

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

(As read a first time)

DIRECTOR OF PUBLIC PROSECUTIONS BILL 1983

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SCHEDULE

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

(Presented pursuant to leave granted and read 1^o, 10 November 1983)

(ATTORNEY-GENERAL, SENATOR GARETH EVANS)

A BILL

FOR

**An Act to establish an Office of the Director of Public
Prosecutions and for related purposes**

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

Short title

1. This Act may be cited as the *Director of Public Prosecutions Act 1983*.

5 **Commencement**

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

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“appoint” includes re-appoint;

10 “authority of the Commonwealth” means—

(a) an authority, institution or other body (other than a society, association or incorporated company) established for a public purpose by or under a law of the Commonwealth;

- (b) a society, association or incorporated company in which the Commonwealth, or an authority, institution or other body of the kind referred to in paragraph (a), has a controlling interest; or
- (c) a person who holds— 5
- (i) an office or position established by or under a law of the Commonwealth;
 - (ii) an appointment made under a law of the Commonwealth; or
 - (iii) an appointment made, otherwise than under a law of the Commonwealth, by the Governor-General, by a Minister, or by any other person on behalf of the Executive Government of the Commonwealth or the Administration of a Territory; 10
- “Director” means the Director of Public Prosecutions; 15
- “law of the Commonwealth” includes a law of a Territory, but does not include—
- (a) the *Northern Territory (Self-Government) Act 1978*; or
 - (b) a law made under, or continued in force by, that Act;
- “legal practitioner” means a person— 20
- (a) whose name is on the roll of barristers and solicitors of the High Court kept in pursuance of rules in force under the *Judiciary Act 1903*; or
 - (b) whose name is on the roll of barristers, of solicitors, of barristers and solicitors or of legal practitioners of the Supreme Court of a State or Territory; 25
- “Office” means the Office of the Director of Public Prosecutions established by sub-section 5 (1);
- “Special Prosecutor” means a person holding office as, or acting as, a Special Prosecutor under the *Special Prosecutors Act 1982*; 30
- “State” includes the Northern Territory;
- “Territory” does not include the Northern Territory.

(2) A reference in this Act to an appointment to prosecute offences against the laws of a State includes a reference to a commission or authority to prosecute such offences. 35

(3) A provision of this Act that confers on the Director a function or power in relation to a prosecution or proceeding (including a proceeding for the taking of a civil remedy) instituted by another person applies in relation to such a prosecution or proceeding whether instituted before or after the commencement of this Act. 40

(4) A reference in this Act to a member of the staff of the Office is a reference to—

- (a) a member of the staff referred to in sub-section 27 (1);
- (b) a person engaged under sub-section 28 (1); or
- 5 (c) a person referred to in section 29 whose services are made available to the Director.

Extension to external Territories

4. This Act extends to all the external Territories.

Office of the Director of Public Prosecutions

10 5. (1) There is established an Office to be known as the Office of the Director of Public Prosecutions.

(2) There shall be a Director of Public Prosecutions.

(3) The Office shall consist of the Director and the members of the staff of the Office.

15 (4) The Director shall control the Office.

Functions of Director

6. (1) The functions of the Director are—

- (a) to institute prosecutions on indictment for indictable offences against the laws of the Commonwealth;
- 20 (b) to carry on prosecutions of the kind referred to in paragraph (a) (not being prosecutions instituted by the Attorney-General or a Special Prosecutor), whether or not instituted by the Director;
- (c) to institute proceedings for the commitment of persons for trial in respect of indictable offences against the laws of the Commonwealth;
- 25 (d) to institute proceedings for the summary conviction of persons in respect of offences against the laws of the Commonwealth;
- (e) to carry on proceedings of a kind referred to in paragraph (c) or (d) (whether or not instituted by the Director);
- (f) to assist a coroner in inquests and inquiries conducted under the laws of the Commonwealth;
- 30 (g) in respect of matters in relation to which an instrument under sub-section (3) is in force—
 - (i) to institute proceedings;
 - 35 (ii) to carry on proceedings (whether or not instituted by the Director); or
 - (iii) to co-ordinate or supervise the institution or carrying on of proceedings,for the recovery of pecuniary penalties under the laws of the Commonwealth;

(h) in respect of matters connected with, or arising out of, prosecutions instituted or carried on by the Director, being matters in relation to which an instrument under sub-section (3) is in force—

(i) to take civil remedies on behalf of and in the name of the Commonwealth and authorities of the Commonwealth; or

(ii) to co-ordinate or supervise the taking of civil remedies by or on behalf of the Commonwealth and authorities of the Commonwealth;

(j) to consent to prosecutions for offences against the laws of the Commonwealth, being offences of a kind in relation to which an instrument under sub-section (4) is in force;

(k) to appear in proceedings under the *Extradition (Commonwealth Countries) Act 1966* or the *Extradition (Foreign States) Act 1966*;

(m) where the Director, with the consent of the Attorney-General, holds an appointment to prosecute offences against the laws of a State—to institute and carry on, in accordance with the terms of the appointment, prosecutions for such offences; and

(n) to do anything incidental or conducive to the performance of any of the functions referred to in paragraphs (a) to (m) and in sub-section (2).

(2) In addition to his functions under sub-section (1), the functions of the Director include—

(a) functions that are conferred on the Director by or under any other law of the Commonwealth; and

(b) such other functions as are prescribed.

(3) The Attorney-General may, by instrument in writing published in the *Gazette*, specify a matter or class of matters for the purposes of paragraph (1) (g) or (h).

(4) A person who has, pursuant to a law of the Commonwealth, the power to consent to prosecutions for offences of a particular kind against the laws of the Commonwealth (not being a person who has that power by virtue of an authorization granted to the person by another person) may, by instrument in writing published in the *Gazette*, authorize the Director to consent to prosecutions for offences of that kind, but the giving of such an authorization does not prevent the giving of a consent by a person who, but for this sub-section, would have the power to give a consent.

(5) Where the Director consents to a prosecution for an offence against a law of the Commonwealth, being an offence of a kind in relation to which an instrument under sub-section (4) is in force, the prosecution may be instituted and carried on without the consent of any other person.

(6) The institution or carrying on by the Director of proceedings for the recovery of a pecuniary penalty under a law of the Commonwealth, or any other act or thing done by the Director in relation to such proceedings, shall not be challenged or called in question in any court on the ground that the

proceedings did not or do not relate to a matter in relation to which paragraph (1) (g) applies.

5 (7) The taking by the Director of a civil remedy on behalf of and in the name of the Commonwealth or an authority of the Commonwealth, or any other act or thing done by the Director in relation to the taking of such a civil remedy, shall not be challenged or called in question in any court on the ground that the taking of the civil remedy did not or does not relate to a matter in relation to which paragraph (1) (h) applies.

Consultation

10 7. (1) The Director shall, if requested to do so by the Attorney-General, consult with the Attorney-General with respect to matters concerning the performance of the Director's functions or the exercise of the Director's powers.

15 (2) The Attorney-General shall, if requested to do so by the Director, consult with the Director with respect to matters concerning the performance of the Director's functions or the exercise of the Director's powers.

Directions and guidelines by Attorney-General

20 8. (1) In the performance of the Director's functions and in the exercise of the Director's powers, the Director is subject to such directions or guidelines as the Attorney-General, after consultation with the Director, gives or furnishes to the Director by instrument in writing.

(2) Without limiting the generality of sub-section (1), directions or guidelines under that sub-section may—

- 25 (a) relate to the circumstances in which the Director should institute or carry on prosecutions for offences;
- (b) relate to the circumstances in which undertakings should be given under sub-section 9 (6); and
- (c) be given or furnished in relation to particular cases.

30 (3) Where the Attorney-General gives a direction or furnishes a guideline under sub-section (1), he shall—

- (a) as soon as practicable after the time that is the relevant time in relation to the instrument containing the direction or guideline, cause a copy of the instrument to be published in the *Gazette*; and
- 35 (b) cause a copy of that instrument to be laid before each House of the Parliament within 15 sitting days of that House after that time.

(4) Subject to sub-section (5), the relevant time for the purposes of sub-section (3), in relation to an instrument under sub-section (1), is the time when the instrument is made.

(5) Where—

- 40 (a) an instrument under sub-section (1) relates to a matter in relation to which proceedings may be instituted or are being carried on; and

- (b) the Attorney-General is satisfied that the interests of justice require that the contents of the instrument not be disclosed,

the relevant time for the purposes of sub-section (3) in relation to the instrument is whichever is the earlier of the following times:

- (c) the time when the Attorney-General ceases to be satisfied as to the matter mentioned in paragraph (b); or 5
- (d) the time when—
- (i) it is decided that no proceedings will be instituted in relation to the matter; or
 - (ii) all proceedings in relation to the matter (including proceedings by way of appeal from, or otherwise arising out of, proceedings in relation to the matter) are determined or discontinued, 10
- as the case may be.

Powers of Director

9. (1) For the purposes of the performance of his functions, the Director may prosecute by indictment in his official name indictable offences against the laws of the Commonwealth, but nothing in this sub-section prevents the Director from prosecuting an offence against a law of the Commonwealth in any other manner. 15

(2) Where the Director institutes a prosecution on indictment for an offence against a law of the Commonwealth, the indictment shall be signed— 20

- (a) by the Director; or
- (b) for and on behalf of the Director, by a person authorized by the Director, by instrument in writing, to sign indictments.

(3) For the purposes of the performance of his functions, the Director may take over a prosecution on indictment for an offence against a law of the Commonwealth, being a prosecution instituted by another person (other than the Attorney-General or a Special Prosecutor). 25

(4) Where—

- (a) a person is under commitment, or has been indicted, on a charge of an indictable offence against a law of the Commonwealth; and 30
- (b) the prosecution for the offence was instituted, has been taken over or is being carried on by the Director,

the Director may decline to proceed further in the prosecution and may, if the person is in custody, by warrant signed by the Director, direct the discharge of the person from custody, and where such a direction is given, the person shall be discharged accordingly. 35

(5) For the purposes of the performance of his functions, the Director may take over a proceeding that was instituted or is being carried on by another person, being a proceeding— 40

- (a) for the commitment of a person for trial in respect of an indictable offence against a law of the Commonwealth; or

- (b) for the summary conviction of a person in respect of an offence against a law of the Commonwealth,

and where the Director takes over such a proceeding, he may decline to carry it on further.

5 (6) The Director may, if he considers it appropriate to do so, give to a person an undertaking that—

- (a) an answer that is given, or a statement or disclosure that is made, by the person in the course of giving evidence in specified proceedings; or

- 10 (b) the fact that the person discloses or produces a document or other thing in specified proceedings,

being proceedings for an offence against, or for the recovery of a pecuniary penalty under, a law of the Commonwealth instituted, taken over or carried on by, or under the co-ordination or supervision of, the Director, will not be used in evidence against the person, and where the Director gives such an undertaking—

- 15 (c) an answer that is given, or a statement or disclosure that is made, by the person in the course of giving evidence in the specified proceedings; or

- 20 (d) the fact that the person discloses or produces a document or other thing in the specified proceedings,

as the case may be, is not admissible in evidence against the person in any civil or criminal proceedings in a federal court or in a court of a State or Territory, other than proceedings in respect of the falsity of evidence given by the person.

25 (7) Where the Director has instituted or taken over, or is carrying on, a prosecution for an offence against a law of the Commonwealth, the Director may exercise in respect of that prosecution, in addition to such rights of appeal (if any) as are exercisable by him otherwise than under this sub-section, such rights of appeal (if any) as are exercisable by the Attorney-General in respect of that prosecution.

30 (8) Nothing in sub-section (7) prevents the exercise by the Attorney-General of a right of appeal that, but for that sub-section, would be exercisable by the Attorney-General.

35 (9) For the purposes of the performance of the function referred to in paragraph 6 (1) (g), the Director may institute, in the name of the Commonwealth or of an authority of the Commonwealth, proceedings for the recovery of a pecuniary penalty under a law of the Commonwealth.

40 (10) For the purposes of the performance of the function referred to in paragraph 6 (1) (h), the Director may take, in the name of the Commonwealth or of an authority of the Commonwealth, civil remedies on behalf of the Commonwealth or of that authority, as the case may be.

Powers and functions of Director do not affect those of certain other persons**10. (1) Nothing in this Act affects—**

- (a) the power of the Attorney-General, of a person appointed by the Governor-General or of a Special Prosecutor to prosecute by indictment in his own name indictable offences against the laws of the Commonwealth; 5
- (b) the power of the Attorney-General, of a person appointed by the Attorney-General or of a Special Prosecutor to prosecute by information in his own name an indictable offence triable before the Supreme Court of the Australian Capital Territory; 10
- (c) the power under section 61 of the *Judiciary Act 1903* of the Attorney-General or of a person appointed by the Attorney-General;
- (d) the power under section 71 of the *Judiciary Act 1903* of the Attorney-General or of a person appointed by the Governor-General;
- (e) the power under sub-section 53 (6) of the *Australian Capital Territory Supreme Court Act 1933* of the Attorney-General or of a person appointed by the Attorney-General; or 15
- (f) the power of a Special Prosecutor under sub-section 8 (2) of the *Special Prosecutors Act 1982*.

(2) Nothing in this Act (other than sub-section 9 (5)) affects the right of a person to institute or carry on proceedings for— 20

- (a) the commitment of persons for trial in respect of indictable offences against the laws of the Commonwealth; or
- (b) the summary conviction of persons in respect of offences against the laws of the Commonwealth. 25

(3) Nothing in this Act affects the right of a person—

- (a) to institute or carry on proceedings for the recovery of pecuniary penalties under the laws of the Commonwealth; or
- (b) to take civil remedies on behalf of the Commonwealth or of authorities of the Commonwealth. 30

Directions and guidelines by Director**11. (1) The Director may, by instrument in writing, give directions, or furnish guidelines, to—**

- (a) the Commissioner of Police of the Australian Federal Police;
- (b) the Crown Solicitor or a Deputy Crown Solicitor; or 35
- (c) any other person who—
 - (i) conducts investigations in relation to offences against the laws of the Commonwealth; or
 - (ii) institutes or carries on prosecutions for offences against the laws of the Commonwealth, 40

with respect to the prosecution of offences against the laws of the Commonwealth.

(2) Without limiting the generality of sub-section (1), directions or guidelines under that sub-section may be given or furnished in relation to particular cases and may specify—

- 5 (a) an offence against a law of the Commonwealth, being an offence a matter relating to which is to be referred to the Director for the institution or carrying on of a prosecution for that offence; or
- (b) a class of offences against the laws of the Commonwealth, being offences matters relating to which are to be referred to the Director for the institution or carrying on of prosecutions for those offences.
- 10 (3) The Director shall—
 - (a) give to the Attorney-General a copy of each direction given or guideline furnished under sub-section (1); and
 - (b) include in a report under sub-section 33 (1)—
 - 15 (i) a copy of each direction given or guideline furnished under sub-section (1) of this section during the period to which the report relates; and
 - (ii) a copy of each direction given or guideline furnished under sub-section (1) of this section as in force at the end of that period.

20 **Provision of information to Director**

12. Where a prosecution for an offence against a law of the Commonwealth has been instituted, or is being carried on, by a person other than the Director and—

- 25 (a) the Director informs the person that the Director is considering taking over the prosecution or directing that the matter be referred to the Director for the carrying on of the prosecution;
- (b) the Director takes over the prosecution or directs that the matter be referred to the Director for the carrying on of the prosecution; or
- 30 (c) the person considers that the Director should take over the prosecution or that the matter should be referred to the Director for the carrying on of the prosecution,
the person shall furnish to the Director—
 - (d) a full report of the circumstances of the matter;
 - (e) a copy of the statements of any witnesses;
 - 35 (f) each material document in the possession of the person; and
 - (g) such other information or material as the Director requires.

Director may request assistance of Commissioner of Police

13. Where the Director—
- 40 (a) is considering instituting, taking over or carrying on, or has instituted or taken over, or is carrying on, a prosecution for an offence against a law of the Commonwealth; and

- (b) is of the opinion that a matter connected with, or arising out of, the offence requires further investigation,

the Director may, by instrument in writing, request the Commissioner of Police of the Australian Federal Police for the assistance of members of the Australian Federal Police in the investigation of that matter, and where the Director so requests, the Commissioner shall, so far as practicable, comply with the request.

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Director to inform court when taking over or carrying on proceedings

14. (1) Where—

- (a) pursuant to sub-section 9 (3) or (5), the Director takes over a prosecution or proceeding; or

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- (b) the Director decides to carry on—

(i) a prosecution for an offence against a law of the Commonwealth; or

(ii) a proceeding for the recovery of a pecuniary penalty under a law of the Commonwealth,

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being a prosecution or proceeding that was instituted or is being carried on by another person,

the Director shall, as soon as practicable—

- (c) by notice in writing, inform the registrar or other proper officer of the court in which the prosecution or proceeding is to be heard; or

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- (d) if the prosecution or proceeding is being heard by a judge or magistrate—in such manner as the Director thinks fit, inform the judge or magistrate,

that the Director has taken over, or is carrying on, as the case may be, the prosecution or proceeding, but failure of the Director to do so does not affect any of the Director's powers in relation to the prosecution or proceeding.

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(2) The Director shall, as from the time when he complies with sub-section (1) in relation to a prosecution or proceeding that he has taken over pursuant to sub-section 9 (3) or (5), be deemed for all purposes to be the prosecutor, informant or complainant, as the case requires, in that prosecution or proceeding.

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Appearances by and on behalf of Director

15. In—

- (a) proceedings—

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(i) instituted, taken over or carried on by the Director;

(ii) to which the Director is, or is seeking to become, a party;

(iii) in which the Director intervenes or seeks to intervene; or

(iv) of a kind referred to in paragraph 6 (1) (k);

- (b) an inquest or inquiry conducted under a law of the Commonwealth, being an inquest or inquiry in which the Director is assisting the coroner; or

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- (c) proceedings by way of appeal from, or otherwise arising out of, proceedings of a kind referred to in paragraph (a) or an inquest or inquiry of the kind referred to in paragraph (b),

the Director may appear in person or may be represented—

- (d) by a member of the staff of the Office who is a legal practitioner; or
- (e) by counsel or solicitor (including the Crown Solicitor).

Right of Director and staff to practise in their official capacity

16. The Director, or a member of the staff of the Office who is a legal practitioner, is, in his official capacity—

- (a) entitled to practise as a barrister, solicitor, or barrister and solicitor, in a federal court or in a court of a State or Territory; and
- (b) entitled to all the rights and privileges of a barrister, solicitor, or barrister and solicitor, as the case may be, in that court,

whether or not he would, but for this section, be entitled to practise in that court.

Member of staff of Office may hold appointment to prosecute offences under State laws

17. Where a member of the staff of the Office, with the consent of the Attorney-General, holds an appointment to prosecute offences against the laws of a State, the member may institute and carry on, in accordance with the terms of the appointment, prosecutions for such offences.

Appointment, and terms and conditions of appointment, of Director

18. (1) The Director shall be appointed by the Governor-General.

(2) A person shall not be appointed as the Director unless he is a legal practitioner and has been a legal practitioner for not less than 5 years.

(3) The Director shall be appointed for such period, not exceeding 7 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(4) A person who has attained the age of 65 years shall not be appointed as the Director and a person shall not be appointed as the Director for a period that extends beyond the day on which he will attain the age of 65 years.

(5) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

Remuneration and allowances

19. (1) The Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation he shall be paid such remuneration as is prescribed.

(2) The Director shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Leave of absence

20. The Attorney-General may grant to the Director leave of absence from duty on such terms and conditions as to remuneration or otherwise as the Attorney-General determines. 5

Resignation

21. The Director may resign his office by writing signed by him and delivered to the Governor-General.

Director not to undertake other work 10

22. The Director shall not—

- (a) engage in practice as a legal practitioner outside the duties of his office; or
- (b) without the consent of the Attorney-General, engage in paid employment outside the duties of his office. 15

Termination of appointment

23. (1) The Governor-General may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.

(2) If the Director—

- (a) 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 for their benefit; 20
- (b) is absent from duty, except on leave of absence granted by the Attorney-General, for 14 consecutive days or for 28 days in any 12 months; 25
- (c) engages in practice as a legal practitioner outside the duties of his office;
- (d) without the consent of the Attorney-General, engages in paid employment outside the duties of his office; or
- (e) fails, without reasonable excuse, to comply with his obligations under section 24, 30

the Governor-General shall terminate the appointment of the Director.

Disclosure of interests

24. The Director shall give written notice to the Attorney-General of all direct or indirect pecuniary interests that he has or acquires in any business whether in Australia or elsewhere or in any body corporate carrying on any such business. 35

Oath or affirmation of office

25. (1) The Director shall not perform the duties of his office unless he has made an oath or affirmation in relation to that office in accordance with the form of oath or affirmation in the Schedule.

5 (2) An oath or affirmation under sub-section (1) shall be made before a justice of the peace or a commissioner for taking affidavits.

Acting appointments

26. (1) The Attorney-General may appoint a person who is eligible for appointment as the Director to act in the office of Director—

- 10 (a) during a vacancy in that office, whether or not an appointment has previously been made to that office; or
- (b) during any period, or during all periods, when the person holding that office is absent from duty or from Australia or is, for any other reason, unable to perform the functions of that office.

15 (2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Attorney-General may—

- 20 (a) subject to this section, determine the terms and conditions of appointment, including remuneration and allowances, of a person acting in the office of Director; and
- (b) terminate such an appointment at any time.

25 (4) Where a person is acting in the office of Director in accordance with paragraph (1) (b) and that office becomes vacant while that person is so acting, that person may continue so to act until the Attorney-General otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

30 (5) Sections 20, 24 and 25 apply in relation to a person appointed under this section to act in the office of Director in like manner as they apply in relation to the Director.

(6) The appointment of a person to act in the office of Director ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Attorney-General.

35 (7) While a person is acting in the office of Director, he has and may exercise all the powers, and shall perform all the functions, of the Director, and where a person, while so acting, does an act in the exercise or performance of a power or function of the Director, the act shall, for the purposes of this Act, be deemed to have been done by the Director.

40 (8) The validity of anything done by or in relation to a person purporting to act in the office of Director under an appointment made under sub-section (1) shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in

connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

Staff

27. (1) The staff of the Office shall be persons appointed or employed under the *Public Service Act 1922*. 5

(2) The Director has all the powers of, or exercisable by, a Permanent Head under the *Public Service Act 1922*, so far as those powers relate to the branch of the Australian Public Service comprising the staff referred to in sub-section (1), as if that branch were a separate Department of the Australian Public Service. 10

Engagement of consultants, &c.

28. (1) The Director may, on behalf of the Commonwealth and with the approval of the Attorney-General or a person authorized by instrument in writing by the Attorney-General for the purpose, engage, under agreements in writing, persons having suitable qualifications and experience as consultants to, or to perform services for, the Director. 15

(2) The terms and conditions of engagement of a person engaged 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. 20

Staff on secondment to Director

29. In addition to members of the staff referred to in sub-section 27 (1) and persons engaged under sub-section 28 (1), the Director shall be assisted by—

- (a) officers and employees of authorities of the Commonwealth whose services are made available to the Director; and
- (b) persons whose services are made available to the Director pursuant to arrangements made under section 30. 25

Administrative arrangements

30. (1) The Attorney-General may make an arrangement with the appropriate Minister of the Crown of a State under which the State will, from time to time as agreed upon under the arrangement, make available a person who is an officer or employee of the State or of an authority of the State or a member of the Police Force of the State, to perform services for the Director. 30

(2) An arrangement under sub-section (1) may provide for the Commonwealth to reimburse a State with respect to the services of a person or persons to whom the arrangement relates. 35

Delegation by Director

31. (1) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a member of the staff of the Office all or any of his powers under this Act, other than his powers under sub-section 9 (2) and this power of delegation. 40

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this Act, be deemed to have been exercised by the Director.

(3) A delegation under this section does not prevent the exercise of a power by the Director.

5 **Arrangements with Crown Solicitor**

32. (1) The Director may make an arrangement with the Crown Solicitor for the Crown Solicitor or a Deputy Crown Solicitor to perform or exercise in a State or Territory, in the name of the Director and subject to such conditions and restrictions as are specified in the arrangement, all or any of the Director's
10 functions or powers under this Act, and where such an arrangement is made—

- (a) the Crown Solicitor or that Deputy Crown Solicitor, as the case may be, may perform those functions or exercise those powers accordingly; and
- 15 (b) sections 15 and 16 apply, for the purposes of the performance or exercise of those functions or powers by the Crown Solicitor or by that Deputy Crown Solicitor, as if—
 - (i) a reference in those sections to the Director were a reference to the Crown Solicitor, or to that Deputy Crown Solicitor, as the case may be; and
 - 20 (ii) a reference in those sections to a member of the staff of the Office were a reference to an officer of the Attorney-General's Department who is authorized in writing by the Crown Solicitor, or by that Deputy Crown Solicitor, as the case may be, to act on behalf of the Crown Solicitor, or of that Deputy
25 Crown Solicitor, in the performance or exercise of those functions or powers.

(2) The Director shall, as soon as practicable after an arrangement has been made under sub-section (1), cause an instrument in writing setting out the terms of the arrangement to be published in the *Gazette*, but failure of the
30 Director to do so does not affect the validity of the arrangement.

(3) Where the Crown Solicitor or a Deputy Crown Solicitor, in the performance or purported performance of a function of the Director, or in the exercise or purported exercise of a power of the Director, does an act in the name of the Director—

- 35 (a) the act shall, for the purposes of this Act, be deemed to have been done by the Director; and
- (b) the act shall not be challenged or called in question in any court on the ground that the function or power, as the case may be, was not the subject of an arrangement under sub-section (1) or was performed or
40 exercised otherwise than in accordance with such an arrangement.

Annual report

33. (1) The Director shall, as soon as practicable after 30 June in each year, prepare and furnish to the Attorney-General a report with respect to the operations of the Office during the year that ended on that date.

(2) The Attorney-General shall cause a copy of a report furnished to him under sub-section (1) to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him.

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Regulations

34. The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

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- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE

Sections 25 and 26

OATH

I, A. B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her in the office of

So help me God!

AFFIRMATION

I, A. B., do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her in the office of