

HE304

Health Services Act 2016

## **Health Services (Transitional - Transfer of Employees to PathWest) Regulations 2018**

Made by the Governor in Executive Council.

### **1. Citation**

These regulations are the *Health Services (Transitional - Transfer of Employees to PathWest) Regulations 2018*.

### **2. Commencement**

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

### **3. Terms used**

- (1) In these regulations —  
*transfer day* means 1 July 2018;  
*PathWest* means the health service provider with the corporate name “PathWest Laboratory Medicine WA” established by the *Health Services (Health Service Providers) Order 2016* clause 17.
  - (2) Before the coming into operation of the *Health Services (Health Service Providers) Amendment Order (No. 3) 2018* clause 10 on transfer day, a reference in these regulations to PathWest is to PathWest as it will exist on and after transfer day.
- ### **4. Transfer of employees to PathWest on transfer day**
- (1) The Department CEO may, before transfer day, determine that specified employees in a health service provider are to be employed in PathWest on and from transfer day.
  - (2) The Department CEO must give a copy of a determination under subregulation (1) to the employing authority of the health service provider.
  - (3) An employing authority given a copy of a determination under subregulation (2) must notify each employee in the health service provider to whom the determination applies that the employee will, on and from transfer day, be employed in PathWest.

- (4) A notification under subregulation (3) must be in writing and may be addressed to an individual employee or a class of employees.
- (5) An employee to whom a determination under subregulation (1) applies is, on and from transfer day, taken to be employed in PathWest and not in the health service provider (the *former health service provider*) in which the employee was previously employed.
- (6) If subregulation (5) applies to an employee, then on transfer day —
  - (a) the office in the former health service provider in which the employee was employed before transfer day ceases to exist; and
  - (b) the chief executive of PathWest —
    - (i) becomes the employing authority of the employee; and
    - (ii) is substituted for the employing authority of the former health service provider as a party to any contract of employment of the employee.
- (7) If the employee is employed on a contract, the transfer has effect despite anything in the contract.

## **5. Preservation of rights**

- (1) This regulation applies to an employee to whom a determination under regulation 4(1) applies.
- (2) The change in the employee's employment on transfer day under regulation 4 does not —
  - (a) affect the employee's pay as defined in the *Public Sector Management (Redeployment and Redundancy) Regulations 2014* regulation 3(1); or
  - (b) affect the employee's existing or accrued rights in respect of annual leave, long service leave, sick leave or any other leave; or
  - (c) affects any rights under a superannuation scheme; or
  - (d) interrupt the continuity of the employee's service.
- (3) For the purposes of subregulation (2)(d), the person's service with the health service provider in which the person is employed before transfer day is taken to have been service in PathWest.

## **6. Transfer of employees to PathWest after transfer day**

- (1) The Department CEO may, within 1 month after transfer day, determine that specified employees in a health service provider are to be employed in PathWest on and from the day specified in the determination.

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- (2) These regulations apply in relation to a determination under subregulation (1) as if —
- (a) the determination were a determination under regulation 4(1); and
  - (b) a reference in these regulations to transfer day were a reference to the day specified in the determination under subregulation (1).

R. KENNEDY, Clerk of the Executive Council.