NORTHERN TERRITORY OF AUSTRALIA

PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT 1993

As in force at 1 June 2026

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 June 2026

PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT 1993

An Act for the regulation of the Public Service of the Northern Territory and the human resource administration and management of other agencies established for government or public purposes, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Public Sector Employment and Management Act 1993*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

2A Objects of Act

(1) The objects of this Act are as follows:

(a) to provide for an apolitical Public Sector that is efficient and effective in serving the government, the Legislative Assembly and the people of the Northern Territory;

(b) to provide for the administration of the Public Sector and the employment and management of employees;

(c) to provide for the obligations and rights of employees;

(d) to promote fairness and equality of employment opportunity in the Public Sector.

(2) To help achieve the objects, this Act:

(a) provides principles to guide:

(i) administration and management of the Public Sector; and

(ii) human resource management in the Public Sector; and

(iii) performance and personal conduct of individuals in the Public Sector; and

(b) provides for there to be a Commissioner for Public Employment to oversee the management of the Public Sector; and

(c) provides for there to be a Chief Executive Officer for each Agency to manage, and provide strategic leadership of, the Agency.

3 Interpretation

(1) In this Act:

administration management principle, see section 5B.

Agency means a unit of government administration, office or statutory corporation:

(a) nominated in an Administrative Arrangement Order as an Agency for this Act; or

(b) declared by another Act to be an Agency for this Act.

appeal board means a board convened under section 59C for an appeal.

appropriate minister, for an Agency, means the minister for the time being administering the Agency or to whom the administration of the Act by which the Agency was established or continued in existence is allotted by an Administrative Arrangements Order.

award means an award, determination, decision, order or enterprise agreement (however described) in force under an Act, or a law of the Commonwealth, that provides for the determination of conditions of employment of a person.

breach of discipline, see section 49.

casual employee means an employee employed as mentioned in section 29(3)(c).

Chief Executive Officer, see section 19.

Commissioner means:

(a) unless paragraph (b) applies – the person holding or occupying the office of Commissioner for Public Employment mentioned in section 8; or

(b) for an employee in the Department of the Legislative Assembly – the Speaker.

designation means a specified level or range of salaries assigned to an employee in an Agency on a scale described in an award or determined by the Commissioner.

disciplinary action means action under section 49C(1)(b) or (c).

employee means a person employed in the Public Sector, other than the Commissioner or a Chief Executive Officer.

employment, for an employee, means employment in an Agency.

Employment Instructions means rules made under section 16.

equality of employment opportunity principle, see section 5E.

Executive Contract of Employment means a contract of service:

(a) as the Commissioner; or

(b) as a Chief Executive Officer; or

(c) to perform duties or a class of duties determined under section 34(1)(b) as duties or a class of duties which may only be performed for a fixed period;

and which is nominated as an Executive Contract of Employment in the contract document.

fixed period employee means an employee employed as mentioned in section 29(3)(b), including an employee employed under an Executive Contract of Employment.

health practitioner means:

(a) a medical practitioner; or

(b) any other person registered under the Health Practitioner Regulation National Law to practise in a health profession (other than as a student).

human resource management principle, see section 5C.

inability or performance grounds, see section 44(1).

merit principle, see section 5D.

ongoing employee means an employee employed as mentioned in section 29(3)(a).

performance and conduct principle, see section 5F.

promotion means giving to an employee a higher attainable maximum salary than the salary previously attainable by the employee.

Public Sector means all the Agencies.

public sector principles means the principles mentioned in section 5A(1).

relevant Chief Executive Officer, in Part 9, Division 2, means the Chief Executive Officer who made the decision the subject of the appeal.

remedial action means action under section 46(1)(b) or(c).

remuneration includes salary and allowances.

salary includes wages, and salary or wages payable by increments within a range of salary or wages.

(3) Subject to section 4(3), where there is an inconsistency between this Act and any other law of the Territory, being a law that makes specific provision for the employment of a person to perform duties in an Agency, to the promotion of an employee or an employee of a class of employees or a matter relating to the employment of an employee, the other law applies subject to this Act.

(4) Where there is an inconsistency between this Act and an award in force in the Territory or any legislation relating to superannuation applying to an employee, the Commissioner or a Chief Executive Officer, this Act applies subject to the award or that legislation.

(5) For the purposes of the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, the Public Sector shall be taken to be the Public Service of the Territory referred to in that Act and the Commissioner the Public Service Commissioner of the Territory.

4 Application

(1) This Act does not apply in relation to a person who is:

(a) remunerated by fees, allowances or commission only; or

(b) employed in an honorary capacity only.

(2) A prescribed provision of this Act does not apply in relation to:

(a) a prescribed person or a person of a prescribed class of persons; or

(b) a prescribed Agency; or

(c) a prescribed designation, or a designation of a prescribed class of designations, in an Agency.

(3) Nothing in this Act affects the functions, powers, privileges, immunities or liabilities of:

(a) the Electoral Commissioner or the holder of an office mentioned in Schedule 1; or

(b) the Speaker of the Legislative Assembly (other than in his or her capacity as Commissioner as defined in paragraph (b) of the definition of ***Commissioner*** in section 3(1));

conferred or imposed by or under any other law in force in the Territory and, where there is an inconsistency between this Act and the other law, this Act applies subject to that law.

5 Application of Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 5

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

Part 1A General principles relating to Public Sector

5A Public sector principles

(1) The general principles underlying this Act are as follows:

(a) the administration management principle;

(b) the human resource management principle, including:

(i) the merit principle; and

(ii) the equality of employment opportunity principle;

(c) the performance and conduct principle.

(2) The public sector principles must be upheld by the following:

(a) the Commissioner;

(b) Agencies;

(c) Chief Executive Officers;

(d) employees.

5B Administration management principle

The ***administration management principle*** is that the administration and management of the Public Sector must be directed towards the following:

(a) providing effective, efficient and appropriate services to the community and the government;

(b) ensuring the effective, efficient and appropriate use of public resources;

(c) informing, advising and assisting the government objectively, impartially and with integrity;

(d) ensuring that in carrying out their functions Agencies:

(i) are responsive to the changing needs of the community and the government; and

(ii) work cooperatively with each other;

(e) ensuring the Public Sector is structured and administered so that:

(i) responsibilities are clearly defined; and

(ii) appropriate levels of accountability are in place; and

(iii) excessive formality and delay are minimised; and

(iv) innovation is encouraged;

(f) ensuring proper standards of financial management and accounting are maintained.

5C Human resource management principle

(1) The ***human resource management principle*** is that human resource management in the Public Sector must be directed towards promoting the following:

(a) employment based on merit;

(b) equality of employment opportunity;

(c) working environments in which employees:

(i) are treated fairly, reasonably and in a non-discriminatory way; and

(ii) are remunerated at rates appropriate to their responsibilities; and

(iii) have reasonable access to training and development; and

(iv) have reasonable access to redress when adversely affected by improper or unreasonable decisions.

(2) The human resource management principle incorporates the merit principle and the equality of employment opportunity principle.

5D Merit principle

(1) The ***merit principle*** is that the employment of a person as an employee, or the promotion or transfer of an employee, under this Act must be based solely on the person's suitability:

(a) to perform the relevant duties; and

(b) for employment in the relevant workplace; and

(c) for employment in the Public Sector.

(2) A person's suitability is to be determined having regard to the person's:

(a) knowledge; and

(b) skills; and

(c) qualifications and experience; and

(d) potential for future development.

(3) The merit principle applies subject to sections 35(7), 38B(1), 42(2), 46(3) and 49C(3).

5E Equality of employment opportunity principle

(1) The ***equality of employment opportunity principle*** is that human resource management in the Public Sector must be directed towards the following:

(a) ensuring all persons have equal opportunity to compete for employment, promotion and transfer, and to pursue careers, within the Public Sector;

(b) eliminating unlawful discrimination from human resource management in the Public Sector;

(c) promoting diversity among employees reflective of the diversity of persons in the community.

(2) In this section:

unlawful discrimination means discrimination that is unlawful under the *Anti-Discrimination Act 1992*.

5F Performance and conduct principle

(1) The ***performance and conduct principle*** is that a public sector officer must do the following:

(a) carry out the officer's duties as follows:

(i) objectively, impartially, professionally and with integrity;

(ii) to the best of the officer's ability;

(iii) in accordance with the Act and any code of conduct applicable to the officer under section 16(2)(c);

(b) treat other public sector officers, other persons in the workplace and members of the public fairly, equitably and with proper courtesy and consideration;

(c) ensure effective, efficient and appropriate use of public resources;

(d) avoid actual or apparent conflicts of interest between personal or other interests and duties as a public sector officer;

(e) ensure the officer's personal conduct does not:

(i) adversely affect the performance of the officer's duties as a public sector officer; or

(ii) bring the Public Sector into disrepute.

(2) In this section:

public sector officer means the Commissioner, a Chief Executive Officer or an employee.

Part 2 Administration

6 Duties of Minister

It is the duty of the Minister to:

(a) advise other ministers on policies, practices and procedures that should be applied to any aspect of human resource management in the Public Sector generally or in Agencies for which they have ministerial responsibility; and

(b) advise other ministers on structural changes that should, in the opinion of the Minister, be made in order to improve the efficiency and effectiveness of Public Sector operations; and

(c) cause to be carried out planning for the future management of the Public Sector; and

(d) cause to be reviewed, on the Minister's own motion or at the request of another minister, the efficiency and effectiveness of any aspect of Public Sector operations; and

(e) cause to be devised programs and initiatives for management improvement in the Public Sector and recommend their implementation to other ministers.

7 Establishment, change of name and abolition of Agencies

(1) An Agency not otherwise established or continued in existence by or under an Act is established, by the name under which it is nominated, on the publication of the Administrative Arrangements Order by which it is nominated as an Agency.

(2) An Agency not established or continued in existence by or under an Act is abolished, or established by a different name nominated, on the publication of the Administrative Arrangements Order or amendment nominating the Agency by its new name or, in the case

of the abolition of an Agency, the first Administrative Arrangements Order from which it is omitted or an amendment to the Administrative Order omitting its name, whichever is the earliest.

Part 3 Commissioner for Public Employment

8 Appointment of Commissioner

(1) The Administrator must appoint a person to be the Commissioner for Public Employment.

(2) An appointment under subsection (1) must, as soon as practicable after it is made, be notified in the *Gazette*.

9 Termination of appointment

An appointment under section 8 continues in force until the Executive Contract of Employment under which the person is employed expires or is terminated by either party under the contract, or the Administrator, in his or her absolute discretion, at any time, otherwise terminates the appointment.

10 Acting Commissioner

(1) The Administrator may, in writing, appoint a person to act as the Commissioner during any period, or during all periods, when the Commissioner is absent from duty or from the Territory, or during a vacancy in the office.

(2) A person appointed to act as the Commissioner during a vacancy in the office must not continue so to act for more than 12 months after the occurrence of the vacancy.

(3) The Administrator may:

(a) determine the terms and conditions (including the remuneration) of a person appointed to act as the Commissioner; and

(b) at any time, in the Administrator's absolute discretion, terminate the appointment.

(4) Where a person appointed to act as the Commissioner is otherwise employed under an Executive Contract of Employment, that contract is varied for the duration of the appointment under subsection (1) to the extent of the determination under subsection (3)(a).

(5) A person appointed to act as the Commissioner may resign office in writing delivered to the Administrator.

11 Delegation by Commissioner

(1) The Commissioner may delegate any of the Commissioner's powers or functions under this Act to any person.

(2) The Commissioner must not delegate a power or function to an employee in an Agency unless the Commissioner has consulted with the Chief Executive Officer of the Agency.

12 Commissioner taken to be employer

The Commissioner is taken to be the employer of all employees on behalf of the Territory or an Agency.

13 Functions of Commissioner

The functions of the Commissioner are as follows:

(a) to determine the respective designations and other terms and conditions (including the remuneration) of employment for employees;

(b) to promote the upholding of the public sector principles;

(c) to determine practices and procedures relating to the recruitment and employment of persons as employees, the promotion of employees and the employment, transfer, secondment, redeployment, discipline and termination of employment of employees and any other matters relating to human resource management;

(d) to consult with and advise Chief Executive Officers in relation to the development and application of appropriate human resource practices and procedures in their Agencies;

(e) to consult with Chief Executive Officers in relation to the application of public employment policies in their Agencies;

(f) to advise the Minister on, and monitor the implementation of, public employment policies;

(g) to develop uniform systems, standards and procedures for the determination of designations and the allocation of designations to employees in their Agencies and assist Chief Executive Officers in the application of those systems, standards and procedures;

(h) to assist as appropriate Chief Executive Officers in evaluating the performance of employees employed in their Agencies;

(j) to coordinate training, education and development programs in conjunction with Chief Executive Officers;

(k) to conduct or cause to be conducted inquiries and investigations into, and reviews of, the management practices of Agencies;

(m) to consult with Chief Executive Officers on the development of appropriate standards and programs of occupational health and safety;

(n) to assist as appropriate Chief Executive Officers in the performance of their functions relating to the management of their Agencies;

(p) such other functions as are imposed on him or her by or under this or any other Act, or as directed by the Minister.

14 Powers of Commissioner

(1) The Commissioner has power to do all things necessary or convenient to be done for or in connection with or incidental to the performance of his or her functions and the exercising of his or her powers.

(2) The Commissioner may, in writing, determine all matters permitted by this Act or an award to be determined by the Commissioner.

15 Commissioner's investigatory powers

(1) For carrying out functions under this Act, the Commissioner may do one or more of the following:

(a) at a reasonable time enter and inspect premises occupied by an Agency (other than any part of a premises used as a residence);

(b) obtain relevant information from persons as, and in the way, the Commissioner considers appropriate;

(c) consult with persons as the Commissioner considers appropriate;

(d) make inquiries as the Commissioner considers appropriate.

(2) Without limiting subsection (1)(b), the Commissioner may require a person to do one or more of the following:

(a) appear before the Commissioner;

(b) give information to the Commissioner, on oath or otherwise;

(c) produce information or documents to the Commissioner;

(d) verify information or a document by statutory declaration.

(3) A person appearing before the Commissioner may be represented by a legal practitioner or agent only with the leave of the Commissioner.

(4) A person must comply with a requirement under subsection (2).

Maximum penalty: 43 penalty units.

(5) An offence against subsection (4) is an offence of strict liability.

(6) It is a defence to a prosecution for an offence against subsection (4) if the person establishes a reasonable excuse.

(7) Without limiting subsection (6), it is a reasonable excuse if complying with the requirement might tend to incriminate the person.

15A Referrals by ICAC

(1) If a matter is referred to the Commissioner by the ICAC under Part 3, Division 4 of the ICAC Act, the Commissioner may deal with it under this Act.

Note for subsection (1)

The ICAC may give directions to the Commissioner in relation to the matter referred – see section 26 of the ICAC Act.

(2) In this section:

deal with includes exercise a power or perform a function under this Act.

ICAC Act means the *Independent Commissioner Against Corruption Act 2017*.

16 Employment instructions

(1) The Commissioner may, by *Gazette* notice, make rules, not inconsistent with this Act, to be known as ***Employment Instructions***:

(a) relating to the functions and powers of the Commissioner under this Act; or

(b) otherwise relating to the good management of the Public Sector.

(2) Without limiting the generality of subsection (1), the Employment Instructions may do one or more of the following:

(a) require a matter affected by them to be approved by, or be to the satisfaction of, a specified person or body;

(b) confer on a specified person or body, or a person or body of a specified class, a discretionary authority;

(c) include a Code of Conduct to be observed in the Public Sector.

(3) Sections 57 and 63 to 63C of the *Interpretation Act 1978* do not apply in relation to Employment Instructions.

17 Employee records

(1) The Commissioner must keep an employment record for each person who is an employee.

(2) An employment record:

(a) must include the information prescribed by regulation; and

(b) may include any other information the Commissioner considers appropriate.

(3) Subject to the regulations, the Commissioner must keep employment records in the way, and retain them for the period, the Commissioner considers appropriate.

(4) An employment record is kept for the purpose of managing the person's employment in the Public Sector and may be used and disclosed for that purpose.

(5) For subsection (4), a person's employment in the Public Sector includes:

(a) the employment of the person in any Agency; and

(b) any periods of employment in the Public Sector, whether occurring consecutively, concurrently or otherwise.

18 Reports by Commissioner

(1) Within 3 months after the end of each financial year, the Commissioner must report in writing to the Minister on human resource management in the Public Sector during that financial year.

(2) The report must contain information about the following:

(a) the extent to which the human resource management principle and performance and conduct principle have been upheld in the Public Sector during the financial year, including:

(i) measures taken to ensure they are upheld; and

(ii) any significant failures to uphold them of which the Commissioner is aware;

(b) measures, if any, taken to improve human resource management in the various Agencies;

(c) the extent to which disciplinary, redeployment and inability procedures were invoked in the Public Sector;

(d) those matters specified in section 28(2) in so far as they relate to the Commissioner's Office;

(e) any other matters prescribed by regulation.

(3) The Commissioner may, at any time, report in writing to the Minister on any matter relating to human resource management in the Public Sector or a part of the Public Sector.

(4) The Minister must table a copy of a report under subsection (1) or (3) in the Legislative Assembly within 6 sitting days after the Minister receives the report.

Part 4 Chief Executive Officers

19 Agency to have Chief Executive Officer

(1) Each Agency has a Chief Executive Officer.

(2) Subject to subsections (3) and (4), the ***Chief Executive Officer*** of an Agency is the person holding or occupying the office of Chief Executive Officer of the Agency under section 19A.

(3) For an Agency listed in Schedule 1, the ***Chief Executive Officer*** is the person holding or occupying the office mentioned in Schedule 1 for the Agency.

(4) If another Act declares the holder of a particular office to be the chief executive officer of an Agency for this Act, the ***Chief Executive Officer*** of the Agency is the person holding or occupying that office.

(5) A person may be the Chief Executive Officer of more than one Agency.

19A Appointment of Chief Executive Officers

(1) The Chief Minister may appoint a person to be the Chief Executive Officer of an Agency, other than an Agency mentioned in section 19(3) or (4).

(2) Notice of the appointment must be published in the *Gazette* as soon as practicable after it is made.

20 Termination of appointment

An appointment under section 19A continues in force until the Executive Contract of Employment under which the person is employed expires or is terminated by either party under the contract, or the Chief Minister, in his or her absolute discretion, at any time, otherwise terminates the appointment.

21 Acting Chief Executive Officer

(1A) This section applies to a Chief Executive Officer appointed under section 19A.

(1) The appropriate minister may, in writing, appoint a person to act as Chief Executive Officer during any period, or during all periods, when the Chief Executive Officer is absent from duty or from the Territory, or during a vacancy in the office.

(2) A person appointed to act as Chief Executive Officer during a vacancy in the office must not continue so to act for more than 12 months after the occurrence of the vacancy.

(3) A person appointed under subsection (1) holds office on the terms and conditions (including as to remuneration) determined by the Commissioner.

(3A) The appropriate minister may terminate an appointment under subsection (1) at any time.

(4) Where a person appointed to act as Chief Executive Officer is otherwise employed under an Executive Contract of Employment, that contract is varied for the duration of the appointment under this section to the extent of the determination under subsection (3).

(5) A person appointed to act as Chief Executive Officer may resign office in writing delivered to the appropriate minister.

22 Directions by appropriate minister

(1) Subject to subsection (2) and anything to the contrary in an Act by or under which an Agency is established or continued in existence, the Chief Executive Officer of the Agency is subject to the direction of the appropriate minister.

(2) The Minister or appropriate minister must not give to a Chief Executive Officer a direction:

(a) relating to the employment, promotion, assignment, reassignment or terms and conditions of employment (including the remuneration) of a particular person; or

(b) relating to the designation to apply to an employee or to the performance of particular duties; or

(c) requiring the Chief Executive Officer to commence or refrain from commencing an action under Part 7 or 8 in relation to a particular employee.

23 Chief Executive Officer responsible to appropriate minister

The Chief Executive Officer of an Agency is responsible to the appropriate minister for the performance of the Chief Executive Officer's functions under this Act.

24 Functions of Chief Executive Officers

(1) The functions of the Chief Executive Officer of an Agency are to manage, and provide strategic leadership of, the Agency.

(2) The Chief Executive Officer must exercise those functions in a way that:

(a) is responsive to government policies and priorities; and

(b) upholds the public sector principles; and

(c) complies with all applicable:

(i) laws (including the Employment Instructions); and

(ii) determinations and directions of the Commissioner; and

(iii) decisions of an appeal board.

(3) As part of performing those functions, the Chief Executive Officer is responsible for the following:

(a) directing the employees employed in the Agency;

(b) ensuring the Agency attains any objectives set by the appropriate minister;

(c) devising organisational structures and arrangements for the Agency;

(d) assigning designations to employees in the Agency and varying those designations in accordance with:

(i) award requirements; and

(ii) designation systems, standards and procedures determined by the Commissioner or, if no systems, standards or procedures have been determined, with the approval of the Commissioner;

within the limits of the amount that has been appropriated or is otherwise available for the remuneration of employees in the Agency;

(e) assigning duties to be performed by each employee in the Agency;

(f) devising and implementing employee performance management and development systems for the Agency;

(g) assisting employees in the Agency to undertake relevant training, education and development programs;

(h) devising and implementing financial and management plans for the Agency and monitoring the Agency's financial and administrative performance;

(i) devising and implementing record keeping and information management systems for the Agency;

(j) devising and implementing programs to ensure that employees have equal employment opportunities in accordance with the human resource management principle;

(k) ensuring the application in the Agency of appropriate occupational health and safety standards and programs.

(4) A Chief Executive Officer also has any other functions conferred under this or any other Act.

25 Powers of Chief Executive Officers

The Chief Executive Officer of an Agency has such powers as are necessary to enable the Chief Executive Officer to carry out his or her functions, or exercise his or her powers, under this or any other Act and, subject to this Act, including the power to enter into any contract required or permitted under this Act to be entered into in relation to the employment of a person as an employee in the Agency.

26 Chief Executive Officer may employ number of employees necessary

The Chief Executive Officer of an Agency may divide the duties to be performed by employees in the Agency between such number of employees as the Chief Executive Officer considers necessary for the efficient operation of the Agency, but so that the total payable as remuneration of the Chief Executive Officer and employees employed or who could be employed in the Agency will not at any time exceed the limits of the amount available for that purpose.

27 Delegation by Chief Executive Officers

(1) The Chief Executive Officer of an Agency may, in writing, delegate any of the Chief Executive Officer's powers or functions under this Act to one or more of the following:

(a) an employee in the Agency;

(b) the holder of an office under an Act administered by the Agency;

(c) the Chief Executive Officer of another Agency;

(d) an employee in another Agency;

(e) the holder of an office under an Act administered by another Agency;

(f) if the Chief Executive Officer is the Commissioner of Police – a police officer;

(g) the Commissioner.

(2) The Chief Executive Officer cannot make a delegation under subsection (1)(c), (d) or (e) without the consent of the Chief Executive Officer of the other Agency.

28 Reports by Chief Executive Officers

(1) Subject to subsection (3), the Chief Executive Officer of an Agency must present a report to the appropriate minister on the operations of the Agency during a financial year:

(a) within 3 months after the end of the financial year; or

(b) if the Treasurer has determined under section 10 or 11 of the *Financial Management Act 1995* a longer period for the preparation of a financial statement in respect of the Agency – within that longer period.

(2) The report must contain information about the following:

(a) the functions and objectives of the Agency;

(b) the legislation administered by the Agency;

(c) the organisation of the Agency, including the number of employees of each designation in the Agency and any variation in those numbers since the last report;

(d) the Agency's operations, initiatives and achievements (including those relating to planning, efficiency, effectiveness and performance and, where appropriate, delivery of services to the community);

(e) the financial planning and performance of the Agency;

(f) the extent to which the public sector principles have been upheld in the Agency during the financial year, including:

(i) measures taken to ensure they are upheld; and

(ii) any significant failures to uphold them of which the Chief Executive Officer is aware;

(g) management training and staff development programs in the Agency;

(h) occupational health and safety programs in the Agency.

(3) Where the Chief Executive Officer is under some other statutory obligation to make an annual report, or present an audited financial statement under section 10 or 11 of the *Financial Management*

Act 1995, to the appropriate minister, the report required by this section to be presented may be incorporated with that other report or financial statement and, if it is so incorporated:

(a) the period to which the report relates must be the same as for that other report or financial statement; and

(b) the report must be presented to the appropriate minister within 6 months after the end of the period to which it relates or any earlier time as that other report or financial statement is required to be presented to the appropriate minister.

(4) The appropriate minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the minister receives the report, or if it is incorporated with another report under subsection (3), within any longer period allowed for the tabling of the other report.

Part 5 Employment, promotion, transfer and resignation

29 Chief Executive Officers to employ, promote and transfer

(1) Subject to this Act, the Chief Executive Officer of an Agency may employ a person as an employee, or promote or transfer an employee, to perform duties in the Agency.

(2) Subject to this Act, a Chief Executive Officer must not employ a person as an employee, or promote or transfer an employee, except in accordance with the merit principle and this Act.

(3) Employment under subsection (1) may be:

(a) ongoing – being employment until the employee resigns or the employment is terminated under this Act, other than casual employment; or

(b) fixed period – being employment for a period of time specified in the contract of employment, other than casual employment; or

(c) casual – being employment to work as and when required from time to time.

(4) A promotion or transfer under subsection (1) may be from within the Chief Executive Officer's Agency or from another Agency.

(5) Nothing in this Act authorises the employment, promotion or transfer of a person to perform duties in an Agency where it would

result in expenditure of a greater amount than has been appropriated or is otherwise available to the Agency for the payment of the remuneration of the Chief Executive Officer of, and employees employed in, the Agency.

30 Procedure for filling vacancies

(1) Where duties are to be performed for a period exceeding 6 months by a person employed, or by an employee promoted or transferred, under section 29 to perform the duties, the Chief Executive Officer of the Agency in which the duties are to be performed:

(a) must advertise for applications from persons and employees who wish to be employed, promoted or transferred to perform the duties; or

(b) may, with the approval of the Commissioner, select without advertising, a person or employee who satisfies the requirements of section 31.

(2) The employment, promotion or transfer of a person must be notified in the way the Commissioner directs, unless the Commissioner directs that notification is not required.

(3) Except as directed by the Commissioner, the Chief Executive Officer need not employ, promote or transfer a person to perform duties as advertised under subsection (1)(a).

(4) Where the Commissioner believes, on reasonable grounds, that the process of selection of an employee or other person under this section is not being conducted in a manner likely to result in the selection of a person or employee in accordance with the merit principle, the Commissioner must, within 7 days after forming that belief, direct the Chief Executive Officer to:

(a) make a selection, in accordance with the merit principle, from the applicants to perform the duties; or

(b) re-advertise as provided in subsection (1)(a).

(5) Where a Chief Executive Officer making the selection under this section is satisfied that:

(a) all employees eligible to appeal against the selection under section 59B have waived their right to appeal against the selection or the period within which they may appeal has expired and no such appeal has been lodged; or

(b) where such an appeal has been lodged:

(i) the appeal has been heard and determined and the selection by the Chief Executive Officer has been confirmed; or

(ii) the appeal has been withdrawn;

the Chief Executive Officer must appoint the person or promote or transfer, as the case may be, the employee selected to perform the duties.

31 Conditions for employment etc.

A Chief Executive Officer must not employ a person or promote or transfer an employee to perform duties in an Agency unless the person or employee possesses such educational qualifications and meets such other requirements (including as to health and physical fitness) as are determined by the Commissioner as being required for the performance of the duties.

32 Probation for ongoing employees

(1) Subject to this section, an ongoing employee is employed on probation for 6 months commencing on the day on which the person commences duty under the employment.

(2) The Chief Executive Officer of an Agency may employ an ongoing employee without probation:

(a) where, in the opinion of the Chief Executive Officer, the person merits employment without probation; or

(b) where employment without probation is authorised by or under this or any other Act.

(3) Where an employee has been on probation for 6 months or an extension of that period under paragraph (c), the Chief Executive Officer must:

(a) confirm the employment, and the employee ceases to be on probation; or

(b) terminate the employment; or

(c) extend the probation for a further period not exceeding 6 months or, where under subsection (4) a maximum period of probation has been determined in relation to the class of employee to which the employee belongs, for the period the Chief Executive Officer thinks fit, but so that the total period of

probation does not exceed that maximum.

(4) For subsection (3)(c), the Commissioner may determine, in relation to a class of employees, a maximum period for which an employee of that class may be employed on probation.

(5) At any time during which an employee is employed on probation in an Agency, the Chief Executive Officer of the Agency may:

(a) confirm the employment, and the employee ceases to be on probation; or

(b) terminate the employment.

(6) The Chief Executive Officer must not take action under subsection (3)(b) or (5)(b) unless the Chief Executive Officer has given the employee not less than 14 days notice of the Chief Executive Officer's intention to take the action and:

(a) the employee has waived the right to request the Commissioner to review the Chief Executive Officer's intention to take the action or the period within which the employee may make the request has expired and no such request has been made; or

(b) if such a request has been made, the Commissioner has confirmed the intended action or the request has been withdrawn.

(7) If, at the end of an employee's period of probation, the Chief Executive Officer does not take action as mentioned in subsection (3):

(a) for an employee whose period of probation has not previously been extended – the employee's period of probation is extended for the maximum period for which it could have been extended under subsection (3)(c); or

(b) for an employee whose period of probation has already been extended on one or more occasions – the employee's employment is confirmed and the employee ceases to be on probation.

(8) In determining the period for which an employee has been on probation, the following periods must be disregarded:

(a) any period during which the employee is on leave without pay;

(b) any period during which the employee is suspended (with or without remuneration);

(c) if section 38 applies to the employee – the period between his or her resignation and re-employment under that section;

(d) if the employee is absent from normal duties for a total of 6 weeks – any subsequent period of absence from normal duties.

(9) For subsection (8)(d), an employee is ***absent from normal duties*** if the employee:

(a) is on leave with pay; or

(b) is temporarily transferred to perform other duties; or

(c) is otherwise not performing the duties he or she was employed to perform but is still receiving his or her normal remuneration and is not suspended.

33 Termination of fixed period or casual employment

Subject to any contract of employment under which the employee is employed, the Chief Executive Officer of an Agency may terminate the employment of a fixed period employee or casual employee in the Agency at any time.

34 Fixed period employment

(1) The Commissioner may determine the duties or classes of duties in an Agency or the Public Sector generally that:

(a) may be performed for a fixed period; or

(b) may only be performed for a fixed period.

(2) Duties to which a determination under subsection (1) applies (***fixed period duties***) may, subject to the relevant determination under that subsection and to subsection (6), be performed by:

(a) the employment of a fixed period employee; or

(b) the promotion or transfer of an ongoing employee for a fixed period.

(3) In making a determination under subsection (1), the Commissioner must specify a period, not exceeding 5 years, as the period for which a person may be employed to perform the duties.

(4) The Commissioner may determine the terms and conditions to apply in relation to employment to perform fixed period duties, and where such a term or condition is inconsistent with this Act, the

term or condition so determined prevails and the conditions of or under this Act, to the extent of the inconsistency, have no effect.

(5) A person's employment to perform fixed period duties may be renewed in accordance with the terms and conditions determined under subsection (4).

(6) A Chief Executive Officer must not employ a person to perform fixed period duties unless the Commissioner has made a determination under subsection (4) in relation to employment to perform those duties.

(7) If an ongoing employee is promoted or transferred under subsection (2)(b) for a period, the employee's terms and conditions of employment are varied during the period to the extent of the determination under subsection (4).

34A Casual employment

(1) The Commissioner may determine the duties or classes of duties in an Agency or the Public Sector generally that:

(a) may be performed on a casual basis; or

(b) may only be performed on a casual basis.

(2) A person cannot be employed as a casual employee to perform duties other than duties to which a determination under subsection (1) applies.

(3) The Commissioner may determine the terms and conditions to apply to casual employees, and where such a term or condition is inconsistent with this Act, the term or condition so determined prevails and the conditions of or under this Act, to the extent of the inconsistency, have no effect.

(4) A Chief Executive Officer must not employ a casual employee unless the Commissioner has made a determination under subsection (3) in relation to the duties the person is to perform.

(5) If a casual employee is employed under a contract of employment for a specified period of time, the person's contract of employment may be renewed in accordance with the terms and conditions determined under subsection (3).

35 Transfers

(1) The Chief Executive Officer of an Agency may transfer an employee employed in the Agency to perform other duties in the Agency, being duties the Chief Executive Officer considers the

employee is capable of performing and is competent and qualified to perform, and those duties may be required to be performed in a different locality from the duties previously being performed by the employee.

(2) The Chief Executive Officer of an Agency (***Agency A***) may, with the agreement of the Chief Executive Officer of another Agency (***Agency B***), transfer an employee in Agency A to perform duties normally performed or to be performed by employees of the same designation in Agency B, being duties both Chief Executive Officers consider the employee is capable of performing and is competent and qualified to perform, and those duties may be required to be performed in a different locality from the duties previously being performed by the employee.

(3) The Commissioner may transfer an employee from performing duties in one Agency to perform duties in another Agency, and those duties may be required to be performed in a different locality from the duties previously being performed by the employee.

(4) A transfer under this section may be ongoing or for a fixed period.

(6) An employee transferred under this section must not refuse to commence the duties which the employee is transferred to perform in accordance with the directions given to the employee by the relevant Chief Executive Officer or the Commissioner, as the case may be.

(7) The merit principle does not apply in relation to the exercise of a power under this section.

36 Transfer and change to duties generally

(1) The duties assigned to an employee as mentioned in section 24(3)(e) may be varied without the consent of the employee.

(2) The transfer of an employee under this Act may be made without the consent of the employee.

(3) However, a transfer of an employee that would result in a reduction in the employee's designation cannot be made unless the employee consents to the reduction.

(4) Subsection (3) applies subject to sections 46(3) and 49C(3).

37 Resignation

(1) Subject to the terms of any contract under which he or she may be employed in the Public Sector, an employee may at any time, in writing signed by him or her and delivered to his or her Chief Executive Officer, resign from employment in the Public Sector.

(2) The regulations may require a period of notice to be given or acceptance by a specified person or body of the resignation of an employee included in a specified class of employees or of an employee resigning in prescribed circumstances.

(3) A resignation under this section may not be withdrawn except with the approval of the Chief Executive Officer.

38 Re-employment of persons resigning to become candidates at elections

(1) Where the Chief Executive Officer of an Agency in which a person was employed immediately before the person's resignation is satisfied that:

(a) the person:

(i) resigned from the Public Sector in order to become a candidate for election, or to take his or her seat as a person elected, as a member of a House of Parliament of the Commonwealth or as a member of the Legislative Assembly; and

(ii) was a candidate at the election for the purposes of which the person resigned; and

(iii) was not duly elected at that election; and

(b) the resignation took effect not earlier than one month before the date on which nominations for that election closed;

the Chief Executive Officer must, subject to this Act, on application by the person within 2 months after the declaration of the results of the election, re-employ the person to the Public Sector, without probation, at a salary equivalent, or as nearly as possible equivalent, to the salary that the person had immediately before the date on which his or her resignation took effect.

(2) Where:

(a) proceedings in respect of an offence against a law of the Commonwealth or the Territory or of a State or another Territory are pending against a person who has made an application under subsection (1); or

(b) proceedings in respect of an offence against a law of a foreign country (being an offence which, if committed in the Territory, would have constituted an offence against a law of the Commonwealth or of the Territory) are pending against a person who has made such an application;

the person is not eligible for re-employment until the proceedings have been determined and unless the person has been acquitted of the offence or the Chief Executive Officer is of the opinion that the nature and circumstances of the offence are such that, if the offence had been committed by an employee, it is unlikely that the employment of the employee in the Public Sector would be terminated.

(3) A person must be re-employed under this section without being required to undergo any medical examination and whether or not the person possesses the appropriate educational qualifications or meets the appropriate requirements.

(4) A person re-employed under this section is taken to have continued in the Public Sector as if he or she had been on leave without salary during the period from the day of the person's resignation to and including the day immediately preceding the day on which the person was re-employed and, subject to section 32(8), that period forms part of the person's service in the Public Sector for all purposes other than calculating recreation or sick leave entitlements.

38A Multiple employment arrangements

(1) A person may be employed in the Public Sector under 2 or more separate contracts of employment at the same time.

(2) If a person is so employed, this Act applies to the person in his or her capacity as an employee under each contract separately.

38B Special measures to address inequality of opportunity

(1) The merit principle does not prevent the implementation of special measures.

(2) The Chief Executive Officer of an Agency must not implement special measures in connection with human resource management in the Agency unless the measures have been approved by the Commissioner.

(3) In this section:

special measures means a program, plan or arrangement to which section 57 of the *Anti-Discrimination Act 1992* applies.

Note for section 38B

Section 57 of the Anti-Discrimination Act 1992 allows a person in certain circumstances to discriminate against another person in a way that would otherwise be unlawful under that Act if doing so is designed to promote equality of opportunity for a group of people who are disadvantaged.

Part 6 Secondment and redeployment

Division 1 Secondment

39 Chief Executive Officers may make secondment arrangements

(1) The Chief Executive Officer of an Agency may enter into a secondment arrangement if the Chief Executive Officer considers it is in the public interest to do so.

(2) A secondment arrangement may involve:

(a) the secondment of an employee in the Agency to perform duties for a person outside the Public Sector; or

(b) the secondment of a person employed by a person outside the Public Sector to perform duties in the Agency.

(3) A secondment arrangement may be for any period not exceeding 3 years.

Division 2 Redeployment and redundancy

41 Declaration of ongoing employee to be potentially surplus to requirements

(1) If the Chief Executive Officer of an Agency is of the opinion that an ongoing employee is potentially surplus to the requirements of the Agency, the Chief Executive Officer may, by written notice to the employee, declare the employee to be potentially surplus to the requirements of the Agency and state the reasons for the declaration.

(2) The Chief Executive Officer must give a copy of the notice to the Commissioner and any employee organisation prescribed by regulation for the employee.

42 Transfer of surplus employees

(1) A Chief Executive Officer may transfer under this section an ongoing employee declared under section 41(1) to be potentially surplus, including to perform duties in a different locality from the duties previously being performed by the employee.

(2) The merit principle does not apply in relation to the exercise of a power under this section.

43 Redeployment and redundancy

(1) Where a Chief Executive Officer is unable under section 35 or 42 to transfer an ongoing employee declared under section 41(1) to be potentially surplus, the Chief Executive Officer may request the Commissioner to exercise the Commissioner's powers under this section.

(2) Where the Commissioner receives a request under subsection (1), the Commissioner may:

(a) do either or both of the following:

(i) direct the Chief Executive Officer to take such steps in relation to the training and redeployment of the employee, within such time, as the Commissioner thinks fit;

(ii) give any other Chief Executive Officer directions relating to the transfer of the employee under section 35; or

(b) direct the Chief Executive Officer to terminate the employment of the employee in the Public Sector on such conditions as the Commissioner thinks fit.

Part 7 Employee performance and inability

44 Inability or unsatisfactory performance

(1) There are ***inability or performance grounds*** for an employee if the employee:

(a) is not able to perform the duties he or she is assigned to perform (whether because of physical or mental illness or disability or any other reason); or

(b) is not suited to perform, or capable of efficiently performing, those duties; or

(c) is not licensed, registered or otherwise qualified for the efficient and satisfactory performance of those duties; or

(d) is not performing those duties efficiently or satisfactorily.

(2) If the Chief Executive Officer of an Agency is satisfied, on reasonable grounds, that there are inability or performance grounds for an employee in the Agency, the Chief Executive Officer may take action in relation to the employee under section 46(1).

(3) In determining whether there are inability or performance grounds for an employee, the Chief Executive Officer must have regard to:

(a) the performance and conduct principle; and

(b) the employee's performance record under the Agency's employee performance management and development system as mentioned in section 24(3)(f); and

(c) any other matter the Chief Executive Officer considers relevant.

(4) For determining whether there are reasonable grounds as mentioned in subsection (2), the Chief Executive Officer may, subject to the Employment Instructions, do one or more of the following:

(a) obtain relevant information from persons as, and in the way, the Chief Executive Officer considers appropriate;

(b) consult with persons as the Chief Executive Officer considers appropriate;

(c) make inquiries as the Chief Executive Officer considers appropriate;

(d) if applicable, obtain a report from a health practitioner under section 45.

(5) The Chief Executive Officer must not take remedial action in relation to an employee unless satisfied:

(a) the action is appropriate and reasonable in the circumstances; and

(b) the employee:

(i) has been given written notice of the proposed action and the grounds for taking it; and

(ii) has been given a reasonable opportunity to show why the action should not be taken.

(6) As soon as practicable after making a decision under subsection (2), the Chief Executive Officer must give written notice of the decision to the employee.

(7) If the decision is to take remedial action, the notice must:

(a) give the reasons for the decision; and

(b) inform the employee of the employee's right to request a review under section 59 or to appeal under section 59A (as appropriate).

(8) A decision to take remedial action takes effect on the day the notice is given to the employee or a later day specified in the notice.

45 Medical examination and report

(1) This section applies if the Chief Executive Officer suspects, on reasonable grounds, that inability or performance grounds for an employee are caused or contributed to by a physical or mental illness or disability of the employee.

(2) The Chief Executive Officer may engage a health practitioner, approved by the Commissioner, to determine whether the employee has a physical or mental illness or disability that may adversely affect the employee's performance of the duties he or she is assigned to perform.

(3) The employee must submit to examination by the health practitioner as directed by the Chief Executive Officer, and to any subsequent examinations or tests required by the health practitioner.

(4) The health practitioner must give a written report about the employee to the Chief Executive Officer.

(5) The report must set out the health practitioner's opinion as to the following:

(a) whether the employee has a physical or mental illness or disability that may adversely affect the employee's performance of those duties;

(b) if so:

(i) the likely direct or indirect effect of the illness or disability on the employee's performance of those duties; and

(ii) how long the illness or disability or its effects are likely to last;

(c) whether disclosure of the information in the report to the employee by the Chief Executive Officer might be prejudicial to the employee's health or wellbeing.

(6) Subject to subsection (7), the Chief Executive Officer must give a copy of the report to the employee as soon as practicable after the Chief Executive Officer receives it.

(7) If the health practitioner's opinion under subsection (5)(c) is that disclosure might be prejudicial to the employee's health or wellbeing, the Chief Executive Officer:

(a) must not disclose the information in the report to the employee; but

(b) if asked by the employee to do so, must give a copy of the report to another health practitioner nominated by the employee.

46 Remedial action

(1) If permitted under section 44 to take action in relation to an employee, the Chief Executive Officer may:

(a) take no further action; or

(b) do one or more of the following:

(i) order the employee to undertake training, counselling or other remedial activities the Chief Executive Officer considers appropriate in the circumstances;

(ii) reduce the employee's salary within the range applicable for the employee's designation;

(iii) under section 35:

(A) transfer the employee to perform other duties in the Agency; or

(B) transfer, or request the Commissioner to transfer, the employee to perform duties in another Agency; or

(c) terminate the employee's employment.

(2) The employee must comply with an order made under subsection (1)(b)(i) within the period specified in the order.

(3) The merit principle and section 36(3) do not apply in relation to a transfer under subsection (1)(b)(iii).

Note for section 46(3)

Because section 36(3) does not apply, a transfer may be made under section 46(1)(b)(iii) that results in a reduction in the employee's designation.

47 Employee may be suspended pending decision

(1) This section applies if the Chief Executive Officer of an Agency:

(a) suspects there are inability or performance grounds for an employee in the Agency; and

(b) has not yet made a decision under section 44(2); and

(c) is of the opinion that the suspected inability or performance grounds are of such a serious nature that the employee should not continue performing the duties he or she is assigned to perform pending the making of that decision.

(2) The Chief Executive Officer may suspend the employee:

(a) for a period or periods not exceeding a total of 6 months; and

(b) with or without remuneration.

(3) The Commissioner may:

(a) extend the period of the suspension for any further period or periods the Commissioner thinks fit; or

(b) if the suspension imposed by the Chief Executive Officer has lapsed or been revoked – resuspend the employee for any further period or periods the Commissioner thinks fit.

(4) A suspension ceases when any of the following occurs:

(a) the period of the suspension expires;

(b) the Chief Executive Officer makes a decision under section 44(2);

(c) the Chief Executive Officer or Commissioner revokes the suspension.

(5) An employee who is suspended under this section:

(a) does not accrue any leave for the period of the suspension; but

(b) may, during the period of the suspension, take any long service or recreation leave to which the employee was entitled at the time the suspension was imposed.

(6) If the Chief Executive Officer makes a decision under section 44(2) in relation to an employee suspended under this section:

(a) the employee must be credited with any leave that would have accrued to the employee for the period of the suspension had the employee not been suspended; and

(b) if the suspension was without remuneration for any period – the employee must be paid the remuneration to which the employee would have been entitled for that period had the employee not been suspended; and

(c) if the employee took leave as mentioned in subsection (5)(b) – the employee must be re-credited with the leave so taken.

(7) Subsection (6) does not apply if the employee's employment is terminated under section 46(1)(c).

48 Retirement on the grounds of invalidity

(1) For this section an employee is ***totally and permanently incapacitated*** if, because of a physical or mental condition, it is unlikely the employee will ever be able to work in any employment or hold any office for which he or she is reasonably qualified by education, training or experience or could become reasonably qualified after retraining.

(2) If the Chief Executive Officer of an Agency is satisfied, on reasonable grounds, an employee in the Agency is totally and permanently incapacitated the Chief Executive Officer may retire the employee on the grounds of invalidity.

(3) The Chief Executive Officer must not take action under subsection (2) unless the Chief Executive Officer:

(a) has obtained and considered a medical report under section 45 or 49B; and

(b) has complied with section 50 of the *Superannuation Act 1986* if applicable; and

(c) has considered any relevant legislation relating to superannuation; and

(d) is satisfied the action is appropriate and reasonable in the circumstances; and

(e) is satisfied the employee:

(i) has been given written notice of the proposed action and the grounds for taking it; and

(ii) has been given a reasonable opportunity to show why the action should not be taken.

(4) This section does not affect the Chief Executive Officer's ability to take action under section 44 in relation to the employee.

Part 8 Discipline

49 Breaches of discipline

An employee who does any of the following commits a ***breach of discipline***:

(a) fails to uphold the performance and conduct principle or otherwise contravenes this Act;

(b) is found guilty in a court of an offence that affects the employee's employment committed before or after the commencement of this Act;

(c) disregards or disobeys a lawful order or direction given by a person having authority to give such an order or direction;

(d) uses a substance (including liquor or a drug) in a manner that results in inadequate performance of the employee's duties or improper conduct at the place of employment;

(e) is negligent or careless in the performance of any of the employee's duties or fails to perform the duties assigned to him or her;

(f) in the course of employment or in circumstances having a relevant connection to his or her employment, conducts himself or herself in an improper manner;

(g) harasses or coerces another employee;

(h) without good cause, is absent from duty without leave;

(j) except as authorised by his or her Chief Executive Officer, engages in any remunerative employment, occupation or business outside the Public Sector;

(k) in relation to an application of the employee for employment, promotion or transfer to perform duties in an Agency or at any stage in the selection process, provides information to the Chief Executive Officer or the Chief Executive Officer's representative that the employee knows, or ought reasonably to know, is false or misleading;

(m) provides information in the course of his or her employment that he or she knows or ought reasonably to know is false or misleading;

(n) fails to remedy previous unsatisfactory conduct or fails to comply with a formal caution.

49A Chief Executive Officer may take disciplinary action

(1) If the Chief Executive Officer of an Agency is satisfied, on reasonable grounds, that an employee in the Agency has committed a breach of discipline, the Chief Executive Officer may take action against the employee under section 49C.

(2) For determining whether there are reasonable grounds as mentioned in subsection (1), the Chief Executive Officer may, subject to the Employment Instructions, do one or more of the following:

(a) obtain relevant information from persons as, and in the way, the Chief Executive Officer considers appropriate;

(b) consult with persons as the Chief Executive Officer considers appropriate;

(c) make inquiries as the Chief Executive Officer considers appropriate;

(d) if applicable, obtain a report from a health practitioner under section 49B.

(3) The Chief Executive Officer must not take disciplinary action against an employee unless satisfied:

(a) the action is appropriate and reasonable in the circumstances; and

(b) the employee:

(i) has been given written notice of the proposed action and the grounds for taking it; and

(ii) has been given a reasonable opportunity to show why the action should not be taken.

(4) As soon as practicable after making a decision under subsection (1), the Chief Executive Officer must give written notice of the decision to the employee.

(5) If the decision is to take disciplinary action, the notice must:

(a) give the reasons for the decision; and

(b) inform the employee of the employee's right to request a review under section 59 or to appeal under section 59A (as appropriate).

(6) A decision to take disciplinary action takes effect on the day the notice is given to the employee or a later day specified in the notice.

49B Medical examination and report

(1) This section applies if the Chief Executive Officer suspects, on reasonable grounds, that a breach of discipline was caused, or contributed to, by a physical or mental illness or disability of the employee.

(2) The Chief Executive Officer may engage a health practitioner, approved by the Commissioner, to determine whether the employee has a physical or mental illness or disability that may adversely affect the employee's performance of the duties he or she is assigned to perform.

(3) The employee must submit to examination by the health practitioner as directed by the Chief Executive Officer, and to any subsequent examinations or tests required by the health practitioner.

(4) The health practitioner must give a written report about the employee to the Chief Executive Officer.

(5) The report must set out the health practitioner's opinion as to the following:

(a) whether the employee has a physical or mental illness or disability that may adversely affect the employee's performance of those duties;

(b) if so:

(i) the likely direct or indirect effect of the illness or disability on the employee's performance of those duties; and

(ii) how long the illness or disability or its effects are likely to last;

(c) whether disclosure of the information in the report to the employee by the Chief Executive Officer might be prejudicial to the employee's health or wellbeing.

(6) Subject to subsection (7), the Chief Executive Officer must give a copy of the report to the employee as soon as practicable after the Chief Executive Officer receives it.

(7) If the health practitioner's opinion under subsection (5)(c) is that disclosure might be prejudicial to the employee's health or wellbeing, the Chief Executive Officer:

(a) must not disclose the information in the report to the employee; but

(b) if asked by the employee to do so, must give a copy of the report to another health practitioner nominated by the employee.

49C Disciplinary action

(1) If permitted under section 49A to take action against an employee, the Chief Executive Officer may:

(a) take no further action; or

(b) do one or more of the following:

(i) formally caution the employee;

(ii) order the employee to undertake training, counselling or other remedial activities the Chief Executive Officer considers appropriate in the circumstances;

(iii) require the employee to forego a benefit or entitlement arising from the employee's employment (other than a benefit or entitlement arising under an Act or award) for a period not exceeding one month;

(iv) order the employee to pay a fine of an amount not exceeding the employee's remuneration for 10 days;

(v) reduce the employee's salary within the range applicable for the employee's designation;

(vi) under section 35:

(A) transfer the employee to perform other duties in the Agency; or

(B) transfer, or request the Commissioner to transfer, the employee to perform duties in another Agency;

(vii) if the employee was suspended without remuneration under section 49E – order all or part of that period of suspension to be taken to be suspension imposed under this section;

(viii) suspend the employee without remuneration for a period the Chief Executive Officer considers appropriate; or

(c) terminate the employee's employment.

(2) The employee must comply with an order made under subsection (1)(b)(ii) or (iv) within the period specified in the order.

(3) The merit principle and section 36(3) do not apply in relation to a transfer under subsection (1)(b)(vi).

Note for subsection (3)

Because section 36(3) does not apply, a transfer may be made under section 49C(1)(b)(vi) that results in a reduction in the employee's designation.

(4) An employee who is suspended under subsection (1)(b)(viii) does not accrue any leave for the period of the suspension.

49D Taking of disciplinary action if employee changes Agency

(1) This section applies if:

(a) the Chief Executive Officer of an Agency (***Agency A***) suspects that an employee committed a breach of discipline while employed in Agency A; and

(b) the Chief Executive Officer has not taken action against the employee under section 49C in relation to the breach; and

(c) the employee is now employed in another Agency (***Agency B***).

(2) The Chief Executive Officer of Agency A:

(a) may exercise the Chief Executive Officer's powers under section 49A in relation to the breach of discipline even though the employee is no longer in Agency A; but

(b) cannot take disciplinary action against the employee.

(3) The Chief Executive Officer of Agency A may request the Chief Executive Officer of Agency B to do either or both of the following:

(a) suspend the employee under section 49E while the suspected breach of discipline is investigated;

(b) take any disciplinary action against the employee that the Chief Executive Officer of Agency A decides should be taken.

(4) The Chief Executive Officer of Agency B may take any action requested under subsection (3), and must do so if directed by the Commissioner.

49E Employee may be suspended pending decision

(1) This section applies if the Chief Executive Officer of an Agency:

(a) suspects an employee in the Agency has committed a breach of discipline; and

(b) has not yet made a decision under section 49A(1); and

(c) is of the opinion that the suspected breach of discipline is of such a serious nature that the employee should not continue performing the duties he or she is assigned to perform pending the making of that decision.

(2) The Chief Executive Officer may suspend the employee:

(a) for a period or periods not exceeding a total of 6 months; and

(b) with or without remuneration.

(3) The Commissioner may:

(a) extend the period of the suspension for any further period or periods the Commissioner thinks fit; or

(b) if the suspension imposed by the Chief Executive Officer has lapsed or been revoked – resuspend the employee for any further period or periods the Commissioner thinks fit.

(4) A suspension ceases when any of the following occurs:

(a) the period of the suspension expires;

(b) the Chief Executive Officer makes a decision under section 49A(1);

(c) the Chief Executive Officer or Commissioner revokes the suspension.

(5) An employee who is suspended under this section:

(a) does not accrue any leave for the period of the suspension; but

(b) may, during the period of the suspension, take any long service or recreation leave to which the employee was entitled at the time the suspension was imposed.

(6) If the Chief Executive Officer makes a decision under section 49A(1) in relation to an employee suspended under this section:

(a) the employee must be credited with any leave that would have accrued to the employee for the period of the suspension had the employee not been suspended; and

(b) if the suspension was without remuneration for any period – the employee must be paid the remuneration to which the employee would have been entitled for that period had the employee not been suspended; and

(c) if the employee took leave as mentioned in subsection (5)(b) – the employee must be re-credited with the leave so taken.

(7) Subsection (6) does not apply:

(a) for any period of suspension for which an order is made under section 49C(1)(b)(vii); or

(b) if the employee's employment is terminated under section 49C(1)(c).

50 Summary dismissal

(1) Despite anything in this or any other Act or the rules known as the rules of natural justice (including any duty of procedural fairness), where a Chief Executive Officer is of the opinion that the action or omission constituting a breach of discipline amounts to misconduct of such a nature that it is in the public interest that the employee be immediately dismissed from the Public Sector, the Chief Executive Officer may terminate the employee's employment.

(2) As soon as practicable after making a decision under subsection (1), the Chief Executive Officer must give written notice of the decision to the employee.

(3) The notice must:

(a) give the reasons for the decision; and

(b) inform the employee of the employee's right to appeal under section 59A.

(4) A decision under subsection (1) takes effect on the day the notice is given to the employee or a later day specified in the notice.

53 Payment of fines

A fine imposed under this Part is a debt due and payable to the Territory by the person on whom it is imposed.

54 Abandonment of employment

(1) The Chief Executive Officer of an Agency may terminate the employment of an employee in the Agency if the employee is absent from duty without permission for at least 10 consecutive working days.

(2) The Chief Executive Officer must not take action under subsection (1) unless satisfied that:

(a) the employee:

(i) has been given written notice of the proposed action and the grounds for taking it; and

(ii) has been given a reasonable opportunity to show why the action should not be taken; or

(b) all reasonable steps have been taken to give notice as mentioned in paragraph (a) but without success.

(3) In this section:

working day, for an employee, means a day on which the employee is, in accordance with his or her conditions of employment, required to be at work.

Part 9 Review of grievances and appeals

Division 1 Grievances

59 Review of grievances

(1) An employee may:

(a) where he or she is aggrieved by the intention of the employee's Chief Executive Officer to terminate the employee's employment on probation – within 14 days; or

(aa) if aggrieved by a decision of the employee's Chief Executive Officer:

(i) under section 44 to take remedial action of a kind mentioned in section 46(1)(b)(i); or

(ii) under section 49A to take disciplinary action of a kind mentioned in section 49C(1)(b)(i) to (iv);

within 14 days after notice of the decision is given to the employee; or

(b) in any other case where the employee is aggrieved by his or her treatment in employment in the Public Sector – within 3 months after the action or decision by which he or she is aggrieved;

request the Commissioner to review the action, intended action or decision complained of.

(2) Subject to subsections (3) and (5A), the Commissioner must:

(a) in a case referred to in subsection (1)(a) or (aa) – within 14 days; and

(b) in any other case – within 3 months;

after a request under subsection (1) is received, or such longer period as, in the Commissioner's opinion, the circumstances require, review the matter.

(3) Where the Commissioner believes that an employee making a request under subsection (1) has not taken adequate steps to seek redress of the grievance within the relevant Agency, the Commissioner may refer the matter to the Chief Executive Officer of the Agency for consideration within the time specified by the Commissioner and the Commissioner need not review the matter under this section until that time has expired.

(4) Subject to this Act, the Commissioner has the powers necessary and convenient to deal with a request under this section, including the same powers and obligations in relation to a review as an appeal board has under section 59F in relation to an appeal.

(5) After reviewing a matter under this section the Commissioner may:

(a) confirm the action, intended action or decision; or

(b) direct the Chief Executive Officer of the Agency concerned to take or refrain from taking, as the case requires, a specified action.

(5A) The Commissioner may decline to review an action, intended action or decision if satisfied:

(a) the request for review is frivolous, vexatious or not made in good faith; or

(b) alternative proceedings:

(i) have been commenced by, or on behalf of, the employee; and

(ii) have neither:

(A) been withdrawn; nor

(B) failed for want of jurisdiction.

(6) In this section, for the purpose of allowing a review under this section of treatment resulting in the termination of the employment in, or resignation from, the Public Sector of a former employee, ***employee*** includes a former employee.

(7) In this section:

alternative proceedings means proceedings under another Act or a law of the Commonwealth or of a State or another Territory, for a review of the action, intended action or decision.

Division 2 Appeals

59A Appeals about inability, performance and disciplinary decisions

(1) Each of the following is an ***appealable decision***:

(a) a decision by a Chief Executive Officer under section 44(2) to take remedial action of a kind mentioned in section 46(1)(b)(ii) or (iii) or (c);

(b) a decision by a Chief Executive Officer under section 49A(1) to take disciplinary action of a kind mentioned in section 49C(1)(b)(v) to (viii) or (c);

(c) a decision by a Chief Executive Officer under section 50 to terminate an employee's employment.

(2) A person about whom an appealable decision is made may appeal against the decision.

(3) Notice of an appeal under this section must be given to the Commissioner within 14 days after written notice of the decision is given to the person.

(4) The making of an appeal under this section does not affect the operation or implementation of the decision the subject of the appeal.

59B Appeals about promotions

(1) This section applies if:

(a) under section 30 a Chief Executive Officer selects an employee (***employee A***) to perform duties; and

(b) the selection is a promotion for employee A; and

(c) notification of the promotion is required under section 30(2); and

(d) either:

(i) another employee (***employee B***) also applied to be promoted to perform those duties; or

(ii) if a vacancy was advertised under section 30(1)(a), the Commissioner grants an employee who did not apply for selection (***employee B***) leave to appeal.

(2) Employee B may appeal against the Chief Executive Officer's decision to promote employee A rather than employee B.

(3) Notice of an appeal under this section must be given to the Commissioner within 14 days after the decision to promote employee A is notified under section 30(2).

59C Commissioner to convene appeal board

(1) The Commissioner must convene an appeal board for an appeal.

(2) An appeal board must consist of 3 members as follows:

(a) a person selected by the Commissioner;

(b) a person selected by the relevant Chief Executive Officer;

(c) a person selected by the employee organisation prescribed by regulation.

(3) Selections for subsection (2)(b) and (c) must be made in the way prescribed by regulation.

(4) If the relevant Chief Executive Officer or employee organisation does not select an appeal board member in the way prescribed, the Commissioner must select a person instead.

(5) The person mentioned in subsection (2)(a) is the chairperson of the board.

(6) A member of an appeal board holds office on the terms and conditions determined by the Commissioner.

59D Appeal board may decline to deal with certain appeals

(1) An appeal board may decline to deal with, or to continue dealing with, an appeal if satisfied:

(a) the appeal is frivolous, vexatious or not made in good faith; or

(b) alternative proceedings:

(i) have been commenced by, or on behalf of, the appellant; and

(ii) have neither:

(A) been withdrawn; nor

(B) failed for want of jurisdiction.

(2) In this section:

alternative proceedings means proceedings under another Act or a law of the Commonwealth or of a State or another Territory, for a review of the decision the subject of the appeal.

59E Determination of appeal

(1) An appeal board:

(a) must conduct the appeal as a new hearing of the decision the subject of the appeal; and

(b) is not limited to consideration of the information that was available to the Chief Executive Officer who made the decision.

(2) The appeal board may:

(a) affirm the decision; or

(b) vary the decision; or

(c) set aside the decision; or

(d) set aside the decision and return the matter to the relevant Chief Executive Officer for reconsideration; or

(e) set aside the decision and replace it with the appeal board's decision.

(3) An appeal board returning a matter under subsection (2)(d) may give to the Chief Executive Officer any directions the board thinks fit as to how the matter is to be dealt with.

(4) An appeal board's decision under subsection (2)(e) must be one that could have been made by the relevant Chief Executive Officer when he or she made the original decision.

(5) The appeal board must give written notice of its decision and the reasons for it to the appellant and the relevant Chief Executive Officer.

59F Conduct of appeal

(1) Subject to this section, an appeal board may conduct an appeal in the way the appeal board considers appropriate.

(2) The appeal board must conduct the appeal:

(a) as expeditiously as is reasonably practicable; and

(b) with as little formality and technicality as is reasonably practicable; and

(c) in private, unless all parties agree otherwise; and

(d) in accordance with the regulations.

(3) In conducting the appeal, the appeal board:

(a) is not bound by the rules of evidence but must comply with natural justice; and

(b) is not required to hold a hearing.

(4) Without limiting subsection (1), the appeal board may do one or more of the following:

(a) obtain relevant information from persons as, and in the way, the appeal board considers appropriate;

(b) consult with persons as the appeal board considers appropriate;

(c) make inquiries as the appeal board considers appropriate.

(5) Without limiting subsection (4)(a), the appeal board may require a person to do one or more of the following:

(a) appear before the appeal board;

(b) give information to the appeal board, on oath or otherwise;

(c) produce information or documents to the appeal board;

(d) verify information or a document by statutory declaration.

(6) A person appearing before the appeal board may be represented by a legal practitioner or agent only with the leave of the appeal board.

(7) A person must comply with a requirement under subsection (5).

Maximum penalty: 43 penalty units.

(8) An offence against subsection (7) is an offence of strict liability.

(9) It is a defence to a prosecution for an offence against subsection (7) if the person establishes a reasonable excuse.

(10) Without limiting subsection (9), it is a reasonable excuse if complying with the requirement might tend to incriminate the person.

59G Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a member of an appeal board.

(2) In addition, the person is not civilly or criminally liable for an act done or omitted to be done by the appeal board in the exercise of a power or performance of a function under this Act.

(3) Subsections (1) and (2) do not affect any liability the Territory would, apart from those subsections, have for the act or omission.

(4) In this section:

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

Part 10 Miscellaneous

60 By-laws

(1) The Commissioner may make by-laws under this Act.

(2) The by-laws may deal with one or more of the following:

(c) leave;

(d) entitlement to and payment of allowances;

(e) recruitment and transfer expenses;

(f) conditions applying to employees transferred to the Public Service or a statutory corporation under the Acts repealed by section 66;

(g) conditions applying to employees in remote localities;

(h) leave and other fares;

(j) other terms and conditions of employment.

61 Work outside employment

(1) An employee must not engage in paid employment outside his or her duties as an employee except with the approval of his or her Chief Executive Officer.

(2) A Chief Executive Officer must not give approval unless satisfied the paid employment will not interfere with the performance by the employee of his or her duties.

(3) In this section:

paid employment means employment, work or service for which payment is made by way of pay, salary, honorarium, commission, fee, allowance or other reward.

62 Work on public holidays

A Chief Executive Officer may require the whole or part of his or her Agency to be kept open for the whole or part of a day observed in the Territory as a holiday under the *Public Holidays Act 1981* and may require the attendance and services of an employee in the Agency on that day.

63 Performance of duties of statutory office holder in absence

(1) In this section:

statutory office holder means an employee on whom a function is imposed or power conferred by another Act by virtue of the employee holding an office under the other Act and to which office he or she was appointed by virtue of being an employee.

(2) Where a statutory office holder is or is expected to be absent or unable to perform a function or exercise a power of his or her office, the Chief Executive Officer of the statutory office holder may, in writing, direct an employee employed in his or her Agency to perform the function or exercise the power during the absence or inability of the statutory office holder and, subject to that other Act, on being so directed, the employee may do so in the same manner and to the same extent as the statutory office holder.

(3) The validity of an act done by an employee under this section cannot be questioned in any proceedings on a ground arising from the fact that the occasion for so acting had not arisen or had ceased.

64 Public Sector Consultative Council

(1) The regulations may make provision for the establishment of a Public Sector Consultative Council (the ***Council***).

(2) The Council must be representative of:

(a) the Commissioner; and

(b) Agencies; and

(c) organisations (as defined in the *Fair Work (Registered Organisations) Act 2009* (Cth)) representing employees.

(3) The regulations may:

(a) provide for matters of general interest in relation to the Public Sector to be referred to the Council; and

(b) deal with the membership, functions, powers and procedures of the Council.

64A Protection from liability – employee reports

(1) No civil or criminal proceedings lie against a person:

(a) who conducts an investigation under the Act for the Commissioner or a Chief Executive Officer; or

(b) who is an employee or former employee;

in relation to a report prepared in good faith by the person for this Act or in the course of his or her employment about:

(c) the work that has been, is being or is to be performed by an employee; or

(d) the work that was performed by a former employee; or

(e) the conduct of an employee or former employee.

(2) In subsection (1):

employee includes the Commissioner and a Chief Executive Officer.

former employee includes a former Commissioner and a former Chief Executive Officer.

65 Regulations

(1) The Administrator may make regulations under this Act.

(2) The regulations may prescribe a fine for an offence not exceeding 43 penalty units.

66 Repeal

The Acts specified in Schedule 2 are repealed.

Part 11 Transitional matters for Public Sector Employment and Management Amendment Act 2011

67 Definitions

In this Part:

2011 Act means the *Public Sector Employment and Management Amendment Act 2011*.

commencement means the commencement of the 2011 Act.

continues means continues on and after commencement.

current means in force immediately before commencement.

new, for a provision of this Act, means the provision as amended by the 2011 Act.

old, for a provision of this Act, means the provision as in force immediately before the commencement.

68 Commissioner's investigatory powers

(1) A current summons under old section 15(1)(b) continues as a requirement under new section 15(2)(a) or (b) according to its terms.

(2) A current requirement under old section 15(1)(d) continues as a requirement under new section 15(2)(c).

69 Chief Executive Officers

A person appointed as the Chief Executive Officer of an Agency under old section 19 and holding that office immediately before commencement, continues to hold that office as if he or she had been appointed under new section 19A.

70 Acting Chief Executive Officers

A current determination under old section 21(3)(a) for a Chief Executive Officer continues as a determination under new section 21(3) for that Chief Executive Officer.

71 Delegations

A current delegation under old section 27 continues as a delegation under new section 27.

72 Categorisation of employment

(1) The change in the categorisation of employment from permanent and temporary under old section 29(3) to ongoing, fixed period and casual under new section 29(3) does not affect:

(a) the employment of any person; or

(b) the terms and conditions of employment for any employee; or

(c) the rights or entitlements of any employee.

(2) A person who was employed on a permanent basis under old section 29(3)(a) immediately before commencement, continues as an ongoing employee under new section 29(3)(a).

(3) A person who was employed on a temporary basis under old section 29(3)(b) immediately before commencement, continues:

(a) if the employed was on a casual basis – as a casual employee under new section 29(3)(c); or

(b) otherwise – as a fixed period employee under new section 29(3)(b).

(4) A reference in any document to:

(a) a person employed on a permanent basis under old section 29(3)(a) – is taken to be a reference to an ongoing employee; or

(b) a person employed on a temporary basis under old section 29(3)(b) – is taken to be:

(i) for a person employed on a casual basis – a reference to a casual employee; or

(ii) otherwise – a reference to a fixed period employee.

73 Determinations under old section 34

A current determination under old section 34 continues:

(a) if it relates to duties to be performed on a casual basis – as a determination under new section 34A; or

(b) otherwise – as a determination under new section 34.

74 Secondment

A current arrangement under old Part 6, Division 1 continues as a secondment arrangement under new section 39.

75 Inability or performance matters

(1) This section applies if:

(a) notice was given to an employee under old section 44 before commencement; and

(b) as at commencement the Chief Executive Officer had done neither of the following:

(i) taken action under old section 46 or 48;

(ii) decided not to take action under that section.

(2) This section also applies if:

(a) a Chief Executive Officer gave a direction to an employee under old section 48 before commencement; and

(b) as at commencement the Chief Executive Officer had not taken action under old section 48(4) or (5).

(3) Old Part 7 continues to apply in relation to the employee as if the 2011 Act had not commenced, subject to subsections (4) and (5).

(4) If the employee is suspended under old section 47, new section 47(3) and (5)(b) apply as if the employee were suspended under new section 47.

(5) The Chief Executive Officer may, under old section 46 take action of the kind described in new section 46(1)(b)(i) as well as, or instead of, action of the kind described in old section 46(1)(a) and (b).

(6) The continued application of old Part 7 under subsection (3) ceases when the Chief Executive Officer:

(a) takes action under old section 46 or 48; or

(b) decides not to take action under either of those sections.

(7) A decision of the Chief Executive Officer under old Part 7 as applied by subsection (3) is subject to review or appeal under new Part 9 as if it were a decision under new section 44.

76 Retirement on the grounds of invalidity

A reference in new section 48(3)(a) to a medical report, includes a reference to the results of an examination under old section 45, 48 or 51.

77 Discipline

(1) This section applies if:

(a) an investigation about an employee was initiated under old section 51(1) before commencement; and

(b) as at commencement the Chief Executive Officer had not made a decision under old section 51(10).

(2) Old Part 8 continues to apply in relation to the employee as if the 2011 Act had not commenced, subject to subsections (3), (4) and (5).

(3) If the employee is suspended under old section 51(6), new section 49E(3) and (5)(b) apply as if the employee were suspended under new section 49E.

(4) The Chief Executive Officer may, under old section 51(1) take action of the kind described in new section 49C(1)(b)(ii) as well as, or instead of, action of the kind described in old section 51(10)(a).

(5) The continued application of old Part 8 under subsection (2) ceases when the Chief Executive Officer makes a decision under old section 51(10)).

(6) A decision of the Chief Executive Officer under old Part 8 as applied by subsection (2) is subject to review or appeal under new Part 9 as if it were a decision under new section 49A.

78 Appeals

(1) Subsection (2) applies if:

(a) an appeal was lodged under old section 55 or 57 before commencement; and

(b) as at commencement the appeal had not been withdrawn or determined.

(2) The appeal must be heard and determined in accordance with old Part 9 as if the 2011 Act had not commenced.

(3) Subsection (4) applies if:

(a) a person had, before commencement, a right under old section 55 to appeal against a promotion; but

(b) as at commencement the person had not exercised or waived that right.

(4) The person may appeal under new section 59B against the promotion decision as if it were a decision to which that section applies.

(5) Subsection (6) applies if:

(a) a person had, before commencement, a right under old section 57 to appeal against a decision under old section 46(1), 50 or 51(10)(a); but

(b) as at commencement the person had not exercised or waived that right.

(6) The person may request a review under new section 59(1)(aa) or appeal under new section 59B, as appropriate, as if the decision were a decision under new section 44, 49A or 50 as the case may be.

79 By-laws

All current by-laws under old section 60 continue as by-laws under new section 60.

80 Regulations

All current regulations under old section 65 continue as regulations under new section 65.

Schedule 1 Chief Executive Officers of particular Agencies

section 19(3)

Agency	Office the holder of which is the Chief Executive Officer
Police Civil Employment Unit	Commissioner of Police
Auditor-General's Office	Auditor-General
Northern Territory Fire and Emergency Service	Commissioner of Fire and Emergency Service

Schedule 2 Acts repealed

section 66

Public Service Ordinance 1976	No. 62, 1976
Public Service Ordinance (No. 2) 1976	No. 63, 1976
Public Service Ordinance 1977	No. 11, 1977
Public Service Ordinance (No. 2) 1977	No. 37, 1977
Public Service Ordinance (No. 3) 1977	No. 42, 1977
Public Service Ordinance (No. 4) 1977	No. 55, 1977
Public Service Ordinance 1978	No. 32, 1978
Public Service Act (No. 2) 1978	No. 15, 1979
Public Service Act 1979	No. 97, 1979
Public Service Act (No. 2) 1979	No. 102, 1979
Public Service Act 1980	No. 47, 1980
Public Service Amendment Act 1980	No. 15, 1981
Public Service Amendment Act 1982	No. 35, 1982
Public Service Amendment Act 1983	No. 41, 1983
Public Service and Statutory Authorities Amendment Act 1985	No. 28, 1985
Public Service Amendment Act 1985	No. 43, 1985
Public Service Amendment Act 1987	No. 23, 1987
Public Employment (Modification of Terms and Conditions of Employment) Act 1987	No. 32, 1987
Public Service Amendment Act 1991	No. 14, 1991
Teaching Service Act 1981	No. 41, 1981
Teaching Service Amendment Act 1981	No. 82, 1981
Teaching Service Amendment Act 1982	No. 29, 1982

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz* = *Gazette
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

***Public Sector Employment and Management Act 1993* (Act No. 11, 1993)**
Assent date 19 April 1993
Commenced 1 July 1993 (*Gaz* S53, 29 June 1993)

***Statute Law Revision Act (No. 2) 1993* (Act No. 70, 1993)**
Assent date 9 November 1993
Commenced 9 November 1993

***Public Sector Employment and Management Amendment Act 1993* (Act No. 79, 1993)**
Assent date 1 December 1993
Commenced 1 December 1993

***Financial Management (Consequential Amendments) Act 1995* (Act No. 5, 1995)**
Assent date 21 March 1995
Commenced 1 April 1995 (s 2, s 2 *Financial Management 1995* (Act No. 4, 1995) and *Gaz* S13, 31 March 1995)

***Statute Law Revision Act 1995* (Act No. 14, 1995)**
Assent date 23 June 1995
Commenced 23 June 1995

***Sentencing (Consequential Amendments) Act 1996* (Act No. 17, 1996)**
Assent date 19 April 1996
Commenced 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and *Gaz* S15, 13 June 1996)

***Statute Law Revision Act 1998* (Act No. 11, 1998)**
Assent date 30 March 1998
Commenced 30 March 1998

***Public Sector Employment and Management Amendment Act 1998* (Act No. 64, 1998)**
Assent date 22 September 1998
Commenced 7 October 1998 (*Gaz* G39, 7 October 1998, p 4)

***Legal Aid Amendment Act 1998* (Act No. 78, 1998)**

Assent date	21 October 1998
Commenced	1 January 1999 (*Gaz* G45, 18 November 1998, p 4)

***Public Sector Employment and Management Amendment Act 2001* (Act No. 68, 2001)**

Assent date	21 December 2001
Commenced	21 December 2001

***Statute Law Revision Act (No. 2) 2002* (Act No. 59, 2002)**

Assent date	7 November 2002
Commenced	7 November 2002

***Public Sector Employment and Management Amendment Act 2003* (Act No. 50, 2003)**

Assent date	18 September 2003
Commenced	18 September 2003

***Electoral (Consequential Amendments) Act 2004* (Act No. 12, 2004)**

Assent date	1 March 2004
Commenced	15 March 2004 (s 2, s 2 *Electoral Act 2004* (Act No. 11, 2004) and *Gaz* S6, 15 March 2004)

***Statute Law Revision Act (No. 2) 2004* (Act No. 54, 2004)**

Assent date	15 September 2004
Commenced	27 October 2004 (*Gaz* G43, 27 October 2004, p 3)

***Statute Law Revision Act 2005* (Act No. 44, 2005)**

Assent date	14 December 2005
Commenced	14 December 2005

***Legal Profession (Consequential Amendments) Act 2007* (Act No. 7, 2007)**

Assent date	17 May 2007
Commenced	s 10: 1 July 2007; rem: 17 May 2007 (s 2 and *Gaz* G26, 27 June 2007, p 3)

***Health Practitioner (National Uniform Legislation) Implementation Act 2010* (Act No. 18, 2010)**

Assent date	20 May 2010
Commenced	1 July 2010 (s 2)

***Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010* (Act No. 40, 2010)**

Assent date	18 November 2010
Commenced	1 March 2011 (s 2, s 2 *Oaths, Affidavits and Declarations Act 2010* (Act No. 39, 2010) and *Gaz* G7, 16 February 2011, p 4)

***Public Sector Employment and Management Amendment Act 2011* (Act No. 29, 2011)**

Assent date	31 August 2011
Commenced	1 January 2012 (*Gaz* S73, 20 December 2011, p 2)

***Health Practitioner (National Uniform Legislation) Implementation Act 2012* (Act No. 17, 2012)**

Assent date	22 May 2012
Commenced	1 July 2012 (s 2)

Independent Commissioner Against Corruption Act 2017 **(Act No. 23, 2017)**

Assent date	8 December 2017
Commenced	30 November 2018 (*Gaz* S94, 30 November 2018)

Statute Law Revision Act 2020 **(Act No. 26, 2020)**

Assent date	19 November 2020
Commenced	20 November 2020 (s 2)

Interpretation Amendment Act 2021 **(Act No. 28, 2021)**

Assent date	15 December 2021
Commenced	1 January 2022 (s 2)

Fire and Emergency Legislation Amendment Act 2024 **(Act No. 5, 2024)**

Assent date	14 March 2024
Commenced	16 July 2024 (*Gaz* S67, 15 July 2024)

Integrity and Ethics Commissioner Act 2025 **(Act No. 32, 2025)**

Assent date	27 November 2025
Commenced	ss 3 to 7 and pts 2 to 6 and 8: 1 June 2026 (s 2(2) and *Gaz* S39, 29 May 2026); rem: 28 November 2025 (s 2(1))

Statute Law Revision and Repeals Act 2026 **(Act No. 3, 2026)**

Assent date	9 February 2026
Commenced	10 February 2026 (s 2)

3 *GAZETTE* NOTICES

Gaz S87, 1 November 1993

4 SAVINGS AND TRANSITIONAL PROVISIONS

ss 23 to 27 *Public Sector Employment and Management Amendment Act 1998* (Act No. 64, 1998)

s 5 *Public Sector Employment and Management Amendment Act 2003* (Act No. 50, 2003)

5 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 5E, 15A, 16, 28, 38B, 48 and 62.

6 LIST OF AMENDMENTS

s 2A	ins No. 29, 2011, s 4
s 3	amd No. 5, 1995, s 7; No. 11, 1998, s 7; No. 64, 1998, s 4; No. 44, 2005, s 22; No. 18, 2010, s 89; No. 29, 2011, s 5; No. 17, 2012, s 55
s 4	amd No. 59, 2002, s 5; No. 12, 2004, s 5; No. 29, 2011, s 43
s 5	rep No. 5, 1995, s 8 ins No. 29, 2011, s 6
pt 1A hdg	ins No. 29, 2011, s 7
ss 5A – 5F	ins No. 29, 2011, s 7
s 6	amd No. 29, 2011, s 43

s 7	sub No. 5, 1995, s 9
	amd No. 14, 1995, s 12; No. 29, 2011, s 43; No. 26, 2020, s 3
s 8	amd No. 29, 2011, s 43
s 10	amd No. 29, 2011, s 43
s 11	sub No. 29, 2011, s 8
s 12	amd No. 29, 2011, s 43
s 13	amd No. 29, 2011, s 9
s 14	amd No. 29, 2011, s 43
s 15	amd No. 40, 2010, s 118
	sub No. 29, 2011, s 10
s 15A	ins No. 29, 2011, s 10
	sub No. 23, 2017, s 176
s 16	amd No. 64, 1998, s 5; No. 29, 2011, s 43; No. 28, 2021, s 20
s 17	sub No. 29, 2011, s 11
s 18	amd No. 29, 2011, s 12
s 19	sub No. 29, 2011, s 13
s 19A	ins No. 29, 2011, s 13
s 20	amd No. 29, 2011, s 14
s 21	amd No. 29, 2011, s 15
s 22	amd No. 29, 2011, s 43
ss 23 – 24	sub No. 29, 2011, s 16
ss 25 – 26	amd No. 29, 2011, s 43
s 27	amd No. 79, 1993, s 3; No. 64, 1998, s 6; No. 68, 2001, s 2
	sub No. 29, 2011, s 17
s 28	amd No. 5, 1995, s 10; No. 64, 1998, s 7; No. 29, 2011, s 18
pt 5 hdg	amd No. 44, 2005, s 35; No. 29, 2011, s 43
s 29	amd No. 64, 1998, s 8; No. 29, 2011, s 19
s 30	amd No. 64, 1998, s 9; No. 29, 2011, s 20
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s 32	amd No. 29, 2011, s 21
s 33	amd No. 29, 2011, s 22
s 34	amd No. 64, 1998, s 10; No. 29, 2011, s 23
s 34A	ins No. 29, 2011, s 24
s 35	amd No. 29, 2011, s 43
s 36	amd No. 64, 1998, s 11
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	ins No. 29, 2011, s 25
s 37	amd No. 29, 2011, s 43
s 38	amd No. 50, 2003, s 4; No. 29, 2011, s 26
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s 39	sub No. 29, 2011, s 28
s 40	amd No. 54, 2004, s 7
	rep No. 29, 2011, s 28
s 41	sub No. 29, 2011, s 29
s 42	amd No. 79, 1993, s 4; No. 29, 2011, s 43
s 43	amd No. 29, 2011, s 43
pt 7 hdg	sub No. 29, 2011, s 30
s 44	sub No. 29, 2011, s 30
s 45	amd No. 64, 1998, s 12
	sub No. 29, 2011, s 30
s 46	amd No. 70, 1993, s 8
	sub No. 29, 2011, s 30
s 47	amd No. 64, 1998, s 13; No. 54, 2004, s 7
	sub No. 29, 2011, s 30
s 48	sub No. 29, 2011, s 30
s 49	amd No. 17, 1996, s 6; No. 64, 1998, s 14; No. 29, 2011, s 43
ss 49A – 49E	ins No. 29, 2011, s 31
s 50	amd No. 29, 2011, s 32

s 51	amd No. 64, 1998, s 15 rep No. 29, 2011, s 33
s 52	amd No. 70, 1993, s 8; No. 64, 1998, s 16 rep No. 29, 2011, s 33
s 54	sub No. 29, 2011, s 34
pt 9 hdg	sub No. 29, 2011, s 35
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div 1 hdg	ins No. 29, 2011, s 35
s 55	amd No. 79, 1993, s 5; No. 64, 1998, s 17 rep No. 29, 2011, s 36
s 56	amd No. 64, 1998, s 18 rep No. 29, 2011, s 36
s 57	amd No. 64, 1998, s 19; No. 7, 2007, s 16 rep No. 29, 2011, s 36
s 58	amd No. 64, 1998, s 20; No. 7, 2007, s 16; No. 40, 2010, s 118 rep No. 29, 2011, s 36
s 59	amd No. 64, 1998, s 21; No. 29, 2011, s 37
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ss 59A – 59G	ins No. 29, 2011, s 38
s 60	amd No. 70, 1993, s 8; No. 29, 2011, s 43
s 61	amd No. 29, 2011, s 43
s 63	amd No. 29, 2011, s 43
s 64	amd No. 11, 1998, s 7; No. 54, 2004, s 7; No. 29, 2011, s 39
s 64A	ins No. 64, 1998, s 22 amd No. 29, 2011, s 40
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