Crimes Legislation Amendment Bill 1988

Date Introduced: 24 February 1988
House: House of Representatives
Presented by: Hon. Clyde Holding M.P., Minister for Immigration, Local Government and Ethnic Affairs

Digest of Bill

Purpose

To repeal the sunset clause contained in the National Crime Authority Act 1984, to allow the current Chairman of the National Crime Authority (NCA) to continue in that position for another year, and to provide reimbursement of expenses for witnesses and persons providing information and documents to the NCA. The Bill will also clarify the position of judges operating under the Telecommunications (Interception) Act 1979.

Background

In 1980, the Royal Commission on the Activities of the Federated Ship Painters' and Dockers' Union was established with Mr Costigan as the Commissioner. The work of the Commission, which delivered its final report in 1984, convinced the Government that there was a need for a body to investigate organised crime in Australia. The result was the National Crimes Commission Act 1982. On coming to power in 1983, the Labor Government conducted a review of legislation and, following a national conference on the issue of organised crime, the NCA was established by the National Crime Authority Act 1984 (the Principal Act). Section 63 of that Act contains the sunset clause which states that, unless repealed sooner, the Act will cease to operate five years after coming into force (i.e. 30 June 1989).

The NCA's main work involves the investigation of matters to assemble evidence for a prosecution. It investigates serious offences against Federal, State and Territory laws that are performed in an organised or planned manner. The offences include theft, fraud, tax evasion, drug dealing and extortion. The investigations are carried out in co-operation with other law enforcement
bodies. In addition, special investigations are carried out on matters referred to the NCA by the Commonwealth, a State or the Northern Territory.

The NCA has general, bipartisan support in Australia and the presence of the sunset clause has caused some concern. For example, in February 1987 Senator Archer introduced a Bill that would have repealed the sunset clause. As part of the 1987 election campaign, the major parties gave a commitment to extend the life of the NCA. In March 1987, the Chairman of the NCA, Justice Stewart, called for the continuance of the NCA.

Witnesses who appear before the NCA in response to section 28 summonses may be eligible for reimbursement of expenses incurred in respect of his/her attendance. Institutions and individuals frequently provide information and documents to the NCA in response to a notice under section 29 of the Principal Act. The Principal Act, as it is presently drafted, does not give the NCA power to make payments for reimbursement of witness expenses in relation to witnesses appearing before the NCA in response to a section 29 notice.

Under the Principal Act, appointments as Chair of the NCA are to be for a maximum of four years. Justice Stewart has held this position since the establishment of the NCA in 1984 and, therefore, will not be eligible to continue in this position past 30 June 1988. The Government proposes to re-appoint Justice Stewart for a further period of one year to oversee the adjustment to a permanent body that will occur due to the repeal of the sunset clause.

Main Provisions

Clause 3A will insert a new section 26 into the Principal Act to provide for the reimbursement of expenses where a witness is appearing before the NCA, or where a person is producing a document or information pursuant to a section 29 notice. In each instance the NCA is given a discretion to allow the payment of expenses in accordance with the prescribed scale or, if there is no prescribed scale, such amount as the NCA determines.

Clause 4 will amend section 37 of the Principal Act, which deals with the maximum term of members of the NCA. Under the amendments, the first Chairman (Justice Stewart) may be re-appointed for a period of 12 months following the expiration of his current term. The amendments will also allow present members of the NCA to continue past the time due for the Principal Act to expire, to a maximum of four years.

Clause 5 will repeal section 63 of the Principal Act which contains the sunset clause.
The Telecommunications (Interception) Act 1979 will be amended by clause 7 to clarify the position of judges operating under the Act. Such judges will have the same protection and immunity as Justices of the High Court have when acting in relation to proceedings in that Court. Clause 9 will amend section 80 of this Act to make it clear that the Commissioner of the Australian Federal Police, rather than Telecom, is to keep copies of documents connected with the issue of warrants authorising an interception.

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

29 June 1988

Bills Digest Service
Legislative Research Service

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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