

WESTERN AUSTRALIA



**LEGISLATIVE COUNCIL**

**AMENDMENTS AND SCHEDULES**

**Supplementary Notice Paper No. 86**  
**Issue No. 1**

**TUESDAY, 6 NOVEMBER 2018**

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***PUBLIC AND HEALTH SECTOR LEGISLATION AMENDMENT (RIGHT OF RETURN) BILL 2018 [86-1]***

When in committee on the *Public and Health Sector Legislation Amendment (Right of Return) Bill 2018*:

**Clause 8**

**Hon Alison Xamon:** To move —

**1/8** Page 9, line 1 to page 13, line 25 — To delete the lines and insert:

- 2. Right of return for executive officers on existing contracts preserved**
- (1) This clause applies to an executive officer if —
    - (a) the executive officer's existing contract contains an election made by the executive officer under old section 58(1) to retain a right of return; and
    - (b) immediately before commencement day, the election has not been revoked by the executive officer as referred to in old section 58(2)(c).
  - (2) An executive officer to whom this clause applies is entitled to employment in accordance with old section 58(3) to (7) as if a reference to an executive officer in those provisions were a reference to an executive officer to whom this clause applies.
  - (3) Except as provided by clause 4, old section 59 does not apply to an executive officer who has an entitlement to employment under subclause (2).
  - (4) New section 59 does not apply to an executive officer who has an entitlement to employment under subclause (2).

- 3. Compensation etc. for existing executive officers with no right of return**
- (1) This clause applies to an executive officer if —
    - (a) the executive officer's existing contract does not contain an election under old section 58(1) to retain a right of return; and
    - (b) the circumstances referred to in old section 59(1)(a) arise in relation to the executive officer before the existing contract expires by effluxion of time.
  - (2) The Commissioner is to determine the compensation (if any) to which the executive officer is entitled under old section 59.
- 4. Executive officers may elect to take compensation instead of right of return**
- (1) An executive officer who has an entitlement to employment by reason of clause 2(2) may elect in writing given to the Commissioner to take compensation under old section 59 instead of exercising the entitlement to employment.
  - (2) On an election under subclause (1) taking effect, the executive officer concerned —
    - (a) ceases to have the entitlement to employment; and
    - (b) becomes entitled to compensation under old section 59.
- 5. No other right of return under s. 58 for executive officers on existing contracts**
- (1) Except as provided by clause 2, no executive officer employed under an existing contract has a right of return under old section 58.
  - (2) No executive officer employed under an existing contract has a right of return under new section 58.
  - (3) An executive officer employed under an existing contract cannot, in any subsequent contract of employment for the same or another office in the Senior Executive Service, elect to retain a right of return.
- 6. Entitlements arising under s. 59 before commencement day**
- (1) This clause applies if, immediately before commencement day —
    - (a) an executive officer is entitled to compensation under old section 59, whether by reason of old section 59(1) or section 60(2)(b); but
    - (b) the Commissioner has not determined under old section 59 the compensation (if any) to which the executive officer is entitled.
  - (2) The Commissioner is to determine the compensation (if any) to which the executive officer is entitled under old section 59.

### **Clause 13**

**Hon Alison Xamon:** To move —

2/13 Page 19, line 15 to page 24, line 13 — To delete the lines and insert:

### **258B. Right of return for executives on existing contracts preserved**

- (1) This section applies to an executive if —

- (a) the executive's existing contract contains an election made by the executive under old section 132(2) to retain a right of return; and
  - (b) immediately before commencement day, the election has not been revoked by the executive as referred to in old section 132(3)(c).
- (2) An executive to whom this section applies is entitled to employment in accordance with old section 132(1) and (4) to (8) as if a reference to an executive in those provisions were a reference to an executive to whom this section applies.
  - (3) Except as provided by section 258D, old section 133 does not apply to an executive who has an entitlement to employment under subsection (2).
  - (4) New section 133 does not apply to an executive who has an entitlement to employment under subsection (2).

**258C. Compensation etc. for existing executives with no right of return**

- (1) This section applies to an executive if —
  - (a) the executive's existing contract does not contain an election under old section 132(2) to retain a right of return; and
  - (b) the circumstances referred to in old section 133(1)(a) arise in relation to the executive before the existing contract expires by effluxion of time.
- (2) The Department CEO is to determine the compensation (if any) to which the executive is entitled under old section 133.

**258D. Executives may elect to take compensation instead of right of return**

- (1) An executive who has an entitlement to employment by reason of section 258B(2) may elect in writing given to the Department CEO to take compensation under old section 133 instead of exercising the entitlement to employment.
- (2) On an election under subsection (1) taking effect, the executive concerned —
  - (a) ceases to have the entitlement to employment; and
  - (b) becomes entitled to compensation under old section 133.

**258E. No other right of return under s. 132 for executives on existing contracts**

- (1) Except as provided by section 258B, no executive employed under an existing contract has a right of return under old section 132.
- (2) No executive employed under an existing contract has a right of return under new section 132.
- (3) An executive employed under an existing contract cannot, in any subsequent contract of employment for the same or another office in the Health Executive Service, elect to retain a right of return.

**258F. Entitlements arising under s. 133 before commencement day**

- (1) This section applies if, immediately before commencement day —
  - (a) an executive is entitled to compensation under old section 133, whether by reason of old section 133(1) or section 135(2)(b); but
  - (b) the Department CEO has not determined under old section 133 the compensation (if any) to which the executive is entitled.

- (2) The Department CEO is to determine the compensation (if any) to which the executive is entitled under old section 133.

