

1987-88

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 23 November 1988

(*Attorney-General*)

## A BILL

FOR

**An Act to amend the *National Crime Authority Act 1984* to provide for the appointment of additional members of the Authority, and for related purposes**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

**Short title etc.**

5     **1. (1)** This Act may be cited as the *National Crime Authority Amendment Act 1988*.

**(2)** In this Act, "Principal Act" means the *National Crime Authority Act 1984*<sup>1</sup>.

**Commencement**

10     **2.** This Act commences on the day on which it receives the Royal Assent.

**Interpretation**

3. Section 4 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“‘original reference’, in relation to a member holding an office created under subsection 7 (8AA), means the reference under section 13 or 14 because of which the office was created; 5

‘related reference’, in relation to a reference under section 13 or 14, means another reference under either of those sections that is, pursuant to subsection 13 (2A) or 14 (3), stated to be related to the first-mentioned reference;” 10

**Establishment and constitution of Authority**

4. Section 7 of the Principal Act is amended:

(a) by omitting subsection (2) and substituting the following subsection:

“(2) The Authority shall consist of the following members:

- (a) a Chairman; 15
- (b) a member holding the office to which subsection (7) applies;
- (c) a member holding the office to which subsection (8) applies;
- (d) any member or members holding an office or offices created under subsection (8AA).”;

(b) by omitting subsection (6); 20

(c) by inserting after subsection (8) the following subsections:

“(8AA) Where:

- (a) a reference to the Authority made under section 13 or 14 is in force; and
- (b) having regard to that reference and any related references, the Inter-Governmental Committee thinks that the appointment of another member of the Authority is necessary to enable the Authority to perform its functions; 25

the Inter-Governmental Committee may, by resolution, create an office of member. 30

“(8AB) Where:

- (a) the members of the Inter-Governmental Committee unanimously recommend a person for appointment to an office created under subsection (8AA); and
- (b) the person so recommended agrees to be appointed; 35

any advice to the Governor-General with respect to the appointment of a person to the office shall be consistent with the recommendation.

“(8AC) An office created under subsection (8AA) ceases to exist when:

- (a) the person appointed to the office ceases for any reason to hold the office; and 40
- (b) that person is not immediately re-appointed to that office.”.

**Functions of Committee**

5. Section 9 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

“(1) The functions of the Committee are:

- (a) to create offices of member of the Authority under subsection 7 (8AA) and to recommend persons for appointment to those offices;
- (b) where the Commonwealth Minister proposes to refer under section 13 a matter relating to a relevant criminal activity to the Authority for investigation—to consult with the Commonwealth Minister in relation to the proposed reference;
- (c) to consider whether approval should be given for a matter relating to a relevant criminal activity to be referred in accordance with section 14 by a Minister of the Crown of a State, or by Ministers of the Crown of 2 or more States, to the Authority for investigation;
- (d) such other functions as are conferred on the Committee by other provisions of this Act;
- (e) to monitor generally the work of the Authority; and
- (f) to receive reports furnished to the Committee by the Authority for transmission to the Governments represented on the Committee and to transmit those reports accordingly.”.

**References by Commonwealth**

6. Section 13 of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) The Minister may, after consulting the Inter-Governmental Committee:

- (a) in a notice under subsection (1) referring a matter to the Authority, state that the reference is related to another reference; or
- (b) in a notice in writing to the Authority, state that a reference already made to the Authority by the Minister is related to another reference.”.

**Functions under State laws**

7. Section 14 of the Principal Act is amended by adding at the end the following subsection:

“(3) A Minister of the Crown of a State may, with the approval of the Inter-Governmental Committee:

- (a) in a notice under subsection (1) referring a matter to the Authority, state that the reference is related to another reference; or
- (b) in a notice in writing to the Authority, state that a reference already made to the Authority by that Minister is related to another reference.”.

**Terms and conditions of appointment**

8. Section 37 of the Principal Act is amended:

- (a) by omitting from subsection (1) “and (1B)” and substituting “, (1B) and (1C)”;

(b) by inserting after subsection (1B) the following subsection:

“(1C) A member referred to in paragraph (1) (c), being a member appointed to an office created under subsection 7 (8AA), may be re-appointed, whether to that office, another office created under subsection 7 (8AA) or any other office of member, for:

- (a) a period that does not exceed the difference between 4 years and the period of the member’s first appointment; or
- (b) 2 or more periods the sum of which does not exceed the difference between 4 years and the period of the member’s first appointment.”.

9. After section 39 of the Principal Act the following section is inserted:

**Limit on functions and powers of certain members**

“39A. (1) The functions and powers under this Act of a member holding an office created under subsection 7 (8AA) may only be performed and exercised for the purposes of, or in relation to, the performance of the Authority’s functions and the exercise of the Authority’s powers to the extent that those functions and powers of the Authority arise out of:

- (a) the original reference in relation to that member; or
- (b) any related reference.

“(2) A member holding an office created under subsection 7 (8AA) can only form part of a quorum, or vote, at a meeting of the Authority to the extent that the meeting is concerned with performing functions, or exercising powers, of the Authority that arise out of:

- (a) the original reference in relation to that member; or
- (b) any related reference.”.

10. After section 43 of the Principal Act the following section is inserted:

**Certain members cease to hold office where reference withdrawn or completed**

“43A. A member appointed to an office created under subsection 7 (8AA) ceases to hold that office upon:

- (a) the withdrawal of the original reference in relation to the member; or
- (b) the giving of written notice by the Inter-Governmental Committee to the Authority stating that the performance of the functions of the Authority arising out of the original reference in relation to the member, and out of any related references, has been completed.”.

**Acting member**

11. Section 45 of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:

“(5) While a person is acting in an office of member, he or she has, and may exercise, all the powers, and shall perform all the functions, of a person appointed to hold that office.”.

**NOTE**

1. No. 41, 1984, as amended. For previous amendments, see Nos. 123 and 165, 1984; Nos. 104 and 193, 1985; Nos. 89 and 141, 1987; and Nos. 65, 66 and 75, 1988.