



Public Service Amendment Act 2024

No. 44, 2024

**An Act to amend the *Public Service Act 1999*, and
for other purposes**

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Public Service Amendment Act 2024

No. 44, 2024

An Act to amend the *Public Service Act 1999*, and for other purposes

[Assented to 11 June 2024]

The Parliament of Australia enacts:

1 Short title

This Act is the *Public Service Amendment Act 2024*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with
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column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	11 December 2024

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Public Service Act 1999

1 Section 7

Insert:

Agency website means a website maintained by an Agency.

State of the Service report means a report referred to in subsection 44(1).

2 At the end of section 10

Add:

Stewardship

- (6) The APS builds its capability and institutional knowledge, and supports the public interest now and into the future, by understanding the long-term impacts of what it does.

6 Section 19

Omit “An Agency Head is not subject to direction by any Minister”, substitute “A Minister must not direct an Agency Head”.

7 At the end of Part 3

Add:

19A Agency Heads to implement measures to create a work environment that enables decisions to be made by APS employees at lowest appropriate classification

- (1) The Agency Head of an Agency must implement measures that create a work environment within the Agency that enables decisions to be made by APS employees with classifications that the Agency Head considers are the lowest appropriate for those decisions.

- (2) For the purposes of subsection (1), an Agency Head must have regard to:
 - (a) the work level standards for classifications (if any) that are referred to in the Classification Rules; and
 - (b) any other matter the Agency Head considers relevant.
- (3) A failure to comply with subsection (1) does not affect the validity of a decision.

8 At the end of Division 1 of Part 5

Add:

44A Capability reviews

Capability review of Agencies other than the Australian Public Service Commission

- (1) The Commissioner may, at any time, cause a capability review of an Agency (other than the Australian Public Service Commission) to be undertaken under this subsection.
- (2) However, the Commissioner must cause a capability review of each Department, Services Australia and the Australian Taxation Office to be undertaken under subsection (1) at least once every:
 - (a) 5 years; or
 - (b) if the Commissioner determines, in writing, another number of years in relation to the Agency—that other number of years.

Capability review of Australian Public Service Commission

- (3) The Secretary of the Prime Minister's Department must cause a capability review of the Australian Public Service Commission to be undertaken under this subsection at least once every:
 - (a) 5 years; or
 - (b) if the Secretary determines, in writing, another number of years—that other number of years.

Capability review requirements

- (4) If a person causes a capability review of an Agency to be undertaken under subsection (1) or (3), the person must:
- (a) notify the Agency Head of the Agency, in writing, of the review; and
 - (b) appoint one or more persons, in writing, to undertake the review; and
 - (ba) ensure that the person or persons who undertake the review consult the Agency Minister of the Agency in undertaking the review; and
 - (c) ensure that the person or persons who undertake the review give a written report of the review to:
 - (i) the person who caused the review to be undertaken; and
 - (ii) the Agency Head of the Agency; and
 - (ca) decide whether to do either of the following under subsection (11):
 - (i) remove material from the copy of the report that is to be published;
 - (ii) not publish the report; and
 - (cb) give the Public Service Minister:
 - (i) the report; and
 - (ii) notice of the decision mentioned in paragraph (ca); and
 - (iii) if material is removed as mentioned in subparagraph (ca)(i)—the copy of the report that is to be published; and
 - (d) unless a decision not to publish the report is made under subsection (11)—ensure that the report or the copy mentioned in subparagraph (ca)(i) of this subsection (as the case may be) is published on an Agency website as soon as practicable after the report is given to the Public Service Minister.
- (5) The Agency Head of an Agency must cooperate with a capability review of the Agency under subsection (1) or (3).
- (6) A report of a capability review under subsection (1) or (3):
- (a) must include one or more findings; and
 - (b) may include one or more recommendations.
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- (7) If one person is appointed under paragraph (4)(b) to undertake a capability review, the person must not be:
 - (a) an APS employee; or
 - (b) an Agency Head.
- (8) If more than one person is appointed under paragraph (4)(b) to undertake a capability review, at least one of the persons must not be:
 - (a) an APS employee; or
 - (b) an Agency Head.

Report to be tabled

- (8A) Subject to subsections (8B) and (8C), the Public Service Minister must cause a copy of a report of a capability review under subsection (1) or (3) to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.
- (8B) If the person who caused the capability review to be undertaken has removed material under subsection (11), the copy of the report that the Public Service Minister must cause to be tabled for the purposes of subsection (8A) is the copy that is, or is to be, published.
- (8C) Subsection (8A) does not apply if the person who caused the capability review to be undertaken has decided under subsection (11) not to publish the report.

Determinations of longer or shorter review periods

- (9) A person must not make a determination under paragraph (2)(b) or (3)(b) unless satisfied that there are exceptional circumstances.
- (10) A determination made under paragraph (2)(b) or (3)(b) is not a legislative instrument.

Exception to requirement to publish

- (11) For the purposes of paragraph (4)(ca), a person who causes a capability review into an Agency to be undertaken under

subsection (1) or (3) and receives a written report of the review may:

- (a) remove material from the copy of the report that is to be published; or
 - (b) decide not to publish the report;
- if publishing the material or the report (as the case may be) would, or could reasonably be expected to, damage:
- (c) the security of the Commonwealth; or
 - (d) the defence of the Commonwealth; or
 - (e) the international relations of the Commonwealth.

Other capability reviews

- (12) This section does not prevent the Agency Head of an Agency from conducting a capability review otherwise than under subsection (1) or (3).

44B Action plans

- (1) If:
 - (a) a capability review of an Agency is undertaken under subsection 44A(1) or (3); and
 - (b) a written report of the review is given to the Agency Head of the Agency under subparagraph 44A(4)(c)(ii);
 then the Agency Head must, within 90 days after the report is given to the Agency Head:
 - (c) prepare a written action plan that includes the Agency Head's response to the findings included in the report; and
 - (d) publish the action plan on an Agency website.
 - (2) However, the person who caused the capability review into the Agency to be undertaken may, by writing:
 - (a) authorise the Agency Head to remove specified material from the copy of the action plan that is published; or
 - (b) exempt the Agency Head from publishing the action plan;
 if publishing the material or the action plan (as the case may be) would, or could reasonably be expected to, damage:
 - (c) the security of the Commonwealth; or
 - (d) the defence of the Commonwealth; or
-

(e) the international relations of the Commonwealth.

9 At the end of subsection 64(3)

Add:

; (f) such other functions as are conferred on the Secretaries Board by this Act.

10 At the end of Part 8

Add:

64A Long-term insights reports

- (1) The Secretaries Board may cause long-term insights reports to be prepared in relation to one or more matters of public policy.
- (2) The purpose of a long-term insights report is to make available:
 - (a) information about medium-term and long-term trends, risks, and opportunities that affect or may affect Australia or Australian society; and
 - (b) information and impartial analysis relating to those trends, risks and opportunities.
- (3) The preparation of a long-term insights report must make provision for public consultation.
- (3A) As soon as practicable after a long-term insights report has been completed, the Secretaries Board must give the report to the Public Service Minister.
- (3B) The Public Service Minister must cause a copy of a long-term insights report to be tabled in each House of the Parliament within 15 sitting days of that House after the report is given to the Minister.
- (4) As soon as practicable after a long-term insights report has been given to the Public Service Minister, the report must be published, in the manner and form the Secretaries Board considers appropriate:
 - (a) on an Agency website; and
 - (b) if the Secretaries Board considers appropriate—elsewhere.

- (5) An Agency may assist in the preparation of a long-term insights report.
- (6) The Secretaries Board must cause at least one long-term insights report to be prepared each financial year.

11 At the end of subsection 78(8)

Add:

; or (c) a member of the Australian Defence Force.

12 After section 78A

Insert:

78B Australian Public Service Employee Census—results and action plans

Scope

- (1) This section applies if a survey known as an Australian Public Service Employee Census is conducted in a financial year.

Preparation of action plan

- (2) The Agency Head of an Agency must:
 - (a) prepare an action plan that sets out the Agency Head's response to the census results, so far as those results relate to the Agency; and
 - (b) do so as soon as practicable after those results are made known to the Agency Head.

Publication of census results and action plan

- (3) The Agency Head must:
 - (a) publish:
 - (i) the census results, so far as those results relate to the Agency; and
 - (ii) the action plan prepared by the Agency Head under subsection (2); and

- (b) do so as soon as practicable after the first day on which a copy of the State of the Service report for the financial year is laid before a House of the Parliament.

Exemptions

- (4) The Commissioner may, by writing, exempt an Agency Head from publishing, under subsection (3), either or both of the following:
 - (a) census results;
 - (b) an action plan.

Authorisation of removal of material

- (5) The Commissioner may, by writing, authorise an Agency Head to remove specified material from either or both of the following:
 - (a) the copy of the census results;
 - (b) the copy of an action plan;that is published by the Agency Head under subsection (3).

Protection of individual privacy

- (6) An Agency Head must remove any material that is reasonably likely to enable the identification of an individual from:
 - (a) the copy of the census results; or
 - (b) the copy of an action plan;that is published by the Agency Head under subsection (3).

Exemptions and authorisations are not legislative instruments

- (7) An exemption under subsection (4) is not a legislative instrument.
- (8) An authorisation under subsection (5) is not a legislative instrument.

[Minister's second reading speech made in—
House of Representatives on 14 June 2023
Senate on 2 August 2023]

(74/23)
