



AUSTRALIAN CAPITAL TERRITORY

## **Director of Public Prosecutions (Amendment) Act 1992**

**No. 51 of 1992**

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

*[Notified in ACT Gazette S148: 1 September 1992]*

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

#### **Short title**

**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*.<sup>1</sup>

#### **Functions**

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

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

"(da) in relation to proceedings for contempt of a court or for an order requiring a person to enter into a recognizance, with or without sureties, to keep the peace or be of good behaviour—

(i) instituting proceedings; or

- (ii) conducting proceedings, whether instituted by the Director or not;";
- (b) 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;”;
- (c) by omitting from paragraph (g) “(f)” and substituting “(fa)”;
- (d) 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;”;
- (e) by adding at the end of subsection (1) the following paragraph:
  - “(k) doing anything incidental or conducive to the performance of another function.”; and
- (f) 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 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.”.

### **Appointment**

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

### **Remuneration and allowances**

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**

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—

- (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**

**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”;
- (c) by omitting paragraphs (2) (c) and (d); and
- (d) by omitting subsection (3).

**Acting Director**

**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**

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

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**NOTE**

1. Reprinted as at 31 October 1991.

*[Presentation speech made in Assembly on 25 June 1992]*

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