



New South Wales

# State Insurance and Care Governance Amendment (Employees) Bill 2020

## Explanatory note

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

## Overview of Bill

The objects of this Bill are to—

- (a) provide that members of staff of Insurance and Care NSW (*ICNSW*) and the chief executive of ICNSW are not entitled to the payment of a performance-related bonus or incentive payment, and
- (b) limit ICNSW's responsibility in relation to matters about the employment of staff of ICNSW and the chief executive of ICNSW.

## 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 State Insurance and Care Governance Act 2015 No 19**

### **Schedule 1.1 Amendments that commence on assent**

**Schedule 1.1[1] and [2]** provide that a member of staff of ICNSW and the chief executive of ICNSW are not entitled to the payment of a performance-related bonus or incentive payment.

**Schedule 1.1[3]** inserts provisions of a savings and transitional nature consequent on the commencement of Schedule 1.1 to the proposed Act.

## **Schedule 1.2 Amendments that commence on 1 July 2021**

**Schedule 1.2[1]** omits an existing provision about the employment of the chief executive of ICNSW. Schedule 1[1] provides for the Governor, on the recommendation of the Minister in consultation with the ICNSW Board, to appoint the chief executive of ICNSW.

**Schedule 1.2[2] and [4]** omit existing provisions about the employment of staff of ICNSW, including the employment of ICNSW senior executives. Schedule 1[2] also inserts a power for the regulations to make provision about the employment of staff of ICNSW, including the conditions of employment and the discipline of staff. ICNSW may fix the salary, wages and conditions of employment of staff of ICNSW so far as the salary, wages and conditions are not fixed under the section or by or under another Act or law.

**Schedule 1.2[3]** provides that regulations made about the conditions of employment and the discipline of staff of ICNSW apply subject to an award made by a competent industrial tribunal or an industrial agreement or enterprise agreement to which ICNSW is a party.

**Schedule 1.2[5]** omits existing provisions about the chief executive of ICNSW. **Schedule 1.2[9]** makes a consequential amendment. Schedule 1[5] also provides for the ICNSW Board, with the approval of the Minister, to fix the conditions of employment of the chief executive of ICNSW to the extent that the conditions are not fixed by or under another Act or law. The chief executive of ICNSW is entitled to be paid remuneration, including travelling and subsistence allowances, as the Minister may from time to time decide on the advice of the ICNSW Board.

**Schedule 1.2[6]** provides that the ICNSW Board may require the chief executive of ICNSW to enter into performance agreements.

**Schedule 1.2[7]** provides that the Governor, on the recommendation of the Minister in consultation with the ICNSW Board, may remove the chief executive of ICNSW at any time, for any or no stated reason and without notice.

**Schedule 1.2[8] and [10]** enable the Minister, rather than the ICNSW Board, to appoint, remove and decide the remuneration of a person acting in the office of the chief executive of ICNSW.

**Schedule 1.2[11]** provides that the removal from the office of the chief executive of ICNSW is taken to have created a vacancy in that office.

**Schedule 1.2[12]** inserts provisions of a savings and transitional nature consequent on the commencement of Schedule 1.2 to the proposed Act.



New South Wales

# State Insurance and Care Governance Amendment (Employees) Bill 2020

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New South Wales

# State Insurance and Care Governance Amendment (Employees) Bill 2020

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

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## **A Bill for**

An Act to amend the *State Insurance and Care Governance Act 2015* in relation to the employment of staff of ICNSW and the appointment of the chief executive of ICNSW; and for related purposes.

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

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**1 Name of Act**

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This Act is the *State Insurance and Care Governance Amendment (Employees) Act 2020*.

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**2 Commencement**

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(1) This Act commences on the date of assent to this Act except as provided by subsection (2).

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(2) Schedule 1.2 commences on 1 July 2021.

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<b>Schedule 1</b>	<b>Amendment of State Insurance and Care Governance Act 2015 No 19</b>	1
		2
<b>1.1</b>	<b>Amendments that commence on assent</b>	3
<b>[1]</b>	<b>Section 15 Salary, conditions etc of staff</b>	4
	Insert after section 15(2)—	5
	(3) Despite subsections (1) and (2), a member of staff of ICNSW is not entitled to the payment of a performance-related bonus or incentive payment.	6 7
<b>[2]</b>	<b>Schedule 2 Provisions relating to chief executive of ICNSW</b>	8
	Insert after clause 2(3)—	9
	(4) Despite subclauses (1) and (2), the chief executive is not entitled to the payment of a performance-related bonus or incentive payment.	10 11
<b>[3]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	12
	Insert at the end of the Schedule—	13
<b>Part 3</b>	<b>Provisions consequent on commencement of Schedule 1.1 to the State Insurance and Care Governance Amendment (Employees) Act 2020</b>	14 15 16
<b>13</b>	<b>Definitions</b>	17
	In this Part—	18
	<i>amending Act</i> means the <i>State Insurance and Care Governance Amendment (Employees) Act 2020</i> .	19 20
	<i>assent</i> means the date of assent to the <i>State Insurance and Care Governance Amendment (Employees) Act 2020</i> .	21 22
	<i>current chief executive of ICNSW</i> means the person employed as the chief executive of ICNSW, including a person appointed to act in the office of chief executive, immediately before the assent.	23 24 25
	<i>current employee</i> means a person employed by ICNSW under Part 2, Division 3 of the Act immediately before the assent.	26 27
<b>14</b>	<b>Extension of prohibition on bonus payments to current employees and current chief executive of ICNSW</b>	28 29
	(1) Despite any determination or agreement made before the assent, the amendments made to section 15 and Schedule 2, clause 2 to the Act by Schedule 1.1[1] and [2] to the amending Act extend to—	30 31 32
	(a) a current employee, and	33
	(b) the current chief executive of ICNSW.	34
	(2) This clause ceases to apply to a current employee if the employee—	35
	(a) is appointed to a different role as a member of staff of ICNSW, or	36
	(b) ceases employment with ICNSW.	37

<b>1.2 Amendments that commence on 1 July 2021</b>	1
<b>[1] Section 8</b>	2
Omit the section. Insert instead—	3
<b>8 Chief executive of ICNSW</b>	4
(1) The Governor, on the recommendation of the Minister in consultation with the ICNSW Board, is to appoint the chief executive of ICNSW.	5 6
(2) Schedule 2 has effect in relation to the chief executive of ICNSW.	7
<b>[2] Section 15 Salary, conditions etc of staff</b>	8
Omit section 15(1) and (2). Insert instead—	9
(1) The regulations may make provision about the employment of staff of ICNSW, including the conditions of employment and the discipline of staff.	10 11
(2) ICNSW may fix the salary, wages and conditions of employment of staff employed under this Division as far as the salary, wages and conditions are not fixed—	12 13 14
(a) under this section, or	15
(b) by or under any other Act or law.	16
<b>[3] Section 15(4)</b>	17
Insert after section 15(3)—	18
(4) Regulations made under subsection (1) about the conditions of employment and the discipline of staff of ICNSW apply subject to—	19 20
(a) an award made by a competent industrial tribunal, or	21
(b) an industrial agreement or enterprise agreement to which ICNSW is a party.	22 23
<b>[4] Section 16 ICNSW senior executives</b>	24
Omit the section.	25
<b>[5] Schedule 2 Provisions relating to chief executive of ICNSW</b>	26
Omit clauses 2(1)–(3). Insert instead—	27
(1) The ICNSW Board may, with the approval of the Minister, fix the conditions of employment of the chief executive of ICNSW to the extent that the conditions are not fixed by or under any other Act or law.	28 29 30
(2) The chief executive of ICNSW is entitled to be paid remuneration, including travelling and subsistence allowances, as the Minister may from time to time decide on the advice of the ICNSW Board.	31 32 33
<b>[6] Schedule 2, clause 2(5)</b>	34
Insert after clause 2(4)—	35
(5) The ICNSW Board may require the chief executive of ICNSW to enter into performance agreements.	36 37
<b>[7] Schedule 2, clauses 3 and 4</b>	38
Omit the clauses. Insert instead—	39

<b>3</b>	<b>Removal from office</b>	1
	The Governor, on the recommendation of the Minister in consultation with the ICNSW Board, may remove the chief executive of ICNSW at any time, for any or no stated reason and without notice.	2 3 4
<b>[8]</b>	<b>Schedule 2, clause 5(1) and (3)</b>	5
	Omit “ICNSW Board may” wherever occurring.	6
	Insert instead “Minister may, from time to time,”.	7
<b>[9]</b>	<b>Schedule 2, clause 5(1)</b>	8
	Omit “or during a vacancy in the office of chief executive of ICNSW”.	9
<b>[10]</b>	<b>Schedule 2, clause 5(2)</b>	10
	Omit “The ICNSW Board”. Insert instead “The Minister”.	11
<b>[11]</b>	<b>Schedule 2, clause 5(4)</b>	12
	Insert after clause 5(3)—	13
	(4) The removal from the office of the chief executive of ICNSW is taken to have created a vacancy in that office.	14 15
<b>[12]</b>	<b>Schedule 4 Savings, transitional and other provisions</b>	16
	Insert at the end of the Schedule, with appropriate Part and clause numbering—	17
<b>Part</b>	<b>Provisions consequent on commencement of Schedule 1.2 to the State Insurance and Care Governance Amendment (Employees) Act 2020</b>	18 19 20
	<b>Definitions</b>	21
	In this Part—	22
	<i>existing chief executive of ICNSW</i> means the person employed as the chief executive of ICNSW, including a person appointed to act in the office of chief executive, immediately before 1 July 2021.	23 24 25
	<i>existing employee</i> means a person employed by ICNSW under Part 2, Division 3 of the Act immediately before 1 July 2021.	26 27
	<b>Continuation of employment arrangements for existing employees</b>	28
	(1) Section 15 of the Act, as in force immediately before 1 July 2021 including section 15 as extended by this Part, continues to apply to an existing employee.	29 30
	(2) If an existing employee is a senior executive within the meaning of section 16 of the Act as in force immediately before 1 July 2021, section 16 continues to apply to the senior executive despite its repeal.	31 32 33
	(3) This clause ceases to apply to an existing employee if the employee—	34
	(a) is appointed to a different role as a member of staff of ICNSW, or	35
	(b) ceases employment with ICNSW.	36



**Continuation of employment arrangements for existing chief executive of  
ICNSW**

Schedule 2 to the Act, as in force immediately before 1 July 2021 including  
Schedule 2, clause 2 as extended by this Part, continues to apply to the existing  
chief executive of ICNSW.

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