



Western Australia

Public Sector Management Act 1994

**Incorporating the amendments proposed
by the *Public and Health Sector Legislation
Amendment (Right of Return) Bill 2018 Pt. 2*
(Bill No. 86-1)**

Note:

Pt. 2-3B (s. 7-33), Pt. 4-8 (s. 68-109) & Sch. 1-8 have been omitted as
they are not amended by the Bill.

Public Sector Management Act 1994

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Public Sector Management Act 1994

An Act to provide for the administration of the Public Sector of Western Australia and the management of the Public Service and of other public sector employment; to repeal the *Public Service Act 1978*; and to provide for related matters.

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Public Sector Management Act 1994*¹.

2. Commencement

The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation¹.

3. Terms used

- (1) In this Act, unless the contrary intention appears —

agency means —

- (a) a department; or
- (b) a SES organisation;

appoint includes promote;

breach of discipline means a breach of discipline referred to in section 80;

chief employee means —

- (a) a chief employee of a non-SES organisation; or
- (b) a chief employee of an agency who is not a member of the Senior Executive Service; or
- (c) a person deemed to be a chief employee under regulations referred to in section 4;

chief executive officer means —

- (a) a person holding office under Division 2 of Part 3 as the chief executive officer of an agency; or
- (b) a person deemed to be a chief executive officer under regulations referred to in section 4;

classification system means a system relating either to an office, post or position or to an employee that provides a basis for the remuneration of employees by identifying the level which correctly reflects the functions and responsibilities of the office, post or position or of the employee;

code of conduct means a code of conduct developed under section 21(1);

code of ethics means a code of ethics referred to in section 21(1) and established under the Commissioner's instructions;

Commissioner means the person holding the office of Public Sector Commissioner established by section 16(1);

Commissioner's instructions means instructions issued under section 22A;

compensation, in relation to an employee, does not include any payment made —

- (a) under section 56(5)(b) or 72(2)(b); or
- (b) in lieu of notice under regulations referred to in section 94 in respect of an employee who is made redundant; or
- (c) in lieu of an accrued or accruing entitlement to leave;

department means a department established under section 35;

disciplinary action has the meaning given in section 80A;

document includes a tape, disc or other device or medium on which information is recorded or stored electronically, mechanically, photographically or otherwise;

employee means a person employed in the Public Sector by or under an employing authority;

employing authority has the meaning given by section 5;

executive officer means a chief executive officer or senior executive officer;

function has the meaning given by section 5 of the *Interpretation Act 1984*;

improvement action means any one or more of the following actions by an employing authority in respect of an employee for the purpose of improving the performance or conduct of the employee —

- (a) counselling;
- (b) training and development;
- (c) issuing a warning to the employee that certain conduct is unacceptable or that the employee's performance is not satisfactory;
- (d) any other action of a similar nature;

Industrial Commission has the meaning given to Commission by the *Industrial Relations Act 1979*;

Minister means the Minister to whom the administration of this Act is for the time being committed by the Governor;

ministerial office means one or more ministerial officers appointed to assist a particular political office holder;

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ministerial officer means a person appointed under section 68 as a ministerial officer;

non-SES organisation means an entity which consists of —

- (a) a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body or office, post or position that is established or continued for a public purpose under a written law; and
- (b) persons employed by or for the purposes of that body or holder under that written law or another written law,

and which neither is nor includes —

- (c) an SES organisation; or
- (d) an entity specified in column 2 of Schedule 1;

organisation means a non-SES organisation or SES organisation;

performance agreement means an agreement referred to in section 47(1) or clause 13(5) of Schedule 5;

permanent officer means a person appointed under section 64(1)(a) for an indefinite period;

political office holder means —

- (a) a Minister; or
- (b) the Parliamentary Secretary of the Cabinet; or
- (c) a Parliamentary Secretary holding office under section 44A of the *Constitution Acts Amendment Act 1899*; or
- (d) the Government Whip; or
- (e) the Leader of the Opposition in the Legislative Council; or
- (f) the Leader of the Opposition in the Legislative Assembly; or
- (g) a person, if any, who, not being a Minister, is the leader of a party in the Legislative Assembly of at least 5 members, other than a party led by the Premier or by the Leader of the Opposition referred to in paragraph (f);

Public Sector means all —

- (a) the agencies; and
- (b) the ministerial offices; and
- (c) the non-SES organisations;

public sector body means an agency, ministerial office or non-SES organisation;

public sector notice means a notice issued by or under the authority of the Commissioner for the purposes of this Act that is published as a public sector notice in accordance with the Commissioner's instructions;

public sector standard means a public sector standard referred to in section 21(1) and established under the Commissioner's instructions;

Public Service means the Public Service as constituted under section 34;

public service officer means an executive officer, permanent officer or term officer employed in the Public Service under Part 3;

remuneration has the meaning given by the *Salaries and Allowances Act 1975*;

repealed Act means the *Public Service Act 1978*;

responsible authority, in relation to a department or organisation, means —

- (a) a board, committee or other body for the time being administering the department or organisation; or
- (b) if there is no board, committee or other body referred to in paragraph (a), the Minister responsible for the department or organisation,

or, when used otherwise than in relation to a department or organisation, means a responsible authority of any department or organisation;

senior executive officer means a member of the Senior Executive Service other than a chief executive officer;

Senior Executive Service means the Senior Executive Service as constituted under section 43;

SES organisation means an entity which consists of —

- (a) a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body or office, post or position —
 - (i) established or continued for a public purpose under a written law; and
 - (ii) specified in column 2 of Schedule 2;and
- (b) persons employed by or for the purposes of that body or holder under that written law or another written law;

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special disciplinary inquiry means a special disciplinary inquiry held under section 87;

special inquirer means a person or persons appointed under section 24H to carry out a special inquiry;

special inquiry means a special inquiry held under section 24H;

substandard performance means performance which is substandard within the meaning of section 79;

term officer means a person appointed under section 64(1)(b) for a term not exceeding 5 years;

this Act includes subsidiary legislation in force under this Act.

[(2) deleted]

- (3) For the purposes of the definition of ***responsible authority*** in subsection (1), a department —
- (a) which is established to support an organisation; and
 - (b) which is not prescribed as an independent department for the purposes of this subsection,

is to be taken to be a part of the organisation referred to in paragraph (a).

- (4) A reference in this Act to the Minister responsible for a public sector body of a particular kind is a reference to the Minister to whom the administration of the public sector body of that kind is for the time being committed by the Governor.
- (5) A reference in this Act —
- (a) to a person being employed by an employing authority; or
 - (b) in relation to a person, to an employing authority as being his or her employing authority,

shall, if the person was appointed under this Act for and on behalf of the State, be construed as a reference to the person being so employed for and on behalf of the State or as a reference, in relation to the person, to the employing authority as being his or her employing authority for and on behalf of the State, as the case requires.

[Section 3 amended by No. 39 of 2010 s. 4, 68, 70 and 92.]

4. Persons deemed to be CEOs or chief employees

- (1) The Commissioner is deemed to be the chief executive officer of the department principally assisting in the administration of this Act.
- (2) The Auditor General is deemed to be the chief executive officer of the department known as the Office of the Auditor General.
- (3) The Commissioner of Police is deemed to be the chief executive officer of the department known as the Police Department².
- (4) The Electoral Commissioner is deemed to be the chief executive officer of the department known as the Western Australian Electoral Commission.
- (5) Regulations made under section 108 may provide that the holder of such office, post or position under a written law as is specified by them is deemed to be the chief executive officer or chief employee of such department or organisation as is so specified.
- (6) Despite this section, Parts 3, 5 and 6 do not apply to or in relation to a person who is the Commissioner, the Auditor General, the Commissioner of Police or the Electoral Commissioner or the holder of an office, post or position deemed under regulations referred to in subsection (5) to be a chief executive officer or chief employee, except insofar as those Parts confer powers or impose duties on chief executive officers or chief employees, as the case requires, in their capacity as employing authorities.

[Section 4 amended by No. 39 of 2010 s. 5.]

5. Term used: employing authority

- (1) For the purposes of this Act, but subject to this section —
employing authority means, in relation to —
 - (a) a chief executive officer (other than a chief executive officer referred to in section 4), the Commissioner; or
 - (b) a chief employee (other than a chief employee referred to in section 4), the person or board, committee or other body specified by a written law as being the employer of the chief employee; or

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- (c) a department or organisation or an employee (other than a chief executive officer or chief employee) employed in a department or organisation —
 - (i) subject to subparagraph (iii), if a chief executive officer or chief employee is the accountable authority of the department or organisation, the chief executive officer or chief employee; or
 - (ii) subject to subparagraph (iii), if a board, committee or other body established under a written law is the accountable authority of the department or organisation, that board, committee or other body; or
 - (iii) if a written law confers on a person or board, committee or other body the power to appoint or employ staff, the person or board, committee or other body;or
 - (d) a ministerial office or a ministerial officer, the Minister, or, when used otherwise than in relation to a public sector body or a chief executive officer, chief employee, employee or ministerial officer, means employing authority of any public sector body, chief executive officer, chief employee, employee or ministerial officer.
- (2) For the purposes of this section —
- (a) a department —
 - (i) which is established to support an organisation (other than an organisation which is a Minister); and
 - (ii) which is not prescribed as an independent department for the purposes of this paragraph,is to be taken to be a part of the organisation referred to in subparagraph (i); and
 - (b) **accountable authority** has the meaning given by section 3 of the *Financial Management Act 2006*.
- (3) Despite anything in paragraph (c) of the definition of **employing authority** in subsection (1), regulations made under section 108 may provide that the holder of an office, post or position, or a board, committee or other body, created or established under a written law is the employing authority of a department or

organisation or of an employee (other than a chief executive officer) employed in a department or organisation.

[Section 5 amended by No. 77 of 2006 s. 6 and 7; No. 39 of 2010 s. 6, 68 and 70.]

6. Crown bound; application of *Industrial Relations Act 1979*

- (1) This Act binds the Crown in right of the State.
- (2) Except to the extent to which a provision of this Act specifies otherwise, the *Industrial Relations Act 1979* applies to and in relation to matters dealt with by this Act.

Part 3 — Public Service

Division 1 — General

34. Constitution of Public Service

The Public Service is constituted by —

- (a) departments; and
- (b) SES organisations, insofar as any posts in them, or persons employed in them, or both, belong to the Senior Executive Service; and
- (c) persons employed under this Part, whether in departments or in the Senior Executive Service in SES organisations, or otherwise.

35. Departments, establishment etc. of

- (1) The Governor may, on the recommendation of the Commissioner —
 - (a) establish and designate departments; and
 - (b) amalgamate or divide existing departments and designate the resulting department or departments; and
 - (c) abolish departments; and
 - (d) alter the designations of existing departments.
- (2) Notice of any act by the Governor under subsection (1) is to be published in the *Gazette*.
- (3) An omission to publish a notice under subsection (2) does not invalidate the act of the Governor.
- (4) The Minister may direct the Commissioner to make a recommendation to the Governor under subsection (1) in respect of a department or departments specified in the direction, and the Commissioner must comply with the direction.
- (5) The text of a direction given under subsection (4) is to be included in the annual report prepared by the Commissioner under section 22D.

[Section 35 amended by No. 24 of 2000 s. 34(1); No. 39 of 2010 s. 35 and 70.]

36. Organisational powers of employing authorities of departments etc.

- (1) Subject to subsection (2), the employing authority of a department or organisation may, in relation to the department or organisation —
- (a) determine organisational structures and arrangements; and
 - (b) create, transfer or abolish offices; and
 - (c) in accordance with the Commissioner's instructions classify, or alter the classification of, offices other than offices included in the Special Division of the Public Service under section 38.
- (2) Subject to subsection (3), subsection (1) does not apply to the employing authority of an organisation unless the written law under which the organisation is established or continued authorises or requires the appointment or employment of public service officers for the purposes of the organisation.
- (3) Nothing in subsection (2) prevents the employing authority of an organisation from exercising the powers conferred by subsection (1) in relation to the offices of executive officers within the organisation.

[Section 36 amended by No. 39 of 2010 s. 36 and 70.]

37. Right of appeal as to remuneration of employees of organisations that become part of Public Service

[(1) deleted]

- (2) If, in respect of an appointment as a public service officer of a person who was employed in an organisation immediately before the organisation became a part of the Public Service, the relevant employing authority determines that the remuneration payable to the public service officer shall be at a rate less than was payable to him or her as an employee of the organisation immediately prior to it becoming a part of the Public Service, the public service officer may, in the manner prescribed under Division 2 of Part IIA of the *Industrial Relations Act 1979*, appeal to the Industrial Commission constituted by a Public Service Arbitrator appointed under that Division against any provision of that determination, and, notwithstanding any provision of that Act, the Public Service Arbitrator has jurisdiction to hear and determine that appeal.

[Section 37 amended by No. 1 of 1995 s. 35.]

38. Determinations of offices in Special Division for *Salaries and Allowances Act 1975* s. 6(1)(d)

- (1) For the purposes of section 6(1)(d) of the *Salaries and Allowances Act 1975*, the Commissioner may determine that an office in the Public Service is an office included in the Special Division of the Public Service.
- (2) The Commissioner may amend or revoke a determination made under subsection (1).

[Section 38 amended by No. 39 of 2010 s. 37.]

39. Retirement of public service officers on grounds of ill health

- (1) A public service officer may retire, or an employing authority may call on a public service officer to retire, from the Public Service on the grounds of ill health.
- (2) A public service officer who is called on to retire from the Public Service under subsection (1) shall forthwith so retire.

40. Service of notices etc. when address of public service officer unknown

- (1) If the address for the time being of a public service officer is unknown to his or her employing authority, all notices, orders or communications to or for the public service officer shall be posted to the last known address of the public service officer and a notice of the act of that posting shall be published as a public sector notice in accordance with the Commissioner's instructions.
- (2) Compliance with subsection (1) shall be deemed a sufficient service of any notice, order or communication on the public service officer concerned.

[Section 40 amended by No. 39 of 2010 s. 38.]

41. Public service officers appointed by Governor, exercise of powers as to

In the case of a public service officer in a department or organisation who is appointed by the Governor —

- (a) the powers conferred on an employing authority by this Part (other than the power to terminate the employment in the Public Service of the public service officer) may be exercised for and on behalf of the Governor —
 - (i) in the case of a public service officer who is a chief executive officer, by the Commissioner; or

- (ii) in the case of a public service officer who is not a chief executive officer, by the employing authority of the department or organisation;

and

- (b) the power to terminate the employment in the Public Service of that public service officer (not being a chief executive officer) may be exercised by the Governor on the recommendation of the Minister responsible for the department or organisation.

[Section 41 amended by No. 39 of 2010 s. 67 and 68.]

Division 2 — Senior Executive Service

42. Purposes of Senior Executive Service

- (1) The purposes of the Senior Executive Service are —
 - (a) to provide for a group of executive officers who are capable of —
 - (i) furnishing high level policy advice and undertaking managerial responsibilities in agencies; and
 - (ii) being deployed within agencies, and between agencies, so as best to promote the efficiency of the Public Sector;
- and
- (b) to promote the efficiency of individual agencies.

[(2) deleted]

[Section 42 amended by No. 39 of 2010 s. 39.]

43. Constitution of Senior Executive Service

- (1) Subject to this section, the Senior Executive Service consists of —
 - (a) each public service officer employed in a department whose salary; and
 - (b) each office in a department, or post in an SES organisation, the salary attached to which; and
 - (c) each person employed in an SES organisation whose salary, exceeds such level as is prescribed for the purposes of this subsection and who, or the holder of which, as the case requires, becomes or remains a member of the Senior Executive Service by virtue of —
 - (d) section 110(2); or

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- (e) an appointment under section 45 or 53; or
 - (f) a reappointment under section 46.
- (2) The Senior Executive Service —
 - (a) excludes such public service officer, holder of an office, office, post, holder of a post, or person, referred to in subsection (1) as is the subject of a declaration in force under subsection (3); but
 - (b) includes such public service officer, holder of an office, office, post, holder of a post, or person, not referred to in subsection (1) as is the subject of a declaration in force under subsection (4).
- (3) The Commissioner may from time to time by notice published as a public sector notice in accordance with the Commissioner's instructions —
 - (a) declare that a public service officer, holder of an office, office, post, holder of a post, or person, referred to in subsection (1) is excluded from the Senior Executive Service on and from such day, not being a day earlier than the day of that publication, as is specified in that declaration; or
 - (b) repeal or amend a declaration made under this subsection.
- (4) The Commissioner may from time to time by notice published as a public sector notice in accordance with the Commissioner's instructions —
 - (a) declare that a public service officer, holder of an office, office, post, holder of a post, or person, not referred to in subsection (1) is included in the Senior Executive Service on and from such day, not being a day earlier than the day of that publication, as is specified in that declaration; or
 - (b) repeal or amend a declaration made under this subsection.
- (5) If a declaration is made under subsection (3) or repealed under subsection (4) in respect of —
 - (a) a public service officer employed in a department who was, immediately before the day specified in that declaration or the day of that repeal, a member of the Senior Executive Service, that public service officer; or

- (b) an office in a department, the holder of that office immediately before the day specified in that declaration or the day of that repeal,

continues to be employed in the department on the same terms and conditions as those to which he or she was entitled as a member of the Senior Executive Service until, subject to this Act, he or she retires or his or her employment in the Public Service is otherwise terminated, or his or her terms and conditions of service are varied, under this Act.

- (6) If a declaration is made under subsection (3) or repealed under subsection (4) in respect of —
 - (a) a person employed in an SES organisation who was, immediately before the day specified in that declaration or the day of that repeal, a member of the Senior Executive Service, that person; or
 - (b) a post in an SES organisation, the person who was the holder of that post immediately before the day specified in that declaration or the day of that repeal,

continues to be employed in the SES organisation on the same terms and conditions as those to which he or she was entitled as a member of the Senior Executive Service until, subject to the written law under which the SES organisation was established or continued, he or she retires or his or her employment in the Public Service is otherwise terminated, or his or her terms and conditions of service are varied, under that written law.

- (7) A public service officer or person to whom a declaration made under subsection (3) or (4) relates may be identified in that declaration by name or by any other means of identification.
- (8) The Commissioner shall, before making a declaration referred to in subsection (3) or (4), consult the employing authority of the agency in which the public service officer, holder of an office, office, post, holder of a post, or person, to whom or which the proposed declaration relates is employed or is located, as the case requires.
- (9) When, under this Division, a person is appointed to, reappointed to, transferred to, or directed to act in, an office or post which is included in the Senior Executive Service and which is created under another written law, the person shall be regarded as having also been appointed to, reappointed to, transferred to, or directed to act in, that office or post under that written law.

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- (10) When an executive officer is employed in an SES organisation, the executive officer has all the functions and protection which he or she would have if he or she —
- (a) were not an executive officer; and
 - (b) were employed under the written law under which the SES organisation is established or continued.

[Section 43 amended by No. 39 of 2010 s. 40 and 67.]

44. Agencies each to have CEO or chief employee

- (1) Subject to subsection (2), each agency shall have a chief executive officer.
- (2) An agency which does not have a chief executive officer because of a declaration made under section 43(3) shall have a chief employee.
- (3) The Commissioner may —
 - (a) subject to any other written law relating to the agency concerned, create an office of chief executive officer for an agency; and
 - (b) determine the level of classification of an office created under this subsection, other than an office included in the Special Division of the Public Service under section 38.

[Section 44 amended by No. 39 of 2010 s. 67.]

45. CEOs, appointment of

- (1) Each chief executive officer shall be appointed for such term not exceeding 5 years as is specified in the instrument of his or her appointment by the Governor for and on behalf of the State on the recommendation of the Commissioner under this section, but this section does not apply to the reappointment of a person to his or her office of chief executive officer.
- (2) Subject to this Act, the employment of a chief executive officer is to be governed by a contract of employment referred to in section 56.
- (3) If —
 - (a) there is a vacancy or an impending vacancy in the office of a chief executive officer; and
 - (b) it is not intended to fill the vacancy by transferring a chief executive officer to that office under section 50, or

temporarily by directing an employee to act in the office under section 51,

the Commissioner must act under this section to enable the filling of that vacancy or impending vacancy.

- (4) The Commissioner must, for the purposes of subsection (3), invite —
- (a) the Minister; and
 - (b) if the Minister is not the responsible authority of the agency concerned, that responsible authority; and
 - (c) if the responsible authority of the agency concerned is not the Minister responsible for that agency, that Minister,

to inform the Commissioner of any matters that they wish the Commissioner to take into account in recommending a person for appointment to the office referred to in subsection (3).

- (5) The Commissioner shall notify the vacancy or impending vacancy in such manner as the Commissioner thinks sufficient to enable suitably qualified persons to apply for the relevant office.
- (6) The Commissioner shall cause applicants for the relevant office to be examined, but nothing in this section requires the examination of all those applicants.
- (7) The Commissioner may seek advice from such sources as the Commissioner considers relevant and may invite such other persons as the Commissioner thinks fit to assist him or her to decide on the person or persons suitable for appointment to the relevant office, and any person so invited may take part in the examination of applicants or in the deliberations of the Commissioner on the matter or in both.
- (8) When the Commissioner decides on a person suitable for appointment to the relevant office, the Commissioner must recommend to the Governor that that person be appointed to the relevant office.

[(9)-(12) deleted]

- (13) In deciding on a person to be recommended for appointment as a chief executive officer, the Commissioner shall have regard to the need for the appointment of a person who —
- (a) is able to discharge the specific responsibilities placed on the chief executive officer; and

- (b) will imbue the employees of his or her agency with a spirit of service to the community; and
- (c) will promote effectiveness and efficiency in his or her agency; and
- (d) will be a responsible manager of his or her agency; and
- (e) will maintain appropriate standards of conduct and integrity among the employees of his or her agency.

[Section 45 amended by No. 39 of 2010 s. 41, 67 and 70.]

46. CEOs, reappointment of on expiry of contract

- (1) If the contract of employment of a chief executive officer is about to expire and the chief executive officer has notified the Commissioner that he or she wishes to be reappointed to his or her office of chief executive officer, the Commissioner may —
 - (a) recommend to the Governor that —
 - (i) the chief executive officer be reappointed to the relevant office; or
 - (ii) if the chief executive officer has been transferred to the performance of other functions under section 50, the chief executive officer be reappointed to perform those functions at the same level of classification;
 - or
 - (b) notify the chief executive officer that he or she will not be reappointed.
- (2) If the Commissioner —
 - (a) recommends to the Governor that the incumbent be reappointed to the relevant office, the Governor shall so reappoint the incumbent for and on behalf of the State for such term not exceeding 5 years as is specified in the instrument of his or her reappointment; or
 - (b) does not recommend to the Governor that the incumbent be reappointed to the relevant office, the vacancy or impending vacancy in the office of the incumbent shall be filled in accordance with section 45.
- (3) Subject to this Act, the employment of a chief executive officer reappointed under this section shall be governed by a contract of employment referred to in section 56.

[Section 46 amended by No. 39 of 2010 s. 42, 67 and 70.]

47. CEOs, performance agreements etc. of

- (1) A chief executive officer must, on appointment under section 45, and at any time when required to do so under the Commissioner's instructions, enter in accordance with the Commissioner's instructions into an agreement with —
- (a) the Commissioner; and
 - (b) the responsible authority of the agency of the chief executive officer,
- concerning the performance criteria to be met by the chief executive officer during the period to which the agreement relates.
- (2) A performance agreement does not take effect until the Minister responsible for the agency concerned (if that Minister is not the responsible authority of the agency) has approved the performance agreement and a note of that approval has been endorsed on the performance agreement.
- (3) A performance agreement is not legally enforceable.
- (4) The responsible authority of the agency of a chief executive officer is responsible for assessing in accordance with the Commissioner's instructions, on or shortly before the end of each period referred to in subsection (1), the extent to which the chief executive officer meets the performance criteria set out in his or her current performance agreement.

[Section 47 amended by No. 39 of 2010 s. 43.]

[48. Deleted by No. 39 of 2010 s. 44.]

49. CEOs, removal of from office

The Governor may, on the recommendation of the Commissioner, at any time remove a chief executive officer from office.

[Section 49 amended by No. 39 of 2010 s. 45.]

50. CEOs, transfer of

- (1) The Governor may at any time on the recommendation of the Commissioner transfer a chief executive officer from —
- (a) his or her office of chief executive officer to —
 - (i) another office of chief executive officer that is vacant and that is at the same level of classification as, or at a lower level of classification than, the first-mentioned office; or

- (ii) the performance of other functions in the Senior Executive Service;
 - or
 - (b) the performance of other functions in the Senior Executive Service to an office of chief executive officer that is vacant and that is at the same level of classification as, or at a lower level of classification than, the office from which the chief executive officer was transferred to the performance of those functions.
- (2) Before making a recommendation referred to in subsection (1) the Commissioner must consult —
- (a) the responsible authority of the agency in which the office of the chief executive officer to whom the proposed recommendation relates is located; and
 - (b) the responsible authority of the agency of destination; and
 - (c) if neither of the responsible authorities referred to in paragraphs (a) or (b) is the Minister responsible for the relevant agency, that Minister; and
 - (d) the chief executive officer to whom the proposed recommendation relates.
- (3) Subject to the provisions of this Act relating to the management of the redeployment and redundancy of employees, a chief executive officer who is transferred under subsection (1) retains for the remainder of the term of his or her contract of employment a level of classification equal to the highest level of classification of any office previously occupied by him or her during that term.
- (4) The transfer of a chief executive officer under this section does not affect the term of his or her contract of employment.
- (5) In subsection (2)(b) —
- agency of destination** means the agency —
- (a) to an office; or
 - (b) to the performance of other functions in the Senior Executive Service,
- in which the chief executive officer to whom the proposed recommendation relates is proposed to be transferred.

[Section 50 amended by No. 39 of 2010 s. 46 and 67.]

51. Acting CEOs

- (1) Subject to this section, the Commissioner may —
 - (a) if an office of chief executive officer is vacant, or a chief executive officer is absent from duty or for any reason unable to perform his or her functions, direct an employee to act for such period not exceeding 12 months as is specified in that direction in the office of chief executive officer during that vacancy, absence or inability, as the case requires; and
 - (b) at any time cancel a direction given under this subsection.
- (2) The Commissioner may, in a direction given under subsection (1), state that anything done by the employee to whom that direction is given during the period commencing on the occurrence of the relevant vacancy, or on the beginning of the relevant absence or inability, and ending on the giving of that direction, which thing would have been valid had it been done by the chief executive officer referred to in that subsection, is as valid as if it had been done by that chief executive officer, and any such statement has effect according to its tenor.
- (3) The Commissioner must, before giving a direction under subsection (1), consult —
 - (a) the responsible authority of the agency concerned; and
 - (b) if that responsible authority is not the Minister responsible for that agency, that Minister.
- (4) An employee directed under subsection (1) to act in an office —
 - (a) shall comply with that direction; and
 - (b) has, whilst he or she is so acting, all the functions and obligations attaching to the office.

[Section 51 amended by No. 39 of 2010 s. 47, 67 and 70.]

52. Employment etc. of CEOs cannot be litigated etc.

- (1) In this section, a reference to the employment of a chief executive officer is a reference to —
 - (a) the appointment of, or failure to appoint, a person to a vacant office of chief executive officer; or
 - (b) the removal, retirement, termination of employment or other cessation of office of a chief executive officer; or

- (c) any disciplinary proceedings or action taken under Part 5 against a chief executive officer; or
 - (d) the remuneration or terms and conditions of employment of a chief executive officer.
- (2) The employment of a chief executive officer, or any matter, question or dispute relating to any such employment, is not an industrial matter for the purposes of the *Industrial Relations Act 1979*.
- (3) Subsection (2) applies whether or not any person has been appointed to a vacant office of chief executive officer.
- (4) An award, order or industrial agreement under the *Industrial Relations Act 1979*, whether made or registered, as the case requires, before or after the commencement of this section, does not have effect insofar as it relates to the employment of a chief executive officer.
- (5) Subsection (4) does not prevent a contract of employment of a chief executive officer from applying any provision of an award, order or industrial agreement under the *Industrial Relations Act 1979* to the employment of the chief executive officer.
- (6) An appeal does not lie under the *Industrial Relations Act 1979* in relation to the employment of a chief executive officer.
- (7) No proceedings 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 —
 - (a) the appointment of, or failure to appoint, a person to a vacant office of chief executive officer; or
 - (b) the reappointment of, or failure to reappoint, a chief executive officer; or
 - (c) the entitlement or non-entitlement of a person to be so appointed or reappointed.
- (8) Nothing in this section prevents a person from raising with the Commissioner a complaint concerning the employment of a chief executive officer.

53. Senior executive officers, appointment of

- (1) Subject to this section and to any binding award, order or industrial agreement under the *Industrial Relations Act 1979* or employer-employee agreement under Part VID of the *Industrial Relations Act 1979*, an employing authority of an agency may in

accordance with the Commissioner's instructions appoint for and on behalf of the State for such term not exceeding 5 years as is specified in the relevant instrument of appointment a public service officer or other person to the Senior Executive Service otherwise than as a chief executive officer.

- (2) A public service officer or other person appointed under subsection (1) shall be so appointed as a senior executive officer, and that appointment is to be governed by a contract of employment referred to in section 56.
- (3) An appointment under subsection (1) shall be to such level of classification as is determined by the employing authority —
 - (a) in accordance with the Commissioner's instructions; and
 - (b) as being appropriate to the functions to be performed by the person or public service officer so appointed.
- (4) On the expiry of his or her term of office, a senior executive officer is eligible for reappointment under subsection (1) as a senior executive officer on the basis of terms and conditions agreed between him or her and the employing authority.
- (5) An employing authority shall in accordance with the Commissioner's instructions appoint a senior executive officer to fill a vacancy in an office, or to the performance of other functions, in the Senior Executive Service for such term not exceeding 5 years as is specified in the instrument of his or her appointment.
- (6) A person shall be appointed under subsection (5) at the same time as his or her appointment under subsection (1).

[Section 53 amended by No. 20 of 2002 s. 25(4); No. 39 of 2010 s. 48 and 70; amended in Gazette 15 Aug 2003 p. 3690.]

54. Senior executive officers, transfer of

- (1) The employing authority of an agency may at any time transfer a senior executive officer of the agency from his or her office of senior executive officer, or the performance of any functions in the Senior Executive Service, to —
 - (a) another office of senior executive officer that is vacant;
or
 - (b) the performance of other functions in the Senior Executive Service.

- (2) An employing authority shall, before transferring a senior executive officer under subsection (1) from its agency to another agency —
 - (a) obtain the consent of the employing authority of the agency to which the senior executive officer is proposed to be transferred; and
 - (b) consult the senior executive officer proposed to be transferred.
- (3) Subject to the provisions of this Act relating to the management of the redeployment and redundancy of employees, a senior executive officer may only be transferred under subsection (1) at the level of classification which he or she had immediately before that transfer.
- (4) If the office to which a senior executive officer is transferred under subsection (1)(a) is an office, or the functions to the performance of which a senior executive officer is transferred under subsection (1)(b) are functions, in a different agency, the employing authority of that agency becomes the employing authority of the senior executive officer.
- (5) On the transfer of a senior executive officer under subsection (1), the employing authority of the agency to which that transfer takes place is substituted for the employing authority of the agency from which that transfer takes place as a party to the contract of employment of the senior executive officer.
- (6) The transfer of a senior executive officer under subsection (1) does not affect the term of his or her contract of employment.

55. Senior executive officers, performance assessments of

- (1) The performance of his or her functions by a senior executive officer shall be assessed at intervals of not more than one year by the employing authority of his or her agency.
- (2) In assessing under subsection (1) the performance of a senior executive officer, the employing authority concerned shall have regard to any performance criteria specified in the contract of employment of the senior executive officer and to any other relevant matter.

56. Executive officers, contracts of employment of

- (1) Subject to this Act, the employment of an executive officer shall be governed by a contract of employment between the executive officer and his or her employing authority.
- (2) A contract of employment referred to in subsection (1) shall —
 - (a) be in writing; and
 - (b) be signed by or on behalf of the parties to that contract; and
 - (c) expire on the day on which the term of appointment of the executive officer concerned expires or is terminated.
- (3) A contract of employment of an executive officer may be terminated before its expiry on the expiry of not less than 4 weeks' notice of termination —
 - (a) given to him or her by his or her employing authority, or payment in lieu of that period of notice by that employing authority to the executive officer of an amount not exceeding such amount as is prescribed; or
 - (b) given to his or her employing authority by the executive officer or such shorter period of notice as is agreed between the executive officer and his or her employing authority.
- (4) A contract of employment referred to in this section (in this subsection referred to as the ***original contract***) may be varied at any time by a further contract in writing entered into, and signed by, the parties to the original contract, but the term of the original contract cannot be extended to a total period of more than 5 years after the day on which the original contract came into force.
- (5) If the employing authority of an executive officer does not propose to reappoint, or to recommend the reappointment of, the executive officer, that employing authority shall —
 - (a) notify the executive officer of that fact not less than 4 weeks before the expiry of his or her contract of employment; or
 - (b) pay the executive officer in lieu of that period of notice an amount —
 - (i) not exceeding such maximum amount as is prescribed; and

- (ii) not less than such minimum amount as is prescribed for each day by which that period of notice falls short of 4 weeks.

- (6) The employing authority of an executive officer acts for and on behalf of the State in any contract of employment between that employing authority and the executive officer.

[Section 56 amended by No. 39 of 2010 s. 49 and 70.]

57. Contracts of employment of executive officers, content of

- (1) The matters to be dealt with in a contract of employment between an executive officer and his or her employing authority include —

- (a) the functions of the office of the executive officer, including the meeting of performance criteria; and
- (b) the remuneration to be accorded the executive officer in accordance with any relevant determination of the Tribunal or such other arrangements as are prescribed; and

(c) in the case of an executive officer to whom section 58 applies, any election by the executive officer to retain a right of return as defined in section 58(7).

~~(c) any election by the executive officer to retain a right of return within the meaning of section 58.~~

- (2) In this section —

Tribunal means the Salaries and Allowances Tribunal established by the *Salaries and Allowances Act 1975*.

[Section 57 amended by No. 39 of 2010 s. 70; Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 4.]

58. Right of return for executive officers under first appointment ~~Right of return for certain executive officers~~

- (1A) This section applies to an executive officer who —

- (a) is appointed under section 45 or 53 on or after the day on which the *Public and Health Sector Legislation Amendment (Right of Return) Act 2018* section 5 comes into operation; and
- (b) has not, at any time before that appointment, been a member of the Senior Executive Service.

- (1) An executive officer to whom this section applies may elect to retain a right of return if, for a continuous period of not less than 6 months ending immediately before the appointment referred to in subsection (1A)(a), ~~his or her first appointment as an executive officer~~, the executive officer —
- (a) was employed for an indefinite period in a department or organisation; or
 - (b) held a statutory office or a series of statutory offices on a full-time basis and, before holding the statutory office or any of those statutory offices, was employed for an indefinite period in a department or organisation.

(2) An election referred to in subsection (1) —

- (a) can only be made in the executive officer's first contract of employment, being the contract entered into upon the appointment referred to in subsection (1A)(a); and
- (b) may, by notice in writing delivered to the executive officer's employing authority, be revoked by the executive officer at any time before, as referred to in subsection (3A), subsection (3) ceases to apply to the executive officer; and
- (c) if revoked as referred to in paragraph (b), cannot be made again during the term of the first contract of employment; and
- (d) cannot be made in any subsequent contract of employment for the same or another office in the Senior Executive Service.

(2A) Subsection (2)(d) applies whether the executive officer's first contract of employment expired by effluxion of time or was terminated under this Act before it so expired.

~~(2) An election referred to in subsection (1) —~~

- ~~(a) may be made in the first contract of employment entered into by the executive officer, but, unless made in that contract, cannot be made in any subsequent contract of employment for the same or another office in the Senior Executive Service; and~~
- ~~(b) is revoked if that election is not again made by the executive officer in a subsequent contract of employment; and~~
- ~~(c) may be revoked by the executive officer by notice in writing delivered to his or her employing authority; and~~
- ~~(d) if revoked, cannot be made again.~~

- (3) Subject to subsection (3A), an executive officer who has elected under subsection (1) to retain a right of return is entitled to employment in the executive officer's SES place of employment ~~An executive officer who has elected to retain a right of return is entitled to employment in a department or organisation~~ at the same level of classification as he or she held immediately before ceasing to be employed for an indefinite period within the meaning of subsection (1)(a) or (b), as the case requires, if he or she —
- (a) ceases to be an executive officer otherwise than by reason of a declaration made under section 43(3) or repealed under section 43(4); and
 - (b) in the case of —
 - (i) a chief executive officer, is not reappointed to the same or another office of chief executive officer or to the performance of other functions in the Senior Executive Service; or
 - (ii) a senior executive officer, is not reappointed to the same or another office of senior executive officer or to the performance of other functions in the Senior Executive Service.

(3A) Subsection (3) ceases to apply to an executive officer —

(a) in the case of an executive officer appointed for a term exceeding 2 years, on the earlier of the following days —

(i) the day that is 2 years after the day on which the executive officer is first appointed;

(ii) the day after the day on which the executive officer's first contract of employment is terminated;

or

(b) in the case of an executive officer appointed for a term not exceeding 2 years, on the earlier of the following days —

(i) the day after the day on which the executive officer's first contract of employment expires by effluxion of time;

(ii) the day after the day on which the executive officer's first contract of employment is terminated.

(3B) When subsection (3) ceases to apply to an executive officer —

- (a) the election contained in the executive officer's first contract of employment ceases to have any effect; and
- (b) the executive officer cannot, during the remainder (if any) of the term of the first contract of employment, make another election; and
- (c) as referred to in subsection (2)(d), the executive officer cannot, in any subsequent contract of employment for the same or another office in the Senior Executive Service, elect to retain a right of return.

- (4) A person is not entitled to a right of return if his or her employment in the Public Sector was terminated, or he or she was dismissed, under this Act for substandard performance or breach of discipline.
- (5) This section does not prevent the application of the provisions of this Act relating to the management of the redeployment and redundancy of employees to a person who is employed in a department or organisation under a right of return.
- (6) Nothing in this section affects the entitlement of any executive officer under another written law to employment in a department or organisation in accordance with that written law.
- (7) In this section —
right of return means the entitlement of an executive officer to employment in the executive officer's SES place of employment ~~a department or organisation~~ in accordance with this section;

SES place of employment, in relation to an executive officer who has an entitlement under subsection (3) to employment, means —

- (a) in the case of an executive officer other than a chief executive officer — the department or organisation in which the executive officer was employed immediately before the circumstances referred to in subsection (3)(a) and (b) arose; or
- (b) in the case of a chief executive officer — the department principally assisting in the administration of this Act;

statutory office means an office, post or position that is established under an Act by which the right to appoint to that office, post or position is vested in the Governor or a Minister.

[Section 58 amended by No. 39 of 2010 s. 68 and 70; [Public and Health Sector Legislation Amendment \(Right of Return\) Bill 2018 cl. 5.](#)]

59. Compensation etc. if executive officer has no right of return

- (1) This section applies to a person —
 - (a) who ceases to be an executive officer, otherwise than by reason of —
 - (i) a declaration made under section 43(3) or repealed under section 43(4); or
 - (ii) termination of employment in the Public Sector, or dismissal, under this Act for substandard performance or breach of discipline,
before his or her contract of employment expires by effluxion of time; and
 - (b) who does not have a right of return [as defined in section 58\(7\)](#). ~~within the meaning of section 58.~~
- (2) A person to whom this section applies is entitled to such compensation, if any, as the Commissioner determines by reference to the [salary](#) ~~remuneration~~ to which that person is entitled for a particular period ending immediately before the day referred to in subsection (3).
- (3) The maximum compensation payable to a person under this section is an amount equal to the [salary](#) ~~remuneration~~ to which the person is entitled for the period of one year ending immediately before the day on which the person ceased to be an executive officer in the manner specified in subsection (1)(a).
- (4) A person to whom compensation is paid under this section and who is subsequently —
 - (a) employed in a department or organisation; or
 - (b) engaged by an employing authority under a contract for services, whether under section 100(1) or another written law,

before the expiry of such period commencing on the payment of the compensation as is prescribed in relation to the amount of the compensation shall forthwith refund to the Treasurer of the State an amount that bears to the amount of the compensation

the same proportion as the unexpired portion of that period bears to that period.

- (5) If a person who is required to comply with subsection (4) does not do so, the amount unrefunded may be recovered in a court of competent jurisdiction at the suit of the Treasurer of the State as a civil debt owed by that person to the State.

[Section 59 amended by No. 39 of 2010 s. 67 and 70; [Public and Health Sector Legislation Amendment \(Right of Return\) Bill 2018 cl. 6.](#)]

60. Election to take compensation instead of right of return

- (1) An executive officer who has an entitlement under section 58(3) to employment may elect in writing to take compensation under section 59 instead of exercising that entitlement.
- (2) On an election under subsection (1) taking effect, the executive officer concerned —
- (a) ceases to have the entitlement under section 58(3); and
 - (b) becomes entitled to compensation under section 59.

61. Executive officers, secondment of

An employing authority may, if it considers it to be in the public interest to do so and the executive officer concerned consents, enter into an arrangement in writing with the employing authority of a department or organisation or with an employer outside the Public Sector for the secondment of an executive officer of an agency to perform functions or services for, or duties in the service of, the employing authority of the department or organisation or that employer during such period as is specified in that arrangement.

62. When executive officer ceases to be in Senior Executive Service

If a person appointed or reappointed as an executive officer subsequently holds an office, post or position outside the Senior Executive Service, that person ceases to be a member of the Senior Executive Service unless a declaration is made under section 43(4) in respect of that person.

63. Vacation of office of executive officer

- (1) The office of an executive officer becomes vacant if —
- (a) the executive officer dies; or

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- (b) in the case of a chief executive officer, he or she is removed from office under section 49; or
 - (c) his or her contract of employment is terminated under section 56(3); or
 - (d) the executive officer completes a term of office and is not reappointed; or
 - (e) the executive officer is dismissed, or retires from office, under this Act; or
 - (f) the employment of the executive officer in the Public Sector is terminated under section 79(3) or under regulations referred to in section 95A; or
 - (g) the executive officer resigns his or her office in writing addressed —
 - (i) in the case of a chief executive officer, to the Governor; or
 - (ii) in the case of a senior executive officer, to the employing authority of his or her agency, and the Governor, acting on the recommendation of the Commissioner, or that employing authority, as the case requires, accepts that resignation; or
 - (h) the executive officer is appointed or transferred under this Part to another office (unless it is an appointment and the Commissioner authorises the offices being held concurrently by the executive officer).
- (2) The vacation of an office under subsection (1)(a), (b), (d), (e), (f) or (g) terminates the contract of employment of the executive officer concerned.

[Section 63 amended by No. 39 of 2010 s. 50, 67 and 70; No. 8 of 2014 s. 11.]

Division 3 — Public service officers other than executive officers

64. Appointing officers

- (1) Subject to this section and to any binding award, order or industrial agreement under the *Industrial Relations Act 1979* or employer-employee agreement under Part VID of the *Industrial Relations Act 1979*, the employing authority of a department or organisation may in accordance with the Commissioner's instructions appoint for and on behalf of the State a person as a

public service officer (otherwise than as an executive officer) on a full-time or part-time basis —

- (a) for an indefinite period as a permanent officer; or
 - (b) for such term not exceeding 5 years as is specified in the instrument of his or her appointment.
- (2) An appointment under subsection (1) shall be to such level of classification and remuneration as is determined by the relevant employing authority —
 - (a) in accordance with the Commissioner's instructions; and
 - (b) as being appropriate to the functions to be performed by the person so appointed.
- (3) The employing authority of a department or organisation shall —
 - (a) in accordance with the Commissioner's instructions; and
 - (b) at the time of the appointment of a person under subsection (1) or, if that employing authority considers it impracticable to make the appointment concerned at that time, at a later time,

appoint the person to fill a vacancy in an office, post or position in the department or organisation.
- (4) Subject to subsection (5), a person appointed under subsection (1)(b) cannot apply for an appointment under subsection (1)(a) unless the relevant vacancy has first been advertised as a public sector notice in accordance with the Commissioner's instructions or in a daily newspaper circulating throughout the State.
- (5) Subsection (4) does not apply to a person —
 - (a) appointed under subsection (1)(b); and
 - (b) having, or occupying an office, post or position having, the lowest level of classification at which persons of the same prescribed class as that person are at the relevant time recruited into the Public Service.
- (6) The employing authority of an organisation shall not make an appointment under subsection (1) unless the written law under which the organisation is established or continued authorises or requires the appointment or employment of public service officers for the purposes of that organisation.
- (7) Nothing in this section prevents a public service officer who holds an office, post or position in one department or

organisation from being appointed, whether by way of promotion or otherwise, to an office, post or position in another department or organisation.

[Section 64 amended by No. 20 of 2002 s. 25(5); No. 74 of 2003 s. 97(2); No. 39 of 2010 s. 51 and 70; amended in Gazette 15 Aug 2003 p. 3690.]

65. Transferring officers within and between departments etc.

- (1) If an employing authority considers it to be in the interests of its department or organisation to do so, that employing authority may transfer at the same level of classification a public service officer other than an executive officer from one office, post or position in that department or organisation to another such office, post or position —
 - (a) for which that public service officer possesses the requisite qualifications; and
 - (b) the functions assigned to which are appropriate to that level of classification.
- (2) If an employing authority of a department or organisation considers it to be in the interests of the Public Service to do so, that employing authority may, with the approval of the employing authority of another department or organisation and after consulting the public service officer concerned, transfer at the same level of classification a public service officer (other than an executive officer) from an office, post or position in the first-mentioned department or organisation to an office, post or position in the other department or organisation —
 - (a) for which latter office, post or position that public service officer possesses the requisite qualifications; and
 - (b) the functions assigned to which latter office, post or position are appropriate to that level of classification.
- (3) On the transfer of a public service officer under subsection (2), the employing authority of the department or organisation to which that transfer takes place —
 - (a) becomes the employing authority of the public service officer; and
 - (b) is substituted for the employing authority of the department or organisation from which that transfer takes place as a party to any contract of employment of the public service officer.

66. Seconding officers from departments or organisations

An employing authority of a department or organisation (in this section referred to as the *seconding authority*) may, if it considers it to be in the public interest to do so and the public service officer concerned consents, enter into an arrangement in writing with another such employing authority or with an employer outside the Public Sector for the secondment of a public service officer (other than an executive officer) in the department or organisation of the seconding authority to perform functions or services for, or duties in the service of, the other department or organisation or that employer during such period as is specified in that arrangement.

67. Vacation of offices

The office of a public service officer (other than an executive officer) becomes vacant if —

- (a) that public service officer dies; or
- (b) in the case of a term officer, the term officer completes a term of office and is not reappointed; or
- (c) that public service officer is dismissed, or retires from office, under this Act; or
- (d) the employment of that public service officer in the Public Sector is terminated under section 79(3) or under regulations referred to in section 95A; or
- (e) that public service officer resigns his or her office in writing addressed to his or her employing authority and that employing authority accepts that resignation; or
- (f) that public service officer is appointed or transferred under this Part to another office, post or position (unless it is an appointment and the Commissioner authorises the offices, posts or positions being held concurrently by that public service officer).

[Section 67 amended by No. 39 of 2010 s. 52 and 70; No. 8 of 2014 s. 12.]

Part 9 — Repeal and transitional provisions

Division 1 — *Public Service Act 1978* repeal and transitional provisions

[Heading inserted by No. 39 of 2010 s. 62.]

110. *Public Service Act 1978* repealed; transitional (Sch. 5)

- (1) The *Public Service Act 1978* is repealed.
- (2) The transitional provisions set out in Schedule 5 have effect.

111. Transitional provisions related to Part 4 (Sch. 6)

The transitional provisions set out in Schedule 6 have effect.

112. Certain words etc. in written laws etc. taken to be amended

- (1) A reference in a written law or book, document or writing to the *Public Service Act 1978* or the *Public Service Act 1904* is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to this Act.
- (2) A reference in a written law or book, document or writing to the Public Service Commissioner or the Public Service Board is, unless the contrary intention appears or it is otherwise provided under the *Acts Amendment (Public Sector Management) Act 1994*, to be construed as if it had been amended to be a reference to the Minister for Public Sector Management.

[Section 112 amended by No. 57 of 1997 s. 99(3).]

Division 2 — *Public Sector Reform Act 2010* Part 2 amendments: transitional provisions

[Heading inserted by No. 39 of 2010 s. 63.]

113. Transitional provisions (Sch. 7)

Schedule 7 sets out transitional provisions.

[Section 113 inserted by No. 39 of 2010 s. 63.]

**Division 3 — Public Sector Reform Act 2010 Part 3
amendments: transitional provisions**

[Heading inserted by No. 39 of 2010 s. 107.]

114. Transitional provisions (Sch. 8)

Schedule 8 sets out transitional provisions.

[Section 114 inserted by No. 39 of 2010 s. 107.]

**Division 4 — Public and Health Sector Legislation Amendment
(Right of Return) Act 2018 Part 2 amendments: transitional
provisions**

*[Heading inserted by the Public and Health Sector Legislation
Amendment (Right of Return) Bill 2018 cl. 7.]*

115. Transitional provisions (Sch. 9)

Schedule 9 sets out transitional provisions.

*[Section 115 inserted by the Public and Health Sector
Legislation Amendment (Right of Return) Bill 2018 cl. 7.]*

**Schedule 9 — Public and Health Sector Legislation
Amendment (Right of Return) Act 2018 Part 2 amendments:
transitional provisions**

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*[Heading inserted by the Public and Health Sector Legislation
Amendment (Right of Return) Bill 2018 cl. 8.]*

1. Terms used

In this Schedule —

commencement day means the day on which the *Public and Health Sector Legislation Amendment (Right of Return) Act 2018* section 8 comes into operation;

contract of employment means a contract of employment referred to in section 56;

existing contract, in relation to an executive officer, means the contract of employment under which the executive officer is employed immediately before commencement day;

new section 58 means section 58 as amended by the *Public and Health Sector Legislation Amendment (Right of Return) Act 2018* section 5;

new section 59 means section 59 as amended by the *Public and Health Sector Legislation Amendment (Right of Return) Act 2018* section 6;

old section 58 means section 58 as in force immediately before the day on which the *Public and Health Sector Legislation Amendment (Right of Return) Act 2018* section 5 comes into operation;

old section 59 means section 59 as in force immediately before the day on which the *Public and Health Sector Legislation Amendment (Right of Return) Act 2018* section 6 comes into operation.

*[Clause 1 inserted by the Public and Health Sector Legislation
Amendment (Right of Return) Bill 2018 cl. 8.]*

2. Right of return for executive officers on initial contracts not exceeding 2 years

(1) This clause applies to an executive officer if —

(a) the executive officer's existing contract —

(i) is the executive officer's first contract of employment, being the contract entered into upon the executive officer's first appointment to the Senior Executive Service; and

(ii) is for a term not exceeding 2 years;

_____ and

_____ (b) the existing contract contains an election made by the executive officer under old section 58(1) to retain a right of return; and

_____ (c) immediately before commencement day, the election has not been revoked by the executive officer as referred to in old section 58(2)(c).

_____ (2) An executive officer to whom this clause applies is entitled to employment in accordance with new section 58(3) to (7) as if a reference to an executive officer in those provisions were a reference to an executive officer to whom this clause applies.

_____ (3) For the purposes of new section 59(1)(b), an executive officer who has an entitlement to employment under subclause (2) is taken to be a person who has a right of return as defined in new section 58(7).

_____ *[Clause 2 inserted by the Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 8.]*

3. Right of return for executive officers on initial contracts exceeding 2 years

_____ (1) This clause applies to an executive officer if —

_____ (a) the executive officer's existing contract —

_____ (i) is the executive officer's first contract of employment, being the contract entered into upon the executive officer's first appointment to the Senior Executive Service; and

_____ (ii) is for a term exceeding 2 years;

_____ and

_____ (b) the executive officer's existing contract contains an election made by the executive officer under old section 58(1) to retain a right of return; and

_____ (c) immediately before commencement day, the election has not been revoked by the executive officer as referred to in old section 58(2)(c).

_____ (2) In the case of an executive officer who was appointed less than 2 years before commencement day, this clause ceases to apply to the executive officer —

_____ (a) on the later of the following days —

_____ (i) the day that is 2 years after the day on which the executive officer was appointed;

_____ (ii) the day that is 6 months after commencement day;

_____ or

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- (b) if the executive officer's existing contract expires by effluxion of time before the later of the days referred to in paragraph (a), on the day after the expiry; or
 - (c) if the executive officer's existing contract is terminated before the later of the days referred to in paragraph (a), on the day after the termination.
- (3) In the case of an executive officer who was appointed 2 years or more before commencement day, this clause ceases to apply to the executive officer on the earlier of the following days —
 - (a) the day that is 6 months after commencement day;
 - (b) the day after the day on which the executive officer's existing contract expires by effluxion of time;
 - (c) the day after the day on which the executive officer's existing contract is terminated.
- (4) An executive officer to whom this clause applies is entitled to employment in accordance with new section 58(3) and (4) to (7) as if —
 - (a) a reference to an executive officer in those provisions were a reference to an executive officer to whom this clause applies; and
 - (b) the words "Subject to subsection (3A)," at the beginning of new section 58(3) were omitted.
- (5) For the purposes of new section 59(1)(b), an executive officer who has an entitlement to employment under subclause (4) is taken to be a person who has a right of return as defined in new section 58(7).

[Clause 3 inserted by the Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 8.]

4. Right of return for executive officers on other contracts

- (1) This clause applies to an executive officer if —
 - (a) the executive officer's existing contract is not a contract of the kind referred to in clause 2(1)(a) or 3(1)(a); and
 - (b) the existing contract contains an election made by the executive officer under old section 58(1) to retain a right of return; and
 - (c) immediately before commencement day, the election has not been revoked by the executive officer as referred to in old section 58(2)(c).
- (2) This clause ceases to apply to an executive officer on the earlier of the following days —
 - (a) the day that is 6 months after commencement day;

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(b) the day after the day on which the executive officer's existing contract expires by effluxion of time;

(c) the day after the day on which the executive officer's existing contract is terminated.

(3) An executive officer to whom this clause applies is entitled to employment in accordance with new section 58(3) and (4) to (7) as if —

(a) a reference to an executive officer in those provisions were a reference to an executive officer to whom this clause applies; and

(b) the words "Subject to subsection (3A)," at the beginning of new section 58(3) were omitted.

(4) For the purposes of new section 59(1)(b), an executive officer who has an entitlement to employment under subclause (3) is taken to be a person who has a right of return as defined in new section 58(7).

[Clause 4 inserted by the Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 8.]

5. Executive officers may elect to take compensation

(1) An executive officer who has an entitlement to employment by reason of clause 2(2), 3(4) or 4(3) may elect in writing given to the Commissioner to take compensation under new section 59 instead of exercising the entitlement to employment.

(2) On an election under subclause (1) taking effect, the executive officer concerned —

(a) ceases to have the entitlement to employment; and

(b) becomes entitled to compensation under new section 59.

[Clause 5 inserted by the Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 8.]

6. No other right of return under s. 58 or contract for executive officers on existing contracts

(1) No executive officer employed under an existing contract has a right of return under old section 58.

(2) Except as provided by clauses 2, 3 and 4, no executive officer employed under an existing contract has a right of return under new section 58.

(3) When, as referred to in clause 3(2), (3) or 4(2) (as the case requires), clause 3 or 4 ceases to apply to an executive officer —

(a) the election contained in the executive officer's existing contract ceases to have any effect; and

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cl. 7

(b) the executive officer cannot, during the remainder (if any) of the term of the existing contract, make another election; and

(c) the executive officer cannot, in any subsequent contract of employment for the same or another office in the Senior Executive Service, elect to retain a right of return.

[Clause 6 inserted by the Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 8.]

7. Entitlements arising under s. 59 before commencement day

(1) This clause applies if, immediately before commencement day —

(a) an executive officer is entitled to compensation under old section 59, whether by reason of old section 59(1) or section 60(2)(b); but

(b) the Commissioner has not determined under old section 59 the compensation (if any) to which the executive officer is entitled.

(2) The Commissioner is to determine the compensation (if any) to which the executive officer is entitled under new section 59.

[Clause 7 inserted by the Public and Health Sector Legislation Amendment (Right of Return) Bill 2018 cl. 8.]

Notes

- ¹ This is a compilation of the *Public Sector Management Act 1994* and includes the amendments made by the other written laws referred to in the following table ^{1a, 5, 6}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Public Sector Management Act 1994</i>	31 of 1994	8 Jul 1994	s. 1 and 2: 8 Jul 1994; s. 3, 16, 19, 20, 26, 28 and Sch. 4: 20 Aug 1994 (see s. 2 and <i>Gazette</i> 19 Aug 1994 p. 4155); s. 4-6, Pt. 2 Div. 1, 2 and 4, s. 17, 18, 21-25 and 27, Pt. 3-6, 8, and 9 and Sch. 1-3, 5 and 6: 1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948); Pt. 7: 1 Jan 1996 (see s. 2 and <i>Gazette</i> 24 Nov 1995 p. 5389)
<i>Public Sector Management (General) Regulations 1994</i> r. 27 published in <i>Gazette</i> 16 Sep 1994 p. 4803			1 Oct 1994 (see r. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Public Sector Management (Transitional) Regulations 1994</i> published in <i>Gazette</i> 16 Sep 1994 p. 4804			1 Oct 1994 (see r. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Public Sector Management (Transitional) Regulations (No. 2) 1994</i> published in <i>Gazette</i> 9 Dec 1994 p. 6715			9 Dec 1994
<i>Public Sector Management (SES Organizations) Regulations 1994</i> published in <i>Gazette</i> 9 Dec 1994 p. 6716			9 Dec 1994
<i>Energy Corporations (Transitional and Consequential Provisions) Act 1994</i> s. 109	89 of 1994	15 Dec 1994	1 Jan 1995 (see s. 2(2) and <i>Gazette</i> 23 Dec 1994 p. 7069)
<i>Public Sector Management (SES Organizations) Regulations (No. 2) 1994</i> published in <i>Gazette</i> 23 Dec 1994 p. 7122			23 Dec 1994
<i>State Supply Commission Amendment Act (No. 2) 1994</i> s. 16	97 of 1994	30 Dec 1994	18 Mar 1995 (see s. 2(2) and <i>Gazette</i> 17 Mar 1995 p. 1011)
<i>Hospitals Amendment Act 1994</i> s. 18	103 of 1994	11 Jan 1995	3 Feb 1995 (see s. 2 and <i>Gazette</i> 3 Feb 1995 p. 333)
<i>Public Sector Management (SES Organizations) Regulations 1995</i> published in <i>Gazette</i> 7 Feb 1995 p. 423			7 Feb 1995
<i>Public Sector Management (Transitional) Regulations 1995</i> published in <i>Gazette</i> 2 May 1995 p. 1690-1			2 May 1995
<i>Industrial Legislation Amendment Act 1995</i> s. 35	1 of 1995	9 May 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 24 Nov 1995 p. 5389)

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Short title	Number and year	Assent	Commencement
Reprint of the Public Sector Management Act 1994 as at 16 May 1995 (includes amendments listed above except those in the <i>Public Sector Management Act 1994</i> Pt. 7 and the <i>Industrial Legislation Amendment Act 1995</i>)			
<i>Public Sector Management (SES Organizations) Regulations (No. 2) 1995</i> published in <i>Gazette</i> 30 May 1995 p. 2148-9			30 May 1995
<i>Public Sector Management (Entities which are not Organizations) Regulations 1995</i> published in <i>Gazette</i> 23 Jun 1995 p. 2507-8			23 Jun 1995
<i>Occupational Safety and Health Legislation Amendment Act 1995</i> s. 48	30 of 1995	11 Sep 1995	1 Oct 1995 (see s. 2 and <i>Gazette</i> 15 Sep 1995 p. 4301)
<i>Public Sector Management (Entities which are not Organizations) Regulations (No. 2) 1995</i> published in <i>Gazette</i> 3 Nov 1995 p. 5204			3 Nov 1995
<i>Water Agencies Restructure (Transitional and Consequential Provisions) Act 1995</i> s. 188	73 of 1995	27 Dec 1995	1 Jan 1996 (see s. 2(2) and <i>Gazette</i> 29 Dec 1995 p. 6291)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Public Sector Management (Schedule 6) Regulations 1996</i> published in <i>Gazette</i> 5 Jul 1996 p. 3251-2			1 Oct 1994 (see r. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Public Sector Management (SES Organizations) Regulations 1996</i> published in <i>Gazette</i> 20 Aug 1996 p. 4068			20 Aug 1996
<i>Public Sector Management (Transitional) Regulations 1996</i> published in <i>Gazette</i> 27 Sep 1996 p. 4827			27 Sep 1996
<i>Curtin University of Technology Amendment Act 1996</i> s. 29	35 of 1996	27 Sep 1996	13 Nov 1996 (see s. 2(2) and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Vocational Education and Training Act 1996</i> s. 71(1)	42 of 1996	16 Oct 1996	1 Jan 1997 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Acts Amendment (ICWA) Act 1996</i> s. 38	45 of 1996	25 Oct 1996	1 Oct 1997 (see s. 2 and <i>Gazette</i> 23 Sep 1997 p. 5357)
<i>Financial Legislation Amendment Act 1996</i> s. 58	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Public Sector Management (SES Organizations) Regulations 1997</i> published in <i>Gazette</i> 28 Feb 1997 p. 1334			28 Feb 1997
<i>Curriculum Council Act 1997</i> s. 35	17 of 1997	8 Jul 1997	1 Aug 1997 (see s. 2 and <i>Gazette</i> 25 Jul 1997 p. 3907)
Reprint of the Public Sector Management Act 1994 as at 3 Sep 1997 (includes amendments listed above except those in the <i>Acts Amendment (ICWA) Act 1996</i>)			

Short title	Number and year	Assent	Commencement
<i>Professional Standards Act 1997 s. 58</i>	22 of 1997	18 Sep 1997	18 Apr 1998 (see s. 2 and <i>Gazette</i> 17 Apr 1998 p. 2045)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 99</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Public Sector Management (SES Organizations) Regulations 1998 published in Gazette p. 1620-1</i>			24 Mar 1998
<i>Public Sector Management (SES Organizations) Regulations (No. 2) 1998 published in Gazette 17 Jul 1998 p. 3798</i>			17 Jul 1998
<i>Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Act 1998 s. 38</i>	42 of 1998	4 Nov 1998	1 Jan 1999 (see s. 2 and <i>Gazette</i> 22 Dec 1998 p. 6833)
<i>Public Sector Management (SES Organizations) Regulations (No. 3) 1998 published in Gazette 24 Nov 1998 p. 6326</i>			24 Nov 1998
<i>Botanic Gardens and Parks Authority Act 1998 s. 56</i>	53 of 1998	7 Dec 1998	1 Jul 1999 (see s. 2 and <i>Gazette</i> 30 Jun 1999 p. 2879)
Reprint of the Public Sector Management Act 1994 as at 26 Mar 1999 (includes amendments listed above except those in the <i>Botanic Gardens and Parks Authority Act 1998</i>)			
<i>Port Authorities (Consequential Provisions) Act 1999 s. 21 and 23</i>	5 of 1999	13 Apr 1999	14 Aug 1999 (see s. 2 and <i>Gazette</i> 13 Aug 1999 p. 3823)
<i>Public Sector Management (SES Organizations) Regulations 1999 published in Gazette p. 1933</i>			14 May 1999
<i>Public Sector Management (SES Organizations) Regulations (No. 2) 1999 published in Gazette p. 2920-1</i>			2 Jul 1999
<i>Public Sector Management (SES Organizations) Regulations (No. 3) 1999 published in Gazette 24 Sep 1999 p. 4667-8</i>			24 Sep 1999
<i>Midland Redevelopment Act 1999 s. 75</i>	38 of 1999	11 Nov 1999	1 Jan 2000 (see s. 2 and <i>Gazette</i> 31 Dec 1999 p. 7059)
<i>Public Sector Management (Transitional) Regulations 1999 published in Gazette p. 5794-5</i>			19 Nov 1999
<i>Gas Corporation (Business Disposal) Act 1999 s. 106</i>	58 of 1999	24 Dec 1999	16 Dec 2000 (see s. 2(5) and <i>Gazette</i> 15 Dec 2000 p. 7201)
<i>Public Sector Management (SES Organizations) Regulations 2000 published in Gazette p. 504</i>			11 Feb 2000

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Short title	Number and year	Assent	Commencement
<i>Public Sector Management (SES Organizations) Regulations (No. 2) 2000</i> published in <i>Gazette</i> 9 May 2000 p. 2236			9 May 2000
Reprint of the Public Sector Management Act 1994 as at 9 Jun 2000 (includes amendments listed above except those in the <i>Gas Corporation (Business Disposal) Act 1999</i>)			
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 14(13) and 34	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
<i>Dairy Industry and Herd Improvement Legislation Repeal Act 2000</i> s. 20 and 34	25 of 2000	5 Jul 2000	s. 20: 14 Jul 2000 (see s. 2(2) and <i>Gazette</i> 14 Jul 2000 p. 3841); s. 34: 1 Aug 2000 (see s. 2(3) and <i>Gazette</i> 14 Jul 2000 p. 3841)
<i>Public Sector Management (SES Organisations) Regulations (No. 3) 2000</i> published in <i>Gazette</i> 11 Aug 2000 p. 4697			11 Aug 2000
<i>Public Sector Management (SES Organisations) Regulations (No. 4) 2000</i> published in <i>Gazette</i> 15 Sep 2000 p. 5388-9			15 Sep 2000
<i>Electoral Amendment Act 2000</i> s. 24	36 of 2000	10 Oct 2000	21 Oct 2000 (see s. 2 and <i>Gazette</i> 20 Oct 2000 p. 5899)
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> s. 59(b)	43 of 2000	2 Nov 2000	17 Feb 2001 (see s. 2(1) and <i>Gazette</i> 16 Feb 2001 p. 903)
<i>State Records (Consequential Provisions) Act 2000</i> Pt. 8	53 of 2000	28 Nov 2000	1 Dec 2001 (see s. 2 and <i>Gazette</i> 30 Nov 2001 p. 6067)
<i>Rural Business Development Corporation Act 2000</i> s. 44	72 of 2000	6 Dec 2000	20 Dec 2000 (see s. 2 and <i>Gazette</i> 19 Dec 2000 p. 7273)
<i>Public Sector Management (SES Organisations) Regulations (No. 5) 2000</i> published in <i>Gazette</i> 19 Dec 2000 p. 7298-9			19 Dec 2000
<i>Public Sector Management (SES Organisations) Regulations (No. 6) 2000</i> published in <i>Gazette</i> 29 Dec 2000 p. 7985			1 Jan 2001 (see r. 2)
<i>Public Sector Management (SES Organisations) Regulations 2001</i> published in <i>Gazette</i> 9 Feb 2001 p. 775			9 Feb 2001
Reprint of the Public Sector Management Act 1994 as at 9 Feb 2001 (includes amendments listed above except those in the <i>State Superannuation (Transitional and Consequential Provisions) Act 2000</i> and the <i>State Records (Consequential Provisions) Act 2000</i>)			
<i>Zoological Parks Authority Act 2001</i> s. 47	24 of 2001	26 Nov 2001	22 May 2002 (see s. 2 and <i>Gazette</i> 10 May 2002 p. 2445)
<i>Labour Relations Reform Act 2002</i> s. 25	20 of 2002	8 Jul 2002	15 Sep 2002 (see s. 2(1) and <i>Gazette</i> 6 Sep 2002 p. 4487)

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Short title	Number and year	Assent	Commencement
<i>Public Interest Disclosure Act 2003 s. 28</i>	29 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 27 Jun 2003 p. 2383)
<i>Public Transport Authority Act 2003 s. 207</i>	31 of 2003	26 May 2003	1 Jul 2003 (see s. 2(1) and <i>Gazette</i> 27 Jun 2003 p. 2384)
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003 s. 23 and 221(3)</i>	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259)
<i>Labour Relations Reform (Consequential Amendments) Regulations 2003 r. 14 published in Gazette p. 3685-92</i>			15 Sep 2003 (see r. 2)
<i>Economic Regulation Authority Act 2003 Sch. 2 Div. 11</i>	67 of 2003	5 Dec 2003	1 Jan 2004 (see s. 2(1) and <i>Gazette</i> 30 Dec 2003 p. 5723)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 97</i>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Reprint 6: The Public Sector Management Act 1994 as at 14 May 2004 (includes amendments listed above)			
<i>Workers' Compensation Reform Act 2004 s. 168</i>	42 of 2004	9 Nov 2004	4 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7131)
<i>Public Sector Management (SES Organisations) Regulations 2004 published in Gazette p. 5315-16</i>			26 Nov 2004
<i>Western Australian Land Authority Amendment Act 2004 s. 45</i>	67 of 2004	8 Dec 2004	25 Dec 2004 (see s. 2 and <i>Gazette</i> 24 Dec 2004 p. 6247)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Public Sector Management (Entities which are not Organisations) Regulations 2004 published in Gazette 4 Jan 2005 p. 5-6</i>			4 Jan 2005
<i>Financial Administration Legislation Amendment Act 2005 s. 43</i>	5 of 2005	27 Jun 2005	1 Jan 2006 (see s. 2 and <i>Gazette</i> 23 Dec 2005 p. 6243)
<i>Electricity Corporations Act 2005 s. 139</i>	18 of 2005	13 Oct 2005	1 Apr 2006 (see s. 2(2) and <i>Gazette</i> 31 Mar 2006 p. 1153)
<i>Machinery of Government (Miscellaneous Amendments) Act 2006 Pt. 15 Div. 2</i>	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
Reprint 7: The Public Sector Management Act 1994 as at 25 Aug 2006 (includes amendments listed above)			
<i>Land Information Authority Act 2006 s. 187</i>	60 of 2006	16 Nov 2006	1 Jan 2007 (see s. 2(1) and <i>Gazette</i> 8 Dec 2006 p. 5369)

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Short title	Number and year	Assent	Commencement
<i>Financial Legislation Amendment and Repeal Act 2006</i> s. 4, 6, 7 and Sch. 1 cl. 137	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Chemistry Centre (WA) Act 2007</i> s. 43	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2(1) and <i>Gazette</i> 27 Jul 2007 p. 3735)
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i> s. 39	24 of 2007	12 Oct 2007	18 Dec 2010 (see s. 2 and <i>Gazette</i> 17 Dec 2010 p. 6349)
<i>Water Resources Legislation Amendment Act 2007</i> s. 197	38 of 2007	21 Dec 2007	1 Feb 2008 (see s. 2(2) and <i>Gazette</i> 31 Jan 2008 p. 251)
Reprint 8: The Public Sector Management Act 1994 as at 14 Nov 2008 (includes amendments listed above except those in the <i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007</i>)			
<i>Public Sector Management (SES Organisations) Regulations 2009</i> published in <i>Gazette</i> 9 Jun 2009 p. 1926			r. 1 and 2: 9 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Jun 2009 (see r. 2(b))
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 71	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Public Sector Management (SES Organisations) Regulations 2010</i> published in <i>Gazette</i> 18 Jun 2010 p. 2696-7			r. 1 and 2: 18 Jun 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 19 Jun 2010 (see r. 2(b))
<i>Standardisation of Formatting Act 2010</i> s. 4	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Public Sector Reform Act 2010</i> Pt. 2 Div. 1 and Pt. 3 Div. 1 ⁷	39 of 2010	1 Oct 2010	Pt. 2 Div. 1: 1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563); Pt. 3 Div. 1: 28 Mar 2011 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
Reprint 9: The Public Sector Management Act 1994 as at 1 Apr 2011 (includes amendments listed above)			
<i>Curriculum Council Amendment Act 2011</i> Pt. 3 Div. 3	37 of 2011	13 Sep 2011	1 Mar 2012 (see s. 2(b) and <i>Gazette</i> 28 Feb 2012 p. 841)
<i>Metropolitan Redevelopment Authority Act 2011</i> s. 142	45 of 2011	12 Oct 2011	31 Dec 2011 (see s. 2(b) and <i>Gazette</i> 30 Dec 2011 p. 5573)
<i>Fire and Emergency Services Legislation Amendment Act 2012</i> Pt. 7 Div. 11	22 of 2012	29 Aug 2012	1 Nov 2012 (see s. 2(b) and <i>Gazette</i> 31 Oct 2012 p. 5255)

Short title	Number and year	Assent	Commencement
<i>Water Services Legislation Amendment and Repeal Act 2012</i> s. 224	25 of 2012	3 Sep 2012	18 Nov 2013 (see s. 2(b) and <i>Gazette</i> 14 Nov 2013 p. 5028)
Reprint 10: The Public Sector Management Act 1994 as at 12 Jul 2013 (includes amendments listed above except those in the <i>Water Services Legislation Amendment and Repeal Act 2012</i>)			
<i>Minerals Research Institute of Western Australia Act 2013</i> s. 78	23 of 2013	18 Dec 2013	1 Feb 2014 (see s. 2(b) and <i>Gazette</i> 14 Jan 2014 p. 43)
<i>Electricity Corporations Amendment Act 2013</i> s. 44	25 of 2013	18 Dec 2013	1 Jan 2014 (see s. 2(c) and <i>Gazette</i> 27 Dec 2013 p. 6465)
<i>Workforce Reform Act 2014</i> Pt. 3	8 of 2014	20 May 2014	1 Jul 2014 (see s. 2(b) and <i>Gazette</i> 27 Jun 2014 p. 2301)
<i>Corruption and Crime Commission Amendment (Misconduct) Act 2014</i> s. 37	35 of 2014	9 Dec 2014	1 Jul 2015 (see s. 2(b) and <i>Gazette</i> 26 Jun 2015 p. 2235)
<i>Alcohol and Drug Authority Amendment Act 2015</i> s. 17	3 of 2015	25 Feb 2015	1 Jul 2015 (see s. 2(b) and <i>Gazette</i> 10 Apr 2015 p. 1249)
Reprint 11: The Public Sector Management Act 1994 as at 3 Nov 2015 (includes amendments listed above)			
<i>Western Australian Health Promotion Foundation Act 2016</i> Pt. 8 Div. 2	3 of 2016	21 Mar 2016	1 Sep 2016 (see s. 2(b) and <i>Gazette</i> 26 Jul 2016 p. 3145)
<i>Local Government Legislation Amendment Act 2016</i> Pt. 3 Div. 30	26 of 2016	21 Sep 2016	21 Jan 2017 (see s. 2(b) and <i>Gazette</i> 20 Jan 2017 p. 648)
<i>Universities Legislation Amendment Act 2016</i> Pt. 7 Div. 7	32 of 2016	19 Oct 2016	2 Jan 2017 (see s. 2(b) and <i>Gazette</i> 9 Dec 2016 p. 5557)
<i>School Boarding Facilities Legislation Amendment and Repeal Act 2016</i> s. 23	41 of 2016	28 Nov 2016	1 Jul 2017 (see s. 2(b) and <i>Gazette</i> 23 Jun 2017 p. 3173)
Reprint 12: The Public Sector Management Act 1994 as at 12 Jan 2018 (includes amendments listed above)			
<i>Public and Health Sector Legislation Amendment (Right of Return) Bill 2018</i> Pt. 2	Current Bill No. 86-1		

- ^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 59(a)</i> ⁸	43 of 2000	2 Nov 2000	To be proclaimed (see s. 2(2))
<i>Public Sector Management (Act Amendment) Regulations 2018 r. 3-4</i> published in <i>Gazette</i> 29 May 2018 p. 1736 ⁹			Operative on the day after the day fixed under the <i>Electricity Industry (Independent Market Operator) Repeal Regulations 2018 r. 12</i> (see r. 2(b))

- ² Under the *Alteration of Statutory Designations Order (No. 2) 1997* a reference in any law to the Police Department shall be read and construed as a reference to the department in the Public Service designated as the Police Service.
- ³ The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000 s. 39*, but its provisions continue to apply to and in relation to certain schemes because of the *State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 26*.
- ⁴ Under the *R & I Holdings Act 1990 s. 22(2)* that Act was repealed on 26 Jun 2001, see *Gazette* 26 Jun 2001 p. 3063.
- ⁵ The amendment in the *Western Australian Greyhound Racing Association Amendment Act 1998 s. 20 (Sch. 1 cl. 5)* is not included because of an error in the reference to the item to be amended.
- ⁶ The amendment in the *State Superannuation Amendment Act 2007 s. 85* is not included because it was repealed by the *State Superannuation Amendment Act 2011 s. 4* before the amendment came into operation.
- ⁷ The amendments in the *Public Sector Reform Act 2010 s. 68 and 70* to the *Public Sector Management Act 1994 s. 79(6) and 99* are not included as those sections were deleted by the *Public Sector Reform Act 2010 s. 55(3) and 57* respectively.
- ⁸ On the date as at which this compilation was prepared, the *State Superannuation (Transitional and Consequential Provisions) Act 2000 s. 59(a)* had not come into operation. It reads as follows:

59. Public Sector Management Act 1994 amended

The *Public Sector Management Act 1994* is amended as follows:

- (a) by repealing section 20(1);

⁹ On the date as at which this compilation was prepared, the *Public Sector Management (Act Amendment) Regulations 2018* r. 3-4 had not come into operation. They read as follows:

3. Act amended

These regulations amend the *Public Sector Management Act 1994*.

4. Schedule 1 amended

Delete Schedule 1 item 12.

