

From: [Alex Kendall](#)
To: [Have Your Say](#)
Subject: Justice Miscellaneous (Increasing Judicial Retirement Age) Bill 2021
Date: Thursday, 4 February 2021 12:46:00 PM
Attachments: [image003.jpg](#)

Dear Sir/Madam,

I support the increase of the judicial and magisterial retirement age from 72 to 75.

Indeed, in my view, a mandatory retirement age for judges and magistrates ought to be scrapped entirely. The mandatory retirement age is age discrimination, and were this to occur in any other employment context it would breach the *Anti-Discrimination Act 1998*. The ability of a judicial officer to undertake her or his role is dependent on their physical and mental wellbeing. There are many octogenarians that retain full mental capacity, likewise there are many younger people who suffer from early onset cognitive issues. Age is irrelevant. What is important is that Parliament is able to act swiftly if a judge or magistrate demonstrates an inability to perform the functions of their office.

The Chief Justice is reported as citing a lack of judicial talent as one persuasive factor in favour of increasing the mandatory retirement age. It is not my place to comment upon His Honour's observation, however, I do wish to observe that there is a lack of opportunity for accomplished lawyers to obtain experience on the bench and therefore to demonstrate their acumen to peers and the government.

Certainly the Bill addresses a short term issue, but it fails to address the long term issue of promoting judicial talent. I make the following suggestion:

1. That necessary statutory modifications are made to appoint suitably qualified legal practitioners as acting magistrates for the purpose of determining, for example; out of hours bail matters, minor traffic matters, minor civil claims, and other classes of matters determined by the Chief Magistrate.
2. That there be a streamlined and simple application process for the appointment of accomplished legal practitioners as members of the new TasCAT.

These are solely my personal opinions.

Yours faithfully

ALEX KENDALL | Senior Associate

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