

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 16 October 1985

(Attorney-General)

A BILL

FOR

An Act to amend the *Director of Public Prosecutions Act 1983*

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

5 **1.** (1) This Act may be cited as the *Director of Public Prosecutions Amendment Act (No. 2) 1985*.

 (2) The *Director of Public Prosecutions Act 1983*¹ is in this Act referred to as the Principal Act.

Commencement

10 **2.** This Act shall come into operation on a day to be fixed by Proclamation.

Functions of Director

3. Section 6 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-sections:

15 “(2A) Except as provided by sub-section (2B) or with the consent of the person concerned, the Director is not entitled under this Act to institute

a prosecution of a person on indictment for an indictable offence against the laws of the Commonwealth in respect of which the person has not been committed for trial.

“(2B) Where a person has been committed for trial in respect of an indictable offence or indictable offences against the laws of the Commonwealth, the Director may, whether or not the Director institutes a prosecution on indictment for the offence, or for all or any of the offences, for which the person was committed for trial, institute a prosecution of the person on indictment for— 5

- (a) an offence for which the person was examined but not committed for trial; or 10
- (b) any other offence founded on facts or evidence disclosed in the course of the committal proceedings.

“(3) The Attorney-General may, by writing signed by the Attorney-General, specify a matter or class of matters for the purposes of paragraph (1) (g) or (h) and, where the Attorney-General so specifies a matter or class of matters, a copy of the instrument specifying that matter or class of matters shall be published in the *Gazette* when the Attorney-General considers it appropriate to do so.”. 15

Powers of Director 20

4 Section 9 of the Principal Act is amended by adding at the end the following sub-section:

“(11) Where an authority of the Commonwealth is a party to a proceeding in respect of a matter—

- (a) that has arisen out of or is connected with the performance of any of the functions of the Director; or 25
- (b) that may result in the performance by the Director of such a function,

the Director, or a person who is entitled to represent the Director in proceedings referred to in sub-section 15 (1), may act as counsel or solicitor for that authority.”. 30

5 After section 15 of the Principal Act the following section is inserted:

Appearances on behalf of Director in summary or committal proceedings

“15A. Without limiting the class of persons who may represent the Director under section 15, in proceedings for the summary conviction of a person or for the commitment of a person for trial in respect of an indictable offence (whether the proceedings were instituted before or are instituted after the commencement of this section), the Director may be represented by a member of the Australian Federal Police, or a member of the police force of a State or Territory, whether or not the member concerned is a legal practitioner.”. 35 40

Prohibition of publication of evidence, &c., in certain proceedings

6. Section 16A of the Principal Act is amended—

(a) by inserting after sub-section (1) the following sub-section:

5 “(1A) Where the Director institutes or carries on proceedings for the recovery of pecuniary penalties, or co-ordinates or supervises the institution or carrying on of proceedings for the recovery of pecuniary penalties, in respect of a matter, a court may, at any time during or after the completion of proceedings for the recovery of pecuniary penalties in respect of the matter, make, in relation to a proceeding in the court that relates to the recovery of pecuniary penalties in respect of the matter, such order prohibiting or restricting the publication of particular evidence, or of particular information, as appears to the court to be necessary in order to prevent prejudice to the administration of justice.”; and

15 (b) by inserting “or (1A)” after “(1)” in sub-section (2).

Staff

7. Section 27 of the Principal Act is amended by adding at the end the following sub-sections:

20 “(3) In addition to the staff referred to in sub-section (1), the Director may, on behalf of the Commonwealth and with the approval of the Attorney-General or a person authorised in writing by the Attorney-General to grant approvals under this sub-section, employ, under agreements in writing, such persons as the Director thinks necessary for the purposes of the performance of the functions of the Director.

25 “(4) The terms and conditions of employment of persons employed by the Director under sub-section (1) are such as are from time to time determined by the Director, with the approval of the Public Service Board.”.

Engagement of consultants, &c.

8. Section 28 of the Principal Act is amended—

30 (a) by omitting from sub-section (1) “and with the approval of the Attorney-General or a person authorized by instrument in writing by the Attorney-General for the purpose”; and

(b) by omitting from sub-section (2) “, with the approval of the Public Service Board”.

NOTE

1. No. 133, 1983, as amended. For previous amendments, see Nos. 10 and 165, 1984; and No. 64, 1985.

