

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

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL (No. 2) 1996

EXPLANATORY MEMORANDUM

Circulated by authority of
Kate Carnell
Chief Minister

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OUTLINE

The *Public Sector Management Act 1994* (the Act) provides the legislative framework for employment in the ACT Public Service and, to a lesser extent, within the ACT public sector

The Public Sector Management (Amendment) Bill (No. 2) 1996 corrects a number of omissions and errors of a technical nature that have come to light over the period of operation of the Act. In addition the Bill streamlines the process for making amendments of a technical nature to the Public Sector Management Standards

REVENUE OR COST IMPLICATIONS

There are no revenue or cost implications

NOTES ON CLAUSES

Clauses 1, 2 and 3 are formal requirements. These clauses refer to the short title of the Bill, commencement arrangements and definition of the Principal Act, which is the *Public Sector Management Act 1994*. This Act will commence on the day on which it is notified in the *Gazette*. Clause 9 of this Bill, which amends section 223 of the Act, will be taken to have commenced on 1 July 1994.

Clause 4 - Interpretation. This clause amends the definition of "criminal offence" in section 3 of the Act. The definition is expanded to include offences committed in another State or Territory of Australia which are also offences in the Territory

Clause 5 - General obligations of public employees. Section 9 sets out the conduct requirements of public employees and provides the basis for disciplinary action. The amendments are the result of concerns about the success of disciplinary action where a public employee can present arguments that improper conduct did not occur in the performance of their duty. This includes, for example, improper conduct at an after hours work function. Amendments to section 9 will make it clear that as well as conduct occurring in performance of duty, the provisions cover conduct which occurs in connection with or which is incidental to the performance of duty. A further amendment to section 9 covers improper conduct that would bring the Service into disrepute

Clause 6 -Legal Effect. Section 11 of the Act provides for a breach of subsection 9 to be dealt with as a disciplinary matter under part IX (Discipline) of the Act. Clause 6 is a consequential amendment as a result of the changes to section 9.

Clause 7 - Engagement of certain former officers and employees prohibited. Clause 7 amends section 114 of the Act to require Chief Executives to seek the prior written consent of the Commissioner for Public Administration to the re-engagement during the benefit period of any former Chief Executives or SES officers who retired after the commencement of the *Public Sector Management (Amendment) Act 1995*.

Clause 8 - Reappointment of retired officers. Clause 8 amends section 117 of the Act and makes similar amendments to clause 7 in relation to the re-appointment during the benefit period of any former Chief Executives or SES officers who were retired after the commencement of the *Public Sector Management (Amendment) Act 1995*.

Clause 9 - Interpretation. Part XI of the Act deals with rights of review of certain decisions and investigations of grievances. This Part also contains formal mechanisms by which the provisions of the *Merit Protection (Australian Government Employees) Act 1984* (Commonwealth) apply to reviews and grievances under the Act. Section 223 provides interpretations relevant to Part XI. Clause 9 amends section 223 of the Act to correct an error which unintentionally excluded Territory instrumentalities from the provisions of the *Merit Protection (Australian Government Employees) Act 1984* (Commonwealth). This amendment commences retrospectively from 1 July 1994 to ensure effective operation of any actions and decisions made since this date by the Merit Protection and Review Agency.

Clause 10 - Management Standards. Clause 10 amends section 251 of the Act to enable the Chief Minister to delegate to the Commissioner for Public Administration the power to make Standards of a defined class without the usual prior written approval of the Chief Minister. This amendment will enable the Chief Minister to direct how the delegated power should be exercised. For example, some amendments envisaged are changes to correct mistakes and ambiguities, or to remove redundant provisions. Such Standards would continue to be tabled in the Assembly and be disallowable.