



RIGHT OF RETURN PROVISION FOR PUBLIC SERVICE OFFICERS

Introduction

This advice is intended to provide clarity on the operation of s.180 of the *Corruption & Crime Commission Act 2003* – the ‘right of return’ provisions for former Western Australian public service officers. The detail of these provisions is provided at the end of this correspondence; however your attention is drawn to the eligibility criteria defined in s.180.3.

Right of Return: Eligibility Criteria [s180 (3)]

(3) If –

- (a) an officer of the Commission was immediately before his or her appointment under section 179 a permanent officer under Part 3 of the *Public Sector Management Act 1994*; and
- (b) that person ceases to be an officer of the Commission for a reason other than dismissal for substandard performance, breach of discipline or misconduct,

that person is entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994* of at least the equivalent level of classification as the office that person occupied immediately prior to appointment under section 179.

Emphasis has been added above as it is this provision that is relevant to whether or not former Western Australian public service officers have a right of return to the sector after leaving the Commission. Appointment under Part 3 of the *Public Sector Management Act 1994* is not common to all employees of all public departments and authorities; there are many other employment mechanisms used in the sector, including enabling legislation and awards. Additionally, appointment

under Part 3 is not perpetual. It may be lost if an officer resigns to take up a role with an organisation that does not have similar provisions to s.180(3) in its enabling legislation and that appointment is not made under Part 3.

Understanding Your Rights

It is important that any person considering appointment to the Commission is aware of their prevailing rights from their employment prior to applying to join the Commission.

If you are interested in applying for a position with the Commission, and are currently employed in the Western Australian public sector, you are encouraged to contact your current HR department to find out how you were engaged and how these provisions may impact your employment.

Extract from *Corruption & Crime Commission Act 2003*

180. Entitlements of public service officers

- (1) If a public service officer is appointed to the staff of the Commission under section 179, that person is entitled to retain all his or her accruing and existing rights, including any rights under the *Superannuation and Family Benefits Act 1938* 4, as if service as an officer of the Commission were a continuation of service as a public service officer.
- (2) If a person ceases to be an officer of the Commission and becomes a public service officer the service as an officer of the Commission is to be regarded as service in the Public Service for the purpose of determining that person's rights as a public service officer and, if applicable, for the purposes of the *Superannuation and Family Benefits Act 1938* 4.
- (3) If —
 - (a) an officer of the Commission was immediately before his or her appointment under section 179 a permanent officer under Part 3 of the *Public Sector Management Act 1994*; and
 - (b) that person ceases to be an officer of the Commission for a reason other than dismissal for substandard performance, breach of discipline or misconduct,that person is entitled to be appointed to an office under Part 3 of the *Public Sector Management Act 1994* of at least the equivalent level of classification as the office that person occupied immediately prior to appointment under section 179.r