COMMONWEALTH FUNCTIONS (STATUTES REVIEW) BILL 1981

Date Introduced: 27 May 1981
House: House of Representatives
Presented by: Hon. Ian Viner, Minister for Industrial Relations and Minister Assisting the Prime Minister

Short Digest of Bill

Purpose
To implement such of the Government's decisions made in relation to the Review of Commonwealth Functions as require legislation, other than those requiring Commonwealth/State negotiation prior to implementation.

Background
On 30 April 1981, in a Ministerial Statement, the Prime Minister gave details of Government decisions made to implement the recommendations of the Committee of Review of Commonwealth Functions chaired by the Minister for Industry and Commerce, Sir Phillip Lynch.

A large number of the some 350 decisions announced by the Prime Minister do not require legislation and are to be implemented by executive direction. This Bill may be described as omnibus legislation dealing with many of the Government decisions requiring amendment or repeal of Statutes for, or consequent to, their implementation. Some decisions which will involve legislation, but which require Commonwealth/State negotiations prior to implementation, are not dealt with in this Bill. Examples of these decisions cited by the Minister in his Second Reading Speech relate to student loans, the Curriculum Development Centre, the transfer to the South Australian Government of Australian National Railways staff, and deregulation of the Australian National Railways and the Australian National Line. The Treasurer is to introduce separate legislation to give effect to new tax sharing provisions with the States, and hospitals and related health services funding.

Main Provisions
Clause 2 provides for varying commencement dates for different portions of the Bill. Where significant this will be commented upon in relation to individual Parts and Sections.
Part II of the Bill relates specifically to the Australian Capital Territory. The provisions of this part shall come into operation on such respective dates as are fixed by Proclamation. By Divisions 1, 2 and 15 respectively the pursuit of the occupations of agent, architect or surveyor in the A.C.T. is freed from requirements of registration and from regulation, by repeal of the Ordinances which created regulatory Boards and imposed these requirements.

By Divisions 3 and 4 of Part II the Minister for the Capital Territory is empowered to direct the Canberra Commercial Development Authority and the Canberra Retail Market Trust to enter into agreements for the sale of all or any of their rights, property or assets to persons designated by the Minister, and on terms and conditions specified by him. Effectively these provisions relate to the Belconnen Mall and the Canberra Retail Markets.

Clauses 8 and 21 respectively, provide for replacement of members of the Authority and of the Trust in the event of failure to comply with the Minister's directions and clauses 16 and 30 provide financial penalties payable by the Authority and by the Trust in the event of refusal to hand over title documents on request by the Registrar of Titles. As both the Authority (by virtue of clauses 13 and 14) and the Trust (by virtue of clauses 27 and 28) continue to exist until the Minister publishes notice of their ceasing to exist in the Gazette these provisions remain capable of enforcement until such notice is given.

Other clauses in Divisions 3 and 4 provide for the substitution of a purchaser from the Authority or Trust for that body in existing contracts, and in any pending litigation specified in the purchase agreement.

Division 5 of Part II aims at self-sufficiency for the Canberra Showground Trust and provides for the Trust to engage its own staff to replace Public Service Staff.

The activities of co-operative trading societies in the A.C.T. are deregulated by the repeal and amendment provisions contained in Division 6.

Division 7 abolishes the office of Lakes Superintendent under the Lakes Ordinance and provides that duties of the office are to be performed by a delegate of the Minister. Neither the Explanatory Memorandum nor the Second Reading Speech provide the background for this change.
Rent control in the A.C.T. is terminated by Division 8 of Part II and the office of Rent Controller and the Fair Rents Board are abolished.

The Ordinance regulating foreign shareholding in life insurance holding companies in the A.C.T. is repealed by Division 9. The Explanatory Memorandum states that the present Ordinance has been overtaken by the Government's foreign investment policy, including foreign takeover legislation.

As part of the deregulation of retail trading in the A.C.T. the Prices Regulation Ordinance is repealed by clause 80 of Division 12 and the Trading Hours Ordinance is repealed by clause 90 of Division 16. Control of milk pricing is retained by amendments to the Milk Authority Ordinance contained in Division 10 which now vest this function in the Milk Authority. Additionally the Milk Authority is empowered to employ its own staff to replace Public Service Staff.

The Nature Conservation Advisory Council of the A.C.T. is abolished by the amendments contained in Division 11, and Division 12 abolishes the Office of Receiver of Scalps which previously existed under the Rabbit Destruction Ordinance.

Provisions in respect of sewerage and water rating in the A.C.T. are contained in Divisions 14 and 17. The effect of these amendments to the Sewerage Rates Ordinance and to the Water Rates Ordinance is that in the first instance "authorized officer" is replaced by "delegate of the Minister" and in the second "proper authority" is replaced by "delegate of the Minister". As with the Lakes Ordinance no background information is provided in respect of these alterations.

By Part III of the Bill the Australian Post Courier Service is abolished. Clause 2(2) provides that this Part will come into effect on 1 July 1981.

Amendments to the Wool Industry Act 1972 contained in Part IV provide for the disestablishment of the Australian Wool Testing Authority. Initially the assets and functions of the Authority will be taken over by a corporate body to be formed by the Australian Wool Corporation. Provision is made in clause 115 for the Corporation to sell the company so formed to a third party, retaining an interest to such an extent, and on such terms, as the Minister approves. Under clause 116 the new company shall be able to issue certificates relating to prescribed tests including International Wool Textile Organisation Presale...
Test Certificates under prescribed conditions. By an amendment to Section 76 of the Wool Industry Act 1972 contained in Schedule 1 the Minister is empowered to direct the Corporation to dispose of surplus wool stores. The provisions relating to the take-over of the assets and functions of the Authority are to come into effect on Royal Assent whilst the amendments set out in the Schedule will come into effect on a date fixed by the Minister for Primary Industry by publication in the Gazette, such date to be subsequent to the sale provided for in clause 115.

The Bankruptcy Act 1966 is amended by Part VI to enable much of the Official Receivers’ work to be carried out by private trustees. The Explanatory Memorandum advises that the need for further amendments will be considered as soon as the review of all public submissions on the Bankruptcy Act has been completed and the joint management review of the Bankruptcy Branch has been finalised. These provisions are to come into effect on Proclamation.

Part VI relates to Commonwealth Employees Compensation and has the effect that, as from the date of Proclamation, all appeals under the Compensation (Commonwealth Government Employees) Act 1971 against determinations of the Commissioner for Employees Compensation will be heard by the Administrative Appeals Tribunal. The present jurisdiction of the Commonwealth Employees’ Compensation Tribunal is also transferred to the Administrative Appeals Tribunal. These amendments to the Compensation (Commonwealth Government Employees) Act 1971 providing for the modified application of the Administrative Appeals Tribunal Act 1975 are effected by Schedule 2 of the Bill, whilst saving and transitional provisions are contained in clauses 151 to 155.

The Audit Act 1901 is amended by Part VII to provide of the remuneration or allowances of Commonwealth employees other than in cash. Members of the Defence Force are exempted and the Minister for Finance may grant specific exemptions. These provisions are to come into effect on Proclamation.

The office of Commonwealth Teaching Service Commissioner is abolished by virtue of Part VIII. The provisions of the Part divide the functions currently performed by the Commissioner between the Department of Education, the A.C.T. Schools Authority and the Public Service Board. The Explanatory Memorandum advises that a significant factor in the decision to abolish the office was the imminent transfer of Commonwealth Teaching Service members employed in the Northern Territory to a Northern Territory Teaching Service. These provisions are to come
into effect on Proclamation except for clauses 172 and 173 which are to come into operation on the day that the sections of the Commonwealth Teaching Service Act 1972 that they amend come into operation; these are provisions relating to Commonwealth Teaching Service Scholarships which are yet to be proclaimed.

By repealing section 5 of the National Health Act 1953 clause 177 of Part IX, effective from the date of Royal Assent, removes the requirement that the Director-General of Health be a medical practitioner.

Parts X and XI of the Bill provide for the Export Expansion Grants scheme to be extended to provide for an additional grant year 1982/83, but with the amount of grants being half that of previous years, and for the Export Market Development Grants scheme to be extended for a year. The Explanatory Memorandum advises that export incentive schemes are being referred to the Industries Assistance Commission for inquiry and report by 31 December 1981. The aim of the extension of the Export Incentives schemes is expressed as being to give the Government time, following the report of the IAC, to consider the future of the schemes and for industry to be able to take the Government's decisions into account in export planning. These provisions come into effect on Royal Assent.

The Foreign Takeovers Act 1975 is amended by Part XII. With effect from the date of Royal Assent, notification of the acquisition of non-trading companies, as defined in clause 186, by foreign investors will not be required.

Under the provisions of Part XIII the Minister for Housing and Construction is empowered to enter into an agreement on behalf of the Commonwealth for the sale of the business of the Housing Loans Insurance Corporation. In his Second Reading Speech the Minister stated that mortgage insurance can now be provided efficiently by the private sector without direct Government involvement. By clauses 195 and 197 the Corporation will cease to exist on a day, subsequent to an agreement for sale, fixed by the Minister by publication in the Gazette. Provision is made by clause 196 for completion by the Commonwealth of existing contracts of insurance made by the Corporation. Clause 194 provides that the provisions of the CERR Act will apply to the Chairman and Deputy Chairman of the Corporation and clause 202 preserves the rights of officers of the Corporation now covered by the Officers' Rights Declaration Act 1928. This Part is to come into operation on Royal Assent.
To implement the Government's stated decision to request the Industries Assistance Commission to investigate the scope for modifying or improving the Customs by-law system, clause 204 of Part XIV amends section 23 of the Industries Assistance Commission Act 1973 to allow the Minister to refer to the IAC matters relating to assistance to industries generally. Although Part XIV is expressed to come into operation on the same day as the Petroleum Products Act 1981 clause 206 provides that a reference made to the IAC pursuant to the extended power conferred under clause 204 prior to that date shall be deemed to be made as at the date of commencement of the Part. Clause 205 provides that the Commissioner for Petroleum Products Pricing may be appointed as a full-time member of the Temporary Assistance Authority.

Amendments to the Lands Acquisition Act 1955 contained in Part XV apply the provisions of the Act to acquisition by agreement of land outside Australia for a public purpose. However, the resale provisions contained in section 53 of the Act are not applicable to such acquisitions. These provisions also come into effect on Royal Assent.

The Legislative Drafting Institute is abolished by repeal of the Legislative Drafting Institute Act 1974 by clause 212 of Part XVI, effective as at the date of Proclamation. In his Second Reading Speech the Minister stated that training and assistance of the kind provided by the Institute would be given in the form of "on the job" training.

In Part XVII the provisions of the Navigation Act 1912 and the yet to be proclaimed, Navigation Amendment Acts of 1980 and 1981 are amended to reduce the supervisory role of Mercantile Marine Office Superintendents in relation to temporary authorised absences of merchant seamen from their ships. These provisions, apart from exceptions specified in clause 2(1), (5), (6) and (7), come into operation as at the date of Royal Assent.

The Government's decision to abolish the Prices Justification Tribunal is implemented by the provisions of Part XVIII. This Part is to come into operation on the day on which the Petroleum Products Pricing Act 1981 comes into operation, the Petroleum Pricing Authority to be created under that Act having similar powers to those that the Price Justification Tribunal presently has in relation to the prices of petroleum products.

The Preference to Australian Goods (Commonwealth Authorities) Act 1980 is amended by Part XIX which is to
come into operation on Proclamation, the new title of the Act will be the Procurement of Goods, Works and Services Act 1981. The effect of the amendment is that Purchasing Division of the Department of Administrative Services shall, in accordance with arrangements approved by the Secretary of that Department, make, on behalf of statutory authorities and departments, purchases in respect of which tender procedures are to be followed (currently those involving expenditure in excess of $10,000, under Finance Regulation 52).

Part XX amends the Remuneration Tribunals Act 1973 to provide that a person holding two public offices on a full-time basis may receive only one set of salary and allowances. In the Explanatory Memorandum this is linked to the provisions in clause 205 enabling the Commissioner for Petroleum Products Pricing to be appointed as a full-time member of the Temporary Assistance Authority.

The Government's decision to terminate assistance to the States for transport planning and research after the current year is implemented by the amendment to the Transport Planning and Research (Financial Assistance) Act 1977 made by clause 258 of Part XXI.

Part XXII provides for amendment of the States Grant (Urban Public Transport) Act 1978 to terminate specific purpose assistance to the States for urban transport as from 30 June 1981. In his Second Reading Speech the Minister advised that, at the Premier's Conference on 4 May 1981, the Commonwealth announced that the States' overall entitlements for 1981-82 under tax sharing arrangements would include a special adjustment of $50 million to offset the termination of specific purpose grants for urban public transport.

Parts XX, XXI and XXII of the Bill are to come into effect on Royal Assent.

For further information, if required, contact:

3 June 1981

Law & Government Group
LEGISLATIVE RESEARCH SERVICE