

Industrial Relations Legislation Amendment Regulation (No. 1) 2014

Explanatory Notes for SL 2014 No. 143

made under the

Industrial Relations Act 1999

General Outline

Short Title

Industrial Relations Legislation Amendment Regulation (No. 1) 2014

Authorising law

Section 709(1) of the *Industrial Relations Act 1999* (IR Act).

Policy objectives and the reasons for them

The objective of the *Industrial Relations Legislation Amendment Regulation (No. 1) 2014* (the Amendment Regulation) is to make a number of amendments to the *Industrial Relations Regulation 2011* (IR Regulation) and the *Industrial Relations (Tribunals) Rules 2011* (IR Rules) in respect of the following issues.

The IR Act provides for an award modernisation process and for transitional arrangements for continuing certified agreements that reach their nominal expiry date prior to the modernisation of the awards that underpin the certified agreement. Continuing agreements are to be extended by one year unless an earlier date is stated in a regulation. An interim wage increase in a continuing agreement can also be provided for under a regulation.

The IR Act also provides for a position to be prescribed under a regulation as a high-income position. Employees engaged in that position who earn more than the high-income threshold of \$129,300 per annum are in a high-income position. High-income positions are excluded from the modern award as employees may be offered individual employment contracts

The Local Government Association of Queensland (LGAQ) has requested that a regulation:

- prescribe a new nominal expiry date of 1 October 2014 for certified agreements applying to LGAQ employees, which become continuing agreements during the period from 30 June 2014 to 31 August 2014 (the award modernisation schedule

indicates that the LGAQ agreements' underpinning awards will not have been modernised by the agreements' nominal expiry date), and

- specify that Chief Executive Officers and senior executive employees as defined by the *Local Governments Act 2009* are high-income positions.

The TMR Enterprise Determination 2011 and the Transport and Main Roads Operational Employees Certified Agreement 2011 both have a nominal expiry date of 30 June 2014. The award modernisation schedule indicates that those agreements' underpinning awards will not have been modernised by the agreements' nominal expiry date. Therefore both agreements will become continuing agreements with a new nominal expiry date of 30 June 2015.

As continuing certified agreements may not be amended, the Public Service Commission and the Department of Transport and Main Roads have requested for both agreements a wage increase of 2.2% for 12 months in line with government wages policy.

A number of necessary consequential amendments have been identified in the IR Rules that correct provisions referring to:

- the *Vocational Education, Training and Employment Act 2000* (VETE Act) which has been repealed by the *Further Education and Training Act 2014* (FET Act) which commences on 1 July 2014, and
- Skills Queensland which was dissolved on 22 November 2013 under the VETE Act. Continuing functions and responsibilities of that agency have been transferred to the Chief Executive (Training).

A number of amendments to the IR Rules and IR Regulation are made in the Amendment Regulation to correct minor errors that have arisen, make consequential amendments as a result of amendments to the IR Act, change the process associated with Attendance Notices to Produce for matters lodged with the Industrial Registry and provide for an annual increase in fees charged by the Industrial Registry from 1 July 2014 by 3.5%. In particular these amendments change filing processes at the Industrial Registry to remove the need for filing and issuing of Attendance Notices to Produce and disclosure of documents by non-parties. These changes will make processes similar to those which apply in the Supreme Court.

Minor amendments to the IR Regulation and IR Rules provide for the consistent use of the term "industrial tribunal" when referring to the processing of applications to the Industrial Court, Queensland Industrial Relations Commission and the Industrial Registrar and allow for consideration of changes of calling in an application for an industrial organisation amalgamation scheme. Other minor amendments are made to omit one rule because of the earlier omission of its associated provision from the IR Act and correct a reference to provisions of the IR Act in another rule.

Achievement of policy objectives

The *Industrial Relations Legislation Amendment Regulation (No. 1) 2014* will achieve its objectives by amending the:

- a. IR Regulation to prescribe a new nominal expiry date of 1 October 2014 for certified agreements applicable to local governments which become continuing agreements during the period from 30 June 2014 to 31 August 2014.
- b. IR Regulation to prescribe Chief Executive Officers and senior executive employees of local governments as high-income positions.
- c. IR Regulation to prescribe a wage increase of 2.2% for the TMR Enterprise Determination 2011 and the Transport and Main Roads Operational Employees' Certified Agreement 2011 which are continuing agreements applicable to the Department of Transport and Main Roads (DTMR).
- d. IR Rules to align with the *Further Education and Training Act 2014* (FET Act) by updating references and removing repealed terms and references to the repealed *Vocational Education, Training and Employment Act 2000* and Skills Queensland.
- e. IR Rules and IR Regulations to correct minor errors that have arisen, make consequential amendments as a result of amendments to the IR Act, simplify industrial tribunal processes, change the process associated with Attendance Notices to Produce for matters lodged with the Industrial Registry and provide for an annual increase in fees charged by the Industrial Registry from 1 July 2014 by 3.5%.

The Amendment Regulation is to commence on 1 July 2014 except for section 7 (relating to the LGAQ's continuing agreements) which is to commence on 29 June 2014.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the Act. The principal object of the Act is to provide a framework for industrial relations that supports economic prosperity and social justice.

Inconsistency with policy objectives of other legislation

There are no known inconsistencies with policy objectives of other legislation.

Benefits and costs of implementation

The Regulation support economic prosperity and social justice by providing transitional provisions which ensure coverage of employees by continuing certified agreements during the award modernisation process. By prescribing a position and class of positions as high-income positions, local governments can regulate the financial strain of high-income positions in a more appropriate manner.

Costs associated with a wage increase for employees covered by the TMR Enterprise Determination 2011 and the Transport and Main Roads Operational Employees' Certified Agreement 2011 are a matter for the Department of Transport and Main Roads but the increase is in line with government wages policy.

Consequential amendments to the IR Act which replace references to the *Vocational Education, Training and Employment Act 2000* (VETE Act) with corresponding references to the FET Act improve the readability of the legislation.

Amendments to the non-party disclosure process in the Industrial Registry will promote efficiency by relieving the administrative burden associated with issuing, forwarding and maintaining of third party-disclosed documents until after the hearing and the appeal period has expired.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles.

Consultation

The Local Government Association of Queensland, Public Service Commission, Department of Transport and Main Roads and Department of Education, Training and Employment and the Rules Committee established under the IR Act were consulted on the drafting of the amendment to the regulation. All parties consulted agreed with the proposed action.