

Second Reading

The Hon. DAVID CLARKE (Parliamentary Secretary) [4.59 p.m.], on behalf of the Hon. Michael Gallacher: I move:

That this bill be now read a second time.

The object of the Crown Law Officers Legislation (Retirement Age) Bill 2011 is to increase the retirement age of the following statutory offices from 65 to 72: the Deputy Director of Prosecution and Solicitor for Public Prosecutions, requiring amendment to the Director of Public Prosecutions Act 1986; Crown Prosecutors, Senior Crown Prosecutors and Deputy Senior Crown Prosecutors, requiring amendment to the Crown Prosecutors Act 1986; and Public Defenders, Senior Public Defenders and Deputy Senior Public Defenders, requiring amendment to the Public Defenders Act 1995.

The Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Act 2007—hereinafter referred to as the 2007 amending Act—introduced fixed term appointments and compulsory retirement for a range of statutory officers in New South Wales. These officers were the Director of Public Prosecutions, the Deputy Director of Public Prosecutions, the Solicitor for Public Prosecutions, Crown Prosecutors, Senior Crown Prosecutors, Deputy Senior Crown Prosecutors, Public Defenders, Senior Public Defenders, Deputy Senior Public Defenders and the Solicitor General. However, the 2007 amending Act introduced different retirement ages for different officers, imposing a retirement age of 72 for the Director of Public Prosecutions and the Solicitor General and 65 for the other officers affected.

While it is recognised that there is some value in ensuring that the statutory officers in question be required to retire at a particular age, it is considered that it should be 72 to ensure consistency across all officers, including judicial officers, with judges and magistrates also required to retire at 72. A number of transitional issues have been identified which need to be addressed by appropriate savings and transitional provisions to ensure that those people who were appointed with life tenure before 1 November 2007 are not forced to retire at any particular age. The 2007 amending Act set 1 November 2007 as the date on which a retirement age of 65 was imposed on the affected officers.

The increase in the retirement age to 72 will apply to anyone appointed to any of the affected offices since 1 November 2007 who would currently be forced to retire at 65. People appointed to any of the affected offices since 1 November 2007 will either have a seven-year term or a term of less than seven years if they were within seven years of 65 years of age at the time of appointment. These people will now be able to seek reappointment until the age of 72. If any of these people have been appointed for a term of less than seven years, to ensure that their term did not extend beyond the date on which they reached 65, the amendments provide that they will now be taken to have been appointed for a full seven years. The Director of Public Prosecutions was consulted on the proposed increase in compulsory retirement ages from 65 to 72 and supported the proposed amendments. I commend the bill to the House.