



Australian Capital Territory

Public Sector Management Amendment Act 2011

A2011-1

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Australian Capital Territory

Public Sector Management Amendment Act 2011

A2011-1

An Act to amend the *Public Sector Management Act 1994*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

J2009-527

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

This Act is the *Public Sector Management Amendment Act 2011*.

2 Commencement

- (1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

- (2) If this Act has not commenced within 2 years beginning on its notification day, it automatically commences on the first day after that period.
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

3 Legislation amended

This Act amends the *Public Sector Management Act 1994*.

Note This Act also amends the *Tobacco Act 1927* (see s 82).

4 New section 9A

insert

9A Misconduct

The misconduct procedures that apply to a public employee are—

- (a) if an industrial instrument applies to the employee and includes procedures for misconduct—the misconduct procedures in the industrial instrument; or
- (b) in any other case—the prescribed misconduct procedures.

5 **Definitions for div 3.7**
Section 39, definition of *designated group*

substitute

designated group means a group of any of the following people:

- (a) an Aboriginal person or Torres Strait Islander;
- (b) a person who has migrated to Australia and whose first language is a language other than English;
- (c) a child of a person mentioned in paragraph (b);
- (d) a person who has a disability.

6 **Equal employment opportunity programs**
Section 40 (1) (a)

omit

relevant staff organisations

substitute

relevant unions

7 **Access and equity programs**
Section 41 (1) (a)

omit

relevant staff organisations

substitute

relevant unions

**8 Industrial democracy programs
Section 42 (1) (a)**

omit

relevant staff organisations

substitute

relevant unions

**9 Joint council
Section 44 (2)**

omit

relevant staff organisations

substitute

relevant unions

10 Section 65

substitute

65 Application of merit principle

- (1) This section applies if a function under this Act is exercised in relation to any of the following employment matters:
- (a) an appointment;
 - (b) an engagement under section 28 (Chief executives—engagement) or section 72 (Executives engagement);
 - (c) an engagement by a contract under section 30 (Chief executives—temporary contracts) or section 76 (Executives—temporary contracts), if the period of engagement is more than 9 months;
 - (d) a transfer to an office of a higher classification for a period of more than 3 months;

- (e) a promotion;
- (f) a fixed term engagement if the period of engagement is for more than 12 months.

Note **Function** includes authority, duty and power (see Legislation Act, dict, pt 1).

- (2) The relevant chief executive exercising the function must ensure that—
 - (a) all people who are eligible have, as far as practicable, a reasonable opportunity to apply for the appointment, engagement, transfer or promotion; and
 - (b) the decision is made on the basis of an assessment of the relative efficiency of the applicants, having regard to—
 - (i) the nature of the duties to be performed; and
 - (ii) the relevant abilities, qualifications, experience, personal qualities and potential for development of the applicants.
- (3) For subsection (2) (a), the people who are eligible may be limited if the position is an identified position.
- (4) Without limiting subsection (2), a function under this Act must be exercised—
 - (a) without patronage or favouritism; and
 - (b) without discrimination that is unlawful under the *Discrimination Act 1991*.
- (5) For subsection (4) (b), the exercise of a function that is in accordance with an approved program for women or people in a designated group is not unlawful under the *Discrimination Act 1991*.
- (6) In this section:
approved program means—
 - (a) an equal employment opportunity program; or

- (b) a prescribed program to encourage the appointment, engagement, promotion or transfer of women or people in a designated group.

designated group—see section 39.

equal employment opportunity program—see section 39.

identified position means a position that the relevant chief executive has decided, in accordance with a prescribed process, must be filled by—

- (a) an Aboriginal person or Torres Strait Islander; or
- (b) a person who has a disability.

11 Sections 70 and 71

substitute

70 Appointment on probation

- (1) The appointment of a person to the service as an officer is subject to a period of probation under this section, unless 1 of the following sections applies to the appointment:
 - (a) section 71 (Appointment on probation—prescribed training office);
 - (b) section 71A (Appointment on probation—teachers);
 - (c) section 71C (Appointment without probation).
- (2) Probation begins on the day the person is appointed and the appointment is taken to be confirmed 12 months after the day the person is appointed unless—
 - (a) the appointment is earlier confirmed under this section; or
 - (b) the appointment is earlier ended under this section; or
 - (c) the probationary period is earlier extended under section 71B.

- (3) The appointment may be confirmed any day after the day the officer is appointed if the relevant chief executive is satisfied that—
 - (a) the officer has undergone a medical examination to assess the person's standard of health and fitness and the examination confirms that the standard of health and fitness of the person is satisfactory; or
 - (b) it is unnecessary, in the circumstances, to require the officer to undergo a medical examination.
- (4) The appointment may be ended at any time before the appointment is confirmed or taken to be confirmed if the relevant chief executive is satisfied on reasonable grounds that—
 - (a) the officer has not undergone a medical examination to assess his or her standard of health and fitness; or
 - (b) the officer has undergone a medical examination to assess his or her standard of health and fitness and an authorised doctor provides a report that the standard of health and fitness of the officer is not satisfactory; or
 - (c) on the basis of a report from the officer's supervisor, or another appropriate officer—the performance of the officer's duties is not satisfactory; or
 - (d) the officer is not a fit and proper person to remain an officer of the service; or
 - (e) the officer is an excess officer.
- (5) An appointment on probation must not be ended unless the officer has been given at least 14 days written notice of—
 - (a) the reason for ending the appointment; and
 - (b) the day the appointment will end.

- (6) Unless otherwise determined by the commissioner, an officer whose appointment has been ended under this section is not eligible for a further appointment to the service for the period of 12 months beginning immediately after the day the appointment ends.

71 Appointment on probation—prescribed training office

- (1) The appointment of a person to the service as an officer in a prescribed training office is subject to a period of probation under this section.
- (2) Probation begins on the day the person is appointed and is taken to be confirmed 6 months after the day the officer completes the course of training required for the prescribed training office unless—
 - (a) the appointment is earlier confirmed under this section; or
 - (b) the appointment is earlier ended under this section; or
 - (c) the probationary period is earlier extended under section 71B.
- (3) The appointment may be confirmed any day after the officer successfully completes the course of training required for the prescribed training office if the relevant chief executive is satisfied that—
 - (a) the officer has undergone a medical examination to assess the person's standard of health and fitness and the examination confirms that the standard of health and fitness of the officer is satisfactory; or
 - (b) it is unnecessary, in the circumstances, to require the officer to undergo a medical examination.
- (4) The appointment may be ended any time before the appointment is confirmed or taken to be confirmed if the relevant chief executive is satisfied on reasonable grounds that—
 - (a) the officer has not undergone a medical examination to assess his or her standard of health and fitness; or

- (b) the officer has undergone a medical examination to assess their standard of health and fitness and an authorised doctor provides a report that the standard of health and fitness of the officer is not satisfactory; or
 - (c) on the basis of a report from the officer's supervisor, or another appropriate officer—the performance of the officer's duties is not satisfactory; or
 - (d) the officer is not a fit and proper person to remain an officer of the service; or
 - (e) the officer is an excess officer; or
 - (f) the officer has not successfully completed the course of training required for the prescribed training office.
- (5) An appointment on probation must not be ended unless the officer has been given at least 14 days written notice of—
- (a) the reason for ending the appointment; and
 - (b) the day the appointment will end.
- (6) Unless otherwise determined by the commissioner, an officer whose appointment has been ended under this section is not eligible for a further appointment to the service for the period of 12 months beginning immediately after the day the appointment ends.

71A Appointment on probation—teachers

- (1) The appointment of a person as a teacher is subject to a period of probation under this section.
- (2) Probation begins on the day the person is appointed and is taken to be confirmed 18 months after the day the person is appointed unless—
 - (a) the appointment is earlier confirmed under this section; or
 - (b) the appointment is earlier ended under this section; or

- (c) the probationary period is earlier extended under section 71B.
- (3) The appointment may be confirmed any day after the day the officer is appointed if the relevant chief executive is satisfied that—
 - (a) the officer has undergone a medical examination to assess the person's standard of health and fitness and the examination confirms that the standard of health and fitness of the officer is satisfactory; or
 - (b) it is unnecessary, in the circumstances, to require the officer to undergo a medical examination.
- (4) The appointment may be ended any time before the appointment is confirmed or taken to be confirmed if the relevant chief executive is satisfied on reasonable grounds that—
 - (a) the officer has not undergone a medical examination to assess his or her standard of health and fitness; or
 - (b) the officer has undergone a medical examination to assess their standard of health and fitness and an authorised doctor provides a report that the standard of health and fitness of the officer is not satisfactory; or
 - (c) on the basis of a report from the officer's supervisor, or another appropriate officer—the performance of the officer's duties is not satisfactory; or
 - (d) the officer is not a fit and proper person to remain an officer of the service; or
 - (e) the officer is an excess officer.
- (5) An appointment on probation must not be ended unless the officer has been given at least 14 days written notice of—
 - (a) the reason for ending the appointment; and
 - (b) the day the appointment will end.

- (6) Unless otherwise determined by the commissioner, an officer whose appointment has been ended under this section is not eligible for a further appointment as a teacher for the period of 12 months beginning immediately after the day the appointment ends.
- (7) In this section:
- teacher* means a person who holds an office classified as a teacher under the management standards or a relevant industrial instrument.

71B Extension of period of probation

- (1) A period of probation for a person may be extended if—
- (a) the appointment has not been confirmed or taken to be confirmed; and
- (b) the relevant chief executive is satisfied on reasonable grounds that the extension is reasonably required to assess the person's suitability for office.

Examples—par (b)

- 1 Glen is appointed as an officer. Six weeks after starting work a family crisis occurs and Glen is absent on authorised unpaid leave for a 12-week period. Glen's extended absence means that there has not been a long enough period at work to assess whether work performance is satisfactory so an additional period of probation is reasonable.
- 2 Josephine is appointed as a teacher and undergoes a medical assessment to assess her standard of health and fitness. The report from the authorised doctor is delayed because the doctor is taken ill and cannot complete the report before the probationary period would be taken to be confirmed under s 71A (2). An additional period of probation is reasonable to allow for a medical assessment report to be provided.
- 3 Mai is appointed to a prescribed training office. The training required for the office usually takes two years to complete. An additional period of probation is reasonable to allow time for Mai to complete the required training.

Note An example is part of the Act is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The maximum additional period for probation under this section is as follows:
 - (a) for section 70 (Appointment on probation)—6 months;
 - (b) for section 71 (Appointment on probation—prescribed training office)—12 months;
 - (c) for section 71A (Appointment on probation—teachers)—12 months.
- (3) An appointment on probation must not be extended unless the officer has been given at least 14 days written notice of—
 - (a) the reason for the extension; and
 - (b) the length of the extension; and
 - (c) the day the probationary period will end.
- (4) An appointment that has been extended under this section may be confirmed any day after the extension if the relevant chief executive is satisfied that—
 - (a) the officer has undergone a medical examination to assess the person's standard of health and fitness and the examination confirms that the standard of health and fitness of the officer is satisfactory; or
 - (b) it is unnecessary, in the circumstances, to require the officer to undergo a medical examination.
- (5) An appointment that has been extended under this section may be ended at any time before the appointment is confirmed or taken to be confirmed if the relevant chief executive is satisfied on reasonable grounds that—
 - (a) the officer has not undergone a medical examination to assess his or her standard of health and fitness; or

- (b) the officer has undergone a medical examination to assess his or her standard of health and fitness and an authorised doctor provides a report that the standard of health and fitness of the officer is not satisfactory; or
 - (c) on the basis of a report from the officer's supervisor, or another appropriate officer—the performance of the officer's duties is not satisfactory; or
 - (d) the officer is not a fit and proper person to remain an officer of the service; or
 - (e) the officer is an excess officer.
- (6) An appointment that has been extended under this section is taken to be confirmed on the day notified as the day the probationary period will end under subsection (3) (c) unless—
- (a) the appointment is earlier confirmed under this section; or
 - (b) the appointment is earlier ended under this section.

71C Appointment without probation

- (1) A relevant chief executive may appoint a person to an office without probation if the chief executive is satisfied that—
- (a) the appointment without probation is in the public interest; or
 - (b) immediately before the day of the appointment, for a period of 12 months or more, the person performed the duties of the office, or an office with similar duties.
- (2) A relevant chief executive must not appoint a person to an office without probation unless the chief executive is satisfied that—
- (a) the person has undergone a medical examination to assess the person's standard of health and fitness and on the basis of the examination, the standard of health and fitness of the person is satisfactory; or

- (b) it is unnecessary, in the circumstances, to require the person to undergo a medical examination.

12 Division 5.5 heading

substitute

Division 5.5 Promotion of officers

13 Sections 82 to 96

substitute

82 Definitions—div 5.5

In this division:

appellable level position means an office—

- (a) with a maximum salary level that is lower than the minimum salary level for the senior officer grade C classification; or
- (b) for which teaching qualifications are required.

joint selection committee, for a promotion, means a committee constituted as prescribed and includes—

- (a) a committee that is agreed to by the principal union; and
- (b) a management initiated committee.

office means an office other than—

- (a) an office of chief executive; or
- (b) an executive office.

83 Promotion to vacant office

- (1) The relevant chief executive for an administrative unit in which a vacant office exists may promote an officer to fill the vacant office if the prescribed requirements are met.
- (2) If an officer is promoted under this division the relevant chief executive must give written notice of the promotion to the officer.

84 Promotion appeal

- (1) An officer may appeal against the promotion of another person to a vacant office under section 83 if—
 - (a) the promotion is to an appellable level position; and
 - (b) the officer applied for promotion to the vacant office.
- (2) The appeal must be made in accordance with—
 - (a) if an industrial instrument applies to an officer and includes a procedure for promotion appeals—the promotion appeals procedure in the industrial instrument; or
 - (b) in any other case—the prescribed promotion appeals procedure.
- (3) In deciding the appeal a decision-maker must apply the criteria set out in—
 - (a) if an industrial instrument applies to the officer and includes criteria for decision making for promotion appeals—the promotion appeals decision making criteria in the industrial instrument; or
 - (b) in any other case—the prescribed promotion appeals decision making criteria.

85 Promotion appeal by excess officer

- (1) This section applies if an officer has been told in writing by the relevant chief executive that he or she is an excess officer within the meaning of section 139.
- (2) The officer may appeal against the promotion of another person to a vacant office if—
 - (a) the promotion is to an appellable level position; and
 - (b) the excess officer applied for transfer to the vacant office the classification of which is equal to or lower than the classification of the office occupied by the excess officer.
- (3) An appeal under this section does not affect the operation of part 6 (Retirement and redeployment of officers).
- (4) The appeal must be made in accordance with—
 - (a) if an industrial instrument applies to the officer and includes a procedure for promotion appeals—the promotion appeals procedures in the industrial instrument; or
 - (b) in any other case—the prescribed promotion appeals procedure.
- (5) In deciding the appeal a decision-maker must apply the criteria set out in—
 - (a) if an industrial instrument applies to the officer and includes criteria for decision making for promotion appeals—the decision making criteria in the industrial instrument; or
 - (b) in any other case—the prescribed decision making criteria.

86 Review of certain promotion decisions

- (1) An officer may apply for review of a promotion if—
 - (a) the promotion is to a reviewable level office; and
 - (b) the officer applied for promotion to the reviewable level office.
- (2) The review must be conducted in accordance with—
 - (a) if an industrial instrument applies to an officer and includes a review of promotion procedure—the review procedure in the industrial instrument; or
 - (b) in any other case—the prescribed review of promotion procedure.
- (3) In deciding the review, a decision-maker must apply the criteria set out in—
 - (a) if an industrial instrument applies to the officer and includes criteria for review of promotion decisions—the criteria for review in the industrial instrument; or
 - (b) in any other case—the prescribed criteria for review of promotion decisions.
- (4) If the relevant chief executive cancels the promotion as a result of the review—
 - (a) the officer whose promotion is cancelled must for all purposes be treated as having held the office from the date the promotion took effect to the date of the cancellation; and
 - (b) the chief executive—
 - (i) must transfer the officer to an office with a classification that is equal to the classification that the officer had immediately before the promotion took effect; and
 - (ii) may if necessary create an office to allow the transfer mentioned in subparagraph (i).

(5) In this section:

reviewable level office means an office—

- (a) with a maximum salary level that is equal to or higher than the minimum salary level for the senior officer grade C classification; and
- (b) for which teaching qualifications are not required.

87 Promotion on advice of joint selection committee

- (1) The relevant chief executive for an administrative unit in which a vacant office exists may promote an officer to fill the vacant office if—
 - (a) a joint selection committee is established in relation to the promotion; and
 - (b) the committee recommends the promotion.
- (2) If a joint selection committee makes a recommendation to the chief executive about a promotion the chief executive may—
 - (a) accept the recommendation; or
 - (b) not accept the recommendation.
- (3) If an officer is promoted under this section the chief executive must—
 - (a) notify the promotion in the gazette; and
 - (b) state in the notification that the selection involved—
 - (i) a joint selection committee agreed to by the principal union (a ***union agreed joint selection committee***); or
 - (ii) a management initiated joint selection committee; and
 - (c) state in the notification whether the promotion is appellable or reviewable.

- (4) A decision to promote under this section is not an appellable decision or a reviewable decision if the promotion is in accordance with—
 - (a) the recommendation of a union agreed joint selection committee; or
 - (b) the unanimous recommendation of a management initiated joint selection committee.
- (5) A decision to promote under this section is an appellable decision and a reviewable decision if—
 - (a) an officer is promoted to an appellable level position; and
 - (b) the officer seeking to appeal applied for promotion to the position; and
 - (c) the promotion is not in accordance with—
 - (i) the recommendation of a union agreed joint selection committee; or
 - (ii) the unanimous recommendation of a management initiated joint selection committee.

88 How promotions take effect

- (1) A promotion takes effect as prescribed.
- (2) The salary payable for an office to which an officer is promoted under section 83 or section 87 is payable on and after the prescribed day.
- (3) If an appeal against a promotion results in a different officer being promoted to an office than had originally been promoted—the salary payable to the different officer is payable on and after the prescribed day for the original promotion.

89 Death of officer before appeal decided

If, before an appeal under section 84 against the promotion of an officer has been decided, the officer dies, the appeal is deemed to lapse on the day of the death, but the promotion does not take effect unless the death occurred on or after the prescribed day in relation to the promotion.

90 Cancellation of promotion

- (1) Before the promotion of an officer to a vacant office in an administrative unit takes effect, the chief executive of the administrative unit may cancel the promotion on reasonable grounds.
- (2) If a promotion of an officer under section 83 or section 87 that has not taken effect stops being a promotion, because of a change in rates of salary, the promotion is taken to be cancelled.
- (3) If a promotion is cancelled, or is taken to be cancelled under this section, any appeal under section 84 against the promotion lapses on the day of the cancellation.

Division 5.6 Transfer of officers

91 Definitions—div 5.6

In this division:

appellable level position means an office—

- (a) with a maximum salary level that is lower than the minimum salary level for the senior officer grade C classification; or
- (b) for which teaching qualifications are required.

joint selection committee, for a transfer, means a committee constituted as prescribed and includes—

- (a) a committee that is agreed to by the principal union; and

(b) a management initiated committee.

office means an office other than—

- (a) an office of chief executive; or
- (b) an executive office.

92 Transfer to vacant office

- (1) This section applies if 2 or more officers from an administrative unit apply to transfer to a vacant office within the unit.
- (2) The relevant chief executive for an administrative unit in which a vacant office exists may transfer an officer from within the unit to fill the vacant office if the prescribed requirements are met.
- (3) If an officer is transferred under this division, the relevant chief executive must give written notice of the transfer to the officer.
- (4) A decision to transfer under this section is not an appellable decision or a reviewable decision.

93 Simultaneous transfer within administrative unit

- (1) This section applies if—
 - (a) 2 or more officers in an administrative unit occupy offices with the same classification; and
 - (b) the relevant chief executive approves the simultaneous transfer of the officers between the offices.
- (2) The relevant chief executive may transfer the officers if the prescribed requirements are met.
- (3) A decision to transfer under this section is not an appellable decision or a reviewable decision.

94 Transfer between administrative units

- (1) This section applies if a chief executive proposes to transfer an officer in an administrative unit to a vacant office within a different administrative unit.
- (2) The relevant chief executive for the vacant office (the *gaining chief executive*) must ask the chief executive of the administrative unit in which the officer is performing duties (the *releasing chief executive*) to approve the transfer.
- (3) If the releasing chief executive approves the transfer the gaining chief executive may transfer the officer to fill the vacant office.
- (4) If the releasing chief executive does not approve the transfer the gaining chief executive may ask the commissioner to approve the transfer.
- (5) If approval is sought under subsection (4) the commissioner must—
 - (a) give the officer and the gaining and releasing chief executives the opportunity to make submissions about the transfer; and
 - (b) consider the submissions; and
 - (c) either—
 - (i) transfer the officer; or
 - (ii) not transfer the officer.
- (6) A decision to transfer under this section is not an appellable decision or a reviewable decision.

95 Management initiated transfer—within administrative unit

- (1) This section applies if a relevant chief executive for an administrative unit is satisfied on reasonable grounds that the efficient administration of the unit requires the transfer of an officer from one part of the unit to another.
- (2) The relevant chief executive may transfer an officer to fill a vacant office in the unit if the chief executive—
 - (a) gives the officer an opportunity to state his or her views in relation to the transfer; and
 - (b) considers the views of the officer.
- (3) A decision to transfer under this section is not an appellable decision or a reviewable decision.
- (4) In this section:
officer includes—
 - (a) an unattached officer; and
 - (b) an employee.

96 Management initiated transfer—between administrative units

- (1) This section applies if the commissioner is satisfied on reasonable grounds that the efficient administration of the service requires the transfer of an officer from 1 administrative unit to another.
- (2) The commissioner may transfer the officer, or direct a chief executive to transfer the officer, from 1 administrative unit to another if the commissioner—
 - (a) gives each of the following the opportunity to comment on whether the transfer is in the interests of the efficient administration of the service:
 - (i) the officer;

- (ii) the relevant chief executive for the administrative unit that would gain the officer (the *gaining chief executive*);
 - (iii) the relevant chief executive for the administrative unit that would release the officer (the *releasing chief executive*); and
 - (b) considers whether the transfer is in the interests of the efficient administration of the service; and
 - (c) is satisfied that the efficient administration of the service requires the transfer of an officer from 1 administrative unit to another.
- (3) A direction under subsection (2) must specify—
- (a) the date of effect of the transfer; and
 - (b) whether the transfer is temporary or permanent; and
 - (c) if the transfer is temporary—the duration of the transfer.
- (4) A decision to transfer under this section is not an appellable decision or a reviewable decision.
- (5) In this section:
- officer* includes—
- (a) an unattached officer; and
 - (b) an employee.

96A Management initiated transfer—additional consultation if transfer of 2 or more officers

- (1) This section applies if the commissioner is satisfied for section 96 that the efficient administration of the service requires the transfer of 2 or more officers from one administrative unit to another.
- (2) In addition to requirements in section 95, the commissioner must follow any relevant consultation requirement that is set out in an industrial instrument that applies to an officer whose transfer is required.

96B Transfer on advice of joint selection committee

- (1) The relevant chief executive for an administrative unit in which a vacant office exists may transfer an officer to fill the vacant office if—
 - (a) a joint selection committee is established in relation to the transfer; and
 - (b) the committee recommends the transfer.
- (2) The joint selection committee must make a recommendation to the chief executive about the transfer.
- (3) The chief executive may—
 - (a) accept the recommendation; or
 - (b) not accept the recommendation.
- (4) If an officer is transferred in accordance with a recommendation under subsection (2) the chief executive must notify the transfer in the gazette.
- (5) If an officer is transferred on the recommendation of a union agreed joint selection committee—the decision to transfer is not an appellable decision or a reviewable decision.

- (6) In this section:

union agreed joint selection committee—see section 87.

96C How transfer takes effect

A transfer takes effect as prescribed.

96D Cancellation of transfer

- (1) Before the transfer of an officer to a vacant office in an administrative unit takes effect, the chief executive of the administrative unit may cancel the transfer on reasonable grounds.
- (2) If a transfer is cancelled under this section, any appeal against the transfer lapses on the day of the cancellation.

**14 Promotion of officers who complete courses of training for special positions
Section 98 (3)**

substitute

- (3) A decision to transfer or promote under this section is an appellable decision.

**15 Temporary performance of duties—offices other than offices of chief executive and executive offices
Division 5.6 heading**

omit

**16 Definitions for div 5.6
Section 99**

omit

17 Sections 100 to 104*substitute***100 Temporary transfer**

- (1) The relevant chief executive for an administrative unit may temporarily transfer an officer from the unit to perform the whole, or part, of the duties of another office in the unit if the prescribed requirements are met.
- (2) A temporary transfer, other than a transfer requiring notification under section 101 (2), takes effect on—
 - (a) the day written notice is given; or
 - (b) if a later day is stated in the written notice of the transfer—on that later day.
- (3) Written notice of a temporary transfer must be expressed to continue in force until—
 - (a) the end of a stated day; or
 - (b) occurrence of a stated event.
- (4) Written notice of the temporary transfer must not be expressed to operate—
 - (a) indefinitely; or
 - (b) until a notice terminating the transfer is given.
- (5) The relevant chief executive may, in writing—
 - (a) revoke the temporary transfer at any time; or
 - (b) vary the temporary transfer at any time.

- (6) The relevant chief executive of an administrative unit may temporarily transfer an officer from another administrative unit to perform the whole, or part, of the duties of an office in the unit if—
 - (a) the prescribed requirements are met; and
 - (b) the chief executive of the other administrative unit gives approval for the transfer.
- (7) The chief executive of the other administrative unit may withhold approval for a temporary transfer under subsection (6) if the transfer would cause substantial difficulties or inefficiencies in the management or functioning of the chief executive's unit.

101 Notification of certain temporary transfers to higher office

- (1) This section applies to a temporary transfer to an appellable level position.
- (2) A chief executive must provide notification in the gazette of a temporary transfer if—
 - (a) the chief executive temporarily transfers an officer to perform the duties of a higher office to which this section applies; and
 - (b) the transfer is for a period of more than 6 months.

102 Appeal against temporary transfer to higher office

- (1) An officer may appeal against the temporary transfer of another officer to an appellable level position if—
 - (a) the other officer is transferred to an office that is a higher office for the other officer; and
 - (b) the transfer is to an office that is a higher office for the officer seeking to appeal; and
 - (c) the officer seeking to appeal applied for temporary transfer to the higher office.

- (2) The appeal must be made in accordance with—
 - (a) if an industrial instrument applies to the officer and includes a procedure for temporary transfer appeal—the temporary transfer appeal procedure in the industrial instrument; or
 - (b) in any other case—the prescribed temporary transfer appeal procedure.

103 Lapsing or discontinuing of appeal

- (1) An appeal against a temporary transfer under section 102 lapses if—
 - (a) the temporary transfer finishes under section 100 (3); or
 - (b) the temporary transfer finishes because the person transferred stops being an officer; or
 - (c) the temporary transfer is revoked under section 100 (5); or
 - (d) the appellant stops being an officer; or
 - (e) the office that is the subject of the appeal is no longer a higher office for the appellant.
- (2) An appeal against a temporary transfer under section 102 must be discontinued if—
 - (a) the appellant gives written notice that the appeal has been withdrawn to the person or body that considers the appeal under the temporary transfer appeal procedure mentioned in section 102 (2); or
 - (b) the chief executive of the administrative unit in which the appellant holds office gives written notice that—
 - (i) the temporary transfer of the appellant would cause substantial difficulties or inefficiencies in the management or functioning of the chief executive's unit; and

- (ii) if the appeal were successful, the chief executive would—
 - (A) withhold approval for the temporary transfer of the appellant; or
 - (B) only give approval for the temporary transfer for a period of less than 6 months.
- (3) If an appeal lapses or is discontinued under this section the person or body that considers the appeal under the temporary transfer appeal procedure mentioned in section 102 (2) must give written notice of the lapse or discontinuance to the appellant.

104 Temporary transfer if appeal successful

- (1) This section applies if the person or body that considers an appeal under the temporary transfer appeal procedure mentioned in section 102 (2) decides that the appellant would be more efficient in performing the duties of the office than the person transferred to the office under section 100.
- (2) The person or body must provide written notice of the decision to—
 - (a) the appellant; and
 - (b) the person transferred under section 100; and
 - (c) the relevant chief executive.
- (3) If the relevant chief executive receives a notice under subsection (2) the relevant chief executive must—
 - (a) revoke the temporary transfer of the person transferred under section 100; and
 - (b) temporarily transfer the appellant to the position.
- (4) A temporary transfer under this section—
 - (a) takes effect when it is made; and

- (b) must be expressed to continue in force for the same period for which the revoked temporary transfer would have operated; and
- (c) is not subject to appeal.

18 Section 105, division 5.7 heading and section 106

substitute

Division 5.7 Temporary employment**105 Meaning of *office*—div 5.7**

In this division:

office means an office other than—

- (a) an office of chief executive; or
- (b) an executive office.

106 Power to engage temporary employee

- (1) The relevant chief executive for an administrative unit may engage a person for temporary employment in the unit if satisfied that—
 - (a) there is no officer available in the service with the expertise, skills or qualifications required for the duties to be performed; or
 - (b) assistance of a temporary nature is required for the performance of urgent or specialised work in the unit and it is not practical in the circumstances to use the services of an existing officer to do the work.
- (2) Temporary employment under this division must comply with any prescribed requirements.

19 Sections 107 and 108

substitute

107 Temporary employment—fixed term less than 12 months

- (1) The relevant chief executive for an administrative unit may engage a person in temporary employment to perform duties in the unit for a fixed term of less than 12 months.
- (2) A person engaged under this section may be re-engaged with no break in his or her service subject to the following:
 - (a) the total period of engagement must be less than 12 months;
 - (b) the relevant chief executive must have complied with the prescribed requirements for merit selection in temporary employment.

108 Temporary employment—fixed term not more than 5 years

- (1) The relevant chief executive for an administrative unit may engage a person in temporary employment to perform duties in the unit for a fixed term of not more than 5 years.
- (2) The chief executive must not engage a person under this section unless the principal union has been consulted about the need for the temporary employment.
- (3) A person engaged under this section may be reengaged with no break in his or her service subject to the following:
 - (a) the total period of engagement must not be more than 5 years;
 - (b) in the initial engagement of the person the relevant chief executive must have complied with—
 - (i) the merit principle in section 65; and

- (ii) the prescribed requirements for merit selection in temporary employment.

20 Section 112

substitute

112 Termination of temporary employment

- (1) Subject to section 112A, unless terminated earlier under this section a person's temporary employment terminates at the end of the fixed term for which the person is engaged.
- (2) The relevant chief executive for an administrative unit may terminate the employment of—
 - (a) a person engaged in the unit as a casual employee—at any time before the end of the employment; and
 - (b) a person otherwise engaged in the unit as a temporary employee—on the provision of reasonable written notice.
- (3) A person engaged as a temporary employee in an administrative unit may terminate his or her employment by providing the relevant chief executive with 2 weeks notice of the termination.
- (4) If the chief executive and the person engaged as a temporary employee agree that 2 weeks notice is not required, the temporary employment may be terminated at the agreed time.

112A Temporary employee on maternity leave

- (1) The temporary employment of a woman who is absent on maternity leave must not be terminated.
- (2) A woman who returns to temporary employment with a government agency after being absent on maternity leave must be given preference over anyone else (other than another woman to whom this subsection applies) for employment in work for which she is qualified.

- (3) In this section:

maternity leave means a period of authorised absence from duty required or permitted in relation to the birth of a baby.

21 Sections 115, 115A and 116

omit

22 New section 118A

insert

118A Quashing etc of conviction

- (1) This section applies if—
- (a) a person who is a member of the service has been convicted of an offence; and
 - (b) disciplinary action is taken against the person in accordance with the misconduct procedures applying to a public employee; and
 - (c) after the disciplinary action—
 - (i) the person's conviction is quashed, nullified or set aside; or
 - (ii) the person receives a pardon or is released from prison as a result of an inquiry into the conviction.
- (2) The person may apply to the relevant chief executive for—
- (a) if the disciplinary action involved termination of employment from the service—reappointment to the service; or
 - (b) if the disciplinary action involved other actions—reconsideration of those actions.
- (3) The relevant chief executive—
- (a) must consider the application; and

- (b) may do 1 or more of the following:
 - (i) reappoint the person to an appropriate office;
 - (ii) transfer the person to an appropriate office;
 - (iii) promote the person;
 - (iv) take other action to address the disciplinary action;
 - (v) refuse the application.
- (4) The chief executive must give the applicant written notice of a decision made under subsection (3) and reasons for the decision.
- (5) A person who is given notice under subsection (4) may apply to the commissioner for a reconsideration of the decision.
- (6) A person who is reappointed under this section is taken to have—
 - (a) continuity of service as prescribed; and
 - (b) recognition of prior service as prescribed.
- (7) In this section:
 - appropriate office*** means an office that—
 - (a) was occupied by the person immediately before the disciplinary action was taken; or
 - (b) is, in the reasonable belief of the relevant chief executive or commissioner, equivalent to the office occupied by the person immediately before the disciplinary action was taken.

23 New section 122

in division 5.8 insert

122 Termination of employment

- (1) This section applies if under the misconduct procedures that apply to a public employee, the public employee has engaged in misconduct.
- (2) The relevant chief executive may terminate the employment of the public employee.
- (3) A decision to terminate employment for misconduct is not an appellable decision or a reviewable decision.

Note A public employee may be able to take action in relation to termination of employment under the *Fair Work Act 2009* (Cwlth).

24 Part 6 heading

substitute

Part 6 Retirement and redeployment of officers

25 Section 139

substitute

139 Definitions—pt 6

In this part:

essential qualification, in relation to an officer, means a qualification that the officer must have—

- (a) to lawfully perform his or her duties; or

- (b) as a prerequisite to a function that is a necessary part of the officers' employment.

Note **Function** includes authority, duty and power (see Legislation Act, dict, pt 1).

excess officer includes—

- (a) an officer employed in an administrative unit in which there is a greater number of officers than is necessary for the efficient and economical working of the unit; or
- (b) an officer whose services cannot be effectively used because of—
- (i) technological or other changes in the work methods of the administrative unit; or
 - (ii) changes in the nature, extent or organisation of the functions of the administrative unit; or
- (c) an officer who is not willing to perform duties at a relocated locality where the commissioner has decided the duties usually performed by the officer are to be performed.

not qualified to perform duties—an officer is **not qualified to perform duties** if—

- (a) the officer does not hold an essential qualification; or
- (b) the officer is not eligible to hold an essential qualification; or
- (c) an essential qualification has been suspended, cancelled or otherwise withdrawn from the officer by a court, person or body that is competent to do so.

officer does not include—

- (a) an officer whose appointment to the service on probation has not been confirmed; or
- (b) a chief executive; or

(c) an executive.

underperformance, by an officer, includes failure by the officer to perform the duties of an office to the standard reasonably required.

26 Sections 143 and 144

substitute

143 Redeploy or retire officer from service

- (1) This section applies to an officer if the relevant chief executive for the office is satisfied on reasonable grounds that the officer—
 - (a) is unable to perform duties appropriate to the officer's classification because of physical or mental incapacity; or
 - (b) is not qualified to perform the officer's duties; or
 - (c) is an excess officer.
- (2) The relevant chief executive must take reasonable steps to identify a vacant position in the chief executive's administrative unit that the officer is capable of performing and qualified to fill.
- (3) If the chief executive identifies a position under subsection (2) the chief executive must—
 - (a) offer the position to the officer; and
 - (b) if the officer consents to be redeployed—redeploy the officer to the position.
- (4) The relevant chief executive must refer the matter to the commissioner if—
 - (a) the chief executive does not identify a position under subsection (2); or
 - (b) an officer is offered a position under subsection (3) and does not consent to be redeployed.

- (5) If a matter is referred under subsection (4) the commissioner must take reasonable steps to identify a vacant position in the service that the officer is capable of performing and qualified to fill.
- (6) If the commissioner identifies a position under subsection (5) the commissioner must—
 - (a) offer the position to the officer; and
 - (b) if the officer consents to be redeployed—redeploy the officer to the position.
- (7) The commissioner must refer the matter back to the relevant chief executive if—
 - (a) the commissioner does not identify a position under subsection (5); or
 - (b) an officer is offered a position under subsection (6) and does not consent to be redeployed.
- (8) On receiving a referral under subsection (7) the relevant chief executive may give the officer written notice of—
 - (a) the relevant chief executive's intention to—
 - (i) reduce the officer's classification; or
 - (ii) retire the officer from the service; and
 - (b) the proposed date of effect of the reduction or retirement.
- (9) A decision to give a notice under subsection (8) is an appellable decision.

144 Date of effect of redeployment or retirement

- (1) If the officer agrees with the action proposed under section 143 (8) the date of effect of the action is—
 - (a) for an officer unable to perform duties appropriate to the officer's classification because of physical or mental incapacity—a day agreed in writing between the officer and the relevant chief executive; or
 - (b) for an officer not qualified to perform duties or an excess officer—a day not earlier than the day the notice was given under section 143 (8) that is agreed in writing between the officer and the relevant chief executive.
- (2) If the officer does not agree with the action proposed under section 143 (8) the date of effect of the action is—
 - (a) for an officer unable to perform duties appropriate to the officer's classification because of physical or mental incapacity—
 - (i) if an industrial instrument applies to the officer and states a retention period for the circumstances—the day after the end of the retention period; or
 - (ii) if paragraph (i) does not apply—the latest of the following:
 - (A) the day stated in the notice given under section 143 (8);
 - (B) the day 1 month after the day the notice under section 143 (8) was given to the officer;
 - (C) if the officer appeals, but then withdraws the appeal—the day the appeal is withdrawn;
 - (D) if the officer appeals and the appeal upholds the giving of the notice—the day the appeal is decided; and

- (b) for an officer not qualified to perform duties—the latest of the following:
 - (i) the day stated in the notice given under section 143 (8);
 - (ii) the day 1 month after the day the notice under section 143 (8) was given to the officer;
 - (iii) if the officer appeals, but then withdraws the appeal—the day the appeal is withdrawn;
 - (iv) if the officer appeals and the appeal upholds the giving of the notice—the day the appeal is decided; and
- (c) for an excess officer—
 - (i) if an industrial instrument applies to the officer and states a retention period for the circumstances—the day after the end of the retention period; or
 - (ii) if paragraph (i) does not apply—the latest of the following:
 - (A) the day stated in the notice given under section 143 (8);
 - (B) the day 1 month after the day the notice under section 143 (8) was given to the officer;
 - (C) if the officer appeals, but then withdraws the appeal—the day the appeal is withdrawn;
 - (D) if the officer appeals and the appeal upholds the giving of the notice—the day the appeal is decided.

27 Section 147

substitute

147 Underperformance

The procedures that apply to underperformance by an officer are—

- (a) if an industrial instrument applies to the officer and includes procedures for underperformance—the underperformance procedures in the industrial instrument; or
- (b) in any other case—the prescribed underperformance procedures.

**28 Long service leave
Part 7**

omit

**29 Maternity leave
Part 8**

omit

**30 Discipline
Part 9**

omit

31 Section 222*substitute***222 Reappointment of officers taken to have retired under s 221**

- (1) A person who is taken to have retired under section 221 may apply to the relevant chief executive, in writing, for reappointment to the service.
- (2) If the chief executive is satisfied that the applicant had, in all the circumstances, reasonable grounds for being absent the chief executive must reappoint the applicant to the service to fill—
 - (a) the office occupied by the applicant immediately before the applicant is taken to have retired; or
 - (b) if that office is not available—an equivalent office, or an office as nearly as possible equivalent, to that office; or
 - (c) with the written consent of the applicant—another office.
- (3) If the chief executive is not satisfied that the applicant had, in all the circumstances, reasonable grounds for being absent the chief executive must refuse the application.
- (4) If the chief executive refuses an application the chief executive must give the applicant written notice of the refusal and the reasons for the refusal.
- (5) A person who is given notice under subsection (4) may apply to the commissioner for a reconsideration of the decision.
- (6) A person who is reappointed under this section is taken to have—
 - (a) continuity of service as prescribed; and
 - (b) recognition of prior service as prescribed.

32 Part 11

substitute

Part 11 Review and appeal

223 Definitions—pt 11

In this part:

appellable decision—means a decision mentioned in schedule 2, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

officer—means an officer or employee in an administrative unit or territory instrumentality, but does not include a chief executive or an executive.

reviewable decision—means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

224 Reviewable decision—notice and review

- (1) A person who makes a reviewable decision must give written notice of the decision to an officer mentioned in schedule 1, column 4 in relation to the decision.
- (2) An officer mentioned in schedule 1, column 4 in relation to a decision may apply for review of the decision.

225 Appellable decision—notice and appeal

- (1) A person who makes an appellable decision must give written notice of the decision to an officer mentioned in schedule 2, column 4 in relation to the decision.
- (2) An officer mentioned in schedule 2, column 4 in relation to a decision may appeal the decision.

33 New section 249

insert

249 Imprisonment

- (1) This section applies if an officer in the service is—
 - (a) in custody awaiting trial for an offence; or
 - (b) in prison following conviction for an offence.
- (2) The officer is taken to be on leave of absence without pay for the period of custody or imprisonment unless—
 - (a) the employment of the officer is terminated for misconduct; or
 - (b) the relevant chief executive is satisfied that the officer is experiencing hardship and is to be paid the whole or part of the officers' salary for a stated time.
- (3) If the officers' employment is not terminated for misconduct—
 - (a) a period of service before the custody or imprisonment must be regarded as continuous with a period of service after the custody or imprisonment; and
 - (b) the period of custody or imprisonment is not to be regarded as service under this Act or any other Act, unless the commissioner decides otherwise.
- (4) If, immediately before a period of custody or imprisonment, an officer was suspended from duty—the suspension is taken to be removed from the start of the period of custody or imprisonment.
- (5) An officer must not be suspended from duty during a period of custody or imprisonment.

- (6) In this section:

suspended from duty means suspended under an industrial agreement that applies to the officer and includes a procedure for suspension.

34 New section 250A

insert

250A Deduction of monetary penalty

- (1) This section applies if a person who pays the salary of an officer or employee is notified of any of the following:
 - (a) a monetary penalty has been imposed on an officer or employee under the misconduct procedures that apply to a public employee;
 - (b) an order for the payment of an amount of money by an officer or employee has been made under the misconduct procedures that apply to a public employee;
 - (c) a direction for the deduction of an amount of money by an officer or employee has been made under the misconduct procedures that apply to a public employee.
- (2) The person who pays the salary of an officer or employee must deduct an amount of salary from the officer or employee unless the person is satisfied that the amount has been paid.
- (3) A deduction under this section may be made in instalments.
- (4) A deduction under this section must not be more than $\frac{1}{4}$ of the salary payable to the officer or employee for a pay period.

35 Management standards
Section 251 (5), definition of *specified defence service*

substitute

specified defence service—

- (a) means—
- (i) continuous full-time service in a part of forces that are Emergency Forces or Reserves under the *Defence Act 1903* (Cwlth); or
 - (ii) service in a part of those forces for a period determined under regulations made under the *Defence Act 1903* (Cwlth), the *Naval Defence Act 1910* (Cwlth) or the *Air Force Act 1923* (Cwlth); but
- (b) does not include service rendered because of a voluntary undertaking and not required under the legislation mentioned in paragraph (a).

36 Schedule 1

substitute

Schedule 1 Reviewable decisions

(see s 224)

column 1 item	column 2 section	column 3 decision	column 4 officer
1	86	promotion to reviewable level office	officer who applied for promotion
2	87 (5)	promotion not in accordance with certain recommendations of joint selection committee	officer who applied for promotion

37 Schedule 2*substitute***Schedule 2 Appellable decisions**

(see s 225)

column 1 item	column 2 section	column 3 decision	column 4 officer
1	84	promotion of officer to vacant office	officer who applied for promotion
2	85	promotion of officer to vacant office	excess officer who applied for transfer
3	87 (5)	promotion not in accordance with certain recommendations of joint selection committee	officer who applied for promotion
4	98	promotion or transfer of officer to training office	<ul style="list-style-type: none"> • officer who applied for promotion • unattached officer who applied for promotion
5	102	temporary transfer to higher office duties	officer who applied for temporary transfer to higher office duties
6	143 (8)	notice to reduce classification or retire from the service	officer given notice

38 Dictionary, new definition of *Aboriginal person or Torres Strait Islander**insert**Aboriginal person or Torres Strait Islander* means a person who—

- (a) is a descendent of an Aboriginal person or Torres Strait Islander; and
- (b) identifies as an Aboriginal person or Torres Strait Islander; and

- (c) is accepted as an Aboriginal person or Torres Strait Islander by an Aboriginal or Torres Strait Islander community.

39 Dictionary, definition of *action*

omit

40 Dictionary, new definition of *appeal*

insert

appeal means—

- (a) if an industrial instrument applies to the employee or officer and includes an appeal process—appeal in accordance with the appeal process in the industrial instrument; or
- (b) in any other case—appeal in accordance with the prescribed appeal process.

41 Dictionary, new definitions of *appellable decision* and *appellable level position*

insert

appellable decision—see section 223.

appellable level position means—

- (a) for division 5.5 (Promotion of officers)—see section 82; and
- (b) for division 5.6 (Transfer of officers)—see section 91.

42 Dictionary, definitions of *appellable promotion* and *approving authority*

omit

43 Dictionary, definition of *authorised person*

omit

44 Dictionary, definitions of *category A officer* and *category B officer*

omit

45 Dictionary, definition of *chief executive*

substitute

chief executive means a person employed under section 28 (Chief executives—engagement) or section 30 (Chief executives—temporary contracts) to perform the duties of an office of chief executive.

46 Dictionary, definition of *Commonwealth Long Service Leave Act*

omit

47 Dictionary, definition of *confinement*

omit

48 Dictionary, definition of *decision*

omit

49 Dictionary, definition of *detached officer*

omit

50 Dictionary, definition of *director*

omit

51 Dictionary, definition of *disciplinary appeal committee*

omit

52 Dictionary, definition of *employee*, paragraphs (b) and (c)

omit

53 Dictionary, definition of *employment*

omit

54 Dictionary, new definition of *essential qualification*

insert

essential qualification, for part 6 (Retirement and redeployment of officers)—see section 139.

55 Dictionary, definition of *excess officer*

substitute

excess officer, for part 6 (Retirement and redeployment of officers)—see section 139.

56 Dictionary, definition of *industrial award*

omit

57 Dictionary, new definition of *industrial instrument*

insert

industrial instrument means an instrument—

- (a) made under, or recognised by, a workplace law as defined by the *Fair Work Act 2009* (Cwlth); and
- (b) concerning the relationship between employers and employees.

58 Dictionary, definition of *internal appeal officer*

omit

59 Dictionary, new definition of *joint selection committee*

insert

joint selection committee means—

- (a) for division 5.5 (Promotion of officers)—see section 82; and
- (b) for division 5.6 (Transfer of officers)—see section 91.

60 Dictionary, definitions of *leave* and *leave officer*

omit

61 Dictionary, definition of *long service leave*

omit

62 Dictionary, definition of *maternity leave*

omit

63 Dictionary, definitions of *Merit Protection Act* and *merit protection agency*

omit

64 Dictionary, definition of *misconduct*

substitute

misconduct, by an officer, means—

- (a) a failure of the officer to fulfil his or her duty as an officer; or
- (b) a failure to comply with section 9.

65 Dictionary, new definition of *not qualified to perform duties*

insert

not qualified to perform duties, for part 6 (Retirement and redeployment of officers)—see section 139.

66 Dictionary, definition of *office*, paragraphs (c) and (d)

substitute

- (c) for division 5.5 (Promotion of officers)—see section 82; and
- (d) for division 5.6 (Transfer of officers)—see section 91; and
- (e) for division 5.7 (Temporary employment)—see section 105.

67 Dictionary, definition of *officer*

substitute

officer—

- (a) means a person who is—
 - (i) an officer because of the *Public Sector Management (Consequential and Transitional Provisions) Act 1994*; or
 - (ii) appointed as an officer under division 5.3 (Appointment of officers) or division 5.8 (Miscellaneous); and
- (b) for part 3 (Management of the service)—see section 17; and
- (c) for part 6 (Retirement and redeployment of officers)—see section 139; and
- (d) for part 11 (Review and appeal)—see section 223.

68 Dictionary, definition of *original office*

omit

69 Dictionary, new definition of *principal union*

insert

principal union, for an office, means the relevant union with the largest number of members in the service occupying positions at the same classification level as the office.

70 Dictionary, definition of *proceeding*

omit

71 Dictionary, definition of *promotion appeal committee*

omit

72 Dictionary, definition of *public office*

omit

73 Dictionary, definition of *redundancy*

omit

74 Dictionary, new definition of *relevant union*

insert

relevant union, for an office, means an employee organisation—

- (a) registered under the *Fair Work (Registered Organisations) Act 2009* (Cwlth); and
- (b) entitled to represent the industrial interests of 1 or more people working in the administrative unit in which the office exists; and
- (c) covered by an industrial agreement that applies to 1 or more people working in the administrative unit in which the office exists.

75 Dictionary, definition of *relevant staff organisation*

omit

76 Dictionary, definition of *review*

substitute

review, for part 5, part 11 and schedule 1, means—

- (a) if an industrial agreement applies to the employee or officer and includes a review process—review in accordance with the review process in the industrial agreement; or
- (b) in any other case—review in accordance with the prescribed review process.

77 Dictionary, new definition of *reviewable decision*

insert

reviewable decision—see section 223.

78 Dictionary, definition of *salary*

omit

79 Dictionary, definition of *study bank*

omit

80 Dictionary, definition of *unauthorised absence*

omit

81 Dictionary, new definition of *underperformance*

insert

underperformance, for part 6 (Retirement and redeployment of officers)—see section 139.

82 Tobacco Act 1927, sections 42F (3) and 42G (3)

omit

, part 9 (Discipline)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 9 December 2010.

2 Notification

Notified under the Legislation Act on 23 February 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Public Sector Management Amendment Bill 2011, which originated in the Legislative Assembly as the Public Sector Management Amendment Bill 2010 and was passed by the Assembly on 15 February 2011.

Clerk of the Legislative Assembly

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