GSE briefing

Government Sector Employment Act 2013
The Government Sector Employment Act 2013 is the new legislation to replace the Public Sector Employment Management Act 2002.

Commencement date 24 February 2014.

Applies to the ‘government sector’ and within that, the ‘public service’.

Reforms employment arrangements but not employment conditions, no impact on Crown Employees Conditions Award.
GSE structure

Act

NSW Parliament

Regulation

Executive Government

Rules

Public Service Commission
NSW Government Sector

- Public Service
- Teaching Service
- Police Force
- Health Service
- Transport Service
- Other Crown Services
- Other bodies: SoCs

GOVERNMENT SECTOR
consultation

• PSA has been involved in an exhaustive consultation process with the Public Service Commission (PSC) on the draft GSE Rules and Regulation over a truncated time frame

• We thank members for taking the time to provide their feedback on the draft GSE Rules and Regulation

marks where our feedback has been adopted and members have had the opportunity to impact the final GSE Rules and Regulation

• For further details of where our feedback has been adopted please see our website for ‘PSA wins’
# Key Changes

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<td>SES</td>
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<td>before (PSEM)</td>
<td>after (GSE)</td>
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<td>---------------------------------</td>
<td>------------------------------------------------</td>
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<tr>
<td>position</td>
<td>role</td>
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<td>permanent employment</td>
<td>ongoing employment</td>
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<tr>
<td>eligibility list</td>
<td>talent pool</td>
</tr>
<tr>
<td>higher duties</td>
<td>above level allowance for temporary assignment</td>
</tr>
<tr>
<td>officer</td>
<td>non-executive employee</td>
</tr>
<tr>
<td>appointed to a position</td>
<td>assigned to a role</td>
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</table>
GSE regulation

Government Sector Employment Regulation 2013
excess employees

Mee* policy now to be a GSE rule

- existing policies that relate to managing excess employees will be dealt with in the GSE Rules

- the only provision which will remain in the GSE Reg relates to repayment for re-employment in the sector

consultation on the new rule

- the new GSE rule is currently being drafted by PSC and is subject to a 6 week consultation period commencing shortly after 24 February 2014

current policy summary

- 3 months to redeploy excess employee to a role in the government sector

- agency head must take ‘all practicable steps’ to redeploy staff within the sector

*mee is managing excess employees
increments

**before**

*PSEMA Reg*: incremental progression is subject to satisfactory conduct and satisfactory performance of duties

**after**

*GSE Reg*: incremental progression is subject to satisfactory conduct and performance criteria under the agency’s performance development framework
higher duties

<table>
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<tr>
<th>renamed</th>
<th>elements</th>
<th>part time employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘higher duties’ will be renamed ‘above level allowance for temporary assignment’</td>
<td>Non-executive acting in SES role</td>
<td>not to be disadvantaged</td>
</tr>
<tr>
<td>Will cover assignments (movements within agency) and secondments (movements outside agencies)</td>
<td>For no less than 5 days</td>
<td>clarification to be made in revised GSE Reg</td>
</tr>
<tr>
<td>Execs can be assigned around the sector</td>
<td>Paid an allowance - the difference between usual salary and the acting role</td>
<td></td>
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</table>
extended leave

current provisions preserved

- Public service extended leave entitlements
  - PSEMA: Schedule 3 is replicated in the new GSE Reg: Schedule 1

- Government sector employees recognition of prior service
  - PSEMA: Schedule 3A is replicated in the new GSE Reg: Schedule 2
GSE rules

Government Sector Employment Rules 2013
## Merit Selection

### Capability-Based Assessment
- is the process that assesses a person’s capabilities against those required for a role
- assessments used should measure all 16 core capabilities (and 4 people management capabilities, if applicable to role)
- may include interview, role play, work sample test, psychometric testing, reference check or group exercise

### Suitability Assessment
- this is the minimum assessment required
- assessment of an applicant against the requirements of the role not against other applicants
- at least 2 assessments, one of which is an interview

### Comparative Assessment
- assessment of an applicant’s claim against (a) the pre-established standards for the role; and (b) other person’s claims
- at least 3 assessments, one of which is an interview
- it is the basis for ongoing employment and for temporary employment for longer than 6 months
temporary employment

max period of employment

• previously 3 years
• now 4 years with an option to extend

up to 6 months

• must be from talent pool or another list
• based on suitability assessment

more than 6 months

• must be based on comparative assessment and an external advertisement
# Promotion Decisions

<table>
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<th>What is a Review?</th>
<th>Who Conducts the Review?</th>
<th>What Findings Can Be Made?</th>
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<tr>
<td>• Internal review of a selection process</td>
<td>• Reviewer is a senior executive not involved in the selection process for the role</td>
<td>• May confirm the decision: or</td>
</tr>
<tr>
<td>• Limited to looking at whether the process was</td>
<td>• Must conduct review within 10 days</td>
<td>• May make a recommendation to revoke the decision and carry out another process</td>
</tr>
<tr>
<td>irregular or improper</td>
<td></td>
<td>• Reviewer’s decision is final</td>
</tr>
<tr>
<td>• Not a review of the merit of recommended employee for the role</td>
<td></td>
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**WIN**
transfers & secondments

transfers between government sector
- by agreement between agencies, can be requested by employee
- at same or equivalent grade or level
- employer must provide reasonable notice of transfer, employee can request a review of transfer

temporary secondments between government sector
- by agreement between agencies
- not to exceed 2 years

consultation and review
- employee consultation required: s64(2) GSEA
- review is conducted by SES not involved in decision, within 10 days, employee may make submissions on reasons why transfer would cause undue hardship
- reviewer to determine if review was appropriate having read to all relevant circumstances, their decision is final
transition from SO to SES

- Senior officers ‘in scope’ will transition to new SES within 3 years of the GSE Act commencing
- Clusters must provide an implementation plan to PSC within 6 months
- Senior officers will be removed from the award based system and transferred to ongoing contracts

contract of employment

- Schedule 1 GSE Rules, all provisions are mandatory
- Part time work may be available

clauses of concern

- SES are not entitled to flex leave or overtime
- SES must work the hours necessary to perform the role
transition

• on 24 February 2014 the GSE Act, Reg and Rules will commence
• PSC is currently drafting a transition regulation to preserve all existing ‘on foot’ arrangements
• relates to enquiries, recruitments, e-lists, promotion decisions before IRC, acting arrangements, probation periods, temp arrangements, transfers, secondments that are in existence before 24 February 2014 will continue under PSEMA
• a permanent officers is now engaged in ongoing employment
• temp or casual remain temp or casual
• non-executives are assigned to a role and not appointed to a position, may be reassigned to work at the same level and within the same work type, 3 year transition time frame
Click on the Government Sector Employment Act hyperlink
PSA’s Preliminary Analysis Report, Dec 2013
PSA’s formal feedback on the draft Regulation and Rules, Jan 2014
Consultation draft Regulation and Rules
PSA feedback adopted in ‘PSA wins’