



Australian Capital Territory

Public Sector Management Amendment Act 2003

A2003-62

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Australian Capital Territory

Public Sector Management Amendment Act 2003

A2003-62

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

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

2003 194B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 Name of Act

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

2 Commencement

This Act commences on the day after its notification day.

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

3 Legislation amended

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

4 Employment in the service Section 67, new note

insert

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

5 New part 14

insert

Part 14 Totalcare

252 Definitions for pt 14

In this part:

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

Totalcare means Totalcare Industries Limited.

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

253 Transfer of employees

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

254 How rest of Act applies

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

255 Employees appointed on probation

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

256 Entitlements of transferred employees

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

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

257 Later appointment of temporary employees

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

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

258 Transfer of personnel files

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

259 Management standards

- (1) The management standards may make provision in relation to anything arising from or connected with the transfer of Totalcare employees under this part.
- (2) The management standards may determine conditions of employment applying to a particular transferred employee.

260 Transitional regulations

- (1) The regulations may prescribe savings or transitional matters necessary or convenient to be prescribed because of the enactment of this part.
- (2) Regulations made for this section must not be taken to be inconsistent with this Act so far as they can operate concurrently with this Act.
- (3) This section is additional to and does not limit section 261.

261 Modification of pt 14's operation

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

262 Regulation-making power

The Executive may make regulations for this part.

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

263 Expiry of pt 14

This part expires on—

- (a) 31 December 2005; or
- (b) if a later date is prescribed under the regulations for this section—that date.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 November 2003.

2 Notification

Notified under the Legislation Act on 11 December 2003.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Public Sector Management Amendment Bill 2003 which was passed by the Legislative Assembly on 9 December 2003.

Clerk of the Legislative Assembly

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