Date Introduced: 3 March 1981  
House: House of Representatives  
Presented by: Hon. R.I. Viner, M.P., Minister for Employment and Youth Affairs and Minister Assisting the Prime Minister in Public Service Matters.

Short Digest of Bill

Purpose

To remove from the Public Service Arbitrator the jurisdiction to make determinations in relation to matters covered by the Commonwealth Employees (Redeployment and Retirement) Act 1979.

Background

The Royal Commission on Australian Government Administration in its 1976 report to Parliament found that there was a need to retain provisions covering redundancy and compulsory early retirement such as were at that time provided by sections 20 and 67 of the Public Service Act 1922. On 8 December 1976 the Commonwealth Employees (Redeployment and Retirement) Bill was introduced into Parliament and in his Second Reading speech the Minister stated that the aim of the Bill was "to rationalise and co-ordinate provisions relating to the retirement and redeployment of staff throughout the various areas of Commonwealth employment". Debate on the Bill was adjourned and it lapsed on the prorogation of Parliament in February 1977.

On 8 July 1977 the Public Service Arbitrator issued determination no.509 of 1977 setting out the procedures to be followed in determining redundancy situations within the Public Service.

The Commonwealth Employees (Redeployment and Retirement) Bill was re-introduced into Parliament on 5 April 1979. The Bill was passed and came into effect by proclamation on 6 February 1981.
Subsequent to the passing of the Bill on 20 August 1979 the Australian Conciliation and Arbitration Commission, sitting in place of the Public Service Arbitrator pursuant to the provisions of Section 15A of the Public Service Arbitration Act 1920, commenced the hearing of the Public Service Unions application for a determination as to the manner in which the provisions of the Commonwealth Employees (Redeployment and Retirement) Act should be implemented in the Public Service.

On 23 December 1980 the Commission issued Determination 503 of 1980 laying down procedures to be followed in respect of redeployment and compulsory retirement of members of the Public Service under the provisions of the Commonwealth Employees (Redeployment and Retirement) Act 1979.

On 5th February 1979 pursuant to Section 22 of the Public Service Arbitration Act 1922, Mr Viner announced that the Government would move, to disallow Determination 503 of 1980 on the grounds that it "has the effect of altering the Government's intentions".

The Commonwealth Employees (Redeployment and Retirement) Act 1979 was proclaimed the day following the Minister's announcement and by an advice dated 26th February 1981 the Attorney-General, Senator Durack, has expressed his opinion that Determination 503 of 1980 is not in accord with the Commonwealth Employees (Redeployment and Retirement) Act 1979.

In his Second Reading Speech on this Bill the Minister advised that he would be seeking the leave of the House to cognate the debate on the Bill with the motion for the disapproval of Determination 503 of 1980.

Main Provision

Clause 3(a) of the Bill amends Section 24(3) of the Principal Act and preserves the provisions of awards made before the commencement date of the Amendment Act.

Clause 3(b) of the Bill omits Section 24(4) of the Principal Act and inserts new sub-sections (4), (5), (6), and (7).

The proposed sub-section (4) precludes the making of any determination or award (as defined in the new sub-section 7) in respect of the redeployment or compulsory retirement of public servants.
Should Determination 503 of 1980 be disapproved then Determination 509 of 1977 read in conjunction with the Commonwealth Employees (Redeployment and Retirement) Act, will provide a code of procedure to be followed in the handling of redundancy and retirement issues. This code will be removed from the arbitration system and variable only by legislation.

The only exception to these provisions is contained in the new sub-section 6 of Section 24 also contained in clause 3(b) of the Bill. This sub-section excludes from the operation of sub-section 4(a)(i) and (ii) a term inserted in an existing award extending or limiting the classes of person to whom the award is to apply.

For further information, if required, please contact:

Law & Government Group
LEGISLATIVE RESEARCH SERVICE

5 March 1981