



Australian Capital Territory

# Public Sector Management Amendment Act 2005

A2005-42

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2004 066B

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

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Australian Capital Territory

# Public Sector Management Amendment Act 2005

**A2005-42**

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An Act to amend the *Public Sector Management Act 1994*, and for other purposes.

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

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2004 066B

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

## **1 Name of Act**

This Act is the *Public Sector Management Amendment Act 2005*.

## **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*.

*Note* This Act also amends the following legislation (see sch 1):

- *Financial Management Act 1996*
- *Legislative Assembly (Broadcasting) Act 2001*.

## **4 Definitions for Act Section 3, new definitions**

*insert*

*clerk*, for division 3.8 (Legislative Assembly—clerk and secretariat)—see section 45.

*Legislative Assembly secretariat* means the Legislative Assembly secretariat under section 53A.

*secretariat*, for division 3.8 (Legislative Assembly—clerk and secretariat)—see section 45.

## **5 Review of government agencies or functions Section 21 (3)**

*substitute*

- (3) If a proposed review would relate to the Legislative Assembly secretariat, the commissioner may, with the approval of the Speaker, undertake the review.

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**6 Division 3.8 heading**

*substitute*

**Division 3.8 Legislative Assembly—clerk and secretariat****7 Section 45**

*substitute*

**45 Definitions for div 3.8**

In this division:

*clerk* means the clerk of the Legislative Assembly.

*secretariat* means the Legislative Assembly secretariat.

**8 Section 46**

*substitute*

**46 Clerk of Legislative Assembly**

- (1) The office of Clerk of the Legislative Assembly is established.
- (2) The Speaker must, on behalf of the Territory, appoint the clerk—
  - (a) on the advice of the appropriate standing committee of the Legislative Assembly; and
  - (b) in consultation with the Leader of the Opposition; and
  - (c) in consultation with the Executive; and
  - (d) in accordance with the merit principles set out in section 65 that relate to the appointment.
- (3) The clerk is not subject to direction by the Executive in the exercise of the clerk's functions.

**9 Section 48**

*substitute*

**48 Disclosure of interests by clerk**

The clerk must give a written statement of the clerk's personal and financial interests to the Speaker within 7 days after—

- (a) the day the clerk is appointed; and
- (b) the first day of each financial year; and
- (c) the day there is a change in an interest.

**10 Section 50**

*substitute*

**50 Suspension and ending of appointment of clerk**

- (1) The Speaker must end the clerk's appointment if the Legislative Assembly resolves to require the Speaker to end the clerk's appointment on the ground of misbehaviour or physical or mental incapacity.
- (2) The Speaker may suspend the clerk from duty for misbehaviour or physical or mental incapacity.
- (3) The Speaker must present to the Legislative Assembly a statement of the reasons for the suspension on the first sitting day after the day the clerk is suspended.
- (4) If, within 3 sitting days after the day the statement is presented, the Legislative Assembly resolves to require the Speaker to end the clerk's appointment, the Speaker must end the clerk's appointment under subsection (1).

- (5) The clerk's suspension ends—
- (a) if a statement of the reasons for the suspension is not presented to the Legislative Assembly in accordance with subsection (3)—at the end of the day the statement should have been presented to the Assembly; or
  - (b) if, within 3 sitting days after the day the statement is presented, the Assembly resolves in favour of ending the suspension or not to call on a motion to end the clerk's appointment—on the passing of the resolution; or
  - (c) if the Assembly does not pass a resolution mentioned in subsection (4) within the 3 sitting days—at the end of the 3rd sitting day.
- (6) If the clerk is absent from duty, except on leave granted by the Speaker, for 14 consecutive days or for 28 days in any 12-month period, the Speaker may end the clerk's appointment.
- (7) The clerk may only be suspended from duty under this section.
- Note* A person's appointment also ends if the person resigns (see Legislation Act, s 210).
- (8) The clerk is entitled to be paid salary and allowances while suspended.
- (9) The clerk's appointment may only be ended under this section or section 51.

## **11 Retirement**

### **Section 51 (1)**

*substitute*

- (1) The Speaker may retire the clerk on the ground of physical or mental incapacity.

**12 Section 53**

*substitute*

**53 Acting appointment as clerk**

The Speaker may appoint the deputy clerk, or in the absence of the deputy clerk any other member of the staff of the secretariat, to act as the clerk.

*Note* For the making of acting appointments, see the Legislation Act, div 19.3.2.

**53A Legislative Assembly secretariat**

The Legislative Assembly secretariat consists of—

- (a) the clerk; and
- (b) the staff under section 54.



## **Schedule 1      Consequential amendments**

(see s 3)

### **Part 1.1              Financial Management Act 1996**

**[1.1]      Dictionary, definition of *Legislative Assembly secretariat***

*substitute*

*Legislative Assembly secretariat*—see the *Public Sector Management Act 1994*, section 3.

### **Part 1.2              Legislative Assembly (Broadcasting) Act 2001**

**[1.2]      Dictionary, definition of *Legislative Assembly secretariat***

*substitute*

*Legislative Assembly secretariat*—see the *Public Sector Management Act 1994*, section 3.

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### **Endnotes**

**1      Presentation speech**

Presentation speech made in the Legislative Assembly on 29 June 2005.

**2      Notification**

Notified under the Legislation Act on 31 August 2005.

**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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I certify that the above is a true copy of the Public Sector Management Amendment Bill 2005, which originated in the Legislative Assembly as the Public Sector Management Amendment Bill 2005 (No. 2) and was passed by the Assembly on 24 August 2005.

Clerk of the Legislative Assembly

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