MERIT PROTECTION (AUSTRALIAN GOVERNMENT EMPLOYEES) BILL 1984

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

Short Digest of Bill

Purpose

To establish the Merit Protection and Review Agency as an agency to deal with certain grievances in the Australian Public Service, including promotion appeals, independently of the Public Service Board.

Background

The chief motivation for the creation of a separate agency to deal with grievance matters is that the Public Service Board with its delegates presently combine two distinct functions: specification of the administrative procedures and criteria to be employed in personnel matters, and adjudication on the wisdom or justice of their application in a particular case.

Several separate committees have been established to deal with various matters relating to employment in the Australian Public Service, including review of decisions on promotion appeals, discipline and retirement or deployment. The Merit Protection and Review Agency established by this Bill will take over responsibility for these Committees.

An additional feature of the separate agency, over Committees established legislatively under the Public Service Act and administratively under the Public Service Board, is the facility of extension to other Commonwealth bodies, such as statutory authorities.

The Bill is associated with two other Bills. In addition to presently existing tribunals under the responsibility of the Public Service Board, the Members of Parliament (Staff) Bill 1984 would establish a Re-integration Assessment Committee for the determination of classifications at which officers or employees who have left
the Australian Public Service for service as Ministerial consultants or Member's staff will commence on their return. The Public Service Reform Bill 1984 repeals provisions rendering the Public Service Board responsible for the various Committees.

Outline

The membership and administration of the Merit Protection and Review Agency is dealt with in Part II (clauses 63 to 79) of the Bill. Within Part II, Division 1 establishes the Agency while the sub-divisions of Division 2 make specific provision for the various review committees, which are the Promotion Appeal Committees, Disciplinary Appeal Committees and Re-appointment Review Committees under the Public Service Act 1922; the Redeployment and Retirement Appeal Committees required by the Commonwealth Employees (Redeployment and Retirement) Act 1979; and the Re-integration Assessment Committees established by the Members of Parliament (Staff) Bill 1984.

Main Provisions

The various clauses of the Bill are to commence when proclaimed. Complementary provisions in the Public Service Reform Bill 1984 are also to commence when proclaimed.

The Merit Protection and Review Agency established by clause 5 consists of a Director and 2 to 4 other members, of whom only two may be full-time. One of the full-time members is to be appointed in consultation with the ACTU (clause 63). Under clause 77, the Agency is to be deemed for staffing etc. purposes to be a separate Department under the Public Service Act 1922.

The Bill is notable in that the objects of the Act are set out in clause 4. The regulation-making power in clause 85 specifies a number of matters susceptible to coverage in regulations.

The Agency is charged with responsibility for appointment of Committees, according to a specified composition, generally including Departmental representation. Provision is made for decision by simple majority, the chairman having a casting vote. A further clause may alleviate the need for rehearing should a member of the Committee retire from a case.

Since the various Committees are bodies of review, their respective jurisdictions are established by reference to legislation under which decisions taken are susceptible
to review. The Committees are:

Promotion Appeal Committees [appeals under s.50B and regulations under s.51A of the Public Service Act 1922]

Disciplinary Appeal Committees [Divisions 6 and 6A of Part III of the Public Service Act 1922]

Redeployment and Retirement Appeal Committees [appeals under Division 8B of Part III of the Public Service Act 1922, and under s.15 of the Commonwealth Employees (Redeployment and Retirement) Act 1979]

Re-appointment Review Committees [Division 3 of Part IV of the Public Service Act 1922]

Re-integration Assessment Committees [applications under the Members of Parliament (Staff) Bill 1984]

The jurisdiction of Promotion Appeal Committees and Disciplinary Appeal Committees may be later expanded by adoption in subsequent enactments (clauses 15, 21).

For further information, if required, contact:

29 May 1984
Law & Government Group
LEGISLATIVE RESEARCH SERVICE