



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

**Public Governance, Performance and
Accountability Amendment Bill 2014**

Consideration in Detail

SPEECH

Thursday, 5 June 2014

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date Thursday, 5 June 2014
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Questioner
Speaker McCormack, Michael, MP

Source House
Proof No
Responder
Question No.

Mr McCORMACK (Riverina—Parliamentary Secretary to the Minister for Finance) (09:43): I present a supplementary explanatory memorandum to the bill and seek leave to move government amendments (1) to (3) together.

Leave granted.

Mr McCORMACK: I move:

(1) Schedule 1, page 7 (after line 31), after item 19, insert:

19A Section 26 (heading)

Repeal the heading, substitute:

26 Duty to act honestly, in good faith and for a proper purpose

19B Section 26

After "duties", insert "honestly,".

(2) Schedule 1, page 7, after proposed item 19B, insert:

19C Section 27

Omit "position to", substitute "position".

19D Paragraph 27(a)

Omit "gain", substitute "to gain, or seek to gain, a benefit or".

19E Paragraph 27(b)

Omit "cause", substitute "to cause, or seek to cause,".

(3) Schedule 1, page 7, after proposed item 19E, insert:

19F Section 28

Omit "information to", substitute "information".

19G Paragraph 28(a)

Omit "gain", substitute "to gain, or seek to gain, a benefit or".

19H Paragraph 28(b)

Omit "cause", substitute "to cause, or seek to cause,".

These amendments amend the Public Governance, Performance and Accountability Act 2013, the PGPA Act, to better align the duties of officials under the PGPA Act with the corresponding duties contained in the Public Service Act 1999. The Joint Committee of Public Accounts and Audit in its report No. 441 issued last month recommended that the Department of Finance and the Australian Public Service Commission should work together to better align the duties of officials contained in sections 25 to 29 of the PGPA Act and the APS Code

of Conduct contained in section 13 of the Public Service Act. The JCPAA, headed by the member for Boothby, identified that the duties of officials described in these respective acts are not sufficiently aligned although they cover some very similar ground. The JCPAA was concerned that the use of slightly different wording is not only confusing but may potentially give rise to material differences that complicate matters for officials who are subject to both acts.

Finance and the Public Service Commissioner have developed amendments to the corresponding duties' frameworks that go a considerable way to addressing the Joint Committee of Public Accounts and Audit's recommendation. These amendments reduce the potential for confusion for APS employees who are subject to both frameworks.

Because these amendments relating to the duties of officials required consultation with the Australian Public Service Commission and that consultation has only recently concluded, they were not ready in time for incorporation in the bill when it was drafted. For that reason, we have had to move these from the floor during this debate. The amendments the government is proposing today make the necessary changes to the PGPA Act, while changes to the Public Service Act will be introduced later.

It is also proposed to move amendments at the appropriate time to make reciprocal changes to the Parliamentary Service Act 1999 to maintain the alignment between the APS Code of Conduct and the Parliamentary Service Code of Conduct. These two codes have long been aligned for very good reasons and there are insufficient reasons of principle why they should materially differ. Bringing the Parliamentary Service Code of Conduct into alignment would also be done through amendments in the consequential and transitional provisions bill. Amendments to the Parliamentary Service Code of Conduct will need the agreement of the presiding officers.

The amendments proposed today would amend the PGPA Act by including the word 'honestly' in section 26 to align with wording in section 13(1) of the Public Service Act and to clarify the duties on officials to act honestly, in good faith, and for a proper purpose; including the phrase 'or seek to gain a benefit' in subsections 27(a) and 28(a) for the duties relating to use of position and the use of information to align it with wording in subsection 13(10) of the Public Service Act, and to clarify that officials are not to gain or seek to gain a benefit or advantage for themselves or any other person; and including the phrase 'or seek to cause' in subsections 27(b) and 28(b) for the duties relating to use of position and the use of information to align it with wording in subsection 13(10) of the Public Service Act, and to clarify that officials are not to cause or seek to cause detriment to the entity, the Commonwealth or any other person.

The Department of Finance and the Australian Public Service Commission will continue to work collaboratively over the coming months to ensure that all public servants have the greatest possible clarity in relation to their duties. This will include ongoing work to educate officials and refine guidance material. Other changes have been made to address remaining JCPAA recommendations, including through refinements to draft guidance documents for Commonwealth officials; adjustments to draft regulations, known under the PGPA Act as rules, that are to be issued under the PGPA Act; and amendments to principal legislation.

The government appreciates the valuable contribution of the JCPAA in identifying areas for improvement. I commend these amendments to the House.

Question agreed to.

Bill, as amended, agreed to.