

Public Service (Parliamentary Officers) Regulations 1991 No. 370

EXPLANATORY STATEMENT

STATUTORY RULES 1991 No. 370

Issued by the authority of the Prime Minister

Public Service Act 1922

Public Service (Parliamentary Officers) Regulations

Subsection 9(6) of the *Public Service Act 1922* (the Act) provides that the Governor-General may, on the recommendation of the President or the Speaker or the President and the Speaker (as the case may be), make, in relation to officers and employees of the Parliament, regulations about the same matters for which regulations may be made under subsection 97(1) of the Act.

In 1987 a number of the provisions of the *Public Service Legislation (Streamlining) Act 1986* (the Streamlining Act) came into operation. Public Service Regulations were made which gave effect to sections of the Act inserted or amended by the Streamlining Act in relation to transfers and promotions of officers of the Australian Public Service. Certain other amendments have been made to the Public Service Regulations from time to time.

The Public Service (Parliamentary Officers) Regulations have not been amended since 1982 and therefore do not contain provisions which take into account the recent substantial changes in the Australian Public Service.

The Regulations bring the parliamentary departments into line with the Australian Public Service by only including provisions which are specific to the parliamentary departments. The Public Service Regulations provide for matters which are not included in these Regulations.

The Regulations come into force on the day of gazettal.

Details of the Regulations are as follows.

Regulation 1 - citation of the Regulations.

Regulation 2 provides definitions of various terms.

Regulation 3 requires officers and employees of the Parliament to be aware of the provisions of the Act, these Regulations, the Public Service Regulations and determinations made under subsection 9(7A) and section 82D of the Act.

Regulation 4 provides that the Secretary of a parliamentary department may advise the Presiding Officers on matters concerning the management of the department and the salaries and allowances payable to officers and employees.

Regulation 5 provides that a branch head must inform the Secretary of a breach of these Regulations or the Public Service Regulations of which that officer is aware.

Regulation 6 provides that the terms "month" and "year" be defined, for the purposes of Part 3 of the Regulations, as having the same meaning as in section 68F of the Act.

Regulation 7 provides that if an officer or employee, before commencing duty, was employed for a period under the Act, the officer or employee is taken to have commenced duty on the first day of that period.

Regulation 8 provides that where an officer is required to perform duties on a Sunday or a public holiday in the Australian Capital Territory the recreation leave credit is calculated on a pro rata basis in accordance with the specified formula. Where an officer performs duties on 10 or more Sundays in a year the recreation leave credit is calculated as the sum of the officer's ordinary hours of duty during 5 weeks.

Regulations 9 to 11 provide that, ordinarily, an officer will be deemed to be on recreation leave in respect of any recreation leave credits which have not been availed of within 31 months of their accrual.

Regulation 12 makes provision for an extension of 6 months to protect the entitlements of officers who are on leave for a period equal to or exceeding 4 weeks and who would otherwise be subject to normal leave deeming provisions.

Regulation 13 provides that where an officer is deemed by the Regulations to be on leave the Secretary may require that that officer not attend the place of work during the period specified.

Regulation 14 provides that where an officer is absent from duty on leave (not including recreation leave) for more than a year and the period includes the date of accrual of a recreation leave credit, Regulations 9 to 13 apply as if the credit had accrued on 1 January in the year in which the officer resumed duty.

Regulation 15 provides for the Secretary to determine the additional recreation leave credit accrued to an officer where excess service is specified as a special circumstance.

Regulation 16 provides that certain officers may elect not to receive payment for overtime for duty performed which is a special circumstance. The effect of such election is that the duty performed accrues as additional recreation leave.

Regulation 17 provides that, where an office is vacant, the Presiding Officer may notify the vacancy in the *Gazette*. Where a vacancy is open to applicants who are not in the Australian Public Service, the Presiding Officer must approve the terms of the notification.

Regulation 18 provides that the Secretary of a department may direct an officer temporarily to perform the duties of an office in that department. Such a direction takes effect on the day it is given or on a later day specified in the notice to the officer. By subregulation (3) a direction must be expressed to continue in force until the end of a specified day or the occurrence of a specified event. Subregulation (5) expands the range of selection criteria relevant to selections for temporary performance to include a number of operational factors. Where a Secretary proposes to give a direction to an officer of another department, subregulation (6) requires the directing Secretary to obtain the approval of the Secretary of that other department, which may only be withheld, by virtue of subregulation (7), where release of the officer would cause substantial difficulty or inefficiency in the functioning of that department.

Regulation 19 requires the Secretary to notify an officer of a direction to act for a period greater than 3 months in an office of higher classification. Directions expressed to continue until the occurrence of a specified event are also required to be notified.

Regulations 20 and 21 provide for the payment of costs incurred by a Secretary during an inquiry of a charge of misconduct against that Secretary where a recommendation is made that no action be taken or where the inquiry lapses by reason of the death, incapacity or compulsory retirement of the Secretary.

Regulation 22 provides for the recording of disciplinary action in an official conduct record and specifies the periods for which such records may be kept.

Regulation 23 repeals the former Regulations and makes transitional arrangements in relation to the commencement of service and the deeming of recreation leave.