

Department of Justice
Office of the Secretary
GPO Box 825
Hobart TAS 7001

By email only: haveyoursay@justice.tas.gov.au

Justice Miscellaneous (Increasing Judicial Retirement Age) Bill

Thank you for providing the Law Society of Tasmania with an opportunity to provide feedback in relation to increasing the mandatory judicial retirement age from 72 to 75 years of age

This submission is made on behalf of the Law Society of Tasmania and its 700 + members from across the state, many of whom regularly appear in the Magistrates' Court and Supreme Court across the State.

Law Society Position

The Law Society of Tasmania does not oppose the proposed increase in mandatory judicial retirement age and the proposed increase in age is supported.

Other Points Of Consideration

In the context of Australian workplaces and the Australian workforce, attitudes about the age of retirement have shifted greatly from when mandatory retirement ages were introduced for the judiciary at a both a state and federal levels.

Historically mandatory retirement ages for the judiciary were introduced to assist with shaping a contemporary Court and for other reasons including, for example, addressing a concern or perception that with age came declining performance.

It follows that longer term the Law Society of Tasmania would be interested in exploring whether the imposition of a mandatory age is necessary especially having regard to the following non exhaustive list of considerations:

It appears the imposition of a mandatory age for retirement today is unnecessary and not reflective of societal expectation because *inter alia*:

1. A mandatory age for retirement may not be reflective of community expectations.
2. The imposition of a mandatory age of retirement is inconsistent with modern workplace practices.
3. A mandatory age for retirement may a form of age discrimination.

4. Judges often retire of their own accord and before the mandatory age of retirement.

Conversely there are obvious benefits to raising the age:

5. Those Judges with specialist and skilled capabilities who wish to remain working can do so thereby ensuring continuity of decision making and retention of those capabilities.

6. It may address the challenges of attracting specialist and skilled applicants. In relation to this we note there is a perception amongst some that judicial remuneration and pension arrangements are such that they are unlikely to attract senior members of the private profession (e.g., barristers) to apply for judicial appointments.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Trevor McKenna', with a long horizontal stroke extending to the right.

Trevor McKenna
PRESIDENT

