

Public Service Bill 2008

Explanatory notes for amendments to be moved during consideration in detail by the Honourable Anna Bligh MP

Objectives of the Amendments

The proposed amendments will:

- provide that officers on paid suspension are entitled to normal remuneration less any amount earned from alternative employment undertaken during that period, regardless of whether they subsequently return to work or whether their employment comes to an end;
- clarify that only commissioner contracts under the *Service Delivery and Performance Commission Act 2005* (which is to be repealed) are terminated and preserve contractual entitlements and accrued benefits of commissioners; and
- make technical amendments to:
 - clarify the process of application of provisions of the Bill to employees of certain public service offices;
 - ensure that provisions of the Bill relating to public service employees generally also apply, where relevant, to chief executives and senior executives;
 - insert a definition of ‘disqualifying offence’ into the Dictionary of the Bill consistent with the definition in the *Commission for Children and Young People and Child Guardian Act 2000*;
 - correct drafting anomalies in the *Commission for Children and Young People and Child Guardian Act 2000*;
 - declare the Family Responsibilities Commission Registry as a public service office under the Bill and amend the *Family Responsibilities Commission Act 2008* to provide that the Family Responsibilities Commission is a statutory body

under the *Statutory Bodies Financial Arrangements Act 1982*.

Consistency with fundamental legislative principles

The amendments are consistent with fundamental legislative principles. The amendments regarding suspension are consistent with natural justice principles as they have been drafted to ensure that, where a suspended officer's normal remuneration is reduced by any amount earned from alternative employment, the deduction can not result in an overall diminution of the remuneration the officer would have otherwise received if the suspension had not taken place.

Consultation

Relevant unions were consulted about amendments to the provisions about payment of remuneration during periods of suspension.

Notes on Provisions

Amendments 1, 2 and 3 amend clauses 21, 22 and 23 to clarify the way in which particular provisions of the Bill are applied to employees of public service offices.

Amendment 4 amends clause 118 to apply particular provisions of the Bill to senior executives and chief executives.

Amendments 5, 6 and 7 amend clauses 137, 191 and 192 which deal with suspension of officers for non-disciplinary or disciplinary reasons. Clause 191(3) currently states that "if the suspension is cancelled and the officer resumes duty, the officer is entitled to be paid the normal remuneration, less any amount earned by the officer from additional employment undertaken during the suspension period". The amendment clarifies that officers on paid suspension are entitled to normal remuneration less any amount earned from alternative employment undertaken during that period, regardless of whether they subsequently resume duties or whether their employment comes to an end. It is envisaged that the requirement for a suspended employee to notify the chief executive about their employment

status will be dealt with administratively (e.g. through a requirement to provide a statutory declaration at appropriate intervals).

However, if the person is already appropriately engaged in additional employment at the time of the suspension in accordance with relevant directives and codes of conduct, this remuneration would not be included within deductions from normal remuneration. Further, the amount of the deduction cannot be more than the total amount of the officer's normal remuneration.

The amendment to clause 192 provides that a notice provided to an officer regarding suspension must state the effects that alternative employment may have on the person's entitlement to receive remuneration.

Amendment 8 amends clause 228 to apply particular provisions of the Bill to existing tenured senior executives.

Amendment 9 amends clause 243 which deals with the dissolution of the Office of the Public Service Commissioner and the Service Delivery and Performance Commission. The amendment clarifies that the contracts which are terminated by the provision are the contracts of commissioners under the *Service Delivery and Performance Commission Act 2005*, which is to be repealed. Other contracts which may be held by the Office of the Public Service Commissioner or the Service Delivery and Performance Commission are not affected by the clause. Senior executive and other employment contracts are continued under existing clauses 227 and 230 of the Bill.

The Explanatory Notes to the Bill state that no former office holder is entitled to compensation as a result of the termination of contracts. The provision is intended to serve as a precaution against claims of compensation and was not intended to remove existing contractual entitlements. Therefore, the new clause 243 expressly preserves the contractual entitlements of the Service Delivery and Performance commissioners. This ensures that standard public service entitlements and benefits such as separation and service payments, accrued recreation and long service leave and any other applicable benefits provided for under contract are not affected.

Amendment 10 amends Schedule 1 of the Bill to declare the Family Responsibilities Commission Registry as a public service office and the Commissioner under the *Family Responsibilities Commission Act 2008* as the head of the office.

Amendment 11 corrects cross-references in sections 120B(2)(b) and Schedule 4 of the *Commission for Children and Young People and Child Guardian Act 2000*. This amendment also amends the *Family Responsibilities Commission Act 2008* to declare that the Family Responsibilities Commission is a statutory body under the *Statutory Bodies Financial Arrangements Act 1982*.

Amendment 12 inserts a new definition of ‘disqualifying offence’ in the Dictionary of the Bill consistent with the definition in the *Commission for Children and Young People and Child Guardian Act 2000*.

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