



PUBLIC SECTOR LEGISLATION AMENDMENT ACT 1991

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Queensland



**Public Sector Legislation Amendment
Act 1991**

Act No. 34 of 1991

**An Act to establish a Senior Executive Service for Queensland, and
for other purposes**

[Assented to 12 June 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows.

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Public Sector Legislation Amendment Act 1991*.

Commencement

2.(1) Sections 1, 3, 11 and this section commence on the day on which this Act receives the Royal Assent.

(2) The remaining provisions of this Act commence on a day or days to be fixed by proclamation.

PART 2—AMENDMENTS OF PUBLIC SERVICE MANAGEMENT AND EMPLOYMENT ACT 1988

Amended Act

3. The *Public Service Management and Employment Act 1988* is amended as set out in this Part.

Amendment of s.7 (Personnel management)

4. Section 7—

at the end, *insert—*

‘(2) Subsection (1)(a) does not apply to the transfer of an officer to an office if the transfer is made under the regulations, the standards or any redundancy arrangements approved by the Governor in Council.

‘(3) The principles mentioned in subsection (1) have effect, in relation to senior executives who are officers, subject to—

- (a) the management principles mentioned in section 10D; and
- (b) arrangements approved by the Governor in Council for the assignment of senior executives within and between units of the public sector.

‘(4) Subsection (1)(a) does not apply to the appointment of a senior executive if the appointment is made—

- (a) before 1 October 1991 or such later day as is prescribed; and
- (b) under arrangements approved by the Governor in Council for the establishment of the Senior Executive Service.’.

Replacement of heading to Part IV (CHIEF EXECUTIVES OF DEPARTMENTS)

5. Heading to Part IV—

omit, insert—

‘PART IV—SENIOR EXECUTIVE SERVICE’.

Insertion of new headings and ss.10A to 10E

6. Before section 11—

insert—

‘Division 1—The Senior Executive Service generally

‘Establishment of Senior Executive Service

‘10A. A Senior Executive Service is established within the public sector.

‘Purpose of Senior Executive Service

‘10B. The Senior Executive Service is established to promote the efficiency and effectiveness of the public sector by attracting, developing and retaining a core of mobile, highly skilled senior executives who are responsive to government, industry and community needs.

‘Composition of Senior Executive Service

‘10C. The Senior Executive Service consists of the chief executives of departments and persons appointed to Senior Executive Service positions.

‘Management principles applying to Senior Executive Service

‘10D.(1) The following management principles apply to the Senior Executive Service—

- (a) merit and equity are to apply to the recruitment and selection of senior executives;
- (b) senior executives are to be encouraged to—
 - (i) develop a public sector wide perspective; and
 - (ii) continue their executive development; and
 - (iii) develop their skills through their assignment within and between units of the public sector; and
- (c) performance planning and review forms the basis of the assessment of work performance and executive development decisions.

‘(2) Standards may be issued under section 4.13 of the *Public Sector Management Commission Act 1990* with respect to the Senior Executive Service, including, for example, such provision as is necessary or convenient to carry out or give effect to the management principles mentioned in subsection (1) of this section.

‘(3) Those management principles are prescribed management principles for the purposes of section 4.13 of the *Public Sector Management Commission Act 1990*.

‘Creation of Senior Executive Service positions etc.

‘10E.(1) The Governor in Council may, by Gazette notice—

- (a) determine and alter Senior Executive Service levels; and
- (b) create and abolish Senior Executive Service positions within units of the public sector; and
- (c) allocate Senior Executive Service levels to Senior Executive

Service positions on their creation.

‘(2) The Governor in Council may, by Gazette notice—

- (a) appoint and second persons to Senior Executive Service positions; and
- (b) revoke the appointments and secondments of senior executives.

‘(3) The chief executive (however described) of a unit of the public sector may, in accordance with arrangements approved by the Governor in Council, vary the Senior Executive Service level allocated to a particular Senior Executive Service position.

‘(4) The appointment or secondment of a person who is not an officer, but holds an office under an Act other than this Act, to a Senior Executive Service position does not affect the person’s appointment to the office under the other Act, or the terms and conditions of that appointment, except so far as the instrument of appointment or secondment otherwise expressly provides.

‘Division 2—Chief executives of departments’.

Insertion of new Division—

7. After section 15 and in Part IV—

insert—

‘Division 3—Other provisions relating to senior executives

‘Tenure based on satisfactory performance

‘15A.(1) A senior executive is to have tenure at the Senior Executive Service level allocated to the position to which the senior executive is appointed.

‘(2) Tenure is conditional on continuing satisfactory work performance and is to be given effect to by performance planning and review.

‘(3) This section does not apply to—

- (a) a chief executive; or
- (b) a person engaged on a contract basis to perform duties of a Senior

Executive Service position in accordance with arrangements determined by the Commission.

‘Assignment within Senior Executive Service

‘15B. The Governor in Council may, in a Gazette notice, approve arrangements for the assignment of senior executives within and between units of the public sector.

‘Terms and conditions of employment

‘15C. Senior executives are employed on such terms and conditions, not provided for by this Act or any other Act, as are prescribed.

‘Senior executives not subject to industrial awards and agreements

‘15D. Awards and industrial agreements do not apply to senior executives.’.

Amendment of s.26 (Retirement from public service)

8. Section 26(1)(b)—

omit, insert—

‘(b) may elect to retire from the public service—

- (i) on or at any time after attaining 55 years of age; or
- (ii) under the regulations or the standards or under a voluntary early retirement scheme approved by the Governor in Council.’.

Amendment of s.28 (Retrenchment)

9. Sections 28(a), (b) and (c)—

omit, insert—

‘(a) an officer no longer holds an office, or the office held by an officer is surplus to the requirements of the department concerned because—

- (i) the duties of the office are no longer required; or
 - (ii) the duties of the office are being performed by the holder of another office; and
- ‘(b) it is not practicable to retrain or redeploy the officer or the officer notifies the chief executive of the department concerned, in writing, that the officer elects not to be retrained or redeployed; and
- ‘(c) redundancy arrangements under the regulations or the standards, or approved by the Governor in Council, have been complied with in relation to the officer;’.

Consequential and minor amendments

- 10.** The Act is further amended as set out in Schedule 1.

PART 3—AMENDMENTS OF PUBLIC SECTOR MANAGEMENT COMMISSION ACT 1990

Amended Act

- 11.** The *Public Sector Management Commission Act 1990* is amended as set out in this Part.

Consequential and minor amendments

- 12.** The Act is amended as set out in Schedule 2.

SCHEDULE 1**CONSEQUENTIAL AND MINOR AMENDMENTS OF
PUBLIC SERVICE MANAGEMENT AND
EMPLOYMENT ACT 1988**

section 10

Title—at the end, *insert—*

‘, and to make provision in relation to certain other public sector employees’.

Section 3—*omit.***Section 4(1)—**

(1) *omit* definitions “**industrial agreement**”, “**industrial award**”, “**industrial tribunal**”, “**office**” and “**officer**”.

(2) *insert* (in the appropriate alphabetical position, determined on a letter-by-letter basis)—

‘ “**appointment**” includes appointment by way of promotion;

‘ “**award**” has the same meaning as in the *Industrial Relations Act 1990*;

‘ “**Commission**” has the same meaning as in the *Public Sector Management Commission Act 1990*;

‘ “**industrial agreement**” has the same meaning as in the *Industrial Relations Act 1990*;

‘ “**industrial award**” means an award;

‘ “**industrial tribunal**” means an industrial authority within the meaning

of the *Industrial Relations Act 1990*;

- ‘ **“office”** means a position in the public service ordinarily held by an officer, and includes a Senior Executive Service position within the public service;
- ‘ **“officer”** means an officer of the public service, and includes a senior executive who is an officer of the public service;
- ‘ **“public sector”** has the same meaning as in the *Public Sector Management Commission Act 1990*;
- ‘ **“senior executive”** means a person who is appointed to a Senior Executive Service position;
- ‘ **“unit of the public sector”** has the same meaning as in the *Public Sector Management Commission Act 1990*;’.

Section 5(2)—

- (1) after ‘4(3),’, *insert* ‘7(4)(b),’.
- (2) after ‘10,’’, *insert* ‘10E(1) and (3),’.
- (3) after ‘14,’’, *insert* ‘15B,’.
- (4) *omit* ‘19(3),’, *insert* ‘22(1)(c) or (d), 26(1)(b)(ii),’.

Section 12(3)—

omit ‘responsibilities’, *insert* ‘responsibility’.

Section 12(3)(n)—

omit ‘internal’.

Section 12—

after subsection (3), *insert*—

‘**(3A)** Without limiting a chief executive’s responsibility under subsection (1), that responsibility extends to Senior Executive Service positions within the chief executive’s department and includes, in particular—

- (a) subject to Part IV, responsibility in relation to such positions for

matters mentioned in subsection (3); and

- (b) responsibility for matters arising out of the chief executive powers under Part IV.’.

Section 14(1)(a)—

at the end, *insert* ‘and’.

Section 14(1)(b)—

omit ‘and’ (last occurring).

Section 14(1)(c)—

omit.

Section 16(2)—

omit ‘, being an office other than that of a chief executive,’.

Section 16—

at the end, *insert*—

‘(3) This section does not apply to the appointment or secondment of a person (including an officer) to a Senior Executive Service position.’.

Section 17—

at the end, *insert*—

‘(2) This section does not apply to the appointment or secondment of a person (including an officer) to a Senior Executive Service position.’.

Section 18(a)—

at the end, *insert* ‘or’.

Section 18(b)—

omit.

Sections 19(2) and (3)—

omit, insert—

‘(2) Appointment to an office within the public service is to be on a tenure that is not limited by time.

‘(3) Subsection (2) does not apply to—

- (a) the appointment of a chief executive; or
- (b) the engagement of a person on a contract basis to perform duties of a Senior Executive Service position in accordance with arrangements determined by the Commission; or
- (c) an appointment made on a contract basis before the commencement of this subsection.’.

Section 20—

at the end, *insert—*

‘(6) If a person who is employed on a contract basis accepts appointment to a position in the public service, the contract is taken to be terminated by mutual agreement and the person is not entitled to a payment under the contract because of that termination.’.

Section 21—

at the end, *insert—*

‘(2) This section does not apply to Senior Executive Service positions.’.

Section 22(1)(a)—

at the end, *insert ‘or’.*

Sections 22(1)(b) and (c)—

omit, insert—

- ‘(b) is of a temporary nature and the vacancy is not required to be advertised under the standards; or
- ‘(c) is an office in relation to which a vacancy in the office need not be advertised under the regulations or the standards or under redundancy arrangements approved by the Governor in Council; or
- ‘(d) is a Senior Executive Service position in relation to which a vacancy in the position need not be advertised under arrangements approved by the Governor in Council for the establishment of the Senior Executive Service.’.

Section 23(1)—

omit, insert—

‘(1) This section does not apply to an appointment as a senior executive.’.

Section 34(1)(b)—

after ‘officer’ (first occurring), *insert* ‘(other than a senior executive)’.

Section 39—

omit ‘Industrial Conciliation and Arbitration Act 1961-1987’, *insert* ‘Industrial Relations Act 1990’.

SCHEDULE 2**CONSEQUENTIAL AND MINOR AMENDMENTS OF
PUBLIC SECTOR MANAGEMENT COMMISSION
ACT 1990**

section 12

Section 1.3(1)—

(1) *omit* definitions of “**department**”, “**industrial agreement**”, “**industrial award**”, “**Industrial Commission**”, “**Minister**”, “**public service**” and “**statutory declaration**”.

(2) *insert* (in the appropriate alphabetical position, determined on a letter-by-letter basis)—

‘ “**industrial agreement**” has the same meaning as in the *Industrial Relations Act 1990*;

‘ “**industrial award**” means an award within the meaning of the *Industrial Relations Act 1990*;’.

Section 2.14(1)(a)(ii)—

omit, insert—

‘(ii) to investigate, and advise the Minister on, the establishment of specialised divisions of service within the public sector;’.

Section 2.14(1)(e)—

omit, insert—

‘(e) to manage the Senior Executive Service and any other specialised division of service placed under its management;’.

Section 5.9(1) and (5)—

omit ‘Industrial Conciliation and Arbitration Act 1961-1989’, insert ‘Industrial Relations Act 1990’.