

PR301

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

Made by His Excellency the Governor in Executive Council.

**Citation**

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

**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.

**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.

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

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

- (a) the Director within the meaning of the *Director of Public Prosecutions Act 1991* is the employing authority of the staff referred to in section 30 of that Act;
- (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;
- (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- (d) The State Housing Commission established under the *State Housing Act 1946* (now repealed) and preserved and continued under the *Housing Act 1980* is the employing authority of public service officers who are for the time being appointed, or whose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.

**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; and
- (d) the class constituted by persons holding appointments as a trainee graduate.

**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 class of employees for purposes of section 76 of Act**

14. Persons employed under the *Education Act 1928* in the Western Australian Department of Training are a prescribed class of employees for the purposes of section 76 (1) (b) of the Act.

**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;
- (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 procedure 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;
- (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. 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.

**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;
- (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.

**Schedule 1 to Act amended**

27. Clause 4 of Schedule 1 to the Act is amended by inserting after "written law" the following —

"

and any judge or officer exercising a judicial function as a member of that court or tribunal

".

**Repeal**

28. Regulations 3, 4, 7, 7A, 9, 10 and 11 of the *Public Service Regulations 1988\** are repealed.

[\* *Published in Gazette of 16 March 1988 at pp. 815-18. For amendments to 8 September 1994 see 1993 Index to Legislation of Western Australia, Table 4, pp. 216-17, and Gazette of 28 January 1994.*]

Approved by His Excellency the Governor in Executive Council this 13th day of September 1994.

By His Excellency's Command,

D. G. BLIGHT, Clerk of Council.