Parliament of Australia
The Parliamentary Library
Public Service Amendment Bill (No. 2) 1976
Introduced on 3 November 1976
House of Representatives
Presented by Mr. Adermann.

Short Digest of Bill

Purpose
The Bill’s purpose is to enable easy transfer of staff of the Australian Public Service (A.P.S.) to the Northern Territory Public Service (N.T.P.S.) ensuring, at the same time, that existing rights of transferred officers and employees¹ are safeguarded after their transfer. The machinery used to achieve this purpose is to insert a new Division in Part III of the Public Service Act 1922.

Summary
The Bill gives the Minister for the Northern Territory power to transfer officers or employees of the A.P.S. or classes of such officers or employees to the N.T.P.S. following a recommendation made to him by the Public Service Board after consultation with the appropriate Northern Territory authority (new section 84 A (1)). He may do so, however, only after he has satisfied himself that the laws of the Northern Territory dealing with terms and conditions of service of officers and employees in its public service meet the requirements of new section 84 (2) and has published a notice to that effect in the Gazette as provided by new section 84 (1).

New section 84 (2) requires that the Northern Territory laws make provision for a transferred officer to be deemed, as a result of his transfer, to have been duly appointed on the date of transfer as a permanent officer of the N.T.P.S. If his appointment to the A.P.S. has not been confirmed at the time of transfer he is to be appointed to the N.T.P.S. upon probation. Transferred officers are to be entitled to at least the same rate of salary as was payable to them in the A.P.S. immediately before the date of transfer.

Transferred officers who at the time of transfer have authority under the Public Service Act to work for some non-Commonwealth authority or person are to be entitled to continue doing so for the period authorized as though the authority had been given by the N.T.P.S. Terms and conditions of this employment are to stay the same. Such officers are also to be deemed to have been granted leave without pay from the N.T.P.S. from the date of transfer until the date when the original authority ends. Each officer is also to be entitled once the period of leave without pay ends to an appropriate rate of salary based on the rate payable before the period of leave without pay began and on the length of that period.

¹ The basic difference between an “officer” and an “employee” is that the former has permanency while the latter does not.

Warning:
This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments. This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.
Similar entitlements are to be provided for a transferred officer who works in a ‘Commonwealth authority’ and to whom section 6 of the Officers Rights Declaration Act 1928 applies because of that employment. The purpose of s. 6 is to preserve the rights of former A.P.S. officers who are employed in a ‘public authority’ as defined and to give them the status of unattached officers of the A.P.S. The concept of ‘public authority’ was substituted last year for that of ‘Commonwealth authority’ and is a wider one. As the term ‘Commonwealth authority’ is not defined in the Public Service Act, difficulties of interpretation may arise. The application of s. 6 to such an officer ceases on the day before the date of transfer (new section 84B (2)).

Transferred employees are to be deemed to have been appointed on the date of transfer as employees of the N.T.P.S. for a period and at a salary determined by the N.T.P.S. having regard to the type of work performed and the likely length of temporary employment in the A.P.S.

Provision must also be made to preserve the rights of transferred officers and employees to accrued recreation leave, sick leave and long service leave at the date of transfer. Continuity of rights in respect of leave of absence granted before the date of transfer is to be assured. Probationary service in the A.P.S. is to be treated as such in the N.T.P.S. after transfer.

The Bill, in new section 84 (3), requires the Minister to revoke the notice in the Gazette if it appears to him that the Northern Territory laws no longer meet the requirements of new section 84 (2).

The regulation-making power is widened to enable regulations to be made allowing transferred officers to be transferred or promoted back to the A.P.S. or to appeal against promotion within the A.P.S. Regulations can also be made dealing with their rights of recreation leave, long service leave and sick leave in that situation — new section 84C (1). It is specifically provided that Public Service Act and the Long Service Leave (Commonwealth Employees) Act 1976 may be modified or adapted by regulation in their effect on transferred officers returning to the A.P.S.

Clause 4 of the Bill contains transitional provisions to cover action relating to provisional promotion or appeal against a provisional promotion which is under way at the time of any transfer.

Background

The Bill represents a further step in the constitutional development of the Northern Territory towards statehood. It follows the Government’s approval of the transfer to the control of the Northern Territory Legislative Assembly of a wide range of functions of local significance. A complementary Northern Territory Public Service Ordinance is in preparation.

Law and Government Group

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LEGISLATIVE RESEARCH SERVICE