

MEDIA RELEASE

JUDICIAL RETIREMENT AGE INCREASE CAN BRING WIDER BENEFITS FOR THE JUSTICE SYSTEM



NEW SOUTH WALES
BAR ASSOCIATION

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The President of the New South Wales Bar Association Arthur Moses SC today expressed the New South Wales Bar Association's support for an increase in the statutory judicial retirement age in NSW from 72 to 75. 'The Bar Council has recently considered this issue and considers that there are compelling reasons in favour of an increase in the judicial retirement age in this State' Mr Moses said.

'One of the major problems concerning setting the compulsory retirement age of judges at 72, is the resultant loss of expertise of jurists who would otherwise have had the capacity to continue to make significant contributions to the development of the law' said Mr Moses. 'The Bar Council considers that an increase in the judicial retirement age in NSW to 75 years would be appropriate. Such an increase would ensure that the skills of experienced judicial officers can be available for longer and can be justified in light of the current trends in the average life expectancy among the population and the general state of health among older Australians. It would also widen the pool of legal practitioners from which judicial officers are selected – over one third of New South Wales barristers are over 60 years of age.'

The Bar Council also supports a related amendment which would lift the age at which judges currently qualify for a judicial pension after 10 years' service from 60 to 65. Such a proposal would only apply prospectively to judges appointed with the new retirement age of 75 years.

The Association considers this change would have two benefits which are in the public interest. Firstly, it would encourage judges to remain in office longer rather than retiring at the age of 60 and then embarking on another career. Secondly, it would represent a significant cost saving for the public, who would not have the burden of funding a judicial pension for a judge who retires at the age of 60 rather than 65, and at the same time paying the salary of a judge who has been appointed to replace her or him.

'This change would not only ensure the long-term sustainability of the judicial pension scheme, but would also result in savings for the Justice portfolio which could fund other areas which have been ignored.'

'For example, as the below table demonstrates, legal aid rates for junior counsel in criminal matters have not changed since 2007, despite a 26.5% cumulative level of inflation in the past 10 years. The fact is the junior bar does the lion's share of work representing NSW citizens, to keep an overloaded criminal justice system working. Although it should not be necessary because the Government has the funds, part of the projected savings from the judicial pension proposal and proceeds from the State Government's recent

sale of assets could be used to increase legal aid rates to ensure people are properly represented. In this regard the Association has raised its serious concerns with the Government. If an agreement cannot be reached, we will be seeking the appointment of an arbitrator to review legal aid rates paid to the private bar which will involve a work value study. There are significant work health and safety issues that result from legal practitioners devoting long hours of unpaid work to legal aid cases' Mr Moses said.

Legal Aid Rates for Junior Counsel in criminal matters		
	May 2007	May 2017 (unchanged at 8/ 17)
District Court day rate	\$987 + GST	\$987 + GST
Supreme Court day rate	\$1,142 + GST	\$1,150 + GST

Inflation since 2007

The cumulative level of inflation (Consumer Price Index) from financial year ending 30 June 2007 to financial year ending 30 June 2017 is 26.4% with an annual average increase in inflation of 2.4%.

Source: <http://www.rba.gov.au/calculator/financialYearDecimal.html>

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