Director of Public Prosecutions Act 1983

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About this compilation

This compilation

This is a compilation of the *Director of Public Prosecutions Act 1983* that shows the text of the law as amended and in force on 23 May 2018 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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

1 Short title

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

2 Commencement

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

3 Interpretation

(1) In this Act, unless the contrary intention appears:

appeal includes:

(a) a proceeding of the same nature as an appeal; and

(b) a review or rehearing, or a proceeding of the same nature as a review or rehearing.

appoint includes re-appoint.

Associate Director means the Associate Director of Public Prosecutions.

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:

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(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.

CSC (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

Director means the Director of Public Prosecutions.

law of the Commonwealth includes a law of a Territory, but does not include:

(aa) the *Australian Capital Territory (Self-Government) Act 1988*;

(a) the *Northern Territory (Self-Government) Act 1978*;

(c) a law made under, or continued in force by, an Act referred to in paragraph (aa) or (a).

legal practitioner means a person:

(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.

Office means the Office of the Director of Public Prosecutions established by subsection 5(1).

Special Prosecutor means a person holding office as, or acting as, a Special Prosecutor under the *Special Prosecutors Act 1982*.

State includes the Australian Capital Territory and the Northern Territory.

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Territory does not include the Australian Capital Territory or 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.

(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.

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

(a) the Associate Director; or

(aa) a member of the staff mentioned in subsection 27(1); or

(ab) a person employed under subsection 27(3); or

(b) a person engaged under subsection 28(1); or

(c) a person referred to in section 29 whose services are made available to the Director.

4 Extension to external Territories

This Act extends to all the external Territories.

5 Office of the Director of Public Prosecutions

(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 and an Associate Director of Public Prosecutions.

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

(4) The Director shall control the Office.

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(5) For the purposes of the finance law (within the meaning of the *Public Governance, Performance and Accountability Act 2013*):
  (a) the Office is a listed entity; and
  (b) the Director is the accountable authority of the Office; and
  (c) the persons referred to in subsection (3) are officials of the Office (other than persons engaged under subsection 28(1)); and
  (d) the purposes of the Office include the functions of the Director referred to in section 6.

6 Functions of Director

(1) The functions of the Director are:
  (a) to institute prosecutions on indictment for indictable offences against the laws of the Commonwealth; and
  (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; and
  (baa) if the Attorney-General requests the Director in writing to carry on a prosecution of the kind referred to in paragraph (a) that was instituted by the Attorney-General—to carry on that prosecution; and
  (ba) where a person holding office as a Special Prosecutor under the *Special Prosecutors Act 1982* dies, or ceases for any reason so to hold office and is not forthwith re-appointed—to carry on prosecutions of the kind referred to in paragraph (a), being prosecutions that:
    (i) were instituted; or
    (ii) were, at the time when the person died or ceased so to hold office, being carried on;

  by the person, or by a person acting as a Special Prosecutor under that Act in the place of the first-mentioned person; and
  (c) to institute proceedings for the commitment of persons for trial in respect of indictable offences against the laws of the Commonwealth; and

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(d) to institute proceedings for the summary conviction of persons in respect of offences against the laws of the Commonwealth; and

(e) to carry on proceedings of a kind referred to in paragraph (c) or (d) (whether or not instituted by the Director); and

(f) to assist a coroner in inquests and inquiries conducted under the laws of the Commonwealth; and

(fa) in respect of relevant matters:

(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;

for, or in connection with, recovery, or ensuring the payment, of amounts of tax; and

(g) in respect of matters in relation to which an instrument under subsection (3) is in force:

(i) to institute proceedings;

(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; and

(h) in respect of relevant matters that are matters in relation to which an instrument under subsection (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; and

(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 subsection (4) is in force; and

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(ja) to appear in an inquiry by a magistrate held under section 37, or in a proceeding before a magistrate under section 38 or 39, of the *Crimes (Aviation) Act 1991*; and

(k) to appear in proceedings under the *Extradition Act 1988*, the *International War Crimes Tribunals Act 1995*, the *International Criminal Court Act 2002* or the *Mutual Assistance in Criminal Matters Act 1987*; and

(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

(ma) if the Director is authorised by or under a law of a State to institute and carry on appeals arising out of prosecutions of offences against the laws of the State, being prosecutions by the Director as mentioned in paragraph (m) or by members of the staff of the Office as mentioned in subsection 17(1)—to institute and carry on such appeals in accordance with requirements of or under that law; and

(mb) for the purpose of enforcing orders under Chapter 2 of the *Proceeds of Crime Act 2002*:

(i) to institute proceedings; or

(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;

(n) to do anything incidental or conducive to the performance of any of the functions referred to in paragraphs (a) to (mb) and in subsection (2).

(2) In addition to his or her functions under subsection (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.

(2A) The Director may, with the consent of the person concerned, institute a prosecution of a person on indictment for an indictable

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offence against the laws of the Commonwealth in respect of which the person has not been examined or 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:

(a) an offence for which the person was examined but not committed for trial; or

(b) any other offence founded on facts or evidence disclosed in the course of committal proceedings;

without:

(c) where paragraph (a) applies—the person having been committed for trial in respect of the offence; or

(d) where paragraph (b) applies—the person having been examined or committed for trial in respect of the offence.

(2C) Where:

(a) a person has been committed for trial otherwise than in respect of an offence against the laws of the Commonwealth; and

(b) the Director is satisfied:

(i) that the facts or evidence on the basis of which the person was committed for trial disclose the commission of an indictable offence or indictable offences against the laws of the Commonwealth; and

(ii) that, had the person's committal for trial for the indictable offence or indictable offences been sought on the basis of those facts or that evidence, the person could have been committed for trial for the indictable offence or indictable offences;

the Director may institute a prosecution on indictment of the person for the indictable offence or indictable offences or any of the indictable offences without the person having been examined or committed for trial.

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(2D) Subject to subsection (2E), in any other case where the Director considers it appropriate to do so, the Director may 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 examined or committed for trial.

(2E) Notwithstanding anything contained in subsection (2D), the Director may not institute a prosecution of a person on indictment for an offence against the *War Crimes Act 1945* unless the person has first been examined or committed for trial.

(2F) If a person is committed for trial before a court (the ***initial court***) for one or more indictable offences against the laws of the Commonwealth, the Director may institute in another court (the ***later court***) a prosecution of the person on indictment for any or all of the offences.

(2G) Subsection (2F) applies even if the Director has instituted a prosecution (the ***initial prosecution***) before the initial court for any or all of the offences. However, the Director must discontinue the initial prosecution in respect of each offence covered by the prosecution in the later court.

(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.

(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

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not prevent the giving of a consent by a person who, but for this subsection, 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 subsection (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.

(7) The taking by the Director of a civil remedy, or any other act or thing done by the Director in relation to the taking of a civil remedy, shall not be challenged or called in question in any court on any of the following grounds:

(a) that the taking of the civil remedy did not or does not relate to a relevant matter;

(b) that the civil remedy was not or is not being taken for, or in connection with, recovery, or securing the payment, of an amount of tax;

(c) that the taking of the civil remedy did not or does not relate to a matter in relation to which an instrument under subsection (3) was or is in force.

(8) In this section:

amount of means an amount payable under, or by virtue of, a law of the Commonwealth that imposes, or deals with the imposition, assessment or collection of:

(a) a tax (however described); or

(b) without limiting the generality of paragraph (a), a duty, charge or levy.

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relevant matter means a matter connected with, or arising out of:

(a) a prosecution that has been instituted or taken over, or is being carried on, by the Director;

(b) a prosecution that has been instituted by a person other than the Director and that the Director is considering taking over or carrying on, or proposes to take over or carry on;

(c) an alleged or suspected offence in respect of which the Director proposes to institute a prosecution;

(d) in a case where a person other than the Director proposes to institute a prosecution in respect of an alleged or suspected offence and the Director proposes to take over or carry on the prosecution—that alleged or suspected offence;

(e) in a case where:

(i) a course of activity is alleged or suspected to have involved the commission of an offence, whether or not the nature of the offence has been identified; and

(ii) the Director is considering that course of activity for the purpose of deciding whether to institute a prosecution;

that course of activity; or

(f) in a case where:

(i) a course of activity is alleged or suspected to have involved the commission of an offence, whether or not the nature of the offence has been identified;

(ii) a person other than the Director is considering that course of activity for the purpose of deciding whether to institute a prosecution; and

(iii) the Director proposes, if the person institutes a prosecution as a result of that consideration, to take over or carry on the prosecution;

that course of activity.

(9) Where, at the time when the Director first commences to take civil remedies in respect of a particular matter, or first commences to co-ordinate or supervise the taking of civil remedies in respect of a particular matter, the matter is a relevant matter, the matter shall be deemed, for the purposes of this section, to continue to be a

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relevant matter while the Director continues to take civil remedies in respect of the matter, or to co-ordinate or supervise the taking of civil remedies in respect of the matter, as the case may be.

7 Consultation

(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.

(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.

8 Directions and guidelines by Attorney-General

(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 subsection (1), directions or guidelines under that subsection may:
   (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 subsection 9(6); and
   (c) be given or furnished in relation to particular cases.

(3) Where the Attorney-General gives a direction or furnishes a guideline under subsection (1), he or she 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

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(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 subsection (5), the relevant time for the purposes of subsection (3), in relation to an instrument under subsection (1), is the time when the instrument is made.

(5) Where:

(a) an instrument under subsection (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 subsection (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

(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;

as the case may be.

9 Powers of Director

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

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

(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 or her 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).

(3A) Where a person holding office as a Special Prosecutor under the *Special Prosecutors Act 1982* dies, or ceases for any reason so to hold office and is not forthwith re-appointed, the Director may, for the purposes of the performance of the Director's functions, take over a prosecution on indictment for an offence against a law of the Commonwealth, being a prosecution that:

(a) was instituted; or

(b) was, at the time when the person died or ceased so to hold office, being carried on;

by the person, or by a person acting as a Special Prosecutor under that Act in the place of the first-mentioned person.

(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

(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.

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

(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 or she may decline to carry it on further.

(5A) Where the Director is carrying on a proceeding instituted by another person, being a proceeding of the kind mentioned in paragraph (5)(a) or (b), the Director may decline to carry it on further even if the Director has not taken it over under subsection (5).

(6) The Director may, if he or she 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;

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

(ba) any information, document or other thing that is obtained as a direct or indirect consequence of an answer that is given, a statement or disclosure that is made, or a document or other thing that is disclosed or produced, in specified proceedings;

will not be used in evidence against the person, and where the Director gives such an undertaking:

(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;

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

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(e) any information, document or other thing that is obtained as mentioned in paragraph (ba);

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.

(6A) In subsection (6):

specified proceedings means:

(a) proceedings for an offence against, or for the imposition of or the recovery of a pecuniary penalty under, a law of the Commonwealth;

(aa) proceedings (including inquiries) under the *Crimes (Aviation) Act 1991*;

(b) proceedings in Australia under the *Extradition Act 1988*, the *International War Crimes Tribunals Act 1995* or the *Mutual Assistance in Criminal Matters Act 1987*;

(c) proceedings by way of a coronial inquest or inquiry conducted under the laws of the Commonwealth; or

(d) proceedings under, connected with or arising out of the *Proceeds of Crime Act 2002*, the *Proceeds of Crime Act 1987*, Division 3 of Part XIII of the *Customs Act 1901* or the forfeiture of goods under the *Customs Act 1901*.

(6B) The Director may, if the Director 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 State or Territory proceedings;

(b) the fact that the person discloses or produces a document or other thing in State or Territory proceedings; or

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(c) any information, document or other thing that is obtained as a direct or indirect consequence of an answer that is given, a statement or disclosure that is made, or a document or other thing that is disclosed or produced in State or Territory proceedings;

will not be used in evidence against the person in any civil or criminal proceedings under a law of the Commonwealth, and where the Director gives such an undertaking:

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

(e) the fact that the person discloses or produces a document or other thing in the State or Territory proceedings; or

(f) any information, document or other thing that is obtained as mentioned in paragraph (c);

as the case may be, is not admissible in evidence against the person in any civil or criminal proceedings under a law of the Commonwealth 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.

(6C) In subsection (6B):

State or Territory proceedings means:

(a) proceedings in a State or Territory:

(i) for an offence against, or for the recovery of a pecuniary penalty under, a law of that State or Territory; or

(ii) in respect of a forfeiture order under a law of that State or Territory; or

(b) proceedings in a State or Territory by way of a coronial inquest or inquiry under a law of that State or Territory; or

(c) proceedings in a State or Territory before a prescribed authority or a prescribed body established under a law of that State or Territory.

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(6D) The Director may, if the Director considers it appropriate to do so, give to a person an undertaking that the person will not be prosecuted (whether on indictment or summarily):

(a) for a specified offence against a law of the Commonwealth; or

(b) in respect of specified acts or omissions that constitute, or may constitute, an offence against a law of the Commonwealth.

(6E) Where the Director gives to a person an undertaking under subsection (6D), no criminal proceedings shall be instituted in a federal court or in a court of a State or Territory against the person in respect of such an offence or in respect of such acts or omissions.

(6F) An undertaking under subsection (6D) may be subject to such conditions (if any) as the Director considers appropriate.

(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 or her otherwise than under this subsection, such rights of appeal (if any) as are exercisable by the Attorney-General in respect of that prosecution.

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

(8A) If:

(a) proceedings for the summary conviction of a person in respect of an offence against a law of the Commonwealth were instituted by a person (the ***relevant person***) other than the Director; and

(b) the Director subsequently carried on the proceedings;

then:

(c) in addition to any other rights of appeal the Director has, the Director may exercise, in respect of the proceedings, such

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rights of appeal as (disregarding the effect of paragraph (d)) are exercisable by the relevant person; and

(d) except where the Attorney-General is the relevant person—the relevant person cannot exercise those rights of appeal.

(8B) If:

(a) proceedings for the summary conviction of a person in respect of an offence against a law of the Commonwealth were instituted by a person (the ***relevant person***) other than the Director; and

(b) the proceedings were not carried on by the Director;

then:

(c) if the relevant person institutes an appeal in respect of the proceedings, the Director may carry on that appeal on behalf of the relevant person; and

(d) if the defendant in the proceedings institutes an appeal in respect of the proceedings, the Director may act on behalf of the respondent in the appeal.

(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.

(10) For the purposes of the performance of a function referred to in paragraph 6(1)(fa) or (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.

(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

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(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 subsection 15(1), may act as counsel or solicitor for that authority.

10 Powers and functions of Director do not affect those of certain other persons

(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 or her own name indictable offences against the laws of the Commonwealth;

(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 or her own name an indictable offence triable before the Supreme Court of the Australian Capital Territory;

(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 subsection 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

(f) the power of a Special Prosecutor under subsection 8(2) of the *Special Prosecutors Act 1982*.

(2) Nothing in this Act (other than subsection 9(5)) affects the right of a person to institute or carry on proceedings for:

(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.

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(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.

11 Directions and guidelines by Director

(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 Australian Government Solicitor; or
  (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;

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

(2) Without limiting the generality of subsection (1), directions or guidelines under that subsection may be given or furnished in relation to particular cases and may specify:
  (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.

(3) The Director shall:
  (a) give to the Attorney-General a copy of each direction given or guideline furnished under subsection (1); and

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(b) include in an annual report given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013* for a period:

(i) a copy of each direction given or guideline furnished under subsection (1) of this section during the period; and

(ii) a copy of each direction given or guideline furnished under subsection (1) of this section as in force at the end of the period.

12 Provision of information to Director

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:

(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

(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;

(f) each material document in the possession of the person; and

(g) such other information or material as the Director requires.

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13 Director may request assistance of Commissioner of Police

Where the Director:

(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 the Commissioner, a Deputy Commissioner of the Australian Federal Police or AFP employees (within the meaning of the *Australian Federal Police Act 1979*) in the investigation of that matter, and where the Director so requests, the Commissioner shall, so far as practicable, comply with the request.

14 Director to inform court when taking over or carrying on proceedings

(1) Where:

(a) pursuant to subsection 9(3), (3A) or (5), the Director takes over a prosecution or proceeding; or

(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;

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.

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

15 Appearances by and on behalf of Director

(1) In:

(a) proceedings:

(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

(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;

(da) by a member of the staff of a State or Territory authority who is a legal practitioner;

(e) by counsel or solicitor; or

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(f) by the Australian Government Solicitor.

(3) In this section:

State or Territory authority means the agency of a State or Territory Government that is responsible for commencing and carrying on prosecutions on indictment for breaches of State or Territory law.

15A Appearances on behalf of Director in summary or committal proceedings

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.

16 Right of Director and staff to practise in their official capacity

The Director, or a member of the staff of the Office who is a legal practitioner, is, in his or her 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 or she would, but for this section, be entitled to practise in that court.

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16A Prohibition of publication of evidence etc. in certain proceedings

(1) Where the Director takes civil remedies, or co-ordinates or supervises the taking of civil remedies, in respect of a matter, a court may, at any time during or after the taking of civil remedies in respect of the matter, make, in relation to a proceeding in the court that relates to the taking of civil remedies 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.

(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.

(1B) If the Director applies to the Supreme Court of a State or Territory:

(a) under subsection 43(1) of the *Proceeds of Crime Act 1987* for a restraining order under that Act; or

(b) under subsection 57(3) of that Act for an extension of such a restraining order;

the Court may, at any time after the making of the application and before the application is determined, make an order prohibiting or restricting the publication of all or any of the matters referred to in subsection 44(3), (5), (6), (7) or (7A) of that Act that were contained in an affidavit made in support of the application if it appears to the Court to be necessary to make the order in order to prevent prejudice to the administration of justice.

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Note: If the Director (or the Commissioner for the Australian Federal Police) applies for a restraining order under the *Proceeds of Crime Act 2002*, a court may make an order corresponding to the order mentioned in this subsection under section 28A of that Act.

(2) The power conferred by subsection (1), (1A) or (1B) is in addition to, and shall not be taken to derogate from, any other power of a court.

(3) In this section, ***proceeding*** means:

(a) a proceeding in a court;

(b) an incidental proceeding in the course of, or in connection with, a proceeding; or

(c) an appeal;

but does not include a criminal proceeding.

17 States may give members of staff of Office prosecution and appeal functions relating to State offences

(1) 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.

(2) If a member of the staff of the Office is authorised by or under a law of a State to institute and carry on appeals arising out of prosecutions of offences against the laws of the State, being prosecutions by the Director as mentioned in paragraph 6(1)(m) or by members of the staff of the Office as mentioned in subsection (1) of this section, the first-mentioned staff member may institute and carry on such appeals in accordance with requirements of or under that law.

18 Appointment, and terms and conditions of appointment, of Director

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

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(2) A person shall not be appointed as the Director unless he or she 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 or her appointment, but is eligible for re-appointment.

(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.

18A Appointment etc. of Associate Director

(1) The Associate Director must be appointed by the Governor-General.

(2) The Associate Director holds office for the period, not longer than 7 years, specified in the instrument of appointment, but is eligible for re-appointment.

(3) A person must not be appointed as the Associate Director unless he or she is a legal practitioner and has been a legal practitioner for at least 5 years.

(5) The Associate 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.

18B Exercise of powers and functions by Associate Director

(1) Subject to any directions of the Director, the Associate Director has all the powers and functions of the Director, except the Director's powers of delegation under section 31.

(2) A power or function that is exercised or performed by the Associate Director is taken, for the purposes of this Act, to have been exercised or performed by the Director.

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(3) Where, under this Act, the exercise of a power or performance of a function by the Director depends on the opinion, belief or state of mind of the Director in relation to a matter, the power or function may be exercised or performed by the Associate Director depending on the opinion, belief or state of mind of the Associate Director in relation to that matter.

19 Remuneration and allowances

(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 or she shall be paid such remuneration as is prescribed.

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

(2A) The Associate Director is to be paid such remuneration as is determined by the Remuneration Tribunal, but if no determination of that remuneration by the Tribunal is in operation, the Associate Director is to be paid such remuneration as is prescribed.

(2B) The Associate Director is to be paid allowances that are the same as the Director's allowances.

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

20 Leave of absence

(1) The Director and Associate Director have such recreation leave entitlements as are determined by the Remuneration Tribunal.

(2) The Attorney-General may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Attorney-General determines.

(3) The Director may grant the Associate Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Director determines.

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21 Resignation

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

22 Director or Associate Director not to undertake other work

The Director or the Associate Director must not:

(a) engage in practice as a legal practitioner outside the duties of his or her office; or

(b) without the consent of the Attorney-General, engage in paid employment outside the duties of his or her office.

23 Termination of appointment

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

(2) If the Director or Associate Director:

(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;

(b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any 12 months;

(c) engages in practice as a legal practitioner outside the duties of his or her office;

(d) without the consent of the Attorney-General, engages in paid employment outside the duties of his or her office; or

(e) fails, without reasonable excuse, to comply with his or her obligations under:

(i) section 24; or

(ii) section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to

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disclose interests) or rules made for the purposes of that section;

the Governor-General shall terminate the appointment of the Director or Associate Director, as the case may be.

(3) In spite of anything contained in this section, if the Director or Associate Director:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age (within the meaning of that Act);

he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless CSC has given a certificate under section 54C of that Act.

(4) In spite of anything contained in this section, if the Director or Associate Director:

(a) is a member of the superannuation scheme established by deed under the *Superannuation Act 1990*; and

(b) is under 60 years of age;

he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given a certificate under section 13 of that Act.

(5) In spite of anything contained in this section, if the Director or Associate Director:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless CSC has given an approval and certificate under section 43 of that Act.

24 Disclosure of interests

(1) The Director shall give written notice to the Attorney-General of all direct or indirect pecuniary interests that he or she has or

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acquires in any business whether in Australia or elsewhere or in any body corporate carrying on any such business.

(2) The Associate Director must give written notice to the Attorney-General of all direct and indirect pecuniary interests that the Associate Director has or acquires in any business, whether in Australia or anywhere else, or in any body corporate carrying on any such business.

(3) This section applies in addition to section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests).

25 Oath or affirmation of office

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

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

26 Acting appointments—Director

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

(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.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

(1A) The Associate Director is to act in the office of Director:

(a) during a vacancy in that office; and

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(b) during all periods when the Director is absent from duty or from Australia or is, for any reason, unable to perform the functions of the office;

except when a person appointed under subsection (1) is acting in that position.

Note: For rules that apply to persons acting as the Director, see section 33A of the *Acts Interpretation Act 1901*.

(3) The Attorney-General may:

(a) determine the terms and conditions, including remuneration and allowances, if any, on which a person is to act under this section; and

(b) terminate an appointment under this section at any time.

(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.

26A Acting appointments—Associate Director

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

(a) during a vacancy in that office, whether or not an appointment has previously been made to it; or

(b) during any period, or during all periods, when the Associate Director is absent from duty or from Australia or is, for any reason, unable to perform the functions of the office.

Note: For rules that apply to acting appointments, see section 33A of the *Acts Interpretation Act 1901*.

(2) Sections 20, 24 and 25 apply to a person appointed under this section to act in the office of Associate Director in the same way as they apply to the Associate Director.

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27 Staff

(1) The staff of the Office shall be persons engaged under the *Public Service Act 1999*.

(2) For the purposes of the *Public Service Act 1999*:
  (a) the Director and the APS employees assisting the Director together constitute a Statutory Agency; and
  (b) the Director is the Head of that Statutory Agency.

(3) In addition to the staff referred to in subsection (1), the Director may, on behalf of the Commonwealth, employ, under agreements in writing, such persons as the Director thinks necessary for the purposes of the performance of the functions of the Director.

(4) The terms and conditions of employment of persons employed by the Director under subsection (3) are such as are from time to time determined by the Director.

28 Engagement of consultants etc.

(1) The Director may, on behalf of the Commonwealth, engage, under agreements in writing, persons having suitable qualifications and experience as consultants to, or to perform services for, the Director.

(2) The terms and conditions of engagement of a person engaged by the Director under subsection (1) are such as are from time to time determined by the Director.

29 Staff on secondment to Director

In addition to members of the staff referred to in subsection 27(1) and persons engaged under subsection 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.

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30 Administrative arrangements

(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.

(2) An arrangement under subsection (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.

31 Delegation by Director

(1) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to a member of the staff of the Office (other than the Associate Director) all or any of his or her functions or powers under this Act, other than those under subsections 6(2D), 9(2) and 9(6D) and this power of delegation.

(1AA) If a function is delegated under subsection (1) to a person referred to in paragraph 29(b), the person need not accept the function delegated.

(1A) The Director may, by writing signed by him or her, delegate to a person who:

(a) is a member of the staff of the Office; and

(b) is an SES employee; and

(c) is a legal practitioner;

the power conferred on the Director by one or more instruments made under subsection 6(4).

(1B) The Director may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him or her, delegate to:

(a) a person performing a similar role under a law of a State or Territory; or

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(b) a member of the staff of a State or Territory authority (within the meaning of subsection 15(3)) who is a legal practitioner; or

(c) a person authorised by, or under, a law of a State or Territory to institute or conduct prosecutions for offences against the laws of the State or Territory; or

(d) a person included in a class of persons prescribed by the regulations for the purposes of this paragraph;

all or any of the Director's functions and powers under the following provisions:

(e) paragraphs 6(1)(a), (b), (c), (d) and (e);

(f) paragraph 6(1)(n) (so far as it relates to the functions covered by paragraph (e) of this subsection);

(g) subsections 6(2A), (2B) and (2C);

(h) subsections 9(7), (8A) and (8B);

(i) other provisions of this Act prescribed by the regulations for the purposes of this paragraph.

(1C) If a function is delegated under subsection (1B) to a person, the person need not accept the function delegated.

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

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

32 Arrangements with the Australian Government Solicitor

(1) The Director may arrange with the Australian Government Solicitor (the ***AGS***) for the AGS to perform or exercise, in a State or Territory, all or any of the Director's functions or powers under this Act:

(a) in the name of the Director; and

(b) subject to such conditions and restrictions as are specified in the arrangement.

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If such an arrangement is made, the AGS may perform or exercise those functions or powers accordingly.

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

(3) Where the AGS, 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:

(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 subsection (1) or was performed or exercised otherwise than in accordance with such an arrangement.

32A Immunity from civil proceedings

(1) No civil action, suit or proceeding lies against the following persons:

(a) the Director;

(b) a member of the staff of the Office;

(c) a person to whom functions or powers are delegated under section 31;

in relation to an act done, or omitted to be done, in good faith by the person in the performance or exercise, or the purported performance or exercise, of any function, duty or power under, or in relation to, this Act.

(2) No civil action, suit or proceeding lies against a person employed under subsection 27(3) in relation to an act done, or omitted to be done, in good faith by the person for the purposes of the performance of the functions of the Director.

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Note: Subsection (1) applies to the extent that the Director's functions or powers are delegated to a person employed under subsection 27(3).

(3) No civil action, suit or proceeding lies against a person referred to in section 29 whose services are made available to the Director in relation to an act done, or omitted to be done, in good faith by the person for the purpose of assisting the Director.

Note: Subsection (1) applies to the extent that the Director's functions or powers are delegated to a person referred to in section 29 whose services are made available to the Director.

(4) No civil action, suit or proceeding lies against the AGS in relation to an act done, or omitted to be done, in good faith by the AGS in performing a function or exercising a power under an arrangement made under subsection 32(1).

(5) No civil action, suit or proceeding lies against:

(a) the Australian Government Solicitor (the ***AGS***); or

(b) another AGS lawyer (within the meaning of section 55I of the *Judiciary Act 1903*);

in relation to an act done, or omitted to be done, in good faith by the person in assisting the AGS to perform a function or exercise a power under an arrangement made under subsection 32(1) of this Act.

33A Service of process on the Director

If a process is addressed to the Director and personal service would be effective, then service within the State or Territory in which the process was issued or filed, on the following persons, in person, is also effective:

(a) a member of the staff of the Office who is a legal practitioner;

(b) if an arrangement has been made under section 32 with respect to that State or Territory—an AGS lawyer (within the meaning of section 55I of the *Judiciary Act 1903*) authorised in writing by the Australian Government Solicitor.

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34 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters:

(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.

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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

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation "(md)" added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation "(md not incorp)" is added to the details of the amendment included in the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Director of Public Prosecutions Act 1983	113, 1983	14 Dec 1983	5 Mar 1984 (*see Gazette* 1984, No. S55)	
Australian Government Solicitor (Consequential Amendments) Act 1984	10, 1984	10 Apr 1984	1 July 1984 (*see* s. 2(1) and *Gazette* 1984, No. S231)	ss. 2(2) and 4(1)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s. 3: 22 Nov 1984 *(a)*	s. 6(1)
Director of Public Prosecutions Amendment Act 1985	64, 1985	5 June 1985	1 July 1985 (*see Gazette* 1985, No. S254)	s. 3(2) and (3)
Public Service and Statutory Authorities Amendment Act 1985	166, 1985	11 Dec 1985	s. 45: 8 Jan 1986 *(b)*	s. 45(2)
Director of Public Prosecutions Amendment Act 1986	88, 1986	25 June 1986	18 July 1986 (*see Gazette* 1986, No. S342)	—
Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987	86, 1987	5 June 1987	s. 3: 1 Aug 1988 (*see Gazette* 1988, No. S225) *(c)*	—
as amended by				
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s. 3: Royal Assent *(d)*	s. 5(1)
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s. 3: Royal Assent *(e)*	s. 5(1)

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Extradition (Repeal and Consequential Provisions) Act 1988	5, 1988	9 Mar 1988	1 Dec 1988 (*see* s. 2(1) and *Gazette* 1988, No. S366)	s. 7(2)
as amended by				
Law and Justice Legislation Amendment Act 1988	120, 1988	14 Dec 1988	Part X (ss. 32, 33): *(f)*	—
Law and Justice Legislation Amendment Act 1988	120, 1988	14 Dec 1988	Part IX (ss. 30, 31): 11 Jan 1989 *(g)*	—
Crimes Legislation Amendment Act 1989	108, 1989	30 June 1989	s. 10: 30 June 1990 Parts 5, 6 and 7 (ss. 17–35): 28 July 1989 Part 8 (ss. 36–43): 1 July 1989 Remainder: Royal Assent	—
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	s. 43: 1 Apr 1991 *(h)* ss. 40–42 and 44–56: Royal Assent *(h)*	—
Industrial Relations Legislation Amendment Act 1991	122, 1991	27 June 1991	ss. 4(1), 10(b) and 15–20: 1 Dec 1988 ss. 28(b)–(e), 30 and 31: 10 Dec 1991 (*see Gazette* 1991, No. S332) Remainder: Royal Assent	s. 31(2)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 1992	94, 1992	30 June 1992	s. 3: 1 July 1990 Remainder: Royal Assent	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Crimes Legislation Amendment Act 1992	164, 1992	11 Dec 1992	Part 1 (ss. 1, 2) and Parts 3–11 (ss. 18–53): 8 Jan 1993 Remainder: 1 Feb 1993 (*see Gazette* 1993, No. GN1)	—
Qantas Sale Act 1992	196, 1992	21 Dec 1992	Schedule (Part 1): 10 Mar 1993 (*see Gazette* 1993, No. GN17) *(i)* Schedule (Part 5): 30 Aug 1995 (*see Gazette* 1995, No. S324) *(i)*	s 30 s 2(6) (am. by 60, 1993, s 4; 168, 1994, s 3)
as amended by				
Qantas Sale Amendment Act 1993	60, 1993	3 Nov 1993	10 Mar 1993	—
Qantas Sale Amendment Act 1994	168, 1994	16 Dec 1994	s. 3 (item 17): Royal Assent *(j)*	—
Crimes and Other Legislation Amendment Act 1994	182, 1994	19 Dec 1994	s. 31: 16 Jan 1995 *(k)*	—
International War Crimes Tribunals (Consequential Amendments) Act 1995	19, 1995	29 Mar 1995	s. 3: 28 Aug 1995 (*see Gazette* 1995, No. S323) Remainder: Royal Assent	—
Statute Law Revision Act 1996	43, 1996	25 Oct 1996	Sch 4 (item 69): and Sch 5 (items 51–53): 25 Oct 1996 (s 2(1))	—
Judiciary Amendment Act 1999	7, 1999	31 Mar 1999	Schedules 1–3: 1 Sept 1999 (*see Gazette* 1999, No. S395) Remainder: Royal Assent	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 390–393): 5 Dec 1999 (s 2(1), (2))	—
Australian Federal Police Legislation Amendment Act 2000	9, 2000	7 Mar 2000	2 July 2000 (*see Gazette* 2000, No. S328)	Sch 3 (items 20, 34, 35)
Jurisdiction of Courts Legislation Amendment Act 2000	57, 2000	30 May 2000	Sch 5: 30 May 2000 (s 2(1))	Sch 5 (item 7)
Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97)
International Criminal Court (Consequential Amendments) Act 2002	42, 2002	27 June 2002	Schedules 1–7: 26 Sept 2002 (*see* s. 2(1) (item 2) and *Gazette* 2002, No. GN38) Remainder: 28 June 2002	—
Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002	86, 2002	11 Oct 2002	ss. 1–3: Royal Assent Remainder: 1 Jan 2003 (*see* s. 2(1) and *Gazette* 2002 No. GN44)	—
Law and Justice Legislation Amendment Act 2004	62, 2004	26 May 2004	Schedule 1 (items 14–16): 27 May 2004	—

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008	26, 2008	23 June 2008	Schedule 1 (items 58–60): Royal Assent	—
Federal Court of Australia Amendment (Criminal Jurisdiction) Act 2009	106, 2009	6 Nov 2009	Schedule 1 (item 1): 4 Dec 2009	—
Law and Justice Legislation Amendment (Identity Crimes and Other Measures) Act 2011	3, 2011	2 Mar 2011	Schedule 3: 3 Mar 2011	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (items 536–542) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)
Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011	58, 2011	28 June 2011	Sch 1 (items 81, 82): 1 July 2011 (s 2(1) item 2)	—
Crimes Legislation Amendment (Powers and Offences) Act 2012	24, 2012	4 Apr 2012	Schedule 6 (items 1–3, 11(1)): 5 Apr 2012	Sch. 6 (item 11(1))
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (item 39), Sch 8 (items 121–126) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (item 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—
Judiciary Amendment Act 2015	64, 2015	16 June 2015	Sch 2 (items 1–6) and Sch 3: 1 July 2015 (s 2(1) item 2)	Sch 3
Statute Update (A.C.T. Self-Government (Consequential Provisions) Regulations) Act 2017	13, 2017	22 Feb 2017	Sch 1 (items 14–17): 22 Mar 2017 (s 2(1) item 2)	—
Investigation and Prosecution Measures Act 2018	37, 2018	22 May 2018	Sch 2: 23 May 2018 (s 2(1) item 3)	Sch 2 (items 3, 4)

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Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
1999 No. 301	4 Dec 1999	5 Dec 1999 (r 1.2)	—
as amended by			
2000 No. 332	8 Dec 2000	Sch 1 (item 2): 5 Dec 1999 (r 2(a))	—

(a) The *Director of Public Prosecutions Act 1983* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1984*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.

(b) The *Director of Public Prosecutions Act 1983* was amended by section 45 only of the *Public Service and Statutory Authorities Amendment Act 1985*, subsection 2(7) of which provides as follows:

(7) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.

(c) The *Director of Public Prosecutions Act 1983* was amended by section 3 only of the *Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987*, subsection 2(2) of which provides as follows:

(2) The amendments made by this Act shall come into operation on a day to be fixed by Proclamation.

(d) The *Mutual Assistance in Criminal Matters (Consequential Amendments) Act 1987* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(e) The *Director of Public Prosecutions Act 1983* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act 1987*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(f) The *Extradition (Repeal and Consequential Provisions) Act 1988* was amended by Part X (sections 32 and 33) only of the *Law and Justice*

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Legislation Amendment Act 1988, subsection 2(5) of which provides as follows:

(5) If this Act receives the Royal Assent after the commencement of the *Extradition Act 1988*, Part X of this Act shall be taken to have commenced immediately before that commencement.

The *Extradition Act 1988* came into operation on 1 December 1988 (*see Gazette* 1988, No. S366).

(g) The *Director of Public Prosecutions Act 1983* was amended by Part IX (sections 30 and 31) only of the *Law and Justice Legislation Amendment Act 1988*, subsection 2(3) of which provides as follows:

(3) Parts VIII, IX and XVI (except the provisions referred to in subsection (9)) commence on the twenty-eighth day after the day on which this Act receives the Royal Assent.

(h) The *Director of Public Prosecutions Act 1983* was amended by sections 40–56 only of the *Crimes Legislation Amendment Act 1991*, subsections 2(1) and (3) of which provide as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(3) Sections 26, 29 and 43 commence 28 days after the day on which this Act receives the Royal Assent.

(i) The *Director of Public Prosecutions Act 1983* was amended by the Schedule (Parts 1 and 5) of the *Qantas Sale Act 1992*, subsections 2(2) and (3)(a) and (c) of which provide as follows:

(2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.

(3) A Proclamation may fix a day that is earlier than the day on which the Proclamation is published in the *Gazette* but only if:

(a) in the case of sections 30, 31, 35, 37, 39, 43 and 50 and Parts 1 and 2 of the Schedule—the day is not earlier than the substantial minority sale day; and

(c) in the case of sections 25, 36, 38, 44 and 51 and Parts 5, 6 and 7 of the Schedule—the day is not earlier than the 100% sale day.

(j) The *Qantas Sale Act 1992* was amended by section 3 (item 17) only of the *Qantas Sale Amendment Act 1994*, subsection 2(1) of which provides as follows:

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

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(k) The *Director of Public Prosecutions Act 1983* was amended by section 31 only of the *Crimes and Other Legislation Amendment Act 1994*, subsection 2(4) of which provides as follows:

(4) The amendments made by this Act to the *Australian Federal Police Act 1979*, the *Crimes (Aviation) Act 1991* (other than the amendment made to Schedule 5 to that Act), the *Crimes (Hostages) Act 1989*, the *Crimes (Internationally Protected Persons) Act 1976*, the *Crimes (Overseas) Act 1964*, the *Crimes (Superannuation Benefits) Act 1989*, the *Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990*, the *Customs Act 1901*, the *Director of Public Prosecutions Act 1983*, the *Extradition Act 1988*, the *Financial Transaction Reports Act 1988* and to sections 23 and 59 of the *Proceeds of Crime Act 1987* commence on the 28th day after the day on which this Act receives the Royal Assent.

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Endnote 4—Amendment history

Provision affected	How affected
s 3	am No 28, 1991; No 196, 1992; No 57, 2000; No 58, 2011; No 13, 2017; No 37, 2018
s 5	am No 28, 1991; No 62, 2014
s 6	am No 165, 1984; No 64, 1985; No 88, 1986; Nos 86 and 141, 1987; No 5, 1988; No 108, 1989; No 182, 1994; No 19, 1995; No 43, 1996; No 57, 2000; No 42 and 86, 2002; No 106, 2009
s 8	am No 43, 1996
s 9	am No 165, 1984; No 64, 1985; No 88, 1986; Nos 86 and 141, 1987; No 5, 1988 (as am by No 120, 1988); No 120, 1988; No 108, 1989; No 28, 1991; No 164, 1992; No 182, 1994; No 19, 1995; No 43, 1996; No 57, 2000; No 86, 2002
s 10	am No 43, 1996
s 11	am No 10, 1984; No 7, 1999; No 62, 2014; No 64, 2015
s 13	am No 28, 1991; No 9, 2000
s 14	am No 165, 1984; No 43, 1996
s 15	am No 10, 1984; No 164, 1992; No 7, 1999; No 62, 2004
s 15A	ad No 88, 1986
s 16	am No 43, 1996
s 16A	ad No 64, 1985
	am No 88, 1986; No 182, 1994; No 86, 2002; No 24, 2012
s 17	am No 57, 2000
s 18	am No 43, 1996; No 159, 2001
s 18A	ad No 28, 1991
	am No 159, 2001
s 18B	ad No 28, 1991
s 19	am No 28, 1991; No 43, 1996
s 20	am No 28, 1991
	rs No 122, 1991
	am No 146, 1999

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Endnote 4—Amendment history

Provision affected	How affected
s 21	am No 28, 1991; No 43, 1996
s 22	am No 28, 1991; No 43, 1996
s 23	am Nos 28 and 122, 1991; No 94, 1992; No 43, 1996; No 26, 2008; No 58, 2011; No 62, 2014
s 24	am No 28, 1991; No 43, 1996; No 62, 2014
s 25	am No 28, 1991; No 43, 1996
s 26	am No 28, 1991; No 43, 1996; No 46, 2011
s 26A	ad No 28, 1991
	am No 46, 2011
s 27	am No 88, 1986; No 28, 1991; No 146, 1999
s 28	am No 166, 1985; No 88, 1986
s 31	am No 108, 1989; No 28, 1991; No 164, 1992; No 43, 1996; No 146, 1999; Statutory Rules 1999 No 301 (as am by Statutory Rules 2000 No 332); No 3, 2011
s 32	am No 10, 1984; No 7, 1999; No 62, 2004; No 64, 2015
s 32A	ad No 3, 2011
	am No 64, 2015
s 33	am No 43, 1996
	rep No 62, 2014
s 33A	ad No 164, 1992
	am No 62, 2004; No 64, 2015

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