

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)

Justice Legislation Amendment Bill 2018

In relation to its overall purpose, this Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011 (Cth)*.

The Bill advances:

- article 14 of the International Covenant on Civil and Political Rights (ICCPR) – to have a fair trial and fair hearing rights;
- article 40(2)(b)(iii) of the Convention on the Rights of the Child (CRC) – to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law;
- article 13 of the Convention on the Rights of Persons with Disabilities (CRPD) – ensure effective access to justice for persons with disabilities on an equal basis with others; and
- article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – to receive remuneration for work of equal value, without distinction between men and women.

Overview of the Bill

The primary purpose of the Bill is to increase the age of retirement from 70 to 72 for a person in the office of Director of Public Prosecutions, a person in the office of Solicitor-General for the Northern Territory, and for Local Court Judges and Supreme Court Judges and Associate Judges (the officers).

Human rights implications

This Bill engages rights referred to in the ICCPR, CRC, ICESCR and, to a lesser extent, the CRPD.

The increase in the age of retirement for the officers strengthens human rights protections by allowing:

Right to legal soundness of a judgment

A person's right of review (article 14(5) ICCPR) remained available throughout, and still remains applicable where there is a question over the legal soundness of a judgement. Article 40 of the CRC reinforces that right for children as does article 13 of the CRPD for those with a disability. This Bill allows for officers to act for a greater length of time, but not for such a period of time that their capacity to make sound legal judgments may deteriorate.

Right to a fair trial

The Bill does not interfere with the right to a fair and public criminal trial or hearing of civil proceedings, according to law, in the presence of legal or other appropriate assistance. It does not interfere with the principle that all persons, including children and those who may be a person who has a disability are treated equally by the Court. The obligation to have a competent, independent and impartial court or tribunal established by law is not trammelled by this Bill.

Non discrimination based on age

This Bill does not interfere with the right for the officers to receive equal remuneration for equal work. The Bill does not distinguish between men and women, and instead allows any person to act in these positions for a greater amount of time.

Conclusion

Overall this Bill is compatible with human rights. Any potential incompatibility with human rights is outweighed by the positive promotion of human rights.