

**GOVERNMENT SECTOR EMPLOYMENT LEGISLATION AMENDMENT BILL
2013**

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Bill introduced on motion by Mr Ray Williams, on behalf of Mr Barry O'Farrell, read a first time and printed.

Second Reading

Mr RAY WILLIAMS (Hawkesbury—Parliamentary Secretary) [3.53 p.m.]: I move:
That this bill be now read a second time.

During the passage of the Government Sector Employment Act 2013 in June 2013, the Government indicated that a second stage bill to align the police, transport and health senior executive services would be introduced later in 2013. The Government Sector Employment Legislation Amendment Bill 2013 achieves that alignment and enables those agencies to share the benefits of reforms designed to deliver more and better front-line services and public value to New South Wales taxpayers and citizens. Members will recall that in February last year the Public Service Commissioner recommended that the Public Sector Employment and Management Act be amended to modernise our public service. The commissioner built on related recommendations made in the "NSW Commission of Audit Interim Report: Public Sector Management", released in January 2012.

Members have heard the Premier say before that we demand extraordinary things from our public service. Whether in executive or non-executive capacity, or on the front line, people in our public service are engaged in protecting lives, educating our children and keeping our communities safe and developing the policy solutions to the most complex and challenging problems. This week that sentiment has been well and truly validated. We have seen extraordinary achievements and courage displayed by volunteers, citizens, businessmen and businesswomen and the public service facing a firewall in some cases hundreds of kilometres long in bushland, national parks and on the periphery of the metropolitan area and further north. Whether they be on the front line, online, on patrol, on a phone, giving radio reports and safety advice, or caring for families forced to flee their homes, public servants have been at the forefront of one of the most magnificent concentrations of human effort under pressure that we have ever seen in New South Wales. We owe those people the prospect of a modern, professional public service in which both executive and non-executive officers can do their best for our community with the confidence that their merit will be rewarded, their career opportunities maximised, and that their workplaces will be conducted and led with professionalism, high ethical standards and integrity.

Under the provisions of this bill, executive leadership in the three agencies will share in the benefits of better and more mobile career paths and, in the case of the health services, a continuing commitment to devolution and building executive capabilities at the local level. The Public Service Commissioner, the directors general of Health and Transport, and the Commissioner of Police, have all collaborated to develop this cross-sector legislation, and the Government thanks them for their assistance in putting these important final pieces in place.

This bill amends the Government Sector Employment Act 2013, the Health Services Act 1997, the Police Act 1990 and the Transport Administration Act 1988 to align the employment model for executives in the health executive service, the transport senior service,

and the police executive with the senior executive employment model in the Government Sector Employment Act 2013 applying to the Public Service Executive Service. More than 4,200 executive employees across the government sector will now be covered by the reforms. The bill recognises the unique operating environments of the health, police and transport services, and provides for variations to support special operational arrangements where required. The commissioner's Government Sector Employment Rules, which will facilitate mobility, model executive contracts and improved recruitment methods, will also generally apply to health, police, and transport senior executives.

The bill also provides for the Government Sector Employment Rules to apply differentially in limited circumstances for particular operational reasons, in consultation with the Public Service Commissioner. For example, the health secretary might need to give directions in relation to the management of a disease outbreak. The bill also makes consequential amendments to the Government Sector Employment Act to refine it and support this alignment. It makes changes to other Acts to ensure the Act can be commenced in early 2014, as intended and recommended by the Public Service Commissioner. Schedule 1 of the bill contains amendments to the Government Sector Employment Act 2013 to refine its operation. These include allowing the Public Service Commissioner to determine the kinds and value of "employment benefits" for public service senior executives that may form part of the total remuneration package.

This will not impact on the total amount of the remuneration package of a senior executive; amendments to strengthen the "portability" of the executive contracts within the public service and across the other services, without termination of a contract and compensation; or amendments to list Crown law officers expressly by title as excluded from part 6 of the Act, which deals with removal of statutory officeholders. While the Government Sector Employment Act did not change the position relating to the removal of Crown law officers, the amendment is made for abundant clarity as promised during debate on the Government Sector Employment Bill 2013. Amendments also strengthen the misconduct regime in relation to convictions for a serious offence. Conviction for a serious offence is to include where there is a finding of guilt with no conviction recorded and the scope will include offences committed outside New South Wales which, if committed in New South Wales, would be a serious offence within the defined meaning.

Schedule 2 to the bill amends the Health Services Act 1997 to align the provisions applying to NSW Health Service senior executives with those under the Government Sector Employee Act. It retains a separate health executive service under the Health Services Act 1997 in local health districts and specialty networks. The bill also introduces changes to further devolve responsibility and accountability and to return decision-making closer to the local level as far as practicable. Health entities will control and be responsible for their own Health executive workforce, including the deployment of that workforce locally. The chief executive of a local health district or specialty network will be the employer of Health executives. In the case of the chief executive, the employer function will be exercised by the local health district or specialty network board. The Health Secretary will be the employer of Health executives in other statewide Health agencies.

In the context of this devolution to local health districts and specialty networks, the bill also contains measures that recognise the Health Secretary's "system manager" role. In respect of local health districts or specialty networks, the Health Secretary's concurrence will be required for the appointment or termination of a chief executive, and he or she will retain a

"reserve power" to remove a Health executive. This section also outlines provisions to issue directions in relation to the employment arrangements of Health executives, and requires the Health Secretary to consult with the commissioner in relation to any inconsistency between the secretary's directions and the commissioner's rules. The bill will improve executive mobility by enabling transfer of executives between Health and each of the public service, transport and police services. It will provide that the remuneration must be within the relevant range determined under the Statutory and Other Officers Remuneration Act 1975, but also enables the Health Secretary to approve remuneration outside the approved range for executives working in Health where necessary—for example, in respect of executive roles requiring specialist clinical expertise.

I turn to provisions for police. The bill will amend the Government Sector Employee Act 2013 and Police Act 1990 to align employment arrangements for NSW Police Force senior executives and non-executive administrative employees with those of public service employees. The amendments to the Police Act are strongly supported by the police commissioner and the alignment will not affect the command and control of members of the NSW Police Force nor any aspect of operational policing. While the NSW Police Force is part of the wider public sector and clearly provides one of the most important public services, the force is a separate entity with separate powers of employment. It was originally anticipated that only senior executives within the NSW Police Force would need to be aligned with the new public service executive arrangements. Following consultation between the Public Service Commissioner and Commissioner of Police, it was agreed this should be expanded to non-executive administrative employees.

Part 5 of the Police Act, which deals with the employment of executives, and part 6A, which deals with employment of non-executive administrative employees, have historically been aligned with the provisions of the Public Sector Employment and Management Act. Without these amendments unsworn administrative employees of the Police Force would be left without employment provisions in the Public Sector Employment and Management Act that they currently rely on. This continues their alignment with non-executives in the public service. Importantly, however, members of the NSW Police Force will remain employed under the Police Act 1990 and the Commissioner of Police will remain the employer of all members. I wish to make it very clear that the provisions of the bill do not apply to sworn non-executive police officers such as superintendents and inspectors, sergeants and constables. These sworn non-executive police officers will continue to be appointed as before within part 6 of the Police Act 1990.

Minor amendments proposed to the Government Sector Employee Act will ensure that there is no unintended application of provisions to sworn officers. Employee representatives such as the Police Association will be offered briefings on these and other points of interest should they wish. The amendments to part 5 of the Police Act 1990 will align the police senior executive service with the employment model applying to public service senior executives in the Government Sector Employee Act. The executive employment model will apply to all sworn and unsworn members of the police senior executive service, including all sworn senior executives, deputy commissioner and assistant commissioner, and all unsworn senior officers. I confirm that sworn non-executive police officers such as superintendents and inspectors—that is, all sworn officers except for assistant commissioners and deputy commissioners—will not be covered by these provisions. Under the new model executives will be employed within a band and the Commissioner of Police will have the ability to assign the executive to any role within the NSW Police Force and within that band.

However, the special status of sworn Police Force executives is well recognised, and for this group the concept of a position is also retained. The commissioner will also be able to assign unsworn senior executives to another role within the same band in one of the other executive services, in consultation with the individual concerned and in agreement with the relevant agency head. These provisions will enable the flexible deployment of resources and develop the capabilities of executive employees. However, sworn police senior officers will not be subject to this assignment provision due to the nature of sworn police officer positions. Under the existing Police Act they may seek to transfer to a non-police officer role outside the police on a voluntary basis. It will be neither feasible nor appropriate to have public sector employees transferring into operational police officer positions, which require the exercise of the office of constable.

The Government Sector Employee Act misconduct provisions and unsatisfactory performance provisions will apply to unsworn executive and unsworn non-executive employees within the NSW Police Force. This will not affect the equivalent provisions under the Police Act 1990, which will continue to apply to sworn police officers to manage performance and conduct. If the Commissioner of Police is satisfied that a police officer has engaged in poor performance or misconduct, the commissioner will continue to be able to take appropriate action in respect of that officer, including non-reviewable action under schedule 1 to the Police Act, reviewable action under section 173 or removal under section 181D. Currently, unsworn non-executive administrative employees are employed under the Police Act 1990. These arrangements will now be aligned with the public sector non-executive provisions of the Government Sector Employee Act, with all industrial rights, obligations and entitlements reflected in the Police Act to ensure a consistent approach. There will be no reduction in leave entitlements, which remain in the police regulations.

Transitional instruments will ensure that existing entitlements are preserved. They will be employed in a classification of work and assigned to a role like other non-executive public servants. This alignment will modernise the NSW Police Force employment arrangements and provide this group of employees with the opportunity to broaden and diversify their skills. It should also be noted that current provisions within the Police Act that are deemed critical to the employment of staff within the NSW Police Force will be retained. The transport service was established in November 2011 and provides the framework for employment of Transport for NSW contract-based executive employees under the transport senior service. In setting up the new transport senior service, many features of the government sector employee reforms were already implemented. These included common remuneration bands, common terms and conditions of employment, modern contracts of employment, and capability and performance management frameworks.

The bill aligns the employment model for Transport Service of New South Wales senior executives with the provisions of the Government Sector Employment Act enabling the Transport Service to adapt the public service executive employment model to suit its particular service delivery and employment requirements. The bill updates the Transport Administration Act 1988 with new provisions to support this alignment. Schedule 5 to the bill also provides for the Director General of Transport to create divisions of staff within the Transport Service. This resolves an issue arising because the Government Sector Employment Act abolishes the government service in which the Roads and Maritime Services and State Transit Authority divisions currently sit, and allows Roads and Maritime Services and State Transit Authority staff to transfer into the Transport Service, rather than

under the Government Sector Employment Act. Their entitlements and conditions are not affected. New staff employed in those divisions will be employed on the same conditions of employment and under the same awards.

Schedule 5 to the bill includes a number of amendments to various Acts that are consequential to the new employment arrangements under the Government Sector Employment Act. For example, the bill updates references to public service agencies in various pieces of legislation, including the Independent Commission Against Corruption Act and the Government Information (Public Access) Act. The bill also revises the employment arrangements for a number of statutory officers whose employment is currently governed in part by provisions of the Public Sector Employment and Management Act that are being repealed by the Government Sector Employment Act. The bill also provides a number of amendments to ensure that the provisions for removal of statutory office holders under part 6 of the Government Sector Employment Act 2013 operate as intended. For example, the bill includes an amendment to the Workplace Injury Management and Workers Compensation Act 1998 to ensure that new part 6 of the Government Sector Employment Act 2013 does not apply in relation to the removal of the WorkCover independent review officers. This issue was raised in debate in the other place in June.

In conclusion, these reforms continue the Government's commitment to create a more professional executive service across the sector. The New South Wales Government is the biggest employer in the country and taxpayers expend more than \$60 billion a year on New South Wales public services. We owe it to taxpayers and citizens to ensure the service is the best it can be and that it offers to employees a world-class professional working environment where innovation and merit is rewarded in the service of the people of New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr John Robertson and set down as an order of the day for a future day.