

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET ESTIMATES 2017

Federal Court of Australia

Question No. BE17-212

Senator Hanson asked the following question on 18 August 2017:

Senator HANSON: How many judges are on sick leave and what is the average time for those judges being on sick leave?

Senator Brandis: I will take that on notice so I can give you precise figures. But you are right when you identify that as being part of the problem, because I know that on the Federal Circuit Court there are several judges who are on sick leave, and the court is not running at 100 per cent capacity for that reason.

Senator HANSON: Is there a certain period of time that a judge can be on sick leave? If they're on sick leave for three months or six months, that is putting a lot of pressure on the courts. What is being done about that to alleviate that pressure?

Senator Brandis: You are dead right in identifying this as being part of the problem. Obviously, if you have a court running with several of its members not able to sit, that puts more pressure on other parts of the system. As to the specific rules about sick leave arrangements, I think it would be wise for me to take that on notice to make sure the information I give you is accurate.

The response to the senator's question is as follows:

Judges of the Federal Circuit Court of Australia are entitled to Recreational Leave (pursuant to a Determination of the Remuneration Tribunal), Long Service Leave (pursuant to Commonwealth legislation), and Maternity Leave and other Leave of Absence (pursuant to a Determination of the Governor-General).

There is no entitlement to Sick Leave as such. Accordingly, Judges may request of the Chief Judge a leave of absence which may be granted on such terms as the Chief Judge determines.

The Court estimates that at any given time, the judicial capacity of the Court is reduced by approximately ten percent due to illness. At times Judges have experienced prolonged periods of absence due to serious ongoing conditions. Two Judges have retired on Disability Pensions following periods of illness. Three Judges have died of serious medical conditions in office.