

1992

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

**Director of Public Prosecutions
(Amendment) Bill 1992**

**A BILL
FOR**

**An Act to amend the *Director of Public Prosecutions
Act 1990***

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 **1.** This Act may be cited as the *Director of Public Prosecutions
(Amendment) Act 1992*.

Principal Act

2. In this Act, "Principal Act" means the *Director of Public
Prosecutions Act 1990*.¹

Functions

- 10 **3.** Section 6 of the Principal Act is amended—

(a) by inserting after paragraph (1) (f) the following paragraph:

“(fa) where the Director is authorised—

(i) by a law of the Commonwealth;

(ii) under an instrument issued by or on behalf of the Commonwealth in pursuance of an agreement between the Territory and the Commonwealth; or

(iii) pursuant to an agreement with the Commonwealth Director;

to prosecute offences against the laws of the Commonwealth—instituting or conducting such a prosecution in accordance with the terms of the law, instrument or agreement;”;

(b) by omitting from paragraph (g) “(f)” and substituting “(fa)”;

(c) by inserting after paragraph (1) (g) the following paragraphs:

“(ga) attending a meeting of the Parole Board of the Australian Capital Territory;

(gb) representing or acting as agent for the Commonwealth Director;”;

(d) by adding at the end of subsection (1) the following paragraph:

“(k) doing anything incidental or conducive to the performance of another function.”; and

(e) by adding at the end the following subsection:

“(3) In paragraph (1) (fa)—

‘prosecution’ includes proceedings for the commitment of a person for trial in respect of an indictable offence.”.

Insertion

4. After section 16 of the Principal Act the following section is inserted:

Commonwealth prosecutions by staff of Office

“16A. (1) Where—

(a) by a law of the Commonwealth;

(b) under an instrument issued by or on behalf of the Commonwealth in pursuance of an agreement between the Territory and the Commonwealth; or

(c) pursuant to an agreement with the Commonwealth Director;
a member of the staff of the Office is authorised to prosecute offences
against the laws of the Commonwealth, the member, if he or she is a
barrister and solicitor within the meaning of the *Legal Practitioners Act*
5 1970, may institute or conduct such a prosecution in accordance with the
terms of the law, instrument or agreement.

“(2) In this section—

‘prosecution’ includes proceedings for the commitment of a person for
trial in respect of an indictable offence.”

10 **Appointment**

5. Section 22 of the Principal Act is amended by omitting subsection
(6).

Remuneration and allowances

15 6. Section 23 of the Principal Act is amended by omitting subsection
(4).

Leave of absence

7. Section 24 of the Principal Act is amended by omitting subsection
(2).

Substitution

20 8. Section 25 of the Principal Act is repealed and the following section
substituted:

Preclusion from other employment

“25. The Director shall not, without the consent of the Attorney-
General, engage in—

- 25 (a) practice as a legal practitioner; or
(b) paid employment;

otherwise than in the performance of the functions of the office of
Director.”

Termination of appointment

30 9. Section 28 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting the following
subsection:

“(1) The Attorney-General may terminate the appointment of
the Director for—

- (a) misbehaviour;
 - (b) physical or mental incapacity; or
 - (c) failure to comply with section 25.”;
- (b) by adding at the end of paragraph (2) (b) “or”;
- 5 (c) by omitting paragraphs (2) (c) and (d); and
- (d) by omitting subsection (3).

Acting Director

- 10 **10.** Section 29 of the Principal Act is amended—
- (a) by omitting subsection (3); and
 - (b) by omitting from subsection (4) “or (3)”.

Substitution

11. Section 30 of the Principal Act is repealed and the following section substituted:

Staff

- 15 “30. The staff of the Office shall be public servants.”.

NOTE

1. Reprinted as at 31 October 1991.