



New South Wales

# Local Government Amendment (Employment Arrangements) Bill 2024

## Explanatory note

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

## Overview of Bill

The object of this Bill is to remove the special employment status of local government senior staff within the organisation structures of local government councils.

## 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.

## Schedule 1 Amendment of Local Government Act 1993 No 30

**Schedule 1** [5]–[7] and [12]–[21] make amendments to give effect to the object of the proposed Act. **Schedule 1** [1]–[4], [8]–[11], [22]–[39] and [41] make consequential amendments.

**Schedule 1** [40] contains savings, transitional and other provisions consequent on the enactment of the proposed Act. More specifically, the provisions deal with transitional matters relating to employment contracts of members of the senior staff of local government councils at the time the proposed Act commences.



New South Wales

# Local Government Amendment (Employment Arrangements) Bill 2024

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly*



New South Wales

## **Local Government Amendment (Employment Arrangements) Bill 2024**

No. \_\_\_\_\_, 2024

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### **A Bill for**

An Act to amend the *Local Government Act 1993* to make further provision regarding the staffing of councils; and for related purposes.

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*The LEGISLATIVE COUNCIL has this day agreed to this Bill with/without amendment.*

*Legislative Council*

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*Clerk of the Parliaments*

**Tabling copy**

**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

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This Act is the *Local Government Amendment (Employment Arrangements) Act 2024*.

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4

**2 Commencement**

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This Act commences as follows—

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(a) for Schedule 1[18]–[21] and [40]—on the date of assent to this Act,

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(b) otherwise—3 months after the date of assent to this Act.

8

<b>Schedule 1</b>	<b>Amendment of Local Government Act 1993 No 30</b>	1
<b>[1] Section 213 Facilitating provisions of proclamations</b>		2
Omit “senior staff” from section 213(1), note.		3
Insert instead “a general manager”.		4
<b>[2] Section 218C Facilitating provisions of proclamations</b>		5
Omit “senior staff” from section 218C(2), note.		6
Insert instead “a general manager”.		7
<b>[3] Section 218CA Maintenance of staff numbers in rural centres</b>		8
Omit “senior staff” from section 218CA(4), definition of <i>regular staff</i> .		9
Insert instead “the general manager”.		10
<b>[4] Section 223 Role of governing body</b>		11
Omit section 223(1)(j).		12
<b>[5] Section 332 Determination of structure</b>		13
Omit section 332(1). Insert instead—		14
(1) A council must, after consulting the general manager, determine the resources to be allocated towards the employment of staff.		15 16
<b>[6] Section 332(1A)</b>		17
Omit “(other than the senior staff positions)”.		18
<b>[7] Section 332(2) and (3)</b>		19
Omit the subsections.		20
<b>[8] Chapter 11, Part 2, heading</b>		21
Omit “and other senior staff”.		22
<b>[9] Section 334 Appointment of general manager</b>		23
Omit section 334(1) and (2). Insert instead—		24
(1) A council must appoint a person to be its general manager.		25
(2) The person must not be a body corporate.		26
<b>[10] Section 337 Council to be consulted as to appointment and dismissal of senior staff</b>		27
Omit the section.		28
<b>[11] Section 338, heading</b>		29
Omit “senior staff”. Insert instead “general managers”.		30
<b>[12] Section 338(1)</b>		31
Omit the subsection. Insert instead—		32
(1) The general manager of a council must be employed under a contract that is performance-based.		33 34

<b>[13] Section 338(4) and (5)</b>	1
Omit “or other senior staff” wherever occurring.	2
<b>[14] Section 338(7)</b>	3
Omit “or another member of the senior staff”.	4
<b>[15] Section 338(8)</b>	5
Omit “or another member of the senior staff of the council”.	6
<b>[16] Section 340 Industrial arbitration excluded</b>	7
Omit “or another senior staff member” wherever occurring in section 340(1).	8
<b>[17] Section 340(1)(a)</b>	9
Omit “or to another vacant senior staff position”.	10
<b>[18] Section 340(2)</b>	11
Omit “or another senior staff member”.	12
<b>[19] Section 340(3)</b>	13
Omit “or another vacant senior staff position”.	14
<b>[20] Section 340(4)</b>	15
Omit “senior staff members”. Insert instead “a general manager”.	16
<b>[21] Section 340(5)</b>	17
Omit “or to another senior staff position”.	18
<b>[22] Section 341</b>	19
Omit the section. Insert instead—	20
<b>341 Duty to report bankruptcy</b>	21
If a general manager becomes personally insolvent, the general manager must—	22
(a) immediately give notice of the personal insolvency to the council, and	23
(b) give the council, within the time specified by the council, further information concerning the cause of the personal insolvency.	24
<b>[23] Section 342 Appointment of the public officer</b>	25
Omit section 342(2).	26
<b>[24] Section 348 Advertising of staff positions</b>	27
Omit “senior staff member” from section 348(3)(a).	28
Insert instead “general manager”.	29
<b>[25] Section 351 Temporary appointments</b>	30
Omit “senior staff position” from section 351(1).	31
Insert instead “general manager position”.	32

<b>[26]</b>	<b>Section 354A, heading</b>	1
	Omit “senior staff”. Insert instead “general managers”.	2
<b>[27]</b>	<b>Section 354A(1)</b>	3
	Omit “or other senior staff member”.	4
<b>[28]</b>	<b>Section 354C No forced redundancy of affected staff members during proposal period</b>	5
	Omit “senior staff member”. Insert instead “general manager”.	6
<b>[29]</b>	<b>Section 354D Preservation of entitlements of staff members</b>	8
	Omit “senior staff member” from section 354D(1). Insert instead “general manager”.	9
<b>[30]</b>	<b>Section 354F, heading</b>	10
	Omit “non-senior”. Insert instead “transferred”.	11
<b>[31]</b>	<b>Section 354F</b>	12
	Omit “a senior staff member”. Insert instead “a general manager”.	13
<b>[32]</b>	<b>Section 354G, heading</b>	14
	Omit “non-senior”. Insert instead “transferred”.	15
<b>[33]</b>	<b>Section 354G(1)(a)(ii) and (b)(ii)</b>	16
	Omit “, other than a senior staff position” wherever occurring.	17
<b>[34]</b>	<b>Section 354G(1)(a)(iii) and (b)(iii)</b>	18
	Omit “(other than a senior staff member)” wherever occurring.	19
<b>[35]</b>	<b>Section 354H External advertising not required in certain circumstances</b>	20
	Omit “, other than a senior staff position” wherever occurring in section 354H(1)(a)(ii) and (b)(ii).	21
<b>[36]</b>	<b>Section 354H(1)(a)(iii) and (b)(iii)</b>	22
	Omit “(other than a senior staff member)” wherever occurring.	23
<b>[37]</b>	<b>Section 354I, heading</b>	24
	Omit “non-senior”. Insert instead “transferred”.	25
<b>[38]</b>	<b>Section 354I(1)</b>	26
	Omit “senior staff member”. Insert instead “general manager”.	27
<b>[39]</b>	<b>Schedule 6 Regulations</b>	28
	Omit the following from item 15, examples—	29
	The classification of positions as senior staff positions	30
	Contracts of employment for senior staff	31
<b>[40]</b>	<b>Schedule 8 Savings, transitional and other provisions consequent on the enactment of other Acts</b>	32
	Insert at the end of the schedule, with appropriate part and clause numbering—	33
		34
		35

<b>Part</b>	<b>Provisions consequent on enactment of Local Government Amendment (Employment Arrangements) Act 2024</b>	1
		2
		3
<b>Definition</b>		4
	In this part—	5
	<i>amending Act</i> means the <i>Local Government Amendment (Employment Arrangements) Act 2024</i> .	6
		7
<b>Existing employment contracts of senior staff</b>		8
(1)	An employment contract for a member of the senior staff of a council that was in force immediately before the commencement of the amending Act continues in force until it expires or is terminated.	9 10 11
(2)	For subclause (1)—	12
	(a) the provisions of this Act amended by the amending Act, other than section 340, as in force immediately before the commencement of the amendments, continue to apply to the employment contract and the member of the senior staff while the employment contract continues in force, and	13 14 15 16 17
	(b) to avoid doubt, no award, agreement, contract determination or order made or taken to have been made or continued in force under the <i>Industrial Relations Act 1996</i> , whether made before or after the commencement of this section, has effect in relation to the employment of the member of the senior staff while the employment contract continues in force, and	18 19 20 21 22 23
	(c) a member of the senior staff's employment contract is taken to be an industrial instrument for the <i>Industrial Relations Act 1996</i> , Chapter 2, Part 6.	24 25 26
(3)	However—	27
	(a) a member of the senior staff of a council employed under a standard form of contract approved by the Departmental Chief Executive under section 338(4) may request the council to transition the staff member to employment under an award or enterprise agreement before the expiry of the approved contract, and	28 29 30 31 32
	(b) the council may accept the request and transition the staff member's employment as requested, and	33 34
	(c) to avoid doubt, section 348(1) does not apply to a transition of employment referred to in paragraph (b), and	35 36
	(d) the council must not unreasonably refuse the staff member's request, and	37 38
	(e) the staff member may apply to the Industrial Relations Commission for a review of the council's refusal, and	39 40
	(f) if the Industrial Relations Commission, after a review, is of the opinion that the council's refusal is unreasonable—the Industrial Relations Commission may order the council to transition the staff member's employment to employment under an award or enterprise agreement on the terms and conditions specified in the order, within the time specified in the order.	41 42 43 44 45 46



- (4) Section 348 also does not apply to the transition of a person’s employment, under an award or enterprise agreement, to a position within the organisation structure of the council after the person’s employment contract as a member of the senior staff of the council, continued by subclause (1), has expired. 1  
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  - (5) The regulations may deal with the following— 5
    - (a) the review by the Industrial Relations Commission of a council’s refusal to accept a request to the council to transition the staff member to employment under an award or enterprise agreement, 6  
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8
    - (b) orders by the Industrial Relations Commission if the Industrial Relations Commission find the refusal was unreasonable. 9  
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  - (6) In this clause— 11
    - senior staff* has the same meaning it had immediately before the commencement of the amending Act. 12  
13
- [41] Dictionary** 14
- Omit the definition of *senior staff*. 15