

Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Bill 2007

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Director of Public Prosecutions Act 1986* and various other Acts to make the following changes to the terms of appointment to certain statutory legal offices:

(a) The Director of Public Prosecutions is to be appointed for a fixed and non-renewable term of 10 years with compulsory retirement at age 72 (with allowance for a shorter term of appointment for persons appointed with a shorter period to retirement age). The Director's current appointment is for life.

(b) A Deputy Director of Public Prosecutions and the Solicitor for Public Prosecutions are to be appointed for a fixed but renewable term of 7 years with compulsory retirement at age 65 (with allowance for a shorter term of appointment for persons appointed with a shorter period to retirement age).

Current appointments to these offices are for life.

(c) Crown Prosecutors, the Senior Crown Prosecutor and Deputy Senior Crown Prosecutors are to be appointed for a fixed but renewable term of 7 years with compulsory retirement at age 65 (with allowance for a shorter term of appointment for persons appointed with a shorter period to retirement age).

Current appointments to these offices are for life.

(d) Public Defenders, the Senior Public Defender and Deputy Senior Public Defenders are to be appointed for a fixed but renewable term of 7 years with compulsory retirement at age 65 (with allowance for a shorter term of appointment for persons appointed with a shorter period to retirement age).

Current appointments to these offices are for life for Public Defenders, 7 years (renewable) for the Senior Public Defender and 5 years (renewable) for a Deputy Senior Public Defender.

(e) The Solicitor General is to be appointed for a fixed but renewable term of 10 years with compulsory retirement at age 72 (with allowance for a shorter term of appointment for persons appointed with a shorter period to retirement age).

The Solicitor General's current appointment is for life.

Existing holders of these offices will not be subject to the amendments and will continue to hold office under the current arrangements. In addition, existing Crown Prosecutors and Public Defenders will be entitled to reappointment as Crown Prosecutor or Public Defender on resignation from or at the end of a term of office in another Crown law office to which they may subsequently be appointed.

The Bill also makes the following amendments:

(a) a statutory basis will be provided for the appointment of the Senior Crown Prosecutor and Deputy Senior Crown Prosecutors,

(b) the existing right of return to previous public sector employment of the Director of Public Prosecutions, Deputy Directors of Public Prosecutions, the Solicitor for Public Prosecutions and Crown Prosecutors (including the Senior and Deputy Senior Crown Prosecutors) which is currently exercisable on resignation will also be exercisable on the expiry of a term of appointment,

- (c) a right of return to previous public sector employment will be extended to Public Defenders, the Senior Public Defender and Deputy Senior Public Defenders and be exercisable on resignation or expiry of a term of appointment,
- (d) entitlement to carry over accrued public sector entitlements, together with a right of return to previous public sector employment (exercisable on resignation or expiry of a term of appointment), will be extended to the Solicitor General,
- (e) a consequential amendment to the *Anti-Discrimination Act 1977* will exempt the offices dealt with by the Bill from provisions that prevent the imposition of a compulsory retirement age,
- (f) provision is made for the Attorney General to issue guidelines as to the process for the selection of a person to be proposed for appointment to any of the offices dealt with by the Bill.

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.

Clause 3 is a formal provision that gives effect to the amendments to the *Director of Public Prosecutions Act 1986* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Crown Prosecutors Act 1986* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Public Defenders Act 1995* set out in Schedule 3.

Clause 6 is a formal provision that gives effect to the amendments to the *Solicitor General Act 1969* set out in Schedule 4.

Clause 7 is a formal provision that gives effect to the amendment to the *Anti-Discrimination Act 1977* set out in Schedule 5.

Clause 8 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Director of Public Prosecutions Act 1986

Schedule 1 amends the *Director of Public Prosecutions Act 1986* to make the amendments referred to in the Overview in relation to the Director of Public Prosecutions, a Deputy Director of Public Prosecutions and the Solicitor for Public Prosecutions.

Schedule 2 Amendment of Crown Prosecutors Act 1986

Schedule 2 amends the *Crown Prosecutors Act 1986* to make the amendments referred to in the Overview in relation to Crown Prosecutors, the Senior Crown Prosecutor and Deputy Senior Crown Prosecutors.

Schedule 3 Amendment of Public Defenders Act 1995

Schedule 3 amends the *Public Defenders Act 1995* to make the amendments referred to in the Overview in relation to the Senior Public Defender, Deputy Senior Public Defenders and Public Defenders.

Schedule 4 Amendment of Solicitor General Act 1969

Schedule 4 amends the *Solicitor General Act 1969* to make the amendments referred to in the Overview in relation to the Solicitor General.

Schedule 5 Amendment of Anti-Discrimination Act 1977

Schedule 5 makes the consequential amendment to the *Anti-Discrimination Act 1977* referred to in the Overview.