



AUSTRALIAN CAPITAL TERRITORY

Public Sector Management (Consequential and Transitional Provisions) Act 1994

No. 38 of 1994

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AUSTRALIAN CAPITAL TERRITORY

Public Sector Management (Consequential and Transitional Provisions) Act 1994

No. 38 of 1994

An Act to amend certain laws and to make certain transitional arrangements in consequence of the enactment of the *Public Sector Management Act 1994*

[Notified in ACT Gazette S121: 30 June 1994]

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

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Public Sector Management (Consequential and Transitional Provisions) Act 1994*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

(4) A reference in subsection (2) or (3) to a provision of this Act shall be read as including a reference to a part in Schedule 1 or 2.

Application of Part II to prescribed entities

3. Part II does not apply in relation to a prescribed entity until the date fixed by the Minister by notice in the *Gazette* in respect of that entity.

Interpretation

4. (1) In this Act, unless the contrary intention appears—

“commencement day” means—

- (a) in relation to a prescribed entity—the day on and after which the provision in which the expression appears applies to that entity; or
- (b) in any other case—the day on which the provision in which the expression appears commences;

“permanent employee”, in relation to a prescribed entity, means a person who immediately before the day on which the provision in which the expression appears commences—

- (a) had been employed by the prescribed entity for the preceding period of 12 months; and
- (b) was being employed by the prescribed entity on indefinite tenure;

“prescribed entity” means—

- (a) the Australian Capital Territory Electricity and Water Authority;
- (b) the Australian Capital Territory Teaching Service;
- (c) the Australian Capital Territory Totalizator Administration Board;
- (d) the Canberra Institute of Technology;
- (e) the Canberra Theatre Trust;
- (f) the Construction Industry Long Service Leave Board;
- (g) the Milk Authority of the Australian Capital Territory;
- (h) the National Exhibition Centre Trust; or
- (j) The Trustees of the Canberra Public Cemeteries;

“Public Sector Act” means the *Public Sector Management Act 1994*;

“Public Service Act” means the *Public Service Act 1922* of the Commonwealth as in force immediately before the day on which the provision in which the expression appears commences;

“Self-Government Consequential Provisions Act” means the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth as in force immediately before the day on which the provision in which the expression appears commences;

“transitional staff” means the officers and employees in the branch of the Australian Public Service referred to in subsection 21 (2) of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth as in force immediately before the day on which the provision in which the expression appears commences.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Public Sector Act.

PART II—TRANSITIONAL ARRANGEMENTS FOR OFFICERS AND EMPLOYEES

Division 1—General provisions

Transitional staff arrangements to cease

5. On the commencement day, subsection 21 (1) of the Self-Government Consequential Provisions Act ceases to have effect.

Officers and employees of the Australian Public Service

6. (1) This section applies in relation to a person who immediately before the commencement day was a member of the transitional staff.

(2) A person who was an officer of the Australian Public Service shall, on and after the commencement day, be taken to be an officer employed under the Public Sector Act with the same classification as applied to the person immediately before that day.

(3) A person to whom subsection (2) applies who immediately before the commencement day was an officer appointed to the Australian Public Service on probation shall, on and after that day, be taken to be an officer appointed to the Service on probation.

(4) Subject to subsection (5), a person who was an employee of the Australian Public Service shall, on and after the commencement day, be taken to be an employee employed under the Public Sector Act.

(5) A person who was, or was deemed to be, a continuing employee under section 82AC or 82AD of the Public Service Act shall, on and after the commencement day, be taken to be an officer employed under the Public Sector Act.

Officers and employees of prescribed entities

7. (1) This section applies in relation to a person who immediately before the commencement day was employed by a prescribed entity.

(2) A person who was an officer or a permanent employee shall, on and after the commencement day, be taken to be an officer employed under the Public Sector Act with the same classification (if applicable) as applied to the person immediately before that day.

(3) A person who was a temporary employee shall, on and after the commencement day, be taken to be an employee employed under the Public Sector Act.

Creation and allocation of offices

8. (1) On the commencement day, there shall be taken to be created under section 55 of the Public Sector Act an office corresponding to each office that, immediately before that day, was in—

- (a) the branch of the Australian Public Service referred to in subsection 21 (2) of the Self-Government Consequential Provisions Act; or
- (b) a prescribed entity.

(2) An office created by virtue of subsection (1) shall be taken to have been created in the government agency corresponding to the government agency, or the part of the government agency, in which the office was immediately before the commencement day.

(3) A person who immediately before the commencement day held an office in the branch of the Australian Public Service referred to in subsection 21 (2) of the Self-Government Consequential Provisions Act or in a prescribed entity shall, on and after that day, be taken to hold the corresponding office created by virtue of subsection (1).

(4) The Commissioner may allocate an office in the Service to any officer employed under the Public Sector Act by virtue of this Act who, immediately after the commencement day, does not hold an office in the Service.

(5) Until the Commissioner allocates an office to an officer under subsection (3), the officer shall be taken to be an unattached officer in the

government agency that corresponds to the government agency, or the part of the government agency, in which the person was employed immediately before the commencement day.

Terms and conditions of officers and employees

9. (1) This section applies in relation to a person employed under the Public Sector Act by virtue of section 6 or 7.

(2) A person shall be taken to have been employed as an officer—

- (a)** on the terms and conditions provided for under the Public Sector Act and the management standards; and
- (b)** to the extent no such provision is made—on the same terms and conditions as applied to the person immediately before the commencement day.

(3) Subject to subsection (4), a person shall be taken to have been employed as an employee on the same terms and conditions as applied to the person immediately before the commencement day.

(4) An employee's period of employment may only be extended or renewed, and the terms and conditions of the employee's employment may only be varied, under the Public Sector Act and the management standards.

Accrued rights preserved

10. (1) This section applies in relation to a person employed under the Public Sector Act by virtue of section 6 or 7.

(2) All rights and entitlements that accrued to a person immediately before the commencement day in connection with the person's employment as a member of the transitional staff or by a prescribed entity shall, on and after that day, remain in effect in relation to that person.

Recognition of previous service

11. (1) This section applies in relation to a person employed under the Public Sector Act by virtue of section 6 or 7.

(2) Subject to subsection (4), a person shall be taken to have commenced employment under the Public Sector Act on the day on which the person last commenced employment in the Australian Public Service or the prescribed entity (as the case may be).

(3) Subject to subsection (4), a person shall be taken to have been appointed as an officer under the Public Sector Act on the day on which the person—

- (a) was last appointed as an officer of the Australian Public Service;
- (b) was last appointed as an officer of the prescribed entity; or
- (c) last became a permanent employee of the prescribed entity;

as the case requires.

(4) Where a day earlier than the day referred to in subsection (2) or (3) was recognised for a particular purpose as the date on which a person—

- (a) commenced employment in, or was appointed as an officer of, the Australian Public Service; or
- (b) commenced employment in, was appointed as an officer of, or became a permanent employee of, the prescribed entity;

that earlier date shall be recognised for the same purpose as the date on which the person commenced employment or was appointed as an officer (as the case requires) under the Public Sector Act.

Certain employment matters to be continued

12. (1) This section applies in relation to a person employed under the Public Sector Act by virtue of section 6 or 7.

(2) Any act or thing relating to a person's employment that was in effect under a superseded law immediately before the commencement day and that would, but for this subsection, cease to have effect on that day shall, on and after that day, continue in effect as if the act or thing had been done under the Public Sector Act.

(3) Any matter or thing relating to a person's employment that was pending under a superseded law immediately before the commencement day and that would, but for this subsection, lapse on that day shall, on and after that day, be taken to have been commenced under the Public Sector Act and may be completed in accordance with that Act.

(4) In this section—

“superseded law” means—

- (a) the Public Service Act;
- (b) an Act under which a prescribed entity is established as in force immediately before the commencement day; or
- (c) an Act repealed under section 22.

Division 2—Specific provisions

Administrative heads

13. (1) A person who immediately before the commencement day was an administrative head shall, on and after that day, be taken to be a Chief Executive appointed under section 28 of the Public Sector Act.

(2) A person who immediately before the commencement day was an acting administrative head shall, on and after that day, be taken to be an acting Chief Executive appointed under section 32 of the Public Sector Act.

(3) A person to whom subsection (1) or (2) applies shall be taken to have been appointed as a Chief Executive or an acting Chief Executive—

- (a)** on the day on which his or her appointment as administrative head or acting administrative head took effect;
- (b)** on the terms and conditions provided for under the Public Sector Act and the management standards; and
- (c)** to the extent no such provision is made—on the terms and conditions that applied immediately before the commencement day in respect of his or her appointment as administrative head or acting administrative head, as varied from time to time by a determination of the Remuneration Tribunal.

(4) All rights and entitlements that accrued to a person referred to in subsection (1) or (2) immediately before the commencement day in connection with the person's employment as administrative head or acting administrative head shall, on and after that day, remain in effect in relation to that person.

(5) Where a day earlier than the day referred to in paragraph (3) (a) was recognised immediately before the commencement day for a particular purpose in connection with a person's appointment as administrative head or acting administrative head, that earlier date shall be recognised for the same purpose in connection with the person's appointment as Chief Executive or acting Chief Executive under the Public Sector Act by virtue of subsection (1) or (2).

(6) In this section—

“administrative head” means the Head of Administration or an Associate Head of Administration appointed under the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth as in force immediately before the commencement day.

Clerk of the Legislative Assembly

14. (1) The person who immediately before the commencement day held the office in the Australian Public Service known as the Clerk of the

Legislative Assembly shall be taken to have been appointed on that day to the office of Clerk of the Legislative Assembly under section 46 of the Public Sector Act on the terms and conditions that applied to that officer immediately before that day, as varied from time to time by a determination of the Remuneration Tribunal.

(2) On and after the commencement day, subsections 10 (2) and 11 (2), (3) and (4) apply in relation to the person referred to in subsection (1) as if that person were employed as an officer under the Public Sector Act by virtue of section 6.

Officers under Part IV of the Public Service Act

15. Where—

- (a) a person to whom section 6 applies was, immediately before the commencement day, an officer to whom Part IV of the Public Service Act applied; and
- (b) the last office in the Australian Public Service held by that person was an office the duties of which related, wholly or substantially, to matters that, immediately before the commencement day, were the responsibility of the Territory government;

on and after the commencement day, the Public Sector Act applies in relation to that person as if Part IV of the Public Service Act, with such modifications as are necessary, were incorporated into the Public Sector Act.

Milk Authority Act 1971

16. (1) On the commencement day, there shall be taken to have been created under section 55 of the Public Sector Act an office in the administrative unit allocated responsibility for administering the *Milk Authority Act 1971* whose duties include performing the functions of Secretary to the Milk Authority of the Australian Capital Territory.

(2) The person who immediately before the commencement day held an appointment as Secretary to the Authority under the *Milk Authority Act 1971* as in force immediately before that day shall, on and after that day, be taken to hold the office created under the Public Sector Act by virtue of subsection (1).

(3) On the commencement day, there shall be taken to have been created under section 55 of the Public Sector Act an office in the administrative unit allocated responsibility for administering the *Milk Authority Act 1971* whose duties include performing the functions of Assistant Secretary to the Milk Authority of the Australian Capital Territory.

(4) The person who immediately before the commencement day held an appointment as Assistant Secretary to the Authority under the *Milk Authority Act 1971* as in force immediately before that day shall, on and after that day, be taken to hold the office created under the Public Sector Act by virtue of subsection (3).

Vocational Training Act 1989

17. (1) The name of the office of Chief Executive of the Vocational Training Authority established under the *Vocational Training Act 1989* is altered to chief executive officer of the Vocational Training Authority.

(2) The person who held office immediately before the commencement day as Chief Executive of the Vocational Training Authority shall continue to hold office as chief executive officer of the Vocational Training Authority.

Canberra Public Cemeteries Regulations

18. (1) On the commencement day, there shall be taken to have been created under section 55 of the Public Sector Act an office in the administrative unit allocated responsibility for administering the *Cemeteries Act 1933* whose duties include performing the functions of Secretary to The Trustees of the Canberra Public Cemeteries.

(2) The person who immediately before the commencement day held an appointment as Secretary to The Trustees under the Canberra Public Cemeteries Regulations as in force immediately before that day shall, on and after that day, be taken to hold the office created under the Public Sector Act by virtue of subsection (1).

Division 3—Miscellaneous

Power of Commissioner to appoint or employ staff

19. (1) Despite anything in this Act or the Public Sector Act, the Commissioner may exercise the powers under this section in respect of any person who immediately before the commencement day was—

- (a) a member of the transitional staff;
- (b) appointed or employed by a prescribed entity;
- (c) taken to have been appointed or employed by the Territory under section 21 of the *Health (Consequential Provisions) Act 1993* as in force immediately before that day; or
- (d) otherwise employed by the Territory, a Territory instrumentality or a statutory office holder.

(2) The Commissioner may, in writing, declare that a person shall, on and after the day specified in the declaration, be taken to be employed—

- (a) as an officer or employee in a specified government agency under the Public Sector Act; or
- (b) by the Territory on indefinite tenure in a specified government agency under this Act;

and such a declaration has effect according to its tenor.

(3) A declaration under subsection (2) may be expressed to have taken effect on a day that the Commissioner certifies was the day on which the person was appointed or employed by the person's employer for the purposes of paragraph (1) (a), (b), (c) or (d).

(4) A person shall be taken to have been employed as an officer under the Public Sector Act by virtue of a declaration under paragraph (2) (a)—

- (a) on the terms and conditions that the Commissioner certifies were the terms and conditions on which the person was employed immediately before the commencement day; and
- (b) to the extent that terms and conditions are not so certified—on the terms and conditions provided for under the Public Sector Act and the management standards.

(5) Subject to subsection (6), a person shall be taken to have been employed as an employee under the Public Sector Act by virtue of a declaration under paragraph (2) (a) on the terms and conditions that the Commissioner certifies were the terms and conditions on which the person was employed immediately before the commencement day.

(6) The period for which a person referred to in subsection (5) is employed may only be extended or renewed, and the terms and conditions on which that person is employed may only be varied, under the Public Sector Act and the management standards.

(7) Subject to subsection (8), a person shall be taken to have been employed as an employee under this Act by virtue of a declaration under paragraph (2) (b) on the terms and conditions that the Commissioner certifies were the terms and conditions on which the person was employed immediately before the commencement day.

(8) The terms and conditions on which a person referred to in subsection (7) is employed may only be varied in accordance with the Public Sector Act and the management standards.

(9) The Commissioner shall declare in his or her annual report all declarations made under subsection (2) during the period to which the annual report relates that were expressed to have retrospective effect.

(10) The Commissioner may only exercise the powers under this section during the period of 12 months commencing on the commencement day.

Transfer of personnel files

20. (1) Where a person ceases to be an officer of the Australian Public Service and becomes an officer of the Government Service, the appropriate authority may accept any records kept in relation to the person for the purposes of the Australian Public Service that are delivered to the authority.

(2) Personal information contained in records accepted under subsection (1) may be used as if the information had been collected by the appropriate authority for the purposes of the Government Service.

(3) Where a person ceases to be an officer of the Government Service and becomes an officer of the Australian Public Service, the appropriate authority may deliver to the Secretary of the relevant Department of the Australian Public Service all records kept by the authority in relation to the person that it is necessary and reasonable for the purposes of the person's employment in the Australian Public Service to so deliver.

Regulations

21. (1) The Executive may make regulations amending the provisions of this Act (other than this section), the Public Sector Act or any other Act in relation to any matter arising from, connected with or consequential upon the establishment of the Government Service.

(2) Regulations made under subsection (1) may be expressed to have taken effect on a day earlier than the day of the making of the regulations, not being a day earlier than the commencement day.

(3) The Executive may only make regulations under subsection (1) during the period of 12 months commencing on the commencement day.

PART III—CONSEQUENTIAL PROVISIONS

Repeal of Acts

22. The following Acts are repealed:

- (a) the *Administrative Heads (Tenure of Office) Act 1989*;
- (b) the *Health (Consequential Provisions) Act 1993*;

- (c) the *Public Service Act 1989*;
- (d) the *Teaching Service Act 1972*.

Amendment of Acts

23. The Acts specified in Schedule 1 are amended as set out in that Schedule.

Amendment of Regulations

24. The Regulations specified in Schedule 2 are amended as set out in that Schedule.

SCHEDULE 1
AMENDMENT OF ACTS

Section 23

Part 1***Administration Act 1989*****Section 3—**

Repeal the section.

Subsection 5 (1)—

Omit “or an administrative head”.

Subsection 5 (2)—

Omit the subsection.

Subsection 5 (3)—

- (a) Omit “Subsections (1) and (2) have”, substitute “Subsection (1) has”.
- (b) Add at the end of paragraph (a) “or”.
- (c) Omit from paragraph (b) “or” (second occurring).
- (d) Omit paragraph (c).

Subsections 5 (4) and (5)—

Omit the subsections.

Sections 6 and 7—

Repeal the sections.

Part 2

SCHEDULE 1—continued

Administrative Appeals Tribunal Act 1989

Subsection 3 (1) (definition of “Department”)—

Omit the definition.

Subsection 57 (3)—

Omit the subsection, substitute the following subsection:

“(3) The Registrar, the Deputy Registrars and the other officers of the Tribunal shall be persons employed under—

- (a) the *Public Sector Management Act 1994*; or
- (b) the *Public Service Act 1922* of the Commonwealth.”.

Subsection 57 (4)—

Omit all the words after “appoint”, substitute the following:

“a person employed under—

- (a) the *Public Sector Management Act 1994*; or
- (b) the *Public Service Act 1922* of the Commonwealth;

to act as the Registrar, as that Deputy Registrar or as that other officer of the Tribunal during the absence or until the filling of the vacancy, as the case may be.”.

Subsection 60 (1)—

Omit “Head of Administration” (wherever occurring), substitute “Chief Executive”.

Subsection 60 (2)—

Omit “Head of Administration”, substitute “Chief Executive”.

Part 3

Administrative Decisions (Judicial Review) Act 1989

Subsection 3 (1) (definition of “duty”)—

Omit “public servant”, substitute “public employee”.

Schedule 2—

Add at the end the following paragraphs:

- “(f) decisions in connection with personnel management (including recruitment, training, promotion and organisation) with respect to the Government Service

SCHEDULE 1—continued

other than a decision relating to, and having regard to the particular characteristics of, or other circumstances relating to, a particular person;

- (g) decisions relating to promotions, transfers, temporary performance of duties, of or by individual officers of the Government Service;
- (h) decisions relating to—
 - (i) the making of appointments to the Government Service;
 - (ii) the engagement of persons as employees under the *Public Sector Management Act 1994*; or
 - (iii) the making of appointments under an enactment or to an office established by, or under, an enactment;
- (j) decisions in connection with the prevention or settlement of industrial disputes, or otherwise relating to industrial matters, in respect of the Government Service;
- (k) decisions relating to the making or terminating of appointments of Chief Executives under the *Public Sector Management Act 1994*;
- (m) decisions relating to the appointment, or the termination of an appointment, of a person to the office of Commissioner for Public Administration;
- (n) decisions relating to the employment, or the termination of employment, of staff under the *Legislative Assembly (Members' Staff) Act 1989*."

Part 4

Adoption Act 1993

Subsection 4 (1) (definition of “relevant administrative unit”)—

Omit “of the Public Service”.

Part 5

Agents Act 1968

Subparagraphs 48 (1) (e) (i) and 49 (1) (j) (i)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Part 6

Annual Holidays Act 1973

Subsection 2 (1) (definition of “prescribed officer”)—

Omit the definition.

Subsection 7 (4)—

SCHEDULE 1—continued

Omit “a person who is an officer within the meaning of the *Public Service Act 1922-1973* of the Commonwealth”, substitute “a public servant”.

Part 7

Audit Act 1989

Subsection 3 (1) (definition of “administrative unit”, paragraph (a))—

Omit the paragraph, substitute the following paragraph:

“(a) an administrative unit established under subsection 13 (1) of the *Public Sector Management Act 1994*; or”.

Subsection 5 (1)—

Omit “Head of Administration”, substitute “Chief Executive”.

Subsection 5 (2)—

Omit the subsection.

Section 15—

Repeal the section, substitute the following section:

Staff

“15. (1) The staff assisting the Auditor-General shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Auditor-General.

“(3) The Auditor-General has all the powers of a Chief Executive in relation to the staff assisting him or her as if the staff were employed in an administrative unit under the control of the Auditor-General.”.

Subsection 21 (3) (definition of “authorised officer”, paragraph (a))—

Add at the end “or”.

Subsection 21 (3) (definition of “authorised officer”, paragraph (b))—

Omit the paragraph.

Subsection 37 (3)—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 38 (1)—

SCHEDULE 1—continued

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Subsection 43 (5)—

Omit “administrative head”, substitute “Chief Executive”.

Subparagraph 57 (b) (ii)—

Omit “administrative head”, substitute “Chief Executive”.

Paragraph 67 (10) (c)—

Omit the paragraph, substitute the following paragraph:

“(c) the Commissioner for Public Administration.”.

Subsection 71 (1)—

Omit “Head of Administration”, substitute “Chief Executive”.

Subsection 71 (3)—

Omit the subsection.

Subsection 114 (1) (definition of “Head of Administration”)—

Omit the definition.

Subsection 114 (1)—

Insert the following definition:

“ ‘Chief Executive’, in relation to a person included in a class of persons to whom paragraph (c) of the definition of ‘officer’ applies, includes the person holding, or performing the duties of such office as is declared by the regulations to be, for the purposes of this Part, the office of Chief Executive in relation to that class of persons;”.

Subsection 114 (1) (definition of “officer”, paragraph (a))—

Add at the end “or”.

Subsection 114 (1) (definition of “officer”, paragraph (b))—

Omit the paragraph.

Subsection 114 (1) (definition of “officer”, paragraph (c))—

Omit “or (b)”.

Subsection 116 (1)—

SCHEDULE 1—continued

Omit “Head of Administration” (wherever occurring), substitute “Chief Executive”.

Subsections 116 (2) and (3) and 117 (1)—

Omit “Head of Administration”, substitute “Chief Executive”.

Paragraphs 117 (2) (a) and (b) and 118 (1) (a) and (2) (a)—

Omit “Head of Administration”, substitute “Chief Executive”.

Paragraph 118 (2) (b)—

Omit “Head of Administration” (wherever occurring), substitute “Chief Executive”.

Subsection 118 (4)—

Omit “Head of Administration”, substitute “Chief Executive”.

Section 119—

Omit “Head of Administration” (wherever occurring), substitute “Chief Executive”.

Paragraph 121 (c)—

Omit “Head of Administration”, substitute “Chief Executive”.

Subsection 124 (4)—

Omit “administrative head”, substitute “Chief Executive”.

Paragraph 126 (1) (a)—

Omit “administrative head”, substitute “Chief Executive”.

Part 8

Betting (Totalizator Administration) Act 1964

Section 28—

Repeal the section, substitute the following section:

Staff

“28. (1) The staff of the Board shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff of the Board.”.

SCHEDULE 1—continued

Section 29—

Add at the end the following subsection:

“(2) Nothing in subsection (1) shall be read as conferring on the Board a power to enter into a contract of employment.”.

Part 9

Building Act 1972

Subsection 5 (1) (definition of “government agency”)—

Omit “of the Public Service”.

Paragraph 58B (a)—

Omit “or an authority established under a Territory or”, substitute “, a Territory authority or an authority established under a”.

Part 10

Building and Services Act 1924

Section 3—

Omit “officers”, substitute “public employees”.

Part 11

Canberra Institute of Technology Act 1987

Section 9—

After subsection (3) insert the following subsection:

“(3A) Nothing in paragraph (1) (h) shall be read as conferring on the Institute a power to enter into a contract of employment.”.

Section 49—

Repeal the section, substitute the following section:

Staff of the Institute

“49. (1) The staff of the Institute shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff of the Institute.”.

Subsections 51 (6) and (7)—

SCHEDULE 1—continued

Omit “Head of Administration”, substitute “Commissioner for Public Administration”.

Part 12

Canberra Theatre Trust Act 1965

Sections 22 and 22A—

Repeal the sections, substitute the following section:

Staff

“22. (1) The Trust may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the Trust of public servants who are the subject of an arrangement under subsection (1).”.

Part 13

Casino Control Act 1988

Section 19—

Omit “Division 6 of Part III of the *Public Service Act 1922* of the Commonwealth”, substitute “Part IX of the *Public Sector Management Act 1994*”.

Part 14

Cemeteries Act 1933

Sections 19 and 19A—

Repeal the sections, substitute the following section:

Staff

“19. (1) The trustees may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the trustees of public servants who are the subject of an arrangement under subsection (1).”.

SCHEDULE 1—continued

Part 15

Children’s Services Act 1986

Paragraph 117 (3) (b)—

Omit “administrative head”, substitute “Chief Executive”.

Section 132—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 133 (6)—

Omit “administrative head”, substitute “Chief Executive”.

Part 16

Clinical Waste Act 1990

Section 13—

Omit “administrative head”, substitute “Chief Executive”.

Part 17

Commissioner for the Environment Act 1993

Subsection 3 (1) (definition of “agency”)—

Omit “a Department”, substitute “an administrative unit”.

Subsection 3 (1) (definition of “Department”)—

Omit the definition.

Subsection 3 (1) (definition of “officer”, paragraph (a))—

Omit the paragraph, substitute the following paragraph:

“(a) in relation to an administrative unit—

- (i) a public servant (including the principal officer of that administrative unit) who is a member of that administrative unit; or
- (ii) any other person (not being a Minister) authorised to exercise powers or perform functions on behalf of that administrative unit by the principal officer of that administrative unit; and”.

Subsection 3 (1) (definition of “principal officer”, paragraph (a))—

SCHEDULE 1—continued

Omit the paragraph, substitute the following paragraph:

“(a) in relation to an administrative unit—the Commissioner for Public Administration or the Chief Executive of that unit; or”.

Paragraph 15 (11) (a)—

Omit the paragraph, substitute the following paragraph:

“(a) in the case of an administrative unit—

- (i) if the person is the principal officer of the administrative unit—the Minister responsible for the administrative unit; or
- (ii) if the person is a member of the administrative unit but is not the principal officer—the principal officer of the administrative unit; or”.

Paragraph 18 (a)—

Omit “head”, substitute “principal officer”.

Section 18—

Omit “agency head”, substitute “principal officer”.

Part 18

Common Boundaries Act 1981

Paragraph 18 (1) (a)—

Omit “administrative head”, substitute “Chief Executive”.

Part 19

Community Advocate Act 1991

Section 3 (definition of “staff”)—

Omit “public servants”, substitute “staff”.

Section 11—

Repeal the section, substitute the following section:

Staff

“11. (1) The staff assisting the Community Advocate shall be employed under the *Public Sector Management Act 1994*.”

SCHEDULE 1—continued

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Community Advocate.”.

Part 20

Credit Act 1985

Paragraph 156 (1) (a)—

Omit the paragraph, substitute the following paragraph:

“(a) the Crown or a Territory authority;”.

Part 21

Crimes Act 1900

Paragraphs 35 (2) (a) and (b)—

Omit “public official”, substitute “public employee”.

Section 453 (definition of “authorised officer”)—

Omit “administrative head”, substitute “Chief Executive”.

Part 22

Crimes (Offences against the Government) Act 1989

Paragraph 20 (a)—

Omit “Public” (wherever occurring), substitute “Government”.

Part 23

Criminal Injuries Compensation Act 1983

Paragraph 12 (2) (c)—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 29 (2)—

Omit “administrative head”, substitute “Chief Executive”.

Part 24

Crown Proceedings Act 1992

Subsection 3 (1) (definition of “Chief Solicitor”)—

Omit “Public”, substitute “Government”.

SCHEDULE 1—continued

Subsection 19 (2)—

Omit the subsection, substitute the following subsection:

“(2) In any such proceedings a document apparently signed by—

- (a) a Minister of the Territory Crown;
- (b) the Chief Executive who has control of an administrative unit; or
- (c) the chief executive officer of an agency or instrumentality of the Territory Crown;

that appears to be an authorisation of the kind contemplated by subsection (1) shall, in the absence of proof to the contrary, be accepted as such an authorisation.”.

Part 25

Defamation (Amendment) Act 1909 (NSW) in its application in the Territory

Paragraph 5 (g)—

Omit “of the Public Service”.

Part 26

Director of Public Prosecutions Act 1990

Section 30—

Repeal the section, substitute the following section:

Staff

“30. (1) The staff assisting the Director shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Director.

“(3) The Director has all the powers of a Chief Executive in relation to the staff assisting him or her as if the staff were employed in an administrative unit under the control of the Director.”.

Section 31—

Add at the end the following subsection:

“(3) Nothing in this section shall be read as conferring on the Director a power to enter into a contract of employment.”.

SCHEDULE 1—continued

Section 32—

Repeal the section, substitute the following section:

Other staffing arrangements

“32. (1) The Director may make arrangements with a Chief Executive for the use of the services of public servants, or the use of facilities, in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the Director of public servants who, or facilities that, are the subject of an arrangement under subsection (1).”.

Part 27

Disability Services Act 1991

Section 4 (definition of “organisation”, paragraph (a))—

Omit “of the Public Service”.

Part 28

Discrimination Act 1991

Subsection 4 (1) (definition of “Territory employee”)—

Omit the definition, substitute the following definition:

“ ‘Territory employee’ means a person who is—

- (a) a public servant; or
- (b) employed by a Territory authority.”.

Section 118—

Repeal the section, substitute the following section:

Staff

“118. (1) The staff assisting the Commissioner shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Commissioner.”.

Part 29

Drugs of Dependence Act 1989

SCHEDULE 1—continued

Section 200—

Omit “public servant or other person engaged by the Territory”, substitute “public employee”.

Part 30

Education Act 1937

Section 5 (definition of “authorized person”)—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 16 (1)—

Omit “administrative head” (first occurring), substitute “Chief Executive”.

Paragraph 16 (1) (d)—

Omit “administrative head”, substitute “Chief Executive”.

Part 31

Egg Industry Act 1975

Subsections 5 (1), (4), (6) and (7) and 6 (1) and (2)—

Omit “administrative head”, substitute “Chief Executive”.

Paragraphs 11 (2) (a), 16 (8) (a) and 17 (6) (a)—

Omit “administrative head”, substitute “Chief Executive”.

Part 32

Electoral Act 1992

Section 3 (definition of “staff”)—

Omit the definition, substitute the following definition:

“ ‘staff’, in relation to the Electoral Commission, means—

- (a) the staff assisting the Commissioner referred to in section 27A; and
- (b) persons employed or engaged under section 27B;”.

Paragraph 11 (2) (c)—

Omit “an administrative head”, substitute “a Chief Executive”.

SCHEDULE 1—continued**Section 27A—**

Repeal the section, substitute the following section:

Staff

“27A. (1) The staff assisting the Commissioner shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Commissioner.”.

Section 27B—

Add at the end the following subsection:

“(4) Nothing in this section in relation to the engagement of consultants shall be read as conferring on the Commissioner or the Commission a power to enter into a contract of employment.”.

Section 332—

Omit “Head of Administration”, substitute “Commissioner for Public Administration”.

Part 33***Electricity and Water Act 1988*****Subsection 3 (1) (definition of “Government Law Office”)—**

Omit the definition.

Section 6—

Add at the end the following subsection:

“(4) Nothing in paragraph (1) (y) shall be read as conferring on the Authority a power to enter into a contract of employment, other than a contract of employment in respect of the Chief Executive Officer.”.

Section 31—

Repeal the section, substitute the following section:

Staff

“31. (1) The staff of the Authority shall be employed under the *Public Sector Management Act 1994*.

SCHEDULE 1—continued

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff of the Authority.”.

Section 32—

Add at the end the following subsection:

“(3) Nothing in this section shall be read as conferring on the Authority a power to enter into a contract of employment.”.

Part IVA—

Repeal the Part.

Section 91—

Omit “an officer of the Government Law Office”, substitute “a public servant”.

Part 34

Evidence Act 1971

Section 6 (definition of “government department”, paragraph (a))—

Omit the paragraph, substitute the following paragraph:

“(a) the Territory government;”.

Section 6 (definition of “public authority”)—

Omit the definition, substitute the following definition:

“ ‘public authority’ means a Territory authority or an authority established by or under the law of the Commonwealth, a State or another Territory;”.

Subparagraph 10H (1) (a) (v)—

Omit the subparagraph, substitute the following subparagraph:

“(v) the Commissioner for Public Administration;”.

Part 35

Fair Trading Act 1992

Subsection 5 (1) (definition of “authority of the Territory”)—

Omit the definition.

Part 36

SCHEDULE 1—continued

Financial Institutions (Application of Laws) Act 1992

Paragraphs 6 (3) (a), 9 (4) (a) and 33 (4) (a)—

Omit “an authority of the Territory”, substitute “a Territory authority”.

Part 37

Financial Institutions Duty Act 1987

Paragraph 19 (1) (ca)—

Omit “or a statutory authority of the Territory,”, substitute “, a Territory authority or a statutory authority of”.

Part 38

Financial Institutions (Supervisory Authority) Act 1992

After subsection 7 (3)—

Insert the following subsection:

“(3A) Nothing in paragraph (3) (a) or (d) shall be read as conferring on the Registrar a power to enter into a contract of employment.”.

Subsection 15 (1)—

Omit the subsection, substitute the following subsections:

“(1) The staff assisting the Registrar shall be employed under the *Public Sector Management Act 1994*.

“(1A) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Registrar.”.

Part 39

Fishing Act 1967

Subsections 22 (1) and 31 (1)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Section 37—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Part 40

SCHEDULE 1—continued

Freedom of Information Act 1989

Subsection 4 (1) (definition of “agency”)—

Omit “a Department”, substitute “an administrative unit”.

Subsection 4 (1) (definition of “Department”)—

Omit the definition.

Subsection 4 (1) (definition of “principal officer”, paragraph (a))—

Omit the paragraph, substitute the following paragraph:

“(a) in relation to an administrative unit—the Chief Executive of the administrative unit; or”.

Paragraph 5 (b)—

Omit “a Department”, substitute “an administrative unit”.

Subsection 15 (2)—

Omit all the words after “transferred”, substitute “to the administrative unit responsible for the administration of the enactment by or under which the body or person is established, continued in existence or appointed”.

Subsections 35 (3) and (5)—

Omit “Head of Administration”, substitute “Chief Executive who has control of the administrative unit to which responsibility for the co-ordination of government administration is allocated under section 14 of the *Public Sector Management Act 1994*”.

Subsection 55 (1)—

Omit “Head of Administration”, substitute “Commissioner for Public Administration”.

Subsection 55 (2)—

Omit the subsection.

Part 41

Gas Act 1992

Subsection 84 (2)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

SCHEDULE 1—continued

Part 42

Government Solicitor Act 1989

Section 3 (definition of “Chief Solicitor”)—

Omit “Public”, substitute “Government”.

Section 3 (definition of “relevant administrative unit”)—

Omit the definition, substitute the following definition:

“ ‘relevant administrative unit’ means the administrative unit to which the Chief Minister has, under paragraph 14 (b) of the *Public Sector Management Act 1994*, allocated responsibility for this Act.”.

Section 3 (definition of “transitional Territory staff”)—

Omit the definition.

Paragraph 5 (3) (f)—

Omit the paragraph, substitute the following paragraph:

“(f) a person who is—

- (i) a public servant; or
- (ii) employed by an authority established by or under an enactment;”.

Part 43

Guardianship and Management of Property Act 1991

Subsection 64 (1)—

Omit “made available by the Head of Administration”.

Part 44

Health Act 1993

Paragraphs 7 (a), (b) and (c)—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 14 (1)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Subsection 14 (2)—

SCHEDULE 1—continued

Omit “administrative head” (first and second occurring), substitute “Chief Executive”.

Paragraph 14 (2) (b)—

Omit “administrative head”, substitute “Chief Executive”.

Section 19—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 20 (1)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Part 45

Health Complaints Act 1993

Subsection 6 (2)—

Omit the subsection, substitute the following subsection:

“(2) The Unit shall consist of the Commissioner and the members of the staff of the Unit, being—

- (a) staff assisting the Commissioner referred to in subsection 13 (1); and
- (b) staff whose services are made available to the Commissioner in accordance with subsection 13 (2).”.

Subsection 13 (1)—

Omit the subsection, substitute the following subsections:

“(1) The staff assisting the Commissioner shall be employed under the *Public Sector Management Act 1994*.

“(1A) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Commissioner.”.

Subsection 13 (2)—

- (a) Omit “an administrative head”, substitute “a Chief Executive who has control of an administrative unit”.
- (b) Omit “of the Public Service”.

Section 14—

SCHEDULE 1—continued

Add at the end the following subsection:

“(3) Nothing in this section shall be read as conferring on the Commissioner a power to enter into a contract of employment.”.

Part 46***Housing Assistance Act 1987*****Section 9—**

After subsection (1) insert the following subsection:

“(1A) Nothing in subsection (1) shall be read as conferring on the Commissioner a power to enter into a contract of employment.”.

Part 47***Inquiries Act 1991*****Subsection 12 (1)—**

Omit “Head of Administration”, substitute “Chief Executive”.

Part 48***Interpretation Act 1967*****Subsection 14 (1) (definitions of “administrative head”, “Associate Head of Administration”, “Head of Administration”, “public servant” and “Public Service”)—**

Omit the definitions.

Subsection 14 (1)—

Insert the following definitions:

“ ‘administrative unit’ means an administrative unit for the time being established under subsection 13 (1) of the *Public Sector Management Act 1994*;

‘Chief Executive’ means the Chief Executive appointed under section 28 of the *Public Sector Management Act 1994* who has control of the administrative unit to which responsibility for the administration of the Act in which the expression appears, or the administration of that Act in the relevant respect, is allocated under section 14 of the *Public Sector Management Act 1994*;

SCHEDULE 1—continued

‘Commissioner for Public Administration’ means the Commissioner for Public Administration appointed under section 18 of the *Public Sector Management Act 1994*;

‘Government Service’ means the Australian Capital Territory Government Service established by subsection 12 (1) of the *Public Sector Management Act 1994*;

‘public employee’ means—

- (a) a public servant;
- (b) a person employed by a Territory instrumentality within the meaning of the *Public Sector Management Act 1994*; or
- (c) a statutory office holder within the meaning of the *Public Sector Management Act 1994* or a person employed by such a statutory office holder;

‘public servant’ means a person employed in the Government Service;”.

New sections 30AA and 30AB—

After section 30 insert the following sections:

Effect on delegations—changes of office holder or changes in administration

“30AA. (1) Where a person ceases to hold an office or position, a delegation made or taken to be made by that person in his or her capacity as the holder of that office or position and in force immediately before the cessation—

- (a) shall, on and after that cessation, be taken to be made by the person’s successor in that office or position and shall then, subject to paragraph (b), otherwise have effect according to its tenor; and
- (b) may, by instrument, be varied or revoked by that successor.

“(2) Where the administration of a particular Act or subordinate law ceases to be the responsibility of the holder of an office or position (in this section called ‘the former administrator’) and becomes the responsibility of the holder of another office or position (in this section called ‘the relevant successor’), a delegation made or taken to be made by the former administrator and in force immediately before the cessation—

SCHEDULE 1—continued

(a) shall, on and after that cessation, be taken to be made by the relevant successor and shall then, subject to paragraph (b), otherwise have effect according to its tenor; and

(b) may, by instrument, be varied or revoked by the relevant successor.

“(3) Paragraphs 29B (c) and (d), and section 30, apply in relation to a delegation referred to in subsection (1) or (2) as if it had been given by the relevant successor.

Delegation includes sub-delegation

“30AB. In sections 29A, 29B, 30 and 30AA, references to a power to delegate, a delegate and a delegation shall be read as including references to a power to sub-delegate, a sub-delegate and a sub-delegation, respectively.”.

Part 49***Judicial Commissions Act 1994*****Subsection 13 (1)**—

Omit “Head of Administration”, substitute “Chief Executive”.

Part 50***Juries Act 1967*****Section 11**—

Add at the end the following paragraphs:

“(s) judges and the Master of the Supreme Court;

(t) persons holding, or performing the duties of, an office of Chief Executive in the Government Service;

(u) public servants in the staff of—

(i) the Supreme Court; or

(ii) the Magistrates Court;

(v) public servants in the staff of—

(i) the Attorney-General’s Department;

(ii) the Legal Aid Commission (A.C.T.); or

(iii) the Office of the Director of Public Prosecutions;

being public servants whose duties involve the provision of legal professional services;

SCHEDULE 1—continued

- (w) persons holding, or performing the duties of, any of the following offices in the Legislative Assembly:
 - (i) Clerk;
 - (ii) Deputy Clerk;
 - (iii) Clerk Assistant;
 - (iv) Sergeant-at-Arms;
 - (v) Editor of Debates;
 - (vi) Secretary to a committee of the Assembly;
- (x) persons holding, or performing the duties of, one of the following offices in the Housing and Community Services Bureau:
 - (i) Executive Director, Family Services Branch;
 - (ii) Director, Juvenile Justice Section;
- (y) persons holding, or performing the duties of, an office of Social Worker in the Housing and Community Services Bureau;
- (z) persons appointed to an office of Chief Fire Control Officer or Deputy Fire Control Officer in the Government Service;
- (za) persons holding, or performing the duties of, an office of Community Corrections Officer in the Government Service;
- (zb) persons holding an appointment under section 6 or 6A of the *Remand Centres Act 1976*;
- (zc) persons who are authorized officers within the meaning of the *Supervision of Offenders (Community Service Orders) Act 1985*.”.

Part 51

Land (Planning and Environment) Act 1991

Section 38—

Add at the end the following subsection:

“(4) Nothing in subsection (2) shall be read as conferring on the Authority a power to enter into a contract of employment.”.

Subsection 45 (4)—

Omit “Head of Administration or an Associate Head of Administration”, substitute “Chief Executive”.

SCHEDULE 1—continued**Subsection 282ZU (1)**—

Omit “Secretary to”, substitute “Chief Executive of the administrative unit known as”.

Subsection 282ZU (2)—

Omit “Secretary to the Department of the Environment, Land and Planning”, substitute “Chief Executive”.

Part 52*Legal Practitioners Act 1970***Section 3 (definition of “relevant administrative unit”)**—

- (a) Omit “of the Public Service”.
- (b) Omit “paragraph 6 (2) (b) of the *Public Service Act 1989*”, substitute “paragraph 14 (b) of the *Public Sector Management Act 1994*”.

Subsection 200 (1)—

Omit “administrative head”, substitute “Chief Executive”.

Part 53*Legislative Assembly (Members’ Staff) Act 1989***Section 3 (definition of “administrative unit”)**—

Omit the definition.

Subsections 6 (1) and 11 (1)—

Omit “Australian Public”, substitute “Government”.

New Part IIIA—

After Part III insert the following Part:

**“PART IIIA—OFFICERS AND EMPLOYEES OF THE
GOVERNMENT SERVICE EMPLOYED BY ASSEMBLY
MEMBERS**

Interpretation

“13A. In this Part, unless the contrary intention appears—

SCHEDULE 1—continued

‘Commissioner’ means the Commissioner for Public Administration appointed under subsection 18 (1) of the *Public Sector Management Act 1994*;

‘employee’ means a person who is engaged as an employee in the Government Service;

‘Merit Protection Agency’ means the Merit Protection and Review Agency established by the *Merit Protection (Australian Government Employees) Act 1984* of the Commonwealth;

‘officer’ means an officer of the Government Service.

Rights of officers

“13B. (1) An officer employed by a member of the Assembly may apply in writing to the Merit Protection Agency—

- (a) before the termination of the employment; or
- (b) before the end of the period of 30 days, or such further period as the Merit Protection Agency allows, after the termination of the employment;

for the making of a determination under this section.

“(2) The Merit Protection Agency shall refer an application to a Re-integration Assessment Committee constituted under the *Merit Protection (Australian Government Employees) Act 1984* of the Commonwealth.

“(3) The Committee shall enquire into the application and, having regard to—

- (a) the office in the Government Service or the Australian Public Service held by the officer immediately before being employed under this Act;
- (b) the duration of that employment;
- (c) the nature of the duties performed by the officer in that employment; and
- (d) any other matter that in the opinion of the Committee is relevant;

shall determine—

- (e) the classification (being a classification that is the same as, or higher than, the classification of the officer as an unattached officer

SCHEDULE 1—continued

at the time of the determination) that the officer is to have as an unattached officer in the Government Service; and

- (f) the rate of salary at which the officer is to be paid, unless there is only 1 rate of salary applicable in respect of that classification.

“(4) A determination in relation to an officer shall be in writing and copies of the determination shall be given by the Committee to the Commissioner and the officer.

“(5) A determination has effect, or is to be taken to have had effect, upon the termination of the employment of the officer to whom it relates.

Rights of employees

“13C. (1) Subject to subsection (2), for the purposes of the *Public Sector Management Act 1994*, an employee who is employed by a member of the Assembly is to be taken to be on leave without pay while the employment continues but the service of the employee under that employment shall be taken into account as if it were service as an employee.

“(2) An employee—

- (a) who was selected for employment under the *Public Sector Management Act 1994*; or
 (b) whose employment under that Act was authorised;

on the condition that the employment—

- (c) should not continue after the end of a specified period; or
 (d) should not continue after the completion of specified work;

is to be taken to have ceased to be an employee at the end of that period or the completion of the work.”.

Part 54***Litter Act 1977*****Section 2 (definition of “public tip”)—**

Omit “Department”, substitute “Territory”.

Subsection 10 (3)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Subsection 10A (1)—

SCHEDULE 1—continued

Omit “administrative head”, substitute “Chief Executive”.

Subsection 10A (2)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Subsections 10B (1) and 11A (1), (2) and (3)—

Omit “administrative head”, substitute “Chief Executive”.

Part 55

Long Service Leave (Building and Construction Industry) Act 1981

Paragraph 7 (d)—

Add at the end “and”.

Paragraph 7 (e)—

Omit the paragraph.

Division 4 of Part II—

Repeal the Division, substitute the following Division:

“Division 4—Staff

Staff

“25C. (1) The Board may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the Board of public servants who are the subject of an arrangement under subsection (1).”.

Part 56

Magistrates Court Act 1930

Section 10F—

Repeal the section, substitute the following section:

Rights of public servants

SCHEDULE 1—continued

“10F. Where a Magistrate was, immediately before his or her appointment—

- (a) an officer of the Government Service;
- (b) an officer of the Australian Public Service; or
- (c) a person to whom the *Officers’ Rights Declaration Act 1928* of the Commonwealth applied;

he or she retains his or her existing and accruing rights.”.

New section 10MA—

After section 10M insert the following section:

Staff assisting the Registrar

“10MA. (1) The staff assisting the Registrar shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Registrar.”.

Part 57***Magistrates Court (Civil Jurisdiction) Act 1982*****Subsection 3 (1) (definition of “Chief Solicitor”)—**

Omit “Public”, substitute “Government”.

Part 58***Maintenance Act 1968*****Subsection 65 (1) (definition of “certified copy”, paragraph (a))—**

Omit “administrative head”, substitute “Chief Executive”.

Subsection 77 (1)—

Omit “administrative head” (first and last occurring), substitute “Chief Executive”.

Paragraph 77 (1) (d)—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 78 (4)—

Omit “administrative head”, substitute “Chief Executive”.

SCHEDULE 1—continued

Section 79—

Omit “administrative head”, substitute “Chief Executive”.

Subsections 80 (1), (2) and (3)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Subsection 80 (4)—

Omit “administrative head”, substitute “Chief Executive”.

Paragraphs 81 (1) (b) and (c)—

Omit “administrative head”, substitute “Chief Executive”.

Subsection 81 (1)—

Omit “administrative head” (last occurring), substitute “Chief Executive”.

Subsection 81 (2)—

Omit “administrative head” (wherever occurring), substitute “Chief Executive”.

Section 84—

Omit “administrative head” (first, second and third occurring), substitute “Chief Executive”.

Paragraphs 84 (a) and (b)—

Omit “administrative head”, substitute “Chief Executive”.

Part 59

Milk Authority Act 1971

Subsection 4 (1) (definition of “the Secretary to the Authority”)—

Omit the definition.

Subsection 4 (1)—

Insert the following definitions:

“ ‘Assistant Secretary to the Authority’ means the public servant for the time being performing the functions of Assistant Secretary to the Milk Authority of the Australian Capital Territory by virtue of section 15A;

SCHEDULE 1—continued

‘Secretary to the Authority’ means the public servant for the time being performing the functions of Secretary to the Milk Authority of the Australian Capital Territory by virtue of section 15;”.

Sections 14A, 14B and 15—

Repeal the sections, substitute the following sections:

Staff

“14A. (1) The Authority may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the Authority of public servants who are the subject of an arrangement under subsection (1).

Secretary

“15. (1) There shall be a Secretary to the Milk Authority of the Australian Capital Territory.

“(2) The Chief Executive shall create and maintain an office in the Government Service whose duties include performing the functions of the Secretary to the Milk Authority of the Australian Capital Territory.

“(3) The Secretary to the Authority shall be the public servant for the time being performing the duties of the Government Service office referred to in subsection (2).

Assistant Secretary

“15A. (1) There shall be an Assistant Secretary to the Milk Authority of the Australian Capital Territory.

“(2) The Chief Executive shall create and maintain an office in the Government Service whose duties include performing the functions of the Assistant Secretary to the Milk Authority of the Australian Capital Territory.

“(3) The Assistant Secretary to the Authority shall be the public servant for the time being performing the duties of the Government Service office referred to in subsection (2).

“(4) The Assistant Secretary to the Authority may perform or exercise such of the functions or powers of the Secretary to the Authority as the Authority directs.”.

SCHEDULE 1—continued

Part 60

Mining Act 1930

Subsection 39 (2)—

Omit “in the office of the administrative unit of the Public Service responsible for matters under this Act”, substitute “with the Chief Executive”.

Part 61

National Exhibition Centre Trust Act 1976

Paragraph 5 (1) (d)—

After “contracts” insert “, other than contracts of employment”.

Sections 18 and 18A—

Repeal the sections, substitute the following section:

Staff

“18. (1) The Trust may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the Trust of public servants who are the subject of an arrangement under subsection (1).”.

Part 62

Occupational Health and Safety Act 1989

Paragraphs 13 (1) (a) and (b)—

Omit “3”, substitute “4”.

Part 63

Ombudsman Act 1989

Subsection 3 (1) (definition of “agency”)—

Omit “a Department”, substitute “an administrative unit”.

Subsection 3 (1) (definition of “Department”)—

Omit the definition.

SCHEDULE 1—continued**Subsection 3 (1) (definition of “officer”, paragraph (a))—**

- (a) Omit “a Department”, substitute “an administrative unit”.
- (b) Omit “Department” (second, third, fourth and fifth occurring), substitute “administrative unit”.

Subsection 3 (1) (definition of “principal officer”, paragraph (a))—

Omit the paragraph, substitute the following paragraph:

- “(a) in relation to an administrative unit—the Chief Executive of the administrative unit; or”.

Paragraph 3 (4) (a)—

Omit “, the Head of Administration or an Associate Head of Administration”, substitute “or a Chief Executive of an administrative unit”.

Subsection 3 (4)—

Omit “Department”, substitute “administrative unit”.

Subsection 3 (5)—

- (a) Omit “, the Head of Administration or an Associate Head of Administration”, substitute “or a Chief Executive of an administrative unit”.
- (b) Omit “Department”, substitute “administrative unit”.

Subsection 3 (6)—

- (a) Omit “a Department”, substitute “an administrative unit”.
- (b) Omit “Department” (second occurring), substitute “administrative unit”.

Subparagraph 3 (6) (a) (i)—

Omit “Department”, substitute “administrative unit”.

Subsection 3 (7)—

- (a) Omit “a Department”, substitute “an administrative unit”.
- (b) Omit “Department” (second occurring), substitute “administrative unit”.

Paragraph 5 (2) (d)—

- (a) Omit “Public”, substitute “Government”.

SCHEDULE 1—continued

- (b) Omit “(including persons who are members of the transitional staff within the meaning of the *A.C.T. Self-Government (Consequential Provisions) Act 1988* of the Commonwealth)”.

Paragraph 5 (2) (e)—

Omit “Public”, substitute “Government”.

Paragraph 9 (12) (a)—

Omit the paragraph, substitute the following paragraph:

“(a) in the case of an administrative unit—

- (i) if the person is the Chief Executive of the administrative unit—the responsible Minister of the administrative unit; or
- (ii) if the person is a member of the administrative unit other than the Chief Executive—the Chief Executive of the administrative unit; or”.

Part 64

Poisons Act 1933

Paragraphs 40 (1) (f) and (2) (e)—

Omit “public servant, or a person engaged by the Territory,”, substitute “public employee”.

Part 65

Pounds Act 1928

Subsection 17 (3)—

Omit “Public”, substitute “Government”.

Part 66

Proceeds of Crime Act 1991

Subsection 4 (1) (definition of “prescribed officer”)—

Omit “Officer of the Public”, substitute “officer of the Government”.

Part 67

Protection of Lands Act 1937

Section 16—

SCHEDULE 1—continued

Omit “administrative head”, substitute “Chief Executive”.

Part 68

Rates and Land Tax Act 1926

Subsection 4 (1) (definition of “Office”)—

Omit “of the Public Service”.

Part 69

Remand Centres Act 1976

Section 6—

Add at the end the following subsections:

“(3) The staff assisting the Administrator who have been appointed under paragraphs (2) (b) and (d) shall be employed under the *Public Sector Management Act 1994*.

“(4) The *Public Sector Management Act 1994* applies in relation to the management of such staff assisting the Administrator.”.

Paragraph 11 (2) (a)—

Omit “under the *Public Service Act 1922* of the Commonwealth”.

Part 70

Removal of Prisoners Act 1968

Subsection 3 (1) (definition of “magistrate”)—

Omit “section 78 of the *Public Service Act 1922* of the Commonwealth”, substitute “section 120 of the *Public Sector Management Act 1994*”.

Part 71

Royal Commissions Act 1991

Subsection 12 (1)—

Omit “Head of Administration”, substitute “Chief Executive”.

Part 72

Rural Workers Accommodation Act 1938

Section 10—

SCHEDULE 1—continued

Omit “administrative head”, substitute “Chief Executive”.

Part 73

Schools Authority Act 1976

Section 7—

After subsection (2) insert the following subsection:

“(2A) Nothing in subsection (1) shall be read as conferring on the Authority a power to enter into a contract of employment.”.

Section 28—

Repeal the section, substitute the following section:

Staff of Authority

“28. (1) The staff of the Authority shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff of the Authority.”.

Part 74

Stock Act 1991

Subsection 43 (1)—

Omit “administrative head”, substitute “Chief Executive”.

Part 75

Supreme Court Act 1933

New section 46B—

After section 46A insert the following section:

Staff assisting the Registrar

“46B. (1) The staff assisting the Registrar shall be employed under the *Public Sector Management Act 1994*.

“(2) The *Public Sector Management Act 1994* applies in relation to the management of the staff assisting the Registrar.”.

Part 76

Surveyors Act 1967

SCHEDULE 1—continued**Section 14**—

Omit “administrative head”, substitute “Chief Executive”.

Paragraph 44 (2) (a)—

Omit “Department”, substitute “administrative unit to which responsibility for this Act has been allocated”.

Part 77***Territory Owned Corporations Act 1990*****Subsection 33A (1)**—

Add at the end “or the *Public Sector Management Act 1994*”.

Paragraph 33A (2) (c)—

Omit all the words after “leave”.

Subsection 33A (3)—

Omit “*Public Service Act 1922* of the Commonwealth”, substitute “Act under which he or she was appointed or employed immediately before being employed by, or engaged as a member of the staff of, the Territory owned corporation”.

Part 78**Trustee Act, 1925-1942 (NSW) in its application
in the Territory****Subsection 47 (3B)**—

Omit “administrative head”, substitute “Chief Executive”.

Part 79***Vocational Training Act 1989*****Subsection 6 (1) (definition of “Chief Executive”)**—

Omit the definition, substitute the following definition:

“ ‘chief executive officer’ means the chief executive officer of the Authority appointed under section 24;”.

Sections 24 and 25—

Repeal the sections, substitute the following sections:

SCHEDULE 1—continued

Chief executive officer

“24. (1) There shall be a chief executive officer of the Authority who shall be appointed in writing by the Commissioner for Public Administration.

“(2) The chief executive officer shall, subject to and in accordance with the directions of the Authority, manage the affairs of the Authority.

“(3) A person who is not a public servant shall not be appointed to be the chief executive officer.

Employment of staff

“25. (1) The Authority may make arrangements with the Chief Executive for the use of the services of public servants in the administrative unit under the Chief Executive’s control.

“(2) The *Public Sector Management Act 1994* applies in relation to the management by the Authority of public servants who are the subject of an arrangement under subsection (1).”.

Further amendments—

The following provisions are amended by omitting “Chief Executive” (wherever occurring) and substituting “chief executive officer”:

Subsection 6 (1) (definition of “appropriate form”), paragraph 11 (1) (b), subsections 26 (1) and (2), sections 27 and 28, subsections 32 (3), 40 (3) and (4), 41 (5), 42 (3) and (4) and 43 (4) and (5), paragraph 44 (c), subsection 48 (3), section 49, subsection 50 (2), paragraph 51 (c), subsections 54 (3) and (5) and 55 (4) and (6), paragraph 56 (c), subsections 57 (3) and (5), paragraphs 58 (3) (a) and (4) (a), subsection 59 (3), section 60, subsection 62 (2) and paragraphs 83 (1) (a) and (b), 89 (5) (c) and 93 (2) (c).

Part 80

Weapons Act 1991

Subsection 4 (1) (definition of “government agency”, paragraph (a))—

Omit “of the Public Service”.

Subsection 4 (1) (definition of “head”)—

Omit “Head of Administration, Associate Head of Administration”, substitute “Commissioner for Public Administration, the Chief Executive who has control of the relevant administrative unit”.

SCHEDULE 2

Section 24

AMENDMENT OF REGULATIONS**Part 1****Administrative Appeals Tribunal Regulations****Subregulation 2 (3)**—

Omit “Head of Administration” (wherever occurring), substitute “Chief Executive”.

Subregulation 14 (1)—

Omit “Public”, substitute “Government”.

Part 2**Canberra Public Cemeteries Regulations****Subregulation 2 (1) (definition of “the Secretary”)**—

Omit the definition.

Subregulation 2 (1)—

Insert the following definition:

“ ‘Secretary’ means the public servant for the time being performing the functions of Secretary to The Trustees of the Canberra Public Cemeteries;”.

Subregulation 5 (1)—

Omit the subregulation, substitute the following subregulations:

“(1) There shall be a Secretary to The Trustees of the Canberra Public Cemeteries.

“(1A) The Chief Executive shall create and maintain an office in the Government Service whose duties include performing the functions of the Secretary to The Trustees of the Canberra Public Cemeteries.

“(1B) The Secretary shall be the public servant for the time being performing the duties of the Government Service office referred to in subregulation (1A).”.

Part 3

SCHEDULE 2—continued

Finance Regulations

Subregulation 2 (1) (definition of “head of administration”)—

Omit the definition.

Subregulation 2 (1)—

Insert the following definitions:

“ ‘Chief Executive’ means a Chief Executive who has control of an administrative unit;

‘Under Treasurer’ means the Chief Executive who has control of the administrative unit that is the responsibility of the Minister for the time being administering the Act;”.

Subregulation 2 (3)—

Omit “head of administration” (wherever occurring), substitute “Chief Executive”.

Subregulation 24 (1)—

Omit “Public Service”, substitute “Government Service”.

Paragraph 25 (1) (c)—

Omit “administrative head”, substitute “Chief Executive”.

Subparagraph 25 (1) (d) (iii)—

Omit “administrative head”, substitute “Chief Executive”.

Subregulation 25 (2)—

Omit “Section 5 of the *Administration Act 1989*”, substitute “Subsection 36 (4) of the *Public Sector Management Act 1994*”.

Paragraph 25 (2) (b)—

Omit “administrative head”, substitute “Chief Executive”.

Subregulation 25 (3)—

Omit the subregulation.

Paragraph 30 (1) (a)—

Omit “head”, substitute “Chief Executive”.

Regulation 79—

SCHEDULE 2—continued

Omit “Public”, substitute “Government”.

The Schedule (Forms 5, 9, 10 and 12)—

Omit “Head of Administration”, substitute “Chief Executive”.

The Schedule (Form 16)—

Omit “Department”, substitute “administrative unit”.

Further amendments—

1. The following provisions are amended by omitting “head of administration” (wherever occurring) and substituting “Chief Executive”:

Regulations 3, 8 and 14, subregulation 17 (2), paragraph 22 (1) (c), subparagraph 22 (1) (g) (ii), subregulation 22 (2), paragraphs 23 (3) (a) and (c) and 24 (2) (a) and (b) and (3) (a), subregulations 24 (4) and (5), regulation 28, paragraph 28 (b), subregulations 30 (1), 31 (1) and (2) and 50 (3), regulation 51, subregulations 52 (1), 53 (1) and 54 (2) and (3), regulations 55 and 56, subregulations 57 (1) and (2) and 63 (1) and (2), regulation 65, subregulations 66 (2) and 76 (1) (definition of “prescribed supervisor”), paragraph 77 (18) (c), regulation 79, subregulation 81 (1A) and regulation 86.

2. The following provisions are amended by omitting “administrative head” (wherever occurring) and substituting “Under Treasurer”:

Subregulation 16 (4), regulations 18 and 19, subregulations 34 (2), 35 (2) and (3), 38 (1) and (3) and 41 (1) and (2), paragraph 42 (j), subregulation 43 (1), paragraph 43 (3) (b), subregulations 47 (1) and (2), 50 (3), (4) and (5), 52 (1), 53 (1) and 57 (1) and (2), regulations 59, 62, 64 and 80, subregulation 81 (1) and regulation 84.

Part 4**Motor Omnibus Services Regulations****Regulation 3A—**

Omit “administrative head”, substitute “Chief Executive”.

Subregulations 35A (6), (7) and (8)—

Omit “Secretary”, substitute “Chief Executive”.

Paragraph 35A (9) (a)—

Omit “Secretary”, substitute “Chief Executive”.

SCHEDULE 2—continued

Part 5

Public Health (Dairy) Regulations

Subregulation 101 (2)—

Omit “A person employed by the Territory”, substitute “A public employee”.

Part 6

Registrar-General (Office Hours) Regulations

Subregulation 2 (2)—

Omit “Public”, substitute “Government”.

Part 7

Vocational Training Regulations

Subregulation 4 (1)—

Omit “Chief Executive”, substitute “chief executive officer”.

Paragraphs 4 (2) (a) and (b)—

Omit “Chief Executive”, substitute “chief executive officer”.

Regulation 5—

Omit “Chief Executive”, substitute “chief executive officer”.

Schedule 2—

Omit “Public Service Sector” (wherever occurring), substitute “Government Service”.

NOTE ABOUT SECTION HEADINGS

On the day, or respective days, on which the Acts referred to below are amended by this Act, headings to sections of those Acts are altered as set out below:

Provision	Alteration
<i>Audit Act 1989</i>	
Sections 5 and 38	Omit from the headings “ Head of Administration ”, substitute “ Chief Executive ”.
<i>Crimes (Offences against the Government) Act 1989</i>	
Section 10	Omit from the heading “ officers of the Territory ”, substitute “ public employees ”.
Section 13	Omit from the heading “ officers ”, substitute “ public employees ”.
Section 14	Omit from the heading “ officers of the Territory ”, substitute “ public employees ”.
Sections 16 and 17	Omit from the headings “ officers ”, substitute “ public employees ”.
Section 18	Omit from the heading “ officers ”, substitute “ employees ”.
<i>Electoral Act 1992</i>	
Section 332	Omit from the heading “ Head of Administration ”, substitute “ Commissioner for Public Administration ”.

[Presentation speech made in Assembly on 12 May 1994]