



PUBLIC SECTOR (APPEALS) AMENDMENT ACT 1991

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Queensland



**Public Sector (Appeals)
Amendment Act 1991**

Act No. 61 of 1991

**An Act to amend the *Public Sector Management Commission Act 1990*
to provide appointment appeal rights for certain public sector
employees and for other matters**

[Assented to 17 October 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 (Appeals) Amendment Act 1991*.

Commencement

2. Sections 3, 4 and 6 are taken to have commenced on 1 July 1991.

PART 2—AMENDMENT OF THE PUBLIC SECTOR MANAGEMENT COMMISSION ACT 1990

Amended Act

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

Amendment of s.5.3 (Appeals against certain administrative actions)

4.(1) Section 5.3(1)(c)—

omit, insert—

‘(c) an appointment of an eligible public sector employee to a position as an eligible public sector employee if the appointment involves the advancement of the employee to a position with a higher maximum salary except—

- (i) an appointment of a chief executive; or
- (ii) an appointment or secondment to a Senior Executive Service

position; or

(iii) 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

(iv) an appointment to a position that is a position, or one of a class of positions, specified by the Commissioner for Public Sector Equity by Gazette notice to be a position, or a class of positions, in respect of appointment to which no appeal lies.’.

(2) Section 5.3(1)—

omit the second sentence.

(3) After section 5.3(1)—

insert—

‘(1A) The Commissioner for Public Sector Equity may only specify a position, or a class of positions, under subparagraph (1)(c)(iv) if the Commissioner is satisfied that equity and merit in the recruitment and selection process for the position, or class of positions, are sufficiently protected by other means.’.

(4) Section 5.3(2)(c)—

omit, insert—

‘(c) in the case of an appeal against an appointment mentioned in subsection (1)(c)—an eligible public sector employee who satisfies the requirements of the regulations.’.

(5) At the end of section 5.3—

insert—

‘(5) In this section—

“**chief executive**” means the chief executive of a department appointed under section 11(2) of the *Public Service Management and Employment Act 1988*;

“**eligible public sector employee**” means a public sector employee (other than a temporary employee) who holds a position in respect of which selection is required to be in accordance with a prescribed standard;

“**Senior Executive Service position**” means a position created under section 10E(1) of the *Public Service Management and Employment Act 1988*.’.

Amendment of s.5.6 (Matters concerning appeal tribunals)

5.(1) Section 5.6(6)—

omit, insert—

‘**(6)** An appeal tribunal must not hear an appeal unless it is satisfied that the appellant has sufficiently used the procedures established within—

- (a) the unit concerned of the public sector; and
- (b) the Commission;

to attempt to dispose of matters relevant to the appeal.

‘**(6A)** An appeal tribunal may decline to hear an appeal if it reasonably believes that the appeal—

- (a) is frivolous or vexatious; or
- (b) is misconceived or lacking in substance; or
- (c) should not be heard for any other reason.’.

(2) Section 5.6(7)—

omit, insert—

‘**(7)** The Commissioner for Public Sector Equity may delegate all or any of the powers of an appeal tribunal to a person or committee.

‘**(7A)** The Commissioner for Public Sector Equity may delegate his or her powers as a member of the Classification Review Tribunal.

‘**(7B)** If the Commissioner for Public Sector Equity delegates his or her powers as a member of the Classification Review Tribunal, the delegate is to preside at a hearing of the Tribunal.’.

PART 3—REPEAL OF ORDER IN COUNCIL SPECIFYING OFFICES WITH NO APPOINTMENT APPEAL RIGHTS

Repeal of order in council

6. The order in council published in the Gazette on 16 July 1988 at page 2863, as amended by orders in council published in the Gazette on 18 March 1989 at page 1729 and on 5 August 1989 at pages 2991 to 2992, is repealed.

PART 4-TRANSITIONAL PROVISIONS

Transitional exemption power

7.(1) The Commissioner for Public Sector Equity may make a specification having retrospective operation to 1 July 1991 under section 5.3(1)(c)(iv) of the *Public Sector Management Commission Act 1990*.

(2) The power given by subsection (1) may be exercised for 3 months only after the date of assent.

Transitional regulation making power

8.(1) The Governor in Council may make regulations having retrospective operation to 1 July 1991 under section 7.11 (Regulations) of the *Public Sector Management Commission Act 1990* with respect to the institution and conduct of appeals under Part 5 of that Act.

(2) The power given by subsection (1) may be exercised for 1 month only after the date of assent.