

TO: QTU MEMBERS

Major improvements for teachers in Public Service Act changes

Just before the pre-election caretaker period, the ALP government made major changes to the Public Service Act to boost job security and address delays in and inappropriate use of discipline procedures.

The changes were made in the last sitting of the Parliament and came into effect on 14 September. They are the first phase of legislative changes arising from the Bridgman Review of public service employment and organisation and are the product of ten months of negotiation and consultation between the Queensland Teacher's Union (QTU), other public sector unions, the government and departments.

Job security is the second most important issue to members after workload, according to the 2019 QTU Member Needs Survey. Changes to investigation and disciplinary processes have also been a priority for the QTU, and these were subsumed into the overall review after being raised with the department.

The following is a summary of the main changes.

Job security

- Permanent employment is specified in the act as the default basis of public sector employment.
- The act defines the criteria by which temporary (fixed term) employment is permitted.
- A new non-appealable right for temporary and casual employees to request conversion after 12 months continuous service.
- An employer-initiated review after two years of continuous service by temporary or casual employees
- Provision of a formal statement of reasons for decisions to not convert employees to permanency.
- Option to appeal to the Queensland Industrial Relations Commission (QIRC) if not converted after two years.

Long term higher duties

- A new non-appealable right to request appointment to a position in which an employee has performed higher duties for 12 months continuously, subject to merit appointment and genuine operational requirements.
- Provision of a formal statement of reasons if conversion is refused.
- An annual right to request conversion thereafter, with a decision not to convert appealable to the QIRC.

Positive performance management principles

- Creation of positive performance management (PPM) principles in the legislation, establishing rights for employees (e.g. proactively managing personal and professional development, constructive communication, provision of training and professional development) and expectations for managers.
- A Public Service Commission (PSC) directive on PPM that must be complied with prior to performance-based (as opposed to conduct-based) disciplinary action.

Discipline, suspensions and investigations

- The act has been amended so that breaches of the code of conduct are only subject to disciplinary investigation if "sufficiently serious to warrant disciplinary action".
- The PSC directive on discipline has as its basis that disciplinary action is not appropriate for matters that can be dealt with through management action e.g. technical breaches or trivial matters.
- The power for the PSC to intervene in investigation, discipline and suspension matters.
- Explicit appeal rights for "suspension without pay".
- Binding PSC directives on suspension and investigations, as well as discipline.

Other

- Permanent employment for people with permission to work in Australia, not just Australian citizens.
- New directive on individual employee grievances, distinct from other complaints.

Transition

- Temporary or casual employees with more than 12 months' continuous employment can apply by 14 December.
- Employees with more than 12 months in a higher duties position made on a merit basis can apply for conversion by 14 December.
- The department has 28 days to make decisions on conversions, unless a longer period is agreed with the relevant union.
- Disciplinary processes where findings have not been made and which no longer meet new criteria for disciplinary action can be discontinued.

In addition to legislative changes to the Public Service Act, the changes are supported by 11 new or amended Public Service Commission (PSC) directives, which came into effect on 25 September:

- Appeals 07/20
- Casual employment 08/20
- Fixed term temporary employment 09/20
- Independent medical examinations 10/20
- Individual employee grievances 11/20
- Recruitment and selection 12/20
- Appointing a public service employee to a higher classification level 13/20*
- Discipline 14/20*
- Positive performance management 15/20*
- Suspension directive 16/20*
- Workplace investigations 17/20.*

N.B:

1. * indicates new directives
2. All directives are available at www.forgov.qld.gov.au/directives-policies-and-guidelines

Some new directives, e.g. discipline and workplace investigations, replace PSC guidelines. The difference is that PSC directives are binding on departments, whereas guidelines are not.

A second phase of changes is planned after the election, but these may depend on the result.

From a QTU perspective, significant issues in phase two of the process will include:

- improvements in recruitment and selection processes for promotional positions
- review of the code of conduct (and the standard of practice)
- limiting disciplinary action relating to private conduct
- reasserting employee rights, for example as citizens to make public comment.

Authorised by:

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