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AUSTRALIAN PROTECTIVE SERVICE BILL 1986

Date introduced: 16 October 1986
House: House of Representatives
Presented by: Hon. Tom Uren, M.P., Minister for
Local Government and Administrative
Services

DIGEST OF BILL

Purpose

To give statutory recognition to the existing Australian Protective Service; to ensure the powers of arrest of protective service officers; and to provide for appointment of other Commonwealth employees as special protective service officers.

Background

Under the Australian Federal Police Act 1979, the ACT Police and the Commonwealth Police, which contained a Protective Service Branch, amalgamated to form the Australian Federal Police (AFP). The Protective Service Branch was given the function of safeguarding Commonwealth property both inside and outside the Australian Capital Territory.

In February 1983, the Stewart Royal Commission of Inquiry into Drug Trafficking remarked on the significant proportion of the AFP which were not engaged in investigative duties. The Commission went on to recommend that the Protective Services component be severed from the AFP and re-formed into a separate force, responsible for the security of Commonwealth property. The Commission further recommended that this component should take over from the AFP all duties presently performed by uniformed members of the AFP except the traditional uniformed policing duties performed in the Australian Capital Territory[1]. The AFP also strongly supported the separation of this group from the AFP.

With the passage of the **Australian Federal Police Amendment Act 1984**, the protective service functions were transferred from the AFP to a separate protective service organisation within the Department of Local Government and Administrative Services (then Department of Administrative Services).

The Australian Protective Service (APS) currently provides guarding services at Commonwealth and joint government establishments of significance for national security or which are involved in sensitive or hazardous activities. It also guards the official residences of the Governor-General and the Prime Minister. Custodial services are provided at the Department of Immigration and Ethnic Affairs' Immigration Detention Centres in several States[2].

Main Provisions

The APS will be established as a separate service within the Department of Local Government and Administrative Services (DOLGAS) (clause 5).

The APS is to provide protective and custodial services for the Commonwealth, as directed by the Minister. Areas in which the APS has current responsibilities are specified. Bodyguard services are expressly excluded (clause 6).

The Secretary of DOLGAS will be required to designate the positions of the Director of the APS and other protective service officers (PSO's) by notice published in the Gazette (clauses 7 and 8).

The Director may, with the consent of the relevant Departmental Secretary, appoint Public Service employees to be special PSO's. The powers and duties of these officers will be the same as those of a PSO except where limited by the instrument of appointment (clause 9).

The Director will be responsible to the Secretary for the general administration and control of the APS (clause 11) and may, with the written approval of the Secretary, issue General Orders for this purpose (clause 12).

Clause 13 will empower PSO's to carry out arrests without a warrant where they believe, on reasonable grounds, that a person has just committed, or is committing a specified offence, and it is necessary to achieve certain

measures that could not be achieved by the issuing of a summons against the person. The power of arrest may be used against people who attempt to commit or incite others to commit offences or who become accessories after the fact.

A PSO will be obliged to inform an arrested person of the grounds of arrest at the time of arrest. If the arrested person has any language difficulties, the PSO must take immediate steps to get interpretation assistance (clause 15).

Clause 16 will give a PSO power to search an arrested person or their personal property for weapons, escape aids or other relevant evidence if the PSO believes on reasonable grounds that this is necessary. If found, these things may be seized. Search of a person or their clothing must be carried out by a PSO of the same sex, or, if that is not possible, another person of the same sex, at the request of the PSO. Legal action will not be possible against a person who assists a PSO in this way if the person acts in good faith. The person conducting the search must not use more force or subject the arrested person to greater indignity than is reasonable and necessary for the purpose.

The PSO will be obliged to ensure the prompt delivery of an arrested person into the custody of a police officer, together with anything that has been seized (clause 17).

If, before the person has been delivered to the police, the PSO realises that the grounds for arrest are no longer valid, the person must be released immediately (clause 18).

A PSO on duty will generally be required to wear a uniform with an identification number. Intentional omission to wear the identification number when in uniform will be an offence with a penalty of \$500 (clause 19).

PSO's who are carrying out duties in plain clothes must produce identity cards when exercising any power, otherwise the person over whom the power is being exercised will not be bound to comply with their requests or directions. This will not apply where a person's actions have made it impracticable for a PSO to produce the identity card (clause 20).

The Governor-General will be able to make regulations consistent with this Bill, in particular, to prescribe fines not exceeding \$500 for offences against the regulations.

For further information, if required, contact the Law and Government Group.

4 March 1987

Bills Digest Service
LEGISLATIVE RESEARCH SERVICE

References

1. Report of the Royal Commission of Inquiry into Drug Trafficking, February 1983.
2. Annual Report of the Department of Local Government and Administrative Services, 1985-86.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.



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