

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 60, 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith. [Assented to, 27th October, 1969.]

BE

Public Defenders.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Public Defenders Act, 1969".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Repeal of
Act No. 23,
1907, and
amendment
of Act No.
16, 1912.

2. (1) The Poor Prisoners Defence Act, 1907, is repealed.

(2) The Criminal Appeal Act of 1912 is amended—

- (a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";
- (b) by omitting section thirteen;
- (c) by omitting subsection four of section nineteen.

Public
Defenders.

3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

(6)

Public Defenders.

(6) A Public Defender shall be deemed to have vacated his office—

- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person appointed or deemed to be appointed as a Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

(9)

Public Defenders.

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed as a Public Defender is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be deemed to be service for the purpose of those Acts.

Legal
assistance.

4. (1) In this section "prescribed officer" means the Under Secretary of the Department of the Attorney-General and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

- (a) is charged with the commission of an indictable offence;
- (b) has been committed for trial or sentence for an indictable offence; or
- (c) desires to appeal against his conviction for an indictable offence,

may apply to a prescribed officer for legal assistance under this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal, as the case may be, as the prescribed officer thinks fit.

(4)

Public Defenders.

(4) The prescribed officer shall not make arrangements under subsection three of this section in respect of legal assistance in connection with proceedings on an appeal unless it appears to him, on such legal advice as he sees fit to obtain, that the applicant has good grounds for taking the appeal.

(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(6) An arrangement under subsection three of this section may be made with, or advice referred to in subsection four of this section may be obtained from, a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902, is amended by omitting from section five the words "or Crown prosecutors" and by inserting in lieu thereof the words ", Crown prosecutors or Public Defenders".

Amendment
of Act No.
31, 1902.
Sec. 5.
(Act not to
apply to
certain
public
officers.)

SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire.
Clarence Denis Cullen, Esquire.
Ernest Frank Byron, Esquire.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

R. E. WARD,
for Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 15 October, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 60, 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith. [Assented to, 27th October, 1969.]

BE

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

L. A. PUNCH,
Chairman of Committees of the Legislative Assembly.

Public Defenders.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

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1. (1) This Act may be cited as the "Public Defenders Act, 1969".

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(2) The Criminal Appeal Act of 1912 is amended—

(a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";

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Public
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3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

(6)

Public Defenders.

(6) A Public Defender shall be deemed to have vacated his office—

- (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person appointed or deemed to be appointed as a Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

(9)

Public Defenders.

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed as a Public Defender is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be deemed to be service for the purpose of those Acts.

Legal
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4. (1) In this section "prescribed officer" means the Under Secretary of the Department of the Attorney-General and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

- (a) is charged with the commission of an indictable offence;
- (b) has been committed for trial or sentence for an indictable offence; or
- (c) desires to appeal against his conviction for an indictable offence,

may apply to a prescribed officer for legal assistance under this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal, as the case may be, as the prescribed officer thinks fit.

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Public Defenders.

(4) The prescribed officer shall not make arrangements under subsection three of this section in respect of legal assistance in connection with proceedings on an appeal unless it appears to him, on such legal advice as he sees fit to obtain, that the applicant has good grounds for taking the appeal.

(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(6) An arrangement under subsection three of this section may be made with, or advice referred to in subsection four of this section may be obtained from, a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902, is amended by omitting from section five the words "or Crown prosecutors" and by inserting in lieu thereof the words ", Crown prosecutors or Public Defenders".

Amendment
of Act No.
31, 1902.
Sec. 5.
(Act not to
apply to
certain
public
officers.)

SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire.

Clarence Denis Cullen, Esquire.

Ernest Frank Byron, Esquire.

*In the name and on behalf of Her Majesty I assent to
this Act.*

A. R. CUTLER,
Governor.

*Government House,
Sydney, 27th October, 1969.*

For the year 1904

Income Statement

The following statement shows the results of the operations of the company for the year 1904. The statement is prepared on the basis of the books and records of the company and is subject to audit.

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PUBLIC DEFENDERS BILL.

*Schedule of Amendments referred to in Legislative Council's
Message of 2 October, 1969.*

No. 1.—Page, 2, clause 3, lines 22 and 23. *Omit* “of the Supreme Court of New South Wales”.

No. 2.—Page 3, clause 3, line 30. *After* “as” *insert* “a”.

No. 3.—Page 4, clause 3, line 2. *After* “appointed” *insert* “as a **Public Defender**”.

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 September, 1969.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 2 October, 1969.*

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. , 1969.

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Poor Prisoners Defence Act, 1907, is repealed. Repeal of
Act No. 23,
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of Act No.
16, 1912.

(2) The Criminal Appeal Act of 1912 is amended—
15 (a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";
(b) by omitting section thirteen;
(c) by omitting subsection four of section nineteen.

3. (1) The Governor may appoint such number of Public
Defenders. persons as he deems necessary to be Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister of the Supreme Court of New South Wales.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

(6)

Public Defenders.

(6) A Public Defender shall be deemed to have vacated his office—

- 5 (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- 10 (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning
15 of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is
20 deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
30 appointed or deemed to be appointed as a Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

(9)

Public Defenders.

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed as a **Public Defender** is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to
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 10 Defender shall be deemed to be service for the purpose of those Acts.

4. (1) In this section "prescribed officer" means the ^{Legal} Under Secretary of the Department of the Attorney-General ^{assistance.} and of Justice, an Assistant Under Secretary of that department
 15 ment or any other officer of that department authorised by the Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

- (a) is charged with the commission of an indictable
 20 offence;
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25 may apply to a prescribed officer for legal assistance under this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him
 30 to provide or to continue to provide adequate legal assistance for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the
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(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom 10 any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

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5. The Public Service Act, 1902, is amended by omitting from section five the words "or Crown prosecutors" and by 20 inserting in lieu thereof the words "Crown prosecutors or Public Defenders".

Amendment
of Act No.
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Sec. 5.
(Act not to
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SCHEDULE.

Sec. 3.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

I. P. K. VIDLER,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 10 September, 1969.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
Amendments.*

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, October, 1969.*

New South Wales



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V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

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EXHIBIT

21. That the said...
22. That the said...

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ELIZABETHÆ II REGINÆ

Act No. , 1969.

An Act to make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith.

BE

Public Defenders.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Public Defenders Act, 1969". Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Poor Prisoners Defence Act, 1907, is repealed. Repeal of Act No. 23, 1907, and amendment of Act No. 16, 1912.

(2) The Criminal Appeal Act of 1912 is amended—

- 15 (a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";
- (b) by omitting section thirteen;
- (c) by omitting subsection four of section nineteen.

3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders. Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister of the Supreme Court of New South Wales.

25 (3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as 30 Public Defenders on the day on which this Act commences.

(6)

Public Defenders.

(6) A Public Defender shall be deemed to have vacated his office—

- 5 (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- 10 (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- 15 (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

20 (7) A person who is, at the date on which he is or is deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
30 appointed or deemed to be appointed as Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

(9)

Public Defenders.

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and
5 be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be
10 deemed to be service for the purpose of those Acts.

4. (1) In this section "prescribed officer" means the Under Secretary of the Department of the Attorney-General and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the
15 Minister to act as a prescribed officer for the purposes of this section. ^{Legal assistance.}

(2) Any person who—

- (a) is charged with the commission of an indictable offence;
- 20 (b) has been committed for trial or sentence for an indictable offence; or
- (c) desires to appeal against his conviction for an indictable offence,

may apply to a prescribed officer for legal assistance under
25 this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance
30 for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal,
35 as the case may be, as the prescribed officer thinks fit.

(4)

Public Defenders.

(4) The prescribed officer shall not make arrangements under subsection three of this section in respect of legal assistance in connection with proceedings on an appeal unless it appears to him, on such legal advice as he sees fit to obtain, 5 that the applicant has good grounds for taking the appeal.

(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom 10 any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(6) An arrangement under subsection three of this 15 section may be made with, or advice referred to in subsection four of this section may be obtained from, a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902, is amended by omitting from section five the words "or Crown prosecutors" and by 20 inserting in lieu thereof the words ", Crown prosecutors or Public Defenders".

Amendment
of Act No.
31, 1902.
Sec. 5.
(Act not to
apply to
certain
public
officers.)

SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire.
Clarence Denis Cullen, Esquire.
25 Ernest Frank Byron, Esquire.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
[5c]

Public Defender

(1) The prescribed officer shall not make arrangements under subsection three of this section in respect of legal assistance if it appears to him on such legal advice as he sees fit to obtain, that the applicant has good grounds for taking the appeal.

(2) The fees of any solicitor or solicitor other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(3) An arrangement under subsection three of this section may be made with or advice referred to in subsection four of this section may be obtained from a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902 is amended by omitting from section five the words "or Crown prosecutors" and by inserting in lieu thereof the words "Crown prosecutors or Public Defenders".

Amendment of Act No. 31, 1902, Sec. 5. (Act No. 19) apply to certain public officers.)

SCHEDULE

Howard Frank Burnett, Esquire.
Charles D. Cullen, Esquire.
Ernest Frank Brown, Esquire.

No. , 1969.

A BILL

To make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith.

[Mr McCaw—26 August, 1969.]

BE

Public Defenders.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. (1) This Act may be cited as the "Public Defenders Act, 1969". Short title and commencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Poor Prisoners Defence Act, 1907, is repealed. Repeal of Act No. 23, 1907, and amendment of Act No. 16, 1912.

(2) The Criminal Appeal Act of 1912 is amended—

(a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";

(b) by omitting section thirteen;

(c) by omitting subsection four of section nineteen.

3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders. Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister of the Supreme Court of New South Wales.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

(6)

Public Defenders.

(6) A Public Defender shall be deemed to have vacated his office—

- 5 (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
- 10 (c) if he becomes bankrupt, compounds with his creditors, or makes any assignment of his remuneration or of his estate for their benefit;
- 15 (d) if he becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is
 20 deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
 25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
 30 appointed or deemed to be appointed as Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

(9)

Public Defenders.

(9) Any officer of the Public Service or person who at the date on which he is or is deemed to be appointed is an employee within the meaning of the Superannuation Act, 1916, shall continue to contribute to any fund or account and
5 be entitled to receive any deferred or extended leave, and any payment, pension or gratuity as if he were an officer or employee within the meaning of the Public Service Act, 1902, or the Superannuation Act, 1916, as the case may be, and for that purpose his service as Public Defender shall be
10 deemed to be service for the purpose of those Acts.

4. (1) In this section "prescribed officer" means the ^{Legal} Under Secretary of the Department of the Attorney-General ^{assistance.} and of Justice, an Assistant Under Secretary of that department or any other officer of that department authorised by the
15 Minister to act as a prescribed officer for the purposes of this section.

(2) Any person who—

- (a) is charged with the commission of an indictable offence;
- 20 (b) has been committed for trial or sentence for an indictable offence; or
- (c) desires to appeal against his conviction for an indictable offence,

may apply to a prescribed officer for legal assistance under
25 this section.

(3) Where an application is made to a prescribed officer under subsection two of this section and it appears to him that the applicant's means are insufficient to enable him to provide or to continue to provide adequate legal assistance
30 for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal,
35 as the case may be, as the prescribed officer thinks fit.

(4)

Public Defenders.

(4) The prescribed officer shall not make arrangements under subsection three of this section in respect of legal assistance in connection with proceedings on an appeal unless it appears to him, on such legal advice as he sees fit to obtain, 5 that the applicant has good grounds for taking the appeal.

(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom 10 any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

(6) An arrangement under subsection three of this 15 section may be made with, or advice referred to in subsection four of this section may be obtained from, a Public Defender, the Public Solicitor or any other barrister or solicitor.

5. The Public Service Act, 1902, is amended by omitting from section five the words "or Crown prosecutors" and by 20 inserting in lieu thereof the words ", Crown prosecutors or Public Defenders".

Amendment
of Act No.
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SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire.
Clarence Denis Cullen, Esquire.
25 Ernest Frank Byron, Esquire.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969
[5c]

Public Defender

(4) The defendant shall not make any statement under suggestion from the court in respect of legal assistance or representation with reference to an appeal unless it appears to him to be in his best interests to do so.

(5) The cost of any defence or defence other than that of the Public Defender shall be borne by the defendant in the case of the Public Defender, and shall be borne by the defendant in the case of any other defence.

(6) An arrangement under subsection (5) of this section may be made with or without reference to the Public Defender or any other person or persons.

20. The Public Defender, at 1950, is amended by omitting the words "in the case of the Public Defender" and by inserting the words "in the case of the Public Defender or any other person or persons".

Sec. 2

Public Defender

21. The Public Defender, at 1950, is amended by omitting the words "in the case of the Public Defender" and by inserting the words "in the case of the Public Defender or any other person or persons".

PUBLIC DEFENDERS BILL, 1969

EXPLANATORY NOTE

The objects of this Bill are—

- (a) to authorise the appointment of persons as Public Defenders;
- (b) to enable a prescribed officer of the Department of the Attorney-General and of Justice to arrange for the provision of legal assistance in certain criminal proceedings to persons of insufficient means;
- (c) to make other amendments of a consequential or ancillary character.

PROOF

No. , 1969.

A BILL

To make provision for the appointment of persons as Public Defenders; to enable certain persons to apply for and be provided with legal assistance in connection with certain criminal proceedings; to repeal the Poor Prisoners Defence Act, 1907; to amend the Public Service Act, 1902, and the Criminal Appeal Act of 1912; and for purposes connected therewith.

[MR McCaw—26 August, 1969.]

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Public Defenders.

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(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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(a) by omitting from section one the words "Criminal Appeal Act of" and by inserting in lieu thereof the words "Criminal Appeal Act,";

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3. (1) The Governor may appoint such number of persons as he deems necessary to be Public Defenders. Public Defenders.

(2) A person shall not be appointed as a Public Defender unless he is a barrister of the Supreme Court of New South Wales.

(3) A person shall not be appointed as a Public Defender if he is of or above the age of seventy years.

(4) A Public Defender shall be paid such remuneration as may be determined by the Governor.

(5) The persons specified in the Schedule to this Act shall be deemed to have been appointed under this Act as Public Defenders on the day on which this Act commences.

(6)

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(6) A Public Defender shall be deemed to have vacated his office—

- 5 (a) if he engages (whether in New South Wales or elsewhere) during his term of office in any paid employment or in the practice of law outside the duties of his office;
- (b) if he is removed from office by the Governor for inability, misbehaviour or failure to comply with the terms and conditions of his appointment;
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- (e) if he resigns his office by writing under his hand addressed to the Governor; or
- (f) upon his attaining the age of seventy years.

(7) A person who is, at the date on which he is or is
 20 deemed to be appointed as a Public Defender, an officer of the Public Service shall, in the event of his ceasing to hold office as a Public Defender by reason of that office being discontinued or abolished, be entitled, if he is under the age of sixty years, to be appointed upon the recommendation of the Public
 25 Service Board to some office in the Public Service not lower in classification and salary than that which he held immediately before his appointment under this Act.

(8) Nothing in this Act shall affect the rights accrued or accruing under the Public Service Act, 1902, to any person
 30 appointed or deemed to be appointed as Public Defender, who is at the date on which he is or is deemed to be appointed or has been at any time previous thereto an officer of the Public Service or an employee within the meaning of the Superannuation Act, 1916.

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15 Minister to act as a prescribed officer for the purposes of this section.

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- 20 (b) has been committed for trial or sentence for an indictable offence; or
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25 this section.

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30 for himself, the prescribed officer may, subject to any directions given to him by the Minister, make arrangements for the applicant to be provided with such legal assistance in connection with the proceedings on the charge or the trial or the proceedings at which he is to be sentenced or on the appeal,
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Public Defenders.

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(5) The fees of any barrister or solicitor, other than a Public Defender, the Public Solicitor or a solicitor employed in the office of the Public Solicitor, with whom any arrangements under subsection three of this section or by whom 10 any advice referred to in subsection four of this section is furnished shall be paid by the Department of the Attorney-General and of Justice out of moneys provided by Parliament for the purpose.

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SCHEDULE.

Sec. 3.

Howard Frank Purnell, Esquire.

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BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1969

Public Information

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