

2005

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Chief Minister)

## Public Sector Management Amendment Bill 2005 (No 3)

### Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Definitions for Act	
Section 3, definition of relevant chief executive	2
5 Sections 24 to 26	3
6 Section 28 heading	6
7 Section 28 (5) to (7)	6
8 New section 28AA	6
9 New section 28D	7
10 Section 29	9
11 Section 30 heading	9

## Contents

---

		Page
12	Section 30 (4)	9
13	Section 30 (10) to (12)	10
14	New section 30A	10
15	Negotiation and execution of contracts Section 31 (1)	10
16	Section 32 heading	11
17	New sections 33A and 33B	11
18	Section 34	13
19	Application of merit principle New section 65 (1) (ba)	13
20	Section 65 (1)	13
21	Section 72 heading	13
22	Section 72 (5) to (7)	14
23	New section 72A	14
24	New section 75A	15
25	Section 76 heading	16
26	Section 76 (4)	16
27	Section 76 (10) to (12)	16
28	New section 76A	17
29	Section 77	17
30	Negotiation and execution of contracts Section 78 (1) and (2)	18
31	New section 78 (4)	18
32	Section 80 heading	19
33	New sections 80A and 80B	19
34	Section 81	20
35	New section 248B	21
36	New part 16	22
<b>Schedule 1</b>	<b>Consequential amendments</b>	<b>23</b>
<b>Part 1.1</b>	<b>ACTION Authority Act 2001</b>	<b>23</b>
<b>Part 1.2</b>	<b>Crimes Act 1900</b>	<b>23</b>
<b>Part 1.3</b>	<b>Emergencies Act 2004</b>	<b>24</b>

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---

Contents

<b>Part 1.4</b>	<b>Legislation Act 2001</b>	Page 24
<b>Part 1.5</b>	<b>Planning and Land Act 2002</b>	24



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THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Chief Minister)

## **Public Sector Management Amendment Bill 2005 (No 3)**

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### **A Bill for**

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:

1 **1 Name of Act**  
2 This Act is the *Public Sector Management Amendment*  
3 *Act 2005 (No 3)*.

4 **2 Commencement**  
5 This Act commences on a day fixed by the Minister by written  
6 notice.  
7 *Note 1* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).  
9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see Legislation  
11 Act, s 77 (1)).  
12 *Note 3* If a provision has not commenced within 6 months beginning on the  
13 notification day, it automatically commences on the first day after that  
14 period (see Legislation Act, s 79).

15 **3 Legislation amended**  
16 This Act amends the *Public Sector Management Act 1994*.  
17 *Note* This Act also amends other legislation (see sch 1).

18 **4 Definitions for Act**  
19 **Section 3, definition of *relevant chief executive***  
20 *substitute*  
21 *relevant chief executive* means—  
22 (a) in relation to an administrative unit, including the officers and  
23 employees employed, or to be employed, in the administrative  
24 unit—the chief executive responsible for the administrative  
25 unit; or  
26 (b) in relation to a territory instrumentality, including the officers  
27 and employees employed, or to be employed, in the territory

- 1 instrumentality—the person who has the powers of a chief  
2 executive in relation to the staff; or
- 3 (c) in relation to a statutory office, including the officers and  
4 employees employed, or to be employed, to assist the statutory  
5 office-holder—the statutory office-holder, if the office-holder  
6 has the powers of a chief executive in relation to the staff; or
- 7 *Note* Certain statutory office-holders have all the powers of a chief  
8 executive of an administrative unit (see s 25).
- 9 (d) in relation to an unattached officer—the chief executive who  
10 has control of the administrative unit in which the officer last  
11 held an office.

## 12 **5 Sections 24 to 26**

13 *substitute*

### 14 **24 Powers of chief executive officers of certain territory** 15 **instrumentalities**

- 16 (1) This section applies if an Act provides (however expressed) that the  
17 staff, or particular staff, of a territory instrumentality (the  
18 ***instrumentality staff***) must be employed under this Act.
- 19 (2) The chief executive officer of the territory instrumentality has all the  
20 powers of a chief executive in relation to the instrumentality staff  
21 (including, for example, in relation to the appointment of people to,  
22 or the employment of people for, that staff).
- 23 *Note* An example is part of the Act, is not exhaustive and may extend, but  
24 does not limit, the meaning of the provision in which it appears (see  
25 Legislation Act, s 126 and s 132).
- 26 (3) Without limiting subsection (2), this Act applies in relation to the  
27 territory instrumentality as if—
- 28 (a) the instrumentality were an administrative unit; and

1 (b) the chief executive officer were the chief executive of that  
2 administrative unit; and

3 (c) all other necessary changes were made.

4 **25 Powers of certain statutory office-holders**

5 (1) This section applies if an Act provides (however expressed) that the  
6 staff, or particular staff, assisting a statutory office-holder (the *office*  
7 *staff*) must be employed under this Act.

8 (2) The statutory office-holder has all the powers of a chief executive in  
9 relation to the office staff (including, for example, in relation to the  
10 appointment of people to, or the employment of people for, that  
11 staff) if—

12 (a) the Chief Minister makes a declaration under subsection (4); or

13 (b) this Act or another territory law gives (however expressed) all  
14 the powers of a chief executive to the statutory office-holder.

15 **Examples for par (b)**

16 1 the clerk under section 54 (2)

17 2 the auditor-general under the *Auditor-General Act 1996*, section 23

18 3 the director of public prosecutions under the *Director of Public*  
19 *Prosecutions Act 1990*, section 30

20 4 the occupational health and safety commissioner under the  
21 *Occupational Health and Safety Act 1989*, section 34

22 *Note* An example is part of the Act, is not exhaustive and may extend,  
23 but does not limit, the meaning of the provision in which it  
24 appears (see Legislation Act, s 126 and s 132).

25 (3) Without limiting subsection (2), if, under that subsection, the  
26 statutory office-holder has all the powers of a chief executive in  
27 relation to the office staff, this Act applies in relation to the statutory  
28 office-holder and office staff as if—

29 (a) the statutory office-holder and the office staff were an  
30 administrative unit; and



- 1 (b) the statutory office-holder were the chief executive of that  
2 administrative unit; and
- 3 (c) all other necessary changes were made.
- 4 (4) The Chief Minister may, in writing, declare that the statutory office-  
5 holder has all the powers of a chief executive in relation to the office  
6 staff.
- 7 (5) A declaration under subsection (4)—
- 8 (a) is a notifiable instrument; and
- 9 (b) has effect subject to the Act under which the statutory office-  
10 holder holds office.

11 *Note* A notifiable instrument must be notified under the Legislation Act.

## 12 **26 Powers relating to certain Calvary Health Care staff**

- 13 (1) This section applies if an agreement is in force between the  
14 Territory and Calvary Health Care ACT Limited for staff at Calvary  
15 Health Care ACT Limited (Public Division) to be employed under  
16 this Act.
- 17 (2) The chief executive officer, Calvary has all the powers of a chief  
18 executive in relation to the people employed in Calvary public  
19 health care (including, for example, in relation to the appointment of  
20 people to, or the employment of people for, Calvary public health  
21 care).
- 22 *Note* An example is part of the Act, is not exhaustive and may extend, but  
23 does not limit, the meaning of the provision in which it appears (see  
24 Legislation Act, s 126 and s 132).
- 25 (3) Without limiting subsection (2), this Act applies in relation to  
26 Calvary public health care as if—
- 27 (a) Calvary public health care were an administrative unit; and
- 28 (b) the chief executive officer, Calvary were the chief executive of  
29 that administrative unit; and

1 (c) all other necessary changes were made.

2 (4) In this section:

3 ***Calvary public health care*** means the branch of the service that  
4 provides services required to enable Calvary Care ACT Limited  
5 (Public Division) to exercise its public functions.

6 ***chief executive officer, Calvary*** means the person engaged to  
7 exercise the functions of the position of chief executive officer  
8 (however described) of Calvary Health Care ACT Limited (Public  
9 Division) under the rules of Calvary Health Care ACT Limited.

10 **6 Section 28 heading**

11 *substitute*

12 **28 Chief executives—engagement**

13 **7 Section 28 (5) to (7)**

14 *omit*

15 **8 New section 28AA**

16 *after section 28, insert*

17 **28AA Chief executives—contract variation**

18 (1) A contract under section 28 may be varied at any time by a written  
19 agreement between the parties.

20 *Note* If a person engaged by a contract under s 28 is transferred or assigned  
21 under s 33A, the person's contract is taken to be varied by the transfer  
22 or assignment (see s 33A (4)).

23 (2) However, a variation of a contract under section 28 that would do  
24 either or both of the following is void:

25 (a) extend the period of employment under the contract—

- 1 (i) to longer than 5 years, unless the contract as varied  
2 requires the person employed to be on leave for the  
3 period of employment that exceeds 5 years; or
- 4 (ii) to longer than 5 years and 3 months, whether or not the  
5 contract as varied requires the person employed to be on  
6 leave for the period of employment that exceeds 5 years;
- 7 (b) increase the rate at which remuneration or an allowance is  
8 payable to the person employed otherwise than in accordance  
9 with the management standards.
- 10 (3) This section, and section 28 as amended by the *Public Sector*  
11 *Management Amendment Act 2005 (No 2)*, section 7, apply in  
12 relation to a contract under section 28 whether the contract was  
13 entered into before or after the day this section commences.
- 14 (4) Subsection (3) and this subsection expire 1 year after the day this  
15 section commences.

## 16 **9 New section 28D**

17 *insert*

### 18 **28D Notice or payment if chief executive not re-engaged**

- 19 (1) This section applies in relation to a person engaged by a contract  
20 under section 28 (Chief executives—engagement) if the Chief  
21 Minister does not intend to re-engage the person under that section  
22 to exercise the functions of the same office of chief executive or  
23 another office of chief executive.
- 24 (2) However, to remove any doubt, this section does not apply if the  
25 contract is terminated before the end of the period of employment  
26 specified in the contract.

27 *Note* For the termination of a contract under s 28, see s 28A (Early  
28 termination of contract).

- 1 (3) At least 3 months before the day the contract ends, the Chief  
2 Minister may give the person written notice that the person will not  
3 be re-engaged.
- 4 (4) An amount equal to  $\frac{1}{4}$  of the person's final annual salary is payable  
5 to the person by the Territory if, when the person's contract ends—
- 6 (a) the Chief Minister has not given a notice under subsection (3);  
7 and
- 8 (b) the person has not accepted another position in the public  
9 sector; and
- 10 (c) the person is not entitled to a redundancy payment (however  
11 described) for not being re-engaged.
- 12 *Note* Section 248B provides that the Territory or a territory instrumentality  
13 must not, within 3 months after the day the contract ends, and without  
14 the commissioner's written consent, employ a person who has received,  
15 or is entitled to, an amount mentioned in this subsection.
- 16 (5) The amount must be paid within 3 months after the day the contract  
17 ends.
- 18 (6) In this section:
- 19 ***final annual salary***, for a person engaged by a contract under  
20 section 28, means the person's annual remuneration under the  
21 contract as at the day the contract ends, but does not include cash  
22 payments (for example, cash payments instead of employer-  
23 provided benefits).
- 24 *Note* An example is part of the Act, is not exhaustive and may extend, but  
25 does not limit, the meaning of the provision in which it appears (see  
26 Legislation Act, s 126 and s 132).
- 27 (7) This section applies in relation to a contract—
- 28 (a) whether the contract was entered into before or after the day  
29 this section commences (the ***commencement day***); but

1 (b) only if the contract ends later than 3 months after the  
2 commencement day.

3 (8) Subsection (7) and this subsection expire 1 year after the  
4 commencement day.

5 **10 Section 29**

6 *substitute*

7 **29 Chief executives—responsibilities**

8 (1) This section applies to a person exercising the functions of an office  
9 of chief executive.

10 (2) For each administrative unit under the person's control, the  
11 person—

12 (a) is responsible, under the relevant Minister, for the unit's  
13 administration and business; and

14 (b) must advise that Minister on all matters relating to the unit; and

15 (c) must have regard to the interests of the government and the  
16 service as a whole.

17 (3) The Chief Minister may assign a chief executive to special duties on  
18 behalf of the Territory.

19 **11 Section 30 heading**

20 *substitute*

21 **30 Chief executives—temporary contracts**

22 **12 Section 30 (4)**

23 *substitute*

24 (4) The period mentioned in subsection (3) (b) must not be longer than  
25 2 years.

1 **13 Section 30 (10) to (12)**

2 *omit*

3 **14 New section 30A**

4 *insert*

5 **30A Chief executives—variation of temporary contracts**

6 (1) A contract under section 30 may be varied at any time by a written  
7 agreement between the parties.

8 (2) However, a variation of a contract under section 30 that extends the  
9 period of employment under the contract to longer than 2 years is  
10 void.

11 (3) This section, and section 30 as amended by the *Public Sector*  
12 *Management Amendment Act 2005 (No 2)*, section 13, apply in  
13 relation to a contract under section 30 whether the contract was  
14 entered into before or after the day this section commences.

15 (4) Subsection (3) and this subsection expire 1 year after the day this  
16 section commences.

17 **15 Negotiation and execution of contracts**  
18 **Section 31 (1)**

19 *substitute*

20 (1) The following contracts and contract variations must be signed for  
21 the Territory by the Chief Minister:

22 (a) a contract under section 28 (Chief executives—engagement) or  
23 section 30 (Chief executives—temporary contracts);

24 (b) a variation of a contract under section 28AA (Chief  
25 executives—contract variation) or section 30A (Chief  
26 executives—variation of temporary contracts).

- 
- 1 **16 Section 32 heading**
- 2 *substitute*
- 3 **32 Chief executive engagements not affected by defects etc**
- 4 **17 New sections 33A and 33B**
- 5 *insert*
- 6 **33A Chief executives—transfer or assignment**
- 7 (1) The Chief Minister may, in writing, for a person engaged by a  
8 contract under section 28 (Chief executives—engagement)—
- 9 (a) transfer the person from the office of chief executive under the  
10 contract to—
- 11 (i) another office of chief executive; or
- 12 (ii) any other office (including an executive office) in an  
13 administrative unit; or
- 14 (b) assign the person to exercise other stated functions in the  
15 public sector.
- 16 (2) The Chief Minister may transfer or assign the person only if the  
17 Chief Minister has—
- 18 (a) given the person an opportunity to state the person’s views  
19 about the transfer or assignment; and
- 20 (b) considered the person’s views (if any).
- 21 (3) A transfer under subsection (1) (a) (i) may be made only to an office  
22 that has the same classification as, or a lower classification than, the  
23 office from which the person was transferred.
- 24 (4) The transfer or assignment is taken to be a variation of the contract.

- 1 (5) The transfer or assignment of a person under this section does not  
2 affect—
- 3 (a) the rate at which remuneration or an allowance is payable to  
4 the person under the contract; or
- 5 (b) the period of the person’s employment under the contract; or
- 6 (c) the right to terminate the person’s employment if the contract  
7 provides for termination under section 28A (Early termination  
8 of contract).
- 9 (6) If a person engaged by a contract under section 28 is transferred to  
10 an office, or assigned to exercise stated functions, under this section,  
11 the person must exercise the functions of the office or exercise the  
12 stated functions.
- 13 (7) This section applies in relation to a person engaged by a contract  
14 under section 28 whether the contract was entered into before or  
15 after the day this section commences.
- 16 (8) Subsection (7) and this subsection expire 1 year after the day this  
17 section commences.

18 **33B Chief executive transfers or assignments under s 33A not**  
19 **affected by defects etc**

- 20 (1) A transfer, or anything done in relation to a transfer, is not invalid  
21 only because of a defect or irregularity in relation to the transfer.
- 22 (2) In this section:
- 23 *transfer* means a transfer or assignment of a person under  
24 section 33A.



- 1 **18 Section 34**
- 2 *substitute*
- 3 **34 Notification of chief executive's engagement etc**
- 4 The Chief Minister must notify in the gazette each of the following
- 5 within 28 days after the day each happens:
- 6 (a) the making of a contract under section 28 (Chief executives—
- 7 engagement);
- 8 (b) the termination of a contract made under that section;
- 9 (c) the end of a period of engagement by a contract under that
- 10 section;
- 11 (d) the transfer or assignment of a person under section 33A (Chief
- 12 executives—transfer or assignment).
- 13 **19 Application of merit principle**
- 14 **New section 65 (1) (ba)**
- 15 *insert*
- 16 (ba) an engagement by a contract under section 30 (Chief
- 17 executives—temporary contracts) or section 76 (Executives—
- 18 temporary contracts), if the period of engagement is 9 months
- 19 or more; or
- 20 **20 Section 65 (1)**
- 21 *renumber paragraphs when Act next republished under Legislation*
- 22 *Act*
- 23 **21 Section 72 heading**
- 24 *substitute*
- 25 **72 Executives—engagement**

1 **22 Section 72 (5) to (7)**

2 *omit*

3 **23 New section 72A**

4 *insert*

5 **72A Executives—contract variation**

6 (1) A contract under section 72 may be varied at any time by a written  
7 agreement between the parties.

8 *Note* If a person engaged by a contract under s 72 is transferred or assigned  
9 under s 80A, the person's contract is taken to be varied by the transfer  
10 or assignment (see s 80A (3)).

11 (2) However, a variation of a contract under section 72 that would do  
12 either or both of the following is void:

13 (a) extend the period of employment under the contract—

14 (i) to longer than 5 years, unless the contract as varied  
15 requires the person employed to be on leave for the  
16 period of employment that exceeds 5 years; or

17 (ii) to longer than 5 years and 3 months, whether or not the  
18 contract as varied requires the person employed to be on  
19 leave for the period of employment that exceeds 5 years;

20 (b) increase the rate at which remuneration or an allowance is  
21 payable to the person employed otherwise than in accordance  
22 with the management standards.

23 (3) This section, and section 72 as amended by the *Public Sector*  
24 *Management Amendment Act 2005 (No 2)*, section 22, apply in  
25 relation to a contract under section 72 whether the contract was  
26 entered into before or after the day this section commences.

27 (4) Subsection (3) and this subsection expire 1 year after the day this  
28 section commences.

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**24** **New section 75A**

*insert*

**75A** **Notice or payment if executive not re-engaged**

(1) This section applies in relation to a person engaged by a contract under section 72 (Executives—engagement) if the relevant chief executive for the person does not intend to re-engage the person under that section.

(2) However, to remove any doubt, this section does not apply if the contract is terminated before the end of the period of employment specified in the contract.

*Note* For the termination of a contract under s 72, see s 73 (Early termination of contract).

(3) Three months or more before the day the contract ends, the relevant chief executive may give the person written notice that the person will not be re-engaged.

(4) An amount equal to  $\frac{1}{4}$  of the person's final annual salary is payable to the person by the Territory if, when the person's contract ends—

(a) the relevant chief executive has not given a notice under subsection (3); and

(b) the person has not accepted another position in the public sector; and

(c) the person is not entitled to a redundancy payment (however described) for not being re-engaged.

*Note* Section 248B provides that the Territory or a territory instrumentality must not, within 3 months after the day the contract ends, and without the commissioner's written consent, employ a person who has received, or is entitled to, an amount mentioned in this subsection.

(5) The amount must be paid within 3 months after the day the contract ends.

- 1           (6) In this section:
- 2                 *final annual salary*, for a person engaged by a contract under
- 3                 section 72, means the person's annual remuneration under the
- 4                 contract as at the day the contract ends, but does not include cash
- 5                 payments (for example, cash payments instead of employer-
- 6                 provided benefits).
- 7                 *Note*     An example is part of the Act, is not exhaustive and may extend, but
- 8                 does not limit, the meaning of the provision in which it appears (see
- 9                 Legislation Act, s 126 and s 132).
- 10           (7) This section applies in relation to a contract—
- 11                 (a) whether the contract was entered into before or after the day
- 12                 this section commences (the *commencement day*); but
- 13                 (b) only if the contract ends later than 3 months after the
- 14                 commencement day.
- 15           (8) Subsection (7) and this subsection expire 1 year after the
- 16                 commencement day.

17   **25           Section 76 heading**

18                 *substitute*

19   **76           Executives—temporary contracts**

20   **26           Section 76 (4)**

21                 *substitute*

- 22           (4) The period mentioned in subsection (3) (b) must not be longer than
- 23                 2 years.

24   **27           Section 76 (10) to (12)**

25                 *omit*

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**28** **New section 76A***insert***76A** **Executives—variation of temporary contracts**

- (1) A contract under section 76 may be varied at any time by a written agreement between the parties.
- (2) However, a variation of a contract under section 76 that extends the period of employment under the contract to longer than 2 years is void.
- (3) This section, and section 76 as amended by the *Public Sector Management Amendment Act 2005 (No 2)*, section 27, apply in relation to a contract under section 76 whether the contract was entered into before or after the day this section commences.
- (4) Subsection (3) and this subsection expire 1 year after the day this section commences.

**29** **Section 77***substitute***77** **Chief executive officer, Calvary**

- (1) A person may be engaged under section 72 (Executives—engagement) or section 76 (Executives—temporary contracts) to exercise the functions of the position of chief executive officer, Calvary only if Calvary Health Care ACT Limited has agreed to the engagement in writing.
- (2) A contract under section 72 or section 76 by which a person is engaged to exercise the functions of the position of chief executive officer, Calvary may be varied only if Calvary Health Care ACT Limited has agreed to the variation in writing.

- 1           (3) In this section:  
2                 *chief executive officer, Calvary*—see section 26 (4) (Powers  
3 relating to certain Calvary Health Care staff).

4   **30       Negotiation and execution of contracts**  
5   **Section 78 (1) and (2)**

- 6                 *substitute*
- 7           (1) The following contracts and contract variations must be signed for  
8 the Territory by the chief executive who is, or will become, the  
9 relevant chief executive of the person engaged:
- 10               (a) a contract under section 72 (Executives—engagement) or  
11 section 76 (Executives—temporary contracts);
- 12               (b) a variation of a contract under section 72A (Executives—  
13 contract variation) or section 76A (Executives—variation of  
14 temporary contracts).
- 15           (2) However, the following contracts and contract variations must be  
16 signed for the Territory by the administering chief executive:
- 17               (a) a contract under section 72 or section 76 to engage a person to  
18 exercise the functions of the position of chief executive officer,  
19 Calvary;
- 20               (b) a variation of a contract mentioned in paragraph (a) under  
21 section 72A or section 76A.

22   **31       New section 78 (4)**

- 23                 *insert*
- 24           (4) In this section:  
25                 *chief executive officer, Calvary*—see section 26 (4) (Powers  
26 relating to certain Calvary Health Care staff).

- 
- 1 **32 Section 80 heading**
- 2 *substitute*
- 3 **80 Executive engagements not affected by defects etc**
- 4 **33 New sections 80A and 80B**
- 5 *insert*
- 6 **80A Executives—transfer or assignment**
- 7 (1) The relevant chief executive may, in writing, for a person engaged
- 8 by a contract under section 72 (Executives—engagement)—
- 9 (a) transfer the person from the executive office under the contract
- 10 to another executive office that has the same classification; or
- 11 (b) assign the person to exercise other stated functions in the
- 12 public sector.
- 13 (2) The relevant chief executive may transfer or assign the person only
- 14 if the relevant chief executive has—
- 15 (a) if it is proposed to transfer the person to an executive office in
- 16 another administrative unit—consulted the chief executive of
- 17 the other administrative unit; and
- 18 (b) given the person an opportunity to state the person’s views
- 19 about the transfer or assignment; and
- 20 (c) considered the person’s views (if any).
- 21 (3) The transfer or assignment is taken to be a variation of the contract.
- 22 (4) The transfer or assignment of a person under this section does not
- 23 affect—
- 24 (a) the rate at which remuneration or an allowance is payable to
- 25 the person under the contract; or
- 26 (b) the period of the person’s employment under the contract; or

- 1 (c) the right to terminate the person's employment if the contract  
2 provides for termination under section 73 (Early termination of  
3 contract).
- 4 (5) If a person engaged by a contract under section 72 is transferred to  
5 another executive office, or assigned to exercise stated functions,  
6 under this section, the person must exercise the functions of the  
7 executive office or exercise the stated functions.
- 8 (6) This section applies in relation to a person engaged by a contract  
9 under section 72 whether the contract was entered into before or  
10 after the day this section commences.
- 11 (7) Subsection (6) and this subsection expire 1 year after the day this  
12 section commences.

13 **80B Executive transfers or assignments under s 80A not**  
14 **affected by defects etc**

- 15 (1) A transfer, or anything done in relation to a transfer, is not invalid  
16 only because of a defect or irregularity in relation to the transfer.
- 17 (2) In this section:
- 18 *transfer* means a transfer or assignment of a person under  
19 section 80A.

20 **34 Section 81**

21 *substitute*

22 **81 Notification of executive's engagement etc**

23 The administering chief executive must notify in the gazette each of  
24 the following within 28 days after the day each happens:

- 25 (a) the making of a contract under section 72 (Executives—  
26 engagement);
- 27 (b) the termination of a contract made under that section;



- 1 (c) the end of a period of engagement by a contract under that  
2 section;
- 3 (d) the transfer or assignment of a person under section 80A  
4 (Executives—transfer or assignment).

5 **35 New section 248B**

6 *insert*

7 **248B Engagement of certain former chief executives and**  
8 **executives prohibited**

- 9 (1) This section applies to a person if—
- 10 (a) the person was engaged by a contract under section 28 (Chief  
11 executives—engagement) and has received, or is entitled to, an  
12 amount mentioned in section 28D (4) (Notice or payment if  
13 chief executive not re-engaged) in relation to the contract; or
- 14 (b) the person was engaged by a contract under section 72  
15 (Executives—engagement) and has received, or is entitled to,  
16 an amount mentioned in section 75A (4) (Notice or payment if  
17 executive not re-engaged) in relation to the contract.
- 18 (2) The Territory or a territory instrumentality must not, without the  
19 commissioner's written consent, employ the person within the  
20 3-month period after the day the contract ends.

1 **36** **New part 16**

2 *insert*

3 **Part 16** **Transitional**

4 **274** **Application of certain amendments—Public Sector**  
5 **Management Amendment Act 2005 (No 2)**

6 (1) To remove any doubt, the *Public Sector Management Amendment*  
7 *Act 2005 (No 2)*, section 4 and section 5 apply in relation to the  
8 employment (including the appointment) of people in the service  
9 before the commencement of this section, and are taken for all  
10 purposes to have always applied.

11 (2) Without limiting subsection (1) and to remove any doubt, anything  
12 done in relation to the employment is taken to be valid if it would  
13 have been valid if the provisions mentioned in subsection (1) were  
14 in force when the thing was done.

15 **275** **Expiry of pt 16**

16 This part expires 1 year after the day it commences.

1 **Schedule 1**            **Consequential amendments**

2 (see s 3)

3 **Part 1.1**                    **ACTION Authority Act 2001**

4 **[1.1] Section 22 (3)**

5 *substitute*

6 (3) The authority's staff must be employed under the *Public Sector*  
7 *Management Act 1994*.

8 *Note*     The *Public Sector Management Act 1994*, s 24 provides that the chief  
9 executive officer of a territory instrumentality has all the powers of a  
10 chief executive under the Act in relation to the instrumentality staff to  
11 be employed under that Act (including, for example, in relation to the  
12 appointment of people to, or the employment of people for, that staff).  
13 Under that Act, s 3, def *chief executive officer*, the chief executive  
14 officer of an instrumentality is the person who has responsibility for  
15 managing its affairs.

16 **Part 1.2**                    **Crimes Act 1900**

17 **[1.2] Section 49A, definition of *senior officer*, example for**  
18 **paragraph (a) (ii)**

19 *omit*

20 section 28 (Engagement) or section 30 (Temporary performance of duties)

21 *substitute*

22 section 28 (Chief executives—engagement) or section 30 (Chief executives—  
23 temporary contracts)

1 **Part 1.3 Emergencies Act 2004**

2 **[1.3] Section 22 (1)**

3 *substitute*

4 (1) The authority's staff must be employed under the *Public Sector*  
5 *Management Act 1994*.

6 **[1.4] Section 22 (2), note**

7 *omit*

8 **Part 1.4 Legislation Act 2001**

9 **[1.5] Section 163 (1)**

10 *omit*

11 section 28 (Engagement) or section 30 (Temporary performance of  
12 duties)

13 *substitute*

14 section 28 (Chief executives—engagement) or section 30 (Chief  
15 executives—temporary contracts)

16 **Part 1.5 Planning and Land Act 2002**

17 **[1.6] Section 23**

18 *substitute*

19 **23 Authority staff**

20 The authority's staff must be employed under the *Public Sector*  
21 *Management Act 1994*.

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1	<b>[1.7]</b>	<b>Section 72</b>
2		<i>substitute</i>
3	<b>72</b>	<b>Land agency staff</b>
4		The land agency's staff must be employed under the <i>Public Sector</i>
5		<i>Management Act 1994</i> .
6	<i>Note</i>	The <i>Public Sector Management Act 1994</i> , s 24 provides that the chief
7		executive officer of a territory instrumentality has all the powers of a
8		chief executive under the Act in relation to the instrumentality staff to
9		be employed under that Act (including, for example, in relation to the
10		appointment of people to, or the employment of people for, that staff).
11		Under that Act, s 3, def <i>chief executive officer</i> , the chief executive
12		officer of an instrumentality is the person who has responsibility for
13		managing its affairs.

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## Endnotes

- 1 Presentation speech**  
Presentation speech made in the Legislative Assembly on 2005.
- 2 Notification**  
Notified under the Legislation Act on 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).