

# CLAUSE NOTES

## STATE SERVICE AMENDMENT (PERFORMANCE) 2011

### Clause 1: Short Title

Clause 1 is a formal provision specifying the short title of the proposed Act.

### Clause 2: Commencement

Clause 2 is a formal provision specifying that the Bill will commence on the day that it is proclaimed.

### Clause 3: Principal Act

Clause 3 identifies that the Principal Act is the *State Service Act 2000*.

### Clause 4 Section 3 amended (Interpretation)

Clause 4 aids in the interpretation of this Amendment Bill by defining the key term “performance management plan”, which is referred to consistently in the Amendment. The performance management plan document details: what the expectations are; how the evaluation is conducted; what information is used to validate performance assessments; and that such assessments must be fair and justified.

### Clause 5 Section 7 amended (State Service Principles)

Clause 5 amends the Principal Act to identify the accountability, expectation of performance, responsiveness to Government priorities and quality service delivery required from officers and employees employed within the State Service.

Amended Subclause (j) identifies that effective performance management will be planned for and effectively promoted across the State Service to ensure best effect. It also specifically identifies that Heads of Agencies, officers and employees are accountable for their work performance.

Subclause (ja) sets out the expectation that officers and employees will perform to the required standard identified in their respective performance management plan. This is an important element as it identifies performance expectation, and the obligations of officers and employees.

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

Clause 6 amends Section 34(1) - (g) of the Principal Act.

The new clause (g) identifies the requirement of all Heads of Agencies to ensure a performance management plan is developed in consultation with the officer or employee, and is in accordance with the Agency's systems and procedures.

It clearly identifies that the performance management plan is central to the assessment of work performance.

Subclause (ga) requires all Heads of Agencies to develop, and implement, effective performance management activities in order to assess officers' and employees' performance and, where required, to develop their ability/competence to reach agreed performance.

Subclause (i) places an obligation on Heads of Agencies to enable officers and employees to undertake relevant training, education and development activities that will assist them to perform to the required level. The intent of the clause is to ensure support structures are in place to provide for performance success.

## Clause 7 Section 36 amended (Annual Reports by Heads of Agencies)

Clause 7 inserts an explicit requirement that an Agency periodically assesses how effectively its performance systems are operating as a tool for the assessment of work performance as well as to ensure best work performance. This provides for transparency and accountability.

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

Clause 8 inserts a provision that allows for the termination of an officer's or employee's employment on the grounds of underperformance. The standards and requirements are identified and agreed to in the performance management plan.

## Clause 9 Part 7A inserted

## Part 7A – Managing for Performance

Clause 9 inserts a new part, the intent of which is to identify the roles and responsibilities of Heads of Agencies, officers and employees in relation to performance, managing for performance, underperformance and due process if termination of employment is recommended.

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

Sub clause (1) provides that the Head of Agency is to ensure that performance management programs and systems are integrated into, and aligned with, their Agency's business direction, systems and employment practices, thereby enabling quality services delivery across the State Service.

Subclause (2) provides an obligation for the Head of Agency to ensure that performance management programs and systems are clearly focused to progress the Agency's business direction, thereby contributing to quality service delivery across the State Service.

Subclause (3) identifies the obligation that the Head of Agency is to establish and implement effective performance management programs and systems and to ensure development support is in place. The intent of this is to manage for performance and to establish a performance management culture.

### 51B Role and Responsibility of officers and employees in participating in, and managing for, performance

Clause 51B identifies the expectations and obligations of officers and employees in relation to: the performance management plan; the achievement of performance identified in that plan; the processes which will assist in achieving performance; and why this is required. This expectation and obligation also equally applies to those with supervisory and managerial responsibilities.

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

Clause 51(C)(1)(a)(b)(c) provides the power for the Minister responsible for administering the State Service Act, through a Ministerial Direction, to prescribe in more detail the responsibilities and actions to be taken by the Head of Agency in relation to: implementing and reporting on performance management; for those officers and employees not achieving required performance; and for those officers and employees that exceed it.

51(C) (2) provides the authority for the Head of Agency to commence action in line with the Ministerial Direction for underperformance of officers and employees.

51(C) (3)(a)(b)(c) provides for enacting decision making with respect to underperforming officers and employees, describes the action to be taken, and provides the timeframe for a response.

51(C) (4) ensures that natural justice principles are adhered to and imposes a condition for providing notice to the officer or employee.

51(C) (5) enables the Head of Agency to take action to manage a process in relation to the termination of employment of an officer or employee.

## 10 Repeal of Act

Identifies the date for repeal.