

WESTERN AUSTRALIA

PUBLIC SECTOR MANAGEMENT ACT 1994

**PUBLIC SECTOR
MANAGEMENT
(GENERAL)
REGULATIONS
1994**

REPRINTED AS AT 18 DECEMBER 1997

WESTERN AUSTRALIA

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(GENERAL) REGULATIONS 1994**

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PUBLIC SECTOR MANAGEMENT ACT 1994

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(GENERAL) REGULATIONS 1994**

Citation

1. These regulations may be cited as the *Public Sector Management (General) Regulations 1994*¹.

Commencement

2. These regulations come into operation on the day on which Part 9 of the Act comes into operation.

Prescribed independent departments for purposes of section 3 (3) of Act

3. For the purposes of section 3 (3) of the Act —
 - (a) the department designated as the Department of Environmental Protection; and
 - (b) the department designated as the Department of Planning and Urban Development,

are prescribed as independent departments.

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Prescribed independent departments for purposes of section 5 (2) (a) of Act

4. For the purposes of section 5 (2) (a) of the Act —

- (a) the department designated as the Department of Environmental Protection; and
- (b) the department designated as the Department of Planning and Urban Development,

are prescribed as independent departments.

Deemed chief executive officer for purposes of section 4 (5)

4A. For the purposes of section 4 (5) of the Act the Director within the meaning of the *Director of Public Prosecutions Act 1991* is deemed to be the chief executive officer of the department designated under section 35 of the Act as the Office of the Director of Public Prosecutions.

[*Regulation 4A inserted in Gazette 18 August 1995 p.3775.*]

Deemed chief employee for purposes of section 4 (5)

4B. For the purposes of section 4 (5) of the Act, the Director within the meaning of the *Health Services (Conciliation and Review) Act 1995* is deemed to be the chief employee of the Office of Health Review established by section 6 (1) of that Act.

[*Regulation 4B inserted in Gazette 7 June 1996 p.2414.*]

Employing authorities for purposes of section 5 (3) of Act

5. For the purposes of section 5 (3) of the Act —

[(a) *deleted*]

- (b) the Commissioner within the meaning of the *Equal Opportunity Act 1984* is the employing authority of the officers referred to in section 79 of that Act;

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- (ba) the Minister is the employing authority of the organization known as the Office of Health Review established by section 6 (1) of the *Health Services (Conciliation and Review) Act 1995* and of the Director within the meaning of that Act and the other employees employed in that organization;
 - (c) the Law Reform Commission of Western Australia established under the *Law Reform Commission Act 1972* is the employing authority of the public service officer who is for the time being —
 - (i) appointed within the meaning of section 14 of that Act; and
 - (ii) known as the Executive Officer and Director of Research of that Commission;
 - (d) The State Housing Commission established under the *State Housing Act 1946* (now repealed) and preserved and continued under the *Housing Act 1980* is the employing authority of public service officers who are for the time being appointed, or whose services are for the time being co-opted, within the meaning of —
 - (i) section 15 of the *Government Employees' Housing Act 1964*; or
 - (ii) section 15 of the *Industrial and Commercial Employees' Housing Act 1973*;
- and
- (e) the Valuer-General holding office under the *Valuation of Land Act 1978* is the employing authority of public service officers employed in the Valuer-General's Office within the department designated as the State Taxation Department.

[Regulation 5 amended in Gazette 18 August 1995 p.3775;
7 June 1996 p.2414.]

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Prescribed human resource management activities for purposes of section 21 (1) (a) (ii) of Act

5A. For the purposes of section 21 (1) (a) (ii) of the Act, temporary deployment (acting) and grievance resolution are prescribed as human resource management activities relating to employees.

*[Regulation 5A inserted in Gazette 19 September 1997
p.5289.]*

Prescribed salary level for purposes of section 43 (1) of Act

6. For the purposes of section 43 (1) of the Act, the prescribed salary level is the level of the maximum salary payable in respect of a level 8 officer under the award —

- (a) made by the Industrial Commission under the *Industrial Relations Act 1979*; and
- (b) known as the Public Service Award 1992.

Prescribed amount for purposes of section 56 (3) (a) of Act

7. For the purposes of section 56 (3) (a) of the Act, the prescribed amount is an amount equal to the amount of remuneration payable to the executive officer concerned for the period of 12 weeks immediately preceding the day on which remuneration ceased to be payable to that executive officer.

Prescribed amount for purposes of section 56 (5) (b) of Act

8. For the purposes of section 56 (5) (b) of the Act —

- (a) the prescribed maximum amount is an amount equal to the amount of remuneration payable to the executive officer concerned for the period of 12 weeks immediately preceding the day on which remuneration ceased to be payable to that executive officer; and

- (b) the prescribed minimum amount is an amount equal to the amount of remuneration payable to the executive officer concerned for the last day on which remuneration is payable to that executive officer.

Prescribed period for purposes of section 59 (4) of Act

9. For the purposes of section 59 (4) of the Act, the prescribed period is a period equal to the period in respect of which the amount of compensation paid to the person concerned under section 59 of the Act was calculated.

Prescribed class for purposes of section 64 (5) (b) of Act

10. For the purposes of section 64 (5) (b) of the Act, the prescribed classes are —

- (a) the class constituted by persons holding clerical, administrative and keyboard offices, posts or positions, appointment to the base grade of which is dependent on the satisfactory completion of the test known as the Public Service Clerical Aptitude Test;
- (b) the class constituted by persons holding appointments made on the grounds of locality in the non-metropolitan area, after merit selection processes have been undergone;
- (c) the class constituted by persons holding appointments made under the terms and conditions of a cadetship;
- (d) the class constituted by persons holding appointments as a trainee graduate;
- (e) the class constituted by persons employed through any recruitment programme conducted by the Workforce Management and Development Office; and

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- (f) the class constituted by persons holding appointments as field officers in accordance with section 43 (1) of the *Conservation and Land Management Act 1984*, after a recruitment programme has been conducted by the Department of Conservation and Land Management and merit selection processes have been undergone.

[*Regulation 10 amended in Gazette 9 December 1994 pp.6714-15; 22 April 1997 p.2061.*]

Prescribed period for purposes of section 70 (6) of Act

11. For the purposes of section 70 (6) of the Act, the prescribed period is a period equal to the period in respect of which the amount of compensation paid to the person concerned under section 70 of the Act was calculated.

Prescribed amount for purposes of section 72 (2) (b) of Act

12. For the purposes of section 72 (2) (b) of the Act, the prescribed amount is an amount equal to the amount of salary payable to the ministerial officer concerned for the period of 12 weeks immediately preceding the day on which remuneration ceased to be payable to that ministerial officer.

Prescribed salary level for purposes of section 75 (2) (a) of Act

13. For the purposes of section 75 (2) (a) of the Act, the prescribed salary level is the level of the maximum salary payable in respect of a level 5 office under the award —

- (a) made by the Industrial Commission under the *Industrial Relations Act 1979*; and
- (b) known as the Public Service Award 1992.

Prescribed classes of employees for purposes of section 76 of the Act

14. For the purposes of section 76 (1) (b) of the Act the following classes of employees are prescribed —

- (a) persons employed under the *Education Act 1928* in the Western Australian Department of Training; and
- (b) academic and other staff, and other officers, employed under section 31 (1) (a) of the *Colleges Act 1978* at Karratha College, being a college established under section 6 of that Act.

[Regulation 14 inserted in Gazette 1 October 1996 p.5112.]

Prescribed notice for purposes of section 81 (1) of Act

15. For the purposes of section 81 (1) of the Act, the prescribed notice is notice of all the allegations made against the person referred to in that section which are relevant to the breach of discipline which the employing authority suspects that person of having committed.

Prescribed procedures for purposes of section 81 (2) of Act

16. For the purposes of section 81 (2) of the Act, the prescribed procedures in accordance with which a suspected breach of discipline is to be investigated are that the respondent is notified in writing —

- (a) that an investigation of the suspected breach of discipline is being initiated and of the purpose of that investigation;
- (b) that the investigation referred to in paragraph (a) will lead to a finding being made in respect of, and may lead to action being taken against, the respondent under Division 3 of Part 5 of the Act and of the range of possible findings and possible action;
- (c) of the steps which may be taken in the conduct of that investigation prior to the making of a finding, and the taking of any action, against the respondent;

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- (d) of any interviews or meetings which the respondent is required to attend; and
- (e) of his or her right to have present during any interviews or meetings attended by the respondent a representative capable of providing advice to the respondent.

Prescribed procedures for purposes of section 83 (1) (a) (i), (ii) or (iii) of Act

17. For the purposes of section 83 (1) (a) (i), (ii) or (iii) of the Act, the prescribed procedures in accordance with which the action referred to in that section is to be taken against the respondent are that the respondent —

- (a) is to be notified in writing of the finding that a minor breach of discipline has been committed by the respondent;
- (b) is to be notified in writing of the action proposed to be taken under that section against the respondent;
- (c) is to be given a reasonable opportunity to make written or oral representations to the relevant employing authority concerning that action; and
- (d) is to be notified in writing of —
 - (i) the action taken under that section against the respondent; and
 - (ii) the right of objection under section 85 available to the respondent in respect of that finding or action.

Prescribed procedures for purposes of section 83 (1) (b) and 85 of Act

18. For the purposes of section 83 (1) (b) and 85 of the Act, the procedures by which a respondent is to be charged with an alleged breach of discipline are that the employing authority must ensure, and must make a record of, the receipt of the written charge by the respondent.

Prescribed details of breaches of discipline for purposes of section 86 (1) (b) of Act

19. (1) For the purposes of section 86 (1) (b) of the Act, the prescribed details of the alleged breach of discipline are a written description of the breach of discipline with which the respondent is charged framed in such a manner and with such particulars of —

- (a) the alleged time and place of commission of that breach of discipline;
- (b) the other persons, if any, involved in committing that breach of discipline;
- (c) the person, if any, against whom that breach of discipline was committed; and
- (d) the property, if any, in respect of which that breach of discipline was committed,

as are necessary to inform the respondent of the nature of that breach of discipline.

(2) If the time or place of commission of an alleged breach of discipline is unknown, it is sufficient for the purposes of subregulation (1) (a) to give particulars of the period or area within which that breach of discipline was committed.

Prescribed procedures for purposes of section 86 (4) (a) of Act

20. For the purposes of section 86 (4) (a) of the Act, the prescribed procedures in accordance with which a disciplinary inquiry is to be held are that the respondent is notified in writing —

- (a) that a disciplinary inquiry into the charge is being held and of the purpose of that disciplinary inquiry;
- (b) that the disciplinary inquiry referred to in paragraph (a) will lead to a finding being made, and may lead to action being taken, against the respondent under Division 3 of Part 5 of the Act and of the range of possible findings and possible action;

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- (c) of the steps which may be taken in the conduct of that disciplinary inquiry prior to the making of a finding, and the taking of any action, against the respondent;
- (d) of any interviews or meetings which the respondent is required to attend; and
- (e) of his or her right to have present during any interviews or meetings attended by the respondent a representative capable of providing advice to the respondent.

Prescribed period for purposes of section 90 of Act

21. For the purposes of section 90 of the Act, the prescribed period is 14 days.

Prescribed offences for purposes of section 92 (1) (b) of Act

22. For the purposes of section 92 (1) (b) of the Act, offences —

- (a) which involve —
 - (i) fraud or dishonesty; or
 - (ii) wilful damage to, or destruction of, the property of others;
- (b) which are committed against the persons of others; or
- (c) which are punishable on conviction by imprisonment for 2 years or more,

are prescribed offences.

Prescribed period for purposes of section 92 (2) of Act

23. For the purposes of section 92 (2) of the Act, the prescribed period is 14 days.

Prescribed matters for purposes of section 99 (c) of Act

24. (1) Matters concerning the management or structure of the Public Sector that are dealt with by —

- (a) Parts 5, 6 or 7 of the Act; or
- (b) the *Occupational Health, Safety and Welfare Act 1984*,

are prescribed matters for the purposes of section 99 (c) of the Act.

(2) For the purpose of the management of the Public Sector, compensatory loadings or allowances payable for loss or absence of indefinite tenure of offices, posts or other employment in the Public Sector (other than offices referred to in section 6 (1) (d) and (e) of the *Salaries and Allowances Act 1975*) are prescribed matters for the purposes of section 99 (c) of the Act.

[*Regulation 24 amended in Gazette 27 September 1996*
pp.4826-7.]

Prescribed personnel records

25. (1) A public sector body is required to establish, keep and maintain for each permanent or contract employee, including trainees and cadets, personnel records containing (as a minimum) the following details —

- (a) information relating to the appointment of the employee;
- (b) the employment history of the employee;
- (c) details of the employee's performance and any disciplinary matters relating to that employee; and
- (d) information relating to the cessation of employment of that employee.

(2) Where an employee is employed as a part of the Public Service, the following details, in addition to those set out in subregulation (1), are to be recorded —

- (a) the name and date of birth of the employee;

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- (b) the date of appointment of that employee to the Public Service; and
- (c) the title and classification of the office held by that employee.

(3) When an employee moves from one public sector body to another public sector body —

- (a) the body to which the employee moves is required to seek the transfer the employee's record from the previous body; and
- (b) the body from which the employee moves is required to transfer the employee's record to the new body.

Prescribed period for purposes of clause 13 (14) of Schedule 5 to Act

26. For the purposes of clause 13 (14) of Schedule 5 to the Act, the prescribed period is a period equal to the period in respect of which the amount of compensation paid to the person concerned under clause 13 (11) of that Schedule was calculated.

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NOTES

¹ This reprint is a compilation as at 18 December 1997 of the *Public Sector Management (General) Regulations 1994* and includes the amendments effected by the regulations referred to in the following Table.

Table of Regulations

Regulation	Gazettal	Commencement	Miscellaneous
<i>Public Sector Management (General) Regulations 1994</i>	16 September 1994 pp.4798-803	1 October 1994 (see regulation 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Public Sector Management (General) Amendment Regulations 1994</i>	9 December 1994 pp.6714-15	9 December 1994	
<i>Public Sector Management (General) Amendment Regulations 1995</i>	18 August 1995 pp.3774-5	18 August 1995	
<i>Public Sector Management (General) Amendment Regulations 1996</i>	7 June 1996 pp.2413-14	7 June 1996	
<i>Public Sector Management (General) Amendment Regulations (No. 4) 1996</i> (Correction in <i>Gazette</i> 8 October 1996 p.5313)	27 September 1996 pp.4826-7	27 September 1996	
<i>Public Sector Management (General) Amendment Regulations (No. 3) 1996</i>	1 October 1996 p.5112	1 October 1996	
<i>Public Sector Management (General) Amendment Regulations 1997</i>	22 April 1997 p.2061	22 April 1997	

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Regulation	Gazettal	Commencement	Miscellaneous
<i>Public Sector Management (General) Amendment Regulations (No. 2) 1997</i>	19 September 1997 p.5289	19 September 1997	
