



New South Wales

# NSW Jobs First Bill 2020

## Explanatory note

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

## Overview of Bill

The object of this Bill is to—

- (a) promote investment in local industry and job creation by encouraging the use of locally manufactured materials and the use of local service providers, and
- (b) promote investment in education and training by requiring the use of local apprentices, trainees and cadets on major projects, and
- (c) establish the NSW Local Jobs Advocate to undertake a range of functions to promote local employment and training.

## Outline of provisions

### Part 1 Preliminary

**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.

**Clause 3** defines certain words and expressions used in the proposed Act.

### Part 2 NSW Jobs First Policy

**Clause 4** requires the Minister to develop and make available a NSW Jobs First Policy.

**Clause 5** sets out the objectives of the NSW Jobs First Policy and the principles that inform its development.

**Clause 6** requires New South Wales government agencies to comply with the NSW Jobs First Policy and that contracts entered into with suppliers of goods and services require suppliers to comply with the Policy.

### **Part 3 Procurement**

**Clause 7** provides for the regulations to set local content requirements and other matters, including requirements to maximise local jobs in New South Wales, for strategic projects and major projects.

**Clause 8** allows for the Minister to set local content requirements for significant projects.

**Clause 9** requires the procurement specifications for a significant project, a strategic project or a major project to include the weighting that is given to local benefit.

**Clause 10** requires a person tendering to a government agency for a contract for a significant project or a strategic project to submit a local industry development plan and, if awarded the contract, to comply with the plan.

**Clause 11** requires the use of local apprentices, trainees and cadets for at least 10% of the work hours on a major project. The proposed section also requires a person tendering to a government agency for a contract for a major project to submit a major projects skills development plan and, if awarded the contract, to comply with the plan.

**Clause 12** requires government agencies to report on their compliance with the NSW Jobs First Policy via the agency annual report and to provide that compliance information to the NSW Local Jobs Advocate.

### **Part 4 NSW Local Jobs Advocate**

**Clause 13** provides for the appointment of the NSW Local Jobs Advocate.

**Clause 14** sets out the functions of the NSW Local Jobs Advocate.

**Clause 15** provides that the NSW Local Jobs Advocate is subject to the direction and control of the Minister except in relation to the content of a report to Parliament.

**Clause 16** allows the NSW Local Jobs Advocate to delegate functions.

### **Part 5 Information and Enforcement**

**Clause 17** allows the NSW Local Jobs Advocate to require a government agency to provide information to the Advocate.

**Clause 18** allows for the NSW Local Jobs Advocate to request that a government agency conduct an audit of compliance with the NSW Jobs First Policy, a local industry development plan or a major projects skills development plan.

**Clause 19** allows the NSW Local Jobs Advocate to issue an information notice that requires a person to provide the Advocate with information relating to the operation of the NSW Jobs First Policy, a local industry development plan or a major projects skills development plan.

**Clause 20** allows the NSW Local Jobs Advocate to issue a compliance notice that requires a person to comply with an information notice, the NSW Jobs First Policy, a local industry development plan or a major projects skills development plan.

**Clause 21** provides for the ways that a person may object to the issue of a compliance notice.

**Clause 22** provides for the NSW Local Jobs Advocate to make a determination about a person's compliance with an information notice, the NSW Jobs First Policy, a local industry development plan or a major projects skills development plan and to recommend that the Minister issue an adverse publicity notice.

**Clause 23** provides for the Minister, following a recommendation from the NSW Local Jobs Advocate, and on being satisfied that a person has failed to comply with the NSW Jobs First Policy, a local industry development plan or a major projects skills development plan, to issue an adverse publicity notice by tabling the notice in Parliament.

## **Part 6 Miscellaneous**

**Clause 24** provides for the NSW Local Jobs Advocate to issue an annual report and lists a range of matters that must be included in the report.

**Clause 25** provides that the NSW Local Jobs Advocate or a person under the direction of the Advocate is not personally liable for actions in good faith.

**Clause 26** enables the Governor to make regulations for the purposes of the proposed Act.

## **Schedule 1 Provisions relating to Advocate**

**Schedule 1** contains provisions relating to the employment and remuneration of the NSW Local Jobs Advocate and to vacancy in and removal from office of the Advocate.

## **Schedule 2 Savings, transitional and other provisions**

**Schedule 2** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

## **Schedule 3 Amendment of Government Sector Employment Act 2013 No 40**

**Schedule 3** amends the *Government Sector Employment Act 2013* to create the Office of the NSW Local Jobs Advocate.



New South Wales

# NSW Jobs First Bill 2020

## Contents

---

	Page
<b>Part 1 Preliminary</b>	
1 Name of Act	2
2 Commencement	2
3 Definitions	2
<b>Part 2 NSW Jobs First Policy</b>	
4 NSW Jobs First Policy	4
5 Objectives and principles of NSW Jobs First Policy	4
6 Compliance with NSW Jobs First Policy	5
<b>Part 3 Procurement</b>	
7 Local content requirements for strategic and major projects	6
8 Local content requirements for significant projects	6
9 Local benefit from projects	6
10 Local industry development plans	6
11 Major projects skills development plan	7
12 Agency compliance report	7
<b>Part 4 NSW Local Jobs Advocate</b>	
13 Appointment of NSW Local Jobs Advocate	8
14 Functions of NSW Local Jobs Advocate	8

---

	Page
15 Ministerial control	8
16 Delegation	8
<b>Part 5 Information and Enforcement</b>	
17 Request for information	9
18 Audits	9
19 Power to require information from persons	9
20 Compliance notices	9
21 Responding to a compliance notice	10
22 Advocate may make determination	10
23 Adverse publicity notice	11
<b>Part 6 Miscellaneous</b>	
24 Annual Report	12
25 Personal liability	12
26 Regulations	12
<b>Schedule 1 Provisions relating to Advocate</b>	<b>13</b>
<b>Schedule 2 Savings, transitional and other provisions</b>	<b>15</b>
<b>Schedule 3 Amendment of Government Sector Employment Act 2013 No 40</b>	<b>16</b>



New South Wales

## NSW Jobs First Bill 2020

No. \_\_\_\_\_, 2020

---

### **A Bill for**

An Act to provide for the development and implementation of a NSW Jobs First Policy; to require government sector agencies to implement and comply with the NSW Jobs First Policy; to establish the office of the NSW Local Jobs Advocate and confer functions on that office; and for related purposes.

---

<b>The Legislature of New South Wales enacts—</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Name of Act</b>	3
This Act is the <i>NSW Jobs First Act 2020</i> .	4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Definitions</b>	7
(1) In this Act—	8
<i>adverse publicity notice</i> —see section 23.	9
<i>Advocate</i> means the NSW Local Jobs Advocate.	10
<i>compliance notice</i> —see section 20.	11
<i>government agency</i> means—	12
(a) a statutory body listed in Schedule 2 to the <i>Public Finance and Audit Act 1983</i> , and	13 14
(b) a Department listed in Schedule 3 to that Act.	15
<i>information notice</i> —see section 19.	16
<i>local benefit</i> includes—	17
(a) the creation or maintenance of jobs in New South Wales, particularly in rural and regional New South Wales, and	18 19
(b) the creation of apprenticeships and training opportunities in New South Wales, particularly in rural and regional New South Wales, and	20 21
(c) the support of jobs in New South Wales by the use of local supply chains.	22
<i>local content</i> means—	23
(a) goods that are produced by local industry, or	24
(b) services that are supplied by local industry, or	25
(c) construction activities carried out by local industry.	26
<i>local industry</i> means industry and other businesses based in Australia or New Zealand.	27 28
<i>local industry development plan</i> —see section 10.	29
<i>local workforce</i> means persons employed in local industry.	30
<i>major project</i> means—	31
(a) significant projects that are construction projects with a budget of \$20 million or more, and	32 33
(b) strategic projects that are construction projects.	34
<i>major projects skills development plan</i> —see section 11.	35
<i>NSW Jobs First Policy</i> —see section 4.	36
<i>rural and regional New South Wales</i> means areas outside the metropolitan area of Sydney.	37 38
<i>significant project</i> means—	39
(a) a project with a budget of \$1 million or more that is for the benefit of an area that is wholly in rural and regional New South Wales, or	40 41

(b)	a project with a budget of \$3 million or more that is for the benefit of an area that is outside, or includes an area that is outside, rural and regional New South Wales, or	1 2 3
(c)	any other project that is declared by the Minister to be a significant project.	4
	<b>strategic project</b> means—	5
(a)	a project with a budget of \$50 million or more, or	6
(b)	any other project declared by the Minister to be a strategic project.	7
	<b>Note.</b> The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	8 9
(2)	Notes included in this Act do not form part of this Act.	10

<b>Part 2</b>	<b>NSW Jobs First Policy</b>	1
<b>4</b>	<b>NSW Jobs First Policy</b>	2
(1)	The Minister is required to—	3
(a)	develop a policy known as the NSW Jobs First Policy, and	4
(b)	make the policy publicly available.	5
(2)	The NSW Jobs First Policy is to include strategies to—	6
(a)	increase employment in New South Wales, and	7
(b)	boost manufacturing in New South Wales by incentivising the use of locally manufactured materials, and	8 9
(c)	boost social and professional services industries in New South Wales by incentivising the use of local service providers, and	10 11
(d)	support education and training, including the training of apprentices and cadets, in New South Wales, and	12 13
(e)	quantify and measure the benefit of government procurement in local communities in New South Wales through the establishment of one or more local benefits tests.	14 15 16
<b>5</b>	<b>Objectives and principles of NSW Jobs First Policy</b>	17
(1)	In developing the NSW Jobs First Policy, the Minister is required to consider the following objectives—	18 19
(a)	promoting employment and investment in New South Wales by expanding market opportunities for local industry,	20 21
(b)	Aboriginal employment, including by incentivising procurement from businesses owned by First Nations people,	22 23
(c)	promoting partnerships between local industry and providers of education and training in order to encourage investment in developing the local workforce,	24 25
(d)	the promotion and security of reliable supply chains through local small and medium sized enterprises,	26 27
(e)	that economic and social benefits of government purchasing decisions should benefit local, regional and statewide communities by meeting the requirements of a local benefits test.	28 29 30
(2)	The NSW Jobs First Policy is to reflect the following principles—	31
(a)	tendering and contracting mechanisms should be open, clear and accountable,	32
(b)	purchasing decisions for significant projects and strategic projects are to take a long-term view of value and, in doing so, consider investment in, and promotion of, local industry and training opportunities,	33 34 35
(c)	value for money remains a consideration in purchasing and supply decisions.	36
(3)	The NSW Jobs First Policy is to incentivise procurement from businesses which can demonstrate their commitment to the following—	37 38
(a)	environmental sustainability and responsibility,	39
(b)	fair and responsible employment practices including—	40
(i)	appropriate industrial agreements,	41
(ii)	equal opportunity employment,	42
(iii)	gender equity,	43
(iv)	disability inclusion,	44

(c)	stable, ongoing and permanent employment in New South Wales,	1
(d)	innovation,	2
(e)	social responsibility,	3
(f)	the security and reliability of local supply chains.	4
(4)	The NSW Jobs First Policy is to be consistent with—	5
(a)	the <i>NSW Government Procurement Policy Framework</i> , or any policy framework, however described, replacing it and serving substantially the same purpose as in force from time to time, and	6 7 8
(b)	any obligations of the State under any convention, treaty or international agreements to which Australia is a party.	9 10
<b>6</b>	<b>Compliance with NSW Jobs First Policy</b>	11
(1)	A government agency must comply with the NSW Jobs First Policy.	12
(2)	A government agency that contracts with a person for the supply of goods or services must ensure that the contract requires the person supplying the goods or services to comply with the NSW Jobs First Policy.	13 14 15
(3)	The Minister may by written notice exempt a government agency from compliance with the NSW Jobs First Policy for a specified contract or project if satisfied that special circumstances justifying the exemption exist.	16 17 18
(4)	A government agency that is exempted from compliance with the NSW Jobs First Policy must disclose the exemption and the special circumstances justifying it—	19 20
(a)	to the Advocate within 1 month of the exemption being granted, and	21
(b)	in its annual report.	22

<b>Part 3 Procurement</b>	1
<b>7 Local content requirements for strategic and major projects</b>	2
(1) The regulations may prescribe the minimum local content requirement for a project.	3
(2) The minimum local content for a project may be expressed as a percentage of the total cost of the project or in some other way.	4 5
(3) The Minister may determine other matters relating to projects, including but not limited to the following—	6 7
(a) requirements to maximise the use of products produced by local industry,	8
(b) requirements to use a specified amount of products produced by local industry,	9
(c) requirements to maximise the use of uniform and personal protective equipment produced by local industry,	10 11
(d) requirements to maximise local jobs within New South Wales,	12
(e) any other requirements or conditions.	13
(4) In this section, <i>project</i> means a strategic project or a major project.	14
<b>8 Local content requirements for significant projects</b>	15
(1) The Minister may determine local content requirements for significant projects.	16
(2) The Minister may determine other matters relating to significant projects, including but not limited to requirements and conditions.	17 18
(3) In the event of an inconsistency between local content requirements applying to a project under this section and section 7, the requirements applying under section 7 prevail.	19 20 21
<b>9 Local benefit from projects</b>	22
(1) The procurement specifications for a project must include the weighting, as a percentage, that is to be given to local benefit in the assessment of tenders.	23 24
(2) In this section, <i>project</i> means—	25
(a) a significant project, or	26
(b) a strategic project, or	27
(c) a major project.	28
<b>10 Local industry development plans</b>	29
(1) A person tendering to a government agency for a contract for a significant project or a strategic project must submit a <i>local industry development plan</i> that complies with subsection (2)—	30 31 32
(a) to the government agency, and	33
(b) to the Advocate.	34
(2) A local industry development plan must—	35
(a) specify how the requirements of the NSW Jobs First Policy will be met, and	36
(b) identify total content and local content for the project, and	37
(c) specify the number of jobs the project will create in New South Wales, and	38
(d) include any other matter required to be included in the plan by the NSW Jobs First Policy.	39 40

(3)	A government agency must not accept a tender that does not include a local industry development plan.	1 2
(4)	If a person's tender is accepted, the person must comply with the local industry development plan.	3 4
<b>11</b>	<b>Major projects skills development plan</b>	5
(1)	A major projects must comply with the following requirements—	6
(a)	apprentices, trainees or cadets are to undertake a minimum of 10% of the total number of estimated hours of work on the project,	7 8
(b)	other requirements or conditions determined by the Minister.	9
(2)	A person tendering to a government agency for a contract for a major project must submit a <i>major projects skills development plan</i> that complies with subsection (3)—	10 11
(a)	to the government agency, and	12
(b)	to the Advocate.	13
(3)	A major projects skills development plan must—	14
(a)	identify how the project will comply with the requirements in subsection (1), and	15 16
(b)	be in the form required by the Advocate.	17
(4)	A government agency must not accept a tender for a major project that does not include a major projects skills development plan.	18 19
(5)	If a person's tender is accepted, the person must comply with the major projects skills development plan submitted with the tender.	20 21
<b>12</b>	<b>Agency compliance report</b>	22
(1)	Each government agency must include in its annual report information detailing its compliance with the NSW Jobs First Policy in the financial year to which the report relates.	23 24 25
(2)	Each government agency must provide the compliance information required by subsection (1) to be included in its annual report to the Advocate no later than 6 weeks after the end of the financial year to which the information relates.	26 27 28

<b>Part 4</b>	<b>NSW Local Jobs Advocate</b>	1
<b>13</b>	<b>Appointment of NSW Local Jobs Advocate</b>	2
(1)	The Governor may appoint a person as the NSW Local Jobs Advocate.	3
(2)	The Advocate has and may exercise the functions conferred or imposed on the Advocate by or under this or any other Act.	4 5
(3)	Schedule 1 contains provisions relating to the Advocate.	6
<b>14</b>	<b>Functions of NSW Local Jobs Advocate</b>	7
(1)	The Advocate has the following functions—	8
(a)	to advise the Minister on the development of the NSW Jobs First Policy,	9
(b)	to promote the NSW Jobs First Policy within government and local industry,	10
(c)	to advocate in favour of government agencies and the private sector procuring goods and services from local industry based in New South Wales,	11 12
(d)	to contribute to the ongoing development of government procurement policy and initiatives,	13 14
(e)	to advise the Minister on the development and evaluation of 1 or more local benefits tests to be applied through the NSW Jobs First Policy,	15 16
(f)	to work with government agencies to facilitate the access of local industry to government procurement opportunities,	17 18
(g)	to advise the Minister on opportunities for promoting job creating local industry,	19 20
(h)	to advise the Minister on impediments to, and opportunities for, attracting job creating businesses to New South Wales,	21 22
(i)	to work with local industry, employee organisations and the education and training sector to facilitate and strengthen collaboration between industry and the education and training sector to help build the future workforce,	23 24 25
(j)	to monitor and report to Parliament on compliance with the NSW Jobs First Policy including exemptions granted by the Minister from compliance with the NSW Jobs First Policy,	26 27 28
(k)	any other functions prescribed by the regulations for the purposes of this section.	29 30
(2)	The Advocate has the further functions that are conferred or imposed on the Advocate by or under this or any other Act.	31 32
<b>15</b>	<b>Ministerial control</b>	33
	The Advocate is subject to the direction and control of the Minister, except in relation to the preparation and contents of a report that the Advocate is required by this or any other Act to provide to Parliament.	34 35 36
<b>16</b>	<b>Delegation</b>	37
	The exercise of any function of the Advocate (other than this power of delegation) may be delegated by the Advocate to any person employed in the Office of the NSW Local Jobs Advocate.	38 39 40

<b>Part 5</b>	<b>Information and Enforcement</b>	1
<b>17</b>	<b>Request for information</b>	2
(1)	If the Advocate believes on reasonable grounds that a government agency has information or a document that is relevant to the performance of the functions of the Advocate, the Advocate may request in writing that the government agency provide the specified information or specified document to the Advocate.	3 4 5 6
(2)	A government agency that receives a written request for information or a document under subsection (1) must not, without reasonable excuse, fail to provide the specified information or specified document to the Advocate.	7 8 9
<b>18</b>	<b>Audits</b>	10
(1)	The Advocate may request that a government agency conduct an audit in relation to—	11 12
(a)	compliance by a person or a government agency with the NSW Jobs First Policy, or	13 14
(b)	compliance by a person with a local industry development plan, or	15
(c)	compliance by a person with a major projects skills development plan.	16
(2)	The Advocate may impose terms of reference or other requirements in relation to an audit conducted by a government agency.	17 18
<b>19</b>	<b>Power to require information from persons</b>	19
(1)	This section applies if the Advocate believes on reasonable grounds that a person has information or a document that is relevant—	20 21
(a)	to the operation of the NSW Jobs First Policy, or	22
(b)	to a local industry development plan, or	23
(c)	to a major projects skills development plan.	24
(2)	The Advocate may issue an <i>information notice</i> to the person requiring the person to do any of the following—	25 26
(a)	give to the Advocate specified information, within the period and in the way specified in the notice,	27 28
(b)	produce to the Advocate a document specified in the notice, within the period and in the way specified in the notice,	29 30
(c)	make copies of a specified document and produce the copies to the Advocate, within the period and in the way specified in the notice.	31 32
(3)	A period specified under subsection (2) must be no less than 14 days from when the information notice is issued.	33 34
(4)	A person must comply with an information notice to the extent the person is capable of doing so.	35 36
(5)	A person issued with an information notice may not require the Advocate to pay any fee or cost associated with compliance with the notice.	37 38
(6)	A notice issued under this section must be in writing.	39
<b>20</b>	<b>Compliance notices</b>	40
(1)	The Advocate may issue a <i>compliance notice</i> to a person if the Advocate reasonably believes that the person has failed to comply with—	41 42
(a)	an information notice, or	43

(b)	the NSW Jobs First Policy, or	1
(c)	a local industry development plan, or	2
(d)	a major projects skills development plan.	3
(2)	A compliance notice may require the person to—	4
(a)	comply with an information notice within a specified period, or	5
(b)	comply with the NSW Jobs First Policy within a specified period, or	6
(c)	take specified steps within a specified period to comply with the NSW Jobs First Policy, or	7 8
(d)	comply with a local industry development plan within a specified period, or	9
(e)	take specified steps within a specified period to comply with a local industry development plan, or	10 11
(f)	comply with a major projects skills development plan within a specified period, or	12 13
(g)	take specified steps within a specified period to comply with a major projects skills development plan.	14 15
(3)	A period specified under subsection (2) must be no less than 14 days from when the compliance notice is issued.	16 17
(4)	A notice issued under this section must be in writing.	18
<b>21</b>	<b>Responding to a compliance notice</b>	19
(1)	If a person receives a compliance notice and disagrees with the notice, the person has 14 days from the date of the receipt of the notice to provide a written response to the Advocate outlining the person's reasons for disagreeing.	20 21 22
(2)	After considering a response under subsection (1), the Advocate may, by written notice—	23 24
(a)	withdraw the compliance notice, or	25
(b)	confirm the compliance notice.	26
(3)	If the compliance notice is confirmed—	27
(a)	the Advocate must specify a period within which the person must comply, and	28
(b)	the person must comply within that period.	29
<b>22</b>	<b>Advocate may make determination</b>	30
(1)	This section applies if the Advocate has issued a compliance notice to a person and—	31
(a)	the Advocate has—	32
(i)	not received a response from the person under section 21(1) within 14 days, or	33 34
(ii)	has received a response under section 21(1) and has confirmed the notice under section 21(2)(b), and	35 36
(b)	the person has failed to comply with the notice.	37
(2)	The Advocate may determine that the person has failed to comply with—	38
(a)	an information notice, or	39
(b)	the NSW Jobs First Policy, or	40
(c)	a local industry development plan, or	41
(d)	a major projects skills development plan.	42

- (3) If the Advocate makes a determination under subsection (2), the Advocate may— 1
- (a) recommend to the Minister that the Minister issue an adverse publicity notice in accordance with section 23, and 2  
3
  - (b) advise the person and the appropriate government agency that contracted with the person of— 4  
5
    - (i) the determination, and 6
    - (ii) the recommendation that the Minister issue an adverse publicity notice. 7
- (4) The person may, within 7 days after the Advocate has advised the person of the determination and recommendation, respond to the Advocate about the recommendation that an adverse publicity notice be issued by the Minister. 8  
9  
10
- (5) The Advocate has qualified privilege in proceedings for defamation arising out of a determination or recommendation made under this section. 11  
12
- 23 Adverse publicity notice** 13
- (1) The Minister may issue an *adverse publicity notice* about a person— 14
- (a) after receiving a recommendation under section 22(3)(a) about the person, and 15
  - (b) if satisfied that the person has failed to comply with— 16
    - (i) an information notice, or 17
    - (ii) the NSW Jobs First Policy, or 18
    - (iii) a local industry development plan, or 19
    - (iv) a major projects skills development plan. 20
- (2) An adverse publicity notice must— 21
- (a) name the person to whom the adverse publicity notice relates, and 22
  - (b) set out the reasons the notice is issued, and 23
  - (c) be tabled by the Minister in Parliament. 24

<b>Part 6</b>	<b>Miscellaneous</b>	1
<b>24</b>	<b>Annual Report</b>	2
(1)	The Advocate is to prepare an annual report for each year commencing on 1 July setting out the following—	3 4
(a)	particulars of the Advocate’s operations during the year,	5
(b)	exemptions granted by the Minister under section 6(3),	6
(c)	a summary of each government agency’s compliance report received under section 12(2),	7 8
(d)	the details of an audit conducted under section 18,	9
(e)	the details of a compliance notice issued under section 20,	10
(f)	the details of an adverse publicity notice issued under section 23,	11
(g)	matters prescribed by the regulations as requiring inclusion in the annual report,	12 13
(h)	other matter the Advocate considers it appropriate to report on.	14
(2)	The report is to be provided to the Minister not later than 1 October following the end of the year for which the report is prepared.	15 16
(3)	The Minister is to table the report in Parliament not later than 1 December following the end of the year for which the report is prepared.	17 18
<b>25</b>	<b>Personal liability</b>	19
(1)	A protected person is not personally subject to liability for anything done—	20
(a)	in good faith, and	21
(b)	for the purpose of executing functions under this Act.	22
(2)	The liability instead attaches to the Crown.	23
(3)	In this section—	24
	<i>done</i> includes omitted to be done.	25
	<i>liability</i> means civil liability and includes action, claim or demand.	26
	<i>protected person</i> means—	27
(a)	the Advocate, or	28
(b)	a person acting under the direction of the Advocate.	29
<b>26</b>	<b>Regulations</b>	30
	The Governor may make regulations, not inconsistent with this Act, for or about any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	31 32 33

## Schedule 1 Provisions relating to Advocate

	Section 13	2
<b>1</b>	<b>Term of office</b>	3
	The Advocate—	4
	(a) holds office for such term, not exceeding 5 years, as may be specified in the instrument of appointment, and	5 6
	(b) is eligible (if otherwise qualified) for re-appointment.	7
<b>2</b>	<b>Full-time office</b>	8
	The office of Advocate is a full-time office and the holder of the office is required to hold it on that basis, except to the extent permitted by the Minister.	9 10
<b>3</b>	<b>Employment and remuneration</b>	11
(1)	The employment of the Advocate is (subject to this Schedule) to be governed by a contract of employment between the Advocate and the Minister.	12 13
(2)	The following provisions of or made under the <i>Government Sector Employment Act 2013</i> relating to the employment of Public Service senior executives apply to the Advocate (but in the application of those provisions a reference to the employer of any such executive is to be read as a reference to the Minister)—	14 15 16 17
	(a) provisions relating to the band in which an executive is to be employed,	18
	(b) provisions relating to the contract of employment of an executive,	19
	(c) provisions relating to the remuneration, employment benefits and allowances of an executive.	20 21
<b>4</b>	<b>Vacancy in office</b>	22
(1)	The office of Advocate becomes vacant if the holder—	23
	(a) dies, or	24
	(b) completes a term of office and is not re-appointed, or	25
	(c) resigns the office by instrument in writing addressed to the Minister, or	26
	(d) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for the benefit of creditors, or	27 28 29
	(e) becomes a mentally incapacitated person, or	30
	(f) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or	31 32 33 34
	(g) is removed from office under clause 5.	35
(2)	If the office of Advocate becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	36 37
<b>5</b>	<b>Removal from office</b>	38
(1)	The Governor may remove the Advocate from office, but only for incompetence, incapacity or misbehaviour.	39 40
(2)	The Advocate cannot be removed from office under Part 6 of the <i>Government Sector Employment Act 2013</i> .	41 42

**6 Advocate not Public Service employee**

1

The office of Advocate is a statutory office and the provisions of the *Government Sector Employment Act 2013* relating to the employment of Public Service employees do not apply to that office (except as provided by clause 3).

2

3

4

**Schedule 2 Savings, transitional and other provisions** 1

**Part 1 General** 2

**1 Regulations** 3

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act. 4  
5
- (2) A savings or transitional provision— 6
  - (a) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date, and 7  
8
  - (b) has effect despite anything to the contrary in this Schedule. 9
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as— 10  
11  
12
  - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or 13  
14  
15
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication. 16  
17  
18
- (4) Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations. 19  
20  
21

**Schedule 3      Amendment of Government Sector Employment Act 2013 No 40**

1

2

**Schedule 1 Public Service Agencies**

3

Insert in alphabetical order in Part 3—

4

Office of the NSW Local Jobs Advocate

NSW Local Jobs Advocate