

REVIEW OF PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT

Parts	OCPE Recommendations	Comments
Public Sector Employment and Management Act		
Part 1 - Preliminary		
General Comment (New Inclusion)	<ul style="list-style-type: none"> Relocate Principles of Human Resource Management, Principles of Conduct and Principles of Public Administration and Management from the Regulations into the Act following Interpretation section. Inclusion of stipulation that minor technical errors in administering a provision of the Act will not affect the legality of the process or invalidate the action. 	<ul style="list-style-type: none"> The Principles of Public Administration and Management, Conduct and Human Resource Management, contain the objectives of the Act and subordinate legislation. Moving these into the Act will accentuate their importance and is consistent with models in other jurisdictions. Principles should be moved into the Act following the Interpretation section. Majority of other jurisdictions include principles in Act rather than in the subordinate legislation.
s1. Short Title	<ul style="list-style-type: none"> Continues to reflect purpose of the Act, no requirement to change. 	
s2. Commencement	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s3. Interpretation	<ul style="list-style-type: none"> The Merit Principle should be defined in clause 1 of the Interpretation section. Broaden the definition of the merit principle to include diversity. Amend s3(3) to allow special measures (<i>Anti-Discrimination Act</i>) to be considered for recruitment purposes. Consider further including a definition for casual, temporary and ongoing employment. May be some other minor consequential changes resulting from update of Act. 	<ul style="list-style-type: none"> Jurisdictions vary in defining and separating casual and temporary employment. Some jurisdictions use the term “ongoing” rather than “permanent” employment and this appears to reflect similar terminology in the private sector. “Merit Principle” as a sub clause of the Interpretation section means that it is relatively hidden and could be inadvertently overlooked.
s4. Application	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s5. Repealed	<ul style="list-style-type: none"> Remove section if efficacious. 	Would require renumbering of the Act, which is likely to cause difficulties with other parts of this Act or subordinate legislation and other Acts that reference.
Part 2 - Administration		
s6. Duties of Minister	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s7. Establishment, change of name and abolition of Agencies	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	

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Part 3 - Commissioner for Public Employment

s8. Appointment of Commissioner	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> The 'central employer' model suits the small size of the NTPS, reflects the ability to be a career public sector through enhanced, seamless employee mobility between agencies as required. Cost savings and equity across streams can also be achieved through centralised bargaining and ability to ensure consistent decision making across the sector. See also section 12 and 19 comments. Other public sector jurisdictions contain provisions in their Act regarding the employment of executive contract officers. The necessity for specifying the employment arrangement of the CPE in this clause was considered, however legal advice clarified the current definition and powers under the Act clearly establish the employment arrangements pertaining to the CPE and CEOs.
s9. Termination of appointment	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s10. Acting Commissioner	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s11. Delegation by Commissioner	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s12. Commissioner deemed to be employer	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> It is noted that the central employer model is unique in Australia due to the small size of the jurisdiction. Other jurisdictions have CEOs as employers in their own right, reflecting the varying and increased size of other services.
s13. Functions of Commissioner	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Sets out a clear and appropriate balance of powers and responsibilities between the Commissioner and CEOs. See also Part 4, CEOs.
s14. Powers of Commissioner	<ul style="list-style-type: none"> Amend Section 14(2) to expressly state instruments and determinations may apply retrospectively. 	<ul style="list-style-type: none"> A legal question arises from time to time about whether Determinations issued by the CPE can have retrospective effect. This is preferred and an amendment should be made to clarify that they can.
s15. Special powers of investigation	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Although this power is rarely used it is considered necessary to retain this section. Other jurisdictions also provide similar powers to employers.

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s16. Employment Instructions	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> It is noted that EIs themselves are being reviewed, however these will be dealt with separately.
s17. Commissioner to keep record of employees	<ul style="list-style-type: none"> Review to ensure records kept are consistent with the provisions of the <i>Workplace Relations Act</i> (Cth) (and its replacement) and the <i>Information Act</i> (NT). The detail about what records are kept should be moved from the Act to the EI to streamline the Act. 	
s18. Reports by Commissioner	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Other jurisdictions provide similar provisions for reporting by Commissioners and CEOs.
Part 4 - Chief Executive Officers		
s19. CEOs	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> The 'central employer' model suits the small size of the NTPS. Cost savings and equity across streams can also be achieved through centralised bargaining and ability to ensure appropriate decision making across the sector are maintained. CEOs in other jurisdictions are considered employees under their Acts, in the NT CEOs are not considered to be employees. See also section 12 comments. Other public sector jurisdictions contain provisions in their Act regarding the employment of executive contract officers. The necessity for specifying the employment arrangement of CEOs in this clause was considered, however legal advice clarified the current definition and powers under the Act clearly establish the employment arrangements pertaining to the CPE and CEOs.
s20. Termination of appointment	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Administrator still retains power to terminate appointment (in accordance with <i>Interpretation Act</i>). The appointment of the CEO by the Administrator, but termination by the Minister is unusual and appears to raise issues of the separation of powers. Advice from the Solicitor for the Northern Territory indicates there does not appear to be any legal reason why this cannot exist, and may have been provided for the purpose of efficiency, that is with appointments there is the luxury of time, however terminations require decisive and immediate action.
s21. Acting CEO	<ul style="list-style-type: none"> Remove s21(3)(a) and (b) on the basis the conditions are inconsistent with setting of terms and conditions for CEOs which are provided in the Executive Contracts Determination and administered by ERRP. 	

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s22. Directions by appropriate Minister	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Provisions are consistent with doctrine of separation of powers and provide an appropriate balance between respective responsibilities.
s23. Accountability of CEOs	<ul style="list-style-type: none"> Amend s23(2) to clarify CEOs shall comply with all provisions of the Act and all directions given by the Commissioner for Public Employment (or an Appeal Board) rather than just EIs. 	<ul style="list-style-type: none"> CEOs are required to comply with guidelines (EIs) issued by the Commissioner. It is implicit in the wording of the Act they will also be subject to the provisions of the Act. This view was confirmed by the Solicitor for the Northern Territory.
s24. Functions of CEOs	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s25. Powers of CEOs	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> The Act clearly denotes the separation of powers and functions of the Commissioner and the CEOs. See also section 13 comments.
s26. CEO may employ number of employees necessary	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> When compared with other jurisdictions Acts, the current provisions continue to provide CEOs with more responsibility and autonomy, with accountability through a simple, easily understood regime.
s27. Delegation by CEO	<ul style="list-style-type: none"> Amend to allow the CEO to delegate powers and functions to a 'person' and not just an 'employee'. 	<ul style="list-style-type: none"> Majority of other jurisdictions allow CEO to delegate powers and functions to 'persons' as opposed to employees. It is noted that the Commissioner currently has this ability. The amendment would be in keeping with requirement for flexibility and changing nature of engaging employees such as through secondment and outsourcing provisions.
s28. Reports by CEOs	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> The reporting requirements are necessary to ensure the Minister is kept fully informed about the performance of the public service.
Part 5 - Appointment, Promotion, Transfer and Resignation		
s29. CEO to appoint, promote and transfer	<ul style="list-style-type: none"> Change 'permanent' to 'ongoing', and defining 'temporary' and 'casual' employment arrangements. Define the terms in the Interpretation section of the Act. Clarify that the Anti-Discrimination Act provisions apply to the NTPS 	<ul style="list-style-type: none"> Generally the provisions in this section remain current and contemporary. The inclusion of selection methodologies and practices within the Act varies across jurisdictions. Some Acts contain quite specific detail, other jurisdictions provide for such procedures in subordinate legislation. It should be noted the legislation in some other jurisdictions appear to limit the circumstances for temporary contracts. Currently casual employment falls under the definition of temporary employment. 'Ongoing' has the same meaning in employment law as 'permanent' but carries a more contemporary understanding/acceptance that employment is subject to ongoing

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		<p>scrutiny.</p> <ul style="list-style-type: none"> Whilst the public sector is promoted as a career public sector and the government wishes to provide for certainty of employment for its employees, given the remoteness and size of the Territory, varying employee generational requirements and mobile workforce, the use of temporary contracts remains necessary to provide the ability for more flexible employment arrangements to meet the specific circumstances of appointments and locations.
s30. Procedure for filling vacancies	<ul style="list-style-type: none"> Remove matters of process and detail, and include in the Employment Instructions. 	<ul style="list-style-type: none"> As per comments above. In order to maintain the Act as being principles based, procedural requirements should be removed from the Act and relocated to the Employment Instructions. Advertising positions ensures transparency and good governance. On balance it is still appropriate to have a requirement to advertise vacancies of more than 6 months unless approval to select without advertising is obtained from the Commissioner.
s31. Conditions for Appointment, &c.	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Qualification requirements for positions across the public sector are generally contained within the relevant workplace agreement and/or in the Qualifications Handbook . This provision gives the power to the Commissioner to determine other such requirements as these will generally apply across agencies. If there are agency occupation specific qualifications or requirements these can be delegated if necessary to the relevant CEO. It is appropriate to retain this provision in the Act.
s32. Appointments on permanent basis to be on probation	<ul style="list-style-type: none"> Amend to clarify that if the probation period is extended and a CEO has not made a decision, the period will automatically extend for a further period of 3 months. This will assist to ensure that poorly performing probationers are not appointed through administrative oversight. Remove s32(6), any request for review of termination can be made in accordance with s59(10)(b). This section contains some matters of process and detail and such matters should be moved to the subordinate legislation. Matters to be retained in the Act include: <ul style="list-style-type: none"> Appointments to be on probation and the period(s); CEOs may appoint without probation in certain circumstances; CEOs may terminate probation; CEOs may extend probation; What does not count toward probation including all periods of 	<ul style="list-style-type: none"> Other jurisdictions maintain a provision within their Acts for the requirement for probation although the degree of detail varies widely. A provision that deems the probation period to be extended if no action is taken is not unusual in other jurisdictions. Notice provisions also cause problems as does the ability to allow an employee to pursue grievance actions. Issues arise from time to time regarding probation reports when a person is 'deployed' elsewhere during the period of probation. This may need to be addressed in the process.

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	<ul style="list-style-type: none"> leave (with or without pay), suspension, or under s38; o Probation to follow employee in cases of transfer o Provision for EI to prescribe matters necessary or convenient to be prescribed for carrying out or given effect to this section. 	
s33. Termination of temporary appointment	<ul style="list-style-type: none"> • Amend to clarify the rules of natural justice still apply, except in the case of a 'summary' dismissal. Otherwise current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> • There is under EI3 the requirement to apply the rules of natural justice in all dealings with employees.
s34. Temporary and fixed period employment	<ul style="list-style-type: none"> • Amend Act to clarify that an employee is able to work in two or more jobs which are in different agencies. • This section contains some matters of process and detail and such matters should be moved to the subordinate legislation. Matters to be retained in the Act include: <ul style="list-style-type: none"> o CPE to determine duties and classes of duties; o Maximum terms; o Provision for EI to prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to this section; o Terms and conditions and if inconsistent with Act these apply o Retain s34(1), (2), (3), (4), (7) and (8). o Remove process provisions s34(5) and (6) and include them in the EI. 	<ul style="list-style-type: none"> • There are current examples of this occurring. For example, in remote locations person working part-time as an assistant teacher with DET and also as a maintenance officer with DHF. While there are some complications in allowing such an arrangement (specifically with the workers compensation issues, and ability of the PIPS system to recognise the employer under one AGS) it is the case that agencies do need to facilitate. The issues raised as complications can be subject to agreement between CEOs. • Note PSI16 details will need to be reflected in EI.
s35. Transfers	<ul style="list-style-type: none"> • The provisions are still considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> • Most jurisdictions have transfer provisions which state the transfer will be at level.
s36. Repealed	<ul style="list-style-type: none"> • Remove section if efficacious. 	.
s37. Resignation	<ul style="list-style-type: none"> • No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s38. Re-appointment of persons resigning to become candidates at elections	<ul style="list-style-type: none"> • Amend to clarify that the re-appointment is only applied after a first term. If there is an extension into a second term then the right of return no longer applies. 	<ul style="list-style-type: none"> • Most other jurisdictions have similar provisions.
Part 6 - Secondment and Redeployment		
Division 1 - Secondment		
s39. CEOs may make secondment arrangements	<ul style="list-style-type: none"> • Amend to clarify that CEOs may enter into an arrangement with another employer for the secondment of an NTPS employee to that employer. 	<ul style="list-style-type: none"> • May need to be some requirement for consideration of dual appointments partnership arrangements. • Secondment arrangements into the NTPS should be consistent

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	<ul style="list-style-type: none"> Amend to specify that employees coming into the NTPS are to be engaged on NTPS terms and conditions unless otherwise approved by the Commissioner. 	<ul style="list-style-type: none"> with the Act. Secondment provisions are clear that secondment is out of NTPS, but not necessarily into the NTPS.
s40. Procedure where arrangement ceases	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
Division 2 - Redeployment and Redundancy		
s41. Declaration of permanent employee to be potentially surplus to requirements	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Sections of PSEMA are referred to in UCAs.
s42. Transfer of surplus employees	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s43. Redeployment and redundancy	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
Part 7 - Inability of Employee to Discharge Duties		
s44. Inability of employee to discharge duties	<ul style="list-style-type: none"> Clarify provision deals with poor performance, loss or lack of qualification and other inability related issues not resulting from discipline or medical incapacity. Amend to allow CEO to give direction about remedial action including training and development, direction to attend counselling, monitoring of conduct/performance, implementation of a performance improvement plan and warning. Amend to specifically clarify refusal to comply with a direction can be dealt with under Discipline provisions, or consideration to allow employee to be suspended without remuneration until they comply. This section contains some matters of process and detail and such matters should be moved to the subordinate legislation. Matters to be retained in the Act include: <ul style="list-style-type: none"> Time requirements; S45(4) and (5); S46(3) and (4); Provision for EI to prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to this section. 	<ul style="list-style-type: none"> The requirement to deal with poor performance and medical incapacity (partial or complete) needs to be dealt with in the Act. Separating the two would provide greater clarity of which process is being invoked, including ability to investigate medical grounds for poor performance. Clarity could also be written in by defining inefficient and unsatisfactory performance against written performance standards, keeping in mind performance requirements in agencies may differ. Legal advice is being sought on the capacity to use the Inability section to address issues arising under the Child Safety Protection Act when an employee cannot hold a "clearance certificate". This advice will need to be considered if the inability provisions are amended.

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	<ul style="list-style-type: none"> Amend to clarify status of proceedings if employee moves to another job or to another agency. 	
s45. Investigation of grounds	<ul style="list-style-type: none"> Amend so that a CEO need not investigate if certain grounds exist, such as if there is sufficient evidence to determine inability, then an investigation shouldn't be necessary. Clauses should echo those provided in S51(4). 	<ul style="list-style-type: none"> Note this provision should be consistent with s51(4) ' discipline investigations'.
s46. Action following investigation	<ul style="list-style-type: none"> Amend heading to better reflect content. Include CEO action if investigation was unnecessary. This section along with s51 (Procedure in respect of discipline) should be reviewed for consistency where possible. As above. 	
s47. Suspension or transfer pending explanation or investigation	<ul style="list-style-type: none"> Amend to provide a discretionary power for the CEO to allow an employee access to accrued recreation or long service leave during a period of suspension and re-credit if suspension is lifted. Clarify employees on suspension are not able to access employment within or external to the the NTPS without CEO approval. Recommend varying the suspension period to allow a CEO to suspend an employee for a period of up to 6 months. Needs to be consistent with s52 as amended. . 	<ul style="list-style-type: none"> Legal advice suggests providing a discretionary power to the CPE or CEOs to allow an employee access to accrued recreation leave and long service leave entitlements during a period of suspension with the knowledge the recreation or long service leave may have to be re-credited. Some of the other jurisdictions have a similar provision. Suspension provisions should be consistent in so far as possible to those provided in s51(6) - Discipline.
s48. Medical incapacity	<ul style="list-style-type: none"> Include a provision which expressly provides for termination as a result of frustration of the employment contract, following a specified period of continuous sick leave, for example 12 or 18 months, or the period of the sick leave whichever is the greater. Amend so that medical incapacity includes partial and complete incapacity and provides provisions to allow for direction of remedial action (including retraining), demotion, transfer, reduction in salary within the range and termination for both provisions. 	<ul style="list-style-type: none"> It is almost impossible to have an employee declared totally and permanently incapacitated under the NTGPASS/CSS superannuation provisions. It may be worthwhile meeting with the NT Treasury Superannuation to discuss. Persistent sick leave results in frustration of contract of employment. Any provision allowing termination of contract as a result of frustration of employment, needs to be mindful of the provisions of the <i>Workplace Relations Act</i>.
Part 8 - Discipline		
s49. Breaches of discipline	<ul style="list-style-type: none"> May require inclusion of additional breaches to ensure coverage for all circumstances including relevant matters prior to commencing employment. 	<ul style="list-style-type: none"> Considered amending to include abandonment of employment, however this would potentially increase what is considered an already prolonged period to terminate employment for abandonment. Some jurisdictions provide for Commissioner (or equivalent office) to determine conduct issues through other instruments and also the making of procedures in relation to dealing with misconduct. OCPE consider there is a continued requirement to keep offences and categories in the Act, maintain capacity for summary dismissal and provision for penalties and suspension.

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s50. Summary dismissal	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s51. Procedure in respect of breaches of discipline	<ul style="list-style-type: none"> This section contains some matters of process and detail and such matters should be moved to the subordinate legislation. Matters to be retained in the Act should include: <ul style="list-style-type: none"> Time period; Provision for EI to prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to this section; Length of suspensions and variations/extensions; Effect of suspension on entitlements; Transfers, s51(11) and (12). Amend to clarify CEO can take more than one action under s51(10). Expand range of actions in s51(10) to allow for remedial action such as direction to attend counselling, training and expressly demotion. Clarify employees on suspension are not able to access employment within or external to the the NTPS without CEO approval. Amend to clarify status of proceedings if employee moves to another job or to another agency. Recommend varying the suspension period to allow a CEO to suspend an employee for a period of up to 6 months. Broaden the ambit of section 51 to allow penalties imposed under s51(1)(a)(i)-(iv) to be reviewed under section 59. Consideration be given to allowing a discretionary power for the CEO to allow an employee access to accrued recreation or long service leave during a period of suspension. 	<ul style="list-style-type: none"> Move procedural information to subordinate legislation. Needs to be considered along with s46 (Inability) for consistency where possible. Legal advice suggests it may be useful to provide discretionary powers to the CPE or CEOs to allow an employee access to accrued recreation leave and long service leave entitlements during a period of suspension with the knowledge the recreation or long service leave may have to be re-credited and it is not in the public interest to burden the public purse. CEOs are required under the Act to form their own conclusions as to whether a breach of discipline has occurred, whether for the same reasons, or reasons other than those provided by an investigator. As such it was not considered necessary to limit the ability of an investigator to report findings only rather than indicating if a breach has been committed. Agencies sometimes stand an employee down on “gardeners leave” rather than suspension when considered appropriate, however this may have legal implications. Legal advice suggests it may be best to provide an express power for CEOs to stand an employee down with or without remuneration and without consideration of procedural fairness. This should be investigated further.
s52. Lifting of suspension	<ul style="list-style-type: none"> Re-write s52(1) for clarity. Needs to be consistent with s47 as amended. 	
s53. Payment of fines	<ul style="list-style-type: none"> Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s54. Abandonment of employment	<ul style="list-style-type: none"> Amend to 7 + 7 days to terminate. 	<ul style="list-style-type: none"> Current limitations on period are too long, 14 + 14 days before termination can be actioned.

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Part 9 - Appeals and Review

s55. Promotion Appeals	<ul style="list-style-type: none"> Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s56. Promotions Appeal Boards	<ul style="list-style-type: none"> The Promotion Appeal Board's function should be to review the decision of selection panels to assess whether selections are consistent with the merit principle, with the powers of the Board to be limited to either disallowing the appeal, or to direct readvertising or reconsideration of the original applicants. 	<ul style="list-style-type: none"> Jurisdictions vary on ability to allow promotion appeals to overturn the decision of the panel. In some jurisdictions the decision can be overturned by the appeal board if the CEO agrees. Requires further consideration.
s57. Inability or disciplinary appeals	<ul style="list-style-type: none"> Amend to allow 'less serious' inability and discipline matters to be dealt with under the grievance provisions and 'more serious' matters such as suspension, termination, and demotion to be heard by the Inability/Discipline Appeal Board. Amend to allow the board to make a decision not to hear an appeal if it is being dealt with in another jurisdiction eg. court system / Anti-Discrimination Commission/AIRC or its successor Fair Work Australia. 	<ul style="list-style-type: none"> Consider limiting the range of penalties dealt with by Appeal Boards under Discipline to those listed under 51(10)(a)(v)-(vii) and 51(10)(a)(i)-(iv) being dealt with as a review of grievance only. Section 51 would need to be broadened to allow these matters to be heard under section 59. If this is the case, then section 57 of the Act would need to be updated to reflect this. One consideration in reviewing the provisions of the Act was the possibility of restricting appeals regarding terminations (both discipline and inability) to Fair Work Australia. However the OCPE considered it more appropriate to retain the current disciplinary and inability appeal board provisions, with some restrictions to the matters which could be referred for hearing.
s58. Procedure, &c., of appeals	<ul style="list-style-type: none"> This section contains some matters of process and detail and such matters should be moved to the subordinate legislation. 	<ul style="list-style-type: none"> Act would need to make provision for payment of fines (provide power to fine) although the amount could be detailed in the Regs.
s59. Review of grievances	<ul style="list-style-type: none"> Amend to allow for direction to mediate and conciliate (consistent with most courts and tribunals). Amend to allow 'less serious' discipline matters to be heard (s51(10)(a)(i)-(iv)). Amend 59(5A) to include trivial and also provide discretion to the Commissioner to decline to hear a matter more appropriately dealt with in another statutory forum. 	

Part 10 - Miscellaneous

s60. By-laws	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> CPE should maintain ability to make by-laws in relation to employment conditions.
s61. Work outside employment	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> Further clarification of some matters is required in the Code of Conduct.
s62. Work on public holidays	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and 	<ul style="list-style-type: none"> Ensures provision for employees to work on public holidays and during periods of standdown.

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	future.	
s63. Performance of duties of statutory office holder in absence	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s64. Public Sector Consultative Council	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	
s64A. Protection from legal proceedings	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> This section is still relevant as it provides protection for persons used to conduct investigations under section 45 and 51, who are not employees. Ensures ability to provide frank and fearless advice.
s65. Regulations	<ul style="list-style-type: none"> No requirement for change. Current provisions considered contemporary and meeting ongoing NTPS needs, current and future. 	<ul style="list-style-type: none"> CPE should maintain ability to make regulations. May need to amend if some of the other procedural information is removed to Regs, need to ensure they can be covered in Regs.
s66. Repeal	<ul style="list-style-type: none"> Remove provision if efficacious. Seek legal advice. 	
Schedule 1 - Chief Executive Officers of Particular Agencies	<ul style="list-style-type: none"> Amend to include the Commissioner for Health and Community Services Complaints. 	
Schedule 2 - Acts Repealed		
EndNotes		<ul style="list-style-type: none"> provides list of legislation, PSEM Act amendments.