

1994

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

**PUBLIC SECTOR MANAGEMENT (CONSEQUENTIAL AND
TRANSITIONAL PROVISIONS) BILL 1994**

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

—
**Circulated by Authority of
Rosemary Follett, Chief Minister**

OUTLINE

The purpose of these amendments is to:

- provide for the office of Secretary to the Cemeteries Trust as an office in the new Service, supplementary to provisions in the Bill providing for the staff assisting the Cemeteries Trust to be members of the new Service
- confer Chief Executive staffing powers legislatively on the Auditor-General and the Director of Public Prosecutions and clarifying the power of the DPP to make staffing and resource arrangements with any Chief Executive
- replicate Commonwealth provisions that will be repealed, to provide for public servants who take leave to work for Assembly members to seek reintegration into the new Service at a level higher than their current level
- remove provisions that would have included the staff of the Legal Aid Commission in the new Service
- remove provisions relating to a Bill the Assembly did not pass
- clarify several definitions and technical provisions and make other minor technical amendments

Financial Impact Statement

These amendments will not have any financial impact.

DETAILED EXPLANATION

Clause 4: Interpretation

Amendments 1 and 2 remove the reference in the definition of "prescribed entity" in clause 4 to the Australian International Hotel School, which was included in error, and the Legal Aid Commission, the staff of which are now not to become members of the new Service.

Proposed Clause 17A: Cemeteries Trust

Amendment 3 includes proposed clause 17A in the Bill. This is a transitional provision to complement Amendment 17 below, which provides for the Secretary to the Cemeteries Trust to be an office in the Public Service. The transitional provision will create an office in the new Service and place the current Secretary in that office.

Schedule 1 Part 7: *Audit Act 1989*

Amendment 4 replaces the proposed definition of "administrative unit" in the *Audit Act 1989* with one that makes specific reference to the provision of the Public Sector Management Bill under which administrative units will be established.

Amendment 5 adds a new subclause 3 to proposed new section 15 of the *Audit Act 1989* to provide that the Auditor-General has Chief Executive staffing powers in respect of his or her staff. This will reinforce the independence of the Auditor-General by achieving through legislation what would otherwise have been done by revocable instrument under clause 25 of the Public Sector Management Bill.

Schedule 1 Part 11: *Canberra Institute of Technology Act 1987*

Amendments 6, 7, 8 and 9 renumber proposed amendments to the *Canberra Institute of Technology Act 1987* consequent upon the renumbering of clauses included in the recently enacted *Canberra Institute of Technology (Amendment) Act 1994*.

Schedule 1 Part 20: *Construction Industry Training Fund Bill 1994*

Amendment 10 removes proposed amendments which were dependent on the passage of the Construction Industry Training Fund Bill 1994. That Bill was not agreed to in principle by the Assembly.

Schedule 1 Part 27: *Director of Public Prosecutions Act 1990*

Amendment 11 adds a new subclause 3 to the proposed new section 30 in the *Director of Public Prosecutions Act 1990* to provide legislatively that the Director of Public Prosecutions has Chief Executive staffing powers in respect of his or her staff. This will reinforce the independence of the Director by achieving through legislation what would otherwise have been done by revocable instrument under clause 25 of the Public Sector Management Bill.

Amendment 12 makes it clear that the Director of Public Prosecutions may make arrangements with the Chief Executive of any administrative unit, rather than only the Chief Executive of the Attorney-General's Department, for the use of the services of staff or of facilities.

Schedule 1 Part 41: *Freedom of Information Act 1989*

Amendment 13 replaces amendments to section 35 of the *Freedom of Information Act 1989* to ensure that the person who replaces the Head of Administration as the person authorised to issue conclusive certificates under that section in relation to Cabinet and other Executive documents is the Chief Executive of the Chief Minister's Department, rather than each and every Chief Executive.

Schedule 1 Part 49: *Interpretation Act 1967*

Amendment 14 replaces the proposed definition of "administrative unit" in the *Interpretation Act 1967* with one that includes a reference to the provision in the Public Sector Management Bill under which administrative units will be established.

Amendments 15 and 16 insert proposed new section 30AB, to provide that provisions relating to delegations have effect in relation to sub-delegations also.

Schedule 1 Part 53: *Legal Aid Act 1977*

Amendment 17 removes Part 53 from Schedule 1, as the staff of the Legal Aid Commission are no longer to become members of the new Service

Schedule 1 Part 55: *Legislative Assembly (Members' Staff) Act 1989*

Amendment 18 provides for the insertion of new Part IIIA into the *Legislative Assembly (Members' Staff) Act 1989*. This Part replicates Part IVA of the *Public Service Act 1922 (Cth)*, which the Commonwealth proposes to repeal under the Australian Capital Territory Government Service (Consequential Amendments) Bill 1994, currently before the Commonwealth Parliament. The new part will continue the previous Commonwealth provisions under which members of the Public Service who take leave to work for Assembly members have the opportunity to apply to re-enter the Service at a higher level than their previous level, having regard to the skills and experience gained while working for an Assembly member.

Schedule 2 Proposed Part 1A: *Canberra Public Cemeteries Regulations*

Amendment 19 inserts new Part 1A into Schedule 2 to the Bill, to replace the current regulations that provide for a Secretary to the Cemeteries Trust with new regulations that provide for the establishment of a similar office as part of the new Service. This amendment is related to the amendments to the *Cemeteries Act 1933* in Part 14 of Schedule 1 to the Bill. Those amendments provide for the staff assisting the Cemeteries Trust to be members of the new Service.

Schedule 2 Part 72: *Finance Regulations*

Amendments 20-24 further amend the *Finance Regulations* in relation to terminology and numbering.