

Passed by both Houses



New South Wales

Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009

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

Legislative Council
2009

Clerk of the Parliaments



New South Wales

Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009

Act No , 2009

An Act to amend certain legislation as a consequence of recent administrative changes involving departmental amalgamations and to implement further reforms in relation to the public sector.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Sector Restructure (Miscellaneous Acts Amendments) Act 2009*.

2 Commencement

- (1) This Act commences on the date of assent to this Act, except as provided by this section.
- (2) Schedule 15 commences on a day to be appointed by proclamation.
- (3) Schedule 20 is taken to have commenced on 1 July 2009.

3 Explanatory notes

The matter appearing under the heading “Explanatory note” in any of the Schedules to this Act does not form part of this Act.

Schedule 1 Amendment of Aboriginal Housing Act 1998 No 47

[1] Section 4 Definitions

Omit the definition of *Chief Executive Officer*.

Insert instead in alphabetical order:

Director-General means the person exercising functions under the *Public Sector Employment and Management Act 2002* as the Division Head of the relevant Government Service Division.

relevant Government Service Division means the Division of the Government Service comprising the group of staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the AHO to exercise its functions.

[2] Section 7 Status of AHO

Omit “a Chief Executive Officer. The AHO” from the note.

[3] Section 17 Delegation of functions

Omit paragraph (a) of the definition of *authorised person* in section 17 (3).

Insert instead:

- (a) a member of staff of the relevant Government Service Division, or

[4] Section 30 Board of AHO

Omit section 30 (2) (a). Insert instead:

- (a) the Director-General or a member of staff of the relevant Government Service Division nominated by the Director-General,

[5] Sections 33, 38 and 40

Omit “Chief Executive Officer” wherever occurring.

Insert instead “Director-General”.

[6] Section 35 Aboriginal Housing Fund

Omit “AHO’s staff” from section 35 (3).

Insert instead “staff of the relevant Government Service Division who are principally involved in the administration of this Act”.

[7] Section 40 Seal of AHO

Omit “the staff of the AHO”.

Insert instead “staff of the relevant Government Service Division”.

[8] Schedule 1 Constitution and procedure of Board

Omit “Chief Executive Officer” from clause 12 (1).

Insert instead “Director-General (or the Director-General’s nominee)”.

Explanatory note

The proposed amendments:

- (a) confer on the Director-General of the Department of Human Services (which is the Division of the Government Service in which the staff assigned to the Aboriginal Housing Office are employed) the functions of the Chief Executive Officer of the Aboriginal Housing Office, and
- (b) update references to the staff of the AHO as a consequence of the departmental amalgamations order.

Schedule 2 Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157

[1] Sections 33 (1) and 86 (2)

Omit “within the Department” wherever occurring.

Insert instead “in that part of the Department comprising those members of staff who are principally involved in the administration of this Act”.

[2] Section 245B Interpretation

Insert after section 245B (2):

(2A) In this Chapter:

- (a) a reference to a prescribed body includes a reference to any part (however described) of the prescribed body, and
- (b) a reference to another prescribed body includes a reference to another part of the same prescribed body.

[3] Section 248 Provision and exchange of information

Omit paragraph (a) of the definition of *prescribed body* in section 248 (6).

Insert instead:

- (a) the NSW Police Force, a Division of the Government Service or a public authority, or

[4] Section 248 (6), definition of “prescribed body”

Insert at the end of the definition:

, and a reference in this section to any such prescribed body includes a reference to any part (however described) of the prescribed body.

Explanatory note

The proposed amendments are consequential on the changes made by the departmental amalgamations order and in particular make it clear that information may, under the new Chapter 16A of the above Act, be exchanged between the different parts of an agency.

Schedule 3 Amendment of Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 No 13

[1] Schedule 1.1 Amendments relating to recommendations 6.2 and 10.1

Omit paragraphs (g)–(i) of the definition of *relevant agency* in proposed section 27A (1) in Schedule 1.1 [8].

Insert instead:

(g) the Department of Human Services,

[2] Schedule 1.1 [8], proposed section 27A (1)

Re-number paragraph (j) of the definition of *relevant agency* as paragraph (h).

[3] Schedule 3.1 Amendment of Commission for Children and Young People Act 1998 No 146

Omit “Department of Community Services” wherever occurring in Schedule 3.1 [6], [8] and [9].

Insert instead “Department of Human Services”.

Explanatory note

The proposed amendments update references to agencies as a consequence of the departmental amalgamations order.

Schedule 4 Amendment of Community Relations Commission and Principles of Multiculturalism Act 2000 No 77

[1] Schedule 1 Provisions relating to commissioners

Omit clause 2 (3) (including the note). Insert instead:

- (3) During any absence of the Chairperson, the Director-General of Communities NSW, or a member of staff of Communities NSW nominated by the Director-General, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.

[2] Schedule 1, clause 2 (4)

Omit “a full-time”. Insert insert instead “the”.

[3] Schedule 1, clause 4 (2) (b)

Omit “, acting Chairperson”.

[4] Schedule 2 Provisions relating to procedure of Commission

Omit clause 4 (1). Insert instead:

- (1) The Chairperson is to preside at a meeting of the Commission. If the Chairperson is temporarily absent from the meeting, the Deputy Chairperson is to preside at the meeting.

Explanatory note

The proposed amendments provide for the Director-General of Communities NSW to have the functions of Chairperson of the Community Relations Commission when the appointed Chairperson is absent.

Schedule 5 Amendment of Crimes (Administration of Sentences) Act 1999 No 93

- [1] **Whole Act (except sections 3 (1) (definition of “law enforcement agency”), 78 (3), 128A (2) (b), 193 (3) and (4) and 252A (1) and Schedule 5 and except where otherwise amended by this Schedule)**

Omit “the Department” wherever occurring.

Insert instead “Corrective Services NSW”.

- [2] **Section 3 Interpretation**

Omit the definitions of *Commissioner* and *Department* from section 3 (1).

Insert instead in alphabetical order:

Commissioner means the Commissioner of Corrective Services, Department of Justice and Attorney General.

Corrective Services NSW means that part of the Department of Justice and Attorney General comprising the group of staff who are principally involved in the administration of this Act.

- [3] **Section 235A Acquisition or use of assumed identity**

Omit “the Department of Corrective Services”.

Insert instead “Corrective Services NSW”.

- [4] **Section 242 Monitoring**

Insert “of Justice and Attorney General” after “Department” in section 242 (6).

- [5] **Section 267 Research**

Omit “The Department” in section 267 (7).

Insert instead “Corrective Services NSW”.

- [6] **Schedule 5 Savings, transitional and other provisions**

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on enactment of Public Sector Restructure (Miscellaneous Acts Amendments) Act 2009

Construction of references to Department of Corrective Services

A reference in any Act (other than this Act) or statutory instrument, or any other instrument, or any contract or

agreement, to the Department of Corrective Services (required by clause 20 of the *Public Sector Employment and Management (Departmental Amalgamations) Order 2009* to be construed as a reference to the Department of Justice and Attorney General), or to an office of Corrective Services, is to be construed as a reference to Corrective Services NSW.

Explanatory note

The proposed amendments:

- (a) make it clear that the position of Commissioner of Corrective Services is a position in the Department of Justice and Attorney General (but without affecting the exercise of the Commissioner's statutory functions under the above Act), and
- (b) recognise Corrective Services NSW as being that part of the Department of Justice and Attorney General in which persons are employed to administer the above Act.

Schedule 6 Amendment of Dairy Industry Act 2000 No 54

[1] Section 3 Definitions

Insert in alphabetical order:

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

member of staff of the Food Authority has the same meaning as in the *Food Act 2003*.

[2] Section 20 Authority to take proceedings

Omit section 20 (1). Insert instead:

- (1) Any information, complaint or other legal proceeding under this Act may be laid or taken in the name of the Food Authority by the Chief Executive Officer of the Authority or by any other member of staff of the Food Authority authorised by the Food Authority in that behalf either generally or in any particular case.

[3] Section 20 (3)

Omit “The Director-General of or other officer”.

Insert instead “The Chief Executive Officer or other member of staff”.

[4] Section 20 (3)

Omit “the Director-General or other officer”.

Insert instead “the Chief Executive Officer or other member of staff”.

[5] Sections 21 and 22

Omit “Director-General” wherever occurring.

Insert instead “Chief Executive Officer”.

Explanatory note

The proposed amendments are consequential on the departmental amalgamations order which requires references to the Director-General of the Food Authority to be construed as references to the Chief Executive Officer of that Authority.

Schedule 7 Amendment of Fire Brigades Act 1989 No 192

Section 78A

Insert after section 78:

78A Temporary assignment of Departmental staff and fire brigade members to carry out work for Police and Emergency Services NSW

- (1) A member of staff of New South Wales Fire Brigades or a member of a permanent fire brigade may, with the concurrence of the Commissioner, be temporarily assigned by the Division Head of Police and Emergency Services NSW (referred to in this section as *the Department*) to carry out work for the Department on a full-time or part-time basis.
- (2) The member's employment as a member of New South Wales Fire Brigades or as a member of the permanent fire brigade (including the continuity of that employment) is not affected by the temporary assignment of the member to carry out work for the Department.
- (3) Without limiting subsection (2), the member, while carrying out that work for the Department:
 - (a) continues to hold his or her position in New South Wales Fire Brigades or continues to be a member of the permanent fire brigade (as the case requires), and
 - (b) may continue to exercise the functions of that position or the functions as a member of the permanent fire brigade (as the case requires), and
 - (c) is taken to be carrying out that work as a member of staff of New South Wales Fire Brigades or as a member of the permanent fire brigade (as the case requires).
- (4) This section does not limit the provisions of this or any other Act or law relating to the transfer to the Department (by statutory order, secondment or otherwise) of staff of New South Wales Fire Brigades or members of a permanent fire brigade.

Explanatory note

The proposed amendment enables New South Wales Fire Brigades staff to be temporarily assigned to carry out work for Police and Emergency Services NSW.

Schedule 8 Amendment of Food Act 2003 No 43

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

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

[2] Section 4 (1), definition of “Director-General”

Omit the definition.

[3] Sections 107, 115A (1) (a) and (b) and 120 (9)

Omit “Director-General” wherever occurring.

Insert instead “Chief Executive Officer”.

[4] Schedule 2 Savings, transitional and other provisions

Insert at the end of the Schedule with appropriate Part and clause numbering:

Part Provisions consequent on enactment of Public Sector Restructure (Miscellaneous Acts Amendments) Act 2009

Construction of references to Director-General of Food Authority

A reference in any Act (other than this Act) or statutory instrument, or any other instrument, or any contract or agreement, to the Director-General of the Food Authority is to be construed as a reference to the Chief Executive Officer of the Food Authority.

Explanatory note

The proposed amendments are consequential on the departmental amalgamations order which requires references to the Director-General of the Food Authority to be construed as a reference to the Chief Executive Officer of that Authority.

Schedule 9 Amendment of Housing Act 2001 No 52

[1] Section 15 Delegations

Insert after section 15 (1):

- (1A) A delegate of the Corporation may sub-delegate to a person any function delegated by the Corporation if the delegate is authorised to do so by the Corporation.

[2] Section 15 (2A)

Insert after section 15 (2):

- (2A) A delegate of the Director-General may sub-delegate to an officer of the Department any function delegated by the Director-General if the delegate is authorised to do so by the Director-General.

Explanatory note

The proposed amendments enable the subdelegation of functions under the above Act.

Schedule 10 Amendment of Institute of Sport Act 1995 No 52

[1] Section 6 Establishment of Board

Omit section 6 (2) (b). Insert instead:

- (b) the Director-General of Communities NSW or a member of staff of Communities NSW nominated by the Director-General.

[2] Schedule 1 Provisions relating to members and procedure of Board

Omit “Director-General of the Department of Sport and Recreation” from the definition of *appointed member* in clause 1.

Insert instead “member referred to in section 6 (2) (b)”.

Explanatory note

The proposed amendments:

- (a) enable the Director-General of Communities NSW to nominate a member of staff as the ex-officio member of the Board of the NSW Institute of Sport, and
- (b) update references to a department as a consequence of the departmental amalgamations order.

Schedule 11 Amendment of Internal Audit Bureau Act 1992 No 20

Section 6 Establishment of the Board

Insert after section 6 (2) (b):

- (b1) the Director-General of the Department of Services, Technology and Administration or a member of staff of that Department nominated by the Director-General, and

Explanatory note

The proposed amendment provides for the Director-General of the Department of Services, Technology and Administration to be a member of the Board of Management of the Internal Audit Bureau.

Schedule 12 Amendment of Mental Health (Forensic Provisions) Act 1990 No 10

- [1] **Sections 32A (1) (b), 33 (5A) (a), 35 (2) (c), 41 (3) (a), 58 (note), 76C, 76D (2), 76E (4), 76J (1), 76K (1) and 77C**

Omit “Department of Juvenile Justice” wherever occurring.

Insert instead “Department of Human Services”.

- [2] **Section 76C Functions of Commissioner of Corrective Services and Director-General of Department of Human Services**

Insert at the end of the section:

- (2) The Director-General of the Department of Human Services may delegate any of the Director-General’s functions under this Division (other than this power of delegation) to the Chief Executive of Juvenile Justice, Department of Human Services.

Explanatory note

The proposed amendments are consequential on the departmental amalgamations order.

Schedule 13 Amendment of Motor Accidents Compensation Act 1999 No 41

[1] Section 3 Definitions

Insert in alphabetical order:

Chief Executive Officer of the Authority means the person exercising functions under the *Public Sector Employment and Management Act 2002* as the Division Head of the relevant Government Service Division.

member of staff means any person who is employed in the relevant Government Service Division.

relevant Government Service Division means the Division of the Government Service comprising the group of staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Authority to exercise its functions.

[2] Section 62 Referral of matter for further medical assessment

Omit “the officer of the Authority” from section 62 (1B).

Insert instead “the member of staff”.

[3] Sections 88 (1) (definition of “claims assessor”), 99 (1), 182 (1) (definition of “authorised officer”), 205 (3) (definition of “authorised person”) and 220 (a)

Omit “an officer of the Authority” wherever occurring.

Insert instead “a member of staff”.

[4] Section 99 Claims assessors

Omit “officers” from section 99 (2). Insert instead “members of staff”.

[5] Section 99A Principal Claims Assessor

Omit “of the Authority” from section 99A (3).

[6] Sections 105 (3), 169 (2), 199 (2) (a), 202, 204, 208 (1) (i), 212 (3) (a) and 220, clause 1 of Schedule 1, clauses 1 and 2 of Schedule 2 and clause 6 of Schedule 3

Omit “General Manager” wherever occurring.

Insert instead “Chief Executive Officer”.

[7] Section 105 Control and direction of claims assessors

Omit section 105 (5). Insert instead:

- (5) This section does not affect the exercise of the functions of the Chief Executive Officer under the *Public Sector Employment and Management Act 2002* with respect to claims assessors.

[8] Section 200 General Manager

Omit the section.

[9] Section 212 Motor Accidents Authority Fund

Omit “staff of the Authority” from section 212 (3) (a).

Insert instead “those members of staff who are principally involved in the administration of this Act”.

[10] Section 220 Seal of Authority

Omit “officer” from section 220 (b). Insert instead “member of staff”.

Explanatory note

The proposed amendments:

- (a) confer on the Chief Executive of the Compensation Authorities Staff Division (which is the Division of the Government Service in which the staff assigned to the Motor Accidents Authority are employed) the functions of the Chief Executive Officer of the Authority, and
- (b) update references to the staff of the Motor Accidents Authority as a consequence of the departmental amalgamations order.

Schedule 14 Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

Chief Executive Officer of the Authority means the person exercising functions under the *Public Sector Employment and Management Act 2002* as the Division Head of the relevant Government Service Division.

member of staff means any person who is employed in the relevant Government Service Division.

relevant Government Service Division means the Division of the Government Service comprising the group of staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Authority to exercise its functions.

[2] Section 35 Chief Executive Officer

Omit the section.

[3] Section 36 Staff of Authority

Omit the section.

[4] Sections 41 (3) (paragraph (a) of definition of “authorised person”) and 42 (a)

Omit “an officer of the Authority” wherever occurring.

Insert instead “a member of staff”.

[5] Section 42 Seal of Authority

Omit “officer” from section 42 (b). Insert instead “member of staff”.

[6] Section 48 Lifetime Care and Support Authority Fund

Omit “staff of the Authority” from section 48 (3) (b).

Insert instead “those members of staff who are principally involved in the administration of this Act”.

Explanatory note

The proposed amendments:

- (a) confer on the Chief Executive of the Compensation Authorities Staff Division (which is the Division of the Government Service in which the staff assigned to

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Schedule 14 Amendment of Motor Accidents (Lifetime Care and Support) Act 2006 No 16

- the Lifetime Care and Support Authority are employed) the functions of the Chief Executive Officer of the Authority, and
- (b) update references to the staff of the Lifetime Care and Support Authority as a consequence of the departmental amalgamations order.

Schedule 15 Amendment of Ombudsman Act 1974 No 68

[1] Section 5 Definitions

Insert “or, in the case where more than one Minister is responsible for that Department, the Minister who, in the opinion of the Ombudsman, is most nearly connected with the conduct of that Department” after “the Minister responsible for that Department” in paragraph (a) of the definition of *responsible Minister* in section 5 (1).

[2] Section 25A Definitions

Omit paragraph (a) of the definition of *designated government agency* in section 25A (1).

Insert instead:

- (a) the Department of Education and Training (including a government school) or the Department of Health,
- (a1) a Division of the Government Service (or a part of a Division of the Government Service) prescribed by the regulations for the purposes of this definition,

Explanatory note

The proposed amendments:

- (a) enable the Ombudsman, in the case where more than one Minister is responsible for a particular Department, to determine which Minister is the responsible Minister for the purposes of consultation with the Ombudsman under various provisions of the above Act relating to that Department, and
- (b) enable parts of an agency (rather than an entire agency) to be prescribed as an agency that is subject to the child protection requirements under Part 3A of the above Act.

Schedule 16 Amendment of Parliamentary Precincts Act 1997 No 66

Section 27A Memorandum of understanding with Director-General of Communities NSW

Omit “Director of Liquor and Gaming” from section 27A (1).

Insert instead “Director-General of Communities NSW”.

Explanatory note

The proposed amendment is consequential on the departmental amalgamations order which transferred the functions of the Director of Liquor and Gaming under the gaming and liquor legislation to the Director-General of Communities NSW.

Schedule 17 Amendment of Police Act 1990 No 47

[1] Section 95A Arrangements for use by other agencies of members of NSW Police Force

Omit “constable” from section 95A (2).

Insert instead “police officer of that rank”.

[2] Section 95B

Insert after section 95A:

95B Temporary assignment of staff to carry out work for Police and Emergency Services NSW

- (1) A member of the NSW Police Force may, with the concurrence of the Commissioner, be temporarily assigned by the Division Head of Police and Emergency Services NSW (*the Department*) to carry out work for the Department on a full-time or part-time basis.
- (2) The member’s employment as a member of the NSW Police Force (including the continuity of that employment) is not affected by the temporary assignment of the member to carry out work for the Department.
- (3) Without limiting subsection (2), the member, while carrying out that work for the Department:
 - (a) continues to hold his or her position in the NSW Police Force, and
 - (b) may continue to exercise the functions of that position (including any such functions as a police officer), and
 - (c) is taken to be carrying out that work as a member of the NSW Police Force.
- (4) This section does not limit the provisions of this or any other Act or law relating to the transfer to the Department (by statutory order, secondment or otherwise) of members of the NSW Police Force.

Explanatory note

The proposed amendments:

- (a) make it clear that seconded police officers may continue to act as police officers when their services are made use of by another agency, and
- (b) enable NSW Police Force staff to be temporarily assigned to carry out work for Police and Emergency Services NSW.

Schedule 18 Amendment of Public Finance and Audit Act 1983 No 152

[1] Schedule 2 Statutory bodies

Insert in alphabetical order of statutory bodies:

Illawarra Region Sporting Venues Authority

[2] Schedule 2

Omit the following:

State Sports Centre Trust

Wollongong Sportsground Trust

Explanatory note

The proposed amendments are consequential on the amendments made by Schedules 23 and 26.

Schedule 19 Amendment of Public Sector Employment and Management Act 2002 No 43

[1] Section 102A

Insert after section 102:

102A Appointment to position in public sector service not affected by additional appointment

- (1) The doctrine of incompatibility of office:
 - (a) does not operate to prevent the holder of a position in any public sector service (the *original position*) from being appointed to another position in that or any other public sector service (the *additional position*), and
 - (b) does not operate to effect or require the holder of the original position to surrender or vacate that position as a result of the appointment to the additional position.
- (2) This section:
 - (a) applies even if the original position or the additional position is held on an acting or temporary basis, and
 - (b) extends to an appointment made before the commencement of this section (and applies to such an appointment as if this section had been in force when the appointment was made).

[2] Section 104 Creation and change in relation to Divisions

Insert after section 104 (3):

- (4) For the purposes of this section, the NSW Police Force is taken to be a Division of the Government Service but only in relation to that part of the NSW Police Force comprising administrative officers within the meaning of the *Police Act 1990*.

[3] Section 107 Definitions

Insert at the end of the section:

- (2) For the purposes of this Part, the NSW Police Force is taken to be a Division of the Government Service but only in relation to that part of the NSW Police Force comprising administrative officers within the meaning of the *Police Act 1990*.

Explanatory note

The proposed amendments:

- (a) ensure that a person who holds a position in a public sector service may be appointed to an additional public sector service position without having to vacate his or her original position (but without affecting any requirement relating to approval to engage in other employment), and
- (b) enable administrative changes orders under Chapter 4 of the above Act to be made in relation to administrative officers in the NSW Police Force (ie staff other than sworn police officers).

Schedule 20 Amendment of Public Sector Employment and Management (Departmental Amalgamations) Order 2009

[1] Clause 27 Establishment of Department of Services, Technology and Administration

Insert after clause 27 (2) (d):

(e) Treasurer.

[2] Clause 30 Establishment of Land and Property Management Authority

Insert after clause 30 (2) (c):

(d) Minister for Rural Affairs.

[3] Clause 32 Transfer of certain other branches to new Division

Insert after clause 32 (8):

(9) Transfer of certain staff in Office of Strategic Lands

Such staff in the Office of Strategic Lands in the Department of Planning as the Director-General of the Department of Premier and Cabinet determines are required in connection with the Land and Property Management Authority are removed from the Department of Planning and added to the Land and Property Management Authority.

(10) A reference in any document to the Department of Planning is to be construed as a reference to the Land and Property Management Authority if the reference is used in relation to the group of staff referred to in subclause (9).

Explanatory note

The proposed amendments clarify Ministerial responsibility for certain agencies and provide for the transfer of certain staff as part of the departmental amalgamations order.

Schedule 21 Amendment of Rural Fires Act 1997 No 65

Section 48 Functions of Bush Fire Co-ordinating Committee

Omit “the Minister for Land and Water Conservation” from section 48 (2) (b).

Insert instead “a Minister”.

Explanatory note

The proposed amendment enables the Minister administering the Act to enter into arrangements with any other Minister with respect to the reduction of bush fire hazards.

Schedule 22 Amendment of Rural Fires Amendment Act 2009 No 74

Schedule 1 Amendment of Rural Fires Act 1997 No 65

Omit Schedule 1 [6].

Explanatory note

The proposed amendment omits an uncommenced amendment that will be superseded by the amendment made by Schedule 21.

Schedule 23 Amendment of Sporting Venues Authorities Act 2008 No 65

[1] Schedule 1 Regional sporting venues authorities

Insert at the end of the Schedule:

Illawarra Region Sporting Venues Authority

[2] Schedule 5 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Public Sector Restructure (Miscellaneous Acts Amendments) Act 2009

[3] Schedule 5, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of Public Sector Restructure (Miscellaneous Acts Amendments) Act 2009

10 Definitions

In this Part:

former Trust means the Wollongong Sportsground Trust.

new Authority means the Illawarra Region Sporting Venues Authority.

11 Repeal of Act

The *Wollongong Sportsground Act 1986* is repealed.

12 Dissolution of former Trust

- (1) The Wollongong Sportsground Trust is dissolved.
- (2) On the dissolution of the former Trust, each person who was a member of the Trust immediately before its dissolution ceases to hold office as such. No compensation is payable to any such person as the result of the operation of this subclause.

13 Transfer of assets, rights and liabilities of former Trust

- (1) On the date of commencement of this clause, the following provisions have effect:
- (a) the assets of the former Trust vest in the new Authority by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,
 - (b) the rights and liabilities of the former Trust become by virtue of this clause the rights and liabilities of the new Authority,
 - (c) all proceedings relating to those assets, rights or liabilities commenced before that date by or on behalf of, or against, the former Trust and pending immediately before the transfer are taken to be proceedings pending by or against the new Authority,
 - (d) any act, matter or thing done or omitted to be done in relation to those assets, rights or liabilities before that date by, to or in respect of the former Trust is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the new Authority,
 - (e) the new Authority has all the entitlements and obligation of the former Trust in relation to those assets, rights and liabilities that the former Trust would have had but for this clause, whether or not the entitlements and obligations were actual or potential on the commencement of this clause,
 - (f) a reference in any Act, in any instrument made under any Act or in any document of any kind to the former Trust or a predecessor of the former Trust is (to the extent that it relates to those assets, rights or liabilities but subject to the regulations) to be read as, or as including, a reference to the new Authority.
- (2) The operation of this clause is not to be regarded:
- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or

(d) as an event of default under any contract or other instrument.

(3) No attornment to the transferee by a lessee from the former Trust is required.

Explanatory note

The proposed amendments:

- (a) repeal the *Wollongong Sportsground Act 1986* and dissolve the Trust constituted under that Act, and
- (b) establish the Illawarra Region Sporting Venues Authority, and
- (c) provide for the transfer of the assets, rights and liabilities of the former Trust to the new Authority.

Schedule 24 Amendment of State Emergency Service Act 1989 No 164

Section 9A

Insert after section 9:

9A Temporary assignment of staff to carry out work for Police and Emergency Services NSW

- (1) A member of staff of the State Emergency Service may, with the concurrence of the Commissioner, be temporarily assigned by the Division Head of Police and Emergency Services NSW (*the Department*) to carry out work for the Department on a full-time or part-time basis.
- (2) The member's employment as a member of staff of the Service (including the continuity of that employment) is not affected by the temporary assignment of the member to carry out work for the Department.
- (3) Without limiting subsection (2), the member, while carrying out that work for the Department:
 - (a) continues to hold his or her position in the State Emergency Service, and
 - (b) may continue to exercise the functions of that position, and
 - (c) is taken to be carrying out that work as a member of staff of the State Emergency Service.
- (4) This section does not limit the provisions of this or any other Act or law relating to the transfer to the Department (by statutory order, secondment or otherwise) of members of staff of the State Emergency Service.

Explanatory note

The proposed amendment enables State Emergency Service staff to be temporarily assigned to carry out work for Police and Emergency Services NSW.

Schedule 25 Amendment of State Property Authority Act 2006 No 40

Section 3 Definitions

Omit the definition of *Chief Executive Officer* from section 3 (1).

Insert instead:

Chief Executive Officer means the person exercising functions under the *Public Sector Employment and Management Act 2002* as the Division Head of the Division of the Government Service comprising the group of staff who are employed under Chapter 1A of that Act to enable the Authority to exercise its functions.

Explanatory note

The proposed amendment confers on the Chief Executive of the Land and Property Management Authority (which is the Division of the Government Service in which the staff assigned to the State Property Authority are employed) the functions of the Chief Executive Officer of the State Property Authority.

Schedule 26 Amendment of Sydney Olympic Park Authority Act 2001 No 57

[1] Section 4 Definitions

Omit the definition of *Chief Executive Officer* from section 4 (1).

Insert instead in alphabetical order:

Director-General means the person exercising functions under the *Public Sector Employment and Management Act 2002* as the Division Head of the relevant Government Service Division.

relevant Government Service Division means the Division of the Government Service comprising the group of staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Authority to exercise its functions.

[2] Section 4 (1), definition of “State Sports Centre Trust”

Omit the definition.

[3] Section 13 Functions—generally

Insert “(including the Sydney Olympic Park Sports Centre)” after “activities and facilities” in section 13 (1) (b).

[4] Sections 57 (3) (a), 71 (6) (a) and 82 (2) (a)

Omit “member of staff of the Authority” wherever occurring.

Insert instead “member of staff of the relevant Government Service Division”.

[5] Section 61 Board of Authority

Omit section 61 (2) (a). Insert instead:

- (a) the Director-General or a member of staff of the relevant Government Service Division nominated by the Director-General,

[6] Section 62 Committees

Insert “the Minister administering this Act and” after “consult with” in section 62 (5).

[7] Sections 63, 65 (2) and (5) (e), 72 and 74

Omit “Chief Executive Officer” wherever occurring.

Insert instead “Director-General”.

[8] Section 74 Seal of Authority

Omit “the staff of the Authority”.

Insert instead “staff of the relevant Government Service Division”.

[9] Schedule 8 Savings, transitional and other provisions

Insert “or to the Director-General” after “Authority” in clause 9 (2) (b).

[10] Schedule 8, clause 10

Omit the clause.

[11] Schedule 8, Part 3

Insert after Part 2:

**Part 3 Provisions consequent on enactment of
Public Sector Restructure (Miscellaneous
Acts Amendments) Act 2009**

13 Definitions

In this Part:

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

former Trust means the State Sports Centre Trust.

instrument means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

liabilities means any liabilities, debts or obligations (whether present or future and whether vested or contingent and whether personal or assignable).

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

14 Repeal of Act

The *State Sports Centre Trust Act 1984* is repealed.

15 Dissolution of former Trust

- (1) The State Sports Centre Trust is dissolved.
- (2) On the dissolution of the former Trust, each person who was a trustee within the meaning of the *State Sports Centre Trust Act 1984* immediately before the commencement of this Part ceases to hold office as such. No compensation is payable to any such person as the result of the operation of this subclause.

16 Transfer of assets, rights and liabilities of former Trust

- (1) On the date of commencement of this Part, the following provisions have effect:
 - (a) the assets of the former Trust vest in the Authority by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance,
 - (b) the rights and liabilities of the former Trust become by virtue of this clause the rights and liabilities of the Authority,
 - (c) all proceedings relating to the assets, rights or liabilities commenced before that date by or on behalf of, or against, the former Trust and pending immediately before that date are taken to be proceedings pending by or against the Authority,
 - (d) any act, matter or thing done or omitted to be done in relation to the assets, rights or liabilities before that date by, to or in respect of the former Trust is (to the extent to which that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the Authority,
 - (e) the Authority has all the entitlements and obligations of the former Trust in relation to the assets, rights and liabilities that the former Trust would have had but for this clause, whether or not those entitlements and obligations were actual or potential on the commencement of this Part,
 - (f) a reference in any Act, in any instrument made under any Act or in any document of any kind to the former Trust or a predecessor of the former Trust is (to the extent that it relates to those assets, rights or liabilities but subject to the regulations) to be read as, or as including, a reference to the Authority.
- (2) The operation of this clause is not to be regarded:

- (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or
 - (d) as an event of default under any contract or other instrument.
- (3) No attornment to the transferee by a lessee from the former Trust is required.

Explanatory note

The proposed amendments:

- (a) confer on the Director-General of Communities NSW (which is the Division of the Government Service in which the staff assigned to the Sydney Olympic Park Authority are employed) the functions of the Chief Executive Officer of SOPA, and
- (b) update references to the staff of SOPA as a consequence of the departmental amalgamations order, and
- (c) repeal the *State Sports Centre Trust Act 1984* and dissolve the Trust constituted under that Act, and
- (d) provide for the transfer of the assets, rights and liabilities of the former Trust to SOPA.

Schedule 27 Amendment of Teacher Housing Authority Act 1975 No 27

[1] Section 7 Appointment etc of members

Omit “6 members” from section 7 (1). Insert instead “7 members”.

[2] Section 7 (1) (a1) and (b)

Omit section 7 (1) (a1). Insert instead:

- (a1) one is to be a member of staff of the Department of Education and Training nominated by the Director-General of that Department,
- (b) one is to be the Director-General of the Department of Services, Technology and Administration or a member of staff of that Department nominated by the Director-General,

[3] Section 7 (1A)

Omit “subsection (1) (a1)”. Insert instead “subsection (1) (b)”.

[4] Section 7 (2) (a)

Omit “School Education, being an officer”.

Insert instead “Education and Training, being a member of staff”.

[5] Section 7 (7)

Omit “Secretary of the Ministry of Education”.

Insert instead “Director-General of the Department of Services, Technology and Administration”.

[6] Section 7 (9)

Insert after section 7 (8):

- (9) The person holding office as Chairperson of the Authority immediately before the commencement of this subsection (as inserted by the *Public Sector Restructure (Miscellaneous Acts Amendments) Act 2009*) ceases, on that commencement, to hold office as Chairperson but continues, subject to this Act, to hold office as a member of the Authority for the remainder of the term for which the person was appointed as a member.

[7] Section 11 Vacation of office

Insert “, (b)” after “(a1)” wherever occurring in section 11 (1) (k) and (l) and (2).

Explanatory note

The proposed amendments:

- (a) provide for the Director-General of the Department of Services, Technology and Administration (which is the Division of the Government Service in which the staff assigned to the Teacher Housing Authority are employed) to be a member of the Teacher Housing Authority and its Chairperson, and
- (b) update references to various departments as a consequence of previous administrative changes orders.

Schedule 28 Amendment of Western Sydney Parklands Act 2006 No 92

Section 7 Trust Board

Insert after section 7 (2) (a):

- (a1) the Director-General of Communities NSW or his or her nominee,

Explanatory note

The proposed amendment provides for the Director-General of Communities NSW (or his or her nominee) to be an ex-officio member of the Board of the Western Sydney Parklands Trust.

Schedule 29 Amendment of Workers Compensation Act 1987 No 70

Section 239AJ Subrogation

Omit “General Manager” from section 239AJ (2).

Insert instead “Chief Executive Officer”.

Explanatory note

The proposed amendment is consequential on the amendments made by Schedule 30.

Schedule 30 Amendment of Workplace Injury Management and Workers Compensation Act 1998 No 86

[1] Section 4 Definitions

Omit the definition of *Chief Executive Officer* or *General Manager* from section 4 (1).

Insert instead in alphabetical order:

Chief Executive Officer of the Authority means the person exercising functions under the *Public Sector Employment and Management Act 2002* as the Division Head of the relevant Government Service Division.

member of staff means any person who is employed in the relevant Government Service Division.

relevant Government Service Division means the Division of the Government Service comprising the group of staff who are employed under Chapter 1A of the *Public Sector Employment and Management Act 2002* to enable the Authority to exercise its functions.

[2] Sections 15 (2) (a) and (5), 18, 19A (2) (a), 20 and 241, clause 1 of Schedule 3 and clause 1 of Schedule 3A

Omit "General Manager" wherever occurring.

Insert instead "Chief Executive Officer".

[3] Section 16 General Manager

Omit the section.

[4] Sections 21 (3) (definition of "authorised person"), 106 (2), 238 (1) (definition of "authorised officer"), 238AA (7) and 241 (1) (a)

Omit "an officer of the Authority" wherever occurring.

Insert instead "a member of staff".

[5] Section 35 Payments into and from Fund

Omit "staff of the Authority" from section 35 (2) (a).

Insert instead "those members of staff who are principally involved in the administration of this Act".

[6] Section 241 Seal of Authority

Omit "officer" from section 241 (1) (b). Insert instead "member of staff".

Public Sector Restructure (Miscellaneous Acts Amendments) Bill 2009

Schedule 30 Amendment of Workplace Injury Management and Workers Compensation Act 1998 No 86

Explanatory note

The proposed amendments:

- (a) confer on the Chief Executive of the Compensation Authorities Staff Division (which is the Division of the Government Service in which the staff assigned to the WorkCover Authority are employed) the functions of the Chief Executive Officer of the WorkCover Authority, and
- (b) update references to the staff of the WorkCover Authority as a consequence of the departmental amalgamations order.

Schedule 31 Amendment of Young Offenders Act 1997 No 54

[1] Section 4 Definitions

Omit “Juvenile Justice” from the definition of *Director-General*.

Insert instead “Human Services”.

[2] Section 46 Location of conferences

Omit “any office of the Department of Juvenile Justice” from section 46 (1).

Insert instead “any office of that part of the Department of Human Services comprising persons who are principally involved in the administration of the *Children (Detention Centres) Act 1987* or the *Children (Community Service Orders) Act 1987*”.

[3] Sections 47 (2) (e), 62A (a) and 66 (2) (e)

Omit “Juvenile Justice” wherever occurring. Insert instead “Human Services”.

[4] Section 62A Delegation of Director-General’s functions

Insert after section 62A (a):

- (a) the Chief Executive of Juvenile Justice, Department of Human Services or a Deputy Chief Executive of Juvenile Justice, Department of Human Services,

[5] Section 66 Disclosure of records

Omit section 66 (4). Insert instead:

- (4) In this section:

authorised officer of the Department of Human Services means any of the following officers of the Department:

- (a) the Director-General,
- (b) a Deputy Director-General,
- (c) the Chief Executive of Juvenile Justice or a Deputy Chief Executive of Juvenile Justice,
- (d) a juvenile justice officer,
- (e) such other member of staff (or member of staff belonging to a class of members of staff) of the Department as may be prescribed by the regulations.

Explanatory note

The proposed amendments:

- (a) enable the Director-General of the Department of Human Services to delegate his or her functions under the above Act to the Chief Executive (or a Deputy Chief Executive) of Juvenile Justice in that Department, and
- (b) update references to the Department of Juvenile Justice, and make other minor changes, as a consequence of the departmental amalgamations order.

Schedule 32 Amendment of Youth Advisory Council Act 1989 No 39

Section 6 Membership of Council

Omit section 6 (1) (b). Insert instead:

- (b) an ex-officio member, being the Commissioner for the Commission for Children and Young People or the Commissioner's nominee.

Explanatory note

The proposed amendment provides for the Commissioner for the Commission for Children and Young People (or his or her nominee) to be the ex-officio member of the Youth Advisory Council instead of the Director-General of the Department of Premier and Cabinet.