



New South Wales

# Crown Law Officers Legislation Amendment (Retirement Age) Bill 2011

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to increase the retirement age from 65 years to 72 years for the holders of statutory offices under the *Director of Public Prosecutions Act 1986*, the *Crown Prosecutors Act 1986* and the *Public Defenders Act 1995*.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1      **Amendment of Director of Public Prosecutions Act 1986 No 207**

**Schedule 1 [3]–[5]** increase the retirement age for a Deputy Director of Public Prosecutions and the Solicitor for Public Prosecutions from 65 years to 72 years.

**Schedule 1 [1]** provides that a person holding office as a Deputy Director of Public Prosecutions or the Solicitor for Public Prosecutions is, if the person was appointed

for a term of less than 7 years, taken to have been appointed for a term of 7 years. Prior to this amendment a person could be appointed for a term of less than 7 years if that shorter term was necessary to ensure that the person's term of office extended to (but not beyond) the date on which the person reaches the age of 65 years.

**Schedule 1 [2]** enables regulations to be made containing provisions of a savings or transitional nature as a consequence of the enactment of the proposed Act.

## **Schedule 2      Amendment of Crown Prosecutors Act 1986 No 208**

**Schedule 2 [1]** increases the retirement age for a Crown Prosecutor (whether or not as a Senior Crown Prosecutor or Deputy Senior Crown Prosecutor) from 65 years to 72 years.

**Schedule 2 [2]** enables regulations to be made containing provisions of a savings or transitional nature as a consequence of the enactment of the proposed Act.

**Schedule 2 [3]** provides that a person holding office as a Crown Prosecutor (whether or not as a Senior Crown Prosecutor or Deputy Senior Crown Prosecutor) is, if the person was appointed for a term of less than 7 years, taken to have been appointed for a term of 7 years. Prior to this amendment a person could be appointed for a term of less than 7 years if that shorter term was necessary to ensure that the person's term of office extended to (but not beyond) the date on which the person reaches the age of 65 years.

## **Schedule 3      Amendment of Public Defenders Act 1995 No 28**

**Schedule 3 [1]** increases the retirement age for a Public Defender, Senior Public Defender or Deputy Senior Public Defender from 65 years to 72 years.

**Schedule 3 [2]** enables regulations to be made containing provisions of a savings or transitional nature as a consequence of the enactment of the proposed Act.

**Schedule 3 [3]** provides that a person holding office as a Public Defender, Senior Public Defender or Deputy Senior Public Defender is, if the person was appointed for a term of less than 7 years, taken to have been appointed for a term of 7 years. Prior to this amendment a person could be appointed for a term of less than 7 years if that shorter term was necessary to ensure that the person's term of office extended to (but not beyond) the date on which the person reaches the age of 65 years.

First print



New South Wales

# Crown Law Officers Legislation Amendment (Retirement Age) Bill 2011

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New South Wales

# Crown Law Officers Legislation Amendment (Retirement Age) Bill 2011

No. , 2011

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## **A Bill for**

An Act to amend the *Director of Public Prosecutions Act 1986*, the *Crown Prosecutors Act 1986* and the *Public Defenders Act 1995* to increase the retirement age for the holders of certain statutory offices.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

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<b>Schedule 1</b>	<b>Amendment of Director of Public Prosecutions Act 1986 No 207</b>	1
		2
<b>[1]</b>	<b>Section 36 Savings and transitional provisions</b>	3
	Insert after section 36 (5):	4
	(6) A person who holds office as a Deputy Director or the Solicitor immediately before the commencement of the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> and who was appointed for a specified term of office shorter than 7 years is taken to have been appointed for a term of 7 years.	5 6 7 8 9
	(7) Subsection (6) does not apply to the term of office of a person appointed to act as a Deputy Director or the Solicitor.	10 11
	(8) The amendments made to this Act by the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> do not affect any right preserved by this section to hold office beyond a retiring age provided by this Act.	12 13 14 15
<b>[2]</b>	<b>Section 37 Regulations</b>	16
	Insert after section 37 (2):	17
	(3) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts: <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i>	18 19 20 21 22
	(4) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	23 24
	(5) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:	25 26 27
	(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	28 29 30
	(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	31 32 33
<b>[3]</b>	<b>Schedule 1 Provisions relating to Senior Officers</b>	34
	Omit “65 years” from clause 2A (2). Insert instead “72 years”.	35

Crown Law Officers Legislation Amendment (Retirement Age) Bill 2011

Schedule 1      Amendment of Director of Public Prosecutions Act 1986 No 207

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<b>[4]    Schedule 1</b>	1
Omit “(in the case of the Director) or 65 years (in the case of a Deputy Director or the Solicitor)” from clause 4 (1) (c).	2 3
<b>[5]    Schedule 1</b>	4
Omit “(in the case of the Director) or 65 years (in any other case)” from clause 4 (4).	5 6



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<b>Schedule 2</b>	<b>Amendment of Crown Prosecutors Act 1986 No 208</b>	1 2
<b>[1]</b>	<b>Sections 4 (2A), 4A (3), 4B (3) and 9 (1) (c) and (5)</b>	3
	Omit “65 years” wherever occurring. Insert instead “72 years”.	4
<b>[2]</b>	<b>Schedule 2 Savings and transitional provisions</b>	5
	Insert at the end of clause 1 (1):	6
	<i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i>	7 8
<b>[3]</b>	<b>Schedule 2</b>	9
	Insert after clause 6:	10
<b>Part 3</b>	<b>Provisions consequent on enactment of Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</b>	11 12 13
<b>7</b>	<b>Application of amendments</b>	14
(1)	A person who holds office as a Crown Prosecutor, Senior Crown Prosecutor or Deputy Senior Crown Prosecutor immediately before the commencement of the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> and who was appointed for a specified term of office shorter than 7 years is taken to have been appointed for a term of 7 years.	15 16 17 18 19 20
(2)	Subclause (1) does not apply to the term of office of a person appointed to act in any such office.	21 22
(3)	The amendments made to this Act by the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> (or by the <i>Courts and Crimes Legislation Further Amendment Act 2008</i> ) do not affect (and are taken never to have affected) any right preserved by this Schedule to hold office beyond a retiring age provided by this Act.	23 24 25 26 27 28

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<b>Schedule 3</b>	<b>Amendment of Public Defenders Act 1995 No 28</b>	1 2
<b>[1]</b>	<b>Schedule 1 Provisions relating to Public Defenders</b>	3
	Omit “65 years” from clauses 3 and 5 (1) (c) and (5) wherever occurring.	4
	Insert instead “72 years”.	5
<b>[2]</b>	<b>Schedule 3 Savings, transitional and other provisions</b>	6
	Insert at the end of clause 1 (1):	7
	<i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i>	8 9
<b>[3]</b>	<b>Schedule 3</b>	10
	Insert after clause 9:	11
<b>Part 5</b>	<b>Provisions consequent on enactment of Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</b>	12 13 14
<b>10</b>	<b>Application of amendments</b>	15
(1)	A person who holds office as a Public Defender, Senior Public Defender or Deputy Senior Public Defender immediately before the commencement of the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> and who was appointed for a specified term of office shorter than 7 years is taken to have been appointed for a term of 7 years.	16 17 18 19 20 21
(2)	Subclause (1) does not apply to the term of office of a person appointed to act in any such office.	22 23
(3)	The amendments made to this Act by the <i>Crown Law Officers Legislation Amendment (Retirement Age) Act 2011</i> do not affect any right preserved by this Schedule to hold office beyond a retiring age provided by this Act.	24 25 26 27