



New South Wales

Government Sector Employment Legislation Amendment Bill 2016

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to align employment arrangements for senior executives in the NSW Health Service, the NSW Police Force and the Transport Service of NSW generally with the new employment arrangements for Public Service senior executives under the *Government Sector Employment Act 2013* (the **GSE Act**),
- (b) to align employment arrangements for employees of the NSW Police Force who are not police officers (ie administrative employees) generally with the new employment arrangements for non-executive employees of the Public Service under the GSE Act,
- (c) to amend the GSE Act to make further provision with respect to misconduct and other matters,
- (d) to make amendments of a minor or consequential nature to certain other legislation.

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 Government Sector Employment Act 2013 No 40

The *Government Sector Employment Act 2013* is amended as follows:

- (a) to enable Public Service, NSW Health Service, NSW Police Force or Transport Service senior executives whose employment has been terminated for making a public interest disclosure to be reinstated to their former roles (or to be re-employed in a government sector agency if reinstatement to the former role is impracticable),
- (b) to provide for the Secretary of the Treasury (or the Secretary's nominee) to be a member of the Public Service Commission Advisory Board,
- (c) to enable the transfer and assignment of Public Service senior executives to the NSW Health Service, the NSW Police Force (other than as police officers) or the Transport Service (noting that other amendments made by the proposed Act provide for the transfer of senior executives from those other services to the Public Service),
- (d) to clarify provisions relating to the termination of employment of Public Service senior executives and the payment of compensation for termination of employment,
- (e) to clarify provisions relating to the transfer or secondment of government sector employees between agencies and to other bodies,
- (f) to extend the misconduct provisions of the GSE Act to findings of guilt for offences in addition to convictions and to interstate offences,
- (g) to expressly exclude statutory Crown law officers from provisions of the GSE Act that enable the summary removal of those statutory officers from office,
- (h) to provide that the Public Service Commissioner or the Secretary of the Department of Premier and Cabinet may appoint persons to act on behalf of the Commissioner or the Secretary for the purposes of conducting inquiries into the administration or management of a government sector agency,
- (i) to make other amendments of a minor or consequential nature.

Schedule 2 Amendment of Health Services Act 1997 No 154

The *Health Services Act 1997* is amended as follows:

- (a) to align employment arrangements for senior executives in the NSW Health Service generally with the new employment arrangements for senior executives in the Public Service under the GSE Act,
- (b) to ensure that existing Health Service senior executives will be employed as senior executives under the new employment arrangements and will retain their existing remuneration packages and allowances,
- (c) to transfer employer functions for chief executives of local health districts and specialty network governed health corporations from the Secretary of the Ministry of Health to the board of those districts and specialty networks and transfer the employer functions for senior executives in those districts and specialty networks from that Secretary to the chief executives of those districts and specialty networks,
- (d) to enable the Secretary of the Ministry of Health to give directions to statutory health organisations, and to attach conditions to the payment of subsidies to such organisations, that relate to the employment of NSW Health Service senior executives,
- (e) to make other amendments of a minor or consequential nature.

Schedule 3 Amendment of Police Act 1990 No 47

The *Police Act 1990* is amended as follows:

- (a) to align employment arrangements for the Commissioner of Police and senior police and administrative executives in the NSW Police Force generally with the new employment arrangements for senior executives in the Public Service under the GSE Act,
- (b) to align employment arrangements for administrative employees of the NSW Police Force generally with the new employment arrangements for Public Service non-executive employees under the GSE Act,
- (c) to provide that existing police senior executives will be employed as NSW Police Force senior executives under the new employment arrangements and to include transitional arrangements for existing senior executives or senior managers who are administrative employees.

Schedule 4 Amendment of Transport Administration Act 1988 No 109

The *Transport Administration Act 1988* is amended as follows:

- (a) to provide for the following 3 classifications of employment in the Transport Service:
 - (i) Transport Service senior executives (who are Transport Service employees employed in a Public Service senior executive band),
 - (ii) Transport Service senior managers (who are Transport Service employees designated by the Transport Secretary and whose remuneration level is generally less than the level for Transport Service senior executives but higher than that for clerk (grade 12) in the Public Service),
 - (iii) Transport Service non-executive employees (who are Transport Service employees other than senior executives or senior managers),
- (b) to align employment arrangements for Transport Service senior executives generally with the new employment arrangements for senior executives in the Public Service under the GSE Act,
- (c) to continue the current employment arrangements for Transport Service senior managers and non-executive employees,
- (d) to include transitional arrangements for existing Transport Service employees.

Schedule 5 Amendment of other legislation

Schedule 5.1 amends the *Annual Reports (Departments) Act 1985* to provide that the annual report of a Public Service agency that is related to a Department under the GSE Act may be included in that Department's annual report.

Schedule 5.2 amends the *Constitution Act 1902*:

- (a) to make it clear that Parliamentary officers and staff may continue to be appointed and employed outside of the GSE Act, and
- (b) to provide that when a Public Service agency is abolished by an administrative arrangements order under Part 7 of the Act, the Public Service agency to which the parts of the abolished agency are transferred is taken to be the successor of the abolished agency.

Schedule 5.3 amends the *Government Sector Employment Regulation 2014* to provide that allowances for Public Service senior executives are subject to any determination by the Public Service Commissioner as to the circumstances in which such allowances may be paid and the amount of such allowances.

Schedule 5.4 amends the *Statutory and Other Offices Remuneration Act 1975* to enable the Statutory and Other Offices Remuneration Tribunal:

- (a) to determine remuneration packages for NSW Health Service senior executives, NSW Police Force senior executives (including the Commissioner of Police) and Transport Service senior executives in addition to existing arrangements relating to Public Service senior executives, and
- (b) to fix remuneration packages for particular executives or classes of executives, or for particular roles, offices or positions, that are higher than the remuneration range otherwise determined for the band in which the executives concerned are employed, and
- (c) to make a determination in relation to a particular role, office or position even though no person is assigned to the role, or holds the office or position, for the time being.

Schedule 5.5 amends the *Sydney Cricket and Sports Ground Act 1978*:

- (a) to authorise the Sydney Cricket and Sports Ground Trust to employ its own staff (including a chief executive officer) outside of the GSE Act, and
- (b) to enable the Trust to delegate its functions.

Schedule 5.6 amends the *Transport Administration (Staff) Regulation 2012* to remove a provision that currently enables the Transport Secretary to create groups of staff in the Transport Service (the same provision is to be inserted into the *Transport Administration Act 1988* by Schedule 4 to the proposed Act).