

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*:

(a) to enable members of staff of a Special Employment Division of the Government Service to be appointed on merit to internally advertised vacant positions in a Department that is associated with the Special Employment Division, and

(b) to provide that the existing prohibition on bringing proceedings in relation to Public Service appointments does not prevent proceedings from being brought in relation to an appointment based on discrimination or victimisation grounds.

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 the date of assent to the proposed Act.

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Public Sector Employment and Management Amendment Bill 2010

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Schedule 1 Amendment of Public Sector Employment and Management Act 2002

Schedule 1 [1]–[3] will enable persons who are employed in a Special Employment Division of the Government Service to be eligible for appointment to a position in an associated Department in the case where that position has not been advertised. A Department is taken to be associated with a Special Employment Division if the Department Head is also the Division Head of the Special Employment Division. These Divisions are currently listed in Part 3 of Schedule 1 to the Act and generally comprise groups of staff who are not part of a Public Service Department but who are employed under Chapter 1A of the Act in connection with a statutory corporation that in most cases also has Public Service staff assigned to it. A member of staff of a Special Employment Division will not be eligible to be appointed on merit to a vacant Departmental position that has not been advertised if the member of staff is employed on a casual basis or is a short-term temporary employee.

Section 22 of the Act currently prevents any legal proceedings (other than promotion and disciplinary appeals under the *Industrial Relations Act 1996*) from being brought in relation to appointments to positions in the Public Service. **Schedule 1 [4]** provides that this prohibition on bringing proceedings does not prevent a public servant from bringing proceedings under Part 9 of the *Anti-Discrimination Act 1977* (which relates to discrimination complaints), or under the provisions of the *Industrial Relations Act 1996* relating to freedom from victimisation, in relation to the appointment of another public servant to a position in the Public Service. **Schedule 1 [6]** makes it clear that the proposed amendment only applies in relation to future appointments.

Schedule 1 [5] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.