

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Director of Public Prosecutions (Consequential Amendments) Bill  
1983

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator the Honourable Gareth Evans,  
Attorney-General)



## OUTLINE

The purpose of this Bill is to amend fourteen Acts of the Parliament in consequence of the enactment of the Director of Public Prosecutions Bill 1983.



NOTES ON CLAUSES

PART I - PRELIMINARY

Clause 1 - This states the title of the Bill.

Clause 2 - The date of operation is dealt with, in particular in regard to sub-sections 8(1) and 8(2) of the Bill, which relate to certain amendments to the Crimes Act 1914 made by the Statute Law (Miscellaneous Amendments) Act (No.2) 1982, which amendments have not yet come into operation.

PART II - AMENDMENTS OF AUSTRALIAN CAPITAL TERRITORY SUPREME COURT ACT 1933

Clause 3 - This clause is formal.

Clause 4 - This clause amends the Australian Capital Territory Supreme Court Act 1933 so as to remove any doubt as to the power of the Director of Public Prosecutions or a Special Prosecutor to prosecute for an indictable offence triable before the Supreme Court of the Australian Capital Territory, and to decline to prosecute where a person has been committed for trial in that Supreme Court.

PART III - AMENDMENT OF COMMONWEALTH PLACES (APPLICATION OF LAWS) ACT 1970

Clause 5 - This clause is formal.

Clause 6 - This clause adds specified provisions of the Director of Public Prosecutions Bill to the provisions listed in the Schedule to the Commonwealth Places (Application of Laws) Act 1970 which do not apply where arrangements have been made with a State in regard to the exercise or performance of certain powers and functions by an authority of a State under State provisions applied by the Act in, or in relation to, a Commonwealth place in that State.

PART IV - AMENDMENTS OF CRIMES ACT 1914

Clause 7 - This clause is formal.

Clause 8 - Clause 8(1) makes the necessary adjustments to section 20AA(6) of the Crimes Act 1914 to provide for the giving of notices in regard to applications for discharge or variation of the terms of a recognizance to the Director of Public Prosecutions or relevant Deputy Crown Solicitor. Clause 8(2) includes the Director of Public Prosecutions in the definition of authorized person in section 20AA(12) of the Crimes Act 1914, so that the Director is one of the persons able to apply for discharge or variation of the terms of a recognizance.

Clause 9 - This clause includes the Director of Public Prosecutions or person authorised by him among those who may sign a document to be filed in Court where a convicted person wishes to have other offences taken into account on sentencing.

PART V - AMENDMENT OF CRIMES (AIRCRAFT) ACT 1963

Clause 10 - This clause is formal.

Clause 11 - This clause amends section 24 of the Crimes (Aircraft) Act 1963, dealing with change of venue for trials on indictment of offences under that Act, by adding to each of the various references to the Attorney-General a reference to the Director of Public Prosecutions.

PART VI - AMENDMENT OF CRIMES (HIJACKING OF AIRCRAFT) ACT 1972

Clause 12 - This clause is formal.

Clause 13 - This clause amends section 22 of the Crimes (Hijacking of Aircraft) Act 1972 in the manner referred to under Clause 11, above.

PART VII - AMENDMENT OF CRIMES (PROTECTION OF AIRCRAFT) ACT 1973

Clause 14 - This clause is formal.

Clause 15 - This clause amends section 19 of the Crimes (Protection of Aircraft) Act 1973 in the manner referred to under Clause 11, above.

PART VIII - AMENDMENT OF DEFENCE (TRANSITIONAL PROVISIONS) ACT 1946

Clause 16 - This clause is formal.

Clause 17 - This clause amends section 15(4) of the Defence (Transitional Provisions) Act 1946 so as to provide that in addition to the Attorney-General or a person authorised by the Attorney-General, the Director of Public Prosecutions may consent to the prosecution of an offence under that Act, and such offence may be prosecuted on indictment in the name of the Attorney-General or the Director.

PART IX - AMENDMENT OF GENEVA CONVENTIONS ACT 1957

Clause 18 - This clause is formal.

Clause 19 - This clause amends section 7(6) of the Geneva Conventions Act 1957 to enable an offence against that section to be prosecuted by indictment in the name of the Attorney-General or the Director of Public Prosecutions.

PART X - AMENDMENTS OF JUDICIARY ACT 1903

Clause 20 - This clause is formal.

Clause 21 - This clause amends section 69 of the Judiciary Act 1903 to remove any doubt as to the power of the Director to prosecute by indictment in his official name and of a Special Prosecutor to do so in his own name.

Clause 22 - This clause amends section 71 of the Judiciary Act 1903 to remove any doubt as to the power of the Director of Public Prosecutions or a Special Prosecutor to decline to proceed with a prosecution when a person has been committed for trial.

PART XI - AMENDMENTS TO PUBLIC ACCOUNTS COMMITTEE ACT 1951

Clause 23 - This clause is formal.

Clause 24 - This clause enables consent to a summary prosecution under the Public Accounts Committee Act 1951 to be given by the Attorney-General or person authorized by him or by the Director of Public Prosecutions. The clause also provides that offences against that Act may only be prosecuted on indictment in the name of the Attorney-General or the name of the Director.

PART XII - AMENDMENTS TO PUBLIC ORDER (PROTECTION OF PERSONS AND PROPERTY) ACT 1971

Clause 25 - This clause is formal.

Clause 26 - This clause makes an amendment consequential upon that made by clause 27, below.

Clause 27 - This clause removes the reference to the Crown Solicitor or Deputy Crown Solicitor in sub-section 23(2) of the Public Order (Protection of Persons and Property) Act 1971 and substitutes the Director of Public Prosecutions as the person whose consent in writing is required for a prosecution under that Act.

PART XIII - AMENDMENTS OF ROYAL COMMISSIONS ACT 1902

Clause 28 - This clause is formal.

Clause 29 - This clause adds the Director of Public Prosecutions to the list of persons and authorities to whom a Royal Commissioner may communicate information under section 6P of the Royal Commissions Act 1902.

Clause 30 - This clause enables the Attorney-General or the Director of Public Prosecutions to institute proceedings for offences against the Royal Commissions Act 1902 other than indictable offences.

PART XIV - AMENDMENT OF SPECIAL PROSECUTORS ACT 1982

Clause 31 - This clause is formal.

Clause 32 - This clause expands the provision in sub-section 8(3) of the Special Prosecutors Act 1982, thus preserving certain powers of the Attorney-General, persons appointed by the Governor-General, the Director of Public Prosecutions and persons appointed by the Attorney-General, in relation to the prosecution of offences on indictment.

PART XV - AMENDMENT OF TELECOMMUNICATIONS (INTERCEPTION) ACT 1979

Clause 33 - This clause is formal.

Clause 34 - This clause adds a reference to the Director of Public Prosecutions to paragraph 7(7)(b) of the Telecommunications (Interception) Act 1979 so that offences against section 7 of that Act shall not be prosecuted summarily except in the name of the Attorney-General or that of the Director.