

CONFIDENTIAL
CABINET DECISION

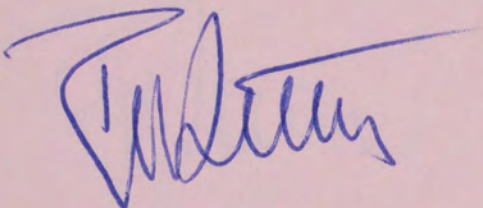
No. 6965

Submission No.: 5950

Title: PROPOSED PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT

Cabinet approved -

- (a) the drafting of a Public Sector Employment and Management Bill incorporating the following principles:
 - (i) as far as practicable, application to all public sector employees;
 - (ii) the inclusion of objectives relating to accepted personnel and management practices, ethical values and conduct of employees;
 - (iii) the replacement of the Office of the Public Service Commissioner by the Office of a Commissioner for Public Employment whose functions, as the statutory employer, will be concerned with issues of corporate principles and policies rather than with departmental operational matters;
 - (iv) the Commissioner's powers to be exercised only after consultation with Chief Executive Officers;
 - (v) the clear delineation of the functions, responsibilities and accountability of Chief Executive Officers;
 - (vi) the devolution, wherever possible, of management responsibility to Chief Executive Officers and the Commissioner for Public Employment;



R. A. SETTER

Secretary to Cabinet.

16 August 1991

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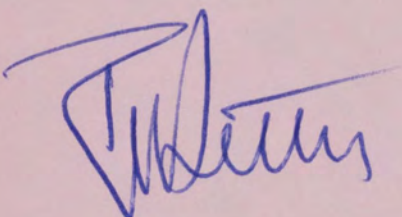
No. 6965

2.

Submission No.: 5950

Title: PROPOSED PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT

- (vii) staff number control to be integrated into the budget system;
 - (viii) the establishment of a management review capacity;
 - (ix) the establishment of a more flexible employment and tenure arrangements;
 - (x) the introduction of specific provisions to cover inability and poor performance;
 - (xi) streamlined disciplinary (including dismissal) provisions; and
 - (xii) less cumbersome appeal provisions;
- (b) that the Co-ordination Committee provide advice during the drafting process on matters of policy and administrative detail; and
- (c) that a working party comprising representatives of the Department of the Chief Minister, Department of Law and the Public Service Commissioner prepare the initial draft bill.



R. A. SETTER

Secretary to Cabinet.

16 August 1991

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FOR CABINET

SUBMISSION No:5950.....

Title:	PROPOSED PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT
Minister	SHANE L. STONE MINISTER FOR EMPLOYMENT AND TRAINING
Purpose:	To seek approval for principles to form the basis of proposed legislation.
Relation to existing policy:	Consistent with existing policy.
Timing/ legislative priority:	At the discretion of the Minister.
Announcement of decision, tabling, etc:	Not applicable.
Action required before announcement:	Not applicable.
Staffing implications, numbers and costs, etc:	NIL
Total cost:	NIL

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Department/Authority ~~XXXXXX~~ OF THE CHIEF MINISTER

COMMENT ON CABINET SUBMISSION No.

TITLE: PROPOSED PUBLIC SECTOR EMPLOYMENT AND
..... MANAGEMENT ACT
.....

COMMENTS:

Preparation of a Bill incorporating the principles recommended is supported.

Hugh Bowers.

SIGNED: HUGH BOWERS

DESIGNATION: SECRETARY

DATE: - 2 AUG 1991

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Department/Authority.....NORTHERN TERRITORY TREASURY.....

COMMENT ON CABINET SUBMISSION No.

TITLE:PROPOSED PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT.....
.....
.....

COMMENTS:

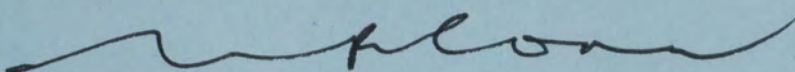
The general thrust of the Submission relating to the devolution of responsibility and authority to Chief Executive Officers, the simplification of human resource management procedures and increased staff mobility across the Public Sector is supported.

Some aspects of the Submission, such as the role of the proposed Commissioner for Public Employment in a management review capacity, the extent of the Commissioner's involvement in operational matters, and the mechanism required to control overall staff numbers will need detailed consideration in the drafting process.

If staffing numbers are to be controlled via the Budgetary process this should be reflected in financial legislation rather than the proposed Public Sector Employment and Management Act.

These issues and any difficulties could be resolved by ensuring that major user Departments, including at least the central agencies, are involved with representatives of the Office of the Public Service Commissioner in determining the Drafting Instructions for the proposed legislation.

In addition Cabinet should be provided with a detailed comparative analysis of the current and proposed legislation highlighting the changes and improvements to be implemented.



SIGNED: N R CONN

DESIGNATION: UNDER TREASURER

DATE: / AUGUST 1991

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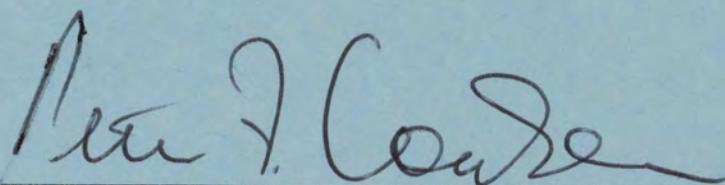
CONFIDENTIAL**Department/Authority:** LAW**COMMENT ON CABINET SUBMISSION NO.****TITLE:** PROPOSED PUBLIC SECTOR EMPLOYMENT AND MANAGEMENT ACT**COMMENTS:**

In relation to recommendation 1(a)(iii) (that the Office of the Public Service Commissioner be replaced by the Office of a Commissioner for Public Employment) it will be necessary for the provision creating this office to be drafted having regard to the provisions of Section 53(6)(b) of the Northern Territory (Self-Government) Act.

The Department of Law has, on numerous occasions, provided advice as regards problems with the disciplinary provisions of the existing legislation, as well as the issue of whether the common law applies in addition to the procedures under the Act. This advice should be considered in the development of drafting instructions for the new legislation. This Department should be involved in the development of drafting instructions for the new legislation.

LEGAL RESOURCE IMPLICATIONS:

The Submission does not appear to raise any additional legal resource implications at this point in time.



SIGNED: Peter Conran
DESIGNATION: Secretary, Department of Law
DATE: 31 July 1991

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RECOMMENDATION

1. It is recommended that Cabinet approves:
 - (a) the drafting of a Public Sector Employment and Management Bill incorporating the following principles:
 - (i) as far as practicable, application to all public sector employees;
 - (ii) the inclusion of objectives relating to accepted personnel and management practices, ethical values and conduct of employees;
 - (iii) the replacement of the Office of the Public Service Commissioner by the Office of a Commissioner for Public Employment whose functions, as the statutory employer, will be concerned with issues of corporate principles and policies rather than with departmental operational matters;
 - (iv) the Commissioner's powers to be exercised only after consultation with Chief Executive Officers;
 - (v) the clear delineation of the functions, responsibilities and accountability of Chief Executive Officers;
 - (vi) the devolution, wherever possible, of management responsibility to Chief Executive Officers and the Commissioner for Public Employment;

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- (vii) staff number control to be integrated into the budget system;
 - (viii) the establishment of a management review capacity;
 - (ix) the establishment of more flexible employment and tenure arrangements;
 - (x) the introduction of specific provisions to cover inability and poor performance;
 - (xi) streamlined disciplinary provisions; and
 - (xii) less cumbersome appeal provisions.
- (b) that the Co-ordination Committee provide advice during the drafting process on matters of policy and administrative detail.

BACKGROUND

2. It is widely recognised that the provisions of the *Public Service Act*, the *Teaching Service Act* and other relevant legislation affecting public sector employees have been interpreted as being deficient, inadequate and, in some instances, anomalous.
3. It has been identified that there is a need to increase the Government's capacity to deploy and manage staff as circumstances demand. The separate employment arrangements currently in place (Public Service, Teaching Service, Power and Water Authority, other authorities) pose practical barriers to meeting this objective.
4. In addition, Chief Executive Officers have identified the following deficiencies in the current legislation:

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- . no delineation of the respective functions and accountability of Chief Executive Officers and the Public Service Commissioner;
 - . insufficient delegation of authority, responsibility and accountability to Chief Executive Officers in operational matters;
 - . an ambiguous provision relating to the management review function;
 - . cumbersome disciplinary provisions that do not provide for speedy resolution of cases;
 - . lack of flexibility in relation to appointment of staff; and
 - . appeal provisions unnecessarily complex that can hinder Chief Executive Officers in the management of their organisations.
5. The need for new and comprehensive legislation was identified by the Chief Minister in his election policy speech in October 1990.

CONSIDERATION OF THE ISSUES

6. Most public sector organisations in Australia have been the subject of reform and new legislation since 1984. There is a wealth of sound, modern practice on which to base new legislation for the Territory.
7. In order to provide for flexible and practical management structures to meet the objectives and priorities of Government now and in future, it would seem that new legislation may be appropriate.

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8. It may be argued that the current Act could be amended to remedy the enunciated defects. However, the resultant Act and amendments would be difficult for personnel practitioners to interpret in a meaningful way.
9. In addition, such amendments would not necessarily be able to cover all public sector employees.
10. On balance, it is considered that new legislation is the most logical and effective solution.
11. It is proposed that the following major features should be incorporated in the proposed legislation:
 - . all areas of government employment should be covered so as to maximise mobility and flexibility and to achieve consistency of treatment of employees;
 - . personnel policies, ethics, standards of conduct and the respective rights of management and employees should be included so as to provide a framework of principles and policies against which performance can be measured;
 - . the respective responsibilities of Ministers, Chief Executive Officers and the central personnel agency, that is, the Commissioner for Public Employment, should be clearly delineated so that the authority, responsibility and accountability of all parties is clear.
 - . the Commissioner's functions, as the statutory employer, should be confined to matters of principle and policy, and the protection of the Government's corporate needs. As a complement to this provision, there should be maximum devolution (as distinct from delegation) of

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operational authority to Chief Executive Officers;

- . the Commissioner's functions should be exercised through broadly-based Employment Instructions, rather than through prescriptive General Orders. While these Instructions would be binding on Chief Executive Officers, the Commissioner would be obliged to consult with Chief Executive Officers before issuing them, or any other directions. Such an arrangement should achieve a balance between individual departmental needs and the corporate needs of Government;
- . a management review capacity should be maintained. Provisions in the current legislation have been interpreted as vague and uncertain, and new legislation presents an ideal opportunity to clarify the use of sound performance measurement mechanisms;
- . staff number control should be directly related to the budget process. Such an arrangement would formalise the Treasury method of budgeting for average staffing levels, and would also remove most of the unnecessary administrative arrangements which have traditionally burdened this issue;
- . more flexible arrangements relating to tenure, for example, contract and term appointments, should be introduced together with improved provisions for the transfer, secondment and redeployment of staff. Many barriers to the mobility of staff still exist, thus inhibiting effective and speedy deployment action;

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- . provisions relating to inability and poor performance are required, as is the need for simpler and more practical disciplinary processes. The responsibility for the application of these provisions should rest with Chief Executive Officers;
 - . the appeals system should be simplified and streamlined. It would seem that there is a need to retain appeals generally, so as to ensure fair and equitable treatment. However, improvements, such as promotion appeals being restricted to applicants, and appeals being limited to positions below Executive Officer Level One, are desirable.
12. All these matters, and a range of others associated with them, have been canvassed by the Public Service Commissioner with most Chief Executive Officers and their senior managers in the last three months. While some differences of opinion over some aspects of the proposals exist, it would seem that there is general support for the thrust of the principles as outlined in this Submission.

OPTIONS

13. (a) Make no legislative changes.

The need for amendments to the existing legislation has been identified by Chief Executive Officers. The current legislation inhibits, to a comparatively large extent, effective and efficient management of the Government's human resources.

This option is not preferred.

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(b) Amend current legislation so as to remedy the identified deficiencies.

What may result, should Cabinet agree to this option, is an unwieldy piece of legislation that may be difficult to interpret. In addition, such amendments would not necessarily be able to encompass the public sector as a whole.

This option is not preferred.

(c) Approve a new Public Sector Employment and Management Act.

This course of action would provide a method of remedying all identified deficiencies, and the opportunity to clarify the roles of all parties affected by such legislation. In addition, one piece of legislation would cover all public sector employees, and a number of Acts could be repealed, in whole or in part.

PUBLIC IMPACT OF THE RECOMMENDATIONS

14. The proposal is likely to attract strong support from the community in general, particularly those who have an interest in effective and efficient public administration.
15. Some opposition from public sector unions to some aspects of the proposals, particularly those relating to the devolution of authority to Chief Executive Officers, may be expected.

FINANCIAL CONSIDERATIONS

16. No additional administrative costs will be incurred by the proposal. In the long term, the legislation should provide the opportunity for streamlining and

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simplification of administrative arrangements, which may result in savings. The reduced operational role of the Public Service Commissioner's Office is consistent with the decisions already made through the Estimates Review Committee process.

REGULATORY IMPACT

17. The current regulations, by-laws and General Orders will eventually have to be repealed, in favour of regulations and Employment Instructions. The net result will be less regulation by the Commissioner.

EMPLOYMENT AND INDUSTRIAL RELATIONS

18. Employment levels will not be directly or immediately affected. The reduction, in the long term, of administrative burdens may impact on staff numbers. It is likely that many administrative jobs would become less tedious.
19. Some unions may be expected to oppose some aspects of the proposals.

COMMONWEALTH, STATE AND LOCAL GOVERNMENT RELATIONS

20. Not applicable.

CO-ORDINATION AND CONSULTATION

21. The Public Service Commissioner distributed a briefing paper and outline of the proposals in March 1991 to Chief Executive Officers and unions. Extensive discussions with most Chief Executive Officers and their senior managers have subsequently been held. The Public Sector unions are yet to respond to the briefing paper.

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LEGISLATION

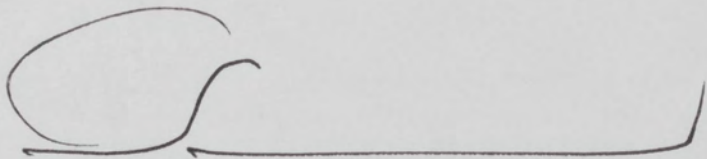
22. A new Public Sector Employment and Management Act will be required to be drafted, should Cabinet approve the recommendations.

PUBLICITY

23. At the discretion of the Minister.

TIMING

24. At the discretion of the Minister.

A handwritten signature in black ink, appearing to read 'S. L. Stone', with a long horizontal line extending to the right.

SHANE L STONE

MINISTER FOR EMPLOYMENT AND TRAINING

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