

1984

The Parliament of the Commonwealth of Australia

House of Representatives

National Crime Authority (Status and Rights of  
Chairman) Bill 1984

Explanatory Memorandum

(Circulated by authority of the Minister representing the  
Attorney-General, the Honourable Lionel Bowen,  
Deputy Prime Minister

National Crime Authority (Status and Rights  
of Chairman) Bill 1984

General Outline

The purpose of this Bill is to make special provision for the remuneration and allowances, leave, conditions of service, pension rights, and status of the Chairman of the National Crime Authority, the Honourable Donald Gerard Stewart, upon his resignation as a Judge of the Supreme Court of New South Wales. It also modifies the Administrative Appeals Tribunal Act to enable Mr Justice Stewart to be appointed a full-time Deputy President of the Tribunal, notwithstanding that he holds the office of Chairman of the National Crime Authority.

Notes on Clauses

Clause 1 - Short Title

Formal.

Clause 2 - Commencement

The legislation is to come into operation on the date it receives the Royal Assent.

Clause 3 - Interpretation

This clause contains an extensive definition of "office under the Commonwealth", which is relevant to the salary, leave and pension entitlements of Mr Justice Stewart should he be appointed to another Commonwealth office either during his appointment as Chairman of the National Crime Authority or after that appointment ends.

Clause 4 - Application

The legislation is to apply in relation to Mr Justice Stewart only if he has, before or after the commencement of the legislation, resigned his office as a Judge of the New South Wales Supreme Court.

Clause 5 - Status

This clause gives Mr Justice Stewart the same designation, rank, status and precedence as a Judge of the Australian Capital Territory Supreme Court.

- during his period of service as Chairman of the National Crime Authority, and
- during any period of service in another full time office under the Commonwealth that has been declared as such by the Governor General.

The clause does not have the effect of appointing Mr Justice Stewart as a Judge of that Court.

Clause 6 - Remuneration and Allowances

This clause provides that remuneration payable to Mr Justice Stewart while he holds the office of Chairman of the National Crime Authority shall be the same as that payable from time to time to a Judge of the New South Wales Supreme Court, and that the travelling allowances payable shall be such allowances as would be payable to him as if this Act had not been enacted.

Sub-clause (2) appropriates the necessary moneys for payment of this remuneration and allowances.

Clause 7. Leave and Other Conditions

Sub-clause (1) gives to Mr Justice Stewart the same conditions of service as to leave and other matters as apply in relation to a person who is a Judge of the Australian Capital Territory Supreme Court.

Sub-clause (2) gives the same long leave entitlements to Mr Justice Stewart as are applicable to Judges of the A.C.T. Supreme Court. These are prescribed in the Judges (Long Leave Payments) Act 1979. The Act gives to a Judge an amount equal to his judicial salary for a maximum period of 52 weeks. Mr Justice Stewart's previous service as Judge of the New South Wales Supreme and District Courts is, in accordance with the position under the Judges (Long Leave Payments) Act, to be counted as service in this regard.

Sub-clause (3) provides for payment in respect of long leave entitlements under sub-clause (2) at the rate which is payable to a N.S.W. Supreme Court Judge during the relevant period.

Sub-clause (4) is designed to cover the situation where Mr Justice Stewart becomes entitled to Judge's long leave payments while he also holds a full-time Commonwealth Office. The sub-clause defers the long leave payment until after he ceases to hold the other office and provides that his qualifying service for the purposes of calculating leave payments shall not include any long leave taken after becoming entitled to the payment.

Clause 8 - Application of Judges' Pensions Act

This clause modifies the application to Mr Justice Stewart of the Judges' Pensions Act 1968 (the Pensions Act). It provides that service by him as Chairman of the National Crime Authority, whether before or after the commencement of the Act, constitutes service as a Judge for the purpose of the

Pensions Act. The salary rate at which benefits are to be payable on retirement or death is to be that applicable from time to time to a judge of the New South Wales Supreme Court.

Under the pensions Act, a Judge becomes entitled to a pension upon attaining a particular age, not from the expiration of a particular period of appointment. Sub-clause (c) deems Mr Justice Stewart to have attained a particular age, being the age attained by him at the expiration of the period of appointment as Chairman of the National Crime Authority.

Sub-clause (d) provides that a pension under the Pensions Act is not payable during any period when Mr Justice Stewart holds a full-time Commonwealth office after he ceases to be a Judge.

Clause 9 - Modification of Administrative Appeals  
Tribunal Act

This clause facilitates the appointment of Mr Justice Stewart as a full-time Deputy President of the Administrative Appeals Tribunal during a time when he holds the office as Chairman of the National Crime Authority, and provides that if he is so appointed he is to be paid the same remuneration as a Deputy President of the Tribunal who is not a Judge.

Sub-clause 2 has the effect of preventing double payment where he holds both offices at the same time.





