

CROWN ADVOCATE ACT, 1979, No. 59

New South Wales



ANNO VICESIMO OCTAVO

ELIZABETHÆ II REGINÆ

Act No. 59, 1979.

An Act to provide for the appointment of a Crown Advocate
and to define his duties and functions. [Assented to, 9th May,
1979.]

See also Statutory and Other Offices Remuneration (Crown Advocate) Amendment Act,
1979.

Crown Advocate.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Crown Advocate Act, 1979".

Interpretation. **2.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires, "Crown Advocate" includes the deputy appointed to act for the Crown Advocate during his illness or absence from office.

Appointment of Crown Advocate. **3.** (1) The Governor may appoint one of Her Majesty's Counsel to be Her Majesty's Crown Advocate.

(2) Any appointment pursuant to subsection (1) may be on such terms and conditions as the Governor determines.

(3) A person shall not be appointed as Crown Advocate if he is of or above the age of 70 years.

(4) The office of Crown Advocate shall not be held by a Minister of the Crown.

Public Service Act, 1902, not to apply. **4.** The Public Service Act, 1902, does not apply to or in respect of the appointment of the Crown Advocate and the Crown Advocate is not, in his capacity as Crown Advocate, subject to that Act during his term of office.

Term of office. **5.** (1) Subject to this Act, the Crown Advocate shall hold office for such term, not exceeding 7 years, as is specified in the instrument of his appointment.

Crown Advocate.

(2) The Crown Advocate shall, if otherwise qualified, be eligible for re-appointment from time to time for such term, not exceeding 7 years, as is specified in the instrument of his re-appointment.

6. (1) The Crown Advocate shall be deemed to have vacated his office— Vacation
of office.

- (a) if he is removed from office by the Governor pursuant to subsection (2);
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration, allowances or estate for their benefit;
- (c) if he becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (d) if he resigns his office by writing under his hand addressed to the Governor;
- (e) upon his attaining the age of 70 years; or
- (f) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office.

(2) The Governor may, for any cause which appears to him to be sufficient, remove a Crown Advocate from office.

7. The Crown Advocate is entitled to be paid—

- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

Remuner-
ation of
Crown
Advocate.

Crown Advocate.

Deputy of
Crown
Advocate
during his
illness or
absence.

8. (1) In the case of the illness or absence from office of the Crown Advocate, the Governor may appoint a deputy to act for the Crown Advocate during his illness or absence.

(2) Without affecting the generality of subsection (1), the Crown Advocate is, for the purposes of that subsection, absent from his office during any period that he is appointed to act for the Solicitor General under section 2 (1) of the Solicitor General Act, 1969.

Duties and
functions of
Crown
Advocate.

9. The duties and functions of the Crown Advocate are—

- (a) to assist the Solicitor General in respect of the exercise or discharge by the Solicitor General of any powers, authorities, duties or functions delegated by the Attorney General under section 4 of the Solicitor General Act, 1969;
 - (b) to advise and assist any crown prosecutor, member of the police force or, if so directed by the Attorney General or Solicitor General, any other person in respect of the conduct of criminal proceedings;
 - (c) whenever directed by the Attorney General, to act as counsel for the Crown in right of the State, for the Attorney General or for any other person in any criminal or civil proceedings or in any inquiry or commission;
 - (d) to advise the Attorney General in respect of any matter referred to the Crown Advocate by the Attorney General;
and
 - (e) to carry out such other duties and functions of counsel as the Attorney General directs.
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