

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

PUBLIC SECTOR LEGISLATION AMENDMENT BILL 1999

EXPLANATORY MEMORANDUM

Circulated by authority of
Kate Carnell
Chief Minister

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OUTLINE

The *Public Sector Management Act 1994* and the *Fire Brigade (Administration) Act 1974* have linked the ACT Public Service to external review and appeals set out in the *Commonwealth Merit Protection (Australian Government Employees) Act 1984* (Merit Protection Act) by deeming ACT Public Service staff to be Commonwealth staff for the purposes of that Act. The Commonwealth *Public Service Act 1999* and a related consequential provisions Act are expected to commence on 5 December 1999. This legislation repeals the Merit Protection Act.

The Australian Public Service will have a new system of review of employment decisions. The provisions of the Merit Protection Act will be retained under regulations that will continue the old review and grievance system for Commonwealth cases on foot before 5 December 1999. The Commonwealth has offered the ACT continued access to their services for a further year. Some technical amendments to both the *Public Sector Management Act 1994* and the *Fire Brigade (Administration) Act 1974* are required to support these interim arrangements.

The Public Sector Legislation Amendment Bill 1999 amends the *Public Sector Management Act 1994* and the *Fire Brigade (Administration) Act 1974* to retain, as an interim measure, existing rights to review and appeals in the ACT Public Service notwithstanding the repeal of the Merit Protection Act. Longer term arrangements will be made in subsequent legislation.

REVENUE OR COST IMPLICATIONS

There are no adverse financial implications. Review and appeal mechanisms are already subject to a fee for service arrangement with the Commonwealth.

NOTES ON CLAUSES

Clause 1: Short Title

The short title of this *Act* may be cited as the *Public Sector Legislation Amendment Act 1999*.

Clause 2: Commencement

This clause explains the commencement details of the Act. The Act will commence on the same day as the Commonwealth *Public Service Act 1999*.

Clause 3: Amendments to section 235 of the Public Sector Management Act 1994

This clause amends section 235 of the *Public Sector Management Act 1994* to ensure continuation of the existing review and appeal arrangements for an interim period, ending no later than 31 December 2000.

Clause 3(a)

This clause adds a provision to amend references to recognise the continued existence of the Commonwealth Merit Protection Commissioner in place of the Merit Protection and Review Agency. The proposed change means that any reference to the Merit Protection and Review Agency will be taken to be a reference to the Merit Protection Commissioner.

Clause 3(b)

This clause provides for the existing modifications to the Merit Protection Act set out in Schedule 2 of the *Public Sector Management Act 1994* to be retained and also provides for additional modifications to the Merit Protection Act to be made through management standards as required.

The clause also adds a provision to amend references to the existing management and structure of the Merit Protection and Review Agency to be taken as references to the Commonwealth Merit Protection Commissioner. Provision is also made to retain the application of the Merit Protection Act, notwithstanding its repeal, as it operated on 1 July 1999.

There is a further provision which sets a cessation date for the operation of the interim arrangements put in place under this Act. This date is 31 December 2000.

Clause 4: Amendment to the Section 34 of the Fire Brigade (Administration) Act 1974

This clause amends section 34 of the *Fire Brigade (Administration) Act 1974* to ensure continuation of the existing promotion appeal arrangements for an interim period, ending no later than 31 December 2000.

The clause adds a provision to amend references to recognise the continued existence of the Commonwealth Merit Protection Commissioner in place of the Merit Protection and Review Agency. The proposed change means that any reference to the Merit Protection and Review Agency will be taken to be a reference to the Merit Protection Commissioner.

This clause provides for modifications to be made to the Merit Protection Act through regulation as required.

The clause also adds a provision to amend references to the existing management and structure of the Merit Protection and Review Agency to be taken as references to the Commonwealth Merit Protection Commissioner. Provision is also made to retain the application of the Merit Protection Act, notwithstanding its repeal, as it operated on 1 July 1999.

There is a further provision which sets a cessation date for the operation of the interim arrangements put in place under this Act. This date is 31 December 2000.