

2004-2005

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Parliamentary Service Amendment Bill
2005**

No. , 2005

**A Bill for an Act to amend the *Parliamentary
Service Act 1999*, and for related purposes**

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1 **A Bill for an Act to amend the *Parliamentary***
2 ***Service Act 1999*, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Parliamentary Service Amendment*
6 *Act 2005*.

7 **2 Commencement**

8 This Act commences on the day on which it receives the Royal
9 Assent.

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3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1
2 **Schedule 1—Amendment of the Parliamentary**
3 **Service Act 1999**
4

5 **1 Paragraph 3(c)**

6 After “Secretaries,” insert “the Parliamentary Librarian.”

7 **2 Section 7**

8 Insert:

9 *joint Department* means:

10 (a) the Department of Parliamentary Services; or

11 (b) if another Department is designated as the joint Department
12 by the Presiding Officers—that other Department.

13 **3 Section 7**

14 Insert:

15 *Library Committee* means the committee or committees of the
16 Houses of Parliament that advise the Presiding Officers in respect of
17 the functions of the Parliamentary Librarian.

18 **4 Section 7**

19 Insert:

20 *Parliamentary Librarian* means the holder of the office of
21 Parliamentary Librarian established under section 38A.

22 **5 Section 9**

23 After “Secretaries”, insert “, the Parliamentary Librarian”.

24 **6 After section 17**

25 Insert:

1 **17A Application of sections 16 and 17 to the Parliamentary**
2 **Librarian**

3 Sections 16 and 17 apply to the Parliamentary Librarian as if he or
4 she were a Parliamentary Service employee.

5 **7 Part 4 (heading)**

6 Repeal the heading, substitute:

7 **Part 4—Parliamentary Service employees and the**
8 **Parliamentary Librarian**

9 **8 At the end of Part 4**

10 Add:

11 **Division 3—Parliamentary Librarian**

12 **38A Parliamentary Librarian**

13 An office of Parliamentary Librarian is established by this section.

14 Note: The Parliamentary Librarian is within the joint Department (see
15 section 54).

16 **38B Functions of Parliamentary Librarian**

- 17 (1) The functions of the Parliamentary Librarian are:
- 18 (a) to provide high quality information, analysis and advice to
19 Senators and Members of the House of Representatives in
20 support of their parliamentary and representational roles; and
21 (b) to undertake such other responsibilities within the joint
22 Department, consistent with the function set out in
23 paragraph (a), as are conferred in writing on the
24 Parliamentary Librarian by the Secretary of the joint
25 Department with the approval of the Presiding Officers.
- 26 (2) The Parliamentary Librarian must perform the function mentioned
27 in paragraph (1)(a):
- 28 (a) in a timely, impartial and confidential manner; and

- 1 (b) maintaining the highest standards of scholarship and integrity;
2 and
3 (c) on the basis of equality of access for all Senators, Members of
4 the House of Representatives, parliamentary committees and
5 staff acting on behalf of Senators, Members or parliamentary
6 committees; and
7 (d) having regard to the independence of Parliament from the
8 Executive Government of the Commonwealth.

9 **38C Appointment of Parliamentary Librarian**

- 10 (1) The Parliamentary Librarian is to be appointed by the Presiding
11 Officers for a period of 5 years.
- 12 (2) The Presiding Officers cannot make an appointment unless they
13 have received a report about the vacancy from the Secretary of the
14 joint Department.
- 15 (3) The Presiding Officers cannot appoint a person as the Parliamentary
16 Librarian unless the person has either or both of the following:
17 (a) professional qualifications in librarianship or information
18 management (however described);
19 (b) professional membership of a recognised professional
20 association in the discipline of librarianship or information
21 management (however described).
- 22 (4) An appointment is not affected by any defect or irregularity in or in
23 connection with the appointment.

24 **38D Termination of appointment of Parliamentary Librarian**

- 25 (1) The Presiding Officers may, by notice in writing, terminate the
26 appointment of the Parliamentary Librarian at any time.
- 27 (2) The Presiding Officers cannot terminate an appointment unless they
28 have received a report about the proposed termination from the
29 Commissioner.

1 **38E Remuneration and other conditions of appointment**

- 2 (1) The remuneration and other conditions of employment of the
3 Parliamentary Librarian are as determined by the Presiding
4 Officers.
- 5 (2) For each determination, the Presiding Officers must seek the advice
6 of the Remuneration Tribunal and take that advice into account.
- 7 (3) Each determination must be:
8 (a) published in the *Gazette* within 14 days; and
9 (b) laid before the Senate and the House of Representatives as
10 soon as practicable;
11 after the determination is made.

12 **38F Acting Parliamentary Librarian**

- 13 (1) The Presiding Officers may appoint a person to act in the office of
14 Parliamentary Librarian:
15 (a) if there is a vacancy in the office, whether or not an
16 appointment has previously been made to the office; or
17 (b) during any period, or during all periods, when the
18 Parliamentary Librarian is absent from duty or from Australia
19 or is, for any reason, unable to perform the duties of the
20 office.
- 21 (2) However, the Presiding Officers cannot appoint a person to act in
22 the position unless the person meets the requirement in subsection
23 38C(3).
- 24 (3) Anything done by or in relation to a person purporting to act under
25 this section is not invalid merely because:
26 (a) the occasion for the appointment had not arisen; or
27 (b) there was a defect or irregularity in connection with the
28 appointment; or
29 (c) the appointment had ceased to have effect; or
30 (d) the occasion to act had not arisen or had ceased.

1 **38G Resources for the Parliamentary Librarian**

- 2 (1) The Secretary of the joint Department must provide resources to the
3 Parliamentary Librarian in accordance with an annual agreement
4 that satisfies the requirements of subsection (2).
- 5 (2) The agreement must be:
- 6 (a) made between the Secretary of the joint Department and the
7 Parliamentary Librarian; and
- 8 (b) approved by the Presiding Officers in writing after receiving
9 advice about the contents of the agreement from the Library
10 Committee.
- 11 (3) The Presiding Officers may approve the agreement for the purposes
12 of subsection (2) either before or after the agreement is made by the
13 Secretary and the Parliamentary Librarian.

14 **38H Reporting to Library Committee**

- 15 (1) The Parliamentary Librarian must give a report on the performance
16 of the functions of the Parliamentary Librarian to the Library
17 Committee on the request of the Committee.
- 18 Note: The Parliamentary Librarian must also give an annual report to the
19 Presiding Officers under section 65.
- 20 (2) However, the Parliamentary Librarian must give such a report to the
21 Committee at least once every financial year.

22 **38I Copyright**

23 For the purposes of sections 48A and 104A of the *Copyright Act*
24 *1968*:

- 25 (a) the part of the joint Department that is headed by the
26 Parliamentary Librarian and that provides library services is
27 taken to be a library the principal purpose of which is to
28 provide library services for Members of the Parliament; and
- 29 (b) the Parliamentary Librarian is taken to be the officer in charge
30 of that library; and
- 31 (c) a Parliamentary Service employee authorised by the
32 Parliamentary Librarian to act on his or her behalf in relation

1 to the provision of the library services is taken to be an
2 authorised officer of that library.

3 Note: Sections 48A and 104A of the *Copyright Act 1968* apply only in
4 relation to things done for the sole purpose of assisting a person who
5 is a Member of a Parliament in the performance of the person's
6 duties as such a Member.

7 **9 Subsection 48(4) (definition of *Parliamentary Service***
8 ***action*)**

9 Omit “or by a Secretary”, substitute “, by a Secretary or by the
10 Parliamentary Librarian”.

11 **10 Subsection 54(3)**

12 Repeal the subsection, substitute:

13 (3) For the purposes of this Act:

14 (a) for the joint Department—the Department consists of the
15 Secretary of the Department, together with the Parliamentary
16 Librarian and Parliamentary Service employees assisting the
17 Secretary; and

18 (b) for any other Department—the Department consists of the
19 Secretary of the Department, together with Parliamentary
20 Service employees assisting the Secretary.

21 **11 Subsection 65(2)**

22 Omit “The report”, substitute “A report made under subsection (1)”.

23 **12 At the end of section 65**

24 Add:

25 (3) After the end of each financial year, the Parliamentary Librarian
26 must give a report to the Presiding Officers on the performance of
27 the Parliamentary Librarian's functions during the year. The
28 Parliamentary Librarian's report must be included in the report on
29 the activities of the joint Department made under paragraph (1)(c).

30 **13 Paragraph 67(1)(a)**

31 After “Secretary”, insert “, the Parliamentary Librarian”.

32 **14 After subsection 70(1)**

1 Insert:

2 (1A) A Secretary may, in writing, delegate to the Parliamentary Librarian
3 any of the Secretary's powers or functions under this Act (other
4 than this section).

5 **15 After subsection 70(3)**

6 Insert:

7 (3A) If powers or functions are delegated under subsection (1A), the
8 Parliamentary Librarian may, in writing, delegate any of those
9 powers or functions to a Parliamentary Service employee. However,
10 if the Parliamentary Librarian is subject to directions in relation to
11 the exercise of a power or function delegated under this subsection,
12 the Parliamentary Librarian must give corresponding directions to
13 the Parliamentary Service employee concerned.

14 **16 Subsection 70(4)**

15 After "subsection (3)", insert "or (3A)".

16 **17 Subsection 70(4)**

17 After "subsection (1)", insert "or (1A)".

18 **18 Paragraph 81(1)(g)**

19 Omit "Act; and", substitute "Act."

20 **19 Paragraphs 81(1)(h), (i) and (j)**

21 Repeal the paragraphs.

22 **20 Paragraphs 82(a) and (b)**

23 After "a Secretary", insert ", the Parliamentary Librarian".

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Schedule 2—Amendment of other Acts

Long Service Leave (Commonwealth Employees) Act 1976

1 Subsection 9B(4)

6 Repeal the subsection, substitute:

- 7 (4) The reference in subsection (1) to an officer or employee of the
8 Parliament is a reference to the following:
- 9 (a) the Clerk of the Senate;
 - 10 (b) the Clerk of the House of Representatives;
 - 11 (c) the Secretary of another Department of the Parliament
12 established under section 54 of the *Parliamentary Service Act*
13 *1999*;
 - 14 (d) the Parliamentary Librarian appointed under section 38C of
15 that Act;
 - 16 (e) a person engaged as an employee under section 22 of that Act.

Remuneration Tribunal Act 1973

2 At the end of subsection 5(2D)

19 Add:
20 ; (d) the office of Parliamentary Librarian.