PARLIAMENT OF AUSTRALIA
THE PARLIAMENTARY LIBRARY
PUBLIC SERVICE AMENDMENT (FIRST DIVISION OFFICERS) BILL 1976

Date Introduced: 18 November 1976
House: House of Representatives
Presented by: Mr. Fraser

SHORT DIGEST OF BILL

Purpose
The Bill lays down procedures to be followed when making appointments of Permanent Heads of ministerial departments. It includes provision for short-term appointments of non-public servants to Permanent Head positions, for the premature termination of such appointments and the immediate retirement of such appointees from the Service. It provides for the first time for former Permanent Heads who are permanent public servants, to lose their First Division status and possibly receive a lower salary.

Summary
The Bill repeals section 54 of the Public Service Act 1922 and inserts new sections 54, 54A and 54B.

Before an appointment to fill a vacancy in an office of Permanent Head is made the procedures set out in new section 54A must be followed and any recommendation made to the Governor-General by the Prime Minister to fill the vacancy must state whether or not the person recommended is an “established candidate” in relation to that vacancy (new sub-s.54 (4)). An “established candidate” is (a) one nominated by the Chairman of the Public Service Board or by a Committee under his chairmanship according to the s. 54A procedures; or (b) one not nominated under (a) but who holds another office of Permanent Head on a basis other than that of appointment for a maximum of 5 years as provided by new sub-s.54 (8); or (c) one not within a class of persons under (a) or (b) but who has previously been a Permanent Head on a long-term basis and continues to be an officer of the Public Service (new sub-s.54 (1)).

Upon appointment to an office of Permanent Head the instrument of appointment must state that the Prime Minister has informed the Governor-General whether or not the appointee was an established candidate, and as soon as practicable after the appointment a copy of the instrument of appointment must be published in the Gazette and another copy given to the appointee (new sub-s. 54 (5)).

Special provisions apply in the case of persons who are not established candidates. Their period of appointment must not exceed 5 years and must not extend beyond their 65th birthday. Subject to that, however, they are eligible for re-appointment. The period of their appointment is to be specified in the instrument of appointment (new sub-s. 54 (8)). Such appointments may be terminated early by the Governor-General on the recommendation of a Prime Minister of a different political party from the

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1 Appointments to parliamentary departments are specifically excluded — new sub-s. 54 (1).

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party or parties who were in government at the time of the appointment (new sub-s. 54 (9)). The Governor-General may, at the time of appointment, make a determination that compensation will be payable to a “short-term” appointee upon early termination of the appointment under sub-s. 54 (9) or upon abolition of the office held by him (new sub-s. 54 (10)). Details of the determination must be gazetted (new sub-s. 54 (11)).

New sub-s. 54 (12) provides for the consequences of early termination. In the case of a person who was, before appointment as Permanent Head, a permanent officer — he is deemed to be an unattached officer in the Second or Third Division with such status and salary as the Public Service Board determines having regard to the office he held before his appointment and the period of his service as a Permanent Head. As such he is entitled to appointment to an office at the appropriate level. However, he may retire upon the giving of notice. Any other person is deemed to be retired forthwith upon the early termination of his position as Permanent Head.

New s. 54A provides procedures which must be followed in selecting persons for appointment as Permanent Head. Briefly the procedures are as follows:

(a) Where there is a vacancy or one is about to occur, the Chairman of the P.S.B. must prepare a report nominating suitable persons to fill the vacancy. Nominations are not restricted to officers of the Service.

(b) He must also, after consultation with the Prime Minister about its membership, appoint a Committee of which he is Chairman to prepare a report nominating suitable persons (whether officers of the Service or not) to fill the vacancy. The Committee consists of as many as the Chairman feels desirable but there must be at least two other persons. All members must be Permanent Heads.

(c) Reports by the Chairman or the Committee, as well as containing the names of persons considered suitable, may contain relevant comments about the nominees.

(d) The reports are to be given to the Prime Minister and the Minister of the Department where the vacancy exists.

(e) The Prime Minister may at that stage require the job to be advertised in the Gazette and in such newspapers and other publications (both Australian and overseas) as the Chairman thinks appropriate.

(f) Following advertisement, the Chairman and Committee must consider the suitability of applicants and prepare revised reports accordingly.

(g) The Prime Minister or the Minister of the Department concerned may require the Chairman and the Committee to reconsider their respective reports to decide whether certain nominated persons not considered by them would be suitable for appointment, or whether there might be other persons not specified in the list who might be suitable. (The first situation would be where the Prime Minister says “Please consider the suitability of X for the position”. The second would be where he said “I would like the list to be expanded by the consideration of further candidates”.)
(h) Where a list of names in a report of the Chairman or the Committee contains persons who are already Permanent Head of another department, they may also prepare reports in relation to that office as though it were expected to become vacant.

Other sub-sections of s. 54A deal with meeting and voting procedures to be followed by the Committee.

New section 54B deals with acting appointments to the First Division and is in substantially the same terms as old s. 54.

Law and Government Group
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