MEMBERS OF PARLIAMENT (STAFF) BILL 1984

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

Short Digest of Bill

Purpose

To make legislative provision for the engagement of Consultants by Ministers, and the employment of personal staff by Members and Senators.

Background

The Bill, like provisions of the Public Service Reform Bill 1984, follows several reviews into Australian Government administration. A third, associated Bill, the Merit Protection (Australian Government Employees) Bill 1984 applies to staff from the Australian Public Service (APS) returning to the APS after a time spent as Ministerial staff or as the staff of members of Parliament.

The 1976 Royal Commission on Australian Government Administration, chaired by Dr H.C. Coombs, considered the position of Ministerial staff and recommended that terms and conditions of employment specifically applicable to Ministerial staff be developed. The Report acknowledged that these conditions might differ from those applicable to the general Public Service, but could be similar to those of the staff of members of Parliament.[1] The position of the latter category of staff at that time was one without security of tenure. The Commission considered that arrangements similar to those to apply to ministerial staff or to Parliamentary staff should be adopted, with an advisory role for the Public Service Board.[2]

The specific recommendations for ministerial staff were that engagement and dismissal be by individual ministers, but that classifications and entitlements be determined by the Prime Minister after consultation with the Public Service Board.
The 1982 Review of Commonwealth Administration chaired by Mr J.B. Reid considered the appointment of consultants to departments of the Public Service, and considered such appointments appropriate and cost-effective in circumstances of increasing specialisation. The Committee favoured authority for Secretaries to Departments to employ consultants, subject to Ministerial approval of an annual program.[3]

The Committee gave some attention to management practice in the private sector.[4] In this respect, Hon. J.J. Carlton, M.P., in an address in December 1983 referred to the opportunities in private enterprise for the delegation of responsibilities. A "substantial strengthening" of politically appointed ministerial staff may assist in implementation of policy, the "great under-developed area of political activity".[5]

Main Provisions

The substantive provisions of the Bill are to commence on a date or dates fixed by Proclamation and relate respectively to employment of Ministerial consultants (Part II), employment of staff by Senators and Members holding an office within the Parliament (Part III), and employment of staff by Senators and Members generally (Part VI).

A consultant may be engaged under clause 4 by a Minister with the Prime Minister's approval. The consultant may be either a natural person or a body corporate and, if a natural person, may be employed under a contract of employment or a contract for services. The contract is to specify the tasks either particularly or generally, and is to specify whether supervision will be by the Minister or the Secretary to his Department. It may specify a term of up to 3 years but is terminable if the Minister should no longer be responsible for the Department, or at the option of either party at any time under clause 9. The Prime Minister may direct that the engagement continue in the case where the Minister leaves the Department. Public servants so engaged who are "employees" under the Public Service Act are taken to be on leave without pay, and service as a consultant may count as service in the Public Service (clause 11). Public Service officers so engaged are deemed for the duration to be employed under Part IV of the Public Service Act. Clause 8 provides that the engagement may apply to the consultant the provisions of the Superannuation Act relating to temporary employees including any modifications. A similar provision applies to staff of office-holders (clause 15) and of Senators and Members generally (clause 22).
Provisions relating to staff of office-holders and to staff of Senators and Members are similar. Staff are engaged under either part in accordance with respective arrangements approved by the Prime Minister. The Prime Minister is permitted under sub-clauses 14(3) and 21(3) to vary the terms and conditions of employment, while employment is terminable at either party's option at any time. Where employment is terminated by the office-holder ceasing to hold that office or the Senator or Member ceasing to be a Senator or Member, provision is made for the Prime Minister to continue the employment.

Offices to which Part III applies are initially indicated in clause 3 but may be varied by the Prime Minister.

In either case, where the employee is a Public Service officer, the employee is deemed to be a holder of a Commonwealth office within Part IV of the Public Service Act, relating to officers holding public offices or employed by public authorities outside the Australian Public Service (clauses 17, 24). An "employee" under the Public Service Act is deemed to be on leave without pay during employment under this Bill, which employment is to count as service for the purposes of the Public Service (clauses 18, 25). The Public Service Act distinguishes between officers and "employees". Similar provisions apply to consultants employed under Part II who are Public Service officers or employees.

For officers of the Public Service terminating employment under Part III or IV, Part V establishes a Re-integration Assessment Committee which may be availed of by such officers to determine the classification and salary rate applicable to the officer as an unattached officer in the Australian Public Service.

Clause 31 deems employees under Part III or IV to be employees of a public authority of the Commonwealth for the purposes of the Public Service Arbitration Act 1920. Clause 32 provides a general regulation-making power, exercisable by the Governor-General.

Remarks

Establishment of the Reintegration Assessment Committee is a temporary measure. The Bill would be amended by the Public Service Reform Bill 1984 to transfer these functions, and promotion and discipline functions of the Public Service Board generally, to the new Merit Protection and Review Agency.
For further information, if required, contact:

24 May 1984

References


2. op.cit., p.264.

