

DRAFT SECOND READING SPEECH
HON ELISE ARCHER MP
Justice Miscellaneous (Increasing Judicial Retirement Age) Bill 2021

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Mr Speaker, I move that the Bill now be read a second time.

This Bill delivers on the Government's commitment to undertake reform to provide Tasmanians with a more effective and efficient justice system. We are committed to ensuring that our courts are best placed to administer justice according to law.

Mr Speaker, this Bill will increase the mandatory age of retirement for judges and magistrates from 72 years of age to 75 years of age.

This will include Associate and Puisne Judges, and the Chief Justice of the Supreme Court of Tasmania; Magistrates, the Deputy Chief Magistrate and Chief Magistrate of the Magistrates Court. It will not apply to Acting Judges or part-time Magistrates, who are instead appointed for shorter, fixed term periods.

It is a small increase in age, but a big advance in meeting community expectations on age equality while remaining consistent with the range of positions in other Australian jurisdictions on judicial retirement. It will also support the courts' ability to operate effectively, and retain valuable institutional knowledge from our most practised judges and magistrates if they choose to continue in office.

Allowing for longer retention of judges and magistrates will contribute to expedient disposition of cases to reduce the backlog of cases in the courts, and support jurisprudential development, and mentoring and leadership in the courts. This would be a sensible change in any event, and more so now given the impact of COVID-19 on the justice and other sectors which shows that flexibility is key to adapting to new challenges quickly.

Mr Speaker, Tasmanians are living and working longer, and retiring later than their predecessors.

The age of judicial retirement was last increased in 2005, from 70 to 72. Since then, average life expectancy has increased by three years – from approximately 81 years of age to approximately 84 years of age. It has become increasingly common for people to choose to remain in the labour force beyond retirement age.

Mr Speaker, in public consultation certain stakeholders suggested that the mandatory retirement age be removed entirely. On the other hand, some stakeholders suggested that increasing the retirement age could hinder rotation of the judiciary. What is intended by this reform is to continue to strike an appropriate balance between these competing considerations, as well as those I previously mentioned.

Maintaining a mandatory retirement age promotes predictability and a degree of regularity in new appointments to our judiciary. It ensures that the best legal practitioners of each generation are represented, who bring with them different perspectives, practice expertise, and ideas on decision-making.

There continue to be varied approaches to mandatory judicial retirement ages in Australia. In fact, Australia originally did not maintain a judicial retirement age. However, no Australian jurisdiction is moving back to that position or proposing to do so.

The *Constitution Alteration (Retirement of Judges)* referendum of 1977 introduced a mandatory judicial retirement age of 70 for Federal judges, which remains in force today. States and territories now have a range of different mandatory retirement ages which fall within a similar range, however.

Mr Speaker, through this reform, I am pleased to highlight that Tasmania will join New South Wales in having the most progressive judicial retirement age in Australia allowing our judicial offices to remain working longer, should they wish to do so.

I commend the Bill to the House.