Date Introduced: 9 May 1984
House: House of Representatives
Presented by: Hon. J.S. Dawkins, Minister for Finance and Minister Assisting the Prime Minister for Public Service Matters

Short Digest of Bill

Purpose

To amend the Public Service Act 1922 and some other legislation, for creation of a Senior Executive Service, open to applicants outside the Public Service and in which appointments may be made for a fixed period; and to make a number of personnel and managerial changes within the Public Service, including a greater degree of autonomy for Departmental heads.

Outline

Reforms which the Bill formalizes or introduces to the Public Service Act 1922 include:

Ministerial and electorate staff
- Ministers to employ staff or engage consultants
- provision for Members and Senators to engage personal staff [Associated Bill: Members of Parliament (Staff) Bill 1984]
- special tribunal to determine level on re-entry to Australian Public Service and to take over promotion appeal and discipline roles of the Public Service Board generally [Associated Bill: Merit Protection (Australian Government Employees) Bill 1984]

Departmental Heads
- statutory specification of respective roles of the Minister and the Permanent Head (renamed the Secretary to the Department)
status as unattached Secretary to be maintainable

provision for consultation on possible rotation to another Department after 5 years

Senior Executive Service

- formed to replace Second Division

- appointments open to persons from outside the Public Service, with no appeal permitted against promotions

Personnel matters

- staffing structure to be determined and to be modifiable by the Secretary to the Department, to replace Public Service Board supervision and staff ceilings

- Australian citizenship to replace British subject status as criterion for entry to Australian Public Service

- statutory specification of merit as criterion for appointment and promotion

- Departments required to develop equal employment opportunity programs for disadvantaged groups, and an industrial democracy action plan, reviewable by the Public Service Board

- introduction of permanent part-time work, with superannuation, in certain circumstances

Background

Developments to be implemented by the Bill are associated with matters discussed in several reviews of Australian Government administration. The 1976 Royal Commission, chaired by Dr H.C. Coombs, comprehensively reported on the administrative organization of Government Departments, and on the structure and management of the Australian Public Service (APS).[1] The 1982 Review of Commonwealth Administration, chaired by Mr J.B. Reid, reported in January 1983. Its terms of reference were more directly concerned with the public service, and requirements for its efficiency and effectiveness.[2]
Criteria for evaluating the management of the Australian Public Service and its policy and implementation capabilities include the efficiency and effectiveness of resource use. This was of prime concern to the Coombs Commission. It is also frequently suggested that improvement of the public service would result if private sector management practices were adopted. In a comparison with large private firms, public sector management appears to come off second best: lack of competitive salary scales prevents the attraction of key personnel, there are few market incentives to resource efficiency, service delivery is made more difficult by decisions taken for political rather than programmatic reasons, and performance is difficult to measure. It is argued that through greater conformity with private sector practice the public sector would reap improved leadership, more immediate location of management authority, cost-consciousness, simplified operational procedures, ease of performance measurement and improved accountability. The Bill seeks these objectives through greater flexibility and freedom for departmental management as well as more effective use of senior managers through centralised control.

With respect to Ministerial responsibility for the operation of Departments, the Reid Report emphasized the Ministerial role in specifying goals and strategies, supported by apt and timely information from the Permanent Head.[3] The Bill renames the Permanent Head as the Secretary to the Department and would introduce some greater flexibility by permitting fixed-term appointments, termination of appointments by the Governor-General, and requirements for Public Service Board reports prior to Prime Ministerial recommendations. Term appointments were considered by both the Coombs Commission[4] and the Reid Report[5], and considered on balance not advantageous. The advantages of mobility were seen to be achievable through rotation, the Reid Report referring to an "expectation of movement" after 5-7 years. The 1982 Report of the Joint Committee of Public Accounts on the Selection and Development of Senior Managers referred to the need for mobility among officers of the Senior Executive Service. A limit of 7 years was recommended for senior officers of the Public Service Board.[6]

The Reid Committee referred to the usual case of individual initiation of career developments, but referred also to wider needs for development of senior managers. Recommendations, cast in terms of the Second Division, included that applications from outside the APS be encouraged, and that the Public Service Board participate in all Second Division appointments, with appeals against appointments to be abolished.[7] The Bill would establish
the senior management structure as the Senior Executive Service, appropriately furthering objectives identified in the Report.

The Public Service Amendment Act 1982 amended the Public Service Act 1922. Certain amendments abolishing the divisional structure in the APS, and establishing merit as the sole criterion for promotion have not yet been proclaimed. These and other changes in APS staffing practices were acknowledged in the Reid Report.[8] The present Bill makes substantial amendments to the Public Service Act relating to APS officers other than those in the Senior Executive Service. A major issue addressed by the Bill is the extent of Departmental control over staffing matters, staff ceilings and financial management. A new agency will be created by associated legislation to determine appeals etc. relating to staff matters in which neither the Department nor the Public Service Board will in future be involved [See Bills Digest for Merit Protection (Australian Government Employees) Bill 1984]. Within the department, the Secretary to the Department will have power to create and abolish employment positions, consistent with financial limits. The Public Service Act is amended so that the role of the Public Service Board is limited to classifications and associated salary levels generally, rather than detailed staff positions and duties.

Main Provisions

The provisions of the Bill are to variously commence at Royal Assent, upon the commencement of section 15 (abolishing divisional structure of the APS) or section 27 (new provisions for promotion and promotion appeals) of the Public Service Acts Amendment Act 1982, or, in the case of most significant sections, when proclaimed.

The Bill amends several acts, most importantly the Public Service Act 1922. An explanation of each clause is set out in the Explanatory Memorandum.

Clause 19 adds a new Division, introducing permanent part-time work, with maintenance of superannuation entitlements, in the APS. Special Divisions are introduced reflecting the conditions of appointments and service of staff of the Senior Executive Service.

Other new provisions apply specifically to Permanent Heads, to be renamed Secretaries to the Department. Fixed-term appointments and varied conditions of service including for maintenance of unattached status are introduced.
The Commonwealth Employees (Redeployment and Retirement) Act 1979 does not apply to Departmental Secretaries or officers of the Senior Executive Service (SES). However, Part V of the Bill amends this Act to ascribe some role to the Tribunal established under it in hearing appeals relating to redeployment or retirement of SES officers.

The Members of Parliament (Staff) Bill 1984, with which this Bill is associated, establishes a statutory basis for Members and Senators to employ personal staff and for Ministers to engage consultants. Amendments in Part VIII of the Bill allow for functions ascribed in that Bill to the Public Service Board to be transferred to the agency established under a second associated Bill, the Merit Protection (Australian Government Employees) Bill 1984.

Two independent amendments amend the Governor-General Act 1974 to provide a statutory basis for the Governor-General's Official Secretary and associated staff; and amend the Remuneration Tribunals Act 1973 to permit Determinations and Reports to be made at varying times of the year.

For further information, if required, contact:

28 May 1984

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References


3. op.cit., pp.42.


7. op.cit., pp.97, 100.

8. op.cit., p.81.