

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL 1995

EXPLANATORY MEMORANDUM

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Chief Minister

## *Public Sector Management (Amendment) Bill 1995*

### **Outline**

The *Public Sector Management Act 1994* ("the Act"), contains the primary employment provisions for ACT public sector employment. This amending Bill:

- introduces new employment arrangements for Chief Executives and Executives — instead of being permanent officers they will be employed under contract for terms of up to five years,
- changes the name of the ACT Government Service to the ACT Public Service, and
- abolishes the Senior Executive Service (SES) and provides for transitional arrangements,

In its current form, the Service is made up of Chief Executives, SES officers, other officers and employees. Almost all the terms and conditions of ACT Government officers and employees are found in the Act, the Public Sector Management Standards ("the Standards") and in awards and enterprise bargaining agreements

Under the new employment model provided for in the Bill, Chief Executives and Executives will be employed in the Service, but only while they remain parties to a written executive contract. Although their employment will still be subject to the PSM Act, the executive contracts will contain the key terms and conditions of employment, such as the period of employment (up to 5 years) and the grounds of termination

The written contracts authorised by the Bill will be performance-oriented, specifying the job the Chief Executive or Executive has been hired to do and the objectives he or she has agreed to achieve. Subject to the passage of the proposed Remuneration Tribunal Bill 1995, the remuneration of Executive Officers will be set by a Remuneration Tribunal, while some general terms and conditions, such as leave entitlements, will continue to be found in the Act and the Standards.

Under the transitional arrangements in the Bill, all existing Chief Executive and SES offices are declared vacant and the previous substantive occupants, now declared to be unattached officers, will be deemed to hold those same offices on a temporary basis (After a review of these vacant offices, new Executive offices will be created to replaced the old and persons employed to perform the duties of those offices) The Bill gives the Territory as employer the option of making an offer of employment to an existing Chief Executive or SES officer under the new arrangements, without competitive selection, provided the job is at a similar work-level to the officer's previous job Alternatively, the job may be advertised and a competitive selection conducted.

A number of existing redeployment and retirement provisions are preserved for officers directly affected by this Bill and are supplemented by special transitional provisions All existing retirement and redeployment provisions are repealed for the

future Any Chief Executives or Executives who are not employed under executive contracts will be offered retirement with special benefit under the existing provisions (existing sections 128 and 137). Any officer refusing such an offer will be redeployed to the highest available non-executive office that the officer is qualified to hold There will be no involuntary redundancies in the transition to the new arrangements

**Financial Implications**

This Bill has no significant financial implications The cost of remunerating Chief Executives and Executives will be met from existing appropriations.

## **Outline of Provisions**

### **Part I - PRELIMINARY**

**Clause 1** sets out the short title of the proposed Act.

**Clause 2** provides for the commencement of the Act. All provisions except section 1 commence on the day notified by the Minister in the Gazette.

**Clause 3** defines the Principal Act referred to in the Bill as *the Public Sector Management Act 1994*.

### **Interpretation**

### **Part II- AMENDMENTS TO THE PRINCIPAL ACT**

**Clause 4** is an interpretation section. This clause amends or repeals the definition of some terms in the Act and also inserts new definitions.

Key changes resulting from the amendments are

(a) removal of references to the SES

(b) new definitions for “administering Chief Executive” and “Executive”. The former term refers to the Chief Executive responsible, under the relevant Minister, for the administration of the Act. Under current administrative arrangements this is the Chief Executive of the Chief Minister’s Department.

(c) the inclusion of Chief Executives and Executives in terms referring to employees rather than to officers. This is because officers have permanent employment but employees do not.

### **ACT Public Service**

**Clause 5** amends section 12 of the Principal Act. Paragraph (a) changes the name of the Australian Capital Territory Government Service to the Australian Capital Territory Public Service. Paragraph (b) changes the description of the composition of the Service to reflect the new employment arrangements.

### **Calvary Hospital**

**Clause 6** amends section 26 of the Principal Act which deals with the powers under the Act of the Chief Executive Officer at Calvary Hospital. The change is to terminology only.

## **New Employment Provisions for Chief Executives**

**Clause 7** repeals and replaces section 28 of the Principal Act. Currently section 28 provides for the appointment of a person to the office of Chief Executive by the Chief Minister and for the Gazettal of such appointments. It also provides that the merit selection provisions of the Act do not apply to Chief Executive appointments.

Proposed section 28 provides that the Territory may employ a person to perform the duties of a Chief Executive office by written contract. The contract must specify a term of not more than 5 years. Subject to the Act, the contract governs the employment relationship.

Under the proposed section, the contract may be varied by agreement, but not to increase the remuneration payable. Notwithstanding the 5 year limit on employment, the agreement may also be varied to extend the term to 5 years and 2 months, but only if the Chief Executive will be on leave for the period going beyond 5 years. This is to allow Chief Executives to take accumulated leave at the end of their contract.

The present exception of Chief Executive appointments from the application of the merit principle found in section 65 of the Act is not repeated in the proposed section 28. Therefore, the merit principle in section 65 of the Principal Act will apply to the recruitment of Chief Executives under the new model, subject to proposed section 28B below.

Proposed section 28A is authority for the employment agreement to contain provisions dealing with early termination. (The principal grounds of early termination in the agreement will be misconduct, poor performance and changes to operational requirements). The new section also provides that no benefit is payable in respect of termination except as prescribed. This regulates the payment of benefits additional to existing entitlements and will not exclude any rights to legal action the employee might have, such as an action for wrongful dismissal.

Proposed subsections 28A(3) and (4) prohibit termination of the agreement on the ground of invalidity unless the relevant Commonwealth superannuation authorities (where applicable) have certified that the employee should be retired on that ground. This preserves the substance of the repealed sub-sections 125(3) and (4) and ensures that a Chief Executive who is a member of a Commonwealth superannuation scheme is not retired on invalidity grounds unless he or she is eligible for superannuation benefits on that basis.

Proposed section 28B has the effect that the competitive selection requirements of the merit principle in section 65 will not apply to prevent the employment of a Chief Executive under a second or subsequent contract of employment, where the Chief Minister certifies that this would be in the interests of the Service.

**Clause 8** repeals and replaces sections 30 -34 (inclusive). These sections deal with the transfer of Chief Executives, placement of unattached Chief Executives, acting Chief Executive appointments, the creation of part-time Chief Executive offices and dual appointment of Chief Executives.

Under clause 8, the following sections are to be substituted.

Proposed section 30 provides for the temporary filling of Chief Executive positions by employment contract in the absence of the Chief Executive or where the position is vacant. The mechanism is similar to the mechanism for the permanent filling of Chief Executive positions under new sections 28 and 28A, the key differences being

- the maximum period of employment is 6 months (extendable to 9 months)
- because the employment is short-term, the competitive selection requirements of merit principle in section 65 do not apply
- termination can occur at any time and for any reason
- no compensation is payable for early termination, as the whole basis of the employment is to cover a short-term vacancy

Proposed section 31 provides that the Chief Minister signs Chief Executive employment contracts on behalf of the Territory, having regard, if applicable, to the advice of the responsible Minister

Proposed section 32 prevents the engagement of a Chief Executive from being invalidated for non-compliance with technical requirements

Proposed section 33 permits a Chief Executive to be employed to hold more than one office. This preserves the substance of section 34 of the Act and is intended to retain flexibility for the Government of the day, for example, if it wished to establish one or more small administrative units.

Proposed section 34 requires the Chief Minister to notify the making and ending of all Chief Executive employment agreements in the Gazette. This is a means of ensuring public notification of the identity of senior public officials

### **Abolition of SES**

**Clause 9** repeals Division 6 of Part III of the Act, which provides for the constitution and role of the SES. There is no need for a distinct “Executive Service” under the model in this Bill

### **Creation of Executive Offices**

**Clause 10** repeals and replaces the heading to Division 1 of Part IV of the Act (“Creation and abolition of offices”). This amendment inserts a new Division “Creation and abolition of Executive offices” dealing with the Executives and renames the existing Division so that it deals only with creation and abolition of offices other than Chief Executive and Executive offices

Proposed section 54A permits the administering Chief Executive, on the recommendation of the relevant Chief Executive (ie the Chief Executive of the affected agency) to create or abolish an Executive office  
Proposed Division 1A is titled “Creation and abolition of offices other than offices of Chief Executives and Executive offices”. Proposed section 54B defines “office” to

mean an office other than an office of Chief Executive or an Executive office, with the effect that the new Division 1A will retain the current provisions of the Act, without the provisions dealing with the SES

**Clause 11** repeals section 57 of the Act. This section deals with SES classifications and is no longer required.

**Clause 12** inserts an interpretation section, section 59A, before section 60 of the Act. Section 60 is the first section in Division 2 of Part IV, which contains provisions about part-time offices. Proposed section 59A defines “an office” in Division 2 of Part IV to exclude an office of Chief Executive and Executive, thereby excluding these executive positions from provisions dealing with part-time offices. This is because all executive jobs will be full-time.

#### **Application of Merit Principle**

**Clause 13** amends section 65, which provides for the application of the merit principle. The effect of the amendments is to extend the merit principle to the employment of Chief Executives and Executives under proposed sections 28 and 72 respectively.

#### **Consequential Amendments**

**Clause 14** amends the heading to Division 3 of Part V to acknowledge that the Division applies only to the appointment of officers, thereby excluding Chief Executives and Executives. Clauses 14-19 make the necessary consequential amendments to sections within the Division.

**Clause 15** inserts proposed section 66A, which provides that the Division does not apply to the engagement of a Chief Executive or Executive.

**Clause 16** amends section 67, which is a general provision listing the forms of employment in the Service. As amended by the clause, section 67 will also acknowledge the employment of Chief Executives and Executives as a form of employment in the Service.

**Clause 17** amends section 68 of the Act. Section 68 deals with appointments to the Service generally. The existing subsection (1), which related to SES appointments, is omitted and replaced by a provision that appointments to the Service shall be made by the relevant Chief Executive.

**Clause 18** amends section 69, which deals with the classification of unattached officers, by deleting a reference to “the Commissioner”. The Commissioner for Public Administration dealt with appointment of unattached SES officers. There will be no “unattached” executives.

**Clause 19** amends section 70 of the Act, which deals with the probation of officers. The amendments in clause 16 mean that the employment of Executives and Chief Executives (who will not be officers) is not covered by this section. Therefore

references to the Commissioner for Public Administration that relate to the Commissioner's current role in managing the SES are removed. The probation requirement will otherwise continue to apply to the appointment of officers, without change.

### **New Employment Provisions for Executives**

**Clause 20** repeals and replaces Division 4 of Part V of the Act. The existing Division (sections 72- 82) deals with the notification of SES vacancies, appointment, transfer and promotion of SES officers, duties to be performed by SES officers and superannuation arrangements for those appointed for a fixed term to a SES office.

The proposed Division deals with the employment of Executives under the new arrangements.

Proposed section 72 provides that the Territory may employ a person to perform the duties of an Executive office by written contract.

Under the proposed section, the contract may be varied by agreement, but not to increase the remuneration payable. Notwithstanding the 5 year limit on employment, the agreement may also be varied to extend the term to 5 years and 2 months, but only if the Executive will be on leave for the period going beyond 5 years. This is to allow Executives to take accumulated leave at the end of their contract.

Proposed section 73 is authority for the employment agreement to contain provisions dealing with early termination (the principal grounds of early termination in the agreement will include misconduct, poor performance, and the job ceasing to exist following restructuring). The new section also provides that no benefit is payable in respect of termination except as prescribed. This regulates the payment of benefits additional to existing entitlements and will not exclude any rights to legal action the Executive might have, such as an action for wrongful dismissal.

Proposed subsections 73(3) and (4) prohibit termination of the agreement on the ground of invalidity unless the relevant Commonwealth superannuation authorities (where applicable) have certified that the Executive should be retired on that ground. This preserves the substance of sub-sections 125(3) and (4) which are to be repealed, and ensures that an Executive who is a member of a Commonwealth superannuation scheme is not retired on invalidity grounds unless he or she is eligible for superannuation benefits on that basis.

Proposed section 74 has the effect that the competitive selection requirements of the merit principle in section 65 do not apply to the re-engagement of an Executive for a second or subsequent term where the administering Chief Executive certifies that this would be in the interests of the Service.

Proposed section 75 provides for the temporary filling of Executive positions by employment contract in the absence of an Executive or where the position is vacant. The mechanism is similar to the mechanism for the permanent filling of Executive positions under new sections 72 and 73, the key differences being



- the maximum period of employment is 6 months (extendable to 9 months)
- because the employment is short-term, the competitive selection requirements of merit principle in section 65 do not apply
- termination can occur at any time and for any reason
- no compensation is payable for early termination, as the whole basis of the employment is to cover a short-term vacancy

Proposed section 76 provides that the administering Chief Executive shall not employ a person as an Executive to perform the duties of Chief Executive Officer, Calvary Hospital, unless the Hospital has agreed (See also the proposed sub-section 77(2) ) This preserves the right of veto Calvary currently has in the selection of its Chief Executive Officer under section 74 (to be repealed) This right of veto recognises that, although the CEO (and the staff of the Public Division of Calvary Hospital) are employed under the Act, Calvary is a private organisation.

Proposed section 77 provides that the relevant Chief Executive signs Executive employment contracts on behalf of the Territory, after consultation with the administering Chief Executive

Proposed section 78 means that employment to hold or act in an Executive office is not invalid because of any defect or irregularity in connection with the appointment

Proposed section 79 requires the administering Chief Executive to notify the making and ending of all agreements for the employment of Executives in the *Gazette* This ensures that the identity of senior public officials is known

#### **Further Consequential Amendments**

**Clause 21** amends the heading to Division 5 of Part V to exclude reference to Chief Executives and SES officers

**Clause 22** amends Division 5 of Part V This Division deals with promotion and transfers of officers other than Chief Executives and SES officers The clause inserts new section 82, an interpretation provision, into the Division. This has the effect of excluding Chief Executive and Executive offices from the Division.

**Clause 23** amends section 83. This section deals with transfers and promotions of officers The exclusion for SES offices is omitted as the new interpretation section at the head of the Division excludes a Chief Executive or Executive office

**Clause 24** makes a change in terminology to section 87 This section deals with review of non-appealable promotion decisions by the Merit Protection and Review Agency, but excludes Chief Executives and SES offices The amendment replaces the reference to SES officers with a reference to Executives

**Clause 25** amends section 88 This section deals with transfer or promotion on advice of Joint Selection Committees The exclusion for Chief Executive and SES

officers is omitted as the new interpretation section at the head of the Division excludes a Chief Executive or Executive office

**Clause 26** amends section 89. This section deals with transfer or promotion on advice of management-initiated Joint Selection Committees. An exclusion for Chief Executive and SES office is omitted as the new interpretation section at the head of the Division excludes a Chief Executive or Executive office.

**Clause 27** amends the heading to Part V, Division 6, which deals with temporary performance of duties. The amendment makes it clear that the Division does not apply to Chief Executives and Executives

**Clause 28** amends section 99, which deals with interpretation in relation to Division 6. The amendment substitutes a reference to an Executive office for a reference to an SES office in the definition of “office”.

**Clause 29** amends section 106. This section deals with the power to engage temporary employees. Chief Executives have power to engage temporary employees to perform duties for other than SES offices, while the Commissioner can employ a person temporarily in respect of SES offices

The amendment repeals the power to employ at SES levels and prohibits the employment of Executives under the section. In future, the temporary employment of Executives will be under proposed section 75.

**Clause 30** amends section 114. Among other things this section prohibits the engagement as employees of former officers within 12 months of retiring as unattached Chief Executives or SES officers under sections 128 or 137 respectively. The amendment amends the reference to these sections to acknowledge that the section will cease to have any operation after the commencement of this Bill (but see proposed section 248A in clause 58 below).

**Clause 31** amends section 115 of the Act, which deals with mobility, to change a reference to “Government Service” with “Public Service”

**Clause 32** amends section 116. This section deals with the preservation of leave entitlements and the recognition of prior service, for the purpose of leave and other benefits, of officers of the Australian Public Service who are appointed to Chief Executive or SES offices. The amendment changes the terminology used to refer to and reflect the provisions of this Bill

**Clause 33** amends section 117, which requires the consent of the Commissioner for Public Administration to reappoint certain categories of retired officers. The amendment amends the reference to sections 128 or 137 to acknowledge that the section will cease to have any operation after the commencement of this Bill (but see proposed section 248A in clause 58 below).

### **Right of Reappointment after Election Candidature for SES Officers**

**Clause 34** amends section 118 which deals with the reappointment of former officers who are unsuccessful election candidates. The clause replaces subsection 118(1) which gave the right of reappointment to SES officers who resign to stand for election. The right is retained for Executives engaged under proposed section 72, who will have the right to a new contract for the unexpired period of a contract which they terminated to stand for election. The clause also makes consequential amendments to the rest of the section.

### **Repeal of Retirement and Redeployment Provisions**

**Clause 35** repeals Divisions 1 and 2 of Part VI of the Act. Part VI deals with retirement and redeployment of officers, and Division 1 deals with the retirement and redeployment of Chief Executives. Division 2 deals with the retirement and redeployment of SES officers. Under the employment model provided for in this Bill, these matters will be dealt with through the application and variation of employment contracts.

**Clause 36** amends the heading of Part VI Division 3 to reflect the repeal of Divisions 1 and 2.

**Clause 37** amends the definition of officer in section 139, which is an interpretation provision for Part VI Division 3. The amendment repeals references to Chief Executives and SES officers that are no longer required. It does not change the effect of the section.

### **Entitlement to Payment for Long Service Leave on Cessation of Employment**

**Clause 38** amends section 148 of the Act, which contains interpretation and application provisions in respect of long service leave. The effect of the amendment is to treat the failure to re-engage a Chief Executive or an Executive for a further term of employment, against his or her wishes, as a compulsory termination of employment, as long as the job was no longer required. This entitles the Chief Executive or Executive to a pro-rata payment for long service leave if he or she has at least one year's service.

### **Consequential Amendments Concerning Disciplinary Appeal and Related Matters**

**Clause 39** removes from section 179 a reference to a Division proposed for repeal. Section 179 defines failure to fulfil an officer's duty for disciplinary purposes.

**Clause 40** repeals Division 2 of Part IX. This Part deals with discipline and Division 2 (sections 180- 184) makes provision for disciplinary action against Chief Executives. Misconduct will be dealt with in the employment contract as a ground for termination.

**Clause 41** amends the heading to Division 3 of Part IX in recognition that the Division will apply to officers and not to Chief Executives and Executives.

**Clause 42** repeals section 185, an interpretation section to Division 3 of Part IX, which makes provision for disciplinary action against officers. It is no longer necessary to exclude Chief Executives from this part as they will no longer be officers.

**Clause 43** amends section 186 of the Act, which deals with disciplinary action. The amendment will allow an employee as well as an officer to be an “authorised officer” to investigate a disciplinary matter, thereby allowing Executives (or Chief Executives) to continue to be eligible for this role.

**Clause 44** amends section 187 in a similar way to clause 43, so that Executives can continue to play an investigatory role in disciplinary matters.

**Clause 45** again makes similar changes to section 189, which deals with suspension of officers on disciplinary charges.

**Clause 46** makes similar changes to section 190, which deals with the removal or variation of the suspension of an officer.

**Clause 47** amends the heading to Part IX Division 5 to reflect that the provisions relating to disciplinary action against employees do not apply to Chief Executives or Executives, for whom misconduct would be a contractual matter.

**Clause 48** amends section 201 by changing a reference from “officer” to “person”. This is in consequence of the amendment made to section 186 by clause 43 above, to allow Executives to continue to be eligible to be authorised to investigate a disciplinary matter.

**Clause 49** amends the heading to Division 6 of Part IX. Division 6 deals with the procedural aspects of Boards of Inquiry into disciplinary charges against Chief Executives and with disciplinary appeal committees generally. The change to the heading reflects the repeal of provisions relating to Boards of Inquiry made in subsequent clauses. Under the new arrangements for the employment of Chief Executives, allegations of misconduct will be dealt with by the employment contract, rather than statutory provisions.

**Clause 50** amends section 203 of the principal Act to remove references to Boards of Inquiry in the interpretation section for this Division.

**Clause 51** amends section 206, which deals with furnishing documents to appellants and persons requesting a review of a disciplinary decision. The effect of the amendment is to remove all references to Boards of Inquiry.

**Clause 52** repeals sections 207 to 214 of the Act. All these provisions deal with the procedure of Boards of Inquiry.

**Clause 53** amends section 215, which deals with the recording of disciplinary action taken. The amendment omits references to sections repealed by this Bill.

**Clause 54** amends section 218, which deals with the employment consequences where an officer is imprisoned. The effect of the amendments is to remove reference to the Commissioner's role in relation to Chief Executives, as they will no longer be officers. Under the new arrangements proposed for Chief Executives, the impact of imprisonment on the Chief Executive's employment would be a contractual issue.

**Clause 55** amends section 219, which deals with disciplinary action against unattached officers, to remove references to a repealed division.

**Clause 56** amends section 223. The section contains definitions for Part XI, which deals with the investigation of grievances and the review of certain decisions affecting an officer or employee. The effect of the amendment is to exclude Chief Executives and Executives from the application of Part XI by amending the definition of "employee" and to make other changes consequential upon the new employment arrangements for Chief Executives and Executives. Under the new employment arrangements, Chief Executives and Executives will have access to an independent grievance officer by administrative arrangement.

**Clause 57** amends section 235 of the Act, which provides for the application of the *Merit Protection (Australian Government Employees) Act 1994* of the Commonwealth. The amendment clarifies the language of the section but does not change its intent.

#### **Re-engagement Where Special Benefit Paid**

**Clause 58** inserts proposed section 248A into the Act. This proposed section prohibits the re-employment of a former Chief Executive or Executive whose contract of employment had been terminated under arrangements that included the payment of a special benefit. The period during which the prohibition operates depends on the amount of special benefit received. For example, if a former Executive received a special benefit equivalent to three months' salary, the prohibition on re-engagement would last for three months.

#### **Management Standards**

**Clause 59** amends section 251 of the Act, which provides for the Commissioner for Public Administration to make management Standards prescribing various matters under the Act. The amendment to paragraph (2)(r) removes a redundant reference. The effect of new paragraph (2)(za) is to enable the Commissioner to make Standards with respect to the payment of accumulated recreation and long service leave entitlements to officers accepting an executive contract. These entitlements would usually be payable only on termination of employment. The purpose of this provision is to provide for the "cashing out" of accrued leave. As Executive contracts will be for periods of five years or less, it is undesirable that persons entering those contracts retain large leave credits.

### **PART III — TRANSITIONAL**

**Clause 60** provides for interpretation the expressions used in Part III have the same meaning as they do in the Act.

#### **Offices Declared Vacant and Consequential Arrangements During Transitional Period**

**Clause 61** provides that all existing Chief Executive and SES offices, together with offices listed in the schedule to the Bill, are declared vacant. The offices listed in the schedule are those which are managerial in nature and which, although they are not SES offices, are remunerated at a similar level. These offices are sometimes referred to as “SES equivalents”. Under the new arrangements that would be implemented under this Bill, all managerial positions that have a sufficient level of responsibility will be established as Executive offices.

Under sub-clause 61(3), an officer who held an office declared vacant by this Clause will be deemed to act in that office during the transitional period. Under sub-clause 61(4), a person who was acting in an office declared vacant by this Clause continues to act. Under sub-clause 61(5), a person who was performing special duties shall continue to do so until the Chief Minister directs otherwise.

#### **Capacity to Offer Employment Contract to Existing Officer**

**Clause 62** creates an exception from the competitive selection requirements of the merit principle in section 65. The effect of the exception is to allow the Territory to offer an existing Chief Executive, SES officer or employee performing the duties of an office, a contract of employment under provisions of this Bill without advertising the position or conducting job interviews. This is provided that the job being offered requires work at a similar level to the staff member’s previous work.

#### **Employment Conditions Preserved During Transition**

**Clause 63** preserves the conditions of employment of Chief Executives and SES officers whose offices are declared vacant under Clause 61. The Clause provides that these officers become unattached officers under current conditions of employment and that they continue to be employed in the Service on this basis until they cease to be an officer (either by entering into a new employment contract or by retiring) or are transferred to a non-Executive office.

Under sub-clause 63(2), a Chief Executive or SES officer to whom the Clause applies moves to the new terms and conditions applicable on entering into an employment contract under proposed Sections 28 or 72. Similarly, a Chief Executive or SES officer who moves to a (non-Executive) office then becomes, under sub-clause 63(3), subject to the terms and conditions applying to that office.

Under sub-clause 63(4), in either of the above cases, the officer retains all existing entitlements, such as accrued leave, notwithstanding that he or she is now the subject of a different set of terms and conditions.

### **Retirement and Redeployment of Existing Officers**

Under Clause 64, notwithstanding the repeal of Part VI Division 1 (which deals with retirement and redeployment) and subject to nominated exceptions, those provisions continue to apply to a Chief Executive whose office is declared vacant under Clause 63. The effect of this Clause is that retirement provisions, including provision for retirement with special benefit, continue to apply. In addition, a new redeployment provision (sub-clause 64(2)) is included in lieu of existing provision for redeployment, which will no longer be capable of operating. Under the new provision, if the services of a Chief Executive cannot be used in the Service and he or she refuses retirement with special benefit, he or she is appointed to the highest available non-executive office.

### **Regulations**

Clause 66 provides a power to make regulations to deal with any consequential matter arising from the amendments or to modify enactments or subordinate laws such as changing references to the ACT Government Service or the SES. The power to make these changes to other laws or subordinate laws expires on 1 July 1996. Under the *Subordinate Laws Act 1989*, regulations must be tabled in the Legislative Assembly and are disallowable.