



New South Wales

Public Sector Employment and Management Amendment (Extended Leave) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Public Sector Employment and Management Act 2002* (the **Principal Act**):

- (a) to provide for certain employees of the State to have the benefit of additional extended leave entitlements, and
- (b) to replace (and simplify) provisions regarding the recognition of former government service currently in the *Transferred Officers Extended Leave Act 1961* (which is repealed by the proposed Act).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Public Sector Employment and Management Act 2002* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the Acts and regulations set out in Schedule 2.

Clause 5 repeals the *Transferred Officers Extended Leave Act 1961* and the *Transferred Officers Extended Leave Regulation 1998*.

Schedule 1 Amendment of Public Sector Employment and Management Act 2002

Schedule 1 [4] omits and re-inserts Schedule 3 to the Principal Act and inserts proposed Schedule 3A.

The current Schedule 3 provides for the extended leave entitlements of officers and temporary employees of the Public Service. It also applies, by way of reference to the Schedule in other Acts and instruments, to certain other State employees.

Proposed Schedule 3 provides for certain State employees to have certain extended leave entitlements in addition to the entitlements provided for under current Schedule 3. A number of the existing provisions of Schedule 3 are also clarified.

Under proposed Schedule 3, a relevant State employee has the benefit of the following additional extended leave entitlements:

- (a) an entitlement to extended leave after service for, or in excess of, 7 years (currently the Principal Act provides for an entitlement to extended leave after service for 10 years),
- (b) an entitlement to take extended leave on double pay for a proportionately reduced period (currently the Principal Act provides for extended leave to be taken on full pay or half pay),
- (c) an entitlement to have a public holiday that occurs during a period of extended leave not treated as extended leave.

Proposed clause 2 of Schedule 3 provides for an entitlement to extended leave after service for, or in excess of, 7 years. The entitlement in respect of service between 7 years and 10 years is an amount of leave proportionate to the officer's or temporary employee's length of service (up to 10 years) calculated at the rate of 2 months on full pay for 10 years served.

Proposed clause 2 of Schedule 3 also provides for an entitlement to extended leave on full pay, half pay or double pay (the amount of the entitlement varying proportionately).

Extended leave taken is deducted from an officer's or temporary employee's extended leave entitlement under proposed clause 8 of Schedule 3. Proposed clause 8 (2) of Schedule 3 provides that if a public holiday occurs while an officer or temporary employee is taking extended leave, the amount of extended leave to be deducted is to be reduced by the length of the holiday (one day or half a day, as the case may be).

Proposed Schedule 3A contains the provisions included in the Principal Act to replace and simplify the provisions of the *Transferred Officers Extended Leave Act 1961*. The object of this Schedule is to provide for the recognition of former government service in the calculation of the extended leave entitlement of an employee of a public sector service. The Schedule comprises 3 Parts. Part 1 contains certain preliminary provisions.

Part 2 contains the provisions that set out the basis on which former government service is recognised.

Proposed clause 6 of Schedule 3A sets out the conditions for former government service to be recognised service. Prior employment in a public sector service or a Commonwealth or interstate agency is recognised service for a public sector employee in his or her current employment if the person's current employment immediately follows the prior employment or if the person is entitled by law or administrative practice to have the service in the former agency form part of the service in the current agency. Proposed clause 6 also provides for the mechanism by which recognised service is recognised in a public sector employee's current extended leave entitlement by providing that the public sector employee's service with his or her current employer is taken to include his or her recognised service.

Proposed clause 7 of Schedule 3A provides for certain amounts of extended leave to be deducted from the extended leave entitlement of a public sector employee whose service with his or her current employer includes recognised service. The deduction is to adjust the person's entitlement in light of the inclusion of the recognised service. Proposed clauses 8 and 9 make further provision for this adjustment.

Proposed clause 8 of Schedule 3A provides that a public sector employee who ceases to be employed in a public sector agency and commences employment in another public sector agency may elect to be paid the money value of his or her accrued extended leave or to retain the entitlement to the accrued extended leave.

Proposed clause 9 of Schedule 3A provides that a public sector employee with recognised service from previous employment in a Commonwealth or interstate agency is deemed to have taken certain leave. The leave deemed to have been taken under the proposed clause is deducted under proposed clause 7 of Schedule 3A. The amount of the leave deemed to have been taken is calculated as if the leave was accrued in the employment of the employee's current employer. Calculating the leave in this manner has certain consequences, including ensuring that the employee cannot have a "negative" leave entitlement as a result of the deduction under proposed clause 7 of Schedule 3A in respect of the recognised service.

Part 3 contains provisions that provide for recognised service to include service with the Australian Defence Force and service in certain State statutory offices.

Schedule 1 [1] inserts a new definition, used in proposed Schedules 3 and 3A, in section 3 (1) of the Principal Act.

Schedule 1 [2] makes an amendment to section 94 of the Principal Act, being an amendment consequential on the amendments made by Schedule 1 [4] regarding the recognition of former service.

Schedule 1 [3] amends section 95 to insert a note in relation to an election an employee may make regarding annual leave under that section. The note inserted corresponds to a note included in relation to the corresponding election regarding extended leave (provided for by proposed clause 8 of Schedule 3A).

Schedule 1 [5] inserts a power to make savings and transitional regulations consequent on the enactment of the proposed Act.

Schedule 1 [6] inserts savings and transitional provisions consequent on the amendments made by Schedule 1 [1]–[4].

The savings and transitional provisions include a provision validating anything done or omitted to be done on or after 1 January 2005 (but before the commencement of Schedule 1 [4] to the proposed Act) in association with Schedule 3 to the Principal Act (as it would have been in force had the proposed Act then been in force).

The savings and transitional provisions also provide for how the amendments regarding additional extended leave entitlements apply to certain State employees and not to other State employees. The amendments made to provide the additional extended leave entitlements are to implement a Memorandum of Understanding made in settlement of proceedings in the Industrial Relations Commission of New South Wales, matters IRC 3817 of 2004 and IRC 4561 of 2004.

The Memorandum of Understanding does not apply to all persons to whom proposed Schedule 3 to the Principal Act applies. Schedule 3 applies to 2 categories of person. The first category is officers and temporary employees within the meaning of the Principal Act, being officers and temporary employees of the Public Service, to whom Schedule 3 applies under its own terms. The second category is persons to whom Schedule 3 applies by force of Acts (other than the Principal Act) or instruments that apply the provisions of Schedule 3 to the person by reference to Schedule 3.

Proposed clauses 16 and 17 in Schedule 4 to the Principal Act limit the effect of the amendments conferring the additional extended leave entitlements to the 2 categories of persons to whom the Memorandum of Understanding (or a corresponding agreement or determination) applies.

In respect of the first category of persons referred to in the previous paragraph, proposed clause 16 excludes the application of the additional extended leave entitlement amendments to the persons listed in the Table to the clause. The persons listed are persons to whom Schedule 3 applies by its own terms but to whom the Memorandum of Understanding, or a corresponding agreement or determination, does not apply.

In respect of the second category of persons, proposed clause 17 excludes the application of the additional extended leave entitlement amendments to persons to whom Schedule 3 applies by force of the Acts and instruments set out in the Table to the clause. The persons listed are persons to whom Schedule 3 applies by force of the Acts and instruments set out in the Table but to whom the Memorandum of Understanding, or a corresponding agreement or determination, does not apply.

Persons currently not entitled to the entitlements conferred under the Memorandum of Understanding may become entitled to corresponding entitlements as other industrial claims are settled. Proposed clauses 16 and 17 of Schedule 4 to the Principal Act provide for the Governor to, by proclamation, omit items from the list in the Table to the relevant clause as persons referred to in the item become entitled to extended leave entitlements that correspond to the entitlements of persons to whom the Memorandum of Understanding applies.

Schedule 2 Amendment of other Acts and regulations

Schedules 2.3–2.6 amend the *Police Regulation (Superannuation) Act 1906*, the *State Authorities Non-contributory Superannuation Act 1987*, the *State Authorities Superannuation Act 1987* and the *Superannuation Act 1916* so as to provide that, if extended leave is taken, remuneration in excess of leave on full pay is excluded from the relevant definition of salary in each Act. The amendments also provide a power to make savings and transitional regulations. The exclusion of the remuneration in excess of leave on full pay from the relevant definition of salary excludes, for example, double pay from inclusion in the calculation of superannuation benefits. This amendment is to avoid a person's salary, as included in the calculation of their superannuation benefits, being artificially inflated by the inclusion of double pay.

Schedules 2.2 and 2.7–2.9 make amendments consequential on the repeal of the *Transferred Officers Extended Leave Act 1961* and the replacement of that Act's provisions by proposed Schedule 3A to the Principal Act.

Schedule 2.1 makes an amendment consequential on the omission and re-insertion of Schedule 3 to the Principal Act.



New South Wales

Public Sector Employment and Management Amendment (Extended Leave) Bill 2005

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New South Wales

Public Sector Employment and Management Amendment (Extended Leave) Bill 2005

No. , 2005

A Bill for

An Act to amend the *Public Sector Employment and Management Act 2002* with respect to extended leave and other employment benefits; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Public Sector Employment and Management Act 2002 No 43	7 8
The <i>Public Sector Employment and Management Act 2002</i> is amended as set out in Schedule 1.	9 10
4 Amendment of other Acts and regulations	11
The Acts and regulations specified in Schedule 2 are amended as set out in that Schedule.	12 13
5 Repeals	14
(1) The <i>Transferred Officers Extended Leave Act 1961</i> is repealed.	15
(2) The <i>Transferred Officers Extended Leave Regulation 1998</i> is repealed.	16

Schedule 1	Amendment of Public Sector Employment and Management Act 2002	1
		2
	(Section 3)	3
[1] Section 3 Definitions		4
	Insert in alphabetical order in section 3 (1):	5
	<i>extended leave</i> includes leave in the nature of extended leave.	6
[2] Section 94		7
	Omit the section. Insert instead:	8
	94 Recognition of prior government service for purpose of calculating extended leave	9
	Schedule 3A has effect in relation to employees.	10
[3] Section 95 Annual leave		11
	Insert at the end of section 95 (1):	12
	Note. For example, such an election may not be made by an officer who merely moves between different Departments of the Public Service.	13
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		15
[4] Schedules 3 and 3A		16
	Omit Schedule 3. Insert instead:	17
Schedule 3	Extended leave entitlements for officers and temporary employees	18
		19
	(Section 55)	20
1 Definition of “service”		21
	(1) For the purposes of this Schedule, <i>service</i> includes:	22
	(a) in the case of an officer or temporary employee who has completed at least 10 years’ service—any period of leave without pay, not exceeding 6 months, taken after 13 December 1963, and	23
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	(b) service occurring before the commencement of this Schedule, including service of the kind referred to in paragraph (a).	27
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	Note. See also Schedule 3A as to the recognition of former service with certain Government agencies.	30
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- (2) Subject to clauses 2 (3) and 3 (3), for the purpose of determining whether or not an officer or temporary employee has completed at least 10 years' service, as referred to in subclause (1) (a), the officer's or temporary employee's period of service is taken:
- (a) to include any period of leave without pay taken before 13 December 1963, and
 - (b) to exclude any period of leave without pay taken after 13 December 1963.
- Note.** 13 December 1963 was the date of assent to the *Public Service and Other Statutory Bodies (Extended Leave) Amendment Act 1963*.
- 2 Leave entitlements generally**
- (1) After service for 7 years or more but not more than 10 years, an officer or temporary employee is entitled to extended leave, proportionate to his or her length of service, calculated at the rate of:
- (a) 2 months on full pay, or
 - (b) 4 months on half pay, or
 - (c) one month on double pay, for 10 years served.
- (2) After service for more than 10 years, an officer or temporary employee is entitled to extended leave under subclause (1) in respect of the first 10 years and additional extended leave, proportionate to his or her length of service, calculated at the rate of:
- (a) 5 months on full pay, or
 - (b) 10 months on half pay, or
 - (c) 2.5 months on double pay, for each 10 years served after the first 10 years.
- (3) For the purposes of this clause, *service* includes any period of leave without pay taken before 13 December 1963.
- 3 Entitlement to leave if employment terminated in special circumstances**
- (1) This clause applies to an officer or temporary employee with at least 5 years' service but less than 7 years' service whose services are terminated:
- (a) by the officer or temporary employee, for reasons of illness, incapacity or domestic or other pressing necessity, or

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- (b) by the Crown, the Governor or the appropriate Department Head, for reasons other than the officer's or temporary employee's serious and intentional misconduct. 1
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- (2) The officer or temporary employee is entitled to: 4
- (a) for 5 years' service, one month's leave on full pay, and 5
- (b) for further service in excess of 5 years, additional leave proportionate to the officer's or temporary employee's length of service (up to but not including 7 years), calculated at the rate of 3 months' leave for 15 years' service. 6
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- (3) For the purposes of this clause, *service* does not include any period of leave without pay, whether taken before, on or after 13 December 1963. 11
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- 4 Payment of accrued leave on termination of employment** 14
- (1) If an officer or temporary employee has acquired a right to extended leave and his or her services are terminated, the officer or temporary employee may not take the extended leave but is instead to be paid the money value of the extended leave. 15
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- (2) Any pension to which any such officer or temporary employee is entitled under the *Superannuation Act 1916* commences from and including the date on which the officer's or temporary employee's extended leave, if taken, would have commenced. 19
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- 5 Leave to be paid out to dependants in cases of death** 23
- (1) If an officer or temporary employee has acquired a right to extended leave and dies before starting it, or after starting it dies before completing it: 24
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- (a) the officer's or temporary employee's spouse, or 27
- (b) if there is no such spouse, the officer's or temporary employee's children, or 28
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- (c) if there is no such spouse or child, the person who, in the opinion of the appropriate Department Head, was, at the time of the officer's or temporary employee's death, a dependent relative of the officer or temporary employee, 30
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- is entitled to receive the money value of the extended leave not taken or not completed. 34
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- (2) If an officer or temporary employee with at least 5 years' service but less than 7 years' service dies: 36
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- (a) the officer's or temporary employee's spouse, or 38

(b)	if there is no such spouse, the officer's or temporary employee's children, or	1 2
(c)	if there is no such spouse or child, the person who, in the opinion of the appropriate Department Head, was, at the time of the officer's or temporary employee's death, a dependent relative of the officer or temporary employee,	3 4 5 6
	is entitled to receive the money value of the extended leave that would have accrued to the officer or temporary employee had his or her services terminated as referred to in clause 3 (1).	7 8 9
(3)	If there is a guardian of any child referred to in subclause (1) (b) or (2) (b), the payment to which the child is entitled may be made to the child's guardian for the child's maintenance, education and advancement.	10 11 12 13
(4)	If:	14
(a)	no person is entitled to receive a payment under subclause (1) or (2), or	15 16
(b)	it appears to the appropriate Department Head that more than one person is entitled as a spouse to a payment under subclause (1) or (2),	17 18 19
	the payment must instead be made to the officer's or temporary employee's personal representatives.	20 21
(5)	Any payment under this clause is in addition to any payment due under any Act under which superannuation benefits are paid.	22 23
(6)	In this clause, <i>spouse</i> of an officer or temporary employee includes a person with whom the officer or temporary employee had a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) at the time of his or her death.	24 25 26 27
6	Calculation of money value of extended leave	28
	For the purpose of calculating the amount of an entitlement under this Schedule, the money value of extended leave accrued or payable to a chief executive officer or senior executive officer is to be determined on the basis of the officer's notional salary within the meaning of section 95.	29 30 31 32 33
7	Certain periods to be disregarded	34
	Any period during which an officer or temporary employee is not employed, as referred to in clause 3 (2) of Schedule 3A, is to be disregarded for the purpose of calculating his or her extended leave entitlement.	35 36 37 38

8	Leave entitlement reduced by leave already taken or paid out	1
(1)	The following amounts of extended leave are to be deducted from an officer's or temporary employee's extended leave entitlement:	2
(a)	for each period of extended leave taken on full pay—the number of days (or parts of a day) so taken,	3
(b)	for each period of extended leave taken on half pay—half the number of days (or parts of a day) so taken,	4
(c)	for each period of extended leave taken on double pay—twice the number of days (or parts of a day) so taken,	5
(d)	for each period of extended leave in respect of which the officer or temporary employee has been paid the money value—the number of days of extended leave on full pay that is equivalent to the money paid.	6
(2)	If a public holiday occurs while an officer or temporary employee is taking extended leave, the amount of extended leave to be deducted is to be reduced by the length of the holiday (one day or half a day, as the case may be).	7
(3)	In subclause (2), <i>public holiday</i> means any special or public holiday for which the officer or temporary employee is entitled to payment.	8
9	Extended leave may be postponed for temporary employees	9
	If the period of extended leave to which a temporary employee is entitled under this Schedule exceeds the period for which the employee is employed under this Act, the balance of the period of extended leave may be taken during subsequent periods of employment in the Public Service, but only if each subsequent period of employment commences on the termination of a previous period of employment in the Public Service.	10
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Schedule 3A Recognition of prior government service for public sector employees extended leave entitlements

(Section 94)

Part 1 Preliminary

1 Definitions

In this Schedule:

Australian Defence Force includes the armed forces of the Commonwealth, however described.

Commonwealth or interstate agency means:

- (a) a body that:
 - (i) is established under an Act of the Commonwealth or another State or Territory, and
 - (ii) is under the control of a Minister of the Commonwealth or other State or Territory, and
 - (iii) is part of the public service (however described) of the Commonwealth or other State or Territory, and
 - (iv) is a body in which persons are employed under conditions substantially equivalent to the conditions under which officers are employed under this Act, or
- (b) a body that is declared to be a Commonwealth or interstate agency for the purposes of this Schedule pursuant to an order under clause 2,

but, subject to paragraph (b), does not include:

- (c) a local government authority, or
- (d) a university or the governing body of a university, or
- (e) a corporation owned by the Commonwealth or another State or Territory, or by the Crown in right of the Commonwealth or another State or Territory, or
- (f) a body that is declared not to be a Commonwealth or interstate agency for the purposes of this Schedule pursuant to an order under clause 2.

continuous is defined in clause 3.

immediately follows is defined in clause 4.

judicial officer has the meaning it has in the *Judicial Officers Act 1986*.

<i>public sector agency</i> has the same meaning as public sector service.	1 2
<i>public sector employee</i> means a person who is employed in a public sector agency.	3 4
<i>recognised service</i> , in relation to a public sector employee, means service that is recognised service in relation to the employee pursuant to Part 2.	5 6 7
2 Declarations concerning Commonwealth or interstate agencies	8
(1) The Director-General of the Premier’s Department may, by order in writing, declare that a specified body is, or is not, a Commonwealth or interstate agency for the purposes of this Schedule.	9 10 11 12
(2) An order under this clause:	13
(a) takes effect on such day as is specified in the order, being a day occurring before, on or after the day on which the order is made, and	14 15 16
(b) may be subject to specified limitations, but not so as to operate to the prejudice of any person who was a public sector employee immediately before the order took effect.	17 18 19
(3) There are to be made publicly available at the offices of the Premier’s Department:	20 21
(a) a list of the names of each body that is declared under this clause to be a Commonwealth or interstate agency, and	22 23
(b) a list of the names of each body that is declared under this clause not to be a Commonwealth or interstate agency.	24 25
3 Definition of “continuous”	26
(1) For the purposes of this Schedule, a person’s employment by an employer is <i>continuous</i> , in relation to a period, if the person remains employed by that employer for the whole of the period.	27 28 29
(2) The person is taken to remain employed by the employer for the whole of any period even if, during that period, the person ceases to be employed by the employer on the grounds of retrenchment or reduction of work but is re-employed by the employer within the next 12 months.	30 31 32 33 34
4 Definition of “immediately follows”	35
(1) For the purposes of this Schedule, a person’s period of employment <i>immediately follows</i> another period of employment if:	36 37 38

- (a) the later period commences: 1
 - (i) except as provided by subparagraph (ii), within 2 2 months after the end of the earlier period, or 3
 - (ii) if the earlier period comprises full-time war service 4 as a member of the Australian Defence Force, 5 within 12 months after the end of the earlier period, 6 and 7
- (b) the earlier period ends otherwise than by reason of the 8 person's dismissal for disciplinary reasons. 9
- (2) For the purposes of subclause (1) (a) (ii), *war service* means: 10
 - (a) service occurring during, or partly during, a period of war 11 in which the Australian Defence Force is engaged, or 12
 - (b) service of a kind declared by the regulations to be war 13 service for the purposes of this clause. 14

Part 2 Recognition of former government service 15 for public sector employees generally 16

5 Object of Part 17

The object of this Part is to provide for the recognition of former 18 government service in the calculation of a public sector 19 employee's extended leave entitlement, whether such an 20 entitlement arises: 21

- (a) under Schedule 3 (in the case of an officer or temporary 22 employee), or 23
- (b) under some other Act or law, such as an award or industrial 24 agreement (in any other case). 25

6 Recognition of former government service 26

- (1) For the purpose of calculating a public sector employee's 27 extended leave entitlement, the public sector employee's service 28 with his or her current employer is taken to include his or her 29 recognised service. 30
- (2) The person's employment in a public sector agency or a 31 Commonwealth or interstate agency (*the former agency*) is 32 *recognised service* in relation to the person's subsequent 33 employment in a public sector agency (*the current agency*) if: 34
 - (a) the period of employment in the former agency has been 35 continuous, and 36

-
- (b) either: 1
- (i) the person's employment in the current agency has immediately followed the person's employment in the former agency, or 2
 - (ii) the person is entitled, by law or administrative practice, to have the service in the former agency form part of the service in the current agency for the purpose of calculating the person's extended leave entitlement. 3
- (3) A period of recognised service may not be counted more than once for the purpose of calculating the person's extended leave entitlement. 4
- 7 Leave already taken, paid or deemed to have been taken excluded** 5
- (1) The following amounts of leave are to be deducted from a public sector employee's extended leave entitlement: 6
- (a) the amount of any extended leave taken by the public sector employee in relation to recognised service, 7
 - (b) the amount of any extended leave in respect of which the public sector employee has elected to be paid the money value under clause 8 in respect of recognised service, 8
 - (c) the amount of any extended leave that the public sector employee is deemed to have taken under clause 9 in respect of recognised service. 9
- (2) For the purposes of subclause (1) (a), the public sector employee is deemed to have taken extended leave if he or she has been paid the money value of that leave. 10
- (3) A period of extended leave is not to be deducted more than once under this clause. 11
- 8 Public sector employee may elect to be paid money value of accrued leave if former employer a public sector agency (cf s 95)** 12
- (1) A public sector employee who ceases to be employed in a public sector agency (*the prior employment*) and immediately commences employment in another public sector agency (*the current employment*) may elect: 13
- (a) to be paid the money value of the public sector employee's accrued extended leave, or 14
 - (b) to retain the entitlement to that accrued extended leave. 15
- Note.** For example, such an election may not be made by an officer who merely moves between different Departments of the Public Service. 16

- (2) This clause does not apply to an officer or temporary employee who has been paid the money value of his or her accrued extended leave under clause 4 of Schedule 3. 1
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Note. Whichever election the public sector employee makes, his or her service with the current employer will, pursuant to clause 6, be deemed to include service with the former employer. 4
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- 9 Employee who has recognised interstate service and was entitled to take leave in former agency deemed to have taken leave** 7
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- (1) For the purposes of clause 7 (1) (c), a public sector employee: 9
- (a) whose employment in a public sector agency (*the current agency*) immediately follows employment in a Commonwealth or interstate agency (*the former agency*), or 10
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- (b) who is entitled, by law or administrative practice, to have the service in the former agency form part of the service in the current agency, 14
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- and who, at any time during his or her employment in the former agency, has been entitled under the relevant Commonwealth or interstate law to take extended leave or be paid the money value of extended leave is deemed to have taken the leave. 17
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- (2) The amount of extended leave that the public sector employee is deemed to have taken is calculated as if: 21
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- (a) leave had accrued in relation to his or her service in the former agency at the same rate as leave accrues in relation to his or her service in the current agency, and 23
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- (b) the service in the former agency in respect of which leave accrued was the whole of the service recognised by the former agency for the purpose of calculating his or her extended leave entitlement, and 26
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- (c) the amount of leave taken before the calculation of the entitlement was nil, and 30
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- (d) the money value of leave paid before the calculation of the entitlement was nil. 32
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Part 3	Additional provisions for former members of Australian Defence Force and for holders of certain statutory offices	1
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		3
10	Recognition of service with Australian Defence Force	4
	For the purposes of this Schedule:	5
	(a) a public sector employee who has previously been employed, on a full-time basis, as a member of the Australian Defence Force is taken to have been employed in a Commonwealth or interstate agency during the period for which he or she was so employed, and	6 7 8 9 10
	(b) the Australian Defence Force is taken to have been the public sector employee's employer during that period.	11 12
11	Recognition of service in certain statutory offices	13
	(1) For the purposes of this Schedule:	14
	(a) a person who:	15
	(i) in relation to a body referred to in the Table to this clause, holds or acts in an office specified in that Table, on a full-time basis, and	16 17 18
	(ii) has previously been a public sector employee, is taken to be employed in a public sector agency during the period for which the person holds or acts in that office, and	19 20 21 22
	(b) the body concerned is taken to be the person's employer during that period.	23 24
	(2) For the purposes of this Schedule:	25
	(a) a public sector employee who, in relation to a body referred to in the Table to this clause, has previously held or acted in an office specified in that Table, on a full-time basis, is taken to have been employed in a public sector agency during the period for which he or she held or acted in that office, and	26 27 28 29 30 31
	(b) the body concerned is taken to have been the public sector employee's employer during that period.	32 33
	(3) Without limiting any other law preserving rights to extended leave, a person who, in relation to a body referred to in the Table to this clause, holds an office specified in that Table, on a full-time basis, is entitled to have his or her recognised service as a public sector employee recognised as service for the purposes	34 35 36 37 38

of the law or arrangement that provides for his or her entitlement,
as the holder of the office, to extended leave. 1
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Table 3

Administrative Decisions Tribunal of New South Wales

Deputy President (not being a judicial officer)

Non-presidential judicial member (not being a judicial officer)

Non-judicial member

Assessor

Consumer, Trader and Tenancy Tribunal of New South Wales

Deputy Chairperson

Member

Government and Related Employees Appeal Tribunal

Senior Chairperson

Chairperson

Industrial Relations Commission of New South Wales

Member

Police Integrity Commission

Commissioner

Inspector

Transport Appeal Boards

Chairperson

Workers Compensation Commission of New South Wales

Deputy President (not being a judicial officer)

Registrar

Arbitrator

[5] Schedule 4 Savings, transitional and other provisions 4

Insert at the end of clause 1 (1): 5

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[6] Schedule 4, Part 3	1
Insert after clause 12:	2
Part 3 Provisions consequent on enactment of Public Sector Employment and Management Amendment (Extended Leave) Act 2005	3 4 5 6
13 Interpretation	7
(1) In this Part:	8
<i>the amending Act</i> means the <i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> .	9 10
<i>the repealed Act</i> means the <i>Transferred Officers Extended Leave Act 1961</i> .	11 12
(2) Without limiting section 68 (3) of the <i>Interpretation Act 1987</i> , a reference in this Part to an award or enterprise agreement extends to the award or enterprise agreement (if any) that is the replacement, for the time being, for the award or enterprise agreement.	13 14 15 16 17
14 Section 30 of the Interpretation Act 1987 unaffected	18
Nothing in this Part limits the effect of section 30 of the <i>Interpretation Act 1987</i> .	19 20
15 Validation of matters relating to extended leave	21
(1) Anything that was done or omitted during the validation period, and that would have been valid had the amending Act been in force during that period, is taken to have been validly done or omitted.	22 23 24 25
(2) In this clause, <i>validation period</i> means the period beginning on 1 January 2005 and ending on the commencement of Schedule 1 [4] to the amending Act.	26 27 28
16 Certain classes of persons to whom certain amendments do not apply	29 30
(1) In its application to the persons or classes of persons listed in the Table to this clause, Schedule 3, as substituted by the amending Act, applies with the following modifications:	31 32 33
(a) a reference in clause 2 (1) of Schedule 3 to “7 years or more but not more than 10 years” is to be read as a reference to “10 years”,	34 35 36

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- (b) a reference in clauses 3 (1) and (2) (b) and 5 (2) of Schedule 3 to “7” is to be read as a reference to “10”, 1
2
- (c) clauses 2 (1) (c) and (2) (c) and 8 (1) (c) and (2) of Schedule 3 do not have effect. 3
4
- (2) The Governor may, by proclamation, omit any of the items to the Table to this clause except for item 15. 5
6

Table

- 1 officers covered by the *Australian Music Examinations Board (New South Wales) Examiners, Assessors and Advisers Employed by the Office of the Board of Studies Award*, 7
- 2 officers covered by the *Crown Employees (Centennial Park and Moore Park Trust Building and Mechanical Services Staff 2001) Award*,
- 3 officers covered by the *Crown Employees (Education Employees Department of Corrective Services) Consent Award 2002*,
- 4 officers covered by the *Crown Employees (National Art School, Academic Staff) Salaries and Conditions Award 2004*,
- 5 officers covered by the *Crown Employees (Office of the Board of Studies—Education Officers) Salaries and Conditions Award*,
- 6 officers covered by the *Crown Employees (Public Service Training Wage) Award 2002*,
- 7 officers covered by the *Crown Employees (Royal Botanic Gardens, Building and Mechanical Trades Staff) Award 2000–2001*,
- 8 officers covered by the *Earthmoving Operators (Department of Land and Water Conservation) 2001 Award*,
- 9 officers covered by the *Forestry Commission of New South Wales (Trading as State Forests of New South Wales) Fieldwork (And Other) Staff Award*,
- 10 officers covered by the *Higher School Certificate and School Certificate Marking and Related Casual Employees Rates of Pay and Conditions Award*,
- 11 officers covered by the *NSW Adult Migrant English Service Crown Employees (Teachers and Related Employees) Award 2004*,
- 12 officers covered by the *Restaurants, &c., Employees (State) Award*,
- 13 officers covered by the *Shop Employees (State) Award*,

-
- 14 officers covered by the *Skilled Trades Staff—Department of Ageing, Disability and Home Care (State) Award 2001*,
- 15 any persons or class of persons prescribed by the regulations for the purposes of this clause.

17 Certain references to Schedule 3

- (1) In its application for the purposes of the Acts and instruments set out in the Table to this clause, Schedule 3, as substituted by the amending Act, applies with the following modifications unless the contrary intention appears:
- (a) a reference in clause 2 (1) of Schedule 3 to “7 years or more but not more than 10 years” is to be read as a reference to “10 years”,
- (b) a reference in clauses 3 (1) and (2) (b) and 5 (2) of Schedule 3 to “7” is to be read as a reference to “10”,
- (c) clauses 2 (1) (c) and (2) (c) and 8 (1) (c) and (2) of Schedule 3 do not have effect.
- (2) The Governor may, by proclamation, omit any of the items to the Table to this clause except for item 18.

Table

- 1 the *Technical and Further Education Commission Act 1990* but only to the extent to which that Act applies to persons covered by the *Crown Employees (Teachers in Schools and TAFE and Related Employees) Salaries and Conditions Award 2004*,
- 2 the *Bradfield College (Department of Education and Training) Salaries and Conditions Award*,
- 3 the *Canteen, &c. Workers (State) Award*,
- 4 the *Caterers Employees (State) Award*,
- 5 the *Clothing Trades (State) Award*,
- 6 the *Crown Employees (Institute Managers in TAFE) Salaries and Conditions Award*,
- 7 the *Crown Employees (Public Service Training Wage) Award 2002*,
- 8 the *Hairdressers’, &c. (State) Award*,
- 9 the *Lidcombe Castlereagh Waste Management Centre Enterprise Award—1997*,
- 10 the *Miscellaneous Workers’—Kindergartens and Child Care Centres, &c. (State) Award*,

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- 11 the *Miscellaneous Workers' Kindergartens and Child Care Centres (State) Training Wage Award*,
- 12 the *Motels, Accommodation and Resorts, &c. (State) Award*,
- 13 the *New South Wales TAFE Commission Teachers (TAFE Children's Centres) Salaries and Conditions Award*,
- 14 the *Restaurants, &c., Employees (State) Award*,
- 15 the *Shop Employees (State) Award*,
- 16 the *Waste Recycling and Processing Corporation (Salaries and Conditions of Employment 2002) Award*,
- 17 the *TAFE NSW Riverina Institute National Aerospace Training Centre of Excellence (NATCOE) Enterprise Agreement 2004–EA04/324*,
- 18 an Act or instrument prescribed by the regulations for the purposes of this clause.

Schedule 2	Amendment of other Acts and regulations	1
		2
	(Section 4)	3
2.1	Police Integrity Commission Regulation 2001	4
	Clause 5 Leave entitlements for non-Public Service staff of PIC and PIC Inspector	5
		6
	Omit “clause 1” from clause 5 (2) (a). Insert instead “clause 2”.	7
2.2	Police Regulation 2000	8
[1]	Clause 69 Entitlement to extended leave	9
	Omit “the <i>Transferred Officers Extended Leave Act 1961</i> ” from clause 69 (2) (d).	10
		11
	Insert instead “Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	12
		13
[2]	Clause 69 (3)	14
	Omit “section 3 (7) of the <i>Transferred Officers Extended Leave Act 1961</i> ”.	15
	Insert instead “clause 7 of Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	16
		17
2.3	Police Regulation (Superannuation) Act 1906 No 28	18
[1]	Section 1 Name of Act, commencement and definitions	19
	Insert after paragraph (a) (vii) of the definition of <i>salary of office</i> in section 1 (2):	20
		21
	or	22
	(viii) in respect of any period during which the member takes extended leave (or leave in the nature of extended leave) otherwise than on full pay, such part of the remuneration received by the member as exceeds the salary of office (within the meaning of this definition) that he or she would have received had he or she taken leave on full pay,	23
		24
		25
		26
		27
		28
		29

[2] Schedule 6 Savings and transitional provisions	1
Insert at the end of clause 1 (1):	2
<i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> (but only to the extent that it amends this Act)	3 4 5
2.4 State Authorities Non-contributory Superannuation Act 1987 No 212	6 7
[1] Section 4 Salary	8
Insert after section 4 (2) (e):	9
(e1) in respect of any period during which the employee takes extended leave (or leave in the nature of extended leave) otherwise than on full pay, such part of the remuneration received by the employee as exceeds the salary (within the meaning of subsection (1)) that he or she would have received had he or she taken leave on full pay,	10 11 12 13 14 15
[2] Schedule 5 Savings and transitional provisions	16
Insert at the end of clause 1 (1):	17
<i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> (but only to the extent that it amends this Act)	18 19 20
2.5 State Authorities Superannuation Act 1987 No 211	21
[1] Section 4 Salary	22
Insert after section 4 (2) (e):	23
(e1) in respect of any period during which the contributor takes extended leave (or leave in the nature of extended leave) otherwise than on full pay, such part of the remuneration received by the contributor as exceeds the salary (within the meaning of subsection (1)) that he or she would have received had he or she taken leave on full pay,	24 25 26 27 28 29
[2] Schedule 6 Savings and transitional provisions	30
Insert at the end of clause 1 (1):	31
<i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> (but only to the extent that it amends this Act)	32 33 34

2.6 Superannuation Act 1916 No 28	1
[1] Section 3A Salary	2
Insert after section 3A (2) (e):	3
(e1) in respect of any period during which the contributor takes extended leave (or leave in the nature of extended leave) otherwise than on full pay, such part of the remuneration received by the contributor as exceeds the salary (within the meaning of subsection (1)) that he or she would have received had he or she taken leave on full pay,	4 5 6 7 8 9
[2] Schedule 25 Savings and transitional provisions	10
Insert at the end of clause 1 (1):	11
<i>Public Sector Employment and Management Amendment (Extended Leave) Act 2005</i> (but only to the extent that it amends this Act)	12 13 14
2.7 Sydney Water Act 1994 No 88	15
[1] Section 96 Provisions relating to certain staff	16
Omit “the <i>Transferred Officers Extended Leave Act 1961</i> ” from section 96 (2).	17
Insert instead “Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	18 19
[2] Section 96 (3)	20
Omit “The <i>Transferred Officers Extended Leave Act 1961</i> ”.	21
Insert instead “Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	22 23
2.8 Teaching Service Act 1980 No 23	24
[1] Section 79 Leave of absence after years of service	25
Omit “the <i>Transferred Officers Extended Leave Act 1961</i> ” from section 79 (2) (c).	26 27
Insert instead “Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	28 29

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Schedule 2 Amendment of other Acts and regulations

[2] Section 79 (2)	1
Omit “section 3 (7) of the <i>Transferred Officers Extended Leave Act 1961</i> ”.	2
Insert instead “clause 7 of Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	3 4
2.9 Transport Administration Act 1988 No 109	5
[1] Schedule 5 Extended leave for staff of each Authority and the Independent Transport Safety and Reliability Regulator	6 7
Omit “the <i>Transferred Officers Extended Leave Act 1961</i> ” from clause 3 (2) (c) of Schedule 5.	8 9
Insert instead “Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	10 11
[2] Schedule 5, clause 3 (3)	12
Omit “section 3 (7) of the <i>Transferred Officers Extended Leave Act 1961</i> ”.	13
Insert instead “clause 7 of Schedule 3A to the <i>Public Sector Employment and Management Act 2002</i> ”.	14 15