



TASMANIA
PREMIER OF TASMANIA

1 JUN 2020

Mr Stuart Wright
Secretary
Joint Standing Committee on Subordinate Legislation
Email: subleg@parliament.tas.gov.au

Dear Mr Wright

Notice under Section 16 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

On 29 May 2020 a Notice under Section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 (the Act)* was published in the *Tasmanian Government Gazette*.

The Notice facilitates the continued employment of fixed-term casual (however named) employees throughout the COVID-19 pandemic who have applied for the Expression of Interest for interoperability and but for COVID-19, the employment would not have continued past the current employment term. The effect of the Notice is to extend the employment on the same terms of the previous arrangement until the emergency cessation date or until the Notice is otherwise revoked.

Section 7(3) of the Act specifies that, if a Minister issues a notice under the Act, they must send a copy of the notice to the Joint Standing Committee on Subordinate Legislation (the Committee) within 14 days.

Section 7(4) of the Act specifies that sections 7(4), 8 and 9 of the *Subordinate Legislation Committee Act 1969* apply to a copy of a notice sent to the Committee under section 7(3) of the COVID-19 Act as if the notice were regulations.

Please find attached for the Committee's consideration the Notice under Section 16 of the Act (refer to Attachment 1) and the advice provided by the Chief Parliamentary Counsel in respect of the Notice (refer to Attachment 2).

Yours sincerely

Peter Gutwein MP
Premier

Attachments

- 1 Notice under Section 16
- 2 Advice from the Chief Parliamentary Counsel

TASMANIA

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

NOTICE UNDER SECTION 16

I, PETER CARL GUTWEIN, the Premier, in pursuance of section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ("the Act"), being of the opinion that the relevant emergency circumstances exist in relation to this notice and with the approval of the emergency manager, declare that, despite the provisions of the *State Service Act 2000*, the period of employment of a person, who is employed in an Agency, within the meaning of that Act, and whose employment in the Agency is fixed-term casual, sessional, seasonal or relief in nature –

- (a) is taken to remain in force, on the same terms and conditions, if –
 - (i) the person is employed under an instrument of appointment which –
 - (A) is in force; but
 - (B) expires before the emergency cessation day is declared under the Act; and
 - (ii) the appointment of the person is not extended or renewed; and
 - (iii) the person has applied, and been accepted as eligible, through the State Service Expression of Interest for such employees to be made available for emergency management purposes; and
 - (iv) the person falls within the classes of persons listed in Schedule to the direction of the State Controller, made under the *Emergency Management Act 2006* on 8 May 2020 as amended or substituted from time to time, that directs such persons to be made available for emergency management purposes until further notice; and

- (b) is extended until the first of the following occurs:
 - (i) the emergency cessation day is declared under the Act;
 - (ii) the direction of the State Controller, made under the *Emergency Management Act 2006* on 8 May 2020, is revoked, if that direction is not substituted for a direction that is substantially similar in content;

- (iii) the direction of the State Controller, made under the *Emergency Management Act 2006* on 8 May 2020, ceases to apply to the person;
- (iv) the person resigns, or his or her appointment is terminated, in accordance with the *State Service Act 2000*.

Dated: 25-8-20

Signed:

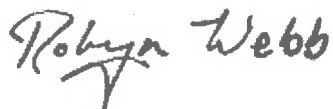
Premier

ADVICE OF CHIEF PARLIAMENTARY COUNSEL***Notice under section 16 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020***

I advise that this statutory rule –

- (a) appears to be within the powers conferred by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (b) does not appear, without clear and express authority being provided by any Act, to –
 - (i) have any retrospective effect; or
 - (ii) impose any tax, fee, fine, imprisonment or other penalty; or
 - (iii) sub-delegate powers delegated by the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (c) appears to be within the general objectives of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020*; and
- (d) is expressed in as clear and unambiguous language as is reasonably possible.

Dated 22 May, 2020.



Robyn Webb
Chief Parliamentary Counsel

FACT SHEET

Notice under section 16

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

- The Premier, Peter Gutwein MP, gave a public commitment in April 2020 regarding continued support for casual employees (however named, including fixed term casual, seasonal, relief and sessional employees) throughout the period of the COVID-19 pandemic.
- In support of this commitment, the State Service released an Expression of interest (EOI) process so that existing fixed-term casuals working in the State Service could be made available to Interoperability (IA) and have meaningful opportunities for work during COVID-19.
- A direction has been issued by the State Controller under the *Emergency Management Act 2006* to enable all State Service fixed term casual employees that have applied to the EOI and been successful, to be used for the purposes of IA.
- There are three classes of fixed-term casual employment:
 - 1. Fixed-term casuals with a current instrument of appointment (IOA) whose term of appointment is not due to expire until after the expected emergency cessation date.
 - 2. Fixed term casuals with a current IOA whose term of appointment is due to expire in the foreseeable future, however but for COVID-19 they would have received a further term of fixed-term casual employment, and the Agency will honour this commitment due to the commitment of the Premier.
 - 3. Fixed term casuals with a current IOA whose term of appointment is due to expire prior to the current emergency cessation date and but for COVID-19 would not have been offered a further IOA.
- Section 16 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* (COVID-19 Act) enables a Notice to be issued to extend periods of employment to carry out activities on behalf of the Crown.
- The Notice concerns those employees in class three circumstances, and will extend their employment by way of the Notice until the emergency cessation date.
- The Deputy State Controller approved the Notice on 21 May 2020, as required under section 6 of the COVID-19 Act.
- On 25 May 2020 the Premier signed the Notice pursuant to Section 16 of the COVID-19 Act, and the Notice was gazetted on the 29 May 2020.