

# Public Service and Other Legislation Amendment Bill 2020

Amendments during consideration in detail to be moved by  
The Honourable the Minister for Education and Minister for Industrial  
Relations

## 1 After clause 1

Page 6, after line 5—

*insert—*

### **Part 1A**                    **Amendment of Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020**

#### **1A Act amended**

This part amends the *Building Industry Fairness  
(Security of Payment) and Other Legislation  
Amendment Act 2020*.

*Editor's note—*

Legislation ultimately amended—

- *Queensland Building and Construction  
Commission Act 1991*

#### **1B Amendment of s 110A (Insertion of new s 30CA)**

Section 110A, inserted section 30CA(3), from ‘or  
maintenance’ to ‘mentioned in’—

*omit, insert—*

, maintenance, certification or inspection,  
including testing, of fire protection  
equipment mentioned in schedule 2,

**2 Clause 29 (Insertion of new ch 3, pt 7)**

Page 21, after line 21—

*insert—*

(5) In this section—

*public service office* see section 35.

**3 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 31, line 12, ‘uncertain’—

*omit, insert—*

unlikely

**4 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 31, lines 14 to 16—

*omit, insert—*

employment relating to performing work for which funding is subject to change or is not expected to be renewed

**5 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 33, after line 8—

*insert—*

(4A) For working out how long the person has been continuously employed in the department—

(a) all periods of authorised leave are to be included; and

(b) the person is to be regarded as continuously employed even if there are periods during which the person is not employed in the department, if the periods of

non-employment in the department total 6 weeks or less in the year occurring immediately before the time when the duration of the person's continuous employment is being worked out.

**6 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 34, lines 3 to 10, from 'regard to'—

*omit, insert—*

regard to the genuine operational requirements of the department.

**7 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 34, line 13, '(3)(b)'—

*omit, insert—*

(3)

**8 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 34, line 18, after 'department'—

*insert—*

under section 149

**9 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 35, lines 30 to 32—

*omit, insert—*

(5) In making the decision—

(a) section 149A(2) and (3) applies to the department's chief executive; and

- (b) the department's chief executive must have regard to the reasons for each decision previously made, or taken to have been made, under this section or section 149A in relation to the person during the person's period of continuous employment.

**10 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 36, line 9, 'extended.'—

*omit, insert—*

extended; and

**11 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 36, after line 9—

*insert—*

- (d) each decision previously made, or taken to have been made, under this section or section 149A in relation to the person during the person's period of continuous employment.

**12 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 36, after line 17—

*insert—*

- (7A) For working out how long the person has been continuously employed in the department—
  - (a) all periods of authorised leave are to be included; and
  - (b) the person is to be regarded as continuously employed even if there are periods during which the person is not employed in the

department, if the periods of non-employment in the department total 12 weeks or less in the 2 years occurring immediately before the time when the duration of the person's continuous employment is being worked out.

**13 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 36, after line 20—

*insert—*

(8A) The directive must provide for—

- (a) the matters a department's chief executive must consider in deciding the hours of work to be offered in converting a person's employment under subsection (3)(b); and
- (b) the circumstances in which a person may appeal against the decision about the hours of work offered in converting the person's employment.

**14 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 37, lines 12 to 16—

*omit, insert—*

- (c) is eligible for appointment to the position at the higher classification level having regard to the merit principle.

**15 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 37, after line 34—

*insert—*

(4A) In making the decision, the department's chief

executive must have regard to—

- (a) the genuine operational requirements of the department; and
- (b) the reasons for each decision previously made, or taken to have been made, under this section in relation to the person during the person's continuous period of employment at the higher classification level.

**16 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 38, line 10, 'extended.'—

*omit, insert—*

extended; and

**17 Clause 37 (Replacement of ch 5, pt 5 (General and temporary employees))**

Page 38, after line 10—

*insert—*

- (d) each decision previously made, or taken to have been made, under this section in relation to the person during the person's continuous period of employment at the higher classification level.

**18 Clause 46 (Amendment of s 194 (Decisions against which appeals may be made))**

Page 42, lines 24 to 27—

*omit, insert—*

- (e) a decision (each a *conversion decision*)—

- (i) under section 149B not to convert the basis of employment of an employee; or
- (ii) under section 149B to convert the basis of employment of an employee in a circumstance provided for under a directive made under section 149B(8A); or
- (iii) under section 149C not to appoint an employee to a position at a higher classification level, if the employee has been seconded to or acting at the higher classification level for a continuous period of at least 2 years;

**19 Clause 47 (Amendment of s 195 (Decisions against which appeals can not be made))**

Page 43, line 14, after ‘level’—

*insert—*

, if the employee has been seconded to or acting at the higher classification level for less than 2 years

**20 Clause 58 (Insertion of new ch 9, pt 14)**

Page 46, line 11, after ‘Transitional’—

*insert—*

**and validation**

**21 Clause 58 (Insertion of new ch 9, pt 14)**

Page 47, line 1, after ‘temporary’—

*insert—*

**or casual**

**22 Clause 58 (Insertion of new ch 9, pt 14)**

Page 47, line 5, ‘temporary’—

*omit, insert—*

relevant

**23 Clause 58 (Insertion of new ch 9, pt 14)**

Page 47, lines 9 to 12, from ‘temporary’—

*omit, insert—*

relevant employee for a period of at least 1 year  
but not more than 2 years; or

**24 Clause 58 (Insertion of new ch 9, pt 14)**

Page 47, lines 15 to 18, from ‘temporary’—

*omit, insert—*

relevant employee for a period of at least 1 year if  
the amending Act had not commenced.

**25 Clause 58 (Insertion of new ch 9, pt 14)**

Page 47, line 35 to page 48, line 1, from ‘temporary’ to  
‘section 149’—

*omit, insert—*

relevant employee

**26 Clause 58 (Insertion of new ch 9, pt 14)**

Page 48, lines 13 and 14—

*omit, insert—*

***relevant employee*** means a person employed on a  
temporary or casual basis under section 147 or  
148 as in force before the commencement.



**27 Clause 58 (Insertion of new ch 9, pt 14)**

Page 48, after line 26—

*insert—*

**294A Application of s 149B for existing temporary and casual employees**

- (1) This section applies in relation to a person if—
  - (a) immediately before the commencement, the person was an employee employed on a temporary or casual basis in a department under former section 147 or 148; and
  - (b) the day that is the end of 2 years of continuous employment in the department by the person occurs on or after the commencement; and
  - (c) section 293 does not apply to the person, or the person does not ask for a decision under that section.
- (2) Section 149B applies in relation to the person.
- (3) For applying section 149B—
  - (a) a reference in section 149B to a fixed term temporary employee is taken to include a reference to the person; and
  - (b) the period for which the person was continuously employed on a temporary or casual basis under former section 147 or 148 is to be taken into account for working out the period for which the person has been continuously employed in the department; and
  - (c) if the person is employed on a casual basis, the required period is taken to be the later of—
    - (i) 4 months after the commencement; or

- (ii) if a longer period for a particular class of employees of which the person is a member is agreed between the department's chief executive and an employee organisation for the class of employee, and approved by the commission chief executive—the longer period; or
  - (iii) the required period for the decision about the person under section 149B(9).
- (4) Subsection (5) applies if—
  - (a) the person is employed on a casual basis; and
  - (b) before the end of the required period mentioned in subsection (3)(c), the person would have become eligible for a review of the person's employment under former section 149A if the *Public Service and Other Legislation Amendment Act 2020* had not commenced.
- (5) In addition to section 149B as applied under subsections (2) and (3), former section 149A and any directive made under that section continue to apply in relation to the person as if the *Public Service and Other Legislation Amendment Act 2020* had not commenced.
- (6) In this section—
  - employee organisation*** see the *Industrial Relations Act 2016*, schedule 5.
  - former section 147 or 148*** means section 147 or 148 as in force before the commencement.
  - former section 149A*** means section 149A as in force before the commencement.

**28 Clause 58 (Insertion of new ch 9, pt 14)**

Page 52, after line 6—

*insert—*

**301 Validation of particular acts or omissions of  
WHS prosecutor**

- (1) This section applies to an act or omission of the WHS prosecutor, or a person performing a function or power of the WHS prosecutor under a purported delegation or subdelegation, before the commencement to the extent the act or omission would have been valid if amended schedule 1 were in force at the time of the act or omission.
- (2) The act or omission is taken to be, and to have always been, as valid as it would have been if amended schedule 1 were in force at the time of the act or omission.
- (3) In this section—

*amended schedule 1* means schedule 1 as in force on the commencement.

*WHS prosecutor* see the *Work Health and Safety Act 2011*, schedule 2, section 25.

**29 After clause 58**

Page 52, before line 7—

*insert—*

**58A Amendment of sch 1 (Public service offices  
and their heads)**

Schedule 1—

*insert—*

Office of the WHS Prosecutor  
under the *Work Health and  
Safety Act 2011*

Work Health and Safety  
Prosecutor

**30 Clause 59 (Amendment of sch 4 (Dictionary))**

Page 52, lines 20 to 23—

*omit, insert—*

*continuously employed*, in relation to a person employed in a department for a period, means the person is employed in the department—

- (a) continuously as a fixed term temporary employee for the period; or
- (b) as a casual employee on a regular and systematic basis during the period; or
- (c) continuously as an employee mentioned in subparagraphs (i) and (ii) for the period.

**31 After clause 59**

Page 53, after line 2—

*insert—*

**Part 5                      Amendment of Work  
Health and Safety Act  
2011**

**60 Act amended**

This part amends the *Work Health and Safety Act 2011*.

**61 Amendment of s 117 (Entry to inquire into suspected contraventions)**

Section 117(1), after ‘this Act’—

*insert—*

or the *Electrical Safety Act 2002*

**62 Amendment of s 118 (Rights that may be exercised while at workplace)**

Section 118(1), after ‘this Act’—

*insert—*

or the *Electrical Safety Act 2002*

**63 Amendment of s 120 (Entry to inspect employee records or information held by another person)**

Section 120(1), after ‘this Act’—

*insert—*

or the *Electrical Safety Act 2002*

**64 Amendment of s 132 (Consideration of application)**

Section 132(a), after ‘this Act’—

*insert—*

and the purpose of the *Electrical Safety Act 2002*

**65 Amendment of s 140 (Determination of application)**

Section 140(2)(a), after ‘this Act’—

*insert—*

and, if relevant, the purpose of the *Electrical Safety Act 2002*

**66 Insertion of new pt 16, div 7**

Part 16—

*insert—*

**Division 7**      **Transitional provision  
for Public Service and  
Other Legislation  
Amendment Act 2020**

**325 Validation of entries in relation to  
electrical safety contraventions**

- (1) Subsections (2) and (3) apply to an entry to a workplace by a WHS entry permit holder, made before the commencement purportedly under section 117, to inquire into an electrical safety contravention.
- (2) The entry is taken to be, and always to have been, as lawful as it would have been had section 117(1) applied in relation to electrical safety contraventions at the time of the entry.
- (3) An exercise of a right under section 118 while at the workplace is taken to be, and always to have been, as lawful as the exercise of the right would have been had section 118(1) applied in relation to electrical safety contraventions at the time of the entry.
- (4) Subsection (5) applies to an entry to a workplace by a WHS entry permit holder, made before the commencement purportedly under section 120, to inspect or make copies of employee records or other documents relevant to an electrical safety contravention.
- (5) The entry is taken to be, and always to have been, as lawful as it would have been had section 120 applied in relation to electrical safety contraventions at the time of the entry.
- (6) In this section—

*electrical safety contravention* means a

suspected contravention of the *Electrical Safety Act 2002* that occurred on or after 1 January 2012.

**32 Long title**

Long title, after ‘amend’—

*insert—*

**the *Building Industry Fairness (Security of Payment) and Other Legislation Amendment Act 2020,***

**33 Long title**

Long title, ‘and the *Public Service Act 2008*’—

*omit, insert—*

**, the *Public Service Act 2008* and the *Work Health and Safety Act 2011***

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