COMMONWEALTH EMPLOYEES (REDEPLOYMENT AND RETIREMENT) BILL 1979

Date Introduced: 5 April 1979
House: House of Representatives
Presented by: Hon. R.I. Viner, Minister for Employment and Youth Affairs

Short Digest of Bill

Purpose

To facilitate the redeployment of Commonwealth employees to areas where they can more suitably be employed and to provide for early retirement both voluntary and management-initiated.

Background

The Commonwealth Employees (Redeployment and Retirement) Bill 1976 was introduced in 1976 in the House of Representatives but lapsed on the prorogation of Parliament in February 1977. The Bill was similar to the present Bill and provided for redeployment of employees within the Australian Public Service (APS) and Commonwealth authorities for various reasons, for management-initiated early retirement of employees who could not be redeployed and for voluntary early retirement.

The Bill was severely criticized by public service unions. In particular clause 7, setting out the criteria on which employees could be redeployed - the first step towards management-initiated retirement - included, as well as excess staff and physical and mental incapacity, the words "for any other reason"; this was criticized as being too vague. Also the review process in clause 14 was criticized both because the Bill did not set out enough details of how the reviews would operate and because it was specified that a review need be no more than a reconsideration of the earlier decision by the original decision-maker.

This Bill has, according to the Minister's Second Reading Speech, been prepared following discussions between the Public Service Board and peak employee councils particularly over recent months but has already been criticized by some union officials - for example Paul Munro (of ACOA) (reported SMH 6 April 1979).
Main Provisions.

The Bill applies to all executive Departments and to Commonwealth authorities which are specified by regulation (clause 3). It will only apply to Parliamentary Departments if specified by regulation (clause 28); there is also provision for its application to Commonwealth police, ACT police and various other bodies (sub-clause 29(2)).

Part II deals with redeployment. Clause 7 specifies the objects of the Part as (a) ensuring the most efficient and economical use of employees in Departments and prescribed authorities and (b) ensuring that employees who cannot, consistently with that object, reasonably be used in a Department or prescribed authority, because of excess staff, physical or mental incapacity or any other prescribed reason, are redeployed. Thus, regulations must be made before additional matters are specified and sub-clause 7(2) requires the PSB to consult with public service unions and report to the Governor-General before regulations are made. The Explanatory Memorandum mentions "loss of licence/qualifications, and cases of limited efficiency" as grounds expected to be covered by regulation.

Clause 8 requires the publication in the Gazette of a notice setting out procedures to be followed in redeployment. Clause 9 requires the Permanent Head to ensure his Department operates to achieve the objects of the Part and to identify and declare employees who cannot, on the grounds set out in clause 7, reasonably be used, as eligible for redeployment. The employee and the PSB are to be notified (clause 10) and the PSB must attempt to redeploy the employee in the APS or to arrange for redeployment in a prescribed authority or issues a certificate if it cannot do so (clause 11). Clauses 12 and 13 specify the specific redeployment powers of the PSB and provide for regulations prescribing powers for prescribed authorities. Clause 14 enables redeployment procedures to be sidestepped where an employee should be retired on invalidity grounds if she/he has waived rights to an appeal.

Clause 15 provides for appeals against a declaration than an employee is eligible for redeployment, against the granting of a certificate under clause 11 that an employee cannot be redeployed, against action under clause 14 or against the redeployment of the employee in the APS or a prescribed authority. These are to be before Commonwealth Employees Redeployment and Retirement Appeals Tribunals each to consist of a Chairman appointed by the Governor-General either for a particular appeal or class of appeals or generally, a member of the Department or
statutory authority or, in some cases, the PSB and a union representative. Chairmen are to be paid in accordance with determinations of the Remuneration Tribunal (clause 16).

Under clause 15, Tribunals may confirm or revoke declarations under clause 9 and certificates under clauses 11 and 14, may specify another employee who should be declared under clause 9; where the appeal is against the taking of redeployment action, the Tribunal may confirm the decision or set it aside and remit the decision to the Board for further action.

Part III deals with retirement. Clause 17 enables employees, who have reached 55 years or such other age as is prescribed for employees of their class, to retire early.

Clause 18 deals with compulsory early retirement of Permanent Heads on grounds of inefficiency, incompetence or physical or mental incapacity.

Clause 19 deals with early retirement for redundant employees who cannot be redeployed under Part II. They may be compulsorily retired by the Department or prescribed authority but action may not be taken unless rights to appeal under Part II are waived or have been dismissed or withdrawn.

Part IV covers miscellaneous provisions including special benefits for persons who are compulsorily retired after having been declared excess employees or being declared "for any other prescribed reason" (clause 23).

Clause 29 specifies the regulations that may be made, including procedural matters to do with appeals. The Schedule makes consequential amendments to other Acts.

The Bill is to operate from a date to be proclaimed (clause 2) except for clause 20 which is to operate from Royal Assent. Clause 20 deals with Permanent Heads retired for invalidity and allows them to be placed on the unattached list pending retirement, enabling the filling of the ensuing vacancy.