

The object of this Bill is to amend the *Public Sector Employment and Management Act 2002* (the **principal Act**) as follows:

(a) to establish an ethical framework for the public sector comprising core values (namely, integrity, trust, service and accountability) and the principles that guide the implementation of those core values,

(b) to provide for the appointment of a Public Service Commissioner and to confer on the Commissioner functions in relation to the public sector workforce (including the existing public sector policy functions of the Director of Public Employment and the EEO functions of the Director of Equal Opportunity in Public Employment),

(c) to establish the Public Service Commission Advisory Board (the **Advisory Board**) which will determine general policies and strategic directions for the exercise of the Commissioner's functions and provide advice to the Premier on matters relating to the management and performance of the public sector,

(d) to make a number of other miscellaneous amendments of a minor or consequential nature.

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 on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Public Sector Employment and Management Act 2002

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Public sector ethics

Schedule 1.1 establishes the ethical framework for the public sector referred to in the above Overview. The Public Service Commissioner will have the function of promoting and maintaining the public sector core values.

Public Service Commissioner and Public Service Commission Advisory Board

Schedule 1.2 [2] provides for the appointment by the Governor of a Public Service Commissioner. An appointment may only be made if the Advisory Board has approved the appointment. The Commissioner may be removed from office by the Governor but only for incapacity, incompetence or misbehaviour following an independent review of the Commissioner's performance or conduct and recommendation for removal by the Advisory Board. However any such independent review is not required for the removal of the Commissioner if the performance or conduct concerned has been the subject of an inquiry and report by the ICAC or a Special Commission of Inquiry or a finding by a court.

The Commissioner will have policy-related objectives and functions in relation to the public sector (which includes all the public sector services such as the Government Service, Health Service, NSW Police Force and Teaching Service). The Commissioner is to exercise his or her functions in accordance with the general policies and strategic directions determined by the Advisory Board and will report to the Premier. However the Commissioner will not be subject to the control and direction of the Premier in the exercise of his or her functions.

The Commissioner will assume most of the public sector policy-related functions currently exercised by the Director of Public Employment and the Director-General of the Department of Premier and Cabinet (the **D-G of DPC**). These include the issuing of guidelines relating to the employment and management of staff and requiring the head of a public sector agency to provide the Commissioner with a report relating to the staff or personnel policies and practices of the agency. The Commissioner will also have more general functions in relation to matters affecting the public sector (particularly in relation to the strategic development and management of the public sector workforce). The Commissioner will be able to give

directions to the heads of public sector agencies in relation to their staff but only after consultation with those agency heads and with other relevant persons. Any direction by the Commissioner is to be made publicly available and the head of the public sector agency to whom a direction is given must comply with any such direction. The Commissioner (or a person authorised by the Commissioner) may also conduct an inquiry into any matter relating to the administration or management of a public sector agency.

Schedule 1.2 [2] also establishes the Public Service Commission Advisory Board, which will consist of a person appointed by the Premier as the Chairperson, 4 other persons appointed by the Premier, the Commissioner (or the Commissioner's nominee) and the D-G of DPC (or the D-G's nominee). The functions of the Advisory Board include determining general policies and strategic directions in relation to the functions of the Commissioner and providing the Premier with advice on matters relating to the management and performance of the public sector.

Schedule 1.2 [1] inserts definitions of **Advisory Board** and **Commissioner**.

Schedule 1.2 [3] establishes the staff of the Commissioner as a Division of the Government Service to be known as the Public Service Commission.

Schedule 1.2 [4] inserts provisions relating to the Commissioner (such as terms of office) and to the members and procedures of the Advisory Board.

Miscellaneous and consequential amendments

Schedule 1.3 generally contains amendments to the principal Act that are, in the main, consequential on the creation of the position of Public Service Commissioner and the abolition of the position of Director of Public Employment (whose functions under the principal Act are transferred to the Commissioner). The Commissioner will also assume any public sector policy-related functions of the D-G of DPC who will retain certain industrial relations functions in respect of the public sector.

Schedule 1.3 [23] provides that persons who are employed in or by a NSW public sector agency may be temporarily assigned to work for another body (namely a private sector entity, an interstate or Commonwealth public authority or government agency or a university) and also provides for persons who are employed in or by any such other body to be temporarily assigned to work for a NSW public sector agency.

Any such assignment is to be in accordance with the Commissioner's guidelines.

Schedule 2 Amendment of other legislation

Schedule 2.1 transfers the EEO functions of the Director of Equal Opportunity in Public Employment under Part 9A of the *Anti-Discrimination Act 1977* to the Public Service Commissioner and consequentially abolishes the Director's position.

The remainder of the amendments made by Schedule 2 are consequential on the other amendments made by the proposed Act.