

State Sector (Disclosure of Financial Settlements) Amendment Bill

Member's Bill

Explanatory note

This Bill will ensure that no further secret financial settlements are reached with departing staff in the public sector, whether the staff are chief executives or any other employees or persons working in the State services. Public sector chief executives and employers have sheltered behind secrecy for too long in reaching settlements in circumstances of considerable, and proper, public interest involving the expenditure of substantial sums of public money in some cases. Even where they may have wished to disclose such settlements, they have sometimes been unable to do so due to confidentiality requirements in, or relating to, contracts of employment. The Bill recognises that, in this area, transparency and openness is necessary in the public interest.

Clause 4 of the Bill inserts a new *section 83A* into the State Sector Act 1988. It will apply to every person or body with employment responsibilities under the Act and in respect of every financial settlement that such persons or bodies reach upon, or in relation to, the termination of employment where the settlement is an inducement to, or in consideration of, persons terminating their employment. It will therefore apply only to exceptional payments and not to final payment of ordinary salary or, for example, holiday pay that is owing to departing staff. "Financial settlement" is defined broadly as any settlement in which a person receives money or any other benefit, whether the benefit is immediate or deferred in whole or part. It is necessary to provide that the new provision applies notwithstanding anything in the State Sector Act or any other enactment or any rule of law, but in the interests of privacy the name of the person concerned must not be disclosed unless that person is agreeable to such disclosure. In order to ensure the necessary broad

coverage, the obligation to disclose is also specified to apply regardless of the cause or circumstances of the termination of employment

Dr Muriel Newman

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the State Sector (Disclosure of Financial Settlements) Amendment Act **2000**.
- (2) In this Act, the State Sector Act 1988¹ is called “the principal Act”.

¹ RS Vol 33 p 715

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to make amendments to the principal Act to provide that financial settlements with persons employed in the State services must be disclosed.

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4 New section 83A inserted

The principal Act is amended by inserting, after section 83, the following section:

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“83A Disclosure of financial settlements

- “(1) This section applies—
- “(a) to every person or body in relation to the employment of persons for which that person or body is given responsibility under this Act; and 5
 - “(b) in respect of every financial settlement that the person or body reaches with a person upon or in relation to the termination of that person’s employment where the settlement is an inducement to, or in consideration of, the person terminating his or her employment. 10
- “(2) Despite anything to the contrary in this Act or any other enactment or any rule of law, but subject to **subsection 3**, every person or body to whom this section applies must disclose the terms of every financial settlement.
- “(3) The person or body making a disclosure under **subsection (2)** 15 must not disclose the name of the person concerned unless that person is agreeable to such disclosure.
- “(4) **Subsection (2)** applies regardless of the cause or circumstances of the termination of the employment.
- “(5) For the purposes of this section, **financial settlement** means 20 any settlement in which a person is paid money or receives any other benefit, whether that benefit is immediate or deferred in whole or in part.”