

Public Sector Management (Amendment) Act 1993

No. 97 of 1993

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Victoria

No. 97 of 1993

Public Sector Management (Amendment) Act 1993

[Assented to 16 November 1993]

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The main purpose of this Act is to amend the **Public Sector Management Act 1992** to improve the administration of that Act and to provide for other matters relating to the public sector.

2. *Commencement*

- (1) Sections 31 (1) and 46 (2) are deemed to have come into operation on 27 November 1992.

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- (2) Sections 41 (2) and 42 (1) and (4) are deemed to have come into operation on 24 November 1992.
- (3) Section 13 comes into operation on the day which is 2 months after the day on which this Act receives the Royal Assent.
- (4) The remaining provisions of this Act come into operation on the day on which this Act receives the Royal Assent.

3. Principal Act

Act No.
68/1992.

In this Act the **Public Sector Management Act 1992** is called the Principal Act.

PART 2—AMENDMENTS TO THE PUBLIC SECTOR MANAGEMENT ACT 1992

4. Definitions

In section 4 (1) of the Principal Act—

- (a) in paragraph (b) of the definition of “appropriate Department Head” for “officer or temporary employee” **substitute** “officer or employee”; and
- (b) in paragraph (b) of the definition of “appropriate Minister” for “officer or temporary employee” **substitute** “officer or employee”; and
- (c) after the definition of “appropriate Minister” **insert—**
 “casual employee” means a person employed on a casual basis under Division 5A of Part 2.;
 and
- (d) in the definition of “disciplinary inquiry” after “officer” **insert** “, fixed term employee”; and
- (e) after the definition of “disciplinary inquiry” **insert—**
 “employee” means fixed term employee, temporary employee or casual employee;’
 and

- (f) after the definition of **“executive officer”** insert—
 - “executive position”** means a chief executive position or a senior executive position; and
 - “fixed term employee”** means an employee employed under Division 4A of Part 2;’
- (g) after the definition of **“Minister”** insert—
 - “Ministerial officer”** means a person employed under section 95A;’; and
- (h) in the definition of **“officer”** for **“temporary employee”** substitute **“a fixed term employee, a temporary employee or a casual employee”**; and
- (i) after the definition of **“officer”** insert—
 - “Parliamentary adviser”** means a person employed under section 95B;’; and
- (j) after the definition of **“right of return to the public sector”** insert—
 - “salary”** includes remuneration;’; and
- (k) in the definition of **“senior executive position”** for **“a position”** substitute **“an office or position”**; and
- (l) for the definition of **“staff”** or **“members of staff”** substitute—
 - “staff”** or **“members of staff”** means officers, fixed term employees or temporary employees or all of them;’;
- (m) after the definition of **“temporary employee”** insert—
 - “this Act”** includes regulations made under this Act.’.

5. Work value

In section 7 (3) of the Principal Act, for **“classify and grade”** substitute **“determine the work value of and remuneration applicable to”**.

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6. Delegation

- (1) For section 16 (1) of the Principal Act **substitute—**
“(1) A Department Head may by instrument delegate to any person or persons or body all or any of the Department Head’s functions under this Act.”.
- (2) In section 16 (2) of the Principal Act—
(a) in paragraph (a) after “person” insert “or persons or body”; and
(b) for “person mentioned in sub-section (1)” **substitute** “person or persons or body”.

7. Prescribed officers

- (1) In section 17 (1) of the Principal Act for “staff” **substitute** “officers and employees”.
- (2) For section 17 (2) (c) of the Principal Act **substitute—**
“(c) an officer, fixed term employee, temporary employee or casual employee or employee or member of staff or staff were a reference to an officer or fixed term employee or temporary employee or casual employee or employee or member of staff or staff (as the case requires) of that office.”.

8. New section 24 substituted

For section 24 of the Principal Act **substitute—**

“24. Appointments on merit

A Department Head must make each appointment under this Act on merit taking into account—

- (a) the extent to which each applicant has skills, knowledge, aptitude and experience relevant to the requirements of the position; and
(b) diligence and good conduct; and

- (c) where relevant, the performance of each applicant in relation to the functions of any positions, employment or occupation previously held or engaged in by the applicant.”.

9. *Legal proceedings*

For section 25 (4) of the Principal Act substitute—

“(4) Sub-section (3) does not affect the operation of—

- (a) Schedule 6 or the regulations made under Schedule 6 giving a right of appeal or review under this Act; or
- (b) the regulations dealing with personal grievances or disciplinary matters.”.

10. *Exemption from notification of vacancies*

In section 29 of the Principal Act—

- (a) before “If” insert “(1)”; and
- (b) at the end of the section insert—

“(2) The Public Service Commissioner may by notice published in the Government Gazette exempt any position or class of positions from the requirements of sub-section (1).

(3) A notice under sub-section (2) must set out the reasons for the exemption.

(4) Sub-section (1) does not apply to a position which a Department Head intends to fill by way of transfer.”.

11. *Publication of appointments*

Section 30 of the Principal Act is repealed.

12. *New Division 4A inserted in Part 2*

After Division 4 of Part 2 of the Principal Act insert—

“Division 4A—Fixed term employees

34A. *Employment of fixed term employees*

- (1) Subject to the regulations (if any), a Department Head may employ any person as a fixed term employee.
- (2) A person may be employed as a fixed term employee for a term of not less than 12 months and not more than 5 years.
- (3) A fixed term employee may be re-employed at the end of his or her first term of employment for a further term of not less than 12 months and not more than 5 years.
- (4) Subject to this Act, the employment of a fixed term employee is not terminated at the end of the first term of employment if he or she is re-employed for a further term in accordance with this section.

34B. *Termination of fixed term employment*

- (1) The employment of a fixed term employee may be terminated within the term of employment by the Department Head giving the employee or the employee giving the Department Head 4 weeks notice of termination or such other period of notice as is agreed between the Department Head and the employee.
- (2) The employment of a fixed term employee is terminated at the end of his or her term of employment unless the employee is re-employed under this Division.
- (3) A person who, immediately before his or her first employment under this Division was an officer, retains any right to long service, annual, sick or other leave accrued or accruing to him or her immediately before that employment.

- (4) A person who, immediately before his or her first employment under this Division was an officer, is deemed on the termination of his or her employment under this Division to be re-appointed to a position in the public service with the same remuneration as the position held by that person immediately before his or her employment under this Division.
- (5) A fixed term employee is not entitled to compensation as a result of the termination of that employee's employment under this Division."

13. Temporary employees

- (1) After section 35 (2) of the Principal Act **insert—**

"(2A) The employment of a person employed under sub-section (1) may be terminated within the term of employment by the Department Head giving the person or the person giving to the Department Head, 2 weeks notice of termination in accordance with the regulations."

- (2) In section 35 (3) of the Principal Act for "3 years" (where twice occurring) **substitute** "1 year".
- (3) In section 35 (4) of the Principal Act for "5 years" **substitute** "2 years".
- (4) The amendments made to the Principal Act by this section do not affect the continuity or effect of a contract of employment or employment agreement existing in respect of a temporary employee immediately before the commencement of this section but the Principal Act as amended by this section will apply to any subsequent contract of employment or employment agreement for temporary employment in the public service entered into by the temporary employee.

14. *New Division 5A inserted in Part 2*

After Division 5 of Part 2 of the Principal Act **insert—**

“Division 5A—Casual employees

35A. *Casual employees*

- (1) The appropriate Department Head may, if of the opinion that it is necessary to do so, employ persons on an hourly, seasonal or other casual basis to carry out work in the Department.
- (2) Except for sections 6 and 83 and any provision which expressly applies to casual employees or employees, nothing in this Act applies to casual employees.”.

15. *Functions of Public Service Commissioner*

In section 45 (1) of the Principal Act—

- (a) in paragraph (a) (i) after “Department Heads” **insert** “in relation to the management of staff”;
- (b) in paragraph (a) (iii) for “to promote” **substitute** “on”;
- (c) in paragraph (a) (iv) for “specifying principles of” **substitute** “on the application of”;
- (d) after paragraph (a) (iv) **insert—**
“and
- (v) in relation to the maintenance of a person’s previous remuneration for a specified period after commencing employment in a position at a lower remuneration;”;
- (e) for paragraphs (c) and (d) **substitute—**
“(c) to establish grievance review processes in accordance with the regulations, including the appointment of a Tribunal;
- (d) to deal with personal grievances referred under the regulations to the Public Service Commissioner for determination;

- (da) to monitor the operation of grievance review processes and to make recommendations to the Minister on the making, amendment or revocation of regulations concerning those processes;";
- (f) in paragraph (e) for "appeals against appointment to a position" substitute "personal grievances relating to appointments to positions";
- (g) in paragraph (j) omit "minimum";
- (h) in paragraph (k) after "remuneration" insert "(including superannuation)";
- (i) paragraph (n) is repealed.

16. Definitions

In section 49 of the Principal Act the definition of "executive position" is repealed.

17. Employer of executive officer

After section 50 (1) (b) of the Principal Act insert—

- "(ba) in the case of a senior executive officer being the holder of a statutory office which is a declared authority, the body or the person holding the office or position specified in Column 2 of Schedule 2 as having the functions of a Department Head in relation to the declared authority; or".

18. Executives in declared authorities

(1) After section 54 (1) (a) of the Principal Act insert—

- "(aa) any statutory office which is a declared authority; and".

19. Termination of contract of employment

In section 55 (5) of the Principal Act after "other party" insert "in accordance with the provisions of the contract".

20. Legal proceedings—executives

In section 59 (2) of the Principal Act for “appeal or review body established by or under this Act” **substitute** “grievance review process established under this Act or the regulations”.

21. Payment for long service leave—executives

In section 60 (5) of the Principal Act after “cost” (where first occurring) **insert** “(calculated in accordance with the regulations)”.

22. Return to the public sector of executive officers

In section 64 (1) (a) and (b) (ii) of the Principal Act after “public sector” **insert** “otherwise than on a fixed term, temporary or casual basis”.

23. Incumbent executive officers—accrued leave

- (1) For section 66 (1) of the Principal Act **substitute**—

“(1) A person who—

- (a) was engaged in the public sector when he or she first became an executive officer; and
- (b) had a right to accrued long service leave or annual leave with pay immediately before becoming an executive officer; and
- (c) has not taken that leave before first entering into a contract of employment for the executive position—

may, with the approval of his or her employer, on taking up duties under that contract, be paid instead of that leave (or any part of that leave) the money value of that leave (or part) as a gratuity.”.

- (2) Section 66 (2) of the Principal Act is **repealed**.
- (3) Section 66 of the Principal Act as amended by this section applies to contracts of employment entered into under Part 4 of the Principal Act on or after the commencement of this section.

- (4) Section 66 of the Principal Act as in force immediately before the commencement of this section continues to apply to contracts of employment entered into under Part 4 of the Principal Act before that commencement.

24. Operation of Part 4

In section 69 of the Principal Act—

- (a) in sub-section (1) after “Act or law” **insert** “(whether enacted or made before, on or after the commencement of this Act)”; and
- (b) in sub-section (2) after “Act” (where first occurring) **insert** “(whether enacted before, on or after the commencement of this Act)”.

25. Redundancy

- (1) In section 78 (1) of the Principal Act for “persons” (where twice occurring) **substitute** “officers”.
- (2) After section 78 (1) of the Principal Act **insert**—
 - “(1A) The Commissioner must endeavour to transfer an officer under sub-section (1) to work appropriate to the officer’s salary but if such a transfer cannot be made, the Commissioner may—
 - (a) transfer the officer under sub-section (1) to a vacant position at a reduced salary; and
 - (b) reduce the officer’s salary to the maximum salary of that position.”.
- (3) In section 78 of the Principal Act—
 - (a) in sub-section (2)—
 - (i) for “person” **substitute** “officer”; and
 - (ii) for “person’s” **substitute** “officer’s”;
 - (b) in sub-section (3)—
 - (i) in paragraph (a) **omit** “or temporary employee”; and
 - (ii) in paragraph (b) **omit** “or employee”;
 - (c) in sub-section (4) **omit** “or temporary employee”;
 - (d) in sub-section (5)—

- (i) omit "or temporary employee" (where twice occurring); and
- (ii) before "is terminated" insert "who had not attained the minimum age for retirement."

26. Excessive salaries

Section 79 (4) of the Principal Act is repealed.

27. Refusal of transfer

- (1) In section 80 (1) and (2) of the Principal Act after "officer" (where first occurring) insert "(other than a Department Head)".
- (2) After section 80 (2) of the Principal Act insert—
 - “(3) If a Department Head refuses a transfer from one position to another under section 81, the Minister may terminate the Department Head’s employment if the Minister considers that the Department Head had no valid reason for so refusing.
 - (4) If the Minister considers that a Department Head had a valid reason for refusing the transfer, the Minister may allow the Department Head to decline the transfer without prejudice to any rights that the Department Head would, if the transfer had not been declined, have had to any future appointment.”.

28. Transfer of Department Heads

- (1) After section 81 (1) of the Principal Act insert—
 - “(1A) If the Minister considers it to be in the interests of the public service to do so, the Minister, in consultation with the Public Service Commissioner, may transfer a Department Head from a position in one Department to another position in that Department or another Department at the Department Head’s existing salary or, as the case requires, with the same

remuneration package within the meaning of Part 4.

- (1B) If the Minister at any time finds that a Department Head who is not employed under a contract of employment within the meaning of Part 4 is redundant, the Minister, in consultation with the Public Service Commissioner, may transfer the Department Head to another position in that Department or another Department at the Department Head's existing salary.
- (1C) If the Minister cannot successfully transfer a redundant Department Head under sub-section (1B), the Minister may terminate the Department Head's employment.
- (1D) If the employment of a Department Head who had not attained the minimum age for retirement is terminated under this section, the Minister must certify in writing to the administrator of any applicable statutory superannuation scheme within the meaning of the **Superannuation (Public Sector) Act 1992** that the Department Head has been retrenched for the purposes of the Act by which the scheme is established or for the purpose of that scheme (as the case requires)".
- (2) In section 81 (2) of the Principal Act before "with the same remuneration package" **insert** "at the officer's existing salary or, as the case requires,".
- (3) In section 81 (3) of the Principal Act—
 - (a) for "Minister" **substitute** "Public Service Commissioner"; and
 - (b) before "with the same remuneration package" **insert** "at the officer's existing salary or, as the case requires,".
- (4) In section 81 (4) of the Principal Act **omit** "senior".

29. New section 81A inserted

After section 81 of the Principal Act **insert**—

"81A. *Employment of public sector employees by designated bodies*

- (1) The Governor in Council may by Order published in the Government Gazette—
 - (a) declare any organisation or body to be a designated body for the purposes of this section; or
 - (b) declare any officer or employee to be a designated employee for the purposes of this section; or
 - (c) declare any group of officers or employees to be designated employees for the purposes of this section.
- (2) If a designated body makes an offer of employment to a designated employee, the designated employee must, within 14 days after receipt of the offer, elect in writing to accept or reject the offer.
- (3) A designated employee who elects to accept an offer of employment in accordance with sub-section (2) must resign from the public service before commencing that employment.
- (4) Despite anything to the contrary in Schedule 4 or in any contract of employment or employment agreement, if the Department Head and the designated body so agree, on the commencement by a designated employee of employment offered in accordance with this section—
 - (a) the designated employee retains any entitlement to long service, annual or sick leave accrued to him or her immediately before his or her resignation from the public service; and
 - (b) the designated body becomes responsible for any payment in respect of that leave; and

- (c) if the designated body represents the Crown, the Department Head ceases to be responsible for any payment in respect of that leave; and
 - (d) if the designated body does not represent the Crown, the Crown ceases to be responsible for any payment in respect of that leave; and
 - (e) the designated employee is not entitled to any payment in respect of that leave on his or her resignation from public service.
- (5) If a designated employee resigns from the public service in accordance with this section and an agreement is not entered into under sub-section (4), nothing in this section affects any entitlement the designated employee has under this Act or any other Act or employment agreement or contract of employment to payment in respect of long service or annual leave accrued to him or her immediately before his or her resignation.
- (6) If—
- (a) a designated employee elects not to accept an offer of employment from a designated body or fails to make an election within the required time; and
 - (b) the Department Head by notice in writing to the designated employee certifies—
 - (i) that the Department Head is satisfied that the employment offer was comparable with the designated employee's current position or employment in the public service; and
 - (ii) that the designated employee cannot be successfully transferred to another similar

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position or employment in the
Department—

then once that notice is given, the
Department Head may terminate the
employment of the designated
employee.

(7) If a designated employee who is an executive
officer has elected under section 64 to retain a
right of return to the public sector then—

(a) on the termination of the designated
employee's employment under
sub-section (6), that right of return is
cancelled; and

(b) the designated employee is entitled to
be paid an amount equal to the value of
that right of return set out in his or her
contract of employment.”.

30. No compensation

In section 82 of the Principal Act, after “1992” insert
“or any applicable guidelines of the Public Service
Commissioner”.

31. Application of the Employee Relations Act 1992

(1) In section 83 of the Principal Act—

(a) in sub-section (3) (d), after “1992” insert “but any
other person referred to in sub-section (1) may
apply for an order under that Division and, for this
purpose, that Division applies in relation to such
persons as if any reference to an award were a
reference to a provision referred to in clause 22
(1) of Schedule 6 of this Act”;

(b) after sub-section (4) insert—

“(5) Clause 1 (c) of Schedule 1 of the **Employee
Relations Act 1992** applies in relation to
officers and temporary employees as if any
reference to an award were a reference to a
provision referred to in clause 22 (1) of

Schedule 6 of this Act and, in determining for the purposes of the **Employee Relations Act 1992** whether a term or condition of an award or employment agreement is less favourable than the minimum applicable, regard must be had to the whole remuneration package, including employment benefits, and not just the amount of remuneration payable in money.”.

(2) In section 83 of the Principal Act—

- (a) in sub-section (1) for “and temporary employees of the public service” **substitute** “and employees of the public service, Ministerial officers, Parliamentary advisers”;
- (b) for sub-section (4) (a) **substitute**—
 - “(a) officers and employees of the public service and Ministerial officers and Parliamentary advisers;”;
- (c) in sub-section (5) for “and temporary employees” **substitute** “and employees of the public service and Ministerial officers and Parliamentary advisers”.

32. Declared authorities

(1) In section 89 of the Principal Act—

- (a) in sub-section (1) for the definition of “authority” **substitute**—

“**authority**” means—

- (a) a public authority; or
- (b) a statutory office; or
- (c) any group of people employed in the service of the Crown; or
- (d) any TAFE college within the meaning of the **Vocational Education and Training Act 1990** or any council of a TAFE college; or

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- (e) any State owned enterprise within the meaning of the **State Owned Enterprises Act 1992.**"; and
 - (b) in sub-section (2) (b) for "position" substitute "body or of any office or position"; and
 - (c) in sub-section (4) after "descriptions of" (where secondly occurring) insert "bodies, offices or"; and
 - (d) after sub-section (5) insert—
 - "(6) An Order can only be made under this section in relation to a State owned enterprise at the request of the Minister responsible for the State owned enterprise."
- (2) In section 90 (3) of the Principal Act—
- (a) in paragraph (b) for "position" substitute "body, office or position"; and
 - (b) for paragraph (c) substitute—
 - "(c) an officer or member of staff or staff of a Department or the public service is to be taken to be a reference—
 - (i) in the case of a declared authority which is a statutory office, to the holder of that office; and
 - (ii) in any other case, to a person on the staff of the declared authority; and
 - (ca) a fixed term employee or temporary employee or casual employee or employee is to be taken to be a reference to a person on the staff of the declared authority; and"
- (3) In section 90 (4) of the Principal Act—
- (a) after "document" insert "(whether enacted or made before on or after the commencement of this Act)"; and
 - (b) after "declared authority" (where secondly occurring) insert "or the holder of a statutory office which is a declared authority".

33. *Return to public sector of term appointees*

- (1) In section 94 (1) of the Principal Act after “expires” insert—
“, but does not apply to a term appointee—
(a) who has attained the age of 65 years; or
(b) who has under another Act, an express entitlement to be appointed to, or eligibility to apply for or be appointed to, a position in the public service on ceasing to hold office.”.
- (2) In section 94 (2) (a) and (b) (ii) of the Principal Act after “public sector” insert “otherwise than on a fixed term, temporary or casual basis”.

34. *Operation of Part 9*

In section 95 of the Principal Act—

- (a) in sub-section (1) after “Act or law” insert “(whether enacted or made before, on or after the commencement of this Act)”; and
(b) in sub-section (2) after “Act concerned” insert “(whether enacted before, on or after the commencement of this Act)”.

35. *New Part 9A inserted*

After Part 9 of the Principal Act insert—

**“PART 9A—MINISTERIAL OFFICERS AND
PARLIAMENTARY ADVISERS**

95A. *Employment of Ministerial officers*

- (1) Subject to the directions of the Premier in respect of conditions of employment and termination of employment, a Minister may employ any person as a Ministerial officer for a term not exceeding 4 years specified in the person’s contract of employment.

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- (2) If a member of staff who is on leave of absence without pay is appointed as a Ministerial officer, that member shall for the purposes of the **State Superannuation Act 1988** be deemed to be on leave of absence with pay for the duration of that appointment.

95B. *Employment of Parliamentary advisers*

- (1) Subject to the directions of the Premier in respect of conditions of employment and termination of employment, the Leader of the Opposition may employ any person as a Parliamentary adviser for a term not exceeding 4 years specified in the person's contract of employment.
- (2) If a member of staff who is on leave of absence without pay is appointed as a Parliamentary adviser that member shall for the purposes of the **State Superannuation Act 1988** be deemed to be on leave of absence with pay for the duration of that appointment."

36. *New section 97A inserted*

After section 97 of the Principal Act insert—

"97A. *Evidence Act provisions to apply*

Sections 14, 15 and 16 of the **Evidence Act 1958** apply in relation to any investigation or proceedings which the Public Service Commissioner, a Department Head or any other person or body is authorised to conduct under this Act or the regulations in respect of a personal grievance or disciplinary matter as if the Commissioner, Department Head, person or body were a Board appointed by the Governor in Council."

37. Supreme Court—Limitation of jurisdiction

- (1) In section 105 of the Principal Act before “It is the intention” insert “(1)”.
- (2) At the end of section 105 of the Principal Act insert—
“(2) It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from entertaining actions for compensation in respect of which this Act, as amended by the **Public Sector Management (Amendment) Act 1993**, provides that no compensation is payable.”.

38. Regulations

In section 106 (2) of the Principal Act—

- (a) for paragraph (a) substitute—
“(a) providing for procedures for dealing with personal grievances (including empowering the Public Service Commissioner to appoint a Tribunal) in relation to decisions made under this Act or the regulations;
(aa) specifying what matters constitute personal grievances for the purposes of this Act and the regulations;”;
- (b) in paragraph (c)—
 - (i) after “officers” insert “, fixed term employees”;
 - (ii) for “10 penalty units” substitute “40 penalty units”;
 - (iii) for “classification” substitute “position or both”;
- (c) in paragraph (d)—
 - (i) after “officer” insert “, fixed term employee”;
 - (ii) for “10 penalty units” substitute “40 penalty units”; and
 - (iii) for “classification” substitute “position or both”;

- (d) in paragraph (k) before “temporary employees” insert “fixed term employees or”;
- (e) after paragraph (k) insert—
 - “(ka) the employment or termination of employment of fixed term employees or temporary employees;”;
- (f) in paragraph (q) after “position” insert—
 - “, including the timing of commencement of entitlements to salary in respect of the position”.

39. Consequential amendments

In the Principal Act—

- (a) in section 10 (2) (a) for “staff” substitute “officers and employees”; and
- (b) in section 11 (2) for “a member of staff” substitute “an officer or employee”; and
- (c) in section 14 for “members of staff” substitute “officers and employees”; and
- (d) in section 15 for “members of staff” substitute “officers and employees”; and
- (e) in section 18 (2) for “a member of staff” substitute “an officer or employee”; and
- (f) in section 39—
 - (i) for “A member of staff” substitute “An officer or employee”; and
 - (ii) for “the member of staff” substitute “the officer or employee”;
- (g) in section 72 (1) (a) and (c) for “member of staff” substitute “officer or employee”; and
- (h) in section 75—
 - (i) in sub-section (1) for “member of staff” substitute “officer or employee”; and
 - (ii) in sub-section (2) for “a member of staff” substitute “an officer or employee”;
- (i) in section 103, after “officer” insert “, fixed term employee”.

40. Repeal of spent provisions

In the Principal Act—

- (a) sections 109, 110, 111, 112 and 114 are **repealed**; and
- (b) in Schedule 6, clause 17 is **repealed**; and
- (c) Schedule 7 is **repealed**.

41. Schedule 4

(1) In Schedule 4 of the Principal Act—

- (a) in clause 1 after “an officer” **insert** “, fixed term employee or temporary employee”; and
- (b) in clause 2 (1) after “officer” (where twice occurring) **insert** “, fixed term employee”; and
- (c) in clauses 4 and 5 after “officer” (wherever occurring) **insert** “, fixed term employee”; and
- (d) in clause 6 after “officers” **insert** “, fixed term employees”; and
- (e) in clause 7 (1) and (3), 8 (1) and (2) and 9 after “officer” (wherever occurring) **insert** “, fixed term employee”; and
- (f) in clause 10—
 - (i) in sub-clause (1) (b) for “a temporary employee” **substitute** “a fixed term employee or temporary employee”; and
 - (ii) after “the officer” (wherever occurring) **insert** “, fixed term employee”;
- (g) in clause 10 after “officer” **insert** “, fixed term employee”; and
- (h) in clause 13 for “a temporary employee” **substitute** “a fixed term employee or temporary employee”; and
- (i) in clause 14 after “officer” **insert** “, fixed term employee”.

(2) In Part 4 of Schedule 4 of the Principal Act in the column of clause 19 headed “*Cities*”, after “Pahran” **insert**—

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“Preston
Richmond
Ringwood
St. Kilda
Sandringham
South Melbourne
Springvale
Sunshine
Waverley
Williamstown”.

42. Transitional

- (1) In clause 6 of Schedule 6 of the Principal Act—
 - (a) in paragraph (c) after “Unit” insert “(except one specified in Schedule Three A of the **Public Service Act 1974**)”;
 - (b) after paragraph (c) insert—

“(ca) a reference to an Administrative Unit specified in Schedule Three A of the **Public Service Act 1974** must be read as a reference to an office specified in section 17 (1) of this Act;”.
- (2) In clause 6 (h) of Schedule 6 of the Principal Act after “Act” insert “and from the commencement of section 42 (2) of the **Public Sector Management (Amendment) Act 1993** to an employee under this Act”.
- (3) After clause 6 of Schedule 6 of the Principal Act insert—

“6A. References to temporary employee

On the commencement of section 42 (3) of the **Public Sector Management (Amendment) Act 1993**, in any Act other than this Act, or in any subordinate instrument made under any Act, a reference to a temporary employee under this Act must be read as a reference to an employee under this Act.”.

- (4) In clause 10 (6) of Schedule 6 of the Principal Act, after “executive officer” insert “or an executive position”.

PART 3—AMENDMENTS TO OTHER ACTS

43. *Employee Relations Act 1992*

- (1) In section 7 (4) of the **Employee Relations Act 1992** for “and temporary employees” substitute “and employees”.
- (2) In section 7 (5) of the **Employee Relations Act 1992** for “executive officer within the meaning of the **Public Sector Management Act 1992**” substitute “executive officer under a contract of employment within the meaning of Part 4 of the **Public Sector Management Act 1992**”.

44. *Freedom of Information Act 1982*

In the **Freedom of Information Act 1982**—

- (a) after section 64 (3) (i) insert—
- “(ia) particulars of any difficulties encountered in the administration of this Act in relation to matters of staffing and costs;”;
- (b) section 65 is repealed; and
- (c) for section 67 (3) substitute—
- “(3) A Minister shall in his or her report under section 64 include advice regarding the practicability of extending the period of retrospective access provided under sub-section (2) of this section.”.

45. *Gaming Machine Control Act 1991*

For section 113 (1) of the **Gaming Machine Control Act 1991** substitute—

- “(1) Subject to the **Public Sector Management Act 1992** there may be appointed or employed any officers and employees that are required to enable the Commission to exercise its functions.”

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Act No. 97/1993

46. Superannuation (Public Sector) Act 1992

- (1) In the **Superannuation (Public Sector) Act 1992**—
 - (a) in section 7 (3) for “that statutory superannuation scheme” **substitute** “a statutory superannuation scheme”;
 - (b) in section 11 after “retrenched” **insert** “and who has not attained the minimum age for retirement”;
 - (c) in section 12 (2) (b) after “package” **insert** “within the meaning of Part 4 of the **Public Sector Management Act 1992**”.
- (2) In section 17 of the **Superannuation (Public Sector) Act 1992**—
 - (a) in sub-section (1) for “3 (1)” **substitute** “2 (1)”; and
 - (b) in sub-section (2) for “3 (2)” **substitute** “2 (2)”.

47. Freedom of Information (Amendment) Act 1993

In section 24 of the **Freedom of Information (Amendment) Act 1993** for “After section 65” **substitute** “Before section 66”.

NOTES

1. *Minister’s second reading speech*—
Legislative Assembly: 15 September 1993
Legislative Council: 26 October 1993
2. The long title for the Bill for this Act was “A Bill to amend the **Public Sector Management Act 1992** and certain other Acts and for other purposes.”.
3. **Constitution Act 1975:**
Section 85 (5) statement:
Legislative Assembly: 15 September 1993
Legislative Council: 26 October 1993
Absolute majorities:
Legislative Assembly: 20 and 21 October 1993
Legislative Council: 27 October 1993
4. Section headings appear in bold italics and are not part of the Act.
 (See **Interpretation of Legislation Act 1984**.)