be done for, or in connection with, the performance of the 4
Industrial Registrar’s functions. 5

‘(3) The Industrial Registrar may delegate a power of the Industrial 6
Registrar under this Act to— 7

(a) the Assistant Industrial Registrar; or 8

(b) another person nominated by the President.’. 9

(5) Section 80(4) as renumbered, from ‘exercise of’ to ‘such duties’— 10

omit, insert— 11

‘performance of a function under subsection (1)(c),’ 12

Amendment of s 81 (Functions etc. of Assistant Industrial Registrar) 13

Clause 8. Section 81(2) to (4)— 14

omit. 15

Amendment of s 291 (When dismissal is unlawful) 16

Clause 9. Section 291(2)(a), after ‘having regard to’— 17

insert— 18

‘all of the circumstances of the case, including’. 19

Amendment of s 293 (Notice of dismissal or compensation to be given) 20

Clause 10. Section 293— 21

insert— 22

‘(6) If an employer dismisses an employee, to whom subsection (1)(a) 23
applies, without giving the employee the required notice or compensation— 24

(a) on an application for reinstatement of an employee—the 25

Commission may order the employer to pay the employee the 26

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compensation that the employer was required to pay under subsection (4); or

- (b) otherwise—an industrial magistrate may order the employer to pay the employee the compensation that the employer was required to pay under subsection (4).’.

Amendment of s 297 (Orders for unlawful dismissal other than under s 307)

Clause **11.(1)** Section 297(1), after ‘considers appropriate’—

insert—

‘, in all the circumstances of the case,’.

(2) Section 297(2), after ‘it may’—

insert—

‘, if it considers it appropriate in all the circumstances of the case,’.

(3) Section 297(3), after ‘(2)(a)’—

insert—

‘and it considers it appropriate in all the circumstances of the case’.

**PART 3—AMENDMENT OF PUBLIC SERVICE
MANAGEMENT AND EMPLOYMENT ACT 1988**

Act amended in pt 3 and sch 1

Clause **12.** This part and schedule 1 amends the *Public Service Management and Employment Act 1988*.

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	Replacement of s 21	1
Clause	13. Section 21—	2
	<i>omit, insert—</i>	3
	‘Creation and abolition of offices	4
	‘21.(1) The Governor in Council may create or abolish offices in departments.	5 6
	‘(2) The Governor in Council may delegate the power to create or abolish offices in a department to the chief executive of the department.	7 8
	‘(3) The delegation may authorise the chief executive to subdelegate the power delegated to the chief executive.	9 10
	‘(4) This section does not apply to senior executive service positions.’.	11
	Omission of sch 1	12
Clause	14. Schedule 1—	13
	<i>omit.</i>	14
	PART 4—AMENDMENT OF ANOTHER ACT	15
	Amended Act—sch 2	16
Clause	15. Schedule 2 amends the Act mentioned in it.	17 18

SCHEDULE 1

AMENDMENTS OF PUBLIC SERVICE MANAGEMENT AND EMPLOYMENT ACT 1988 CONSEQUENTIAL ON OMISSION OF SCHEDULE 1

section 12

1. Section 4(1), definition “department”—

omit, insert—

‘ **“department”** means an entity that is a department of government under this Act, and includes every entity that is attached to the department for administrative purposes.’.

2. Section 4(1), definition “public service”, ‘the departments specified in schedule 1’—

omit, insert—

‘departments’.

3. Sections 8 to 10—

omit, insert—

‘Creation of departments etc.

‘8.(1) The Governor in Council may, by proclamation—

(a) create or discontinue departments of government; or

(b) name or change the name of departments of government.

‘(2) The Governor in Council may, by proclamation or gazette notice—

(a) amalgamate a part of a department with another department; or

(b) transfer an entity to a department; or

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SCHEDULE 1 (continued)

(c) amalgamate another entity with a department; or	1
(d) discontinue a part of a department.	2
‘Functions of departments	3
‘9. The Governor in Council may, by proclamation—	4
(a) give functions to a department; or	5
(b) change functions given to a department.	6
‘Additional powers of Governor in Council	7
‘10.(1) The Governor in Council may, by proclamation, prescribe anything necessary or convenient to be prescribed—	8 9
(a) to enable a proclamation to be made under section 8 or 9; or	10
(b) for carrying out or giving effect to a proclamation under section 8 or 9.	11 12
‘(2) The Governor in Council may, by gazette notice, prescribe anything necessary or convenient to be prescribed—	13 14
(a) to enable a gazette notice to be made under section 8(2); or	15
(b) for carrying out or giving effect to a gazette notice under section 8(2).	16 17
‘(3) The Governor in Council may do anything else that the Governor in Council considers necessary or desirable to be done—	18 19
(a) to enable a proclamation or gazette notice to be made under section 8 or 9; or	20 21
(b) for carrying out or giving effect to a proclamation or gazette notice under section 8 or 9.	22 23
<i>‘Examples of action to enable proclamation or gazette notice to be made—</i>	24
1. Creation of an entity.	25
2. Amalgamation of a department with another department.	26

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SCHEDULE 1 (continued)

<i>‘Examples of action for carrying out or giving effect to proclamation or gazette notice—</i>	1
1. Transfer of position from a department to another department.	2
2. Transfer of officers and employees from a department to another department.’.	3
4. Section 11—	4
<i>omit, insert—</i>	5
‘Chief executives	6
‘11.(1) Each department is to be under the control of a chief executive.	7
‘(2) The Governor in Council may, by proclamation, specify the title of office by which the chief executive in control of a department is to be known.	8 9 10
‘(3) A chief executive is to be appointed by the Governor in Council by gazette notice.	11 12
‘(4) A person appointed as chief executive under this Act holds office on the conditions of appointment prescribed under this Act for the employment of chief executives.	13 14 15
‘(5) This section is subject to the provisions of any other Act about an office established under an Act other than this Act.’.	16 17
5. After section 42A—	18
<i>insert—</i>	19
‘Proclamations under Act subordinate legislation	20
‘42B.(1) A proclamation under this Act is subordinate legislation.	21
‘(2) However, the <i>Statutory Instruments Act 1992</i> , section 50 ² does not apply to a proclamation under this Act.	22 23

² Section 50 (Disallowance)

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SCHEDULE 1 (continued)

‘(3) Subsection (2) has effect despite the <i>Statutory Instruments Act 1992</i> , section 52. ³ ’.	1 2
6. After section 43—	3
<i>insert—</i>	4
‘References to department	5
‘44. In an Act or document, a reference to a department specified or mentioned in schedule 1 of this Act may, if the context permits, be taken to be a reference to an entity that is a department of government under this Act.’.	6 7 8 9
7. Schedule 2—	10
<i>renumber</i> as schedule.	11 12

³ Section 52 (Other notification, gazettal, tabling or disallowance provisions of no effect)

SCHEDULE 2

**AMENDMENT OF ACTS INTERPRETATION ACT
1954**

section 15

1. Section 33(4B)—

omit, insert—

‘**(4B)** In an Act, a reference to a department is a reference to an entity that is a department of government under the *Public Service Management and Employment Act 1988*.’.

2. Section 33(4A) to (7)—

renumber as section 33(5) to (14).