NATIONAL CRIME AUTHORITY (STATUS AND RIGHTS OF CHAIRMAN) 
BILL 1984

Date Introduced: 5 September 1984
House: House of Representatives
Presented by: Hon. Lionel Bowen, M.P., Minister for Trade

Short Digest of Bill

Purpose

To provide for the status and entitlements of Mr Justice Stewart as Chairman of the National Crime Authority when he resigns from the Supreme Court of New South Wales.

Background

Following the announcement earlier this year that Mr Justice Stewart was to be appointed as inaugural Chairman of the National Crime Authority a public controversy erupted as to the propriety of a serving Supreme Court Judge also holding office as Chairman of the Authority. As a result of the controversy Mr Justice Stewart announced his intention to resign from the NSW Supreme Court following his completion of the Nugan Hand Royal Commission. The Government took the view that the Parliament, having enacted the National Crime Authority Act 1984 on the basis that the Authority might be headed by a Judge, has an obligation to Mr Justice Stewart to ensure that his rights are safeguarded. This Bill aims to protect those rights.

Main Provisions

The Bill is expressed to apply only to Mr Justice Stewart if he has resigned his office as a Judge of the Supreme Court of NSW (clause 4).

Clause 5 preserves Mr Justice Stewart's judicial status during his period of service as Chairman of the National Crime Authority and during any period of service by him in another full-time office under the Commonwealth that is declared by the Governor-General to be an office to which this clause applies. "Office under the Commonwealth" is defined in clause 3 to include:
Clause 6 overrides section 38 of the National Crime Authority Act 1984 to the extent that it establishes procedures for determining remuneration for Authority members. It provides instead that Mr Justice Stewart shall receive the same remuneration as is payable from time to time to a Judge of the NSW Supreme Court. However, allowances are payable in respect of travel in the performance of his duties in accordance with the National Crime Authority Act.

During Mr Justice Stewart's term as Chairman of the Authority, the conditions of service (including entitlement to leave) applicable to him shall be the same as those applicable to a Judge of the ACT Supreme Court (sub-clause 7(1)). Sub-clause 7(2) provides that when Mr Justice Stewart's term as Chairman expires, he is entitled to long leave under the arrangements applicable to Judges of the ACT Supreme Court. In determining his entitlement, the periods of his service as chairman of the Authority, Judge of the NSW Supreme Court and Judge of the NSW District Court shall be deemed to have been periods of service as a Judge of the ACT Supreme Court. During any period of long leave, he shall be remunerated at the rate payable during that period to a Judge of the NSW Supreme Court.

Clause 8 provides that for the purpose of the application to Mr Justice Stewart of the Judges Pensions Act 1968 his service as Chairman of the Authority shall be deemed to be service as a Judge. It also provides that the appropriate judicial salary payable to him shall be deemed to be the salary from time to time payable to a Judge of the NSW Supreme Court.
Clause 9 modifies the Administrative Appeals Tribunal Act 1975 by providing that Mr Justice Stewart may be appointed under that Act as a full-time Deputy President of the Administrative Appeals Tribunal (AAT) during the time he holds office as Chairman of the Authority. However, if he is so appointed, he is not entitled to receive any remuneration in that capacity except to the extent that remuneration for that position exceeds the remuneration payable to him as Chairman of the Authority.

For further information, if required, contact:

10 September 1984
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