

Director of Public Prosecutions Amendment Bill 2004

EXPLANATORY MEMORANDUM

General

This Bill amends the *Director of Public Prosecutions Act 1991* to allow the Director to bring, take over or prosecute summary offences.

- Clause 1 sets out the short title of the Bill.
- Clause 2 provides that the amendments are to the *Director of Public Prosecutions Act 1991*.
- Clause 3 repeals section 11 of the Act and inserts a replacement section. Section 11 formerly provided the Director's function in respect of the bringing, conduct and taking over of indictable prosecutions.

Proposed section 11(1) states that it is a function of the Director to commence and conduct the prosecution of any offence, or at any stage to take over the prosecution of any offence commenced by another person. This function can be performed whether the offence is indictable or not, and whether on indictment or not.

Proposed section 11(2) states that the function under subsection (1) may be performed despite any other written law that requires the consent or approval of a person for a prosecution; prescribes who can commence a prosecution; prescribes a matter in which a prosecution may be commenced, or does more than one of those things.

- Clause 4 repeals section 12 of the Act. Section 12 presently allows the Director to bring, conduct and take over summary trials of indictable offences. This section is now unnecessary in light of the broadening of the Director's powers in respect of all summary matters in section 11.

- Clause 5 amends section 13(a) of the Act by deleting the reference to section 12. It also amends section 13(b) of the Act by deleting subsections (i) and (ii) and inserting the words to take over the appeal from that person whether as appellant or respondent which removes the requirement for permission to be first sought from the appellant or respondent.
- Clause 6 amends section 19 of the Act by deleting the reference to section 12.
- Clause 7 amends section 23 of the Act by repealing section 23(2) and inserting proposed 23(2) to state, a direction under subsection (1) may at any time be amended or revoked by the Director. This is consequential to the broadening of the powers of the Director to have functions in both indictable and summary offences. It removes the former requirement that a direction only be given for indictable offences.