OCCASIONAL PAPER THREE

A History in Three Acts

Evolution of the Public Service Act 1999
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I am pleased to provide the Foreword to this publication on the Public Service Act 1999—a history in three Acts. While the focus at first—or indeed second—glance may seem both dry and arcane, attractive only to the most committed of students of public administration, it is in fact a most informative and enjoyable narrative concerning the foundations that underpin one of the nation’s most important institutions—the Australian Public Service. The easy style, the breadth of content and the useful insights have much to do with the personal experience of the author—Mr Bob Minns—who worked in the Service for nearly four decades of this APS history.

Bob’s commission afforded him substantial independence and the conclusions and commentary throughout this document remain the author’s.

The purpose behind this research was to capture the history and rationale behind the changes that were enacted with the Public Service Act 1999 (the PS Act), a focus that could complement the Commission’s centenary of federation publication “Serving the Nation” published in 2001. As research and drafting progressed it became clear that the publication needed to deal with some broader themes—for the telling of the modern story lost much without an appreciation of the deeper historical context and insights into the processes, the changes in policies and the personalities that had an impact on Commonwealth public administration and the supporting legislative framework.

This publication ‘A History in Three Acts’—to continue the Shakespearean allusion—shows that, at the moment of transition, the old public service legislative framework was like an ‘an unweeded garden that goes to seed’, and perhaps had been fed with too much fertiliser. The garden has certainly been pruned and weeded, but with care for those features important to the structure and integrity of public administration. In this recounting we can see that, following long debate, the Government moved to embrace significant changes to public service legislation and did so in a manner that was decisive, innovative and which spoke to the future rather than looking to the past. The new legislation was drafted in an open and accessible way that clearly, and for the first time, articulated the expectations of public administrators at the Commonwealth level. No doubt, however, there will be further scenes, if not acts, in the future.

This book does not fit neatly into the categories of publications that are usually associated with the APS Commission, but then the new Act itself was unique and equally so was the journey that concluded with that transition. I acknowledge the contribution of the author and of all those who helped produce this book.

I commend the publication to you.

Andrew Podger
PUBLIC SERVICE COMMISSIONER

\(^1\) Hamlet Act 1 Scene II
This study is intended to provide an outline history of the Public Service Act 1999, and to place its development and ultimate passage in the context of the 1902 and 1922 Commonwealth Public Service Acts, and the more significant issues and events which influenced the ways in which those earlier Acts evolved and developed.

The history is structured as follows:

- Chapters 1 to 8 deal with the legislative history of the 1902, 1922 and 1999 Public Service Acts and the circumstances surrounding their evolution.
- Chapter 9 surveys the changing role of the central personnel authority through the 20th century, and some of the issues featuring in the agenda of the Australian Public Service Commission in 2003.
- Chapter 10 reflects on significant characteristics of the three Public Service Acts, with their elements of both constancy and change.
- Chapter 11 ventures some tentative observations on the ‘success’ of the 1999 Act, while acknowledging that it is yet too early to attempt meaningful evaluation. It suggests also some possible future directions, having regard to some of the issues bearing on the contemporary Commonwealth public sector environment.

Some updating and other editorial amendments have since been made, to December 2003.

The commentary in Chapters 1 to 8 draws substantially on Public Service Commissioner/Board reports, Second Reading Speeches and Explanatory Memoranda for the relevant legislation, and other specific references mentioned in the text. Discussion of the 1999 Public Service Act also draws on documentation produced by the Australian Public Service Commission.

Preparation of the history has inevitably involved selective use of the source material and value judgements of the writer. It is possible that the text contains errors of fact, and also interpretations with which others would disagree. It is suggested that readers direct any observations or corrections to the Australian Public Service Commission.
The writing of the major part of this history occurred intermittently over a period of some two and a half years, from January 2000 to June 2002.

I am greatly appreciative of the cooperation and ready assistance afforded to me throughout that period by the executive and staff of the Australian Public Service Commission. In particular, my thanks to former Public Service Commissioner, Helen Williams, and current Commissioner Andrew Podger, for their agreement to my undertaking the task, their continuing encouragement and guidance, and their preparedness to allow me to exercise my own judgement as to content and expression of opinion. Responsibility for the latter rests entirely with me, and is in no way intended to represent Commission policy or views.

My thanks also to former Deputy Public Service Commissioner, Peter Kennedy, for his continuing interest and support. Likewise, to Jeff Lamond and all staff of the Commission’s Policy and Employment Group, with whom I have enjoyed a very supportive and happy working relationship at all times.

Finally, my special thanks to Jill Adams for informed comment, suggestions and careful editing of the text, and to Debi Richardson, Kylie Baker, and Linda Barker for their invaluable assistance, and thoughtful advice on the assembly and presentation of the material.

Bob Minns

CANBERRA

DECEMBER 2003
On 1 January 1901, when Federation became a fact, the departments then established were Attorney-General’s, Defence, External Affairs, Home Affairs, Trade and Customs, and The Treasury. The departments of Customs and Excise in each state were transferred into the new structure on the date of the establishment of the Commonwealth, but relevant state departments were not transferred to the Department of Defence until 1 March 1901. All appointments to the public service were made under s. 67 of the Australian Constitution, and this arrangement continued until the commencement of the Commonwealth Public Service Act 1902.

PASSAGE OF COMMONWEALTH PUBLIC SERVICE ACT 1902

The 1902 Act, for ‘the regulation of the Public Service’, received the Royal Assent on 5 May 1902 and came into force on 1 January 1903. At that date there were 11,374 officers under the Act. It was based largely on the public service legislation of the several colonies as existing prior to Federation, particularly Victoria and New South Wales, although moves for public service reform had occurred in all the colonies by the end of the 19th century. However, in the Second Reading Speech on the then Bill Sir William Lyne (Minister for Home Affairs and the Minister responsible for the public service) adverted to the need to legislate specifically for the new Commonwealth Public Service and expressed the view that the working of some of the state public service Acts had ‘not been as satisfactory as it might be’. The Minister went on to observe as follows:

The system [adopted] was instituted with a view if possible of removing the semblance of political influence. But I do not think that it is a good thing to substitute for that influence social influence, in regard to which neither Members of Parliament nor the public can exercise any control'. (CPD 13 June 1901, p. 1080)

Interestingly, he then observed that the proposed single Public Service Commissioner to be established for the Commonwealth would be better able to discharge the required responsibilities in these matters than had been the customary three-Commissioner Boards in most of the states (some of which had then been operating under difficulties and less effectively than had been envisaged). He expressed the hope that the
Commonwealth Commissioner would be ‘a good man’ but professed to having ‘not the slightest idea as to where I am to obtain such a man’. Subsequently in the Senate, Senator Drake referred to expectations that the Commissioner would be ‘not only thoroughly efficient but superior to all influences political or social’ (Drake, CPD 1 August 1901, p. 3351).

Mr DC McLachlan (then Under Secretary of the NSW Department of Mines and Agriculture), who had served from September 1869 in the NSW Public Service, was subsequently appointed as the first Public Service Commissioner on 4 June 1902, with effect from 5 May 1902 (the date of Royal Assent for the new Act). The appointment was made to facilitate the subsequent commencement of the 1902 Act, under the authority of s. 4 of the Acts Interpretation Act 1901.

McLachlan seems to have been regarded as a capable and zealous officer in the state system and, in its 1980 annual report, the Public Service Board was to state that ‘his personality and character earned him a place of respect in Australia’s administrative history’. The Board also then observed that an insight into McLachlan’s direct style could be gained from the following extract from his first annual report:

The Commonwealth Public Service must not be looked upon as an asylum for the indolent or the incompetent. Each officer will be expected to show evidence of a strenuous official life, to work diligently and conscientiously and legitimately earn the salary he receives. Efficiency and economy must be the watchwords of this Service if public confidence is to be attained and maintained. (PSCr AR 1904, p. 65)

In that first report, McLachlan commented also in some detail on various provisions of the new Act, observing that there were ‘various instances wherein the Commonwealth Public Service Act displays a spirit of beneficence not exemplified in State legislation’. (PSCr AR 1904, p. 31)

**STRUCTURE OF 1902 ACT**

The Act is divided into 5 parts:

- Part I—Administration
- Part II—Divisions of Public Service and Appointments
- Part III—Internal Administration
- Part IV—Life Assurance
- Part V—Miscellaneous.

The following paragraphs identify the principal or more significant elements in each of these parts, particularly to the extent that they can be seen as foreshadowing comparable provisions of the 1922 and 1999 Public Service Acts, and other matters bearing on the evolution of APS employment conditions.
PART I–ADMINISTRATION

Commissioner and Inspectors

This part (ss. 5–11) relates to the appointment, employment and independence of the Public Service Commissioner and the Inspectors (‘not exceeding six fit and proper persons’) who were to assist the Commissioner in the administration of the Service. Enumerated powers of the Commissioner and Inspectors included:

• inspection of departments and the economy and efficiency of their operations

• identification of excess staff, for retirement or transfer by the Governor-General to other departments

• power to summon witnesses and take evidence on oath, where considered material to a particular inspection, inquiry or investigation

• an annual report by the Commissioner to the Minister for presentation to the Parliament on the ‘condition and efficiency of the Public Service’.

Permanent Heads

The Act established the officers specified in its Second Schedule as the permanent heads of their specified departments (in general, officers previously designated and recognised as Under Secretaries to Ministers in the state public services). Section 12(2) of the Act provided:

The Permanent Head of the Department shall be responsible for its general working, and for all the business thereof, and shall advise the Minister of such Department in all matters relating thereto.

Sir William Lyne commented on this provision as follows:

The clause does not mean that the permanent head is to be allowed to do exactly as he likes. The Minister must look to see that the work of the permanent head is properly done. I have inserted the clause after the experience I have had of the Public Service of New South Wales. We have sometimes had the head of the department fighting with the Commissioners, and feeling that he has been oppressed by them. We could not have the work done as it should be done under such conditions (CPD 13 June 1901, p. 1083).
Chief Officers

To facilitate the bringing together of former state public service powers and the officials who had previously administered them, the Act provided (s. 13) for the establishment of offices of chief officer. Sir William Lyne again:

...I propose that there shall be a chief officer in each of the States, because I recognise that we must depend to a large extent upon those who have been the permanent heads in the various states for carrying on the work in those States. The Chief Officer of each department will be in a special class, and will probably be the man who has been in the past the head of his particular department in his own State (CPD 13 June 1901, p. 1084)

Section 13(2) of the Act provided that the chief officer ‘shall have and may exercise and perform under this Act such powers authorities and duties as are prescribed or as are assigned to him by the Permanent Head of [the] Department’.

The intention was to throw ‘a great deal of responsibility’ on the chief officer, under the departmental permanent head including, for example, powers to deal with minor offences. In so doing, a degree of recognition was being given to the former status of these officers in the states. The role of chief officers became firmly entrenched, and was subsequently replicated in the 1922 Act. However, the chief officer functions became progressively less significant in the post Second World War period, probably associated with increasing delegation of the powers of permanent heads (who were able to exercise any of the chief officer powers). The separate chief officer provisions were ultimately repealed by the Public Service Reform Act 1984.

Officers of the Parliament

Section 14 of the Act established provisions for a separate structure and staffing of four parliamentary departments (Senate, House of Representatives, Parliamentary Library and Parliamentary Reporting Staff) and the then Joint House Committee, under the jurisdiction of the Presiding Officers, with the latter able to exercise Public Service Commissioner powers in relation to parliamentary staff. The Joint House Committee became a department in the 1922 Act. The same basic parliamentary department structure was retained in the Parliamentary Service Act 1999.

Exempt officers

Power to exempt from provisions of the Act (s. 3 of the Act) derived from similar arrangements applying in state legislation and served initially to protect existing, ‘non-standard’ conditions of certain officers transferring to the Commonwealth. It applied also to ‘certain high officials, notably Judges, Government Auditors and others who, due to the peculiarly responsible duties of their offices, [needed to] be free, unfettered and removed from the control of those charged with the administration of the ordinary Departments of the Public Service’.

Section 3 allowed additionally for the exemption of ‘a large number of minor officials whose time is not exclusively devoted to the Public Service’ and persons who, because
of ‘the unskilled or peculiar nature of their duties’ were not seen as warranting the same security of tenure or rates of remuneration applicable to full-time career public servants (PScR AR 1904, p. 28). In the same report, McLachlan described how the detail of the exempted categories evolved, and details of the so-called class exemptions were subsequently notified at intervals in the Commonwealth Gazette. (PScR AR 1904, p. 29, 30)

Section 3 of the 1902 Act was essentially replicated by s. 8 of the 1922 Act (subsequently s. 8A) and remained in place until the latter Act was repealed in 1999, with continuing periodic gazettals (until recent years) of class exemptions, more commonly referred to as the Class Exemption List. Use of s. 8A in the latter stages, however, was essentially directed to notification of exemptions for specified individuals or particular categories of APS staff.

**PART II—DIVISIONS OF PUBLIC SERVICE AND APPOINTMENTS**

**Divisional structure**

Sections 15 and 16 of the Act established a public service constituted by four divisions and, in so doing, set firmly in place the concept of officers occupying public service offices, consistent with preceding state legislation. Specific provision for the creation, abolition and (re)classification of offices appears in s. 41 in Part III of the Act.

Section 16 sets out the make-up of the four divisions in the following terms:

16. (1) The Administrative Division shall include all Permanent Heads of Departments and all Chief Officers of Departments, and also all persons whose offices the Governor-General on the recommendation of the Commissioner directs to be included in such Division.

(2) The Professional Division shall include all officers whose duties require in the person performing them some special skill or technical knowledge usually acquired only in some profession or occupation different from the ordinary routine of the Public Service, and whose offices the Governor-General on the recommendation of the Commissioner directs to be included in such Division.

(3) The Clerical Division shall include all officers whose offices the Governor-General on the recommendation of the Commissioner directs to be included in such Division.

(4) The General Division shall include all persons in the Public Service not included in the Administrative, or Professional, or Clerical Division.

The intended composition of the Administrative Division is self-explanatory, although further research would be needed to establish the identity of additional ‘persons’ (if any) subsequently directed to be included in that Division, by way of Cabinet appointment.

In his Senate Second Reading Speech in the Upper House, Senator Drake had stated that the Professional Division would consist ‘probably of the representatives of two of the professions, the legal profession and civil engineers who perhaps may be required, and persons belonging to any other of the recognised professions’. Subsequently, Public
Service regulation 112 provided that the Professional Division should include ‘Barristers, Solicitors, Medical Practitioners, Engineers, Architects, Actuaries, Land Surveyors, Draughtsmen, and others who, subject to the approval of the Governor-General on the recommendation of the Commissioner, are classified or admitted to the Service as such’.

The composition of the Clerical Division is not set out in any specific detail in the Hansard record, but the title was already in use (at least in the Victorian Public Service) and such references as were made to employment in that Division indicate that it covered occupations of the type included in the administrative/clerical categories in the later history of the Public Service. Likewise, the General Division was clearly intended to include lower-level clerical-type designations, clerical support staff, artisans and semi-skilled and unskilled employees, to become later officers and employees of the Fourth Division under the 1922 Act.

Appointment to the Service

Broadly speaking, entry to the Service was to be by way of prescribed competitive examination (ss. 26 and 27 of the Act). Appointments were to be on six-month probation (s. 30). Except as authorised by the Governor-General, an appointee to the Service was required to be a ‘natural-born or naturalised subject of His Majesty’ (s. 26(1)) and was subject to a health check (para. 27(a)). In commenting on the need for the latter, Senator Drake observed:

I do not think it is desirable to take any weaklings into the civil service. It should not be looked on as a sort of asylum... I think that public or private charity should look after such persons and the public service for many reasons should not be used for their relief (CPD 1 August 1901, p. 3356).

Section 31 of the Act provided for ‘special case’ appointments without examination or probation, but with a requirement for tabling the appointment in parliament. Otherwise, s. 28 of the Act required entrance examinations to be held for the Professional, Clerical and General Divisions, designed to test the efficiency and aptitude of candidates for employment, but specified that the educational examination for the General Division was to be ‘of an elementary or rudimentary character’. Public Service regulation 119 subsequently provided that an examination for any of the specified categories in the Professional Division could be dispensed with, if the Commissioner reported such examination to be unnecessary. Section 43(4) of the Act made similar provision in relation to examinations for promotion or transfer.

The examination system introduced, as well as its origins in the previously existing state administrations, is described in some detail at pp. 15–24 of the first annual report of the Public Service Commissioner.
Commonwealth–state reciprocal service

Sections 35–39 of the Act made provision for reciprocal arrangements under which Commonwealth officers might undertake duties for a state administration or state officers undertake Commonwealth Public Service duties, apparently based on similar provisions in the NSW and Victorian public service legislation. These provisions were later incorporated, in essentially the same terms, in the 1922 Public Service Act, with later amendment to allow such arrangements to be made at Prime Minister/Premier level in place of Governor-General/State Governor agreements.

A much simplified version of the reciprocal service provisions is now contained in s. 71 of the 1999 Public Service Act.

PART III—INTERNAL ADMINISTRATION

Apart from the previously mentioned s. 43 of the Act, providing for the creation, abolition and (re)classification of offices, Part III included significant provisions dealing with the following matters.

Promotion

Sections 42 and 44 of the Act provided that promotions were to be made by the Governor-General, on the recommendation of the Commissioner, on the basis of the relative efficiency of the officers of the department concerned or, in the event of an equality of efficiency, the relative seniority of those officers.

In his Second Reading Speech, Sir William Lyne had voiced his general expectation that officers would normally receive promotion in their own departments, as reflected above. However, s. 42 also allowed for promotion of an officer from another department, if it appeared that such a promotion would result in more efficient performance of the duties of the office concerned.

In s. 42, ‘efficiency’ was defined to mean ‘special qualifications and aptitude for the discharge of the duties of the office to be filled together with merit and good and diligent conduct’—a definition adopted virtually unchanged in the 1922 Public Service Act, but with addition of a ‘concessional’ assessment of the efficiency of an officer who had been absent on ‘active naval or military service’. An enhanced definition of efficiency was subsequently included in a new s. 50A of the Act in 1975.

Discipline

Sections 46–49 established a framework of disciplinary provisions, derived variously from state legislation, providing power for chief officers to deal with minor offences, to impose suspensions or to refer more serious offences for consideration by a three-person Board of Inquiry. The Commissioner was empowered to impose lower-order penalties (fines, deprivation of leave entitlements for a period, reduction in pay, classification or grading) or the Governor-General could dismiss the officer or require him to resign. In the case of Administrative Division officers, action had to be initiated by a
minister, with any penalty to be imposed by the Governor-General, on the recommendation of the Commissioner.

Essentially the same framework was adopted, with some elaboration, in the 1922 Public Service Act (ss. 55 and 56), at which time also an Appeal Board mechanism was introduced for officers below the executive levels. That framework remained in place until it was revised substantially by the Public Service Act Amendment Act 1978.

**Appeals**

Section 50 provided for an officer to appeal to an Appeal Board (constituted by an Inspector, the departmental chief officer or his nominee, and a representative of the Division to which the officer belonged) on the basis that the officer had been ‘affected by any report recommendation made or action taken’ under the Act, but excluding a report or recommendation made in relation to a ‘special’ appointment from outside the Service, disciplinary action, incapacity for duties, forfeiture of office due to conviction or insolvency, or a requirement to retire after attaining 60 years of age. Appeals were determined by the Commissioner on the basis of the Board’s recommendation, or by the Governor-General on the recommendation of the Commissioner.

**PART IV—LIFE ASSURANCE**

In the absence of a Commonwealth superannuation scheme, ss. 51–58 of the Act required every appointed officer to take out life assurance with an approved company or society, or to have deductions made from his salary for like purpose. State officers transferred to the Commonwealth, who were previously contributing to a superannuation fund under a state law, were required to continue to contribute for the maintenance of that coverage.

In commenting on these provisions in the Second Reading Speech, Sir William Lyne made the following observations, which have a familiar ring from more recent times:

> ...there is a proposal to compel all officers to insure their lives, and that of course is a necessity where there is no provision for pensions. We have had an experience in the State of New South Wales with our superannuation fund that we do not want repeated in the Commonwealth. It seems to me that it was a mistake to commence the insurance in the way we did in that State because the system has practically broken down, and I do not know how much money the State will have to find to pay the public servants what is justly due to them (CPD 13 June 1901, p. 1089).

In his first report, McLachlan expressed regret that, in accordance with s. 51 of the Act, the assurance provisions did not apply to every officer not entitled to a pension, foreseeing later problems in seeking to retire such officers at age 60, when many of them would have ‘outlived their usefulness’. It would be expected that those officers, having no pension rights, would become the subject of representations for them to remain on the public payroll and ‘not be turned adrift on the world unprovided for’—an entreaty ‘which might not unreasonably meet with an amount of public sympathy’ (PSCr AR 1904, p. 40–1).
PART V–MISCELLANEOUS

A number of provisions in this Part are of interest principally because they were re-enacted in substantially the same form in the 1922 Public Service Act—for example:

s. 59 Performance of duties in absence (s. 88 of 1922 Act)
s. 76 Public notifications (s. 92)
s. 78 Payments (s. 90)
s. 79 Performance of work outside the Public Service (s. 91)

Other provisions of particular interest were as follows.

State officers

Section 60 of the Act preserved all ‘existing and accruing rights’, including retirement entitlements, of state officers transferred to the Commonwealth. In his first annual report, McLachlan discussed at some length the complexities occasioned by this provision, observing that they were ‘(p)erhaps the most embarrassing, intricate, and complicated questions that have confronted me in the administration of the Service’. These included ‘many unreasonable and untenable claims’ as to what were perceived to be ‘rights’, requiring legal advice from the Attorney-General (PScR AR 1904, p. 12–14).

Naturalisation

Non-British subjects admitted to the Service prior to commencement of the Act were required under s. 63 to obtain a naturalisation certificate.

Forfeiture of office

Under s. 66, an officer convicted of any offence ‘on an indictment or presentment’ was deemed to have forfeited his office. Under the same provision, insolvency action in relation to an officer which involved ‘fraud dishonourable conduct or extravagance’ could result in dismissal.

Retirement

Section 73 allowed for voluntary retirement at age 60, a provision carried over into the 1922 Public Service Act, but removed as a consequence of the passage of the Superannuation Act 1976.

NEW PUBLIC SERVICE REGULATIONS

From the time of his appointment to commencement of the new Act on 1 January 1903, McLachlan’s efforts were directed substantially to the preparation of the required Public Service Regulations, to come into operation on the same commencing date. In his first annual report, McLachlan commented on the difficulties experienced in seeking to bring
together appropriately the different systems and practices which had governed the employment of staff transferred to the Commonwealth Public Service from the various states. The drafting of the regulations (300 in all) was completed in November 1902 and ratified the following month. McLachlan regarded them as comprehensive and ‘designed to meet every emergency that may arise in the working of the Service’, as far as this could be reasonably expected (PScr AR 1904, p. 6).

AMENDMENTS TO THE PUBLIC SERVICE ACT 1902, RELATED LEGISLATIVE CHANGES AND THEIR CONTEXT

Examination of the Public Service Commissioner’s annual reports indicates that little need was seen to seek amendment of the Act in its early years of operation. Eight years after its passage, McLachlan noted some relatively minor amendments which had been effected, and foreshadowed recommendations to the Government for other changes to improve departmental efficiency or to enable ‘the intention of the framers of the original Bill (to) be more readily applied’. However, he then went on to observe that:

... as a whole, the measure has stood the test of time and ... the opinion expressed in my First Report as to its liberality and comprehensiveness still remains unaltered (PScr AR 1910, p. 7).

As a note of encouragement, no doubt, to all would-be reformers, he also noted that ‘Public Service legislation is subject to a gradual process of evolution’.

General satisfaction with the 1902 Act and the manner of its implementation, however, enabled McLachlan to direct attention in his later reports to other significant contemporary issues.
Royal Commission on Postal Services

The 1910 report contains the first mention by McLachlan of the then ongoing Wilks Royal Commission on Postal Services, established by the government in July 1908, following frequent parliamentary and public criticism of alleged defects in the administration of the Postmaster-General’s Department, and disabilities considered to exist amongst staff of that department. Although not detailed in any of his reports, McLachlan appears to have had a significant involvement with the Wilks Royal Commission. His only further reference to that Commission appears in his 1911 report, as noted below.

McLachlan records that he had provided comments to the Government on the 1910 report of the Wilks Commission, which had expressed scathing criticism of the administration of both the Public Service Commissioner and the Postmaster-General’s Department.

The Report must be considered as one of the most condemning documents in Australian administrative history. It found the quality of the staff poor, particularly at senior levels where officers were bogged down in routine clerical work to the neglect of their supervisory and technical duties; the Department so starved of funds that it had been unable to meet the demands of the public or provide satisfactory working conditions for the staff and had had to resort to excessive overtime, the curtailment of leave and broken shifts and to employing large numbers of temporaries, many of them inefficient and disruptive, in permanent positions; methods of auditing and accounting that were quite archaic; insufficient inspection; failure to provide in-service technical training; salaries that were too low; faulty classification of officers; proportional grading a bar to efficiency, merit and promotion; post offices too elaborately classified; too many examinations, some of the papers serving no useful purpose; long delays in filling positions; an extreme difficulty in dismissing inefficient officers, and so on. The list of faults touched every conceivable aspect of the Department (Caiden 1965, p. 97).
The Royal Commission's recommendations included, inter alia, the establishment of a Board of Management for the Department and its removal from the Public Service Commissioner's jurisdiction. Predictably, McLachlan took strong exception to these recommendations, and his vigorous rebuttal comments to the government accused the Royal Commission of failure to provide evidence for its conclusions. For the public record, his own report comments that ‘... no sufficient evidence has been advanced to warrant departure from the basic principles governing the administration of the Service as defined by the Commonwealth Public Service Act 1902’. (PSCr AR 1911, p. 13).

**Commonwealth employment outside Act**

Any proposal for removal of an area of Commonwealth administration from Public Service Act coverage was anathema to McLachlan, and was to be also for his Public Service Board successors. By the time the Wilks Commission reported, both Commonwealth and state governments were paying increasing attention to possibilities for assigning government functions to independent statutory authorities. McLachlan, however, remained firmly committed to the objective of maintaining a unified government service. A combination of circumstances, including strong union opposition, disinclination of the then Labor Government to remove the Postmaster-General's Department from the Public Service Commissioner's jurisdiction, and the outbreak of the First World War, was to see McLachlan's views prevail.

The ensuing five years from the Wilks report's presentation, however, saw the emergence as statutory bodies of such significant government agencies as the Commonwealth Bank and the River Murray Commission. This new form of government agency was thenceforth to feature prominently in Commonwealth administration over the remainder of the century. As will be noted in Chapter 2 of this history, it was to become an ongoing issue for the Public Service Board.

**Defence and returned soldier legislation**

Although not mentioned in the 1910 report, an amendment of the Defence Act 1903–1910 in 1909 (Act No. 15 1909, s. 20) provided, in s. 136 of the Principal Act, that a person evading a personal service obligation under that Act would ‘remain ineligible for employment of any kind in the Public Service of the Commonwealth’, until the obligation was discharged.

In his reporting, McLachlan noted amendments to various legislation extending the administrative functions and staffing of departments, but not involving Public Service Act amendments. These included further amendments to the Defence Act, providing for a large proportion of positions in the Defence Department, then classified under the Public Service Act, to come in future under naval or military administration, as vacancies occurred, with further appointments being made under the Defence Act instead of the Public Service Act (PSCr AR 1911, p. 5–6).

McLachlan's final report noted various amendments to the Public Service Act itself including, particularly, amendments designed to ensure that officers who had enlisted for
war service would not have their normal public service conditions and entitlements prejudicially affected. Appointments and examinations for appointment to the Service were suspended for the duration of the war for males whose ages were within the limits of military age, subject to provision for exceptions in special cases. Provision was included also for preference to returned soldiers in the appointment of persons qualified by examination for entry to the Service, and for recognition of defence leave as part of the period of service of the officer concerned (PScr AR 1915, p. 6–8).

McLachlan’s successor for the remaining duration of the 1902 Act (Acting Commissioner Edwards) reported that further concessions had been extended to returned soldiers by the Commonwealth Public Service Act 1917, bearing principally on service entry examinations and appointment conditions (PScr AR 1918, p. 9). Of these, the most significant and enduring (by their subsequently being mirrored during much of the life of the 1922 Public Service Act) were the retention of appointment eligibility to the age of 51 years, and acceptance of external educational qualifications in substitution for qualifications obtained through public service examinations.

Employment under the Public Service Act itself was modified significantly for some five years by the Defence (Civil Employment) Act 1918 which provided that, for the duration of the war, and 12 months thereafter, public service officers in the Defence Department (including officers on loan to that department) ceased to be subject to the Public Service Act, other than for life assurance matters, and were deemed to be persons employed in a civil capacity in connection with the Defence Force, unless they objected in writing within a prescribed time. Prior to this legislation, significant numbers of the department’s civilian employees had already become employed under the Defence Act and been exempted from Public Service Act provisions. The legislated provisions were to remain in force until 1923.

One further defence-related amendment of the Public Service Act was to occur near the conclusion of the First World War. Edwards refers to inclusion of a provision, under which the Governor-General could dismiss an officer, in respect of whom a Royal Commission appointed to inquire into ‘the origin of birth and parentage of persons in the Public Service or employ’ had expressed the opinion that the continued service of that officer would be detrimental to the public safety or the defence of the Commonwealth (PScr AR 1919, p. 11–12).

Departments and functions

The departmental structure of the public service was to undergo little change in the 20 years after Federation. The seven departments, newly created or transferred from the states in 1901, remained in place virtually unchanged throughout the period. The number increased to eight in 1911, with the creation of the small, separate Prime Minister’s Department, evolving from the Prime Minister’s Office, which had operated as a section of the then External Affairs Department. At the same time, the staff of the Public Service Commissioner, as well as staff of the Auditor-General and of the Executive Council, were brought within the jurisdiction of the new department.

The number of departments again reverted to seven in 1919 when, as previously mentioned, the civilian staff of the Defence Department ceased to be employed under the
Public Service Act and became subject to the 1918 Defence (Civil Employment) Act. The department was consequently abolished and not re-established until 1923, the total number of departments then having increased to nine, as a consequence of the creation of the Commonwealth Health Department in 1921.

Although a separate Navy Department had been established in 1915, its staff were employed under the Naval Defence Act 1910–11. Accordingly, no officers of that department were subject to the Commonwealth Public Service Act, and the department itself was not recorded as a separate entity in the Public Service Commissioner’s reports.

While the number of departments remained largely unchanged during the McLachlan and Edwards periods, the public service which they administered more than doubled in size between January 1903 and June 1922, with numbers of permanent staff increasing from 11,374 to 24,759 over that period. The rapid expansion was a direct reflection of increased population, with attendant growth of postal, telegraphic and telephonic facilities. Additionally, departmental services were periodically transferred from the states to the Commonwealth under the provisions of the Constitution Act, or as a consequence of the establishment of new functions and branches in federal departments. Resultant new Commonwealth services and activities included those dealing with statistics, meteorology, lands and survey, arbitration in relation to general industry, patents, trade marks and copyright, planning for the establishment of a federal capital, taxation, pensions, note and stamp printing, quarantine, lighthouses, commerce and navigation.

Notwithstanding the increased number of Commonwealth functions, the Postmaster-General’s Department remained the dominant agency in staff numbers terms. At Federation, it made up 89 per cent of the public service. By June 1922, the proportion still remained in excess of 79 per cent. Its sheer size and the huge geographical dispersion of its functions almost inevitably produced ongoing management problems of the nature and scope addressed by the aforementioned Postal Services Royal Commission.

Public service arbitration

Determination of the pay and conditions of Commonwealth public servants remained solely within the Public Service Commissioner’s hands during the early years after Federation. Eventually, however, the 1910 Fisher Government moved to introduce legislation (to become the Arbitration (Public Service) Act 1911) to give public servants access to the Commonwealth Court of Conciliation and Arbitration, with associated rights of representation of the Commissioner and Ministers before the court.

Although not addressed specifically in his annual reports, the development was not welcomed by McLachlan. With the assistance of WJ Skewes (later, a member of the first Public Service Board), McLachlan vigorously contested every case brought before the court by the public service unions. In his reports, the Commissioner summarised the nature of the cases but, beyond this, essentially confined his comments to references to the increased costs to the Commonwealth of the court’s decisions and awards, and to the significant additional workload imposed on the Commissioner’s office by the various proceedings.
The powers of the court were wide-ranging and, as a consequence, capable of modifying significantly decisions taken or action proposed by the Commissioner, much to his annoyance. Notable aspects included the power of the court to include in an award or order ‘any matter which the Court thinks necessary in the interests of the public or the Public Service’, without restriction to the specific claim and its subject matter. Awards of the Court could not be appealed against or challenged in any other Court.

As discussed in Chapter 2, McLachlan was later to be uninhibited in his criticisms of the arbitration system in his Royal Commission report on the Public Service. Before the recommendations in that report had been addressed fully, however, the then government moved to enact new public service arbitration provisions in the form of the *Arbitration (Public Service) Act 1920*. That Act provided for appointment of the Public Service Arbitrator to deal with public service matters handled previously by the Court. Assent was given to the legislation on 15 December 1920. The Arbitrator’s separate jurisdiction was then to remain in place in its essentials until 1984, when it was transferred to the then Conciliation and Arbitration Commission.

McLachlan’s Royal Commission report was concerned with all aspects of the operation of the Commonwealth Public Service. Arbitration concerns, however, featured prominently, as illustrated by the following extracts from the summary of the report’s findings and recommendations:

(3) The operations of the Arbitration (Public Service) Act have greatly increased the work and responsibilities of the Public Service Commissioner and Inspectors, and rendered departmental working more difficult and complex.

(4) The Arbitration Court has found the greatest difficulty in following the intricacies of Public Service organization, with the result that awards have been productive of many anomalies and inconsistencies.

(9) The results of six years of Public Service arbitration have been disloyalty, extravagance, and reduced efficiency.

(10) Continuance of the Arbitration (Public Service) Act upon the statute-book will have serious and disastrous effects as regards discipline and efficiency of the Service, and inflict an unjustifiable and grievous burden upon the taxpaying community.

(13) The Commission should be constituted the sole authority for settlement of salaries and wages, hours of labour, and conditions of service of permanent, temporary, and exempted employees, and his decisions, subject to disallowance by Parliament, should be final and conclusive (McLachlan Report 1920, p. 90).

With the new public service arbitration legislation having been in place for some two and a half years, Acting Public Service Commissioner Edwards took the opportunity in his final report to add his own endorsement of the earlier McLachlan criticisms:

My considered opinion is that arbitration in the Public Service has failed to achieve any other end than to give some officers higher remuneration, much higher in some cases than the circumstances justify, and to embarrass Departments by imposing working conditions which are difficult to meet and which in many instances are not necessary (PSc Cr AR 1923, p. 46).
Almost four years earlier, Edwards had cited a particular example which would no doubt have had ringing endorsement by McLachlan—an award of the court in favour of the Professional Division Officers Association represented ‘the most startling instance of liberality as to rates of payment that has presented itself in the history of the Arbitration (Public Service) Act’ (PSCr AR 1919, p. 16). Edwards’s observations did not acknowledge any positive aspects of the new legislation but, along with those of his predecessor, clearly have not served to change significantly (other than in terms of mechanics) the course of public service arbitration history and practice.

Retirement of McLachlan

McLachlan retired as Public Service Commissioner in May 1916. He had served in the position since its inception, with prior experience at permanent head level in the NSW Colonial Service. Shortly before his appointment as Commissioner, the April 1902 edition of the journal of the NSW Public Service Association had attested to ‘his well-deserved popularity, his zealous administration, his unflagging industry, fairness, geniality, decisiveness and ability’ (Caiden 1965, p. 65).

In his new position, McLachlan had the pivotal role in 1902 in bringing together former state departments into a federal public service, and supervised the systematic salary classification of all officers in those departments. He likewise was significantly involved with addressing the findings and recommendations of the Royal Commission on Postal Services in 1908–09 (which had commented adversely on his own stewardship in that area), and had to deal with the immediate consequences for the Service of the commencement of the First World War in 1914. It could be asserted, in relation to the early years of his incumbency, that ‘he had established a new system of personnel administration which had so completely replaced the old that within the space of seven years political patronage, official nepotism and "work-shy" public servants had little relevance in the Commonwealth Public Service’ (Caiden 1965, p. 92).

McLachlan’s contributions as Commissioner were noted by Acting Commissioner Edwards in his twelfth report (PSCr AR 1917, p. 7–8) and reiterated by Minister Groom in his Second Reading Speech on the 1922 Public Service Bill, including the tribute that McLachlan had ‘laid the foundation of Federal administration’ (CPD 28 September 1922, p. 2841). Likewise, in its first report, the Public Service Board observed that his ‘splendid pioneering work from 1902 onwards is today strongly reflected in the management and control of the Service (PSB AR 1924, p. 95).

As illustrated by the report of the Postal Services Royal Commission, however, McLachlan was not without his critics. By the end of the first decade of the 20th century, the Government had shown itself less inclined to give McLachlan free reign in administering the public service, and was prepared to overrule him. His vehement opposition to extension of arbitration rights to public servants, and his continued vigorous opposition to union claims (the objectives of which ran contrary to his own firmly held beliefs as to what was in the best interests of maintaining an efficient, effective and economical public service) had inevitably attracted criticisms of arrogance, insensitivity and disregard of the spirit of the 1902 Act.
Notwithstanding a progressive build-up of parliamentary and press criticisms and increasing sympathy and support for staff and union concerns, McLachlan continued to resist pressures for any significant change of approach, through to the end of his time as Commissioner. His subsequent Royal Commission report was then to give him further opportunity to seek to influence the course of future reforms. While not entirely successful in the latter regard, he was nonetheless to make a major contribution to the further evolution of the legislative framework for the federal public service.

The Edwards interregnum

On McLachlan’s retirement, Edwards was appointed as Acting Public Service Commissioner. As reflected in the preceding comments on public service arbitration, the period of acting was to extend for seven years, as a consequence of the circumstances of the First World War, the ensuing establishment of the McLachlan and Economies Royal Commissions (discussed in more detail in Chapter 2), and the prolonged period of parliamentary consideration of proposed legislation, which was to culminate in the 1922 Public Service Act.

McLachlan’s report was presented to the Government in January 1919. While Edwards clearly had sympathy with the thrust and proposals in that report, his own annual reports offered no detailed comment on its content, or on the associated Economies Commission report, provided finally to the Government in November 1920. The two reports, however, set the scene for enactment of legislation to replace the 1902 Act.

Edwards’s final report in May 1923 foreshadowed the then expected early commencement of the Commonwealth Public Service Act 1922 (which occurred on 19 July 1923, following a change of Government late in 1922) and the appointment of a Board of Commissioners, but makes no reference to the detailed content of the new Act.
Development of the legislation, which ultimately became the *Commonwealth Public Service Act 1922*, occurred in two main stages, as a consequence of two Royal Commission reports.

**ECONOMIES COMMISSION**

The Royal Commission on Federal Economies (commonly referred to as the Economies Commission) had been established at the end of the First World War to ‘consider and report upon the public expenditure of the Commonwealth of Australia with a view to effecting economies’. Along with the more narrowly focused McLachlan Commission, it represented a significant element of government actions designed to restore the Commonwealth’s administration to peacetime operations.

The Commission operated for two years, with its investigations covering only some of the federal departments.

The Commission comprised two successful business men—Sir Robert Gibson, ‘a leading member of the Melbourne Chamber of Manufactures and uncrowned king of the Victorian business world’ (Caiden 1965, p. 143), GH Turton, Chairman of the Royal Insurance Company, Melbourne—and GB Haldane, accountant of the Postmaster-General’s Department.

In broad terms, the Economies Commission reported that ‘considerable economies were possible under a system of management which should give closer attention to organisation and systematisation, and provide for continuous and far-reaching inspection in all departments, thus bringing to the light of publicity any evidence of extravagance and inefficiency’ (PSB AR 1924, p. 5).

The concerns expressed by McLachlan, and the then known general thrust of the Economies Commission’s reform proposals clearly struck a responsive chord with Prime Minister Hughes:

... I believe the Public Service of this country is in urgent need of reform; it is a cumbrous, costly, and ill-managed instrumentality of government. The Government proposes to introduce a Bill for the amendment of the Public Service Act which will enable us to give effect to a great many—the major portion, perhaps—of the recommendations of the Economies Commission (CPD 10 March 1920, p. 260).

Of direct significance, however, in the context of the ultimate content of the 1922 Public Service Act, is the Commission’s advocating the establishment of a three-person Board of Management rather than continuation of overall direction and management of the affairs of the Service by a single Public Service Commissioner, as favoured by McLachlan and recommended in his Royal Commission report.
The Government sided with the Economies Commission on the Board issue and, despite vigorous parliamentary opposition on both sides of politics, moved to legislate accordingly, with the introduction of the (short-lived) Public Service Bill 1920.

The 1920 Bill essentially dealt with only one issue—the proposed establishment of a three-person Board of Management, in place of a single Public Service Commissioner, in accordance with the Economies Commission recommendation. In the Second Reading Speech on the 1920 Bill, Minister Littleton Groom described the intended composition and functions of that Board and its genesis in the Economies Commission’s report (CPD 5 October 1920, p. 5295–300). The Minister foreshadowed a further Bill, dealing with the whole of the existing Act, and proposed amendments to it, along with a Bill to deal with superannuation in the public service.

The general amending Bill, subsequently becoming the 1922 Act, was introduced in the Senate in April 1921, superseding the 1920 Bill. It incorporated the Board of Management structure (but designated as the Public Service Board), with ‘efficiency and economy’ responsibilities along the lines advocated by the Economies Commission.

**MCLACHLAN COMMISSION**

The Royal Commission on Public Service Administration (commonly referred to as the McLachlan Commission) was established in October 1918. McLachlan’s task was ‘to inquire into and report upon the various Acts relating to the administration of the Public Service of the Commonwealth, and particularly in relation to the effect of such Acts upon the management and working of the Departments, and the steps necessary to adjust the position that has arisen by reason of the various authorities in existence for the regulation and working of the Public Service’ (Letters Patent 11 October 1918).

Despite his critics, McLachlan had unquestioned credentials for appointment as Royal Commissioner. When appointed, he wasted no time in communicating his views to the Government some four months later.

McLachlan’s reform proposals ‘were in many respects revolutionary in character’. His report identified defects in then existing public service legislation and administrative control and stressed ‘the urgent necessity for remedial legislation in order that serious anomalies might be dealt with and the condition of drift arrested’ (PSB AR 1924, p. 4).

In its 1924 annual report also, the Public Service Board summarised McLachlan’s principal proposals:

- amalgamation of separate services (assumed to refer particularly to the then separate Defence administrative arrangements) under one Public Service Act, with control by a (single) Commissioner
• repeal of the Arbitration (Public Service) Act, which had resulted in ‘disloyalty, extravagance and reduced efficiency’

• appointments to the Service to be made by the Public Service Commissioner instead of the Governor-General

• introduction of a new numerically described divisional structure for the Service and a general reclassification of Service staff in accordance with that structure

• promotions and transfers to be made by departmental heads instead of the Public Service Commissioner or the Governor-General

• granting of the right of appeal against promotions

• introduction of new provisions relating to disciplinary action, involving establishment of a Board of Appeal to adjudicate on punishments imposed by departmental heads (PSB AR 1924, p. 4).

Other McLachlan proposals included procedures for dealing with incompetent or inefficient officers by reduction or dismissal, a more equitable and economical basis for the regulation of sick leave, special salary scales for females, more economical administration of temporary employment, extension of hours of attendance, and review of the quantum and justification for extraneous payments by way of allowances.

Aside from opting for a Board of Commissioners in preference to McLachlan’s single Commissioner model, and choosing not to vary the new Commonwealth Public Service arbitration framework, the government essentially accepted the substance of the McLachlan proposals.

It is worth noting also, however, that in its 50th anniversary publication *The Public Service Board 1923–73*, the Board noted that the Bill for the 1922 Act was ‘hotly debated and substantially amended’ in the 18 months preceding Assent to the Act (see below) and that, by then, in Caiden’s words, ‘it bore little resemblance to either the original draft or the Reports of the two Royal Commissions’ (Caiden 1965, p. 167).

**INTRODUCTION AND PASSAGE OF 1922 PUBLIC SERVICE BILL**

The Public Service Board noted that, from the two Royal Commission reports, ‘ample material was made available to the Government upon which to frame a policy for new legislation and future management of the Service’ (PSB AR 1924, p. 5).

Consequentially, the Bill ‘to consolidate and amend the law regulating the Public Service and for other purposes’, introduced in the Senate in April 1921, progressed to be considered by the House of Representatives in October 1922.

In detailing the key provisions of the Bill in his Second Reading Speech, Minister Groom included comments particularly on the following matters:

• The public service was to be divided into two parts, composed of the ongoing Commonwealth Service (essentially the same as the current APS) and the Provisional Service (comprising ‘any Department or branch of the Public Service, of a provisional
or temporary character, which is specified by proclamation’), which would be subject to the control of the Board—the still enduring Repatriation (now Veterans’ Affairs) Department was cited as an example!

- A numerically described four Division structure was to replace the Division titles used in the 1902 Act and would reflect McLachlan’s view that the old generic titles were ‘not invariably appropriate to the qualifications and work of the officers concerned’ and had become ‘an irritating distinction of ‘caste’ based only upon nomenclature’.

- Service salaries would in future be fixed by regulations, to overcome the previous rigidities of prescription in schedules to the Act.

- The 1902 Act ‘British subject’ requirement for appointment to the Service would be supplemented by the requirement for an oath or affirmation of allegiance to the Crown—in the earlier Second Reading Speech on the Bill in the Senate, Senator Russell had indicated that this measure was designed to prevent the admission to the Service of ‘persons who are opposed to constituted authority’ (CPD 13 April 1921, p. 7366).

- The new disciplinary provisions would distinguish between minor and other than minor offences, with procedural differences appropriate to that distinction.

- The Public Service Board would exercise greater control over temporary employment (CPD 28 September 1922, p. 2842–6).

The Bill attracted more than 90 proposed amendments in the two Houses. In the event, probably the most significant of those accepted was the returning to the Board of the authority to make promotions on permanent head recommendations, contrary to McLachlan’s recommendation and the terms of the Bill as drafted. The proposal for permanent heads to exercise the power featured in Senator Russell’s Second Reading Speech (CPD 13 April 1921, p. 7359–60) but the provision attracted significant opposition in the later Representatives debate ‘mainly on the ground that a series of water-tight compartments would be created, thus preventing promotion of officers from one department to another’, apparently without regard to the provision in the Bill of a promotion appeal right (PSB AR 1924, p. 10). The amendment, carried on the voices in the Lower House, was not subsequently contested in committee debate in the Senate, and no further explanation was given of the government’s reasons for accepting it (CPD 10 October 1922, p. 3422–3 refers).

The Board subsequently made successful representations to the government for reversal of the decision of Parliament on the promotion matter, and this was addressed in an amending Public Service Bill, still under consideration in Parliament at time of submission of the Board’s 1924 report.

The amended 1922 Bill was finally passed by both Houses in October 1922, receiving Royal Assent on 18 October 1922. It was proclaimed to commence on 19 July 1923, a federal election having intervened late in 1922, resulting in the Hughes Nationalist Party Government being replaced by the Bruce–Page Nationalist/Country Party Government.
In its 1924 report, the Board identified 13 principal features of the new Public Service Act, involving departure from conditions established under former legislation (PSB AR 1924, p. 5–6). Some of those features have already been mentioned above, but a copy of the Board’s complete listing has been reproduced at Appendix 1.

**STRUCTURE OF 1922 ACT**

The 1922 Act was structured in four parts as follows:

Part I—Preliminary (including formal provisions and definitions, exclusions from Act coverage and provisions relating to officers of the Parliament)

Part II—Composition and Administration of the Public Service (separate Commonwealth and Provisional Services, the Public Service Board and its duties and powers, including power to deal with excess staff, and a requirement to keep and publish annually a record of all officers of the Service).

Part III—The Commonwealth Service (including the Divisional structure, permanent head and chief officer provisions, classifications and salaries of offices and officers, creation and abolition of offices and basic staffing provision relating to the engagement, movement, separation and employment conditions of staff, incorporating the special ‘returned soldier’ provisions).

Part IV—The Provisional Service (and the basis for employment in that Service)—it appears that these provisions were never used and they were repealed ultimately by the Public Service Act 1954.

The previous section has summarised key provisions, and no attempt has been made to spell out detailed coverage or content. The history rather seeks to identify the significant changes which subsequently occurred to these provisions over the life of the Act.

**APPOINTMENT OF PUBLIC SERVICE BOARD**

The Government had opted for establishment of a three-member Board, as recommended by the Economies Commission, in preference to continuation of the single Public Service Commissioner model, strongly advocated by McLachlan.

One of the most useful and concise statements of the government's position was given by Minister Groom in his Second Reading Speech on the 1920 Bill. After recounting the differing practices which then prevailed in the Australian states and New Zealand in relation to public service controlling authorities (a Board of three in NSW, a committee of Cabinet in Queensland and single Commissioners in Victoria, South Australia, Western Australia and New Zealand), Groom commented as follows:

... the proposed Board will have added duties of a different nature, and of a character not hitherto undertaken by any Public Service administration in the Commonwealth. The idea is that there shall be business management as well as control of the Service, and this, obviously, cannot be obtained by means of one Commissioner; this necessitates calling in aid from outside in order to bring some additional ability and strength to bear on the general control and the expenditure of the Service (CPD 5 October 1920, p. 5297).
The first Commissioners of the new Public Service Board were appointed by the Governor-General with effect from 11 June 1923, with varying terms of office:

Major-General Sir CBB White, KCMG, KCVO, CB, DSO, for a term of five years (also appointed Chairman of the Board).

WJ Skewes, for a term of four years.

Brigadier-General JP McGlinn, CMG, CBE, VD, for a term of three years.

In the earlier Public Service Bill debates, the Government had indicated that the (then proposed) differing terms of office were adopted to ensure continuity of administration since all Commissioner positions would become vacant at the one time if a common term of office applied.

In terms of background of the Commissioners, Major-General White had previously had a distinguished military career and was Chief of the General Staff at the time of his appointment to the Board. He is described as a person of great personal charm, with great powers of work, a quick brain and ‘a remarkable grasp of essentials’, which enabled him to deal with matters and make decisions quickly (Australian Encyclopaedia 1962, vol. 9, p. 294).

Skewes held the office of Public Service Inspector (Central Staff) in the Public Service Commissioner’s Office at the time of his appointment as a Commissioner of the Board, and thus provided continuity and expertise from the previous administration. He had joined the Commonwealth Service in August 1902, from the Victorian Service, as a member of McLachlan’s staff. The Board later observed that he was ‘actively and intimately associated with all subsequent Service legislation and administration until his retirement’, the latter taking place in June 1931 after a total of 44 years state and Commonwealth service. The Board also referred to his administrative abilities–‘conspicuous industry and unflagging energy, in his rendering of invaluable service to the Commonwealth’. (PSB AR 1931:16)

Skewes’s contribution as a Commissioner is further acknowledged by Caiden, who cites particularly his ‘unequalled knowledge of the Service’ and his roles as the Public Service Commissioner’s advocate in arbitration cases from 1913, and in the development of the new Act and most of the Regulations. Caiden also contends, however, that he was ‘one of the most hated public servants of his day, mainly because of his shrewd, cunning and forceful approach towards witnesses in the Arbitration Court’, in which situation he viewed any gain by the staff associations as ‘a calamity which threatened the whole fabric of society’. In contrast, outside the court he had been ‘honest, impartial, and on
occasions quite generous’ in matters of classification, appeals and interpretations, and
had worked to modify the ‘extreme approaches’ of McLachlan and Edwards (Caiden,
1965, p. 175).

The Board’s report records subseuyently, the appointment of Brigadier-General McGlinn
(PSB AR 1924, p. 6). His retirement is recorded in March 1930, noting that he had served
in state and Commonwealth Services for 47 years, but providing no other background
information (PSB AR 1930, p. 6). After his abovementioned comments on Skewes,
however, Caiden notes that McGlinn had an electrical engineering background in the
Postmaster-General’s Department (and its predecessor in NSW), had been Deputy State
Engineer for NSW at the time of his appointment as Commissioner and was little known
to Board colleagues, White and Skewes. He was known as a ‘strict disciplinarian but
human’ and was reputed to possess ‘administrative ability combined with abundant
energy’. His war service had occurred both in South Africa and in World War I, and Caiden
asserts that the appointments of two military men, in White and McGlinn, had ‘pacified
the Returned Servicemen’s League, which had believed that the old regime had neglected
the interests of returned soldiers’ (Caiden 1965, p. 174, 175).

The first formal meeting of the new Board was held on 25 July 1923 at the Customs
House, Flinders Street, Melbourne, where the Board’s office was located until August
1928, when it transferred to Canberra.

IMPLEMENTATION OF 1922 ACT

From July 1923, the Board undertook the detailed work necessary to allow proclamation
of the new Act. Its principal tasks were the development of new Public Service
Regulations (on which Skewes had already been working for some months), the
preparation of instructions to provide guidance for departments in relation to the new Act
and the Public Service Regulations, and the framing of new organisational structures for
the Board’s central and state offices. The work was completed quickly and the Act was
proclaimed to commence on 19 July 1923, six days before the Board’s first formal
meeting. The new Public Service Regulations (180 in number) received Executive Council
approval on 11 July 1923.

... the utmost effort was put forth to frame Regulations liberal in their incidence, helpful to
those responsible for the internal control of the great public departments, and at the same
time having due regard to the policy enunciated by the Legislature in passing the Public
Service Act of securing efficient and economical administration of the Public Service (PSB AR
1924, p. 7).

As already noted, the Board had observed also that the origins of the 1922 Act were to
be found largely in the conclusions and recommendations of the McLachlan and
Economies Commissions. While they were ‘on the whole well conceived,’ difficulties
identified in the early months of the operation of the Act had pointed to the need for
certain legislative amendments.

A HISTORY IN THREE ACTS 25
The 1924 report details, at the pages indicated below, the range of matters addressed by the Board in its first year, with the following being of particular interest and immediate or ongoing significance:

- Classification of the Service (34–5)
- Service basic wage (45–57)
- Training of officers (58–61)
- Efficiency and economy (63–7)
- Management of temporary employment (67–8)
- Preference to returned soldiers (77)
- Problems with the Arbitration (Public Service) Act 1920 (84–7).

Additional comment on these issues is included in Appendix 2.

The first report records also the action already taken, and then proceeding, for bringing back under Public Service Act employment staff of the Defence Department, previously brought under Defence Act control as a war-time measure, or otherwise employed under provisions of that Act and the Naval Defence Act 1910–11 (PSB AR 1924, p. 7, 8).

Of greater interest in an ongoing sense, however, is that the report registers a then unresolved conflict between the Board and the Institute of Science and Industry (later to become CSIRO) concerning whether that Institute should become a branch of the Commonwealth Public Service (PSB AR 1924, p. 93–5). The Board's arguments for integration into the service (in the first instance, possibly as a branch of the Provisional Service, as recommended earlier by McLachlan) and the Institute's contention that it should be outside the Service with independent staffing powers under its own legislation were to be canvassed many times throughout the life of the Board, in relation to many different independent statutory bodies and their existing (or proposed) enabling legislation. The Board's concluding observations on this particular situation essentially encapsulates the views it maintained and the advice it tendered to the government, with limited success, over the ensuing 60 years:

The Board has only to add that the objects aimed at by the Parliament in passing the Public Service Act 1922 will be largely frustrated if control of sections of departmental service is to be removed by special legislation from the operation of the Public Service Act. Economical and efficient administration will certainly be prejudiced by a splitting up of the Public Service under separate controlling authorities and the public interest is bound to suffer (PSB AR 1924, p. 95).

Although unable to prevent the establishment of independent agencies, the Board's objectives were met in part, probably in the majority of cases, by inclusion in the enabling legislation for individual statutory agencies the requirement for such agencies to obtain the Board's approval for their terms and conditions of employment. That mechanism, in turn, was to begin to disappear with the Board's demise in 1987. By the end of the 20th century, the almost universal Public Service Act coverage of Commonwealth staff in the early years of the Service was to be reduced to a level of about 45 per cent.
The history of the 1922 Act and related legislative changes, together with the historical context within which amendments occurred, can arguably be seen to have occurred in a number of relatively discrete, but overlapping, periods:

- the period commencing with the passage of the Act in October 1922, the subsequent appointment of the three-member board in June 1923, and the implementation of the new legislation (as recounted in Chapter 2)
- the early legislative history and other significant changes and developments in the public service between 1923 and the commencement of a single Board member regime in 1931, detailed in this chapter
- the operation of the single-member Board between 1931 and 1946 (Chapter 4)
- The restoration of a three member Board from 1 January 1947 through to the period when major review and reform programs began to be undertaken from 1972 (Chapter 5)
- the implementation of a series of major amendments to the Public Service Act, along with the introduction of a range of administrative law reforms which impacted on the public service, through to the time of announcement of the Board’s abolition in July 1987 (Chapter 6)
- the period commencing with the reversion to a single Public Service Commissioner in September 1987 to the repeal of the 1922 Act and the proclamation of the Public Service Act 1999, with effect from 5 December 1999 (Chapters 7 and 8).

The 1922 Act was amended more than 100 times during its period of operation. Many of those amendments were of a minor nature, consequential on amendments of other legislation with some Public Service Act interface, or as a result of the passage of general statute law revision Acts. Other ‘external’ legislation, however, impacted significantly on the operation of the Public Service Act—for example, the Commonwealth Employees (Redeployment and Retirement) Act 1979.

No attempt has been made in the following chapters to recount in detail the amendments made to the 1922 Act over its 77-year existence. Rather, an attempt has been made to highlight the more significant changes and events over the period and, where pertinent and practicable, to place them in their historical context.
SIGNIFICANT PUBLIC SERVICE ACT AMENDMENTS 1922–31

The Act was subject to only a small number of significant amendments in this period, in the following areas:

- The *Commonwealth Public Service Act 1924* reversed Parliament’s earlier decision to retain in the 1922 Act centralised board authority to make promotions. As foreshadowed in the Board’s 1924 report, the Act was amended to devolve promotion powers to permanent heads, as recommended by McLachlan, with an officer having a right of appeal to the Board. If the Board upheld the appeal, it could cancel the original promotion and promote the appellant.

- The 1924 Act also abolished the complete priority formerly accorded to the Board’s classification pay rates over those determined by the Public Service Arbitor. This amendment appears to have stemmed from angry union reaction to the release of the first part of the Board’s classification of the Service, and a subsequent determination by the Arbitor in favour of the unions, in a dispute over a Board decision on the male basic wage in the Service. In its 1925 report, the Board maintained that its classification had been based strictly on the provisions of the 1922 Act, involving the ‘supersession of arbitration awards rates where inconsistent with classification rates’. The Board’s following comments in that section of its report appeared to be directed to putting the best gloss on an Act amendment with which it did not agree, as evidenced by its earlier extensive criticisms of the Arbitor’s actions and decisions in its first report (PSB AR 1925, p. 5, 84–7). The independent role of the Arbitor obviously continued to rankle with the Board in subsequent years, as illustrated by the following observations:

  The Board believes that the beneficent provisions of the Public Service Act, as adopted by the Parliament in 1922, can never be given maximum effect so long as its working is hampered by the operation of an Arbitration (Public Service) Act under present conditions. In the Board’s opinion urgent need exists for some modification of the law in its present form to establish a proper line of demarcation between administration of the Public Service Act and the maintenance of arbitration rights for public servants of the Commonwealth (PSB AR 1928, p. 1).

- The then Bruce–Page Coalition Government seems to have had some sympathy with the above Board view and subsequently introduced the Arbitration (Public Service) Bill 1929, providing for abolition of the single arbitor system and substitution of arrangements under which the bulk of service pay claims were to be decided by a committee comprising a judge of the then proposed Maritime Industries Court, a representative of the Public Service Board and a staff representative selected by the Minister from a union-nominated list. The unions opposed and campaigned against
the proposed changes in the election campaign. The proposed Maritime Industries Bill was rejected in September 1929. The Coalition Government was subsequently defeated; the incoming Scullin Government extended the term of the about to retire Arbitrator (Atlee Hunt); and discussions began between the Board and the unions with a view to improving operation of the system as it stood. Atlee Hunt retired in May 1930 but was not replaced until JC Westhoven, then Deputy Director of Posts and Telegraphs for Victoria and an ex-Public Service Inspector, was appointed in March 1931. In the interim, Service arbitration had come to a temporary halt, due to the Depression (Public Service Board 1973, p. 9).

- The Commonwealth Public Service Act 1930 provided for the Governor-General to be able to defer making an appointment to a Board vacancy, and provided also for provisions for conduct of the Board’s business where there were fewer than three members. In accordance with these provisions, Commissioner McGlinn, who had vacated his position in March 1930, was not replaced and, likewise, then Chairman Skewes, who retired in June 1931. The full three-member Board was not then to be reconstituted until January 1947. Mr WJ Clemens, first appointed as a Board Commissioner in January 1929, continued as sole Commissioner until March 1937, being replaced by Mr FG Thorpe, who continued in that capacity until December 1946.

- The 1930 Act also inserted a provision allowing officers serving as private secretaries to Ministers, and others seconded to occupy similar positions, to subsequently return to suitable departmental vacancies. In determining the position into which they were then to be placed, the Board was able to ‘pay regard to the period and nature of their employment as private secretaries to ensure that, if avoidable, they will not suffer disability by reason of their absence from ordinary departmental work’ (PSB AR 1930, p. 6). The new s. 48A, then enacted, continued to operate along these lines until repealed by the Public Service Reform Act 1984, at which point it was replaced by the then enacted, and still extant, Members of Parliament (Staff) Act 1984.

PUBLIC SERVICE SUPERANNUATION

While the new Act did not come into operation until July 1923, the complementary Superannuation Bill, foreshadowed by Senator Russell at time of introduction of the Public Service Bill in April 1921, was enacted in October 1922, and the new superannuation scheme was initiated on 20 November 1922.

Passage of the Superannuation Act 1922 accordingly signified the completion of the third part of the Hughes Government’s program for major legislative reform of the
Commonwealth Service, the Arbitration (Public Service) Act 1920 having already come into operation on 31 March 1921.

The superannuation scheme replaced the less than satisfactory life assurance provisions of the 1902 Public Service Act. The scheme was seen to provide a key ingredient to the total package of public service conditions, in providing for an assured income on retirement. Officers were to contribute according to age and sex towards pension units of £26 each, contributions being paid into a superannuation fund, managed by a Superannuation Board with contributor representation. The government notionally contributed an equal amount to the fund for each officer, but opted for a system under which it would meet half of whatever amount was payable to the officer on retirement, rather than setting aside large contributions each year on behalf of all contributors, as applied in the NSW scheme.

The Superannuation Act 1930 provided for some refinements and enhancements of the 1922 Superannuation Act and introduced a requirement that the contributor representative was to be elected by contributors.

**OTHER LEGISLATION AFFECTING THE SERVICE 1922–31**

The 1922 Act contained no provisions about the rights of staff who went to work for non-APS Commonwealth agencies. General provisions to deal with this matter were first introduced with the Officers’ Rights Declaration Act 1928 (ORDA). The ORDA applied to officers employed under an Act specified in the Schedule to the Act (or under regulations made under an Act and section specified in that Schedule). Additionally, other Commonwealth Acts subsequently made provision for the ORDA to apply to the employment of APS officers in a wide range of separate authorities. By March 1981, authorities covered by that Act numbered 115.

The ORDA was subject to only minor detailed amendments until its repeal by the Public Service Amendment Act 1978, the repeal becoming effective on 15 March 1981. It was then replaced by a new Part IV in the 1922 Act (generally known as the officers’ mobility provisions), which remained substantially in place until the 1999 Public Service Act was enacted.

The only ‘other’ major enactment affecting the Service in this period was the Commonwealth Employees’ Compensation Act 1930. It operated to repeal, and enhance benefits previously available under, the Commonwealth Workmen’s Compensation Act 1912, and placed administration in the hands of a Commissioner.

**OTHER CHANGES AND DEVELOPMENTS 1922–31**

The Board’s annual reports over this period document various non-legislative changes of significance to the Service and include also pertinent Board commentary on the changing Service environment. The following are of particular interest in that broader context.
GENERAL ORDERS

The 1926 report records completion by the Board of a volume of General Orders relating to administration and interpretation of the Act, Regulations and Arbitrator’s determinations (PSB AR 1926, p. 4). The General Orders continued to be published and updated into the 1970s, being then replaced by the issue, progressively, of a series of volumes of the new Personnel Management Manual.

MELBOURNE TO CANBERRA RELOCATION

In 1928, the Board noted that the transfer of departments from Melbourne to Canberra, consequent on the transfer of federal Parliament to Canberra in May 1927, was causing accommodation and other problems. The Board's enthusiastic endorsement of the new capital was not one that can be seen to have received universal and rousing affirmation, by parliamentarians and public servants alike, up to the present day:

It may be fairly assumed that the opening of a new life in the inspiring and healthy surroundings of a new city will not only make for contentment and happiness of the service, but will result in development of an even higher degree of efficiency and a keener desire to render valuable service to the public than was hitherto practicable (PSB AR 1928, p. 25).

It appears that the Board itself had not entirely practised what it preached. Chairman Brudenell White, who had arranged the departmental transfers to Canberra in 1926 and 1927, in preparation for the opening of Parliament in May 1927, 'promptly resigned when his turn came to move' (Sparke 1988, p. 82).

Living accommodation for public servants coming to Canberra was to remain a problem until well after the Second World War, resulting amongst other measures in the construction in the 1960s of the relatively low-tariff Gowrie and Macquarie hostels (as they were then called). The tide began to turn with the first significant cutbacks of Service recruitment in Canberra in the 1970s and the virtual cessation of large-scale transfers of staff from Melbourne to Canberra. Living accommodation has now become more readily available, but at market prices.
CLASSIFICATION OF THE SERVICE

The 1929 report advised of the completion of the Board’s classification of the Service in November 1928 (PSB AR 1929, p. 5). It noted also that much attention was being given to curtailment of departmental expenditure, in the light of the overall financial position of the Commonwealth (PSB AR 1929, p. 6).

GRADUATES

The 1929 report records commencement of recruitment (to Canberra) of a small number of graduates, a course of action previously precluded by the need to give recruitment preference to returned soldiers (PSB AR 1929, p. 21).

TEMPORARY EMPLOYMENT

The 1929 report returns also to a longstanding concern of the Board about abuses of the temporary employment provisions of the Act, those concerns then having been vindicated in the findings in the report of an inquiry by the Parliamentary Joint Committee of Public Accounts (PSB AR 1929, p. 24–5).

STAFFING CONSEQUENCES OF THE DEPRESSION

The effect of the Depression led to curtailment of recruitment and temporary employment along with the retrenchment of temporary and exempt staff (PSB AR 1930, p. 5). By the end of 1930 also, examination entry to the Service had once more been suspended, and the Board was making full use of its authority to transfer excess officers to severely short-staffed areas, in an attempt to avoid laying off permanent staff (Public Service Board 1973, p. 10).
This section of the history traces the evolution of the Act through the period of the Depression and the Second World War, during which the Public Service Board operated under a sole Commissioner. The events of those years were to influence significantly the structure and content of the Public Service Act, contributing materially to its increasing complexity and prompting periodic representations in the post-war years for reform and simplification.

**SIGNIFICANT PUBLIC SERVICE ACT AMENDMENTS 1931–46**

The circumstances of the Depression and the Second World War were to generate relatively few amendments to the fundamental Act provisions relating to the structure and administration of the Service although, as indicated below, other legislation impacted significantly on its operation. Important Public Service Act changes were made, however, in the following areas, culminating in some major changes in 1945.

**RECRUITMENT OF GRADUATES**

The *Commonwealth Public Service Act 1933* inserted a new s. 36A to provide for appointment to the Service, as base-grade clerks, of university graduates, provided that such appointments were not to exceed 10 per cent of the base-grade clerk intake in any year – not a limitation which was to generate any real concern in the ensuing 30 years or so. Parliamentary debate on the new provision featured vehement opposition from Labor members, who accused the government of sponsoring an elitist provision for the benefit of their more affluent constituents, who were able to afford university education for their children, while working-class families continued to struggle in the depressed economic conditions–prompting then Attorney-General Latham to label Labor critic JA Beasley in one exchange as ‘a specialist in irrelevant excitement’ (CPD 6 December 1933, p. 5873). While the numbers involved remained small (43 eligible applicants and 11 appointees in 1934 intake), the selection process was taken very seriously:

The Committees comprised representatives of the local University, a representative of one of the principal Commonwealth departments in the State, and the local Public Service Inspector. In making a final selection, the Board was most materially assisted by discussion of the report of the State Committees with the Vice-Chancellors of three Universities at which the candidates’ applications were exhaustively examined with due regard to educational attainments and personal qualifications (PSB AR 1934, p. 18).

The intensity of this selection process was to be moderated considerably in later years, but it may well have served as a model for selection processes adopted in the 1960s, particularly for the Board’s Administrative Trainee Scheme, when graduate recruitment was accorded high priority.
RETURNED SOLDIERS RECRUITMENT

The *Commonwealth Public Service Act 1934* further modified returned soldier recruitment provisions, to allow for appointment to the Service of an applicant, notwithstanding any physical defect likely to prevent continuance of efficient service up to the age of 60 years. Appointment of such applicants had often been refused previously, having regard particularly to the likelihood of premature retirement and consequent drain on the Superannuation Fund. The effect of the amendment was to permit such an appointment to proceed, but to provide that the appointee would not be deemed to be an employee for Superannuation Act purposes. In later years, appointees in similar circumstances (returned soldiers and others) were to be given opportunity to contribute to a separate (non-pension) Provident Fund, established under the Superannuation Act.

PROTECTION OF APPEAL RIGHTS DURING MILITARY SERVICE

The *Commonwealth Public Service Act 1940* made special provision for appeals against promotions to be initiated by the Board on behalf of an officer absent on war service, with the object of ‘ensuring that his claims receive full consideration in relation to the filling of all positions to which he may aspire’ (PSB AR 1940, p. 2). The mechanics of this process are not discussed in the report, but it was stated to have involved a great deal of work and to have resulted in a number of appeals being decided in favour of absent officers. Subsequently, the Board noted that, of 170 appeals upheld in the year under review, 63 were in favour of officers absent on war service (PSB AR 1943, p. 3). Much later, in 1966, the Board was to put in place similar ‘absentee’ appeal arrangements for officers called up under the National Service Scheme, which required up to two years service and could involve overseas service in Vietnam.

COMMONWEALTH EMPLOYMENT SERVICE

The *Commonwealth Public Service Act 1945* provided for the transfer to the Commonwealth Employment Service (CES) of several hundred staff, previously employed in state labour exchange organisations. The CES had been a derivative of the Wartime Man Power Directorate, which dealt with the allocation of available people resources between the Services and civilian occupations, and with the supply of labour to ‘protected’ undertakings. The government subsequently decided that a Commonwealth employment service should be established on a permanent basis, initially with functions in assisting in the re-employment of ex-members of the Armed Forces, and in the re-establishment of civilians who had been engaged on war work, and in providing other employment and advisory services (the subsequent principal CES function).

THE PROMOTIONS AND APPEALS SYSTEM

The Commonwealth Public Service Act (No. 2) 1945 effected major changes to promotion and promotion appeal provisions, along with other significant amendments to the 1922 Act.
Promotions and appeals

These changes occurred in response to recommendations of the Bailey Committee appointed by the Government, following union representations, to inquire into Act and regulations provisions relating to promotions and appeals and also the regulations relating to ‘temporary transfer’ to vacant positions (in later years, to be described as temporary performance). Composition of the Committee (chaired by Professor KH (later, Sir Kenneth) Bailey, then Professor of Public Law at Melbourne University) was detailed by the Board, along with the Committee’s terms of reference (PSB AR 1945, p. 1–2). The Committee’s recommendations are recorded the following year (PSB AR 1946, p. 2–5). The detail of the amending Act and regulation, provisions is now largely of academic interest but, fundamentally, involved the establishment of a Promotions Appeal Committee system, independent of any direct Board control. The Board’s power to determine appeals was retained only in relation to appeals by officers in States other than where the vacancies existed, and in relation to appeals in respect of promotions to offices above a prescribed maximum salary level—in effect, the higher-level Third Division and all Second Division offices. Similar regulations were made to govern appeals against temporary transfers.

Joint Council

The same enactment also made provision for establishment of the Joint Council, directed to provide a forum for regular discussion between representatives of management and staff on matters of general Service concern. It was expected to deal with such matters as employment conditions and improvement of procedures and staff welfare, and to address issues of principle rather than individual cases. The Council was constituted under regulation provisions, which detailed its functions, membership and mode of operation. The Council was to continue in operation for the next 50 years, but with generally declining significance through the 1990s. Ultimately, its functions were to be superseded by the development of new consultative arrangements under wider-ranging industrial legislation, as now reflected in the Workplace Relations Act 1996.

Classification Committees

The amending Act further made provision for the setting up of classification committees, to assist the Board in the regular salary reclassification of the Service. Again, the operating framework for these joint management/union Central Classification Committees (so designated) was provided for in the Public Service Regulations, and the Board used the committees extensively in the early years after passage of the legislation. Their significance declined progressively through the 1950s and, ultimately, their function was superseded by the processes adopted in the 1960s under Board Chairman Wheeler, to bring about radical changes in classification structures and pay fixation in the Service.
Officers contesting elections

The provisions for right of return to the Service of officers who had resigned to contest elections and had failed to be elected (now reflected in s. 32 of the 1999 Public Service Act) had their origin in the 1945 Act amendments, which also included similar provisions in relation to temporary employees.

Commonwealth employment of state taxation staff

The Commonwealth Public Service Act 1946 provided for the permanent takeover, from 1 July 1946, of former state taxation staff (by then numbering some 3700) associated with the collection of income tax. Those staff had been temporarily transferred to the Commonwealth under the Income Tax (War-time Arrangements) Act 1942, to which further reference is made below.

Other significant legislation 1931–46

Operation of the Service was affected significantly by a number of wider-ranging enactments principally, but not solely, deriving from Depression and World War II circumstances. The more important of these changes were:

The Financial Emergency Act 1931

The Financial Emergency Act 1931, reflecting preceding premiers’ conference decisions, was designed to achieve an average reduction of 20 per cent in the quantum of Service salaries and wages which had been payable at 1 July 1930. Implementation of the measure is recorded by the Board (PSB AR 1931, p. 5–7). Pay reductions were to be related to the general fall which had occurred in the cost of living, thereby justifying a lower Service basic wage, and were to be applied on a percentage sliding scale. The report stated that, generally, reductions ranged from 18 per cent on the lowest salaries to 25 per cent on the highest.

The Financial Emergency Act was amended in 1932 to provide that, in addition to the reduction made in 1931, salaries and wages should be reduced further by the amount represented in a further fall in the cost of living in 1931. Relief from the stringencies of the financial emergency legislation was to be provided first by the Financial Relief Act 1933, which provided broadly for some restoration of salaries reduced in 1931 and 1932. Further restorations occurred in 1934 and 1935, and the situation was to be restored to ‘normal’ (excluding reductions which had occurred separately by downward cost of living adjustments) by the Financial Relief Act (No. 2) 1936.

The Income Tax (War-time Arrangements) Act 1942

The Income Tax (War-Time Arrangements) Act 1942 provided for the takeover, from 1 September 1942, of some 2800 state income tax employees from the Taxation Branches in NSW, Victoria, Queensland, South Australia and Tasmania, with the Board classifying all the offices involved and allotting staff thereto. The Commonwealth’s income tax
collection arrangements had been administered by those states since 30 June 1923 under Commonwealth–state agreements, authorised by the *Income Tax Collection Act 1923*, with relevant Commonwealth staff having been transferred to the states for these purposes. In Western Australia, however, an arrangement had already been in force since 1921, under which income tax was collected by the Commonwealth on behalf of that state. This arrangement was not affected by the 1923 legislation and continued in place, to then accord ultimately with the regime adopted in 1942. As mentioned previously, the *Commonwealth Public Service Act 1946* then provided for the permanent takeover by the Commonwealth of income tax staff.

**THE AUSTRALIAN SOLDIERS REPATRIATION ACT 1943**

Existing Public Service Act employment preference provisions for World War I returned soldiers were extended to World War II soldiers by s. 44 of the *Australian Soldiers Repatriation Act 1943*, which amended existing veterans’ legislation of long standing (the *Australian Soldiers Repatriation Act 1920–1941*).

**THE COMMONWEALTH EMPLOYEES FURLOUGH ACT 1943**

The *Commonwealth Employees Furlough Act 1943* extended to temporary employees, from 1 May 1943, long-service leave provisions similar to those for permanent officers.

**THE RE-ESTABLISHMENT AND EMPLOYMENT ACT 1945**

Employment in the Service became subject to the wider-ranging returned soldier preference provisions of the *Re-establishment and Employment Act 1945* (‘the R&E Act’). In broad terms, employers generally were required to give preference to returned soldiers in engagement for employment, unless the employer had ‘reasonable and substantial cause for not doing so’ (s. 27(1)). Allied with the ongoing Public Service Act preference provisions, the R&E Act affected significantly, at least in principle and in presentation, Service employment in the early post-war years, with gradually declining significance thereafter. Overall, the combination of these preference provisions probably impacted most significantly (and adversely) on recruitment of school leavers to the Service—an issue to be taken up in the latter part of the 1950s by the Boyer Committee inquiry into public service recruitment.
OTHER CHANGES AND DEVELOPMENTS 1931–46

Legislative amendment shaped significantly the evolution of the 1922 Act and its growing complexity. It is important, however, to see that evolution against the background of the complex environmental conditions affecting the Service and the community generally over this 15-year period. It is of interest to note also the occurrence of some significant non-legislative changes which were to prove to be of ongoing importance in individual areas of the Service or for the Service at large.

This section of the history notes a range of those developments considered to be of particular interest.

THE DEPRESSION YEARS

The then Board Chairman Skewes retired in June 1931 and was succeeded by WJ Clemens as sole Commissioner. Clemens’ first report records intensification of earlier occurring difficulties for the Service as a result of the onset of the Depression, with ‘grave problems in the utilisation of permanent staff which had become excess in certain sections of the Service’. Service staff numbers had decreased by 4069 (11 per cent) in the year under review, and expenditure on salaries, wages and allowances had reduced by 9 per cent, with further substantial savings occurring subsequently as a consequence of the financial emergency legislation previously mentioned. In later comment on efficiency and economy in departments, the report noted that the activities of the Postmaster-General’s, Trade and Customs, Defence and Works departments had shown a ‘marked diminution’, but the work of the Pensions and Bankruptcy Branches had ‘heavily increased’. The report noted also the introduction of Commonwealth sales tax, necessitating additional administration and collection staff in the Taxation Branch of Treasury (PSB AR 1931, p. 1, 18, 19).

In the following year, Clemens expressed concern that cessation of youth recruitment during the Depression (the subject of earlier Board concerns in relation to curtailment occasioned by recruitment preference for returned soldiers) could seriously endanger Service efficiency in a comparatively short period—a problem which was to be further compounded in later years by recruitment preference arrangements for returned soldiers following World War II. He reported also that many difficulties remained in dealing with cases of excess officers, and adult officers still having to be employed in junior positions, at junior rates of pay, after reaching 21 years of age (PSB AR 1932, p. 20, 24, 26). Some salary relief was to be provided subsequently by regulation provisions until, in May 1936, the relevant regulations were able to provide that all the officers concerned could be given adult rates of pay.

By the time of his following report, Clemens was able to observe that economic problems had lessened in complexity, with excess staff problems being largely overcome, although there was still little opportunity to return to their former grades officers who had been reduced in classification. Further, adult officers who had entered the Service as juniors were still not able to be absorbed into adult positions, notwithstanding any salary relief which had been afforded to them, with the resultant continuing suspension of junior recruitment (PSB AR 1933, p. 5, 12).
In his final report as sole Commissioner, prior to his retirement in March 1937, Clemens notes that the Service then comprised 10 departments with 28,072 permanent officers, from a Depression low point of 26,977 at 30 June 1934. With the accompanying growth of temporary and exempt employment, total Service staffing, increased from a 1931 low point of 32,312 to 38,503 by 30 June 1936 (PSB AR 1936, p. 26).

**PUBLIC SERVICE REGULATIONS**

Although not mentioned by Clemens in his reports, the Public Service Regulations were remade in January 1935, with a commencement date of 6 March 1935. The overall structure and content of the Regulations appears to have changed little from the original 1923 Regulations, and the remake was presumably in the nature of a consolidation. While the number of Regulations decreased progressively in the post-World War II years, the general structure of the 1935 remake remained in place until superseded by the new Public Service Regulations, made on 3 December 1999 following passage of the 1999 Public Service Act.

**RETIREMENT OF CLEMENS**

As a consequence of his service as Commissioner (from 1 January 1929) and sole Commissioner (from 11 June 1931), Clemens presided over the Service for almost the complete duration of the Depression. He retired on 26 March 1937, after service dating back to 1889 in the Victorian Postal Department. He was an original member of staff of first Public Service Commissioner McLachlan, and became Secretary and Chief Inspector when the Public Service Board was established.

In his final report, Clemens reflected with pride on the development of the Service over the years of his involvement, and the reputation which he believed that it had developed for ‘loyal and efficient service’ to both government and the general community. In asserting the need for officials to possess courage and consistency in the exercise of administrative and executive functions and to be inventive in tendering advice, Clemens included, with obvious approval, the following quotations from *Government Career Service* by Professor Leonard D White:

> Governments have come to be engaged not merely in preventing wrong things from being done but in bringing about that right things shall be done. A negative Government only requires courage and consistency in its officials, but a positive Government requires a constant supply of invention and suggestion

> and

> The day has gone when the public service can be manned by persons who have failed to achieve success in the competitive world and who in middle-age seek refuge in the official world. (PSB AR 1936, p. 26–7)

The sentiments so expressed have not lost their relevance, if not always attracting unreserved acclamation in all quarters.
Clemens was succeeded as sole Commissioner by Mr FG Thorpe, with effect from 27 March 1937. Thorpe continued to serve in that capacity through the World War II period and until a three-member Board was reconstituted, with Thorpe as Chairman, on 1 January 1947.

CONFERENCE OF PUBLIC SERVICE COMMISSIONERS

The first conference of Commonwealth and state Public Service Commissioners was held in Canberra in September 1937. The conference agenda appears to have focused essentially on ‘conditions of service’ matters rather than broader policy issues (PSB AR 1937, p. 16).

TRAINING OF DIPLOMATS

The 1937 report records also that the then Department of External Affairs began to recruit a small number of (above base grade) clerks, with qualifications and knowledge particularly oriented to the department’s international activities. Graduates were sought in arts, law, commerce or economics, who had a good knowledge of French or another approved foreign language. Applicants were also required to possess a knowledge of constitutional and modern history, a broad knowledge of international affairs and, in one case, a sound knowledge of public international law and ‘the principles of consultation and of the diplomatic relations of the British Empire’. Selection committee arrangements were similar to those already in place for s. 36A graduate clerks, as outlined above. Five graduates were ultimately recruited under this scheme, two of whom were appointed under the graduate clerk provision, legislated in 1933 (PSB AR 1937, p.17).

Recruitment of ‘diplomatic trainees’ was to be later expanded, through the introduction in 1943 of a more formal cadetship scheme. Prerequisite qualifications were specified similar to those adopted in 1937, but with provision also for consideration of the claims of members of the military forces, on the basis of the best available information and consideration of the applicant’s written essay. In the event, nine males (all members of the military forces) and three females were selected and sent to the University of Sydney for full-time intensive training and study in selected subjects. Further enhancement of the scheme was forecast for the 1944 intake, with an extended period of university attendance. The cadetship scheme continued through to the 1960s, with increasingly more sophisticated selection processes, and was then effectively replaced by a similarly structured graduate entry scheme.

THE SERVICE THROUGH WORLD WAR II

Staffing constraints

In his reports from 1939 to 1945, Thorpe commented principally on the difficulties and challenges confronting the wartime Service. Thus, in 1939, he was already commenting on the heavy strains on staff occasioned by the outbreak of war in September of that year—those strains being accentuated by the cessation of appointment of ‘suitable
recruits’ during the Depression years. New wartime Service agencies, such as the Department of Information and the Prices Fixing Commission, were being staffed on a temporary basis, as were additions to public service staffs of the Departments of Defence and the Department of Supply and Development, as far as practicable.

By 1941, Thorpe was noting intensified staffing problems, with remedial measures including temporary employment of some retired officers and the working of overtime. In an interesting, but temporary, reversal of recruitment practice, almost all appointees to the Service were minors (other than eligible returned soldiers and females). This changed emphasis in the Board’s recruitment policy was implemented, with government concurrence, with the object of protecting the interests of persons who had been precluded by war service from seeking appointment. Appointments to adult male positions (other than returned soldiers) were restricted to positions with special features, necessitating more immediate staffing on a permanent basis. Overall, in the year to 30 June 1941, the number of permanent staff in the Service increased from 34,201 to 36,192, with total Service staff (permanent, temporary and exempt) increasing by some 7000.

New departments and functions

A brief (eight pages only) report in 1940 listed seven new departments created since the outbreak of war, including replacement of the former Defence Department by separate Departments of Defence Coordination, Navy, Army and Air. Wide-ranging staffing changes included the utilisation of staff made available from state instrumentalities. Caiden observes that the increasing wartime centralisation of functions in the Commonwealth, and the establishment or planning of Departments of Munitions, Labour and National Service, Social Services and Post-War Reconstruction marked a perceptible shifting in balance towards predominance of the Commonwealth over the states. In the same context, he notes also action taken to enlist the services of prominent private sector figures, with Essington Lewis, Chief General Manager of BHP, being appointed as Director-General of Munitions and newspaper proprietor, Sir Keith Murdoch, becoming Director-General of Information (Caiden 1965, p. 269–70).
Women’s Employment Board

In 1943, Thorpe comments especially on the marked wartime increase in the employment of women on work usually performed by men, such employment being subject to the approval of the Women’s Employment Board (WEB), which also determined rates of pay to be applied—up to full male rates for permanent clerks, medical officers, and certain postal employees and other categories (PSB AR 1943, p. 1–2).

The origins and nature of the WEB are not discussed in Thorpe’s report but other commentators (Caiden 1965, p. 279–80, 322, 337; Ryan & Conlon 1975, p. 124–5) provide some informative background on its establishment, composition and functions. The latter reference indicates that the WEB was established, in part, as a consequence of union pressure, but also because the Government wished to secure the maximum release of men for war purposes and sought to encourage women to enter the workforce.

Regulations initially establishing the WEB in September 1942 were disallowed in the Senate, on grounds both of the WEB’s composition and its departure from the principle of arbitration. It was re-established by Act of Parliament, but its operation was then subject to a High Court writ by the Victorian Metal Trades Employers’ Association and others. It continued in existence, however, until October 1944, when its Chairman, Judge Foster, became an Arbitration Court judge, with the WEB function then being devolved to a designated judge of that court.

The task of the WEB had been to determine remuneration, hours and working conditions for women employed in certain occupations in industry during the wartime emergency.
Its determinations continued to be applied through until 1950, when their application was discontinued by the Public Service Board for new recruits, and continued to apply only to women who had continued to be covered by them up until that time.

As indicated above, the WEB accorded to women full male rates of pay in a limited number of employment categories. Prior to this, suggestions for equal pay had gained little recognition. Significant progress was not achieved in this area until the end of the 1960s as discussed in relation to the nature of the service after World War II, and the changes and developments which occurred during the 1947–87 period.

PLANNING FOR THE POST-WAR SERVICE

In his last report for the war period, Thorpe noted the major task then confronting the Service in restoring organisations and staffing after wartime disruptions. He took opportunity also to revisit the longstanding Board concern with the practice of setting up Government civilian activities outside of Public Service Act control. However, in the same general context, Thorpe also appeared to depart from earlier Board concerns about independent decisions of the Public Service Arbitrator, asserting that over the years the Board and the Arbitrator had built up standards of remuneration and conditions which would be adversely affected by contrary decisions of independent statutory agencies. Perhaps returning to the earlier Board position, he then asserted that there should be a common authority determining classification and other matters for all civilian Commonwealth employees (PSB AR 1945:1–3). Presumably, Thorpe would have considered that the Board should fill that role, but this was neither specifically stated nor directly implied.

RESTORATION OF THE THREE-MEMBER BOARD

In December 1946, Thorpe’s final report as sole Commissioner foreshadows the then immediately imminent reappointment of the three-member Board.

Thorpe was appointed to serve as Chairman of the reconstituted Board for the remainder of his existing term of office, expiring on 23 March 1947. The two vacant Commissioner positions were to be filled by Mr JT Pinner, an Assistant Commissioner from the Board’s Office, and Mr AV Langker, General Secretary of the Commonwealth Public Service Clerical Association (an ancestor of the CPSU of today) and Secretary of the then ‘umbrella’ union body for the Service, the High Council of Commonwealth Public Service Organisations.
INTRODUCTION

In his final report as sole Commissioner, Thorpe had alluded briefly to the problems facing the Service in returning to peacetime operation, and the heavy demands which this had already placed on Board and departmental staff during 1946. Temporary staffing arrangements to meet wartime demands had to be readjusted and provision made for newly emerging or expanding post-war activities of the type mentioned in the preceding section.

In the particular context of this history, however, the periods now to be addressed in Chapters 5, 6 and 7 are ones during which the Act was to be amended with increasing frequency. This is illustrated by the Table of Acts at the end of the last official reprint (No. 6) of the 1922 Act in 1996. Between 1922 and 1946, there were 18 amending enactments. In the 1947–87 period, up to and including the legislation abolishing the Board, there were 63 such enactments, with 19 of those occurring in the 1980s. While the latter totals included numerous ‘tidying-up’ amendments in Statute Law Revision Acts, and relatively minor consequential changes stemming from amendments of other legislation, major changes were to occur also in fundamental Act provisions dealing with, for example, recruitment and appointment, discipline, officers’ mobility, and redeployment and retirement.

As previously noted, the 1931–46 period had produced changes which contributed to increasing complexity of the 1922 Act. The frequency and scope of amendments in the 1947–87 period were now to increase significantly that complexity.

As before, this history does not attempt to document the detail of all the amending legislation in this period, but seeks rather to identify what are considered to be the more significant changes.

This chapter looks at the 1947–72 period.

SIGNIFICANT PUBLIC SERVICE ACT AMENDMENTS 1947–72

In the immediate post-war period, few major changes occurred to the Act. Amendments were directed essentially to regularising a number of structural and staffing arrangements which had evolved during the war years, along with some changes to basic staffing provisions, as follows:


- *The Commonwealth Public Service Act (No. 2) 1947* made provision for the Board to grant extended unpaid leave (up to three years) to allow officers to undertake courses of study, relevant to the duties of their respective offices and to meet post-war
reconstruction needs (presumably a measure allied to the wider community-related Commonwealth Reconstruction Training Scheme, although this is not referred to directly by the Board at the time). The legislation provided also for other measures impacting on Service management, including provision for leave for an officer appointed to a full-time executive office of a registered staff organisation and dismissal appeal rights for certain temporary and exempt employees.

- **The Commonwealth Public Service Act 1948** provided authority for bringing under the Act more than 8000 staff (predominantly temporary employees) from the Defence group of departments (Defence Central, the separate Armed Service departments and the Supply and Shipping, and Munitions departments). These changes took effect from 1 September 1948. Large numbers of ‘industrial’ wages staff, however, continued to be employed under the Supply and Development and Naval Defence Acts.

No further significant legislative change was to occur until passage in December 1960 of the **Public Service Act 1960**, which implemented changes flowing from the recommendations of the Boyer Committee on public service recruitment, discussed further below. While major changes were made to the recruitment and appointment provisions of the Act, its basic structure (and overall complexity) remained unchanged.

Major changes to the Act were not then to occur until new discipline and officers’ mobility provisions were legislated in 1978. Two significant changes did occur, however, in the interim:

- **The Public Service Act 1966** introduced provisions for the grant of leave to officers and employees required to undergo compulsory defence service (National Service), including protection of their promotions appeal rights and provision for confirmation of probationary appointments during such service. It extended existing special (returned soldier) entitlements to persons already attracting such entitlements under repatriation legislation, including persons with operational service in Vietnam. Separately, it provided authority for the temporary employment of foreign nationals without requiring them to take the oath or affirmation of allegiance to the Queen, where the Governor-General was satisfied that such employment would not be prejudicial to the national interest.

- **The Public Service Act (No. 2) 1966**, proclaimed to operate from 18 November 1966, allowed for the permanent appointment of married women to the APS and removed the requirement for existing female permanent officers to retire from the Service on marriage. It also introduced provisions for the grant of maternity leave. Both issues are discussed further in the following sections.

**OTHER SIGNIFICANT LEGISLATION 1947–71**

Mention has been made previously of the enactment of the **Re-establishment and Employment Act 1945** (R&E Act), establishing various employment preference provisions for returned soldiers. Amendment of that Act in 1952 extended appointment preference provisions for a further three years (and the period of operation was again extended by three years in 1955). Additionally, the R&E Act amended the Public Service Act to extend
re-establishment benefits to persons who had served in Korea and Malaya. A further amendment enabled the Board to grant leave to officers who had served in those locations to enable them to pursue a course of reconstruction training, and to grant leave to officers undertaking any other Commonwealth scheme of vocational training. The Re-establishment and Employment Act (No. 2) 1958 ultimately provided for cessation of returned soldier employment preference provisions on 30 June 1960.

The Public Service Arbitration Act 1952 amended the principal 1920 Act to permit ‘public interest’ appeals to the Conciliation and Arbitration Commission against decisions of the Public Service Arbitrator, mirroring similar existing appeal provisions against decisions of Conciliation Commissioners under the Conciliation and Arbitration Act.

Of more general interest, the Statute Law Revision Act 1950 altered the title of the Public Service Act by deleting the word ‘Commonwealth’.

Aside from the abovementioned Acts, there were no ‘external’ enactments during the 1950s and 1960s with major or significant impact on the APS as a whole. That situation was to change markedly in the years following the election of the Whitlam Government and through to the time of the Board’s abolition, as recounted in chapter 6.

OTHER CHANGES AND DEVELOPMENTS 1947–71

Legislative change during this period had occurred against a background of many other changes and developments following World War II.

THE NATURE OF THE POST-WAR SERVICE

The Board’s January 1948 report included a retrospective on developments in the Service in the World War II period, which had not been practicable to address in the abbreviated reports during the war years. It outlined the principal changes in the departmental structure from 1938, and contains a summary of changes in the more important (Secretary and other) positions from 1939 to 1947 (PSB AR 1948, p. 19). The listing includes the names of a number of notable figures, including some who were to play a significant part in the post-war development of the Service, such as HC (Nugget) Coombs, Roland Wilson, WE (Bill) Dunn and Kenneth Bailey.

The dimensions of the changes which had occurred in the structure and staffing of the Service were starkly illustrated in the report. Between June 1939 and June 1947, the number of departments increased from 12 to 25, and total number of staff from 47,043 to
100,881 (60,566 of these being temporary and exempt staff compared with 14,614 staff in these categories in 1939).

Returning to an old familiar theme, the report also noted that many important agencies (for example, the Commonwealth Bank, the now CSIRO, significant commissions and the various primary production commodity boards) were not subject to the pay, conditions and establishment controls exercised by the Board in relation to departments of the Service. As previously argued, it contended that consequent ‘anomalies and inequalities’ required coordinating machinery, and stated that it was pursuing that objective.

In 1939, around 75 per cent of total Service staff was in the Postmaster-General’s Department. While still the biggest single component by far in 1947, the proportion in that department had fallen to about 53 per cent, with major growth in numbers having then occurred in the Defence Group of departments and in Treasury (reflecting Commonwealth acquisition of income tax staff). Commonwealth staff in Canberra in 1947 comprised about 6 per cent of total Service staffing (or something over 12 per cent if the Postmaster-General’s Department is excluded). The various Board reports do not provide a 1939 figure for Canberra staff.

A further commentary on the size and growth of the Service between 1939 and 1948 was provided by the Board in 1949 (PSB AR 1949, p. 6–8). A more extended summary presentation of changes which occurred in departmental structures from Federation to June 1953 was provided by the Board in 1953 (PSB AR 1953, p. 8–9).

Some 18,000 Service staff enlisted or were called up for service in the Forces over the period of the 1939–45 war.

Other matters canvassed in the 1948 report are of varying historical interest, but are instructive in the sense that they set the agenda for many of the significant issues addressed by the Board in later years. A number of those issues will be picked up in more detail later, but the following paragraphs provide a brief, selective summary of topics covered.

**TEMPORARY AND EXEMPT EMPLOYMENT**

The Board noted that exceptional wartime circumstances and their immediate aftermath had generated a huge growth in temporary and exempt employment in the Service (reflected in the above statistics), but believed that the return to normal civilian employment conditions and the appointment of large numbers of returned soldiers would contribute significantly to increased permanent staffing, with consequential reductions in the non-permanent components. The latter were to remain, however, a long-term problem for the Board, with many temporary employees continuing in employment on an indefinite basis and, in later years, attracting entitlement and tenure rights similar to those of permanent staff.
NEW DEMANDS ON GOVERNMENT WORKERS

The nature and growth of Service activities necessitated improving the speed with which government business was transacted, without sacrificing accuracy and essential controls. The Service needed to ‘be alive with initiative and constructive ability’. However, infallibility was not expected—‘the public servant must be conceded the human tendency to occasional error’ (PSB AR 1948, p. 7).

WAGES AND TAXATION SYSTEMS

Increasingly complicated wages and taxation systems would add heavily to overhead costs.

SINGLE COMMISSIONER OR BOARD

Revisiting the debates on the original 1922 Act, the Board claimed to reflect the then government’s view that the increased size and scope of the Service, with its diversity and complex problems of policy and management, required the attention of a composite Board.

RECRUITMENT PROBLEMS

Recruitment to the Service had been affected adversely by the circumstances of the Depression. The second half of the 1930s had seen a progressive, but slow, recovery which was to prove short-lived as a consequence of World War II circumstances. Thus, in 1948 the Board was reporting that wide-ranging recruitment difficulties still existed, leading to a government-approved Board policy to maintain a balance between youth and ex-Service recruitment, taking account of the R&E Act preference provisions. Particular attention was directed to restoring appropriate levels of school leaver and graduate clerk recruitment. The problem was exemplified by the fact that the majority of recruits during 1947 had been of mature age, and reflected substantial entry of returned soldiers to the Service as clerks, at the then concessional, lower educational level of the Intermediate Certificate. The resultant imbalance in the age profile of the then Third Division, and the accompanying dilution of educational standards continued through the 1950s, despite increasing levels of school leaver recruitment. It remained as a key issue at the time of appointment of the Boyer Committee on Public Service Recruitment in December 1957.

TRAINING

To help meet the new demands on public servants, the Board placed heavy emphasis on non-technical training. The need was reflected at all levels—there was a shortage of officers with proven executive ability, and administrative experience and induction training needed to be
provided for base-grade entrants to the Service. The Board had moved, therefore, to establish the Central Training Section in Canberra to plan and coordinate training activities throughout the Service and to provide systematic training for clerical and administrative staff. Although the nature and scope of training changed significantly in later years, the Board had established for the future a firm foundation for its own, and departmental, training and staff development programs. The then Brassey House was opened as a Service residential training centre in December 1958, for use both by the Board and departments.

WELFARE

The Board emphasised the importance for all departments of adequate attention to staff welfare, extending from already established practice in industrial undertakings in the Service, where its importance had been recognised particularly during the wartime years. Designated welfare officer positions were subsequently established in many departments, but tended to persist as separate entities only in the larger departments, and to be subsumed elsewhere under the part-time responsibilities of other staff with personnel functions.

RETIREMENT OF THORPE

The 1948 report marks the retirement of Thorpe after ‘an honourable career of public service extending over half a century’. His service with the Board had lasted for 24 years, the last 10 of which had been almost entirely as sole Commissioner. The report further notes that his service had been characterised by ‘the very highest standards of personal integrity and loyalty to the Public Service and its traditions which he did much to shape’ (PSB AR 1948, p.18).

APPOINTMENT OF DUNK

Thorpe’s successor was WE (later Sir William) Dunk, who was appointed as Commissioner and Chairman with effect from 27 March 1947. He was to remain as Chairman until his retirement on 31 December 1960.

Dunk had been Secretary of the Department of External Affairs prior to his Board appointment. His early background in the Service (some 25 years) was in the audit field, but in 1941 he became head of the new Defence Division of Treasury, after holding an appointment with the newly created Business Board of Administration, following the outbreak of World War II. In 1942, he assumed additional responsibility as Director of Reciprocal Land Lease (Public Service Board 1973, p. 13).
SIGNIFICANT ISSUES AND EVENTS IN THE EVOLUTION OF THE POST-WAR SERVICE

In light of the major growth in number and diversity of government functions which had occurred during and subsequent to World War II, it would be too simplistic to maintain that the Board’s reports adequately addressed all the significant issues and events affecting the Service in this period. Nonetheless, the Board continued to operate as a powerful central management agency, exercising wide-ranging controls over Service structures, staffing and conditions of employment, and its range of activities increased and diversified significantly in the post-war period.

Employment of women

The World War II years had seen a significant growth both in the numbers of women employed in the Service and the diversity of their employment. Jobs, which had been largely or exclusively male preserves to that time, then needed to be filled by women to maximise workforce participation under wartime conditions. The role of the Women’s Employment Board in this context has been referred to previously.

The wartime circumstances served to highlight longstanding constraints on employment of women in the Service. While that employment related to a wide range of designations in the then Third and Fourth Divisions, as well as extensive temporary employment, women were precluded from permanent Third Division status—a situation which had existed in the Service, for the most part, since the federal public service was established in 1902. The barrier had existed, not by way of legislative prohibition, but as a consequence of a restrictive application of the conditions for entry to that Division (and to the predecessor Clerical Division), whether by permanent appointment or transfer from within the Service.

Soon after Federation, entrance examinations for appointment to the then Clerical Division were closed to women, although it remained possible for them to enter that Division on transfer from the General Division. From 1915, however, that avenue was closed off also, as a consequence of the granting of appointment preference to returned soldiers. These restrictions were not relaxed until February 1949, when the Prime Minister announced that, on the advice of the Board, it had been decided to admit women to clerical and professional positions in the Third Division. The relaxation applied both to appointment and transfer examinations.

It is not clear from the record the extent to which the Board’s recommendation was motivated either by gender equality considerations or by the World War II experience. The Board noted that the decision, ‘which [would] bring the Commonwealth into line with other countries with well-developed civil services’, was expected to assist in overcoming staff shortages at that time (PSB AR 1950, p. 13). Initial recruitment was to be mainly to junior clerical positions, but included 20 female graduates (appointed under s. 36A) by 30 June 1949.

The change affected unmarried women only. The legislative requirement for women to resign from the Service on marriage, and the barrier to appointment of married women, were to remain in place until 1966.
Equal pay

Differential pay rates for women remained in place after 1966. As has been noted earlier, the lower rates for women had applied generally since Federation, other than as varied by Women's Employment Board action, during and subsequent to World War II. However, earlier variations had occurred during World War I, producing equal pay in some areas.

When embarking on its task of determining classifications for the Service under the 1922 Act, therefore, the then newly appointed Public Service Board had to resolve a threshold issue of determining the method that should be adopted in fixing a basic wage for female officers throughout all departments.

Without attempting to traverse all aspects of the Board’s consideration of the issues, it reached the conclusion that lower rates for women had been general practice in the state public services and in private industry, and were seen as appropriate by arbitral authorities.

Implementation of this conclusion produced considerable resentment amongst certain women staff who had, until then, enjoyed higher rates, with strenuous agitation on their behalf. The Board recorded those concerns, but was not persuaded to modify its views:

The publication of sections of the classification including women employees was the signal for protests from relative Public Service Associations because of what were termed “Cruel cuts at women post-office workers”. It was urged that they should receive the same pay as men because of their experience, their long service in the Department, and their unquestionable efficiency. Members of Parliament were circularized, and asked to remember the women-folk, to remedy their real grievance, and “do unto these officers as you would have done unto yourself”.

The point has generally been lost sight of that the Public Service Act imposes a duty on the Board of Commissioners which cannot be evaded by any considerations of sentiment. The fact that women employees have, in many instances, been overpaid for years past cannot be accepted as justification for continuing indefinitely such overpayment without rhyme or reason. Duty is often unpalatable, but nevertheless must be conscientiously discharged (PSB AR 1924, p. 56–7).

With the exception, the situation remained unchanged until decisions of the Conciliation and Arbitration Commission resulted in progressive adoption in the Service of ‘equal pay for equal work’ (later, ‘work of equal value’) from 1969 to 1973.

Training of diplomats

By 1949, a total of 80 graduates (67 men, 13 women) had been selected to participate in the cadetship scheme instituted in 1943, with some 110 cadets being selected by the time of abolition of this particular scheme in 1957. The original short, intensive period of training at the University of Sydney had been superseded by a two-year course at the then Canberra University College (linked to the University of Melbourne), where a special post-graduate School of Diplomatic Studies had been established.
The Board expressed the view that the scheme had generally given good results. It had concerns, however, that reliance on the cadetship as a sole method of recruitment tended to concentrate a high proportion of staff in the lower age groups in the External Affairs department which, by its nature, did not generally fit its officers for transfers to other departments in the Service (PSB AR 1949, p. 14–15).

In later years, trainee diplomats came to be recruited as one element of the variously conducted departmental graduate entry programs.

**Personnel cadetships**

The Board’s 1950 report noted its introduction of a personnel cadet scheme, directed towards the improvement of personnel work in the Service (PSB AR 1950, p. 14).

By the beginning of 1950, cadets (then numbering 48) were in training, attached variously to eight departments as well as the Board’s Office. The cadets were provided with a combination of part-time academic studies and departmental training in all phases of Service personnel work, followed by examinations, over a period of four years (later four and a half years). The academic training component included eight university courses/subjects in designated areas (generally English, a psychology ‘major’ of three units, political science or public administration and three other units from economics, history and philosophy) leaving the way open for cadets to complete their degree studies in their own time and at their own expense (generally, in arts, economics or commerce). Cadets received guaranteed advancement to the then fourth level of the clerical–administrative structure.

The cadetship proved to be a successful venture, if not entirely in the way which the Board intended. Products of the scheme (who had generally pursued degree studies to completion) subsequently occupied many executive positions in the Service, including positions of departmental secretary.
It is probable that, in their progression in the Service, former personnel cadets did make significant contributions to improved personnel management. However, few remained for any long periods in specific personnel management positions, many moving, quite early in their careers, to diverse non-personnel management and policy-oriented positions, in departments or in the Board’s own office.

The first cadets completed their training in 1953. By that time, doubts were beginning to emerge about continuance of the scheme. Recruitment was suspended in 1955, resumed briefly, with some modifications, in 1956 and ceased after that year, with the last cadet finishing the course in 1961. More than 160 officers had undertaken training over the duration of the scheme.

Review of Public Service Act

In 1950, the Board signalled, for the first time, a review of the terms of the Act, to go beyond the range of specific amendments effected from time to time since 1922. In so doing, it noted that, for the most part, the main provisions of the Act had been left untouched—‘a tribute to their sound initial conception’ (PSB AR 1950, p. 16).

The Board indicated that the review task would be ‘an extensive and difficult one’. In the following year, it indicated that progress on the review had ‘not been as rapid as was originally hoped, owing to the complexities of the task and the difficulty of making trained staff available’. The Board expected, therefore, that it would be some time before it would be able to put amendment proposals to the government (PSB AR 1951, p. 16).

As a matter of general interest, the Board’s ‘Legal Officer’ in the 1949–50 period was Mr JE Richardson, later Professor of Law at the Australian National University and then to become Commonwealth Ombudsman in March 1977.

Review of the Act is not mentioned in Board reports over the next 25 years. It is not clear whether any further work was undertaken in the early 1950s, but no significant reference is made to detailed review plans until 1978 when a ‘comprehensive review’ is foreshadowed by the newly established Legislation Review Section, after it had dealt with any legislative action following the implementation of recommendations from the 1976 Report of the Royal Commission on Australian Government Administration (PSB AR 1978, p. 15). Thereafter, the matter is not canvassed further until after the Board’s abolition in 1987, when it commences to feature in Public Service Commissioner reports, culminating in the passage of the Public Service Act 1999 in October 1999.

The ‘10,000 Staff Reduction’ 1951

In its 1950–51 report, the Board stated that it had been asked, in July 1951, to prepare a report for Cabinet on ways and means of achieving a general reduction ‘of the order of 10,000’ in total government employment. Cabinet directed a cut of the order of 8500 Public Service Act staff after receiving the Board’s report (PSB AR 1951, p. 7).

The Board, after consulting departments, fixed ‘new’ departmental staff ceilings (it is unclear from Board reports preceding this action whether any staff ceilings applied
previously). The exercise was largely completed by September 1951 and exceeded the target, due to greater wastage than had been expected in some departments, for largely unrelated reasons. Subsequently, the Board elaborated on those reasons and noted that, apart from targeted discontinuance or reduction in the performance of certain functions (notably, in the Commonwealth Office of Education and the then Departments of National Development and Labour and National Service, accounting for some 1000 staff), a general cut of 5 per cent was applied to the rest of the service, other than the specifically exempted Defence group of departments. This resulted in a total reduction of just over 14200 staff. Reductions were concentrated in the temporary employment area and very few permanent officers were affected, and then only by transfer action (PSB AR 1952, p. 7–8).

**INTERNATIONAL TRAINING ACTIVITIES**

By 1951, the Board had begun to have a significant involvement with the provision of training for Asian nationals under the then Colombo Plan and the United Nations Technical Assistance Scheme. Those two schemes included provision for training in government administration, and the Board provided assistance in handling individual applications for training in Commonwealth departments and instrumentalities, and by conducting special seminars in higher government administration for selected groups (PSB AR 1951, p. 14–15).

The Colombo Plan Training Subsection of the Board's Office continued to handle large numbers of overseas nationals through to the early 1960s, by which time assistance was being provided for non-Asian as well as Asian countries, under various internationally sponsored programs. Thus, in 1962, the Board reported that nationals from 45 countries had 'studied' in Australian government institutions—from Europe, the Middle East, Africa and South America, as well as countries throughout Asia (PSB AR 1962, p. 13). The International Training Centre (since demolished) was built in 1953 at Riverside, close by the Board's Office and that Centre was used also for other Board training activities, as opportunity permitted.

Direct Board management of these international training activities continued until 1962–63, when the Colombo Plan Training Sub-section was transferred to the Department of External Affairs as part of that Department's Economic and Technical Assistance Branch. From that time, the Board (and, later, the Commission) activities became more specifically targeted towards providing briefings, seminars and tailored presentations for individual international visitors or groups.

**CANBERRA TRANSFER PROGRAM**

The Board continued to stress the importance of concentrating the central offices of departments in Canberra. For the most part, those administrations had continued to be located in Melbourne.

Progress was slow. Board Chairman Dunk, from the time of his appointment in 1947, had been a staunch advocate of Canberra becoming the true centre of federal administration. Dunk's confessed ‘consuming interest’ in developing Canberra included his plan to bring
7000 public servants from Melbourne to Canberra, which, though approved by the government in 1948, failed to result in any bloc of staff transfers over the following 10 years (Sparke 1988, p. 82).

Implementation of this strategy, which accorded with Government policy, necessitated overcoming serious shortages of housing, office and boarding accommodation in Canberra. Measures intended to overcome this included construction of additional hostels, along with associated infrastructure. Without such developments, ability to recruit the necessary junior support staff (clerical and keyboard) was seriously constrained.

Existing difficulties were underlined by Board action to address serious shortages of keyboard staff by recruiting a number of typists from England and, in collaboration with the then Department of Immigration, ‘a specially selected group of European displaced persons’—the latter probably a quite radical measure at that time.

The Board’s further comments and perceptions on Canberra staffing problems at that time (problems which persisted in varying degree for at least the next decade) provide an interesting evaluation and social commentary on the overall situation. An extract of those observations is at Appendix 3.

Shortage of office accommodation was also a problem, compounded by continuing inability to achieve effective, coordinated decision making and action, at both Government and bureaucratic levels. Some progress was made. By 1952, construction had commenced in Parkes of the Permanent Secretariat building (to be known later as the Administrative Building and, now, the John Gorton Building). However, the Board noted that construction of the first of three sections of the building (planned to accommodate between 2000 and 3000 staff) had been ‘very slow indeed’ and would probably do no more than provide for relocation of existing Canberra staff, then located in temporary buildings on ground required for expansion of the then Community Hospital on the Acton Peninsula. In any event, there was still insufficient housing and hostel accommodation available to allow for transfer of any significant number of staff from the Melbourne-based central offices (PSB AR 1952, p. 6–7).

The eventual completion of the first section of the Administrative Building in the first half of 1956, therefore, provided no direct assistance to the main Canberra transfer program.

In the event, the circumstances which would allow the Canberra Transfer Program to proceed were not to occur for another three years. Significant improvement began to occur only after establishment of the National Capital Development Commission in 1957, with subsequent rapid growth of building construction, employment and community facilities.

The Administrative Building was completed and occupied during 1959, with the transfer from Melbourne of some 1050 staff of the Defence group of departments. By that time, construction had commenced of four office buildings at Russell Hill (expected to be completed in 1963), to accommodate a further 1450 Defence staff from Melbourne, with the Canberra transfer program then not expected to be completed in total until the late
1960s. Separately, construction had commenced also of the first of the now Civic Square buildings to house the ACT Administration components of the then Department of Interior, to help meet overall office accommodation problems in Canberra.

The Canberra transfer program continued into the 1970s, with the Board noting in 1972 that components of 18 Commonwealth departments and agencies were transferred to Canberra between July 1958 and June 1972, involving nearly 4700 staff (PSB AR 1972, p. 71).

**COMPUTERS IN THE SERVICE**

By the latter part of the 1950s, dramatic developments were occurring in the processing of data by electronic computer (EDP as it was then called). At that point, the Board did not see it as providing ‘any easy solution to administrative work’ but believed that it held the prospect of ‘quicker and more economical handling of a variety of repetitive office processes’. Accordingly, it had commenced an investigation of possible applications for the Service and the type of equipment available. A Board officer had been sent overseas for these purposes, with a view to the Board then being able to carry out EDP ‘experiments’, expected to involve substantial costs along with the ‘extremely high’ capital cost of equipment (PSB AR 1957, p.7).

Subsequent action in this area included ‘studies, experiments, and training exercises’ undertaken in collaboration with the Defence, Postmaster-General’s and Interior Departments and the Bureau of Census and Statistics (PSB AR 1959:9). The Board openly acknowledged then its objective of exercising an effective coordinating role across departments—a role which it performed, with varying success and acceptance by the parties concerned, through to the time of the Board’s abolition in July 1987.

By 1960, the Board had strengthened its specialist staff to deal with its increasing workload in the data processing field, as more departments began to consider EDP applications in both scientific and administrative areas (PSB AR 1960, p. 10). Board training activities in the (now designated) ADP field, with courses for systems analysts and programmers, commenced in 1961, extending in later years to machine (data processing) operators.

Associated with its increased training activity, the Board was also assuming, progressively, an expanded role in the appraisal of departmental computer proposals.
and developments, including the establishment of study teams, preparation of feasibility reports, systems specifications and the evaluation of tenders for purchase of equipment. By 1964, work had commenced on development of a common ADP system for the personnel function in departments. With increasing activity also in the recruitment (including aptitude testing) of ADP staff, the Board was able to claim in 1973 that it was ‘involved in virtually every aspect of ADP within the Service’ (PSB AR 1973, p. 23).

Successive Board annual reports highlighted the rapid growth of ADP in the Service and the increasing diversity of applications. The Board chaired an interdepartmental committee (IDC) on ADP, which was required to consider applications proposals from departments before their submission for ‘in principle’ Government approval. The IDC sought to bring about systematic and coordinated introduction of ADP across the Service. With the rapid development of ADP both within and outside the Service, staffing problems began to emerge, necessitating extensive Board and departmental recruiting exercises and extension of training activity in systems analysis, design and programming, including cooperation with outside educational institutions for these purposes. By 1971, the scale of operations had led to the establishment of a separate ADP Division within the Board’s Office.
THE BOYER COMMITTEE

The easing of recruitment difficulties by the late 1950s provided opportunity to review entry standards, with the objective of improving the quality of recruits. To that end, the Board had recommended to the government the establishment of a committee to review both standards and processes (PSB AR 1957, p. 5).

Establishment

In September 1957, the Prime Minister announced the establishment of such a committee under the chairmanship of the then Chairman of the Australian Broadcasting Commission, Sir Richard Boyer. Three of the remaining four members of the Committee had backgrounds in the academic world and the fourth member was a Commissioner of the Commonwealth Conciliation and Arbitration Commission. The Secretary to the Committee was an officer of the Board’s Melbourne office.

The Committee had the following terms of reference:

To inquire into and report to the Prime Minister on the recruitment processes and standards of the Service and to make recommendations for any changes which, in the opinion of the Committee, are necessary to ensure that recruitment is soundly based to meet present and future needs and efficiency of the Public Service at all levels.

Report

The report of the Committee, including some 70 recommendations and suggestions, was presented to the government in November 1958, with the Board foreshadowing the need for extensive discussion of the proposals with departments and an expectation that resultant amending legislation would be available for the Autumn session of Parliament in 1960.
Implementation

Implementation of the Boyer Committee recommendations accepted by the Government was effected by the Public Service Act 1960, which came into operation on 11 May 1961. The amendments provided for greater flexibility in recruitment procedures and allowed for more emphasis to be given to qualifications required for appointment, going beyond many of the formal constraints which the longstanding internal Service examination system had imposed on recruitment.

The Government indicated that it had deferred decisions on Committee recommendations for removing the barrier to permanent employment of married women (subsequently removed in 1966) and for the relaxation of medical standards for the appointment of physically handicapped persons.

Physically and mentally handicapped

Introduction of relaxed medical standards for the handicapped was to occur progressively over the ensuing 20 years and was ultimately to receive legislative backing in the equal employment opportunity (EEO) provisions of the Public Service Reform Act 1984. However, in the interim, the Board had moved to extend significantly employment opportunities for both physically and mentally handicapped persons and, as early as May 1962, the government had approved a Board recommendation to permit permanent appointment of persons other than those in ‘sound health’, provided they were ‘free from such physical defects as would incapacitate [them] for the efficient discharge of the duties, that [they] would, on appointment, be required to perform’ (PSB AR 1971, p. 98–100).

The same report records that, between May 1962 and December 1970, 8605 persons, not previously eligible on health grounds, were permanently appointed to the Service and accepted as contributors under the Superannuation Act to the then Provident Account (under which persons not satisfying Superannuation Fund medical requirements received on retirement a lump-sum payment of three times their contributions, plus compound interest).

Appointees under these conditions were affected by a wide variety of disabilities, including musculoskeletal disorders, mental disorder, hypertension, defective vision and heart conditions. At the same time, the Board’s general medical standards for permanent appointment were being reviewed continually in association with the then Health Department, with increasing attention being directed also towards rehabilitation measures for handicapped persons. Additionally, special entry testing and workplace arrangements were being introduced, where practicable, to facilitate employment.

Other significant Boyer proposals (accepted and rejected) are outlined briefly in the following paragraphs.
**Clerk entry standard**

One major change served to establish the then Leaving Certificate or its equivalent (usually obtained after four or five years high school education) as the minimum standard for entry to the Third Division, both by appointment and transfer. The previous Intermediate Certificate concessional entry standard for ex-servicemen was discontinued, although the higher standard was introduced gradually, to avoid ‘injustice and hardship’.

**Selection tests**

The Boyer Committee placed considerable emphasis on the need for improved selection processes. The main immediate outcome was the introduction in 1961–62 of the Commonwealth (later, Clerical) Selection Test for clerk recruitment. The test, developed by the Board in consultation with the Australian Council for Educational Research (ACER), comprised a series of short answer sub-tests in areas such as clerical checking, computations, critical thinking and the use of English, designed to reflect the particular skills considered to be needed for clerical and administrative duties.

The establishment of a Selection Research Unit in the Board’s Office, staffed by qualified psychologists, resulted in the progressive development of selection tests for a range of designations, with priority being given to tests for positions where significant expenditure was incurred in the provision of basic training courses. The Board later reported the introduction of new or improved selection systems for 11 additional categories of staff, ranging through trainee technicians and linemen in the Postmaster-General’s Department, accounting machinists and typists, and programmers and data processing operators (PSB AR 1964, p. 24).

Test development continued to involve ACER and also the Commonwealth Office of Education. The ongoing involvement of the former had obvious benefits for the Board and reflected also a continuing link to the Boyer Committee, whose membership included the Director of ACER, Dr WC Radford.

**’Fit and proper person’ requirement**

The amending legislation implemented a Boyer Committee recommendation to provide that appointment to the Service was to become subject to a ‘fit and proper person’ test, additional to the British subject, medical fitness and oath–affirmation of allegiance prerequisites. The ‘fit and proper person’ terminology had an historical precedent. Section 5 of the 1902 Commonwealth Public Service Act required that the Public Service Commissioner, appointed by the Governor-General, should be ‘some fit and proper person’ and, likewise, that the Inspectors appointed to assist the Commissioner should also be ‘fit and proper persons’. The terminology itself appears to have derived from earlier NSW legislation.

The 1960 amendment was directed towards regularising, and providing specific legal authority for, the de facto situation which already operated. Under the latter, the Board
had maintained a confidential ‘Disqualification Register’, containing the names of persons precluded from appointment to the Service on the basis of information obtained from ‘police and character’ checks (the names of officers dismissed from the Service were included also in the register). For the most part, applicants were not directly informed or aware that they had been refused appointment on these grounds, and had no specific avenues for obtaining explanations or seeking redress. A similar situation applied in relation to persons refused appointment on national security grounds.

In the early years after the Boyer changes, the amendment probably had more presentational than practical value for rejected applicants. The Board continued to maintain its Disqualification Register, and explanations for rejection were generally of a sparing nature. Major improvements from the point of view of applicants were to await later administrative law reforms and establishment of various appeal mechanisms, although the Board moved of its own accord to adopt more open procedures. Additionally, in October 1977, following receipt of the reports of the Royal Commission on Security and Intelligence, the Prime Minister announced that the number of people to be security checked should be reduced to a minimum. As a result, the Board discontinued, as a general practice, the security checking of Second and Third Division recruits.

The Board progressively delegated to departments its powers in relation to prerequisites for appointment, including decisions on ‘fit and proper person’ cases. The relevant powers have now been devolved to agency heads, for their discretionary application, under s. 22 of the 1999 Public Service Act.

**Appointment of departmental Secretaries**

The government declined to accept Committee proposals for more transparent processes for the appointment of departmental Secretaries—in particular, for reporting to Parliament in any case where an appointment was made of a person other than the one recommended by the Board. Prime Minister Menzies stated that, while consultation with the Board Chairman would continue to occur, it was not thought desirable ‘to impose on the responsibilities of a government the duty of stating quite publicly and notoriously, why some nomination was not accepted’ (CPD House 17 November 1960, p. 2985).

**Second Division**

The government declined also to accept Boyer Committee proposals for better defining and streamlining the role of the Second Division. In the abovementioned statement, the Prime Minister indicated also that the Committee’s proposals had sought the creation of an administrative civil service along United Kingdom lines—an approach seen to be unsuitable to the circumstances of the Service in Australia, the requirements of which could be achieved better by more flexible recruitment provisions and appropriate training. The Board was expected to continue its endeavours along these lines. Shortly thereafter, new Board Chairman Wheeler was to initiate proposals for upgrading the Second Division, ultimately leading to establishment of the Senior Executive Service (SES) under the 1984 Reform Act.
RETIREFEMENT OF SIR WILLIAM DUNK

Passage of the amending Boyer Committee legislation in December 1960 represented a final significant landmark for Sir William Dunk as Board Chairman, preceding his retirement on 31 December 1960 after almost 14 years in office. The Board paid tribute to his contribution:

Much of the credit for the rehabilitation of the Service [after World War II] must go to Sir William Dunk. As Chairman of the Board, he either introduced or gave impetus to policies aimed at bringing the salary structure up to date, improving conditions of service, overhauling recruitment methods and instituting advanced training. These policies together with his emphasis on the need for improved organisation and methods greatly stimulated efficiency throughout the Service. (PSB AR 1961, p. 21).

APPOINTMENT OF FH WHEELER

Dunk was succeeded as Chairman by FH (later, Sir Frederick) Wheeler on 2 January 1961. At that time, Wheeler had been Treasurer and Financial Controller of the International Labour Organisation (ILO) in Geneva.

The prior Service career of Wheeler had been mainly in the Treasury Department, which he had joined as a research officer in 1939, after 10 years with the State Savings Bank of Victoria. He rose rapidly in the Treasury ranks to Economist in 1944, Assistant Secretary in 1946 and First Assistant Secretary in 1949, in charge of the then General Financial and Economic Policy Branch. Prior to accepting the ILO appointment, he had served as Acting Secretary to the Treasury, a post to which he was to return in a permanent capacity in 1971, after his ten years as Board Chairman.

Wheeler proved to be a powerful force as Board Chairman. While his influence impacted significantly on the whole of the Board’s activities, particular mention is made in this paper of three areas—the review of APS classification structures, the reform of the SES category, and the major enhancement of non-specialist graduate recruitment.

REVIEW OF APS CLASSIFICATION STRUCTURES

In June 1961, less than six months after commencement of Wheeler’s term of office as Board Chairman, the Conciliation and Arbitration Commission (C&A Commission) handed down its decision on salaries for base-grade engineers, following an extensive examination of the engineering profession.

While awarding salary increases, the Commission also concluded that the special circumstances of the case warranted departure from the standard salary pattern which had traditionally applied in classifying positions in the Second and Third Divisions of the APS. It believed that such a departure was unavoidable for purposes of setting equitable rates of salary for both new entrants to the profession and experienced engineering staff (PSB AR 1961, p. 16).

As a consequence, the Board proceeded immediately with an intensive review of the implications of the decision for the higher engineer grades and for other professional classifications.
The Commission’s decision, therefore, marked the beginning, under Wheeler’s direction, of an extended program of review of APS occupational categories and a major restructuring of salary classifications in the Service—a program with its major impact during Wheeler’s term of office, but continuing, with varying scope and intensity, until the Board’s abolition. The program realised a long-term Board objective to rationalise and simplify APS classification and pay structures.

Along with the Board’s program, the Commission’s judgement on engineers’ salaries resulted in a large number of pay claims from other APS employment groups. The Wheeler Board maintained the position that those claims needed to be examined concurrently with their associated establishment, organisation and classification structure implications, and in the light of current and prospective working requirements in the relevant areas of employment. Asserting that its views were in harmony with various observations of the Commission and the Public Service Arbitrator, the Board repeatedly affirmed in its annual reports that its occupational category reviews would have regard both to all factors relevant to wage fixation, and to economic circumstances. In later years, and perhaps largely as a response to allegations of pacesetting in pay fixation, the Board also asserted that its approach took account of stated Government policies in relation to the community as a whole.

Within this framework, reviews were undertaken of a wide range of the then Second, Third and Fourth Division occupational categories. Reduction and simplification of classification levels was a prime objective, but resultant structures varied between the categories, replacing the relatively uniform structures which had previously applied across various professions and occupational groups. Development of detailed position classification standards constituted a key element of the review process.

Some three years later, the Board was able to detail reviews of 17 categories additional to the original engineer reviews, including architects, psychologists and a range of medical technologist occupations such as pharmacists, physiotherapists and radiographers (PSB AR 1964, p.8). A further three years on, the Board reported that 63 major reviews had been undertaken between 1961 and 1967 (PSB AR 1967, p. 95). Review of classification categories continued to feature in the final Board reports, referring variously to reviews of the clerical–administrative, keyboard, computer systems officers and other structures.

Looked at in an historical perspective, the Wheeler-initiated reviews of occupational structures and classification categories can be viewed as rating in significance alongside McLachlan’s first classification of the Service in the early 1900s, the Board’s own classification of the Service following passage of the 1922 Public
Service Act, and the major classification review exercises undertaken after World War II, principally through the Classification Committee system.

In more recent times, comparable significance could be accorded also to the 1987 review of office-based occupational categories, flowing from the Conciliation and Arbitration Commission's 'structural efficiency principle'. As a consequence of the review, the number of individual office classifications was reduced substantially, resulting in ‘the most significant changes of classification and working arrangements for these categories since Federation' (PSMPC 2001a, p. 177).

REFORM OF THE SECOND DIVISION

Prior to their review under the Wheeler program, a number of the professional occupations included high-level positions classified in the then Second Division. A key element of the evolving review program, therefore, was a comprehensive review of the Second Division category, within which many individual classification levels had been allowed to evolve over the years.

The Second Division review entailed an examination both of the policy framework for the Second Division and the departmental top structures. The Board rejected suggestions for the establishment of separate professional and administrative divisions (as had existed under the 1902 Public Service Act) and expressed its own philosophy in the following terms:

In the view of the Board, policy advising and top management is a distinctive and integrated function and even where a top management position does have professional or technical content the choice of occupant should, in high degree, be on the basis of administrative and or managerial abilities (PSB AR 1964, p. 9).

On this basis, it indicated that its review was proceeding on the view that the Second Division should be developed more fully and more positively as an integral part of top administration and management. Thus, the review was characterised as ‘an evolutionary process towards crystallising the Second Division as a corps of top administrators and/or managers assisting and supporting the Permanent Heads by taking responsibility in a manner and to a degree which established an affinity between their responsibilities and those of the Permanent Head’ (PSB AR 1964, p. 10).

The C&A Commission endorsed the Board’s approach in the course of related arbitration proceedings, invited the Board to promulgate its proposed Second Division salary points and, in March 1964, endorsed the five points prescribed in the Public Service Regulations on 23 December 1963.

The Board proceeded with progressive review and implementation of revised Second Division structures in departments, in accordance with the new salary points (initially five, but later increased to six). In most departments, positions were classified at the first, third and fifth points, whilst those (few) departments assessed as having the higher-level policy responsibilities, such as Prime Minister’s and Treasury, were accorded salaries at the second, fourth and sixth points. Adoption of these differential structures
was to generate a good deal of acrimonious argument in later years between the Board and individual (lower classified) departments.

Some 20 years on, establishment of the SES in 1984 under the Public Service Reform Act effectively reaffirmed the Second Division philosophy articulated by the Wheeler Board. The 1984 reforms were also to accord a significantly enhanced role to the Board in relation to overall management of the SES—an outcome which, no doubt, would have met with Wheeler’s approval.

GRADUATE RECRUITMENT

Insertion in 1933 of a new s. 36A into the 1922 Public Service Act provided for recruitment of university graduates as base-grade clerks, subject to the restriction that such recruitment was not to exceed 10 per cent of the clerk intake in any one year. For the next 30 years, while the graduate clerk provision saw entry to the APS of a number of officers who progressed to executive levels, the 10 per cent limit was never in prospect of being achieved, let alone being exceeded, notwithstanding a raising in 1961 of the recruitment age limit from 26 to 35 years.

The situation was to change dramatically during Wheeler’s term as Chairman. From a then typical APS intake of 37 graduate clerks in 1961, the calendar year figure rose to 93 in 1962, and had more than trebled by the end of the decade. By 1966, new graduate recruitment procedures had been introduced, with upgraded selection techniques and significantly improved induction and training arrangements. Setting an example in its own office, the Board introduced, in 1963, an intensive training scheme for its own graduate recruits (seven in that year), with that scheme then evolving quickly to become the wider-ranging Administrative Trainee Scheme (ATS), with consistent annual intakes of between 20 and 35 graduates from 1965 onwards.

The nature of the ATS was described by the Board in 1969 (PSB AR 1969, p. 51). Its development was influenced by Wheeler’s belief that the APS would benefit from an infusion into the administrative ranks of high-quality graduates, without particular regard to their respective academic disciplines. Considerable resources were directed both to the recruitment process and the development of a one-year, highly integrated training scheme with some 11 weeks of course work and, normally, three different, carefully selected work placements. There were high expectations of the performance and development of the participants. Trainees came from a wide range of university studies, perhaps predominantly arts, economics and law, but including also significant numbers of science graduates. By 1973, about 60 per cent of the trainees recruited were honours graduates. Assessment of performance during the traineeship influenced end-of-course placement in either the Board or departments, with high-performing trainees virtually guaranteed employment in significant policy or management areas, having regard also to the trainees’ interests and available vacancies.

The ATS continued through the 1970s, but was then suspended for 1981, for reasons of cost and in recognition of the progressive improvement which had occurred in APS graduate recruitment generally, with then better provision by departments of induction
arrangements and development opportunities. In 1985, the ATS was reintroduced in the light of the then Board view that the Service was missing out on recruiting some top-flight graduates. The trainee intake was 29 in that year, 27 in 1986 and a further 27 in the Board’s final year. Subsequently, the Public Service Commissioner announced that the scheme would be discontinued from 1 January 1989, with the training and development of graduate recruits to become solely a departmental responsibility (PScr AR 1988, p. 44). The report did not indicate whether there was a 1988 ATS intake.

The success of the ATS was due in no small part to Wheeler’s own close involvement with the evolution and conduct of the scheme. Selected trainees and end products of the scheme were employed by him in a personal assistant capacity and in the adjacent Board Secretariat, with the perceived value of the scheme being recognised in a similar way in a number of departments. Lesser versions of the scheme were replicated in some departments, as the overall APS intake of non-specialist graduates continued to grow from the late 1960s, causing attention to be directed to the longstanding 10 per cent limitation on recruitment to the clerical–administrative ranks. The limitation was finally removed by the 1978 Public Service Amendment Act.
Election of the reformist Whitlam Government in December 1972 heralded major changes to the nature and scope of many federal government functions. While many of the changes were to be modified or reversed by the successor Fraser Government between 1975 and 1983, significant reforms continued to occur.

For the APS, these reforms were both legislative and structural in nature. At the end of the period covered by this chapter, they were to culminate in the abolition of the Public Service Board, its replacement by a small Public Service Commission with substantially scaled-down powers and responsibilities, and wide-ranging redistribution and delegation of the former Board’s powers to APS departments.

**SIGNIFICANT PUBLIC SERVICE ACT AMENDMENTS 1972–87**

Amendments to the Public Service Act began to occur with increasing frequency after 1972.

- After election of the Whitlam Government, the Public Service Act 1973 honoured a pre-election commitment to provide for the basic recreation leave entitlement to increase from three to four weeks.

- The Public Service Act (No. 3) 1973 repealed the Public Service Act maternity leave provisions, on enactment of the Maternity Leave (Australian Government Employees) Act 1973.

- The Public Service Act (No. 4) 1973 substituted ‘Australian’ for ‘Commonwealth’ in the title of the Service. It removed also the requirement for an oath or affirmation of allegiance to the Crown. In April 1973, the then Opposition parties indicated that the requirement would be reinstated on its return to office, but that course of action was not pursued during the 1975–83 term of office of the Fraser Government.

- The Public Service Acts Amendment Act 1975 provided for Remuneration Tribunal determination of pay rates for permanent heads, in place of annual parliamentary appropriation, as had applied from the commencement of the 1902 Public Service Act.

- The Public Service Amendment (First Division Officers) Act 1976 established new procedures for appointing permanent heads, providing for submission to the Prime Minister of the names of suitable persons by a committee, comprising the Board Chairman and at least two serving permanent heads. The Prime Minister was not obliged to recommend to the Governor-General the appointment of a nominated person but, if not doing so, the alternative appointee was to be appointed for a fixed term of five years, with eligibility for reappointment. On completion of the term, a former officer was entitled to be reappointed to the APS or could elect to retire. Tenure arrangements were required to be notified, both to the appointee and for the public record.
Major changes to APS disciplinary provisions, and the enactment of new officers’ mobility provisions relating to APS staff accepting employment with non-APS Commonwealth agencies were effected by the *Public Service Act Amendment Act 1978*, which also removed the 10 per cent limitation on recruitment of graduates into the clerical–administrative structure, introduced in 1933. The new disciplinary provisions, deriving from the 1973 report of a Joint Council subcommittee, replaced arrangements established by the original 1922 Act which had undergone few significant amendments from the time of their original enactment. The officers’ mobility provisions replaced arrangements introduced by the *Officers’ Rights Declaration Act 1928* (ORDA), the 1922 Act having contained no provisions about the rights of staff moving from the APS to other Commonwealth employment. The ORDA was replaced by insertion of a new Part IV in the Public Service Act, but implementation of the new provisions proved complex and time-consuming and was not accomplished until March 1981, with concurrent repeal of the ORDA.

Although not on the same scale in terms of its detailed content, the next amending Act (the *Public Service and Statutory Authorities Amendment Act 1980*) included two amendments of particular significance. The first of these gave authority to the Board to cease paying an employee not prepared to work as directed (the ‘no work as directed—no pay’ principle). This particular Fraser Government amendment attracted strong union opposition. Its provisions were not utilised extensively by the Board, but they were repealed soon after the Hawke Government was elected in March 1983, by the ensuing *Public Service and Statutory Authorities Amendment Act 1983*.

The second significant amendment made by the 1980 Act was the insertion into the principal Act of a new s. 82D, allowing the Board to make determinations relating to terms and conditions of employment (excluding long-service leave, superannuation and maternity leave). The new provision allowed changes to be made more quickly than by amendment of the Act or Public Service Regulations, and determinations came progressively to replace many of those more formal provisions. The determinations themselves were subject to disallowance by the Parliament (a power exercised by the Senate on isolated occasions, usually on *ultra vires* grounds). Additionally, the Board’s determinations did not limit the jurisdiction of arbitral authorities, whose awards or determinations prevailed over any inconsistent provisions in the Board’s instruments. Following abolition of the Board in July 1987, exercise of the s. 82D power transferred, for the most part, to the then Department of Industrial Relations (along with other Board pay and conditions matters and public service arbitration responsibilities).

The latter was preceded, however, by two further significant enactments—the first of which occurred under the Fraser Government:

- The *Public Service Acts Amendment Act 1982* provided for repeal of the provisions of the 1922 Act, which had retained a pre-1922 formal structuring of the APS into four Divisions—the Administration, Professional, Clerical and General Divisions in the 1902 Act, and the First, Second, Third and Fourth Divisions in the 1922 Act. Abolition of the divisional structure did not come into effect, however, until commencement of the
public service reform legislation on 1 July 1984, at which time also a range of amendments (in the 1982 Act) to promotion and promotions appeal provisions came into effect.

- The Public Service Amendment Act 1983, which came into operation on 7 October 1983, amended the temporary employment provisions of the principal Act to enable them to be used for purposes of the government’s Community Employment Program, the National Employment Strategy for Aboriginals and the Commonwealth Work Experience Program.

By 1982 Labor, then in Opposition, was foreshadowing, if it achieved government, significant changes to public service policies and legislation subsequently realised, in legislative terms, by the 1984 reform legislation.

After its election in March 1983, the Hawke Government’s policy paper, Reforming the Australian Public Service, was issued in December 1983. By this time, Peter Wilenski (who had been closely linked with Labor’s reform initiatives from the time of the Whitlam Government) had been appointed Chairman of the Public Service Board, succeeding Sir William Cole on 2 November 1983.

The Labor policy paper reflected its previously stated intentions, and took account of previous major reports on Commonwealth administration—in particular, the reports of the Royal Commission on Australian Government Administration (1976), the (Reid) Review of Commonwealth Administration (1983) and the 202nd report of the Joint Parliamentary Committee of Public Accounts (1982) on the selection and development of senior managers. The resultant Public Service Reform Act 1984 addressed common themes in the three reports on perceived needs for a more open, efficient and responsive public service management. It included the following key provisions:

- Appointments, transfers or unattaching of Secretaries of departments (formerly designated Permanent Heads in the Act) would be by the Governor-General on the recommendation of the Prime Minister, who was required to have received a report from the Chairman of the Public Service Board

- Amendment of the then s. 25(2) of the Act to make it clear that a Secretary’s responsibilities for the general working of a department were exercised ‘under the .... Minister’, in accordance with the Minister’s powers under the Constitution— the relevant terminology has been retained in subs. 57(1) of the 1999 Public Service Act

- Establishment of the SES in place of the former Second Division, with a more explicit statement of its policy and management functions (now further articulated in subs. 35(2) of the 1999 Act), along with elaboration for the first time of key staffing provisions

- inclusion of a clear statement of the elements of the merit principle as a basis for developing and administering personnel policies, along with proscription of patronage, favouritism or any unjustified discrimination
• insertion of equal employment opportunity and industrial democracy obligations for departments, and explicit identification of ‘designated groups’ of Aboriginals and Torres Strait Islanders, migrants, and persons physically or mentally disabled, with provision for other classes of persons to be declared as a designated group under the regulations

• conditions allowing for permanent part-time employment

• insertion of an Australian citizenship requirement for appointment to the APS in most circumstances, in place of the former British subject requirement

• redefinition of ‘efficiency’ in relation to promotion, with relative efficiency becoming the sole criterion for promotion and appeals, without regard to any considerations of seniority, as provided for originally in the 1922 Act

• provision for selection of staff by Joint Selection Committees, including staff union representation, with any resultant unanimous committee recommendation not being open to appeal

• devolution to Secretaries of the Board's powers to create, classify and abolish public service offices, subject to use only of Board-approved classifications, and with only the Board being able to declare a classification to be an SES classification.

The legislative reform package included also two other closely associated enactments:

• The Merit Protection (Australian Government Employees) Act 1984 established a new Merit Protection and Review Agency (MPRA), with functions incorporating and extending beyond those of the Grievance and Appeals Bureau, established in 1979 in the Board’s Office with administrative responsibility for APS promotion, disciplinary and redeployment/retirement appeals and for the handling of grievances under the Public Service Regulations.

• The Members of Parliament (Staff) Act 1984 (the MOPS Act) provided authority for Ministers, other members of parliament and parliamentary office holders to employ their own staff, with authority also for Ministers to engage consultants. To this point, staff in these categories had been engaged under Public Service Act temporary employment provisions, with decisions about their engagement being taken formally by the then Special Minister of State. Concurrently, the Governor-General Act 1974 was amended to allow for similar employment arrangements for staff of the Governor-General.

As noted previously, the MOPS Act provisions also superseded the earlier officer secondment provisions for service in the parliamentary area, as operating under s. 48A of the 1922 Public Service Act.

In December 1985, a further major reform of the Public Service Act occurred through enactment of the Public Service and Statutory Authorities Amendment Act 1985, which introduced new temporary employment provisions, involving four new categories of employees (continuing, short-term, fixed-term and overseas employees). In retrospect, these changes (important in their own right at the time) could probably be seen now as
a significant move in the direction of the employment categories adopted ultimately in s. 22 of the 1999 Public Service Act, along with abolition of the permanent officer concept.

The 1985 Act conferred on Secretaries also the power to engage staff under special employment schemes, such as the Australian Youth Traineeship Scheme. Separately, it amended the Commonwealth Employees (Redeployment and Retirement) Act 1979 by including inefficiency and loss of essential qualifications as grounds upon which redeployment and retirement action could be taken.

The final year of the Board’s existence was marked by further major reforms to APS personnel management, through passage of the Public Service (Streamlining) Act 1986. The legislation, introduced in the House of Representatives on 23 October 1986 and receiving Assent on 18 December 1986, came into force in three stages in 1987 on the following basis:

• 15 January 1987 — amendments designed to simplify administrative processes and to devolve various powers from the Board to Secretaries (including broad delegation powers for both the Board and Secretaries and changes to appointment, promotion and disciplinary powers)

• 14 June 1987 — substantial amendments to provisions governing promotion, including removal of appeal rights for officers above the then clerical–administrative Class 8 level (and equivalent levels in other employment categories)

• 20 July 1987 — repeal of the CE(RR) Act and insertion into the Public Service Act of a new simplified framework of redeployment and retirement conditions for SES and non-SES officers; revised redeployment and retirement provisions for Secretaries, along broadly similar lines, had been put in place previously by the 1984 Reform Act and were subject to minor amendments only by the streamlining legislation.

By the time the redeployment and retirement streamlining amendments came into effect, the Board’s abolition had already been announced. Formal abolition of the Board, and establishment of the successor office of Public Service Commissioner were effected by the Administrative Arrangements Act 1987, which received Assent on 18 September 1987. That Act provided also for the establishment of the Australian Public Service Management Advisory Board. The specified functions of the new part-time Board were to advise the Government on significant issues relating to the management of the APS and to be a forum for consideration of major management activities affecting the APS as a whole.

OTHER SIGNIFICANT LEGISLATION 1972–87

While the Public Service Act itself had been subject to major amendment through the 1972–87 period, enactment of a range of other legislation was to have significant APS impact.

• The Maternity Leave (Australian Government Employees) Act 1973 introduced maternity leave entitlements across Australian Government employment, along with provision for one week’s paternity leave. Earlier Public Service Act maternity leave
provisions were repealed at the same time. The Act was amended by the Fraser Government in 1978, with the object of reducing possibilities for exploitation of the provisions and overall costs. Some additional flexibilities were introduced but the paternity leave provisions were repealed and a qualifying period of 12 months was introduced before paid maternity leave was available.

- In the same year, the *Remuneration Tribunal Act 1973* was enacted, providing for establishment of a tribunal to review salaries of various groups, including judges, First Division officers, full-time and part-time statutory officials and members of parliament.

- With the exception of the 10,000 staff reduction in 1951 (discussed above), the size of the APS had been increasing steadily through the 1950s and 1960s. It had then grown significantly under the Whitlam Government, but was reduced dramatically from July 1975, when passage of the *Postal Services Act 1975* and the *Telecommunications Act 1975* resulted in transfer of over 121,000 Public Service Act staff of the Postmaster-General's Department to employment under those Acts in the newly created Postal and Telecommunications Commissions (Australia Post and the then Telecom).

**ADMINISTRATIVE LAW ENHANCEMENTS**

Administrative law reform, pursued actively both by the Whitlam and Fraser Governments, resulted in four major enactments between 1975 and 1982.

- The *Administrative Appeals Tribunal Act 1975* (AAT Act) provided for the establishment of a tribunal with powers to review certain administrative decisions. The Tribunal commenced operation on 1 July 1976.

- The *Ombudsman Act 1976* established the office of Ombudsman, with the primary function of investigating and reporting on complaints of defective administration, with Professor JE Richardson being appointed as the first Commonwealth Ombudsman on 17 March 1977.

- The *Administrative Decisions (Judicial Review) Act 1977* (AD(JR) Act), assented to on 16 June 1977, enabled an aggrieved person to apply to the Federal Court for an order of review, when the lawfulness of a decision was in question, and provided an entitlement, subject to certain conditions and exemptions, to a statement of the reasons for a decision.

- Freedom of information legislation, a key policy objective of the Whitlam Government, evolved only slowly to its ultimate enactment in the *Freedom of Information Act 1982* (FOI Act). The legislation came into effect on 1 December 1982 and extended to the Australian community, subject to various exemptions, the right of access to official information at the Commonwealth level. Subsequent significant amendments to the FOI Act in 1983 included provision of an increased role for the Ombudsman in representing persons before the Administrative Appeals Tribunal and narrowing the scope for agencies to be able to claim exemption from disclosure of internal working documents and documents containing information given in confidence, unless it could be demonstrated that disclosure would be against the public interest.
HUMAN RIGHTS AND EMPLOYMENT DIVERSITY

In the period under review, passage of the *Sex Discrimination Act 1984* and the *Human Rights and Equal Opportunity Act 1986* introduced provisions with application to and beyond the APS. Employment decisions taken within the Service must still comply with the requirements of those Acts.

The reforms generated a range of concerns, both for the Board and agencies, as noted in successive Board annual reports. It is beyond the intended scope of this history to survey in detail the nature of those concerns and the manner in which they were addressed. In substance, however, the Board’s own reaction to the Administrative Appeals Tribunal, Ombudsman, AD(JR) and FOI legislation can be summarised as follows:

- it supported the reforms in principle
- it had initial concerns about their practical application, their potential resource implications and the possible consequences for APS efficiency of implementing them
- in the early years of operation of the AD(JR) Act, it saw the process of judicial review having damaging consequences for efficient APS management, particularly in the promotion appeals process

but

- in the light of developments which served to ameliorate earlier significant problems, including various judgements of the Federal Court and more effective management of FOI casework, it was able to endorse the reforms in relation to their then perceived impact on APS efficiency and interaction with APS employment law.

SUPERANNUATION

The legislative framework for superannuation for APS staff had been established by the *Superannuation Act 1922*, the fundamental characteristics of which had remained largely unchanged for more than 50 years. However, the *Superannuation Act 1976*, which came into operation on 1 July 1976, introduced a new basis for employees’ contributions and a new benefits structure, based on an employee obtaining full pension entitlement on retirement at age 65, with a scale of reduced entitlements for persons taking early
retirement after attaining 55 years of age. It removed the previous option for a higher rate of contribution by an employee, to provide for retirement on full pension at age 60 years. It also removed all previous distinctions between men and women as to eligibility, benefits and levels of contributions and provided for:

- preservation of accrued benefits where an employee left the scheme after five years
- extension of cover to approved classes of part-time employees
- retention of spouse pension entitlements of a former employee on remarriage.

INDUSTRIAL RELATIONS

In 1977, the APS (along with other Commonwealth employing authorities) became subject to controversial industrial relations legislation in the form of the Commonwealth Employees (Employment Provisions) Act 1977 (the CE(EP) Act), which enabled suspension, dismissal or stand-down of government employees involved in industrial action. The Government argued public interest grounds for the legislation, to be invoked in circumstances where industrial action was disrupting provision of services to the Australian community, with the stand-down provision (without pay) available in relation to government employees who could not be usefully employed, as a result of industrial action by fellow government employees or by workers in private industry, or employees who were engaged on functions, the performance of which was being seriously disrupted.

The legislation attracted strong union opposition, including complaint to the International Labour Organisation. The Board itself was obviously not enamoured of the legislation as reflected by the following carefully worded comment:

While it would not be proper for the Board to express any view on the substance of the legislation, it does feel that existing machinery for the settlement of industrial disputes in the public sector has proved adequate. It would hope that circumstances will not arise when serious consideration will need to be given to the proclamation of legislation (PSB AR 1978, p. 4).

The CE(EP) Act provisions were not immediately utilised, but were then invoked on four occasions in 1981–82 (PSB AR 1982, p. 46–7). Three of the four disputes arose in relation to pay claims, and resulted variously in the suspension without pay of some 1650 members of the Transport Workers Union and some 2240 members of the ACT Teachers’ Federation. The fourth dispute, involving the Administrative and Clerical Officers’ Association, concerned staffing levels in the then Department of Social Security, and resulted in the suspension of more than 500 staff of the department.

The CE(EP) legislation attracted not only union opposition but became also the subject of a large number of applications for orders of review under the AD(JR) Act. The then Opposition consistently argued against use of the legislation and moved to repeal it after the Hawke Government came to power in March 1983. Repeal was effected ultimately in November 1983, by the Commonwealth Employees (Employment Provisions) Repeal Act 1983.
On another industrial front, some ongoing Board concerns about involvement of the Public Service Arbitrator in APS staffing matters led to amendment in June 1978 of the Public Service Arbitration Act 1920, to preclude from the Arbitrator's jurisdiction procedures for selection of persons for appointment, reappointment, employment or promotion.

REDEPLOYMENT AND RETIREMENT

The Commonwealth Employees (Redeployment and Retirement) Act 1979 (the CE(RR) Act), while not attracting the intensity of opposition of the CE(EP) legislation, was nonetheless the cause of Government–union dispute, in terms of the manner of its intended operation and the authority which it gave to employing Commonwealth departments and authorities in various redeployment and retirement situations including, particularly, its compulsory retirement and retrenchment provisions. While assent to the legislation was given in June 1979, it did not come into operation until February 1981.

The purpose of the CE(RR) Act was to provide a generally more acceptable framework in Commonwealth employment for redeployment and compulsory retirement, including lowering of the minimum retirement age to 55 years. Previous Public Service Act retirement and excess staff provisions, which had proved to be less than fully effective in the evolving employment environment, were repealed.

The new provisions were applicable to both permanent and temporary staff, but not probationary appointees. Heads of agencies were required to ensure that staff were used efficiently and economically, to identify employees unable to be used efficiently and to
declare such employees eligible for redeployment. Act coverage was provided in relation to staff physically or mentally incapable of performing their duties, as well as excess staff. The situation of a staff member losing essential qualifications for the performance of his or her duties was intended to be subject to coverage by regulations. Appeals against redeployment and retirement decisions could be made to a Commonwealth Employees Redeployment and Retirement Appeal Tribunal, comprising an independent chairperson and employer and employee representatives, with power to confirm or revoke the relevant decision.

The CE(RR) Act commenced in February 1981 following the making of regulations relating to appeal processes. In April of that year, the Act was amended to remove CE(RR) Act matters from the jurisdiction of the Conciliation and Arbitration Commission and the Public Service Arbitrator. This followed the Parliament’s disallowance, of the Arbitrator’s Determination 503 of 1980, the terms of which were seen by the government to limit and alter some of the intentions of Parliament as expressed in the CE(RR) Act. The change was reversed, however, following the Labor Government’s accession to power in March 1983. The Commonwealth Employees (Redeployment and Retirement) Amendment Act 1983 restored the pre-1981 jurisdiction of the Commission, the Arbitrator and other relevant arbitral bodies to make awards and determinations in relations to the redeployment and termination of employment of Commonwealth staff covered by the Act.

The arbitration framework was subject to further significant change when, in June 1984, the jurisdiction of the Public Service Arbitrator was transferred to the Conciliation and Arbitration Commission itself, on proclamation of the Conciliation and Arbitration Amendment Act (No. 2) 1983, which also repealed the Public Service Arbitration Act 1920, thus providing the Commission with arbitral jurisdiction in relation to Commonwealth employees generally. At that time, the former determinations of the Arbitrator were converted to awards of the Commission.

COMMONWEALTH FUNCTIONS

In April 1981, announcement of the outcome of the ministerial-level Review of Commonwealth Functions led to passage of the Commonwealth Functions (Statutes Review) Act 1981, which gave effect to a range of machinery of government changes, including abolition of the Canberra Commercial Development Authority, the Australia Post Courier Service, the Legislative Drafting Institute and the Prices Justification Tribunal. It provided also for the creation of the Petroleum Products Pricing Authority, and for sale of the Housing Loans Insurance Corporation and the Wool Testing Authority. Provision was made for transferring the jurisdiction of the Commonwealth Employees Compensation Tribunal to the Administrative Appeals Tribunal.
WAGE RESTRAINT

In December 1982, the Salaries and Wages Pause Act 1982 came into effect, removing for a period of 12 months the powers of all Commonwealth employment remuneration-fixing authorities, both to increase remuneration by way of salary, wages or allowances or to reduce working hours. Soon after, the Conciliation and Arbitration Commission, in the 1982 National Wage Case, announced a community-wide wages pause, to extend to June 1983.

No further significant ‘other’ legislation is mentioned in Board reports to the time of its abolition.

OTHER CHANGES AND DEVELOPMENTS 1972–87

The major legislative changes which occurred during this period owed their origins largely to reform proposals advanced as a result of a series of earlier reviews, initiated by both Labor and Coalition governments.

ROYAL COMMISSION ON AUSTRALIAN GOVERNMENT ADMINISTRATION

The origins of the Royal Commission on Australian Government Administration (the Coombs Commission) are to be found in the reform agenda of the Whitlam Government. Earlier intimations of a wide-ranging inquiry into government administration were given more substance in the Prime Minister’s policy speech for the May 1974 general election and, in June 1974, he announced the appointment of a Royal Commission, under the chairmanship of Dr HC Coombs, to inquire into and report on the APS, statutory corporations and other Australian Government authorities. Membership, terms of reference for the Commission and further background information is detailed in Appendix 4.

The Board had long supported the need for a comprehensive inquiry into APS administration and related government activities, and proceeded immediately to direct major resources to the preparation of documentation for the Commission. Two formal submissions to the Commission were backed up by a wide range of other material. Basically factual information on the APS and its existing employment and management framework was presented in eight background information volumes, supported by 18 PSB memoranda on specific topics. Background documents were prepared also on key issues of current concern (such as acceptance by public servants of business appointments on retirement or resignation) along with a range of other documentation and statistics.
Preparation of the documentation was undertaken or coordinated by the Board's Assistant Secretary, on a full-time basis, and an Assistant Commissioner was assigned, also full-time, to be liaison officer to the Royal Commission, attending all of the Commission's public hearings, and obtaining and summarising for the Board all of the public submissions to the Commission, from government agencies, outside bodies and individuals (numbering some 700 by June 1975). The Board members appeared before the Commission in November 1974 to present oral evidence. Copies of all of the documentation and submissions are held by the APS Commission Library.

The Coombs Commission's report, containing 337 recommendations, was presented to the then government in July 1976, along with four volumes of appendices of background material. The November 1975 change of government was viewed by some as having created a less favourable environment for the Commission to market its more innovative and wide-ranging reform proposals—a view expressed forcefully some 10 years later by then Board Chairman Peter Wilenski and the former Special Adviser to the Commission. Writing on the Australian experience of administrative reform Wilenski represented the outcome as 'a textbook case of the non-implementation of administrative reform' (Wilenski 1986, p. 267). He maintained that the then Fraser Government was much less sympathetic to administrative reform than its predecessor and had ignored the Commission's own recommended procedure for objective examination and implementation of its proposals. Instead:

... the report was referred for advice on implementation to a part-time committee which included the representatives of those government departments which had most to lose by any whole-hearted implementation. Few resources were committed to the tasks and...the views of the implementing committee were transmitted privately to ministers and were not subject to public scrutiny. It comes as no surprise that, although the Commission's recommendations were far from radical, few that did not endorse official submissions were implemented (Wilenski 1986, p. 267).

As the Wilenski observations indicate, the government chose to vest responsibility for consideration of the Commission's recommendations in the Machinery of Government Committee of Cabinet, served by an officials' committee of permanent heads, in turn serviced by a small unit in the Department of Prime Minister and Cabinet, drawn from the same agencies as on the permanent heads committee (PM&C, the Board, Treasury, Administrative Services and, later, Finance).

Notwithstanding the Wilenski views, it is probably fair to say that many of the Commission's recommendations contributed to bringing about significant changes to APS administration over an extended period, although often with limited attribution to Coombs Commission origins. Thus, while consistent in many cases with views and proposals of the Board and other agencies at the time, significant Commission recommendations which have since been implemented include:

- abolition of the divisional structure
- statutory expression of the merit principle
- enhancement of EEO arrangements and enactment of anti-discrimination legislation
• elimination of permanent officer/temporary employee distinctions
• special employment arrangements for Ministerial staff
• a separately defined senior executive category
• all Australian Government employment to come within the industrial jurisdiction of the (then) Conciliation and Arbitration Commission
• statutory expression of rights and obligations for APS employees
• simplification of review processes.
• a redesigned Public Service Act, reflecting the significant changes recommended by the Commission and incorporating a new central personnel authority charter.

Perhaps the major Coombs Commission recommendation not accepted was for the establishment of a ‘Unified Service’, involving a presumption in favour of Commonwealth statutory bodies being staffed under the Public Service Act, consistent with (while not directly mirroring) longstanding views of the Board. Of limited impact also were the proposals in Chapter 10 of the report for dealing with special problems of administration in the area of economic policy development, as well as issues of policy and administration relating variously to science, health and social welfare, foreign policy and Aboriginal affairs. Elements of the Commission’s proposals have been accorded recognition over the years, but otherwise ran into difficulties in confronting issues of government policy and entrenched interests and power bases.

VERNON COMMISSION ON THE POST OFFICE

From the early years of Federation, an uneasy relationship had developed between the central personnel authority (the Public Service Commissioner and, subsequently, the Public Service Board) and the largest individual agency in the federal public service—the then Postmaster-General’s Department.

Management of the Post Office had attracted criticisms from first Public Service Commissioner McLachlan. Frequent parliamentary and public criticism of alleged defects in administration, along with continuing staff dissatisfaction, led to the government establishing, in 1908, the Royal Commission on Postal Services. That Commission’s report had included criticisms both of the department and the Commissioner, and had proposed establishment of a Board of Management for the department—a recommendation opposed by McLachlan. In the event, no radical changes were
made to the management of the Department or its place as an agency within the public service. The First World War intervened and, from 1923, the department became subject to the range of powers conferred on the new Public Service Board.

As the size of the department increased (quite dramatically in the years after World War II), so did representations for its removal from the Board’s jurisdiction. Realistic prospects for success of the latter, however, were not to emerge until the Whitlam Government’s establishment in 1973 of the Commission of Inquiry into the Australian Post Office, under the chairmanship of Sir James Vernon. Not surprisingly, the Board was opposed to suggestions that the Post Office should operate outside the APS, in line with its longstanding objection to a proliferation of separate statutory agencies. The argument was lost, however, with independent postal and telecommunications commissions being established from 1 July 1975 under the *Postal Services Act 1975* and the *Telecommunications Act 1975*, respectively, in accordance with Vernon Commission recommendations.

As noted previously, establishment of the new commissions constituted the largest, single change in APS members in the history of the Service, with some 121 000 staff moving to employment under the new administrations.

**MANDATA**

Developments in ADP during the 1950s and 1960s had encouraged the Board to proceed with its ambitious MANDATA project—a Service-wide computer-based personnel and establishment records system, intended to supersede the lower-level automated Continuous Record of Personnel, introduction of which had occurred in 1960–61, and the further development of which had been outlined in 1966 (PSB AR 1966, p. 54–5).

A description of the MANDATA project itself, as then conceived, was provided by the Board in 1973 (PSB AR 1973, p. 31–2). Funding for the project (equipment and associated software) was approved by the Whitlam Government in 1973–74.

The first small-scale MANDATA system came into operation in June 1977 and, in the following two years, a major part of it was implemented progressively in 19 organisations employing more than 75 per cent of total APS staff. By that time, the first major scrutinies of the project had been initiated, with the Auditor-General’s Office undertaking a review of the Board’s MANDATA Office and the Public Accounts Committee (JCPA) conducting a major review of the project.

The complexity of the MANDATA project and inevitable difficulties with its implementation resulted in longer than expected lead times and high costs. In response to criticisms expressed in the JCPA and Auditor-General review reports, the Board decided to:

- scale down medium-term objectives to supporting and refining existing subsystems, extending their coverage and improving systems reliability
- postpone indefinitely intended automatic calculation of salary entitlements and a proposed link to the Finance pay system and the Australian Government Retirement Benefits Office (AGRBO) system
• delay introduction of new users until acceptable performance levels were established for each subsystem.

With the introduction of these modifications the Board acknowledged that the project had failed to meet its original objectives and was not cost-effective, while believing that the latter criterion could be satisfied in the scaled-down version (PSB AR 1981, p. 6). However, as discussed further below, in 1981 the Ministerial Review of Commonwealth Functions (RCF) decided that the project should be terminated and that user services should not be provided beyond 30 September 1981. The decision resulted in 148 associated staff becoming subject to redeployment action.

Arguably, along with the developments noted in the following paragraph, the RCF decision could be seen as a major blow to the Board’s reputation and the powers which it exercised and, probably, a significant step in the direction of the Board’s ultimate abolition some six years later.

By 1981, the Board was exercising a lesser, though still significant, role in the total Service-wide ADP scene, the development of which was outlined in Chapter 5. Departmental heads had now been given primary responsibility for ADP acquisition proposals and for the implementation and management of ADP systems. The Board no longer undertook technical review of proposals but provided comment on the ADP strategic plans of departments. In the context of its continuing coordination responsibilities, the Board invested significant resources in the production of ADP guideline material covering, in 1981, internal controls for computer-based systems, security and risk management in the ADP environment and cost-effectiveness analysis of ADP systems.

REVIEWS AFFECTING THE APS 1976–83

Between 1975 and the advent of the Hawke Government in 1983, the Fraser Government commissioned three major reviews impacting directly on APS administration.

ADMINISTRATIVE REVIEW COMMITTEE

The Administrative Review Committee (ARC), chaired by Sir Henry Bland, was appointed in December 1975 to examine and report to the Prime Minister on the programs, services and other activities of departments and agencies associated with departments. In essentials, the ARC (which included Board Commissioner John Taylor) was charged with achieving economies in the use of resources and identifying means of improving Commonwealth–state administrative relationships.

Sir Keith Shann, Chairman, Public Service Board
25/03/1977–01/11/1978
Its terms of reference, which included a requirement to examine programs, services and other Commonwealth activities

...(a) that might be curtailed or terminated without significant effect on administration;
(b) whose benefits do not appear commensurate with their administrative costs;
(c) where changes in administrative arrangements might produce resource economies

(PSB AR 1976, p. 80).

were widely interpreted as being directed, in large measure, to a radical pruning of many of the reforms and new programs introduced during the preceding three years by the Whitlam Government.

The ARC reports were not published, and there is limited information available from official public reports, therefore, as to their ultimate scope and detailed content. The Board records an announcement by the Prime Minister that a number of the ARC’s recommendations had been ‘taken into account’ in economic policy decisions which had been announced by the Treasurer on 20 May 1976, and that there would be further announcement of changes arising from the Government’s examination of the ARC reports (PSB AR 1976, p. 81). An Administrative Arrangements Order, gazetted on 5 October 1976, was subsequently referred to by the Board as having given ‘formal effect to the Government’s decisions on a number of proposals from the Administrative Review Committee and other sources’ (PSB AR 1977, p. 43).

Limited reporting by the Board of specific ARC outcomes, despite Board membership of the committee, possibly reflects some strained relationships between the two parties at the time, perhaps relating also to earlier, not infrequent differences between the Board and Sir Henry Bland, a long-time, influential departmental secretary. Regardless of those considerations, however, the ARC was seen as having significant power and potential influence during its period of operation, although its real, longer-term impact is much more difficult to evaluate.

REVIEW OF COMMONWEALTH FUNCTIONS

In pursuance of a stated continuing aim of the Government from 1975 to maintain strict control over the public sector and of the public service, the Prime Minister announced on 6 November 1980 a ‘Review of the Functions of Government and of Public Service Staffing Levels’ (RCF), to be carried out by a committee of senior Ministers. The Board’s Office contributed to the secretariat of senior officials which supported the committee.

Establishment and outcomes of the RCF were reported in some detail by the Board (PSB AR 1981, p. various). This included reference to a statement by the Prime Minister that the various RCF decisions, announced on 30 April 1981, were expected to have a major impact on the size of the Commonwealth bureaucracy. This would involve a reduction of between 10,000 and 11,000 staff, with a further projected reduction of 2 per cent of Commonwealth employees in the ensuing two years, leading to a total reduction of some
16 000 to 17 000 staff—some of the reductions, however, being dependent on agreement being reached with state governments in relation to functions proposed to be reallocated. In some cases, RCF decisions also involved reallocation of functions to the private sector. Approximately 50 per cent of the proposed reductions involved staff employed under the Public Service Act, amounting to a reduction of some 5.5 per cent of APS staffing over the two-year period.

Implementation of RCF decisions (and the prior preparation of material sought by the committee) necessitated major input of Board resources, as well as impacting directly on the Board’s own functions. Termination of the Board’s MANDATA project has been mentioned previously, but other significant committee decisions (and effects of decisions) mentioned in the Board’s 1981 report included:

- further tightening of APS staff ceilings
- large-scale redeployment and redundancy situations with consequent limitations, in the initial stages, of outside recruitment to the APS
- imposition of more restrictive study assistance provisions for APS staff
- a range of significant machinery of government changes, including abolition of the Prices Justification Tribunal, the Housing Loans Insurance Corporation and, on the local ACT scene, the then Canberra Commercial Development Authority— but establishing also a new Petroleum Products Pricing Authority.

On the positive side for the Board, expansion was approved of its Interchange Program for improvement of communication and understanding between the public and private sectors, involving staff exchange arrangements with obligatory minimum levels of participation by APS departments and agencies.

Continuing implementation of RCF decisions was noted in the Board’s 1982 report, but full realisation of the committee’s two-year program was to be overtaken by events, as represented by the election of the Hawke Labor government in March 1983. In particular, the incoming government decided not to proceed with a number of RCF decisions, likely to have resulted in further staff redundancies. Nonetheless, the RCF had been responsible for more overtly significant changes to Commonwealth administration than had its ARC predecessor.
REVIEW OF COMMONWEALTH ADMINISTRATION

With RCF implementation action still proceeding, a series of widely publicised inquiries and reports during 1982–83 (notably, royal commissions on the activities of the Federated Ship Painters and Dockers’ Union and into the Australian Meat Industry, and the Joint Committee of Public Accounts Inquiry into Payments under the Commonwealth Medical Benefits Schedule) led to the Fraser Government initiating a further examination of the federal bureaucracy. In September 1982 it announced establishment of the Review of Commonwealth Administration (RCA), being a broad-ranging examination of the APS.

The RCA was under the chairmanship of Mr JB Reid, a prominent company director and, previously, a member of the Bland ARC. Also appointed to the RCA was another company director (Sir Ronald Elliot) and Professor John Rose, Professor of Commerce and Business Administration at the University of Melbourne and, at that time, serving as a consultant in the Prime Minister’s private office. The Review secretariat was headed by Mr HB MacDonald, then a Deputy Secretary in the Department of Administrative Services, but formerly Secretary of the Public Service Board. A serving member of the Board’s staff was seconded to assist the review team.

The RCA had wide terms of reference, requiring it to examine, report and make recommendations in relation to ‘the requirements for an efficient and effective public service in Australia’. The review was required to take account also of service needs in respect of high standards [of conduct], good morale, professional managerial skills and capacity, provision of ‘constructive and imaginative’ policy advice and accountability within a non-political career public service framework.

The RCA report was presented to the Government on Australia Day 1983. It contained 32 recommendations, in varying specifics, touching on:

- machinery of government matters
- Ministerial responsibility and accountability
- administrative review activities
- the role of central agencies—in particular, the Board and the Department of Administrative Services
- financial management
- management structures, practices and systems
- staffing the senior managerial ranks of the APS
- measures for achieving better Commonwealth administration.

The Board subsequently made reference to a number of RCA findings and recommendations (for example, in relation to official conduct, the Board’s management review role, and the selection and development of senior managers) (PSB AR 1983, p. various). The RCA views and proposals were subsequently acknowledged at the time of the 1984 Public Service Reform Act. However, any prospect for wide-ranging implementation of the review’s recommendations rapidly disappeared, with the Fraser Government losing office at the March 1983 election, some six weeks after the RCA report was presented.
LABOR GOVERNMENT REFORMS 1983–87

Election of the Whitlam Government in 1972 occasioned major reshaping of the federal bureaucracy and the initiation of a wide range of new government programs and administrative law reforms. However, despite some significant changes to APS conditions (e.g. introduction of four weeks annual leave and maternity–paternity leave provisions), no major changes were made to the basic APS employment framework in the Public Service Act.

The reform program of the Fraser Government after 1975, while pursuing administrative law enhancements, had directed little attention to the basic employment framework and legislation. The prime focus of both the ARC and RCF exercises had been on cutting back and streamlining government programs, achieving greater efficiency and economy in their delivery, and reducing Commonwealth staff numbers and expenditure. Arguably, while the RCA had a similar charter, it also directed more attention to APS staffing practices and the personnel management framework, but was denied the opportunity for detailed consideration of its proposals.

The newly elected Labor Government now moved to pursue its own reform program for the APS.

THE PUBLIC SERVICE REFORM ACT

The new government’s objectives were articulated in the White Paper, Reforming the Australian Public Service (December 1983), and were subsequently given legislative expression in the terms of the Public Service Reform Act 1984. The key elements of that enactment have been summarised previously in their legislative context, and are not repeated here. They involved, however, some major changes to the employment framework established by the 1922 Act, including:

- bringing to finality abolition of the divisional structure
- establishing the Senior Executive Service
- specifying the elements of the merit principle and proscribing patronage, favouritism and unjustified discrimination
- inserting EEO and industrial democracy provisions and identifying ‘designated groups’
- legislating conditions for permanent part-time employment
- redefining ‘efficiency’ in relation to promotion and removing any reference to a seniority criterion
- providing for selection of staff for non-appellable promotions through Joint Selection Committee processes.

The overall APS employment framework was further varied significantly through the concurrent enactment of the Merit Protection (Australian Government Employees) Act.
1984 and establishment of the Merit Protection and Review Agency to take over from the Board administrative responsibility for APS promotion, disciplinary and redeployment–retirement appeals and for the handling of staff grievances, in accordance with Public Service Regulations provisions.

**THE PUBLIC SERVICE STREAMLINING ACT**

Within two years, the government was intent on achieving further APS reforms. In its final, published report the Board noted, in its opening paragraph, that work had been initiated on the preparation of new measures to streamline APS working practices and procedures, as part of a package of government measures to address a national economic crisis, stemming from a drastic deterioration of Australia's international trading position—the Economic Statement by then Treasurer Keating in May 1986 having suggested that Australia was thereby in danger of becoming a ‘banana republic’ (PSB AR 1986, p. 1).

The consequent reforms were enacted through passage of the *Public Service (Streamlining) Act 1986*, which received Assent on 18 December 1986, with the key changes coming into force in three stages between January and July 1987.

As has been noted earlier, reform of APS legislation tends to be a very protracted process. Development of the streamlining changes was a notable exception.

Immediately following the Treasurer’s May 1986 Statement, work commenced in the Board’s Office to identify potential areas for streamlining APS personnel management. Actual target areas were then agreed, leading to intensive activity in June 1986 to refine the issues and proposals and to develop a series of related memoranda for Cabinet, during July and August of that year.

It was recognised that some of the proposals, developed without union consultation (and minimal departmental participation, other than through the Cabinet processes), were likely to attract union opposition. Despite union awareness of the general process being followed, that consultation (with the ACTU and key public sector affiliates) did not occur until 10 September 1986. It was undertaken essentially on the basis that the reforms, which had then been approved by government, were not negotiable in relation to their general thrust and key content.

The resultant streamlining legislation was introduced, with minimal change, on 23 October 1986 and ultimately achieved unamended passage through both Houses on 4 December 1986.

The government viewed the measure as one which built on the significant changes effected by the 1984 Reform Act, with further wide-ranging changes to the 1922 Act. Changes of major significance included:
• repeal of the CE(RR) Act and enactment of new Public Service Act redeployment and retirement provisions for excess officers, and for officers subject to action on grounds of inefficiency, invalidity and loss of essential qualifications

• abolition of appeals against promotions above the then clerical–administrative Class 8 level (and equivalent classifications for other categories), reduction from 21 to 14 days of the period for lodging appeals against other promotions, and authority for management-initiated Joint Selection Committees, not requiring union agreement

• simplification of disciplinary provisions, including abolition of appeals against major disciplinary penalties and increasing maximum fines from $40 to $500

• relaxation of Australian citizenship requirements for appointment to APS

• strengthening of prohibitions on patronage, favouritism and discrimination

• provisions for compulsory transfer of staff following transfer of functions between Commonwealth agencies, removing necessity for specific legislation in each situation

• devolution of a wide range of personnel management powers from the Board to Secretaries

• removal of the requirement to give statements of reasons under s. 13 of the AD(JR) Act in relation to selection and promotions appeal decisions.

The Board issued extensive guidance material and instructions on the streamlining changes, including a series of Streamlining Personnel Management booklets. In the case of the redeployment and retirement provisions, however, their full implementation relied on the handing down of a new redundancy award by the Conciliation and Arbitration Commission. The Board did not survive to see this come to fruition. The award, and the relevant legislative provisions, did not come into effect until 20 July 1987—six days after announcement of the Board’s abolition.

DEMISE OF THE PUBLIC SERVICE BOARD

Abolition of the Board was announced by the Prime Minister on 14 July 1987, three days after the re-election of the Hawke Government at the double dissolution election in that month. An Administrative Arrangements Order issued on the same date announced significant changes to the structure of the federal Ministry and to government departments, including the successor arrangements to the Board.

The abolition action stemmed directly from the government’s acceptance of recommendations in a report from the Efficiency Scrutiny Unit (ESU) on Proposed successor arrangements to the Public Service Board.
The Scrutiny Unit itself had been established in September 1986, as one element of the Prime Minister’s announcement of APS streamlining intentions. Headed by David Block, then a strategic adviser to Coopers and Lybrand, the ESU was charged with undertaking an extensive program of scrutinising a range of public sector operations, the first such scrutinies occurring between January and March 1987. Following the Treasurer’s May 1987 Economic Statement, a scrutiny of the whole of the Board’s Office was set in train, following earlier, more limited scrutinies of the Board’s management services function, and its involvement in Service-wide base-grade clerical recruitment processes.

In recommending the abolition of the Board, the ESU proposed that the successor arrangements involve:

- devolution to departments of all operational aspects of personnel matters, and management improvement programs
- transfer of public service arbitration, pay and conditions matters to the then Department of Industrial Relations
- transfer of classification issues to the then Department of Finance
- establishment of a Public Service Commission, with independent statutory responsibilities for policy aspects of recruitment, promotion, mobility, discipline and retirement, and with ongoing responsibilities for overall management of SES staffing, but with no ongoing office operations at state level, the former regional offices of the Board being abolished
- retention of the Merit Protection and Review Agency
- provision for a part-time Australian Public Service Management Advisory Board to advise the Government on significant issues relating to the management of the APS, and to be a forum for consideration of major activities affecting the Service as a whole.

The recommendations were adopted and implemented in their terms at time of abolition, with the operational aspects of base-grade recruitment for trainees, clerical and graduate appointments being taken over subsequently by the Department of Employment, Education and Training on 29 September 1987.

A listing of Board functions, transferred to other agencies by September 1987, appears at Appendix 4 of the ‘additional report’, covering the last months of the Board’s operations to September 1987 and appended to the first report of the Public Service Commissioner in November 1988.

Dismantling of the Board’s operations and dispersal of the Board members and most of the staff began immediately on announcement of abolition—the Board members leading by example on the day of abolition, by resigning and accepting new departmental appointments as Secretary (Chairman Wilenski) and Associate Secretary (Commissioners Beale and Harris). Formal abolition of the Board did not occur until implementation of the legislative aspects of the ESU recommendations by the Administrative Arrangements Act 1987, which received Assent on 18 September 1987.
The Public Service Commissioner designate, John Enfield, then a serving departmental Secretary, was appointed as Acting Chairman of the Board on 14 July 1987, pending substantive appointment as Commissioner on enactment of the enabling legislation.

Preparation of the Board’s annual report for 1986–87 was largely finalised by the time of the Board’s abolition, but it was never published. Subsequently, the first annual report of the Public Service Commissioner (1987–88) included a short report covering the then residual Board activities from 1 July to 17 September 1987.

The prepared draft material for the Board’s 1986–87 annual report is held in consolidated form in the APS Commission Library and should be viewed as a valuable, historical reference source. It has been utilised in the preparation of this outline history.

**PUBLIC SERVICE BOARD CHAIRMEN**

A survey of significant changes and developments between 1972 and 1987 would be incomplete without reference to the influence of four Chairmen of the Public Service Board during that period.

The continually changing political and administrative environment over this 15-year time span required each of the appointees to address a range of significant issues bearing on APS management and legislation.

While no attempt has been made to provide a detailed account of the individual contributions of the respective Chairmen, the following paragraphs provide some relevant biographical detail.

Following Sir Frederick Wheeler’s appointment as Treasury Secretary, the office of Chairman was filled by AS (later Sir Alan) Cooley from 1 November 1971, his term of office continuing until 28 March 1977. The new Chairman, previously Secretary of the Department of Supply, with a background both in management and engineering, was soon to be confronted with major changes to the federal bureaucracy, following election of the Whitlam Government in December 1972. Much of the remainder of his term of office was then to be concerned with handling the Board’s involvement with the Coombs Commission. Sir Alan directed particular attention to achieving efficient APS management, and was instrumental in establishing the first office of Director of Equal Employment Opportunity in the Board’s Office.

Sir Alan’s successor was KCO (later, Sir Keith)
Shann, a distinguished diplomat with some 40 years public service. He became Chairman at a time when the government was moving to impose tighter controls on APS staffing and finances, with consequent increased pressure on the Board to effect improvements in public service efficiency. The Board’s management review program was to expand significantly in this period.

Sir Keith served as Chairman until 31 October 1978, and was succeeded by RW (later, Sir William) Cole. Previously Commonwealth Statistician and then Finance Department Secretary, the new Chairman's period in office encompassed major APS reviews, with the 1981–82 Review of Commonwealth Functions and the 1982–83 Review of Commonwealth Administration. In the same period, the APS was experiencing the full impact of the extensive administrative law reforms occurring from the late 1970s, culminating in this period with the 1982 Freedom of Information Act.

New reform agenda emerged with the election of the Hawke Government in March 1983. At the expiration of his five-year appointment, Sir William became Secretary of the Defence Department. His successor as Board Chairman was Peter Wilenski, appointed to the office with effect from 2 November 1983.

As has been noted previously, Peter Wilenski had served as adviser to the Coombs Commission, and had an intense interest in public service reforms. Considered by many to be one of Australia’s most significant and innovative public servants, he played a major role in implementation of the changes effected by the 1984 Reform Act. In particular, he contributed significantly to the high profile then accorded by the government and the Board to equal employment opportunity and application of the merit principle. He remained as Chairman until the Board’s abolition in July 1987.

**SPECULATION ON THE ABOLITION OF THE BOARD**

Objective and detailed evaluation of the Board’s contribution to the management of the APS is yet to occur, and would seem to offer a fruitful field of research for some future historian or practitioner in the field of Australian public administration.

This section of the outline history concludes with some personal speculative observations on the reason for the Board’s demise.

Before so proceeding, it needs to be emphasised that this paper has not addressed in detail, or at all, some major or significant activities of the Board over its 64-year history. Notable examples include its extensive involvements in:

- pay fixation and conditions of employment
- arbitration
- industrial relations
- establishment management and staff ceilings
- Service-wide training and staff development
- Service-wide recruitment, including selection testing
• overseas staffing conditions
• machinery of government changes
• studies assistance
• staff appraisal.

The above listing is far from exhaustive, but a full exposition might also provide a better indication of some of the circumstances contributing to the Board's apparently sudden and abrupt disappearance as a powerful, central agency in the federal bureaucracy.

A clue is perhaps to be found also in reflecting on a statement by the Board of its own underlying philosophy:

... unlike permanent heads of departments, the Board is publicly identifiable with, and publicly responsible for, its own decisions and is able to defend its policies and practices without offending the principle of ministerial responsibility (PSB AR 1977, p. 99).

Such eminently laudable and defensible propositions from the point of view of a central personnel authority, however, were not always palatable to other parties. They sometimes felt aggrieved by such independent public expression of policy positions, about which they held contrary views, and therefore viewed the Board's statements as infringing unduly on their own perceived prerogatives. At various times, and in relation to various issues, the dissentient voices were to be heard from both Ministers and the higher executive levels of the Service. A perceived excess of zeal in focusing on inadequacies of departmental management and industrial relations, along with the Board's drive to eliminate inequities and discrimination in employment practices, were a decided irritant for some executives and not a recipe for creating undying friendship or support when the Board itself came under attack. Perceptions also of arrogance and a lack of even-handedness in dealings with different agencies were prone to create deep and longstanding resentments, however well justified.

It can be argued that the very wide span of the Board's activities itself contributed to its ultimate demise. The Board was at the forefront in bringing about APS reforms, particularly over its last 20 years of operation. In the process, however, it both became too large itself, and yet still unable to sustain an effective, ongoing involvement in all the areas involved. This problem became accentuated when the Board became subject to significant resource constraints and loss of major functions, such as its longstanding control over departmental establishments and organisation structure, and the termination of the MANDATA project.

Other factors worked against the Board's continuance, reflecting some broader considerations (including some of those referred to above):

• The trend, Australia-wide in the 1980s, to move away from strong, central personnel management agencies and to devolve increasingly their powers to departments and agencies made it almost inevitable that the Board would become subject to the same treatment.
• Other Commonwealth central agencies (notably, the then departments of Finance and Industrial Relations) increasingly looked to taking over Board functions and incorporating them in related functional areas of their own.

• Evolution of independent, Commonwealth-wide administrative law and human rights agencies (the Ombudsman, the Administrative Appeals Tribunal and the Human Rights and Equal Opportunity Commission) progressively eroded areas in which the Board had previously exercised significant responsibilities, virtually alone in some cases, for many years.

• The central appeal tribunal and grievance resolution roles of the Board were taken over by the Merit Protection and Review Agency.

• The Board’s powers as an independent wage-fixing authority, regularly reasserted in response to external criticisms of its policies and decisions, were a particular source of irritation for governments from time to time or, alternately, for unions, albeit for significantly different reasons. In later years, however, the Board’s powers were increasingly constrained by decisions of the Conciliation and Arbitration Commission, notably in National Wage Cases.

• In the arbitration area, the Board not infrequently stood between proposed ‘quick fix’ solutions, worked out between departments and unions—the Board having legitimate concerns in relation to service-wide implications of undesirable precedents.

**A POSTSCRIPT OBSERVATION**

In December 1980, for the first time for many years, the Board’s staff were co-located in a new central office building, in National Circuit, Barton—the McLachlan Offices, honouring the name of the first Commonwealth Public Service Commissioner. The Board was to enjoy the benefit of its new offices for a little less than seven years. Following the Board’s abolition in July 1987, and perhaps symbolic of its demise, the new Public Service Commission, much reduced in size in comparison with the Board’s Office, was quickly deprived of its accommodation. The Department of the Prime Minister and Cabinet became the new occupant. With a fine regard for history, and to ensure removal of any tangible identification with its former role, McLachlan Offices was simultaneously accorded the more imaginative and picturesque title of 3–5 National Circuit.
Abolition of the Board in July 1987 and the subsequent devolution and delegation of a wide range of its powers and functions created a significantly changed environment and framework for the operation of the 1922 Act. Former key functions of the Board had become the responsibility of the departments of Industrial Relations and Finance, and notice had been given of intention to devolve to departments all operational aspects of personnel administration and management improvement functions.

The newly established Public Service Commission, while retaining a significant ongoing role in the overall management of the SES and independent statutory responsibilities for the policy aspects of recruitment, promotion, officers’ mobility and discipline, was a much less powerful and lower status organisation than its Board predecessor. As such, there was not infrequent speculation amongst APS agencies on the prospects for the Commission’s long-term survival (arguably, reflecting some self-interest aspirations in some cases).

The Commission has been able to survive and, under the leadership of successive Public Service Commissioners, has moved to define and establish a different central personnel agency role. More particularly, in the context of this history, it has played an important role in bringing about fundamental review of the 1922 Act and in developing the legislation which was to become the 1999 Public Service Act.

SIGNIFICANT PUBLIC SERVICE ACT AMENDMENTS 1987–99

Following the formal abolition of the Board, and creation of the office of Public Service Commissioner in September 1987, legislation directed solely towards amendment of the 1922 Act was enacted on only two occasions before its ultimate repeal and the passage of the 1999 Act, as well as one further enactment dealing with the 1995 amalgamation of the Public Service Commission and the Merit Protection and Review Agency. However, as in earlier periods, a range of other amendments was effected by statute law revision legislation, along with the Prime Minister and Cabinet portfolio and industrial relations legislation, and relatively minor consequential changes flowing from substantive amendments to other non-APS enactments.

The specifically targeted amendments of the 1922 Act occurred in 1991, 1995 and 1997:

• The Public Service Amendment Act 1991 amended the officers’ mobility provisions in Part IV of the 1922 Act to prevent actual or potential duplication of severance benefits to Commonwealth employees, with rights of return to the APS, who were made redundant from government business enterprises and other Commonwealth authorities. The amendments sought to prevent ‘double dipping’, providing effectively that an employee in these circumstances should be allowed the benefit of a single option—receipt of a redundancy benefit from the non-APS employer or return to the APS (with retention of APS redundancy entitlements), but not both.
• The Public Service Legislation Amendment Act 1995 amended both the Public Service Act and the Merit Protection Act to implement a decision announced in the 1995–96 Budget to amalgamate the Public Service Commission and the Merit Protection and Review Agency—the amalgamated body to be known as the Public Service and Merit Protection Commission (PSMPC). As with the predecessor Commission, the title of the new organisation was not itself legislated. The amending legislation allowed for continued independent operation of the Agency in relation to the performance of its appellate and review functions, with the statutory office of Director of the Agency redesignated as Merit Protection Commissioner and continuing to exercise the independent powers of the office. The Public Service Commissioner was accorded Secretary powers in relation to all staff of the new Commission, but with the intention that the Merit Protection Commissioner would be authorised to exercise personnel and financial management powers in relation to the staff required for the purposes of the Merit Protection Act. The amalgamation of the two agencies took effect on 15 December 1995.

• The Public Service Amendment Act 1997, which received Assent in April 1997 (just two months before introduction of the Bill which was the precursor of the 1999 Public Service Act), amended the disciplinary provision of the 1922 Act to overcome a flaw, which had prevented previously the institution of disciplinary action against an ‘unattached’ officer, who committed misconduct during a period of employment, on leave of absence, outside the APS departmental structure (including as a head of an Australian diplomatic mission). Under the terms of the amendments, disciplinary action could be taken against the officer on resumption of duty in the APS, as if he or she were still in the unattached employment situation.

Leaving aside relatively minor changes effected to the 1922 Act through ‘tidying-up’ amendments and consequential changes flowing from the passage of other non-APS legislation, significant substantive amendments to the Act were made by other legislation in the following areas:

RESTRUCTURING OF THE SES

The Second Reading Speech on the Bill that was to become the Prime Minister and Cabinet Legislation Amendment Act 1991, included reference to the fact that a number of substantive amendments to the Public Service Act then being proposed were being made ‘ahead of action being taken to bring forward in due course a Bill for a modernised Act aimed at simplifying and integrating procedures and practices’ (PD House 17 October 1991, p. 2004). As indicated later in this paper, that reference needs to be seen as a low-key reminder of action foreshadowed soon after the abolition of the Board in 1987, but not achieving any substantive parliamentary form until introduction of the Public Service Bill in June 1997.

As to the specifics of the above Act, they included major amendments reflecting the Government’s agreement, under the then Structural Efficiency Principle, to restructure the SES into three bands and to introduce the SES (Specialist) category. The three-band
structure, the aims of which had included enhancing the optimum use and flexible management of SES resources, had come into effect in January 1990, with its various legislative implications being picked up in the Public Service Act amendments, ultimately receiving Assent on 18 December 1991. The amendments further delineated the respective powers of the Public Service Commissioner and departmental Secretaries in relation to the management of the SES.

The SES provision were amended further in the following year when the Industrial Relations Legislation Amendment Act (No. 2) 1992 included Public Service Act amendments to further increase flexibility in the management of SES transfer and redeployment/retirement provisions.

**NON-SES PERSONNEL MANAGEMENT**

The 1991 Act also effected a range of other changes, including amendments to disciplinary and officers’ mobility provisions. It modified the merit principle provisions of s. 33 of the then Act to permit discrimination in transfers and promotions, as well as in relation to appointment to the APS, in accordance with certain prescribed programs to encourage the appointment to the service of women or persons in a designated group. The intended effect of the amendment was to ensure that certain programs, designed to encourage appointment of people who were members of designated groups, were available only to those persons, with particular reference to various programs for training Aboriginal people.

Some relatively minor amendments to the Public Service Act promotion, disciplinary and officers mobility provisions were later effected by the *Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994*.

**TENURE OF DEPARTMENTAL SECRETARIES**

The 1994 Miscellaneous Provisions Act was the vehicle also for effecting a major change to employment arrangements for departmental Secretaries. The Act (along with the *Superannuation Act 1976*) was amended to give effect to the Government’s decision to allow Secretaries, and some equivalent-level statutory office-holders, to relinquish their continuing tenure in the APS and the value which attached to that tenure, in return for a reasonable loading on their salaries being set by the Remuneration Tribunal (the Government having then recommended to the Tribunal that the loading should be set at 20 per cent). At completion of a term appointment, the Secretary would be retired from the Service. In the event of early termination, the Secretary would be entitled to compensation on the same terms as applying to a statutory office holder by Remuneration Tribunal determination—namely one third of a month’s pay for each month of service foregone.

**PARLIAMENTARY DEPARTMENTS**

Amendments to the Public Service Act by the *Prime Minister and Cabinet (Miscellaneous Provisions) Act 1995* were directed substantially to a range of changes designed to
facilitate personnel management in the Parliamentary Departments. Of more general APS application, however, was the tightening of arrangements and time-scales for the presentation to Parliament of departmental annual reports, thereby implementing an agreement between the Prime Minister and the then Joint Committee of Public Accounts.

**OTHER SIGNIFICANT LEGISLATION 1987–99**

**INDUSTRIAL RELATIONS**

Two major enactments in this period, relating to the Australian industrial relations framework, warrant particular mention, as both had direct relevance to employment in the APS:

The *Industrial Relations Act 1988* received Assent on 8 November 1988. It gave effect to the Government’s decisions on recommendations of the May 1985 *Report of the Committee of Review into Australian Industrial Relations Law and Systems*, establishing the Australian Industrial Relations Commission (AIRC) in place of the former Conciliation and Arbitration Commission. It established a new federal framework for the prevention and settlement of industrial disputes, with application to both public and private sector employment, replacing the system operating previously under the terms of the *Conciliation and Arbitration Act 1904*, which was duly repealed.

For Commonwealth public sector employees, the Act represented a further step in the direction of bringing their industrial and staffing arrangements more into line with employees in the private sector. The separate jurisdiction of the former Public Service Arbitrator had been transferred to the Conciliation and Arbitration Commission in 1984. Under the new Act, Commonwealth employees became subject even more directly to the wider-ranging powers of the new AIRC, with the Industrial Division of the Federal Court being assigned explicit jurisdiction in matters arising from the operation of the Act, and for imposition of penalties for breaches of the Act. An Industrial Registry was established to service the AIRC, and to provide advice and assistance to registered employer and employee organisations. Provision was made for the appointment of Inspectors, charged with securing observance of the Act, and regulations and awards of the Commission, and with power to institute prosecutions for breaches of awards.

For the APS specifically, the trends reflected in the terms of this Act were to be further emphasised in the passage of amending workplace relations legislation, and by the then Howard Government’s openly stated intention that its public service reform agenda, including the now 1999 Public Service Act, were being implemented within the new workplace relations framework that had been set out in its 1996 enactment.

The *Workplace Relations and Other Legislation Amendment Act 1996* substantially amended the 1988 Industrial Relations Act and, inter alia, retitled it as the *Workplace Relations Act 1996*. It was brought forward by the then recently elected Howard Government, as providing a (further) new framework for the industrial relations system. In his Second Reading Speech on the then Bill, Minister Reith stated that the principal object of the legislation was to establish a framework for cooperative workplace relations
with a focus on ‘giving primary responsibility for industrial relations and agreement-making to employers and employees at the enterprise and workplace levels, with the corresponding role for the award system being to provide a safety net of minimum wages and conditions’ (PD House 23 May 1996, p. 1297).

The amendments to the 1988 Act were wide-ranging but, from an APS perspective, the key elements included:

- the option for employers/employees to enter into formalised individual agreements by way of Australian Workplace Agreements (AWAs) or
- the option of formalised collective agreements by way of Certified Agreements (CAs), made with unions or made directly between employers and employees
- both the above forms of agreement were subject to compliance with a set of statutory minimum conditions, including no loss of previous remuneration entitlements under relevant awards, guaranteed equal pay for work of equal value, and various minimum leave entitlements
- absence of discrimination to be a precondition to certification of agreements
- freedom of association, including choice of whether or not to be in a union or employer organisation
- a new unfair dismissal scheme ‘fair to both employee and employer’, with the AIRC empowered to determine whether a termination of employment was ‘harsh, unjust or unreasonable’ and to make court-enforceable orders in relation thereto.

Essentially reflecting a return to the 1988 situation, court enforcement powers reverted to the Federal Court of Australia, from the Industrial Relations Court of Australia, which had been established as a separate industrial court by the Industrial Relations Reform Act 1993, but with individual Federal Court judges exercising the jurisdiction.

The changes further set the stage, therefore, for achieving the Government's objective of having the APS operate under the same industrial relations and employment arrangements as applied to the rest of the Australian workforce.

**FINANCIAL ACCOUNTABILITY**

Devolution to agencies of powers in the industrial workplace relations area was soon followed by financial management legislation with similar intent. Passage of the Financial Management and Accountability Act 1997 and the Commonwealth Authorities and Companies Act 1997 reduced regulation and simplified requirements, while sharpening accountability provisions.

The role of the Auditor-General was also enhanced at the same time. Earlier Government concerns that the traditional transaction-based auditing function was insufficient to provide proper accountability led to passage of the Auditor-General Act 1997. It built on 1979 legislation which then provided for the introduction of efficiency audits. The new legislation defined more precisely the wider-ranging powers of the Auditor-General, and strengthened the functional independence of the office.
HUMAN RIGHTS

Enactment of the Disability Discrimination Act 1992 introduced provisions of general application across Commonwealth public sector employment. As with earlier human rights legislation in the 1980s, employment decisions within the APS must have regard to the requirements of that Act.

OCCUPATIONAL HEALTH

All Commonwealth departments and authorities became subject to the occupational health, safety, rehabilitation and compensation obligations of the Occupational Health and Safety (Commonwealth Employment) Act 1991.

ACT PUBLIC SERVICE

The structure of the Canberra-based APS ultimately became subject to a significant change, with s. 54 of the Australian Capital Territory (Self-Government) Act 1988 making provision for the establishment of a separate ACT public service ‘for the conduct of the public administration of the Government of the Territory’, the constitution and operations of that service to be provided by a separate enactment.

A rudimentary framework for the ACT public service was established by the Territory's Public Service Act 1989, and associated Public Service Ordinance 1989, the latter made under the Commonwealth Seat of Government Administration Act 1910. For the next five years, however, while operating under the control of the ACT Government, the new service effectively remained a branch of the APS, called the ACT Administration, the head of which had the powers of a Secretary under the 1922 Public Service Act. Legislative effect was given to these latter arrangements under s. 21 and Schedule 1 of the (Commonwealth) ACT Self-Government (Consequential Provisions) Act 1988, the staff concerned being designated ‘transitional staff’ of the Territory, who essentially retained their APS employment rights and conditions.

In 1992, then Prime Minister Keating initiated moves for the establishment of a fully separate ACT public service. Consultations between the Commonwealth and ACT Government, and the Australian Council of Trade Unions led eventually to passage of the (Territory) Public Sector Management Act 1994 and to establishment of the ACT Government Service, with effect from 1 July 1994. Complementary Commonwealth legislation, the Australian Capital Territory Government Service (Consequential Provisions) Act 1994, provided for the staff concerned ceasing to be members of the APS, and becoming subject to employment under the ACT legislation. Provision was made also for ‘reciprocal mobility’ arrangements between the APS and the ACT public service.

While including some novel features, the ACT legislation was generally in the style of a conventional Public Service Act, with many of its provisions directly mirroring detailed provisions of the 1922 Public Service Act. In terms of the approach adopted later in developing the federal 1999 Public Service Act, it is of interest to note, however, that the ACT enactment included also specification of a range of values and general principles
applicable to the operations of government agencies, including

- broad values and principles to be implemented and observed by agencies
- general principles of public administration
- general principles of management in employment matters
- general obligations of public employees.

Establishment of the ACT Government Service resulted in some 7200 staff ‘transferring’ from the APS.

OTHER CHANGES AND DEVELOPMENTS 1987–99

From its inception, the Public Service Commission accorded significant priority to reform of the APS legislative framework, not least because it fell short of reflecting the new realities of the Commission’s role as successor to the Public Service Board. The working out of the legislative reform process over the ensuing 12 years, however, is the focus of later parts of this history. The current section seeks rather to highlight other significant changes and developments in the same period, with continuing relevance, in some instances, through to 2001—the effective end point for the 2002 detailed narrative history. Some more recent developments are discussed in the concluding observations on emerging issues.

Given the relatively short time that the Commission has existed, it is probably still premature to seek to provide an adequate evaluation of, and perspective on, the initiatives and developments which have taken place. The topics addressed in the following paragraphs need to be viewed in that light.

THE NEW ENVIRONMENT

The newly established Public Service Commissioner had been assigned responsibility for the policy aspects of APS recruitment, promotion, mobility, discipline and retirement. Involvement in day-to-day casework activities virtually ceased outside the SES staffing area, aside from some residual and lower-level ongoing activities in the non-SES redeployment/retirement and EEO fields, as the Commission’s office progressively disengaged itself from functions exercised previously by the Board.

The immediate challenge for the Commission, therefore, was to establish a new meaningful role for itself. In large part, it began to realise that role by directing its limited resources to a range of significant areas of contemporary personnel management in the APS.

Newly appointed Commissioner John Enfield remained in that office until 24 September 1990. His efforts were to be directed significantly in the interim period to creating a new culture in APS administration, with increased emphasis on devolved responsibilities and associated accountabilities.
The thrust of these new activities was pursued by the succeeding Commissioner, Denis Ives, appointed to the office on 25 September 1990. The new incumbent was to play a major role in the evolution of APS reforms during the early 1990s, including establishing links with overseas public services and organisations concerned with developing best management practices.

Denis Ives attached importance to the development of a ‘new professionalism’ in public service management, and was significantly involved with development of the Human Resource Management Framework, discussed below, and with a wide range of staff development and training programs for the APS.

In October 1994, Denis Ives brought forward the Commission’s submission to the McLeod Public Service Act Review Group. The submission canvassed a range of options for modernising human resource management in the APS, to achieve a more effective public service, not constrained by unnecessary legislative rigidities. Formulating the Commission’s response to the Review Group’s proposals was then to remain a priority for the Commissioner for the remaining months of his term of office.

The successor Commissioner, Dr Peter Shergold, was appointed on 25 September 1995, and was to play a leading role in advocating public sector reform. As his predecessor had done, he stressed the need for less prescription of detailed conditions of employment and for achieving a better balance between devolution to agencies and accountability for outcomes. He likewise pressed for clear articulation of public service values and standards of conduct for public servants, and for achievement of workplace diversity. These themes were soon to be reflected in the APS reform agenda of the new government, and to generate an intense period of Commission activity under Peter Shergold’s direction, leading up to introduction of the Public Service Bill 1997.

**APS 2000**

In concluding this history at the beginning of the 21st century, it seems to be particularly appropriate to be revisiting one of the first major projects of the Public Service Commission—APS 2000.

The Commissioner’s 1988–89 annual report records commencement of research for a paper so titled, involving an interdepartmental working party examining the then prospective demands on the future APS workforce. Intended to provide a basis for informed discussion by a wide audience from within and outside the public sector, and for subsequent decision making, the paper addressed a wide range of topics, such as:

- the future of the labour market
- likely skills requirements
- impact of the ageing of both the general population and the APS workforce
- the future participation of women in public sector employment
- the impact of technology
- the changing nature of work.
Without attempting to apply the wisdom of hindsight, it is of interest to now revisit the APS 2000 paper. It noted a declining rate of growth for the labour force and reduced numbers being employed in public administration over the decade, but with increasing female representation at SES and the senior non-SES levels. It then postulated alternative extreme scenarios which retain a contemporary relevance:

- a public service comprised of core activities, playing primarily a priority-setting and resource allocation role
- or

- a service with significant involvement in a wide range of economic activities, possibly being run on a commercial basis.

The Commission’s 1999–2000 State of the Service Report (a publication discussed in more detail later) also revisits some elements of the APS 2000 predictions, against now known outcomes, and addresses actual and possible reasons for variation (PSMPC 2000, p. 61–3).

SENIOR EXECUTIVE SERVICE

The new Commission retained significant responsibilities for SES central management and, more particularly, selection of SES staff. In the latter context, the Commission progressively developed and refined ‘core’ skills and competencies for SES employment. Additionally, from July 1988, a ‘user pays’ scribe service was introduced, staffed by experienced Commission officers, to assist chairpersons of SES selection advisory committees to complete selection processes quickly and efficiently.

In October 1988, the Commission reintroduced the position of Senior Executive Adviser in the Commission’s office, a role first proposed in the Hawke government’s December 1983 White Paper, Reforming the Australian Public Service. The Commissioner was soon to report a ‘constant demand for this assistance’, which sought to provide advice to senior officers experiencing difficulties particularly, but not solely, in SES staff displacement situations (PSCr AR 1989, p. 21). Whilst not a formal grievance process with power to overturn decisions, the adviser role entailed investigating, mediating and consulting in an effort to resolve difficulties, and also played a role, where possible, in facilitating interdepartmental mobility for development purposes.

Pursuit of development strategies for SES staff had been a priority for the Public Service Board, and has continued to be so for the Commission. Aside from retention of programs already operating when the Commission was established, the Top Management Program was introduced in October 1987, directed towards meeting the development needs of very senior APS managers. In November 1990, the new Senior Executive Leadership Program was developed. Separately identified, continuing problems with poor rates of promotion of women into the SES and its feeder groups led to the conduct in 1988 of a pilot Senior Women in Management (SWIM) program. The success of the pilot led to continuation of the basic scheme, with periodic modifications, through to the time of writing.
Over the years, the Commission has continued to provide a varied menu of development opportunities for existing and aspiring SES officers, comprising programs of the nature described above, tailored courses and seminars. The Commissioner has reported on the range of opportunities provided, along with associated seminar activities for SES staff.
That listing reflects an outcome of major review, redesign and extension of the leadership development programs offered to senior executives, as part of the implementation of the Senior Executive Leadership Capability Framework.

The Leadership Framework was launched in May 1999, as a comprehensive statement of leadership requirements which could provide an integrated approach to selection, development, performance assessment and succession planning for the APS. The components of the Framework also have been documented by the Commissioner (PSCr AR 1999, p. 14–15). From September 1999, the five criteria in the Framework have formed the basis of revised criteria for SES staff selections.

A further element of the Leadership Framework has been the development of an APS Career Development Assessment Centre, designed to provide to high-potential staff in the SES feeder group feedback about their strengths, weaknesses and development needs. Again, the essential elements of the Centre have been detailed by the Commissioner (PSCr AR 2000, p. 36–7).

EQUAL EMPLOYMENT OPPORTUNITY AND WORKPLACE DIVERSITY

With the abolition of the Public Service Board, and the government’s agreement to the Efficiency Scrutiny Unit’s recommendation for devolution to departments of responsibility for implementation of EEO programs, uncertainty existed for some time as to whether the new Commission would have any significant ongoing role in relation to EEO in the APS. However, in September 1987, the government announced that an EEO monitoring and policy unit, with nine staff, would be established within the Commission, along with a Principal Adviser with SES status.

In his first annual report the Commissioner foreshadowed that, in future reports, the Commission would take a proactive stance in listing departments that failed to prepare and implement a satisfactory EEO program. Within the limits of its resources, the Commission would also direct attention to ensuring that departments were aware of, and responsive to, the government’s affirmation of its strong continuing commitment to EEO (PSCr AR 1988, p. 24).

The annual report for the following year reported expanded Commission activity in the EEO field, affirming earlier commitments to provide EEO reporting guidelines to departments, and to assist them with the development of performance indicators. Government support for these activities was to be further underlined when, in December 1989, Minister Morris, then Minister Assisting the Prime Minister for Public Service Matters, launched a new strategy developed by the Commission, called Further steps forward: EEO into the 1990s—the strategy taking into account wider government goals in areas of social justice, multiculturalism, women in the Australian community, Aboriginals and the disabled.

Some three and a half years later, the successor Minister Assisting (Brereton) provided further government endorsement through launching, in May 1993, Equal employment opportunity: a strategic plan for the Australian Public Service for the 1990s. The 1993 plan’s central strategic vision was for EEO principles and measures, founded on the merit...
principle, to be further integrated into all people management activities in the APS. It was
designed to provide general guidance and promote better coordination of EEO
throughout the APS (PScR AR 1993, p. 49). It included three objectives with associated
performance indicators to increase in the APS, by the year 2000, the proportions of
Aboriginal and Torres Strait Islander people, people with disabilities and people of
non–English-speaking backgrounds. Further indicators related to increasing the
representation of women at senior (SES and Senior Officer) levels of the Service.

The EEO function expanded progressively, with provision of regional EEO advisers in
Victoria, NSW and Queensland. An Equal Times newsletter had become well established
by 1993–94, with a circulation of 14 000. Two national conferences were hosted. Existing
sexual harassment guidelines were complemented by the release, in May 1994, of
guidelines on eliminating workplace harassment.

Implementation of the 1993 plan was proposed to be the subject of a thorough
evaluation in 1996. However, while the Commission continued to pursue significant EEO
activities in accordance with the plan, and within the framework of the EEO provisions in
s. 22B of the 1922 Public Service Act, its agenda broadened. Thus, during 1994–95, in
association with the Office of Multicultural Affairs and a small number of agencies,
resources were directed to a project on Productive diversity in the APS, addressing the
recruitment, recognition and use of people with linguistically and culturally diverse skills.
The element of diversity progressively acquired a sharper focus and the Commission's
1997–2000 corporate plan strategy provided for developing and promoting standards
and performance in the APS, including the fostering of employment equity and diversity

Following the March 1996 change of government, the above changes came to be reflected
also in the moves to develop a new, streamlined, principles-based Public Service Act. The
set of APS Values in the 1997 Public Service Bill included (clause 10(1)(b)) specification
that the APS should be a workplace free from discrimination, recognising and making
best use of the diversity of the Australian community it served. The concept of
discrimination related to that used in paragraph 3(j) of the 1996 Workplace Relations Act:

… respecting and valuing the diversity of the workforce by helping to prevent and eliminate
discrimination on the basis of race, colour, sex, sexual preference, age, physical or mental
disability, marital status, family responsibilities, pregnancy, religion, political opinion,
national extraction or social origin …

Failure to achieve Senate passage of the 1997 Bill led to the government's decision to
implement many of the proposed reforms by administrative means, and the APS Values
were incorporated in the Public Service Regulations in February 1998. Prior to the
amending regulations coming into effect on 15 March 1998, new Public Service
Commissioner's Guidelines, Managing workplace diversity, had been issued on 10
February 1998, with inclusion of the requirement for each APS agency to establish a
workplace diversity program for that agency.

The new guidelines replaced existing EEO guidelines dating from 1990, but continued to
derive legal support from the guidelines authority in section 22B(10) of the 1922 Act.
Further, the section 22B(11) requirement for the Commissioner to report annually on the EEO provisions of that Act were used to provide for annual reporting on both EEO and workplace diversity. The single integrated report was to be included in the then newly instituted Commissioner’s *State of the Service Report*. In the event, a separate *Workplace Diversity Report* was produced each year from 1997–98, as part of three companion volumes in an annual State of the Service series, the other two parts being the principal *State of the Service Report* and the *Australian Public Service Statistical Bulletin*. The *Workplace Diversity Report* has more recently been incorporated in the *State of the Service Report* for 2002–03, and is expected to be so published in future years.

Section 18 of the ultimately enacted *Public Service Act 1999* now requires an agency head to establish a workplace diversity program, and section 44 requires the Commissioner to provide ‘a report on the state of the APS’. Additionally, Public Service Commissioner’s Direction 2.4, issued in accordance with section 11(1) of the 1999 Act, requires agency heads to put in place measures directed to ensuring compliance with anti-discrimination laws and principles applying to APS employment.

**OFFICIAL CONDUCT**

Official conduct guidelines had been developed before the abolition of the Board, but the Commission was soon to note a low level of awareness in the APS of the standard of conduct expected of officers in their official duties. With the intent of improving awareness, it produced the *Standard of conduct* pamphlet for wide circulation within the Service, drawing to attention key elements of the already existing *Guidelines on official conduct of Commonwealth public servants*.

The guidelines had been developed initially by the Board in the 1977–79 period at the request of the government, following its consideration of recommendations of the Coombs Commission. The Board had commended such an approach to the Commission, noting that there was ‘no comprehensive written code of ethics in the sense of a written set of conventions to which all public servants might be expected to adhere’ (PSB 1975, p. 43). An attempt some years earlier by the ACT Branch of the Royal Institute of Public Administration to produce a draft code had not been brought to finality.

Following government approval, the Board’s guidelines were published for general circulation in October 1979, and subsequently incorporated in the *Board’s Personnel Management Manual* in 1982. The guidelines were reviewed further in 1985–86, with a new edition published at the time of the Board’s abolition in July 1987. A further edition of the guidelines was published in 1995, following review by the then Management Advisory Board.

By this time, the Public Service Act Review Group had recommended (McLeod Report 1994, para. 5.9) that a new Act should incorporate a statutory Code of Conduct—an approach also endorsed in the framework developed following election of the Coalition Government in March 1996. Section 13 of the 1999 Public Service Act now includes the APS Code of Conduct, and s. 14 of the Act requires agency heads to establish and promulgate to their staff procedures for determining whether breaches of the code have
occurred—such procedures having to comply with requirements specified in the Public Service Commissioner’s Directions.

Over more than a decade, therefore, the Commission has directed significant attention and resources to matters bearing on the official conduct of APS staff. In the light of enactment of the statutory code, action has been taken by the Commission to develop a new approach to the guidelines, concentrated on the provisions of that code and their direct relationship to the APS Values. The new publication, *APS Values and Code of Conduct in Practice: A guide to official conduct for APS employees and Agency Heads* (the Guide), was launched in August 2003.


**STAFF DEVELOPMENT**

The recommendations of the Efficiency Scrutiny Unit in 1987 did not address directly the future of the Board’s central staff development functions. In the event, following consideration of a 1988 management consultant’s report, the Management Advisory Board concluded that the Commission should continue to provide development programs for the SES and its feeder groups, and provide advice and high-quality assistance to departments in the development of their own programs and in enhancing the skills of staff development practitioners.

In 1988 also, the Management Advisory Board requested that the Commission report to it annually on policy and strategies for human resource development in departments. In the light of the Commission’s 1989 report that APS staff development had been allowed to diminish in importance in most areas of the Service, MAB endorsed remedial strategies proposed by the Commission, focused on strategic intervention and support of practitioners and departmental managers of staff development.

Reference has been made above to some key elements of the Commission’s developmental programs for SES staff. Elsewhere, the Commission has continued to have significant involvement with non-SES training and development, particularly in the areas outlined below.

**JAPSTC**

The Commissioner recorded the establishment in November 1989 of the Joint APS Training Council (JAPSTC) (PScr AR 1990, p. 49). The Council’s establishment was a direct consequence of award restructuring under the Industrial Relations Commission’s Structural Efficiency Principle. The development of related, new classification structures had significant staff training implications. The role of the Council was to advise on existing and future skill requirements, skills recognition, and training to support award restructuring.
The Council consisted of 12 members, representing the APS, unions and the tertiary education sector, and was chaired by the Public Service Commissioner. Funds were allocated to the Commission to maintain a Council secretariat and for the conduct of associated Council projects until June 1993. By June 1991 eight such Council-endorsed projects were being undertaken, associated variously with the development of competencies and new training structures (PSCR AR 1991, p. 47).

Activities associated with JAPSTC featured prominently in the Commissioner's annual reports over the following five years. The government's National Training Board accepted JAPSTC as an interim competency standards body for core competency standards in the APS sector of the public administration industry. In May 1993, the Board endorsed the APS core competencies, by which time JAPSTC (and the Commission) was directing attention and significant resources to developing a framework for implementing competency-based training—itself largely completed and put in place during 1994–95, and encompassing training at APS entry levels through to middle management, using both external educational institutions as well as in-Service resources.

The early JAPSTC initiative saw the development of accredited training programs for about 85 per cent of APS staff. With the establishment in 1994–95 of the National Public Administration Training Advisory Board, the conversion of APS-endorsed standards to national standards passed to that body.

**MIDDLE MANAGEMENT DEVELOPMENT**

The middle management focus saw the establishment of the Middle Management Development Program, which received a budget allocation of $10m per annum for three years from July 1990, for subsidisation of middle management development activities and the development of the Public Sector Management Course (PSMC) for middle managers in both the Commonwealth and state public sectors. Development of the course was undertaken by way of a joint venture set up between the Commonwealth, state and ACT governments, each of the parties represented on a Commonwealth-chaired Board of Management. A PSMC project team was located in the Public Service Commission, which provided both the team leader and other Commonwealth representation, alongside representatives of the ACT and three states.

The project team developed a design brief for the PSMC during 1990–91, and development of a curriculum was undertaken by the University of Wollongong, with course materials being then trialled in the ACT and four states during 1991–92. The course was put in place during the following year, with more than 600 Commonwealth and state participants in that first year, undertaking 170 hours of course contact time and a 40-hour work-based project. Participants completing the course and successfully meeting assessment standards, set by the Centre for Australian Public Sector Management at Griffith University, became eligible for the Graduate Certificate in Public Sector Management, with the first graduates receiving their certificates in May 1993. That certification is now provided from the Flinders University of South Australia.
The PSMC has received favourable evaluation since its inception, but has also undergone curriculum changes. From its inception in 1992 until June 2001, a total of 6560 participants had undertaken the course. An Internet site is now provided and, during that reporting year, interactive delivery of the new curriculum was piloted with participants in remote Australian locations and in Antarctica. Delivery of the course to other countries has also been piloted, with a successful venture in Fiji in 1999–2000. Other overseas interest in the course has been expressed by Samoa and South Africa (PSCr AR 2001, p. 80).

**PSETA**

Since its establishment in 1997, the Commission has been a member of Public Service Education and Training Australia (PSETA)—a body comprising all Commonwealth, state and territory Public Service Commissioners, along with representatives of the Australian Council of Trade Unions and the Community and Public Sector Union (CPSU), as representing both APS and state public service employees. The body was formed to address implementation of the Howard Government’s vocational education and training framework in the APS.

Intended to have a strategic focus, PSETA has concentrated on core public service training matters, with its principal product to date having been the Public Services Training Package. Endorsed by the Australian National Training Authority in November 1999 and launched in October 2000, this package is directed towards providing individuals with clear skill and career pathways, through attainment of recognised qualifications from nationally recognised training providers.

Beyond its involvement in the development of the package, the Commission has continued to provide implementation support through maintenance of the Vocational Education and Training Network, involving in 2000–01 contacts in 84 APS agencies. The Commission has also coordinated the Commonwealth Training Materials Project to design, develop and deliver training materials against the competency standards defined in the package, for use both in direct face-to-face training situations and distance learning through online delivery.

**REGIONAL ACTIVITIES**

At the time of its establishment in 1987, the Commission operated without any regional office presence. Its non-SES staff development activities were to be directed to policy formulation, the fostering of cooperation in the regions for the exchange of information and the conduct of joint staff development activities, and providing a small staff development consultancy service.

By 2000–01, the Commission was providing a range of learning and development opportunities for both SES and non-SES staff in the regions, as detailed in the Commissioner’s 2000–01 annual report. Through its then People and Organisation Development Team, it provided advice on strategic approaches to leadership and the management and development of people, both developing and delivering particular
programs for cross-agency attendance, maintaining a panel of consultants for use as preferred service providers, and offering tailored consultancy and development solutions to agencies.

From December 1995, the Commission came to have a more direct involvement in regional activities, as a result of amalgamation with the Merit Protection and Review Agency, having earlier been able to work from the Agency's state offices, if occasion demanded.

From an uncertain start, therefore, the Commission has now established again a significant, central agency presence in staff development activities, as had its Public Service Board predecessor, albeit by markedly different means in the use of its financial and people resources.

HUMAN RESOURCE MANAGEMENT FRAMEWORK

Application of the Structural Efficiency Principle in the APS served to provide a further means by which the Commission was able to move to establish and assert its credibility as a significant, continuing player in the APS management framework:

... SEP ... represents an opportunity to completely re-evaluate existing human resource management policies and practices and to revamp those in need of change, into the flexible and responsive tools that will enable APS managers to effectively manage the change process.

... the challenge is for the Commission, in cooperation with other stakeholders, to develop a comprehensive model for human resource management for use by agencies into the next century (PSCr AR 1990, p. 17).

Development of the model was flagged, therefore, as a major project for the Commission, with intention to translate the resultant framework into ‘a Bill for a new Act for personnel administration’ (PSCr AR 1990, p. 24).

The ultimate legislative outcome was to be the 1999 Public Service Act, the more detailed development of which is discussed in the next chapter. The further evolution of the framework (to become known as the HRM Framework) is addressed in the following paragraphs.

The HRM Framework was developed during 1991–92, with the objective of articulating an integrated approach to people management in the APS, and providing also a model for the Commission’s role in developing, setting and communicating overall policies, strategies and values in a devolved management environment (PSCr AR 1992, p. 50–3).

The framework was published in booklet form in July 1992 and widely circulated. A series of seminars based on the Framework was held during 1992–93 in all capital cities and five major provincial cities, to provide opportunity for APS line managers to discuss policy issues with senior Commission staff. Follow-up ‘best practice’ training modules were also developed by the Commission.
External developments had impacted also on the Commission’s initiative for raising the profile of HRM in the APS. In January 1992, an inquiry into HRM in the Service was set in train by the Joint Committee of Public Accounts. The Commission responded to the Committee’s wide-ranging terms of reference with a comprehensive submission in March 1992. Aside from further advocacy for modernisation of the formal framework for HRM in the Service, the Commission highlighted the need for a transition to a ‘new professionalism’ in the APS, requiring managers to focus increasingly on leadership aspects of management, as well as the integration of traditional values with newer management principles. The submission addressed also the ongoing role of central agencies in the development, maintenance and dissemination of overall standards and values, in the context of the devolution and decentralisation of powers and responsibilities (PSC 1992, p. various).

Themes developed in the submission were to continue to be reflected in Commission policies and programs throughout the remainder of the decade. The Joint Committee tabled its report in December 1992, with a range of recommendations addressing, variously:

- the formal HRM Framework
- accountability
- professional training and development
- recruitment and staff career development
- the SES
- the role and structure of the Commission.

In the light of the Committee’s report, and the three key future directions for public sector reform set out in the July 1993 Management Advisory Board report *Building a better Public Service* (namely, making performance count, leadership and strengthening the culture of continuous improvement), some restructuring of the Commission was effected to reflect more closely its then role and priority tasks. In particular, the Human Resource Management Framework Branch was established, with the task of revising, communicating and marketing the Commission’s HRM Framework.
publication and developing proposals for related communication activities. Strategies for this included production of booklets targeting key areas of the framework, promotion of elements of the framework by electronic means and conduct of a further series of national seminars, focusing on performance management. The seminars served as a vehicle for launching the second edition of the framework publication in March–May 1995.

By this time, other developments had begun to manifest encouraging signs of realisation of a new legislative base for the HRM Framework. Drafting of a new Public Service Act had commenced as a consequence of the proposals in the 1994 McLeod Report and was subsequently to proceed, under new directions, following the March 1996 change of Government. In the meantime, the Commission continued to promote the HRM Framework across the Service and through presentations to participants on the Public Sector Management Course. It foreshadowed also commencement in 1996–97 of a review of the role and structure of the framework, taking account of changes then occurring to APS people management policies and practices as a result of the implementation of workplace bargaining across the Service. Revision of the framework was intended to take account also of relevant best practice initiatives identified in the *Achieving cost effective personnel services and Innovative ways of organising people* projects of the Management Advisory Board and its Management Improvement Advisory Committee (PScr AR 1995, p. 5 and PScr AR 1996, p. 31–2).

As the legislative initiatives were pursued through to the ultimate passage of the 1999 Public Service Act, so references to the HRM Framework came to be replaced by references to particular Commission Service-wide initiatives and programs, reflecting strategic approaches to improvement of people management in the APS. Thus, in response to agency calls for a simplified approach to guidelines, a new streamlined approach to providing advice was launched in the form of *The essentials* series of pamphlets, dealing variously with matters ranging from APS values and standards of conduct to the management of poor performance and recruitment, selection and appointment matters.

Various strategic approaches to people management and innovative work practices have continued to be noted in the Commissioner’s annual reports, along with reporting of the Commission’s continuing active involvement with the conduct and fostering of
development programs for APS staff, and the provision of ‘best practice’ advice to agencies across the range of the Commission’s functional responsibilities.

The HRM Framework initiative of the Commission more than a decade ago, therefore, has borne fruit for the APS at large and, in doing so, has enhanced and strengthened the position of the Commission itself as a significant policy management agency in the Service.

**STATE OF THE SERVICE REPORT**

Section 44 of the 1999 Public Service Act requires the Commissioner’s annual report to include ‘a report on the state of the APS during the year’, with the first report under the Act provision to be presented in October 2000. It had been preceded, however, by two earlier such reports, for which provision had been inserted in the then Public Service Regulations in February 1998, as a consequence of Senate action which had prevented passage of the 1997 Public Service Bill (discussed in more detail in Chapter 8).

The (then) Commissioner, Helen Williams, indicated that her first *State of the Service Report* would assess the impact of reforms in areas such as managing performance and client service, and would monitor the implementation of the APS Values and Code of Conduct (PScr AR 1998, p. 5). That initial, relatively brief report covered only the remaining three months of that reporting year.

The first full-year report (1998–99) was published in November 1999, and again reported on implementation of the Values and Code of Conduct. The then substantially larger report addressed also a range of other issues, including the changing size and composition of the APS, accountability, merit in employment, improving performance and improving customer service.

Coverage was similarly wide-ranging in the 1999–2000 report, presented to the Prime Minister in October 2000, but with a particular focus also on implementation of the 1999 Act, and four other major themes—the nature and changing face of the APS; accountability; customer service; and capability development, with specific focus on workforce planning and development of high-quality leadership. The report concluded by addressing challenges for the future, with the APS still required to operate within a broad legislative framework but, at the same time, increasingly within the broader framework of the wider community’s labour market conditions and challenges.

Agency understanding and application of the APS Values and Code of Conduct again came under examination in the 2000–01 report, as did the issues of responsiveness and accountability, with particular reference in this instance to financial management, client service, and privacy and security arrangements in agencies. The report directed particular attention also to measures put in place by agencies to enable them to discharge their accountability responsibilities, under both the Public Service and Financial Management Acts, where public sector programs or activities have become subject to outsourcing arrangements. Updated demographics on the APS, its wages and conditions framework, aspects of devolved management under the 1999 Act, and effective performance management in the Service make up the balance of the report’s varied coverage.
As already mentioned, the *State of the Service Report* now also encompasses the *Workplace Diversity Report*, and the separately published *Australian Public Service Statistical Bulletin*. The reports now provide a wealth of information and evaluative commentary on the operation of the Service. Together with the principal annual report of the Commissioner, they would now have to be viewed as comparable in value and scope as were the detailed and informative reports developed and published by the Public Service Board during the time of the Wheeler chairmanship, and continuing through to the time of the Board's abolition.

**AN INCOMPLETE ACCOUNTING**

The preceding commentary on changes and developments which have occurred since establishment of the Commission is, as indicated earlier, selective in terms of choice of subject matter. Although having had an ongoing association with the Commission over the period, the writer would claim to have been no more than a relatively detached observer for most of that time, with a particular focus on development of the legislation to replace the 1922 Public Service Act.

A more detailed appraisal of the Commission's activities and achievements since 1987 would need to recognise a range of other significant developments and undertakings. These would include:

- development and trialling of staff appraisal systems
- the Commission's role in developing and instituting early retirement schemes for SES and non-SES staff, and its related central involvement in the management of excess staff situations in the APS—In particular, through its Central Redeployment Unit, established in June 1993, and the successor APS Labour Market Adjustment Branch, established in July 1994 (subsequently, the APS Labour Market Adjustment Program, now discontinued)
- significant, continuing involvement in international activities, including hosting individual and group visits for public service officials from Asia, Africa, Europe and North America; reciprocal visits by Commission staff; and participation in meetings of international public administration and management agencies
- production of an extensive range of publications
- development of comprehensive statistics on APS employment and the establishment of the APS Employment Database
- management of APS staffing entries in the Commonwealth Gazette, since October 1999.

Changes in the Commission's own structure and internal management arrangements would also warrant mention, including

- progressive development through the 1990s of corporate and business plans
- introduction in March 1996 of a flatter organisational structure, based on self-managing teams

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*A HISTORY IN THREE ACTS*
• enhancement of the financial accounting and information technology capabilities of the Commission, including upgrading desktop computer capabilities and providing Internet access for all Commission staff
• full integration into the Commission’s organisational structure in December 1999 of the former Merit Protection and Review Agency
ORIGINS

The circumstances leading to establishment of the Public Service Commission in September 1987 were outlined in Chapter 6 of this history.

In the Senate Second Reading Speech on the then Administrative Arrangements Bill 1987, Minister Button indicated that the initial enabling legislation for the Commission (and for implementing related government decisions) would be followed up with further legislation, to give full effect to the government’s intentions for distribution of the former Public Service Board’s powers (PD Senate 15 September 1987, p. 85).

Realising those intentions was to prove considerably more difficult than the protagonists had envisaged. While enactment of the Administrative Arrangements Bill served to remove from the existing legislation references to the composition and key powers of the Board, the broader legislative framework within which the Board operated was to remain in place for a further 12 years, until repeal of the 1922 Public Service Act and the passage of its 1999 successor.

LEGISLATIVE OBJECTIVES

At the time of abolition of the Board, the new Commission believed that three pieces of legislation were likely to be needed to give effect to the government’s intentions:

• initial legislation to abolish the Board, establish the Commission and effect some other immediate changes—action realised through passage of the Administrative Arrangements Act

• an Act formally devolving to the Secretaries of the then Departments of Finance and Industrial Relations, and to the Secretaries of other departments, the powers which had been delegated to them in July 1987 by the Board; and making some machinery of government changes

• a new Act for personnel administration in the APS, to replace the existing Public Service Act.

PROPOSED DISTRIBUTION OF POWERS BILL

By the time of the Commission’s formal establishment in September 1987, action was already in train for development of the proposed devolution legislation. Drafting instructions were provided by the Commission in December 1987, and the first draft of a proposed Distribution of Powers Bill had been completed before year’s end. Prior to this, in November 1987, the proposed Bill had already been given ‘essential for passage’ priority for the 1988 autumn sittings of Parliament. The draft Bill was subsequently to provide the basis for discussion with the ACTU and key unions with APS coverage.
From the Commission's standpoint, the Bill provided a potential means of reinforcing its legitimacy, and its claims to be recognised as a continuing, significant central management agency for the APS. While accepting the realities of its situation as a small, policy-oriented remnant of the former Public Service Board, and the terms of the government's decision for devolution of the Board's powers, the Commission was intent on establishing some accepted parameters for its own future operation.

Bureaucratic, territorial manoeuvrings were to constitute, however, a relatively minor barrier to progressing the devolution legislation. The devolution proposals generated significant concerns for the unions. Previously antagonistic to the manner and extent to which the Board was perceived to have exercised its wide-ranging powers to thwart their actions and aspirations, the unions now had new concerns. The proposed successor arrangements, flowing from the government's adoption of the recommendations of the Block Efficiency Scrutiny Unit, were seen to run contrary to agreements reached previously with the Board, in areas such as temporary employment, and redeployment and retirement. In the course of preliminary discussion of the devolution proposals in March 1988, the unions expressed concern also at the diminished role of the Commissioner, as the successor to the Board, and maintained that the Commissioner should be provided with sufficient resources to honour previous undertakings.

The then draft Bill was made available to the unions, and provided a basis for more detailed discussions with the ACTU and some of its principal APS affiliates on 6 April 1988. Aside from a further canvassing of the matters referred to above, particular concerns were expressed by the unions on proposals for the former Board's central 'employer' roles, in APS terms and conditions of employment and arbitral matters, to be placed with the Minister for Industrial Relations, rather than the Secretary of his department. Objection was raised also to a proposed new Public Service Act provision to deal with the staffing implications of any transfer of APS functions to state governments or to the private sector, thus removing the then requirement for specific legislation in any given instance.

The unions were able to extract only limited concessions from the April discussions, or from later representation of their claims to the Minister for Industrial Relations in May and August 1988 and, subsequently, to the then Minister Assisting the Prime Minister for Public Service Matters in September 1988, and in February and May 1989. Further discussion was to have occurred in November 1989, but there is no Commission record of this having taken place. By this time, however, it had become clear that passage of the proposed distribution of powers legislation was then problematic.

Significant reservations had already been expressed. Ministerial briefing in May 1989 indicated that a stalemate had been reached in negotiations on a significant number of issues, perceived to reflect union unwillingness to accept a number of the necessary implications of the 1987 abolition of the Board, particularly in relation to redeployment and retirement processes. In the event, action on the proposed Bill had been discontinued by the end of 1989. The Office of Parliamentary Counsel was advised formally to discontinue action on the Bill on 28 May 1990. While some non-controversial provisions of the Bill were then to be taken up in pending Prime Minister and Cabinet
portfolio legislation, other previously proposed amendments were seen as too contentious to be pursued by such means.

Without explicitly acknowledging disappointment or defeat in relation to the legislation, the Commissioner sought to place emphasis on achieving an alternative, positive outcome:

Although a substantial amount of work was done in the Commission to draft a Distribution of Powers Bill, feedback from departments indicated that the original [1987 Commissioner] delegations were working well, and it was felt that it would be a positive initiative to commence work on a Bill for a new Act for personnel administration in the APS (PScr AR 1990, p.18).

PROPOSED NEW ACT

Prior to reporting in the above terms, the Commission had gained the agreement of the then Minister Assisting the Prime Minister for Public Service Matters (Peter Morris) for the new Act initiative to be put forward as a new policy for the fourth term agenda of the Hawke Government. As then submitted to the Prime Minister, the proposal was advanced as an intended ‘comprehensive revision’ of the 1922 Act, incorporating both the public service reforms of the 1980s and changed management arrangements, practices and principles.

Acceptance of the proposal gave reinforcement to a decision of the Commission to commission a consultancy assignment, to undertake the preliminary work associated with development of a Bill for a new Act.

The consultancy project, supervised by then Deputy Commissioner Allan Kerr, commenced in February 1990, with the optimistic expectation of task completion in about two years. If the Commissioner of the time had been aware of his predecessor McLachlan’s 1910 observation that public service legislation was subject to ‘a gradual process of evolution’, he no doubt did not expect that it would be quite as gradual as it proved to be in the 1990s!

In broad concept, the initial approach was to look to the development of a new, streamlined, principles-based piece of legislation of some 15 to 20 pages, starting from a ‘clean sheet’. It would have regard particularly to recently developed and newly emerging legislative models in South Australia, the Northern Territory, New South Wales and New Zealand. If mutually acceptable arrangements could be agreed, the project would proceed in cooperation with ACT authorities, insofar as the Territory decided to proceed with development of legislation to cover the operation of its own then recently established public service.

The Deputy Commissioner and the consultant visited all Australian states and territories and New Zealand in the first half of 1990 for discussions with Public Service Commissioners and other officials, to seek the benefit of their experience in the development and administration of their equivalent legislation, particularly when such legislation had been introduced to reflect arrangements following the abolition of former Public Service Boards. Preliminary discussions were held also with other selected Commonwealth and non-Commonwealth agencies, and with unions.
The project having been initiated, the Commission budgeted for a ‘modest increase in resources’ for the 1990–91 financial year. A small unit (the consultant and, for a period, two Commission officers) was established to liaise with other agencies and unions, and to develop the proposed content of the Bill for the new Act. The then expectation was that the legislation would be introduced in the 1992 autumn sitting of Parliament.

The change of direction had received Government endorsement, as an element of its professed public administration reform process. Authority was given for work to begin on the development of a Bill to modernise the 1922 Act, and to provide a more appropriate legislative base for personnel management.

Initial aspirations for the new Act, however, had soon been modified. Early discussions with both departments and unions revealed a distinct reluctance to depart from either the general scope, or much of the detailed content, of the 1922 Act. Differing motivations were involved. At the risk of oversimplifying these, it appeared that departments, having long railed against the complexities and constraints of the 1922 Act, now began to be apprehensive of losing ‘the devil you know’, against the uncertainty of what might emerge in a new enactment, without the accustomed range of prescriptive instructions. It is probably fair to suggest also that, having witnessed the disappearance of a powerful, central personnel agency, they were wary also of the proposed new order assigning disproportionate powers and authority to the remaining central agencies, at the expense of the line departments.

For the unions, the 1922 Act represented continuity, notwithstanding its then outdated structure and terminology. While it remained in that form, it at least gave the semblance of preserving an APS framework, within which the unions had become accustomed to working and exercising influence. Its retention could be seen to preserve, in an identifiable form, the possibility of a later reversion to pre-July 1987 arrangements, however illusory that possibility might be.

For the time being, and in the absence of evidence of the project continuing to be a Government priority, the objections to significant change were to prevail. Notions of a short, streamlined, principles-based Act gave way to an objective of producing a modernised and consolidated Act, structured in a more user-friendly way. In the process, outdated provisions would be modified or removed. A first move was to be made, however, in the direction of inserting in the Act some new, general principles of APS administration. As then envisaged, the latter would specify, variously, principles of public administration, human resource management and ethical conduct.

The modified approach acknowledged also administrative and industrial realities. In March 1991, the then Public Service Commissioner, Denis Ives, advised the Minister Assisting the Prime Minister for the Public Service, Peter Morris, that large sections of the 1922 Act (for example, those relating to promotion, discipline and temporary employment) reflected the outcome of lengthy development processes and detailed negotiations with unions. New streamlining proposals, therefore, were likely to lead to further difficult and protracted negotiations, with little prospect of achieving introduction of legislative amendments within the envisaged timetable.
For similar reasons, it was decided not to pursue a suggestion that the 1922 Act might be replaced by separate enactments covering, for example, the general range of personnel management matters, administered by the Commission, and the public service pay and conditions provisions, then administered by the Department of Industrial Relations.

Against this background, the immediate task of the newly established Public Service Act Review Unit (PSARU) became the development of a ‘mock-up’ for the new Act, as a basis for later preparation of legislative drafting instructions.

The mock-up comprised an annotated ‘cut and paste’ version of the then text of the 1922 Act. It omitted redundant provisions, effected some limited amendments to modernise wording and to reflect changes which had occurred at the time of, and subsequent to, abolition of the Board. It included also draft statements of principles, in the areas mentioned above. An attempt was made to reorder more logically the various subject areas of the Act, under simple headings. A copy of the mock-up, as developed by May 1991, is held by the Commission’s Policy and Employment Group.

In this same period, significant work had continued in relation to development of the Human Resource Management (HRM) Framework, as detailed in Chapter 7. Ultimate, consequential modernisation of the formal legislative framework remained as an objective of that process, with added impetus being provided by the Joint Committee of Public Accounts inquiry and subsequent report on HRM in the APS. Notwithstanding the earlier departmental and union reservations, clear expectations were being manifested of more significant changes than those seen to be in prospect through the mock-up exercise.

An allied assignment was undertaken by the consultant during this same period. It involved preparation of a series of papers on issues which had remained unresolved when action ceased on the Distribution of Powers Bill. The principal issues addressed were:

- the role of ‘employer’ under the Public Service Act and related industrial legislation
- the exercise of determination-making powers under the Public Service Act
- determination of conditions for exempt officers and employees—subsection 8A(3)
- payments to officers—subsection 90(3)
- authority to issue guidelines, instructions and directions
- power to conduct inquiries, investigations and reviews.

With the Commissioner’s agreement, the same exercise was undertaken by the consultant for the Department of Industrial Relations, with the objective of facilitating consideration and decision making within the department and, later, joint PSC–DIR consideration.

Against this background, the Commissioner observed that review of the 1922 Act was proceeding with the aim (endorsed in principle by the Government) of enacting new legislation to:
• reflect the 1980s reforms and the continuing devolution of personnel management authority

• maintain the fundamental concept of the APS as an independent, professional, non-political, merit-based career public service

• incorporate general principles to provide a framework for people management in the APS

• simplify the current legislative framework, where possible, without seeking to vary substantive provisions unnecessarily

• rearrange the Act to make it more coherent

• remove any redundant provisions and explore the scope for any other amendments which were uncontroversial (PScr AR 1992, p. 13–14).

A PUBLIC SERVICE ACT REWRITE

In the above context, initial discussions had been held with other central agencies, and the Office of Parliamentary Counsel (OPC) had begun preparing a preliminary exposure draft of a Bill for a rewrite of the Act. This Bill was to be used to focus discussions with agencies and unions.

The new momentum was maintained in the following year. Considerable progress was made with the review and rewrite of the Act. The OPC continued with the preparation of a preliminary exposure draft of a Bill. As at June 1993, initial drafting covered a little over half of the provisions of the then existing Act.

Drafting of the proposed Bill had got away to a promising start. Following an initial discussion with the First Parliamentary Counsel in January 1992, drafting instructions had been provided the following month, essentially in the form of the Commission’s mock-up. Assignment of the drafting task to a Second Parliamentary Counsel was cause for satisfaction on the part of the Commission, and an outline draft Table of Provisions for the Bill was provided in May 1992.

Given that work was proceeding on the assumption that the Bill would provide for a rewrite of the Act, and not a revision of substance, the draftsman’s intended approach nonetheless built on, and enhanced, the developmental work undertaken previously by the Commission:

It seems to me that a Bill to regulate the APS ought to be approached as analogous to a series of personnel manuals, each dealing in a self-contained way with a particular subject. Each chapter of the Bill I would see as representing a separate manual. This is the approach that I intend to adopt in the drafting of the Bill.
I would also be seeking to reduce resort to definitions. The existing Act grew up during a period when the use of formal definitions was rather more emphasised than it is today. One of the features of the plain English approach is a reduced reliance on definitions.

...  

A feature of the present Act that seems to me to represent a past age is the reference to APS members as “officers”. While the Service will presumably retain an office-based structure, I propose to find some means of avoiding the need to refer to officers. You will notice that the enclosed drafts refer to “APS members” (Second Parliamentary Counsel. Letter to Public Service Commissioner, 18 May 1992).

With the then improved prospects of obtaining a legislative outcome, preliminary drafting commenced within the Commission of a related Explanatory Memorandum for Parliament, based on the OPC Bill. Associated with this work, the consultant produced a series of background documents on various provisions of the 1922 Public Service Act. Copies of those documents are now held in the Commission by the Policy and Employment Group.

As indicated above, the rewrite saw progressive drafting of the Bill to the point of covering more than half of the provisions of the 1922 Act by June 1993, with the last detailed Commission comments on the draft being provided in April 1994. Shortly thereafter, the legislative reform agenda was to again change significantly.

PUBLIC SERVICE ACT REVIEW GROUP

At the end of June 1994, the then Minister Assisting the Prime Minister for Public Service Matters, Gary Johns, announced the formation of a high-level Review Group to examine the 1922 Act and to make recommendations to him, in accordance with the wide-ranging terms of reference at Appendix 5.

In a media release announcing the review, Minister Gary Johns said that it was important, as the APS moved through the remainder of the 1990s, to have a legislative framework which was modern, flexible and maintained the reforms of the preceding decade:

... the current Act is outdated and needs a comprehensive overhaul and rewrite. However, any new Act will continue to reflect the core values of the Australian Public Service (Johns 1994).

The Public Service Review Group was chaired by Ron McLeod, then a Deputy Secretary in the Department of Defence. Other members of the Review Group were:

Russell Higgins  
Executive Director, Department of Primary Industries and Energy, and Chairperson of the Management Improvement Advisory Committee

Peter Kennedy  
Deputy Commissioner, Public Service Commission

Cathy Argall  
General Manager, Australian Property Group, Department of Administrative Services (withdrew before report presented)
Barry Leahy  
Principal Adviser, Department of Industrial Relations

Doug Lilly  
Assistant National Secretary, Community and Public Sector Union.

While the endeavours of the Review Group were to be ultimately frustrated by the 1996 change of government, its work was to contribute significantly to further definition of some of the key parameters which were then to shape the development of the 1999 Public Service Act.

The Minister's announcement of the review had referred to the government's expectation that the APS would be responsive, effective and accountable, and that it was important for it to have more flexible employment arrangements and a more effective approach to performance management. Any new Act, however, should continue to reflect the core values of the APS.

The Commission prepared a major submission to the Review Group. It covered a wide range of issues, including the concept of office, selection, employment, people management, discipline and appeals. It noted that a new Act could focus more on values, principles and standards with Service-wide application, with the details being covered in regulations, awards, workplace agreements or central agency instructions and guidelines.

The Review Group's report (the McLeod Report) was tabled in January 1995 and, in May 1995, the Minister announced that the Government had accepted the majority of the Group's recommendations. The Minister then stated that the new Act would be simpler and more principles-based, and would reflect expectations of the APS on the part of both the Government and the Parliament. These would include provision of advice and support to the government of the day, and the delivery of government services to the community. Foreshadowed also was the statement of general principles of public administration (including a politically independent and merit-based public service), along with a broadly based code of conduct.

Following the Minister's announcement, action was set in train for the development of draft legislation, for introduction into the Parliament early in 1996. A first round of consultations on the McLeod Report’s recommendations, and initial drafting of the related Bill had been completed by the time of the election of the new Coalition Government in March 1996.

A NEW REFORM AGENDA

Further reform of the APS legislation was soon to be signalled. In a media release on 21 June 1996 the Minister Assisting the Prime Minister for the Public Service (Peter Reith) announced the new government’s reform intentions in the following terms:

  The Government will embark upon a consultative process to develop a reform package for the Australian Public Service
... to ensure the public service provides a professional and rewarding environment in which to work and is able to deliver a quality service to Government and the Australian people.

... To make certain that workplace structures, systems and culture in the APS emphasise innovation and recognise creativity and commitment.

The thrust for further APS reform (including provision of a more flexible legislative framework) had been given additional impetus for other reasons:

- the government’s desire to achieve a balanced budget;
- its earlier commissioning of an audit of government finances, infrastructure and service delivery arrangements, which led to the National Commission of Audit making a number of recommendations in its June 1996 report relating to the operation of the public service and the 1922 Public Service Act.

**TOWARDS A BEST PRACTICE AUSTRALIAN PUBLIC SERVICE**

The government’s reform intentions were translated into the discussion paper *Towards a best practice Australian Public Service*, issued by Minister Reith on 25 November 1996.

The paper provided a vehicle both for an expression of the philosophy (and some of the rhetoric) of the government of the day, and a wide-ranging assessment of perceived deficiencies in APS legislation and practices, and of possible options for remedial action.

From the government’s standpoint:

- Its election mandate for far-reaching economic and social reform included reviving and building the national institution of the APS into a world-class public service, as part of its strategy to improve Australia’s governance.
- Acknowledgment could be made of previous APS reforms, but the efforts of the previous government had fallen well short of what was required, and much more needed to be done to enable the Service to operate efficiently and competitively in order to achieve the improved level of performance being stressed as essential for all other sectors of the economy.
- Various APS shortcomings were apparent, deriving from ‘outdated, rigid and cumbersome regulations, systemic inflexibilities and a culture which does not sufficiently promote or recognise innovation’, resulting in Service management having fallen behind best practice overseas, interstate, in the private sector and in government business undertakings.
- The APS needed to prove that it could deliver government services as well as the private or non-profit sectors requiring, in turn, a new emphasis on contestability of services and the outsourcing of functions which could be undertaken better by such external agencies.
• A modernised APS employment framework needed to be achieved at least cost to the taxpayer, facilitated by effective application of the government’s workplace relations legislation to the Service, in the same way as it applied to private sector employment.

(Extracted observations from Minister Reith’s Preface to the paper, pp ix–xi)

As to the more detailed diagnosis of ills and possible remedies:

• The APS remained bound in red tape, subject to undesirable or inadequate practices, and continued to operate under terms and conditions of employment and an industrial relations framework no longer appropriate or realistic in a community-wide labour market.

• The enabling 1922 Public Service Act had become increasingly complex, by reason of amendment on more than 100 occasions, compounded by a mass of subordinate legislation, instructions and guidelines.

• Public servants had insufficient autonomy in relation to their work practices and employment flexibility.

• The public accountability of APS staff needed to be enhanced, along with increased emphasis being placed on achieving maximum value for money expended, rather than operating in a culture focused unduly on minimum risk taking.

The paper canvassed options for reform in the above areas and addressed other issues, such as the need to maintain and better articulate important public service traditions, to enhance the quality of APS leadership, and to achieve effective devolution, to the heads of individual agencies, of much of the control over employment matters. It discussed also some of the key elements which might need to be included in any new streamlined, principles-based Public Service Act, to facilitate achievement of a more flexible employment framework. Finally, the paper posed 17 questions relating to the various issues which had been explored, with the objective of opening debate on how proposed reforms might be best achieved.

Some 6000 copies of the paper were distributed to departments, other agencies and various interested parties, seeking comments on the issues raised. The electronic version attracted some 4500 readers on the Commission’s Internet site, with many agencies also downloading the paper onto their own networks.

More than 240 submissions (mostly from individual public servants) were lodged in response to the paper, and over 100 focus groups were conducted (in all capital cities and in four major regional centres) during December 1996 and in January–February 1997. Total attendance was in excess of 1500 people comprising APS staff and interested individuals and groups within the wider community. State and territory government representatives, management consultants and academics were also involved in the extensive consultation program. The Minister participated in five of the groups, and met also with the ACTU and public sector unions in December 1996. A Senate Finance and Public Administration Reference Committee conducted a ‘round table’ discussion on the paper in February 1997, and representatives of the Australian Democrats participated at various times during the program of discussions.
ACCOUNTABILITY IN A DEVOLVED MANAGEMENT FRAMEWORK

Consideration of the discussion paper was still taking place when the general outcome of the consultations to that time became the subject of a further joint Commission/Department of Industrial Relations (DIR) document, *Accountability in a devolved management framework* (ADMF paper). Its purpose was both to record general, wide-ranging support for the need for change to the formal framework to achieve a better workplace environment for the APS, and to set out in broad terms the proposed framework of a new Public Service Act.

The paper noted that the proposals for change which had been most frequently canvassed were:

- to remove the continuing preoccupation with processes and rules and reduce delays in decision making about personnel issues
- to allow public servants to have far greater flexibility in the way they organise and manage their work
- to preserve the traditional ethos and values of an apolitical APS
- for much better management and appraisal arrangements to be put in place to recognise good performance
- for managers to deal more effectively with underperforming employees
- for agencies to make full use of the flexibilities provided in the new employment framework and not fall back on old regulations and rules
- for Government to provide support to APS executives in managing risk strategically in the context of Parliamentary debate and public accountability arrangements
- to ensure that agency-negotiated remuneration arrangements still enabled interagency mobility
- to accommodate private sector work practices and conditions within the distinctive nature of the public sector
- to ensure that public policy and administration becomes a more attractive career choice for young Australians (PSMPC & DIR 1997, p. 4–5).

More specific deficiencies and omissions in the 1922 Act were also noted:

- The character or purpose of public service was not clearly identified.
- The ethos of public service was not defined.
- There was no acknowledgment of the need for a non-partisan and apolitical public service.
- There was no prohibition on Ministerial direction of public service staffing decisions.
- Although there were scattered and contradictory references to merit, there was no clear statement of the principle and how it was to be applied.
There was no Code of Conduct.

The respective roles, responsibilities and powers of Ministers, Secretaries and the Public Service Commissioner were not set out.

There was no explicit provision for the Public Service Commissioner to report through the Minister to the Parliament (PSMPC & DIR 1997, p. 6).

To overcome the identified deficiencies and concerns, the proposed new Act would not only recognise the devolved management practices that had emerged in the preceding decade, but would provide a blueprint and guide for Commonwealth public administration into the 21st century, incorporating into contemporary legislation a new conceptual framework for the APS.

The major features of the proposed legislation were described in the following terms:

To achieve maximum flexibility while maintaining a high level of accountability, the new Public Service Act will establish an interlocking system of powers and responsibilities, integrated within a genuinely devolved managerial environment. While employment decisions will be the responsibility of individual agencies, public accountability will be monitored for the Service as a whole.

... the Act will provide a model of accountability in which the public interest is clearly articulated. It will recognise that public servants and the programs they deliver are paid for by the public. As a consequence, the public service needs to maximise its efficiency within a simplified and transparent accountability matrix.

... the new Act will recognise the distinctive ethos of Australia’s public administration and parliament’s expectations of the public service. The public interest in maintaining public service integrity and professionalism will be met by the obligations relating to: a core of statutory Values, encompassing qualities such as political impartiality, high ethical standards, workplace equity and employment decisions based on merit; a Code of Conduct; directions set by the Public Service Commissioner; and the internal and external review of grievances.

Departmental Secretaries and Agency Heads will be placed at the centre of this accountability framework. However, they will also be given far greater freedom to manage their workplaces in the most efficient and effective manner. Under the new Act, it is proposed that Secretaries will have devolved to them powers and responsibilities similar to those of employers in the private sector.

... the framework within which the conditions of employment in the APS are set will be similar to that which prevails in the private sector, while accountability for the conduct of that employment will recognise the distinctive character of public administration. The new Public Service Act will provide:

- a statutory basis for the Parliament to express the APS values and culture it considers necessary to protect the public interest;
- mechanisms by which decisions of the Government of the day can be implemented more effectively;
• improved means for ensuring the public accountability of Secretaries for the management of their agencies;
• a framework setting out the enhanced role and powers of Secretaries in a clear and public way; and
• an unambiguous statement to the APS, and the Australian people, of the conduct and behaviour expected of public servants.

The principal object of the new Act will provide a succinct message about the expectations of a public service within a democratic system of governance. It will be couched in terms of constituting an apolitical and non-partisan public service, committed to achieving the objectives set for it by the Australian Government while upholding the high standards of ethical conduct and accountability necessary for public administration (PSMPC & DIR 1997, p. 4, 6, 8).

The paper made clear also that the terms and conditions of public servants’ employment would cease to be subject to detailed prescription in the Public Service Act or to central agency direction. Rather, such terms and conditions would be negotiated at agency level, through Certified Agreements or an Australian Workplace Agreement (AWA), in accordance with provisions of the 1996 Workplace Relations Act. Thus, the employment law applicable to the APS would be largely the same as that which applied to the wider community. Likewise, APS employees would have access to the same protections in dealing with their employer as applied to the rest of the workforce under the Workplace Relations Act.

As the new Public Service Act was to set out also the values and conduct expected of public servants, and was to provide for a process of internal and external review of administrative decision making, the need for the 1984 Merit Protection Act would no longer exist.

In the light of the proposed changes, the vast majority of the provisions of the 1922 Public Service Act would no longer be required. Essentially, all powers in relation to individual staffing matters would be exercised at agency level, without central agency involvement.

The new Act would be directed to achieve a balance between substantial devolution of powers to the heads of APS agencies and public accountability for their actions. A schematic representation of the balance appeared in the paper, and is reproduced at Appendix 6.

Further elaboration of the proposed structures and mechanisms for improved accountability and devolved responsibility constituted the balance of the text of the ADMF paper, which concluded with the stated intention of introducing the Public Service Bill into parliament before the end of its then current sittings in June 1997, with the new Act to come into operation on 1 January 1998.
At least the first objective was achieved. The Public Service Bill 1997 was introduced into Parliament on 26 June 1997, along with a companion Public Employment (Consequential and Transitional) Amendment Bill 1997 (the PECTA Bill)—the latter being necessary to:

- validate actions and decisions taken under the former legislation, after passage of the Public Service Bill
- cover some aspects of the transition from the old to the new employment framework
- make consequential amendments to other legislation which contained references to the 1922 Act framework.

Minister Reith’s Second Reading Speech for the introduction of the Public Service Bill restated the philosophy and objectives for reform, enunciated previously in the Reith and ADMF papers, and underlined some key elements:

Reforming the Australian Public Service is a key element of our government’s micro-economic reform agenda. The Australian people are entitled to see that the taxes they pay are used in the most efficient and effective manner and that the services they receive are of a high standard. This bill will make the service more efficient in its delivery both of policy advice to government and of programs to the public. It will promote higher performance in the APS by devolving management responsibility to individual agencies and, at the same time, ensure that public interest objectives are maintained through enhanced accountability.

This bill considerably enhances accountability. It acknowledges and protects the public interest as never before. It considerably improves parliamentary scrutiny of the way the Australian Public Service undertakes its delegated responsibilities on behalf of government. It recognises and protects the distinctive ethos of public administration. It provides a foundation for a service in which actions and decisions are open and transparent. At the same time, it encourages the APS to take on the best practices of contemporary management, public or private, Australian or overseas. It provides the legislative underpinning for continuous improvement in the way the Public Service manages public funds.

The new Public Service Bill provides a succinct message about the expectations of a public service within a democratic system of governance in a form appropriate to the twenty-first century. It articulates the essential qualities that are necessary to maintain public confidence in the integrity of the public service; recognises the need for an employment framework which is likely to provide best value for public funds; and establishes the means to ensure that the conduct of public servants is open to scrutiny.

In short, for the first time we have a Public Service bill which explicitly focuses on public accountability for the public interest (PD House 26 June 1997, p. 6462, 6465, 6466).

For the Commission, introduction of the Bill represented culmination of the first phase of an intensive program of new work begun in 1996, as a consequence of the government’s decision to proceed with reform of public service legislation and practice.
In March 1996, the Commission had moved to adopt a flatter organisational structure, based on self-managing teams. Within that structure, its then Public Service Employment Framework (PSEF) Team had been assigned responsibility for providing a policy overview on the legislative framework for people management, which soon developed to encompass a range of operational tasks. With ongoing active involvement of the Deputy Commissioner, these related initially to the development, in association with other Commission teams, the minister’s office, the then DIR and other agencies, a range of Issues Papers in relation to the projected legislation.

The Issues papers contributed to the November 1996 discussion paper, with the PSEF Team then actively involved in the consultation process on that paper, and the subsequent development of the ADMF paper. By the time of publication of the latter, action was already advanced in relation to provision to the Office of Parliamentary Counsel instructions for drafting the Public Service Bill. This, in turn, generated action for government clearance of the proposed Bill, and for preparation of the necessary documentation associated with introduction into Parliament.

Key features of the 1997 Bill had been outlined previously in the ADMF paper, and the overall framework was to be retained essentially intact, through to ultimate passage of the legislation in October 1999. Thus:

- Legislative expression was given to a set of APS Values and an APS Code of Conduct.
- Specific provisions were included affirming the merit principle and proscribing patronage and favouritism, providing protection for public interest whistleblowers, and requiring promotion of employment equity and establishment of workplace diversity.
- The engagement and employment of APS employees was substantially devolved to agency heads, subject to the various accountability provisions of the legislation itself, and of the 1996 Workplace Relations Act.
- The Public Service Commissioner’s functions and powers were explicitly defined (including authority to issue binding Directions on APS employment matters), and the Commissioner’s annual report was to include ‘a report on the state of the APS during the year’.
- The general structure (but not detailed conditions) of APS employment was defined.
- The employment framework was established for, respectively, Secretaries of departments, the Senior Executive Service, and executive agencies.
- A framework was established for handling administrative rearrangements and reorganisations affecting the APS, covering machinery of government changes; reciprocal services between the APS and an Australian state or territory; and the transfer of functions and associated staff between the APS and other areas of Commonwealth employment.
Following introduction, both the Public Service Bill and the associated Public Employment (Consequential and Transitional) Amendment Bill (the PECTA Bill) were referred to the Joint Committee of Public Accounts (JCPA) for review. Subsequently, the Bills were referred also for examination by the Senate Finance and Public Administration Legislation Committee.

The JCPA review (AM Somlyay, Chairman) was widely publicised, with press advertisements on 4 and 5 July 1997 inviting submissions from interested parties. The Public Service Commission and the Department of Workplace Relations and Small Business (DWRSB—the former DIR) provided a joint submission to the Committee. Public hearings on the Bills were conducted in Canberra on 6 and 7 August 1997; two ‘round table’ discussions were conducted; and the Public Service Commissioner made a presentation to the Committee on 25 August 1997 in a public hearing forum, to which interested parties were invited, on the proposed Commissioner’s Directions and ‘review of decisions’ regulations. Six serving departmental secretaries and agency heads appeared before the Committee to express their perceptions of the proposed legislation, with the Secretary of the Department of the Prime Minister and Cabinet also appearing to give evidence as to his perceptions of the potential impact of the proposed legislation.

The Committee reported its views to the House on 29 September 1997 (Report No. 353). In broad terms, it supported the need for the 1922 Public Service Act to be replaced by simplified and modernised legislation, and endorsed the more accessible format of the 1997 Bill. It made 20 recommendations addressing, variously, proposed amendments to the Bill, changes to the proposed Regulations and Directions and additional information to be included in the Explanatory Memorandum for the Public Service Bill. The Government accepted 19 of the 20 recommendations, either in full or in part. The Committee’s recommendation for wider-ranging whistle-blower legislation was reserved for future consideration by the government (PD House 29 October 1997, p. 10241–96).

The Senate Finance and Public Administration Legislation Committee reported on 3 October 1997, and generally endorsed the JCPA report recommendations. The Australian Democrats’ dissenting report recommended that the Bill be withdrawn and rewritten. Overall, however, the Senate Committee’s report was not to result in Bill amendments.

The principal legislative amendments proposed by the JCPA related to:

- strengthening of the APS Values and Code of Conduct
- insertion of a definition of merit in relation to the engagement and promotion of APS employees
- enhancing the processes for the review of actions affecting APS employees in their employment, and in relation to termination of APS employment rights
- reintroduction of a reviewing agency with independent powers
- providing for increased accountability in relation to the appointment of executive agency heads.
AMENDMENTS TO 1997 BILL

In the light of Committee recommendations and suggestions, the principal government amendments to the Bill were moved in the following areas.

APS Values

The Values were to be amended and expanded. They were to include new values addressing:

- promotion of equity in APS employment
- access to APS employment
- affirmation of the APS as a career-based public service
- assertion that the APS would provide a fair system of review of employment decisions taken in respect of APS employees.

Code of Conduct

Clarification of the sanctions applicable to breaches of the code, and the applicability of the code to statutory office holders.

Accountability

Accountability and reporting arrangements were enhanced in a number of areas.

Employee entitlements

Increased protections were afforded to employees against reduction in their entitlements under an award, Certified Agreement or Australian Workplace Agreement.

Review of actions

The processes for the review of actions affecting APS employees in their employment were extended, reflecting the functions to be assigned to the Merit Protection Commissioner.

Executive agencies

An expanded statement was provided of the responsibilities and accountability of the heads of executive agencies, similar to those then to be specified in relation to the responsibility of a Secretary for managing a department.

Merit Protection Commissioner

In response to the Committee’s recommendation dealing with review of APS employment actions, the government agreed that the Public Service Commissioner’s standard-setting functions should be separated from the proposed review role. Accordingly, a new

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provision would be inserted to allow for the establishment of a statutory office of Merit Protection Commissioner, with appointment and conditions arrangements consistent with those to be specified for the Public Service Commissioner.

Pressure for changes of this nature had been significant. In the June Second Reading Speech on the Bill, Minister Reith had indicated that the Public Service Commissioner, pursuant to his or her role to promote and uphold the APS Values and Code of Conduct, and to set the standards expected of employers, would have power to investigate breaches of them and recommend remedial action where an APS employee had exercised the entitlement to seek review of actions relating to his or her employment. As a consequence, the Minister indicated that the new streamlined arrangements to be set in place would remove the need for a separate statutory office holder with review powers, as had been put in place by the 1984 Merit Protection (Australian Government Employees) Act, which would itself be repealed. While the latter was to eventuate, the separately empowered Merit Protection Commissioner office was reintroduced, albeit with support staffing to be made available by the Public Service Commissioner, within the single administrative structure of the Public Service and Merit Protection Commission, which had been established in December 1995.

Additional details of all the amendments can be found in the Supplementary Explanatory Memoranda submitted on the 1997 Public Service Bill. The Howard government amendments had been accepted without dissent. The opposition was not able to obtain agreement to 61 additional amendments which it had proposed.

The JCPA had made no specific recommendations for amendment of the Consequential and Transitional Amendment Bill. However, the Bill then transmitted to the Senate incorporated five amendments effected by the government in the House, involving various technical, drafting and consequential changes, and taking account of changes to other legislation, which had occurred since introduction of the Public Service Bill, and which would be affected consequentially by passage of the Bill (PD House 30 October 1997, p. 10249–99). The ultimate passage of the CTA Bill incorporated also 995 repeal and amendment items in the Schedule to that Bill, affecting 289 separate enactments. (Identification of these changes and preparation of the Schedule had itself required a major resource-intensive task for the Commission).

PARLIAMENTARY SERVICE LEGISLATION

The 1922 Public Service Act, and its 1902 predecessor, included a small number of provisions relating to the operation of an administrative structure to service the Houses of the federal Parliament. While staff within that structure were employed under those Acts (with various prescribed differences in employment conditions), ultimate responsibility for their activities rested with the Presiding Officers of the Parliament and, later, the chief executives of the (ultimately) five parliamentary departments.

Over the years, the desirability of establishing a separate parliamentary service had been canvassed periodically. The formulation adopted in both the 1902 and 1922 Acts had been seen to achieve dual objectives of ensuring that staff servicing the Parliament
should be under its control, but should retain career access, under the Public Service Act, to positions in the wider public service. Of equal (if not greater) significance, however, was the facility for staff in the executive departments to be able to move more readily to positions in the much smaller, parliamentary staffing structure, thereby providing an invaluable recruitment pool for the latter.

Separately administered staffing arrangements, however, inevitably represented a potential source of friction, and occasional disputation between the respective APS and parliamentary management authorities. Throughout the period of its operation, the Public Service Board would have subscribed generally to the views expressed by first Public Service Commissioner McLachlan (in his post-retirement Royal Commission report in 1919) that officers of the Parliament should be brought into the general system of public service administration, as relating to their basic employment conditions. Internal administration would be left to the heads of the respective parliamentary departments. McLachlan’s proposal was not fully accepted, however, and the 1922 Public Service Act was to retain essentially unchanged the approach adopted in 1902.

The Coombs Commission provided an opportunity for the Board to revisit the issue. In its PSB Memorandum No. 12 to the Commission in March 1975, the Board proposed that consideration be given to establishing a discrete Parliamentary Service, staffed under a separate Act. Such legislation would serve to underline the distinctive nature of parliamentary departments, and reflect appropriate separation of the legislative and executive arms of government.

The Coombs Commission was not so persuaded:

The Commission is of the opinion that the distinction between parliamentary departments and executive departments does not need to be emphasised by separate Acts related to terms and conditions of employment in the way suggested by the Board. Nor does it follow that the independence of Parliament in the staffing matters of its departments would be impaired by common legislation. The managers of the parliamentary departments could avail themselves of provisions applying elsewhere in Commonwealth employment while at the same time retaining a proper degree of independence to meet their particular needs (Coombs Report 1976, para. 9.4.31).

The Commission’s views in this regard were consonant with its proposals for the enactment of common legislation to cover Commonwealth employment generally (Coombs Report 1976, Section 9.4). In concept, such legislation would enable the respective public sector management authorities to draw on standard streams of legislated conditions of service (such as superannuation, long-service leave and compensation), while developing their own distinctive patterns of service.

Within this ‘unified service’ framework, the Commission had in mind that the Parliament might consider the appropriateness of taking advantage of the provisions proposed, so that the two Houses could apply the main features of Commonwealth employment to the parliamentary service, while reserving power for the designated authority within the Parliament to develop particular features appropriate to the parliamentary administration.
The Commission’s proposals for a unified service were never implemented in the comprehensive detail then suggested, and no further action was taken at that time to establish a separate parliamentary service.

Further significant examination of the supporting administrative structures for the Parliament was not to occur until the issues were addressed by the Public Service Act Review Group in 1994. The Review Group noted that the Presiding Officers had submitted that, in any revised Public Service Act, provision should continue to be made for their role as independent employing authorities, articulated within the Public Service Act rather than in separate legislation. The Review Group found no reason to disagree with that proposition, and recommended continuing Public Service Act coverage (McLeod Report 1994, paras 11.11–11.17).

The Review Group’s conclusion, however, was to be overtaken by the Howard Government’s public service reform program. Its proposals for a new streamlined Public Service Act did not provide for retention of coverage of the parliamentary departments. The need to preserve the independent employer role of the Presiding Officers was again reasserted, but with a different slant, summarisedconcisely in the ADMF paper:

The Parliamentary Departments are presently covered by the Public Service Act. It is proposed that this should not continue. The present arrangement fails to recognise sufficiently the independence of the Parliament and those who work for it. This can best be done by establishing a separate statutory regime for those who work in the Parliamentary Departments.

Staff in the Parliamentary Departments owe their allegiance to Parliament rather than to the Government. There is a need to protect the independence of the Presiding Officers, singly and jointly, as employing authorities.

For these reasons it is proposed that the Parliamentary Departments should operate under a separate Act. Appropriate transitional arrangements will be set in place for those employees who wish to return to the APS. Of course, mobility between the Parliamentary Departments and the APS for employees will still be available. APS employees who wish to work in the Parliamentary Departments can either resign from the APS or seek leave from their Secretaries (PSMPC & DIR 1997, p.19).

The theme was reiterated, and related legislative action was foreshadowed by the Minister in the Second Reading Speech on the 1997 Public Service Bill:

The importance of the role of parliament in scrutinising the administration of the APS is acknowledged in this bill. It requires the independence of parliament and those who work for it. The operations of the parliamentary departments are presently covered by the Public Service Act. This is not appropriate. Staff in the parliamentary departments owe their allegiance to parliament rather than to the government. There is a need to protect the independence of the presiding officers, singly and jointly, as employing authorities. This can best be done by establishing a separate statutory regime for those who work in the parliamentary departments (Reith PD House 26 June 1997, p. 64).
The government's decision to proceed along these lines had regard also to other considerations. Minister Reith had agreed earlier that the proposed separation would facilitate the development of a shorter, less complex and more streamlined Public Service Act, would provide greater flexibility for the parliamentary departments themselves, and would facilitate also the passage of any legislative amendments that might become necessary. Additionally, it was known that, while the Australian States differed in their provisions for parliamentary bodies, coverage was provided other than under the legislation governing their respective public services (although public service legislation did apply in both the ACT and the Northern Territory).

The Government's preferred approach had been communicated by the Prime Minister to the Presiding Officers in May 1997. In directing their attention to the nature of the legislation to be enacted, the Prime Minister intimated that there was a need to ensure that the development and introduction of separate legislation should proceed in parallel with, but not delay, the passage of the public service legislation.

The Presiding Officers signified their concurrence to the development of separate legislation and, on their instructions, the heads of the parliamentary departments developed the Parliamentary Service Bill 1997, and the associated Parliamentary Service (Consequential Amendments) Bill 1997. Drafting of the Bills was contracted to a private legal firm, utilising specifically the services of a former First Parliamentary Counsel.

The Parliamentary Service Bill 1997 (subsequently introduced by the Speaker, along with a related Consequential Amendments Bill) reflected the same general approach and framework as the Public Service Bill, but with various modifications considered necessary, both to underline and ensure the independence of the Parliament from the executive government and to reflect some different principles applicable to staff serving its two Houses (PD House 23 October 1997, p. 9686–8).

The Bill established the Parliamentary Service itself, providing for its executive management by the Clerks of the two Houses and other departmental Secretaries, under the overall direction of the Presiding Officers. The Bill also created the new office of Parliamentary Service Commissioner, with a role similar to that of the Public Service Commissioner, but with particular responsibility for advising the Presiding Officers with respect to the management practices and policies of the Parliamentary Service. While the Parliamentary Service Commissioner was to be appointed separately and independently by the Presiding Officers, the expectation was that both offices of Commissioner would be filled by the same person, with the Bill so providing, but also providing that the Commissioner could not be subject to direction by executive government in relation to the Parliamentary Service.

The APS Values in the Public Service Bill were mirrored by a set of Parliamentary Service Values—identical to the former in most areas, but varied in four instances to reflect provision of advice and support for the Parliament, its committees and Senators and members of the House, independently of the executive government. Likewise, a legally enforceable Parliamentary Service Code of Conduct was established, equivalent to the
Public Service Bill Code of Conduct, but again reflecting the obligations of a Parliamentary Service employee to Parliament rather than to a Minister.

As indicated by the Speaker when introducing the Bill, the balance of its provisions served to establish a statutory framework and administrative arrangements broadly consistent with those for the APS. Presentation of the Parliamentary Service legislation at this point would enable it to proceed in parallel with the Public Service Bill.

In his Second Reading Speech, the Speaker had foreshadowed that the Government’s decisions on JCPA recommendations would be applied, in relevant instances, to the Parliamentary Service legislation, to preserve the parallel nature of employment conditions and to ensure preservation of mobility between the two services. Amendments to this end were duly moved, the bulk of these pertaining to insertion of new provisions in relation to establishment of a position of Parliamentary Service Merit Protection Commissioner, with a role comparable to that proposed to be performed by the Merit Protection Commissioner in the Public Service Bill. As was to be the case with the Public Service Commissioner/Parliamentary Service Commissioner positions, the expectation would be that the same person would hold both the offices of Parliamentary Service Merit Protection Commissioner and (APS) Merit Protection Commissioner.

THE TWISTED PATH TO ENACTMENT

As previously indicated, the four Public Service and Parliamentary Service Bills were considered and achieved passage in cognate debate in the House on 30 October 1997. Government amendments had been accepted without dissent, but the Opposition had been unable to obtain agreement for any of the 61 amendments which it proposed— noting, however, that its amendment proposals would be pursued further in the Senate, where the government did not have a majority.

The Bills were then introduced and debated in the Senate. Numerous amendments were proposed (75 by the Opposition and 23 by the Australian Democrats to the Public Service Bill; and a further three amendments proposed by the Opposition to the PECTA Bill). The Senate agreed to 52 amendments to the Public Service Bill (50 Opposition, two Australian Democrats) and to three Opposition amendments to the PECTA Bill (PD Senate 19 November 1997, p. 9093, 9158, 9187).

The government had an essentially global response to the diverse range of amendments—they ran counter to its intentions to bring public service employment into line with community standards, to establish a new conceptual framework for such employment and to establish a more efficient and effective public service. It maintained also that the proposed amendments would reintroduce or exacerbate the problems which the reform proposals were seeking to overcome, reintroducing the elements of rigidity and excessive prescription of controls, seen to be characteristic of the 1922 Public Service Act.

The opposing philosophies, and the types of amendment proposals which they generated are illustrated by the following examples:
• Amendments proposing that the Prime Minister and other Ministers would be accorded excessive authority for effecting appointment and determining remuneration and conditions of employment for Secretaries and other agency heads ignored existing realities in the processes for effecting chief executive appointments in the public service, the acknowledged role of the Remuneration Tribunal, and Workplace Relations Act principles concerning the need for there to be a direct relationship between employer and employee.

• Objections to agency heads having power to hire and fire agency employees, and to determine their salary and conditions of employment ran counter to the government’s policy intention that the APS should operate, as far as practicable and consistent with its public responsibilities, under the same employment arrangements as the rest of the workforce. Perceptions of arbitrary hire and fire practices in the private sector were outdated, as employers had become subject to anti-discrimination legislation, unfair termination provisions and evolving common law principles, in the same manner as public sector employers.

• Assertions that devolution to agency heads of normal employment powers would increase fragmentation, competition and rivalry between agencies and be prejudicial to the longstanding view of the APS as a career public service were not supported by the substance and effect of related Bill provisions. Rather, terms and conditions of employment would be better able to respond to the differing functions and needs of the individual, with a legislative underpinning of shared APS values and ethical standards, reinforced by provisions of the Public Service Regulations, Commissioner’s Directions and Classification Rules.

• Perceptions that removal of a legislative framework of mobility rights would limit the movement of staff to non-APS bodies disregarded the reality that the mobility provisions had been overly prescriptive, whereas the provisions of the Bill would still enable employees to work for non-APS agencies on a leave without pay basis. Leave would be granted automatically in the case of an employee taking up a statutory appointment, employment under the Members of Parliament (Staff) Act or the Governor-General Act. The proposed Parliamentary Service Act would allow for the movement of employees between the two Services without disadvantage.

• Attempts to retain various long standing appeal provisions then in place under the Merit Protection (Australian Government Employees) Act were significantly at odds with the Government’s view that there were too many appeals, resulting in complicated and convoluted processes and excessive legalism, thereby constituting a significant impediment to effective management. Specific Bill provision for the review of certain employment decisions, and establishment under the Bill of an independent statutory position of Merit Protection Commissioner, with powers of investigation and recommendation making, similar to those of the Ombudsman, over a wide range of employment decisions would serve to retain an external review process at an appropriate level. These provisions would strike an appropriate balance between the rights of an employee and the employer, in keeping with community standards.
Fewer amendments had been proposed to the Parliamentary Service Bill, but had generally addressed comparable key provisions. The Parliamentary Service (Consequential Amendments) Bill was passed without amendment. The government’s response on the principal Bill was similar to its response on the corresponding Public Service Bill provisions, maintaining that the proposed amendments would reintroduce or exacerbate the problems which the legislation sought to overcome—that is, that the amendments were unduly prescriptive and would entail excessive regulatory controls.

The government was not prepared to negotiate on changes to the Bills. The Minister Assisting the Prime Minister for the Public Service (Dr David Kemp) announced that the government had rejected outright the amendments effected by the Senate to the two Public Service Bills and to the Parliamentary Service Bill, and would return the legislation to that Chamber, unchanged, after three months. Such action would serve as a possible trigger for the government to seek a double dissolution of Parliament, should the Senate then persist with its amendments (along with other legislation which had been subjected to Senate amendments unacceptable to the government) (PD House 4 December 1997, p. 12284–5, 12289).

The Minister announced also that the government would immediately press ahead with particular reforms in the Bill through administrative means. The government would use also its industrial relations legislation to increase workplace flexibility and to improve conditions for staff.

As discussed below, Public Service Regulations and other backing for the desired administrative changes were to be put in place in February 1998. In the first instance, however, the Minister stated that the Public Service Commissioner was to be instructed to issue directions to all departmental Secretaries to implement the eleven APS Values then included in the 1997 Bill. Secretaries would be directed also to apply the rules of conduct and behaviour for staff, and to implement a workplace diversity program, to further establish equal opportunity for staff, regardless of factors such as age, race and gender. Likewise, they would be instructed to implement provisions safeguarding whistleblowers against harassment or discrimination.

The Public Service Commissioner conveyed the Minister’s instructions to the heads of all agencies staffed under the 1922 Public Service Act on 8 December 1997. The Commissioner indicated that he would be issuing directions which would indicate the responsibilities of the heads of those agencies for upholding public service values, the Code of Conduct expected of public servants, protection for public interest whistleblowers, the development of workplace diversity programs and the information which would be required of agencies for preparation of the first State of the Service Report.
IMPLEMENTATION OF ADMINISTRATIVE REFORMS

The full package of administrative reforms was launched by the Minister on 25 February 1998, at a meeting of the Committee for Economic Development of Australia (CEDA), with most of the reforms taking effect on 15 March 1998.

Presented as ‘a vital plank in the government’s micro-economic reform agenda’, and fully consistent with the thrust and content of the 1997 Public Service Bill, the package was extensive and wide-ranging, and constituted probably the most significant change to APS administrative processes since the 1986 streamlining reforms. In outline, the package encompassed:

- introduction of new and amended Public Service Regulations
- revocation of some Public Service Commissioner Instructions
- issue of amended Public Service Commissioner Notices
- new delegation of Public Service Commissioner powers
- issue of Public Service Commissioner Guidelines and advice.

Significant amendments were made to the Regulations, entailing:

- inserting a set of APS Values
- inserting a new Code of Conduct, a breach of which would be grounds for misconduct proceedings
- providing a scheme for protecting whistleblowers from victimisation and discrimination
- providing for the Public Service Commissioner to report annually to the Prime Minister on the state of the Service
- providing departments and agencies with greater scope to appoint Aboriginal and Torres Strait Islanders to their staff
- extending the period during which applications for both SES and non-SES vacancies could be considered to be ‘active’
- extending the period during which certain vacancies which re-occurred could be filled without the need for renotification of the vacancies concerned
- lengthening the period of non-appellable temporary performance of duties by an officer
- excluding the majority of future appointees to Commonwealth offices and bodies from rights previously conferred by the officers’ mobility provisions in Part IV of the 1922 Public Service Act
- removing regulations which had become obsolete for various reasons.

The intent, detailed content and effect of the regulations and other administrative changes were spelled out in four booklets, issued jointly on 25 February 1998 by the
Public Service and Merit Protection Commission and the Department of Workplace Relations and Small Business:

- Ministerial statement: *Reforming the Public Service to meet the global challenge* (Minister’s presentation to CEDA)
- An overview: *Reforms to the APS—what we are doing*
- Advice to agencies (PSMPC Circular no. 1998/2): *APS employment reform* (2 booklets)
  - Setting the framework
  - Attachments

A related PSMPC booklet in the same series (*Managing workplace diversity*) contained Public Service Commissioner Guidelines (previously launched on 10 February 1998) for purposes of advising agencies of the requirement to develop workplace diversity programs and providing advice to assist agencies in setting up their workplace diversity programs. The guidelines also covered continuing requirements for equal employment opportunity programs, in accordance with the then continuing provisions of section 22B of the 1922 Public Service Act.

The Commissioner’s 1997–98 annual report contained a summary of the various reforms, which is reproduced at Appendix 7.

In her report, then Commissioner Helen Williams commented that, by the end of the reporting period, preliminary indications were that agencies were responding to the opportunities provided by the reforms. She noted also that one major reform impacting on employment opportunity had been the introduction of the new policy of open advertising to the public of all ongoing APS vacancies, unless an individual agency chose to restrict to internal APS advertising on grounds of cost or operational efficiency. A survey of Gazette notifications undertaken by time of reporting had indicated that 94 per cent of vacancies were then being advertised as open to the public, compared with 28 per cent prior to the introduction of the new policy (PSCr AR 1998, p.18).

The administrative reforms were to be confronted, however, with a potential barrier to their implementation. On 2 April 1998, notice was given on behalf of the Senate Regulations and Ordinances Committee of a motion to disallow the amendments to the Public Service Regulations which had come into effect on 15 March 1998. However, on 26 May 1998, the notice of motion to disallow was withdrawn, and no other Senator moved to take the motion on in his or her own name. The amended regulations accordingly remained in place.

**REINTRODUCTION OF LEGISLATION**

As had been foreshadowed, the Public Service and Public Employment (Consequential and Transitional) Amendment Bills were reintroduced into the House, unchanged, with Minister Kemp stating that it would not be possible ‘to build a fully coherent, reformed, management structure without legislative change’, notwithstanding the changes being implemented through the administrative reforms package (PD House 5 March 1998, p. 527).
The Senate-amended Parliamentary Service Bill was also reintroduced by the Speaker, who noted the continuing wish of the government for maintaining the complementary nature of the public service and parliamentary service legislation, and for their consideration by the Parliament to occur at the same time. The Parliamentary Service (Consequential Amendments) Bill, not having been amended by the Senate, did not need to be resubmitted (PD House 10 March 1998, p. 855).

The three resubmitted Bills were considered by the House in cognate debate. The Opposition recorded its continuing concerns with the Bills but indicated that, while it would be pursuing all previously agreed amendments, it would not again initiate them until the Bills returned to the Senate. The government’s House majority therefore ensured passage of the Bills in the House, with minimal debate, on the same day.

The three Bills were reintroduced into the Senate on 12 March 1998 and again debated cognately, with the Senate again agreeing to the same 52 Opposition and Australian Democrat amendments as before. The respective Opposition and Democrat reaffirmations of their previously stated positions were provided by Senators Faulkner and Allison, respectively (PD Senate 30 March 1998, p. 1552–72, and 1 April 1997:1656–86).

The Bills were returned to the House, where all of the proposed amendments were rejected by the Government and each of the three Bills then laid aside (PD House 6 April 1998, p. 2588, 2590, 2594).

Apart from restating the government’s position that the proposed amendments to the Bills ran contrary to its general APS reform objectives, it is of interest to note some of the reasons given by Minister Kemp in relation to particular issues, in the light of subsequent events:

- Amendments which sought to override provisions of the 1996 Workplace Relations Act were not acceptable in that they sought to place the APS on a different footing from the private sector.

- The attempt to reinstate access by SES employees to the unfair dismissal provisions of the Workplace Relations Act would inappropriately allow those employees to be treated differently from their equivalents in other public sectors.

- Proposals to retain the Merit Protection Commissioner as an independent statutory agency, and to retain tripartite appeals processes, were unacceptable in that they would impose binding decisions on agency heads, unduly constrain their employment powers and indirectly continue the costly focus on process within agencies.

- Amendments which sought variously to limit the powers of agency heads to engage, deploy and terminate staff would unnecessarily restrict flexibility for their efficient and economical employment (PD House 6 April 1998, p. 2583–5).

In the case of the Parliamentary Service Bill, the Minister stated that the proposed amendments were unacceptable, in that they ran contrary to the objective of establishing a separate and independent parliamentary service, and would bind that service by rigidity, prescription and restriction. (PD House 6 April 1998:2593–4)
A HISTORY IN THREE ACTS

THE APS LEGISLATION REVISITED

Twelve months later, with the administrative package remaining in place, the government moved to reintroduce its proposed legislative reforms.

Peter Shergold had been succeeded by Helen Williams on 5 February 1998, the first woman to be appointed as Public Service Commissioner. Remaining in that office until January 2002, she became responsible for further intense Commission activity, directed towards achieving enactment of the 1999 Public Service Act and its subsequent implementation. As with her predecessor, she also placed particular emphasis on the need for accountability and effective application of the APS Values. She also actively pursued the Commission’s objective of better defining and evaluating APS leadership needs and development options.

The Public Service Bill 1999 and the Public Employment (Consequential and Transitional Amendment) (PECTA) Bill 1999 were introduced in the House. The Bills were the same as their 1997 predecessors, with Minister Kemp stating the government's position in the following terms:

The government considers it important for the Senate again to consider the [Public Service] bill for the purpose of providing the means of freeing APS agencies from central controls and of enabling APS agencies to adopt employment arrangements which meet their particular needs. The government is determined to bring Public Service employment arrangements into line with community standards and to provide the conditions necessary for Public Service organisations to achieve high performance.

... The reforms which, with the assistance of the opposition and minor parties in the Senate, have already been implemented have gone a long way towards providing the environment necessary for the APS to enter the next century as a high performing, innovative and responsive organisation. It is my hope that we can now progress this legislation to allow the APS to achieve its full potential (PD House 30 March 1999, p. 4683–6).

The Minister's Second Reading Speech on the reintroduced PECTA Bill was couched in similar terms, but with amendments foreshadowed to Schedule 1 to that Bill, detailing the extensive list of amendments to other existing enactments, consequential on passage of the Public Service Bill, along with incorporation of references to additional, relevant legislation (PD House 30 March 1999, p. 4685).

The Minister's speech included specific reference also to an intended amendment of particular interest to parliamentary colleagues:

The bill also deals with the consequences of devolving the arrangements for setting the salaries of the Senior Executive Service. The link of the remuneration of members of parliament with the SES band 2 minimum salary will be replaced by a link to the classification structure created by the Remuneration Tribunal for certain statutory offices. It is not intended to increase the level of remuneration (PD House 30 March 1999, p. 4686).
The legislative linkage was to be achieved through complementary amendments of the Remuneration Tribunal Act and the Remuneration and Allowances Act, to allow the reference point for parliamentary salaries to be in accordance with the classification determined by the Remuneration Tribunal for a principal executive office, under a newly inserted s. 12c of the Tribunal’s Act.

Debate on both Bills was adjourned, allowing the Government to initiate discussion on their content, and the previously proposed amendments, with the Leader of the Opposition in the Senate.

REINTRODUCTION OF PARLIAMENTARY SERVICE LEGISLATION

The Parliamentary Service Bill 1999 was reintroduced into the House by the Speaker some three months later. As had been the case with its Public Service Bill counterpart, the Bill was essentially the same as the predecessor Parliamentary Service Bill 1997, subject to three relatively minor amendments of a technical or updating nature. A fourth change pertained to the setting of remuneration for the Clerks in each House, with proposed remuneration arrangements similar to those proposed in the Public Service Bill for the Secretaries of APS departments, but with the associated determination-making power to be exercised by the Presiding Officers (PD House 28 June 1999, p. 7584–6).

As with the APS Bills, debate on the Parliamentary Service Bill was adjourned to permit further consideration of amendments made by the Senate to the 1997 Parliamentary Service Bill.

ACHIEVING CHANGE

Reintroduction of the Public Service and PECTA Bills, although substantially in the same form as the 1997 Bills, had required prior, significant PSMPC resource input.

The Bills were reviewed and briefing provided to the Office of Parliamentary Counsel on any changes necessary to bring them up to date. The PECTA Bill required substantial revision, to take account of legislative changes which had occurred since the Bill was drafted in 1997. The process was lengthy and time consuming, and necessarily involved review, in liaison with the various responsible agencies, of all Commonwealth legislation which had been enacted during the period.

The Commission reviewed and amended also the relevant explanatory memoranda, Second Reading Speeches and ministerial briefing material required in relation to reintroduction of the Bills.

Alongside these activities, prospective amendments to the existing 1997 Bill provisions required that close consideration be given to a range of policy development issues and options, pertinent to such negotiations as might then occur on those provisions.

During the three months preceding reintroduction of the Bills, the Minister had been provided with possible options for progressing the government’s reform package and had agreed that negotiations would be pursued with the Opposition on those of its
amendments previously agreed by the Senate. The process was initiated after discussion between the Minister and Senate Opposition Leader Faulkner, who had indicated that, while it would maintain in principle that all of its previously proposed amendments should proceed, it would not seek to pursue those which had not been agreed by the Senate.

The active amendment proposals were addressed in a range of Issues papers prepared within the Commission, and presented progressively for the Minister's clearance as negotiating briefs. Preparation and coordination of the Issues papers constituted a major intensive task for the Commission's Deputy Commissioner and the (now designated) Policy & Employment Group in consultation, as necessary, with other areas of the Commission and the then Department of Employment, Workplace Relations and Small Business (DEWRSB). As each individual brief was discussed with, and cleared by, the Minister, the agreed negotiating positions then became the subject of discussions between a member of the Minister's staff and a representative of Senator Faulkner's office.

The negotiating process itself generated a period of activity of even greater intensity for all involved, with much 'burning of the midnight oil' by Commission and DEWRSB staff, and progressive generation by the Office of Parliamentary Counsel of intended Bill amendments. The draft legislative amendments were, in turn, submitted for clearance by the Minister and the Opposition. Government–Opposition disagreement on proposed amendment action was essentially resolved, in the ultimate, against the criterion that there should be no detriment to the government's reform agenda. Advice was sought from the Australian Government Solicitor in cases of uncertainty, as to the possible application and effect of particular proposals for Bill amendments.

While the negotiating process was to continue virtually until the time of passage of the legislation, agreement had been achieved on most amendment proposals by late September 1999, allowing debate to be resumed in the House on the Public Service Bill and the Parliamentary Service Bill, as well as the amended PECTA Bill.

With Opposition support, the government introduced 52 amendments to the Public Service Bill—coincidentally, the same number of amendments passed previously by the Senate, but without direct correspondence of detailed content. Ten amendments to the PECTA Bill were introduced on the same day, with amendments introduced also to the Parliamentary Service Bill. All three Bills were then passed by the House, on the voices, on the same day (PD House 27 September 1999, p. 10594, 10647, 10654).

**Nature of Public Service Bill Amendments**

In introducing the Public Service Bill amendments, Minister Kemp reiterated the merits of achieving a shorter, simpler Public Service Act which would provide for increased management flexibility for the APS, removing overcentralisation and excessive prescription, and providing specific focus on accountability and the values, principles and standards of behaviour applicable to APS employment. As to the amendments:
The government would have much preferred the bill in its original form—for its brevity, its simplicity and its focus on principles. The amendments, while not significantly altering the substance of the original bill, contain in our view some unnecessary detail and prescription. The bottom line, however, is that at no point is the amended bill more restrictive than the present arrangements and it maintains or enhances the government’s current position as an employer and manager. Importantly, the amendments to the bill have been agreed to by both the government and the opposition in the interests of progressing tangible change.

The government has been prepared to accept amendments. We have not achieved everything we wanted. We would have preferred different practices in some areas. Nevertheless, we believe the bill in the form in which we expect it to be amended represents a significant step forward in the organisation of public administration in this country (PD House 27 September 1999, p. 10585–6).

Apart from taking issue with the government allegedly implying that the 52 amendments could be characterised as ‘minor adjustments’, after some five months of negotiation, the Opposition was supportive of the amendment proposals:

Bevis: The government amendments moved today satisfy our concerns with the government’s original proposals (PD House 27 September 1999, p. 10593).

The key changes related to:

• expanding the APS Values
• clarifying the sanctions applicable to breaches of the Code of Conduct and the applicability of the code to statutory office holders
• expanding the responsibilities of the Merit Protection Commissioner
• enhancing accountability and reporting requirements in a number of areas
• increasing the protections afforded to employees against reduction in their entitlements under an award, Certified Agreement or Australian Workplace Agreement
• extending the processes for the review of actions affecting employees
• elaborating on the responsibilities of heads of executive agencies.

The supplementary Explanatory Memorandum submitted to the House accompanying the proposed amendments provided elaboration on the nature of the amendments in each area, and the detail is not repeated here. Leaving aside the various amendments enhancing, or clarifying provisions of the original Bill, however, some examples of significant new provisions are illustrative of the scope of the concessions negotiated.

**APS VALUES**

A range of earlier concerns with the Bill about perceived damage to traditional, longstanding career public service principles, and the equal employment and industrial democracy reforms legislated in more recent years was accorded varying degrees of acknowledgement through addition of new APS Values 10(l), (m) (n) and (o) on, respectively:
• employment equity
• reasonable community access to APS employment
• specific affirmation of the APS as a career-based service
• assertion that a fair system of review of employment decisions would be provided within the APS.

Although not proceeding as a legislative amendment, the government accepted that existing Value 10(j), asserting that the APS would provide ‘a fair, flexible, safe and rewarding workplace’ should be seen as encompassing the application within the APS of certain consistent workplace principles. Those principles were spelled out in the Explanatory Memorandum:

Principles of APS employment

The APS provides its employees with:

1. fair and flexible remuneration and conditions of employment;
2. fair and consistent treatment, free of arbitrary or capricious administrative acts or decisions;
3. an environment where, consistent with the Workplace Relations Act 1996, employees have the freedom to join industrial associations of their choice, or not to join industrial associations; and
4. opportunities for appropriate training and development. (Supplementary EM House 1999, p. 3.3, 2).

These principles originated essentially from the McLeod Review Group, which had favoured inclusion in the Act of ‘consolidated codification of the principal elements of the working environment which staff are entitled to expect to be in place’ (McLeod Report 1994, p. 5.4 and 5.5). The McLeod formulation was modified in the statement finally agreed, to take account of other modifications to the Values, and to provide for consistency with existing Workplace Relations Act terminology.

REVIEW OF ACTIONS/MERIT PROTECTION COMMISSIONER

The May 1997 ADMF paper, foreshadowing the content of the 1997 Public Service Bill, reflected government intention to reduce substantially the number of avenues of appeal then open to public servants for purposes of seeking review of employment decisions under the Merit Protection Act, or other review mechanisms. The new Act would require agencies to resolve appeals and grievances at the workplace level through investigation and conciliation processes. Where the employee remained dissatisfied with the outcome of these processes, there would be a possible option for the matter to be reviewed further by the Public Service Commissioner or the Commissioner’s delegate. The Merit Protection Act was to be repealed.

As a result of the 1997 JCPA examination of the Bill, the review function reverted to an independent office of Merit Protection Commissioner within the Public Service and Merit Protection Commission, with responsibility for a still streamlined external review process under Public Service Regulations provisions. The Opposition, however, continued to view the appeal mechanisms as inadequate, and amendments to the Bill, agreed by the
Senate, were directed to enhancing in the Act both the review of actions and the specific Merit Protection Commissioner provisions. Ultimate acceptance by the government of negotiated changes, in both areas, resulted in the extended statutory basis for review of actions, and definition of Merit Protection Commissioner functions, in sections 33 and 50, respectively, of the 1999 Act.

EMPLOYMENT CONDITIONS

Negotiations on Senate proposed amendments to statutory provisions pertaining to employment conditions resulted in concessions by the government that:

• the usual basis for engagement would be as an ongoing employee (section 22)
• reduction of the classification of an APS employee would not occur without the employee’s consent, other than in explicitly specified circumstances (section 23)
• an agency head’s power to determine the remuneration or other conditions of employment of any employee with the agency could not be exercised to diminish the benefit to an employee of any individual term or condition applicable to the employee under an award, certified agreement or AWA (section 24)
• the only grounds for termination of the employment of an APS employee would be those specified in the Act, or otherwise specified by the regulations (section 29).

PUBLIC EMPLOYMENT (CONSEQUENTIAL AND TRANSITIONAL) AMENDMENT BILL

Following passage of the Public Service Bill amendments, the proposed amendments to the PECTA Bill were introduced briefly by the Minister and passed without further debate (PD House 27 September 1999, p. 10594). An additional amendment moved by the Speaker, providing for the Remuneration Tribunal to provide advice in relation to the remuneration and other conditions for the offices of Parliamentary Service Commissioner, Parliamentary Service Merit Protection Commissioner and Secretaries of the Parliamentary departments, was agreed also without debate. (PD House 27 September 1999, p. 10647).

PARLIAMENTARY SERVICE BILL AMENDMENTS

Amendments were moved to the Parliamentary Service Bill, directed generally to making that Bill consistent in coverage or intent with the then amended Public Service Bill. Two further amendments were of a consequential or technical nature only. All amendments were agreed without debate. (PD House 27 September 1999:10647–54)

SENATE PASSAGE OF AMENDMENTS

The three amended Bills were transmitted to the Senate, with Opposition Senate Leader Faulkner acknowledging the intensive negotiations which had occurred on the Bills in the preceding five months and the range of the amendments which had been agreed.
Senator Faulkner noted that one issue remained unresolved for the Opposition in relation to the Public Service Bill, and moved a related amendment to the now section 22, designed to provide that engagement of a person as an APS employee for a specified term, or for the duration of a specified task should be able to occur only in circumstances prescribed in the Public Service Regulations (and, hence, subject to disallowance). That amendment and a minor Australian Democrat terminology amendment, were agreed by the Senate (PD Senate 14 October 1999, p. 9684–97).

In relation to the PECTA Bill, the Senate agreed to four Australian Democrat amendments on terminology, providing for replacement of the word ‘chairman’ with the word ‘chair’ in a number of the Bill’s Schedule items (PD Senate 14 October 1999, p. 9697–9700).

Three Opposition amendments to the Parliamentary Service Bill, relating variously to the Parliamentary Service values, redeployment options for parliamentary staff and a desired correspondence between Parliamentary Service determinations and Public Service Regulations in relation to review of actions, were agreed by the Senate. A further Opposition amendment, mirroring the earlier Public Service Bill amendment in relation to term employment, was agreed also, over formally recorded government objection (PD Senate 14 October 1999, p. 9700–2).

The three amended Bills were returned to the House, with the government then signifying acceptance of all the changes, other than the two amendments relating to term employment. In relation to the latter, however, the Minister advised that further negotiation had produced an acceptable compromise, which would allow the Bills to pass both Houses without recourse to formal legislative amendment. The compromise involved commitment by the government to clarify, in regulations, the grounds on which the engagement of persons for specified terms might be extended by an agency head. All amendments were accordingly agreed (PD House 19 October 1999, p. 11886–9).

The Bills returned to the Senate and passed without further amendment, with a dissenting vote by Australian Democrat senators (PD Senate 20 October 1999, p. 9993–9).

Governor-General assent to the three Bills was given on 11 November 1999.

**IMPLEMENTATION OF APS REFORMS**

The *Public Service Act 1999*, the *Public Employment (Consequential and Transitional) Amendment Act 1999* (PECTA Act) and the *Parliamentary Service Act 1999* all came into operation on 5 December 1999. The *Parliamentary Service (Consequential Amendments) Act 1997* remained in place, as amended by the *Parliamentary Service Act 1999*.

By 5 December 1999, the supporting framework for the Public Service Act had been put in place, comprising the following:

- Public Service Regulations 1999
- Public Employment (Consequential and Transitional) Regulations 1999
• Public Service Commissioner’s Directions 1999
• Prime Minister’s Public Service Directions 1999
• Public Service Classification Rules 1999.

The Commission generated also a range of guidance material for agencies to assist with implementation of the significant procedural changes required by the new legislation. Development of this framework and guidance material is discussed further below.

PUBLIC SERVICE REGULATIONS 1999

Developmental work on new Public Service Regulations had been set in train in conjunction with introduction of the 1997 Public Service Bill, and the JCPA had shown interest particularly in the then contemplated ‘review of decisions’ regulations. Regulation requirements were to be affected significantly, however, as a result initially of Government acceptance of recommendations of the committee itself but, later, as a consequence of the range of amendments negotiated on the 1999 Bill. In the case of the latter, instructions were provided progressively to the Office of Legislative Drafting, as the legislative amendments were agreed, and the wording of key, draft regulations was cleared with the Opposition prior to finalisation, as had been the case with the draft Bill amendments.

The detailed content of the Public Service Regulations 1999 is not addressed in this history. In summary, apart from various formal provisions, the Regulations address:

• the Code of Conduct, including whistleblower provisions (Part 2)
• the employer powers and obligations of agency heads in relation to the engagement and employment of APS employees, along with certain employee obligations (Part 3)
• the operation of Independent Selection Advisory Committees (Part 4)
• the framework for the review of any APS action relating to the employment of an APS employee, including the role of the Merit Protection Commissioner (Part 5)
• certain powers and functions of the Public Service Commissioner, including immunity from suit provisions relating to Code of Conduct breach inquiries (Part 6)
• certain powers and functions of the Merit Protection Commissioner, including independence, non-disclosure of information and immunity from suit provisions (Part 7)
• determination of variations of the remuneration and other conditions of employment of APS employees as a consequence of administrative arrangements and reorganisations (Part 8)
• miscellaneous provisions dealing variously with attachment of salaries to satisfy judgement debts, conditions applying to release by agency heads of personal information relating to APS employees, and the delegation powers of the Public Service Commissioner, Merit Protection Commissioner and agency heads (Part 9).
During their first full year of operation, 16 amendments were made to the Regulations, affecting variously regulations relating to employment, promotions and performance of functions by persons acting on behalf of the Merit Protection Commission.

**PUBLIC EMPLOYMENT (CONSEQUENTIAL AND TRANSITIONAL) REGULATIONS 1999**

With the passage of the 1999 legislation, certain provisions were necessary from date of commencement (5 December 1999) to:

- validate actions and decisions taken under the 1922 Act and the Merit Protection Act
- cover some aspects of the transition from the old to the new employment framework
- make consequential amendments to other legislation which incorporated references to the old Act framework.

In broad terms, the regulations served to ensure that the operation and intent of a wide range of APS engagement, employment, appeal, review, delegation and authorisation actions were preserved, where appropriate, as a result of repeal of the 1922 Public Service Act and the 1984 Merit Protection Act.

**PUBLIC SERVICE COMMISSIONER’S DIRECTIONS 1999**

The 1999 Act variously empowers the Public Service Commissioner to issue Commissioner’s Directions, prescribing procedures in relation to:

- the APS Values (section 11)
- procedures required to be established by agency heads for determining whether an APS employee of the agency had breached the Code of Conduct (section 15(4))
- SES employment matters (section 36).

Sections 42(1) and (2) of the Act specify that, while the Directions cannot in themselves create offences or impose penalties (matters dealt with by the Code of Conduct), they are binding on agency heads. Additionally, section 12 of the Act requires agency heads to ‘uphold and promote’ the APS Values.

Section 42(3) of the Act enables the Commissioner to apply, adopt or incorporate in Directions any matter set out in Classification Rules made by the Public Service Minister under section 23 of the Act—relevant to the definition of what constitutes a ‘promotion’, as the Commissioner’s Direction in this area is framed in terms of movement to a higher group of classifications, as set out in those rules.

As with the Regulations, the Directions may be disallowed by either House of Parliament (section 42(4)).

The nature and content of the Directions was detailed in the Explanatory Statement prepared for the information of the Parliament, when the Directions were made by the Commissioner on 5 December 1999. By way of general introduction, the Statement
indicated that, while the Directions were binding on agency heads, they differed from preceding 1922 Public Service Act provisions in that they did not prescribe detailed process requirements, unless the Commissioner considered it unavoidable. The Directions were intended rather to specify minimum compliance standards for agency heads and APS employees. While agency heads were required to establish measures, structures and appropriate systems to ensure compliance with the minimum standards, they were free to put in place measures over and above the minimum requirements.

Formulation of the Directions in each area drew on already-existing requirements and instructions as indicated below:

**APS VALUES**

The March 1998 administrative reforms had introduced, into the then Public Service Regulations, a set of 11 APS Values, which agency heads were required to uphold and promote. Subsequently, in July 1999, the Commission published the paper, *Values in the Australian Public Service*, describing the components of each of the prescribed Values, and providing a checklist which agencies could use in applying them. It provided also a series of indicators which could assist both the Commissioner and the agencies in evaluating application of the values. Evaluation of the extent to which agencies incorporated the APS Values was a required matter for inclusion in the Commissioner’s *State of the Service Report*, prescribed also as part of the March 1998 reforms.

Passage of the 1999 Act, however, produced a number of new and amended APS Values in the new section 10 of the Act. Government acceptance of proposed amendments to the earlier Bill had resulted in four new Values being added, and four existing Values being amended. Additionally, the Act now required the Commissioner to issue written directions in relation to each of the Values, for purposes both of ensuring that the APS incorporated and upheld the Values, and for determining, where necessary, the scope and application of the Values.

Three chapters of the Commissioner’s Directions are devoted to the APS Values. Chapter 2 is directed to ensuring understanding by agency heads and APS employees of their responsibilities in relation to the Values, and minimum requirements for their observance (and their promotion also, in the case of agency heads). Chapters 3 and 4 contain additional Directions on the Values which deal with diversity in employment and merit in employment, respectively.

The introductory note to Chapter 2 indicates that the Values and Directions describe standards and outcomes which can be supported in the same ways by all agency heads and APS employees, allowing for the likelihood that some Values would have to be upheld in different ways in different agencies, according to differing levels of involvement of people in particular tasks.

The publication *Values in the Australian Public Service* was revised to take account of the new and amended Values and was reissued early in 2001. Most recently the Values have been reissued in the Commission’s August 2003 good practice guide for agency heads...
and managers, titled *Embedding the APS Values*. The legislated Values, while not grouped or presented in any order of priority in the 1999 Act, have been presented in the guidance material in items reflecting relationships and behaviours in four categories:

- Relationships with the Government and Parliament
- Relationships with the public
- Workplace relationships
- Personal behaviour.

Individual key Values may be linked to one or more of these areas as illustrated in figures 8.1 and 8.2.

![Figure 8.1: The APS Values Framework](image)

**Breaches of the Code of Conduct**

A new prescribed Code of Conduct for APS officers and employees formed part of the March 1998 administrative reforms, derived from the code which had been included in the aborted 1997 Bill. Through inclusion in the Public Service Regulations, it was legally enforceable, with a consequent strengthened role as a public statement of the standards of behaviour and conduct expected of those working in core public employment. A breach of the code provided possible grounds for initiating disciplinary action under the existing 1922 Public Service Act provisions.
**KEY VALUES** The APS and its relationship with Government and Parliament

The APS is apolitical, performing its functions in an impartial and professional manner. (s10(1)(a) of the PS Act)

The APS is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public. (s10(1)(e) of the PS Act)

The APS is responsive to the Government in providing frank, honest, comprehensive, accurate and timely advice and in implementing the Government's policies and programs. (s10(1)(f) of the PS Act)

**KEY VALUES** The APS and its relationship with the public

The APS delivers services fairly, effectively, impartially and courteously to the Australian public and is sensitive to the diversity of the Australian public. (s10(1)(g) of the PS Act)

The APS provides a reasonable opportunity to all eligible members of the community to apply for APS employment. (s10(1)(m) of the PS Act)

**KEY VALUES** The APS and workplace relationships

The APS is a public service in which employment decisions are based on merit. (s10(1)(b) of the PS Act)

The APS provides a workplace that is free from discrimination and recognises and utilises the diversity of the Australian community it serves. (s10(1)(c) of the PS Act)

The APS establishes workplace relations that value communication, consultation, co-operation and input from employees on matters that affect their workplace. (s10(1)(i) of the PS Act)

The APS provides a fair, flexible, safe and rewarding workplace. (s10(1)(j) of the PS Act)

The APS focuses on achieving results and managing performance. (s10(1)(k) of the PS Act)

The APS promotes equity in employment. (s10(1)(l) of the PS Act)

The APS provides a fair system of review of decisions taken in respect of APS employees. (s10(1)(o) of the PS Act)

**KEY VALUES** Personal behaviour in the APS

The APS has the highest ethical standards. (s10(1)(d) of the PS Act)

The APS has leadership of the highest quality. (s10(1)(h) of the PS Act)

The APS is a career-based service to enhance the effectiveness and cohesion of Australia's democratic system of government. (s10(1)(n) of the PS Act)
The 1998 prescribed code framework was reintroduced into the 1999 Public Service Bill and duly enacted, with section 15 of the Act now requiring agency heads to establish procedures for determining whether an APS employee of the agency had breached the code. Such procedures must comply with requirements set out in Commissioner's Directions. Those requirements are spelled out in Chapter 5 of the Directions.

After noting that alternative means may be appropriate, in some circumstances, for dealing with a suspected breach of the code, the Directions set out general requirements needing to be addressed in agency procedures, for purposes of determining whether a breach has occurred. Emphasis is placed on fair treatment of the employee concerned, independent and unbiased handling of the determination process, and written recording of the outcome.

As previously mentioned, the Commission's 1995 Guidelines on official conduct of Commonwealth Public Servants have been modified and have now been published in a new format, taking account both of the provisions of the 1999 Act and the Commissioner's Directions and their relationship to the APS Values. The APS Values and Code of Conduct in Practice: A guide to official conduct for APS employees and agency heads (the Guide) was launched by the Commission in August 2003, at the same time as the good practice guide, Embedding the APS Values.

**SES Employment**

Chapter 6 of the Commissioner's Directions requires agency heads to exercise their SES employer powers ‘in a way that seeks to maintain and develop the leadership role and capabilities of the SES’ (Direction 6.1). The Directions served to codify then existing expectations of agency heads for pursuit of ‘best practice’ in their handling of SES employment matters.

The Directions spell out minimum requirements for any of the following decisions made by an agency head:

- promoting or engaging a person as an SES employee
- managing the mobility of an SES employee
- redeploying an SES employee with the employee's agreement
- assigning an SES employee to duties at a lower classification, without the employee's agreement
- giving notice to an SES employee in relation to a retirement incentive payment
- terminating the employment of an SES employee.

During 2000–01, the Commissioner's Directions were subject to 26 amendments on a range of matters (PScr AR 2001, p. 20–1).
PRIME MINISTER’S PUBLIC SERVICE DIRECTIONS 1999

Section 21 of the Act enables the Prime Minister to issue general, written directions to agency heads in relation to the management and leadership of APS employees. Such directions must be published in the Gazette, within 14 days of issue.

In terms of the evolution and development of the 1999 Act, the immediate origins of section 21 can be attributed to the statement of intent contained in the ADMF paper setting out the proposed framework for a new Act, prior to introduction of legislation into Parliament:

While the new Public Service Act will provide the framework for a far more devolved APS environment, it will still be necessary for a Government to set policy directions for the APS. As now, Secretaries will be required to observe these directions in the administration of their organisations.

In order to give effect to Government policy, it is proposed that the Prime Minister have the power under the Act to issue directions to Secretaries, with a discretion to delegate this power. Such directions will not be able to encompass individual staffing decisions. Indeed, for the first time, Ministerial direction of this sort will be specifically prohibited (PSMPC & DIR 1997, p. 9).

Apart from pressing for inclusion of the gazettal requirement during the 1999 negotiations, the Opposition raised no objection to the proposed provision.

Inclusion of a new provision of this nature is clearly compatible with the more explicit expression of various Ministerial responsibilities in the 1999 Act, compared with its 1902 and 1922 predecessors, at their respective times of original enactment:

• The 1902 Act contained no references to the Prime Minister and provided, generally, for exercise of staffing and other powers by either the Governor-General or the Public Service Commissioner. Aside from the ongoing provision for departmental heads to advise Ministers on all matters relating to their respective departments, the Ministers themselves were accorded only a small range of powers, in relation to relatively routine public service employment matters (leave, discipline, temporary employment, insolvency and provision of departmental services on public holidays) and the formal tabling of the Public Service Commissioner's annual report.

• Under the 1922 Act the principal legislative powers continued to be vested in the Governor-General and the Public Service Board. At time of enactment, the only reference to the Prime Minister was in relation to receipt of the Board's annual report, and involvement of Ministers continued to be specified only in relation to a small number of relatively routine reporting and APS staffing matters.

In later years, however, and particularly in the 1980s, the number of powers assigned to Ministers increased significantly—particularly in relation to the Prime Minister. The latter was accorded, progressively, specific powers in relation to machinery of government changes; the appointment and termination of services of Secretaries and the Public Service Commissioner; the operation of the equal employment opportunity programs and industrial democracy plans; and the transfer of Commonwealth functions within and outside the APS. By the 1980s also, the practice had become
established of designating particular Ministers to assist the Prime Minister on public service matters, itself given explicit recognition by inclusion in the Act in 1986 of authority for other Ministers to be able to exercise powers on behalf of the Prime Minister.

Assignment of a wider range of more significant powers to the Prime Minister and other Ministers in the 1999 Act accorded both with the rhetoric of the government APS reform proposals, and with specific legislative provisions underlining various accountability requirements and expectations of the Service. APS Values in paras 10(e) and (f) of the Act require the Service to be accountable for its actions and responsive to the government, and the Act elsewhere imposes a range of specific accountability-related obligations on the Public Service Commissioner and agency heads, as well as on individual APS staff members. Section 19 extends further the potential accountability mechanisms, by allowing for the Prime Minister to issue general directions in relation to the management and leadership of APS employees—as indicated in the ADMF paper extract quoted above, ‘to give effect to Government policy’.

Despite the relatively limited number of direct references in previous Public Service Acts to the powers of the Prime Minister and Ministers, the traditions and ethos of the federal public service throughout its history would suggest that responsiveness to government policy and directions would have been viewed as the norm. As indicated earlier in this paper, however, in the particular context of the review of APS classification structures by the Wheeler and subsequent Public Service Boards, there have been occasions when there appear to have been tensions in relation to implementation of government policies in relation to the public service. Section 19 of the 1999 Act now provides, for the first time, an explicit and unambiguous means by which governments can issue public, general directions to all agency heads on matters of policy.

While the Directions power could be seen to have the potential for criticism on grounds of politicisation of the Service, were a Direction to be given which was seen to have politically partisan overtones, the two Directions issued to date would have to be viewed as unexceptionable in that regard:

- Chapter 2 of the Directions requires the grant of leave without pay to APS employees to take up statutory appointments, employment under the Members of Parliament (Staff) Act or employment under the Governor-General Act. It covers also right of return to the APS. Accepted arrangements and conditions, applying under the former 1922 Act officers’ mobility provisions, have thereby been preserved, for the mutual benefit of the various parties involved.

- Complementing Public Service Regulation 3.5(4), Chapter 3 of the Directions authorises the engagement by agency heads of persons for a specified term, or for the duration of a specified task, for the purpose of gaining skills and experience under any of seven specified APS-wide training schemes.

As of now, therefore, the Prime Minister’s Directions fulfil a significant role in the support structure for the 1999 Act.
PUBLIC SERVICE CLASSIFICATION RULES 1999

Section 23 of the Act empowers the Public Service Minister to make rules about the classification of APS employees.

The intent and nature of the Classification Rules was described in the Explanatory Memorandum for the 1999 Public Service Bill:

4.10.4. The purpose of the Classification Rules is to provide a systematic mechanism for categorising employees for the purposes of facilitating the application of the merit principle and the APS mobility arrangements. Common Service-wide prescription of the classification system is needed in order to distinguish clearly between promotions (which are subject to merit) and assignments of duties at the same classification level or reductions in classification, where different rules and rights of review may apply. The Classification Rules will create a framework of approved classification for these purposes. It is not intended that they would be used to make rules that directly change the classification of individual employees or their remuneration and conditions.

4.10.5. The Classification Rules will recognise existing classifications in awards. They will also be drafted so that, whenever there is a variation in the classification set out in an award that applies to the APS, the new classification will automatically become an approved classification for the purposes of the Classification Rules (EM Senate 1999, p. 46–7).

Agency heads are required to comply with the Rules, and are expected to apply them, not only when exercising Public Service Act powers, but also when exercising powers under other laws relating to APS employees (e.g. Australian Workplace Agreements and Certified Agreements entered into under the Workplace Relations Act need to be consistent with the Rules).

Section 23 specifies limits on agency head powers to reduce the classification of an APS employee, which must be applied also in relation to any reduction of classification under the abovementioned Agreements or relevant awards. Application of the Classification Rules has been addressed in instructions issued by the Department of Employment and Workplace Relations.

As previously mentioned, the Commissioner’s Directions provide for the groupings under the Rules to bear directly on the definition of what constitutes a promotion within the APS. Additionally, the Rules serve to define the employees who are SES employees, in accordance with s. 34 of the 1999 Act.

GUIDANCE MATERIAL AND BRIEFINGS

Between passage of the legislation on 20 October 1999, and the implementation date of 5 December 1999, the Commission issued, progressively, an extensive range of guidance material, to assist agencies with the introduction of the new legislative framework:

- A series of 36 Public Service Act 1999 Advices provided guidance on the operation and implementation of the new Act, and the associated PECTA Act, including advice both on the operational provisions of the new legislation and on transitional arrangements,
where various staffing actions had been commenced, but not finalised, under the 1922 Act. A listing of the Advices issued is reproduced at Appendix 8.

- Additionally, the Commission issued a series of 12 Information Notices, providing details on the implementation of the Public Service and PECTA Acts by way of the proposed ongoing and transitional regulations, and the proposed Prime Minister’s and Public Service Commissioner’s Directions.

In addition to distribution to agencies in hard copy, the various documents were made available on the Commission’s Internet site, for purposes of allowing immediate circulation and broader access, particularly for regional areas.

While the Commission encouraged agencies to inform their staff of the changes, and to invite them to pursue further enquiries internally within the context of their own agency’s procedures, the six months from December 1999 saw some 1000 agency and individual calls to the Commission’s own Helpline, relating specifically to aspects of the new legislation.

With the object of increasing understanding of the new framework, the Public Service Commissioner conducted a briefing session for Secretaries, and the Commission conducted two major information sessions for senior corporate management staff of agencies. Advice and information sessions were provided also through the various people management networks, and to individual Canberra and regional agencies.

In the period since implementation, work has been proceeding in the Commission to consolidate guidance material in more substantial booklet format. Mention has already been made of the publication, *Values in the Australian Public Service*, and of a revision of the official conduct guidelines. Both were to be part of a new *Values and conduct* series of booklets being produced by the Commission. As indicated above, both the Values and the conduct guidelines were issued in a new format in August 2003.

As at June 2001, 15 booklets had been programmed in a separate *Working with the Act* series, designed to provide technical advice for managers and corporate areas to help them work within the legal requirements of the 1999 Act and its subordinate legislation. A third series of seven *Working together* booklets was planned, to provide advice on improving the culture of the workplace, designed primarily to assist people in the development of human resource strategies and practices in agencies, including already published titles dealing with workplace diversity guidelines, staff counselling and maintaining workplaces free of harassment.

A full list of the then-issued, and proposed, booklets has been published by the Commissioner, along with the titles of four Merit Protection Commissioner pamphlets, designed to assist agency heads to promote the Value that the APS provides a fair system for review of actions for its employees (PSCr AR 2001, p. 208–9).

As from May 2002, the above publications, other than those issued by the Merit Protection Commissioner, have been consolidated into a single series of publications.
IMPLEMENTATION OF PARLIAMENTARY SERVICE ACT

In the case of the Parliamentary Service Act, determinations under section 71 of that Act were made progressively after 5 December 1999, following consultation with the Parliamentary Service Commissioner (also the holder of the office of Public Service Commissioner). Those determinations have dealt with matters similar to those covered by the Public Service Regulations. Additionally, the Act provides for other supporting instruments in the following areas:

- General directions may be made to Secretaries by Presiding Officers, after consultation with the Parliamentary Service Commissioner (section 21)—a direction was issued, comparable to the Prime Minister’s direction to APS Agency Heads under section 21 of the Public Service Act, mandating the release of staff to accept certain forms of statutory-based employment.

- Classification Rules may be made by the Presiding Officers after consulting the Parliamentary Service Commissioner (section 23). Rules, comparable to the APS Classification Rules were issued in the latter part of 2000.

- The Parliamentary Service Commissioner must issue guidelines in writing about SES employment matters (section 36). Guidelines, similar to the Directions made by the Public Service Commissioner under section 36 of the Public Service Act, were issued in June 2000.
The year 2001 celebrated the centenary of Australian Federation. This section of the history looks briefly at the changing central personnel authority role within the broader context of the evolution and development of the federal public service through the same century, from time of passage of the 1902 Commonwealth Public Service Act until 2003.

**THE CENTRAL PERSONNEL AUTHORITY ROLE**

Developments in recent years have underscored the now significant and ongoing role of the Commission in providing advice and guidance to agencies. That role had existed for Commission’s predecessors, however, dating back to Federation.

The prime focus for the first Public Service Commissioner had been on central regulation and prescription, in relation to the exercise of staffing powers in the new, federal public service. The successor Public Service Board was to operate in a similar fashion for the greater part of its existence, but with major devolution and delegation of its functions occurring in the 10 years preceding its abolition. In that latter period, the range of Board guidelines and explanatory material expanded dramatically, as reflected in much of the content of a new Personnel Management Manual and in the extensive documentation issued in specifically targeted areas, such as equal employment opportunity, industrial democracy, studies assistance and staff appraisal.

The changed emphasis was to be pursued by succeeding Public Service Commissioners, but within the then continuing constraints of the 1922 Public Service Act structure, until December 1999.

The underlying philosophy and government objectives, in relation to APS reform, saw the evolution of a new Public Service Act, which explicitly shifted the focus from central regulation and prescription towards greater flexibility and decision making within agencies, and a Public Service Commissioner with express legislative obligations, in a number of areas, for the provision of advice and guidance to agencies.

The direct consequences for the Commission have been noted:

> The challenge ahead for the Commission is to work in partnership with agencies to identify, develop, pilot and promote good practices in public administration (PSCr AR 2000, p. 6).

**THE COMMISSION FROM 2001**

There has been a continuing focus on the ongoing implementation and consolidation of the new legislative framework, with support for agency devolution and flexibility, balanced by the promotion of accountability and the importance of the APS Values (PSCr AR 2001, p. 9).
The Commissioner’s reports have reflected the now considerable scope and diversity of the Commission’s activities, as the APS has moved into a new century. Consistent with the philosophy and content of the 1999 Act, employer powers are now exercised essentially by agency heads, rather than residing formally with the central personnel authority, as had been the case previously. While the Public Service Regulations and Public Service Commissioner’s Directions require or allow the Commissioner to mandate practice, in relation variously to observance of the APS Values and the Code of Conduct, and to employment of SES staff, the specified functions of the Commissioner in s. 41 of the Act accord primary emphasis to developing, promoting, reviewing and evaluating APS employment policies and practices, along with provision of advice and assistance to agencies on request. These roles are reinforced by specific powers of inquiry, in relation to the investigation of whistleblower complaints and other matters, set out in section 41.

Within this framework the Commission’s diverse operations (as occurring to the end of 2001) were being undertaken through an organisational structure comprising six teams, with broad areas of responsibility as follows:

- staffing structures and performance, encompassing policy and legislative aspects of a range of people and performance management and employment framework issues, including SES employment
- values, conduct and diversity, addressing policy and good practice advice to agencies, in relation to the APS Values and Code of Conduct, whistleblowing, workplace diversity, anti-harassment programs and APS workplace statistics
people and organisation development, providing advice on strategic approaches to leadership and management, including support of good practice and the development of capability across the APS, along with the development and delivery of various management and skills development programs

- two regional teams, providing advice and services to agencies across Australia, including discharge of Merit Protection Commissioner review and inquiry functions

- corporate strategy and support.

Additionally, the practice had been to provide for the establishment, annually of a small team to manage preparation of the Commissioner's State of the Service Report. During 2000–01, the team also had responsibility for producing the Commission's Centenary of Federation publication, marking the centenary of the federal public service itself.

As with its recent predecessors, the current Commission has continued to have an active involvement in international activities, keeping abreast of developments overseas in public administration, contributing to exchanges of information, periodic participation in international meetings, hosting visiting delegations, and sponsoring reciprocal overseas visits by Commission staff.

The Commission's internal organisational arrangements have been modified further since 2001, as reflected in the Commissioners 2001–02 and 2002–03 annual reports.

**SERVICE-WIDE ISSUES**

**STATE OF THE SERVICE REPORT**

The Commissioner's annual reports focus on the manner in which the Commission discharges its statutory responsibilities in the year under review, and details particular activities of the Commission's teams in the areas outlined above. The *State of the Service Report*, specifically required by section 44(2) of the Act, broadens the focus over the range of the Commission's functions and activities, in the context of providing an annual assessment of the 'health' of the APS as a whole.

Based on agency responses to a Commission survey, supplemented by information obtained from other central agencies and external review organisations, the Commissioner's 2000–01 *State of the Service Report* concentrated on selected issues, grouped around the following themes:

- agency progress in moving towards a culture which balances devolved management and workplace flexibility with the maintenance of openness, accountability and the APS Values

- the way in which the APS, both collectively and as individual agencies, is facing emerging technological and operational challenges in financial management, client service and protection of information

- managing performance, including the ongoing identification and maintenance of leadership and other capabilities needed to achieve a high performance APS
• the maintenance of effectiveness and accountability in the management of market testing and outsourcing.

Reference to the relevant APS Values is integrated into the discussion of these themes (PScr 2001, p. 7).

Allowing for limitations in being able to derive firm conclusions essentially from the written reporting of agencies, the Commission was able to record an encouraging response and adaption to the requirements of the 1999 Act, while noting new challenges deriving from the changes brought about by developments in information technology, and the more commercialised and contestable environment in which the Service is now required to operate.

As to challenges for the future, the report reinforced views, expressed separately in the Commissioner’s annual report, as to the continuing need for agencies to promote and uphold the APS Values, and to ensure that the demonstration of proper accountability is viewed as a key obligation for agency management.

Commentary elsewhere in this history has noted more recent initiatives of the Commission, as recorded in both annual and State of the Service Report reports in 2002 and 2003.

WORKPLACE DIVERSITY

The Commissioner’s Workplace Diversity Report 2000–2001 provides significant additional elaboration on the Commission’s role in promoting workplace diversity throughout the APS, highlights the age profile and diverse characteristics of the APS workforce and key employment issues, and assesses progress achieved in the development of the agency workplace diversity programs, required by section 18 of the Act.

The report documented the contemporary characteristics of APS employment on the basis of gender, indigenous Australian composition, racial or ethnic origin, and employment of people with a disability.

It would be misleading to suggest that overall reporting on workplace diversity in the APS is other than positive. Issues of concern remain, however, and have continued to be addressed in 2002 and 2003 reports:

• Employment in the APS of people with a disability has declined, against a steady rise in the underlying disability rate of the Australian population—attributed in part to a changing APS structure, with the outsourcing of many support functions provided previously by people with a disability, along with reduced need for some categories of support staff as a consequence of greater use of technology.

• Evidence from agency survey data of the need to ensure a better understanding of the APS Values by agency staff, with particular reference to ensuring that diversity of skills, background and ways of working are valued, consistent with Value 1(c) in section 10 of the Act.
• Agencies need to focus on strategies for development of strong and dynamic leadership and a broader range of organisational capabilities.

• Effective performance management will need to continue as a high priority for agencies. Essential to this will be the building up of a modern, human resource capacity that is able to offer effective organisational change in response to the new employment framework created by the 1999 Act.

• Achieving optional use of available information technology will be required to maximise efficient client service.

• As important issues increasingly reach across traditional portfolio boundaries, policy development and service delivery will require approaches encompassing a whole-of-government perspective.

THE EVOLVING PUBLIC SERVICE

The role of the central personnel authority, and its influence in the federal public service have varied with the changing characteristics of the latter.

By way of brief recapitulation on broad characteristics of the Service, between January and March 1901, Federation had resulted in the creation of seven Commonwealth departments, with their staff appointed under s. 67 of the Constitution until commencement of the 1902 Public Service Act in January 1903. By that time, 11 374 officers were employed under the Act. At June 2001, the APS employed a total of 118 644 staff in 18 departments and associated APS-staffed organisations of varying size, including major components in Centrelink (22 337), Australian Taxation Office (19 503), the Australian Customs Office (4272) and the Australian Bureau of Statistics (3188). By June 2003, a total of 131 711 staff was employed in the Service. At its peak, and with significant fluctuations associated with the Depression and World War II, the Service had grown to 277 455 staff by June 1975, immediately prior to the transfer of more than 121 000 Postmaster-General's Department staff to the new Postal and Telecommunications Commissions. The number of departments had peaked at 37 as at June 1973, in the first year of the Whitlam Government.

As to the changing functions of the Service:

... the functional spread of the Service grew substantially over the one hundred years of Federation. Many functions remained from the early days, including customs, immigration, quarantine, defence, trade, taxation and repatriation benefits, although their scope and administration altered significantly. In addition, the Commonwealth developed a policy interest in a range of areas, including information technology, radio and television broadcasting, air transport, the environment, education, family and child support, aged and community care, multicultural affairs, and sport and tourism (PSMPC 2001a, p. 88).

Over the last 20 years, the scope of APS functions has been reduced by outsourcing, privatisation and the transfer of activities to other sectors by successive governments. In turn, the Service has increasingly concentrated on the performance of its clerical and
policy advisory roles—the latter now commonly provided in a contestable environment, with independent advice to Ministers from their own staff, consultants, and various public policy research, advisory and special interest groups.

As has been previously noted, it should be recalled also that, from the early years of the 20th century, governments have chosen to have many Commonwealth functions undertaken by agencies not employing staff under the Public Service Act—over the objections of the first Public Service Commissioner and, in many instances over the years, the successor Public Service Board.

The changing size and composition of the APS, particularly through the latter half of the 20th century, have attracted frequent criticisms of its size and efficiency. The theme of ‘too many public servants’ occurred consistently in articles written by EH Cox in the Melbourne Herald and Weekly Times during the 1950s, and was commonly echoed by other journalists and public administration commentators. The Coombs Report in 1976 referred to public discontent and hostility to the size and cost of the bureaucracy and, in its annual reports, the Public Service Board was moved, not infrequently, to defend the growth of the Service, by reference particularly to the requirements of new government policies, and community expectations on delivery of services.

It is somewhat ironic that, in more recent times, criticisms have commonly focused on perceived APS resource capacity limitations, and failure to provide levels of service in accordance with community expectations—particularly in relation to the delivery of social welfare and health services—but also in other areas, where both urban and rural communities have become accustomed to significant levels of infrastructure support from federal government agencies.

Developments contributing to the current situation have been mentioned earlier. Focus on the size, functions and efficiency of the Service was sharpened as a consequence of the outcome of the three major reviews commissioned by the Fraser Government between 1976 and 1983 (the Administrative Review Committee, the Review of Commonwealth Functions and the Review of Commonwealth Administration). All three reports addressed options for divesting or refining APS functional responsibilities. Succeeding Hawke, Keating and Howard Governments responded in varying ways to these proposals, but with increasing concentration on the scope for having ‘non-core’ public sector activities being performed outside the APS (including by the private sector), as referred to above.

From virtual complete coverage at the time of commencement of the 1902 Act, less than half of the civilian staff of all Australian government agencies were covered by the 1999 Public Service Act at the end of the century (PSMPC 2001a, p. 204).

The present APS Commission is required to discharge its responsibilities in relation to a smaller public service, the direct functions of which have been significantly reduced or modified. The Commissioner’s annual and State of the Service reports accordingly now provide appropriate and effective means of generating better community-wide understanding of APS current realities and future possibilities.
RETROSPECT AND PROSPECT

A definitive evaluation of the work of the Australian Public Service Commission’s predecessors, the 1902 Public Service Commission and the Public Service Board, has yet to be undertaken. It would now be timely to address their contribution over the last century, in the same way as Centenary of Federation activities have addressed the story of the last 100 years, and identified many of the individuals and institutions that have made significant contributions to the evolution of the Australian Commonwealth.

The present Commission itself is of relatively recent origin, and any comprehensive evaluation of its contribution to the management of the APS since 1987 would still be premature.

In concluding this section of the history, however, the writer is rash enough to add a brief personal and unsolicited observation.

The now (from June 2002) Australian Public Service Commission was born in 1987 of distinguished ancestry. It was then widely perceived, however, as a weak (and almost orphaned) infant, with distinctly poor prospects of survival to adolescence, let alone achievement of adulthood.

Sixteen years (and five Public Service Commissioners) later, the child has shown itself to have been of an unexpectedly robust constitution. Predictions of longevity, both for humans and organisations, inevitably lack certainty—nowhere more than in areas subject to the political motivations and imperatives of incumbent governments at any given point of time. With all bets hedged accordingly, the Commission would nonetheless appear to have prospects of healthy survival for the foreseeable future.
The first federal Public Service Act received the Royal Assent a little over 100 years ago, on 5 May 1901, coming into effect some eight months later. It is now timely to look at some of the features of the legislation which has governed the public service through the 20th century.

As noted in the Commission's Centenary of Federation publication, the century has seen many dramatic changes in the roles and responsibilities of the APS with marked changes in Australia’s economic, social and strategic circumstances, along with changing community expectations and government policy imperatives (PSMPC 2001a, p. 70). Some of the key issues have been touched on in this history as background to an examination of the three principal Public Service Acts and related legislation.

If the size and functions of the federal public service have varied considerably over the last 100 years, the three Public Service Acts during that period have been characterised by some fundamental, common principles and recurrent provision for the performance of particular functions (albeit with progressive evolution of their interpretation and application), along with the introduction of significant new provisions.

ENDURING ELEMENTS

We need to look first at some of the more significant enduring elements.

THE CAREER PUBLIC SERVICE AND MERIT

Whether frequently affirmed or significantly qualified as to the extent of its current applicability, it is still common to attribute the stability and integrity of the public services in Australia to their origins in British civil service reforms in the 19th century. The particular impact of the Northcote-Trevelyan Report, with its uncompromising rejection of corruption, nepotism and patronage, has served to underpin the perceived necessity for Australia to maintain a permanent career public service, at each of Commonwealth, state and territory levels, throughout the 20th century.

For the Commonwealth, essential elements of a career public service at Federation constituted merit-based staffing of positions from the point of initial entry to the Service, through subsequent progression by way of merit promotion, security of tenure to retirement, and protections against arbitrary termination of services. The 1902 Commonwealth Public Service Act legislated variously to this effect, with entry to the Service essentially based on open and competitive assessment by way of formal examinations. While the primary basis of promotion was then to be efficiency, the latter was defined in terms of qualifications and aptitude for the duties to be performed along with merit and 'good and diligent' conduct (section 42). Minimal variation occurred to this definition with the enactment of the successor Commonwealth Public Service Act in 1922.
EXAMINATIONS Nos. 140 and 141
5th and 19th December, 1908

GENERAL DIVISION

FOR APPOINTMENT AS TELEGRAPH MESSENGER

ARITHMETIC

Time allowed: Two hours.

NOTE – Be neat; show the whole of your working; keep each sum quite distinct from the others; and set out the answer in a clear space at the end of each sum.

1. Divide £13,854 11s. 5d. by 158.

2. Multiply one hundred and thirty-seven millions twenty-five thousand and seven by 6,359.

3. The difference of two numbers is 34, and the smaller is 56. What is the other number?

4. A dealer bought 79 horses for £995 8s. 4d., and sold 39 of them at £12 5s. each. At how much per pair must the remainder be sold in order that he may gain 50 guineas?

5. A man leaves £1,191 13s. 4d. to be divided equally between his seven sons and six daughters. Find –

   (a) How much each will receive?

   (b) How much each would receive if the share of each son were to be double the share of each daughter?

6. Supply the missing figures in the following subtractions:

   (a) 4***4
       *947*
       26205

   (b) *84562
       8*1*3
       6*7*7*

7. A boy bought a knife for 2s. 6d., which he afterwards sold for 9d. and 210 marbles. How much did he lose, supposing the marbles to be worth a penny a dozen?

8. Divide £83 6s 8d. between A, B, C, and D, so that D will receive £3 2s. 1d. more than C; C, £9 0s. 1d. more than B; B, £1 1s. 1d. more than A. What will each receive?
While the principles were maintained, however, their application varied significantly over the life of the two Acts. In the public service of McLachlan’s time, and well into later decades in Public Service Board times, the merit principle operated very selectively by current standards. Restrictive recruitment age limits were in place. Employment opportunities were limited significantly for women, and virtually non-existent for Aboriginal people and those with disabilities or coming from a non-Anglo-Saxon background. Returned soldier preference provisions, accepted as an inescapable consequence of political and social pressures from World War I, remained in place and were enhanced during, and subsequent to, World War II, with resultant dilution of normal recruitment standards and significant adverse effect on youth recruitment.

As noted in earlier discussion of the issues, the problems thus created began to be addressed in a meaningful way with the implementation in the early 1960s of a range of recommendations of the Boyer Committee report on public service recruitment standards and processes. Directly as a result of these recommendations and of its own initiative, the Public Service Board moved progressively to raise recruitment standards and remove or relax appointment age limits and earlier barriers preventing or limiting entry to the Service of people with disabilities. Removal in 1966 of the legislative barrier to permanent employment of married women was to be followed by implementation of a range of measures, directed to enhancing employment opportunities not only for women, but also for Aboriginal people and people from non–English-speaking backgrounds. From the late 1970s, the Board continued to improve the equal employment opportunity framework culminating, legislatively, with the enactment of specific EEO provisions in the 1984 Reform Act.

By 1984, appointment age limits had been removed, as had the longstanding 10 per cent limit on graduate recruitment at the clerical–administrative base range. By this time also, the bulk of the returned soldier preference provisions had been withdrawn.

The above changes served to modify progressively the realities of a career service as it had evolved in the federal public service over more than 80 years. The range of Reform Act amendments in 1984 included more specific articulation of the merit principle, in relation both to entry to the APS and to subsequent promotion.

In relation to appointment to the Service, the previously existing provisions for qualifying examinations and tests or for recognition of external educational qualifications became subject to an overarching legislative requirement for application of the merit principle to assess the credentials and relative suitability of applicants for appointment. At the same time, new provisions were inserted in the Act proscribing patronage and favouritism or unjustified discrimination on grounds of any of 12 specified characteristics of individual applicants in relation both to appointment and promotion processes.

In respect of the promotion process, the 1984 Act brought to finality some earlier enacted amendments, requiring the most efficient of the applicants to be selected for promotion, having regard to the respective claims of those applicants according to five specified characteristics and in relation to their future potential.
The 1999 Public Service Act has taken further the evolution and explicit statement of the nature of the merit principle, with the APS Values now affirming that the APS is a public service in which employment decisions are based on merit (para. 10(1)(b) of the Act). Supplementing the Values, this section also provides a consolidated and shortened definition of the characteristics of merit, in relation both to engagement for employment and for promotions, drawing on some of the earlier terminology. Separately, the proscription of patronage and favouritism has been maintained (section 17); non-discrimination and diversity are affirmed by Value 10(1)(c); and employment equity must be promoted through agency workplace diversity programs (section 18). A new provision specifies that an agency head is not subject to direction by any Minister, in relation to the exercise of SES and non-SES employer powers over particular individuals (section 19). Merit and diversity provisions are subject to further reinforcement by the Public Service Commissioner’s Directions.

Merit-based staffing was an underlying principle for the Commonwealth Public Service at time of Federation. The understanding and expression of merit has undergone significant evolution over the intervening 100 years, but it remains a key feature of the APS at the beginning of the 21st century.

ACCOUNTABILITY

Whilst direct references to the principle of merit-based staffing appeared in each of the 1902 and 1922 Public Service Acts, and were given additional prominence in the 1999 Act, less explicit legislative recognition has been accorded another principle which has been seen as fundamental for the federal Public Service — accountability.

Historically, the term had been considered as applicable more to Ministers than to public servants. Within that framework, the departmental permanent head was responsible to the Minister ‘for its general working and for all the business thereof’ — a formula incorporated into section 12(1) of the 1902 Act and repeated, unchanged, in section 25(2) of the 1922 Act. The 1984 Public Service Reform Act further reinforced the formulation by addition of the phrase ‘under the Minister’, with the express intention of making it clear that ultimate responsibility for the administration of a department was vested in its Minister, in accordance with section 64 of the Constitution. Under Westminster tradition, the Minister was then accountable to Parliament for his administration.

In more recent years, the evolving nature of the relationship between Minister and departmental Secretary has served to modify the traditional responsibility/accountability distinction and usage of the terminology. The increasing diversity and complexity of government activities, along with changing perceptions and expectations in relation to the role of the contemporary Secretary in both policy advising and management, have meant that the latter will now be seen as accountable for his or her actions and decisions. Ministerial accountability, if unchanged in principle, has come to be regarded as shared, and perceived by some observers to be diluted.

The 1976 report of the Coombs Commission noted the changes which had already occurred, the modern realities and potential problems. While it was clear that a Minister could no longer be expected realistically to be aware of, and accept responsibility for, all
departmental activities and acts of officials, it had become increasingly important to seek to clarify the nature and extent of shared responsibilities and related procedures for their assessment. The objective:

... to provide that those responsible at all levels will be accountable for their performance. Until then no-one can fairly be called to account for failure or poor performance (Coombs Report 1976, p. 42).
As noted by the Commission, however, the dividing line between ministerial and departmental responsibility continues to be both difficult to draw and, once drawn, to achieve undisputed acceptance by the affected parties.

If the 1902 and 1922 Acts did not use the specific accountability terminology, therefore, the concept can be seen to have been inherent in the abovementioned specifications of permanent head responsibilities. Additionally, as an independent official, with an overarching responsibility for the efficiency of the public service, the first Public Service Commissioner, and his Inspectors, were seen by the 1902 legislators as sharing that efficiency responsibility with permanent heads, and being accountable to parliament for their stewardship. In furnishing his annual report to Parliament, the Commissioner was required to report on the ‘condition and efficiency’ of the public service and to propose any necessary changes for improvement (section 11)—an obligation taken seriously by McLachlan, as reflected in the content of his reports.

McLachlan’s commitment to achieving improvement in public service efficiency did not prompt him to seek specific legislative powers in that area under the 1902 Act, nor did his 1919 Royal Commission report include any such proposals. The Economies Commission, however, took a different view, lamenting the non-existence of an independent auditor of public service efficiency. In the event, the 1922 Act charged the new Public Service Board with responsibility ‘to devise means for effecting economies and promoting efficiency in the management and working of Departments’, with additional specification of particular areas for attention, including the maintenance of ‘a comprehensive and continuous system of measuring and checking the economical and efficient working of each Department’ (section 17 refers). The same annual reporting requirement was imposed on the Board as had existed for the former Public Service Commissioner.

For varying reasons, including the consequences of the Depression and World War II, the Board was to make maximum use of its section 17 powers for a relatively short period in the late 1940s and the 1950s, with subsequent, progressive transition to less authoritarian management improvement review and advisory activities.

The last decade of the Board’s existence was to see a lower priority accorded to those activities, as new people management imperatives emerged in areas such as equal employment opportunity, industrial democracy and other initiatives directed to achieving an efficient public service through making it more open and responsive to both the needs of government and those of the wider community—arguably, accountability in one of its variants. This emphasis would continue as a significant characteristic of the Public Service Commissioner’s office from 1987, with the section 17 provisions effectively becoming redundant in the new, devolved management environment, and with the disappearance of any significant central personnel authority role in the traditional ‘economy and efficiency’ fields.

The 1999 Public Service Act addresses both traditional and current understandings of accountability, and provides contemporary legislative expression of the principle at a number of different levels, with free use of accountability terminology.
The essential elements were outlined by Minister Reith in introducing the then 1997 Public Service Bill:

- The new Public Service Act was to provide an effective legislative basis for public accountability, with an interlocking framework of powers and responsibilities, exercised in a devolved managerial environment.

- Secretaries of departments would be required to uphold specified public service values and would be held accountable for the manner in which they exercised administrative powers, including employer powers in relation to APS staff.

- Both Secretaries and the staff under their control would be bound by a legally enforceable Code of Conduct, reflecting the standards of behaviour expected of public servants.

- There would be enhancement of Parliamentary scrutiny in relation to the way in which the public service discharged its responsibilities on behalf of government, including a specific requirement for the Public Service Commissioner to report to Parliament annually on the state of the APS (PD House 26 June 1999, p. 6461 ff).

Each of the above elements is now reflected in the 1999 Act, along with some accountability specifics:

- APS Value 10(1)(e) affirms that the APS is openly accountable for its actions, within the framework of ministerial responsibility to the government, the Parliament and the Australian public. Compliance with this Value (as with all APS Values) is a specific requirement of the APS Code of Conduct (section 13(11)).

- Both the departmental Secretary and the head of an executive agency are required to assist the agency Minister to fulfil the Minister's accountability obligations to the Parliament.

The Act retains the terminology of its predecessors in reaffirming that a Secretary’s departmental management responsibilities are exercised ‘under the agency Minister’. Likewise, annual reporting by the Public Service Commissioner, the Merit Protection Commissioner, agency and executive agency heads must be in accordance with Joint Committee of Public Accounts and Audit guidelines. Additionally, agency heads must comply with directions issued by the Prime Minister (section 21) and the Public Service Commissioner (section 42(2)). Accountability mechanisms may be brought into play under various other provisions of the Act including, particularly, the section 41 inquiry and reporting powers of the Commissioner.

The Public Service Commissioner’s more recent annual and State of the Service reports have continued to stress the fundamental importance for the APS of the principle of individual and corporate accountability, translating and applying the traditional concepts to the realities of the contemporary political and administrative environment. In this regard, it is necessary to take into account the range of other accountability mechanisms for the APS, which have either applied historically or become more significant in recent years, through the operation of parliamentary inquiries and committees, the Auditor-General, courts and tribunals, and other regulatory authorities.
REVIEW OF ACTIONS

Section 33 of the 1999 Act establishes the entitlement of an APS employee to review of ‘any APS action that relates to his or her APS employment’, other than an action involving termination of the employee’s employment (section 33(1)). The section sets down the broad outline of the review process, and the particular role of the Merit Protection Commissioner. More detailed review arrangements are spelled out in Part 5 of the Public Service Regulations 1999.

Provisions for the review of decisions affecting Commonwealth employees in their employment had existed in both the 1902 and 1922 Public Service Acts, but the nature and scope of such provisions have varied significantly over the last 100 years, notwithstanding obvious common elements.

In principle, section 50 of the 1902 Act had the appearance of affording federal public servants wide-ranging review rights. Any officer ‘affected by any report or recommendation made or action taken under this Act’ had prescribed rights of appeal to a board, comprising one of the Commissioner’s statutory inspectors, the chief officer of the department to which the officer belonged or the chief officer’s nominee, and an elected representative of the Division to which the officer belonged. A right of appeal was specifically precluded, however, in relation to processes applicable to appointments without examination, disciplinary and forfeiture of office processes, incapacity for duties or compulsory retirement. Board recommendations after the hearing of appeals were submitted for decision by the Commissioner, or recommendation by him to the Governor-General, where exercise of the latter’s powers were involved (for example, promotions in the Administrative, Professional and Clerical Divisions, or dismissal of an officer from the public service, as a consequence of a recommendation by a specifically constituted Board of Inquiry for alleged serious offences).

Although the review of actions provisions were of very modest dimensions compared with processes adopted in later years, McLachlan took the view that their application entailed excessive and inefficient use of departmental resources and unreasonably constrained management—views which were to be expressed many decades later about the then appeal and review provisions of the 1922 Public Service Act. Criticisms in the 1990s of excessively resource-intensive processes and allegations of existence of a ‘prevailing grievance mentality’ would no doubt have resonated for the first Public Service Commissioner.

McLachlan’s Royal Commission recommendations in these areas sought to remedy the problems he perceived. While he pressed for retention of Commissioner authority for ultimate determination of appeals (or Commissioner recommendation to the Governor-General, where relevant), he moved for the use of a more independent Appeal Board system for the bulk of disciplinary appeals, and devolution of promotion responsibilities to permanent heads, thus allowing exercise of Commissioner powers only at the appeal stage, and not in having to review his own original selection decision.

McLachlan’s recommendations found favour and, after a temporary falter in the case of promotion devolution, were incorporated in the 1922 Public Service Act.
His uncompromising opposition to the introduction of any form of Appeal Board for the determination of promotions appeals was accepted also, with the newly established Public Service Board continuing as the sole assessment and determining authority until 1945, and remaining generally in sympathy with the McLachlan philosophy:

The view cannot be expressed too strongly that the remission of appeals to a formal Board of Appeal would involve a distinctly retrogressive step, and the retention of the present system with all its manifest defects, would be preferable to the constitution of Boards of Appeal carrying no responsibility as to the ultimate outcome of their recommendations. The future administration of the Public Service is too important and serious a matter to be prejudiced by endeavours to obtain theoretical justice (McLachlan Report 1920, p. 48).

By the end of World War II, however, the then incumbent Labor Government was disposed to respond to persistent union representations for reform of promotions appeal arrangements. As noted earlier, it accepted Bailey Committee recommendations for establishment of a Promotions Appeal Committee system, with independent committees able to hear and determine appeals, other than for senior executive promotions and those to the higher-level clerical–administrative, professional or specialised positions.

The essentials of the promotions appeal arrangements were to remain in place for more than 50 years, but not without significant modifications. Through to the 1980s, a growing volume of appeals cases led to long delays in their hearing and determination. Thus, in its 1982–83 annual report, the Board noted that more than 4700 officers were then awaiting appeal hearings, despite the operation of 20 full-time appeals committees (with a necessity for up to 26 committees reported in the following year).

The growing volume of appeal traffic had been influenced by a variety of factors. The most significant of these seems likely to have been reduction of promotion opportunities as a consequence of APS staffing restraint policies. Additionally, a series of Federal Court judgements, necessitating preparation by committees of ‘reasons for decision’ statements, to establish that ‘due process’ and ‘natural justice’ considerations had applied to their deliberations and decisions, impacted significantly on processing time for both promotions and appeals.

Union and staff concerns, relating not only to the long delays in resolving cases but also to the real ‘independence’ of the committees (committee chairpersons were appointed by the Board), generated new pressures for changes. Associated criticisms of process, and cost concerns, expressed by the various reviews initiated by the Fraser and Hawke Governments between 1976 and 1983, were to culminate in various legislative changes through the 1984 Reform Act and 1986 Streamlining Act.

The reforms thereby enacted served to reduce progressively the range of promotions subject to appeal. The Reform Act precluded appeals against promotions to the newly established Senior Executive Service (SES) and to promotions resulting from the unanimous recommendation of a Joint Selection Committee, which included a staff organisation representative. The streamlining legislation removed non-SES promotion appeal rights for the then top three clerical–administrative levels, and for equivalent grades in other APS occupational groups. Additionally, where rights of appeal continued,
they could be exercised only by officers who had applied originally for promotion to the subject vacancies.

Concurrently with the Reform Act changes, overall administration of the promotions appeal process ceased to be a Board responsibility, and was taken over by the new Merit Protection and Review Agency, along with the Board’s former administrative responsibilities for APS disciplinary and redeployment and retirement appeals, and the handling of grievance applications initiated by APS staff, under longstanding provisions of the Public Service Regulations.

Along with the abovementioned reduction of appeal options (and a lessening incidence and impact of Federal Court interventions), structural changes within the APS, transfers of functions to the private sector and, probably, perceptions of a further lessening of job security in the APS contributed to a progressive reduction in promotions appeal traffic, through to the advent of the 1999 Public Service Act. As indicated earlier, the appeals regime was then to give place to Merit Protection Commissioner review processes, but with ultimate decision-making authority resting essentially with agency heads.

**STAFF TRAINING AND DEVELOPMENT**

The 1902 Public Service Act, and the first set of Public Service Regulations which came into effect in January 1903, contained no references to the training of staff. The annual reports of Public Service Commissioner McLachlan, however, made it clear that he attached great importance to the activity, as the means of developing the capabilities of public service staff and of improving immediate and longer-term public service efficiency and responsiveness. To this end, he pressed for the earliest possible establishment of Training Institutes, but with individual departments having the basic responsibility for staff training (PSCR AR 1913, p. 53).

The significance accorded training by McLachlan would have no doubt been influenced by some of the problems experienced in establishing an efficient federal public service, from the disparate staffing elements ceded to the Commonwealth by the states in the relevant areas of new Commonwealth responsibilities. Severe criticism of management and staff performance in the Post Office, as expressed in the 1910 report of the Postal Services Royal Commission, could be expected also to have had impact. Nonetheless, McLachlan did not view the provision of training as an appropriate function for his own Commission, notwithstanding the common tendency for departments to focus on training for their own specialised functional needs, rather than training to meet needs for upgraded management and clerical skills throughout the Service.

McLachlan did not address the issue of training in his later Royal Commission report and, in proposing retention of a single Commissioner (rather than the Board of Management model advocated by the Economies Commission), made no reference to training in the functions which he proposed for the Commissioner.

The responsibilities proposed by the Economies Commission for the Board of Management, however, included ‘the improvement of the training officers’. That formulation was included in the 1920 Public Service Bill, and was then carried over, in
identical terms, to become one of the responsibilities of the Public Service Board under the 1922 Public Service Act (section 17(1)(a)(vi)).

As in earlier years, most training and development activity continued to be undertaken in departments, particularly in relation to their ongoing needs in professional, technical and trades areas. Within the limits of its own resources, however, the Board worked towards upgrading the skills and qualifications of staff occupying clerical and administrative positions, as well as those of staff in the more specialised types of departmental positions. Attention was paid particularly to the needs of returned soldiers and, within the first decade of its existence, the Board had moved to encourage clerical staff to pursue post-secondary education. A limited provision for assisted study schemes was initiated, and increased emphasis was placed on obtaining tertiary qualifications—further underlined by the enactment in 1933 of provisions for graduate clerk recruitment, under the then section 36A of the Act.

The Board’s training activities were to be constrained significantly by two major events outside its control—the Depression and the Second World War. Resources for training inevitably had to be accorded low priority in both situations, and no significant change was to occur until after reconstitution of the three-member Board in January 1947.

Reference has been made previously to the major upgrading of the Board training function in the early post-war period, the commencement of a significant involvement in international training activities and an early, wide-ranging involvement with training in the ADP field. The Board’s post-retirement tribute to Sir William Dunk noted specifically his role in ‘instituting advanced training’ (PSB AR 1961, p. 21).

Involvement in training was to remain important from the immediate post-war period through to the time of the Board’s 1987 abolition, but with important changes in emphasis. The number of training courses organised by the Board (conducted both in Canberra and by the Board’s state offices) decreased progressively, along with an increasing emphasis on instituting broader-based staff development programs. Such programs ranged across extended schemes for developing or upgrading administrative and management capabilities and skills (such as the Executive Development, Administrative Trainee and Personnel Management schemes, and the Interchange Program) to shorter, topic-specific courses or seminars, in areas such as administrative law, financial management and media relations. Increasingly also, use was made of external consultants and other subject specialists, with departments bearing the attendance costs for their own staff.

The new Public Service Commission progressively came to play a significant role in staff development activities, with characteristics of a similar nature to those of the former Board’s role—in the SES area, and through various non-SES activities and programs, with particular involvement in Service-wide cooperative programs such as JAPSTC, middle management development and PSETA.

While McLachlan stressed the importance of staff training for purposes of achieving an efficient federal public service, he did not seek to have it recognised legislatively in the 1902 Act, or as a particular responsibility of the Public Service Commissioner. Almost a
century later, the 1999 Act provides that one of the specific functions of the Commissioner is ‘to coordinate and support APS-wide training and career development opportunities in the APS’ (section 10(1)(i)).

**OTHER COMMONALITIES**

With the partial exception of staff training and development, each of the four enduring elements discussed above have featured prominently in the three principal Public Service Acts since Federation. In concluding this section of the history, brief reference is made to three other important elements of commonality in the evolution of the contemporary APS—elements which have commonly had less explicit legislative expression themselves, but which have nonetheless impacted on the approach to, and content of, each of the Acts.

**Emulating the private sector**

The APS reform processes initiated by the Howard Government in 1996 was unambiguous in commending changes which would emulate best private sector models and practice:

> The Government is committed to an APS that has embraced the best practice of contemporary management and is able to benchmark its performance against the private sector (Reith 1996, p. viii).

Elsewhere in that paper, and as reflected in the Minister’s Second Reading Speech on the 1997 Public Service Bill, it was made clear that APS employment provisions would largely accord with employment processes applying to the wider community, consistent with provisions of the 1996 Workplace Relations Act.

The general thrust (and some specific elements) of the Government’s intentions came to be reflected ultimately in the 1999 Public Service Act including, particularly, the devolution to agency heads of employer powers and responsibilities, similar to those exercised by employers in the private sector.

Private sector comparisons and benchmarking, however, had been seen as a significant objective for the federal public service from its origins. McLachlan was characteristically forthright:

> ... it is ... highly important [for] the Public Service ... to be brought more into accord with the best examples of private and commercial enterprise and administration, and so secure public approbation (PScr AR 1906, p. 47).

As noted previously, McLachlan took very seriously his obligation to report annually on the ‘condition and efficiency’ of the public service and, in so doing, was never averse to private sector comparisons. He took exception readily, however, to external criticisms of public service administration—notably, in his response to the report of the Wilks Royal Commission on Postal Services. He criticised inadequacies which he perceived in their examination and reporting on the Postmaster-General’s Department, and opposed rigorously the Commission’s proposal for a departmental Board of Management. Some
years later, he was to express similar strong opposition to the Economies Commission’s proposals for establishing a similar Board for the public service at large.

In the event, a Board was to replace the Commissioner in the 1922 Act, with its responsibilities including the ‘efficiency and economy’ elements advocated by the Economies Commission. In the particular context of the present discussion, however, it is pertinent to note that the government had set out deliberately to appoint to the Economies Commission highly regarded successful businessmen.

The Board’s pursuit of its assigned efficiency and economy responsibilities was not to occur in any significant measure until after World War II, and was to be relatively short-lived. In the intervening years, however, governments often found need to obtain advice or special expertise from the private sector, to supplement or enhance normal public service advice. The 1930s Depression and World War II provided notable examples and, in the latter case, included instances of prominent figures from the business world serving temporarily as chief executives of key government agencies.

Although the public service was to continue to grow rapidly in the first three decades after World War II, resort to private sector expertise remained common. The Defence group of departments used business representatives on various advisory boards, as did other departments with activities of particular significance to the private sector, such as in the transport and natural resources fields.

In more recent years, increasing use has been made of private sector consultancy services, both in departments and in Ministers’ offices. From the late 1970s, the Public Service Board commonly engaged consultants to lead its Joint Management Review teams, and to develop and conduct a wide range of staff development programs. Likewise, most departments have made extensive use of consultants in discharging their particular functional responsibilities, or for undertaking independent reviews. Downsizing and outsourcing of many traditional government activities have provided additional incentive, or need, to utilise external services.

Emulating best private sector practice has been a motivating force for governments and central personnel agencies since Federation. Over the years, it has extended progressively to rely on external expertise and resources in the day-to-day performance of government functions. It has impacted further also into the giving of advice to government, with both Labor and Coalition governments endorsing the notion of ‘contestable’ advice from sources outside the public service, variously involving external consultants, academics, advisory committees and policy think tanks.

**Rewarding competence**

Monetary recognition for achievement of expected standards of work performance and rewarding higher levels of performance have occurred in a number of different forms in the last century.

**Salary increments**

For McLachlan, concerns for achieving an efficient public service were matched by recognition of the need to maximise individual performance at the workface, in the
<table>
<thead>
<tr>
<th>Surname</th>
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<td></td>
<td>LIBRARIAN</td>
<td>CLASS 2</td>
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**CONDUCT**
- [ ] Satisfactory
- [x] Unsatisfactory

**DILIGENCE**
- [x] Satisfactory
- [ ] Unsatisfactory

**EFFICIENCY**
- [x] Satisfactory
- [ ] Unsatisfactory

**Remarks**

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**PERSONNEL SECTION USE ONLY**

- [ ] Leave records checked
- [ ] Increment data verified

Incremental achievement to $13400 per annum from 3/9/76 approved

- [ ] Checking Officer: [Name]
- [ ] Date: 10/9/76
- [ ] Approval Officer: [Name]
- [ ] Date: 10/9/76

- [ ] Higher Duties Allowance checked and adjusted if applicable
- [ ] Superannuation/Pension contributions checked and adjusted if necessary
- [ ] [PSR 5394] History card noted
- [ ] Salary version affected T.F. 364(Y) Inc.
- [ ] Advice to officer
- [ ] Date: 10/9/76

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Your increment due on 3/9/76 has been approved. Your salary will be raised to $13400 p.a. on pay day 30/1/76 with effect from 3/9/76.

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Staff Clerk, [Name], 13/9/76
absence of the broad range of incentives which commonly motivated private sector employees to strive for success.

Under the 1902 Act, rewarding public service performance came about essentially by way of promotion and incremental salary advancement. In a relatively small public service in which it was rare for any promotion or transfer to be other than intra-departmental, career progression through promotion would inevitably be slow. McLachlan firmly believed, however, that careful and conscientious administration of the awarding of discretionary salary increments under section 21 of the Act, based on departmental assessment of the officer’s ‘conduct, diligence and general efficiency’ constituted a powerful incentive to strive for high-quality performance. He believed that an additional incentive derived from staff having to compete for the number of incremental opportunities available at any given time, according to funds and classification structure constraints then applying.

Despite tight legislative prescription of incremental advancement and strong Public Service Commissioner support for their rigorous application, the degree to which the system contributed significantly to the achievement of improved levels of personal performance remains unknown. Arbitration proceedings in 1913 saw the beginning of automatic increments for trades and related categories of staff in the public service, and an admission to the Arbitration Court two years later that ‘the granting of increments was quite haphazard’ (PSMPC 2001a, p. 193). The then wartime environment, and the immediately ensuing moves towards public service reforms and a new Public Service Act presumably saw little significant change in the effectiveness of administering the incremental system.

McLachlan acknowledged the need for change:

The present system of discretionary increments imposes a heavy burden on administrative officers in making inquiries into individual claims, and is a serious tax on the time of the Commissioner and Inspectors in adjudicating upon such claims without commensurate results (McLachlan Report 1920, p. 42).

By way of solution, he recommended that direct administration of increments (to be granted automatically, subject to satisfactory service) be devolved to departmental permanent heads and chief officers, with the individual officer having right of appeal to the Commissioner, if an increment were deferred or denied. The substance of his recommendations was accepted, and duly enacted in section 31 of the 1922 Public Service Act.

In its first report, the newly appointed Public Service Board noted specifically that McLachlan’s recommendation had been predicated on the adoption of a system of short ranges of salary classification, but it had opted rather for more variable classification structures, thus enabling it to ‘afford the fullest scope of fixing the work value of positions ... in accordance with the circumstances of the particular office’. On this basis, the Board went on to make it clear that incremental advancement ‘will only be retarded because of misconduct, lack of diligence or manifest inefficiency and not by the granting or withholding of increments on the basis of work value’ (PSB AR 1924, p. 34–5).
Over the next 40 years, the classification system established by the Board was to become increasingly complex, with overlapping salary ranges and varied structures, often containing multiple incremental points—a system which was to be substantially reformed and simplified through the progressive establishment of new classification and pay structures, as initiated by the Board in the 1960s, under Chairman Wheeler.

The basic incremental advancement provisions of section 31 remained essentially unchanged until the 1980s. The Board's annual reports throughout the period made only limited reference to them, but it seems doubtful that McLachlan's aspirations for a more rigorous and effectively managed system were ever achieved, notwithstanding issue by the Board of written guidance and directions.

The volume of General Orders, issued by the Board in March 1938, included a section on salary increments, setting out procedures to be observed for their approval and general administration, with subsequent volumes of the General Orders continuing to do so until the 1970s. Such admonition and guidance, however, would not seem to have produced the 'commensurate results' for administrative effort, non-achievement of which in the early years of the federal public service had prompted McLachlan's reform proposals.

The rituals were observed, not uncommonly with conscientious attention to obtaining written reports on the 'conduct, diligence and efficiency' of an officer due for incremental advancement. Perhaps more commonly, the assessment and reporting processes were seen within the public service as time-consuming irritants of limited value—views reinforced by external criticisms.

Annual increments are virtually automatic as misconduct and inefficiency are dealt with in other ways (Caiden, 1967, p. 360).

In theory, increments are granted … subject to satisfactory performance but, except in isolated cases where a qualifications barrier exists, they have become nearly automatic (Coombs Report 1976, p. 196).

Despite acknowledgement of its deficiencies, the section 31 incremental provision remained virtually unchanged, until its repeal by the 1986 Public Service Streamlining Act. By that time, incremental advancement had effectively become covered by the more flexible arrangements of a determination of the Board, under section 82D of the then Act. Inserted by the Public Service and Statutory Authorities Amendment Act 1980, this allowed the Board to determine a range of conditions of employment, not inconsistent with existing Public Service Act provisions.

While the conversion to determination coverage served to simplify the prescriptive framework, the longstanding provisions governing award of increments were not modified in any material way. The later streamlining changes enhanced available powers, by allowing a particular increment to be deferred more than once and incremental advancement to be withheld where the particular officer was subject to disciplinary action or inefficiency proceedings. Other developments, however, had then begun to impact on the conditions governing the salary progression of APS officers.
Staff appraisal and performance pay

The Coombs Commission had commended the need for increased attention to the development of better staff appraisal systems. Observing that methods for assessment of individual performance were basic to any adequate system of merit advancement, work motivation or performance accountability, and of consequent intense interest to both managers and individual staff, it noted that no consistent or systematic approach had been followed across departments in their introduction and use. Such schemes as existed had generally been developed with varying degrees of formality and sparse documentation, and their reliability was largely untested. While management was likely to regard them principally as a means of achieving improvements in the performance and efficiency of staff, individuals subject to their use were more likely to see them primarily as instruments for conferring or withholding reward through pay or promotion—the personal incentive characteristics underlined by McLachlan more than 50 years earlier.

The Commission encouraged the Board to pursue its earlier initiatives, directed towards offering guidance and assistance to departments and agencies in the development of staff assessment schemes, supporting also the use of assessments in promotion and promotions appeal processes, and the Board’s view that introduction and usage of schemes should be at the discretion of permanent heads, with the support of Board guidelines. Neither the Commission nor the Board believed that a uniform, Service-wide scheme was a realistic objective (Coombs Report 1976, p. 200–201).

Prior to this, the Board had maintained essentially a watching brief on Australian and overseas developments in staff reporting and appraisal, undertaking periodic surveys and research, and providing limited assistance to departments in the design and implementation of schemes.

From 1977, the Board expanded significantly its guidelines activities, with its progressively produced material on the design, implementation and incidence of staff appraisal schemes as appearing in its final form in 1982 in Volume 3 of the Board’s Personnel Management Manual. This emphasised that appraisal schemes needed to be designed to meet specifically identified objectives, going beyond normal job performance assessments for promotion and placement purposes to areas such as identification of staff needs in varying organisational situations, skills inventories for workforce planning purposes, and analysis of training needs—a single form of appraisal being unlikely to satisfy all objectives.

Higher profile Board advocacy for the use of staff appraisal systems did not generate immediate significant increase in departmental schemes. The Hawke Government advocated a more directive approach. Citing like views already expressed by the Joint Committee of Public Accounts (JCPA) and in the January 1983 report of the Review of Commonwealth Administration, it expressed clear intentions:

… departments will be required to develop and introduce staff appraisal schemes in accordance with general guidelines issued by the Board.

It is intended that the appraisal system would cover all staff in the SES and, on a voluntary basis, those ranks immediately below the SES. The information would be used for staff
placement and counselling, and the planning of staff development. It would include in each case a statement of the career interests and staff development priorities of the person concerned (Dawkins 1983, p. 2.3.32–2.3.33).

No move was made to give legislative backing for upgraded appraisal arrangements in the ensuing 1984 Public Service Reform Act. Possibly affected by consequences of the Board’s abolition three years later, guidelines on SES performance appraisal were not issued by the new Public Service Commission until 1990, with a further two years elapsing until the issue of guidelines for the Senior Officer categories.

No direct relationship had been envisaged by the Board between appraisal and pay. By 1992, however, the consequences of the introduction of new classification structures and enterprise bargaining arrangements had begun to be influential. The 1992–94 Enterprise Agreement, *Improving productivity, jobs and pay in the Australian Public Service*, provided for performance pay for both SES and Senior Officer staff, by means of a standardised approach across all agencies.

The development almost immediately generated reservations and criticisms by parliamentary committees. While supporting performance appraisal, the JCPA expressed reservations about performance pay (Punch Report 1993, p. 67). In the same year, performance pay was the specific subject of a report by the Senate Standing Committee on Finance and Public Administration, in which it was maintained that there were ‘fundamental conceptual problems’ with the APS performance pay system (Coates Report 1993, p. 59).

Performance appraisal and performance pay attracted attention also from the Public Service Act Review Group. Their report noted deficiencies in APS performance management systems and considered that it should be obligatory for departments to have in place systems of appraisal for staff at all levels (McLeod Report 1994, p. 7.10, 7.25). In the particular area of incremental advancement, it likewise considered assessment and reporting procedures were being undertaken generally on a token, ineffectual basis. Its conclusion:
A routine performance management system ...would enhance the value and benefits of increment reporting. It would also provide a more direct link to the monetary reward involved, and provide new employees with some understanding of the more direct links between performance and rewards which operate at senior levels (McLeod Report 1994, p. 7.18).

Their findings and recommendations were to be overtaken by new reform agenda following the March 1996 change of government. In the interim, other significant developments had impacted also on the performance–pay linkage. The earlier Enterprise Agreement was superseded by Continuous improvement in the APS: Enterprise agreement 1995–96, which included new performance pay arrangements, related to performance appraisal, for both the SES and Senior Officer categories.

The framework provided by the new Agreement attracted less than universal approbation. Dissatisfaction both with limitations on the overall amounts available for the payment of performance bonuses and with processes for determining the individual recipients served to militate against achievement of some of the original objectives and to result in unintended modifications. Here again, however, the 1996 change of government and subsequent passage of the 1996 Workplace Relations Act created a new environment.

The current situation emphasises agreement making at the agency level, with individual agencies having the flexibility to develop their own systems for linking pay to performance. Take-up of such arrangements occurred widely, if not always without some residual reservations:

The use of performance based remuneration increased significantly. Various approaches were adopted, the two most common being performance-linked salary advancement (allied with the removal of automatic increment arrangements) and the payment of performance bonuses. The latter, in particular, continued to be a matter of some debate (PSMPC 2001a, p. 195).

The PSMPC Certified Agreement 2000–03 illustrates the type of linkage between performance appraisal and pay which can now be established (without necessarily mirroring the situation in other agencies). Applicable to all non-SES staff in the Commission, the Agreement specifies

- the basic salary scales applicable from the time of its certification in May 2000
- automatic increases to maximum rates payable from July 1 in each of 2000 and 2001
- provision for specified increases in salaries
- any associated bonus payments from the above dates and from 1 July 2002.

Rates of salary increase and bonus payments are dependent on the individual employee's appraisal rating under the Commission's performance appraisal scheme, the essential nature of which is outlined also in the Agreement. Additional rates of salary increase became payable from 1 July 2002, subject to demonstrated productivity gains and consistency with the government's APS remuneration policy.

Performance pay and associated appraisal mechanisms for SES employees are now commonly covered by individual Australian Workplace Agreements. For the Commission's
own SES employees, the Agreements incorporate provisions broadly consistent with those of the PSMPC Certified Agreement. The terms of individual AWAs remain confidential, within the Commission and elsewhere. Application of performance pay provisions, however, is known to vary widely across agencies.

Performance pay came into effect also for departmental Secretaries in 2000, in accordance with parameters defined in 1999 by the Remuneration Tribunal. It is determined by the Prime Minister, on report from his departmental Secretary and the Public Service Commissioner, after consultation with the relevant agency Minister. As with SES employees, details remain confidential.

Performance pay and appraisal are not explicitly mentioned in the 1999 Public Service Act. APS Value 10(1)(k), however, asserts that the APS ‘focuses on achieving results and managing performance’. Associated Public Service Commissioner’s Direction 2.12(1)(e) requires establishment in each agency of:

… a fair and open performance management system that:

(i) covers all APS employees; and

(ii) links performance to remuneration and rewards and is linked to Agency organisational and business goals and the maintenance of the APS Values; and

(iii) provides each APS employee with a clear statement of performance expectations and an opportunity to comment on those expectations; ….

The then Public Service Commissioner reported on progress by agencies in the development and implementation of performance management systems. Adverting to data from SES and non-SES remuneration surveys, in May and October 2001 respectively, she noted that

• Agencies mostly used both Certified Agreements and Australian Workplace Agreements for performance based remuneration purposes.

• For non-SES staff, performance linked salary advancement occurred commonly through multiple pay points within a classification or broadband of classifications, sometimes in combination with access to performance bonuses and productivity bonuses.

• Varying approaches had been adopted under AWAs for SES performance-based remuneration, with performance bonuses far more common in this area than for non-SES staff.

• Semi-automatic increment payments had become less common, with agency development of performance criteria and advancement arrangements particularly suited to their own organisation and few agencies retaining the older ‘efficiency, diligence and attendance for duty’ assessment criteria for awarding of increments (PSCr 2001, p. 113–122).

The importance placed by McLachlan on establishing a clear linkage between high-quality personal performance and remuneration progression has remained a feature of federal public service philosophy and regulation, therefore, through to the present day.
As illustrated above, however, there have been significant changes in approach and practice. In principle, salary progression by way of relatively automatic incremental advancement has been replaced by systematic appraisal of personal performance, sometimes allowing for additional bonus payments for demonstrated superior performance.

The progression has led to performance-based remuneration becoming a common feature of contemporary agency management practice. As noted also by the Commissioner, however, some significant reservations continue to be expressed:

- The September 2001 report of the APS Management Advisory Committee noted a diversity of agency approaches to performance-based administration, and differing views on the usefulness of the various approaches, including performance incentives. In the latter situation, performance bonuses were seen variously as either means of motivating and rewarding high performance, or counterproductive to motivation and solidarity in work teams.

- In similar vein, the October 2000 report of the Senate Finance and Public Administration References Committee on Australian Public Service employment matters recommended against the use of performance bonuses, believing that individual performance could not be assessed with significant rigour and fairness to warrant linkage to an individual reward. If bonuses were to be used, they should be awarded only for ‘outstanding’ individual or team service, and not simply for achieving expected levels of minimum competent performance. In its response in June 2001, the government disagreed with the Committee’s recommendations, adverting rather to the importance of performance pay for attracting and rewarding high-performing staff (PSMPC 2001b, p. 121).

Inevitably, any system which involves appraisal of an individual’s work performance will produce instances of disaffection and criticisms of process, going both to the integrity and fairness of the system itself and, in some instances, to perceived prejudices on the part of those undertaking the appraisals. Just as inevitably, the need for appraisal of performance will remain inescapable for achieving optimal levels of people management. As in earlier years, the challenge will remain to continually review and refine the process to achieve the highest possible levels of confidence in outcomes.

MANAGING UNDERPERFORMANCE

As the issue of appropriately rewarding competence by way of financial incentives has consistently attracted the attention of administrators from the time of the 1902 Public Service Act, so also have the challenges presented in seeking to find effective means of dealing with problems at the opposite end of the personal competency or efficiency spectrum—namely, the management of underperformance.

Addressing the issue legislatively has been among the least of the problems. Adopting terminology derived from pre-Federation State Public Service Acts, section 65 of the 1902 Act empowered the Public Service Commissioner to either transfer to other duties, or retire, an officer found to be ‘incapable of discharging the duties of his office efficiently’. The process, however, was not simple, and included a report from a departmental Board
of Inquiry, before the Commissioner could take any action. As his 1918 Royal Commission report was subsequently to make clear, McLachlan was less than impressed by the process, and was characteristically forthright in pressing for change:

... It is found that, as a general rule, members of Boards are most reluctant to declare an officer incompetent, and it is only in cases where the evidence discloses absolute physical or mental incapacity that a decision is given adverse to the officer. In many cases sentimental considerations are allowed to outweigh a sense of duty, and in the rare cases where an officer is found by the Board to be incompetent in his present position, not infrequently a recommendation is made that he be transferred to other duties, where he will in all probability prove equally incapable of performing duties commensurate with his salary. From my experience of the operation of the Public Service Act, I am convinced that the Service will never be relieved of the incubus of incompetent and inefficient officers so long as the present provision on the statute-book remains unaltered—[The] provision ... casts the onus of decision upon a Board not directly responsible for the efficiency of a department or of the Service generally, and which almost invariably will be swayed by feelings of compassion for or sympathy with a fellow officer whose livelihood or remuneration is in the balance. In such cases the public interest is subordinated to the interests of the individual, and the object aimed at by the Legislature has been largely stultified.

... Even the heads of branches, who are directly responsible for the output of work and the efficiency of the service rendered by officers, will not hesitate to shield men who are "decent duffers", and have been known to overburden themselves with work, or transfer duties to a smart junior which ought to have been performed by the incompetent senior who is paid to do the work. It is obvious that such heads of branches, who in their mistaken attitude of loyalty to subordinate officers are failing to discharge their responsibilities towards the department, cannot be relied upon for satisfactory evidence before a Board of Inquiry. Thus the departments continue to retain the services of officers overpaid for the work performed by them, or so manifestly incompetent through lack of physical or mental capacity that their maintenance in the Service is unjustified. Shielded and aided by their fellow officers, they continue ostensibly to fill the positions, while the general efficiency of the Service suffers (McLachlan Report 1920, p. 58).

In broad intention, if not precise detail, McLachlan’s recommendation for legislative reform came to be reflected in the terms of section 67 of the ensuing 1922 Public Service Act. The earlier Board of Inquiry requirement was removed, and the new Public Service Board was empowered to conduct investigations and undertake remedial action (transfer to other duties or termination of services, as before), after receiving a report from the departmental chief officer.

In the event, the legislative change was to have little practical effect. No direct evidence is readily available of actual use of the section 67 provision for dealing with cases of incompetence or underperformance, for other than medical reasons. The Board acknowledged this situation in the course of providing background information to the Coombs Royal Commission:

Although this provision is used regularly for ‘invalidity’ retirements, action under the section on non-medical grounds has seldom been taken (PSB 1974, p. 91).
The Commission itself obviously believed that there were grounds for a stronger comment, adding a possible explanation:

... the grounds of ‘inefficiency’ and ‘incompetence’ have never been invoked, perhaps because of diminution of superannuation entitlements where a retirement is for other than invalidity (Coombs Report 1976, p. 8.4.91(b)).

It then endorsed the view also put to it by the Board in its formal Second Submission that the primary responsibility for compulsory retirement of staff because of inefficiency or limited efficiency should rest with departmental management, and recommended delegation of the Board’s powers in this area (Coombs Report 1976, p. 8.4.93).

Again, while the Board was disposed to proceed on this basis, effective outcomes were to be minimal, notwithstanding a significant change to the legislative framework. With the Fraser Government’s enactment of the 1979 Commonwealth Employees (Redeployment and Retirement) Act (the CE(RR) Act), effective from February 1981, section 67 of the Public Service Act was repealed, with the new legislation, and related regulations and administrative procedures, intended to provide an improved framework for both redeployment and compulsory retirement (including retrenchment). A Tribunal was established also, able to deal with appeals against redeployment and retirement decisions.

The Review of Commonwealth Administration found that the new legislation had not changed the situation materially, noting reluctance of APS managers to embark on processes seen to be time-consuming and open to repeated challenge. It pressed, however, for a firmer resolve:

We consider that departments have an obligation to use the processes embodied in legislation. They should not be deterred from doing so because they might encounter difficulties in execution. We believe that strenuous efforts must be made to utilise these provisions where circumstances warrant. We do not believe for a minute that the Service is littered with poor performers. They will be the exception rather than the rule. The Service is however likely to win greater respect from the community at large if it is seen to deal properly with misconduct or inefficiency. Not to do so damages its credibility in the eyes of government, Parliament and the community (Reid Report 1983, p. 8.34).

In December of the same year, the Labor Government’s statement of its reform intentions for the APS echoed the earlier expressed senior management concerns on processes under the new Act, but within the particular context of its proposals for establishment of the Senior Executive Service:

2.3.28 Neither the Government nor the community can afford to keep in key positions senior executives who are not performing satisfactorily. At the same time, the government recognises that poor performance at senior executive levels is generally a very sensitive matter, and is often caused by circumstances beyond a person’s direct control. Improved selection and placement of SES staff should help to minimise the number of poor performers; nevertheless, an effective mechanism is needed for dealing with those cases that arise.
2.3.30 The procedures of the Commonwealth Employees (Redeployment and Retirement) Act are cumbersome and time consuming, and in some respects are not well attuned to the particular sensitivities and requirements at senior levels. That Act will continue to apply to the SES in respect of invalidity or medical unfitness for work, but a new set of procedures will be introduced for SES staff who are surplus to requirements or whose performance continues to be unsatisfactory (Dawkins 1983, p. 18).

The 1984 Public Service Reform Act amended the Public Service Act, variously, to establish the Senior Executive Service and make provision for Public Service Board management of the recruitment, transfer, promotion, retirement and redeployment of SES staff.

Perhaps in recognition of ‘the particular sensitivities and requirements at senior levels, the terminology of the new SES provisions omitted reference to Board action against an ‘inefficient or incompetent’ officer, as mentioned in section 67 of the 1922 Act. Instead, on the basis of being satisfied that an officer could not ‘reasonably be used in the Service’ at his or her existing classification level, the Board was empowered, under a new section 76L, to notify the officer of intended reclassification to a lower level, or retirement from the APS. In determining whether such a notification should issue (it being open to appeal to a Redeployment and Retirement Appeal Committee, constituted under the Merit Protection Act), the Board was required to have regard to a number of factors including the standard of the SES officer’s work performance, and any relevant performance appraisals.

The Board’s annual reports and statistical bulletins for the following three years do not contain any reference to cases of SES officers separating from the APS as a consequence of inefficiency processes. During this same period, however, the Government moved to repeal the CE(RR) Act, on grounds that its relatively complex provisions had failed to provide a satisfactory basis for the redeployment and retirement of staff. At the same time, new provisions for these purposes were inserted in the Public Service Act by the 1986 Public Service Legislation (Streamlining) Act, providing processes for reduction in classification or retirement, for which departmental Secretaries would have more direct responsibility.

The new provisions sought to remedy a previously perceived problem in the CE(RR) Act of a complex definition of inefficiency, depending on whether it could be demonstrated that the reasons for an individual officer’s inefficiency were within or beyond that person’s control. Unlike the SES, grounds for inefficiency proceedings were stated explicitly:

... an officer is inefficient if and only if the officer fails, in the performance of the duties that he or she is required to perform, to attain or sustain a standard of efficiency that a person may reasonably be expected to attain or sustain in the performance of those duties (Public Service Act 1922, s. 76S(2)).

The Board’s support for the streamlining change had been predicated on its acknowledgment that, for all practical purposes, termination of services for inefficiency reasons (other than relating to disciplinary offences) was not known to have ever
occurred—as had been maintained in the Coombs Report. Any optimistic expectations for achieving demonstrable improvement, however, were not to be realised. Despite issuing extensive guideline material on the streamlined provisions shortly before its abolition in July 1987, the Board and, more particularly, the Public Service Commission were not to see noticeable change.

Lack of success in this area was commonly claimed by departmental managers to be due to the processes continuing to be long and complex. It would probably not be unreasonable to assert also a continuing, understandable reluctance of managers to institute proceedings which would almost inevitably generate personal animosities and disruptions in the workplace. McLachlan would no doubt have maintained additionally, as he did in 1918, that a 'mistaken attitude of loyalty to subordinate officers' would have been likely to have been a factor in some cases.

As had been the case with moves through the 1990s to link more closely remuneration to assessed work performance, so also the procedures for dealing with underperformance moved away progressively from the legislated prescriptive base to coverage through workplace agreements, now commonly involving the related application of performance appraisal systems. In 1992, revised procedures for dealing with underperformance were included in the Service-wide Enterprise Agreement and, from early 1998, generally came to be included in the Certified Agreements negotiated in individual departments and agencies. By way of example, Part G of the PSMPC Certified Agreement 2000–03 contains nine substantive paragraphs on the management of poor performance and the related application of the Commission's performance appraisal scheme.

The ultimate authority for termination of employment remains in legislation. Paragraph 29(3)(c) of the 1999 Public Service Act specifies that 'non-performance, or unsatisfactory performance, of duties' provide grounds for termination, by an agency head, of the services of an APS employee, with Public Service regulation 3.11(2) authorising the application of the procedures of individual agency agreements to establish any justification for such action.

As illustrated by the preceding commentary, the management of underperformance has featured in each of the three Public Service Acts since Federation, and has continued to exercise the minds of legislators, public service managers and reviewing bodies. Despite progressive refinements to legislation and processes, however, perceptions of inadequacies continue. Thus, while noting that procedures for the management of underperformance represented a core element in most agencies’ performance management systems, the Public Service Commissioner observed:

... the prevailing view appears to be that, in general, the APS does not do well on this front. Staff surveys in a number of agencies highlight a perception that little is done or achieved in dealing with poor performers. The MAC review concluded that failure to address underperformance in the workplace is one of the persistent factors that could undermine the credibility of, and produce cynicism about, a performance management system (PSMPC 2001b, p. 120).
NEW PRINCIPLES AND PRACTICES

APS VALUES

Each of the Public Service Acts since Federation, and their related Public Service Regulations have included provisions bearing on the core elements of the engagement, and expectations concerning the behaviour, of public servants. Progressive articulation of the underlying merit principle has already been discussed. Beyond this, prescriptive rules governing behaviour were set down in the Public Service Regulations, dealing with conduct in the workplace and, in some cases, permissible behaviour in private life, insofar as the latter might be seen to bear on performance of public duties.

The prescriptive approach was maintained, with relatively minor adjustments through to the final decades of the last century. The approach broadened significantly, however, with the development and publication, in the late 1970s, of the Public Service Board’s official conduct guidelines, designed to reflect both the rules and the conventions relevant to ethical behaviour by public servants. Soon after, attention began to be directed to more fundamental, underlying values underscoring official behaviour expectations, touching not only on compliance with rules, but also on broader considerations of equity and social justice. Those developments were later to be given legislative form in the 1999 Public Service Act.

The 1999 Act contained, for the first time in primary Commonwealth public service legislation, a clear declaration of APS Values (section 10). Already quoted extracts from the ADMF Paper, and Minister Reith’s Second Reading Speech on the Public Service Bill in June 1997, summarised the broad intent of the Values. Agency heads are obliged to uphold and promote the Values (section 12 of Act), with elaboration of their intended application provided in Chapter 2 of the Public Service Commissioner’s Directions.

The Values are tailored to the particular environment and circumstances of the APS. As might be expected, however, their ultimate expression represented an effective drawing together of developments in the 1980s, and successive inputs from other sources through the 1990s. Thus:

- The mock-up for a new Act, developed within the Public Service Commission in 1990–91 included, variously, proposed principles of public administration, human resource management and ethical conduct, drawing on principles then expressed in the South Australian Government Management and Employment Act. Similar formulations had occurred, or were being developed, in public service legislation for other Australian states and territories—likewise, in the United Kingdom and New Zealand.

- The ensuing Bill for a rewrite of the Act, prepared by the Office of Parliamentary Counsel between May 1992 and June 1993, included draft principles of public administration and of human resource management. It made provision also for the Public Service Commissioner to ‘determine’ standards of conduct for APS staff.

- By June 1993 also, a joint publication of the Management Advisory Board and its
Management Improvement Advisory Committee (MIAC) had endorsed proposed inclusion in the Public Service Act of six key values and principles, to reinforce traditional longstanding public service values. In outline, the new values and principles dealt with:

- responsiveness to governments
- a close focus on results
- merit as the basis for staffing
- the highest standards of probity, integrity and conduct
- a strong commitment to accountability
- continuous improvement through teams and individuals (MAB 1993:5).

- The Public Service Review Act Group supported the MAB/MIAC approach, recommending that the new Act should be built around principles and values, and should incorporate a Code of Conduct (McLeod Report 1994, p. 62–4, 162–4).

- Following the March 1996 change of government, the MAB/MIAC approach was endorsed, in turn, by the Prime Minister and the National Commission of Audit and, along with the work of the Public Service Act Review Group, served to influence significantly the subsequent enactment of the APS Values in the 1999 Act.

**APS Code of Conduct**

As reflected in the preceding section, the Code of Conduct, now appearing in section 13 of the Act, had its antecedents in various provisions of the Public Service Acts and Regulations, dating back to Federation. The evolution of a broad, statutory code, as distinct from a range of specific provisions, however, has occurred in more recent times, running largely in parallel with the move towards including broad underlying principles and values relevant to public service employment.

Breaches of individual provisions of the 1902 and 1922 Acts and the Regulations constituted grounds for possible disciplinary action against a public servant. Not uncommonly, however, linkages to the precise provisions were not easy to establish, thereby tending to diminish prospects for successful remedial action.

Under the 1999 Act, the statutory Code of Conduct itself establishes directly the grounds on which an agency head is able to initiate misconduct proceedings against an APS employee. From the point of view of the employee, the individual elements of the code state clearly expected standards of ethical conduct, and agency heads are obliged to establish, and notify their employees of, the procedures which will be followed for purposes of determining whether a breach of the Code may have occurred.

The new Code framework and associated procedures for dealing with breaches would appear to offer good prospects for overcoming the difficulties experienced with disciplinary processes under the 1922 Act, in terms of their perceived complexity and legalistic nature. As with any definition of expected standards of behaviour or practice, however, the effectiveness of the new Code remains dependent on managers being able
and prepared to show persuasive grounds for action against an employee for alleged breach of one or more of the defined requirements, and then to institute appropriate remedial procedures.

As previously mentioned, the Commission's August 2003 publication (the Guide) now provides revised official conduct guidelines with direct linkage of conduct requirements to the APS Values.

PROTECTION FOR WHISTLEBLOWERS

The immediate precursor paper to the 1999 Act noted that no effective mechanism was in place in the APS to enable its employees to disclose mismanagement or corruption in the Service (PSMPC & DIR 1997, p. 21).

Historically, in the APS as in other fields of employment, whistleblowing has generally been viewed as action potentially detrimental to the whistleblower's own employment, with possible retaliatory action on the part of fellow employees and/or management. In those circumstances, legitimate complaints could have been withheld altogether or submitted anonymously, precluding or limiting effective response or remedial action. Where submitted openly, the complaint was likely to have become subject to review processes ill-equipped to deal with a third party, other than the complainant.

With the 1994 report of the Senate Select Committee on Public Interest Whistleblowing attesting to the legitimacy of whistleblowing action (Newman Report 1994, p. 12), and in the absence or failure of other remedial action possibilities, section 16 of the 1999 Act has provided a process for the submission and investigation of a report by an APS employee of breaches (or alleged breaches) of the Code of Conduct.

The Act (and Division 2.2 of the 1999 Public Service Regulations) proscribe victimisation or discrimination of the complainant, and provide for investigation of the complaint in various circumstances by the Public Service Commissioner, Merit Protection Commissioner or agency head (or persons authorised by them). The Public Service Commissioner has the option of exercising the special inquiry powers attaching to that office under section 43 of the Act.

The provisions provide new avenues for lodging whistleblower complaints (but do not provide for reports by persons outside the APS). In the ultimate, individual perceptions of the independence and effectiveness of the processes will provide the measure of their success.

MINISTERS AND THE APS

As discussed in Chapter 8, the 1902 Public Service Act contained few references to Ministers, and none to the Prime Minister. Such references as occurred related essentially to the receipt and transmission to Parliament of certain statements and reports, and to approval of some relatively routine staffing transactions.

Overlaying the specific Public Service Act powers, the Constitution provides for the exercise of the executive powers of the Commonwealth by the Governor-General with the
advice of the Federal Executive Council. Matters requiring Council approval necessitate
the approval and signature of Ministers, thereby involving Ministers in the performance
of various departmental functions in ways not immediately obvious in specific Public
Service Act provisions.

In like manner, Cabinet and ministerial decisions impact directly on agency operations
and the exercise of agency head powers.

While possible ministerial involvement in these ways has always been a practical reality,
tensions have sometimes arisen in relation to the propriety of such involvement, or
perceived intervention, in relation to exercise of various Public Service Act policies and
powers. The 1999 Act has addressed such issues directly in a number of ways.

**Directions on government policy**

The APS Values state that the Service is apolitical (s. 10(1)(a)). Elsewhere, the Values
affirm that the APS is accountable for its actions to the government, within the framework
of ministerial responsibility (s. 10(1)(e), in part), and that it will be responsive to the
government in provision of advice and in implementing the government's policies and
programs (s. 10(1)(f)). No equivalent, general formulations of this nature appeared in the
1902 and 1922 Public Service Acts.

The new Public Service Act would provide the framework for a more devolved APS
environment, but with the government continuing to set policy directions for the Service,
as had been the case previously (ADMF Paper 1997, p. 9). Unlike its predecessors,
however, the 1999 Act translated the principle and practice of government direction into
a specific legislative provision. Thus, section 21 of the Act allows for the Prime Minister
to issue general, written directions to agency heads, relating to ‘the management and
leadership of APS employees’, with obligation to publish any such direction in the
Gazette, within 14 days of it being issued. As noted earlier, only two Prime Minister's
Directions have been issued to date, neither of which could be viewed as impacting in
any significant manner on the principle of maintaining an apolitical APS.

**Ministerial directions to agency heads**

Section 57 of the Act retains the 1984 Public Service Reform Act formulation that the
departmental Secretary (an agency head for purposes of the various staffing provisions
of the Act) exercises his or her powers ‘under the agency Minister’. The section
elaborates also on the role of the Secretary in assisting the agency Minister to fulfil the
Minister's accountability obligations to the Parliament in relation to providing factual
information on the operation and administration of the department.

Again in this area, the Minister/agency head relationship is governed by a legislative
prescription—in this case, a qualification of the Minister’s powers. Section 19 of the Act
provides that the agency head is not subject to direction by any Minister in relation to
exercise of the agency head's powers in respect of particular individuals, whether APS
employees generally or SES employees.
Historically, the Public Service Act has been, and remains, an enactment administered by the Prime Minister. At least from the latter part of the 20th century, however, some of the Prime Minister’s responsibilities in relation to administration of the APS have been exercised on the Prime Minister’s behalf by a ‘Minister Assisting’, variously designated by different governments. The current title is Minister Assisting the Prime Minister for the Public Service.

There is no specific legislative authority for ‘Minister Assisting’ appointments, but section 19 of the Acts Interpretation Act 1901 allows for a Minister to act ‘for or on behalf of’ another Minister. In earlier years, Ministers so acted without formal assignment of the ‘Minister Assisting’ title. Both then, and in more recent years, the Ministers concerned exercised their normal portfolio responsibilities, along with their APS-related responsibilities, as assigned to them by the Prime Minister. Any Minister may be assigned the public service responsibilities without specific association with the Minister’s normal portfolio responsibilities. Consequently, the role has been performed, over the years, by Ministers variously having principal portfolio responsibilities in areas such as industrial relations, education, finance, Aboriginal affairs and public works.

While the ‘Minister Assisting’ role remains in place, the 1999 Act has provided for certain powers to be exercised by the ‘Public Service Minister’, defined in section 8 as ‘the Minister who administers this Act’. As indicated above, the Minister concerned will be, at first instance, the Prime Minister. Otherwise, the powers may be exercised, on the Prime Minister’s behalf, by another Minister, usually the Minister Assisting. The Public Service Minister may delegate any of his or her powers to another Minister or to a Parliamentary Secretary (section 78(2)) and any of his or her powers and functions under sections 23 and 73 of the Act to a ‘senior official’, as defined in section 78(12).

Under current arrangements, the Minister Assisting has been delegated powers to:
- make rules about the classification of APS employees (section 23(1))
- be consulted by the Merit Protection Commissioner in relation to a report on a review (section 33(6))
- refer to the Public Service Commissioner, for consideration and report, any matter relating to the APS (section 41(1)(d))
- request the Merit Protection Commissioner to inquire into, and report on, an APS action (section 50(1)(c))
• receive, for presentation to Parliament, the annual report of the Merit Protection Commissioner (section 51(1))
• appoint a person to act as Merit Protection Commissioner (section 55(1)).

Additionally, the Minister Assisting is authorised to exercise the Public Service Minister’s powers under Parts 5 and 6 of the Act (relating to the Public Service Commissioner and the Merit Protection Commissioner), except in relation to receiving a ‘report from the Public Service Commissioner under section 41(3)(b) concerning an alleged breach of the Code of Conduct by the Head of an Executive Agency’.

**Agency Minister**

The Act assigns a number of powers to the ‘Agency Minister’—defined in section 7 as the Minister administering a department, executive agency or statutory agency.

Consistent with the section 19 limitation on Ministers issuing directions to agency heads in relation to particular individuals, the powers of agency ministers relate, in their specifics, to the appointment, termination, remuneration and other conditions of employment of the Public Service Commissioner, the Merit Protection Commissioner and the heads of executive agencies administered by the relevant Ministers.

More generally, agency Ministers have responsibility for:

• presenting to Parliament of the annual reports of the agencies which they administer (sections 44, 63 and 70)
• requiring forfeiture by an agency head of all or part of any non-Commonwealth remuneration received for performing agency head duties (section 31)
• issuing directions to agency heads, regarding both the engagement of a particular person as an APS employee to enable that person to become a head of Mission, and the assignment of particular duties to the person so engaged (section 39).

As with the Public Service Minister, an agency Minister may delegate any of the Minister’s powers or functions to a senior official (section 78(4)).

The 1999 Act has moved significantly in the direction of identifying and defining the nature and scope of the contemporary realities of the involvement of Ministers in the administration of the various agencies for which they have responsibility.

**Devolution of Personnel Management Powers**

As already noted, personnel administration in the federal public service was highly centralised under the first Public Service Commissioner and, initially, under the Public Service Board. In later years, the Board moved progressively to delegate a wide range of its powers to Secretaries, and various enactments over the last 10 years of the Board’s existence began to bring about formal devolution of Board powers. The process was largely arrested in 1987, until passage of the new Public Service Act late in 1999.
In the interim, amendment of industrial relations/workplace relations legislation, and changes occurring progressively in other areas had resulted in APS departments and agencies acquiring authority over various aspects of pay, conditions of employment and other areas of the personnel system. Thus, while achieving significant amendment of the Public Service Act itself proved to be a prolonged process, a good deal of relevant groundwork was occurring, with direct bearing on the ultimate outcome:

The 1999 Public Service Act represented the culmination of about twenty-five years of reform in Commonwealth public sector management. Together with the financial management reforms that had already occurred, it provided for a highly devolved resource management and employment framework (PSMPC 2001a, p. 188).

The broad thrust of the 1999 Act and its key provisions have already been described. In the new devolved framework, agency heads had vested in them all the powers of an ordinary employer and direct responsibility for managing their respective agencies. While constitutionally the Crown, in right of the Commonwealth, remained the ultimate employer of APS employees, section 20 of the Act conferred on the agency heads, on behalf of the Commonwealth, ‘all the rights, duties and powers of an employer’ in respect of their APS employees.

Translated into specifics, the newly acquired powers included:

- power to engage APS employees within any of the three specified categories of employment, with the option of specifying conditions to apply to such employment, including conditions dealing with matters such as probation, citizenship, formal qualifications, security, character or health clearances (section 22)
- authority to determine remuneration and other terms and conditions of employment (section 24)
- power to terminate the employment of an APS employee on any of the specific grounds allowed for in the termination provision (section 29)
- obligation and power to undertake, at the request of an agency employee, review of any APS action that relates to that employee’s APS employment (section 33).

Unless otherwise legislatively excluded, therefore, the 1999 Act brought about a further major transformation of public service personnel management, from its highly centralised origins at the beginning of the 20th century to a personnel and workplace relations regime with devolved agency powers, in ways consistent with the devolution which had already occurred in other aspects of APS management.
EXECUTIVE AGENCIES

Provisions for the establishment of, and broad operating framework for, executive agencies occur for the first time in the 1999 Act (sections 65–70).

While explanatory material relating to the Act makes no reference to any immediate motivation for their inclusion when the legislation was introduced, the Senate Explanatory Memorandum for the 1999 Bill states that the executive agency structure was being inserted ‘to provide a degree of separation from departmental management where that is appropriate to the functions of the Agency and something less than a statutory authority is warranted’ (EM Senate 1999 ,p. 85, para. 9.2).

The Memorandum (paras 9.2 to 9.4) summarises briefly key features and perceived advantages of executive agencies:

- direct access to a Minister, with ability to pursue particular goals, distinct from necessarily wider-ranging departmental priorities
- greater flexibility in appointment, tenure and remuneration arrangements for the heads of the agencies, who might or might not be public servants and who would be directly accountable to their respective Ministers
- staffing of the agencies by APS employees, under the direction of the respective agency heads, rather than the Secretaries of the parent portfolio departments.

Historically, occasions have arisen where Ministers and Secretaries have seen need to put in place arrangements for identifiable separation from departmental operations of particular portfolio functions and responsibilities, but without the necessity of, or justification for, resorting to separate statutory authority legislation. The executive agency structure now provides a ready means of realising such arrangements through Ministerial action.

In the following years after passage of the 1999 Act, a number of executive agencies have been established and abolished, with the following eight in existence at the end of 2003:
THE 1999 ACT AS REALISED

Leaving aside the intrinsic merit of its individual provisions, the 1999 Act can be viewed as reflecting, in broad intent, both the fundamental principles and central staffing provisions of the 1902 and 1922 Acts. At the same time, it incorporates significant new provisions of ongoing relevance for a contemporary federal public service moving into the second century of its existence.
At the time of completing this history, the reforms effected by the 1999 Act have been in place for just under four years. Attempting any significant evaluation of their success, therefore, would probably have to be viewed as premature at this stage. Nonetheless, sufficient time has elapsed for opinions to be formed, and some preliminary judgements made (however well informed) on their perceived benefits and limitations.

A systematic and comprehensive sampling of those perceptions is beyond the scope of this history. However, based on the views of a small (and quite selective) sample of APS executives, and present and former Commission staff involved with the development and implementation of the reforms and their impact on APS agencies, some provisional observations can be ventured, however tentatively.

**OVERALL PERCEPTIONS**

As will be apparent from the concluding comment in Chapter 10, the writer is disposed to view the 1999 Act, overall, as a successful, major reform of the legislative framework for the APS, and one which has, in large measure, satisfied then Minister Reith’s stated objective of creating ‘a modern act which speaks coherently to the future’ (PD House 26 June 1997, p. 6461). In so doing, the new Act has nonetheless kept in place important, fundamental principles and concepts, which have been seen as vital in maintaining a politically independent, merit-based federal public service from the time of its inception.

**SATISFACTION WITH THE END PRODUCT**

Wider canvassing of views reflected generally positive opinions in relation to what had been achieved through passage of the Act, and in respect of some of the broader outcomes which had been translated into legislative form. A sampling of opinions:

- a major improvement on the 1922 Act, with the government’s reform objectives well translated into legislative form
- a very readable piece of legislation, distinguished by its brevity and clarity, which went as far as it could reasonably go, given political realities, with no major omissions
- it attempted to address real problems, with significant degree of success, as with reform of the cumbersome officers’ mobility provisions of the 1922 Act
- it effectively complemented the 1996 Workplace Relations Act and the Government’s agenda for wider workplace relations reforms, demonstrating commitment to reforms in the public sector, consistent with these being pressed on the private sector
- the devolution of personnel management powers to agency heads, with associated accountability obligations, is fully consistent with the thrust of the financial
management reforms effected by the Financial Management and Accountability Act 1997

- the comprehensive devolution to agency heads of former central personnel authority powers constituted in itself a major advance in APS management practice, capable of realising the objective, stated by Reith, of establishing ‘an interlocking framework of powers and responsibilities, integrated within a genuinely devolved managerial environment’ (PD House 26 June 1997, p. 6463).

- the Act will work well in the long run, but will take time to ‘settle down’, as the respective roles and responsibilities of the Public Service Commissioner and agency heads become better defined and accepted.

At this global level, significant reservations were expressed in only a few areas:

- The newly defined categories of APS employment (section 22) had not provided a completely satisfactory replacement for the permanent/temporary employment distinctions in the 1922 Act, with related new regulations remaining complex, and with lack of clarity as to circumstances in which ‘conditions’ (such as probation, citizenship and health clearances) should be appropriately applied to the engagement of an employee.

- Insufficient attention had been given to achieving creative reform of the previously excessive appeals and review provisions, with the ultimate reinsertion into the 1999 legislation of Merit Protection Commissioner provisions (Part 6), reintroducing complexities, without achieving a fully independent review process.

- No effective remedy appeared to be available for ensuring agency head compliance with the mandatory requirements of section 15(3) for establishment of procedures for dealing with Code of Conduct breaches.

- The introduction of whistleblower provisions (section 16) had focused principally on protections for persons making, or investigating, breaches (or alleged breaches) of the Code of Conduct, and had failed to provide an effective mechanism for dealing with proven breaches.

- Within the broad philosophy and structure of the Act, it was incongruous that no merit provisions were specified for the selection and appointment of agency heads (with acknowledgment, however, that this reflected no real change to the historical situation).

- More broadly, it appeared that there was inadequate understanding of the range of accountability obligations in Act provisions, with consequent need for the Commission to do more to promote and reinforce those requirements.

CONSEQUENCES OF 1997 AND 1999 BILL AMENDMENTS

The ultimate enactment had to be a product of a range of compromises, brought about by amendments proposed by the JCPA, or negotiated through the Senate.
Without seeking to canvass the merits and consequences of individual amendments, the general tenor of observations tended to be that they resulted in no great enhancements, but nor did they do great damage to the overall thrust of the legislation. Added clarity in some areas was acknowledged, as also the fact that the end product had been made more acceptable and marketable to otherwise potentially hostile interests, capable of jeopardising achievement of significant legislative reform.

Some amendments, however, attracted criticism:

- As already noted above in relation to wider, general reservations, changes to employee engagement and Merit Protection Commissioner provisions were considered to have added complexity, without commensurate benefit.

- Additions and amendments to the APS Values (section 10) had made them more complicated, thereby potentially lessening their impact and their observance by management and individuals within agencies.

- Likewise, amendment of the definition of merit (section 10(2)) had made more complex expression of the principle itself, with likely detriment to its consistent interpretation and application.

- The insertion of a provision specifying ‘the only grounds for termination of the services of an APS employee’ (section 29(3)) had addressed Opposition concerns about an open-ended provision, but had created artificial restrictions, in relation to ability to deal with any cases arising outside the defined circumstances, notwithstanding provision for prescribing ‘any other ground’ in the regulations.

**THE ACT IN OPERATION**

How well is the Act seen to be working in Agencies? The short answer is that not enough is known as yet, and it is necessary to treat with caution contemporary observations or criticisms, which may well be found to be of less substance or significance in the light of further experience. Additionally, the merits of the Act cannot be assessed effectively without reference also to the operation of the Regulations and Directions, and the interface with Workplace Relations Act processes.

With that caveat, the following range of views perhaps provides some useful indicators of matters which may warrant consideration when a comprehensive evaluation is undertaken, not only of the Act, but also its subordinate legislation and supporting guidance material.

- Reservations remain as to how well the new Act and its available flexibilities are understood and utilised. Some agencies are seen to be relishing their new powers and freedoms, while others are believed to remain uncomfortable, and either still tend to seek certainty by way of prescription, or look to means of circumventing the new provisions. Too ready agreement to the latter, in response to management pressures and related legal advisings, would clearly be detrimental to the reforms achieved through a greatly simplified Public Service Act, and potentially frustrate the original policy intentions. From the Commission’s perspective, however, there is limited
evidence of the varying agency situations and individual local responses. Requests for additional prescription generally relate to unforeseen loopholes in the legislation and associated guidance material.

- In a related context, concerns have been expressed that initial, hurried drafting of the Public Service Regulations 1999 had resulted in some problems, which might have been avoided by more measured consideration. New and amending regulations, since drafted, have generated concerns also in some instances by their perceived complexity as, for example, regulations relating to attachment of an employee's salary to satisfy a debt incurred under a Court judgement.

- The rationale for separate Public Service Regulations and Public Service Commissioner's Directions is not well understood, and possibly detrimental to proper understanding and application of the Directions.

- Better understanding is needed of the interaction of Public Service Act and Workplace Relations Act provisions, and the appropriate use by agency heads of their employer powers under each enactment. There is still a little way to go in the negotiation of workplace agreements which consistently reflect key principles of the Public Service Act.

- In a directly related context, concerns have been expressed that in negotiating new certified agreements, agencies were not necessarily taking the opportunity to promote value 10(1)(o)—provision of a fair system for review of decisions—making clear that this right could not be displaced by agreement provisions. To this point, no hard body of evidence appears to be available to substantiate these concerns to any significant degree. The present study, however, did not attempt to explore the issue in depth.

- While the State of the Service Report is valuable in providing a measure of the effectiveness of the reforms and some of the perceived achievements and shortfalls, its benefits are lessened significantly by absence of any robust follow-up mechanisms. Observance of accountability requirements and proper application of APS Values and Code of Conduct provisions cannot be measured adequately by reliance only on responses to Commission surveys, without 'on the ground' agency assessment by Commission staff (in a supporting/advisory role rather than as critical audit investigators). It should be noted, however, that the most recent State of the Service reports reflect more rigorous and tightly defined survey activity by the Commission.

- Aside from perceptions of the Merit Protection Commissioner having unduly limited powers, the regulations framework for the various review processes is seen as inadequate for effective operation.

**NEED FOR ACT AMENDMENTS**

Consistent with the general view that the 1999 Act is still bedding down, there would appear to be no pressing reasons for its early amendment. Furthermore, to the extent that any amendments were contemplated, they would need to be principles-based, avoiding the level of prescriptive detail in previous public service legislation.
That said, there is need also to avoid stop-gap amendments or a build-up of necessary amendments for want of timely effective action—a counterproductive form of response, seen to have bedevilled the 1922 Act and Regulations, progressively compounding their complexity.

As reflected partly in some of the observations recorded in the preceding paragraphs, suggestions for particular amendments at this stage have been advanced in four areas only:

- Powers need to be incorporated into section 16 to deal effectively with whistleblower complaints found to be of substance. The most far-reaching proposal in this respect was for establishment of an independent, whistleblowing Ombudsman outside the Act—a suggestion in line with the 1997 JCPA recommendation, reserved by the Howard Government for later consideration.

- The section 26 provisions for voluntary moves between agencies were viewed by some as less than satisfactory, in not providing a clear option for an APS employee to return to his or her original agency, with questionable ability to deal with the situation by way of regulations. Insufficient casework evidence seems to be available so far to provide persuasive evidence for amending the provisions.

- Section 29 should be amended to modify the restrictive ‘only grounds for termination’ provision. Inclusion in present section 29 of the specific ground for termination—‘inability to perform duties because of physical or mental incapacity’—was viewed also as inadequate, for purposes of overcoming longstanding problems of achieving best outcomes in this area, due to absence of any satisfactory interface with the superannuation legislation.

- Although performance of the functions of the Merit Protection Commissioner occurred within the organisational framework of the APS Commission, the section 51 requirement for the Merit Protection Commissioner’s annual report to be included in the Public Service Commissioner’s annual report was viewed by some as unduly restrictive and, in appearance if not necessarily in reality, potentially prejudicial to the independent powers of the former.

**POSSIBLE FUTURE DIRECTIONS**

The preceding observations point to a range of issues which might be expected to receive attention on future, comprehensive evaluation of the 1999 Act, including possible areas of legislative amendment.

The scope for more immediate action by the Commission, however, is not dependent ultimately on future evaluation outcomes.

**EDUCATION/COMMUNICATION**

Available evidence points to the need for achieving better understanding across agencies, both of the flexibilities now available to APS personnel managers at all levels, as a consequence of devolution, and of the associated accountability requirements.
Extensive information-giving seminars preceded introduction and passage of the 1999 legislation. The subsequent educational program appears to have been more limited, not aided by implementation of the legislation having occurred at the end of 1999, at the beginning of the holiday season, or by the necessary diversion of resources to the production and publishing of extensive guideline material.

It remains important for the Commission and the Employment and Workplace Relations Department (DEWR) to direct resources to educational activities—both by way of seminar programs, and through maximum use of existing APS networks, such as Comnet and the Personnel Operations Program. In so doing, both the APS Commission and DEWR can expect to gain better understandings themselves of the level of understanding and acceptance of the reforms at the workplace operational level, including the extent to which agencies have given attention to internal educational programs, for purposes of gaining maximum benefit from the options and flexibilities available under the new Act.

Evidence derived from the Commission’s sample survey of APS employees in May–June 2003 has now provided a better indication of the likely future need for, and possible extent of, educational programs.

ACCOUNTABILITY REVISITED

As indicated above, underlining of the new accountability obligations must necessarily feature in broad-ranging educational programs.

Responsibility for the conduct of such programs rests, in the first instance, with individual agencies. In 2001, the Commissioner noted that, in the year under review, most agencies had experienced a period of consolidation under the new operational arrangements introduced not only under the 1999 Public Service Act but also as a consequence of new directions in budgeting, financial management and taxation arrangements.

In this new environment, accountability was a ‘core issue’ with agencies needing to ensure that the necessary systems and procedures were established to demonstrate that such an accountability framework was in place. In the particular case of personnel administration:

- This applies in employment areas such as selection, probation and the management of misconduct, where legislative prescription has been significantly reduced.

Accountability must go hand in hand with devolved employment powers if the new framework is to achieve its potential (PSCr 2001b, p. 11).

IMPLEMENTING THE APS VALUES AND CODE OF CONDUCT

For all of the abovementioned areas, understanding and observance of the APS Values was directly relevant (as also adherence to the concomitant APS Code of Conduct).

The integration of the Values into the way the APS works and its decision-making processes is also an essential factor in achieving high performance. The APS Values
provide the real basis and integrating element of the Service, its professionalism, its integrity and its culture of impartial and responsive service to the government of the day (PSMPC 2001, p. 10).

Experience with the application and effectiveness of operation of the Act in the first two years generated some concerns about the actual impact and observance of the Values within agencies, on the part of both managers and APS employees generally.

During 2000–01, agency heads were asked to include some specific questions in their staff surveys to obtain feedback from employees on their understanding of the Values and their perceptions of whether they were upheld in the workplace. A low agency response rate of some 57 percent to the questionnaire, focusing both on the Values and the Code of Conduct, pointed to progress being made, but provided some mixed signals in relation to:

- employee understanding of the Values and the Code
- application of the merit principle to agency employment decisions
- agency valuing of workplace diversity (PSCr 2001, p. 17–20).

While the global results and acknowledged limitations of the particular survey allowed for some modifications of interpretation, further follow-up action by the Commissioner was clearly warranted. Its continuing emphasis on agency head obligation to promote awareness of the Values and the Code of Conduct enabled the Commission to report significant improvement in the ensuing year in nearly all agencies, while acknowledging that more needed to be done to ensure that these elements were accepted as core components of organisational culture (PSCr 2002, p. 21–3).

The Commission’s annual and State of the Service reports for 2002–03 have pointed to significant upgrading and expansion of its activities to firmly embed the Values framework in the APS and, in doing so, to address some of the concerns expressed at the beginning of this chapter. In particular, the intention has been expressed for 2003–04 of focusing on strengthening the evidence base in the State of the Service Report (PSCr AR 2003, p. 9).

In terms of achievement to date, mention has been made previously in Chapters 7 and 8 of new good practice guides issued in August 2003, emphasising the close linkage between the APS Values and the Code of Conduct.

The grouping of Values now used in Embedding the APS Values was advocated by the Commission in its 2001–02 State of the Service Report. It was directed towards emphasising the role of values-based management in defining key relationships and behaviours that underpin the integrity of the organisation’s decision-making process in the absence of detailed central rules (PSG 2003, p. 25).

Apart from information derived from its annual agency surveys, the Commission has been increasingly proactive in obtaining information from agencies at large and from individual employees, both on strategies adopted for promotion of the Values and Code of Conduct, and employee views on Values and conduct issues.
• Studies of six agencies in the Commission’s recent Values in Agencies Project identified broad support for the Values on grounds of common sense and common practice, as well as a range of strategies for promoting particular Values and the Code of Conduct, but absence of a strategic or holistic approach in any agency to their promotion as a complete package. The conclusions from the project underlined the crucial need for leadership and continuing guidance for employees in relation to application of the Values and the Code in their everyday duties.

• On the basis of its first direct survey of the views of a large sample of APS employees, the Commission was able to identify further progress in understanding and application of the Values and Code, but considerable variation in familiarity according to age, lengths of service and classification level. Again the survey results supported the need for strong leadership, with varying challenges according to the respective business responsibilities of individual agencies (PScr 2003, p. 26–33).

The Commission has committed itself to continuing to address progress made by agencies towards adopting an integrated approach to embedding the Values and Code. (PScr 2003, p. 36).

Apart from its surveys and its seminar and related activity, the Commission has opportunity to pursue these issues sensitively and seek commitment at higher levels, through meetings of Secretaries and heads of management.

ASSOCIATED ISSUES

The course of future Commission involvement in the above areas may well be affected by events during 2001–02, which sharpened external focus on standards of behaviour and their observance (or perceived non-observance) by some executives and senior staff of the APS, bearing particularly on their perceived relationship with Ministerial staff and their potential susceptibility to political pressure.

The deliberations and findings of the 2002 Senate Select Committee on a Certain Maritime Incident have drawn further political and public attention to the now statutory expression of Values in the 1999 Act, and the associated obligation of the Commissioner ‘to evaluate the extent to which Agencies incorporate and uphold the APS Values’ (section 41(1)(a)). In its report, the Committee recommended specifically that a code of conduct be developed and implemented for ministerial staff (recommendation 11). Allowing for the uncertainties of the Government’s ultimate reaction to the Committee’s recommendations, and to views conveyed to the Department of the Prime Minister and Cabinet by the Public Service Commissioner on eight of the committee’s recommendations, it is nonetheless reasonable to expect suggestions to arise for the Commissioner to exercise a more prominent and proactive role in monitoring and requiring compliance with the professed standards for behaviour for members of the APS in their relationship with Ministerial staff.

Any persisting view that the APS was not overly concerned by the need for maintenance of high standards could be expected to have damaging consequences, as noted by a former Secretary of the Defence Department:
... it’s important that the public service is able to earn a fundamental level of community respect for what it does. The value of this commodity is most easily appreciated by contemplating the consequences of its absence.

Without respect for their efforts, the morale of public service agencies will fall, it will be more difficult to obtain adequate resources to get the job done, it will be harder to attract good staff and, finally, it will be tougher to do the things necessary to lift performance. That’s a slippery slope indeed! (Hawke 19 June 2002, p. 4).

SECRETARY APPOINTMENTS

As this outline history has indicated, the processes for selection and appointment of departmental secretaries have undergone a number of significant changes across the time span of the three federal Public Service Acts. On enactment, the 1902 and 1922 Acts reflected the traditional formalities of exercise of Governor-General appointment powers, with varying central personnel authority input to related recommendations from the Government. The situation was to remain largely unchanged until the late 1970s.

Both the Boyer Committee and the Coombs Commission addressed the issue, the latter noting that appointments to the key position of departmental head remain less regulated than do any other positions within the Public Service (Coombs Report 1976, p. 98). While not directly attributed to the Commission’s own recommendation for a wider consultative process, the Fraser government legislated new appointment procedures in the Public Service Amendment (First Division Officers) Act 1976, allowing for submission to the Prime Minister of the names of suitable persons by a committee comprised of the Board Chairman and at least two serving departmental heads. While not obliged to follow the committee’s recommendation, any alternative appointment recommended to the Governor-General was to be for a fixed five-year term, with eligibility for reappointment.

In 1984, the Labor Government’s Public Service Reform Act further modified the procedures, removing the committee process but requiring (rather than simply allowing) a report to the Prime Minister from the Board Chairman before submission of an appointment recommendation to the Governor-General.

Dawkins: The Legislation is similar to that prevailing from 1972 to 1976... An option will also be provided for secretaries to departments to be appointed for fixed periods if that should suit the convenience of an appointee and the Government. (PD House 9 May 1984:2152)

Following abolition of the Board in 1987, the Board Chairman recommendation functions moved to the Secretary of the Department of the Prime Minister and Cabinet, where it continues to reside under the 1999 Public Service Act. If a vacancy in that office is to be filled, the Prime Minister must receive a report about the vacancy from the Public Service Commissioner under section 58(2) of the Act.

In the early years after 1987, it appears that the PM&C Secretary routinely discussed with the Public Service Commissioner the filling of Secretary vacancies, but it is not clear whether this practice has been followed consistently in more recent times.
Since 1987, the fixed-term appointment option has become standard practice. The *Prime Minister and Cabinet (Miscellaneous Provisions) Act 1994* provided for Secretaries relinquishing their continuing tenure in the APS in return for a salary loading determined by the Remuneration Tribunal. By 1997, all serving departmental secretaries were being employed on that basis, and no new tenured appointments have been made since that time.

The methods of appointment and tenure of secretaries have been of continuing interest to commentators on the APS, both academic and media. The principal focus has been on transparency of the process, bearing variously on initial appointment, reappointment or its absence, and early termination of appointment.

The extent of interest in these issues is understandable, given the long established and continuing perception that the APS has evolved under circumstances of frequently affirmed Westminster traditions in relation to the need for a public service staffed in accordance with the merit principle and apolitical in its operations, especially at its most senior levels. Within this framework, displacement of a Secretary other than of the individual’s own volition can quickly be seized on as an apparently unjustified removal of a person out of favour with a government or individual Minister. This will inevitably be the case where a number of displacements occur at the one time, as a consequence of major machinery of government changes by any newly elected or incumbent administration. Consequential appointment of individuals more acceptable to the government may then be asserted as actual or potential politicisation of the process.

That said, it is almost inevitably difficult to distinguish between perception and reality. It is also difficult to convincingly gainsay the position put by Prime Minister Fraser in relation to the 1976 legislative changes that, while it was intended to minimise the possibility of appointments (and hence associated displacements) occurring for purely partisan reasons, a succeeding government should not be forced through permanency (of appointment) to retain the services of the appointee (PD House 18 November 1976, p. 2865).

Without addressing directly issues relating to the tenure of secretaries, Prime Minister Howard effectively reaffirmed the Fraser position in the 1997 Garran Oration:

> Any Government must and should reserve the right to adapt the administrative structures of the public service to best achieve the policy priorities on which it was elected. So also, any government must and should reserve the right to have in the top leadership positions within the public service people who it believes can best give administrative effect to the policies which it was elected to implement. Governments of both political persuasions have recognised these realities (Howard 1997, p. 8).

Concerns about transparency of process and the need for equitable treatment of affected individuals, however, will not go away. In the view of the writer the interests of government in terms of public perceptions might be well served, therefore, by reverting to a selection and appointment process which incorporates provision of advice on all prospective secretary appointees not only from the Secretary of the Department of the Prime Minister and Cabinet but also from a source independent of the that department.
Under present arrangements, the logical source for such additional advice would seem to be the Public Service Commissioner.

In 1958, in recommending a similar role for the Public Service Board, the Boyer Committee proposed that, if the Board’s recommendation was not adopted, a copy of the recommendation, together with a statement of the reasons for its rejection, should be laid before both Houses of the Parliament (Boyer Report 1958, p. 28). The suggestion was not accepted by the Menzies Government then and, notwithstanding changes towards more open government over the last half century, it is probably unlikely to find favour with governments now.

On the issue of the removal of a Secretary from office, the ground rules for the foreseeable future would seem to have been established by the decisions of the Federal Court in the Paul Barratt case in 1999, following the latter’s removal from the office of Secretary of the Department of Defence, as a result of tensions which had arisen between him and his Minister. The Court found in favour of the entitlement to procedural fairness on termination and the opportunity to respond to a statement of reasons provided in relation to the termination, but no entitlement for continuing tenure:

- the Secretary’s expectations of continuing employment were not supported by legal authority to the point of enforcement of substantive rights:
- there was no obligation on the part of those recommending termination action (the Prime Minister and the Secretary to his Department) to consider whether the Minister’s reasons for loss of trust and confidence were well founded: and
- the secretary of the Prime Minister's Department was not required to provide ‘further and better particulars of the basis upon which the loss of trust and confidence on the part of the Minister rested’ (Barratt v Howard and others, 2000).

As in relation to proposed selections for Secretary vacancies, there would also seem to be persuasive argument and sound presentational reasons for involving the Public Service Commissioner where termination of appointment is being recommended.

Such involvement of the Commissioner in appointments and terminations would be consistent with the process now in place for assessing the performance of a Secretary, namely Prime Minister decision following reports by the Secretary of the Department of the Prime Minister and Cabinet and the Public Service Commissioner.

**RECORDKEEPING**

An issue for the abovementioned Senate Committee, and for other interested parties has been the adequacy of recordkeeping in relation to decisions made and directions given in respect of the particular events under review.

Although not addressed as a specific matter in the APS Values, maintenance of effective records is an accountability issue, comprehended by the affirmation that ‘the APS is openly accountable for its actions, within the framework of Ministerial responsibility to the Government, the Parliament and the Australian public’ (section 10(1)(e) of the Act).
Expressions of concern about perceived inadequacies in recordkeeping by Commonwealth agencies are not new. In 1999, the then Public Service Commissioner noted work which had occurred previously to refine and upgrade agency information systems and concurrent advances in information technology, which had provided a significantly greater capacity to collect, extract and manipulate data. These developments brought with them, however, new responsibilities and accountability obligations:

This enhanced capacity to capture information must be accompanied by revised processes and guidelines for its use, including procedures for storage of information as a proper record and for systems to allow authorised access while preventing misuse. The result of deficiencies in this area could be significant and include, for example, loss of evidence of the Commonwealth’s activities and an inability by agencies to meet their accountability obligations (PSCR 1999, p. 62).

The report noted also some previously expressed concerns of other authorities:

- In a May 1998 report, the Australian Law Reform Commission’s review of the Archives Act 1983 referred to the ‘parlous state of recordkeeping in many Commonwealth agencies’.

- In June 1999, an Ombudsman report on administration of the Freedom of Information Act found that there had been a decline in the standard of recordkeeping in agencies. The report noted also that few agencies appeared to have centralised management of either their physical or electronic records, with recordkeeping having become somewhat fragmented in larger agencies to the point where it would be an extremely difficult task to identify all agency records.

- The National Archives of Australia (NAA) had come to the view that recordkeeping by Commonwealth agencies, especially electronic recordkeeping, was not an area of priority for many senior managers. Its own analysis of Auditor-General reports, from 1992–93 to 1999–2000, found that slightly more than half of those reports had included observations on various deficiencies in recordkeeping (PSCR 1999, p. 62–3).

More recently, the Auditor-General has flagged specifically the importance of recordkeeping, in relation to the ability of government agencies to satisfy their accountability obligations. Those obligations remained, despite major changes in the way information was gathered and communicated, as a consequence of rapid advances in technology. Thus:

As we move towards the era of e-government, ensuring the creation and maintenance of appropriate electronic records will be equally as important as ensuring appropriate security and privacy in electronic transactions between governments, citizens and the business community. This is necessary for the confidence of all stakeholders, and particularly for the Parliament (Barrett 2002, p. 13).

An associated observation that recordkeeping commonly lapsed in a pressured environment had been acknowledged two days earlier at a Children Overboard Affair seminar at the Australian National University. Comments attributed to two former departmental secretaries (Keating and Rosalky) had asserted that ‘notes for file’ of
decisions made and actions taken were no longer common practice, that ‘formal advice’ was not well-defined or commonly understood, and that informality had become normal practice.

In earlier times, the Public Service Board included within its ‘efficiency and economy’ activities records management, addressing both the importance for management of the function itself, as well as physical aspects of collection and maintenance of records. That level of central personnel agency involvement is no longer appropriate, given the new functions of the NAA and recordkeeping expertise accessible from the private sector, in relation both to traditional hard-copy documentation and electronic or digitally based information.

That said, the accountability concerns remain as ‘a challenge for the governance framework’ (Barrett 2002, p. 12). Given the above history, there would seem to be scope for future involvement of the Commission in the course of its monitoring compliance with the APS Values—perhaps in association with the Auditor-General’s office and the NAA.

The Commission has recently directed further specific attention to recordkeeping issues in the 2002–03 State of the Service Report, taking into account continuing Auditor-General and Archives attention to the issue, its relevance as an issue germane to the
Commission's own agency and employee surveys and the Values in Agencies Project. On this basis the following conclusions are drawn, pointing to ongoing Commission attention:

In terms of recordkeeping, the high level of review activity and increasing incidence of agency-wide policies for dealing with electronic records suggest a growing awareness among agencies of the need to modernise their recordkeeping systems. However, the evidence also suggests that some agencies still need to take a more strategic approach to records management, particularly in relation to electronic records. Small agencies, in particular, continue to have a lower level of review activity, although they are anticipating a greater level of review activity in the immediate future. Their employees are also less likely to see good recordkeeping as an agency priority or to be satisfied with levels of training and information.

Differences in employee perceptions of the importance of record keeping and the availability of appropriate training and access to information, particularly among higher-level staff, also suggest that, while agencies are moving in the right direction, further work needs to be done to ensure that agency policies are implemented in practice. While the NAA has produced material specifically aimed at the needs of managers, targeted training and information that meet the needs of middle and senior management continue to be a priority area for further development within agencies (PScr 2003, p. 54).

MINISTERIAL STAFF

The employment of ministerial staff is subject to the provisions of the Members of Parliament (Staff) Act 1984. As such, the reforms effected by the 1999 Public Service Act have no direct application.

Historically, however, an important relationship has existed between the Service and staff selected for work in ministerial offices, with provision for interchange of staff being accorded legislative recognition in the 1922 Public Service Act by insertion, in 1930, of a specific secondment provision (section 48A) for public servants, which was to remain in place until superseded by the 1984 legislation.

More recently, the continuing importance of such arrangements has been recognised by a Prime Minister's Direction, under section 21(1) of the 1999 Public Service Act, requiring an agency head to grant leave without pay to an APS employee to undertake employment under the 1984 Act.

It is no secret that tensions have arisen from time to time in the working relationships between ministerial staff and departmental public servants. The matter attracted particular prominence during the Whitlam Government period, but it is one which gets an airing with some regularity, with varying levels of expressed concern.

As indicated in the preceding comment on accountability, the issue has been touched on again in recent Senate Committee proceedings, leading to suggestions (initially outside the Committee) that ministerial staff behaviour should be subject also to publicly stated (legislative or otherwise) standards, comparable to the APS Values, but recognising also the special characteristics of employment in ministerial offices. The 1999 Parliamentary
The Public Service Commissioner addressed the issue in a 2002 address on roles and values of the APS as it moves into the 21st century. He then suggested that, in clarifying the proper relationship between the Service and ministerial advisers, a case could be made for articulating a statement of values, along with a Code of Conduct, for Ministerial advisers, similar to APS provisions (Podger 2002: 5). Most recently, his 2002–03 State of the Service Report has revisited the issue:

I have commented elsewhere on the important role ministerial advisers now play in Australia's system of government, and suggested there would be benefit in more formal articulation of their role through a set of values and a Code of Conduct. There are many ways this could be done, but I believe this would help to enhance the professionalism of the advisers, and would complement recent APS reforms and our current efforts to improve professionalism in the APS. It could also serve to reinforce the relationship of trust that is essential between the APS and Ministers and their advisers. I believe the evidence set out in this report of wide interaction between the APS employees and advisers adds weight to the views I have expressed (PSCr 2003, p. 4).

Regulation of, or provision of guidance to, Ministerial staff, has occurred to varying degrees in the United Kingdom, Canada and the USA. Caution needs to be exercised, however, in seeking to draw parallels with the Australian situation, in the light of differing systems of government and associated conventions and practices. Some useful precedents are nonetheless available.

History shows no greater enthusiasm for significant change with respect to providing guidance to Ministerial staff on the part of either of the major political parties, whether they be in Government or Opposition, despite some of the rhetoric occasionally used when not in office. As noted in a paper issued by the Parliamentary Library, in the particular context of the possibility of ministerial staff being required to appear before parliamentary committees against ministerial objections, but also having application to the question of specifying standards of behaviour:

Until one of the Houses tackles a government over ministerial staff, using the full force of the powers available to it, ministerial staff will remain in the accountability vacuum so condemned by oppositions and beloved of governments (Holland, 2002, p. 27).

OUTSOURCING AND THE APS VALUES

From the time of its election in 1996, the Howard Government has been characterised as being particularly committed to the privatisation or outsourcing of a range of government activities where it believed that such activities would be handled more appropriately and economically by the private sector.
In consequence, all agencies subject to the *Financial Management and Accountability Act 1997* are subject to a regime of mandatory market testing of relevant activities and services, with an initial focus on the scope for achieving better delivery of corporate services (such as human resource management, financial services and information technology services) through use of financial management and market-based tools such as competitive tendering and contracting.

Seen in perspective, these developments can be viewed as continuing evolution of changes that have been occurring in the APS with increasing frequency over the last 20 years. These changes have involved outsourcing, privatisation and the transfer of APS activities to other sectors and have previously impacted on the Service over many of its former areas of functional responsibility, such as construction, business and property, and transport and storage:

From the late 1970s ... increasing attention was being paid to ways of enhancing the delivery of government programs. In 1976, the Coombs Royal Commission noted that there should be competition in the provision of services with outside sources (recommendation 22), and the 1983 report of the Review of Commonwealth Administration (chaired by JB Reid) proposed consideration of contracting out to the private sector as a path to management improvement (Reid Report 1983:125). By the 1990s, Labor and Coalition Governments were asking departments to seek greater value for money in the provision of services through user-pays and competitive tendering (PSCR2001, p. 88).

As had been stressed by the Public Service Commissioner in previous annual and *State of the Service* reports, the outsourcing of functions does not lessen ultimate agency accountability for the delivery of those functions by contractors. In particular, with the 1999 legislating of APS Values, obligation now exists for contract management arrangements to ensure that the Values are upheld in relation to outsourced human resources functions. As noted by the Commissioner:

With an increasing amount of work being outsourced, it is important that all agencies give serious consideration to the mechanisms by which contractors are made aware of, and agree to uphold, the APS Values. The Values are central to the public interest aspects of the work that is done on behalf of APS agencies (PSCR 2001, p. 149).

The manner in which this is being realised adds a further dimension to the Commission’s task in monitoring agency compliance with the Values. The Commission’s own survey evidence has demonstrated general recognition of the obligation, but varying approaches to communicating the expectations to contractors, and to providing for remedial action for non-compliance, where appropriate. Drawing attention simply to the existence of the Values and stating general expectations of contractor compliance represent at least a desirable minimum approach. The minds of contractors will obviously be concentrated rather more if the contract terms articulate the Values specifically, and provide penalties for non-compliance, particularly in circumstances where such non-compliance could be seen to have potentially serious implication for an individual agency and the clients it serves.
The Commission's agency survey in 2001–02 found that more agencies were requiring contractors to meet standards set out in the Values and Code of Conduct in the preceding year. Twenty per cent of the respondent agencies, however, reported that they did not have any arrangements in place to ensure that contractors understood the extent to which they should observe Values and the Code of Conduct requirements.

The Commission has continued to stress the importance of agencies ensuring that non-public servants are aware of the expected standards of conduct in the APS and, as appropriate, determining whether standards set out in the Values and Code of Conduct should apply in full or in part to the provision of outsourced or consultancy services. Increased attention by agencies to these considerations was noted by the Commission in 2002–03 (PScr 2003, p. 129).

Most recently, the issues involved and accountability expectations of agencies have been set out in the August 2003 Values and Code of Conduct publication. (Guide 2003, p. 51).

Ultimately, achieving a consistently more rigorous approach in this area is likely to be influenced significantly by the extent to which the Commission and agency heads are able to achieve recognition and acceptance of the Values as key elements in the manner in which APS employers undertake all their duties, and are responsive to concerns of agency clients who are the recipients of outsourced services.

**PUBLIC SERVICE ACT COVERAGE**

As would be expected from its title, the stated objects of the 1999 Act relate to the management of the APS. While its 1902 and 1922 predecessors likewise focused on regulation of the public service, a 'chief object' was inserted into the 1922 Act by the 1984 Public Service Reform Act, expanding the focus to provide for a public service to serve 'the public administration of the Australian Government' (section 6).

Intentionally or otherwise, the broader reference carried an overtone of the 1976 Coombs Commission endorsement of the concept of a 'unified service' ranging across Australian Government employment. It supported in principle (Coombs Report: 9.4.6) a Public Service Board proposal to this effect, with the following broad characteristics:

- The Australian government employment area could be regarded as a 'loose entity' for employment purposes.

- All major legislated conditions of employment could be brought together into one Act and apply throughout the administration, unless otherwise prescribed.

- Legislation (possibly the same Act as above) could specify the broad principles that should apply to staffing of the whole administration (such as open competition, the merit principle, termination only for cause and by due process, and conduct requirements).

- There could be mobility within the administration between individual employing entities, which remain part of the general entity.
• Particular institutions could be established by separate Acts, which would invoke the general provisions of the basic administration Act, unless departures from normal principles were deemed appropriate—the relevant enabling legislation making such departures readily apparent to the Parliament.

The Coombs Commission emphasised the need to preserve the existing management and employment flexibilities already available to a number of agencies, but was particularly attracted to prospects for achieving greater, and simplified, mobility arrangements between different government agencies.

Defeat of the Whitlam Government probably lessened prospects for adoption of the ‘unified service’ proposal. In the course of a ministerial statement, Prime Minister Fraser stated that the Board had been asked to continue its detailed examination of the desirability of developing arrangements under which the whole or much of Commonwealth government civilian employment would be treated as one entity for a number of purposes (PD House 9 December 1976, p. 3590). The Prime Minister’s answer to a Question on Notice some 12 months later, relating to Board progress on consideration of Commission recommendations referred to it, made no mention of the ‘unified service’ proposal, and no further reference is made to it in Hansard or in Board annual reports up to the 1983 change of government.

Although the Coombs Commission’s recommendations were accorded recognition in the development of Hawke Government proposals, culminating in the 1984 Reform Act, again no reference was made to the ‘unified service’ issue.

Ten years later, however, the issue was revisited by the McLeod Public Service Act Review Group, whose terms of reference required its considerations to include the coverage of the Public Service Act beyond staff employed directly by departments of state (McLeod Report 1994: Appendix 4).

The Review Group recounted some of the background to changes, over the years, in Public Service Act coverage, and noted that each of the Australian states and territories then had common legislation covering its public sector, but with some provisions applying only to the core public service, and not to the whole public sector (McLeod Report 1994, p. 2.36–2.44).

While not directly recommending broad public sector legislation for the Commonwealth, the Review Group advocated replacement of the 1922 Public Service Act by a new principles-based Act, which might serve as a charter document for some agencies operating outside Public Service Act coverage. The proposed legislation could establish a common set of values, principles, and standards of conduct for all employees on the public payroll, while allowing some agencies to be exempted from certain provisions. It recommended that consideration be given, over time, to extending coverage of the new Public Service Act to other public sector agencies, with provision for exemptions or modifications to provisions which were in conflict with the basic purpose of an individual agency (McLeod Report 1994, p. 2.45–2.47).

An information booklet issued by the Public Service Commission, providing a summary of the Review Group’s recommendations and related government decisions, recorded
agreement in principle to the Review Group’s recommendation, but without any automatic return of agencies already operating outside Public Service Act coverage. Beyond this, Ministers could examine, on a case-by-case basis, the advantages of individual agencies coming under coverage of the Act, where such action might be considered beneficial to that agency (PSC 1995).

In the event, the proposal was not taken up in the APS reform processes initiated by the Howard Government in 1996, leading ultimately to passage of the 1999 Public Service Act.

With the new Act in place, and in the absence currently of any compelling arguments for early significant amendment, it would now be opportune to be looking further ahead, and considering the merits of a future move to wider-ranging public sector legislation. The present Act incorporates, with progressive refinements over the years, the key principles-based elements advocated both by Coombs and McLeod. As suggested in the McLeod report, there is a persuasive argument that the Parliament, governments from both sides of politics, and the public at large can reasonably expect that general principles (of the nature of those included in the 1999 Act) should apply to all employees on the public payroll.

In 1990, in the course of preliminary discussions on Public Service Act reform, between Commission representatives and senior officers of a number of major departments, this issue was raised, but not pursued—essentially, as a consequence of doubts expressed then as to whether ‘the time was right’ for such an exercise. That doubt is always likely to exist, along with the need for judgements to be exercised in relation to likely government receptivity to any such proposal at a particular point of time. Given the strength of the drive for reforms in recent years, however, a favourable climate might now be considered to exist to pursue further reform in this area.

Precedent already exists in the financial management area. Public Service Act agency heads are chief executives for the purposes of the Financial Management and Accountability Act 1997 (FMA Act) and, as such, are held accountable for the efficient, effective and ethical use of Commonwealth resources (section 44), complementing their Public Service Act responsibilities (section 57) for managing their respective departments and assisting their Ministers to fulfil their accountability obligations to the Parliament. It would be expected that, in the exercise of their dual people and financial management responsibilities, agency heads would be acting in accordance with the APS Values and Code of Conduct. In like manner, as the McLeod Report suggested, similar expectations are reasonable in relation to non-APS chief executives on the Commonwealth payroll who are subject to the FMA Act, whether or not the Values and Code are articulated specifically for them, in legislation or otherwise.

It would be reasonable to expect also that the traffic in accountability provisions should be two-way. Elaboration of the accountability requirements of the FMA Act, by way of FMA Regulations and Orders, would be likely to have relevance to the application and progressive refinement of Regulations and Directions made under the Public Service Act.
In his Second Reading Speech on the then FMA Bill, Minister Fahey indicated that the legislation was matched to the contemporary public sector environment (PD House 1996, p. 8345). The government took a like view of the new Public Service Act. Having regard to the comparable accountability provisions, and to the varied range of functions performed by APS departments, there are legitimate grounds for considering again the McLeod review’s suggestion for a progressive extension of Public Service Act coverage to some existing agencies not so covered, and to appropriate agencies proposed for establishment in future.

Not uncommonly, arguments for staffing a Commonwealth authority outside the Public Service Act have included reference to the commercially oriented nature of the particular authority’s functions. Where the proportion of such activities is relatively small, however, it should remain an open question as to whether Public Service Act staffing arrangements would constitute a significant impediment.

As has been noted earlier, the matter of inclusion or exclusion from Public Service Act coverage has been a vexed issue over the years. While there is no reason to believe that it has become less so, the thrust of Commonwealth public sector reforms in recent years, along with current pressures for raising standards of corporate governance generally, point to the need for continued, legitimate questioning of arguments advanced in favour of other than Public Service Act staffing arrangements. Minimally, there would now seem to be persuasive reasons for any such arrangements mirroring, in an explicit manner, APS accountability provisions in areas such as the Values and the Code of Conduct.

**ROLE OF PUBLIC SERVICE COMMISSIONER**

Following abolition of the Public Service Board in 1987, the office of Public Service Commissioner was established, with independent statutory responsibilities for policy aspects of APS recruitment, promotion, mobility, discipline and retirement, with ongoing responsibilities for overall management of SES staffing.

Twelve years later, the 1999 Public Service Act gave more precise expression to the role, responsibilities and inquiry powers of the Public Service Commissioner, with significant emphasis on the Commissioner’s accountability obligations in relation to understanding and observance, by APS managers and staff generally, of standards expected to be observed in Commonwealth government administration. At the same time, the Act provided for devolution to agency heads of ‘all the rights, duties and powers of an employer’ for staff under their control (section 20(1)).

From uncertain beginnings, there would seem to be little doubt that the Commissioner’s role has become increasingly significant in the APS management framework, as now underlined by various legislative powers. In the light of the range of issues canvassed in the preceding sections, there is every reason to believe that the Commissioner is likely to be called on to play an even more prominent, independent role in addressing complex issues of individual and corporate behaviour confronting Ministers, agency heads and individual APS staff, in the continually and rapidly changing political, administrative and social environment of the early 21st century.
Developments along these lines can be expected to raise new issues concerning the appropriate role and authority of the Public Service Commissioner, in relation to the powers now conferred on departmental secretaries and other APS agency heads, under a devolved management framework. Even where a Commissioner is pursuing a sensitive or contentious line of inquiry, on Cabinet or ministerial authority, issues concerning the status of the parties involved and perceived management prerogatives are likely to present difficulties for achieving effective outcomes.

In these circumstances, the status of the office of Public Service Commissioner itself almost inevitably becomes an issue. This is not to suggest that the Commissioner should necessarily have, and be acknowledged to have, the Secretary-equivalent status accorded previously to members of the Public Service Board. The range of responsibilities of the Board was exercised within a highly centralised management environment, which no longer exists. Nonetheless, the writer believes that justification can be argued for more explicit acknowledgement that the Commissioner has the same statutorily independent authority and status as other reviewing and investigative authorities, such as the Ombudsman.

Part of the issue concerning potential reservations on enhancing the Commissioner’s authority can perhaps be attributed to the Secretary of the Department of the Prime Minister and Cabinet now being commonly accorded the title of ‘Head of the Public Service’. While this was no doubt appropriate, following the demise of the Public Service Board, it no longer sits comfortably with the legislative framework established by the 1999 Public Service Act, or the primarily policy coordination role of the Department of the Prime Minister and Cabinet (PM&C). The Act itself accords no APS-wide role to the Prime Minister and Cabinet Secretary.

Although the Prime Minister has portfolio responsibility for administration of the Act, the defined legislative role of his departmental Secretary in relation to the ongoing operation of the APS is relatively limited, and could now be seen to derive principally from his or her role as Chairman of the Management Advisory Committee, constituted under section 64 of the Act.

Seeming realities aside, there are problems also of appearances. The Secretary is likely to be seen to be identified closely with achieving the political priorities of an incumbent Prime Minister and government. Governments also now acknowledge that such an objective is likely to influence the choice of the particular office holder. Such a situation could be considered to be at odds with that person being represented as head of the apolitical APS, in accordance with section 10(1)(a) of the legislated APS Values, and otherwise required to evaluate agency compliance with, and upholding of, other APS Values and the Code of Conduct.

In a broader sense, the PM&C Secretary does fulfil the role of being Head of the APS. The Secretary is responsible to the Prime Minister and to Cabinet for harnessing and utilising the capability and resources of the Service to respond to the government’s policy agenda and to manage its programs effectively. The Secretary’s statutory role as Chair of the Management Advisory Committee, responsible for advising the government on matters...
relating to the management of the APS (section 64 of 1999 Act) is directly relevant in that regard.

The Act, however, provides a different focus of responsibility for leadership of the APS, in the sense of building its people resource capabilities for the future, and in ensuring upholding of the APS Values and compliance with the Code of Conduct. Section 41 of the Act specifically assigns those responsibilities to the Public Service Commissioner, including:

- monitoring employment policies and practices
- improving people management and leadership
- coordinating and supporting APS-wide training and career development
- providing assistance to agencies on request.

Earlier in this chapter, it has been suggested also that the Commissioner should have a recognised role in relation to appointment and termination of services of departmental Secretaries.

In these circumstances, the writer believes that there are logical grounds for suggesting that the Public Service Commissioner, already holding a statutorily independent position within the Prime Minister's portfolio, should be recognised also as Head of the APS.

The office of Secretary of PM&C would not be diminished by this change. Its status and central role in government administration has been long established and recognised, independently of any suggestion that it has ever exercised an independent central personnel agency role.

Other possibilities could be explored. If change were to occur, however, the recent history of the APS suggests that the role of Head of the Public Service is not one which sits readily with the designated holder of that function having major, or substantially unrelated, departmental responsibilities outside personnel administration.

ENDNOTE

Like any major institution, the characteristics of the federal Public Service are subject to continuing change and external developments. At any given point of time, the perceived value of these changes will vary significantly amongst those directly affected within the APS, or in the eyes of external interested observers, however well informed.

As this history has illustrated, some perceptions inevitably change with the passage of time, and with the benefit of perfect hindsight. The record also demonstrates, however, that in the 100 years since the first Public Service Act there has been consistent adherence to an underlying objective of establishing, and seeking to maintain, an efficient, accountable, apolitical and responsive public service with high professional and ethical standards, based on recruitment and subsequent progression of staff on the basis of merit.
The manner and effectiveness of achieving the above objective, and the articulation of its component, have varied significantly, and will no doubt continue to do so. This will occur both through express legislative provisions and, perhaps more importantly, through the interpretation and application of those provisions in changing political and social environments.

Federal Public Service Acts have been robust enactments. In purely legislative terms, they are prone to becoming significantly outdated, as they fail to keep pace with external developments, and become clearly demanding of reform.

Although not in themselves unique, processes associated with the development and ultimate passage of the 1999 Act illustrated the achievement of realistically attainable and effective outcomes, as a consequence of wide-ranging consultation, negotiation and compromise. Timely attention to such processes and to any necessary refinements can be expected to be of benefit in addressing future necessary or desirable changes to the fundamental legislative base for the APS.
APPENDIX 1

COVERAGE OF PUBLIC SERVICE ACT 1922

Extract from First Report on the Commonwealth Public Service by the Board of Commissioners, 22 September 1924, pp. 5–6.

The principal features of the new Public Service Act, involving departure from conditions established under former legislation, may be shortly stated as follows:-

(1) A Board of Commissioners (three members) constituted in lieu of a single Commissioner, the tenure of office of members being five, four and three years respectively, with eligibility for re-appointment for a term not exceeding five years, with annual salaries fixed at £2,500 for the Chairman of the Board, and £2,000 for each of the other members.

(2) Important and far-reaching duties imposed on the Board to devise means for effecting economies and promoting efficiency in the management and working of departments by improved organisation and procedure, closer supervision, limitation of staffs, improvement in training of officers, avoidance of unnecessary expenditure, checking expenditure as to adequacy of value received, institution of standard practice, advising upon systems and methods as to contracts and supplies, &c.

(3) The disposal of excess officers by transfer or retirement from the Service to be determined by the Board instead of, as previously, by the Governor-General.

(4) Classification of the Public Service within four prescribed divisions in accordance with importance and character of work. Provision for appeals against classification and determination of appeals by the Board. Power to make regulations for prescribing salaries of officers.

(5) Power to grant or refuse annual increments of salary vested in permanent heads of departments, with the right of appeal by officers to the Board in case of deprivation of increment.

(6) Appointments to the Service to be made by the Board and, where such appointments are probationary, to be subject to confirmation by the Board, instead of, as previously, by the Governor-General. Principle of preference to returned soldiers maintained.

(7) Promotions and transfers to be authorised by the Board subject to the right of aggrieved officers to appeal. Appeals to be considered in conference between appellant (or his agent), a representative of the Department, and the Board, with final determination of appeal by the Board.
(8) Powers granted permanent heads to deal with disciplinary cases and to decide punishment, including recommendation for dismissal. Right of appeal is allowed to an Appeal Board, comprising a permanent Chairman, with legal qualifications, a representative of the Department, and an elected representative of the Division of the Service to which the appellant belongs.

(9) Provision for summary dismissal by the Board, after investigation and hearing, of officers directly fomenting or taking part in a strike which interferes with or prevents the carrying on of any part of the public service or utilities of the Commonwealth.

(10) The Board empowered to deal with incompetent or inefficient officers by transfer to other positions or retirement from the Service.

(11) The former provisions as to furlough liberalised. Under the previous Act officers who had completed twenty years’ service were eligible for six months’ furlough on full pay. The new provision enables furlough to be granted up to a maximum of twelve months on full pay where 40 years’ service have been completed, or payment in lieu of furlough on retirement, or, in the event of death of an officer, payment in lieu to his dependants.

(12) Provision made enabling the Board to exercise a close check on temporary employment. Under the new law not only must the Board be satisfied as to the necessity for temporary assistance, but the selection of persons to be temporarily employed is vested in the Board, and not, as previously, in departments.

(13) Allowances for special services other than those prescribed under Regulations to be made by the Board are payable only with the approval of the Board.
APPENDIX 2

SIGNIFICANT MATTERS ADDRESSED BY PUBLIC SERVICE BOARD IN ITS FIRST REPORT (SEPTEMBER 1924)

Classification of the Service (pp. 34–45)

Commencement of the Board’s classification of the Service, as required by s. 27 of the 1922 Act, within the new divisional structure specified in s. 23 of the Act (but excluding First Division Officers), and in accordance with ‘the importance and character of the work performed’—the Board noted (p. 34) that this would involve fixing pay scales for more than 25,000 permanent officers in nine departments, compared with some 11,600 permanent officers classified by McLachlan with effect from 1 July 1904.

Basic wage (pp. 45–57)

Addressing the question of a basic wage for the Service, against the background of Federal Arbitration Court awards for outside industries, and determination of the method to be adopted in fixing a basic wage for female officers and, particularly, ‘whether discrimination should be exercised between women performing work generally recognised as women’s work and others engaged on duties of a similar character to those ordinarily discharged by men’—the Board concluded (p. 55–7) that there was ‘overwhelming’ evidence from the decisions of various arbitration Courts, and from the practices of state government and outside industries for using separate pay rates for men and women, that contrary pay anomalies previously resulting from decisions of the former Public Service Commissioner could not be sustained, notwithstanding the fact that the Board’s classification would result in loss of pay for some women officers, and that the Board would therefore determine differential rates. The Board’s commentary on this particular issue, and in the light of protests, was that its duties under the Act could ‘not be evaded by any considerations of sentiment’ and previous overpayments could not be accepted as justification for their indefinite continuation. It concluded:

Duty is often unpalatable, but nevertheless must be conscientiously discharged.

Training of officers (pp. 58–61)

The Board emphasised its own responsibilities, under s. 17 of the Act, for improving the training of officers, and stressed the need for departments to pursue vigorously the same course of action, both through internal training, encouragement of external study and, in the case of ‘keen young engineers’, periodical visits abroad to enable them to assimilate overseas developments in their profession. The Board indicated also its intention to provide for expanded departmental training of cadet engineers, with an examination on conclusion of training to qualify for automatic advancement as engineers, independently of the occurrence of actual vacancies.
Efficiency and economy (pp. 63–7)

The Board drew to attention its comprehensive powers and authorities under s. 17 of the Act which ‘convey(ed) definitely the intentions of Parliament as to a continuous check being maintained on departmental activities and expenditure’, consistent with recommendations of the Economies Commission. The most immediate and important task in this context was seen to be the work of classifying the Service, to seek to ensure that officers would be placed in an organisational framework which provided for efficient discharge of their duties. Separate, specifically orientated ‘efficiency and economy’ investigations were not seen to be practicable until the classification task had been completed. The Board did comment, however, on insistent press and other demands for adoption of ‘business-like’ methods in public services, offering the following observation which has had some familiar echoes in more recent years:

The question has apparently never been considered whether the application in their entirety of the so-called business methods to government departments is practicable, and whether the organisation of outside business, as compared with that of public departments, has made for efficiency of commercial and manufacturing undertakings.

The Board believed that its work in organising and classifying departmental organisations, along with better control of temporary employment, had already produced economies and efficiencies. It emphasised the ongoing responsibilities of its Public Service Inspectors in the several States for monitoring and instituting appropriate remedial action in relation to efficient and economic departmental operations, having advised the Inspectors, however, that ‘the Board was not charged with the management of departments, consequently there was need for breadth of view and the exercise of tact and discretion’.

In the event, while the Board continued to accord priority to its s. 17 responsibilities in succeeding years, it found that resources constraints generally limited the scope of its activities—initially as a result of the demands of its task in classifying the Service and, subsequently, the increasing economic stringencies and staff reductions associated with the onset and consequences of the Depression and the Second World War. Further major impetus to the s. 17 activities was not to occur until after the War, and the reconstitution of a full, three-member Board in 1947, in place of the single-Commissioner Board which had operated, principally as an economy measure, from June 1931.

Management of temporary employment (pp. 67–8)

The Board considered that, prior to the 1922 Act, no proper restrictions had operated on engagement and continuation of temporary employment in departments and it had become ‘a species of patronage’, which was often ‘continued indefinitely because of political, philanthropic, or sentimental reasons’. The Board required the exercise of tighter controls by its Public Service Inspectors, whose interventions over a nine-month period in restricting engagements or extensions were believed to have had value in terms of their ‘moral effect’ on departments, along with actual savings of £6,428 15s 7d!
Preference to returned soldiers (p. 77)

The Board noted the continuation and extension in the 1922 Act of the 1902 Act policy of preference for ‘returned soldiers’. These arrangements, detailed in ss. 83 and 84 of the Act, included provision for the Board to reappoint to the Service a returned soldier who, prior to enlistment, had been dismissed from the Service. This provision had been applied in a number of cases to youths who had been dismissed but who, by satisfactory military services had ‘expiated their offences and thus afforded some justification for their re-admission to the Public Service’. Provision was made also for application of concessional health standards to appointees to the Service. To the end of June 1924, a total of 2525 persons had been appointed to the Service (then numbering 25,407 permanent officers) from the time of commencement of preference provisions.

Operation of the Arbitration (Public Service) Act 1920 (pp. 84–7)

The Board noted the origins of the above Act, introduced by the Government contrary to the vigorous criticisms and opposition of McLachlan in his Royal Commission report. The Board quoted also the similar concerns of former Acting Commissioner Edwards in his final annual Report. After 12 months operation of the Act, the Board observed that the principle of public service arbitration had ‘much virtue’ but that ‘its application in a practical and equitable manner (was) fraught with difficulty’ and that the Act itself was ‘defective in construction and unsuitable to the conditions it was designed to meet’. Further, in the Board’s view, it conflicted with the Public Service Act and had produced ‘an impossible duality of power, while responsibility rests alone with the Board’. After citing various examples of problems experienced by the Board as a result of decisions and determinations of the Public Service Arbitrator and the ‘unnecessarily wide powers’ conferred by the Act, the Board concluded that it was ‘obviously necessary to reduce to reasonably practical measures the application of the principle of Arbitration to the Public Service’.
APPENDIX 3

EXTRACT FROM TWENTY-THIRD REPORT OF PUBLIC SERVICE BOARD
(19 JANUARY 1948, P. 18)

[Staffing problems in Canberra after World War II]

Staffing for Canberra represents a psychological as well as a practical problem, and the difficulties are generally those that occur when the main part of the population is employed by one authority in an isolated situation. One of the principal problems is that of providing a normal social and community life for the young people, who are away from their homes and who are forced to live in boarding houses or hostels.

Another problem at present arises from the segregation of women in separate hostels. The need for a certain amount of this kind of accommodation for the junior girls and such other women as desire it, is recognised, but many difficulties of hostel management, and artificialities and restrictions of normal social activities would be removed if more mixed hostels and boarding houses were provided. Their success is amply demonstrated by those already in existence. The Board feels that this is a matter affecting administration which requires further attention.

Although the reasons may be various, the result is plain and it is that there is a marked tendency on the part of officers to avoid transfer or even promotion to Canberra. It can be expected that this problem will be gradually eliminated as population increases, but at the moment there appear to be two outstanding communal deficiencies. First, is the absence of any common outdoor gathering place, and the second, the lack of club-room facilities for many of the single people of both sexes who must reside in boarding houses and hostels.

The Board considers it to be a matter of urgent importance that steps should be taken to provide these amenities.

The first could perhaps be covered by the development of a central park area with laid out gardens, a refreshment kiosk, bandstand, open air swimming pool, paddling pool and playground for children. This might with advantage be linked with the proposal which the Board understands is being considered to establish a representative collection of Australian birds and animals. This would provide not only a recreational centre but a social meeting ground for the residents as well as being useful as a tourist attraction.

The second item requires the establishment of a club house as a social meeting centre for junior officers, and particularly for those who must live in Canberra hostels. Such a club should offer the normal social, cultural and recreational activities. Initially it should not require any substantial construction and possibly the adaption of some temporary structure would suffice. The Board considers the need to be too urgent to await the availability of resources for permanent construction and it is in consultation with the Department of Works and Housing and the Department of the Interior on the development of a plan which, when completed will be submitted to the Government.
APPENDIX 4

ROYAL COMMISSION ON AUSTRALIAN GOVERNMENT ADMINISTRATION

Membership, terms of reference and background information

The Royal Commission was under the chairmanship of Dr HC Coombs. Other members of the Commission were:

- Mr PH Bailey, a Deputy Secretary in the Department of the Prime Minister and Cabinet
- Professor Enid Campbell, Sir Isaac Isaacs Professor of Law at Monash University
- The Hon. JE Isaac, a Deputy President of the Australian Conciliation and Arbitration Commission
- Mr PR Munro, Secretary of the Council of Commonwealth Public Service Organisations.

The terms of reference of the Commission were as follows:

To inquire into and report upon the administrative organisation and services of the Australian Government and in particular—

1) the purpose, functions, organisation and management of Australian Government Departments, statutory corporations and other authorities and the principal instruments of co-ordination of Australian Government administration and policy; and

2) the structure and management of the Australian Public Service,

and to make recommendations for improving efficiency, economy, adaptability and industrial relations and the despatch of public business; and, without restricting the scope of the inquiry, to give particular attention to the following matters:-

(a) the appropriate role of ministerial departments, statutory corporations and other authorities;

(b) relationship of the Australian Public Service and statutory corporations and other authorities with the Parliament, Ministers and the community;

(c) parliamentary scrutiny and control of administration;

(d) responsibility and accountability of public servants, and their participation in forming policy and making decisions;

(e) adequacy of the machinery available to assess the relevance and economy of existing programs in meeting government objectives;

(f) the extent to which central management of the Australian Public Service is necessary, and internal control and co-ordination in that Service, especially the functions of the Public Service Board, the Auditor-General and the Treasury;

(g) centralization, decentralization and delegation of functions;
(h) the principles applicable to staffing of statutory corporations and other authorities;

(i) personnel policies and practices, including eligibility, recruitment, selection, appointment, tenure, training (especially management training), promotion, classification, discipline, morale and conditions of service of members of the Australian Public Service, both generally and in relation to particular classes of persons;

(j) the determination of salaries, wages and other conditions of service of persons in the service of the Australian Government, including those serving overseas;

(k) the rights of public servants as citizens; and

(l) any other matters to which the attention of the Commission is particularly directed by the Prime Minister and in the course of the inquiry.

The Commission was not intended to make special inquiry into, or special reference to, matters relating to postal and telecommunications services (already then the subject of review by the Vernon Commission of Inquiry into the Australian Post Office), and matters relating to superannuation, also then under separate examination.

In announcing the appointment of the Royal Commission the Prime Minister said it was anticipated that the Commission would report within two years of its appointment.
APPENDIX 5

REVIEW OF THE PUBLIC SERVICE ACT 1994—TERMS OF REFERENCE

The task group should review the Public Service Act and make recommendations for changes in order to provide a modern and flexible management framework, ensuring that the Public Service:

- provides governments with responsive service and frank and comprehensive advice;
- is efficient and effective in producing the results specified by Ministers and governments;
- has staffing principles and practices based clearly on merit, ensuring equality of opportunity with fair rewards as an incentive to high performance;
- is based on the highest standards of probity, integrity and conduct;
- is fully accountable; and
- is able continuously to improve its performance and that of its members.

In the course of the review, the Committee should specifically consider:

(a) what is expected of the Public Service, and individual public servants, in terms of responsiveness, performance and conduct;

(b) the legislative provisions necessary to preserve and reinforce the values listed above;

(c) the coverage of the Public Service Act beyond staff employed directly by departments of State;

(d) the appropriate boundaries between the new Act and alternative regulatory instruments (e.g. awards and workplace bargaining agreements);

(e) what is required of the Public Service to ensure:
   - merit-based selection for appointment and promotion, such that the Public Service is accessible to all sections of the Australian population and attracts and retains a fair share of the best available talent in the Australian community;
     - flexibility in employment, such that the Public Service can respond promptly to changing circumstances and requirements;
     - staffing mobility across the Public Service;
     - adequate training and development of staff;
     - that issues of performance, discipline and conduct are dealt with effectively, consistent with equity and fairness; and

(f) any requirements for ensuring the effective implementation of the new Act.
KEY POWERS AND RESPONSIBILITIES OF SECRETARIES IN A DEVOLVED APS

(ADMF PAPER, 1997)

IMPROVED ACCOUNTABILITY

Secretaries will be more accountable for the exercise of their powers in that they will:

• be appointed and terminated by the Prime Minister;
• be accountable to their Ministers for the management of their Departments;
• be required to report to Parliament on Departmental outcomes;
• be obliged to uphold the APS Values and Code of Conduct;
• be bound by the Public Service Commissioner’s Directions in such matters as merit, employment equity and grievances
• as well as by the provisions of the Workplace Relations Act;
• provide staff with rights of review of employment decisions;
• have to establish mechanisms to handle disclosures in the public interest (whistleblowing); and
• have their employment practices monitored for the Commissioner’s Annual Report on the State of the Service
• with the Commissioner having powers of investigation.

DEVOLVED RESPONSIBILITY

Secretaries will have enhanced power to:

• engage employees on behalf of the Commonwealth on either an ongoing or temporary basis;
• negotiate pay and conditions at the agency level;
• adapt job classification structures to the needs of the agency;
• decide the conditions for engagement, advancement, promotion and transfer of employees;
• set qualification requirements;
• determine appropriate periods of probation;
• establish training arrangements;
• decide on what terms an employee may engage in other employment;
• recognise and reward high performing employees;
• terminate, assign to other duties or reduce the salary of unsatisfactory or underperforming employees;
• adopt misconduct procedures;
• establish internal grievance mechanisms;
• retire an excess employee; and
• select, engage, transfer or retire members of the SES.
APPENDIX 7

SUMMARY OF 1998 ADMINISTRATIVE REFORMS

The administrative reforms

• establish a new set of APS Values;
• establish a new Code of Conduct, a breach of which will be grounds for misconduct proceedings;
• provide a scheme for protecting, from victimisation and discrimination, public servants who ‘blow the whistle’;
• require the Public Service Commissioner to give an annual report to the Minister, for presentation to the Parliament, on the State of the Service;
• provide agencies with more flexibility to appoint Aboriginals and Torres Strait Islanders to their staff;
• extend the period during which applications for Senior Executive Service (SES) vacancies can be considered ‘active’;
• extend the period during which recurring vacancies may be filled without readvertising the vacancy in the Gazette;
• lengthen the non-appellable period for temporary performance;
• exclude the majority of public servants who take up positions in the broader Commonwealth public sector from those rights currently provided by the mobility provisions of Part IV of the Public Service Act;
• introduce Workplace Diversity Programs that subsume but are broader than the former Equal Employment Opportunity Programs;
• allow agencies to choose the source from which they select their entry-level recruits;
• adopt a policy that all APS vacancies may be accessed by all Australians, provided they satisfy citizenship, health, security and other requirements – unless an agency determines that on the grounds of costs and operational efficiency the vacancy should be restricted to APS applicants only;
• remove prescription relating to the keeping of registers for temporary staff;
• devolve to agencies the power to determine the qualifications or other conditions to be satisfied for appointment, promotion or transfer;
• remove prescription about how cases of poor performance, including those affected by long-term illness, are managed; and
• devolve to agencies the power to make discretionary payments to staff under s. 90(3) of the Public Service Act up to a maximum of $20,000.

None of the administrative reforms applies to the staff of the Parliamentary Departments.

(PScR AR 1998:20)
APPENDIX 8

LISTING OF DOCUMENTS SUPPORTING IMPLEMENTATION OF 1999 PUBLIC SERVICE ACT

EXTRACT FROM PUBLIC SERVICE COMMISSIONER ANNUAL REPORT 1999–00 (P. 233)

APPENDIX F—DOCUMENTS TO SUPPORT THE IMPLEMENTATION OF THE PUBLIC SERVICE ACT 1999

PSMPC PUBLIC SERVICE ACT 1999 ADVICES

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# References and Abbreviations

## Abbreviations

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<td>ADMC</td>
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<td>APSC</td>
<td>Australian Public Service Commission</td>
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<tr>
<td>AR</td>
<td>Annual Report</td>
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<td>CPD</td>
<td>Commonwealth Parliamentary Debates (1901–October 1972)</td>
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<tr>
<td>EM</td>
<td>Explanatory Memorandum</td>
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<td>MAB</td>
<td>Australian Public Service Management Advisory Board</td>
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<tr>
<td>PD</td>
<td>Parliamentary Debates (27 February 1973–)</td>
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<td>PSB</td>
<td>Public Service Board</td>
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<td>PSCr</td>
<td>Public Service Commissioner</td>
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<td>PSMPC</td>
<td>Public Service &amp; Merit Protection Commission</td>
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<td>SES</td>
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## References

Annual Reports of the Public Service Commissioner (1904 to 1922–23); the Public Service Board (1923–24 to 1986–87); the Public Service Commission (1987–88 to 1994–95 and the Australian Public Service Commission from June 2002); and the Public Service & Merit Protection Commission (1995–96 to 2001–02) are identified by PSCr AR; PSB AR; PSC AR and PSMPC AR. Printed in the *Parliamentary Paper Series*, these reports are also held in the Australian Public Service Commission’s Library.

The State of the Service Reports of the Public Service Commissioner since 1997–98 are abbreviated PSCr.

References that have been cited in full in the text are not repeated in the references listed below.


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