

2003

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Chief Minister)

# Public Sector Management Amendment Bill 2003

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(Chief Minister)

## **Public Sector Management Amendment Bill 2003**

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### **A Bill for**

An Act to amend the *Public Sector Management Act 1994*

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

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2003 194B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **1 Name of Act**

2 This Act is the *Public Sector Management Amendment Act 2003*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

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

9 **4 Employment in the service**  
10 **Section 67, new note**

11 *insert*

12 *Note* See also pt 14 which makes provision for certain employees of  
13 Totalcare to be employed in the service.

14 **5 New part 14**

15 *insert*

16 **Part 14 Totalcare**

17 **252 Definitions for pt 14**

18 In this part:

19 *employee*, of Totalcare, includes a public servant whose functions  
20 are to work for Totalcare.

21 *Totalcare* means Totalcare Industries Limited.

22 *transfer*, of an employee, means an appointment or engagement  
23 under this Act.

1 **253 Transfer of employees**

- 2 (1) The commissioner may, in writing, declare that a person employed  
3 by Totalcare is appointed or engaged under this Act and no longer  
4 employed by Totalcare.
- 5 (2) The declaration must state—
- 6 (a) for an appointment—the office to which the person is  
7 appointed; and
- 8 (b) for an appointment on probation—the probation period; and
- 9 (c) for an engagement other than as a casual employee—the term  
10 of the engagement; and
- 11 (d) the person’s classification on appointment or engagement.
- 12 (3) As far as possible—
- 13 (a) a person must be appointed or engaged with the same tenure  
14 and classification the person had immediately before the  
15 transfer; and
- 16 (b) a person on probation immediately before the transfer must be  
17 appointed on probation for the unexpired part of the person’s  
18 probation period.
- 19 (4) A declaration may create an office.
- 20 (5) A classification mentioned in a declaration that is not an approved  
21 classification is taken to be an approved classification.
- 22 (6) The commissioner may make a declaration in relation to a person  
23 even if the person was employed under this Act before becoming an  
24 employee of Totalcare.

1 **254 How rest of Act applies**

- 2 (1) The following provisions do not apply in relation to an appointment  
3 or engagement under this part (including an appointment mentioned  
4 in section 257):
- 5 • section 65 (Application of merit principle)
  - 6 • section 66 (Notification of certain matters related to  
7 appointment, transfer or promotion)
  - 8 • section 68 (Appointments generally)
  - 9 • section 69 (Classification of unattached officers)
  - 10 • section 70 (1), (2) and (3) (Appointments to be on probation)
  - 11 • section 106 (Power to engage employees).
- 12 (2) To remove any doubt, section 108 (Temporary employment—  
13 generally) applies in relation to a person engaged under this part.

14 **255 Employees appointed on probation**

- 15 (1) This section applies to a person appointed under this part on  
16 probation for a period (the *remaining probation period*).
- 17 (2) Subject to section 70 (8), the relevant chief executive may confirm  
18 the appointment at any time after the end of the remaining probation  
19 period.
- 20 (3) Section 70 (4) to (12) applies in relation to the person as if the  
21 person's date of appointment on probation were the date the person  
22 began employment on probation with Totalcare.

1 **256 Entitlements of transferred employees**

2 The following provisions apply as far as possible in relation to a  
3 person transferred under this part:

- 4 (a) the person retains any leave entitlements that—
- 5 (i) had accrued to the person immediately before the  
6 transfer; and
- 7 (ii) had not been paid out to the person;
- 8 (b) any leave entitlements that would, apart from this section,  
9 accrue to the person on the person's appointment or  
10 engagement under this Act (or on the anniversary of that  
11 appointment or engagement), accrue instead on the anniversary  
12 of the date when the leave entitlement would have accrued to  
13 the person if his or her employment with Totalcare had  
14 continued;
- 15 (c) the person's period of employment with Totalcare is taken into  
16 account when working out any entitlement to long service  
17 leave, personal leave or maternity leave under this Act;
- 18 (d) the person otherwise has entitlements that are no less  
19 favourable to the person than the entitlements the person had  
20 immediately before the transfer.

21 **257 Later appointment of temporary employees**

22 If a person is engaged under this part, the commissioner may later  
23 appoint the person under this Act if—

- 24 (a) the person had been employed by Totalcare for at least 5 years;  
25 or
- 26 (b) the commissioner considers it otherwise desirable to appoint  
27 the person.

1 **258 Transfer of personnel files**

2 Personnel files for employees transferred under this part may be  
3 transferred with the employee and the information may be used as if  
4 it had been collected under this Act.

5 **259 Management standards**

6 (1) The management standards may make provision in relation to  
7 anything arising from or connected with the transfer of Totalcare  
8 employees under this part.

9 (2) The management standards may determine conditions of  
10 employment applying to a particular transferred employee.

11 **260 Transitional regulations**

12 (1) The regulations may prescribe savings or transitional matters  
13 necessary or convenient to be prescribed because of the enactment  
14 of this part.

15 (2) Regulations made for this section must not be taken to be  
16 inconsistent with this Act so far as they can operate concurrently  
17 with this Act.

18 (3) This section is additional to and does not limit section 261.

19 **261 Modification of pt 14's operation**

20 The regulations may modify this part to make provision in relation  
21 to any matter that, in the Executive's opinion, is not adequately dealt  
22 with in this part.

1 **262 Regulation-making power**

2 The Executive may make regulations for this part.

3 *Note* Regulations must be notified, and presented to the Legislative  
4 Assembly, under the Legislation Act.

5 **263 Expiry of pt 14**

6 This part expires on—

7 (a) 31 December 2005; or

8 (b) if a later date is prescribed under the regulations for this  
9 section—that date.

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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2003.

**2 Notification**

Notified under the Legislation Act on 2003.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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