1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

PUBLIC SERVICE AND STATUTORY AUTHORITIES AMENDMENT BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister Assisting the Prime Minister for Public Service Matters)
OUTLINE

1. The Bill has two principal purposes. Firstly it gives effect to the Government's decision to amend the Commonwealth Employees (Redeployment and Retirement) Act 1979 to provide that inefficiency and loss of essential qualifications are grounds upon which redeployment and retirement action can be taken. Secondly it revises the arrangements applying to the engagement of employees under the Public Service Act by providing four separate categories of employees —

(a) continuing employees;

(b) short-term employees;

(c) fixed-term employees; and

(d) overseas employees.

This scheme will enable appropriate tenure and other provisions to be applied to persons in accordance with the category in which they are engaged.

2. The Bill is divided into the following Parts —

Part I — Preliminary

Part II — Amendment of the Public Service Act 1922

Part III— Amendment of the Commonwealth Employees (Redeployment and Retirement) Act 1979

Part IV — Amendment of the Long Service Leave (Commonwealth Employees) Act 1976
Part V  -  Amendment of the Public Service and Statutory Authorities Amendment Act 1980

Part VI  -  Amendment of the Public Service Reform Act 1984

Part VII  -  Amendment of various laws.

3. The Bill also includes provisions to give effect to decisions taken by the Government in relation to the reform of the Public Service. As part of those reforms the Public Service Board no longer plays any role in relation to the approval of consultancies or consultants' terms and conditions. Accordingly, the Bill removes the requirement of Board approval from Consultancy provisions contained in twenty seven Acts under which various statutory authorities operate.

4. The Bill also contains many provisions of a technical or consequential nature.

Financial Impact

5. There are no identifiable costs associated with the amendments made by the Bill. The revised provisions for employees are expected to ensure that the employees gain tenure and other benefits commensurate with the nature of the service they are engaged to provide. The amendment to the Commonwealth Employees (Redeployment and Retirement) Act are expected to promote efficiency in the Service.
NOTES ON CLAUSES

PART 1: PRELIMINARY

Clause 1 - Short Title

Clause 2 - Commencement Provisions

The substantive parts of the Bill are to come into operation on a day or days to be proclaimed.

Technical amendments which are made in relation to provisions inserted into the Public Service Act 1922 by the Public Service Reform Act 1984 are generally to be brought into operation concurrently with the 1984 amendments.

PART II - AMENDMENT OF PUBLIC SERVICE ACT 1922

Clause 3 - Principal Act

Defines the Public Service Act 1922 as the Principal Act for the purposes of the amendments in Part II.

Clause 4 - Schedule 2 - Departments

Section 7A currently requires notification in the Gazette of the abolition or establishment of Departments for the purpose of deeming Schedule 2 of the Act to be amended. Clause 4 amends section 7A so that Schedule 2 is deemed to be amended upon the abolition or establishment action rather than upon that action being notified in the Gazette. Clause 4 also inserts a sub-section (2) in section 7A which requires the Prime Minister to cause a notice of the establishment, abolition or alteration of a Department to be published in the Gazette as soon as is practicable after the event.
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Clause 5 - Officers of the Parliament

Clause 5 provides that for the purposes of Division 1A of Part III of the Conciliation and Arbitration Act 1904 the President of the Senate is to be taken to be the Minister administering the Department of the Senate, the Speaker of the House of Representatives is to be taken to be the Minister administering the Department of the House of Representatives and both presiding officers are to be taken jointly as being the Minister administering the Department of Parliamentary Library, the Department of Parliamentary Reporting Staff and the Joint House Department. The object of this amendment is to bring the Parliamentary Presiding Officers within the definition of "employing authority" in section 70A of the Conciliation and Arbitration Act in relation to employees of the Parliamentary Departments.

Clause 6 - Acting Appointments of Members of Board

The amendment removes from section 12A a sub-section which excludes the operation of section 18 from the process of making and terminating acting appointments to the Public Service Board. This proposed amendment is part of a process of moving all exemptions from section 18 into section 18 itself.

Clause 7 - Board to Submit Reports to Governor-General

The amendment gathers the various exemptions from the operation of section 18 applying to provisions of the Act which require matters to be dealt with by the Governor-General and locates them in section 18 itself.

Clause 8 - Equal Employment Opportunity Programs

The amendment removes an apparent inconsistency between section 228 of the Public Service Act and sub-section 42C(1) of the Naval Defence Act 1910 and sub-section 10(2) of the
a general exclusion of the provisions of the Public Service Act from staff employed under the latter two Acts. The amendment puts beyond doubt the ability of the Board to make regulations extending the provisions of section 22B to Naval Defence Act and Supply and Development Act staff.

Clause 9 — Industrial Democracy Plans

The amendment removes an apparent inconsistency between section 22C of the Public Service Act and sub-section 42C(1) of the Naval Defence Act 1910 and sub-section 10(2) of the Supply and Development Act 1939. Those sub-sections provide a general exclusion of the provisions of the Public Service Act from staff employed under the two Acts. The amendment puts beyond doubt the ability of the Board to make regulations extending the provisions of section 22C to Naval Defence Act and Supply and Development Act staff.

Clause 10 — Secretaries of Departments

Section 25 currently requires notification in the Gazette of the fact of abolition of offices of Secretary, prescription of new offices of Secretary or change in the name of offices of Secretary, for the purpose of deeming Schedule 3 of the Act to be amended accordingly. Clause 10 amends section 25 so that Schedule 3 is deemed to be amended upon the executive action taking place rather than upon notification of the fact in the Gazette.

Clause 10 also inserts a sub-section (1A) in section 25 which requires notice of action taken pursuant to sub-section 25(1) to be published in the Gazette as soon as is practicable after the event.

Clause 11 — Administrative re-arrangements

Clause 11 amends section 29 of the Public Service Act to enable the administrative re-arrangements provisions contained in sub-section 29(2) to be used when the reason
contained in sub-section 29(2) to be used when the reason for a matter being dealt with by a different department is the creation under legislation of a Department falling within paragraph (b) of the definition in section 7 of the Act. At present sub-section 29(2) provides that where functions are transferred to a department by administrative re-arrangements, offices may be abolished and other offices may be created in another Department which have the same classifications as the abolished offices and the holders of which are required to perform substantially the same duties as the holders of the abolished offices. Offices which are created under the section are declared to be in substitution for offices which are abolished under the section.

Clause 12 - Interpretation

This clause amends the definition of "promotion" contained in section 33AAA of the Public Service Act. The current definition of promotion may be defective in that it can be read to apply to a transfer of an officer between offices having more than one salary point where the officer concerned is not already at the maximum of the salary range. As presently drafted comparison is invited between the actual rate paid to the officer in the present office and the maximum rate in the new office.

It is proposed that promotion should be defined in two ways. Firstly by reference to movement to an office of higher classification and secondly by reference to movement to another office where, as a result of the movement, the officer becomes entitled to a higher rate of salary.

Clause 13 - Certain provisions not to apply to appointments under this subdivision

This clause amends section 41 of the Public Service Act by omitting the reference to section 18. This amendment is
part of the process of moving all exemptions from the requirements of section 18 into section 18 itself. See also clause 7.

Clause 14 - Appointment of certain continuing employees

Clause 14 inserts a new section 42A into the Public Service Act. The section provides for the regularisation of the status of long-term employees who have the same tenure as officers but lack the same career rights, such as access to promotion. The section will facilitate their absorption into the mainstream of the Service. Sub-section (2) provides that certain requirements which are preliminary to normal appointment may be waived in the light of the length of service already provided by these employees.

Clause 15 - Day on which promoting takes effect

This clause makes a formal amendment to section 50E substituting the word "promotion" for the word "appeal" (last occurring) in paragraph (1)(a)(i).

Clause 16 - Cancellation of Promotion

This clause repeals the existing section 50G and substitutes a new section containing three sub-sections. The proposed sub-section (1) provides that the power to cancel a promotion can be used before the promotion has been notified in the Gazette. On occasions the need to cancel a promotion comes to light after the promotion is made but before it is notified; it is undesirable in such a case to have to notify the promotion before it can be cancelled.

The proposed sub-section (2) provides that in the above circumstances the promotion is deemed to be cancelled rather than requiring the departmental Secretary to cancel the promotion.
The proposed sub-section (3) provides that where a promotion is cancelled by or under section 50G any appeal under section 50B against the promotion is deemed to lapse on the date of cancellation.

Clause 17 - Administrative re-arrangements

This clause removes the Board's role of transferring an officer to a substituted office in sub-section 51AA(2) of the Public Service Act. Under the amended sub-section an officer holding an office at the time of its abolition under section 29 is transferred to the substituted office by force of sub-section 51AA(2).

The clause also omits sub-section (4) from section 51AA. That sub-section required the Board to furnish a copy of the instrument of transfer issued by it pursuant to sub-section 51AA(2) to the Secretaries of gaining and losing departments. The sub-section is unnecessary as administrative action will be sufficient to inform the relevant Secretaries of the action taking place.

Clause 18 - Application to certain employees

Clause 18 amends section 63T of the Public Service Act by inserting a new paragraph (ba). The amendment provides that regulations may be made to apply the disciplinary code to fixed term employees

(a) engaged for a fixed period of a year or more (as at present), or

(b) who have been engaged for a fixed period of less than a year but where the aggregate of the fixed term and any immediately preceding periods of employment under the Act (whether as an officer, a fixed term employee or a short term employee) is twelve months or more.
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Clause 19 - Benefits

The reference in paragraph 76Q(l)(b) to "declared officer" (which has been drawn from section 23 of the Commonwealth Employees (Redeployment and Retirement) Act) is inappropriate as the term has a narrower meaning in Division 8B of Part III of the Public Service Act than in the CE(RR) Act (see section 76H). Clause 19 replaces the reference to 'declared officer' with a reference to 'an officer to whom notice has been given under section 76L'.

Clause 20 - Repeal of Divisions 9A to 9E of Part III

Divisions 9A to 9E were inserted in the Public Service Act at various times to effect the transfer of particular groups of staff to the APS. These transfers having been made the provisions are now largely spent. Since 1975 similar transfers have been handled by the use of Division 9F. Accordingly, clause 20 repeals Divisions 9A to 9E. Section 8 of the Acts Interpretation Act is relied upon to preserve rights that were dependent on provisions in Divisions 9A to 9E.

Clause 21 - Employees

Clause 21 amends Division 10 of the Public Service Act by omitting the existing sections 82 and 82A and substituting new sections 82, 82AA, 82AB, 82AC, 82AD, 82AE, 82AF, 82AG and 82AH. The proposed new provisions create a scheme for the engagement of employees which identifies the broad circumstances in which the services of employees should be used and makes separate provision for engagement in each of the differing circumstances. The scheme will make it possible to apply appropriate tenure and other provisions according to the category in which a person is engaged.

Four separate categories of employees are proposed -
(a) continuing employees
(b) short term employees
(c) fixed term employees; and
Proposed section 82 - provides definitions for words and expressions used in Division 10.

Proposed section 82AA - Categories of employees - provides that a person who is employed under Division 10 is to be employed in one of the following categories of employees:

(a) continuing employees;
(b) short-term employees;
(c) fixed-term employees;
(d) overseas employees.

Proposed section 82AB - Declaration of classes of continuing employees - sub-section (1) provides that the Board may declare a specified class of employees to a class to which persons may be engaged as continuing employees.

Proposed sub-section (2) provides that declarations made in pursuance of section 82 shall not operate for more than three years. The sub-section does not prevent the making of further declarations or extensions of the operation of existing declarations.

Proposed sub-section (3) provides that the Board is not to make a recommendation declaring a class of continuing employees unless -

(a) it is satisfied that the provisions of the Act relating to the appointment, promotion and transfers of officers are not appropriate to be applied to persons in the proposed class of employees; and

(b) it has obtained the agreement of the principal relevant staff organisation.

Proposed sub-section (4) provides that sub-section (3) does not apply to a declaration of a class of continuing employees...
whose duties are the same as those applying to a class previously declared.

Proposed section 82AC - Employment of continuing employees

sub-section (1) provides the power for Secretaries of Departments to engage continuing employees.

Proposed sub-section (2) - provides that a Secretary can only engage a person as a continuing employee within a class of continuing declared under section 82AB.

Proposed sub-section (3) - provides that a Secretary must be satisfied that a person has the ability necessary for the duties to be performed before engaging the person as a continuing employee.

Proposed sub-section (4) - provides that where a person is employed in a particular class of continuing employees and the declaration with respect to that class lapses, that lapsing does not prevent the continuation of the employment of the person as a continuing employee.

Proposed section 82AD - Employment of short-term employees

Proposed sub-section (1) - provides the power for the Secretary of a Department to engage persons as short-term employees.

Proposed sub-section (2) - provides that a Secretary shall not employ a person under sub-section (1) unless satisfied -

(a) that the Department requires assistance of a temporary nature in the performance of particular duties;

(b) having considered the need to maintain the Service as a career service - that it would not be appropriate to use the services of a continuing employee to perform those duties; and
having considered the need to maintain a stable workforce - that it would not be appropriate to use the services of a continuing employee to perform those duties.

Proposed sub-section (3) - provides that a person who is to be employed as a short-term employee -

(a) is to be selected from a register of applicants; or

(b) if the register contains no suitable person - shall be a person who the Secretary is satisfied has the ability necessary for the performance of the duties to be performed.

Proposed sub-section (4) provides that, subject to sub-section (7), the period of engagement of a short-term employee shall not exceed -

(a) if a period of less than twelve months is approved by the Board in relation to the relevant class of employee - that period; or

(b) in any other case - 3 months.

Proposed sub-section (5) provides that where, for the purposes of paragraph (4)(a), the Board proposes to approve a period of more than three months in relation to a class of short-term employees the Board must first consult with the principal relevant staff organisation.

Proposed sub-section (6) provides that the expiration of a period of short-term employment does not terminate the employment of an employee but the Secretary of the Department shall either terminate the employment of the employee if the
Department no longer requires the employee's assistance or recommend to the Board that the employment be extended.

Proposed sub-section (7) provides that where the Board receives a recommendation under paragraph (6)(b) it shall -

(a) if it is satisfied -

(i) having considered the need to maintain the Service as a career service - that it would not be appropriate to use the services of an officer to perform the duties of the employee; and

(ii) having considered the need to maintain a stable workforce - that it would not be appropriate to use the services of a continuing employee to perform those duties,

extend the period of engagement of the employee for such further period as it thinks appropriate; and

(b) in any other case - terminate the employment of the employee with effect from such date as it thinks fit. The Board may extend the period of the employee's engagement up till that date where this is necessary.

Proposed sub-section (8) provides that the Board can extend a period of engagement under sub-section (7) notwithstanding that the period of engagement has expired.

Proposed sub-section (9) provides that where at any time, as a result of an extension of the period of engagement of a person under sub-section(7), the person has been employed as a short-term employee for the immediately preceding period of one year, any continuation of the employment of the person after that time shall be deemed to be employment as a continuing employee.
Proposed section 82AE — Employment of fixed-term employees

Proposed sub-section (1) provides that Secretaries of Departments may, with the approval of the Public Service Board, engage persons as fixed-term employees.

Proposed sub-section (2) provides that a person shall not be engaged as a fixed term employee except where —

(a) the person is required to perform duties in connection with a project or task that has a fixed duration (whether or not its duration is known at the relevant time) and —

(i) the duties require ability that is not available in the Service for that purpose; and

(ii) the services of the person are not likely to be required after the project or task is completed;

(b) the person could be appointed as an officer of engaged as a continuing employee in the Department, but employment as a fixed-term employee is preferred by the person; or

(c) the person is not an Australian citizen, but has been selected for appointment to the Service on the understanding that appointment will be made on the grant of Australian citizenship.

Proposed sub-section (3) provides that the Secretary of a Department must be satisfied that a person has the ability necessary for the performance of the duties to be performed before employing the person as a fixed term employee.

Proposed sub-section (4) provides that a person shall not be employed as a fixed-term employee in a particular branch of a
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Department unless the principal relevant staff organisation has been consulted in connection with the employment of persons as fixed-term employees in that capacity in that branch.

Proposed sub-section (5) provides that, subject to sub-section (7), the period of engagement of a fixed-term employee shall not exceed five years.

Proposed sub-section (6) provides that, subject to sub-section (7) (including extensions of employment thereunder), the employment of a fixed-term employee is terminated upon the expiration of the period of engagement.

Proposed sub-section (7) provides that on the expiration of the engagement of a fixed term employee the relevant departmental Secretary may extend the period of engagement for a period not exceeding five years.

Proposed section 82AF – Employment of overseas employees

Proposed sub-section (1) provides that the Secretary of a Department has the power to engage persons overseas to perform duties overseas.

Proposed sub-section (2) requires a Secretary to be satisfied that a person has the necessary ability before employing them as an overseas employee.

Proposed sub-section (3) provides that section 82AF does not prevent the engagement in Australia, under another provision of Division 10, of persons to perform duties overseas.

Proposed section 82AG – Employment of persons on special employment programs – provides that the Secretary of a Department may employ persons to perform duties under a prescribed scheme, being a scheme for enabling persons to gain abilities for the purpose of participating in the Australian workforce.
Proposed section 82AH - Termination of employment

Proposed sub-section (1) provides that, subject to the succeeding sub-sections, the Secretary of a Department may at any time terminate the employment of an employee in the Department.

Proposed sub-section (2) provides that where, under the regulations, the disciplinary code contained in Division 6 of Part III of the Public Service Act applies in relation to an employee, the Secretary shall not terminate the employment of the employee under this section -

(a) by reason only of the fact that the employee has done, or omitted to do, an act or thing in respect of which a charge could be laid against the employee; or

(b) on the ground that a court has convicted the employee of a criminal offence within the meaning of that Division, or found, without recording a conviction, that the employee has committed such an offence.

Proposed sub-section (3) sets out the grounds on which the employment of an employee to whom the Commonwealth Employees (Re-deployment and Retirement) Act 1979 applies can be terminated.

Clause 22 - Employment of persons who have resigned to become candidates at elections

Clause 22 makes an amendment to section 82B to bring it into line with the proposed amendments to provisions relating to employees as outlined in clause 21.

Clause 23 - Administrative re-arrangements

Clause 23 inserts a new section 82BA into the Public Service Act. The section allows for the movement of employees between Departments upon administrative re-arrangements.
Sub-section 82BA(1) provides that where a Department is abolished or a matter comes to be dealt with by a different Department by virtue of an administrative re-arrangement or by virtue of the creation by an Act of a 'Department' (of the kind referred to in paragraph (b) of the definition of 'Department' in sub-section 7(1)), sub-section (2) has effect.

Paragraph 82BA(2)(a) provides that where a matter has come to be dealt with by another Department because of the abolition of a Department the Board may direct in writing that a person who was employed in the abolished Department immediately before the time of abolition is to be employed in another Department. Paragraph 82BA(2)(b) provides that where a matter has come to be dealt with by another Department because of the establishment by an Act of a 'Department' (as per paragraph 7(1)(b)) the Board may direct that a person who was employed in the losing Department is to be employed in the gaining Department.

Upon the Board making a direction pursuant to paragraphs 82BA(2)(a) and (b) the person is deemed as from that time to be employed as so directed, in the same capacity and subject to the same conditions as were applicable immediately before that time.

Clause 24 - Interpretation

Amends section 87 by correcting an inaccurate reference to the Commonwealth Legal Aid Act 1977 and inserting a new sub-section (6A).

The proposed new sub-section 87(6A) provides that where, at any time before or after the day on which Part IV of the Public Service Act commenced operation, a person who was an officer of the Australian Legal Aid Office becomes a member of staff of an approved legal aid commission (in pursuance of an arrangement under sub-section 21(1) of the
Commonwealth Legal Aid Act) and then at some later date the person becomes the holder of a statutory office within the meaning of the Legal Aid Act, then for the purposes of the mobility provisions in Part IV of the Public Service Act the person shall be deemed to have become the holder of an "approved statutory office" (within the meaning of the Legal Aid Act) at that later time.

Clause 25 - Employment of officers by certain authorities, 8c, upon transfer of functions

Sub-sections 87J(3) and (4) provide for the making of declarations by the Public Service Board, with the approval of the Governor-General, relating to the transfer of functions from the Australian Public Service to other employing authorities.

Clause 25 amends sub-sections 87J(3) and (4) to provide that declarations required are made by the Prime Minister on the recommendation of the Public Service Board.

Clause 26 - Persons to whom Division applies

This clause amends sub-sections 87K(9) and 87K(10) by correcting an inaccurate reference to the Commonwealth Legal Aid Act 1977.

Clause 27 - Application for re-appointment to the Service
Clause 28 - Application for re-instatement as a person to whom Division applies
Clause 29 - Re-appointment to Service

These three clauses amend sections 87N, 87P and 87Q by omitting references to "Re-appointments Review Committee" and substituting "Re-appointment Review Committee".

Clause 30 - Transitional
Sub-clause (1) provides that in the proposed section 30 of the Public Service and Statutory Authorities Amendment Act "commencement" means the commencement of section 30.

Sub-clause (2) provides that despite the repeal of section 82 of the Public Service Act that section is to be deemed to continue in force for the purposes of sub-section 29(3) and that references in sub-sections 82(4), (6) and (6) to a Chief Officer are to be read as references to the relevant departmental Secretary.

Sub-clause (3) provides that, subject to sub-clauses (4)(5) and (6), where, immediately before the commencement of this clause a person was employed under section 82 and those services had not been dispensed with, the person continues to be employed under that section as continued in force by sub-clause (2).

Sub-clause (4) provides that where, immediately before the commencement of this clause, the services of a person who had been engaged overseas under section 82 to perform duties overseas had not been dispensed with, the employment of the person is to be deemed to be pursuant to the new section 82AF.

Sub-clause (5) provides that where, immediately before the commencement of this clause a person was employed under section 82 and the person's services had not been dispensed with under that section and the person was not—

(i) employed subject to a condition specified in sub-section 82(4); or,

(ii) employed under a contract of employment for a term of years; and

the person had, for the immediately preceding period of one year had been an employee, an officer, or both the
employment of the person after the commencement of this clause shall be deemed to be employment as a continuing employee under the new section 82AC.

Sub-clause (6) provides that where at any time after the commencement of this clause a person is employed under section 82 as continued in force by sub-clause (2) and the person is not —

(i) employed subject to a condition specified in sub-section 82(4) or

(ii) employed under a contract of employment for a term of years; and

(iii) the person has, for the immediately preceding period of 1 year, been an employee, an officer, or both,

the employment of the person after that time shall be deemed to be continuing employment under the new section 82AC.

Sub-clause (7) provides that the repeal of section 82 does not affect the application after the commencement of this clause, in relation to persons referred to in sub-clause (3), of determinations under section 82D of the Public Service Act which were in force immediately before the commencement of this clause.

PART III - AMENDMENT OF COMMONWEALTH EMPLOYEES (REDEPLOYMENT AND RETIREMENT) ACT 1979

Clause 31 - Principal Act
Defines the Commonwealth Employees (Redeployment and Retirement) Act 1979 as the Principal Act for the purposes of the amendments in Part III.

Clause 32 - Persons in relation to whom this Act applies
Section 5 of the Commonwealth Employees (Redeployment and Retirement) Act deals with those persons to whom the Act does or does not apply. Clause 32 brings section 5 into line with the changes to the categories of employees under the Public Service Act as contained in the proposed new sections 82 to 82AH (inclusive).

Clause 33 - Objects of Part

Clause 33 amends section 7 of the Commonwealth Employees (Redeployment and Retirement) Act to provide that inefficiency and loss of essential qualifications are grounds upon which redeployment and retirement action can be taken. The two new grounds are contained in a new sub-paragraph 7(1)(b)(iii). The former sub-paragraph (iii) is omitted.

Sub-section 7(2) is omitted and a new sub-section (2) is substituted which defines inefficiency. The new sub-section (3) spells out matters to which regard may be had for the purpose of determining whether an employee has failed to attain or sustain the standard of efficiency referred to in sub-section (2). The new sub-section (4) defines a term used in the new sub-section (3).

The new sub-section (5) defines, for the purposes of section 7, what is meant by not being qualified to perform duties and the new sub-section (6) defines 'essential qualifications' for the purposes of sub-section (5).

Clause 34 - Retirement of Employees who cannot be Redeployed

Clause 34 amends section 19 of the Commonwealth Employees (Redeployment and Retirement) Act by omitting the existing sub-sections (1) and (2) and substituting three new sub-sections - (1), (2) and (2A). The effect of the amendment is to require that, where redeployment has not proved possible, the Secretary of the employee's Department or Commonwealth authority, as applicable, must have regard to -
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(a) the employee's past and prospective service; and

(b) the nature of the employee's duties or former duties;

before causing the employee to be compulsorily retired.

Clause 34 also makes a technical amendment to sub-section 19(4) by omitting 'date' (wherever occurring) and substituting 'day'.

PART IV - AMENDMENT OF LONG-SERVICE LEAVE
(COMMONWEALTH EMPLOYEES) ACT 1976

Clause 35 - Principal Act

Defines the Long Service Leave (Commonwealth Employees) Act 1976 as the Principal Act for the purposes of the amendments in Part IV.

Clause 36 - Interpretation

This clause amends the definition of 'public authority of the Commonwealth' in section 4 of the Long Service Leave Act. In its current form section 4 provides that all authorities established or constituted by or under a law of an internal Territory fall within the definition of "public authority of the Commonwealth" unless the authority (being an authority established under a law of the Northern Territory) is declared by the regulations not to be "a public authority of the Commonwealth". This has the effect of granting Long Service Leave Act coverage to all Northern Territory bodies unless they are prescribed in Schedule 3 of the Long Service Leave Regulations in which case, service with the prescribed body counts for "prior service" purposes only.
Since the granting of self-government to the Northern Territory the method of conferring an entitlement to long service leave as noted above is no longer appropriate as far as Northern Territory bodies are concerned. As the preamble to the Act indicates it is an Act to make provision for long service leave in respect of employees of the Commonwealth and certain other persons.

Since self-government there are very few, if any, Northern Territory bodies upon which coverage is desired to be conferred. As the Act stands it is necessary to prescribe bodies specifically, in order to exclude them from the application of the Act. This mode of exclusion is inconvenient, requiring constant amendment to the Regulations.

Section 4 as amended by clause 24 excludes Northern Territory bodies from the definition of 'public authority of the Commonwealth'. An amendment is to be made to section 11, however, to provide that prior service with such bodies is to be recognised in the same way as service with a State or authority of a State (see clause 38).

Clause 37 - Meaning of authority of a State or of the Northern Territory

This clause amends the definition of 'authority of a State' in section 6 by providing that the Northern Territory is to be treated as if it were a State.

Clause 38 - Regulation with respect to previous service with prescribed authorities, & c

This clause provides that section 7 is to have effect as if the Northern Territory were a State.

Clause 39 - Period of service
Clause 39 omits the existing paragraph (2)(ca) from section 11 and inserts a new paragraph (2)(ca). The effect of the amendment is to provide that prior service with an authority established under a law of the Northern Territory can be recognised in the same way as service with a State or authority of a State.

The clause also makes a minor amendment to paragraph (3)(a) to reflect the above amendment of paragraph (2)(a).

PART V - AMENDMENT OF THE PUBLIC SERVICE AND STATUTORY AUTHORITIES AMENDMENT ACT 1980

Clause 40 - Principal Act

Defines the Public Service and Statutory Authorities Amendment Act 1980 as the Principal Act for the purposes of the amendments in Part V.

Clause 41 - Officers of the Parliament

Amends section 7 of the Public Service and Statutory Authorities Amendment Act by omitting sub-section (3). The sub-section has been made redundant by subsequent amendments to the Public Service Act.

Clause 42 - Transfers, promotions and appeals

Amends section 21 of the Public Service and Statutory Authorities Amendment Act by omitting sub-section (2). The sub-section has been made redundant by subsequent amendments to the Public Service Act.

PART VI - AMENDMENT OF THE PUBLIC SERVICE REFORM ACT 1984

Clause 43 - Principal Act

Defines the Public Service Reform Act 1984 as the Principal Act for the purposes of the amendments in Part VI.
Clause 44 - Saving of certain proceedings

This clause corrects a reference to an incorrect sub-section in a transitional provision in the Public Service Reform Act.

PART VII - AMENDMENT OF VARIOUS LAWS

Clause 45 - Engagement of consultants

This clause provides for the amendment of consultancy provisions in some twenty seven Acts. At present those Acts require the Board to approve the terms and conditions of consultants engaged by statutory authorities. As part of the reforms of the Service the Board no longer has any role in relation to the approval of consultancies or consultants' terms and conditions. Accordingly, clause 45 removes the requirement of Board approval.

Sub-clause (1) provides that the Acts specified in the Schedule are amended as set out in the Schedule. Sub-clause (2) is a transitional provision.