



New South Wales

# Criminal Procedure Legislation Amendment (Prosecution of Indictable Offences) Bill 2022

## Explanatory note

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

## Overview of Bill

The objects of this Bill are—

- (a) to amend the *Criminal Procedure Act 1986*—
  - (i) to require certain law enforcement or investigating officers to make disclosures concerning alleged offences to prosecutors other than the Director of Public Prosecutions, and
  - (ii) to clarify what prosecutors must certify in a charge certificate about compliance with duties of disclosure about alleged offences being prosecuted, and
  - (iii) to require certain trial papers about a person committed for trial or sentence in the court to be given to prosecutors as soon as practicable after the papers are received by the registrar of the court, and
- (b) to amend the *Director of Public Prosecutions Act 1986* to include additional persons involved in investigating certain alleged offences among the persons with duties to make disclosures to the Director of Public Prosecutions concerning the alleged offences, and
- (c) to make other minor or consequential amendments to the *Criminal Procedure Regulation 2017* and the *Director of Public Prosecutions Regulation 2020*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1 Amendments

### 1.1 Criminal Procedure Act 1986 No 209

**Schedule 1.1[2]** imposes duties on law enforcement or investigating officers involved in investigating alleged offences to disclose certain matters to prosecutors other than the Director of Public Prosecutions. The duties largely mirror the duties to make disclosures to the Director of Public Prosecutions imposed by the *Director of Public Prosecutions Act 1986*, section 15A, as amended by Schedule 1.4. **Schedule 1.1[1]** defines *law enforcement or investigating officer* to mean a police officer, or another officer or a member of staff of an agency created by or under an Act, who is responsible for an investigation into a matter involving the suspected commission of an offence. **Schedule 1.1[7] and [8]** make consequential amendments.

**Schedule 1.1[3]** requires a prosecutor to certify the following matters in a charge certificate signed by the prosecutor—

- (a) for an alleged offence for which there are duties of disclosure under the *Director of Public Prosecutions Act 1986*, section 15A—that the prosecutor has received and considered verification of compliance about the duties,
- (b) for an alleged offence for which there are duties of disclosure under the provision inserted by Schedule 1.1[2]—that the prosecutor has received and considered verification of compliance about the duties.

**Schedule 1.1[4]** makes an amendment consequential on the amendment made by 1.1[3].

**Schedule 1.1[6]** requires certain trial papers about a person committed for trial or sentence to be given to prosecutors as soon as practicable after the papers are received by the registrar of the court. **Schedule 1.1[5]** makes a consequential amendment.

**Schedule 1.1[9]** provides for savings and transitional matters.

### 1.2 Criminal Procedure Regulation 2017

**Schedule 1.2[2]** imposes on prosecutors certain obligations currently imposed on the Director of Public Prosecutions concerning the listing of criminal proceedings. **Schedule 1.2[1]** updates a term.

**Schedule 1.2[3] and [4]** make amendments concerning charge certificates consequential on the amendment made by Schedule 1.1[2].

### 1.3 Director of Public Prosecutions Act 1986 No 207

Currently, the duties of disclosure imposed by the *Director of Public Prosecutions Act 1986*, section 15A about certain alleged offences are limited to—

- (a) police officers responsible for investigating the alleged offences, or
- (b) officers or staff members of the following agencies investigating the alleged offences—
  - (i) the Law Enforcement Conduct Commission,
  - (ii) the New South Wales Crime Commission,
  - (iii) the Independent Commission Against Corruption.

**Schedule 1.3** makes amendments to extend the duties of disclosure to officers or staff members of any agency created by or under an Act who are responsible for investigating the alleged offences.

### 1.4 Director of Public Prosecutions Regulation 2020

**Schedule 1.4** makes amendments consequential on the amendments made by Schedule 1.3.