



# Redeployment and Redundancy

## Commissioner's Instruction 12

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### Statement of intent

To set procedural requirements to support matters involving redeployment and redundancy.

### Scope and application

This Instruction applies to all public sector bodies and employees under the *Public Sector Management Act 1994* (PSM Act) except employees listed in regulation 5 of the Public Sector Management (Redeployment and Redundancy) Regulations 2014 (Regulations).

Where there is any inconsistency between the provisions of this Instruction and the provisions of Commissioner's Instructions 48: Recruitment, Selection and Appointment to Permanent Positions; 49: Recruitment, Selection and Appointment to Fixed Term Positions and Commissioner's Instruction 50: Backfilling Temporary Vacancies prevail.

### References

- [Public Sector Management Act 1994 \(Part 6\)](#)
- [Public Sector Management \(Redeployment and Redundancy\) Regulations 2014 \(Regulations\)](#)
- [Commissioner's Instruction 48: Recruitment, Selection and Appointment to Permanent Positions](#)
- [Commissioner's Instruction 49: Recruitment, Selection and Appointment to Fixed Term Positions](#)
- [Commissioner's Instruction 50: Backfilling Temporary Vacancies](#)
- Relevant provisions in applicable industrial instruments

### Definitions

**Surplus employees:** Registrable and registered employees as defined in section 94(1A) (a), (b) and (c) of the PSM Act.

**Referral:** Act of providing the details of a surplus employee to a hiring manager within another public sector body.

## Instruction

### **1. Registrable employees**

#### 1.1 Consultation (Regulation 8)

As soon as practicable after a determination is made that an employee may become registrable, a public sector body must ensure that the employee is given an appropriate opportunity to comment and express their view concerning the determination.

#### 1.2 Transfer (Regulation 10)

A public sector body must only transfer a registrable employee to a position that is suitable according to the meaning given in section 94(6)(a) and (b) of the PSM Act as read with Regulation 7(1)(a).

#### 1.3 Offering voluntary severance (Regulation 11)

Before an offer of voluntary severance is made to a registrable employee, a public sector body must take reasonable steps to:

- a) ensure the employee does not work in a high demand occupation or in an occupational group facing employment shortages or where demands exist in the public sector at the registrable employee's current regional location (including the metropolitan area)
- b) ensure where there is a reasonable likelihood of the employee being found suitable alternative employment elsewhere in the public sector, offers of voluntary severance are not made
- c) provide reasons in writing for refusals of requests for voluntary severances
- d) ensure severance is not paid to address discipline, substandard performance or ill-health issues as appropriate mechanisms exist elsewhere
- e) consult with the Insurance Commission of Western Australia before offering any voluntary severances where there is a workers' compensation claim in progress
- f) keep records of any severance offers and payments made and provide these to the Public Sector Commission when requested.

#### 1.4 Severance and other payment amounts (Regulations 13, 25, 26 and 40)

Where a public sector body is required to determine and make a payment under the Regulations to a surplus employee who is covered by a Commonwealth award, that payment must be an amount equivalent to the shortfall between any redundancy payment to which the employee is entitled under the Commonwealth award and the amount that would be payable to the employee under the Regulations if they were not covered by a Commonwealth award.

### **2. Registered employees**

#### 2.1 Registration (Regulation 18)

Public sector bodies must:

- a) not register an employee for redeployment to address disciplinary, substandard performance or ill-health issues as appropriate mechanisms exist elsewhere

- b) have a discussion with the Insurance Commission of Western Australia before registering an employee where there is a workers' compensation claim in progress
- c) keep records of the registration of the employee and provide these to the Public Sector Commission when requested.

## 2.2 Retraining (Regulation 20)

Where a public sector body makes arrangements for retraining a registered employee, those arrangements must be in writing and include the circumstances of how the arrangement can be terminated.

## 2.3 Management (Regulation 21)

- a) A public sector body must:
  - i. provide case management to a registered employee to ensure they are supported in identifying, being referred to and given priority consideration for alternative suitable vacancies or retraining opportunities
  - ii. provide a surplus employee with meaningful interim work arrangements which could be different from work undertaken in their former position.
- b) A registered employee must actively participate in the redeployment process by:
  - i. genuinely considering job opportunities presented to them
  - ii. engaging in retraining opportunities provided
  - iii. performing meaningful interim work as directed by the public sector body.

## 2.4 Offers of employment (Regulation 22)

When making an offer of employment to a registered employee on a fixed term contract, a public sector body cannot make an offer that extends beyond the duration of the existing fixed term contract.

## 2.5 Directions to offer or accept employment (Regulation 23, 24)

Any request to the Commissioner to issue a direction must be made by at least one of the public sector bodies involved with the redeployment of the relevant registered employee.

## 2.6 Suspending redeployment periods or revoking registration (Regulation 29)

- a) Where a dispute about a 'section 94 decision' is before the Western Australian Industrial Relations Commission for resolution, a public sector body must consider suspending the relevant employee's redeployment period until that process has been finalised.
- b) Where a registered employee is, or becomes, the subject of a workers' compensation claim, a public sector body must discuss the claim with the Insurance Commission of Western Australia before making a decision to suspend the redeployment period.
- c) Where any decision to suspend the redeployment period to facilitate retraining or secondment is made, those suspensions must not exceed a total of 6 months within the same redeployment period.

### 3. Priority access to vacancies

- a) Where a public sector body seeks to fill a vacancy for a period longer than 12 months, they must make details of that vacancy available and accessible on the government jobs platform except where limited search is used in accordance with Commissioner's Instruction 48: Recruitment, Selection and Appointment to Permanent Positions or Commissioner's Instruction 49: Recruitment, Selection and Appointment to Fixed Term Positions.
- b) Public sector bodies must place suitable surplus employees in permanent and fixed term vacancies in accordance with Commissioner's Instruction 48: Recruitment, Selection and Appointment to Permanent Positions; Commissioner's Instruction 49: Recruitment, Selection and Appointment to Fixed Term Positions; Commissioner's Instruction 50: Backfilling Temporary Vacancies and industrial provisions.
- c) If an external surplus employee is referred to them, a public sector body must, unless agreed with the referring public sector body, complete and return to the latter a formal assessment of suitability within 10 working days of referral.
- d) In assessing the suitability of a surplus employee for placement in a vacancy, a public sector body must consider the employee's ability to fulfil the requirements of the vacancy within a reasonable period of time, with reasonable training.

### 4. Information about payments

#### 4.1 Provide information (Regulation 41)

Where any payments are made to employees under a regulation referred to in Regulation 41, public sector bodies must:

- a) advise the Public Sector Commissioner
- b) include the names and former positions of the employees, payment amounts and calculation details.