

**CROWN ADVOCATE ACT, 1979, No. 59**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

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**Act No. 59, 1979.**

An Act to provide for the appointment of a Crown Advocate and to define his duties and functions. [Assented to, 9th May, 1979.]

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See also Statutory and Other Offices Remuneration (Crown Advocate) Amendment Act, 1979.

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*Crown Advocate.*

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**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 "Crown Advocate Act, 1979".

Interpreta-  
tion.            **2.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires, "Crown Advocate" includes the deputy appointed to act for the Crown Advocate during his illness or absence from office.

Appoint-  
ment of  
Crown  
Advocate.

**3.** (1) The Governor may appoint one of Her Majesty's Counsel to be Her Majesty's Crown Advocate.

(2) Any appointment pursuant to subsection (1) may be on such terms and conditions as the Governor determines.

(3) A person shall not be appointed as Crown Advocate if he is of or above the age of 70 years.

(4) The office of Crown Advocate shall not be held by a Minister of the Crown.

Public  
Service  
Act, 1902,  
not to  
apply.

**4.** The Public Service Act, 1902, does not apply to or in respect of the appointment of the Crown Advocate and the Crown Advocate is not, in his capacity as Crown Advocate, subject to that Act during his term of office.

Term of  
office.

**5.** (1) Subject to this Act, the Crown Advocate shall hold office for such term, not exceeding 7 years, as is specified in the instrument of his appointment.

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*Crown Advocate.*

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(2) The Crown Advocate shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 7 years, as is specified in the instrument of his re-appointment.

6. (1) The Crown Advocate shall be deemed to have vacated his office— Vacation  
of office.

- (a) if he is removed from office by the Governor pursuant to subsection (2);
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) if he resigns his office by writing under his hand addressed to the Governor;
- (e) upon his attaining the age of 70 years; or
- (f) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a Crown Advocate from office.

7. The Crown Advocate is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Remuner-  
ation of  
Crown  
Advocate.

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*Crown Advocate.*


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Deputy of  
Crown  
Advocate  
during his  
illness or  
absence.

8. (1) In the case of the illness or absence from office of the Crown Advocate, the Governor may appoint a deputy to act for the Crown Advocate during his illness or absence.

(2) Without affecting the generality of subsection (1), the Crown Advocate is, for the purposes of that subsection, absent from his office during any period that he is appointed to act for the Solicitor General under section 2 (1) of the Solicitor General Act, 1969.

Duties and  
functions of  
Crown  
Advocate.

9. The duties and functions of the Crown Advocate are—

- (a) to assist the Solicitor General in respect of the exercise or discharge by the Solicitor General of any powers, authorities, duties or functions delegated by the Attorney General under section 4 of the Solicitor General Act, 1969;
- (b) to advise and assist any crown prosecutor, member of the police force or, if so directed by the Attorney General or Solicitor General, any other person in respect of the conduct of criminal proceedings;
- (c) whenever directed by the Attorney General, to act as counsel for the Crown in right of the State, for the Attorney General or for any other person in any criminal or civil proceedings or in any inquiry or commission;
- (d) to advise the Attorney General in respect of any matter referred to the Crown Advocate by the Attorney General; and
- (e) to carry out such other duties and functions of counsel as the Attorney General directs.

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

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 9th May, 1979.*

## **CROWN ADVOCATE BILL, 1979**

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### **EXPLANATORY NOTE**

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

The Statutory and Other Offices Remuneration (Crown Advocate) Amendment Bill, 1979, is cognate with this Bill.

The objects of this Bill are to provide for the appointment of a Crown Advocate and to define his duties and functions.

This Bill contains the following provisions:—

Clause 1. Short title.

Clause 2. Interpretation.

Clause 3 authorises the Governor to appoint a Crown Advocate.

Clause 4 provides that the Public Service Act, 1902, does not apply to the Crown Advocate.

Clause 5 specifies the term of office of the Crown Advocate.

Clause 6 specifies the circumstances in which the Crown Advocate vacates his office.

Clause 7 provides for the remuneration of the Crown Advocate.

Clause 8 authorises the Governor to appoint a deputy to act for the Crown Advocate during his illness or absence from office.

Clause 9 specifies the duties and functions of the Crown Advocate.

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**CROWN ADVOCATE BILL, 1979**

**No. , 1979.**

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**A BILL FOR**

An Act to provide for the appointment of a Crown Advocate  
and to define his duties and functions.

[MR F. J. WALKER—11 April, 1979.]

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See also Statutory and Other Offices Remuneration (Crown Advocate) Amendment Bill, 1979.

*Crown Advocate.*

**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 "Crown Advocate Act, 1979". Short title.

**2.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires, "Crown Advocate" includes the deputy appointed to act for the Crown Advocate during his illness or absence from office. Interpretation.

10   **3.** (1) The Governor may appoint one of Her Majesty's Counsel to be Her Majesty's Crown Advocate. Appointment of Crown Advocate.

      (2) Any appointment pursuant to subsection (1) may be on such terms and conditions as the Governor determines.

15    (3) A person shall not be appointed as Crown Advocate if he is of or above the age of 70 years.

      (4) The office of Crown Advocate shall not be held by a Minister of the Crown.

20    **4.** The Public Service Act, 1902, does not apply to or in respect of the appointment of the Crown Advocate and the Crown Advocate is not, in his capacity as Crown Advocate, subject to that Act during his term of office. Public Service Act, 1902, not to apply.

**5.** (1) Subject to this Act, the Crown Advocate shall hold office for such term, not exceeding 7 years, as is specified in the instrument of his appointment. Term of office.



*Crown Advocate.*

(2) The Crown Advocate shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 7 years, as is specified in the instrument of his re-appointment.

- 5   6. (1) The Crown Advocate shall be deemed to have vacated his office— Vacation  
of office.
- (a) if he is removed from office by the Governor pursuant to subsection (2);
  - 10   (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
  - 15   (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
  - (d) if he resigns his office by writing under his hand addressed to the Governor;
  - (e) upon his attaining the age of 70 years; or
  - 20   (f) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a Crown Advocate from office.

- 25   7. The Crown Advocate is entitled to be paid— Remuner-  
ation of  
Crown  
Advocate.
- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
  - (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

*Crown Advocate.*

8. (1) In the case of the illness or absence from office of the Deputy of Crown Advocate during his illness or absence. the Crown Advocate, the Governor may appoint a deputy to act for the Crown Advocate during his illness or absence.

(2) Without affecting the generality of subsection (1), the Crown Advocate is, for the purposes of that subsection, absent from his office during any period that he is appointed to act for the Solicitor General under section 2 (1) of the Solicitor General Act, 1969.

9. The duties and functions of the Crown Advocate are—
- 10 (a) to assist the Solicitor General in respect of the exercise or discharge by the Solicitor General of any powers, authorities, duties or functions delegated by the Attorney General under section 4 of the Solicitor General Act, 1969;
- 15 (b) to advise and assist any crown prosecutor, member of the police force or, if so directed by the Attorney General or Solicitor General, any other person in respect of the conduct of criminal proceedings;
- 20 (c) whenever directed by the Attorney General, to act as counsel for the Crown in right of the State, for the Attorney General or for any other person in any criminal or civil proceedings or in any inquiry or commission;
- 25 (d) to advise the Attorney General in respect of any matter referred to the Crown Advocate by the Attorney General; and
- (e) to carry out such other duties and functions of counsel as the Attorney General directs.

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 BY AUTHORITY

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



