



New South Wales

Government Sector Employment Rules (Amendment No 6—Consequential Amendments) 2016

under the

Government Sector Employment Act 2013

I, Graeme Head, Public Service Commissioner, in pursuance of the *Government Sector Employment Act 2013*, make the following Rule.

GRAEME HEAD
Public Service Commissioner

Government Sector Employment Rules (Amendment No 6— Consequential Amendments) 2016

under the

Government Sector Employment Act 2013

1 Name of Rule

This Rule is the *Government Sector Employment Rules (Amendment No 6—Consequential Amendments) 2016*.

2 Commencement

This Rule commences on 1 July 2016 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Government Sector Employment Rules 2014

[1] Rule 28 Application of Part

Omit “excluded by section 5 of the Act” from rule 28 (2).

Insert instead “in which persons excluded from the Act by section 5 of the Act are employed”.

[2] Rule 36 Dealing with unsatisfactory performance

Omit “The head of a government sector agency may not take any action under section 68 (2) of the Act in relation to an employee” from rule 36 (1).

Insert instead “The person who exercises employer functions (the *employer*) in relation to a person employed in a government sector agency (the *employee*) may not take any action under section 68 (2) of the Act in relation to the employee”.

[3] Rules 36 (1) (a), (c) and (e), 38 (2), (3), (5) and (6), 40 (1) (b) and (2)–(5) and 41 (2)

Omit “agency head” wherever occurring. Insert instead “employer”.

[4] Rule 36 (2)

Omit the subrule.

[5] Rule 36, note

Insert at the end of rule 36:

Note. This rule does not apply in relation to police officers because of section 68 (3) of the Act.

[6] Rule 38 Initial stage for dealing with allegations of misconduct

Omit rule 38 (1). Insert instead:

(1) An allegation of misconduct by an employee of a government sector agency may be made by any person to the person who exercises employer functions in relation to the employee.

(1A) The employee in respect of whom the allegation is made is referred to in this Part as the *relevant employee* and the person who exercises employer functions in relation to the employee is referred to in this Part as the *employer*.

[7] Rule 38 (5)

Omit “agency head’s”. Insert instead “employer’s”.

[8] Rule 39 Inquiries

Omit rule 39 (1). Insert instead:

(1) The employer may, in dealing with an allegation of misconduct, conduct such inquiries as the employer thinks appropriate for the purposes of determining whether the misconduct has occurred.

[9] Rule 40 Findings by employer

Omit “An agency head” from rule 40 (1). Insert instead “The employer”.

[10] Rule 41 Records relating to misconduct

Omit rule 41 (1). Insert instead:

- (1) If an allegation of misconduct by an employee of a government sector agency is made under this Part, the employer is to keep a written record of the proceedings and action taken in respect of the allegation.