

GOVERNMENT SECTOR EMPLOYMENT AND OTHER LEGISLATION AMENDMENT BILL
2024

6/6/24

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

The government has commenced a review of the *Government Sector Employment Act 2013 (GSE Act)* to examine (among other things) whether amendments to the GSE Act should be made to:

- re-focus the Public Service Commissioner (**Commissioner**) on merit and integrity functions; and/or
- support workplace reform and planning, recruitment, learning & development, and mobility.

In conducting its review, the government has considered recent inquiries and reviews into the GSE Act, and consulted the Public Service Commissioner, the Public Service Association and Unions NSW.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill amends the GSE Act to give effect to interim findings of the review: :

- that the Commissioner's integrity functions continue to be exercised by the Commissioner as an independent statutory officer, at arms-length from the Executive.
- that the Government may wish to consider amending the GSE Act so that the Commissioner is not required to exercise functions unrelated to the Commissioner's integrity functions, with functions relating to workforce reform and planning, mobility, data collection, talent pool management and website management to be undertaken by a central agency.

The Bill also amends the *NSW Reconstruction Authority Act 2022 (RA Act)* to remove the unusual requirement that the CEO "be employed in a Band 4 - Secretary level role". This will ensure that employment arrangements for the CEO of the NSW Reconstruction Authority (**NSWRA**) are consistent with the GSE Act framework and employment arrangements for other executive agency heads.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The review analysed the Commissioner's statutory functions to identify those that are appropriately exercised at arms-length from the Executive, and those that do not require statutory independence. Legislative amendment is required to give effect to the interim findings.

The Bill:

- amends the GSE Act to provide that certain functions are no longer to be exercised by the Commissioner;
- amends the RA Act in relation to the appointment of the CEO of NSWRA; and
- makes other consequential amendments.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The Bill omits the Commissioner's objectives and functions which do not require statutory independence. These functions will instead be performed by the Secretary, Premier's Department.

Exercise of these functions by a central government agency will enable existing knowledge and expertise (including in relation to industrial relations issues and trends) to be leveraged, and promote a coordinated, whole-of government perspective to be applied to complex workforce planning issues. In many instances, the delivery of those functions may also benefit from the strategic direction and guidance of the responsible Minister.

The Commissioner will continue to exercise integrity functions as an independent statutory officer. These include promoting and maintaining the government sector core values, adopting a government sector-wide code of ethics and conduct, conducting inquiries into government sector agencies, and ensuring compliance with requirements to ensure officials are recruited and promoted based on merit.

The Bill also amends the RA Act to remove the requirement that the CEO of the NSWRA "be employed in a Band 4 -Secretary level role".

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The Bill commences on proclamation.

The Premier's Department and the Public Service Commissioner will work closely together to give effect to this reform.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Public Service Commissioner, the Public Service Association and Unions NSW have been consulted in relation to the review. The Public Service Commissioner and the Public Service Association have been consulted on the terms of the Bill.