

Queensland



# PARLIAMENTARY SERVICE ACT 1988

**Reprinted as in force on 27 August 1999  
(includes amendments up to Act No. 33 of 1999)**

**Reprint No. 1B**

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the Office of the Queensland Parliamentary Counsel  
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# Information about this reprint

This Act is reprinted as at 27 August 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



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# PARLIAMENTARY SERVICE ACT 1988

[as amended by all amendments that commenced on or before 27 August 1999]

## An Act to establish a parliamentary service and for other purposes

### PART 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Parliamentary Service Act 1988*.

#### Definitions

4. In this Act—

“**appointed day**” means the day appointed by proclamation for the commencement of the provisions of this Act other than sections 1 and 2.<sup>1</sup>

“**clerk**” means the clerk of the Parliament.

“**employee**”, in relation to the parliamentary service, means a person employed therein whether on the permanent staff (including a person employed on probation) or temporarily or as a wage worker but does not include—

- (a) an officer of the parliamentary service;
- (b) a person engaged under section 16.

“**industrial agreement**” see *Industrial Relations Act 1999*, schedule 5, definition “industrial agreement”.

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<sup>1</sup> The appointed day is 19 November 1988 (proc pubd gaz 17 November 1988 p 1227).

**“industrial award”** see *Industrial Relations Act 1999*, schedule 5, definition “award”.

**“misconduct”** means—

- (a) disgraceful or improper conduct that shows unfitness to be or continue as an officer of or employee in the parliamentary service;
- (b) behaviour that does not satisfy a standard of behaviour generally expected of officers of or employees in the parliamentary service.

**“office”** means a position within the parliamentary service ordinarily held by an officer.

**“officer”**, in relation to the parliamentary service, means a person appointed pursuant to section 27 to an office, but does not include a person employed on probation.

**“parliamentary precinct”** means all land and improvements within the land reserved for House of Parliament in the county of Stanley, parish of North Brisbane, city of Brisbane described as lot 414 on plan SL 8740, lot 437 on plan SL 8601 and lot 704 on plan SL 12303 registered in the department in which the *Land Act 1994* is administered, but does not include the Legislative Assembly chamber, or the galleries of the House, whilst the Legislative Assembly is in session.

**“parliamentary service”** means the parliamentary service established by section 23.

**“termination”**, in relation to a contract of employment of an officer, includes a failure to renew the contract or to make a fresh contract.

## **PART 2—ADMINISTRATIVE FUNCTIONS OF THE SPEAKER**

### **Administration under speaker’s control**

5. The speaker has the control of—

- (a) accommodation and services in the parliamentary precinct; and

- (b) accommodation and services supplied elsewhere by the Legislative Assembly for its members.

### **Speaker's role for parliamentary service**

**6.(1)** The general role of the speaker in relation to the parliamentary service is to—

- (a) decide major policies to guide the operation and management of the parliamentary service; and
- (b) prepare budgets; and
- (c) decide the size and organisation of the parliamentary service and the services to be supplied by the parliamentary service; and
- (d) be the employing authority, for the Legislative Assembly, of parliamentary service officers and employees deciding their remuneration and conditions of service; and
- (e) supervise the management and delivery of services by the parliamentary service.

**(2)** The speaker must ensure that the remuneration, conditions of employment and other benefits given to the clerk, and parliamentary service officers and employees, are comparable to those of State officers and employees who have similar duties.

### **Speaker's powers for administrative functions**

**7.(1)** This section declares the powers and legal capacity of the speaker in performing the administrative functions of the speaker's office, including the speaker's role in relation to the parliamentary service.

**(2)** The powers include all the powers, and the legal capacity, that an individual has in a private capacity.

**(3)** The powers may be exercised at any place.

**(4)** The powers are exercised for the Legislative Assembly.

**(5)** This section does not limit the speaker's powers.

*Example—*

This part does not affect any power the speaker has apart from this section to bind the Legislative Assembly by contract.

### **Delegation by speaker**

**8.** The speaker may delegate the speaker's powers under this Act to the deputy speaker, the chairperson of committees, the clerk or a parliamentary service officer or employee.

### **Advisory committee to speaker**

**9.(1)** The speaker may establish a committee of Legislative Assembly (the “**advisory committee**”) members to advise the speaker on issues arising under this Act referred to it by the speaker.

**(2)** The advisory committee consists of the members appointed by the speaker.

**(3)** This section is subject to the standing orders.

### **Speaker's annual report**

**10.** As soon as possible after the end of each financial year, the speaker must prepare, and table in the Legislative Assembly, a report on this Act's operation during the year.

## **PART 3—THE CLERK OF THE PARLIAMENT**

### **The clerk of the Parliament**

**18.(1)** There shall from time to time be appointed an officer of the Legislative Assembly to be known as the clerk of the Parliament.

**(2)** The clerk shall be appointed by the Governor by commission on the recommendation of the Minister after consultation with the speaker.

**Functions of the clerk of the Parliament other than as chief executive of parliamentary service**

**19.** The clerk of the Parliament shall be responsible for—

- (a) the noting of all proceedings of the Legislative Assembly;
- (b) the carrying out of such duties and the exercising of such powers as may be conferred on the clerk by law or by the standing rules and orders, customs and practices of the Legislative Assembly.

**Functions of the clerk of the Parliament as chief executive of parliamentary service**

**20.(1)** Subject to this Act, to the control and direction of the speaker and to policies (if any) from time to time determined by the speaker, the clerk, as the chief executive of the parliamentary service, shall be responsible to the speaker for the efficient and economical management of the parliamentary service.

**(2)** The clerk may make recommendations to the speaker with respect to any matter for consideration by the speaker and shall take such steps as are necessary to implement those policies and decisions of the speaker that require action to be taken by the parliamentary service.

**Tenure of office of the clerk of the Parliament**

**21.(1)** Subject to subsections (2) to (4), the clerk of the Parliament shall hold office during good behaviour.

**(2)** The clerk may at any time resign by writing addressed to the speaker or to the Governor if there is no speaker or if the speaker is absent from Queensland.

**(3)** The clerk may at any time be removed or suspended from office by the Governor upon an address from the Legislative Assembly for disability, bankruptcy or misconduct.

**(4)** At any time when the Legislative Assembly is not in session, the clerk may be suspended from office by the Governor for disability, bankruptcy or misconduct proved to the satisfaction of the Governor, but the suspension shall not continue in force beyond 2 months after the beginning of the next ensuing session of the Legislative Assembly.

**Performance of functions of the clerk of the Parliament in the clerk's absence**

**22.(1)** On the occurrence from any cause of a vacancy in the office of the clerk (whether by reason of death, resignation, or otherwise), and in the case of absence from duty of the clerk (from whatever cause arising), and so long as that vacancy or absence continues—

- (a) the functions, powers and duties of the clerk at the table of the Legislative Assembly shall be performed and exercised by the next most senior of the officers required to sit at the table who is present;
- (b) a function, power or duty of the clerk as the chief executive of the parliamentary service shall be exercised and performed—
  - (i) in the case where the absence of the clerk is of a temporary nature—by a person to whom the function, power or duty has been delegated by the clerk pursuant to section 25;
  - (ii) in any other case—by an officer appointed for the time being by the speaker.

**(2)** The fact that a person exercises a function, duty or power of the clerk shall, in the absence of proof to the contrary, be conclusive evidence of the authority of the person to do so.

**PART 4—PARLIAMENTARY SERVICE****Parliamentary service**

**23.(1)** There is hereby established a parliamentary service.

**(2)** The parliamentary service is not an instrument of the Executive Government.

**(3)** The parliamentary service shall consist of—

- (a) officers of the Legislative Assembly being—
  - (i) the clerk who shall be the chief executive of the parliamentary service; and

- (ii) other officers required to sit at the table of the House; and
  - (iii) the parliamentary librarian; and
  - (iv) the chief reporter; and
- (b) other officers of and employees in the parliamentary service.

### **Functions of parliamentary service**

**24.(1)** The functions of the parliamentary service are to provide administrative and support services to the Legislative Assembly and to members and committees thereof which may include—

- (a) the provision of sufficient clerical staff, attendants and other staff to enable the Legislative Assembly and committees thereof to operate efficiently; and
- (b) the provision of advice on parliamentary procedures and the functions of Parliament generally; and
- (c) an accurate and efficient reporting of proceedings of the Legislative Assembly and of meetings of committees thereof as required; and
- (d) the provision of adequate library and research facilities and services for members of the Legislative Assembly; and
- (e) the provision of dining facilities; and
- (f) the care of the parliamentary gardens and grounds; and
- (g) the provision of ceremonial and security services; and
- (h) the maintenance of parliamentary buildings.

**(2)** The parliamentary service shall have such other functions as are conferred or imposed upon it by or under this Act or any other enactment or as are determined by the speaker from time to time.

## **PART 5—MANAGEMENT OF PARLIAMENTARY SERVICE**

### **Delegation by clerk as chief executive of parliamentary service**

**25.** The clerk may delegate the clerk's powers as chief executive of the parliamentary service to a parliamentary service officer or employee.

### **Appointment of officers of and employees in the parliamentary service**

**26.(1)** The speaker may appoint appropriately qualified and competent persons as officers or officers on probation of the parliamentary service.

**(2)** The clerk may appoint appropriately qualified and competent persons as employees in the parliamentary service.

### **Officers and employees employed under this Act**

**26A.** Officers and employees of the parliamentary service are to be employed under this Act, and not under the *Public Service Act 1996*.

### **Bases of employment of officers in parliamentary service**

**27.(1)** Appointment to an office within the parliamentary service, including by way of promotion—

- (a) shall be made on the basis of full-time employment, if the office is not one or one of a class of office referred to in paragraph (b);  
or
- (b) may be made on the basis of part-time employment, if the office is one or one of a class of office approved by the speaker to be open to appointment on that basis.

**(2)** Appointment to an office within the parliamentary service, including by way of promotion, shall be made as follows—

- (a) if the office is one declared pursuant to subsection (3)—the appointment shall be made for a limited duration of tenure;
- (b) if the office is one not declared pursuant to subsection (3)—the

appointment shall be upon a tenure that is not limited by time.

(3) The speaker may declare any office or class of office, other than that of the clerk, to be an office or class of office to which appointment shall be made upon a contract basis.

(4) While such a declaration subsists, appointment to the office so declared or to an office of a class so declared shall be made upon a contract basis.

### **Conditions of employment on contract**

**28.(1)** Where appointment to an office within the parliamentary service is duly made under this Act upon a contract basis, the conditions of employment in that office—

- (a) shall be as approved from time to time by the speaker and accepted by the person who is or is to be the holder of the office; and
- (b) is to be governed by the contract of employment between the speaker and the officer concerned; and
- (c) shall not be subject to any industrial award or industrial agreement or any determination or rule of an industrial tribunal.

(2) Where there has been made to any person an offer of a contract of employment with respect to the person's employment in an office that under this Act is one to which appointment shall be made upon a contract basis it shall be deemed—

- (a) where the offer is made before the person's appointment to the office—that upon accepting appointment to the office; or
- (b) where the offer is made after the person's appointment to the office—that, upon agreeing to being engaged under a contract of employment in the office;

the person has made with the speaker a contract of employment upon the conditions approved by the speaker in relation to the office and conveyed to the person.

(3) If at any time an appointment to an office purporting to have been made under this Act upon a contract basis is not duly so made, the

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appointment shall be deemed to have been made upon a tenure that is not limited by time and upon conditions of employment provided for by any relevant industrial award or industrial agreement and the appointee shall hold the office accordingly.

(4) Where the contract of employment made or deemed to have been made with the speaker by an officer of the parliamentary service who holds an office upon a contract basis is terminated otherwise than by way of disciplinary action pursuant to this Act the officer is entitled to elect to continue to be employed as an officer, though not upon a contract basis, at a level of salary determined by the speaker but not less than the level of salary at which the officer was employed at the time immediately before the officer first accepted employment upon a contract basis, adjusted to accord with movements in relation to salaries since that time and, if he or she does so elect, the officer shall renounce all entitlements secured to the officer by the contract of employment in the event of its termination in the circumstances in which the termination has occurred.

(5) Every such election—

- (a) shall be made in writing signed by the officer and given to the clerk no later than 14 days after notice of termination of the contract has been given to the officer; and
- (b) upon being duly made, shall have the effect that the elector's services as an officer shall be deemed not to have been terminated by the termination of the contract of employment but to have continued in accordance with the terms of election prescribed by subsection (4).

(6) Subsections (4) and (5) apply only in relation to—

- (a) an office of a prescribed class; and
- (b) an officer who at the time the officer was first appointed to an office upon a contract basis held an office within the parliamentary service upon a tenure unlimited by time, and whose service in the lastmentioned office and in any office or offices subsequently held by the officer until the termination of the contract in question has been continuous.

### **Salaries and conditions of employment**

**29.(1)** The clerk, officers of and employees in the parliamentary service shall be paid such remuneration and allowances and shall be employed on such terms and conditions of service as may from time to time subject to any applicable industrial award or industrial agreement be determined by the speaker.

**(3)** Except as provided in section 46, officers of and employees in the parliamentary service are not officers of the public service.

### **Superannuation**

**30.(1)** A person, other than a person to whom subsection (2) refers, who is employed full-time in a permanent capacity by the speaker shall be deemed to be an officer within the meaning of the *State Service Superannuation Act 1972* and the provisions of that Act shall apply accordingly unless a regulation otherwise provides.

**(2)** Where a person—

- (a) immediately prior to the appointed day is an officer within the meaning of a superannuation Act; and
- (b) pursuant to section 46(1) is deemed to be appointed or seconded to perform the duties of an officer of or employee in the parliamentary service;

for as long as the person continues to perform full-time the duties of an officer of or employee in the parliamentary service (whether as an officer of the public service or as an officer of or employee in the parliamentary service) in a permanent capacity—

- (c) all entitlements (if any) which at the appointed day have accrued or are accruing in respect of the person under that Act shall be retained; and
- (d) the person shall be deemed to continue to be an officer within the meaning of that Act and the provisions of that Act shall apply accordingly.

**(3)** In subsection (2)—

**“superannuation Act”** means—

- (a) the *Public Service Superannuation Act 1958*;
- (b) the *State Service Superannuation Act 1972*.

(4) Nothing in this section shall be construed to prevent the speaker or any person from participating in any superannuation scheme pursuant to any other Act.

### **Contributions by speaker**

**31.(1)** In respect of a person who contributes to the State Service Superannuation Fund and is referred to in section 30 the speaker shall pay to each fund referred to in the *Public Service Superannuation Act 1958* or the *State Service Superannuation Act 1972* such sums (if any) as would have been payable by or on behalf of the Crown by way of contribution to that fund had the contributor been an employee of the Crown and had been paid salary at the rate paid to the person at the material time by the speaker.

(1A) Moneys payable by the speaker to a fund pursuant to subsection (1) and unpaid may be recovered by action in a court of competent jurisdiction by the State Service Superannuation Board constituted under the *State Service Superannuation Act 1972* as a debt due to that board.

(2) Contributions required by law to be paid by the speaker in respect of any superannuation scheme shall be paid by the speaker.

### **Vacancies to be advertised**

**32.(1)** A person shall not be appointed to fill a vacancy in an office within the parliamentary service unless the vacancy has been notified in the gazette.

(2) Subsection (1) does not apply if the office in which the vacancy exists—

- (a) is of a temporary nature; or
- (b) is an office of a class of office prescribed by rules made by the speaker to be a class of office in respect of which a vacancy need not be advertised.

(3) The reclassification of an office creates a vacancy in that office for the purposes of subsection (1).

**Publication of appointments**

**33.** Notification of every appointment of a person as an officer of the parliamentary service shall be published in the gazette.

**Engagement of staff other than officers**

**34.(1)** The clerk may engage the services of a person if—

- (a) the position in which that person's services are to be employed is of a kind ordinarily held by a person who is not an officer of the parliamentary service; or
- (b) the position being of a kind ordinarily held by an officer of the parliamentary service, the engagement is required to meet temporary circumstances or is upon a basis not permissible for the engagement of such an officer.

**(1A)** The appointment of a person whose services are engaged under subsection (1) shall be made in writing signed by the clerk.

**(2)** An engagement of a person under subsection (1) may be on such basis, for such duration of tenure and on such terms and conditions as are agreed between that person and the clerk, subject to any applicable industrial award or industrial agreement.

**(3)** A person appointed pursuant to this section shall not thereby become an officer of the parliamentary service.

**Appointment on probation**

**35.(1)** This section does not apply in relation to an appointment of the clerk or to an office within the parliamentary service made on a contract basis.

**(2)** A person who is not already an officer of the parliamentary service and who is appointed to an office shall be so appointed on probation for a period not less than 12 months.

**(3)** A person who is already an officer of the parliamentary service and who is appointed by way of promotion to an office shall be so appointed on probation for a period not less than 6 months.

**(4)** Where a person has been appointed on probation in compliance with

subsection (2) or (3)—

- (a) if immediately before appointment the person was not an officer of the parliamentary service—the speaker may—
  - (i) at any time during a period of probation, terminate the employment in the parliamentary service of the person;
  - (ii) upon the expiry of a period of probation, confirm the appointment, extend the period of probation, or rescind the appointment and thereby terminate the employment in the parliamentary service of the person; or
- (b) if immediately before appointment the person was an officer of the parliamentary service—the speaker may—
  - (i) at any time during a period of probation, rescind the appointment;
  - (ii) upon the expiry of a period of probation, confirm the appointment, extend the period of probation or rescind the appointment.

(5) Where an appointment is rescinded pursuant to subsection (4)(b) the services of the officer shall be retained at a salary not less than the level of salary of the person immediately before the person was so appointed, until he or she is appointed to an office in the parliamentary service or is otherwise duly dealt with in accordance with this Act.

(6) If a person who has been appointed on probation in compliance with subsection (2) or (3) is still serving a period of probation upon the expiry of 18 months after the date of appointment on probation, then, if within 1 month after that expiry the appointment has been neither confirmed nor rescinded, the person's appointment shall be deemed to have been confirmed upon that expiry.

### **Resignation from parliamentary service**

**36.(1)** An officer of the parliamentary service whose conditions of employment are governed by a contract of employment that provides for resignation and the manner thereof may resign employment in accordance with the contract of employment.

(2) An officer of or employee in the parliamentary service other than one referred to in subsection (1) may at any time resign employment.

### **Retirement from parliamentary service**

37.(1) An officer of, or an employee in, the parliamentary service may elect to retire from the parliamentary service on or after turning 55.

(2) If the clerk suspects on reasonable grounds that a person, being an officer of or employee in the parliamentary service, by reason of mental or physical infirmity has not the capacity or is unfit—

- (a) to discharge efficiently his or her duties; and
- (b) to discharge efficiently any other duties that the clerk might reasonably direct the officer or employee to discharge;

the clerk shall obtain medical opinion on that person's condition and to that end may appoint any medical practitioner or medical practitioners to examine that person and report to whomsoever the clerk directs upon that person's mental or physical condition or both and may direct that person to submit himself or herself to such examination.

(3) If the speaker believes on reasonable grounds that a person, being an officer of or employee in the parliamentary service by reason of mental or physical infirmity has not the capacity or is unfit as prescribed by subsection (2), the speaker may call upon that person to retire from the parliamentary service within a time specified by the speaker.

(4) If a person called upon pursuant to subsection (3) to retire does not retire within the time specified, the speaker may dismiss the person from the parliamentary service.

### **Mode of resignation or retirement**

38. The resignation or retirement of an officer of or employee in the parliamentary service shall be effected by signed notice given to the clerk and shall be given and take effect as prescribed by rules from time to time made by the speaker.

**Retrenchment**

**39.(1)** Where the speaker is satisfied that the services of a person, being an officer of or employee in the parliamentary service, can no longer be gainfully utilised in the position held by the person because the position has become redundant, and the speaker is satisfied that—

- (a) it is not practicable to retrain or redeploy that person; and
- (b) the redundancy arrangements approved by the speaker have been complied with in relation to that person;

the speaker may terminate the services of that person by way of retrenchment in accordance with those redundancy arrangements.

**(2)** Redundancy arrangements for the time being approved by the speaker for the purposes of subsection (1) shall be comparable to the redundancy arrangements for the time being approved—

- (a) in the case of officers—by the Governor in Council under the *Public Service Act 1996* in relation to officers of the public service who have similar duties and responsibilities;
- (b) in the case of employees—by the industrial commission in relation to employees of the Crown who have similar duties and responsibilities.

**Discipline**

**40.(1)** An officer of or employee in the parliamentary service is liable to disciplinary action upon any of the following grounds shown to the satisfaction of the clerk to exist, namely—

- (a) incompetence or inefficiency in the discharge of his or her duties;
- (b) negligence, carelessness or indolence in the discharge of his or her duties;
- (c) misconduct;
- (d) absence from duty except—
  - (i) upon leave duly granted as prescribed; or
  - (ii) with reasonable cause;
- (e) wilful failure to comply with a lawful direction issued to the

officer or employee by any person having authority over him or her;

- (f) wilful failure to comply with any provision of a code of conduct approved by the speaker for officers of and employees in the parliamentary service.

(2) Where action against a person is contemplated on a ground referred to in subsection (1)(d) the clerk may appoint any medical practitioner or medical practitioners to examine that person and to report to the clerk or as the clerk directs upon that person's mental or physical condition or both, and may direct that person to submit himself or herself to such examination.

(3) If the clerk is satisfied that a person should be disciplined pursuant to subsection (1), the clerk may order that the person be disciplined in a manner that appears to the clerk to be warranted, having regard to any relevant guidelines that may have been issued in relation to the exercise of discipline under this Act.

(4) Without limiting the range of disciplines that may be imposed pursuant to subsection (3), such disciplines may consist of—

- (a) in the case of an officer—recommendation to the speaker that the officer be dismissed;
- (b) in the case of an employee—dismissal;
- (c) reprimand;
- (d) forfeiture or deferment of a salary increment or increase;
- (e) reduction in the person's level of salary;
- (f) a deduction from the person's salary or wages of an amount not exceeding 2 penalty units.

## **Suspension**

**41.(1)** Where it appears on reasonable grounds to the speaker that an officer of the parliamentary service is liable to disciplinary action under section 40 or is suspected of involvement in circumstances such that the efficient and proper management of parliamentary service might be prejudiced if the officer's services are continued, the officer may be suspended from duty by the speaker.

(2) Where it appears on reasonable grounds to the clerk that an employee in the parliamentary service is liable to disciplinary action under section 40 or is suspected of involvement in circumstances such that the efficient and proper management of the parliamentary service might be prejudiced if the employee's services are continued, the employee may be suspended from duty by the clerk.

(3) A suspension imposed on a person pursuant to subsection (1) or (2) may be lifted at any time by the speaker, or by the clerk respectively.

(4) A person suspended from duty shall not be entitled to receive salary or wages for any period during which the person does not perform his or her duties, unless the speaker otherwise determines.

(5) A person suspended from duty who is not entitled to salary or wages for the period of suspension, if the person resumes duty as an officer or employee in the parliamentary service upon the lifting of the suspension, shall be entitled to receive a sum equivalent to the amount of salary or wages the person would have received had the person not been suspended diminished by the amount of salary, wages or fees (if any) to which he or she became entitled from any source during the period of suspension, unless the speaker otherwise determines.

### **Mode of dismissal or suspension**

**42.(1)** Dismissal or suspension of an officer or employee in the parliamentary service shall be effected in accordance with this Act, any relevant guidelines that may have been issued in relation thereto under this Act and the principles of natural justice.

(2) Dismissal or suspension of an officer shall be effected by writing signed by the speaker and given to the officer.

(3) Dismissal or suspension of an employee shall be effected by writing signed by the clerk and given to the employee.

### **Appeals against promotional appointments and disciplinary action**

**43.(1)** An appeal on the merits lies to the speaker in accordance with this section, and not otherwise, in respect of—

- (a) all disciplinary action taken pursuant to this Act; and

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- (b) every appointment to an office that involves the appointee's promotion except—
    - (i) an office or one of a class of office declared by or pursuant to this Act to be an office or class of office to which appointment shall be made upon a contract basis; and
    - (ii) an office or one of a class of office declared by rules made by the speaker to be an office or a class of office in respect of appointment to which no appeal lies.
- (2) An officer of or employee in the parliamentary service who may exercise the right of appeal is—
- (a) in the case of an appeal in respect of disciplinary action—an officer or employee who is aggrieved by the decision that has resulted in disciplinary action against him or her;
  - (b) in the case of an appeal against an appointment—an officer who satisfies the requirements of the rules made from time to time by the speaker and published in the gazette in respect of appeals of the class of appeal in question.
- (3) An appeal in respect of disciplinary action may relate to the decision that has resulted in the action being taken or to the nature of the punishment or to both.
- (4) Jurisdiction is hereby conferred on the speaker to hear and make determinations with respect to—
- (a) all matters relevant to an appeal duly instituted in relation to disciplinary action; and
  - (b) all matters relevant to an appeal duly instituted in relation to an appointment.
- (4A) The institution and conduct of an appeal provided for by this section shall be as prescribed by the rules made from time to time by the speaker or, in so far as the rules do not so prescribe, as the speaker determines from time to time, having regard to any guidelines issued pursuant to this Act in relation to the matter and to the principles—
- (a) that legal representation shall not be permitted to a party to an appeal; and
  - (b) that the proceedings upon an appeal shall be informal and simple.

(5) No appeal lies from a finding or determination made by the speaker upon an appeal to it.

(6) The determinations of the speaker upon an appeal shall be furnished to the clerk who shall act upon those determinations.

### **Reinstatement following dismissal**

44. Where a person dismissed from the parliamentary service is reinstated in a position within the parliamentary service consequent upon an exercise of jurisdiction by the speaker, the person shall not suffer loss of salary or wages or any other benefits accruing under any Act in respect of being an officer of or employee in the parliamentary service in respect of the period during which the person was not an officer or employee except to the extent that the speaker directs to the contrary.

## **PART 6—MISCELLANEOUS**

### **Service with parliamentary service and public service**

48.(1) If an officer of the public service becomes an officer of the parliamentary service, the officer is entitled to retain all existing and accruing rights as if the service as an officer of the parliamentary service were a continuation of the service as an officer of the public service.

(2) Where a person ceases to be an officer of the parliamentary service and becomes an officer of the public service, the service as an officer of the parliamentary service shall be regarded as service of a like nature in the public service for the purpose of determining the person's rights as an officer of the public service.

### **Officers of and employees in parliamentary service are employees in industrial law**

49. The clerk and each officer of or employee in the parliamentary service who is in receipt of salary or wages (otherwise than upon a contract basis) is an employee and the speaker is his or her employer within the meaning of

the *Industrial Relations Act 1999* and the provisions of that Act apply in relation to the clerk, that officer or employee and to the speaker accordingly.

### **Behaviour in parliamentary precinct at discretion of speaker**

**50.(1)** All persons entering or upon the parliamentary precinct shall comply with the directions of the speaker as to the behaviour, demeanour and conduct of such persons.

**(2)** Directions of the speaker may take the form of by-laws prescribing behaviour and conduct made from time to time by the speaker.

**(2A)** The by-laws may prescribe differing penalties for failure to comply with specified directions as to the behaviour, demeanour and conduct of persons entering or upon the parliamentary precinct but such that no prescribed penalty shall exceed 10 penalty units.

**(2B)** A by-law is subordinate legislation.

**(3)** Directions in the form of by-laws made pursuant to subsection (2) shall be deemed to have been directed to every person who thereafter enters or is upon the parliamentary precinct.

**(4)** Directions made under this section may be directed towards a specified person or a person of a specified class or the holder or holders for the time being of a specified office or of specified classes of office.

**(5)** The speaker may authorise the clerk or a parliamentary service officer or employee to give directions (not inconsistent with any directions given by the speaker) under this section for the speaker.

**(7)** Directions given under this section do not apply to members of the Legislative Assembly in the conduct of their parliamentary business.

**(8)** For so long as a person (the “**offender**”) fails to comply with a direction directed to the offender under this section, the offender shall not be entitled to enter or be upon the parliamentary precinct.

**(8A)** If, in the opinion of the clerk or other person authorised in that regard by the clerk (the “**authorised person**”) a person is an offender, the clerk or authorised person may order the offender to leave the parliamentary precinct and the offender shall forthwith so leave.

**(8B)** The clerk, authorised persons and all persons acting in aid of the

clerk or an authorised person, using such force as is necessary, may—

- (a) remove from the parliamentary precinct a person to whom an order is given pursuant to subsection (8A); and
- (b) prevent that person's return to or on the parliamentary precinct;

unless that person demonstrates to the satisfaction of the clerk or an authorised person that the person will comply with all current directions made under this section.

**(9)** A person who fails to comply with a direction made under this section and directed to the person commits an offence against this Act.

Maximum penalty—

- (a) where the by-laws prescribe a penalty for a failure to comply with that direction—that penalty;
- (b) in any other case—10 penalty units.

### **Proceeding for offence against s 50**

**51.(1)** A prosecution for an offence against section 50 shall be by way of summary proceedings under the *Justices Act 1886* upon the complaint of the clerk.

**(2)** In any proceeding for an offence against section 50—

- (a) an allegation in a complaint that a direction had been given by a person at the direction of the speaker shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the allegation;
- (b) it shall not be necessary to prove the appointment of the clerk or that a person is an authorised person (within the meaning of section 50) in the absence of evidence that challenges that appointment or authorisation;
- (c) an averment in a complaint that any act, matter or thing was done or omitted within the parliamentary precinct shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of that averment.

**(3)** All penalties and expenses recovered pursuant to a proceeding for an

offence against section 50 shall be paid into and form part of the funds of the Legislative Assembly.

### **Protection from liability**

**52.(1)** In this section—

**“protected person”** means—

- (a) the speaker; or
- (b) the clerk; or
- (c) an authorised person under section 50<sup>2</sup>; or
- (d) a person acting in aid of the clerk or an authorised person.

**(2)** A protected person does not incur civil liability for an act done, or omission made, honestly and without negligence under section 50.

**(3)** If subsection (2) prevents civil liability attaching to a protected person, the liability attaches instead to the Legislative Assembly.

### **Mode of service**

**53.** Any notice or other writing required or permitted by this Act to be given to any person may be given to the person—

- (a) by delivering it to him or her personally; or
- (b) by leaving it for the person at his or her place of work or place of residence last known to the person giving the notice or writing; or
- (c) by post addressed to the person at his or her place of work or place of residence last known to the person giving the notice or writing.

### **Rules**

**55.(1)** The speaker may make rules under this Act.

**(2)** A rule may make provision about the parliamentary service and, in

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<sup>2</sup> Section 50 (Behaviour in parliamentary precinct at discretion of speaker)

particular—

- (a) the entitlements, responsibilities, authorities, obligations and liabilities of parliamentary service officers and employees; and
  - (b) appeals about promotional appointments and disciplinary action within the parliamentary service.
- (3) A rule is subordinate legislation.

### **Regulation making power**

**56.** The Governor in Council may make regulations under this Act.

## **PART 7—TRANSITIONAL PROVISIONS**

### **Parliamentary service commission references**

**57.** In an Act or document, a reference to the parliamentary service commission may, if the context permits, be taken to be a reference to the Legislative Assembly.

### **Clerk of the Legislative Assembly references**

**58.** In an Act or document, a reference to the clerk of the Legislative Assembly may, if the context permits, be taken to be a reference to the clerk of the Parliament.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 27 August 1999. Future amendments of the Parliamentary Service Act 1988 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 58 of 1995	18 December 1995
1A	to Act No. 37 of 1996	27 February 1997

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	1
Obsolete and redundant provisions	1
Renumbered provisions	1

## 6 List of legislation

### **Parliamentary Service Act 1988 No. 67**

date of assent 21 October 1988

ss 1–2 commenced on date of assent (see s 2(1))

remaining provisions commenced 19 November 1988 (proc pubd gaz 17 November 1988 p 1227)

as amended by—

### **Public Sector Management Commission Act 1990 No. 5 s 7.12 sch**

date of assent 4 April 1990

commenced 4 April 1990 (proc pubd gaz 4 April 1990 p 1675)

### **Anti-Discrimination Amendment Act 1994 No. 29 ss 1–3 sch**

date of assent 28 June 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1994 (see s 2)

### **Parliamentary Committees Act 1995 No. 38 ss 1, 35 sch 1**

date of assent 15 September 1995

commenced on date of assent

### **Statute Law (Minor Amendments) Act (No. 2) 1995 No. 51 ss 1–2, 4 sch**

date of assent 22 November 1995

commenced on date of assent

**Statute Law Revision (No. 2) Act 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Industrial Relations Act 1999 No. 33 ss 1, 2(2), 747 sch 3**

date of assent 18 June 1999  
 ss 1–2 commenced on date of assent  
 remaining provisions commenced 1 July 1999 (1999 SL No. 159)

**7 List of annotations****Long title**

amd 1995 No. 38 s 35 sch 1

**Commencement**

s 2 om R1 (see RA s 37)

**Arrangement**

s 3 om 1995 No. 38 s 35 sch 1

**Definitions**

prov hdg sub 1995 No. 38 s 35 sch 1

s 4 def “**Chairman**” om 1995 No. 38 s 35 sch 1  
 def “**clerk**” sub 1995 No. 38 s 35 sch 1  
 def “**industrial agreement**” sub 1995 No. 38 s 35 sch 1  
 amd 1999 No. 33 s 747 sch 3  
 def “**industrial award**” sub 1995 No. 38 s 35 sch 1  
 amd 1999 No. 33 s 747 sch 3  
 def “**Leader of the House**” om R1 (see RA s 5(d))  
 def “**Minister**” om 1995 No. 38 s 35 sch 1  
 def “**parliamentary precinct**” amd 1995 No. 38 s 35 sch 1  
 def “**Parliamentary Service Commission**” or “**Commission**” om 1995  
 No. 38 s 35 sch 1

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**Administration under speaker’s control**

s 5 sub 1995 No. 38 s 35 sch 1

**Speaker’s role for parliamentary service**

s 6 sub 1995 No. 38 s 35 sch 1

**Speaker’s powers for administrative functions**

s 7 sub 1995 No. 38 s 35 sch 1

**Delegation by speaker**

s 8 sub 1995 No. 38 s 35 sch 1; 1995 No. 51 s 4 sch

**Advisory committee to speaker**

s 9 sub 1995 No. 38 s 35 sch 1

**Speaker's annual report**

s 10 sub 1995 No. 38 s 35 sch 1

**Quorum**

s 11 om 1995 No. 38 s 35 sch 1

**Committees**

s 12 om 1995 No. 38 s 35 sch 1

**Assignment of powers**

s 13 om 1995 No. 38 s 35 sch 1

**Procedure of Parliamentary Service Commission**

s 14 om 1995 No. 38 s 35 sch 1

**Power of Government Departments and Government agencies to provide services or supplies for Parliamentary Service Commission and members of Legislative Assembly**

s 15 om 1995 No. 38 s 35 sch 1

**Employment of experts**

s 16 om 1995 No. 38 s 35 sch 1

**Annual report**

s 17 om 1995 No. 38 s 35 sch 1

**The clerk of the Parliament**

s 18 amd 1994 No. 29 s 3 sch; 1995 No. 38 s 35 sch 1

**Functions of the clerk of the Parliament as chief executive of parliamentary service**

s 20 amd 1995 No. 38 s 35 sch 1

**Tenure of office of the clerk of the Parliament**

s 21 amd 1995 No. 38 s 35 sch 1

**Performance of functions of the clerk of the Parliament in the clerk's absence**

s 22 amd 1995 No. 38 s 35 sch 1

**Functions of parliamentary service**

s 24 amd 1995 No. 38 s 35 sch 1

**Delegation by clerk as chief executive of parliamentary service**

s 25 sub 1995 No. 38 s 35 sch 1

**Appointment of officers of and employees in the parliamentary service**

s 26 amd 1995 No. 38 s 35 sch 1

**Officers and employees employed under this Act**

s 26A ins 1996 No. 37 s 147 sch 2

**Bases of employment of officers in parliamentary service**

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**Conditions of employment on contract**

s 28            amd 1995 No. 38 s 35 sch 1

**Salaries and conditions of employment**

s 29            amd 1995 No. 38 s 35 sch 1

**Superannuation**

s 30            amd 1995 No. 38 s 35 sch 1

**Contributions by speaker**

prov hdg    amd 1995 No. 38 s 35 sch 1

s 31            amd 1995 No. 38 s 35 sch 1

**Vacancies to be advertised**

s 32            amd 1995 No. 38 s 35 sch 1

**Appointment on probation**

s 35            amd 1995 No. 38 s 35 sch 1

**Retirement from parliamentary service**

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**Mode of resignation or retirement**

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**Retrenchment**

s 39            amd 1995 No. 38 s 35 sch 1; 1996 No. 37 s 147 sch 2

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**PART 7—TRANSITIONAL PROVISIONS**

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