

Education, Employment and Small Business Committee:
Public Service and Other Legislation Amendment Bill 2020
Report No. 34, 56th Parliament

Introduction

On 16 July 2020, the *Public Service and Other Legislation Amendment Bill 2020* (the Bill) was introduced into Parliament.

The Bill was subsequently referred to the Education, Employment and Small Business Committee (the Committee).

On 28 August 2020, the Committee tabled Report No. 34 in relation to the Bill.

The Queensland Government response to the Committee's recommendations in Report No. 34 are provided below.

Recommendation 1

The Committee recommends that the Public Service and Other Legislation Amendment Bill 2020 be passed.

Government response: Noted

The Government notes this recommendation.

Recommendation 2

The Committee recommends the Department of the Premier and Cabinet investigates an appropriate mechanism to provide fairness and transparency of the decision-making process to a person where the chief executive does not make a conversion decision within 28 days, pursuant to proposed new sections 149A and 149C of the *Public Service Act 2008*.

Government response: Accepted

The Department of the Premier and Cabinet (the Department) has investigated the issues raised and accepts Recommendation 2. The issues have been addressed through amendments to supporting policy directives and the Bill.

Amendments to the temporary, casual and higher duties directives will enable the Public Service Commission to request agencies to report on the number of known deemed decisions in relation to conversion reviews, including under proposed new sections 149A and 149C.

An amendment will also be progressed to the Bill to require that in making a decision in a conversion review after two years employment as a fixed term temporary or casual employee and each year thereafter, a chief executive must have regard to previous conversion review decisions made about the employee (including deemed decisions) and the reasons for those decisions. The outcome of this consideration will be included in the notice required to be provided to an employee where a decision not to convert to permanency is made.

These changes will improve fairness and transparency by promoting accountability in decision making and encouraging chief executives to actively track and review the number of deemed decisions within their agency, and the effectiveness of workforce and resource planning in respect of conversion reviews.

Additional matters raised in Report No. 34

The Committee recognised the need for directives to support the objectives of the Bill, and to provide a timely response as issues arise relating to the operational administration of the public service. The Committee also noted that the Bill as currently drafted in respect of delegating the detail of matters to directives, does have sufficient regard for the institution of parliament. However, the Committee did note the concerns of stakeholders that the consultation processes for directives are not as robust as the consultation involved when amending primary legislation.

The Government acknowledges the matters raised by the Committee which reflect stakeholder submissions, including those made by public sector unions and individual employees. The Government also supports the Committee's view that the inclusion of broad frameworks in legislation to guide the content of directives where possible is best practice, and will work with stakeholders to identify opportunities to continue to align with best practice through stage two public sector reforms, including in developing and consulting on a new Public Sector Act. Further, the Government notes that an important reform progressed by the Bill allows for employees to ask that certain matters be reviewed by the Public Service Commission where an employee considers that there has not been compliance with a directive.

The Committee also suggested that as public sector reforms progress, the Department consult with the Queensland Law Society and relevant stakeholders about the transfer of provisions from the *Public Service Act 2008* to the *Industrial Relations Act 2016* that maintain, for public service appeals, that a party may not be represented by a person instructed to act as a legal representative. The Government notes this proposal.