

**Director of Public Prosecutions
Amendment (Parliamentary Joint
Committee) Bill 2003**

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Director of Public Prosecutions Act 1986* (the **Principal Act**) to:

(a) establish a Parliamentary Joint Committee (to be known as the Committee on the Office of the Director of Public Prosecutions), which will:

(i) recommend, annually, the amount to be appropriated out of the Consolidated Fund for the Office of the Director of Public Prosecutions and comment generally on the budget of that Office, and

(ii) have the power to veto the proposed appointment of a person as Director of Public Prosecutions, and

(iii) monitor and review the exercise by the Director of Public Prosecutions of the Director's functions under the Principal Act and any other Act, and

(b) limit the term of office of future Directors of Public Prosecutions to 7 years.

The monitoring and review functions of the proposed Joint Committee will not extend to recommending that the Director of Public Prosecutions make a decision that relates to the institution or cessation of prosecutions or proceedings in a particular case, or to reconsidering any such decision.

The powers, functions (other than the functions of recommending appropriations out of the Consolidated Fund, commenting on budget and requesting explanations of the reasons for certain decisions) and procedures of the proposed Joint Committee are similar to those of existing Joint Committees under the *Ombudsman Act 1974*, the *Independent Commission Against Corruption Act 1988* and the *Health Care Complaints Act 1993*.

The Bill also makes consequential amendments to the *Ombudsman Act 1974*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the proposed Act to commence on assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Director of Public Prosecutions Act 1986* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Ombudsman Act 1974* set out in Schedule 2.

Schedule 1 Amendment of Director of Public Prosecutions Act 1986

Schedule 1 [4] inserts a new Part (Part 4A Parliamentary Joint Committee), consisting of proposed sections 30A–30M, into the *Director of Public Prosecutions Act 1986*.

Proposed section 30A provides for the establishment of the Committee on the Office of the Director of Public Prosecutions as a Joint Committee of Parliament.

Proposed section 30B sets out the functions of the Joint Committee. These include the following:

(a) recommending the amounts of money to be appropriated annually from the Consolidated Fund to fund the operation of the Office of the Director of Public Prosecutions, and commenting generally on the budget of that Office,

- (b) monitoring and reviewing the exercise by the Director of Public Prosecutions of his or her functions,
- (c) reporting to Parliament on such matters relating to the Director of Public Prosecutions as the Joint Committee considers should be brought to Parliament's attention,
- (d) examining annual and other reports of the Director of Public Prosecutions and reporting to Parliament on those reports,
- (e) reporting to Parliament any changes that the Joint Committee considers desirable to the functions, structures and procedures of the Office of the Director of Public Prosecutions,
- (f) inquiring into any question in connection with its own functions that is referred to it by Parliament, and reporting accordingly.

The functions outlined in paragraphs (b)–(f) above may be exercised in respect of matters that occurred before the establishment of the proposed Joint Committee. However, the Joint Committee will not extend to recommending that the Director of Public Prosecutions make a decision that relates to the institution or cessation of prosecutions or proceedings in a particular case, or to reconsider any such decision.

Proposed section 30C specifies the annual date by which the Joint Committee is to notify the Treasurer of the amount it recommends be appropriated from the Consolidated Fund to fund the Office of the Director of Public Prosecutions.

Proposed section 30D enables the Joint Committee to veto the proposed appointment of a person as Director of Public Prosecutions.

Proposed section 30E provides that the Joint Committee is to consist of 3 members of the Legislative Council (appointed by the Council) and 8 members of the Legislative Assembly (appointed by the Assembly).

Proposed section 30F specifies the circumstances in which a member of the Joint Committee ceases to hold office, and provides for the filling of any vacancies.

Proposed section 30G provides for a Chairperson and Vice-Chairperson of the Joint Committee.

Proposed section 30H sets out the procedure of the Joint Committee.

Proposed section 30I provides a mechanism by which the Joint Committee can report to Parliament when Parliament is not sitting.

Proposed section 30J enables the Joint Committee to send for persons, papers and records and requires the Joint Committee to take evidence in public (unless reasons of confidentiality dictate otherwise).

Proposed section 30K deals with confidentiality and sets out the circumstances in which evidence must be taken in private, documents produced to the Joint Committee must be treated as confidential and the members of the Joint Committee are prohibited from disclosing evidence or the contents of documents. (Matters relating to the proposed appointment of a person as Director of Public Prosecutions are confidential.)

Proposed section 30L specifies the way in which the Joint Committee is to be regarded for certain purposes (such as the purposes of the *Parliamentary Evidence Act 1901*).

Proposed section 30M makes it clear that acts and proceedings of the Joint Committee are valid despite any technical deficiency in the Joint Committee as constituted at the time of the act or proceeding.

Schedule 1 [1] and [2] make consequential amendments.

Schedule 1 [5] inserts a provision specifying the way in which proceedings for offences against the Act or regulations are to be dealt with.

Schedule 1 [6] amends Schedule 1 to the *Director of Public Prosecutions Act 1986* to provide that future Directors of Public Prosecutions are to be appointed for terms of 7 years and are not to be eligible for re-appointment. The term of the

current Director of Public Prosecutions is not affected by the amendment.

Schedule 1 [3] and [7] make consequential amendments.

Schedule 2 Amendment of Ombudsman Act 1974

Schedule 2 [1]–[3] makes consequential amendments to the *Ombudsman Act 1974*. At present, the power to veto the appointment of a person as Director of Public Prosecutions that the Bill proposes to confer on the new Joint Committee is exercised by the Committee on the Office of the Ombudsman and the Police Integrity Commission. Schedule 2 removes that power from the latter committee.