

Passed by both Houses



New South Wales

Public Sector Employment Legislation Amendment Bill 2006

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2006*



New South Wales

Public Sector Employment Legislation Amendment Bill 2006

Act No , 2006

*An Act to amend the *Public Sector Employment and Management Act 2002*, the *Health Services Act 1997*, the *Health Administration Act 1982* and various other Acts to make further provision with respect to the employment of public sector staff; to repeal the *Ambulance Services Act 1990*; and for other purposes.*

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Public Sector Employment Legislation Amendment Act 2006*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Public Sector Employment and Management Act 2002 No 43

The *Public Sector Employment and Management Act 2002* is amended as set out in Schedule 1.

4 Amendment of Health Services Act 1997 No 154

The *Health Services Act 1997* is amended as set out in Schedule 2.

5 Amendment of Health Administration Act 1982 No 135

The *Health Administration Act 1982* is amended as set out in Schedule 3.

6 Amendments to other Acts relating to employment of staff

Each Act specified in Schedule 4 is amended as set out in that Schedule.

7 Consequential amendment of other Acts and instruments

Each Act and instrument specified in Schedule 5 is amended as set out in that Schedule.

8 Repeal of Ambulance Services Act 1990 No 16

The *Ambulance Services Act 1990* is repealed.

Schedule 1 Amendment of Public Sector Employment and Management Act 2002

(Section 3)

[1] Section 3

Omit the section. Insert instead:

3 Definitions

(1) In this Act:

appropriate Division Head means:

- (a) where the expression is used in connection with a Division of the Government Service—the Head of the Division, or
- (b) where the expression is used in connection with a member of the staff of a Division of the Government Service—the Head of the Division to which the member of staff belongs.

Note. In the case of a Division that is designated as a Department of the Public Service (see section 6), the term *appropriate Department Head* is also used in this Act.

chief executive position means a position referred to in section 64 and *chief executive officer* means a person holding such a position.

Department—see section 6.

Director of Public Employment—see section 121.

Division of the Government Service—see section 4C.

Division Head means a Division Head referred to in section 4D.

exercise a function includes perform a duty.

extended leave includes leave in the nature of extended leave.

function includes a power, authority or duty.

Government Service means the Government Service of New South Wales referred to in section 4A.

member of staff of a Division means a member of the group of staff comprising the Division (whether employed as an officer, temporary employee, casual employee or in any other capacity).

member of the Government Service means a member of staff of any Division of the Government Service.

Public Sector Notices means any document titled “Public Sector Notices” published under the authority of the Government.

public sector service means any of the following:

- (a) the Government Service,

- (b) the Teaching Service,
- (c) NSW Police,
- (d) the NSW Health Service,
- (e) the service of either House of Parliament, or the President or Speaker, or the President and the Speaker jointly,
- (f) any other service of the Crown,
- (g) the service of any other person or body constituted by or under an Act or exercising public functions (such as a State owned corporation), being a person or body that is prescribed, or that is of a class prescribed, for the purposes of this definition.

Public Service—see section 6.

Note. The Public Service comprises the Divisions of the Government Service specified in Part 1 of Schedule 1.

senior executive position means a position referred to in section 65 and **senior executive officer** means a person holding such a position.

- (2) Notes included in this Act do not form part of this Act.

[2] Chapter 1A

Insert after Chapter 1:

Chapter 1A The Government Service

4A The Government Service

- (1) The Government Service of New South Wales consists of those persons who are employed under this Chapter by the Government of New South Wales in the service of the Crown.
- (2) This Chapter does not affect any other means (statutory or otherwise) by which a person may be employed in the service of the Crown.

Note. Other ways in which persons are employed in the service of the Crown include employment in the Teaching Service, the NSW Health Service or NSW Police.

4B Employment of staff in the Government Service

- (1) The Government of New South Wales may, subject to subsection (2), employ staff in any Division of the Government Service.

- (2) The employment of staff in the Government Service, including the exercise of employer functions in relation to that staff, is subject to the requirements of this or any other Act relating to that staff.

Note. For example, Chapter 2 regulates the employment of staff in Divisions comprising the Public Service and sections 129–131 confer industrial relations employer functions on the Director of Public Employment in relation to the Public Service. Also, the employment of staff in a Division may, in some cases, be subject to regulations under another Act (eg section 17 of the *Technical and Further Education Commission Act 1990* and sections 62, 65 and 65D of the *Transport Administration Act 1988*).

- (3) Without limiting the purposes for which staff may be employed in the Government Service, staff may be employed by the Government of New South Wales under this Chapter in a Division to enable a statutory corporation to exercise its functions.

4C Divisions of the Government Service

- (1) The Divisions of the Government Service are the Divisions specified in Schedule 1.
- (2) A Division is the group of staff with the name specified in Schedule 1.

Note. Some Divisions are designated as Departments of the Public Service (see Part 1 of Schedule 1).

- (3) The employment of staff in a Division specified in Part 3 of Schedule 1 is subject to such limitations (if any) as may be specified in Column 1 of that Part in relation to the Division.

Note. See Chapter 4 for other provisions relating to Divisions.

4D Division Heads

- (1) The person holding the position or office specified in Column 2 of Schedule 1 opposite the name of a Division of the Government Service is, for the purposes of this or any other Act, the Division Head in relation to the Division concerned.

Note. In the case of most of the Divisions of the Government Service that are designated as Departments, the Department Head positions are created by this Act—see section 10.

- (2) A Division Head may, subject to section 4B (2), exercise on behalf of the Government of New South Wales the employer functions of the Government in relation to the members of staff of the Division.
- (3) A Division Head may establish or abolish, or change the name of, any branch or other part of the Division.

4E Salary, conditions etc of staff employed in Divisions

- (1) The Government of New South Wales may fix the salary, wages and conditions of employment of staff employed under this Chapter in so far as they are not fixed by or under any other law.
- (2) The Minister or the Treasurer may give directions to a statutory corporation requiring the payment by the statutory corporation, on behalf of the Government of New South Wales, of the salary, wages and other employment-related costs (such as superannuation, workers compensation, public liability insurance and vicarious tortious liability) in respect of those members of the Government Service who are employed under this Chapter to enable the statutory corporation to exercise its functions.
- (3) If a fund is established under any Act in connection with a statutory corporation and the provisions of that Act authorise the payment of amounts from the fund in connection with the employment of staff, the statutory corporation is authorised to apply the fund for the purposes of any payment required to be made by the corporation pursuant to a direction under subsection (2).

4F Delegation by Division Head

- (1) The Division Head of a Division may delegate to any member of staff of that or any other Division of the Government Service:
 - (a) any of the Division Head's functions under this Act (other than this power of delegation), and
 - (b) any employment-related functions under any other Act that the Division Head exercises on behalf of the Government of New South Wales in relation to the staff in that Division.
- (2) If:
 - (a) a function of a Division Head is delegated to a member of staff in accordance with subsection (1), and
 - (b) the instrument of delegation authorises the sub-delegation of the function,then, subject to any conditions to which the delegation is subject, the person may sub-delegate the function to another member of staff of that or any other Division of the Government Service.
- (3) In this section:
 - (a) a reference to the functions of a Division Head includes a reference to any functions delegated to the Division Head under this Act, and

- (b) a reference to a member of staff of a Division includes a reference to a person holding an appointment to or in a body or organisation in respect of which a Division of the Government Service is established to enable the body or organisation to exercise its functions.

4G Regulations relating to staff employed in Divisions (other than Departments)

- (1) In this section, *Division* means a Division of the Government Service other than a Department of the Public Service.
Note. Regulations with respect to the Public Service may be made under section 62.
- (2) The regulations may make provision for or with respect to the employment of staff in a Division, including the conditions of employment and the discipline of any such staff.
- (3) Any such regulations relating to the conditions of employment or the discipline of staff employed in a Division:
 - (a) have effect subject to any State industrial instrument relating to that staff, and
 - (b) have effect despite any determination under section 4E (1), and
 - (c) are subject to Part 3.1 of this Act.
- (4) Any regulation that is made under another Act and that relates to the conditions of employment or the discipline of staff in a Division prevails, to the extent of any inconsistency, over any regulation made under this section.

4H Division Heads of certain Divisions to comply with directions of Director of Public Employment on industrial matters

- (1) This section applies to a Division of the Government Service that is specified in Part 2 of Schedule 1 as a Division to which this section applies.
- (2) The Director of Public Employment may, with the approval of the Minister and by notice in writing to the Division Head of a Division to which this section applies, require the Division Head:
 - (a) to notify the Director of Public Employment of such industrial matters affecting the Division as may be specified in the notice, and
 - (b) to exercise the Division Head's functions in respect of any such industrial matter in such manner as may be specified in the notice.

- (3) A notice may specify the manner and the time within which industrial matters must be notified.
- (4) A Division Head must comply with a requirement under this section.

4I Miscellaneous provisions relating to civil liability

- (1) Part 5 of the *Workers Compensation Act 1987* applies to work injury damages recoverable from the Government of New South Wales, and to work injury damages recoverable from a statutory corporation, by or in respect of a person employed in a Division of the Government Service to enable the statutory corporation to exercise its functions. That Part so applies as if:
 - (a) the statutory corporation were an employer of the person in addition to the Government, and
 - (b) the statutory corporation were an employer liable to pay compensation under that Act.
- (2) A policy of insurance may be issued to the Government of New South Wales under the *Workers Compensation Act 1987* that is limited to workers employed in a particular Division of the Government Service.
- (3) A licence under Division 5 (Self-insurers) of Part 7 of the *Workers Compensation Act 1987* that is limited to workers employed in a particular Division of the Government Service may be granted to the Government of New South Wales.
- (4) If:
 - (a) a person is employed in a Division of the Government Service to enable a statutory corporation to exercise its functions, and
 - (b) the Government of New South Wales is, as the person's employer, proceeded against for any negligence or other tort of the person (whether the damages are recoverable in an action for tort or breach of contract or in any other action), and
 - (c) the statutory corporation is entitled under a policy of insurance or indemnity to be indemnified in respect of liability that the corporation may incur in respect of that negligence or other tort,the Government is subrogated to the rights of the statutory corporation under that policy in respect of the liability incurred by the Government arising from that negligence or other tort.

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- (5) For the purposes of Division 2 of Part 9 of Chapter 2 of the *Industrial Relations Act 1996*:
- (a) if a person who is employed in a Division of the Government Service (other than a Department) is appointed (otherwise than on an acting basis) to another position in a different Division of the Government Service, the person is taken to have entered into a new contract of employment in respect of that other position, and
 - (b) the cessation of a person's appointment (whether by way of dismissal, resignation, transfer or otherwise) to a position in the Government Service is taken to terminate the person's contract of employment in respect of that position.
- (6) However, a person who holds an appointment to a position that is abolished does not, for the purposes of subsection (5) (b), cease to be appointed to that position until:
- (a) such time as the person is appointed to another position in the Government Service, or
 - (b) such time as the person's employment in the Government Service is terminated,
- whichever occurs first.
- (7) In this section:
- work injury damages*** means damages recoverable from a statutory corporation or the Government of New South Wales in respect of injury to or the death of a person employed in a Division of the Government Service to enable the statutory corporation to exercise its functions caused by the negligence or other tort of the statutory corporation or the Government and arising out of the employment of the person by the Government, whether the damages are recoverable in an action for tort or breach of contract or in any other action, but does not include motor accident damages to which Chapter 5 of the *Motor Accidents Compensation Act 1999* applies.

4J Operation of privacy legislation

Any Division of the Government Service in which staff are employed by the Government of New South Wales under this Chapter to enable a statutory corporation to exercise its functions is, for the purposes of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*, taken to be part of the statutory corporation.

4K Transitional provision—construction of superseded references

- (1) In any other Act, or in any instrument made under any Act or in any other instrument of any kind (whether enacted, made or executed before or after the commencement of this section):
 - (a) a reference to a member of staff (however described) of a statutory corporation (including as an officer or employee of the corporation concerned) is to be read as including a reference:
 - (i) to a member of staff of a Division of the Government Service comprising the group of staff who are employed under this Chapter to enable the statutory corporation to exercise its functions, and
 - (ii) to any other person whose services the statutory corporation makes use of (whether by way of secondment or otherwise), and
 - (b) a reference to a position in a statutory corporation is to be read as including a reference to the same position in the Division of the Government Service comprising the group of staff who are employed under this Chapter to enable the statutory corporation to exercise its functions, and
 - (c) a reference to a statutory corporation in its capacity as an employer of staff (however described) is, to the extent that the staff concerned comprise a group of staff employed under this Chapter to enable the statutory corporation to exercise its functions, to be read as including a reference to the Government of New South Wales or, as the case requires, to the Division Head of the Division of the Government Service in which the staff are employed, and
 - (d) a reference to the employment of a person under Chapter 2 of this Act is taken to include a reference to the employment of the person under Chapter 1A of this Act.
- (2) This section is subject to the regulations.

[3] Section 5

Omit the section. Insert instead:

5 Definitions

In this Chapter:

casual employee means a casual employee as referred to in section 7.

officer means an officer as referred to in section 7.

temporary employee means a temporary employee as referred to in section 7, being a Departmental temporary employee or a special temporary employee.

[4] Section 6

Omit the section. Insert instead:

6 The Public Service

- (1) The Divisions of the Government Service specified in Part 1 of Schedule 1 comprise the Public Service of New South Wales.
- (2) Any such Division may be referred to as a *Department* (or a *Department of the Public Service*) for the purposes of this or any other Act. Accordingly, the person exercising functions as Division Head of such a Division may be referred to as the *Department Head*.

[5] Sections 9 (3) (b), 14 (2), 18 (2), 23 (3), 28 (2), 29 (3), 31 (2), 38 (1), 44 (1)–(3), 56 (2), 57 (2), 77 (9), 87 (1), 89 (1), 90 (2), 91 (3) and (4) (b), 98 (6), 101 (2), 123, 124 (1) and (3) (a) and 125–131

Omit “Public Employment Office” wherever occurring.

Insert instead “Director of Public Employment”.

[6] Section 10 Creation of Department Head positions

Insert “Part 1 of” before “Schedule 1” wherever occurring.

[7] Section 11 Department Heads

Omit the section.

[8] Section 12 Appointments to Public Service Department Head positions

Omit “under this Chapter” from section 12 (2).

[9] Section 15 Delegation by Department Head

Omit the section.

[10] Section 17 Appointments to positions

Omit section 17 (3). Insert instead:

- (3) The employment of a senior executive officer in the Public Service is subject to Part 3.1.

[11] Sections 29 (3) and 125 (h)

Omit “it” wherever occurring. Insert instead “the Director”.

[12] Section 63 Definitions

Omit “the Health Service” from the definition of *public authority* in section 63 (1).

Insert instead “the Government Service, the NSW Health Service”.

[13] Section 63 (1), definition of “public authority”

Insert at the end of the definition:

Note. Most public authorities do not employ staff directly. Divisions of the Government Service are established under this Act to provide staff to enable statutory corporations to exercise their functions.

[14] Section 63 (2) (b)

Omit the paragraph. Insert instead:

(b) in the case of a senior executive officer in the Government Service—the appropriate Division Head, or

[15] Sections 65 (1) (a) and 67 (a)

Omit “Public Service” wherever occurring.

Insert instead “Government Service”.

[16] Section 77 Removal of executive officers from office

Omit “Department” from section 77 (3) (c).

Insert instead “Division of the Government Service”.

[17] Section 77 (6A)

Insert after section 77 (6):

(6A) A member of staff of a Division of the Government Service referred to in Part 2 of Schedule 1 who ceases to be an executive officer because of subsection (5) ceases to be a member of the Government Service unless appointed to another position in that Division.

[18] Section 77 (9)

Omit “a Department”. Insert instead “a Division of the Government Service”.

[19] Section 77 (9)

Omit “specified Department”. Insert instead “specified Division”.

[20] Section 78 Compensation etc where executive officer has no right to return to public sector

Omit section 78 (9) (a). Insert instead:

- (a) employment in the public sector is a reference to employment in the Government Service, the Teaching Service, the NSW Health Service, NSW Police or in the service of a public authority, and

[21] Section 85 Definitions

Omit “Department” from the definition of *public sector agency*.

Insert instead “Division of the Government Service”.

[22] Section 90 Dismissal of staff refusing transfer

Omit section 90 (1) (b). Insert instead:

- (b) in the case of a member of staff of a Division of the Government Service—dismiss the member from the Government Service.

[23] Section 95 Annual leave

Omit the note to section 95 (1).

[24] Section 95 (1A)–(1C)

Insert after section 95 (1):

- (1A) Such an election cannot be made by an employee if the employee is only moving between different Departments of the Public Service.
- (1B) However, such an election may, without limiting subsection (1), be made by:
 - (a) an employee in a Division of the Government Service referred to in Part 2 or 3 of Schedule 1 who is moving to another Division (including a Department) or to any other public sector service, or
 - (b) an employee in a Department who is moving to a Division of the Government Service referred to in Part 2 or 3 of Schedule 1.
- (1C) Subsection (1B) has effect despite anything to the contrary in the *Annual Holidays Act 1944* or the *Long Service Leave Act 1955*.

[25] Section 98 Access to forfeited sick leave—transitional arrangements

Omit “Department Head in the case of a member of the Public Service” from section 98 (4).

Insert instead “Division Head in the case of a member of the Government Service”.

[26] Section 100 Cross-agency employment

Insert “(including in a Division of the Government Service other than a Department)” after “public sector service” in section 100 (1) (b).

[27] Section 100 (3)

Omit the subsection. Insert instead:

- (3) If the person is employed in the Public Service and in any other public sector service (including in a Division of the Government Service other than a Department), the relevant Department Head and the chief executive officer or Division Head (as the case requires) of that other public sector service may determine that the person is to be regarded as employed in the relevant Department or in that other service or Division for the purposes of the conditions of employment of the person.

[28] Section 100 (5)

Omit the subsection. Insert instead:

- (5) For the purposes of this section, conditions of employment include:
 - (a) the provisions of or made under this Act or any other Act under which a public sector service is established, and
 - (b) in the case of a Division of the Government Service in which staff are employed to enable a statutory corporation to exercise its functions, the provisions of or made under the Act under which the statutory corporation is established.

[29] Section 103 Re-appointment of employees resigning to contest Commonwealth elections

Insert after section 103 (2):

- (3) If a person is employed in a Division of the Government Service referred to in Part 2 of Schedule 1, a reference in this section to a public sector service in relation to that person is taken to be a reference to that Division only.

[30] **Chapter 4**

Omit the Chapter. Insert instead:

Chapter 4 Administrative changes

Part 4.1 Orders concerning Divisions of the Government Service

104 Creation and change in relation to Divisions

- (1) The Governor may by order:
 - (a) establish, abolish or change the name of any Division of the Government Service (or any branch of any Division of the Government Service), or
 - (b) remove a branch from any Division of the Government Service, or
 - (c) add a branch to any Division of the Government Service,

Note. Any other Act may establish, abolish or change the name of a Division of the Government Service by amendment of Schedule 1 to insert, omit or change the name of the Division, respectively.
- (2) If the Governor removes a branch from any Division of the Government Service and adds it to another Division:
 - (a) so much of the staff of the first-mentioned Division as relates to the branch become correspondingly part of the staff of the other Division, and
 - (b) the staff of the branch continue to occupy their positions in the branch but as members of the staff of that other Division.
- (3) In this section, *branch* means a branch or other part of a Division of the Government Service.

105 Other orders in relation to Divisions

The Governor may, by order, do any of the following:

- (a) amend Column 1 of any Part of Schedule 1 by inserting, omitting or changing the name of a Division of the Government Service,
- (b) amend Column 2 of any Part of Schedule 1 by inserting the title or other description of an office or position opposite an entry in Column 1 of the Part, or by omitting or amending a title or other description in Column 2 of the Part,

- (c) specify, in the case of a Division referred to in Part 2 of Schedule 1, that the Division is a Division to which section 4H applies,
- (d) remove any such specification in relation to a Division referred to in Part 2 of Schedule 1,
- (e) specify, in the case of a Division referred to in Part 3 of Schedule 1, limitations with respect to which the employment of staff in the Division are subject,
- (f) amend or remove any such specified limitations in relation to a Division referred to in Part 3 of Schedule 1,
- (g) omit any or all Parts of Schedule 1 and insert instead a Part or Parts containing in Column 1 the names of Divisions of the Government Service (and any other matter relating to them that may be the subject of an order under this Chapter) and containing in Column 2 the titles or other descriptions of offices or positions.

106 Orders specifying responsible Minister

The Governor may by order specify the Minister who is to be responsible for a Division of the Government Service.

Part 4.2 Other administrative changes orders

107 Definitions

In this Part:

administrative change means:

- (a) the fact of there ceasing to be a Minister, Division of the Government Service or officer of a particular description, or
- (b) the transfer of the administration of an Act, or a part of an Act, from a Minister to another Minister, or
- (c) the transfer of a function from a Minister, Division of the Government Service or officer to another Minister, Division or officer, respectively.

description includes title.

Division of the Government Service includes any branch or other part of a Division.

officer means a member of staff of a Division of the Government Service.

reference, in relation to a Minister, Division of the Government Service or officer, includes a reference that (whether by or under

this or any other Act) is to be read or construed as, or taken to be, or deemed to be, or otherwise treated as, a reference to that Minister, Division or officer.

statutory instrument means an instrument made under an Act or under an instrument made under an Act, and includes a regulation, rule, by-law or ordinance made under an Act.

108 Orders to change references in Acts

- (1) The Governor may make orders containing provisions requiring a reference in any Act or statutory instrument, or in any other instrument, or in any contract or agreement, to a Minister, Division of the Government Service or officer by a specified description to be construed as a reference to a Minister, Division or officer, respectively, by another specified description.
- (2) Such a provision does not apply to or in respect of any Act or statutory instrument, or any other instrument, or any contract or agreement, enacted, made or entered into after the date of publication in the Gazette of the order in which the provision is contained, or the date on which the provision takes effect, whichever is the later.
- (3) An order under this section need not be consequential on or incidental to administrative change.

109 Orders re administrative change and other matters

- (1) The Governor may make orders containing such provisions as in the opinion of the Governor are necessary or convenient to be made for the purpose of dealing with matters that are incidental to or consequential on administrative change, the making of an order under this Part or a requirement imposed by an order under this Part.
- (2) The provisions that may be made by an order under this section include provisions for the transfer of any property, rights and liabilities held, enjoyed or incurred by a superseded authority, and provisions of a transitional or savings nature, including any of the following provisions:
 - (a) provisions for the carrying on or completion of anything commenced by, or under the authority of, or in relation to, a superseded authority,
 - (b) provisions for the continuity of any body constituted by, or having amongst its members, a superseded authority,
 - (c) provisions for the substitution, in any legal proceedings, of a Minister or officer for a superseded authority.

- (3) In this section:
superseded authority means a Minister, Division of the Government Service or officer who is, or whose description is, the subject of an order under this Part.

Part 4.3 Requirements concerning orders

110 Publication and commencement of orders

- (1) An order under this Chapter is to be published in the Gazette.
- (2) The order takes effect on the date of its publication in the Gazette, or on such other date as may be specified in the order. The commencement date can be a date that is earlier than the date of publication of the order in the Gazette.

111 Limited, general and differential application of orders

An order under this Chapter may be made so as:

- (a) to apply generally or be limited in its application by reference to specified exceptions or factors, or
- (b) to apply differently according to different factors of a specified kind.

112 Operation of orders

- (1) An order under this Chapter does not invalidate anything done or omitted to be done before the date of its publication in the Gazette.
- (2) To the extent to which an order under this Chapter takes effect from a date that is earlier than the date of its publication in the Gazette, the order does not operate so as:
 - (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
 - (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.

113 Combination orders

An order may be made under this Chapter combining any 2 or more of the provisions authorised by this Chapter, including provisions authorised under different sections.

[31] Section 114 Definitions

Omit section 114 (3) (a). Insert instead:

- (a) employment in the public sector is a reference to employment:
 - (i) as an officer of the Public Service or the Teaching Service, or
 - (ii) as a member of NSW Police, or
 - (iii) as a member of staff of a Division of the Government Service referred to in Part 2 of Schedule 1, or
 - (iv) in the service of a public authority established by or under an Act, and

[32] Chapter 6, heading

Omit “**Public Employment Office**”.

Insert instead “**Director of Public Employment**”.

[33] Part 6.1, heading

Omit “**Constitution and management**”.

Insert instead “**Position of Director of Public Employment**”.

[34] Section 121

Omit the section. Insert instead:

121 Director of Public Employment

- (1) There is to be a Director of Public Employment. The position of Director of Public Employment is to be held by the Director-General of the Premier’s Department.
- (2) The Director of Public Employment has such functions as are conferred or imposed on the Director by or under this or any other Act.

[35] Section 122 Director-General of Premier’s Department to manage affairs of Office

Omit the section.

[36] Section 124 Delegation by Director of Public Employment

Omit section 124 (3) (b) (ii). Insert instead:

- (ii) a reference to a person holding an appointment to or in a body or organisation having functions that are exercised by the staff of that Department.

[37] Section 126 Reports on personnel practices and policies in public sector services

Insert after section 126 (3):

- (4) In this section:
 - (a) a reference to a public sector service includes, in the case of the Government Service, a reference to a Division of the Government Service, and
 - (b) a reference to the head of a public sector service that is a Division of the Government Service includes a reference to the Division Head.

[38] Section 131 Director of Public Employment may enter into agreements

Omit “that Office” from section 131 (4). Insert instead “the Director”.

[39] Section 132

Omit the section. Insert instead:

132 Authorised officer may enter Department’s premises etc

- (1) An authorised officer may:
 - (a) enter the premises of any Department, and
 - (b) require the production of and examine any documents in the custody of any member of the staff of any Department, and
 - (c) require any member of the staff of any Department to answer questions,for the purposes of enabling the Director of Public Employment to exercise the Director’s functions.
- (2) In this section:
authorised officer means:
 - (a) the Director of Public Employment, or
 - (b) any member of staff of a Department who is appointed by the Director of Public Employment as an authorised officer for the purposes of this section.

[40] Part 6.4 Declared authorities industrial relations functions

Omit the Part.

[41] Sections 141(2) and 159 (1), (3) and (6)

Omit "Department" wherever occurring.

Insert instead "Division of the Government Service".

[42] Schedule 1

Omit the Schedule. Insert instead:

Schedule 1 Divisions of the Government Service

(Sections 4C, 4D, 6, 10 and 105)

Part 1 Public Service Departments

Column 1	Column 2
Name of Division	Division Head
Department of Aboriginal Affairs	Director-General of the Department
Aboriginal Housing Office Group of Staff	Chief Executive Officer of the Aboriginal Housing Office
Department of Ageing, Disability and Home Care	Director-General of the Department
Department of the Arts, Sport and Recreation	Director-General of the Department
Attorney General's Department	Director-General of the Department
Office of the Board of Studies	General Manager of the Office
The Cabinet Office	Director-General of the Office
Office of the Commission for Children and Young People	* Commissioner for the Commission for Children and Young People
Office of the Children's Guardian	* Children's Guardian
Department of Commerce	Director-General of the Department
Office of the Community Relations Commission	Chairperson of the Commission
Department of Community Services	Director-General of the Department
Office of the Co-ordinator General of Rail	Co-ordinator General of Rail

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Column 1	Column 2
Name of Division	Division Head
Department of Corrective Services	Commissioner of Corrective Services
Office of the New South Wales Crime Commission	* Commissioner for the New South Wales Crime Commission
Office of the Director of Public Prosecutions	* Director of Public Prosecutions
Department of Education and Training	Director-General of the Department
Department of Energy, Utilities and Sustainability	Director-General of the Department
Department of Environment and Conservation	Director-General of the Department
Office of the NSW Food Authority	Director-General of the Authority
Department of Health	Director-General of the Department
Office of the Health Care Complaints Commission	* Commissioner of the Health Care Complaints Commission
Department of Housing	Director-General of the Department
Office of the Institute of Teachers	Chief Executive of the Institute
Department of Juvenile Justice	Director-General of the Department
Department of Lands	Director-General of the Department
Office of the Legal Aid Commission	* Chief Executive Officer of the Commission
Department of Local Government	Director-General of the Department
Office of the Motor Accidents Authority	General Manager of the Authority
Department of Natural Resources	Director-General of the Department
New South Wales Fire Brigades	Commissioner of New South Wales Fire Brigades
NSWbusinesslink	Managing Director, NSWbusinesslink
Ombudsman's Office	* Ombudsman
Department of Planning	Director-General of the Department
Ministry for Police	Director-General of the Ministry
Office of the Police Integrity Commission	* Commissioner for the Police Integrity Commission
Premier's Department	Director-General of the Department

Column 1	Column 2
Name of Division	Division Head
Department of Primary Industries	Director-General of the Department
Office of the Redfern–Waterloo Authority	Chief Executive Officer of the Authority
Office of the Rural Assistance Authority	* Chief Executive of the Authority
Department of Rural Fire Service	Commissioner of the NSW Rural Fire Service
Department of State and Regional Development	Director-General of the Department
State Electoral Office	* Electoral Commissioner
State Emergency Service	Director-General of the Service
Office of the Sydney Harbour Foreshore Authority	Chief Executive Officer of the Authority
Office of the Sydney Olympic Park Authority	Chief Executive Officer of the Authority
Office of the Sydney 2009 World Masters Games Organising Committee	Chief Executive Officer of SWMGOC
Ministry of Transport	Director-General of the Ministry
The Treasury	Secretary of the Treasury
Office of the WorkCover Authority	Chief Executive Officer of the Authority

Note. The positions above marked with an asterisk are positions that are created by another Act and are not Public Service positions. The other positions are created by this Act (see section 10) and are Public Service positions.

Part 2 Non-Public Service Divisions assigned to statutory corporations

Note. The Divisions listed in this Part that are marked with an asterisk are the Divisions to which section 4H (Division Heads of certain Divisions to comply with directions of Director of Public Employment on industrial matters) applies.

Column 1	Column 2
Name of Division	Division Head
Benerembah Irrigation District Environment Protection Trust Division	Full-time member of the Benerembah Irrigation District Environment Protection Trust

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Column 1	Column 2
Name of Division	Division Head
Cancer Institute Division	Director-General of the Department of Health
Casino Control Authority Division	Chief Executive of the Casino Control Authority
* Cobar Water Board Division	Full-time member of the Cobar Water Board
* Greyhound and Harness Racing Regulatory Authority Division	Chief Executive of the Greyhound and Harness Racing Regulatory Authority
Health Professional Registration Boards Division	Director-General of the Department of Health
* Home Care Service Division	Director-General of the Department of Ageing, Disability and Home Care
Independent Transport Safety and Reliability Regulator Division	Chief Executive of the Independent Transport Safety and Reliability Regulator
Institute of Sport Division	Chief Executive Officer of the Institute of Sport (and the Chairperson of the Board of the Institute in relation to the Chief Executive Officer)
Internal Audit Bureau Division	Chief Executive of the Internal Audit Bureau of New South Wales
Jenolan Caves Reserve Trust Division	General Manager of the Jenolan Caves Reserve Trust (and the Chairperson of the Jenolan Caves Reserve Trust Board in relation to the General Manager)
Parramatta Stadium Trust Division	Chief Executive Officer of the Parramatta Stadium Trust (and the Chairperson of the Trust in relation to the Chief Executive Officer)
* Roads and Traffic Authority Division	Chief Executive of the Roads and Traffic Authority
Rural Lands Protection Boards Division	Chief Executive Officer of the State Council of Rural Lands Protection Boards (and the Chairperson of the State Council in relation to the Chief Executive Officer)
* SAS Trustee Corporation Division	Chief Executive of the SAS Trustee Corporation

Column 1	Column 2
Name of Division	Division Head
State Council of Rural Lands Protection Boards Division	Chairperson of the State Council of Rural Lands Protection Boards
State Sports Centre Trust Division	Director of the State Sports Centre Trust (and the Chairperson of the Trust in relation to the Director)
* State Transit Authority Division	Chief Executive of the State Transit Authority
Sydney Catchment Authority Division	Chief Executive of the Sydney Catchment Authority
Sydney Cricket and Sports Ground Trust Division	Secretary of the Sydney Cricket and Sports Ground Trust (and the Chairperson of the Trust in relation to the Secretary)
* TAFE Commission Division	Managing Director of the TAFE Commission
Treasury Corporation Division	Chief Executive of the Treasury Corporation
Upper Parramatta River Catchment Trust Division	Director-General of the Department of Natural Resources
* Waterways Authority Division	Chief Executive of the Waterways Authority
Western Sydney Buses Division	Manager of Western Sydney Buses (and the Chief Executive of the State Transit Authority in relation to the Manager)
Wild Dog Destruction Board Division	Chairperson of the Wild Dog Destruction Board
Wollongong Sportsground Trust Division	Chief Executive Officer of the Wollongong Sportsground Trust (and the Chairperson of the Trust in relation to the Chief Executive Officer)
* Zoological Parks Board Division	Director of the Zoological Parks Board

Part 3 Special Employment Divisions

Note. The employment of staff in a Division listed in this Part is subject to the limitations specified in relation to that staff (see section 4C (3)). These Divisions comprise ancillary groups of staff who are not part of the Public Service but who are employed under Chapter 1A in connection with a statutory corporation that, in most cases, also has Public Service staff assigned to it.

Column 1	Column 2
Name of Division	Division Head
Board of Studies Casual Staff Division (limited to casual staff employed otherwise than under Chapter 2 of this Act for the purposes of marking examinations or for any other purpose approved by the Minister administering the <i>Education Act 1990</i>)	General Manager of the Office of the Board of Studies
Board of Studies Inspectors Division (limited to temporary staff employed otherwise than under Chapter 2 of this Act for the purposes of developing the school curriculum, exercising functions in connection with approvals, registrations and accreditations under Parts 7 and 8 of the <i>Education Act 1990</i> and exercising such other functions as may be conferred on Board inspectors under that Act or as may be determined by the Board of Studies)	General Manager of the Office of the Board of Studies
Boxing Authority Casual Staff Division (limited to casual staff employed otherwise than under Chapter 2 of this Act for any purpose approved by the Minister administering the <i>Boxing and Wrestling Control Act 1986</i>)	Chairperson of the Boxing Authority
Building and Construction Industry Long Service Payments Corporation Casual Staff Division (limited to casual staff employed otherwise than under Chapter 2 of this Act with the approval of the Minister administering the <i>Building and Construction Industry Long Service Payments Act 1986</i>)	Chief Executive Officer of the WorkCover Authority
Energy Corporation Division (limited to staff employed with the approval of the Minister administering the <i>Energy and Utilities Administration Act 1987</i>)	Director-General of the Department of Energy, Utilities and Sustainability

Column 1	Column 2
Name of Division	Division Head
Environment Protection Authority Special Purpose Division (limited to staff employed for any special purpose approved by the Minister administering the <i>Protection of the Environment Administration Act 1991</i>)	Director-General of the Department of Environment and Conservation
Forestry Commission Division (limited to staff employed on a casual basis otherwise than under Chapter 2 of this Act and to trade and field staff engaged in forestry work)	Director-General of the Department of Primary Industries
Game Council Division (limited to staff who are not subject to Chapter 2 of this Act)	Chairperson of the Game Council
Independent Pricing and Regulatory Tribunal Division (limited to staff who are not subject to Chapter 2 of this Act)	Chairperson of the Independent Pricing and Regulatory Tribunal
Institute of Teachers Special Purpose Division (limited to staff employed for any special purpose approved by the Minister administering the <i>Institute of Teachers Act 2004</i>)	Chief Executive of the Institute of Teachers
Legal Aid Commission Temporary Staff Division (limited to staff employed on a temporary basis otherwise than under Chapter 2 of this Act with the approval of the Director of Public Employment)	Chief Executive Officer of the Legal Aid Commission
Motor Accidents Authority Casual Staff Division (limited to staff employed on a casual basis otherwise than under Chapter 2 of this Act)	General Manager of the Motor Accidents Authority
Natural Resources Commission Division (limited to staff who are not subject to Chapter 2 of this Act)	Commissioner for the Natural Resources Commission
New South Wales Crime Commission Division (limited to staff who are not subject to Chapter 2 of this Act)	Commissioner for the New South Wales Crime Commission

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Column 1	Column 2
Name of Division	Division Head
NSW Institute of Psychiatry Division (limited to staff, employed with the approval of the Minister administering the <i>New South Wales Institute of Psychiatry Act 1964</i> , having such medical, scientific or technical or other para-medical qualifications as may be necessary for carrying out the provisions of that Act)	Director-General of the Department of Health
Police Integrity Commission Division (limited to staff who are not subject to Chapter 2 of this Act)	Commissioner for the Police Integrity Commission
Rental Bond Board Special Purpose Division (limited to staff employed for any special purpose approved by the Minister administering the <i>Landlord and Tenant (Rental Bonds) Act 1977</i>)	Director-General of the Department of Commerce
Sydney Harbour Foreshore Authority Casual Staff Division (limited to staff employed on a casual basis otherwise than under Chapter 2 of this Act)	Chief Executive Officer of the Sydney Harbour Foreshore Authority
Sydney Olympic Park Authority Casual Staff Division (limited to staff employed on a casual basis otherwise than under Chapter 2 of this Act)	Chief Executive Officer of the Sydney Olympic Park Authority
SWMGOC Division (limited to staff employed with the approval of the Minister administering the <i>Sydney 2009 World Masters Games Organising Committee Act 2005</i>)	Chief Executive Officer of SWMGOC
TELCO Special Purpose Division (limited to staff employed for any special purpose approved by the Minister administering the <i>Government Telecommunications Act 1991</i>)	Managing Director of the New South Wales Government Telecommunications Authority
Tourism New South Wales Division (limited to staff employed with the approval of the Minister administering the <i>Tourism New South Wales Act 1984</i>)	General Manager of Tourism New South Wales

Column 1	Column 2
Name of Division	Division Head
Vocational Education and Training Accreditation Board Division (limited to staff who are not subject to Chapter 2 of this Act)	Director-General of Department of Education and Training
WorkCover Authority Casual Staff Division (limited to casual staff employed otherwise than under Chapter 2 of this Act with the approval of the Minister administering the <i>Workplace Injury Management and Workers Compensation Act 1998</i>)	Chief Executive Officer of the WorkCover Authority

- [43] Schedule 2 Executive positions (other than non-statutory SES positions)**
Insert “Part 1 of” before “Schedule 1” in Part 1 (Chief executive positions (Department Heads)).
- [44] Schedule 2, Part 3**
Omit “Chief Executive Officer of the Ambulance Service Board”.
- [45] Schedule 3, heading**
Insert “in the Public Service” after “employees”.
- [46] Schedule 3A Recognition of prior government service for public sector employees extended leave entitlements**
Omit the note to clause 8 (1).
- [47] Schedule 3A, clause 8 (1A)–(1C)**
Insert after clause 8 (1):
- (1A) Such an election cannot be made by a public sector employee if the employee is only moving between different Departments of the Public Service.
 - (1B) However, such an election may, without limiting subclause (1), be made by:
 - (a) an employee in a Division of the Government Service referred to in Part 2 or 3 of Schedule 1 who is moving to another Division (including a Department) or to any other public sector service, or

- (b) an employee in a Department who is moving to a Division of the Government Service referred to in Part 2 or 3 of Schedule 1.
- (1C) Subclause (1B) has effect despite anything to the contrary in the *Annual Holidays Act 1944* or the *Long Service Leave Act 1955*.

[48] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[49] Schedule 4, Part 4

Insert after Part 3:

Part 4 Provisions consequent on enactment of Public Sector Employment Legislation Amendment Act 2006

18 Definition

In this Part:

amending Act means the *Public Sector Employment Legislation Amendment Act 2006*.

19 Existing staff of statutory corporations

- (1) A person who, immediately before the commencement of Chapter 1A (as inserted by the amending Act), was employed as a member of staff (however described) of a statutory corporation under an Act amended by Schedule 4 to the amending Act:
 - (a) ceases, on that commencement, to be employed by the statutory corporation, and
 - (b) is taken, on that commencement, to be a member of staff of the Division of the Government Service that comprises the group of staff who are employed under that Chapter to enable the statutory corporation to exercise its functions.

Note. Subclause (1) only applies to staff who were employed by a statutory corporation and does not apply to existing departmental staff in the Public Service who, immediately before the relevant commencement, comprised a group of staff attached to a statutory corporation. Clause 25 of this Part deals with existing departmental staff.

- (2) Any such person who, under subclause (1), becomes a member of staff of a Division of the Government Service is, until such time as provision is otherwise made under this Act or any other law, to

continue to be employed in accordance with the terms and conditions (including the terms of any State industrial instrument or of any determination made under any other Act) that applied to the person as a member of staff of the statutory corporation concerned.

- (3) If an award under the *Workplace Relations Act 1996* of the Commonwealth (***the Federal award***) applied to the person concerned as a member of staff of the statutory corporation immediately before the commencement of Chapter 1A, a State industrial instrument in the nature of an award is taken to have been created in the same terms as the Federal award and is taken to apply to the person for the purposes of subclause (2).
- (4) If a certified agreement under the *Workplace Relations Act 1996* of the Commonwealth (***the Federal agreement***) applied to the person concerned as a member of staff of the statutory corporation immediately before the commencement of Chapter 1A, a State industrial instrument in the nature of an enterprise agreement is taken to have been created in the same terms as the Federal agreement and is taken to apply to the person for the purposes of subclause (2).
- (5) The terms of any such instrument created as provided by subclause (3) or (4) have effect despite anything to the contrary in the *Annual Holidays Act 1944*, the *Long Service Leave Act 1955*, the *Industrial Relations Act 1996* or any other law of the State.
- (6) A person who, under subclause (1), becomes a member of staff of a Division of the Government Service is, for the purposes of clause 21, taken to have been transferred to that Division from the statutory corporation concerned.
- (7) This clause does not apply in relation to a person holding office:
 - (a) as Chief Executive of the Greyhound and Harness Racing Regulatory Authority, or
 - (b) as the Director of the Zoological Parks Board, immediately before the commencement of Chapter 1A.
- (8) This clause extends to persons who were, immediately before the commencement of Chapter 1A, employed as members of staff of Western Sydney Buses.
- (9) This clause is subject to the provisions of this Act and the regulations.

20 Transfer of TAFE administrative staff

- (1) On the commencement of Chapter 1A, each person who was, immediately before that commencement, a member of the TAFE administrative staff is transferred to the Department of Education and Training.
- (2) In this clause:
TAFE administrative staff means the staff of the TAFE Commission other than the staff comprising either or both of the following:
 - (a) teaching or educational staff,
 - (b) institute managers.

21 Provisions relating to transferred staff

- (1) A person who is transferred under clause 19 or 20:
 - (a) retains any rights to annual leave, extended or long service leave, sick leave, and other forms of leave, accrued or accruing in his or her employment with the statutory corporation from which the person is transferred, and
 - (b) is not entitled to receive any payment or other benefit merely because the person ceases to be a member of staff of the statutory corporation from which the person is transferred, and
 - (c) is not entitled to claim, both under this Act or any other Act, dual benefits of the same kind for the same period of service.
- (2) Without limiting subclause (1), a person who is transferred under clause 19 or 20 is not, despite any other provision of this Act, entitled to elect, because of that transfer, to be paid the money value of any extended or annual leave that the person accrued as a member of staff of the statutory corporation from which the person is transferred.

22 Abolition of Public Employment Office

- (1) The Public Employment Office is abolished.
- (2) A reference, in any other Act, or in any instrument made under any Act or in any other instrument of any kind, to the Public Employment Office is to be read as a reference to the Director of Public Employment.

23 Declared authorities industrial relations functions

- (1) Part 6.4 (as in force immediately before its repeal by the amending Act) continues to apply to and in respect of:
 - (a) the State Rail Authority (as referred to in Schedule 8 to the *Transport Administration Act 1988*) until such time as that Authority ceases to employ any staff under that Schedule, and
 - (b) FSS Trustee Corporation until the registration day as referred to in clause 1 of Schedule 2A to the *Superannuation Administration Act 1996*.
- (2) The provisions of any other Act that would have applied to a statutory corporation if Part 6.4 was in force continue to apply to the corporation for so long as Part 6.4 continues to apply to the corporation as provided by subclause (1).

24 Ministerial responsibility for Divisions of the Government Service

Until such time as provision is otherwise made under section 106 in relation to the Division concerned, a Division of the Government Service in which staff are employed under Chapter 1A to enable a statutory corporation to exercise its functions is responsible to the Minister who is responsible for administering the Act under which the corporation is constituted.

25 Existing staff of Public Service Departments

- (1) The substitution of Schedule 1 by the amending Act does not affect:
 - (a) a person's appointment to a position in the Public Service held by the person immediately before that substitution, or
 - (b) the terms and conditions on which the person was employed in a Department immediately before that substitution.
- (2) A reference in any other Act or instrument to a Department (as listed in Schedule 1 immediately before the substitution of that Schedule by the amending Act) is, if the name of the Department is modified by the amending Act, taken to be a reference to the Department as so modified.

26 Existing workers compensation policies of insurance and self-insurer's licences

- (1) A policy of insurance issued to a statutory corporation under the *Workers Compensation Act 1987* and in force immediately before the commencement of Chapter 1A is also taken to have

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been issued to the Government of New South Wales (but only as a policy that is limited to workers employed in a Division of the Government Service to enable the statutory corporation to exercise its functions).

- (2) A licence under Division 5 of Part 7 of the *Workers Compensation Act 1987* granted to a statutory corporation and in force immediately before the commencement of Chapter 1A is also taken to have been issued to the Government of New South Wales (but only as a self-insurer's licence that is limited to workers employed in a Division of the Government Service to enable the statutory corporation to exercise its functions).

Schedule 2 Amendment of Health Services Act 1997

(Section 4)

[1] Section 4 Objects of Act

Omit section 4 (g). Insert instead:

- (g) to require visiting practitioners and staff in the public health system to disclose any charge or conviction for a serious sex or violence offence or of a misconduct finding (such as findings of professional misconduct or unsatisfactory professional conduct), and

[2] Section 4 (h)

Omit “staff members of public health organisations”.

Insert instead “staff in the public health system”.

[3] Chapters 2–5, 9 and 10

Omit the introduction to each Chapter.

[4] Section 6 What is the public health system?

Omit section 6 (d). Insert instead:

- (d) the Director-General in respect of the provision of ambulance services under Chapter 5A and the provision of health support services under Part 1A of Chapter 10.

[5] Section 16 Who constitutes the NSW Health Service?

Omit the section (including the note at the end of the section).

[6] Section 22 Provisions relating to the corporate nature of area health services

Insert at the end of the section:

- (2) However, an area health service cannot employ any staff.
Note. Staff may be employed under Part 1 of Chapter 9 in the NSW Health Service to enable an area health service to exercise its functions.

[7] Section 23 Appointment of chief executive

Omit section 23 (2). Insert instead:

- (2) The employment of the chief executive is subject to Part 3 of Chapter 9.
Note. Under Part 3 of Chapter 9, the chief executive is a member of the Health Executive Service.

[8] Section 23 (3)

Omit the subsection (and the note to the subsection).

[9] Section 33 Staff of area health services

Omit the section.

[10] Section 39 Area health service may make by-laws

Omit section 39 (1) (d).

[11] Section 40 Delegations by area health service

Omit “of its officers or employees” from section 40 (1).

Insert instead “member of the NSW Health Service”.

[12] Section 40 (4)

Omit the subsection.

[13] Section 45 Provisions relating to the corporate nature of statutory health corporations

Insert at the end of the section:

- (2) However, a statutory health corporation cannot employ any staff.
Note. Staff may be employed under Part 1 of Chapter 9 in the NSW Health Service to enable a statutory health corporation to exercise its functions.

[14] Section 49 Membership of health corporation board

Omit section 49 (2). Insert instead:

- (2) One of the persons appointed by the Minister is to be a member of the NSW Health Service who is employed in connection with the board governed health corporation concerned.

[15] Section 51 Appointment of chief executive

Omit section 51 (2)–(5). Insert instead:

- (2) If the position of chief executive is an executive position within the meaning of Part 3 of Chapter 9, the employment of the chief executive is subject to that Part.
- (3) If the position of chief executive is not an executive position within the meaning of Part 3 of Chapter 9, the chief executive is, while holding that office, to be employed under Part 1 of Chapter 9 in the NSW Health Service.

[16] Section 52 Removal of members and appointment of administrator

Omit section 52 (7).

[17] Section 52A Appointment of chief executive

Omit section 52A (2)–(4). Insert instead:

- (2) If the position of chief executive is an executive position within the meaning of Part 3 of Chapter 9, the employment of the chief executive is subject to that Part.
- (3) If the position of chief executive is not an executive position within the meaning of Part 3 of Chapter 9, the chief executive:
 - (a) is, while holding that office, taken to be employed under Part 1 of Chapter 9 in the NSW Health Service, and
 - (b) may at any time, for any reason or no reason and without notice, be removed from office by the Director-General.

[18] Section 54 Staff of statutory health corporations

Omit the section.

[19] Section 60 Statutory health corporation may make by-laws

Omit section 60 (1) (d).

[20] Section 61 Delegations by statutory health corporations

Omit “of its officers or employees” from section 61 (1).

Insert instead “member of the NSW Health Service”.

[21] Section 61 (4)

Omit the subsection. Insert instead:

- (4) For the purposes of this section, the functions of a board governed health corporation include the functions of its health corporation board.

[22] Section 62A

Insert after section 62:

62A Declared affiliated health organisations

- (1) The affiliated health organisations specified in the regulations under this section are *declared affiliated health organisations* for the purposes of this Act.

- (2) Any such regulation may apply only to such of the recognised establishments or recognised services (or parts of them) of an affiliated health organisation as are specified in the regulation. In any such case, the organisation concerned is a declared affiliated health organisation for the purposes of this Act only to the extent of its recognised establishments or services (or parts of them) that are so specified.
- (3) A declared affiliated health organisation must not employ any staff in respect of its recognised establishments and recognised services.
Note. Staff may be employed under Part 1 of Chapter 9 in the NSW Health Service to enable a declared affiliated health organisation to exercise its functions in respect of its recognised establishments and recognised services.
- (4) However, nothing in this section prevents a declared affiliated health organisation from entering into arrangements for the management, on its behalf, of its recognised establishments or recognised services.
- (5) A regulation cannot be made under this section in relation to an affiliated health organisation except with the concurrence of the affiliated health organisation.

[23] Section 63 Affiliated health organisations may make by-laws

Insert after section 63 (1):

- (1A) Subsection (1) (e) does not apply in relation to a declared affiliated health organisation.

[24] Section 63A

Insert after section 63:

63A Criminal and disciplinary matters concerning employees of non-declared affiliated health organisations

- (1) In this section, *non-declared organisation* means an affiliated health organisation that is not a declared affiliated health organisation.
- (2) The provisions of Part 2 of Chapter 9 apply, with such modifications as are necessary, to and in respect of a non-declared organisation and its employees in the same way as those provisions apply to and in respect of a declared affiliated health organisation and the members of the NSW Health Service who are employed under Part 1 of Chapter 9 in connection with the declared affiliated health organisation.

[25] Section 64A

Insert after section 64:

64A Regulations relating to movement of staff between NSW Health Service and non-declared affiliated health organisations

- (1) This section does not apply to or in respect of a declared affiliated health organisation.
- (2) The regulations may make provision for or with respect to the movement of staff between affiliated health organisations and the NSW Health Service.
- (3) Without limiting subsection (2), any such regulations may provide for:
 - (a) the retention by any such staff of their accrued leave entitlements, and
 - (b) the apportioning of the liability for the cost of accrued leave entitlements of staff who move between affiliated health organisations and the NSW Health Service.
- (4) The Minister may give directions to an affiliated health organisation for the purpose of making due allowance and appropriate adjustments for liabilities incurred by reason of the operation of any regulation made under this section (or liabilities with respect to accrued leave entitlements generally). Any such direction has effect despite any determination made in respect of the affiliated health organisation under section 127.

[26] Chapter 5A

Insert after Chapter 5:

Chapter 5A Ambulance services

67A Ambulance Service of NSW

- (1) The Ambulance Service of NSW comprises those staff of the NSW Health Service who are employed primarily in connection with the provision of ambulance services under this Chapter.
- (2) The Director-General may appoint a chief executive of the Ambulance Service of NSW.
- (3) The employment of the chief executive is subject to Part 3 of Chapter 9.

67B Provision etc of ambulance services

- (1) The Director-General has, on behalf of the Crown, the following functions:
- (a) to provide, conduct, operate and maintain ambulance services,
 - (b) to co-operate with or provide assistance to any person or organisation for the purposes of providing, conducting, operating and maintaining ambulance services,
 - (c) in connection with ambulance services referred to in paragraph (a), to protect persons from injury or death, whether or not those persons are sick or injured,
 - (d) to adopt and implement all necessary measures (including systems of planning, management and quality control) as will best ensure the efficient and economic operation and use of resources in the provision of ambulance services,
 - (e) to consult and co-operate with individuals and organisations (including voluntary agencies, private agencies and public or local authorities) concerned with the provision of ambulance services,
 - (f) to co-ordinate and plan the future development of ambulance services, and towards that end, to support, encourage and facilitate the organisation of community involvement in the planning of those services,
 - (g) to set objectives and determine priorities in relation to the provision of ambulance services and to monitor whether those objectives are achieved,
 - (h) to achieve and maintain adequate standards of ambulance services,
 - (i) to make available to the public reports, information and advice concerning the operation of ambulance services,
 - (j) to provide assistance to, or co-operate with, any person or organisation in connection with the depiction of ambulance services in the news or entertainment media,
 - (k) to exercise such other functions in relation to ambulance services as may be conferred or imposed on the Director-General by the regulations.
- (2) The exercise of functions under this section in emergencies and rescue operations is subject to the *State Emergency and Rescue Management Act 1989*.

67C Ambulance Services Advisory Council

- (1) There is established by this Act an Ambulance Services Advisory Council.
- (2) The members of the Advisory Council are as follows:
 - (a) the chief executive of the Ambulance Service of NSW,
 - (b) not fewer than 8 and not more than 12 persons appointed by the Minister.
- (3) At least 3 of the appointed members are to be members of the Ambulance Service of NSW.
- (4) The other appointed members must each have such qualifications as the Minister considers necessary to enable the members to carry out their functions.
- (5) The function of the Advisory Council is to provide advice to the Director-General in relation to the exercise of the Director-General's functions under this Chapter in relation to the provision of ambulance services.
- (6) The Advisory Council has such other functions as may be conferred or imposed on it by the Director-General.
- (7) Schedule 6 has effect with respect to the members and procedure of the Advisory Council.

67D Scale of fees

- (1) The Minister may, by order published in the Gazette:
 - (a) fix a scale of fees in respect of ambulance services provided by the Director-General, and
 - (b) amend or revoke any scale of fees so fixed.
- (2) The Director-General may remit or postpone payment of any amount due in respect of ambulance services provided by the Director-General.
- (3) Nothing in this section affects Part 4 of the *Health Insurance Levies Act 1982*.

67E Unauthorised provision of ambulance transport

- (1) A person must not:
 - (a) directly or indirectly provide or take part in the provision of transport for sick or injured persons for fee or reward, or

- (b) conduct for fee or reward any operations similar to the operations carried on by the Director-General under this Chapter,
without the consent of the Director-General and except in accordance with such conditions (if any) as the Director-General may from time to time impose.
Maximum penalty: 50 penalty units.
- (2) The Director-General may revoke any consent given, or revoke or vary any condition imposed, under this section.
- (3) This section does not apply to:
 - (a) the St John Ambulance Australia (NSW) in respect of operations similar to the operations lawfully carried on by that body immediately before the day on which this section commences, or
 - (b) the Royal Flying Doctor Service of Australia (NSW Section), or
 - (c) the mines rescue company, within the meaning of the *Coal Industry Act 2001*, (or a member, director or employee of that company) in the exercise of mines rescue functions under Division 3 of Part 3, or Part 4, of that Act, or
 - (d) a member of the New South Wales Mines Rescue Brigade established under the *Coal Industry Act 2001*, or
 - (e) any person (or class of persons) prescribed by the regulations.

67F Unauthorised collections

- (1) A person must not organise, conduct or take part in the collection or soliciting of money or property from the public for, towards or in return for the provision of ambulance services without the consent of the Director-General and except in accordance with such conditions (if any) as the Director-General may from time to time impose.
Maximum penalty: 50 penalty units.
- (2) The Director-General may revoke any consent given, or revoke or vary any condition imposed, under this section.
- (3) This section does not apply to:
 - (a) any person engaged in the conduct or operation of the State Ambulance Insurance Plan established under the *Health Insurance Levies Act 1982*, or

-
- (b) an insurer under a policy of insurance to the extent that the money or the property represents consideration for an indemnity provided in that policy against the cost of the transport of a sick or injured person, being an indemnity incidental to the risks insured under that policy, or
 - (c) any person (or class of persons) prescribed by the regulations.

67G False calls for provision of ambulance services

A person who requests the provision of an ambulance service knowing that no ambulance service is in the circumstances required or likely to be required by any person is guilty of an offence.

Maximum penalty: 50 penalty units.

67H Honorary ambulance officers

- (1) The Director-General may appoint such persons as the Director-General thinks fit to be honorary ambulance officers.

Note. Honorary ambulance officers are not members of the NSW Health Service employed under Part 1 of Chapter 9.

- (2) Honorary ambulance officers:
 - (a) may carry out, without remuneration, such of the functions of the Director-General under this Act as the Director-General may from time to time direct, and
 - (b) are subject to the control and supervision of the Director-General.

67I Exculpation from personal liability

A member of staff of the Ambulance Service of NSW or an honorary ambulance officer is not liable for any injury or damage caused by the member of staff or officer in the carrying out, in good faith, of any of the member's or officer's duties relating to:

- (a) the provision of ambulance services, or
- (b) the protection of persons from injury or death, whether or not those persons are or were sick or injured.

[27] Chapter 9, Part 1

Omit the Part. Insert instead:

Part 1 Employment of staff in the NSW Health Service

115 The NSW Health Service

- (1) The NSW Health Service consists of those persons who are employed under this Part by the Government of New South Wales in the service of the Crown.
- (2) This Part does not affect any other means (statutory or otherwise) by which persons may be employed in the service of the Crown.
Note. Other ways in which persons are employed in the service of the Crown include employment in the Government Service (see Chapter 1A of the *Public Sector Employment and Management Act 2002*), employment in the Teaching Service or employment in NSW Police.

116 Employment of staff generally

- (1) The Government of New South Wales may employ staff under this Part:
 - (a) to enable area health services and statutory health corporations, and the public hospitals that they control, to exercise their functions, and
 - (b) to enable declared affiliated health organisations to exercise their functions in relation to their recognised establishments and recognised services, and
 - (c) to enable the Director-General to exercise his or her functions under Chapter 5A in relation to ambulance services, and
 - (d) to enable the Director-General to exercise his or her functions under Part 1A of Chapter 10 in relation to the provision of health support services to public health organisations and the public hospitals that they control, and
 - (e) to enable the Health Administration Corporation to exercise its functions under this or any other Act.
- (2) The employment of staff in the NSW Health Service, including the exercise of employer functions in relation to that staff, is subject to the requirements of this or any other Act relating to that staff.

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- (3) The Director-General may, subject to subsection (2), exercise on behalf of the Government of New South Wales, the employer functions of the Government in relation to the staff employed in the NSW Health Service.

Note. The Director-General's functions under this or any other Act may, under section 21 of the *Health Administration Act 1982*, be delegated to any person.

- (4) The Director-General may create divisions (however described) of staff in the NSW Health Service.
- (5) This section does not limit the purposes for which, or the manner in which, staff may be employed in the NSW Health Service.

116A Salary, conditions etc of staff employed in the NSW Health Service

- (1) The Director-General may fix the salary, wages and conditions of employment of staff employed under this Part in so far as they are not fixed by or under any other law.
- (2) The Director-General may give directions to a public health organisation requiring the payment by the organisation, on behalf of the Government of New South Wales, of the salary, wages and other employment-related costs (such as superannuation, workers compensation, public liability insurance and vicarious tortious liability) of those members of the NSW Health Service who are employed under this Part to enable the public health organisation to exercise its functions.
- (3) The Director-General may enter into an agreement with any association or organisation representing a group or class of members of the NSW Health Service with respect to the conditions of employment (including salaries, wages or remuneration) of that group or class. Any such agreement may (subject to Part 2) extend to conditions in respect of the employment of persons convicted of, or charged with, serious sex or violence offences.
- (4) An agreement under subsection (3) binds all members of staff in the group or class affected by the agreement, and no such member, whether a member of the association or organisation with which the agreement was entered into or not, has any right of appeal against the terms of the agreement.
- (5) This section does not apply in relation to any conditions of employment determined under Part 3 of this Chapter of any member of staff of the NSW Health Service whose employment is subject to that Part.

116B Special provisions relating to staff employed in connection with declared affiliated health organisations

- (1) A person cannot be employed under this Part to enable a declared affiliated health organisation to exercise its functions in connection with its recognised establishments and recognised services unless the affiliated health organisation is satisfied that the person is suitable to carry out duties in connection with the organisation having regard to the health care philosophy of the organisation.
- (2) Section 56 of the *Anti-Discrimination Act 1977* applies in relation to the employment under this Part of staff in connection with a declared affiliated health organisation.

116C Transfer of staff within the NSW Health Service

- (1) The Director-General may, on the ground of redundancy, direct the transfer of a member of the NSW Health Service (*the staff member*) from one position in the NSW Health Service to another position in the Service at a salary in accordance with any general determination under section 116A (1), but only if:
 - (a) the Director-General is satisfied that:
 - (i) the number of persons who are employed in or in connection with the public health organisation concerned exceeds the number that appears to be necessary for the effective, efficient and economical management of the functions and activities of the organisation, either generally or at a particular location, or
 - (ii) the mix of skills or other expertise of the persons who are employed in or in connection with the public health organisation concerned appears to be unsuitable for the effective, efficient and economical management of the functions and activities of the organisation, either generally or at a particular location, and
 - (b) the Director-General is satisfied that the staff member possesses the essential qualifications specified for the other position and the work assigned to the other position is appropriate to the skills and qualifications of the staff member, and
 - (c) if the staff member is to be transferred to a position in connection with a declared affiliated health organisation—the affiliated health organisation has been consulted by the Director-General as to the suitability of the staff member

to carry out duties in connection with the organisation having regard to the health care philosophy of the organisation.

- (2) If a staff member refuses a transfer from one position to another under this section, the Director-General may, if satisfied that the staff member has no valid reason for so refusing, dismiss the member from the NSW Health Service.
- (3) No compensation is payable in respect of the dismissal.
- (4) Nothing in this section affects the operation of Part 6 (Unfair dismissals) of Chapter 2 of the *Industrial Relations Act 1996* or any other statutory right that a member of staff may have in relation to his or her dismissal from the NSW Health Service under this section.
- (5) Nothing in this section prevents the transfer, under any other law, of members of staff of the NSW Health Service.

116D Director-General may arrange for use of services or facilities outside of NSW Health Service

For the purposes of facilitating the exercising of functions within the public health system, the Director-General may arrange for the use of the services of any staff (including by way of secondment to the NSW Health Service) or facilities of any Division of the Government Service or of a public or local authority.

116E Obligations of declared affiliated health organisations under certain legislation

- (1) For the purposes of the *Occupational Health and Safety Act 2000*, a declared affiliated health organisation has the functions and liabilities of an employer in respect of the staff who are employed in the NSW Health Service to enable the organisation to exercise its functions in relation to its recognised establishments and recognised services.
- (2) A reference in the *Anti-Discrimination Act 1977* to an employer in relation to employment in the NSW Health Service in connection with a declared affiliated health organisation and its recognised establishments and recognised services is taken to be a reference to the declared affiliated health organisation.

116F Operation of privacy legislation

If any staff are employed under this Part in the NSW Health Service to enable a public health organisation to exercise its

functions, the staff are (however described) taken, for the purposes of the *Privacy and Personal Information Protection Act 1998* and the *Health Records and Information Privacy Act 2002*, to be part of the public health organisation.

116G Miscellaneous provisions relating to civil liability

- (1) A reference in this section to a public health organisation does not include a reference to an affiliated health organisation unless it is a declared affiliated health organisation.
- (2) Part 5 of the *Workers Compensation Act 1987* applies to work injury damages recoverable from the Government of New South Wales, and to work injury damages recoverable from a public health organisation, by or in respect of a person employed in the NSW Health Service to enable the public health organisation to exercise its functions. That Part so applies as if the public health organisation:
 - (a) were an employer of the person in addition to the Government, and
 - (b) were an employer liable to pay compensation under that Act.
- (3) A policy of insurance may be issued to the Government of New South Wales under the *Workers Compensation Act 1987* that is limited to workers employed in connection with a particular public health organisation.
- (4) If:
 - (a) a person is employed in the NSW Health Service to enable a public health organisation to exercise its functions, and
 - (b) the Government of New South Wales is, as the person's employer, proceeded against for any negligence or other tort of the person (whether the damages are recoverable in an action for tort or breach of contract or in any other action), and
 - (c) the public health organisation is entitled under a policy of insurance or indemnity to be indemnified in respect of liability that the organisation may incur in respect of that negligence or other tort,

the Government is subrogated to the rights of the public health organisation under that policy in respect of the liability incurred by the Government arising from that negligence or other tort.

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- (5) For the purposes of Division 2 of Part 9 of Chapter 2 of the *Industrial Relations Act 1996*:
- (a) if a person who is member of the NSW Health Service is appointed (otherwise than on an acting basis) to another position in the NSW Health Service in connection with a different public health organisation or a different division of that Service, the person is taken to have entered into a new contract of employment in respect of that other position, and
 - (b) the cessation of a person's appointment (whether by way of dismissal, resignation, transfer or otherwise) to a position in the NSW Health Service is taken to terminate the person's contract of employment in respect of that position.
- (6) However, a person who holds an appointment to a position that is abolished does not, for the purposes of subsection (5) (b), cease to be appointed to that position until:
- (a) such time as the person is appointed to another position in the NSW Health Service, or
 - (b) such time as the person's employment in the NSW Health Service is terminated,
- whichever occurs first.
- (7) In this section:
- work injury damages*** means damages recoverable from a public health organisation or the Government of New South Wales in respect of injury to or the death of a person employed in the NSW Health Service to enable the public health organisation to exercise its functions caused by the negligence or other tort of the public health organisation or the Government and arising out of the employment of the person by the Government, whether the damages are recoverable in an action for tort or breach of contract or in any other action, but does not include motor accident damages to which Chapter 5 of the *Motor Accidents Compensation Act 1999* applies.

[28] Chapter 9, Part 2, heading

Omit “employees in”. Insert instead “staff of”.

[29] Section 117AA

Insert before section 117:

117AA Definitions

In this Part:

member of staff means a member of the NSW Health Service who is employed under Part 1 of this Chapter to enable a public health organisation to exercise its functions.

[30] Section 117 Duty to report certain criminal conduct and disciplinary matters

Omit “An employee of a public health organisation” from section 117 (1).

Insert instead “A member of staff”.

[31] Section 117 (1) and (2) (a)

Omit “the organisation” wherever occurring.

Insert instead “the relevant organisation”.

[32] Section 117 (2)

Omit “An employee appointed by a public health organisation”.

Insert instead “A member of staff”.

[33] Section 117 (3)

Insert in alphabetical order:

chief executive of the relevant organisation, in relation to a member of staff, means the chief executive of the public health organisation to which the member of staff has been assigned.

[34] Sections 117 (3) (definition of “relevant health professional registration Act”), 119, 120 and 121 (2)

Omit “an employee” wherever occurring. Insert instead “a member of staff”.

[35] Section 117A Duty of chief executive to report certain conduct

Omit section 117A (1). Insert instead:

- (1) The chief executive of a public health organisation is to report to a registration authority any conduct of a member of staff that the chief executive suspects on reasonable grounds may constitute professional misconduct or unsatisfactory professional conduct under the health registration Act by which the registration authority is constituted.

[36] Section 118

Omit the section. Insert instead:

118 Disciplinary action in certain cases of serious sex or violence offences

- (1) The chief executive of a public health organisation is, within 30 days (or such further period as may be agreed to by the Director-General) of becoming aware that a member of staff has been convicted (whether before or during his or her employment) of a serious sex or violence offence, to notify the Director-General of the staff member's conviction.
- (2) On being notified under subsection (1), the Director-General is to afford the member of staff concerned a reasonable opportunity to make written submissions concerning any matter relevant to the conviction that the staff member wishes to have considered in determining what (if any) disciplinary action should be taken in relation to the staff member.
- (3) The Director-General may take such disciplinary action as the Director-General considers appropriate (having regard to section 119) against a member of staff who has been convicted (whether before or during his or her employment) of a serious sex or violence offence.
- (4) This section does not apply to a conviction that occurred before a person was employed if, before that employment, the person notified the Director-General in writing of the fact of the conviction.
- (5) This section extends to a conviction that occurred before the commencement of this section (as substituted by the *Public Sector Employment Legislation Amendment Act 2006*).
- (6) In this section:
disciplinary action means:
 - (a) dismissal from the NSW Health Service, or
 - (b) imposing conditions in respect of the supervision of, or reporting by, a member of staff or in respect of the scope of a staff member's duties, or
 - (c) transferring a member of staff to another position in the NSW Health Service.

[37] Section 121 Effect of Part

Omit section 121 (1).

[38] Section 121 (2)

Omit “the employee’s”. Insert instead “his or her”.

[39] Sections 121A (1) (definitions of “contract of employment” and “remuneration package”) and (2), 121C (1), (2) and (4), 121E (1), 121F (1) and (2) (c), 121G (1), 121I (definitions of “approved” and “employment benefit”), 121J (1), 121K (2) and (7), 121L (1), 121M (1) (d), 121N (1) and (2), 121P (2) and 121S

Omit “Health Administration Corporation” wherever occurring.

Insert instead “Director-General”.

[40] Section 121B Composition of Health Executive Service

Insert after section 121B (1) (a):

- (a) the chief executive of the Ambulance Service of NSW, and

[41] Section 121B (1) (b)

Omit the paragraph. Insert instead:

- (b) the persons holding:
 - (i) such positions in the NSW Health Service (including the Ambulance Service of NSW), and
 - (ii) such positions as chief executive of a health corporation board, and
 - (iii) such positions in the Health Professional Registration Boards Division of the Government Service,as are for the time being determined by the Director-General to be executive positions.

[42] Sections 121I (paragraph (a) of the definition of “employment benefit”), 121K (2), 121M (1) (d), 121N (2) (a), 126C and 126G (1) (a) and (2) (d)

Omit “the Corporation” wherever occurring.

Insert instead “the Director-General”.

[43] Section 121N Removal of health executives from office

Omit section 121N (5). Insert instead:

- (5) A person who ceases to be a health executive because of subsection (4) ceases to be a member of staff of the NSW Health Service unless appointed to some other position in the NSW Health Service.

[44] Section 121P Incumbent officers' accrued leave

Omit "the Public Service" from section 121P (5) (a).

Insert instead "the Government Service".

[45] Section 121Q Effect on incumbent when position ceases to be executive position

Omit section 121Q (1) (b). Insert instead:

- (b) any person holding the position ceases to be a member of staff of the NSW Health Service (or of the Government Service in the case of a person holding a position referred to in section 121B (1) (b) (iii)) unless appointed to some other position in the NSW Health Service (or in the Government Service in the case of a person holding a position referred to in section 121B (1) (b) (iii)) or unless declared to be an unattached officer under section 121N (2).

[46] Section 126A Definitions

Omit the section.

[47] Section 126B

Omit the section. Insert instead:

126B Director-General to provide health support services

- (1) The Director-General may provide health support services to public health organisations and the public hospitals that they control.
- (2) The Director-General may also, with the approval of the Minister, make and enter into contracts or agreements with any person other than a public health organisation for the provision of health support services or corporate or other services to that person.
- (3) The Director-General may determine the fees and charges payable for any service provided by or on behalf of the Director-General under this section.
- (4) The Director-General may delegate his or her functions under this section to a person or appointed body.
- (5) A delegate may subdelegate to any person or appointed body some or all of any function delegated under this section if the delegate is authorised in writing to do so by the delegator.

- (6) Section 21 of the *Health Administration Act 1982* does not apply in relation to the functions under this section.
- (7) Nothing in this section limits the Director-General's functions under this or any other Act or law.
- (8) In this section:
appointed body means a committee, board or other body appointed under section 126C by the Director-General.

[48] Section 126C Appointed bodies

Omit "The Corporation" wherever occurring from section 126C (1) and (5).
Insert instead "The Director-General".

[49] Sections 126D–126F

Omit the sections.

[50] Section 126G Directions by Minister in relation to acquisition of health support services

Omit "its" wherever occurring from section 126G (2) (d).
Insert instead "the Director-General's".

[51] Section 126H Consent of affiliated health organisations required for certain orders

Omit section 126H (1).

[52] Section 127 Determination of subsidies

Omit section 127 (4). Insert instead:

- (4) The Minister may attach to the payment of any subsidy (or part of any subsidy) such conditions as the Minister determines from time to time.

[53] Section 133A

Insert after section 133:

133A Nature of staffing arrangements

Any arrangements entered into by or on behalf of the Crown with a public health organisation in connection with the employment of staff in the NSW Health Service do not constitute an employment placement service for the purposes of Part 5C of the *Fair Trading Act 1987*.

[54] Section 140 Regulations

Insert after section 140 (2) (i):

- (j) the control and governance of members of staff of the NSW Health Service and any other matter or thing necessary or convenient to ensure the maintenance of discipline and efficiency of that staff,
- (k) the conditions of employment (including salaries and wages) of persons employed by affiliated health organisations (other than declared affiliated health organisations) in respect of their recognised establishments and recognised services,
- (l) the management of, and accounting for, any funds (including the amount of any subsidy determined under section 127) paid by or on behalf of the State to a public health organisation to meet the employment-related costs and liabilities in relation to those members of the NSW Health Service who are employed in connection with the organisation,
- (m) the recognition of prior government service or public health system service for the purposes of calculating the long service leave entitlements of employees in the public health system.

[55] Schedule 4 Transfers, dissolutions, amalgamations and changes of name or nature of governance

Omit “staff,” wherever occurring from clauses 3 (1) (c) and (2) (c) and 4 (1) (c), (2) (c) and (3) (c).

[56] Schedule 4, clause 8 (1) (a)

Insert “or in connection with” after “employed in”.

[57] Schedule 5 Provisions relating to members and procedure of health corporation boards

Omit the definitions of *elected staff member* and *member* from clause 1.

Insert instead:

member means a member of a health corporation board.

staff member means a member referred to in section 49 (2).

[58] Schedule 5, clause 2

Omit the clause.

[59] Schedule 5, clause 5 (1)

Omit “an elected” wherever occurring. Insert instead “the”.

[60] Schedule 5, clause 7 (h)

Omit the paragraph. Insert instead:

- (h) being the staff member, ceases to be a member of staff of the NSW Health Service, or

[61] Schedule 5, clause 9 (1)

Omit the subclause.

[62] Schedule 6

Insert after Schedule 5:

Schedule 6 Provisions relating to members and procedure of Ambulance Services Advisory Council

(Section 67C (7))

1 Definitions

In this Schedule:

appointed member means a member other than the chief executive of the Ambulance Service of NSW.

member means any member of the Advisory Council.

staff member means a member referred to in section 67C (3).

2 Chairperson of Advisory Council

- (1) Of the appointed members of the Advisory Council, one is, in and by the relevant instrument of appointment as such a member, or by another instrument executed by the Minister, to be appointed as Chairperson of the Advisory Council.
- (2) The Minister may remove an appointed member from the office of Chairperson of the Advisory Council.
- (3) A person who is an appointed member and Chairperson of the Advisory Council is to be taken to have vacated office as Chairperson if the person:
 - (a) is removed from that office by the Minister under this clause, or

-
- (b) resigns that office by instrument in writing addressed to the Minister, or
 - (c) ceases to be a member.

3 Acting members and acting Chairperson

- (1) The Director-General may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has all the functions of the member and is to be taken to be a member.
- (2) The Director-General may, from time to time, appoint a member to act in the office of Chairperson of the Advisory Council during the illness or absence of the Chairperson, and the member, while so acting, has all the functions of the Chairperson and is to be taken to be the Chairperson.
- (3) The Director-General may remove any person from any office to which the person was appointed under this clause.
- (4) For the purposes of this clause, a vacancy in the office of a member or the Chairperson of the Advisory Council is to be taken to be an absence from office of the member or Chairperson, as the case may be.

4 Terms of office

An appointed member holds office, subject to this Schedule:

- (a) in the case of a staff member—for such period not exceeding 2 years, and
- (b) in any other case, for such period not exceeding 4 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

5 Vacancy in office of member

An appointed member is to be taken to have vacated office if the member:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) absents himself or herself from 4 consecutive meetings of the Advisory Council of which reasonable notice has been given to the member personally or in the ordinary course

of post, except on leave granted by the Council or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Council for being absent from those meetings, or

- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (f) becomes a mentally incapacitated person, or
- (g) is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or upwards 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
- (h) in the case of a staff member, ceases to be a member of the Ambulance Service of NSW.

6 Disclosure of pecuniary interests

- (1) A member:
 - (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Advisory Council, and
 - (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Advisory Council.

- (2) A disclosure by a member at a meeting of the Advisory Council that the member:
 - (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

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- (3) Particulars of any disclosure made under this clause are to be recorded by the members in a book kept for the purpose and that book is to be open at all reasonable hours to inspection by any person on payment of the fee determined by the members.
 - (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Director-General or the other members otherwise determine:
 - (a) be present during any deliberation of the Advisory Council with respect to the matter, or
 - (b) take part in any decision of the Council with respect to the matter.
 - (5) For the purposes of the making of a determination by the members under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - (a) be present during any deliberation of the other members for the purpose of making the determination, or
 - (b) take part in the making by the other members of the determination.
 - (6) A contravention of this clause does not invalidate any decision of the Advisory Council.

7 Effect of certain other Acts

- (1) If by or under any Act provision is made:
 - (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or
 - (b) prohibiting the person from engaging in employment outside the duties of that office,the provision does not operate to disqualify the person from holding that office and also the office of an appointed member or from accepting and retaining any remuneration payable to the person under this Act as such a member.
- (2) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

8 Remuneration

An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

9 Liability of members etc

A matter or thing done or omitted to be done by the Advisory Council, a member or any person acting under the direction of the Council does not, if the matter or thing was done or omitted to be done in good faith for the purpose of executing this Act, subject the member or a person so acting personally to any action, liability, claim or demand.

10 General procedure

The procedure for the calling of meetings of the Advisory Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.

11 Quorum

The quorum for a meeting of the Advisory Council is a majority of the members for the time being.

12 Presiding member

- (1) The Chairperson of the Advisory Council or, in the absence of the Chairperson, another member elected as Chairperson for the meeting by the members present is to preside at a meeting of the Council.
- (2) The person presiding at any meeting of the Advisory Council has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

13 Voting

A decision supported by a majority of the votes cast at a meeting of the Advisory Council at which a quorum is present is the decision of the Council.

14 First meeting of Advisory Council

The Director-General is to call the first meeting of the Advisory Council in such manner as the Director-General thinks fit.

[63] Schedule 7 Savings and transitional provisions

Insert at the end of clause 1 (1):

Public Sector Employment Legislation Amendment Act 2006

[64] **Schedule 7, Part 5**

Insert after Part 4:

**Part 5 Provisions consequent on enactment of
Public Sector Employment Legislation
Amendment Act 2006**

62 Definitions

In this Part:

amending Act means the *Public Sector Employment Legislation Amendment Act 2006*.

former corporation means the Ambulance Service of New South Wales constituted under the repealed Act.

relevant commencement means:

- (a) in relation to an area health service or a statutory health corporation—the commencement of Schedule 2 [27] to the amending Act, or
- (b) in relation to an affiliated health organisation—the day on which the organisation becomes a declared affiliated health organisation.

relevant public health organisation means:

- (a) an area health service, or
- (b) a statutory health corporation, or
- (c) a declared affiliated health organisation.

repeal date means the date on which the repealed Act is repealed by the amending Act.

repealed Act means the *Ambulance Services Act 1990* as in force immediately before its repeal by the amending Act.

63 Transitional provision—construction of superseded references

- (1) In any other Act, or in any instrument made under any Act or in any other instrument of any kind (whether enacted, made or executed before or after the commencement of this clause):
 - (a) a reference to a member of staff or employee (however described) of a relevant public health organisation is to be read as including a reference to a member of staff of that part of the NSW Health Service comprising the group of staff who are employed under Part 1 of Chapter 9 to enable the public health organisation to exercise its functions, and

- (b) a reference to a relevant public health organisation in its capacity as an employer of staff (however described) is, to the extent that the staff concerned comprise a group of staff employed under Part 1 of Chapter 9 to enable the public health organisation to exercise its functions, to be read as including a reference to the Director-General, and
- (c) a reference to the Health Administration Corporation in relation to the employment of staff is to be read as including a reference to the Director-General.

(2) This clause is subject to the regulations.

64 Existing staff of public health organisations and Health Administration Corporation

- (1) A person who, immediately before the relevant commencement, was employed as a member of staff (however described) of a relevant public health organisation or the Health Administration Corporation (*the Corporation*):
 - (a) ceases, on that commencement, to be employed by the public health organisation or the Corporation, and
 - (b) is taken, on that commencement, to be employed under Part 1 of Chapter 9 as a member of staff of the NSW Health Service.
- (2) Any such person who, under subclause (1), becomes a member of staff of the NSW Health Service:
 - (a) is, until such time as provision is otherwise made under this Act or any other law, to continue to be employed in accordance with the same terms and conditions (including the terms of any State industrial instrument) that applied to the person as a member of staff of the relevant public health organisation or the Corporation, and
 - (b) is taken, for the purposes of this clause, to have been transferred to the NSW Health Service from the employment of the public health organisation or the Corporation.
- (3) If an award under the *Workplace Relations Act 1996* of the Commonwealth (*the Federal award*) applied to the person as a member of staff of the public health organisation or Corporation immediately before the relevant commencement, a State industrial instrument in the nature of an award is taken to have been created in the same terms as the Federal award and is taken to apply to the person for the purposes of subclause (2).

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- (4) If a certified agreement under the *Workplace Relations Act 1996* of the Commonwealth (***the Federal agreement***) applied to the person as a member of staff of the public health organisation or Corporation immediately before the relevant commencement, a State industrial instrument in the nature of an enterprise agreement is taken to have been created in the same terms as the Federal agreement and is taken to apply to the person for the purposes of subclause (2).
 - (5) The terms of any such instrument created as provided by subclause (3) or (4) have effect despite anything to the contrary in the *Annual Holidays Act 1944*, the *Long Service Leave Act 1955*, the *Industrial Relations Act 1996* or any other law of the State.
 - (6) A person who is transferred under this clause:
 - (a) retains any rights to annual leave, long service leave, sick leave, and other forms of leave, accrued or accruing in his or her employment with the organisation or body from which the person is transferred, and
 - (b) is not entitled to receive any payment or other benefit merely because the person ceases to be a member of staff of the organisation or body from which the person is transferred, and
 - (c) is not entitled to claim, both under this Act or any other Act, dual benefits of the same kind for the same period of service.
 - (7) A relevant public health organisation is liable for the cost of any leave entitlements for a person who is transferred under this clause that have accrued up until the date on which the person is transferred (***the transfer date***).
 - (8) The Minister may, from time to time, direct a relevant public health organisation to meet the cost of its liability in respect of any leave entitlements that have accrued before the transfer date. Any such direction has effect despite any determination made in respect of the public health organisation under section 127.
 - (9) This clause is subject to the provisions of this Act and the regulations.

65 Existing executive officers

Any person within the NSW Health Service who, immediately before the commencement of Schedule 2 [27] to the amending Act, was an executive officer under Part 3.1 of the *Public Sector Employment and Management Act 2002*, is taken, on that

commencement, to be a health executive under Part 3 of Chapter 9 of this Act.

66 Abolition of former corporation

- (1) On the repeal date:
 - (a) the former corporation is abolished, and
 - (b) any assets, rights and liabilities of the former corporation become the assets, rights and liabilities of the Health Administration Corporation.
- (2) Except as provided by clause 71, a reference in any other Act, or in any instrument of any kind (including any contract or agreement) to the former corporation is to be construed as a reference to the Health Administration Corporation.
- (3) In this clause:

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

liabilities means all liabilities, debts and obligations (whether present or future and whether vested or contingent).

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

67 Ambulance Service Board

- (1) On the repeal date:
 - (a) the Ambulance Service Board constituted under the repealed Act is abolished, and
 - (b) each person who held office as a director of the Board (other than the Chief Executive Officer of the Board) immediately before that date ceases to hold that office.
- (2) A person who, under this clause, ceases to hold office is not entitled to any remuneration or compensation because of the loss of that office.
- (3) However, the person is taken to have been appointed as a member of the Ambulance Service Advisory Council, subject to Schedule 6 (as inserted by the amending Act), for the remainder of the term for which the person was appointed as a director of the Ambulance Service Board.

68 Chief Executive Officer of Ambulance Service Board

- (1) The person holding office as the Chief Executive Officer of the Ambulance Service Board immediately before the repeal date ceases to hold that office on that date but is taken to be employed as a health executive (within the meaning of Part 3 of Chapter 9) for the balance of the person's term of appointment as Chief Executive Officer of the Ambulance Service Board.
- (2) The continuation of a person's employment under subclause (1) is subject to Part 3 of Chapter 9.

69 Transfer of staff of former corporation

- (1) A person who, immediately before the repeal date, was employed as a member of staff of the former corporation, is taken, on that date, to be employed as a member of staff of the Ambulance Service of NSW.
- (2) Any such person who, under subclause (1), becomes a member of staff of the Ambulance Service of NSW is, until such time as provision is otherwise made under this Act or any other law, to continue to be employed in accordance with the same terms and conditions (including the terms of any State industrial instrument) that applied to the person as a member of staff of the former corporation.
- (3) A reference in any other Act or instrument to a member of staff (however described) of the former corporation is to be construed as a reference to a member of staff of the Ambulance Service of NSW.
- (4) This clause is subject to the provisions of this Act (including clause 70) and the regulations.

70 Appointment of certain staff of former corporation as executive officers

- (1) This clause applies to a position on the staff of the former corporation that is, as at the repeal date, the subject of a determination under section 121B (1) (b).
- (2) On the repeal date, a person who, immediately before that date, held a position to which this clause applies, or was an appointee to such a position, is taken to have been appointed to the position under section 121C (1).
- (3) Until further provision is made under Part 3 of Chapter 9, the person's conditions of employment (including remuneration) are, subject to that Part, to be the same as those that applied to the person immediately before the repeal date.

71 Continuation of regulation made under repealed Act

- (1) The *Ambulance Services Regulation 2005*, as in force immediately before the repeal date, continues in force and is taken to be a regulation made under this Act.
- (2) The Regulation continued in force by subclause (1) (*the continued regulation*) may be amended and repealed in the same way as any other regulation made under this Act.
- (3) A reference in the continued regulation to the Ambulance Service (other than a reference that relates to a member of staff of the Ambulance Service) is to be construed as a reference to the chief executive of the Ambulance Service of NSW.
- (4) In exercising any of the functions of the former corporation under the continued regulation, the chief executive of the Ambulance Service of NSW may delegate to any person any of the functions that the chief executive may exercise as a result of subclause (3).

72 Existing workers compensation policies of insurance

A policy of insurance issued to a public health organisation under the *Workers Compensation Act 1987* and in force immediately before the relevant commencement for the organisation concerned is also taken to have been issued to the Government of New South Wales (but only as a policy that is limited to workers employed in the NSW Health Service to enable the public health organisation to exercise its functions).

73 Special provisions relating to The Stewart House Preventorium, Curl Curl

- (1) The amendments made to this Act by the amending Act do not apply to or in respect of The Stewart House Preventorium until the day appointed by proclamation by the Governor for the purposes of this clause.
- (2) Until that appointed day, this Act continues to apply to and in respect of the The Stewart House Preventorium (including in relation to the employment of any staff) as if the amending Act had not been enacted.

[65] Dictionary

Insert in alphabetical order:

Ambulance Service of NSW—see section 67A.

ambulance services means services relating to the work of rendering first aid to, and the transport of, sick and injured persons.

declared affiliated health organisation—see section 62A.

honorary ambulance officer means a person appointed to be an honorary ambulance officer under section 67H.

member of the NSW Health Service means any person who is employed under Part 1 of Chapter 9 in the NSW Health Service.

[66] Dictionary, definition of “NSW Health Service”

Omit the definition. Insert instead:

NSW Health Service means the NSW Health Service referred to in section 115.

Schedule 3 Amendment of Health Administration Act 1982

(Section 5)

[1] Section 4 Definitions

Omit the definitions of *Ambulance Service*, *Commission* and *officer of the Department* from section 4 (1).

[2] Section 5A

Insert after section 5:

5A Exercise of Minister's functions through Corporation, joint ventures or other associations

- (1) A function of the Minister may, if the Minister so determines, be exercised:
 - (a) by the Corporation, or
 - (b) by the Minister (or by the Corporation) in a partnership, joint venture or other association with other persons or bodies.
- (2) A function of the Minister that is exercisable in relation to anything belonging to, or controlled by, the Minister is also exercisable in relation to anything belonging to, or controlled by, the Corporation.
- (3) Nothing in this section prevents the Minister from exercising a function in his or her capacity as the Minister and entering into contracts or doing other things on behalf of the Crown.

[3] Part 2, Division 2 The Department

Omit the Division.

[4] Section 8A

Insert after section 8:

8A Exercise of Director-General's functions through Corporation, joint ventures or other associations

- (1) A function of the Director-General may, if the Director-General so determines, be exercised:
 - (a) by the Corporation, or

-
- (b) by the Director-General (or by the Corporation) in a partnership, joint venture or other association with other persons or bodies.
- (2) A function of the Director-General that is exercisable in relation to anything belonging to, or controlled by, the Director-General is also exercisable in relation to anything belonging to, or controlled by, the Corporation.
- (3) Nothing in this section prevents the Director-General from exercising a function in his or her capacity as the Director-General and entering into contracts or doing other things on behalf of the Crown.

[5] Section 9 Corporation

Insert after section 9 (2):

- (2A) However, the Corporation cannot employ any staff.

Note. Staff may be employed under Part 1 of Chapter 9 of the *Health Services Act 1997* in the NSW Health Service to enable the Corporation to exercise its functions under this or any other Act.

[6] Section 13A Corporation to manage accounts of health professional boards

Omit “, including costs incurred in the employment of staff” from section 13A (3).

[7] Section 13A (3A)

Insert after section 13A (3):

- (3A) For the purposes of section 4E (2) of the *Public Sector Employment and Management Act 2002*, the Corporation is taken to be the statutory corporation in respect of which staff are employed under Chapter 1A of that Act to enable a health professional board to exercise its functions. Accordingly, the Corporation is authorised to pay out of an account under this section any employment-related costs that the Corporation is directed to pay under section 4E (2) of that Act.

[8] Section 14 Employees of Corporation

Omit the section.

[9] Section 20L Definitions

Omit the definition of *relevant health services organisation*. Insert instead:

relevant health services organisation means:

- (a) an area health service, or
- (b) a statutory health corporation prescribed by the regulations, or
- (c) an affiliated health organisation prescribed by the regulations, or
- (d) in the case of an incident involving the provision of ambulance services under Chapter 5A of the *Health Services Act 1997* or the provision of health support services under Part 1A of Chapter 10 of that Act—the Director-General.

[10] Section 20O Responsibilities of RCA team in relation to reportable incident

Omit “employee of the organisation” wherever occurring from section 20 (1) and (2).

Insert instead “staff member”.

[11] Section 20O (4)

Insert after section 20O (3):

- (4) In this section:
 - staff member*, in relation to a relevant health services organisation, means:
 - (a) a member of the NSW Health Service who is employed under Part 1 of Chapter 9 of the *Health Services Act 1997* to enable the organisation to exercise its functions, or
 - (b) in the case of an affiliated health organisation that is not a declared affiliated health organisation under that Act—an employee of that organisation.

Schedule 4 Amendments to other Acts relating to employment of staff

(Section 6)

4.1 Aboriginal Housing Act 1998 No 47

[1] Section 16 Other functions

Insert at the end of the section:

- (2) However, the AHO cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the AHO to exercise its functions.

[2] Section 34 Staff of AHO

Omit the section.

4.2 Art Gallery of New South Wales Act 1980 No 65

[1] Section 4 Definitions

Omit the definition of *Director* from section 4 (1). Insert instead:

Director means the Director of the Art Gallery holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 8 Powers of Trust

Insert after section 8 (10):

- (11) However, the Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 11 Director and other staff

Omit the section.

[4] Section 13 Delegation by Trust

Omit “or to a person appointed or employed pursuant to section 11” from section 13 (1).

Insert instead “or to an authorised person”.

[5] Section 13 (6)

Insert after section 13 (5):

- (6) In this section, *authorised person* means the Director or any other person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[6] Section 14 Endowment

Omit “appointed or employed pursuant to section 11 (1)” from section 14 (2) (a).

Insert instead “employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Trust to exercise its functions”.

4.3 Australian Museum Trust Act 1975 No 95

[1] Section 4 Definitions

Omit the definition of *Director*. Insert instead:

Director means the Director of the Australian Museum holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 8 Powers of Trust

Insert after section 8 (10):

- (11) However, the Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 11 Director and other staff

Omit the section.

[4] Section 13 Delegation by Trust

Omit “or to a person appointed or employed pursuant to section 11” from section 13 (1).

Insert instead “or to an authorised person”.

[5] Section 13 (6)

Insert after section 13 (5):

- (6) In this section, *authorised person* means the Director or any other person employed under Chapter 1A of the *Public Sector*

Employment and Management Act 2002 in the Government Service to enable the Trust to exercise its functions.

4.4 Boxing and Wrestling Control Act 1986 No 11

[1] Section 4 The Authority

Insert after section 4 (2):

(2A) However, the Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 5 Staff of Authority

Omit the section.

4.5 Building and Construction Industry Long Service Payments Act 1986 No 19

[1] Section 4 Constitution of Corporation

Insert after section 4 (4):

(4A) However, the Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Corporation to exercise its functions.

[2] Section 6 Staff of Corporation

Omit the section.

4.6 Cancer Institute (NSW) Act 2003 No 14

[1] Section 10 Chief Cancer Officer

Omit section 10 (6).

[2] Section 11 Staff of Cancer Institute

Omit the section.

[3] Section 12 General functions of Cancer Institute

Insert after section 12 (3):

(4) However, the Cancer Institute cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Cancer Institute to exercise its functions.

4.7 Casino Control Act 1992 No 15

[1] Section 141 Functions of the Authority

Insert after section 141 (1):

(1A) The Authority cannot, however, employ any staff.

Note. Staff to enable the Authority to exercise its functions may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service. However, the Authority may still, under section 145, arrange for the use of services of staff or facilities of other agencies and for police officers to perform services for the Authority, as well as engage consultants.

[2] Section 145 Staff etc

Omit section 145 (1) (a).

[3] Section 145 (2) (a)

Omit the paragraph. Insert instead:

(a) a person who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions, or

[4] Schedule 2 Provisions concerning staff of the Authority

Omit clause 1.

[5] Schedule 2, clause 4

Omit “a person employed under section 145 (1) (a)”.

Insert instead “a member of staff who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions”.

[6] Schedule 2, clause 5 (c)

Omit “a person employed under section 145 (1)”.

Insert instead “a member of staff who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions”.

4.8 Catchment Management Authorities Act 2003 No 104

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

general manager of an authority means the general manager of the authority holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 6 Catchment management authorities

Insert after section 6 (3):

- (4) An authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable an authority to exercise its functions.

[3] Section 10 General manager and other staff

Omit the section.

4.9 Centennial Park and Moore Park Trust Act 1983 No 145

[1] Section 4 Definitions

Omit the definition of *Director* from section 4 (1). Insert instead:

Director means the Director of Centennial Park and Moore Park holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 9 Functions of Trust

Insert after section 9 (11):

- (12) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 13 Officers and employees etc

Omit the section.

[4] Section 15 Delegation by Trust

Omit “or a person employed pursuant to section 13” from section 15 (1).

Insert instead “or an authorised person”.

[5] Section 15 (6)

Insert after section 15 (5):

- (6) In this section, *authorised person* means any person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

4.10 Chiropractors Act 2001 No 15

[1] Section 4 Definitions

Omit the definition of *Registrar*. Insert instead:

Registrar means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 86 Functions of the Board

Insert after section 86 (2):

- (3) The Board cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 88 Staff

Omit the section.

4.11 Commission for Children and Young People Act 1998 No 146

[1] Section 4 Commission

Insert after section 4 (3):

- (4) The Commission cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

[2] Section 7 Staff of Commission

Omit the section.

4.12 Community Relations Commission and Principles of Multiculturalism Act 2000 No 77

[1] Section 9 Staff of Commission

Omit the section.

[2] Section 13 Functions of Commission

Insert at the end of the section:

- (2) The Commission cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

4.13 Dental Technicians Registration Act 1975 No 40

[1] Section 5 Definitions

Omit the definitions of *inspector* and *secretary* from section 5 (1).

Insert instead:

inspector means a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the board to exercise its functions and who is appointed as an inspector for the purposes of this Act.

secretary means the secretary of the board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 11 Staff

Omit the section.

[3] Section 13 Functions and duties of the board

Insert after section 13 (3):

- (4) The board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the board to exercise its functions.

4.14 Education Act 1990 No 8

[1] Section 99 The Board of Studies

Insert after section 99 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[2] Section 104

Omit the section. Insert instead:

104 Board inspectors

- (1) Schedule 1A has effect.
- (2) The functions of a Board inspector under this Act may also be exercised by any person whose services the Board has arranged to make use of and who is appointed by the Board for the purposes of exercising those functions.

[3] Section 105 Casual staff

Omit the section.

[4] Schedule 1A Board inspectors

Omit clause 1. Insert instead:

1 Application of Schedule

This Schedule applies to and in respect of such staff (referred to in this Schedule as *Board inspectors*) as are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service (other than a Department within the meaning of that Act) on a temporary basis for the purposes of:

- (a) developing the school curriculum under this Act, and
- (b) exercising functions in connection with approvals, registrations and accreditations under Parts 7 and 8 of this Act, and
- (c) exercising such other functions as may be conferred on Board inspectors under this Act or as may be determined by the Board of Studies.

[5] Schedule 1A, clause 4 (2)

Omit the subclause.

4.15 Election Funding Act 1981 No 78

[1] Section 22 General functions

Insert after section 22 (2):

- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 99 Funding of other expenses

Omit “referred to in section 108” from section 99 (2).

Insert instead “to assist the Authority”.

[3] Section 108 Staff

Omit the section.

[4] Section 110 Inspection

Omit the definition of *inspector* from section 110 (1). Insert instead:

inspector means a person:

- (a) who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions, or
- (b) whose services the Authority has arranged to make use of, and who is appointed by the Authority as an inspector for the purposes of this section.

4.16 Energy and Utilities Administration Act 1987 No 103

[1] Section 3 Definitions

Omit the definition of *employee* from section 3 (1).

[2] Section 9 Staff

Omit the section.

[3] Section 12 Functions

Insert after section 12 (1):

- (1A) However, the Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Corporation to exercise its functions.

[4] Schedule 1 Superannuation and other rights of employees of the Corporation

Omit the Schedule.

4.17 Film and Television Office Act 1988 No 18

[1] Section 3 Definitions

Omit the definition of *Director* from section 3 (1). Insert instead:

Director means the Director of the Office holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 5 Staff of the Office

Omit the section.

[3] Section 6 Functions of the Office

Insert after section 6 (3):

- (4) However, the Office cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Office to exercise its functions.

4.18 Food Act 2003 No 43

[1] Section 108 Functions of Food Authority

Insert after section 108 (2):

- (3) The Food Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Food Authority to exercise its functions.

[2] Section 109A Staff of Food Authority

Omit the section.

4.19 Forestry Act 1916 No 55

[1] Section 9 General powers of the commission

Omit “, and shall, subject to the provisions of the *Public Service Act 1979*, have the control of officers and other persons appointed or employed under this Act”.

[2] Section 9

Insert at the end of the section.

The commission cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the commission to exercise its functions.

[3] Section 10 Training, research and collection of statistics

Omit section 10 (1).

[4] Section 10A Delegation

Insert “or authorised person (or a member of a specified class of authorised persons), or” after “Assistant Commissioner” in section 10A (1) (a).

[5] Section 10A (1) (b) and (c)

Omit the paragraphs.

[6] Section 10A (7)

Insert after section 10A (6):

- (7) In this section, *authorised person* means the secretary to the commission or any person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the commission to exercise its functions.

4.20 Game and Feral Animal Control Act 2002 No 64

[1] Section 9 Functions of Game Council

Insert after section 9 (2):

- (3) The Game Council cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Game Council to exercise its functions.

[2] Section 12 Staff of Game Council

Omit the section.

4.21 Government Telecommunications Act 1991 No 77

[1] Section 36 Staff of the Authority

Omit the section.

[2] Section 37 General functions of the Authority

Insert after section 37 (2):

- (3) However, the Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.22 Greyhound and Harness Racing Administration Act 2004 No 36

[1] Section 7 Functions of Authority

Insert after section 7 (3):

- (4) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 10 Chief executive officer of Authority

Omit section 10 (1). Insert instead:

- (1) The Minister may, on the recommendation of the Authority, appoint a chief executive officer of the Authority.
- (1A) The employment of the chief executive officer is subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 1A of that Act.

[3] Section 11 Staff of Authority

Omit the section.

4.23 Growth Centres (Development Corporations) Act 1974 No 49

[1] Section 3 Definitions

Omit section 3 (3).

[2] Section 32A

Omit the section. Insert instead:

32A Staff

A corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable a corporation to exercise its functions.

4.24 Health Care Complaints Act 1993 No 105

[1] Section 4 Definitions

Omit the definition of *officer of the Commission*. Insert instead:

officer of the Commission means any person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

[2] Section 80 Functions of Commission

Insert after section 80 (4):

- (5) The Commission cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

[3] Section 82 Staff of the Commission

Omit the section.

4.25 Historic Houses Act 1980 No 94

[1] Section 4 Definitions and application of Act

Omit the definition of *Director* from section 4 (1). Insert instead:

Director means the Director of Historic Houses holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 8 Powers of Trust

Insert after section 8 (7):

- (8) However, the Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 13 Officers and employees

Omit the section.

[4] Section 15 Delegation by Trust

Omit “or to a person appointed or employed pursuant to section 13” from section 15 (1).

Insert instead “or to an authorised person”.

[5] Section 15 (6)

Insert after section 15 (5):

- (6) In this section, *authorised person* means the Director or any other person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

4.26 Home Care Service Act 1988 No 6

[1] Section 7 Functions of the Service

Insert after section 7 (2):

- (3) However, the Service cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Service to exercise its functions.

[2] Section 8 Staff of the Service

Omit the section.

[3] Section 10 Delegation by Service

Omit “or any person employed by the Service”.

Insert instead “or an authorised person”.

[4] Section 10 (2)

Insert at the end of the section:

- (2) In this section, *authorised person* means any person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Service to exercise its functions.

4.27 Housing Act 2001 No 52

[1] Section 7 Functions of Corporation generally

Insert after section 7 (2):

- (3) The Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Corporation to exercise its functions.

[2] Section 14 Staff of Corporation

Omit the section.

4.28 Independent Pricing and Regulatory Tribunal Act 1992 No 39

[1] Section 5 Establishment of Tribunal

Insert after section 5 (2):

- (3) The Tribunal cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Tribunal to exercise its functions.

[2] Section 8 Staff of Tribunal

Omit the section.

4.29 Institute of Sport Act 1995 No 52

[1] Section 3 Definitions

Insert in alphabetical order:

chief executive officer means the chief executive officer of the Institute holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 14 Powers of Institute

Insert after section 14 (3):

- (4) However, the Institute cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Institute to exercise its functions.

[3] Section 17 Chief executive officer

Omit section 17 (1) and (2).

[4] Section 18

Omit the section. Insert instead:

18 Regulations relating to certain staff

- (1) This section applies to such staff as are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service (other than a Department within the meaning of that Act) to enable the Institute to exercise its functions.
- (2) The regulations may make provision for or with respect to the employment of staff to which this section applies, including the conditions of employment and the discipline of any such staff.

4.30 Institute of Teachers Act 2004 No 65

[1] Section 7 Functions of Institute

Insert after section 7 (5):

- (6) The Institute cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Institute to exercise its functions.

[2] Section 15 Staff of Institute

Omit the section.

4.31 Internal Audit Bureau Act 1992 No 20

[1] Section 5 Functions of the Bureau

Insert after section 5 (2):

- (3) However, the Bureau cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Bureau to exercise its functions.

[2] Sections 10–12

Omit the sections.

4.32 Landlord and Tenant (Rental Bonds) Act 1977 No 44

[1] Section 5 Constitution of the Rental Bond Board

Insert after section 5 (3):

- (4) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[2] Section 7 Officers, employees etc

Omit the section.

4.33 Legal Aid Commission Act 1979 No 78

[1] Section 4 Definitions

Omit the definition of *member of staff of the Commission* from section 4 (1).

[2] Section 10 Functions of the Commission

Insert after section 10 (4):

- (5) However, the Commission cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

[3] Section 23 Appointment of members of staff of the Commission

Omit the section.

4.34 Library Act 1939 No 40

[1] Section 2 Definitions

Omit the definition of *State Librarian*. Insert instead:

State Librarian means the State Librarian holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 4B Powers of Council

Insert after section 4B (11):

- (12) The Council cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Council to exercise its functions.

[3] Section 7 State Librarian and other staff

Omit the section.

[4] Section 7B Delegation by Council

Omit “or to a person appointed or employed pursuant to section 7” from section 7B (1).

Insert instead “or to an authorised person”.

[5] Section 7B (6)

Insert after section 7B (5):

- (6) In this section, *authorised person* means the State Librarian or any other person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Council to exercise its functions.

4.35 Lord Howe Island Act 1953 No 39

[1] Section 6 Employment of staff

Omit the section.

[2] Section 12 Powers, authorities, duties and functions of Board

Insert after section 12 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

4.36 Motor Accidents Compensation Act 1999 No 41

[1] Section 201 Staff of Authority

Omit the section.

[2] Section 206 Functions of Authority

Insert after section 206 (4):

- (5) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.37 Motor Vehicle Repairs Act 1980 No 71

[1] Section 4 Definitions

Omit the definition of *inspector* from section 4 (1). Insert instead:

inspector means a person:

- (a) who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions, or
- (b) whose services the Authority has arranged to make use of, and who is appointed by the Authority as an inspector for the purposes of this Act.

[2] Section 8 Functions of Authority

Insert after section 8 (3):

- (4) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[3] Section 11 Staff of Authority

Omit the section.

[4] Section 70 Delegation

Omit section 70 (1) (c). Insert instead:

- (c) to any person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions,

[5] Section 74A

Insert after section 74:

74A Inspectors must have identification

- (1) The Authority must issue a person appointed as an inspector with a certificate of identification as an inspector.
- (2) An inspector who exercises a function under this Act must produce his or her certificate of identification if requested to do so by a person apparently in charge of any premises on which the function is carried out.

4.38 Museum of Applied Arts and Sciences Act 1945 No 31

[1] Section 10 Staff

Omit the section.

[2] Section 14 Objects and functions of trustees

Insert at the end of the section:

- (2) The trustees cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the trustees to exercise their functions.

4.39 National Parks and Wildlife Act 1974 No 80

[1] Section 5 Definitions

Omit the definition of *officer of the Jenolan Caves Reserve Trust* from section 5 (1).

[2] Section 58W Functions of Trust

Insert after section 58W (6):

- (7) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 58Y

Omit the section. Insert instead:

58Y Provisions relating to certain staff

Schedule 5A has effect.

[4] Schedule 5A

Omit the Schedule. Insert instead:

Schedule 5A Provisions relating to certain staff

(Section 58Y)

1 Definition

In this Schedule:

member of staff means a person who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002*

in a Division of the Government Service to enable the Jenolan Caves Reserve Trust to exercise its functions.

2 Appointment and promotion on merit

- (1) The appointment and promotion of members of staff are to be made on the basis of the merit of the applicants for appointment or promotion.
- (2) The merit of persons eligible for appointment or promotion to a vacant position is to be determined having regard to:
 - (a) the nature and duties of the position, and
 - (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.

3 Legal proceedings not to be brought in respect of appointments

- (1) The appointment or failure to appoint a person to a vacant position as a member of staff, or any matter, question or dispute relating to such an appointment or failure, is not an industrial matter for the purposes of the *Industrial Relations Act 1996*.
- (2) Subclause (1) applies whether or not a person has been appointed to the vacant position.
- (3) No proceedings, whether for an order in the nature of prohibition, certiorari or mandamus, or for a declaration or injunction or for any other relief, lie in respect of the appointment or failure to appoint a person as a member of staff, the entitlement or non-entitlement of a person to be so appointed or the validity or invalidity of any such appointment.
- (4) Subclause (3) does not affect the operation of the *Government and Related Employees Appeal Tribunal Act 1980*.

4 Incapable member of staff may be retired

If:

- (a) a member of staff is found to be unfit to discharge or incapable of discharging the member's duties, and
- (b) the member's unfitness or incapacity appears to be of a permanent nature and has not arisen from actual misconduct on the part of the member (or from causes within the member's control),

the appropriate Division Head (within the meaning of the *Public Sector Employment and Management Act 2002*) may cause the member to be retired.

4.40 Natural Resources Commission Act 2003 No 102

[1] Section 10 Staff of the Commission

Omit the section.

[2] Section 13 Specific functions

Insert at the end of the section:

- (2) The Commission cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions.

4.41 New South Wales Crime Commission Act 1985 No 117

[1] Section 3 Definitions

Omit the definition of *member of the staff of the Commission* from section 3 (1).

Insert instead:

member of staff of the Commission—see section 32.

[2] Section 8 Incidental powers of Commission

Insert at the end of the section:

- (2) However, the Commission cannot employ any staff.

Note. Staff to enable the Commission to exercise its functions may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service. However, the Commission may still, under section 32, arrange for the use of services of staff or facilities of other agencies and for police officers to perform services for the Commission, as well as engage consultants.

[3] Section 32 Staff

Omit section 32 (1) and (2). Insert instead:

- (1) The staff of the Commission comprises:
- (a) the staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions, and
 - (b) the persons referred to in subsections (3), (4) and (5).

[4] Section 32 (7)

Insert after section 32 (6):

- (7) The regulations may make provision for or with respect to the appointment, conditions of employment, discipline, code of conduct and termination of employment of staff of the Commission (except in so far as, in the case of the staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002*, provision is made for those matters by or under that Act).

4.42 New South Wales Institute of Psychiatry Act 1964 No 44

[1] Section 3 Constitution of New South Wales Institute of Psychiatry

Insert after section 3 (2):

- (3) However, the Institute cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Institute to exercise its functions.

[2] Section 7 Public Sector Employment and Management Act 2002 not to apply to members other than the Director

Omit “Except as provided by section 20, the”. Insert instead “The”.

[3] Section 20 Staff of Institute

Omit the section.

4.43 Nurses and Midwives Act 1991 No 9

[1] Section 10 Functions of Board

Insert after section 10 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[2] Section 13 Registrar and other staff

Omit the section.

4.44 Optical Dispensers Act 1963 No 35

[1] Section 2 Definitions

Omit the definition of *Secretary* from section 2 (1). Insert instead:

Secretary means the secretary of the board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 4 Optical Dispensers Licensing Board

Insert at the end of the section:

- (2) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 18 Staff

Omit the section.

4.45 Optometrists Act 2002 No 30

[1] Section 4 Definitions

Omit the definition of *Registrar*. Insert instead:

Registrar means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 90 Functions of the Board

Insert after section 90 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 92 Staff

Omit the section.

4.46 Osteopaths Act 2001 No 16

[1] Section 4 Definitions

Omit the definition of *Registrar*. Insert instead:

Registrar means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 86 Functions of the Board

Insert after section 86 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 88 Staff

Omit the section.

4.47 Parramatta Park Trust Act 2001 No 17

[1] Section 7 Functions of the Trust

Insert after section 7 (5):

- (6) However, the Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[2] Section 21 Staff of the Trust

Omit the section.

4.48 Parramatta Stadium Trust Act 1988 No 86

[1] Section 6 Powers of the Trust

Insert after section 6 (8):

- (9) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[2] Section 8 Staff of the Trust

Omit the section.

4.49 Physiotherapists Act 2001 No 67

[1] Section 4 Definitions

Omit the definition of *Registrar*. Insert instead:

Registrar means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 87 Functions of the Board

Insert after section 87 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 89 Staff

Omit the section.

4.50 Podiatrists Act 2003 No 69

[1] Section 4 Definitions

Omit the definition of *Registrar*. Insert instead:

Registrar means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 86 Functions of the Board

Insert after section 86 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 88 Staff

Omit the section.

4.51 Police Integrity Commission Act 1996 No 28

[1] Section 4 Definitions

Omit the definition of *staff of the Commission* from section 4 (1).

Insert instead:

staff of the Commission—see section 10.

[2] Section 8 Assistant Commissioners

Omit “employed as referred to in section 10 (1) or (2)” from section 8 (3).

[3] Section 8 (4)

Omit “employed as referred to in section 10 (2)”.

[4] Section 10 Staff

Omit section 10 (1) and (2). Insert instead:

- (1) The staff of the Commission comprises:
 - (a) the staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Commission to exercise its functions, and
 - (b) the persons referred to in subsections (3) and (4).

[5] Section 22 Incidental powers

Insert at the end of the section:

- (2) However, the Commission cannot employ any staff.

Note. Staff to enable the Commission to exercise its functions may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service. However, the Commission may still, under section 10, arrange for the use of services of staff or facilities of other agencies and for police officers to perform services for the Commission, as well as engage consultants.

4.52 Ports Corporatisation and Waterways Management Act 1995 No 13

[1] Section 40

Omit the section. Insert instead:

40 Regulations relating to certain staff

- (1) This section applies to and in respect of such staff as are employed under Chapter 1A of the *Public Sector Employment*

and Management Act 2002 in the Government Service to enable the Waterways Authority to exercise its functions.

- (2) The regulations may make provision for or with respect to the staff of the Waterways Authority, including the conditions of employment and the discipline of any such staff.
- (3) Any such regulations relating to the conditions of employment or the discipline of staff to which this section applies:
 - (a) have effect subject to any State industrial instrument relating to that staff, and
 - (b) have effect despite any determination under section 4E (1) of the *Public Sector Employment and Management Act 2002*.

[2] Section 41 Functions of Authority

Insert after section 41 (3):

- (4) However, the Authority cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.53 Poultry Meat Industry Act 1986 No 101

[1] Section 3 Definitions

Omit the definition of *secretary of the Committee* from section 3 (1).

Insert instead:

secretary of the Committee means the secretary of the committee holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 5 Staff of Committee

Omit the section.

[3] Section 6 Functions of Committee

Insert after section 6 (3):

- (4) The Committee cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Committee to exercise its functions.

4.54 Protection of the Environment Administration Act 1991 No 60

[1] Section 7 General functions of Authority

Insert after section 7 (2):

- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 20 Staff of Authority

Omit the section.

4.55 Psychologists Act 2001 No 69

[1] Section 4 Definitions

Omit the definition of *Registrar*. Insert instead:

Registrar means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 86 Functions of the Board

Insert after section 86 (3):

- (4) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 88 Staff

Omit the section.

4.56 Redfern–Waterloo Authority Act 2004 No 107

[1] Section 11 Staff of Authority

Omit the section.

[2] Section 15 Functions—generally

Insert after section 15 (4):

- (5) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.57 Royal Botanic Gardens and Domain Trust Act 1980 No 19

[1] Section 4 Definitions

Omit the definition of *Executive Director* from section 4 (1). Insert instead:

Executive Director means the Executive Director of the Royal Botanic Gardens and Domain holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 8 Powers of Trust

Insert after section 8 (10):

- (11) However, the Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 12 Officers and employees

Omit the section.

[4] Section 14 Delegation by Trust

Omit “or to a person employed pursuant to section 12 (1)” from section 14 (1).

Insert instead “or to an authorised person”.

[5] Section 14 (6)

Insert after section 14 (5):

- (6) In this section, *authorised person* means the Executive Director or any other person who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Trust to exercise its functions.

[6] Section 15 Endowment

Omit section 15 (2) (a). Insert instead:

- (a) the remuneration of any person who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions, or

4.58 Rural Assistance Act 1989 No 97

[1] Section 8 Other functions

Insert after section 8 (2):

- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Part 2, Division 4 Staff of the Authority

Omit the Division.

4.59 Rural Lands Protection Act 1998 No 143

[1] Section 23 Staff of State Council

Omit the section.

[2] Section 24 Functions of State Council

Omit section 24 (2) (g) and (h).

[3] Section 24 (3)

Insert after section 24 (2):

- (3) The State Council cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the State Council to exercise its functions.

[4] Section 42 Functions generally

Insert after section 42 (3):

- (4) A board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable a board to exercise its functions.

- (5) A person is to be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service as a full-time district veterinarian for each district (other than a district located in the Western Division).
- (6) A person must not be employed as the district veterinarian for a district unless the person is registered as a veterinary surgeon under the *Veterinary Surgeons Act 1986* or as a veterinary practitioner under the *Veterinary Practice Act 2003*.

[5] Section 43 Staff of boards

Omit the section.

[6] Dictionary

Omit the definition of *Chief Executive Officer*. Insert instead:

Chief Executive Officer means the Chief Executive Officer of the State Council holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

4.60 Small Business Development Corporation Act 1984 No 119

[1] Section 6 Functions of the Corporation

Insert at the end of the section:

- (2) The Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Corporation to exercise its functions.

[2] Sections 8 and 9

Omit the sections.

[3] Section 11 Delegation

Omit “section 8 (2)” from section 11 (1) (e).

Insert instead “Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service”.

4.61 State Records Act 1998 No 17

[1] Section 66 Principal functions of the Authority

Insert after section 66 (2):

(2A) However, the Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 68 Staff of the Authority

Omit the section.

4.62 State Sports Centre Trust Act 1984 No 68

[1] Section 3 Definitions

Omit the definition of *Director* from section 3 (1). Insert instead:

Director means the Director of the State Sports Centre holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service.

[2] Section 7 Powers of the Trust

Insert after section 7 (1):

(1A) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 9 Power to appoint staff etc

Omit the section.

[4] Section 10 Director of the State Sports Centre

Omit section 10 (1).

[5] Section 10 (3)

Omit “a person designated as Director”. Insert instead “the Director”.

[6] Schedule 3, heading

Omit “a person designated as Director”. Insert instead “the Director”.

[7] Schedule 3, clauses 1 (2) and 3 (2)

Omit the subclauses.

[8] Schedule 3, clauses 4 (2) and 5 (2) (b) and (3) (b)

Omit “designated” wherever occurring. Insert instead “appointed”.

4.63 Superannuation Administration Act 1996 No 39

[1] Section 50 Principal functions of STC

Insert after section 50 (2):

- (3) However, STC cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable STC to exercise its functions.

[2] Section 75 Staff of STC

Omit the section.

4.64 Surveying Act 2002 No 83

[1] Section 3 Definitions

Omit the definition of *Registrar of the Board* from section 3 (1).

Insert instead:

Registrar of the Board means the Registrar of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service.

[2] Section 28 Functions of Board

Insert after section 28 (2):

- (3) The Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 29 Registrar and other staff

Omit the section.

4.65 Sydney 2009 World Masters Games Organising Committee Act 2005 No 65

[1] Section 9 Supplemental and incidental functions

Insert at the end of the section:

- (2) However, SWMGOC cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable SWMGOC to exercise its functions.

[2] Section 16 Staff of SWMGOC

Omit the section.

[3] Section 28

Omit the section. Insert instead:

28 Transfer of staff

- (1) The group of staff employed who, immediately before 30 June 2010, were employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Department of the Public Service to enable SWMGOC to exercise its functions are removed from that Department and added to the Department of the Arts, Sport and Recreation.
- (2) The removal of any such group of staff from the Department concerned and its addition to the Department of the Arts, Sport and Recreation is taken to have been done under section 104 of the *Public Sector Employment and Management Act 2002* and nothing in this section affects the power conferred by that Act to remove the group of staff concerned from a department and add it to another department.

[4] Schedule 3 Amendment of Acts as consequence of dissolution

Omit Schedule 3.2. Insert instead:

3.2 Public Sector Employment and Management Act 2002 No 43

Schedule 1 Divisions of the Government Service

Omit the matter relating to the Office of the Sydney 2009 World Masters Games Organising Committee and the SWMGOC Division from Parts 1 and 3, respectively.

4.66 Sydney Cricket and Sports Ground Act 1978 No 72

[1] Section 4 Definitions

Omit the definition of *Secretary* from section 4 (1). Insert instead:

Secretary means the Secretary of the Trust holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 5 Constitution of Trust

Insert after section 5 (2):

- (3) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[3] Section 28 Secretary and staff

Omit the section.

4.67 Sydney Harbour Foreshore Authority Act 1998 No 170

[1] Section 12 Functions—generally

Insert after section 12 (2):

- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 31 Staff of Authority

Omit the section.

[3] Section 32 Rangers

Omit section 32 (1). Insert instead:

- (1) The Authority may appoint a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to be a ranger for the purposes of this Act.

[4] Section 32 (1A)

Omit “officers or employees of a body corporate providing services to the Authority under section 31 (4)”.

Insert instead “engaged by the Authority to provide services to the Authority”.

4.68 Sydney Olympic Park Authority Act 2001 No 57

[1] Section 13 Functions—generally

Insert at the end of the section:

- (2) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

[2] Section 64 Staff of authority

Omit the section.

[3] Section 65 Rangers

Omit section 65 (1). Insert instead:

- (1) The Authority may appoint a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to be a ranger for the purposes of this Act.

[4] Section 65 (2)

Omit “officers or employees of a corporation that provides services to the Authority under section 64 (4)”.

Insert instead “engaged by the Authority to provide services to the Authority”.

4.69 Sydney Opera House Trust Act 1961 No 9

[1] Section 4 Objects and functions of Trust

Insert after section 4 (6):

- (7) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[2] Section 16 Staff of Trust

Omit the section.

4.70 Sydney Water Catchment Management Act 1998 No 171

[1] Section 12 Staff

Omit the section.

[2] Section 15 General functions

Insert after section 15 (2):

- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.71 Teacher Housing Authority Act 1975 No 27

[1] Section 7 Appointment etc of members

Omit section 7 (1) (c). Insert instead:

- (c) one is to be a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service and whose principal duty is the management of the Authority's activities.

[2] Section 12 Staff establishment of Authority and appointment of officers and employees

Omit the section.

[3] Section 13 Powers, authorities, duties and functions of Authority

Insert after section 13 (2):

- (3) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.72 Technical and Further Education Commission Act 1990 No 118

[1] Section 5 Functions

Insert after section 5 (2):

- (3) However, the TAFE Commission cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the TAFE Commission to exercise its functions.

[2] Section 8 Delegation of functions

Omit section 8 (3) (b).

[3] Part 6, heading

Omit "Staff". Insert instead "Provisions relating to certain staff".

[4] Section 15

Omit the section. Insert instead:

15 Application of Part

This Part applies to the group of staff employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service (other than a Department within the meaning of that Act) to enable the TAFE Commission to exercise its functions.

[5] Section 16 Salary, conditions etc of staff

Omit the section.

[6] Section 17

Omit the section. Insert instead:

17 Regulations relating to certain staff

- (1) The regulations may make provision for or with respect to the staff to which this Part applies, including the conditions of employment and the discipline of any such staff.
- (2) Any such regulations relating to the conditions of employment or the discipline of the staff to which this Part applies:
 - (a) have effect subject to any State industrial instrument relating to that staff, and
 - (b) have effect despite any determination under section 4E (1) of the *Public Sector Employment and Management Act 2002*, and
 - (c) are subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*.

[7] Section 18 Appointments and promotion on merit

Omit section 18 (1). Insert instead:

- (1) The appointment of any staff to which this Part applies and any promotions for such staff are to be made on the basis of the merit of the applicants for appointment or promotion.

[8] Section 18A Special arrangements for staff mobility between TAFE Commission and Department of Education and Training

Omit the section.

[9] Section 19 Legal proceedings not to be brought in respect of appointments etc

Omit “on the staff of the TAFE Commission” wherever occurring in section 19 (1) and (3).

Insert instead “in the group of staff to which this Part applies”.

[10] Section 20

Omit the section. Insert instead:

20 Incapable member of staff may be retired

If:

- (a) a member of staff to which this Part applies is found to be unfit to discharge or incapable of discharging the member’s duties, and
- (b) the member’s unfitness or incapacity appears to be of a permanent nature and has not arisen from actual misconduct on the part of the member (or from causes within the member’s control),

the appropriate Division Head (within the meaning of the *Public Sector Employment and Management Act 2002*) may cause the member to be retired.

[11] Section 21 Use of staff or facilities of Departments etc

Omit the section.

[12] Section 22 Extended or long service leave

Omit section 22 (1). Insert instead:

- (1) This section applies to all staff to which this Part applies who are employed on a full-time basis.

[13] Section 22 (2)

Omit “Members of staff of the TAFE Commission”.

Insert instead “The staff”.

4.73 Tourism New South Wales Act 1984 No 46

[1] Section 6 Staff of Tourism New South Wales

Omit the section.

[2] Section 8 Powers of Tourism New South Wales

Insert after section 8 (6):

- (7) However, Tourism New South Wales cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable Tourism New South Wales to exercise its functions.

4.74 Tow Truck Industry Act 1998 No 111

[1] Section 8 Functions of TTA

Insert after section 8 (3):

- (4) The TTA cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the TTA to exercise its functions.

[2] Section 11 Staff of TTA

Omit the section.

4.75 Transport Administration Act 1988 No 109

[1] Section 20 Constitution of STA

Insert after section 20 (2):

- (3) The State Transit Authority cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the STA to exercise its functions.

[2] Section 42B Constitution of Independent Transport Safety and Reliability Regulator

Insert after section 42B (2):

- (3) The ITSRR cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the ITSRR to exercise its functions.

[3] Section 46 Constitution of RTA

Insert after section 46 (2):

- (3) The Roads and Traffic Authority cannot employ any staff.
Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the RTA to exercise its functions.

[4] Part 7

Omit the Part. Insert instead:

Part 7 Provisions relating to certain staff

Division 1 Regulations relating to staff employed in connection with an Authority or ITSRR

56 Application of Division

This Division applies to and in respect of such staff as are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service (other than a Department within the meaning of that Act) to enable an Authority or the ITSRR to exercise its functions.

57 Regulations relating to staff to which this Division applies

- (1) The regulations may make provision for or with respect to the staff to which this Division applies, including the conditions of employment and the discipline of any such staff.
- (2) Any such regulations relating to the conditions of employment or the discipline of the staff to which this Division applies:
 - (a) have effect subject to any State industrial instrument relating to that staff, and
 - (b) have effect despite any determination under section 4E (1) of the *Public Sector Employment and Management Act 2002*, and
 - (c) are subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, and
 - (d) in the case of staff employed in a Division of the Government Service to enable the State Transit Authority to exercise its functions—may provide for appeals by members of staff in connection with their employment, including appeals to a Transport Appeal Board constituted under the *Transport Appeal Boards Act 1980*.

58 Extended leave

Schedule 5 has effect.

Division 2 Staff of Chief Investigator

59 Employment of staff

- (1) The Chief Investigator may appoint such staff as the Chief Investigator requires to exercise the Chief Investigator's functions.
- (2) Those members of staff are taken to be employed by the Government of New South Wales in the service of the Crown, except as provided by subsection (3).
- (3) The Chief Investigator is, for the purposes of any proceedings relating to those members of staff held before a competent tribunal having jurisdiction to deal with industrial matters, taken to be the employer of the staff.
- (4) The Chief Investigator may enter into an agreement with any association or organisation representing a group or class of those members of staff with respect to industrial matters.
- (5) Any such agreement binds all persons in the class or group affected by the agreement, and no such person (whether a member of the association or organisation with which the agreement was entered into or not) has any right of appeal against the terms of the agreement.
- (6) An agreement under this section is not an enterprise agreement within the meaning of the *Industrial Relations Act 1996*. However, the Chief Investigator may enter into such an enterprise agreement as the employer of the members of staff concerned.

60 Salary, wages and conditions of staff

The Chief Investigator may fix the salary, wages and conditions of employment of any staff appointed under section 59 (1) in so far as they are not fixed by or under any other Act or law.

61 Regulations relating to staff of Chief Investigator

- (1) The regulations may make provision for or with respect to the employment of staff appointed under section 59 (1), including the conditions of employment and the discipline of any such staff.
- (2) Any such regulations relating to the conditions of employment or the discipline of staff:
 - (a) have effect subject to any relevant award made by a competent industrial tribunal and to any industrial agreement to which the Chief Investigator is a party, and

- (b) have effect despite any determination of the Chief Investigator under section 60, and
- (c) have effect subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*.

[5] Schedule 5, heading

Omit “for staff of each Authority and the Independent Transport Safety and Reliability Regulator”.

Insert instead “for certain staff”.

[6] Schedule 5

Omit “(Section 68)”. Insert instead “(Section 58)”.

[7] Schedule 8 State Rail Authority

Omit “Sections 66–68 and Schedule 5 apply” from clause 11 (3).

Insert instead “Schedule 5 applies”.

4.76 Treasury Corporation Act 1983 No 75

[1] Section 4 New South Wales Treasury Corporation

Insert after section 4 (9):

- (10) The Corporation cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Corporation to exercise its functions.

[2] Section 4C Staff of Corporation and other persons

Omit the section.

[3] Schedule 2 Provisions relating to the rights of certain staff of the Corporation

Omit the Schedule.

4.77 Vocational Education and Training Accreditation Act 1990 No 120

[1] Section 4 Definitions

Omit the definition of *General Manager* from section 4 (1). Insert instead:

General Manager means the General Manager of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 6 Objects and functions of the Board

Insert after section 6 (2):

- (3) The Board cannot, however, employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 7 Staff of the Board

Omit the section.

4.78 Vocational Education and Training Act 2005 No 100

[1] Section 4 Definitions

Omit the definition of *Director* from section 4 (1). Insert instead:

Director means the Director of the Board holding office as such under Chapter 1A of the *Public Sector Employment and Management Act 2002*.

[2] Section 6 Objects and functions of Board

Insert after section 6 (2):

- (3) The Board cannot, however, employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[3] Section 7 Staff of Board

Omit the section.

4.79 Water Management Act 2000 No 92

[1] Section 285 Water supply authorities

Insert after section 285 (2):

- (3) A corporation listed in Part 1 of Schedule 3 cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable such a corporation to exercise its functions.

[2] Section 290 Employees

Omit the section.

4.80 Wild Dog Destruction Act 1921 No 17

[1] Section 3A The Wild Dog Destruction Board

Insert after section 3A (2):

(2A) The board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the board to exercise its functions.

[2] Section 24 Board may employ persons

Omit the section.

4.81 Wollongong Sportsground Act 1986 No 174

[1] Section 4 Constitution of the Trust

Insert after section 4 (2):

(3) The Trust cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Trust to exercise its functions.

[2] Section 21 Power to employ staff

Omit the section.

4.82 Workplace Injury Management and Workers Compensation Act 1998 No 86

[1] Section 17 Staff of Authority

Omit the section.

[2] Section 22 General functions of the Authority

Insert after section 22 (3):

(4) The Authority cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Authority to exercise its functions.

4.83 Zoological Parks Board Act 1973 No 34

[1] Section 5 Constitution of the Board

Insert after section 5 (2):

- (3) However, the Board cannot employ any staff.

Note. Staff may be employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Board to exercise its functions.

[2] Section 12

Omit the section. Insert instead:

12 Director of Zoological Parks Board

- (1) The Minister may, in consultation with the Board, appoint a Director of the Zoological Parks Board.
- (2) The employment of the Director is subject to Part 3.1 of the *Public Sector Employment and Management Act 2002*, but is not subject to Chapter 1A of that Act.

[3] Section 12A Preservation of rights of certain employees

Omit the section.

[4] Section 13 Use of officers or employees

Omit the section.

[5] Schedule 1 Preservation of rights of certain employees

Omit the Schedule.

Schedule 5 Consequential amendment of other Acts and instruments

(Section 7)

5.1 Ambulance Services Regulation 2005

[1] **Parts 4 and 5**

Omit the Parts.

[2] **Schedule 1 Counting of votes**

Omit the Schedule.

5.2 Anti-Discrimination Act 1977 No 48

[1] **Section 122A Definitions**

Omit “(a), (b) or (c)” from the definition of *authority*. Insert instead “(a)–(c)”.

[2] **Section 122B Application of Part 9A—authorities**

Omit section 122B (1) (b). Insert instead:

- (b) each Division of the Government Service to which section 4H of the *Public Sector Employment and Management Act 2002* applies, and

[3] **Section 122D Exercise of functions of authorities under Part 9A**

Omit section 122D (b). Insert instead:

- (b) in the case of an authority referred to in section 122B (1) (b)—by the Division Head within the meaning of the *Public Sector Employment and Management Act 2002*, or

5.3 Government and Related Employees Appeal Tribunal Act 1980 No 39

[1] **Section 4 Definitions**

Insert after paragraph (a) of the definition of *employee* in section 4 (1):

- (a1) a person who is employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service other than a Department within the meaning of that Act,

-
- (a2) a person who is employed under Part 1 of Chapter 9 of the *Health Services Act 1997* in the NSW Health Service to enable a public health organisation to exercise its functions,

[2] Section 4 (1), definition of “employee”

Insert “(a1), (a2),” after “(a),” in paragraph (e).

[3] Section 4 (1), definition of “employer”

Omit “Public Employment Office” wherever occurring from paragraph (a).

Insert instead “Director of Public Employment (within the meaning of the *Public Sector Employment and Management Act 2002*)”.

[4] Section 4 (1), definition of “employer”

Insert after paragraph (a):

- (a1) in relation to an employee of the class referred to in paragraph (a1) of that definition—the appropriate Division Head within the meaning of the *Public Sector Employment and Management Act 2002*,
- (a2) in relation to an employee of the class referred to in paragraph (a2) of that definition—the Director-General of the Department of Health,

[5] Section 4 (1), definition of “employer”

Omit paragraph (c1).

[6] Section 4 (1), definition of “Public Employment Office”

Omit the definition.

[7] Section 19 Publication of notices

Insert after section 19 (1) (a):

- (a1) in the case of an employer who is a Division Head (within the meaning of the *Public Sector Employment and Management Act 2002*) of a Division of the Government Service other than a Department, if the person appointed or whose appointment is recommended is an employee in that Division, or
- (a2) in the case of an employer who is the Director-General of the Department of Health, if the person appointed or whose appointment is recommended is a member of the NSW Health Service employed in or in connection with a public health organisation or other division of that Service, or

[8] Section 19 (1A)

Insert after section 19 (1):

- (1A) In the case of an employer referred to in subsection (1) (a2), the employees of the employer are, for the purpose of distributing the notice under subsection (1), those members of the NSW Health Service who are employed in or in connection with the public health organisation or other division of that Service in which the vacant office forms part.

[9] Section 20 Right of appeal

Insert after section 20 (a):

- (a1) an employee, being a person employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service other than a Department, may appeal to the Tribunal against a decision of the employee's employer (being the appropriate Division Head within the meaning of that Act) to appoint or recommend the appointment of another employee in that Division to fill a vacant office in that Division, and
- (a2) an employee, being a member of the NSW Health Service employed in or in connection with a public health organisation or other division of that Service, may appeal to the Tribunal against a decision of the employee's employer (being the Director-General of the Department of Health) to appoint or recommend the appointment of another employee employed in or in connection with that organisation or division to fill a vacant office in or in connection with that public health organisation or division, and

[10] Section 20 (b)

Omit "not being an officer within the meaning of section 3 (1) of the *Public Sector Management Act 1988*".

Insert instead "not being an officer referred to in paragraph (a), (a1) or (a2)".

[11] Section 21 Excluded circumstances

Omit "paragraph (c), (d) or (e)" from section 21 (1) (j) (iii).

Insert instead "paragraph (a1), (a2), (c), (d) or (e)".

[12] Section 22 Effect of failure to notify vacancy

Omit “Public Service” from section 22 (a).

Insert instead “Government Service or the NSW Health Service”.

[13] Section 22 (b) and (c)

Omit section 22 (b). Insert instead:

- (b) if the vacant position is one in the Government Service—only employees employed in the same Division (within the meaning of the *Public Sector Employment and Management Act 2002*) of which the vacant office forms part, or
- (c) if the vacant position is one in the NSW Health Service—only employees employed in or in connection with the same public health organisation or other division of that Service of which the vacant office forms part,

[14] Section 57 Service of notices

Insert after section 57 (1) (b):

- (b1) in the case of an employer who is the Director-General of the Department of Health and the notice is given by (or relates to) a member of the NSW Health Service who is employed in connection with a public health organisation—by delivering it to the chief executive officer of the public health organisation or by sending by pre-paid post to the chief executive officer at the principal office of the organisation,
- (b2) in the case of an employer who is the Director-General of the Department of Health and the notice is given by (or relates to) a member of the NSW Health Service who is employed in the Ambulance Service of NSW (within the meaning of the *Health Services Act 1997*)—by delivering it to the chief executive officer of the Ambulance Service of NSW or by sending by pre-paid post to the chief executive officer at the principal office of the Ambulance Service of NSW,

[15] Schedule 6 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Public Sector Employment Legislation Amendment Act 2006, to the extent that it amends this Act

5.4 Health Records and Information Privacy Act 2002 No 71

Section 4 Definitions

Omit paragraph (c) of the definition of *public sector official* in section 4 (1).

Insert instead:

- (c) a person employed in the Government Service, the Teaching Service, the NSW Health Service or NSW Police,

5.5 Independent Commission Against Corruption Act 1988 No 35

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

member of staff of the Commission means:

- (a) a member of staff appointed by the Commissioner under section 104, or
- (b) a person whose services are made use of under section 104A or who performs services for the Commission under that section.

[2] Section 3 (1), definition of “officer of the Commission”

Omit the definition. Insert instead:

officer of the Commission means:

- (a) the Commissioner, or
- (b) an Assistant Commissioner, or
- (c) a member of staff of the Commission, or
- (d) a person engaged by the Commission under section 104B to provide the Commission with services, information or advice.

[3] Sections 104, 104A and 104B

Omit section 104. Insert instead:

104 Appointment of staff

- (1) The Commissioner may appoint, as members of staff of the Commission, such persons (including a Director of Operations and a Director of Administration) as may be necessary to enable the Commission to exercise its functions.

-
- (2) Those persons are taken to be employed by the Government of New South Wales in the service of the Crown, except as provided by subsection (9).
 - (3) Each person who is appointed as a member of staff of the Commission under this section:
 - (a) continues, subject to the provisions of this section and the terms of the person's appointment, to be employed as a member of staff at the discretion of the Commissioner, and
 - (b) is, in the persons' capacity as such a member, subject to the control and direction of the Commissioner.
 - (4) Chapter 1A of the *Public Sector Employment and Management Act 2002* does not apply to the appointment or employment of a person under this section as a member of staff of the Commission.
 - (5) The person appointed as the Director of Operations or as the Director of Administration is to be appointed for a term not exceeding 5 years, but is eligible for re-appointment.
 - (6) The Commissioner may fix the salaries, wages, allowances and conditions of employment of the staff employed under this section in so far as they are not fixed by or under another Act or law.
 - (7) The Commissioner may enter into an agreement with any association or organisation representing a group or class of staff employed under this section with respect to industrial matters. Any such agreement binds all persons in the class or group affected by the agreement, and no such person (whether a member of the association or organisation with which the agreement was entered into or not) has any right of appeal against the terms of the agreement.
 - (8) An agreement under subsection (7) is not an enterprise agreement within the meaning of the *Industrial Relations Act 1996*. However, the Commissioner may enter into such an enterprise agreement as the employer of the members of staff concerned.
 - (9) The Commissioner is, for the purposes of any proceedings relating to staff employed under this section held before a competent tribunal having jurisdiction to deal with such matters, taken to be the employer of the staff.
 - (10) An appeal does not lie to the Government and Related Employees Appeal Tribunal concerning a promotional or disciplinary matter affecting any staff employed under this section.

- (11) None of the following matters, and no matter, question or dispute relating to any of the following matters, is an industrial matter for the purposes of the *Industrial Relations Act 1996*:
- (a) the appointment of, or failure to appoint, a person to any position as a member of staff of the Commission,
 - (b) the removal, retirement, termination of employment or other cessation of office of a person in any such position,
 - (c) any disciplinary proceedings or disciplinary action taken against a person employed under this section.
- (12) Schedule 3 has effect with respect to the rights of staff employed under this section.

104A Arrangements for use of services of other staff

- (1) The Commission may:
- (a) with the approval of the Minister responsible for the department or authority concerned, and
 - (b) on such terms and conditions as may be approved by the Minister administering this Act,
- arrange for the use (by secondment or otherwise) of the services of any staff or facilities of a government department or public authority.
- (2) The Commission may:
- (a) with the approval of the Minister for Police after that Minister has consulted the Commissioner of Police, and
 - (b) on such terms and conditions as may be approved by the Minister administering this Act,
- arrange for one or more police officers to be made available (by way of secondment or otherwise) to perform services for the Commission.
- (3) The *Public Sector Employment and Management Act 2002* does not apply in relation to any such members of staff of the Commission and such a member of staff is not subject to that Act.
- (4) Members of the staff of the Commission referred to in this section are under the control and direction of the Commissioner in their capacity as such members.
- (5) The Commission may terminate an arrangement under subsection (1) or (2) at any time, and no appeal or other proceedings may be brought, in respect of the termination, by or on behalf of the person concerned.

- (6) After the termination of such an arrangement respecting a former member of the staff of the Commission:
- (a) disciplinary proceedings or disciplinary action may, in accordance with the procedures applicable to his or her principal employment, be taken against the former member in connection with any act or omission committed while a member of that staff, and
 - (b) any such act or omission shall, for the purposes of paragraph (a), be taken to have been committed by the former member in the course of or during his or her principal employment, and
 - (c) no court or tribunal may make an order reinstating or having the effect of reinstating the former member as a member of the staff of the Commission.

104B Commission may engage consultants

The Commission may engage any suitably qualified person to provide the Commission with services, information or advice.

[4] Schedule 3 Rights of certain staff of Commission

Omit “(Section 104 (11))”. Insert instead “(Section 104 (12))”.

[5] Schedule 3, clause 1, definition of “member of staff”

Omit the definition. Insert instead:

member of staff means a member of staff of the Commission who is employed under section 104 otherwise than on a temporary basis.

[6] Schedule 3, clause 2 (4) and (5) (b)

Omit “Commission” wherever occurring. Insert instead “Commissioner”.

[7] Schedule 3, clause 3 (a)

Omit “by the Commission”. Insert instead “under section 104”.

[8] Schedule 3, clause 4

Omit “member of the Police Force” wherever occurring.

Insert instead “police officer”.

[9] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Public Sector Employment Legislation Amendment Act 2006, to the extent that it amends this Act

[10] Schedule 4, Part 6

Insert after Part 5:

Part 6 Provisions consequent on enactment of Public Sector Employment Legislation Amendment Act 2006

16 Definitions

In this Part:

amending Act means the *Public Sector Employment Legislation Amendment Act 2006*.

relevant commencement means the date on which Schedule 5.5 to the amending Act commences.

17 Existing staff of Commission

- (1) Each person who, immediately before the relevant commencement:
 - (a) was employed by the Commission under section 104 is, on that commencement, taken to have been appointed, in accordance with section 104 as substituted by the amending Act, as a member of staff of the Commission and to hold the same staff position that the person held immediately before that commencement, and
 - (b) was a member of staff of the Commission pursuant to any arrangements under section 104 is, on that commencement, taken to be a member of staff under section 104A (as inserted by the amending Act).
- (2) Any such person who, pursuant to subclause (1) (a), is taken to be appointed and employed as a member of staff of the Commission:
 - (a) retains any rights to leave (including annual leave, extended leave and sick leave) accrued or accruing to the person as an employee of the Commission before the relevant commencement, and
 - (b) is, until such time as provision is otherwise made under this or any other Act or law, to continue to be employed in

accordance with any State industrial instrument or determination that applied to the person as an employee of the Commission.

5.6 Industrial Relations Act 1996 No 17

Dictionary

Omit the definition of *public sector employee*. Insert instead:

public sector employee includes an employee of a public authority and a member of the Government Service, NSW Police, the NSW Health Service or the Teaching Service.

5.7 Interpretation Act 1987 No 15

[1] Section 21 Meaning of commonly used words and expressions

Insert in alphabetical order in section 21 (1):

NSW Health Service means the NSW Health Service referred to in the *Health Services Act 1997*.

[2] Section 21B

Insert after section 21A:

21B Construction of references in relation to the Government Service

In any Act, in any instrument made under any Act or in any other instrument of any kind:

- (a) a reference to the Government Service is to be read as a reference to the Government Service within the meaning of the *Public Sector Employment and Management Act 2002*, and
- (b) a reference to a member of the Government Service is to be read as a reference to a member of staff of any Division of the Government Service.

5.8 National Parks and Wildlife Amendment (Jenolan Caves Reserves) Act 2005 No 83

[1] Schedule 1 Amendment of National Parks and Wildlife Act 1974

Omit proposed clause 50 of Schedule 3 to the *National Parks and Wildlife Act 1974* from Schedule 1 [25].

Insert instead:

50 Transfer of staff to Department

The persons employed, immediately before the repeal of section 58V by the amending Act, under Chapter 1A of the *Public Sector Employment and Management Act 2002* in a Division of the Government Service to enable the Trust to exercise its functions are transferred to the Department and become members of staff of the Department.

[2] Schedule 1, item [25]

Omit proposed clause 57 (1) (e) of Schedule 3 to the *National Parks and Wildlife Act 1974*.

Insert instead:

- (e) clause 50 operates only in relation to a person who was, immediately before the repeal of section 58V by the amending Act, employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Jenolan Caves Reserve Trust Division of the Government Service as the Jenolan ranger or as a permanent or temporary member of staff of the Wombeyan Caves, the Abercrombie Caves or the Karst Conservation Unit in that Division, and

[3] Schedule 2 Amendment of other legislation

Insert after Schedule 2.4:

2.4A Public Sector Employment and Management Act 2002 No 43

Schedule 1 Divisions of the Government Service

Omit the matter relating to the Jenolan Caves Reserve Trust Division from Part 2 of the Schedule.

5.9 Pay-roll Tax Act 1971 No 22

[1] Section 10 Exemptions from pay-roll tax

Omit section 10 (1) (b1). Insert instead:

- (b1) by the Crown in connection with a public hospital or an area health service within the meaning of the *Health Services Act 1997*,

[2] Section 10 (1) (b2)

Omit the paragraph. Insert instead:

- (b2) by the Crown in respect of the Home Care Service,

[3] Section 10 (1) (c1)

Omit the paragraph.

[4] Section 10 (1A)

Insert “(b2),” after “(b1),”.

[5] Section 10 (1A) (c)

Insert “(as referred to in subsection (1) (b))” after “a public hospital”.

[6] Section 10 (1A) (c1) and (c2)

Omit section 10 (1A) (c1). Insert instead:

- (c1) the Crown in respect of staff employed in connection with a public hospital or an area health service when the staff are engaged in work of a kind ordinarily performed in connection with the conduct of public hospitals or of the area health service concerned,
- (c2) the Crown in respect of staff employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* in the Government Service to enable the Home Care Service to exercise its functions for time when the staff are engaged in work of a kind ordinarily performed in connection with the conduct of the Home Care Service,

5.10 Privacy and Personal Information Protection Act 1998 No 133

Section 3 Definitions

Omit paragraph (c) of the definition of *public sector official* in section 3 (1).

Insert instead:

- (c) a person employed in the Government Service, the Teaching Service, the NSW Health Service or NSW Police,

5.11 Transport Administration (General) Regulation 2005

[1] Clause 13 Manager

Omit “section 60 of the Act” from clause 13 (1).

Insert instead “Chapter 1A of the *Public Sector Employment and Management Act 2002*”.

[2] Clause 15 Staff

Omit the clause.