JUDICIAL OFFICE (PAPUA NEW GUINEA) BILL, 1979

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

(a) to enable the Governor to grant leave to judges to enable them to accept and hold office in certain judicial offices in the service of the Independent State of Papua New Guinea for a maximum period of two years without prejudice to their seniority, rank, status or precedence; and

(b) to deem any period of leave taken by a judge pursuant to the proposed Act to be, for the purpose of the Judges' Pensions Act, 1953, part of the period of his service as a judge.

71628F 165—

JUDICIAL OFFICE (PAPUA NEW GUINEA) BILL, 1979

No. , 1979.

A BILL FOR

An Act to make provision for granting leave to judges to enable them to accept and hold office in certain judicial offices in the service of the Independent State of Papua New Guinea.

[MR F. J. WALKER—21 *November*, 1979.]

71628F 165—

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Judicial Office (Papua New Guinea) Act, 1979". **Short title.**

2. (1) In this Act— **Interpretation.**

"appointed day" means a day specified in a proclamation under subsection (2) as the appointed day for the
10 purposes of this Act;

"judge" has the meaning ascribed thereto by section 2 (1) of the Judges' Pensions Act, 1953.

(2) The Governor may, by proclamation published in the Gazette, specify a day as the appointed day for the purposes of
15 this Act.

3. (1) The Governor, on application made by a judge, may, by instrument in writing, grant to that judge leave for him to be absent from his office as a judge for the purpose of enabling him to accept and hold the judicial office in the service of the
20 Independent State of Papua New Guinea that is specified in the instrument. **Leave to take judicial office in the Independent State of Papua New Guinea.**

(2) Leave granted to a judge under subsection (1) commences on the day specified in the instrument granting him the leave as the day on which the leave commences and expires—

25 (a) upon the expiration of the period (being a period not exceeding 12 months) specified in that instrument as the period for which it was granted or of such additional period or periods as the Governor, on application made by the judge, may, by instrument in writing, determine;

(b) upon the expiration of the period specified in the instrument granting him the leave as the period within which he is to take office in the judicial office so specified, unless he has taken office in that judicial office before the expiration of that period;

(c) upon his ceasing, otherwise than by reason of his death, to hold the judicial office specified in the instrument granting him the leave;

(d) upon his attaining the retiring age for judges holding the office of judge, being the office of judge of the same kind as that held by him immediately before the leave commenced, if he attains that age before his leave would, but for this paragraph, expire; or

(e) upon his death, if he dies before his leave would, but for this paragraph, expire,

whichever first happens.

(3) Leave shall not be granted to a judge under subsection (1)—

(a) to commence earlier than the appointed day; or

(b) to expire after the expiration of 2 years after the appointed day.

Judge's status while on leave.

4. While a judge is on leave granted to him under section 3 (1) he retains the office as a judge held by him immediately before the leave commenced but is not entitled to exercise or perform any jurisdiction, powers, authorities, duties or functions as the holder of that office of judge.

Resumption of office by judge.

5. Upon the expiration, under section 3 (2) (a), (b) or (c), of leave granted to a judge under section 3 (1) the judge is entitled to, and shall, resume the exercise and performance of the jurisdiction, powers, authorities, duties and functions attaching to the office as a judge held by him immediately before the leave commenced.

6. The Judges' Pensions Act, 1953, applies to and in respect of a judge to whom leave has been granted under section 3 (1) as if any period of that leave taken by him were, for the purposes of that Act, part of the period of his service as a judge. **Operation of Judges' Pensions Act, 1953.**

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979
[8c]

This PUBLIC BILL *originated in the* LEGISLATIVE ASSEMBLY, *and, having this day passed, is now ready for presentation to the* LEGISLATIVE COUNCIL *for its concurrence.*

Clerk of the Legislative Assembly.

Legislative Assembly Chamber,
Sydney, November, 1979.

New South Wales

ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

* *

Act No. , 1979.

An Act to make provision for granting leave to judges to enable them to accept and hold office in certain judicial offices in the service of the Independent State of Papua New Guinea.

71628F 165—

Judicial Office (Papua New Guinea).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Judicial Office (Papua New Guinea) Act, 1979". Short title.

2. (1) In this Act— Interpretation.

"appointed day" means a day specified in a proclamation under subsection (2) as the appointed day for the 10 purposes of this Act;

"head of the jurisdiction"—

(a) in relation to a judge of the Supreme Court of New South Wales, means the Chief Justice of that Court;

(b) in relation to a member of the Industrial 15 Commission of New South Wales, means the President of that Commission;

(c) in relation to a judge of the District Court, means the Chief Judge of that Court; and

(d) in relation to a member of the Workers' 20 Compensation Commission, means the Chairman of that Commission.

"judge" has the meaning ascribed thereto by section 2 (1) of the Judges' Pensions Act, 1953, but does not include a person in his capacity as Chairman of the Crown 25 Employees Appeal Board.

(2) The Governor may, by proclamation published in the Gazette, specify a day as the appointed day for the purposes of this Act.

Leave to take judicial office in the Independent State of Papua New Guinea.

3. (1) The Governor, on application made by a judge, may, by instrument in writing, with the concurrence in writing of the appropriate head of the jurisdiction, grant to that judge leave for him to be absent from his office as a judge for the purpose of enabling him to accept and hold the judicial office in the service of the Independent State of Papua New Guinea that is specified in the instrument.

(2) Leave granted to a judge under subsection (1) commences on the day specified in the instrument granting him the leave as the day on which the leave commences and expires—

(a) upon the expiration of the period (being a period not exceeding 12 months) specified in that instrument as the period for which it was granted or of such additional period or periods as the Governor, on application made by the judge, may, by instrument in writing, determine;

(b) upon the expiration of the period specified in the instrument granting him the leave as the period within which he is to take office in the judicial office so specified, unless he has taken office in that judicial office before the expiration of that period;

(c) upon his ceasing, otherwise than by reason of his death, to hold the judicial office specified in the instrument granting him the leave;

(d) upon his attaining the retiring age for judges holding the office of judge, being the office of judge of the same kind as that held by him immediately before the leave commenced, if he attains that age before his leave would, but for this paragraph, expire; or

(e) upon his death, if he dies before his leave would, but for this paragraph, expire,

whichever first happens.

(3) Leave shall not be granted to a judge under subsection (1)—

(a) to commence earlier than the appointed day; or

(b) to expire after the expiration of 2 years after the appointed day.

Judge's status while on leave.

4. While a judge is on leave granted to him under section 3 (1) he retains the office as a judge held by him immediately before the leave commenced but is not entitled to exercise or perform any jurisdiction, powers, authorities, duties or functions as the holder of that office of judge.

Resumption of office by judge.

5. Upon the expiration, under section 3 (2) (a), (b) or (c), of leave granted to a judge under section 3 (1) the judge is entitled to, and shall, resume the exercise and performance of the jurisdiction, powers, authorities, duties and functions attaching to the office as a judge held by him immediately before the leave commenced.

Operation of Judges' Pensions Act, 1953.

6. The Judges' Pensions Act, 1953, applies to and in respect of a judge to whom leave has been granted under section 3 (1) as if any period of that leave taken by him were, for the purposes of that Act, part of the period of his service as a judge.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1979

JUDICIAL OFFICE (PAPUA NEW GUINEA) ACT, 1979, No. 177

New South Wales

ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

* *

Act No. 177, 1979.

An Act to make provision for granting leave to judges to enable them to accept and hold office in certain judicial offices in the service of the Independent State of Papua New Guinea. [Assented to, 14th December, 1979.]

P 73433A [8c]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.

1. This Act may be cited as the "Judicial Office (Papua New Guinea) Act, 1979".

Interpretation.

2. (1) In this Act—

"appointed day" means a day specified in a proclamation under subsection (2) as the appointed day for the purposes of this Act;

"head of the jurisdiction"—

(a) in relation to a judge of the Supreme Court of New South Wales, means the Chief Justice of that Court;

(b) in relation to a member of the Industrial Commission of New South Wales, means the President of that Commission;

(c) in relation to a judge of the District Court, means the Chief Judge of that Court; and

(d) in relation to a member of the Workers' Compensation Commission, means the Chairman of that Commission.

"judge" has the meaning ascribed thereto by section 2 (1) of the Judges' Pensions Act, 1953, but does not include a person in his capacity as Chairman of the Crown Employees Appeal Board.

(2) The Governor may, by proclamation published in the Gazette, specify a day as the appointed day for the purposes of this Act.

3. (1) The Governor, on application made by a judge, may, by instrument in writing, with the concurrence in writing of the appropriate head of the jurisdiction, grant to that judge leave for him to be absent from his office as a judge for the purpose of enabling him to accept and hold the judicial office in the service of the Independent State of Papua New Guinea that is specified in the instrument.

Leave to take judicial office in the Independent State of Papua New Guinea.

(2) Leave granted to a judge under subsection (1) commences on the day specified in the instrument granting him the leave as the day on which the leave commences and expires—

(a) upon the expiration of the period (being a period not exceeding 12 months) specified in that instrument as the period for which it was granted or of such additional period or periods as the Governor, on application made by the judge, may, by instrument in writing, determine;

(b) upon the expiration of the period specified in the instrument granting him the leave as the period within which he is to take office in the judicial office so specified, unless he has taken office in that judicial office before the expiration of that period;

(c) upon his ceasing, otherwise than by reason of his death, to hold the judicial office specified in the instrument granting him the leave;

(d) upon his attaining the retiring age for judges holding the office of judge, being the office of judge of the same kind as that held by him immediately before the leave commenced, if he attains that age before his leave would, but for this paragraph, expire; or

(e) upon his death, if he dies before his leave would, but for this paragraph, expire,

whichever first happens.

(3) Leave shall not be granted to a judge under subsection (1)—

(a) to commence earlier than the appointed day; or

(b) to expire after the expiration of 2 years after the appointed day.

Judge's status while on leave.

4. While a judge is on leave granted to him under section 3 (1) he retains the office as a judge held by him immediately before the leave commenced but is not entitled to exercise or perform any jurisdiction, powers, authorities, duties or functions as the holder of that office of judge.

Resumption of office by judge.

5. Upon the expiration, under section 3 (2) (a), (b) or (c), of leave granted to a judge under section 3 (1) the judge is entitled to, and shall, resume the exercise and performance of the jurisdiction, powers, authorities, duties and functions attaching to the office as a judge held by him immediately before the leave commenced.

Operation of Judges' Pensions Act, 1953.

6. The Judges' Pensions Act, 1953, applies to and in respect of a judge to whom leave has been granted under section 3 (1) as if any period of that leave taken by him were, for the purposes of that Act, part of the period of his service as a judge.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

Government House,
Sydney, 14*th December,* 1979.

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980