



Public Service Association of New South Wales

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A13/0892

8 August 2013

Hon. David Ipp AO QC
Commissioner
Independent Commission Against Corruption
GPO Box 500
SYDNEY NSW 2001

Dear Mr Ipp,

Re: Government Sector Employment Act 2013

On 20 June 2013 the *Government Sector Employment Bill 2013* passed through the NSW Parliament and when it commences operation will replace the *Public Sector Employment and Management Act 2002*.

The Association has concerns that elements of the *Government Sector Employment Act 2013* may present a corruption risk. In particular we are concerned by:

- the absence of detailed provisions to ensure merit is applied to recruitment of public sector employees at all levels; and
- the provision of section 41(1) which enables senior executives to have their employment terminated for no stated reason.

Pursuant to s 13(d), (e) and (f) of the *Independent Commission Against Corruption Act 1988*, we write to seek your views on whether s 41(1) of the *Government Sector Employment Act 2013* constitutes a corruption risk.

Section 41(1) of the legislation reads as follows:

41 Termination of employment of senior executives

- (1) *The employer of a Public Service senior executive may terminate the employment of the executive at any time, for any or no stated reason and without notice.*

The Association is concerned that the absence of any requirement to justify the termination of employment of senior executives results in public authority being able to

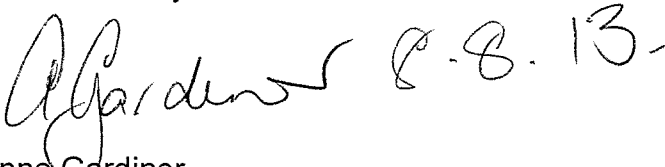
be exercised in a way that avoids appropriate scrutiny and transparency. Allowing termination of employment without reason enables the decision maker to potentially conceal their motives for the action. In some instances this could include concealing corrupt motives.

The provision has the potential to permit a minister or chief executive to exercise improper influence, intimidate or exact retributions on public servants for acting in a lawful and legitimate way or for providing impartial advice in the public interest. Section 41 facilitates this opportunity by providing the cover to conceal improper and corrupt conduct.

In the event that you find a corruption risk is present, we request that, pursuant to s13(3)(b) appropriate recommendations be made.

If you wish to discuss this matter please contact Anthony D'Adam, Senior Industrial Officer, Research, Awards and Specialists team on 9220 0950.

Yours faithfully

A handwritten signature in cursive script, followed by the date "8-8-13".

Anne Gardiner
General Secretary