



Australian Capital Territory

Public Sector Management Amendment Act 2016

A2016-52

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Australian Capital Territory

Public Sector Management Amendment Act 2016

A2016-52

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:

1 Name of Act

This Act is the *Public Sector Management Amendment Act 2016*.

2 Commencement

This Act commences on 1 September 2016.

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

3 Legislation amended

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

Note This Act also amends other legislation (see sch 1).

4 Sections 3A, 4 and 5

substitute

4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

5 Objects of Act

The main objects of this Act are to—

- (a) establish and maintain an apolitical public sector with clear values, clear standards of conduct and a best practice focus; and

- (b) establish and maintain a public service that assists the Executive to meet the needs of the community and serves the community on behalf of the Executive; and
- (c) promote and uphold the public sector values, standards of conduct and best practice focus.

5 Part 2 heading

substitute

Part 2 Administration of the public service

6 Division 2.1

substitute

Division 2.1 Public sector standards

Note This division sets out values, principles and conduct requirements that apply to a public servant. This division also applies to a public sector member (see s 151).

6 Meaning of public service *job*—div 2.1

In this division:

job, of a public servant, means the functions the public servant is required to exercise because of the public servant's employment in the service.

7 Meaning of *public sector values*

- (1) The *public sector values* are—
 - (a) respect; and
 - (b) integrity; and
 - (c) collaboration; and

- (d) innovation.
- (2) The public sector values must be—
 - (a) demonstrated by a public servant when acting in connection with the public servant’s job; and
 - (b) applied in a way that is appropriate to the public servant’s job; and
 - (c) used to inform and evaluate the operation of the service.

8 Meaning of *public sector principles*

- (1) The *public sector principles* are—
 - (a) the best practice principle; and
 - (b) the merit and equity principle.
- (2) A public servant must do the public servant’s job in accordance with the best practice principle.
- (3) The head of service must exercise a function under this Act in accordance with the merit and equity principle.
- (4) In this section:

best practice principle—a public servant does the public servant’s job in accordance with the *best practice principle* if the public servant—

- (a) works efficiently, effectively and constructively; and
- (b) is responsive, collaborative and accountable; and
- (c) makes fair and reasonable decisions.

merit and equity principle—the head of service exercises a function under this Act in accordance with the *merit and equity principle* if the head of service—

- (a) is an equitable employer; and
- (b) employs a person in a job who is best able to do the job in all the circumstances.

9 Public sector conduct

- (1) A public servant must—
 - (a) take all reasonable steps to avoid a conflict of interest; and
 - (b) declare or manage a conflict of interest that cannot reasonably be avoided; and
 - (c) when acting in connection with the public servant's job—
 - (i) comply with laws applying in the Territory; and
 - (ii) comply with any lawful and reasonable direction given by a person with the authority to give the direction; and
 - (iii) if dealing with a member of the public—make all reasonable efforts to help the person to understand the person's entitlements, and any requirement the person is obliged to meet, under a territory law; and
 - (iv) treat all people with courtesy and sensitivity to their rights and aspirations; and
 - (d) do the public servant's job with reasonable care and diligence, impartiality and honesty.
- (2) A public servant must not—
 - (a) behave in a way that—
 - (i) is inconsistent with the public sector values; or
 - (ii) undermines the integrity and reputation of the service; or
 - (b) take improper advantage of the public servant's job or information gained through the public servant's job; or
 - (c) improperly use a Territory resource, including information, accessed through the public servant's job; or

- (d) without lawful authority—
- (i) disclose confidential information gained through the public servant's job; or

Note The *Crimes Act 1900*, s 153 (1) makes it an offence for a public servant to disclose information that it is the public servant's duty not to disclose.

- (ii) make a comment that reasonably appears to be an official comment; or
- (e) when acting in connection with the public servant's job—bully, harass or intimidate anyone; or
- (f) when doing the public servant's job—apply improper influence, favouritism or patronage.

- (3) For a misconduct procedure, failing to act in a way that is consistent with subsection (1) or (2) may be misconduct.

Note A *misconduct procedure* means a procedure set out in an industrial instrument or prescribed by regulation (see dict, def *misconduct procedure*).

- (4) A public servant (a *discloser*) must tell the following person about any maladministration or corrupt or fraudulent conduct by a public servant or a public sector member of which the discloser becomes aware:

- (a) the head of service;
- (b) if the alleged maladministration or corrupt or fraudulent conduct is by the head of service—
- (i) the director-general of the administrative unit in which the public servant is employed; or
- (ii) if the head of service is the director-general of the administrative unit in which the public servant is employed—another director-general.

- (5) This section does not—
- (a) affect the operation of any other Act; or

- (b) create or affect any other legal right.

**7 ACT Public Service
Section 12 (3) (a) to (e)**

substitute

- (a) the following (the *senior executive service*):
- (i) the head of service;
 - (ii) directors-general;
 - (iii) executives; and
- (b) officers; and
- (c) employees.

**8 Administrative units
Section 13 (2), note**

omit

9 Section 14

substitute

14 Ministerial responsibility and functions of administrative units

- (1) For the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 43 (1), the Chief Minister may make a determination allocating responsibility to a Minister in relation to the following matters:
- (a) governing the Territory in relation to a stated matter;
 - (b) an Act;
 - (c) the Executive's powers under a Commonwealth law;
 - (d) prerogatives of the Crown for the matters mentioned in paragraphs (a) to (c).

- (2) The Chief Minister must determine which administrative unit is responsible for a matter mentioned in subsection (1).
- (3) For the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), section 43 (2), any Minister is authorised to act on the Chief Minister’s behalf or on behalf of another Minister.
- (4) Subsection (3) is subject to the [Legislation Act](#), section 41 (Making of certain statutory instruments by Executive).
- (5) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

10 Machinery of government changes—officers Section 15 (5) to (8)

substitute

- (5) If an office is transferred to another administrative unit, an officer who is appointed to the office is taken to have been transferred to that administrative unit.
- (6) If a vacant office is transferred, and a selection process for the office is incomplete, the head of service—
 - (a) if a person has been told, in writing, that the person is selected for the office—must complete the selection process; and
 - (b) in any other circumstance—may complete the selection process.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a management standard (see [Legislation Act](#), s 104).

**11 Machinery of government changes—employees
Section 16 (2)**

omit

shall be

substitute

is

12 Parts 3 and 4

substitute

Part 3 The public service

Division 3.1 Members of the service

17 Head of service functions

- (1) The head of service—
- (a) is responsible for the leadership and management of the service; and
 - (b) is answerable to the Chief Minister.

Note The head of service is engaged by the Chief Minister under section 31 (1).

- (2) The head of service has the following leadership functions:
- (a) to develop, oversee the implementation of, coordinate and provide advice and reports to the Chief Minister about whole-of-government strategies;
 - (b) to provide direction across the service in relation to critical or potentially critical issues;
 - (c) to promote cooperation and collegiality within and between administrative units;

- (d) to promote and uphold in the service the public sector values, the public sector principles and the conduct required of a public servant, including by personal example;
- (e) any other function given to the head of service by the Chief Minister.

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

Note 2 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

- (3) The head of service has the following management functions:
 - (a) to engage, appoint and employ people on behalf of the Territory in accordance with the merit and equity principle;
 - (b) to organise public servants in the service;

Note Subsection (4) sets out requirements for the organisation of the service.
 - (c) to provide advice and reports to the Chief Minister about employment in the service;
 - (d) any other function given to the head of service by the Chief Minister.

- (4) For subsection (3) (b), the organisation of the service must—
 - (a) give effect to the administrative arrangements; and
 - (b) enable efficient and effective management of the service; and
 - (c) promote the administration of the service in a way that is consistent with the public sector values, the public sector principles and the conduct required of a public servant.
- (5) The head of service may declare that a day will be a holiday for all or part of the service.
- (6) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

18 Delegation by head of service

- (1) The head of service may—
 - (a) delegate to a public employee or another person a function given to the head of service under this Act or any other law applying in the ACT; or
 - (b) subdelegate to a public employee or another person a function delegated to the head of service under this Act or any other law applying in the ACT.

Note 1 For the making of delegations and the exercise of a delegated function, see the [Legislation Act](#), pt 19.4.

Note 2 **Public employee** means a public servant, a person employed by a territory instrumentality or a statutory office-holder or a person employed by a statutory office-holder (see [Legislation Act](#), dict, pt 1).

- (2) However, the head of service must not delegate or subdelegate a function to a person who is not a public employee without first being satisfied that the function needs to be exercised by a person who is not a public employee.

19 Directors-general functions

- (1) A director-general is—
 - (a) responsible for leadership of an administrative unit and leadership in the service; and
 - (b) answerable to the Minister responsible for the administrative unit and to the head of service.

Note A director-general is engaged by the head of service under section 31 (2).

- (2) A director-general has the following functions in relation to the director-general's administrative unit:
 - (a) to provide advice and reports to the Minister responsible for the administrative unit and the head of service on matters relating to the administrative unit;
 - (b) to manage the business of the administrative unit;

- (c) any other function given to the director-general—
 - (i) by the Minister responsible for the administrative unit; or
 - (ii) by the head of service; or
 - (iii) under this Act or another territory law;
- (d) to exercise a function mentioned in paragraphs (a) to (c) taking into account the responsibilities of the government as a whole, including by collaborating with other directors-general.

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

Note 2 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

- (3) A director-general has the following leadership functions:
 - (a) to provide advice to the head of service about the development and coordination of whole-of-government strategies;
 - (b) to lead the implementation of whole-of-government strategies;
 - (c) to implement, at the direction of the head of service—
 - (i) strategies for the administration of the service; and
 - (ii) responses to critical or potentially critical issues;
 - (d) to work efficiently, effectively and constructively with other directors-general to ensure a whole-of-government focus and promote cooperation and collegiality within and between administrative units;
 - (e) to promote and uphold in the service the public sector values, the public sector principles and the conduct required of a public servant, including by personal example;
 - (f) any other function given to the director-general by—
 - (i) the Minister responsible for the administrative unit; or

- (ii) the head of service.

20 Delegation by director-general

- (1) A director-general may—
 - (a) delegate to a public employee or another person a function given to the director-general under this Act or any other law applying in the ACT; or
 - (b) subdelegate to a public employee or another person a function delegated to the director-general under this Act or any other law applying in the ACT.

Note 1 For the making of delegations and the exercise of a delegated function, see the [Legislation Act](#), pt 19.4.

Note 2 **Public employee** means a public servant, a person employed by a territory instrumentality or a statutory office-holder or a person employed by a statutory office-holder (see [Legislation Act](#), dict, pt 1).

- (2) However, a director-general must not delegate or subdelegate a function to a person who is not a public employee without first being satisfied that the function needs to be exercised by a person who is not a public employee.

21 Exercise of certain director-general functions by head of Access Canberra

- (1) The Chief Minister may declare that a function given to a director-general under a territory law dealing with a relevant matter may be exercised by the head of Access Canberra (a **declared function**).

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

Note 2 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def **entity**).

- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

- (3) The head of Access Canberra may exercise a declared function.
- (4) The head of Access Canberra may delegate a declared function to a public servant or another person.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (5) However, the head of Access Canberra may only delegate a declared function to the extent permitted by other territory laws.

Example—extent permitted

A declaration is made in relation to a function given to the director-general under the XYZ Act. That Act states that the director-general may only delegate the function to an employee. The head of Access Canberra may also only delegate the function to an employee.

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).

- (6) Nothing in this section limits the exercise of a declared function by the director-general given the function.
- (7) Anything done in the exercise of a declared function is not invalid only because of a defect or irregularity in, or in relation to, a declaration.
- (8) In this section:

Access Canberra means the business unit in the administrative unit administered by the Chief Minister known as Access Canberra.

head, of Access Canberra, means the person occupying the position (however described) of head of Access Canberra.

relevant matter means a matter mentioned in an administrative arrangement—

- (a) responsibility for which is allocated to the Chief Minister; and
- (b) relating to Access Canberra.

22 Executive functions

- (1) An executive—
- (a) is responsible for leadership in the service; and
 - (b) is answerable to the head of service and the director-general for the administrative unit in which the executive is employed.

Note An executive is engaged by the head of service under section 31 (2).

- (2) An executive has the following leadership functions:
- (a) to advance whole-of-government strategies as part of the senior executive service;
 - (b) to promote and demonstrate cooperation and collegiality within and between administrative units;
 - (c) to promote and uphold in the service the public sector values, the public sector principles and the conduct required of a public servant, including by personal example;
 - (d) any other function given to the executive by—
 - (i) the head of service; or
 - (ii) the director-general for the administrative unit in which the executive is employed.

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

Note 2 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def *entity*).

23 Establishment of offices

- (1) The head of service may, in writing, establish an office in an administrative unit.

Note The power to make an instrument includes the power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see [Legislation Act](#), s 46).

- (2) The instrument establishing the office must state the classification of the office and whether the office is a full-time or part-time office.
- (3) The comparative level of classifications is determined by the maximum salary payable to a classification.

Example

The top of the salary range for the classification Butcher 2 is \$70 000. The top of the salary range for the classification Baker 3 is \$78 000. The salary of the classification Candlestick Maker 4 (which has no salary range) is also \$78 000. Baker 3 and Candlestick Maker 4 are equal classifications. Butcher 2 is a lower classification than Baker 3 or Candlestick Maker 4.

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).

24 Officers

- (1) An officer is appointed to an office on a permanent basis.

Note See pt 5 for provisions about the employment of officers.

- (2) An officer is taken to have the classification of the office that the officer occupies.

25 Employees

- (1) An employee is employed to exercise the functions of an office on a temporary basis.

Note See div 5.8 for provisions about employees.

- (2) The head of service may only employ a person as an employee if satisfied that—

- (a) there is no officer with the classification of the office available in the service with the expertise, skills or qualifications required for the functions to be exercised; or

Note An officer is taken to have the classification of the office that the officer occupies (see s 24).

- (b) assistance of a temporary nature is required and, because of urgency or the specialised nature of the functions, it is not practical in the circumstances to use an existing officer to do the work; or
- (c) the employment is consistent with a management strategy to—
 - (i) ensure the Territory is an equitable employer; or
 - (ii) eliminate disadvantage in relation to public service employment.

Note The head of service must exercise a function in relation to the engagement of an employee in accordance with the merit and equity principle (see s 8 (3)).

Division 3.2 Management of the service

26 Management strategies for the service

- (1) The head of service must develop, oversee the implementation of and coordinate each of the following management strategies:
 - (a) a strategy to ensure the Territory is an equitable employer;
 - (b) a strategy to eliminate disadvantage in relation to public service employment;
 - (c) a strategy to ensure appropriate participation by a public servant in decisions about the management of the public servant and the public servant's workplace;
 - (d) a strategy to ensure the service gives members of the community fair and timely access to resources, managed by the Executive, to which they are entitled.
- (2) For the development of each management strategy, the head of service—
 - (a) must consult the joint council; and
 - (b) may consult other entities that have an interest in the strategy; and

- (c) must give a copy of the strategy to the Chief Minister.

27 Application of the merit and equity principle

- (1) This section applies in relation to selecting—
 - (a) a person to be engaged in an SES position for a period of more than 9 months; or
 - (b) a person to be appointed as an officer to a vacant office; or
 - (c) an officer to be transferred to a higher level vacant office for a period of more than 3 months; or
 - (d) an officer to be promoted to a vacant office; or
 - (e) a person to be employed as a fixed term employee for a period of more than 12 months.
- (2) The head of service must ensure—
 - (a) all eligible people have, as far as practicable, a reasonable opportunity to apply for selection; and
 - (b) selection of a person is made on the basis of a comparative assessment of the applicants, having regard to—
 - (i) the nature of the functions to be exercised by the selected person; and
 - (ii) the relevant abilities, qualifications, experience, personal qualities and potential for development of the applicants; and
 - (c) the person selected is an eligible person.
- (3) For subsection (2) (a), the people who may apply for selection may be limited—
 - (a) for an office—if the office is an identified position; or
 - (b) in accordance with a management strategy to—
 - (i) ensure the Territory is an equitable employer; or

- (ii) eliminate disadvantage in relation to public service employment; or
- (c) in accordance with a territory law.

(4) In this section:

Aboriginal or Torres Strait Islander person means a person who—

- (a) is a descendant of an Aboriginal person or a Torres Strait Islander person; and
- (b) identifies as an Aboriginal person or a Torres Strait Islander person; and
- (c) is accepted as an Aboriginal person or a Torres Strait Islander person by an Aboriginal community or Torres Strait Islander community.

identified position means an office that the head of service has decided, in accordance with a prescribed process, must be occupied by—

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

28 Establishment of joint council

- (1) The head of service must establish a consultative forum for relevant unions and the service (the ***joint council***).

Note ***Establish*** includes constitute and continue in existence (see [Legislation Act](#), dict, pt 1).

- (2) The joint council must operate in accordance with terms of reference approved by the head of service.
- (3) The terms of reference are a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

29 Notification of certain employment matters

- (1) The head of service must publish in the Gazette notice of the following:
 - (a) an appointment under division 5.3;
 - (b) a promotion under division 5.5;
 - (c) a permanent transfer under division 5.6;
 - (d) a temporary transfer in accordance with section 101;
 - (e) a movement under division 5.7;
 - (f) a redeployment under part 6;
 - (g) a reduction in classification under part 6;
 - (h) a retirement under part 6.
- (2) For a promotion under section 87 (Promotion on advice of joint selection committee), the head of service must state in the notification—
 - (a) that the selection involved—
 - (i) a union agreed joint selection committee; or
 - (ii) a management initiated joint selection committee; and
 - (b) whether the promotion is appellable or reviewable.
- (3) In this section:
union agreed joint selection committee—see section 87.

Part 4 Engagement of senior executive service

30 Definitions—pt 4

In this part:

SETs—see *statutory employment terms*.

statutory employment terms (or *SETs*), for an SES member, means—

- (a) each function assigned to the SES member; and
- (b) the administrative unit in which the SES member is engaged; and
- (c) the SES member's classification; and
- (d) the SES member's salary; and
- (e) the hours the SES member is engaged to work; and
- (f) the period the SES member is engaged to work; and
- (g) any prescribed SETs.

31 Engagement of SES member

- (1) The Chief Minister may engage an eligible person, under a contract, on behalf of the Territory as the head of service.
- (2) The head of service may engage an eligible person, under a contract, on behalf of the Territory as a director-general or an executive.
- (3) An SES member's contract with the Territory must—
 - (a) be in writing; and
 - (b) be signed by the engager and the person; and
 - (c) state the SETs for the SES member; and
 - (d) be for a period of not more than 5 years.

- (4) Subject to this Act, the engagement of an SES member is governed by the terms of the contract.

32 Record about SES member

For each SES member, the head of service must keep a record of—

- (a) the SES member's date of birth; and
- (b) the SES position in which the SES member is engaged; and
- (c) the day on which the SES member's engagement started; and
- (d) the day on which the SES member's engagement will end; and
- (e) any past employment as a public servant, including the days on which the employment started and ended.

33 Change to SES member's SETs

- (1) The engager of an SES member may make a permanent or temporary change to 1 or more of the SES member's SETs in accordance with any prescribed requirement or notice period under—
- (a) section 34 (Circumstances when SETs must be changed); or
 - (b) section 35 (Circumstances when SETs may be changed); or
 - (c) section 36 (SETs changed by change in administrative arrangements).
- (2) The engager—
- (a) must be satisfied that making the change is consistent with the public sector principles; and
 - (b) may only—
 - (i) change an SES member's SETs if the SES member is an eligible person for the new SETs; and

- (ii) for a director-general—change the director-general’s SETs if the Chief Minister and the Minister responsible for the director-general’s administrative unit have been consulted about the change.
- (3) Any change to an SES member’s SETs must be in writing.

34 Circumstances when SETs must be changed

The engager of an SES member must change the SES member’s SETs if—

- (a) the SES member can no longer be engaged with the SETs and the engager is able to give the SES member another suitable SES position; or
- (b) prescribed circumstances when an SES member’s SETs must be changed are met.

Example—par (a)

An executive’s contract requires the executive to do a particular task, but the executive acquires a disability and can no longer do the task.

Note 1 An SES position may be changed by changing 1 or more SETs (see s 33 (1)).

Note 2 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).

35 Circumstances when SETs may be changed

The engager of an SES member may change the SES member’s SETs if—

- (a) the SES member, in writing, asks for the change and the engager is satisfied the request is reasonable; or
- (b) the engager is satisfied the change is required for the efficient and effective management of the service; or

- (c) the SES member is selected for another SES position in accordance with a selection process.

Example—par (a)

Gillian asks to change from full-time to part-time employment.

Example—par (b)

John has expertise that is relevant to an emerging critical issue. John's administrative unit and functions are changed when he is moved to a whole-of-government taskforce to address the issue. None of John's other SETs are changed.

Example—par (c)

Barlow, a part-time, temporary executive, is selected for a full-time, permanent SES position in a different administrative unit, at a different classification. All of Barlow's SETs are changed.

Note 1 An SES position may be changed by changing 1 or more SETs (see s 33 (1)).

Note 2 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).

36 SETs changed by change in administrative arrangements

- (1) This section applies to directors-general and executives if the Chief Minister makes a change to the administrative arrangements.
- (2) The head of service may make 1 or both of the following changes to the SES member's SETs:
 - (a) change a function assigned to the SES member;
 - (b) change the administrative unit in which an SES member is engaged.

37 Suspension of SES member

The engager of an SES member may suspend the SES member's engagement with pay or without pay in accordance with any prescribed requirement.

38 End of SES member's engagement

The engager of an SES member may end the SES member's engagement, on behalf of the Territory, in accordance with any prescribed requirement or prescribed notice period—

- (a) under section 41 (Loss of eligibility); or
- (b) under section 42 (Invalidity retirement); or
- (c) if a misconduct procedure finds the disciplinary action to be taken is to end the SES member's engagement; or
- (d) if the engager loses confidence in the SES member's ability to exercise the functions which the SES member has been engaged to exercise; or
- (e) if the SES member's SES position is no longer required for the efficient and effective operation of the service—if the engager is unable to give the SES member another suitable SES position; or
- (f) if the engager considers it is in the interest of the service for the SES member's engagement to be ended.

39 SES member may resign

- (1) An SES member's engagement ends if, in accordance with any prescribed notice period, the SES member tells the engager, in writing, that the SES member resigns.
- (2) The SES member may only withdraw the SES member's resignation with the approval of the engager.

40 End of engagement by resignation—abandonment of engagement by SES member

- (1) This section applies if the engager is reasonably satisfied an SES member has abandoned the SES member's engagement because—
 - (a) the SES member has been absent for—
 - (i) 14 consecutive days; or

- (ii) 28 days in a 12-month period; and
- (b) the SES member—
 - (i) fails to seek approval for the absence; and
 - (ii) fails to give a reasonable explanation for the absence; and
 - (iii) does not indicate an intention to return to work within a reasonable time.

Note *Fail* includes refuse (see [Legislation Act](#), dict, pt 1).

- (2) For subsection (1) (b), another person may seek approval, give an explanation or indicate an intention on behalf of an SES member if the SES member is not able to do it.
- (3) The SES member's engagement ends if—
 - (a) the engager follows the prescribed process; and
 - (b) after following the prescribed process, the engager remains satisfied that the SES member has abandoned the SES member's engagement.

41 Loss of eligibility

The engager of an SES member must end the SES member's engagement if—

- (a) the SES member stops being an eligible person for the SES member's SES position; and
- (b) the engager is unable to give the SES member another suitable SES position.

42 Invalidation retirement

- (1) The engager of an SES member may end the SES member's engagement if the SES member is unable to exercise the functions assigned to the SES member because of physical or mental incapacity.

- (2) However, the engager may only end the SES member's engagement because of physical or mental incapacity if—
- (a) for an eligible employee under the *Superannuation Act 1976* (Cwlth)—the requirements for invalidity retirement under that *Act* are met; or
 - (b) for a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—the requirements for invalidity retirement under that *Act* are met; or
 - (c) for an ordinary employer sponsored member of the PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—the requirements for invalidity retirement under that *Act* are met; or
 - (d) for a member of a superannuation scheme declared by the head of service—the requirements for invalidity retirement under the scheme are met.

13 Part 5 heading

substitute

Part 5 Employment of officers and employees

14 Section 63

substitute

63 Definitions—pt 5

In this part:

appellable classification means a classification—

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

joint selection committee 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.

unsuitability criteria—see section 70 (4).

**15 Application to autonomous instrumentalities
Section 64**

omit

16 Division 5.2

substitute

Division 5.2 Change to office

65 Reclassification of office

- (1) The head of service may, in writing, change the classification of an office in accordance with any prescribed requirement.
- (2) If the head of service changes the classification of an office to a higher classification—
 - (a) the office becomes vacant; and
 - (b) the officer who occupied the office immediately before the change becomes an unattached officer.
- (3) However, if the head of service changes the classification of a class of offices, the head of service may, in writing, disapply subsection (2).

66 Part-time office

- (1) The head of service may, in writing, declare a vacant office to be a part-time office.
- (2) The head of service may, in writing, declare an occupied office to be a part-time office if the officer appointed to the office consents to the declaration.
- (3) The head of service may change the part-time hours of a part-time office—
 - (a) at any time; and
 - (b) for an occupied office—only if the officer appointed to the office consents to the change.
- (4) The declaration must set out hours of attendance for the office that are less than full-time hours of attendance.

Note An industrial instrument may include requirements for hours of attendance.

17 Sections 66A and 67

omit

18 Section 68 heading

substitute

68 Appointment to vacant office**19 Section 68 (1)**

substitute

- (1) The head of service may appoint a person to a vacant office.

Note The head of service must exercise a function in relation to an appointment in accordance with the merit and equity principle (see s 8 (3)).

20 Section 68 (2)

omit everything before paragraph (b), substitute

- (2) The head of service may only appoint a person to an office if—
- (a) the person is selected in accordance with the merit and equity principle; and

21 Section 68 (2) (c)

omit

has certified in writing that after due inquiry he or she is satisfied that the person is a fit and proper person to be so appointed

substitute

is satisfied on reasonable grounds, and states, in writing, that the person is suitable for appointment

22 Section 69

substitute

69 Record about officers

For each officer, the head of service must keep a record of—

- (a) the officer's date of birth; and
- (b) the office to which the officer is appointed; and
- (c) the day on which the officer's appointment started; and
- (d) any past employment as a public servant, including the days on which the employment started and ended.

**23 Appointment on probation
Section 70 (4)**

substitute

- (4) The appointment may be ended at any time before the appointment is confirmed, or taken to be confirmed, if the head of service is satisfied on reasonable grounds that 1 or more of the following criteria for being unsuitable for confirmation (the *unsuitability criteria*) applies to the officer:

- (a) the officer failed to have a medical examination to assess the officer's standard of health and fitness;

Note *Fail* includes refuse (see [Legislation Act](#), dict, pt 1).

- (b) the officer has had a medical examination to assess the officer's standard of health and fitness and an authorised doctor states, in writing, that the officer's standard of health and fitness is not at a standard required for the office;

- (c) an appropriate officer, for example the officer's supervisor states, in writing, that the officer has not exercised the officer's functions at a standard required for the office;

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).

- (d) the officer is not an eligible person to remain an officer;

- (e) the officer is an excess officer.

24 Section 70 (6)

omit

**25 Appointment on probation—prescribed training office
Section 71 (4) (a) to (e)**

substitute

- (a) 1 or more of the unsuitability criteria applies to the officer; or

26 Section 71 (6)

omit

**27 Appointment on probation—teachers
Section 71A (4)**

substitute

- (4) The appointment may be ended at any time before the appointment is confirmed, or taken to be confirmed, if the head of service is satisfied on reasonable grounds that 1 or more of the unsuitability criteria applies to the officer.

28 Section 71A (6)

omit

**29 Extension of period of probation
Section 71B (5)**

substitute

- (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 head of service is satisfied on reasonable grounds that 1 or more of the unsuitability criteria applies to the officer.

**30 Appointment without probation
Section 71C (1) (b)**

omit

performed the duties of the office, or an office with similar duties

substitute

exercised the functions of the office, or an office with similar functions

**31 Engagement of executives
Division 5.4**

omit

**32 Definitions—div 5.5
Section 82**

omit

33 Section 83

substitute

83 Promotion to vacant office

- (1) The head of service may promote an officer to a vacant office.

Note The head of service must exercise a function in relation to a promotion in accordance with the merit and equity principle (see s 8 (3)).

- (2) The head of service must tell an officer, in writing, about the promotion a reasonable time before it takes effect.

**34 Promotion appeal
Section 84 (1) (a)**

omit

level position

substitute

classification

**35 Promotion appeal by excess officer
Section 85 (1)**

substitute

- (1) This section applies if an officer has been told, in writing, by the head of service that the officer is an excess officer.

36 Section 85 (2) (a)

omit

level position

substitute

classification

37 Section 85 (3)

omit

(Retirement and redeployment of officers)

substitute

(Redeployment, underperformance and end of employment of officers)

**38 Review of certain promotion decisions
Section 86 (1)**

substitute

- (1) An officer may apply for review of a promotion of another officer to a vacant office if—
 - (a) the promotion is to a classification other than an appellable classification; and
 - (b) the officer applied for promotion to the office.

39 Section 86 (5)

omit

**40 Promotion on advice of joint selection committee
Section 87 (3)**

omit

41 Section 87 (4) (a)

omit

union agreed joint selection committee

substitute

a joint selection committee agreed to by the principal union (a ***union agreed joint selection committee***)

42 Section 87 (5) (a)

omit

level position

substitute

classification

43 Section 89

substitute

89 Death of officer before appeal or review decided

- (1) This section applies if a promoted officer dies before 1 of the following processes are finalised:
 - (a) an appeal under section 84 (Promotion appeal);
 - (b) a review under section 86 (Review of certain promotion decisions).
- (2) The process ends on the day of the promoted officer's death.

(3) If the promoted officer's promotion is confirmed, the promotion only takes effect if the promoted officer's death occurred on or after the prescribed day in relation to the promotion.

(4) In this section:

promoted officer means the officer against whose promotion the process is being undertaken.

**44 Cancellation of promotion
Section 90 (3)**

after

section 84

insert

or review under section 86

**45 Definitions—div 5.6
Section 91**

omit

46 Section 92

substitute

92 Transfer to vacant office

(1) The head of service may transfer an officer to a vacant office.

Note The head of service must exercise a function in relation to a transfer in accordance with the merit and equity principle (see s 8 (3)).

(2) The head of service may only transfer an officer under this section if—

(a) the vacant office is in the same administrative unit as the officer's office before the transfer; and

(b) either—

(i) the officer applied for the vacant office; or

- (ii) the head of service—
- (A) consults the director-general of the administrative unit about the transfer; and
 - (B) gives the officer an opportunity to state the officer's views in relation to the transfer; and
 - (C) considers the views of the officer.
- (3) The head of service must tell an officer, in writing, about the transfer a reasonable time before it takes effect.
- (4) A decision to transfer under this section is not an appellable or reviewable decision.

**47 Simultaneous transfer within administrative unit
Section 93 (2) (b)**

omit

48 Section 93 (2), new note

insert

Note The head of service must exercise a function in relation to a transfer in accordance with the merit and equity principle (see s 8 (3)).

49 Section 94, new note

insert

Note The head of service must exercise a function in relation to a transfer in accordance with the merit and equity principle (see s 8 (3)).

50 Sections 95 to 96A

omit

51 Sections 97 and 98

omit

52 Sections 101 (1) and 102 (1)

omit

level position

substitute

classification

53 Divisions 5.7 and 5.8

substitute

Division 5.7 Other movement within the service

105 Promotion or transfer after passing examination

- (1) This section applies if the head of service prescribes—
 - (a) a class of office for this section; and
 - (b) that a test or another assessable task (an *examination*) must be passed by an officer before the officer can be transferred or promoted to an office in a stated prescribed class.
- (2) If an office in the stated prescribed class is vacant and an examination has been undertaken, the head of service may—
 - (a) if 1 officer passed the examination and is otherwise eligible for transfer or promotion to that office—transfer or promote the officer to the office; or
 - (b) if 2 or more officers passed the examination and are otherwise eligible for transfer or promotion to the office—transfer or promote the officers in accordance with the order of merit in which they passed the examination.
- (3) A transfer or promotion under this section takes effect on the day stated in the instrument of transfer or promotion.

106 Training offices

- (1) The head of service may prescribe—
 - (a) required training for a class of office (a *training office*); and
 - (b) a class of office with a higher classification to which an officer occupying a training office may be promoted on satisfactory completion of the required training (a *related qualified office*).
- (2) If the head of service is satisfied an officer has satisfactorily completed the required training for a training office—
 - (a) if there is a vacant related qualified office—the head of service must promote the officer to the office; or
 - (b) if there is no vacant related qualified office—the officer—
 - (i) becomes an unattached officer until a related qualified office becomes vacant; and
 - (ii) is taken to have the classification of the related qualified office.
- (3) If a related qualified office becomes vacant, the head of service—
 - (a) must transfer to the office the unattached officer who has been waiting for a related qualified office to become vacant for the longest period; or
 - (b) may, if no officers have completed the required training—
 - (i) for a full-time qualified office—promote to the office the first full-time officer to complete the training; or
 - (ii) for a part-time qualified office—promote to the office the first part-time officer to complete the training; or
 - (iii) if subparagraphs (i) and (ii) do not apply—appoint, transfer or promote another person to the office.

- (4) If 2 or more officers satisfactorily completed the required training for a training office on the same day, the officers are taken to have completed the training in order of merit, with the officer achieving the highest mark taken to have completed first.
- (5) A promotion under this section takes effect on the day the promotion is made.

107 Promotion or transfer to training office

- (1) If an officer is promoted under section 83 to a training office, another officer or an unattached officer with a classification lower than the classification of the related qualified office may appeal the promotion.
- (2) If an officer is transferred under section 92 to a training office—
 - (a) another officer or an unattached officer with a classification lower than the classification of the related qualified office may appeal the transfer; and
 - (b) the office to which the officer was appointed immediately before the transfer remains vacant until—
 - (i) if the transfer is appealed—every appeal has been decided or otherwise ended; or
 - (ii) if the transfer is not appealed—the period during which an appeal can be made has ended.

- (3) In this section:

related qualified office—see section 106 (1) (b).

training office—see section 106 (1) (a).

108 Movement within administrative unit

- (1) This section applies if the head of service is satisfied on reasonable grounds that the efficient administration of an administrative unit requires an officer (including an unattached officer) or employee to move within the administrative unit.

-
- (2) The head of service may—
- (a) for an officer—transfer the officer to a vacant office in the administrative unit; or
 - (b) for an employee—
 - (i) end the employee’s employment; and
 - (ii) immediately after the employee’s employment ends, employ the employee again to exercise the required functions.
- (3) Before exercising a function under subsection (2), the head of service must—
- (a) consult the director-general of the unit; and
 - (b) give the officer or employee an opportunity to state the officer’s or employee’s views in relation to the change; and
 - (c) consider the views of the officer or employee.
- Note* An industrial instrument may set out further consultation requirements.
- (4) A decision to transfer under this section is not an appellable or reviewable decision.

109 Movement between administrative units

- (1) This section applies if the head of service is satisfied on reasonable grounds that the efficient administration of the service requires the movement of an officer (including an unattached officer), or an employee, from 1 administrative unit to another.
- (2) The head of service may—
- (a) for an officer—transfer the officer to a vacant office in the other administrative unit; or
 - (b) for an employee—
 - (i) end the employee’s employment; and

- (ii) immediately after the employee's employment ends, employ the employee again to exercise the required functions.
 - (3) Before exercising a function under subsection (2), the head of service must—
 - (a) consult—
 - (i) the officer or employee; and
 - (ii) the director-general of the administrative unit that would gain the officer or employee; and
 - (iii) the director-general of the administrative unit that would release the officer or end the employment of the employee; and
 - (b) consider whether the change is in the interests of the efficient administration of the service; and
 - (c) be satisfied that the efficient administration of the service requires the change.
- Note* An industrial instrument may set out further consultation requirements.
- (4) A decision under subsection (2) must state—
 - (a) the date of effect of the action; and
 - (b) for an officer being transferred—
 - (i) whether the transfer is temporary or permanent; and
 - (ii) if the transfer is temporary—the period of the transfer.
 - (5) A decision to transfer under this section is not an appellable or reviewable decision.

Division 5.8 Temporary employment

110 Fixed term temporary employment

- (1) The head of service may employ the person for a fixed term of—
 - (a) less than 12 months; or
 - (b) if the head of service consults the principal union about the need for the temporary employment—less than 5 years.
- (2) The head of service may re-employ the person without a break between the periods of employment if the cumulative period of engagement is less than—
 - (a) for an employee employed in accordance with subsection (1) (a)—12 months; or
 - (b) for an employee employed in accordance with subsection (1) (b)—5 years.
- (3) A fixed term employee's employment ends—
 - (a) on the day after the earliest of—
 - (i) the end of the term for which the employee is employed; or
 - (ii) a reasonable notice period given to the employee, in writing, by the head of service; or
 - (iii) a 2-week notice period given to the head of service, in writing, by the employee; or
 - (iv) a notice period agreed, in writing, between the employee and the head of service; or
 - (b) for an employee who begins a period of maternity leave before the end of the term for which the employee is employed—on the day after the latest of—
 - (i) the end of the term for which the employee is employed; or

(ii) the day the paid period of the employee's maternity leave ends.

(4) In this section:

maternity leave means maternity leave under an industrial instrument.

111 Casual temporary employment

- (1) The head of service may employ a person for temporary employment in an administrative unit to exercise the functions of an office on a casual basis.
- (2) Employment on a casual basis must not be on a fixed term.
- (3) A casual employee's employment may be ended at any time by the head of service.

112 Work performed after end of temporary employment

- (1) This section applies if—
 - (a) the temporary employment of a person has ended in accordance with section 110 (3) or section 111 (3); and
 - (b) that person continues to exercise functions or deliver services after the day the person's employment ended.
- (2) Any function exercised or service delivered by the person after the day the person's employment ended does not renew or extend the person's employment.
- (3) However, the head of service may pay the person for a function exercised or service delivered in good faith after the day the person's employment ended.

113 Record about employees

For each employee, the head of service must keep a record of—

- (a) the employee's date of birth; and

- (b) the office to which, or functions for which, the employee is employed; and
- (c) the day on which the employee's employment started; and
- (d) for an employee employed under section 110—the day on which the employee's employment will end; and
- (e) any past employment as a public servant, including the days on which the employment started and ended.

Division 5.9 Unattached officers

114 Becoming unattached officer

- (1) The head of service may, with the written consent of an officer, state, in writing, that the officer will become an unattached officer on a particular day.

Note 1 An officer may also become an unattached officer under s 65 (2) (b) (Reclassification of office) or s 106 (2) (b) (Training offices).

Note 2 An officer may be declared to be an unattached officer under s 123 (Reduction in classification or retirement).

- (2) The office occupied by the officer becomes vacant on the day the officer becomes an unattached officer.
- (3) Unless otherwise agreed between the head of service and the unattached officer, the unattached officer—
 - (a) is included in the administrative unit in which the unattached officer occupied an office immediately before becoming unattached; and
 - (b) has the classification of the office that the unattached officer occupied immediately before becoming unattached; and
 - (c) has the hours of attendance of the office that the unattached officer occupied immediately before becoming unattached.

115 Becoming unattached officer on medical grounds

- (1) This section applies if an authorised doctor has recommended that an officer should, because of physical or mental incapacity, be redeployed under section 122 or retired from the service under section 123.
- (2) The head of service may state, in writing, that the officer will become an unattached officer on a particular day.
- (3) The office occupied by the officer becomes vacant on the day the officer becomes an unattached officer.
- (4) The officer must be given written notice of becoming unattached as soon as practicable.

116 Appointment as unattached officer

A person may be appointed as an unattached officer under section 68 (1) (Appointment to vacant office) if the head of service states, in writing—

- (a) the administrative unit in which the person will be included; and
- (b) a classification for the person, having regard to—
 - (i) the functions to be exercised by the person; and
 - (ii) the person’s qualifications; and
- (c) the hours of attendance for the person.

117 Reappointment as unattached officer

- (1) This section applies to a former officer who is reappointed as an unattached officer.

Note A former officer may be reappointed as an unattached officer under s 136 (Reappointment of officer if unsuccessful election candidate) and s 137 (Reappointment of officer after quashing etc of conviction).

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- (2) Unless otherwise stated by the head of service, the unattached officer—
 - (a) is included in the administrative unit in which the unattached officer occupied an office immediately before becoming unattached; and
 - (b) has the classification of the office that the unattached officer occupied immediately before becoming unattached; and
 - (c) has the hours of attendance of the office that the unattached officer occupied immediately before becoming unattached.

Division 5.10 Secondment

118 Secondment to the service

- (1) The head of service may approve a request from an eligible person for the secondment of the eligible person to the service.
- (2) The eligible person must agree to the details of the secondment before the secondment begins.
- (3) The person on secondment must exercise a function assigned to the person while on secondment in accordance with this Act and any other law applying in the territory.
- (4) A person on secondment is taken to be a public servant for section 7 (Meaning of *public sector values*), section 8 (Meaning of *public sector principles*) and section 9 (Public sector conduct).
- (5) In this section:

secondment, of a person to the service, means a written arrangement between the Territory and the employer of the person, under which the person works in the service as if the person was employed by the Territory.

119 Secondment of public servant to another employer

- (1) The head of service may approve a request from a public servant for the secondment of the public servant to another employer.

- (2) The public servant must agree to the details of the secondment before the secondment begins.
- (3) Any function lawfully exercised by a public servant on secondment will not contravene this Act or another territory law if the function is exercised in the way the public servant is lawfully directed to exercise it.
- (4) In this section:

secondment, of a public servant to another employer, means a written arrangement between the Territory and the other employer, under which the public servant exercises a function for the other employer as if the public servant was employed by the other employer.

54 Parts 6 and 10

substitute

Part 6 **Redeployment, underperformance and end of employment of officers**

120 **Definitions—pt 6**

In this part:

confirmed officer means an officer who is not on probation.

incapacitated—an officer is *incapacitated* if the officer is unable to exercise functions appropriate to the officer’s classification because of physical or mental incapacity.

ineligible—an officer is *ineligible* for an office if the officer ceases to be an eligible person for the office.

121 **Retirement**

If an officer is at least 55 years old, the officer may retire from the service at any time.

122 Redeployment

- (1) This section applies to a confirmed officer if the director-general of the officer's administrative unit is satisfied on reasonable grounds that the officer is—
 - (a) incapacitated; or
 - (b) ineligible for the officer's office; or
 - (c) an excess officer.
- (2) The director-general must—
 - (a) take reasonable steps to find a vacant office that the officer is eligible for; and
 - (b) if the director-general finds a suitable vacant office—
 - (i) in writing, offer the office to the officer; and
 - (ii) if the officer consents to be transferred—transfer the officer to the office; and
 - (iii) if the officer does not consent to be transferred—refer the proposed redeployment to the head of service; and
 - (c) if the director-general does not find a suitable vacant office—refer the proposed redeployment to the head of service.
- (3) If the redeployment is referred to the head of service, the head of service must—
 - (a) take reasonable steps to find a vacant office in the service that the officer is eligible for; and
 - (b) if the head of service finds a suitable vacant office—
 - (a) in writing, offer the office to the officer; and
 - (b) if the officer consents to be transferred—transfer the officer to the office.

- (4) If the head of service cannot find a suitable vacant office to which the officer consents to be transferred the head of service must, in writing, refer the unsuccessful redeployment to the director-general.

123 Reduction in classification or retirement

- (1) This section applies to an officer whose unsuccessful redeployment is referred to the director-general under section 122 (4).
- (2) The director-general may, with written notice to the officer—
 - (a) reduce the officer's classification by—
 - (i) transferring the officer to an office with a lower classification; or
 - (ii) declaring, in consultation with the head of service, the officer to be an unattached officer of a lower classification; or
 - (b) retire the officer from the service.
- (3) A decision under subsection (2) is an appellable decision.
- (4) If the officer agrees to a reduction in classification or retirement, the date of effect of the action is—
 - (a) for an incapacitated officer—a day agreed, in writing, between the officer and the director-general; or
 - (b) for an ineligible or an excess officer—any day after the day the notice was given that is agreed, in writing, between the officer and the director-general.
- (5) If the officer does not agree to a reduction in classification or retirement, the date of effect of the action is—
 - (a) 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
 - (b) if paragraph (a) does not apply—the latest of the following:
 - (i) the day stated in the notice;

- (ii) the day 1 month after the day the notice 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.

124 Limitation on retirement on ground of invalidity

- (1) This section applies despite section 122 or section 123.
- (2) An officer may not be retired from office on the ground of invalidity unless—
 - (a) if the officer is an eligible employee for the purposes of the *Superannuation Act 1976* (Cwlth)—
 - (i) the officer has not reached the officer's maximum retiring age within the meaning of that *Act*; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 2 under that *Act*, section 54C for the officer; or
 - (b) if the officer is a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—
 - (i) the officer is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that *Act*, section 13 for the officer; or
 - (c) if the officer is an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—
 - (i) the officer is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that *Act*, section 43 for the officer.

(3) In this section:

invalidity means—

- (a) for an eligible employee under the *Superannuation Act 1976* (Cwlth)—invalidity under that Act; or
- (b) for a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—invalidity under that Act; or
- (c) for an ordinary employer sponsored member of the PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—invalidity under that Act; or
- (d) for a member of a superannuation scheme declared by the head of service—invalidity under the scheme.

125 Underperformance

(1) 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.

(2) In this section:

underperformance, by an officer, includes failure by the officer to exercise the functions of an office to the standard reasonably required.

126 End of employment for misconduct

- (1) This section applies if under the misconduct procedures that apply to a public servant, the public servant has engaged in misconduct.
- (2) The head of service may end the employment of the public servant.

- (3) A decision to end employment for misconduct is not an appellable decision or a reviewable decision.

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

127 Forfeiture of office

- (1) This section applies if an officer is absent from work without permission for a continuous period of 4 weeks or more.
- (2) The head of service may give the officer a written notice telling the officer that the officer will be taken to have retired from the service 2 weeks from the day the notice was sent unless, within the 2-week period, the officer—
- (a) returns to work; or
 - (b) explains the absence and asks the head of service for any further period of absence that may be necessary having regard to that explanation.

Note For how documents may be served, see the *Legislation Act*, pt 19.5.

- (3) The officer is taken to have retired from the service on the day after the end of the 2-week period unless the officer—
- (a) returns to work; or
 - (b) explains the absence.
- (4) If the officer explains the absence and asks the head of service for a further period of absence, the head of service must—
- (a) as soon as practicable, consider the matter; and
 - (b) tell the officer, in writing, that the officer—
 - (i) is given leave for the period, including any conditions on the leave; or
 - (ii) must return to work within a stated period (of at least 2 weeks) or the officer will be taken to have retired from the service at the end of the stated period.

- (5) If an officer is required to return to work within a period stated under subsection (4) (b) (ii) and the officer does not return to work in the period, the officer is taken to have retired from the service on the day after the end of the period.

Part 7 Re-entry to the service

Division 7.1 Preliminary

128 Definitions—pt 7

In this part:

declaration, of the result of an election, means—

- (a) if the election result is challenged, the earlier of—
- (i) the determination of the challenge by a court of disputed returns (however described); or
 - (ii) the lapsing of the challenge; or
- (b) in any other case—the date the election is declared.

election candidate means a candidate for election as—

- (a) a member of the Legislative Assembly; or
- (b) a member of a House of the Parliament of the Commonwealth or a State; or
- (c) a member of the Legislative Assembly for the Northern Territory; or
- (d) a member of a legislative or advisory body.

exonerated, in relation to a former public servant, means—

- (a) the former public servant is convicted of an offence; and
- (b) because of the conviction or a related misconduct procedure, disciplinary action taken for the public servant included ending the public servant's employment; and

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- (c) after the disciplinary action is taken the former public servant—
 - (i) has the conviction quashed, nullified or set aside; or
 - (ii) is pardoned or released from prison as a result of an inquiry into the conviction.

unsuccessful election candidate means a person who—

- (a) was a public servant; and
- (b) ended employment with the service to become an election candidate within 6 months before the day nominations to be an election candidate closed; and
- (c) was an election candidate; and
- (d) failed to be elected.

Division 7.2 Former SES member

129 Limitation on re-engagement of SES member

- (1) This section applies to a former SES member if—
 - (a) the SES member's engagement was ended under section 38 (End of SES member's engagement); or
 - (b) the SES member resigned under section 39 (SES member may resign).
- (2) The former SES member must not be—
 - (a) re-engaged in a vacant SES position until any exclusion period has ended; and
 - (b) for a former SES member whose engagement was ended under section 38—engaged in a vacant SES position on a permanent basis—
 - (i) less than 12 months after the last day of the SES member's former engagement; or

- (ii) if the SES member is paid an amount in addition to an amount under section 241 (Payment on leaving the service) (an *additional amount*)—less than 24 months after the last day of the SES member’s former engagement.
- (3) The *exclusion period*, in days, is worked out as follows:
$$\frac{\text{additional amount}}{\text{average daily salary over the last year of engagement}}$$

130 Re-engagement of SES member after abandonment of employment

- (1) This section applies to a former SES member whose engagement was ended under section 40 (End of engagement by resignation—abandonment of engagement by SES member).
- (2) Within a reasonable time, the former SES member may ask to be re-engaged.
- (3) The former SES member must be engaged in a suitable SES position if the engager for the SES position considers the request is reasonable.

131 Re-engagement of SES member if unsuccessful election candidate

- (1) This section applies to a former SES member if the former SES member is an unsuccessful election candidate.
- (2) Within 2 months after the declaration of the result of the election, the former SES member may ask, in writing, to be re-engaged.
- (3) The former SES member must be engaged in an SES position if the engager for the SES position considers the request is reasonable.

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- (4) The engagement must be—
- (a) to—
 - (i) the SES position in which the person had been engaged immediately before the SES member's contract was terminated; or
 - (ii) an SES position as similar as possible to that SES position; and
 - (b) for the period ending on the same day as the terminated contract was due to end.

132 Re-engagement of SES member after quashing etc of conviction

- (1) This section applies to a former SES member if the former SES member—
- (a) is exonerated; and
 - (b) asks within a reasonable time, in writing, for the disciplinary action taken against the former SES member to be overturned.
- (2) The former SES member may be engaged in an SES position if the engager for the SES position considers the request is reasonable.
- (3) The engager for the SES position may also take other action reasonably necessary to overturn the disciplinary action.
- (4) The engagement must be—
- (a) to—
 - (i) the SES position in which the person had been engaged immediately before the SES member's contract was terminated; or
 - (ii) an SES position as similar as possible to that SES position; and
 - (b) for the period ending on the same day as the terminated contract was due to end.

- (5) A former SES member who is re-engaged, under this section must be paid, for the intervening period, the salary the SES member was paid immediately before the former engagement ended.

Division 7.3 Former officers

133 Reappointment of former excess officer

The head of service may reappoint a former excess officer if the former officer—

- (a) was retired from the service under section 123 (Reduction in classification or retirement)—
 - (i) involuntarily within the previous year; or
 - (ii) voluntarily within the previous 2 years; and
- (b) received a payment from the Territory or a territory instrumentality for being retired.

134 No engagement or employment of certain former excess officers in certain circumstances

- (1) This section applies to a former excess officer if the former officer—
 - (a) was retired from the service under section 123 (Reduction in classification or retirement)—
 - (i) involuntarily within the previous year; or
 - (ii) voluntarily within the previous 2 years; or
 - (b) received a payment from the Territory or a territory instrumentality for being retired.
- (2) The head of service must not—
 - (a) engage the former excess officer as an executive or director-general; or
 - (b) employ the former excess officer as an employee.

135 Reappointment of officer after forfeiture of office

- (1) A former officer who is taken to have retired under section 127 (Forfeiture of office) may apply to the head of service, in writing, for reappointment to the service.
- (2) If the head of service is satisfied that the former officer had, in all the circumstances, reasonable grounds for being absent, the head of service must reappoint the former officer to—
 - (a) the office occupied by the former officer immediately before the former officer is taken to have retired; or
 - (b) if that office is not available—an equivalent office, or an office as similar as possible, to that office; or
 - (c) with the written consent of the former officer—another office.
- (3) If the head of service is not satisfied that the former officer had, in all the circumstances, reasonable grounds for being absent, the head of service must refuse the former officer.
- (4) If the head of service refuses a former officer, the head of service must give the former officer written notice of the refusal and the reasons for the refusal.
- (5) A former officer who is reappointed under this section is taken to have—
 - (a) continuity of service as prescribed; and
 - (b) recognition of prior service as prescribed.

136 Reappointment of officer if unsuccessful election candidate

- (1) This section applies to a former officer if the former officer is an unsuccessful election candidate.
- (2) Within 2 months after the declaration of the result of the election, the former officer may ask the head of service, in writing, to be reappointed.

- (3) After receiving a request under subsection (2), the head of service must reappoint the person—
 - (a) to the office occupied by the person immediately before the person's appointment was ended (the *last office*); or
 - (b) if the last office is not vacant—to an equivalent office in the same administrative unit as the last office; or
 - (c) if an equivalent office is not available—as an unattached officer with the same classification as the last office.

137 Reappointment of officer after quashing etc of conviction

- (1) This section applies to a former officer if the former officer—
 - (a) is exonerated; and
 - (b) asks the head of service within a reasonable time, in writing, for the disciplinary action taken against the former officer to be overturned.
- (2) The head of service must consider the former officer's request and—
 - (a) do 1 or both of the following:
 - (i) reappoint the former officer;
 - (ii) take other action reasonably necessary to overturn the disciplinary action; or
 - (b) refuse the request.
- (3) For subsection (2) (a) (i) the head of service must reappoint the person—
 - (a) to the office occupied by the person immediately before the person's employment was ended (the *last office*); or
 - (b) if the last office is not vacant—to an equivalent office in the same administrative unit as the last office; or
 - (c) if an equivalent office is not available—as an unattached officer with the same classification as the last office.

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- (4) A former officer who is reappointed under this section must be paid, for the intervening period, the salary the officer was paid immediately before the head of service ended the officer's appointment.

138 No reappointment of former officer in certain circumstances

- (1) The head of service must not reappoint a former officer if, at any time, the former officer's—
- (a) employment in the service ended for underperformance in accordance with section 125 (Underperformance) or misconduct under section 126 (End of employment for misconduct); or
 - (b) prescribed employment ended on grounds similar to the grounds for misconduct or underperformance under this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a management standard (see [Legislation Act](#), s 104).

- (2) For subsection (1), if the former officer was dismissed because a court found the former officer committed a criminal offence, the former officer may be reappointed if—
- (a) the finding of the court is nullified or set aside; or
 - (b) if a person was convicted on the basis of the finding—the conviction is quashed, nullified or the person is pardoned or released from prison.
- (3) The head of service must not reappoint a former officer for the 12-month period starting on the day the former officer's employment ended under—
- (a) section 70 (4) (Appointment on probation); or
 - (b) section 71 (4) (Appointment on probation—prescribed training office); or
 - (c) section 71A (4) (Appointment on probation—teachers); or

(d) section 71B (5) (Extension of period of probation).

(4) In this section:

criminal offence means an offence against a law of—

(a) the Territory; or

(b) the Commonwealth; or

(c) a State that, if committed in the ACT would constitute an offence against a law of the Territory; or

(d) a foreign country that, if committed in the ACT would constitute an offence against a law of the Territory or the Commonwealth.

Division 7.4 Former employee

139 Re-employment of employee if unsuccessful election candidate

- (1) This section applies to a former employee if the former employee is an unsuccessful election candidate.
- (2) Within 2 months after the declaration of the result of the election, the former employee may ask the head of service, in writing, to be re-employed.
- (3) After receiving a request under subsection (2), the head of service must employ the person in the same or a similar capacity with the same rate of pay as that payable to the person immediately before the person's employment ended.

140 Re-employment of employee after quashing etc of conviction

- (1) This section applies to a former fixed-term employee if the former employee—
 - (a) is exonerated; and

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- (b) asks the head of service within a reasonable time, in writing, for the disciplinary action taken against the former employee to be overturned.
- (2) The head of service must consider the former employee's request and—
 - (a) do 1 or both of the following:
 - (i) re-employ the former employee;
 - (ii) take other action reasonably necessary to overturn the disciplinary action; or
 - (b) refuse the request.
 - (3) For subsection (2) (a) (i), the head of service must employ the person in the same or a similar capacity with the same rate of pay as that payable to the person immediately before the person's employment ended.
 - (4) A former employee who is re-employed under this section must be paid, for the intervening period, the salary the employee was paid immediately before the head of service ended the employee's employment.

141 Re-employment after maternity leave

- (1) This section applies to a former fixed-term employee if the former employee applies for fixed-term employment within 24 months of beginning a period of maternity leave if the former employee's employment ended during a period of unpaid maternity leave.
- (2) The head of service must consider the former employee's application before any other applicant, and if the former employee is an eligible person for the employment the former employee must be employed.

- (3) If 2 or more former employees to whom this section applies apply for the same employment, the head of service must undertake a comparative assessment of the former employees and employ the most suitable.

Note The head of service must exercise a function in relation to employment in accordance with the merit and equity principle (see s 8 (3)).

- (4) In this section:

maternity leave means maternity leave under an industrial instrument.

Part 8 The public sector

Division 8.1 Public Sector Standards Commissioner

142 Appointment of commissioner

- (1) The Chief Minister may appoint a person as the Public Sector Standards Commissioner (the *commissioner*).

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

- (2) If a public servant is appointed as the commissioner, the public servant must end employment in the service before the appointment commences.

- (3) An appointment must be for a period of not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

- (4) The [Legislation Act](#), division 19.3.3 (Appointments—Assembly consultation) does not apply to the appointment of a person as commissioner.

- (5) An appointment is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

143 Arrangements for commissioner from another jurisdiction to exercise functions

If an appointment is not made under section 142, the Chief Minister must make arrangements for the commissioner (however described) responsible for exercising functions under a Commonwealth or State law that substantially correspond to this Act to exercise 1 or more of the functions of the commissioner.

Note The functions of the commissioner include functions under other laws applying in the territory (see s 144 (1) (d)), for example functions under the *Public Interest Disclosure Act 2012*.

144 Functions of commissioner

- (1) The commissioner has the following functions:
- (a) to conduct investigations—
 - (i) about a matter declared by the Chief Minister in the way prescribed; and
 - (ii) under an industrial instrument in accordance with subsection (2);
 - (b) to provide advice to the Chief Minister about matters arising from an investigation conducted by the commissioner;
 - (c) in connection with an investigation conducted by the commissioner—to promote and provide advice about the public sector values, the public sector principles and the conduct required under this Act;

(d) to exercise any function given to the commissioner under this Act or another law applying in the Territory.

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

Note 2 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def **entity**).

(2) A function given to the head of service under an industrial instrument in relation to an investigation, appeal or review (an **investigation function**) may be exercised by the commissioner.

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

Note 2 A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 and dict, pt 1, def **entity**).

(3) The commissioner may delegate an investigation function to a public servant or another person.

Note For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

(4) Nothing in this section limits the exercise of an investigation function by the head of service.

(5) A declaration of a matter by the Chief Minister is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

145 Leave of absence for commissioner

The Chief Minister may approve, in writing, leave of absence for the commissioner on the terms the Chief Minister decides.

146 Suspension and removal of commissioner

- (1) The Chief Minister may suspend the commissioner—
- (a) for alleged misconduct; or

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- (b) for physical or mental incapacity, if the incapacity affects the commissioner's ability to exercise a function; or
 - (c) if the commissioner is convicted, or found guilty, in the ACT of an offence punishable by imprisonment for at least 1 year; or
 - (d) if the commissioner is convicted, or found guilty, outside the ACT of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year.

Note **Found guilty**—see the [Legislation Act](#), dictionary, pt 1.

- (2) The Chief Minister must present the Legislative Assembly with a statement of the reasons for the suspension not later than the first sitting day after the day the commissioner is suspended.
- (3) If, not later than 6 sitting days after the day the statement is presented, the Legislative Assembly resolves to require the Chief Minister to end the commissioner's appointment, the Chief Minister must end the commissioner's appointment.
- (4) The commissioner's suspension ends—
 - (a) if the Chief Minister does not comply with subsection (2)—at the end of the day the Chief Minister should have presented to the Legislative Assembly the statement mentioned in that subsection; or
 - (b) if the Assembly does not pass a resolution mentioned in subsection (3) before the end of the 6 sitting days—at the end of the 6th sitting day.

Note An appointment also ends if the appointee resigns (see [Legislation Act](#), s 210).

- (5) The commissioner is entitled to be paid salary and allowances while suspended.

147 Ending commissioner’s appointment without suspension

- (1) The Chief Minister must end the commissioner’s appointment if the commissioner—
 - (a) becomes bankrupt or personally insolvent; or
 - (b) is absent, other than on approved leave, for 14 consecutive days or for 28 days in any 12-month period.
- (2) The Chief Minister may, with the consent of the commissioner, end the commissioner’s appointment on the ground of physical or mental incapacity.

148 Arrangements for staff and facilities

The commissioner may make arrangements with the head of service to use the services of public servants or Territory facilities.

Note The head of service may delegate powers in relation to the management of employees to the commissioner (see s 18).

149 Delegation by commissioner

- (1) The commissioner may—
 - (a) delegate to a public employee or another person a function given to the commissioner under this Act or any other law applying in the ACT; or
 - (b) subdelegate to a public employee or another person a function delegated to the commissioner under a law other than this Act.

Note 1 For the making of delegations and the exercise of a delegated function, see the [Legislation Act](#), pt 19.4.

Note 2 **Public employee** means a public servant, a person employed by a territory instrumentality or a statutory office-holder or a person employed by a statutory office-holder (see [Legislation Act](#), dict, pt 1).

Note 3 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (2) However, the commissioner must not delegate or subdelegate a function to a person who is not a public employee without first being satisfied that the function needs to be undertaken by a person who is not a public employee.

Division 8.2 Public sector members

150 Meaning of *public sector member* etc

- (1) In this Act:

public sector member—

- (a) means the following:

- (i) a statutory office-holder;

Note 1 **Statutory office-holder**—see the [Legislation Act](#), dictionary, pt 1.

Note 2 A statutory office-holder may also be a public servant.

- (ii) a person employed by a statutory office-holder;

- (iii) if a statutory office-holder enters into an arrangement with the head of service under a territory law for the use of the services of a public servant—the public servant; but

- (b) does not include the following:

- (i) the Chief Justice, a judge or the associate judge;

- (ii) the Chief Magistrate, a magistrate or any office that must be occupied by a magistrate;

- (iii) a person mentioned in paragraph (a) to the extent that the person exercises a judicial function;

- (iv) an ACAT tribunal member to the extent that the member exercises a function in relation to a hearing of a proceeding before the ACAT;

- (v) a prescribed person.

Note 1 **Chief Justice, judge, associate judge, Chief Magistrate, magistrate** and **ACAT**—see the [Legislation Act](#), dictionary, pt 1.

Note 2 A management standard may prescribe that a person is a public sector member (see s 156).

- (2) In this division:

employ, includes appoint or engage.

151 Public sector standards for public sector member etc

- (1) Division 2.1 (Public sector standards) applies to the following to the extent that the application of division 2.1 is consistent with the exercise of the member's functions:

- (a) a public sector member;
- (b) a person employed by a territory instrumentality.

Example

A public sector member has a function under an Act that requires the member to report to the Legislative Assembly on the Territory's compliance with certain territory laws and to advocate for compliance with the laws. The member tables a report in the Assembly that identifies non-compliance by the Territory. The member does not fail to comply with s 9 (2) (a) which is about damage to the reputation of the public sector or the Executive by tabling the report or publicly commenting on the report.

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) For section 9 (4), a disclosure must tell—
 - (a) for a public sector member employed under this Act—
 - (i) the public sector employer who employed the discloser; or
 - (ii) if the alleged maladministration or misconduct is by the public sector employer—the head of service; and

- (b) for a public sector member not employed under this Act—the head of service.

152 Certain office-holders have management powers

- (1) This section applies if a territory law states that—
 - (a) a statutory office-holder or chief executive officer (a *public sector employer*) may employ staff; and
 - (b) the staff must be employed under this Act.
- (2) A management provision under this Act applies to the public sector employer as if—
 - (a) a reference to the head of service is taken to be a reference to the public sector employer, to the extent that the application of the management provision is consistent with the exercise of the public sector employer's functions; and
 - (b) a reference to an officer is taken to be a reference to a public sector employer's staff member who is employed on a permanent basis; and
 - (c) a reference to an employee is taken to be a reference to a public sector employer's staff member who is employed on a temporary basis; and
 - (d) a reference to an office is a reference to the staff member's terms of employment; and
 - (e) for division 3.2 (Management of the service)—a reference to a function the head of service must exercise is a reference to a function that a public sector employer may exercise; and
 - (f) any other necessary change is made.
- (3) The public sector employer—
 - (a) must give the head of service any information about a staff member that is requested by the head of service because the information is relevant to the exercise of the head of service's functions; and

- (b) may exercise a function under an industrial instrument in relation to a staff member, as if the public sector employer were the head of service; and
- (c) unless otherwise stated in a territory law—may delegate a function under this part to the following:
 - (i) a staff member;
 - (ii) an officer or employee;
 - (iii) the head of service.
- (4) In this section:

management provision means the following:

 - (a) part 5 (Employment of officers and employees);
 - (b) part 6 (Redeployment, underperformance and end of employment of officers);
 - (c) part 7 (Re-entry to the service);
 - (d) part 11 (Review and appeal);
 - (e) part 13 (Miscellaneous).

153 Application of whole-of-government strategies

A whole-of-government strategy applies to a public sector employer and the staff of the public sector employer employed under this Act, if the strategy—

- (a) relates to the employment or management of staff; or
- (b) is prescribed for this section.

154 Alleged misconduct by statutory office-holder etc

- (1) This section applies to an allegation of misconduct by a statutory office-holder or chief executive officer of a territory instrumentality.

- (2) The commissioner must investigate the allegation if requested to do so by the person with responsibility for appointing the statutory office-holder or chief executive officer (the *appointer*).

Note If an industrial instrument covers a statutory office-holder's staff, the industrial instrument may include procedures for misconduct.

- (3) The commissioner, unless otherwise stated, in writing, by the appointer—

- (a) must investigate the alleged misconduct in the same way alleged misconduct would be investigated by the commissioner under this Act; and
- (b) has the same powers to investigate the alleged misconduct as the commissioner has to investigate alleged misconduct by a public servant.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a management standard (see [Legislation Act](#), s 104).

155 Alleged mismanagement of public sector employer's staff etc

- (1) If the commissioner receives a complaint about a management matter, the commissioner—

- (a) must investigate the management matter in the same way a management matter in the service would be investigated by the commissioner under this Act; and
- (b) has the powers given to the commissioner under this Act to investigate a management matter in relation to a staff member as if the member were a public servant.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a management standard (see [Legislation Act](#), s 104).

(2) In this section:

management matter means anything done by—

- (a) a public sector employer in relation to the management of the public sector employer's staff; or
- (b) the chief executive officer of a territory instrumentality in relation to the management of the staff of a territory instrumentality.

156 Prescribed public sector member

(1) The head of service may make a management standard to prescribe—

- (a) that a person is a public sector member (a *prescribed public sector member*); and
- (b) that some or all of the management provisions apply to a stated person employing a prescribed public sector member; and
- (c) procedures in relation to alleged misconduct by a prescribed public sector member; and
- (d) procedures in relation to alleged mismanagement of a prescribed public sector member.

(2) In this section:

management provision—see section 152 (4).

**55 Definitions—pt 11
Section 223, definition of *officer***

omit

56 Sections 241 and 242

substitute

241 Payment on leaving the service

- (1) This section applies to a public servant if the public servant's engagement, appointment or employment in the service ends.
- (2) The head of service must pay, or withhold from, the public servant any prescribed amount.

242 Authorisation to share protected information

- (1) This section applies despite any other territory law.
- (2) An information holder is authorised to disclose protected information to the following people, if the protected information is required by the person for the exercise of a function under this Act or an industrial instrument:
 - (a) another information holder;
 - (b) a person authorised by an information holder to receive the information.
- (3) In this section:

disclose includes communicate or publish.

information means information, whether true or not, in any form and includes an opinion and advice.

information holder means—

- (a) a person who is or has been—
 - (i) the head of service; or
 - (ii) a director-general; or
 - (iii) the commissioner; or
 - (iv) a public sector employer; or
 - (v) an employer prescribed under section 156 (1) (b); and

- (b) a person who exercises or has exercised a function on behalf of the Territory under public sector employment legislation.

protected information means information about a person that is disclosed to, or obtained by, an information holder because of the exercise of a function under the public sector employment legislation by the information holder or someone else.

Examples

- 1 a record kept by the head of service for managing an employment matter
- 2 information about whether the person is eligible for an SES position
- 3 information about a public servant disclosed in relation to a strategy designed to ensure the Territory is an equitable employer

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).

public sector employment legislation means—

- (a) this Act; and
- (b) the *Fair Work Act 2009* (Cwlth); and
- (c) an industrial instrument; and
- (d) any other law prescribed by regulation.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a management standard (see [Legislation Act](#), s 104).

**57 Protection of people in relation to work reports on officers or employees
Section 243 (2)**

omit

shall be deemed

substitute

is taken

58 Sections 244 to 248

substitute

244 Work outside the service

- (1) A public servant must have the approval of the head of service for any of the following activities, other than in the exercise of the public servant's functions:
 - (a) employment;
 - (b) business activities;
 - (c) membership of a board or committee.
- (2) However, a public servant does not need approval to be a member or shareholder of, or hold an unpaid position in, an incorporated company, a political party or a body registered under a law of the Territory, a State or the Commonwealth.

Note *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

245 Additional payment

- (1) The head of service may, in writing, approve payment, however expressed, in addition to a public servant's salary and allowances (an *additional payment*) for the public servant in relation to the exercise of the public servant's functions.
- (2) The approval may include a condition in relation to the use of the additional payment by the public servant.
- (3) Any additional payment must be made from money appropriated by the Legislative Assembly.

246 Repaying overpayment

- (1) A public servant must repay any amount paid by the Territory to the public servant to which the public servant is not legally entitled.
- (2) A repayment may be made in instalments.

- (3) The arrangements for repayment must be—
- (a) agreed between the head of service and the public servant; and
 - (b) reasonable having regard to all the circumstances.

247 Impersonation etc at examinations

A person must not—

- (a) impersonate another person at an examination, including a test, held under this Act; or
- (b) permit another person to impersonate the person at an examination, including a test, held under this Act; or
- (c) before the time when an examination is to be held under this Act, improperly obtain or give a person—
 - (i) an examination paper that has been set for an examination held under this Act; or
 - (ii) papers relating to an examination paper that has been set for an examination held under this Act.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

59 Sections 248A to 248C

omit

**60 Imprisonment
Section 249 (4) and (5)**

omit

from duty

61 Section 249 (6), definition of *suspended from duty*

substitute

suspended means suspended under an industrial instrument.

**62 Attachment of salary of officers and employees
Section 250 (2)**

omit

shall

substitute

must

63 Sections 250A and 251

substitute

250A Deduction of monetary penalty

- (1) This section applies if—
 - (a) a monetary penalty has been imposed on a public servant under a misconduct procedure; or
 - (b) an order for the payment of an amount of money by a public servant has been made under a misconduct procedure; or
 - (c) a direction for the deduction of an amount of money by a public servant has been made under a misconduct procedure.
- (2) The public servant may pay the amount or have the amount deducted from the public servant's salary.
- (3) A deduction under this section—
 - (a) may be made in instalments; and
 - (b) must be made in instalments if the deduction is more than 1/4 of the salary payable to the public servant for a pay period.

251 Management standards

- (1) The head of service may, with the Chief Minister's written approval, make a management standard for this Act about the following:
 - (a) the public sector values;

- (b) the public sector principles;
- (c) the conduct required under this Act;
- (d) a management strategy;
- (e) a whole-of-government strategy;
- (f) management and administration in the public sector;
- (g) the organisation of the service;
- (h) management strategies;
- (i) eligibility requirements for the service;
- (j) the senior executive service;
- (k) offices;
- (l) officers;
- (m) employees;
- (n) public sector members;
- (o) the terms of employment for public servants and public sector member;
- (p) work health and safety in the public sector;
- (q) secondment to or from the public sector;
- (r) a matter requested, in writing, by the Chief Minister.

Note 1 Power to make a statutory instrument (including to make or approve a management standard) includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors (see [Legislation Act](#), s 48).

Note 2 The power to make an instrument includes the power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see [Legislation Act](#), s 46).

- (2) For subsection (1) (c), a management standard is subject to any direction in force under the *Director of Public Prosecutions Act 1990*, section 12.
- (3) The Chief Minister's approval to make a management standard may be given subject to a condition.
- (4) A management standard is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

252 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

64 Parts 11 and 13 (as amended)

renumber as parts 9 and 10

65 New part 18

insert

Part 18 Transitional

Note The repeal or amendment of a law does not affect the previous operation of the law or anything done, begun or suffered under the law and does not affect an existing right, privilege or liability acquired, accrued or incurred under the law. An investigation, proceeding or remedy in relation to an existing right, privilege or liability under a repealed law may be started, exercised, continued or completed, and the right, privilege or liability may be enforced and any penalty imposed, as if the repeal had not happened (see [Legislation Act](#), s 84).

290 Definitions—pt 18

In this part:

commencement day means the day the *Public Sector Management Amendment Act 2016*, section 3 commences.

pre-amendment Act means the *Public Sector Management Act 1994*, as in force immediately before the commencement day.

pre-amendment misconduct procedure—see section 295 (1) (b).

291 Existing engagement of head of service

- (1) This section applies to a person who was engaged under the *pre-amendment Act*, section 23C (Head of service—engagement) or section 23J (Head of service—temporary contract) immediately before the commencement day.
- (2) The contract continues in force and any other employment condition or arrangement that applied to the person immediately before the commencement day continues to apply to the person until the contract ends.

292 Existing engagements of directors-general

- (1) This section applies to a person who was engaged under the *pre-amendment Act*, section 28 (Directors-general—engagement) or section 30 (Directors-general—temporary contracts) immediately before the commencement day.
- (2) The contract continues in force and any other employment condition or arrangement that applied to the person immediately before the commencement day continues to apply to the person until the contract ends.

293 Existing engagements of executives

- (1) This section applies to a person engaged under a contract under the *pre-amendment Act*, section 72 (Executives—engagement) or section 76 (Executives—temporary contracts) immediately before the commencement day.
- (2) The contract continues in force and any other employment condition or arrangement that applied to the person immediately before the commencement day continues to apply to the person until the contract ends.

294 Existing appointment of Commissioner for Public Administration

- (1) This section applies to a person who, immediately before the commencement day, was the Commissioner for Public Administration.
- (2) The person is taken to be appointed as the commissioner under section 142 (Appointment of commissioner).
- (3) However, if the person is a public servant, section 142 (2) does not apply.

295 Misconduct before commencement day—procedure started

- (1) This section applies if, before the commencement day—
 - (a) a person engaged in alleged misconduct; and
 - (b) a procedure in relation to the alleged misconduct (a *pre-amendment misconduct procedure*) has been started but not completed.
- (2) The pre-amendment misconduct procedure must be completed under the pre-amendment Act as if the pre-amendment Act were still in force.

296 Misconduct before commencement day—procedure not started

- (1) This section applies if, before the commencement day—
 - (a) a person engaged in alleged misconduct; and
 - (b) a misconduct procedure under the pre-amendment Act in relation to the conduct had not been started.
- (2) A misconduct procedure may be undertaken under the pre-amendment Act as if the pre-amendment Act were still in force.

297 Misconduct on or after commencement day

- (1) This section applies if a person engages in alleged misconduct on or after the commencement day (the *later conduct*) that forms part of a course of alleged misconduct that started before the commencement day (the *earlier conduct*), whether or not a misconduct procedure under the pre-amendment Act has been started in relation to the earlier conduct.
- (2) Any procedure in relation to the later conduct must be undertaken under the Act, as in force when the procedure for the later conduct is started.

298 Commissioner for public administration investigation

- (1) This section applies if any of the following matters are not finalised by the commissioner for public administration immediately before the commencement day:
 - (a) a review under the [pre-amendment Act](#), section 21 (Review of government agencies or functions);
 - (b) an inspection, inquiry or investigation under the [pre-amendment Act](#), section 22 (Investigative powers of commissioner) or section 22AA (Investigative powers of commissioner and Legislative Assembly entities);
 - (c) any other review, inquiry, investigation or related action undertaken by the commissioner for public administration under—
 - (i) an industrial agreement; or
 - (ii) a delegation or written agreement; or
 - (iii) the [Public Interest Disclosure Act 2012](#); or
 - (iv) any other a territory law.
- (2) The public sector standards commissioner may continue and finalise the matter.

- (3) If the public sector standards commissioner continues the matter—
- (a) the public sector standards commissioner has all the powers the commissioner of public administration had in relation to the matter; and
 - (b) the matter must be dealt with in accordance with the relevant law or other authority as in force, and as it applied to the matter, immediately before the commencement day.

299 Transitional regulations

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

300 Expiry—pt 18

This part expires 5 years after the commencement day.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

66 Reviewable decisions Schedule 1, item 1, column 3

omit

reviewable level office

substitute

vacant office

**67 Appellable decisions
Schedule 2, item 4**
*omit***68 Schedule 2, new item 5A***insert*

5A	107	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
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69 Schedule 2, item 6, column 2*omit*

143 (9)

substitute

123 (2)

70 Dictionary, note 2*substitute*

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- Australian citizen
- Chief Minister
- Commonwealth
- exercise
- fail
- function
- gazette
- Legislative Assembly
- Northern Territory
- occupy
- Office of the Legislative Assembly

- position
- power
- public employee
- public servant
- state
- statutory office-holder
- the Territory.

71 Dictionary, definitions of *Aboriginal or Torres Strait Islander person, access and equity principle and access and equity program*

omit

72 Dictionary, new definitions

insert

administrative arrangements means a determination made under see section 14 (1).

appellable classification, for part 5 (Employment of officers and employees)—see section 63.

73 Dictionary, definition of *appellable level position*

omit

74 Dictionary, definitions of *auditor-general's office and autonomous instrumentality*

omit

75 Dictionary, new definition of *best practice principle*

insert

best practice principle—see section 8 (4).

76 Dictionary, definitions of *chief executive officer* and *classification*

substitute

chief executive officer, of a territory instrumentality, means the person who has responsibility for managing the affairs of the instrumentality.

classification—

- (a) for an SES position, means a prescribed classification; and
- (b) for an office, means—
 - (i) if a classification in an industrial instrument applies to the office—the classification; or
 - (ii) in any other case—a prescribed classification.

77 Dictionary, definition of *commissioner*

omit

section 18 (1)

substitute

section 142 (1)

78 Dictionary, definition of *Commonwealth officer*

omit

79 Dictionary, new definition of *confirmed officer*

insert

confirmed officer, for part 6 (Redeployment, underperformance and end of employment of officers)—see section 120.

80 Dictionary, definition of *criminal offence*

omit

81 Dictionary, new definition of *declaration*

insert

declaration, of the result of an election, for part 7 (Re-entry to the service)—see section 128.

82 Dictionary, definition of *designated group*

omit

83 Dictionary, definition of *director-general*

substitute

director-general means a person engaged as a director-general under section 31 (2).

84 Dictionary, definitions of *disability* and *discrimination*

omit

85 Dictionary, new definitions

insert

election candidate, for part 7 (Re-entry to the service)—see section 128.

eligible person, for appointment, engagement or employment as a public servant, means a person who—

- (a) satisfies any of the following:
 - (i) is an Australian citizen;
 - (ii) is a permanent resident of Australia;
 - (iii) holds a visa that permits the person to work in the service; and

- (b) is capable of—
 - (i) upholding the public sector values; and
 - (ii) exercising each function that the person is, or will be, employed to exercise, in accordance with the best practice principle; and
 - (iii) acting consistently with section 9 (Public sector conduct); and
- (c) holds all qualifications required to lawfully exercise every function that the person is, or will be, appointed, engaged or employed to exercise.

employ, for division 8.2 (Public sector members)—see section 150 (2).

86 Dictionary, definition of *employee*, paragraphs (a) to (c)

omit

87 Dictionary, definition of *employment matters*

omit

88 Dictionary, new definition of *engager*

insert

engager means—

- (a) for the engagement of the head of service—the Chief Minister; and
- (b) for the engagement of a director-general or an executive—the head of service.

89 Dictionary, definition of *equal employment opportunity program*

omit

90 Dictionary, new definition of *equitable employer*

insert

equitable employer means an employer that—

- (a) employs, and provides fair and equitable opportunities for training and career development to, individuals—
 - (i) from diverse cultural, language and religious backgrounds; and
 - (ii) of different gender; and
 - (iii) of different sexual orientation; and
 - (iv) with disability; and
 - (v) of different working age; and
- (b) complies with and models commitment to anti-discrimination legislation.

Example—par (b)

including a reasonable adjustment guide in procedures for staff management

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).

91 Dictionary, definition of *essential qualification*

omit

92 Dictionary, definition of *excess officer*

substitute

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) if the functions usually exercised by an officer are required by the head of service to be exercised in a new location—an officer who is not willing to exercise the functions at the new location.

93 Dictionary, definition of *executive*

substitute

executive means a person engaged as an executive under section 31 (2).

94 Dictionary, definition of *executive office*

omit

95 Dictionary, new definition of *exonerated*

insert

exonerated, in relation to a former public servant, for part 7 (Re-entry to the service)—see section 128.

96 Dictionary, definition of *government agency*

omit

97 Dictionary, definition of *head of service*

substitute

head of service means the person engaged as the head of service under section 31 (1).

98 Dictionary, new definition of *incapacitated*

insert

incapacitated, for part 6 (Redeployment, underperformance and end of employment of officers)—see section 120.

99 Dictionary, definition of *industrial democracy program*

omit

100 Dictionary, definition of *industrial instrument*, new paragraph (c)

insert

(c) that covers 1 or more officer or employee.

101 Dictionary, new definitions

insert

ineligible, for part 6 (Redeployment, underperformance and end of employment of officers)—see section 120.

job, of a public servant, for division 2.1 (Public sector standards)—see section 6.

joint council means the forum established under section 28.

102 Dictionary, definition of *joint selection committee*

substitute

joint selection committee, for part 5 (Employment of officers and employees)—see section 63.

103 Dictionary, new definitions

insert

management strategy means a strategy made under section 26.

merit and equity principle—see section 8 (4).

104 Dictionary, definition of *misconduct*

substitute

misconduct, by a public servant, means failure to comply with section 9 (Public sector conduct).

Note ***Fail*** includes refuse (see [Legislation Act](#), dict, pt 1).

105 Dictionary, new definition of *misconduct procedure*

insert

misconduct procedure, in relation to a public servant, means—

- (a) if an industrial instrument covers the public servant and includes procedures for misconduct—the misconduct procedures in the industrial instrument; or
- (b) in any other case—a prescribed procedure.

106 Dictionary, definitions of *non-appellable promotion and not qualified to perform duties*

omit

107 Dictionary, definition of *office*

substitute

office means an office established under section 23.

108 Dictionary, definitions of *office of director-general and office of head of service*

omit

109 Dictionary, definition of *officer*, paragraph (a) (ii)

omit

division 5.8 (Miscellaneous)

substitute

part 7 (Re-entry to the service)

110 Dictionary, definition of *officer*, paragraphs (b) to (d)

omit

111 Dictionary, definition of *overseas*

omit

112 Dictionary, definition of *part-time office*

omit

section 60

substitute

section 66

113 Dictionary, definition of *promotion*

substitute

promotion, in relation to an officer, means a permanent movement of an officer within the service to an office with a higher classification than the office that the officer was appointed to immediately before the promotion.

Note The comparative level of classifications is determined by the maximum salary payable to a classification (see s 23 (3)).

114 Dictionary, definition of *public employee*

omit

115 Dictionary, definition of *public sector*

substitute

public sector means the following:

- (a) the service;
- (b) entities in which public sector members are employed that are owned or operated by the Territory or a Territory instrumentality.

116 Dictionary, new definitions

insert

public sector employer—see section 152 (1).

public sector member—see section 150.

117 Dictionary, definition of *public sector officer*

omit

118 Dictionary, new definitions

insert

public sector principles—see section 8 (1).

public sector values—see section 7.

qualification includes the following:

- (a) an academic qualification;
- (b) an apprenticeship;
- (c) a licence;
- (d) membership of a professional body;

- (e) a registration;
- (f) a security clearance.

senior executive service—see section 12 (3) (a).

SES member means a member of the service in the senior executive service.

SES position, for an SES member, means the position in which the member is engaged, as set out in the member's contract.

119 Dictionary, definition of *statutory office-holder*

omit

120 Dictionary, new definitions

insert

SETs, for part 4 (Engagement of senior executive service)—see **statutory employment terms**.

statutory employment terms or (**SETs**), for an SES position, for part 4 (Engagement of senior executive service)—see section 30.

121 Dictionary, definition of *territory instrumentality*

substitute

territory instrumentality—

- (a) means a corporation established under an Act or statutory instrument, or under the [Corporations Act](#), that is—
 - (i) comprised of people, or has a governing body comprised of people, a majority of whom are appointed by—
 - (A) a Minister; or
 - (B) the head of service; or
 - (C) a director-general; or
 - (D) a statutory office-holder; or

- (ii) subject to control or direction by a Minister; but
- (b) does not include—
 - (i) an administrative unit or a part of an administrative unit;
or
 - (ii) a body that is prescribed.

122 Dictionary, new definition of *transfer*

insert

transfer, in relation to an officer, means a permanent or temporary movement of an officer within the service between 2 offices, other than by promotion.

123 Dictionary, new definitions

insert

unsuccessful election candidate, for part 7 (Re-entry to the service)—see section 128.

unsuitability criteria, for part 5 (Employment of officers and employees)—see section 70 (4).

vacant office—

- (a) means an office that is not occupied; and
- (b) includes an office that is expected to become vacant.

whole-of-government strategy, for the service, means a formal or informal strategy, target, policy, program or service, approved in writing by the head of service, that—

- (a) relates to matters for which more than 1 administrative unit is responsible; and
- (b) requires public servants in more than 1 administrative unit to exercise a function.

Schedule 1 Legislation amended

(see s 3)

Part 1.1 Aboriginal and Torres Strait Islander Elected Body Act 2008

[1.1] Section 10 (4), definition of *executive officer*

substitute

executive officer, of a government agency, means—

- (a) the head of service; or
- (b) for a public sector body—the person responsible for the management of the public sector body; or
- (c) for a territory instrumentality—the head (however described) of the instrumentality.

[1.2] Dictionary, note 2

insert

- head of service
- public sector body

[1.3] Dictionary, definition of *government agency*

substitute

government agency means—

- (a) the public service; or
- (b) a public sector body; or
- (c) a territory instrumentality.

Part 1.2 ACT Civil and Administrative Tribunal Act 2008

[1.4] Division 9.3 heading

substitute

Division 9.3 Registrar

[1.5] Section 115

omit

[1.6] Dictionary, note 2

insert

- territory instrumentality

Part 1.3 ACT Teacher Quality Institute Act 2010

[1.7] Section 23

substitute

23 Institute's staff

- (1) The chief executive officer may employ staff for the institute on behalf of the Territory.
- (2) The institute's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the chief executive officer in relation to the employment of staff (see *Public Sector Management Act 1994*, s 153).

[1.8] Section 60 (1) (c) and (2)

after

the office of an administrative unit administered by the director-general

insert

and an office operated by the institute

[1.9] Dictionary, note 2

insert

- public servant

Part 1.4 Administrative Decisions (Judicial Review) Act 1989

[1.10] Schedule 2, section 2.5 (b)

omit

commissioner for public administration

substitute

public sector standards commissioner or the head of service

[1.11] Dictionary, note 2

insert

- head of service
- public sector standards commissioner
- public servant

Part 1.5 Annual Reports (Government Agencies) Act 2004

[1.12] Section 3, note 1

omit

section 5

substitute

section 6

[1.13] Sections 5 to 7

substitute

5 State of the service report

- (1) The head of service must, for a reporting year, prepare a report about the operation of the public service during the reporting year (a *state of the service report*).
- (2) The report must include—
 - (a) an account of the management of the public sector during the reporting year; and
 - (b) information about—
 - (i) any investigation conducted by the commissioner under the *Public Sector Management Act 1994*; and
 - (ii) the exercise of a function given to the commissioner under an Act; and
 - (c) anything else required under an annual report direction for a state of the service report.
- (3) The report may include any other information the head of service considers appropriate.

6 Director-general annual report

- (1) The director-general for an administrative unit must, for a reporting year, prepare a report about the operation of the administrative unit during the reporting year (a *director-general annual report*).
- (2) The report must include a statement describing the measures taken by the administrative unit during the reporting year to respect, protect and promote human rights.

7 Public sector body annual report

- (1) This section applies to a public sector body other than—
 - (a) an officer of the Assembly; or
 - (b) the Office of the Legislative Assembly.
- (2) A public sector body must, for a reporting year, prepare a report about the operation of the body during the reporting year (a *public sector body annual report*) if—
 - (a) the Minister makes a declaration that the public sector body must prepare a public sector body annual report; or
 - (b) an Act states that the public sector body must prepare an annual report.

Note The following public sector bodies must prepare an annual report:

- the architects board (see [Architects Act 2004](#), s 67)
- the construction occupations registrar (see [Construction Occupations \(Licensing\) Act 2004](#), s 112)
- the victims services scheme (see [Victims of Crime Act 1994](#), s 21).

- (3) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

7A Officer of the Assembly annual report

- (1) An officer of the Assembly must, for a reporting year, prepare a report about the operation of the officer during the reporting year (*an officer of the Assembly annual report*).

Note The auditor-general is not required to comply with this Act in certain circumstances (see *Auditor-General Act 1996*, s 7A).

- (2) The report must include an account of the management of the officer's office during the reporting year.

7B Office of the Legislative Assembly annual report

- (1) The Office of the Legislative Assembly must, for a reporting year, prepare a report about the operation of the Office of the Legislative Assembly during the reporting year (*an Office of the Legislative Assembly annual report*).
- (2) The report must include an account of the management of the office during the reporting year.

7C Territory-owned corporation annual report

A territory-owned corporation must, for a reporting year, prepare a report about the operation of the corporation during the reporting year (*a territory-owned corporation annual report*).

[1.14] Section 8 (3) (e)

omit

public authority does not comply with section 6 (Annual report of public authority)

substitute

public sector body does not comply with section 7 (Public sector body annual report)

[1.15] Section 8 (3) (f) and (g)

omit

public authority

substitute

public sector body

[1.16] Sections 11 and 12

substitute

11 Responsible Minister for public sector body annual report

- (1) The responsible Minister for a public sector body annual report is—
 - (a) for a public sector body established under an Act—the Minister responsible for the Act in the relevant respect; or
 - (b) for any other public sector body—the Minister that the Chief Minister declares to be the responsible Minister for the public sector body.
- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

12 Responsible Minister for territory-owned corporation annual report

- (1) The Chief Minister must declare that a Minister is the responsible Minister for a territory-owned corporation annual report.
- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

[1.17] Section 16

omit

[1.18] Section 18 (2)

substitute

- (2) If a public sector body is required under any other territory law to prepare a report on the operation of the public sector body, the public sector body may prepare a report that complies with both this Act and the other law.

[1.19] Dictionary, note 2

omit

- body
- commissioner for public administration

[1.20] Dictionary, note 2

insert

- public sector body
- public sector standards commissioner

[1.21] Dictionary, note 2

omit

- statutory office-holder
- territory instrumentality

[1.22] Dictionary, definitions of *annual report* and *director-general annual report*

substitute

annual report means—

- (a) a director-general annual report; or
- (b) an Office of the Legislative Assembly annual report; or
- (c) an officer of the Assembly annual report; or
- (d) a public sector body annual report; or
- (e) a state of the service report; or
- (f) a territory-owned corporation annual report.

director-general annual report—see section 6.

[1.23] Dictionary, new definitions

insert

Office of the Legislative Assembly annual report—see section 7B.

officer of the Assembly annual report—see section 7A.

[1.24] Dictionary, definitions of *public administration annual report*, *public authority* and *public authority annual report*

omit

[1.25] Dictionary, new definition of *public sector body annual report*

insert

public sector body annual report—see section 7.

Part 1.7 Auditor-General Act 1996

[1.30] Section 8 (2) (e)

omit

the merit principles set out in the *Public Sector Management Act 1994*, section 65 (Application of merit principle)

substitute

an open and accountable selection process

[1.31] Section 9B (2) (a)

substitute

(a) the public sector standards commissioner;

[1.32] Section 9C

substitute

9C Auditor-general's staff

- (1) The auditor-general may employ staff on behalf of the Territory.
- (2) The auditor-general's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the auditor-general in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.33] Section 9E

substitute

9E Other arrangements for staff and facilities

The auditor-general may arrange with the head of service to use the services of a public servant or Territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

[1.34] Section 9F (a)

substitute

(a) a member of staff mentioned in section 9C; or

[1.35] Section 37 (3), new definition of *staff*

insert

staff means—

- (a) staff mentioned in section 9C; and
- (b) a contractor mentioned in section 9D; and
- (c) a public servant mentioned in section 9E.

[1.36] Dictionary, note 2

insert

- head of service
- public servant

Part 1.8 **Board of Senior Secondary Studies Act 1997**

[1.37] New section 6 (2) and (3)

insert

- (2) For section 6 (1) (a), if the board appoints a public servant, the public servant must be appointed in accordance with any conditions determined by the head of service.
- (3) A determination is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

[1.38] Section 18

omit

board staff member mentioned in section 19

substitute

consultant engaged under section 19 or a public servant mentioned in section 19A

[1.39] Section 19

substitute

19 Consultants

- (1) The board may, for the Territory, engage consultants to, or to perform services for, the board.
- (2) Consultants are to be engaged on written terms decided by the board that are approved by the Minister.
- (3) However, this section does not give the board a power to enter into a contract of employment.

Part 1.10 **Cemeteries and Crematoria Act 2003**

[1.42] Section 44

substitute

44 Arrangements for staff

The cemeteries authority may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

[1.43] Dictionary, note 2

insert

- head of service
- public servant

Part 1.11 **Children and Young People Act 2008**

[1.44] Section 727I

substitute

727I Arrangements for staff

The head of service must, on request of the CYP death review committee, arrange with the committee for the committee to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

[1.45] Dictionary, note 2

insert

- head of service

**Part 1.12 Climate Change and Greenhouse
Gas Reduction Act 2010**

[1.46] Dictionary, note 2

insert

- public sector body
- public service
- territory instrumentality

[1.47] Dictionary, definition of *government agency*

substitute

government agency means—

- (a) the public service; or
- (b) a public sector body; or
- (c) a territory instrumentality.

**Part 1.13 Commissioner for Sustainability
and the Environment Act 1993**

[1.48] Dictionary, note 2

insert

- head of service
- public servant

[1.49] Dictionary, definition of *principal officer*, paragraph (a)

omit

Commissioner for Public Administration

substitute

head of service

Part 1.14 Construction Occupations (Licensing) Act 2004

[1.50] Section 112 (1)

omit

is a public authority for

substitute

must prepare an annual report under

Part 1.15 Crimes Act 1900

[1.51] Section 49A, definition of *senior officer*, examples and note

substitute

Examples—par (a) (ii)

- the head of service
- a director-general

Example—par (a) (iii)

an executive under the *Public Sector Management Act 1994*

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).

[1.52] Section 153 heading

substitute

153 Disclosure of information by territory officer

[1.53] Dictionary, note 2

insert

- head of service

**Part 1.16 Crimes (Child Sex Offenders)
 Act 2005**

[1.54] Section 132ZL, definition of *government agency*

substitute

government agency means—

- (a) the public service; or
- (b) a public sector body; or
- (c) a territory instrumentality.

[1.55] Dictionary, note 2

insert

- public service
- public sector body

[1.56] Dictionary, note 2

omit

- statutory office-holder

Part 1.17 **Crimes (Restorative Justice) Act 2004**

[1.57] Section 22 (2), example, note 2

substitute

Note 2 A director-general may delegate any powers given to the director-general under this Act under the *Public Sector Management Act 1994*, s 20.

Part 1.18 **Crimes (Sentence Administration) Act 2005**

[1.58] Section 292 (3)

omit

director-general

substitute

head of service

[1.59] Dictionary, note 2

insert

- head of service

Part 1.19 **Crimes (Sentencing) Act 2005**

[1.60] Dictionary, note 2

insert

- head of service

Part 1.20 Cultural Facilities Corporation Act 1997

[1.61] Section 12

substitute

12 Corporation's staff

- (1) The chief executive officer may employ staff for the corporation on behalf of the Territory.
- (2) The corporation's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the chief executive officer in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

Part 1.21 Dangerous Substances Act 2004

[1.62] Dictionary, note 2

insert

- public servant

Part 1.22 **Director of Public Prosecutions Act 1990**

[1.63] Division 3.2 heading

substitute

Division 3.2 **Staff of the office**

[1.64] Section 30

substitute

30 **Director's staff**

- (1) The director may employ staff on behalf of the Territory.
- (2) The director's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the director in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.65] Section 32

substitute

32 **Other arrangements for staff and facilities**

The director may arrange with the head of service to use the services of a public servant or Territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see *Public Sector Management Act 1994*, s 18).

[1.66] Dictionary, note 2

insert

- head of service
- public servant

**[1.67] Dictionary, definition of *member of the staff*,
paragraph (a)**

omit

(Staff)

substitute

(Director's staff)

**[1.68] Dictionary, definition of *member of the staff*,
paragraph (c)**

omit

(Other staffing arrangements)

substitute

(Other arrangements for staff and facilities)

Part 1.23 Electoral Act 1992

[1.69] Section 7 (1) (d)

substitute

- (d) to provide information and advice on matters relating to elections to—
- (i) the Assembly; and
 - (ii) the Executive; and
 - (iii) the head of service; and

- (iv) directors-general; and
- (v) statutory office-holders; and
- (vi) territory authorities; and
- (vii) territory instrumentalities; and
- (viii) political parties; and
- (ix) MLAs; and
- (x) candidates at elections;

[1.70] Section 10

omit

[1.71] Section 12 (2) (e)

substitute

- (e) in accordance with an open and accountable selection process.

[1.72] New section 12C (1) (ba)

insert

- (ba) has been the head of service; or

[1.73] Section 18A (2) (a)

substitute

- (a) the public sector standards commissioner;

[1.74] Section 31

substitute

31 Commissioner's staff

- (1) The commissioner may employ staff on behalf of the Territory.
- (2) The commissioner's staff (other than staff mentioned in section 32 (1) (a)) must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the commissioner in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.75] Section 33B (1) (b)

omit

commission's

substitute

commissioner's

[1.76] Section 33C (1)

omit

staff of the electoral commission

substitute

commissioner's staff

[1.77] Section 67 (1) (a)

substitute

- (a) the head of service; or
- (aa) a director-general; or

[1.78] Section 340

omit

director-general of the administrative unit responsible for the *Public Sector Management Act 1994*, division 3.4 shall

substitute

head of service must

[1.79] Dictionary, note 2

insert

- head of service
- public sector body
- public sector standards commissioner
- public service

[1.80] Dictionary, definition of *government agency*

substitute

government agency means—

- (a) the public service; or
- (b) a public sector body; or
- (c) a territory instrumentality.

Part 1.24 Environment Protection Act 1997

[1.81] Section 17 (1)

omit

makes a disclosure about a matter under the *Public Sector Management Act 1994*, section 9 (j),

substitute

discloses a conflict of interest in accordance with the *Public Sector Management Act 1994*, section 9 (1) (b),

Part 1.25 Financial Management Act 1996

[1.82] Dictionary, note 2

insert

- public employee
- public servant

Part 1.26 Firearms Regulation 2008

[1.83] Section 15 (2) (c)

omit

a person engaged or employed by

substitute

a public servant in

[1.84] Dictionary, note 2

insert

- public servant

Part 1.27 First Home Owner Grant Act 2000

[1.85] Section 52 (1) (c)

omit

works in an administrative unit of the public service

substitute

is a public servant

[1.86] Dictionary, note 2

insert

- public servant

Part 1.28 Food Regulation 2002

[1.87] Section 8

omit

to which the chief health officer belongs

substitute

responsible for the *Public Health Act 1997*, section 7 (Chief health officer)

Part 1.29 Freedom of Information Act 1989

[1.88] Section 55 (1)

omit

commissioner for public administration

substitute

public sector standards commissioner

[1.89] Section 79 (1) (b)

omit

, section 5 (Annual report of director-general)

[1.90] Dictionary, note 2

insert

- public sector standards commissioner

[1.91] Dictionary, note 2

omit

- public servant

Part 1.30 Gambling and Racing Control Act 1999

[1.92] Section 14

substitute

14 Commission's staff

- (1) The chief executive officer may employ staff for the commission on behalf of the Territory.

- (2) The commission's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the chief executive officer in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.93] Dictionary, note 2

insert

- public servant

Part 1.31 Gene Technology Act 2003

[1.94] Dictionary, note 2

insert

- administrative unit
- public servant

Part 1.32 Government Procurement Act 2001

[1.95] Section 21

substitute

21 Arrangements for staff

The board may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see *Public Sector Management Act 1994*, s 18).

[1.96] Section 35 (4), definition of *public employee*

omit

[1.97] Dictionary, note 2

insert

- head of service
- public employee
- public servant

Part 1.33 Government Procurement Regulation 2007

[1.98] Section 10 (1), note 2

omit

Part 1.34 Health (National Health Funding Pool and Administration) Act 2013

[1.99] Dictionary, definition of *director-general*

omit

employed under the *Public Sector Management Act 1994*, section 28
or section 30

substitute

engaged under the *Public Sector Management Act 1994*,
section 31 (2)

Part 1.35 **Heritage Act 2004**

[1.100] Section 117, note 2

substitute

Note 2 The director-general may delegate the function under this section, for example, to the council secretary (see *Public Sector Management Act 1994*, s 20).

[1.101] Section 121, note 2

omit

s 36C

substitute

s 20

Part 1.36 **Human Rights Act 2004**

[1.102] Dictionary, note 2

insert

- public employee
- public service

Part 1.37 Human Rights Commission Act 2005

[1.103] Division 3.10 heading

substitute

Division 3.10 Consultants of commission

[1.104] Section 36

omit

Part 1.38 Independent Competition and Regulatory Commission Act 1997

[1.105] Section 11

substitute

11 Commission's staff

- (1) The chief executive officer may employ staff for the commission on behalf of the Territory.
- (2) The commission's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the chief executive officer in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

Part 1.39 Inquiries Act 1991

[1.106] Section 12

substitute

12 Arrangements for staff

- (1) A board may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

- (2) A public servant subject to an arrangement under subsection (1) must act in accordance with the direction of a member, and not otherwise.

[1.107] Dictionary, note 2

insert

- head of service
- public servant

Part 1.40 Judicial Commissions Act 1994

[1.108] Section 13

substitute

13 Arrangements for staff

- (1) A commission may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

- (2) A public servant subject to an arrangement under subsection (1) must act in accordance with the direction of a member, and not otherwise.

[1.109] Dictionary, note 2

insert

- head of service
- public servant

Part 1.41 Lakes Act 1976

[1.110] Dictionary, note 2

omit

- public employee

Part 1.42 Law Officers Act 2011

[1.111] Section 22

substitute

22 Solicitor-general's staff

- (1) This section applies if a direction under section 17 (1) (c) (Solicitor-general's functions and entitlements) is in force.
- (2) The solicitor-general may employ staff on behalf of the Territory.
- (3) The solicitor-general's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the solicitor-general in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.112] Section 24

substitute

24 Other arrangements for staff and facilities

The solicitor-general may arrange with the head of service to use the services of a public servant or Territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

[1.113] Dictionary, note 2

insert

- head of service
- public servant

Part 1.43 Legal Aid Act 1977

[1.114] Sections 68 (2) and 68A (5) and (6)

omit

commissioner for public administration

substitute

public sector standards commissioner

[1.115] Dictionary, note 2

insert

- public sector standards commissioner

Part 1.44 Legal Profession Act 2006

[1.116] Dictionary, note 2

insert

- public employee
- public servant

Part 1.45 Legislation Act 2001

[1.117] Dictionary, part 1, definitions of *commissioner for public administration* and *designation*

omit

[1.118] Dictionary, part 1, definition of *gazette*, paragraph (b)

substitute

- (b) for a notice or other information that must or may be notified or published in the *gazette*—a place approved by the public sector standards commissioner.

[1.119] Dictionary, part 1, new definition of *head of service*

insert

head of service means the head of service under the [Public Sector Management Act 1994](#).

[1.120] Dictionary, part 1, definition of *public employee*

substitute

public employee means—

- (a) a public servant; or
- (b) a public sector member; or

(c) a person employed by a territory instrumentality.

[1.121] Dictionary, part 1, new definitions

insert

public sector body means—

- (a) a body made up of public sector members; and
- (b) includes a body made up of 1 statutory office-holder.

public sector member means a public sector member under the *Public Sector Management Act 1994*, section 150.

public sector standards commissioner means the Public Sector Standards Commissioner under the *Public Sector Management Act 1994*.

[1.122] Dictionary, part 1, definition of *territory instrumentality*, paragraph (a)

omit

Part 1.46 Legislative Assembly (Members' Staff) Act 1989

[1.123] Section 6 (1)

substitute

- (1) This section applies if a matter relating to the employment of a part 2 employee is not covered by this Act or by the agreement of employment.
- (1A) The PSM Act applies in relation to the matter for the term indicated in the agreement of employment, as if the employee were employed under the *PSM Act*, section 110 (Fixed term temporary employment).

[1.124] Section 11 (1)

substitute

- (1) This section applies if a matter relating to the employment of a part 3 employee is not covered by this Act or by the agreement of employment.
- (1A) The PSM Act applies in relation to the matter for the term indicated in the agreement of employment, as if the employee were employed under the [PSM Act](#), section 110 (Fixed term temporary employment).

[1.125] Part 4

omit

[1.126] Dictionary, note 2

omit

- public servant
- public service

**Part 1.47 Legislative Assembly (Office of
the Legislative Assembly)
Act 2012**

[1.127] Section 7

substitute

7 Clerk's staff

- (1) The clerk may employ staff on behalf of the Territory.

- (2) The clerk's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the clerk in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.128] Section 9 (2) (e)

omit

the merit principles set out in the *Public Sector Management Act 1994*, section 65 (Application of merit principle)

substitute

an open and accountable selection process

[1.129] Section 13 (2) (a)

substitute

- (a) the public sector standards commissioner;

[1.130] Dictionary, note 2

omit

- commissioner for public administration

[1.131] Dictionary, note 2

insert

- public sector standards commissioner

Part 1.48 Lifetime Care and Support (Catastrophic Injuries) Act 2014

[1.132] Section 13

substitute

13 LTCS commissioner's staff

- (1) The LTCS commissioner may employ staff on behalf of the Territory.
- (2) The LTCS commissioner's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the LTCS commissioner in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

Part 1.49 Long Service Leave (Portable Schemes) Act 2009

[1.133] Section 79J

substitute

79J Arrangements for staff

The authority may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see *Public Sector Management Act 1994*, s 18).

[1.134] Dictionary, note 2

insert

- head of service

Part 1.50 Magistrates Court Act 1930

[1.135] Section 9A

omit

Part 1.51 National Environment Protection Council Act 1994

[1.136] Section 48 heading

substitute

48 Australian public service staff of service corporation

Part 1.52 Ombudsman Act 1989

[1.137] New section 9 (12) (aa)

before paragraph (a), insert

(aa) if the person is the head of service—the Chief Minister; or

[1.138] Section 22 (4) (e)

omit

the merit principles set out in the *Public Sector Management Act 1994*, section 65 (Application of merit principle)

substitute

an open and accountable selection process

[1.139] Section 28A (2) (a)

substitute

(a) the public sector standards commissioner;

[1.140] Section 30

substitute

30 Ombudsman's staff

- (1) The ombudsman may employ staff on behalf of the Territory.
- (2) The ombudsman's staff—
 - (a) must be employed under the *Public Sector Management Act 1994*; or
 - (b) if the Commonwealth ombudsman is the ombudsman—must be appointed or employed under the *Public Service Act 1999* (Cwlth).

Note The *Public Sector Management Act 1994*, div 8.2 applies to the ombudsman in relation to the employment of staff under the *Public Sector Management Act 1994* (see *Public Sector Management Act 1994*, s 152).

30A Direction to ombudsman's staff

The ombudsman's staff are not subject to direction from anyone other than the following people in relation to the exercise of the ombudsman's functions:

- (a) the ombudsman;
- (b) another member of the ombudsman's staff authorised by the ombudsman to give directions.

[1.141] Section 32

omit

staff assisting the ombudsman

substitute

ombudsman's staff

[1.142] Dictionary, note 2

insert

- head of service
- public sector standards commissioner
- public servant
- public service

Part 1.53 Planning and Development Act 2007

[1.143] Section 25

substitute

25 Authority's staff

- (1) The chief planning executive may employ staff for the planning and land authority on behalf of the Territory.
- (2) The planning and land authority staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the chief planning executive in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

25A Arrangements for staff

The chief planning executive may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see *Public Sector Management Act 1994*, s 18).

[1.144] Section 44

substitute

44 Land agency's staff

- (1) The chief executive officer may employ staff for the land agency on behalf of the Territory.
- (2) The land agency's staff must be employed under the *Public Sector Management Act 1994*.

Note The *Public Sector Management Act 1994*, div 8.2 applies to the chief executive officer in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

[1.145] Dictionary, note 2

insert

- head of service
- public servant

**Part 1.54 Public Interest Disclosure
 Act 2012**

[1.146] Section 17 (d)

omit

an administrative unit

substitute

the public service

[1.147] Dictionary, note 2

omit

- commissioner for public administration

[1.148] Dictionary, note 2

insert

- head of service
- public sector standards commissioner
- public service

[1.149] Dictionary, definition of *ACTPS entity*, paragraph (a)

substitute

(a) the public service;

[1.150] Dictionary, definition of *commissioner*

omit

commissioner for public administration

substitute

public service standards commissioner

[1.151] Dictionary, definition of *head of service*

omit

Part 1.55 Rates Act 2004

[1.152] Dictionary, note 2

omit

- public employee

Part 1.56 Remuneration Tribunal Act 1995

[1.153] Section 18

substitute

18 Arrangements for staff and facilities

The tribunal may arrange with the head of service to use the services of a public servant or Territory facilities.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

[1.154] Schedule 1, part 1.2, 1st dot point

omit

, other than a member employed under the [Public Sector Management Act 1994](#)

Part 1.57 Royal Commissions Act 1991

[1.155] Section 12

substitute

12 Arrangements for staff

- (1) The staff of a commission must be public servants made available to the commission by the head of service.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

- (2) A public servant subject to an arrangement under subsection (1) must act in accordance with the direction of a commissioner, and not otherwise.

Part 1.58 Supervised Injecting Place Trial Act 1999

[1.156] Dictionary, note 2

insert

- public employee

Part 1.59 Supreme Court Act 1933

[1.157] Section 46B

omit

[1.158] Dictionary, note 2

insert

- public servant

Part 1.60 Taxation Administration Act 1999

[1.159] Section 76

omit

[1.160] New section 77 (2)

insert

- (2) However, the commissioner must not enter into a contract of employment under this section.

Part 1.61 Territory Records Act 2002

[1.161] Section 7 (g)

substitute

(g) the public service; or

[1.162] Section 8 (a)

substitute

(a) for the Executive—the head of service; or

[1.163] Section 8 (g) and (h)

substitute

(g) for the public service—the head of service; or

(h) for a royal commission, board of inquiry or judicial commission—the head of service; or

[1.164] Section 25 (1) (b), (2) (b) and (3) (b)

omit

relevant director-general

substitute

head of service

[1.165] Section 25 (4)

omit

[1.166] Section 33 (1), note 2

omit

[1.167] Section 40

substitute

40 Arrangements for staff

The director may arrange with the head of service to use the services of a public servant.

Note The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

[1.168] Dictionary, note 2

omit

- director-general (see s 163)

[1.169] Dictionary, note 2

insert

- head of service
- public servant
- public service

Part 1.62 Unclaimed Money Act 1950

[1.170] Dictionary, definition of *trust account*

omit

Part 1.63 Victims of Crime Act 1994

[1.171] Section 21

substitute

21 Victims services scheme—annual report

The annual reporting authority nominated in accordance with the regulations must prepare an annual report under the *Annual Reports (Government Agencies) Act 2004* about the operations of the scheme within the relevant financial year.

Note *Financial year* has an extended meaning in the *Annual Reports (Government Agencies) Act 2004*.

Part 1.64 Workers Compensation Act 1951

[1.172] Division 8.2.2 heading

substitute

Division 8.2.2 Establishment etc of DI fund

[1.173] Section 166E

omit

Part 1.65 Work Health and Safety Act 2011

[1.174] Schedule 2, section 2.18 (2)

omit

staff assisting the commissioner

substitute

commissioner's staff

[1.175] Schedule 2, section 2.23

omit

[1.176] Schedule 2, section 2.24

omit

staff assisting the commissioner

substitute

commissioner's staff

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 June 2016.

2 Notification

Notified under the [Legislation Act](#) on 25 August 2016.

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 2016, which was passed by the Legislative Assembly on 4 August 2016.

Clerk of the Legislative Assembly

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