

# Industrial Relations (Public Sector Conditions of Employment) Regulation 2014

[2014-384]



New South Wales

## Status Information

### Currency of version

Historical version for 29 May 2020 to 1 June 2020 (accessed 18 July 2024 at 10:21)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Expiry**

Cl 5A of this Regulation expires on 1.1.2024 — see cl 5A(3).

Cl 6(5) of this Regulation expires on 1.1.2024 — see cl 6(6).

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes (em-dashes). Text of the legislation is not affected.

This version has been updated.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 29 May 2020

# Industrial Relations (Public Sector Conditions of Employment) Regulation 2014



New South Wales

## Contents

1 Name of Regulation .....	3
2 Commencement .....	3
3 Definition .....	3
4 Declarations under section 146C.....	3
5 Paramount policies .....	3
5A Temporary wages policy .....	4
6 Other policies .....	4
7 The guaranteed minimum conditions of employment .....	6
8 Meaning of employee-related costs.....	6
9 Meaning of employee-related cost savings .....	7
10 Exception for pending proceedings concerning police officers .....	7

# Industrial Relations (Public Sector Conditions of Employment) Regulation 2014



New South Wales

## 1 Name of Regulation

This Regulation is the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014*.

## 2 Commencement

This Regulation commences on the day on which Schedule 5.2 to the *State Revenue and Other Legislation Amendment (Budget Measures) Act 2014* commences.

## 3 Definition

In this Regulation—

**the Act** means the *Industrial Relations Act 1996*.

## 4 Declarations under section 146C

The matters set out in this Regulation are declared, for the purposes of section 146C of the Act, to be aspects of government policy that are to be given effect to by the Industrial Relations Commission when making or varying awards or orders.

## 5 Paramount policies

The following paramount policies are declared—

- (a) Public sector employees are entitled to the guaranteed minimum conditions of employment (being the conditions set out in clause 7).
- (b) Equal remuneration for men and women doing work of equal or comparable value.

### Note—

Clause 6(1)(c) provides that existing conditions of employment in excess of the guaranteed minimum conditions may only be reduced for the purposes of achieving employee-related cost savings with the agreement of the relevant parties.

Clause 9(1)(e) provides that conditions of employment cannot be reduced below the guaranteed minimum conditions of employment for the purposes of achieving employee-related cost savings.

## 5A Temporary wages policy

- (1) Public sector employees are not to be awarded increases in remuneration or other conditions of employment that would increase employee-related costs in relation to the employees during the relevant period.
- (2) The policy in subclause (1) does not apply—
  - (a) to the making of an award or order in relation to public sector employees if an earlier award or order has already given effect to the policy set out in that subclause in relation to the public sector employees, or
  - (b) to the varying of an award or order if the variation is to an award or order that has already given effect to the policy set out in that subclause, or
  - (c) if the relevant parties to the proceedings for the making or varying of the award or order that would award increases in remuneration or other conditions of employment agree it should not apply.
- (3) This clause expires on 1 January 2024.
- (4) In this clause—

**last awarded increase**, in relation to remuneration or other conditions of employment, means the last increase in the remuneration or other conditions awarded before the commencement of the [Industrial Relations \(Public Sector Conditions of Employment\) Amendment \(Temporary Wages Policy\) Regulation 2020](#).

**last pay increase day**, for public sector employees, means the day on which the last awarded increase in remuneration or other conditions of employment that increased employee-related costs in relation to the employees is applied.

**relevant parties**, in relation to proceedings for the making or variation of an award or order, are—

- (a) the employer, and
- (b) any other party to the proceedings that is an industrial organisation of employees with one or more members whose interests are directly affected by the matter.

**relevant period**, for public sector employees, means the period—

- (a) starting on the day that is 12 months after the last pay increase day for the employees, and
- (b) ending on the day that is 12 months after the day the period starts.

## 6 Other policies

- (1) The following policies are also declared, but are subject to compliance with the

declared paramount policies—

- (a) Public sector employees may be awarded increases in remuneration or other conditions of employment, but only if employee-related costs in respect of those employees are not increased by more than 2.5% per annum as a result of the increases awarded together with any new or increased superannuation employment benefits provided (or to be provided) to or in respect of the employees since their remuneration or other conditions of employment were last determined.
  - (b) Increases in remuneration or other conditions of employment can be awarded even if employee-related costs are increased by more than 2.5% per annum, but only if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs beyond 2.5% per annum. For this purpose—
    - (i) whether relevant savings have been achieved is to be determined by agreement of the relevant parties or, in the absence of agreement, by the Commission, and
    - (ii) increases may be awarded before the relevant savings have been achieved, but are not payable until they are achieved, and
    - (iii) the full savings are not required to be awarded as increases in remuneration or other conditions of employment.
  - (c) For the purposes of achieving employee-related cost savings, existing conditions of employment of the kind but in excess of the guaranteed minimum conditions of employment may only be reduced with the agreement of the relevant parties in the proceedings.
  - (d) Awards and orders are to resolve all issues the subject of the proceedings (and not reserve leave for a matter to be dealt with at a later time or allow extra claims to be made during the term of the award or order). However, this does not prevent variations made with the agreement of the relevant parties.
  - (e) Changes to remuneration or other conditions of employment may only operate on or after the date the relevant parties finally agreed to the change (if the award or order is made or varied by consent) or the date of the Commission's decision (if the award or order is made or varied in arbitration proceedings).
  - (f) Policies regarding the management of excess public sector employees are not to be incorporated into industrial instruments.
- (2) Subclause (1)(e) does not apply if the relevant parties otherwise agree or there are exceptional circumstances.
- (3) The **relevant parties** in relation to a matter requiring agreement under this clause

are the employer and any other party to the proceedings that is an industrial organisation of employees with one or more members whose interests are directly affected by the matter.

- (4) In subclause (1)(a), **new or increased superannuation employment benefits** means any new or increased payments by an employer to a superannuation scheme or fund of an employee as a consequence of amendments to the [Superannuation Guarantee \(Administration\) Act 1992](#) of the Commonwealth or the [State Authorities Non-contributory Superannuation Act 1987](#).
- (5) To the extent of any inconsistency between the policy set out in subclause (1)(a) or (b) and clause 5A, the policy set out in subclause (1)(a) or (b) is not to be given effect to by the Industrial Relations Commission when making or varying awards or orders.
- (6) Subclause (5) expires on 1 January 2024.

## 7 The guaranteed minimum conditions of employment

- (1) For the purposes of this Regulation, the **guaranteed minimum conditions of employment** are as follows—
  - (a) Unpaid parental leave that is the same as that provided by the National Employment Standards.
  - (b) Paid parental leave that applies to the relevant group of public sector employees on the commencement of this clause.
  - (c) Employer payments to employee superannuation schemes or funds (being the minimum amount prescribed under the relevant law of the Commonwealth).
- (2) The **guaranteed minimum conditions of employment** also include the following—
  - (a) Long service or extended leave (being the minimum leave prescribed under the [Government Sector Employment Act 2013](#) or the [Long Service Leave Act 1955](#), whichever Act is applicable to the employment concerned).
  - (b) Annual leave (being the minimum leave prescribed under the [Annual Holidays Act 1944](#)).
  - (c) Sick leave entitlements under section 26 of the Act.
  - (d) Public holiday entitlements under the [Public Holidays Act 2010](#).
  - (e) Part-time work entitlements under Part 5 of Chapter 2 of the Act.

## 8 Meaning of employee-related costs

- (1) For the purposes of this Regulation, **employee-related costs** are the costs to the employer of the employment of public sector employees, being costs related to the

salary, wages, allowances and other remuneration payable to the employees and the superannuation and other personal employment benefits payable to or in respect of the employees.

- (2) In subclause (1), **superannuation benefits** include any payments by the employer to a superannuation scheme or fund of an employee as a consequence of the enactment of or amendments to the *Superannuation Guarantee (Administration) Act 1992* of the Commonwealth or the *State Authorities Non-contributory Superannuation Act 1987*.

## 9 Meaning of employee-related cost savings

- (1) For the purposes of this Regulation, **employee-related cost savings** are savings—
- (a) that are identified in the award or order of the Commission that relies on those savings, and
  - (b) that involve a significant contribution from public sector employees and generally involve direct changes to a relevant industrial instrument, work practices or other conditions of employment, and
  - (c) that are not existing savings (as defined in subclause (2)), and
  - (d) that are additional to whole of Government savings measures (such as efficiency dividends), and
  - (e) that are not achieved by a reduction in guaranteed minimum conditions of employment below the minimum level.
- (2) Savings are **existing savings** if they are identified in a relevant industrial instrument made before the commencement of this Regulation (or in an agreement contemplated by such an industrial instrument) and are relied on by that industrial instrument, whether or not the savings have been achieved and whether or not they were or are achieved during the term of that industrial instrument.

## 10 Exception for pending proceedings concerning police officers

This Regulation does not apply to the following proceedings—

- (a) proceedings pending before the Commission in respect of police officers and designated IRC 325/2011 (limited to those proceedings as in force on the commencement of this Regulation),
- (b) proceedings on a cross-claim or counter application made in connection with those pending proceedings.