



SSC Report: Proposed changes to the State Sector Act and parts of the Crown Entities Act (apart from changes to accommodate new organisational forms, summarised in a separate Joint Report from SSC and the Treasury)

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To:	Action Sought:	Deadline and reason
Minister of State Services	Note and discuss	For discussion next week

Purpose of report

- This report advises you of proposed amendments to the State Sector Act 1988 (the Act) that would meet three mutually-reinforcing objectives:
 - to make the Act fit for purpose to meet the contemporary and longer term needs of the state sector system
 - to provide practical solutions to practical issues in the state sector system
 - to support key recommendations in the report of the Better Public Services Advisory Group (BPSAG).
- This report is a companion to the joint report from the State Services Commission (SSC) and Treasury to you and the Minister of Finance about changes to legislation to accommodate new organisational forms, as proposed by the BPSAG. The Treasury is also reporting separately to the Minister of Finance on other aspects of its review of the Public Finance Act 1989 (PFA).

Context

- The year 2012 will mark the centennial anniversary of the landmark Public Service Act 1912 which put in place the framework for a non-political, unified, career Public Service. The Act was replaced by the State Services Act 1962, which in turn was replaced by the current State Sector Act 1988. A generation later, aspects of the current Act are no longer fit for purpose and there are shifts in the state sector system that call for changes to the Act, especially to support innovations in service delivery and to achieve results that require joint governance and action between agencies.
- The SSC has held workshops with officials from the BPSAG Secretariat, the Treasury, Department of the Prime Minister and Cabinet, and the Auditor General's Office to discuss amendments to the Act. The SSC's proposals reflect those discussions.
- The SSC is in the process of finalising a substantive 'position paper' that has a full discussion on the review of the Act and parts of the Crown Entities Act 2004 (CEA). The paper will be forwarded to your office as soon as it is finalised. What follows in this report is a summary of the SSC's main proposals in the position paper.

Key Features

- 6 Key features of an amended Act would include explicit emphasis on two dimensions of the state sector system:
 - Taking a broader view: reinforcing an explicit need for departmental chief executives to think and operate in the collective interests of government
 - Taking a longer term view: introducing a stewardship responsibility on the part of chief executives.
- 7 While the current Act does not hinder departmental chief executives from taking these perspectives into account, the Act is seen in practice to place emphasis on the performance of individuals (chief executives and agencies), to the detriment of performance as part of a unified system of government. This is a major theme in the BPSAG's report. An amended Act would make explicit that which is implicit.

Purpose of the Act; Part 1 - Role and functions of State Services Commissioner

- 8 The whole Act should be structured so there is a natural cascading between: Purposes of the Act > Role of State Services Commissioner > Principal functions of the Commissioner > Operational provisions. Attached at Annex A is the draft text that SSC proposes for:
 - A new clause that would set out the purposes of the Act, to replace the current long Title
 - A new clause to set out the role of the State Services Commissioner (the Commissioner). The Commissioner's role has never previously been set in legislation: the notion of the Head of State Services comes from the BPSAG Report
 - A subtle but significant re-write of s.6 which sets out the Commissioner's principal functions. The workshops referred to in paragraph 4 considered the current functions are expressed too mechanically, and should be elevated to a level of overarching duties that would feed into detailed provisions in other parts of the Act.
- 9 In part 1 of the Act, the SSC also proposes an amendment to the provision that allows for the appointment of an acting Commissioner or Deputy Commissioner. At present, an acting appointment may be made on grounds of 'incapacity'. The grounds should expand to include any reasonable cause, such as a conflict of interest, e.g. if a close friend of the Commissioner applies for a chief executive position.

Part 2 – The Public Service

- 10 *New organisational forms* - The separate joint report from SSC and the Treasury provides details about the new organisational forms recommended in the BPSAG's report. If they are accepted, the definition of the Public Service will need to expand to include the proposed sector boards and executive agencies hosted in a department.
- 11 *Ministerial Advisors* - The SSC also proposes amendments to cater for the special circumstances that apply to certain Ministerial Advisor positions, notably those that have an undeniably 'political' aspect to their role and where political influence affects appointments to the role. In these few cases, the Act should disapply some of the normal personnel requirements, e.g. to notify a vacancy and to act independently from Ministers in appointing staff.
- 12 *Reorganisation, redeployment and redundancy provisions* – Two places in the Act deal with issues about employee transfers and redundancies when reorganisations happen. The provisions are somewhat haphazard in nature and were developed at different

times to meet different situations. They should be replaced with a cohesive scheme that is fit for purpose.

Part 3 – Chief executives

- 13 *Individual responsibilities* – Chief executives owe to the appropriate Minister a range of responsibilities that make them responsible for all departmental management and activities (apart from any statutorily independent functions carried out by an officer in the department). In line with feedback at the workshops referred to in paragraph 4 and consistent with the BPSAG's report, the SSC recommends expanding the range of Public Service chief executive responsibilities in the Act, to include responsibility for:
- *The department's contribution to the collective interests of government* (or similar wording, depending on consultation feedback during the Cabinet paper process). The idea is to reinforce especially the need to think and act outside the department as part of sector-wide arrangements; and to participate in whole of government initiatives or policies, e.g. procurement requirements
 - *The strategic planning and longer term management of the department* (or similar wording). The idea is to capture the stewardship dimension, by engaging in strategic matters with the Minister and by ensuring the department has appropriate infrastructure, management systems and succession planning to meet its medium and longer term goals and objectives
 - *The financial management responsibilities of the chief executive under the Public Finance Act 1989 (PFA)*. A cross-reference of this nature to the PFA would ensure the financial management responsibilities of a chief executive under that Act complete the picture and are included in reviews of the performance of a chief executive under the State Sector Act.
- 14 *Collective responsibilities* – Several individual responsibilities of chief executives would become 'joint and several' responsibilities when a chief executive is a member of a sector board. This would represent a fundamental change in the state sector system and is covered in the separate joint report from the SSC and Treasury about the proposed organisational forms.
- 15 *Delegation powers* – In the SSC's view, a permissive and widespread ability to delegate the exercise of a statutory function or power would support acting in the collective interests of government and would remove potential barriers to the efficient and effective delivery of government services. Within the legal Crown (ie between and among departments and prospective sector boards and executive agencies), the SSC proposes a regime whereby a chief executive may delegate a statutory function or power to any person including a secondee or contractor working in or for the department (with the chief executive remaining responsible for the function or power, as at present).
- 16 However, for reasons of transparency and accountability to Parliament, there should be checks and balances on the delegation of a statutory function or power to a person or agency outside the legal Crown, e.g. a Crown entity or non-government organisation. The SSC proposes the following measures: the Minister's approval should be required; there should be no power to subdelegate; and the delegation should be explicitly accounted for in the department's annual report.
- 17 *Special provisions in relation to certain chief executives* – There is a question as to whether and how certain chief executives should be treated differently to others.
- *State Services Commissioner* – There is no provision to review the performance of the Commissioner, similar to that in s.43 in relation to other chief executives. The question is whether the Commissioner should be subject to performance reviews (if so, by whom). The Commissioner's independent statutory functions and powers would not be subject to review, but the performance of the Commissioner as chief

executive of the department would be reviewable. There was no feedback on this issue at the workshops referred to in paragraph 4.

- Solicitor-General – There are no statutory provisions that apply to the appointment, terms and conditions, removal from office or performance review of the Solicitor-General. The SSC considers that any recommendation for statutory provisions for such matters should be consistent with the findings and recommendations that will come from the current review of the Crown Law Office (due for completion in February 2012).

Part 4 – Senior leadership and management capability

- 18 The BPSAG's report has major implications for part 4 of the Act. It proposes greater influence for the Commissioner over the development of leaders and more active management to make the system more responsive. The report proposes to authorise the Commissioner:
- To proactively deploy chief executives and 2nd and 3rd tier staff to anywhere within the State services in response to system needs. This reinforces (and goes further than) a proposal that the SSC had already developed prior to the BPSAG's report to enable the Commissioner to transfer a chief executive from one department to another, with the concurrence of the chief executive, in circumstances where the Commissioner reasonably believes it is in the public interest to do so
 - To designate some positions as fixed-term developmental roles and jointly agree appointments with chief executives.
- 19 The proposals would constitute major changes to the state sector system, going beyond the Commissioner's current sphere of influence: the Commissioner cannot shift chief executives around departments, let alone 2nd and 3rd tier staff, and not to agencies outside the Public Service. There is no provision for fixed term roles, apart from the term of not more than 5 years (renewable) for a chief executive.
- 20 At present, much can be achieved through the current provisions in the Act. It establishes a joint responsibility on the Commissioner and Public Service chief executives to develop senior leadership and management capability in the Public Service; it enables the Commissioner to develop and promote a strategy for leadership development, to issue related guidance, and to put in place an executive leadership programme (ELP). The SSC considers that the provisions relating to the ELP are too detailed and may inhibit development from actually taking place, e.g. the ability to move people via secondments into development positions is tied to those who are formally involved in the ELP.
- 21 The SSC recommends that the ELP provisions should be removed from the Act, leaving it open to the Commissioner and chief executives to work together to develop an effective regime for identifying and developing talent at all levels in the Public Service. For a number of months, the SSC has been working with chief executives on these matters. We will report separately as further progress is made.

Part 5 – Personnel provisions

- 22 The SSC proposes several amendments to part 5 of the Act dealing with personnel provisions.
- 23 *Code of conduct* – The Commissioner has the mandate under s.57 to set minimum standards of integrity and conduct for the Public Service, most Crown entities and certain other agencies. At present, there is an anomaly in so far as the Commissioner has the authority to vary a code of conduct for any of the non-Public Service agencies (to account for the legal or commercial context of the agency), but not for any Public Service department or their employees. The SSC recommends that the Commissioner

should be able to vary a code of conduct to take into account the circumstances of individual public servants or groups of public servants, e.g. an independent statutory officer exercising an independent statutory function.

24 *Redeployment and transfer provisions* – Consistent with the earlier recommendations for amendments to part 2 of the Act concerning reorganisations, redeployment and redundancies, part 5 of the Act should be amended primarily to:

- remove some provisions that are substantially duplicated
- transfer some provisions from part 2, with minor technical amendments to provide for a coherent approach.

25 *Transfer some existing functions of the Commissioner* – Paragraph 8 of this report refers to a subtle but significant re-write of s.6 which sets out the Commissioner's principal functions. The proposed text retains some existing functions, but with modifications to make them fit for purpose for the contemporary and longer term needs of the state sector system. Other functions are currently pitched at an 'operational' level rather than constituting a 'principal' or overarching function of the Commissioner. The SSC proposes that several 'operational' provisions be transferred to part 5 of the Act dealing with personnel provisions, e.g.:

- s.6(f) to promote and develop personnel policies and standards of personnel administration for the Public Service
- s.6(g) to promote, develop, and monitor equal employment opportunities policies and programmes for the Public Service
- s.6 to provide advice on the training and career development of staff in the Public Service

Parts 6, 7, 7B – Various employment relations provisions

26 Employment relations issues were at the heart of the Public Service reforms when the current Act was passed in 1988. Previously, the State Services Commissioner was the employer of all public servants, i.e. employees in every Public Service department. With the passage of the current Act, 'heads of departments' became 'chief executives' who act as the employers of their departmental employees. The Commissioner's role is to employ the chief executives on behalf of the Crown and, very significantly, to negotiate under the Employment Relations Act 2000 every collective agreement applicable to employees of every Public Service department as if the Commissioner were the employer. In practice, the Commissioner delegates this responsibility to the respective chief executives.

27 However, the Commissioner's role in employment relations is more complicated and varied than the regime for collective agreements in the Public Service. The table at Annex B summarises the variety of the Commissioner's roles across the Public Service and the wider state sector. To make the Act fit for purpose, it should be amended to rationalise the Commissioner's various roles and apply them consistently.

28 Further, as part of the Commissioner's system leadership role, the Commissioner's mandate in workforce matters should extend beyond bargaining processes to encompass broader aspects of workforce and employment arrangements. The dimensions would encompass strategic workforce planning and development activity, pay and employment conditions, and bargaining processes. Key elements of the regime proposed by the SSC include:

- Agencies would be required to **comply** with expectations set by the Commissioner regarding workforce or employment relations, to **consult** about proposed collective bargaining, and to **have regard** to the Commissioner's consultation feedback.

- The Commissioner would have the power to require the provision of information to assess whether or not the expectations are being complied with and regard is being given to consultation feedback. If an agency does not comply, the Commissioner would have the power to **require** the employer (e.g. chief executive of a department or board of a Crown entity) to obtain the Commissioner's **approval** to a proposed course of action.
 - This regime would apply uniformly across the agencies in the table at Annex B, i.e. Tertiary Education Institutions and other Crown entities would be included. But the proposal does not extend to SOEs.
- 29 The regime described above would attract considerable comment during consultation on the proposal. The Public Service Association (PSA) and monitoring departments for Crown entities would have views. At present, the Commissioner does not have any role in collective bargaining among Crown entities (apart from the Education Service): a Crown entity must **consult** the Commissioner only if required to do so by an Order in Council (which has never been issued in respect of any Crown entity).
- 30 We would like to discuss consulting the PSA and monitoring departments for Crown entities about the regime proposed above, before submitting a draft Cabinet paper to you in 2012.

Part 7A - Personnel provisions in relation to the Education Service

- 31 The Act currently provides for the chief executive of the Ministry of Education, with the agreement of the Commissioner, to prescribe matters to be taken into account by employers in assessing the performance of teachers. The SSC considers the Commissioner's agreement for this purpose is an unnecessary requirement that should be removed.

Part 8 – Miscellaneous provisions

- 32 There is a need to ensure that s.86 meets the purpose for which it was intended. It aims to provide for protection from personal liability for departmental chief executives and employees when acting in good faith in the performance of their functions and powers. However, in light of a majority interpretation by the Supreme Court in *Couch v Attorney General*, s.86 no longer meets the intended purpose. This situation should be remedied, preferably through an amendment to the Crown Proceedings Act 1950.

Technical amendments

- 33 In addition to the substantive proposals to amend the Act as summarised above, a range of technical amendments is also desirable:
- To make the definition of "Crown entity" consistent with the definition in the Crown Entities Act 2004
 - To clarify the provisional nature of an appointment during the period allowed for a review of the appointment
 - To remove a provision that is duplicated in the Act and in the Government Communications Security Bureau Act 2003
 - To ensure consistency with the Public Finance Act 1989
 - To remove redundant provisions.

Crown Entities Act 2004

- 34 On your behalf, the SSC also administers parts 1-3 and part 5 of the Crown Entities Act 2004 (preliminary provisions; establishment and governance; operation of Crown entities; miscellaneous provisions). The Treasury administers part 4 (Crown entity reporting and financial obligations).
- 35 The SSC's review of the State Sector Act 1988 and the Treasury's review of the Public Finance Act 1989 have implications for the Crown Entities Act 2004.

Part 1 – Preliminary provisions

- 36 Part 1 of the Act sets out the purpose of the Act, defines terms used in the Act and, among other provisions, defines the five categories of Crown entities¹ including the three types of statutory entities². The main issue is whether the five categories are suitable, especially from the point of view of the adequacy of Ministerial levers of influence or direction over Crown agents and autonomous Crown entities.
- 37 The SSC's position paper, referred to in paragraph 5 of this report, goes into some detail about the nature of a Crown entity and its relationship with the responsible Minister. The SSC's position is that:
- the CEA provides an appropriate suite of levers for Ministers to influence or direct Crown entities in a manner appropriate to the nature of the entity
 - if Ministers seek greater levers of influence or powers to direct an entity's operations, the solution is to remove the function from the entity (including disestablishing the entity altogether if necessary) and bringing it back within the legal Crown as part of a department, subject to close ministerial oversight and direction. The Executive Agency model described in the joint report referred to in paragraph 2 would provide a means to bring the function or entity back into departmental form, but without 'submerging' the function or entity as part of a standard business unit in the department.

Part 2 – Establishment and governance

- 38 *Crown entity monitoring* – Every statutory Crown entity has a responsible Minister who has assistance/advisers to help the Minister carry out the Minister's responsibilities in relation to the entity. This is usually provided by the department in the Minister's portfolio. In practice, it can be problematic for a "monitoring department" to obtain suitable information from an entity to enable the department to provide high quality advice to the Minister. Monitoring departments have no statutory basis or relationship with Crown entities, and 'lack teeth' in requiring the supply of information.
- 39 The SSC proposes that the Act should enable a responsible Minister to appoint a "monitoring agent" (who could be any person), who would have the power to require an entity to supply information about the entity's operations and performance and any other information that relates to the Minister's statutory role, functions and powers in relation to the entity. There would be an obligation on the entity to comply with the request (subject to grounds already in the Act to withhold certain types of information).
- 40 *Role and powers of Minister of State Services* – Several Ministers have roles and powers in relation to Crown entities:
- the "responsible Minister" has a clearly defined role in s.27 and related functions and powers throughout the Act, including the power in s.133 to require an entity to

¹ Statutory entities; Crown entity companies; Crown entity subsidiaries; School boards of trustees; Tertiary education institutions

² Crown agents; autonomous Crown entities (ACEs); independent Crown entities (ICEs)

supply any information relating to its operations and performance (subject to grounds in the Act for withholding certain information)

- the Minister of Finance has a range of functions and powers as specified in part 4 concerning Crown entity reporting and financial obligations
- the Minister of Finance and the Minister of State Services may jointly issue whole of government directions in accordance with s.107.

- 41 The Minister of State Services has an ongoing portfolio responsibility for general oversight of the governance and accountability regime applying to Crown entities. While the scope of the State Services portfolio is not a statutory matter, there are aspects of the role that could benefit from an associated power to request information for purposes relating to the Portfolio. For example, in addition to general oversight of governance and accountability, the Minister's interests in the Crown entity sector include strategic alignment and capability matters, and workforce and employment relations matters.
- 42 The SSC proposes that the Minister of State Services should have the power to require the supply of any information in connection with the exercise of the Minister's portfolio responsibilities (subject to the grounds for withholding certain information). The Minister would have the ability under s.28 of the State Sector Act 1988 to delegate this power to the State Services Commissioner.

Part 3 – Operation of Crown entities

- 43 The big issue for the operation of Crown entities is the extent to which – and how – they should be required to participate in government-wide initiatives or have regard for the collective interests of government. For example, there may be value for money opportunities and other benefits in making the government's procurement policy mandatory for some categories of Crown entities, or for some types of statutory entities (e.g. all Crown agents). At present, the policy is mandatory only for Public Service departments, New Zealand Police and New Zealand Defence Force.
- 44 The SSC's position paper referred to in paragraph 5 argues against treating Crown entities like departments. Their legal separation from the Crown, arm's length relationship with the Minister, and the role of the governance board over the carrying out of their statutory functions and powers, make them different in nature to departments. We should not cross-breed or genetically modify organisational forms.
- 45 However, there is also the fact that Crown entities are part of the State services (except tertiary education institutions). By definition, the State services are "*instruments of the Crown in respect of the Government of New Zealand*"³. Crown entities are captured within the collective interests of government, at least in some respects (such as the system-wide portfolio interests of the Minister of State Services).
- 46 Options to strengthen Crown entity awareness of the collective interests of government and to involve them where appropriate in relevant initiatives include:
- inserting a new collective duty on the board to ensure the entity has regard for whole of government approaches in the general management of the entity's activities (or alternative suitable wording that does not undercut the board's authority over the carrying out of the entity's functions and powers); and/or
 - expanding the grounds in s.107 which provides for the Ministers of State Services and of Finance acting jointly to issue 'whole of government directions'. At present, such a direction must be for the purpose of both supporting a whole of government approach and either directly or indirectly improving public services.

³ State Sector Act 1988, s2

47 The SSC proposes to discuss these options further with the agencies referred to in paragraph 4 before forming a firm position.

Next Steps

48 A meeting has been scheduled for Wednesday 21 December 2011 from 5.00-5.30pm for you and the Minister of Finance to discuss timing issues and actions with officials from the SSC and Treasury.

49 One item for discussion is the need for suitable consultation with the PSA and monitoring departments about certain proposals to amend the State Sector Act 1988.

Recommendation

50 It is recommended that you:

- | | | |
|---|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1 | Note that the State Services Commission and the Treasury are reviewing the State Sector Act 1988 and the Public Finance Act 1989 respectively | Yes / No |
| 2 | Note that proposals from the Better Public Services Advisory Group for new organisational forms would require amendments to the SSA and PFA, as summarised in a separate joint report from the SSC and Treasury to you and the Minister of Finance | Yes / No |
| 3 | Note that the SSC has firm proposals for some amendments to the SSA and that other issues are subject to ongoing discussion | Yes / No |
| 4 | Note that there has been limited consultation among officials on the SSA proposals, and that the PSA and monitoring departments have not yet been consulted | Yes / No |
| 5 | Note that a meeting is scheduled for Wednesday 21 December for you and the Minister of Finance to discuss timing issues and actions with officials from the SSC and Treasury | Yes / No |
| 6 | Indicate whether you require any additional information or briefings at this stage | Yes / No |

Gordon Davis
Chief Legal Advisor

Minister's Comments:

Minister's Signature:

Date: ___/___/___

Annex A: Purposes of the Act; Role and Functions of State Services Commissioner

The Act should be structured so that provisions cascade from: Purposes of the Act > Role of Commissioner > Principal functions of Commissioner > Operational provisions. The SSC proposes the following text for consultation as part of the Cabinet paper process.

Purposes of the Act [new s.1A]

To promote and uphold a state sector system that –

- (a) Is imbued with a spirit of service to the community
- (b) Operates in the collective interests of government
- (c) Ensures political impartiality in the performance of duties
- (d) Is driven by a culture of excellence across the system
- (e) Fosters a culture of stewardship across the system

Role of State Services Commissioner [new s.3A]

To provide leadership and oversight as the Head of State Services by –

- (a) Working with leaders across the State services to ensure they are well led and trusted
- (b) Reinforcing a spirit of service to the community
- (c) Promoting a spirit of collaborative action among agencies
- (d) Advising on the design, capability and performance of the State services in the system of government
- (e) Promoting efficiency in the State services as agencies and as parts of the system of government

Functions of Commissioner [s.6]

The principal functions of the Commissioner are -

- (a) To review the system of government agencies and processes, with the objective of advising on ways to improve agency, sector and system-wide performance
- (b) To review agency and inter-agency governance, structures and systems across all areas of government, including advice on –
 - (i) the allocation and transfer of functions and powers to and between agencies
 - (ii) the operation of agencies as a system in delivering services
 - (iii) the establishment, amalgamation and disestablishment of agencies
- (c) In accordance with and subject to specific provisions in other Parts of the Act -
 - (i) to act on behalf of the Crown as the employer of Public Service chief executives and to review the performance of each chief executive
 - (ii) to appoint, and review the performance of, each director of an agency listed in schedule 2 and each chairperson, where applicable, of a board listed in schedule 3
 - (iii) to review the performance of each agency listed in schedules 1, 2 and 3
 - (iv) to foster the development of leadership capability for Public Service departments and other agencies
 - (v) to promote excellence in workforce development, strategies and practices and to set expectations for employment relations
 - (vi) to set and reinforce standards of integrity and conduct
- (d) To exercise such other functions with respect to the administration and management of the Public Service as the Prime Minister from time to time directs (not being functions conferred by this Act or any other Act on a chief executive other than the Commissioner)

Annex B: State Services Commissioner's roles in employment relations

The following table summarises the extent and variety of the Commissioner's current mandates in employment relations under various statutes.

State Sector Act 1988			Crown Entities Act 2004; SOE Act 1986	New Zealand Public Health and Disability Act 2000	Individual Acts ⁴
Public Service departments	Education Service (excl. TEIs)	Tertiary Education Institutions	Crown Entities and SOEs	District Health Boards	Departments outside Public Service
Chief Executive conditions of employment					
* Determined between SSCer and Chief Executive [s38(3)] ⁵ * SSCer must first obtain agreement of PM and MOSS [s38(3)]	<i>School principal may have collective or individual agreement – see below</i>	* Council negotiates [s771D(3)] * Council must obtain SSCer's written concurrence [s771D(3)]	* Crown Agents, ACEs, ICEs & their subsidiaries must consult SSCer [CEA ss98, 117] * SOE may request SSCer's assistance [SSA s11(6)]	* Board negotiates * Board must obtain SSCer's consent	GM Parl. Service: SSCer determines terms & conditions with Speaker's agreement (not remuneration – Remuneration Authority)
Collective Agreements					
* SSCer responsible for negotiating (except for GCSB: s34 GCSB Act) * SSCer must negotiate with employees' union and consult chief exec [s68(3)] * SSCer may delegate to chief exec [s70(1)], who must consult SSCer [s70(2)]	* SSCer responsible for negotiating [s74(1)] * SSCer must negotiate with employees' union and consult chief exec of Min Edu (MoE) [s74(4)] * SSCER may delegate to employer/s [s74B(1)], who must consult SSCer and MoE chief exec [s74B(2)]	* Chief exec of TEI responsible for negotiating [s74C(2)] * Chief exec must consult SSCer [s74C(3)]	* Crown Agents, ACEs, ICEs, Crown entity companies & SOEs must consult SSCer only if required to do so by OIC (NB no such OIC issued to date) * Crown entities & SOEs may request SSCer's assistance [SSA s11(6)]	* OIC requirement to consult SSCer not applicable to DHBs * Chief execs of DHBs to consult the Director General of Health	<u>Parliamentary Service; Office of the Clerk; PCO</u> : heads of depts must consult SSCer <u>Police; NZDF Civil Staff; Police Csser and CDF</u> must consult SSCer who has right to participate in negotiations <u>NZSIS</u> : no SSCer involvement; ERA does not apply
Individual Agreements					
* Employer negotiates	* Employer negotiates: must obtain SSCer's written concurrence [s75(2)]	* Employer negotiates: for senior positions, must consult SSCer [s74D(1)]	* Employer negotiates: may request SSCer's assistance	* Employer negotiates	<u>NZDF Armed Forces</u> : CDF must consult SSC: has right to participate

⁴ Statutes and Drafting Compilation Act 1920; New Zealand Security Intelligence Service Act 1969; Clerk of the House of Representatives Act 1988; Defence Act 1990; Parliamentary Services Act 2000; Policing Act 2008

⁵ SSA s38(3) does not apply to the Solicitor-General or Director of the Government Communications Security Bureau