



Queensland

# **Restoring Fairness for Government Workers Bill 2013**





## Queensland

# Restoring Fairness for Government Workers Bill 2013

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**2013**

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**A Bill**

for

***An Act to amend the Industrial Relations Act 1999 and the  
Public Service Act 2008 for particular purposes***

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Restoring Fairness for Government Workers Act 2013*. 4  
5

**Part 2 Amendment of Industrial Relations Act 1999** 6  
7

**Clause 2 Act amended** 8

This part amends the *Industrial Relations Act 1999*. 9

**Clause 3 Amendment of s 3 (Principal object of this Act)** 10

Section 3(p)— 11

*omit.* 12

**Clause 4 Amendment of s 89 (When this division applies)** 13

Section 89(2)— 14

*omit.* 15

**Clause 5 Amendment of s 104 (Meaning of *engaging in* conduct for a *prohibited reason* for ch 4)** 16  
17

Section 104(1)(g) from ‘in—’ to ‘a secret’— 18

*omit, insert—* 19

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	in a secret	1
<b>Clause 6</b>	<b>Amendment of s 144 (What is to be done when an agreement is proposed)</b>	2
	Section 144(4A)—	3
	<i>omit.</i>	4
<b>Clause 7</b>	<b>Omission of s 147A (Employer may ask employees to approve proposed agreement being negotiated with employee organisation)</b>	5
	Section 147A—	6
	<i>omit.</i>	7
<b>Clause 8</b>	<b>Amendment of s 149 (Arbitration if conciliation unsuccessful)</b>	8
	(1) Section 149(5)(c)(ii) and (iii)—	9
	<i>omit, insert—</i>	10
	(ii) the likely effects of the commission's determination on the community, economy, industry generally and on the particular enterprise or industry concerned;	11
	(2) Section 149(11)—	12
	<i>omit.</i>	13
<b>Clause 9</b>	<b>Amendment of s 156 (Certifying an agreement)</b>	14
	Section 156(1)(a), note—	15
	<i>omit.</i>	16
<b>Clause 10</b>	<b>Amendment of s 174 (Protected industrial action)</b>	17
	Section 174(3A)—	18
	<i>omit.</i>	19

[s 11]

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<b>Clause 11</b>	<b>Replacement of ss 175–177A</b>	1
	Sections 175 to 177A—	2
	<i>omit, insert—</i>	3
	<b>175 Notice of industrial action to be given</b>	4
	(1) Section 174(2) does not apply to industrial action unless the person intending to take the action gives all of the negotiating parties—	5 6 7
	(a) if the action is in response to, and is taken after the start of, industrial action by another negotiating party in relation to a proposed agreement—written notice of the intended action; or	8 9 10 11 12
	(b) otherwise—at least 3 working days written notice of the intended action.	13 14
	(2) However, an employer who is negotiating an agreement with employees may take other reasonable steps to notify the employees of the intended action, instead of giving a written notice.	15 16 17 18 19
	(3) A notice must state the nature of the intended action and the day when it will begin.	20 21
	(4) A notice may be given before the end of the peace obligation period if the intended action does not start before the end of the period.	22 23 24
	<b>176 Secret ballot about taking industrial action</b>	25
	(1) This section applies if the commission considers—	26 27
	(a) industrial action is being taken, or industrial action is threatened or probable, in relation to a proposed certified agreement; and	28 29 30
	(b) finding out the relevant employees’ attitudes about the matters giving rise to the industrial action might help—	31 32 33



- 
- (i) to stop or prevent the industrial action; 1  
or 2
- (ii) to settle the matters. 3
- (2) The commission may order that a vote of 4  
employees be taken by secret ballot (with or 5  
without a provision for absent voting), in 6  
accordance with the commission's directions, to 7  
find out their attitudes about the matters. 8
- (3) After an order is made, the organising of, or 9  
engaging in, industrial action by the employee 10  
organisation or employees is not protected 11  
industrial action unless— 12
- (a) the ballot has been taken; and 13
- (b) the industrial action has been approved by a 14  
majority of the valid votes cast in the ballot. 15
- (4) The commission must revoke the order if after an 16  
order is made, but before the vote is taken, the 17  
commission forms the view that the ballot should 18  
not proceed because it has satisfied itself that— 19
- (a) the matters have been, or are about to be, 20  
settled; or 21
- (b) the industrial action has stopped or been 22  
prevented, or is about to stop or be 23  
prevented. 24
- (5) In subsection (3)— 25
- organisation* includes— 26
- (a) a member of the organisation; and 27
- (b) an officer or employee of the organisation 28  
acting in that capacity. 29

**177 Industrial action must be properly authorised** 30

- (1) Section 174 does not apply to industrial action 31  
engaged in by members of an employee 32

[s 11]

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- organisation that is a negotiating party unless, 1  
before the industrial action begins— 2
- (a) the industrial action is properly authorised 3  
by the organisation’s management 4  
committee or someone authorised by the 5  
committee to authorise the industrial action; 6  
and 7
- (b) if the organisation’s rules state the way 8  
industrial action is to be authorised—the 9  
industrial action is properly authorised 10  
under the rules; and 11
- (c) notice of the giving of the authorisation is 12  
given to the registrar. 13
- (2) Industrial action is taken to be properly 14  
authorised under an employee organisation’s 15  
rules even though a technical breach has 16  
happened in authorising the industrial action, if 17  
the person who committed the breach acted in 18  
good faith. 19
- (3) Examples of a technical breach in authorising 20  
industrial action include— 21
- (a) a contravention of the organisation’s rules; 22  
and 23
- (b) an error or omission in complying with this 24  
Act; and 25
- (c) participation, by a person not eligible to do 26  
so, in the making of a decision by a 27  
management committee, or by members, of 28  
the organisation. 29
- (4) Industrial action is taken to have been properly 30  
authorised under an employee organisation’s 31  
rules, and to have been authorised before the 32  
industrial action began, unless— 33

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	(a) the commission declares in proceedings that the industrial action was not properly authorised under the rules; and	1 2 3
	(b) the proceedings were brought in the commission within 6 months after the notice was given to the registrar under subsection (1)(c).	4 5 6 7
	(5) So far as an employee organisation's rules specify the way in which industrial action under this division is to be authorised, the rules do not contravene section 435 unless the way specified contravenes that section.	8 9 10 11 12
<b>Clause 12</b>	<b>Omission of ch 6, div 6A (Termination of protected industrial action by Minister)</b>	13 14
	Chapter 6, division 6A—	15
	<i>omit.</i>	16
<b>Clause 13</b>	<b>Amendment of s 182 (Penalty provisions)</b>	17
	(1) Section 182(d) and (f)—	18
	<i>omit.</i>	19
	(2) Section 182(e)—	20
	<i>renumber</i> as section 182(d).	21
<b>Clause 14</b>	<b>Amendment of s 183 (Penalties for contravening penalty provisions)</b>	22 23
	Section 183(6A) and (7A)—	24
	<i>omit.</i>	25
<b>Clause 15</b>	<b>Omission of ss 186 and 187</b>	26
	Sections 186 and 187—	27
	<i>omit.</i>	28

[s 16]

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<b>Clause 16</b>	<b>Amendment of s 285 (Conducting a secret ballot)</b>	1
(1)	Section 285(1), note—	2
	<i>omit.</i>	3
(2)	Section 285—	4
	<i>insert—</i>	5
	(5) A person must not—	6
	(a) resist or obstruct the registrar, a public service officer, or a person acting under the direction or authority of the registrar, performing a duty imposed, or an action directed or authorised to be done, for the ballot; or	7 8 9 10 11 12
	(b) at or near the place where the ballot is being taken—	13 14
	(i) threaten or intimidate, or obstruct the free passage of, an employee going to or attending at the place to vote at the ballot; or	15 16 17 18
	(ii) threaten or intimidate an employee so that the employee would not vote or would vote in a particular way at the ballot; or	19 20 21 22
	(c) obstruct an employee or another person in the performance of an action directed or authorised to be done for the ballot; or	23 24 25 26
	(d) by a threat or intimidation, prevent an employee or another person from performing an action directed or authorised to be done for the ballot; or	27 28 29 30
	(e) vote at the ballot unless the person—	31
	(i) is entitled to vote; and	32

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(ii)	has received a ballot paper from the registrar; or	1 2
(f)	vote at the ballot in someone else's name; or	3 4
(g)	if the person is entitled to vote at the ballot—mark a ballot paper relating to the ballot, other than the ballot paper received by the person from the registrar.	5 6 7 8 9
	Maximum penalty—40 penalty units.	10
(6)	In this section—	11
	<i>prevent</i> includes attempt to prevent.	12
	<i>resist or obstruct</i> includes attempt to resist or obstruct.	13 14
	<i>threaten or intimidate</i> includes attempt to threaten or intimidate.	15 16
	<i>vote</i> includes attempt to vote.	17
<b>Clause 17</b>	<b>Amendment of s 319 (Representation of parties)</b>	18
(1)	Section 319(2)(b) and (ba)—	19
	<i>omit, insert—</i>	20
(b)	for proceedings before the commission, other than proceedings under section 278 or 408F—	21 22 23
(i)	the proceedings relate to a matter under chapter 4, other than section 110; or	24 25
(ii)	all parties consent; or	26
(iii)	the proceedings relate to a matter under chapter 3, or under section 110, 275, 276 or 279, or under chapter 12, part 2 or part 16 and, on application by a party or person—	27 28 29 30 31

[s 18]

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	(A) the commission is satisfied,	1
	having regard to the matter the	2
	proceedings relate to, that there	3
	are special circumstances that	4
	make it desirable for the party or	5
	person to be legally represented;	6
	or	7
	(B) the commission is satisfied the	8
	party or person can be adequately	9
	represented only by a lawyer; or	10
(2)	Section 319(4), ‘subsection (2)(ba)(ii)’—	11
	<i>omit, insert—</i>	12
	subsection (2)(b)(iii)	13
<b>Clause 18</b>	<b>Omission of ch 8, pt 7 (Other matters)</b>	14
	Chapter 8, part 7—	15
	<i>omit.</i>	16
<b>Clause 19</b>	<b>Omission of s 664A (Interference with protected action ballot or secret ballot conducted by commission etc.)</b>	17
	Section 664A—	18
	<i>omit.</i>	19
<b>Clause 20</b>	<b>Omission of ch 15, pt 1, hdg (General)</b>	20
	Chapter 15, part 1, heading—	21
	<i>omit.</i>	22
<b>Clause 21</b>	<b>Omission of ch 15, pt 2 (Particular provisions of industrial instruments)</b>	23
	Chapter 15, part 2—	24
	<i>omit.</i>	25
		26
		27

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<b>Clause 22</b>	<b>Insertion of new ch 20, pt 16</b>	1	
	Chapter 20—	2	
	<i>insert—</i>	3	
	<b>Part 16</b>	<b>Transitional provisions</b>	4
		<b>for Restoring Fairness</b>	5
		<b>for Government</b>	6
		<b>Workers Act 2013</b>	7
	<b>789 Definitions for pt 16</b>	8	
	In this part—	9	
	<i>amending Act</i> means the <i>Restoring Fairness for</i>	10	
	<i>Government Workers Act 2013</i> .	11	
	<i>commencement</i> means the commencement of	12	
	this part.	13	
	<b>790 Continuation of repealed s 147A in relation to</b>	14	
	<b>particular proposed agreements</b>	15	
	Sections 144 and 147A, as in force immediately	16	
	before the commencement, continue to apply to a	17	
	proposed agreement if a request mentioned in	18	
	section 147A(2) was made before the	19	
	commencement.	20	
	<b>791 Application of amended s 149(5)</b>	21	
	(1) Section 149(5), as amended by the amending	22	
	Act, section 8, applies to the arbitration of a	23	
	matter only if the arbitration starts on or after the	24	
	commencement.	25	
	(2) For subsection (1), an arbitration <i>starts</i> when the	26	
	requirements under section 149(1)(a), (b) or (c)	27	
	are first satisfied.	28	

[s 22]

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<b>792 Application of amendments about protected industrial action</b>	1 2
Sections 174 to 177, as amended or replaced by the amending Act, section 10 or 11 apply to industrial action started on or after the commencement.	3 4 5 6
<b>793 Application of amended s 319</b>	7
Section 319, as amended by the amending Act, section 17 applies to all proceedings before the commission started on or after the commencement.	8 9 10
<b>794 Effect of amending Act on particular provisions of relevant industrial instruments</b>	11 12
(1) On the commencement, a provision of a relevant industrial instrument to which repealed section 691C or 691D applied while the section was in force has the same effect as it had immediately before the commencement of the repealed section.	13 14 15 16 17 18
<i>Note—</i>	19
Repealed sections 691C and 691D commenced on 29 August 2012.	20 21
(2) The repeal of section 691C or 691D by the amending Act, section 21 does not affect the validity of anything done or omitted to be done wholly or partly in reliance on the repealed section while it was in force.	22 23 24 25 26
(3) Subsection (2) does not limit the <i>Acts Interpretation Act 1954</i> , section 20.	27 28
(4) In this section—	29
<i>relevant industrial instrument</i> has the meaning given under repealed section 691A as in force from time to time.	30 31 32



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<b>Clause 23</b>	<b>Omission of sch 4 (Provisions for protected action ballots)</b>	1 2
	Schedule 4—	3
	<i>omit.</i>	4
<b>Clause 24</b>	<b>Amendment of sch 4A (Application of this Act to prescribed Hospital and Health Services and their employees)</b>	5 6 7
	Schedule 4A, sections 12A, 22B and 32 to 37—	8
	<i>omit.</i>	9
<b>Clause 25</b>	<b>Amendment of sch 5 (Dictionary)</b>	10
	Schedule 5, definitions <i>ECQ</i> , <i>Minister</i> , <i>post-industrial action negotiation period</i> , <i>protected action ballot</i> , <i>protected action ballot order</i> and <i>termination declaration</i> —	11 12 13
	<i>omit.</i>	14
<b>Part 3</b>	<b>Amendment of Public Service Act 2008</b>	15 16
<b>Clause 26</b>	<b>Act amended</b>	17
	This part amends the <i>Public Service Act 2008</i> .	18
<b>Clause 27</b>	<b>Amendment of s 23 (Application of Act to public service offices declared under a regulation)</b>	19 20
	Section 23—	21
	<i>insert</i> —	22
	(3) However, an application provision can not reduce an employee’s overall employment conditions, unless—	23 24 25

[s 28]

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	(a) the reduction arises out of a change in the	1
	employee's employment; and	2
	(b) the change was sought by the employee.	3
<b>Clause 28</b>	<b>Amendment of s 53 (Rulings by commission chief executive)</b>	4
	Section 53(baa)—	5
	<i>omit.</i>	6
		7

Authorised by the Parliamentary Counsel