

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 8 May 1985

(Attorney-General)

A BILL

FOR

**An Act to amend the *Director of Public Prosecutions Act 1983*
to confer additional functions on the Director, and for related
purposes**

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

Short title, &c.

1. (1) This Act may be cited as the *Director of Public Prosecutions Amendment Act 1985*.

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

Commencement

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

Functions of Director

3. (1) Section 6 of the Principal Act is amended—

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

“(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;”;

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

“(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;”;

(c) by omitting from paragraph (1) (h) “matters connected with, or arising out of, prosecutions instituted or carried on by the Director, being” and substituting “relevant matters that are”; and

(d) by omitting sub-section (7) and substituting the following sub-sections:

“(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 sub-section (3) was or is in force.

“(8) In this section—

‘amount of tax’ 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;

‘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

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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 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.”

(2) The Director shall, as soon as practicable, and in any event within one month, after the end of the period of 2 years beginning at the commencement of this section, prepare and furnish to the Attorney-General a report—

(a) concerning the performance during that period of the functions referred to in paragraph 6 (1) (fa) of the Principal Act as amended by this Act; and

(b) containing such information as the Director considers relevant, and such recommendations as the Director sees fit to make, for the purposes of a review of those functions.

Powers of Director

4. Section 9 of the Principal Act is amended by omitting from sub-section (10) “the function referred to in paragraph 6 (1) (h)” and substituting “a function referred to in paragraph 6 (1) (fa) or (h)”.

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

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

“16A. (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 information that might enable a party or witness to be identified, as appears to the court to be necessary in order to prevent prejudice to the administration of justice.

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“(2) The power conferred by sub-section (1) 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,

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but does not include a criminal proceeding.”

NOTE

1. No. 113, 1983, as amended. For previous amendments, see Nos. 10 and 165, 1984.