

TASMANIA

STATE SERVICE AMENDMENT (PERFORMANCE) BILL 2011

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STATE SERVICE AMENDMENT (PERFORMANCE) BILL 2011

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
22 June 2011

*(Brought in by the Premier, the Honourable Larissa Tahireh
Giddings)*

A BILL FOR

An Act to amend the *State Service Act 2000*

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *State Service Amendment (Performance) Act 2011*.

2. Commencement

This Act commences on a day to be proclaimed.

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3. Principal Act

In this Act, the *State Service Act 2000** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended by inserting after the definition of “officer” the following definition:

“performance management plan” means a professional development and performance management plan prepared under section 34(1)(g);

5. Section 7 amended (State Service Principles)

Section 7(1) of the Principal Act is amended by omitting paragraph (j) and substituting the following paragraphs:

- (j) the State Service plans for and promotes effective performance management in which Heads of Agencies, officers and employees are accountable for the performance of their functions and exercise of their powers;
- (ja) there is an expectation that officers and employees –

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- (i) will perform to the standard and requirements identified in the performance management plan relating to the officer or employee; and
- (ii) will be responsive to Government priorities; and
- (iii) will deliver quality services;

6. Section 34 amended (Functions and powers of Heads of Agencies)

Section 34(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (g) and substituting the following paragraphs:
 - (g) to ensure a performance management plan is prepared in consultation with an officer or employee employed in that Agency in relation to the officer or employee in accordance with systems established by that Agency; and
 - (ga) to develop and implement effective performance management and associated development for all officers and employees employed in that Agency to enable those officers

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and employees to plan and achieve the standard and requirements identified in the performance management plan relating to the officer or employee; and

(b) by omitting paragraph (i) and substituting the following paragraph:

(i) to assist an officer or employee employed in that Agency to undertake such training, education and development as is identified in the performance management plan relating to the officer or employee to ensure the officer or employee achieves the standard and requirements identified in that plan in the performance of the duties assigned to them and for which they are accountable; and

7. Section 36 amended (Annual reports by Heads of Agencies)

Section 36(1) of the Principal Act is amended by inserting after paragraph (b) the following paragraph:

(ba) the effectiveness within that Agency of the development and implementation of performance management; and

8. Section 44 amended (Termination of employment of officers and employees)

Section 44(3) of the Principal Act is amended by inserting after paragraph (c) the following paragraph:

- (ca) that the officer or employee is not performing his or her functions to the standard and requirements identified in the performance management plan relating to the officer or employee;

9. Part 7A inserted

After section 51 of the Principal Act, the following Part is inserted:

PART 7A – MANAGING FOR PERFORMANCE

51A. Role and responsibility of Head of Agency in relation to managing for performance

- (1) The Head of Agency is to ensure that performance management and development in that Agency is integrated with employment practices in, and the business direction of, that Agency to enable quality services to be delivered across the State Service.
- (2) The Head of Agency is to ensure that performance management and development is focused on the advancement of the business direction of

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that Agency to enable quality services to be delivered across the State Service.

- (3) The Head of Agency is to ensure that –
- (a) all officers and employees employed in that Agency participate in performance management programs and systems established in that Agency; and
 - (b) all officers and employees employed in that Agency understand the importance of, and work to achieve performance to, the standard and requirements identified in the performance management plan relating to the officer or employee in the carrying out of their functions and exercise of their powers; and
 - (c) effective performance management and supporting development systems and programs are established and implemented for all officers and employees employed in that Agency; and
 - (d) information relating to performance management and supporting development systems and programs established in that Agency are made available to all

officers and employees employed
in that Agency.

**51B. Role and responsibility of officers and
employees in participating in, and managing
for, performance**

An officer or employee employed in an
Agency is to –

- (a) actively prepare for and
participate in performance
management programs and
systems established in that
Agency; and
- (b) perform his or her functions to
the standard and requirements
identified in a performance
management plan relating to the
officer or employee; and
- (c) undertake any training, education
and development that is identified
from his or her participation in
the performance management
programs and systems established
in that Agency as being relevant
for the development of that
officer or employee –

to ensure that –

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- (d) he or she is accountable for the work produced by the officer or employee; and
- (e) he or she is responsive to Government priorities in the performance or exercise of his or her functions or powers; and
- (f) he or she delivers quality services in the performance or exercise of his or her functions or powers.

51C. Underperformance, &c., of officer or employee

- (1) The Minister may issue a Ministerial Direction relating to –
 - (a) the responsibilities of the Head of Agency in relation to performance management and reporting on performance management; and
 - (b) the action that may be taken by the Head of Agency in relation to an officer or employee who is not performing his or her functions to the standard and requirements identified in the performance management plan relating to the officer or employee, which may include recommending to the Minister the termination of the

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employment of the officer or employee; and

(c) the action that may be taken by the Head of Agency in recognising performance greater than the standard and requirements identified in the performance management plan relating to the officer or employee; and

(d) any matters contained in this Part.

(2) If the Head of Agency is of the opinion that an officer or employee employed in that Agency is not performing his or her functions to the standard and requirements identified in the performance management plan relating to the officer or employee, the Head of Agency is to take action with respect to the officer or employee in accordance with the Ministerial Direction issued under subsection (1).

(3) If action is taken in accordance with the Ministerial Direction issued under subsection (1) with respect to an officer or employee, and the Head of the Agency in which the officer or employee is employed is of the opinion that the performance of the officer or employee is not to the standard and requirements identified in the performance management plan relating to the officer

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or employee, the Head of Agency is to, by notice in writing, inform the officer or employee –

- (a) that in the opinion of the Head of Agency the performance of the officer or employee is not to the standard and requirements identified in the performance management plan relating to the officer or employee; and
 - (b) that the Head of Agency intends to recommend to the Minister termination of the employment of the officer or employee in the State Service; and
 - (c) that the officer or employee may within 14 days of the date of the notice respond to the Head of Agency in relation to the matters contained in the notice.
- (4) The Head of Agency must not give a notice to an officer or employee under subsection (3) unless the officer or employee has been given an opportunity in accordance with the Ministerial Direction issued under subsection (1) to improve his or her performance.
- (5) The Head of Agency may, not before the expiration of 14 days from the date of the notice, after considering the response of the officer or employee, take action in

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relation to the officer or employee which may include recommending to the Minister the termination of the employment of the officer or employee in the State Service.

10. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.