



GOVERNMENT SECTOR EMPLOYMENT AMENDMENT BILL 2022

Statement of Public Interest

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Bill proposes amendments to the *Government Sector Employment Act 2013* (the **Act**) to give effect to recommendations made by Mr Graeme Head AO following his recent inquiry under section 83 of the Act into the employment of the Senior Trade and Investment Commissioner to the Americas (the **Head Inquiry**). The Inquiry made four policy/system recommendations to amend the Act to strengthen the independence and integrity of the public service.

In addition, the Bill proposes amendments to require senior executives employed in the two most senior bands to seek the Commissioner's guidance before accepting an offer of employment in the private sector, if the employment directly relates to the senior executive's current or former roles or responsibilities.

The Bill also proposes minor amendments to give effect to recommendations made following an independent statutory review of the Act in 2020 (the **Statutory Review**). The Statutory Review concluded that the Act essentially serves its purpose well and its objectives remain valid and that neither the Act nor its objectives require significant amendment. However, the Review Panel did recommend minor legislative amendments to improve the operation of the Act, which are implemented by the Bill.

Objectives: What is the policy's objective couched in terms of the public interest?

It is in the public interest to ensure that the recommendations of the Head Inquiry and the Statutory Review supported by the Government are implemented, including to:

- make clear that a Minister cannot direct a Secretary or Public Service agency head in the exercise of their employment functions;
- legislate a Code of Ethics and Conduct for the government sector;
- codify the roles and responsibilities of a Secretary of a Department;
- extend the oversight of the Joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission to the exercise by Commissioner of the Commissioner's functions under the Act; and
- make minor amendments to the Act to clarify the application of existing provisions and support administrative efficiency, and make minor statute law revision amendments.

The additional proposal to require senior executives employed in the two most senior bands to seek the Commissioner's guidance before accepting an offer of employment in the private sector, if the employment directly relates to the senior executive's current or former roles or responsibilities, enhances integrity and accountability in the public service.



Options: What alternative policies and mechanisms were considered in advance of the bill?

Many of the proposals were subject to detailed consideration by the Head Inquiry and the Statutory Review, and legislative amendments are required to achieve the intended policy objectives.

Analysis: What were the pros/cons and benefits/costs of each option considered?

An advantage of introducing the Bill is to ensure that the Act incorporates the recommendations of the Head Inquiry requiring legislative reform and the Statutory Review supported by the Government. Additionally, the amendments in the Bill requiring senior public servants in the two most senior bands and public service agency heads to seek the Commissioner's guidance before accepting an offer of employment in the private sector will enhance integrity and accountability in the public service. Finally, the other minor amendments in the Bill will clarify the application of existing provisions and support administrative efficiency.

Conversely, if the Bill is not passed by the Parliament then the recommendations of the Head Inquiry and the Statutory Review requiring legislative reform and which are supported by the Government could not be implemented.

If the other minor amendments in the Bill are not made, existing provisions will not be clarified to support administrative efficiency.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill commences on a day or days to be appointed by proclamation.

The Public Service Commission will support agencies in relation to the amendments.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Bill implements the recommendations of the Head Inquiry and Statutory Review supported by the Government in its responses to the Inquiry and the Review. The Review Panel consulted with numerous stakeholders within and outside the NSW Government sector in the course of the Review.

The Public Service Commission provided input and was consulted on the Bill.

The Privacy Commissioner was consulted on the amendments regarding the exchange of personal and/or health information.