

Public Sector Employment Legislation Amendment Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Industrial Relations Amendment Bill 2006*.

Overview of Bill

The principal object of this Bill is to change the basis on which certain public sector staff (including staff in the public health system) are employed. In particular, the Bill:

- (a) removes the employment functions of certain statutory corporations that currently employ their own staff (such as the RTA, STA and the TAFE Commission) and provides instead for the staff to be employed by the Government of New South Wales in the service of the Crown, and
- (b) creates the Government Service of New South Wales (which will also include the Public Service) to facilitate the employment of staff in the public sector, and
- (c) provides for the employment of staff in Divisions of the Government Service (which will include Public Service Departments whose staff will continue to be employed subject to Chapter 2 of the *Public Sector Employment and Management Act 2002 (the PSE&M Act)* as well as other Divisions in which staff will be employed to enable statutory corporations to exercise their functions), and
- (d) removes the employment functions of public health organisations (such as area health services) that currently employ staff in the public health system and the employment-related functions of the Health Administration Corporation, and provides instead for that staff to be employed in the NSW Health Service (as created by the *Health Services Act 1997*) by the Government of New South Wales in the service of the Crown, and
- (e) abolishes the Ambulance Service as a statutory corporation and provides instead for its functions to be exercised by the Director-General of the Department of Health and for its staff to be employed in the Ambulance Service of NSW as part of the NSW Health Service, and
- (f) makes a number of other miscellaneous and consequential amendments to the PSE&M Act, the *Health Services Act 1997*, the *Health Administration Act 1982* and a number of other Acts in connection with the employment of staff in the public sector and the public health system.

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 *Health Services Act 1997* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Health Administration Act 1982* set out in Schedule 3.

Clause 6 is a formal provision that gives effect the amendments to other Acts set out in Schedule 4 in relation to the employment of staff by or in connection with various statutory corporations.

Clause 7 is a formal provision that gives effect to the Schedule containing consequential amendments to certain Acts and instruments.

Clause 8 repeals the *Ambulance Services Act 1990*.

Schedule 1 Amendment of Public Sector

Employment and Management Act 2002

Schedule 1 creates the Government Service of New South Wales which will consist of persons employed under proposed Chapter 1A of the PSE&M Act by the Government of New South Wales. Staff are to be in the Divisions of the Government Service as set out in the new Schedule 1 to the PSE&M Act (including in Divisions to enable statutory corporations to exercise their functions). Some Divisions will continue to be specified as Departments of the Public Service (see Part 1 of the new Schedule), with the employment of staff in those Departments continuing to be subject to Chapter 2 of the PSE&M Act. Other Divisions (as set out in Parts 2 and 3 of the new Schedule 1 to the PSE&M Act) generally comprise the staff who are currently employed by various statutory corporations or who are employed in connection with Departments but are employed outside of the Public Service. Each Division will have a Division Head who exercises, on behalf of the Government, the employer functions of the Government in relation to the members of staff of the Division. Proposed Chapter 1A also contains a number of miscellaneous provisions relating to the employment of staff in the Government Service.

Schedule 1 also contains amendments to replace the Public Employment Office with a new office to be known as the Director of Public Employment who essentially has the same functions as the previous Office.

The remainder of Schedule 1 contains amendments to the PSE&M Act that are mainly consequential on the creation of the Government Service of New South Wales. Provision is made for the continuation of employment of existing staff of statutory corporations (including their existing terms and conditions of employment) and for other transitional arrangements.

Schedule 2 Amendment of Health Services Act 1997

Schedule 2 mainly removes the power of public health organisations (i.e. area health services, statutory health corporations and certain affiliated health organisations that are declared by the regulations) to employ staff and provides instead for the staff to be employed by the Government Service of New South Wales in the NSW Health Service (as referred to in Chapter 9 of the Act). The NSW Health Service will also consist of the staff currently employed by the Health Administration Corporation and the statutory corporation known as the Ambulance Service (the staff of the latter will comprise the Ambulance Service of NSW within the NSW Health Service). The Director-General of the Department of Health will exercise, on behalf of the Government, the employer functions of the Government in relation to the members of the NSW Health Service.

On the whole, the provisions under the Act relating to employment of staff in the public health system are not affected except to the extent that the staff will be no longer be employed by a public health organisation but will be employed by the Government in the NSW Health Service. The remainder of Schedule 2 contains amendments that are mainly consequential on the removal of employment functions of public health organisations and the transfer of existing staff to the NSW Health Service as well as amendments that are consequential on the abolition of the Ambulance Service as a statutory corporation.

Schedule 3 Amendment of Health Administration Act 1982

Schedule 3 contains amendments to the *Health Administration Act 1982* that are mainly consequential on the removal of the power of the Health Administration Corporation to employ staff and the creation of the modified NSW Health Service under the *Health Services Act 1997*.

Schedule 4 Amendments to other Acts relating to employment of staff

Schedule 4 amends a number of Acts to remove existing powers of statutory corporations to employ staff (and, in the case of those statutory corporations that do

not have direct employment powers, to expressly provide that they cannot employ staff). Staff to enable the affected statutory corporations to exercise their functions may be employed under proposed Chapter 1A of the PSE&M Act. In removing existing powers to employ (and in expressly preventing statutory corporations to employ), existing ancillary provisions, such as those relating to arranging for the use of services of other agencies, have also been removed in most cases. However, the removal of these ancillary provisions does not prevent a statutory corporation, under its general powers, from arranging for the use of the services or facilities of other agencies (e.g. by way of secondment of staff).

Schedule 5 Consequential amendment of other Acts and instruments

Schedule 5 amends a number of Acts and other instruments mainly as a consequence of the creation of the Government Service and the removal of employment powers under the other Schedules to the proposed Act. The *Independent Commission Against Corruption Act 1988* is also amended to provide for the employment of staff by the Commissioner for the ICAC. The staff of the ICAC will be employed in the service of the Crown and existing provisions relating to arrangements for other staff are retained.