

FIRST PRINT

**MISCELLANEOUS ACTS (PUBLIC PROSECUTIONS)  
AMENDMENT BILL 1986**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

This Bill is cognate with the Director of Public Prosecutions Bill 1986.

The object of this Bill is to amend various Acts as a consequence of and in connection with the cognate Bills, and in particular as a result of—

- (a) the creation of the office of Director of Public Prosecutions;
- (b) the enactment of the general statement contained in the Criminal Procedure Bill 1986 to the effect that indictable offences are punishable in the Supreme Court or the District Court;
- (c) the abolition of the office of Clerk of the Peace; and
- (d) the abolition of “appointed places” under the District Court Act 1973 in favour of proclaimed places.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be appointed by the Governor-in-Council, with the exception of certain provisions that will commence on the date of assent.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 repeals section 5 of The Australian Courts Act 1828 (9 Geo. IV, c. 83). This is proposed to be replaced by clause 4 of the Criminal Procedure Bill 1986.

Clause 5 contains savings and transitional provisions, and authorises regulations to be made where appropriate.

Schedule 1 effects the amendments mentioned above.

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**MISCELLANEOUS ACTS (PUBLIC PROSECUTIONS)  
AMENDMENT BILL 1986**

NEW SOUTH WALES

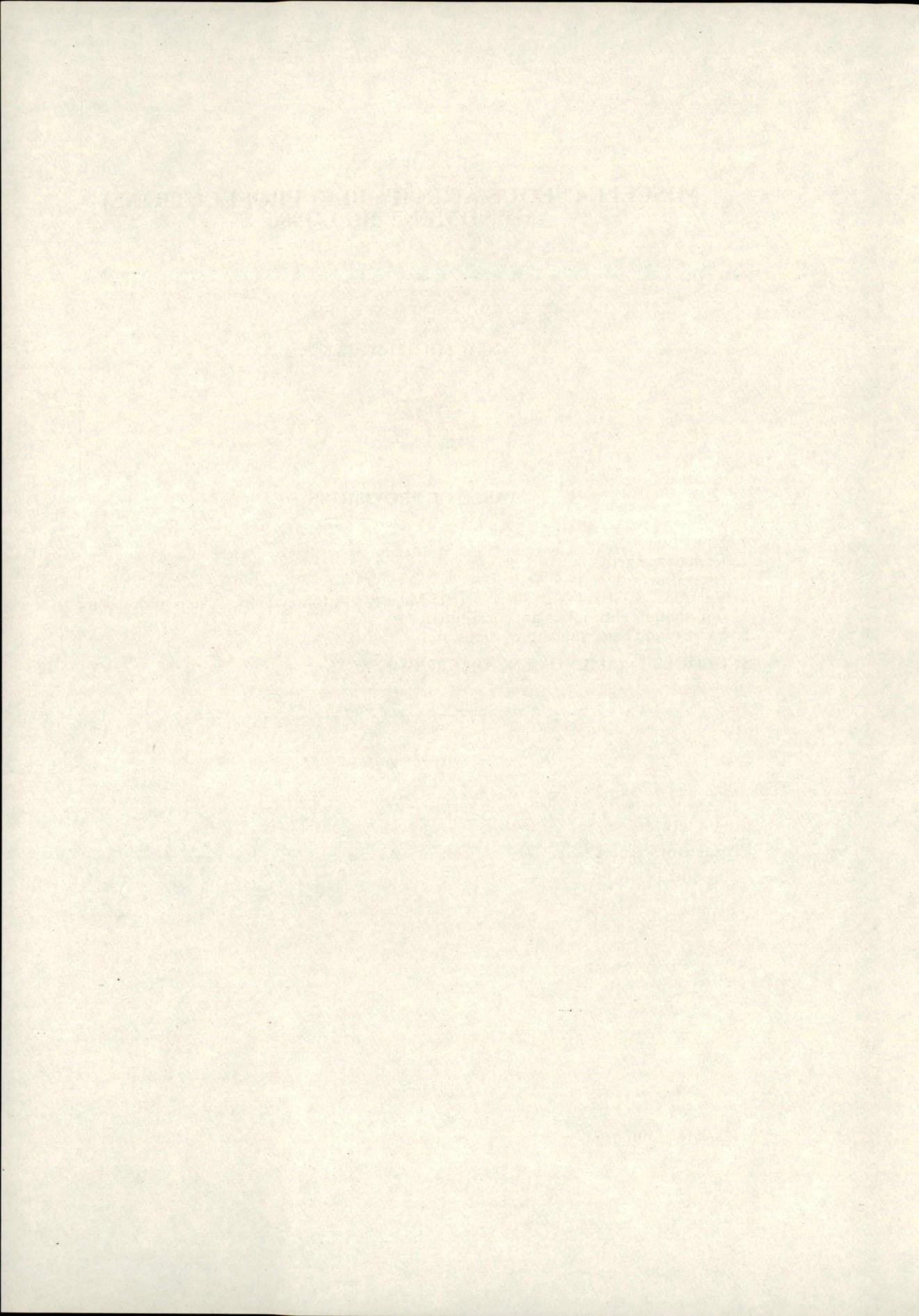


**TABLE OF PROVISIONS**

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**SCHEDULE 1—AMENDMENT OF CERTAIN ACTS**

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**MISCELLANEOUS ACTS (PUBLIC PROSECUTIONS)  
AMENDMENT BILL 1986**

NEW SOUTH WALES



No. , 1986

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**A BILL FOR**

An Act to amend certain Acts as a consequence of and in connection with the enactment of the Director of Public Prosecutions Act 1986, the Crown Prosecutors Act 1986, the Criminal Procedure Act 1986 and certain other Acts; and for other purposes.

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*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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**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:

**5 Short title**

1. This Act may be cited as the "Miscellaneous Acts (Public Prosecutions) Amendment Act 1986".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this  
10 Act.

(2) Except as provided by this section, this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Section 3, in its application to a provision of Schedule 1, shall  
15 commence on the day on which the provision commences.

(4) Items (1) and (2) of the amendments to the Statutory and Other Offices Remuneration Act 1975 in Schedule 1 shall commence on the date of assent to this Act.

**Amendment of certain Acts**

20 3. Each Act specified in Schedule 1 is amended in the manner set forth in that Schedule.

**Repeal of 9 Geo. IV, c. 83, s. 5 (His Majesty's Attorney General may proceed by information until juries are constituted)**

25 4. Section 5 of The Australian Courts Act 1828 (9 Geo. IV, c. 83 of the Imperial Parliament) is repealed so far as it applies in New South Wales.

**Savings and transitional provisions**

30 5. (1) In this section, "the cognate Acts" means this Act, the Director of Public Prosecutions Act 1986, the Crown Prosecutors Act 1986, the Criminal Procedure Act 1986, the District Court (Amendment) Act 1986 and the Criminal Appeal (Amendment) Act 1986.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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(2) If—

- (a) an act, matter or thing was validly done or omitted to be done under an Act before the commencement of an amendment made to the Act by Schedule 1; and
- 5 (b) as a result of the cognate Acts, the act, matter or thing would not have appropriate effect after that commencement,

the act, matter or thing shall, to the necessary extent, be treated as if it had been validly done in accordance with the Act as amended and in accordance with so much of the provisions of the cognate Acts as is relevant, and the  
10 act, matter or thing has appropriate effect accordingly.

(3) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of any or all of the cognate Acts.

(4) A provision referred to in subsection (3) may take effect, if the  
15 regulations so provide, as from the date of assent to this Act or a later date.

(5) To the extent to which a provision referred to in subsection (3) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- 20 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

25 (6) A provision referred to in subsection (3) shall, if the regulations expressly so provide, have effect notwithstanding any other savings or transitional provision contained in a cognate Act (except a provision relating to the appointment of a person to any office).

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*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1

(Sec. 3)

AMENDMENT OF CERTAIN ACTS

**Bail Act 1978 No. 161—**

5 (1) Section 48 (**Provisions respecting review of bail decisions**)—

Section 48 (1) (a)—

Omit “or the Attorney-General”, insert instead “the Attorney General or the Director of Public Prosecutions”.

(2) Section 60 (**Evidence**)—

10 Section 60 (3) (c)—

Omit “or clerk of a Local Court or the Clerk or Deputy Clerk of the Peace”, insert instead “, registrar or other officer of the Supreme Court, registrar or assistant registrar of the District Court or clerk of a Local Court”.

**Coroners Act 1980 No. 27—**

15 (1) Section 19 (**Procedure at inquest or inquiry where person charged with, or prima facie case for, indictable offence**)—

(a) Section 19 (2)—

Omit “Attorney-General”, insert instead “Director of Public Prosecutions”.

(b) Section 19 (3)—

20 After section 19 (2), insert:

(3) The Director of Public Prosecutions shall indicate to the Attorney General as to whether the Director intends to proceed with criminal charges against the person concerned.

25 (2) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**)—

Section 20 (1)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

(3) Section 40 (**Apprehension of witness under warrant**)—

30 Section 40 (4)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court for the nearest proclaimed place (within the meaning of the District Court Act 1973)”.



*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued***Crimes Act 1900 No. 40—**

- (1) Section 358 (**When case not to be proceeded with gaoler to discharge prisoner on certificate from Attorney-General or Director of Public Prosecutions**)—

Section 358 (1)—

- 5 After “Attorney-General” where firstly occurring, insert “or the Director of Public Prosecutions”.

- (2) Section 405A (**Notice of alibi**)—

(a) Section 405A (6)—

- 10 Omit “Clerk of the Peace” where firstly occurring, insert instead “Director of Public Prosecutions”.

(b) Section 405A (6)—

Omit “Clerk of the Peace” where secondly occurring, insert instead “Director”.

- (3) Section 406 (**Depositions by persons dangerously ill—how to be taken and when admissible in evidence**)—

- 15 At the end of the section, insert:

(2) A copy of the deposition shall be forwarded by the Attorney General to the Director of Public Prosecutions.

- (4) Section 414B (**Proof of service of notice to produce**)—

- 20 Omit “clerk of the peace or his clerk”, insert instead “Director of Public Prosecutions or the Solicitor for Public Prosecutions or a member of the staff of the Director of Public Prosecutions”.

- (5) Section 428K (**Functions of Mental Health Review Tribunal**)—

Section 428K (4)—

- 25 After “determination”, insert “and furnish the Director of Public Prosecutions with a copy of the notification”.

- (6) Section 428M (**Functions of Attorney General following determination of Mental Health Review Tribunal**)—

(a) Section 428M (1)—

- 30 After “Attorney General” where secondly occurring, insert “(after consultation with the Director of Public Prosecutions)”.

(b) Section 428M (1) (b) (ii)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

- (7) Section 428s (**Recommendation for further inquiry**)—
- (a) Section 428s (1)—  
 After “Attorney General” where secondly occurring, insert “(after consultation with the Director of Public Prosecutions)”.
- 5 (b) Section 428s (1) (b)—  
 Omit the paragraph, insert instead:  
 (b) shall advise the Minister for Health that the person will not be further proceeded against by the Attorney General or the Director of Public Prosecutions in respect of the offence.
- 10 (c) Section 428s (3)—  
 Omit “notifies the Minister for Health of a determination not to further proceed against a person”, insert instead “advises the Minister for Health that a person will not be further proceeded against”.
- (8) Section 437 (**Compensation payable to person aggrieved by indictable offence, &c.**)—
- 15 Section 437 (9) (a), (a1)—  
 Omit section 437 (9) (a), insert instead:  
 (a) in the case of a direction given by the Supreme Court—the registrar of the Criminal Division of that Court or an officer authorised by that registrar;
- 20 (a1) in the case of a direction given by the District Court—the registrar of that Court for the proclaimed place (within the meaning of the District Court Act 1973) at which the direction was given; or
- (9) Section 457 (**Direction for compensation to be enforceable by execution, &c.**)—
- (a) Section 457—
- 25 Omit “Clerk of the Peace or, as the case may require, the clerk of the Court” wherever occurring, insert instead “registrar, officer or clerk”.
- (b) Section 457 (1)—  
 Omit “Clerk of the Peace or the clerk of the Court”, insert instead “registrar, officer or clerk”.
- 30 (10) Section 475A (**Offences punishable summarily**)—
- (a) Section 475A (1)—  
 After “Attorney-General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

(b) Section 475A (6)—

Omit the subsection, insert instead:

5 (6) The reference in subsection (1) to the Attorney-General or the Director of Public Prosecutions includes, in relation to any proceedings, a reference to any person who is authorised in writing by the Attorney-General or Director to act, for the purposes of that subsection, on behalf of the Attorney-General or Director in relation to those proceedings or in relation to proceedings for all offences mentioned in the Tenth Schedule.

(c) Section 475A (7) (a)—

10 Omit “Governor”, insert instead “Attorney-General or the Director of Public Prosecutions”.

(d) Section 475A (7) (b)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

15 (11) Section 572 (**Governor may appoint persons to prosecute in District Court**)—

Omit the section.

(12) Third Schedule (**Forms**)—

(a) Forms 1 and 3—

20 After “Attorney-General” wherever occurring, insert “or Director of Public Prosecutions”.

(b) Forms 2 and 4—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

**Crimes (Confiscation of Profits) Act 1985 No. 181—**

25 (1) Section 3 (**Interpretation**)—

Section 3 (1), definition of “appropriate officer” —

From paragraph (a), omit “Solicitor for Public Prosecutions”, insert instead “Director of Public Prosecutions”.

(2) Section 38 (**Appeals**)—

30 Section 38 (4)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Criminal Injuries Compensation Act 1967 No. 14—**

Section 7 (**Rights against convicted person where payment made**)—

(a) Section 7 (1) (a)—

5 Omit “Clerk of the Peace, or, in the case of an application made in respect of a direction given, or a certificate granted, by a court other than the Supreme Court or District Court, the clerk of the Court which gave the direction or granted the certificate,”, insert instead “appropriate officer”.

(b) Section 7 (1) (b)—

10 Omit “Clerk of the Peace or the clerk of that Court”, insert instead “appropriate officer”.

(c) Section 7 (4)—

After section 7 (3), insert:

(4) In this section—

15 “appropriate officer”, in relation to an application made in respect of a direction given, or a certificate granted, by—

(a) the Supreme Court—means the registrar of the Criminal Division of the Supreme Court or an officer authorised by that registrar;

(b) the District Court—means the registrar of the District Court for the place at which the direction was given or the certificate was granted; or

20 (c) another court—means the clerk of the court which gave the direction or granted the certificate.

**Crown Advocate Act 1979 No. 59—**

Section 9 (**Duties and functions of Crown Advocate**)—

25 Section 9 (b)—

Omit the paragraph, insert instead:

(b) to advise and conduct proceedings on behalf of the Director of Public Prosecutions, with the consent of the Attorney General and at the request of the Director;

30 **Evidence Act 1898 No. 11—**

Section 24A (**Judicial notice of signature of holders of certain offices**)—

Section 24A (a)—

After “Solicitor-General”, insert “, Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued***Fines and Forfeited Recognizances Act 1954 No. 25—**(1) Section 3 (**Interpretation**)—

Before the definition of “bail agreement”, insert:

5 “appropriate registrar”, as used in a provision of this Act, means the registrar of the District Court for the place, or the nearest place, as relevant to the context of the provision;

(2) Section 4 (**Forfeiture of certain recognizances**)—

Section 4 (2)—

Omit “Clerk of the Peace”, insert instead “appropriate registrar”.

10 (3) Section 4A (**Forfeiture of bail money**)—

Section 4A (1)—

Omit “Clerk of the Peace”, insert instead “appropriate registrar”.

(4) Section 5 (**Procedure after forfeiture of certain recognizances**)—

15 (a) Omit “the Clerk of the Peace” where firstly occurring, insert instead “a registrar of the District Court”.

(b) Omit “the Clerk of the Peace” where secondly occurring, insert instead “the appropriate registrar”.

(5) Section 6 (**Enforcement of certain recognizances where amount thereof has been deposited**)—

20 Section 6 (1) (a), (1A) (c)—

Omit “the Clerk of the Peace” wherever occurring, insert instead “a registrar of the District Court”.

(6) Section 7 (**Registrar to prepare an Estreat Roll**)—

25 Omit “the Clerk of the Peace”, insert instead “each registrar of the District Court”.

(7) Section 8 (**Registrar to send copy of Estreat Roll to the Sheriff with appropriate writ**)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.

(8) Section 11 (**Sheriff to lay copy of Estreat Roll and a return before court**)—

30 Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

- (9) Section 12 (**Judge to order carrying forward in fresh roll of cases in former roll where no levy or discharge**)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.

- (10) Section 13 (**Judge to inquire into cases included in Estreat Roll**)—

- 5 (a) Section 13 (2)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.

- (b) Section 13 (4)—

Omit “Clerk of the Peace in respect of such other Court of Quarter Sessions”, insert instead “registrar of the District Court for such other place”.

- 10 (11) Section 15 (**Preservation and continuance in force of all writs and copies of the Estreat Roll sent to Sheriff**)—

Section 15 (1)—

Omit “the Clerk of the Peace”, insert instead “registrars of the District Court”.

- (12) Second and Fourth Schedules—

- 15 Omit “Clerk of the Peace” wherever occurring, insert instead “Registrar of the District Court”.

- (13) Third Schedule—

Omit “*Clerk of the Peace*”, insert instead “*Registrar of the District Court*”.

**Habitual Criminals Act 1957 No. 19—**

- 20 (1) Section 4 (**Judge may pronounce convicted person an habitual criminal**)—

Section 4 (2)—

Omit “the clerk of the peace”, insert instead “a registrar of the District Court”.

- (2) Section 8 (**Conditions under which offender may be arrested**)—

- (a) Section 8 (4)—

- 25 Omit “the clerk of the peace” where firstly occurring, insert instead “a registrar of the District Court”.

- (b) Section 8 (4)—

Omit “the clerk of the peace” where secondly occurring, insert instead “the registrar”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued***Jury Act 1977 No. 18—**(1) Section 23 (**General jury precept**)—

## (a) Section 23 (2) (a)—

After “thereof”, insert “or the Criminal Listing Director”.

## 5 (b) Section 23 (2) (c)—

Omit the paragraph, insert instead:

(c) in the case of trials in the District Court in its criminal jurisdiction—  
a judge of the District Court or the Criminal Listing Director; and

(2) Schedule 2 (**Persons ineligible to serve as jurors**)—

## 10 Clause 25—

After clause 24, insert:

25. The Director of Public Prosecutions, the Deputy Directors of Public Prosecutions and the Solicitor for Public Prosecutions, and their spouses.

**Justices Act 1902 No. 27—**15 (1) Section 25 (**Issue of warrant where indictment filed**)—

## (a) Section 25 (1)—

Omit “by the Attorney-General or other officer duly appointed in that behalf”.

## (b) Section 25 (1)—

## 20 Omit “Clerk of Arraignment or Clerk of the Peace, as the case may be,” insert instead “proper officer”.

(2) Section 38 (**Witnesses to be bound over to give evidence at trial**)—

## Section 38 (5)—

Omit “other prosecuting officer”, insert instead “Director of Public Prosecutions”.

25 (3) Section 39 (**On committal for trial papers to be transmitted**)—

## (a) Section 39 (1)—

Omit “Attorney-General or, if he so requires, to the Solicitor-General”, insert instead “appropriate officer”.

## (b) Section 39 (2)—

## 30 Omit “Attorney-General and Solicitor-General”, insert instead “appropriate officer”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued*

## (c) Section 39 (2)—

Omit “them” where firstly and secondly occurring, insert instead “the appropriate officer”.

## (d) Section 39 (3)—

5 Omit “Attorney-General or Solicitor-General or officer in any case prosecuting for him”, insert instead “the appropriate officer”.

## (e) Section 39 (4), (5)—

After section 39 (3), insert:

10 (4) A copy of the said several documents transmitted to the appropriate officer shall, subject to and in accordance with the regulations, be transmitted by the officer to the Director of Public Prosecutions.

(5) In this section, “appropriate officer”, in relation to a person committed for trial to—

15 (a) the Supreme Court—means the registrar of the Criminal Division of the Supreme Court;

(b) the District Court—means the registrar of the District Court for the nearest proclaimed place,

or such officer as may be prescribed by the regulations.

(4) Section 40 (**Copies of depositions may be obtained**)—

20 (a) Omit “Clerk of the Peace” wherever occurring, insert instead “appropriate officer”.

## (b) Section 40 (3)—

After section 40 (2), insert:

25 (3) In this section, “appropriate officer” has the same meaning as in section 39.

(5) Section 50 (**Procedure on non-appearance of person discharged on recognizances**)—

Omit “Clerk of the Peace” wherever occurring, insert instead “registrar of the District Court for the nearest proclaimed place”.

(6) Section 51A (**Effect of plea of guilty in committal proceedings**)—

30 After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.



*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued*

- (7) Section 97 (**Procedure on non-appearance of person discharged on recognizances**)—  
Omit “Clerk of the Peace” wherever occurring, insert instead “registrar of the District Court for the nearest proclaimed place”.
- (8) Section 110 (**Forfeiture of recognizance to be certified**)—  
5 Omit “Clerk of the Peace” wherever occurring, insert instead “registrar of the District Court for the nearest proclaimed place”.
- (9) Section 121A (**Interpretation**)—  
Section 121A (3)—  
Omit the subsection, insert instead:  
10 (3) In this Division—  
“proclaimed place” has the same meaning as in the District Court Act 1973;  
“registrar” means a registrar of the District Court.
- (10) Section 122 (**Appeal allowed in every case of conviction or order made by Justices**)—  
(a) Section 122 (1)—  
15 Omit “Clerk of the Peace”, insert instead “registrar for the nearest proclaimed place”.
- (b) Section 122 (1C)—  
Omit “Clerk of the Peace”, insert instead “registrar for the proclaimed place at which the application is to be heard and determined”.
- 20 (c) Section 122 (2)—  
Omit “appointed place”, insert instead “proclaimed place”.
- (d) Section 122 (2AA) (b)—  
Omit “Clerk of the Peace”, insert instead “registrar”.
- (e) Section 122 (2AA) (b)—  
25 Omit “appointed place”, insert instead “proclaimed place”.
- (f) Section 122 (2A) (a)—  
Omit “Clerk of the Peace”, insert instead “two registrars concerned”.
- (g) Section 122 (2A)—  
Omit “appointed place”, insert instead “proclaimed place”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

(h) Section 122 (2c)—

Omit “Clerk of the Peace”, insert instead “registrar for the proclaimed place at which the appeal or application is to be heard and determined”.

(i) Section 122 (2d)—

5 Omit “the Clerk of the Peace”, insert instead “a registrar”.

(j) Section 122 (2E)—

Omit “an appointed place”, insert instead “a proclaimed place”.

(k) Section 122 (2E)—

10 Omit “appointed place” where secondly occurring, insert instead “proclaimed place”.

(l) Section 122 (2E)—

Omit “section 174 (1) (b) of”.

(m) Section 122 (4)—

Omit “Clerk of the Peace”, insert instead “relevant registrar”.

15 (n) Section 122 (6)—

Omit “Clerk of the Peace”, insert instead “registrar for the proclaimed place at which the appeal is to be heard and determined”.

(11) Section 129 (**Quashing of conviction, &c., to be endorsed thereon**)—

20 Omit “Clerk of the Peace”, insert instead “registrar of the District Court for the nearest proclaimed place”.

**Mental Health Act 1983 No. 178—**

(1) Section 117 (**Review following finding of unfitness or at special hearing**)—

(a) Section 117 (2)—

25 After “accordingly”, insert “and shall at the same time furnish a copy of the notification to the Director of Public Prosecutions”.

(b) Section 117 (4)—

After “recommendation” where secondly occurring, insert “and shall at the same time furnish a copy of the notification to the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued*

## (c) Section 117 (4A)—

After section 117 (4), insert:

- 5 (4A) The Director of Public Prosecutions shall, within 21 days after the date of a notification under subsection (4), indicate to the Attorney General as to whether the Director intends to proceed with criminal charges against the person concerned.

## (d) Section 117 (6) (b)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

(2) Section 127 (**Termination of classification as forensic patient**)—

## 10 (a) Section 127 (1) (b)—

After “Attorney General” where secondly occurring, insert “or the Director of Public Prosecutions”.

## (b) Section 127 (1) (d) (ii)—

Omit the subparagraph, insert instead:

- 15 (ii) where the Attorney General advises the Minister that the person will not be further proceeded against by the Attorney General or the Director of Public Prosecutions in respect of the offence—upon the person’s release from detention pursuant to section 428s (3) of the Crimes Act 1900,

## 20 (c) Section 127 (1) (h) (i)—

After “Attorney General” where secondly occurring, insert “or the Director of Public Prosecutions”.

**Monopolies Act 1923 No. 54—**Section 14 (**Action or indictment**)—

## 25 Section 14 (2)—

Omit the subsection, insert instead:

- 30 (2) If proceedings by indictment are not instituted for an indictable offence, the Attorney General may elect to institute proceedings by way of civil action for the recovery of the pecuniary penalty for the offence, and proceedings by indictment may not be instituted thereafter for the offence.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued***Ombudsman Act 1974 No. 68—**

## Schedule 1 (Excluded conduct of public authorities)—

## Item 7—

After “Solicitor General,” insert “or of the Director of Public Prosecutions”.

**5 Pre-Trial Diversion of Offenders Act 1985 No. 153—**

## Section 8 (Director of Public Prosecutions to conduct prosecutions)—

Omit “Solicitor for Public Prosecutions” wherever occurring, insert instead “Director of Public Prosecutions”.

**Prices Regulation Act 1948 No. 26—****10 Section 7 (Declaration of secrecy)—**

## Section 7 (4) (a)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

**Public Health Act 1902 No. 30—****15 Section 63 (Appeal from order of local authority or Secretary)—**

## Section 63 (2) (a)—

Omit “the Clerk of the Peace”, insert instead “a registrar of the District Court”.

**State Drug Crime Commission Act 1985 No. 117—**

## (1) Section 6 (Principal functions of the Commission)—

**20 (a) Section 6 (1) (b), (2), (4)—**

Omit “a Special Prosecutor” wherever occurring, insert instead “the Director of Public Prosecutions”.

## (b) Section 6 (5)—

Omit the subsection.

**25 (2) Section 12 (Seizure pursuant to search warrant—special provisions)—**

## Section 12 (3)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued***Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—**

## (1) Schedule 1—

At the end of the Schedule, insert:

Director of Public Prosecutions.

## 5 (2) Schedule 2, Part 1—

At the end of the Part, insert:

Deputy Director of Public Prosecutions.

Solicitor for Public Prosecutions.

10

Senior Crown Prosecutor.

Deputy Senior Crown Prosecutor.

Crown Prosecutor.

## (3) Schedule 2, Part 2—

Omit:

15

Senior Crown Prosecutor.

Deputy Senior Crown Prosecutor.

Crown Prosecutor.

**Supreme Court Act 1970 No. 52—**Section 17 (**Criminal proceedings**)—

Omit section 17 (2) (b), insert instead:

20

(b) without limiting the generality of paragraph (a), for—

(i) providing for the regulation of the sittings and order of business of the Court and the regulation of the vacations and holidays to be observed by the Court and in the offices of the Court; and

25

(ii) prescribing the duties and functions of the registrar of the Criminal Division of the Court and other officers of the Court and the records to be kept by them,

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

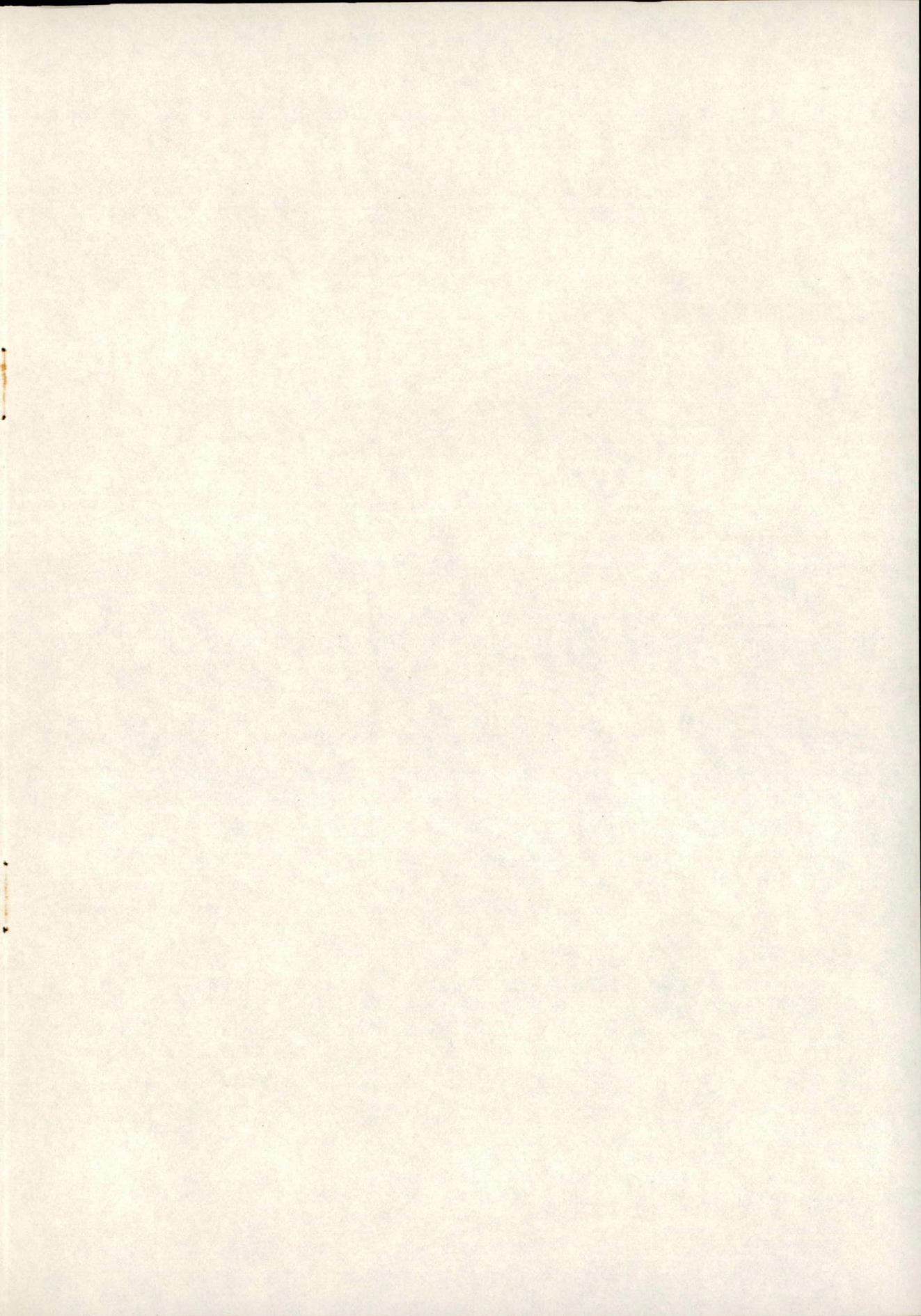
AMENDMENT OF CERTAIN ACTS—*continued*

**Witnesses Examination Act 1900 No. 34—**

**Section 6 (Examinations on commission, etc., in criminal proceedings)—**

Section 6 (1)—

5 Omit “or the Crown Prosecutor”, insert instead “, the Director of Public Prosecutions or the Crown Prosecutor”.







MISCELLANEOUS ACTS (PUBLIC PROSECUTIONS)  
AMENDMENT ACT 1986 No. 212

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of certain Acts
4. Repeal of 9 Geo. IV, c. 83, s. 5 (His Majesty's Attorney General may proceed by information until juries are constituted)
5. Savings and transitional provisions

SCHEDULE 1—AMENDMENT OF CERTAIN ACTS

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**MISCELLANEOUS ACTS (PUBLIC PROSECUTIONS)  
AMENDMENT ACT 1986 No. 212**

NEW SOUTH WALES



**Act No. 212, 1986**

An Act to amend certain Acts as a consequence of and in connection with the enactment of the Director of Public Prosecutions Act 1986, the Crown Prosecutors Act 1986, the Criminal Procedure Act 1986 and certain other Acts; and for other purposes. [Assented to 23 December 1986]

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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**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**

1. This Act may be cited as the "Miscellaneous Acts (Public Prosecutions) Amendment Act 1986".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by this section, this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

(3) Section 3, in its application to a provision of Schedule 1, shall commence on the day on which the provision commences.

(4) Items (1) and (2) of the amendments to the Statutory and Other Offices Remuneration Act 1975 in Schedule 1 shall commence on the date of assent to this Act.

**Amendment of certain Acts**

3. Each Act specified in Schedule 1 is amended in the manner set forth in that Schedule.

**Repeal of 9 Geo. IV, c. 83, s. 5 (His Majesty's Attorney General may proceed by information until juries are constituted)**

4. Section 5 of The Australian Courts Act 1828 (9 Geo. IV, c. 83 of the Imperial Parliament) is repealed so far as it applies in New South Wales.

**Savings and transitional provisions**

5. (1) In this section, "the cognate Acts" means this Act, the Director of Public Prosecutions Act 1986, the Crown Prosecutors Act 1986, the Criminal Procedure Act 1986, the District Court (Amendment) Act 1986 and the Criminal Appeal (Amendment) Act 1986.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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(2) If—

- (a) an act, matter or thing was validly done or omitted to be done under an Act before the commencement of an amendment made to the Act by Schedule 1; and
- (b) as a result of the cognate Acts, the act, matter or thing would not have appropriate effect after that commencement,

the act, matter or thing shall, to the necessary extent, be treated as if it had been validly done in accordance with the Act as amended and in accordance with so much of the provisions of the cognate Acts as is relevant, and the act, matter or thing has appropriate effect accordingly.

(3) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of any or all of the cognate Acts.

(4) A provision referred to in subsection (3) may take effect, if the regulations so provide, as from the date of assent to this Act or a later date.

(5) To the extent to which a provision referred to in subsection (3) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication in the Gazette; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication in the Gazette.

(6) A provision referred to in subsection (3) shall, if the regulations expressly so provide, have effect notwithstanding any other savings or transitional provision contained in a cognate Act (except a provision relating to the appointment of a person to any office).

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*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1

(Sec. 3)

AMENDMENT OF CERTAIN ACTS

**Bail Act 1978 No. 161—**

(1) Section 48 (**Provisions respecting review of bail decisions**)—

Section 48 (1) (a)—

Omit “or the Attorney-General”, insert instead “the Attorney General or the Director of Public Prosecutions”.

(2) Section 60 (**Evidence**)—

Section 60 (3) (c)—

Omit “or clerk of a Local Court or the Clerk or Deputy Clerk of the Peace”, insert instead “, registrar or other officer of the Supreme Court, registrar or assistant registrar of the District Court or clerk of a Local Court”.

**Coroners Act 1980 No. 27—**

(1) Section 19 (**Procedure at inquest or inquiry where person charged with, or prima facie case for, indictable offence**)—

(a) Section 19 (2)—

Omit “Attorney-General”, insert instead “Director of Public Prosecutions”.

(b) Section 19 (3)—

After section 19 (2), insert:

(3) The Director of Public Prosecutions shall indicate to the Attorney General as to whether the Director intends to proceed with criminal charges against the person concerned.

(2) Section 20 (**Further inquest or inquiry after previous inquest or inquiry terminated under section 19**)—

Section 20 (1)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

(3) Section 40 (**Apprehension of witness under warrant**)—

Section 40 (4)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court for the nearest proclaimed place (within the meaning of the District Court Act 1973)”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Crimes Act 1900 No. 40—**

- (1) **Section 358 (When case not to be proceeded with gaoler to discharge prisoner on certificate from Attorney-General or Director of Public Prosecutions)—**

Section 358 (1)—

After “Attorney-General” where firstly occurring, insert “or the Director of Public Prosecutions”.

- (2) **Section 405A (Notice of alibi)—**

- (a) Section 405A (6)—

Omit “Clerk of the Peace” where firstly occurring, insert instead “Director of Public Prosecutions”.

- (b) Section 405A (6)—

Omit “Clerk of the Peace” where secondly occurring, insert instead “Director”.

- (3) **Section 406 (Depositions by persons dangerously ill—how to be taken and when admissible in evidence)—**

At the end of the section, insert:

(2) A copy of the deposition shall be forwarded by the Attorney General to the Director of Public Prosecutions.

- (4) **Section 414B (Proof of service of notice to produce)—**

Omit “clerk of the peace or his clerk”, insert instead “Director of Public Prosecutions or the Solicitor for Public Prosecutions or a member of the staff of the Director of Public Prosecutions”.

- (5) **Section 428K (Functions of Mental Health Review Tribunal)—**

Section 428K (4)—

After “determination”, insert “and furnish the Director of Public Prosecutions with a copy of the notification”.

- (6) **Section 428M (Functions of Attorney General following determination of Mental Health Review Tribunal)—**

- (a) Section 428M (1)—

After “Attorney General” where secondly occurring, insert “(after consultation with the Director of Public Prosecutions)”.

- (b) Section 428M (1) (b) (ii)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

(7) Section 428s (**Recommendation for further inquiry**)—

(a) Section 428s (1)—

After “Attorney General” where secondly occurring, insert “(after consultation with the Director of Public Prosecutions)”.

(b) Section 428s (1) (b)—

Omit the paragraph, insert instead:

- (b) shall advise the Minister for Health that the person will not be further proceeded against by the Attorney General or the Director of Public Prosecutions in respect of the offence.

(c) Section 428s (3)—

Omit “notifies the Minister for Health of a determination not to further proceed against a person”, insert instead “advises the Minister for Health that a person will not be further proceeded against”.

(8) Section 437 (**Compensation payable to person aggrieved by indictable offence, &c.**)—

Section 437 (9) (a), (a1)—

Omit section 437 (9) (a), insert instead:

- (a) in the case of a direction given by the Supreme Court—the registrar of the Criminal Division of that Court or an officer authorised by that registrar;

- (a1) in the case of a direction given by the District Court—the registrar of that Court for the proclaimed place (within the meaning of the District Court Act 1973) at which the direction was given; or

(9) Section 457 (**Direction for compensation to be enforceable by execution, &c.**)—

(a) Section 457—

Omit “Clerk of the Peace or, as the case may require, the clerk of the Court” wherever occurring, insert instead “registrar, officer or clerk”.

(b) Section 457 (1)—

Omit “Clerk of the Peace or the clerk of the Court”, insert instead “registrar, officer or clerk”.

(10) Section 475A (**Offences punishable summarily**)—

(a) Section 475A (1)—

After “Attorney-General”, insert “or the Director of Public Prosecutions”.



*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*  
 AMENDMENT OF CERTAIN ACTS—*continued*

(b) Section 475A (6)—

Omit the subsection, insert instead:

(6) The reference in subsection (1) to the Attorney-General or the Director of Public Prosecutions includes, in relation to any proceedings, a reference to any person who is authorised in writing by the Attorney-General or Director to act, for the purposes of that subsection, on behalf of the Attorney-General or Director in relation to those proceedings or in relation to proceedings for all offences mentioned in the Tenth Schedule.

(c) Section 475A (7) (a)—

Omit “Governor”, insert instead “Attorney-General or the Director of Public Prosecutions”.

(d) Section 475A (7) (b)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

(11) Section 572 (**Governor may appoint persons to prosecute in District Court**)—

Omit the section.

(12) Third Schedule (**Forms**)—

(a) Forms 1 and 3—

After “Attorney-General” wherever occurring, insert “or Director of Public Prosecutions”.

(b) Forms 2 and 4—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

**Crimes (Confiscation of Profits) Act 1985 No. 181—**

(1) Section 3 (**Interpretation**)—

Section 3 (1), definition of “appropriate officer” —

From paragraph (a), omit “Solicitor for Public Prosecutions”, insert instead “Director of Public Prosecutions”.

(2) Section 38 (**Appeals**)—

Section 38 (4)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Criminal Injuries Compensation Act 1967 No. 14—**

**Section 7 (Rights against convicted person where payment made)—**

(a) Section 7 (1) (a)—

Omit “Clerk of the Peace, or, in the case of an application made in respect of a direction given, or a certificate granted, by a court other than the Supreme Court or District Court, the clerk of the Court which gave the direction or granted the certificate,”, insert instead “appropriate officer”.

(b) Section 7 (1) (b)—

Omit “Clerk of the Peace or the clerk of that Court”, insert instead “appropriate officer”.

(c) Section 7 (4)—

After section 7 (3), insert:

(4) In this section—

“appropriate officer”, in relation to an application made in respect of a direction given, or a certificate granted, by—

- (a) the Supreme Court—means the registrar of the Criminal Division of the Supreme Court or an officer authorised by that registrar;
- (b) the District Court—means the registrar of the District Court for the place at which the direction was given or the certificate was granted; or
- (c) another court—means the clerk of the court which gave the direction or granted the certificate.

**Crown Advocate Act 1979 No. 59—**

**Section 9 (Duties and functions of Crown Advocate)—**

Section 9 (b)—

Omit the paragraph, insert instead:

- (b) to advise and conduct proceedings on behalf of the Director of Public Prosecutions, with the consent of the Attorney General and at the request of the Director;

**Evidence Act 1898 No. 11—**

**Section 24A (Judicial notice of signature of holders of certain offices)—**

Section 24A (a)—

After “Solicitor-General”, insert “, Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Fines and Forfeited Recognizances Act 1954 No. 25—**

(1) Section 3 (**Interpretation**)—

Before the definition of “bail agreement”, insert:

“appropriate registrar”, as used in a provision of this Act, means the registrar of the District Court for the place, or the nearest place, as relevant to the context of the provision;

(2) Section 4 (**Forfeiture of certain recognizances**)—

Section 4 (2)—

Omit “Clerk of the Peace”, insert instead “appropriate registrar”.

(3) Section 4A (**Forfeiture of bail money**)—

Section 4A (1)—

Omit “Clerk of the Peace”, insert instead “appropriate registrar”.

(4) Section 5 (**Procedure after forfeiture of certain recognizances**)—

(a) Omit “the Clerk of the Peace” where firstly occurring, insert instead “a registrar of the District Court”.

(b) Omit “the Clerk of the Peace” where secondly occurring, insert instead “the appropriate registrar”.

(5) Section 6 (**Enforcement of certain recognizances where amount thereof has been deposited**)—

Section 6 (1) (a), (1A) (c)—

Omit “the Clerk of the Peace” wherever occurring, insert instead “a registrar of the District Court”.

(6) Section 7 (**Registrar to prepare an Estreat Roll**)—

Omit “the Clerk of the Peace”, insert instead “each registrar of the District Court”.

(7) Section 8 (**Registrar to send copy of Estreat Roll to the Sheriff with appropriate writ**)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.

(8) Section 11 (**Sheriff to lay copy of Estreat Roll and a return before court**)—

Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued*

- (9) Section 12 (**Judge to order carrying forward in fresh roll of cases in former roll where no levy or discharge**)—  
Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.
- (10) Section 13 (**Judge to inquire into cases included in Estreat Roll**)—  
(a) Section 13 (2)—  
Omit “Clerk of the Peace”, insert instead “registrar of the District Court”.  
(b) Section 13 (4)—  
Omit “Clerk of the Peace in respect of such other Court of Quarter Sessions”, insert instead “registrar of the District Court for such other place”.
- (11) Section 15 (**Preservation and continuance in force of all writs and copies of the Estreat Roll sent to Sheriff**)—  
Section 15 (1)—  
Omit “the Clerk of the Peace”, insert instead “registrars of the District Court”.
- (12) Second and Fourth Schedules—  
Omit “Clerk of the Peace” wherever occurring, insert instead “Registrar of the District Court”.
- (13) Third Schedule—  
Omit “*Clerk of the Peace*”, insert instead “*Registrar of the District Court*”.
- Habitual Criminals Act 1957 No. 19—**
- (1) Section 4 (**Judge may pronounce convicted person an habitual criminal**)—  
Section 4 (2)—  
Omit “the clerk of the peace”, insert instead “a registrar of the District Court”.
- (2) Section 8 (**Conditions under which offender may be arrested**)—  
(a) Section 8 (4)—  
Omit “the clerk of the peace” where firstly occurring, insert instead “a registrar of the District Court”.  
(b) Section 8 (4)—  
Omit “the clerk of the peace” where secondly occurring, insert instead “the registrar”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued***Jury Act 1977 No. 18—**(1) Section 23 (**General jury precept**)—

## (a) Section 23 (2) (a)—

After “thereof”, insert “or the Criminal Listing Director”.

## (b) Section 23 (2) (c)—

Omit the paragraph, insert instead:

(c) in the case of trials in the District Court in its criminal jurisdiction—  
a judge of the District Court or the Criminal Listing Director; and

(2) Schedule 2 (**Persons ineligible to serve as jurors**)—

## Clause 25—

After clause 24, insert:

25. The Director of Public Prosecutions, the Deputy Directors of Public Prosecutions and the Solicitor for Public Prosecutions, and their spouses.

**Justices Act 1902 No. 27—**(1) Section 25 (**Issue of warrant where indictment filed**)—

## (a) Section 25 (1)—

Omit “by the Attorney-General or other officer duly appointed in that behalf”.

## (b) Section 25 (1)—

Omit “Clerk of Arraignment or Clerk of the Peace, as the case may be,” insert instead “proper officer”.

(2) Section 38 (**Witnesses to be bound over to give evidence at trial**)—

## Section 38 (5)—

Omit “other prosecuting officer”, insert instead “Director of Public Prosecutions”.

(3) Section 39 (**On committal for trial papers to be transmitted**)—

## (a) Section 39 (1)—

Omit “Attorney-General or, if he so requires, to the Solicitor-General”, insert instead “appropriate officer”.

## (b) Section 39 (2)—

Omit “Attorney-General and Solicitor-General”, insert instead “appropriate officer”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

(c) Section 39 (2)—

Omit “them” where firstly and secondly occurring, insert instead “the appropriate officer”.

(d) Section 39 (3)—

Omit “Attorney-General or Solicitor-General or officer in any case prosecuting for him”, insert instead “the appropriate officer”.

(e) Section 39 (4), (5)—

After section 39 (3), insert:

(4) A copy of the said several documents transmitted to the appropriate officer shall, subject to and in accordance with the regulations, be transmitted by the officer to the Director of Public Prosecutions.

(5) In this section, “appropriate officer”, in relation to a person committed for trial to—

(a) the Supreme Court—means the registrar of the Criminal Division of the Supreme Court;

(b) the District Court—means the registrar of the District Court for the nearest proclaimed place,

or such officer as may be prescribed by the regulations.

(4) Section 40 (**Copies of depositions may be obtained**)—

(a) Omit “Clerk of the Peace” wherever occurring, insert instead “appropriate officer”.

(b) Section 40 (3)—

After section 40 (2), insert:

(3) In this section, “appropriate officer” has the same meaning as in section 39.

(5) Section 50 (**Procedure on non-appearance of person discharged on recognizances**)—

Omit “Clerk of the Peace” wherever occurring, insert instead “registrar of the District Court for the nearest proclaimed place”.

(6) Section 51A (**Effect of plea of guilty in committal proceedings**)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENT OF CERTAIN ACTS—*continued*

- (7) Section 97 (**Procedure on non-appearance of person discharged on recognizances**)—  
Omit “Clerk of the Peace” wherever occurring, insert instead “registrar of the District Court for the nearest proclaimed place”.
- (8) Section 110 (**Forfeiture of recognizance to be certified**)—  
Omit “Clerk of the Peace” wherever occurring, insert instead “registrar of the District Court for the nearest proclaimed place”.
- (9) Section 121A (**Interpretation**)—  
Section 121A (3)—  
Omit the subsection, insert instead:  
(3) In this Division—  
“proclaimed place” has the same meaning as in the District Court Act 1973;  
“registrar” means a registrar of the District Court.
- (10) Section 122 (**Appeal allowed in every case of conviction or order made by Justices**)—
- (a) Section 122 (1)—  
Omit “Clerk of the Peace”, insert instead “registrar for the nearest proclaimed place”.
- (b) Section 122 (1c)—  
Omit “Clerk of the Peace”, insert instead “registrar for the proclaimed place at which the application is to be heard and determined”.
- (c) Section 122 (2)—  
Omit “appointed place”, insert instead “proclaimed place”.
- (d) Section 122 (2AA) (b)—  
Omit “Clerk of the Peace”, insert instead “registrar”.
- (e) Section 122 (2AA) (b)—  
Omit “appointed place”, insert instead “proclaimed place”.
- (f) Section 122 (2A) (a)—  
Omit “Clerk of the Peace”, insert instead “two registrars concerned”.
- (g) Section 122 (2A)—  
Omit “appointed place”, insert instead “proclaimed place”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

- (h) Section 122 (2C)—  
Omit “Clerk of the Peace”, insert instead “registrar for the proclaimed place at which the appeal or application is to be heard and determined”.
- (i) Section 122 (2D)—  
Omit “the Clerk of the Peace”, insert instead “a registrar”.
- (j) Section 122 (2E)—  
Omit “an appointed place”, insert instead “a proclaimed place”.
- (k) Section 122 (2E)—  
Omit “appointed place” where secondly occurring, insert instead “proclaimed place”.
- (l) Section 122 (2E)—  
Omit “section 174 (1) (b) of”.
- (m) Section 122 (4)—  
Omit “Clerk of the Peace”, insert instead “relevant registrar”.
- (n) Section 122 (6)—  
Omit “Clerk of the Peace”, insert instead “registrar for the proclaimed place at which the appeal is to be heard and determined”.
- (11) Section 129 (**Quashing of conviction, &c., to be endorsed thereon**)—  
Omit “Clerk of the Peace”, insert instead “registrar of the District Court for the nearest proclaimed place”.

**Mental Health Act 1983 No. 178—**

- (1) Section 117 (**Review following finding of unfitness or at special hearing**)—
  - (a) Section 117 (2)—  
After “accordingly”, insert “and shall at the same time furnish a copy of the notification to the Director of Public Prosecutions”.
  - (b) Section 117 (4)—  
After “recommendation” where secondly occurring, insert “and shall at the same time furnish a copy of the notification to the Director of Public Prosecutions”.



*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

(c) Section 117 (4A)—

After section 117 (4), insert:

(4A) The Director of Public Prosecutions shall, within 21 days after the date of a notification under subsection (4), indicate to the Attorney General as to whether the Director intends to proceed with criminal charges against the person concerned.

(d) Section 117 (6) (b)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

(2) Section 127 (**Termination of classification as forensic patient**)—

(a) Section 127 (1) (b)—

After “Attorney General” where secondly occurring, insert “or the Director of Public Prosecutions”.

(b) Section 127 (1) (d) (ii)—

Omit the subparagraph, insert instead:

(ii) where the Attorney General advises the Minister that the person will not be further proceeded against by the Attorney General or the Director of Public Prosecutions in respect of the offence—upon the person’s release from detention pursuant to section 428s (3) of the Crimes Act 1900,

(c) Section 127 (1) (h) (i)—

After “Attorney General” where secondly occurring, insert “or the Director of Public Prosecutions”.

**Monopolies Act 1923 No. 54—**

Section 14 (**Action or indictment**)—

Section 14 (2)—

Omit the subsection, insert instead:

(2) If proceedings by indictment are not instituted for an indictable offence, the Attorney General may elect to institute proceedings by way of civil action for the recovery of the pecuniary penalty for the offence, and proceedings by indictment may not be instituted thereafter for the offence.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Ombudsman Act 1974 No. 68—**

Schedule 1 (Excluded conduct of public authorities)—

Item 7—

After “Solicitor General,” insert “or of the Director of Public Prosecutions.”

**Pre-Trial Diversion of Offenders Act 1985 No. 153—**

Section 8 (Director of Public Prosecutions to conduct prosecutions)—

Omit “Solicitor for Public Prosecutions” wherever occurring, insert instead “Director of Public Prosecutions”.

**Prices Regulation Act 1948 No. 26—**

Section 7 (Declaration of secrecy)—

Section 7 (4) (a)—

After “Attorney-General” wherever occurring, insert “or the Director of Public Prosecutions”.

**Public Health Act 1902 No. 30—**

Section 63 (Appeal from order of local authority or Secretary)—

Section 63 (2) (a)—

Omit “the Clerk of the Peace”, insert instead “a registrar of the District Court”.

**State Drug Crime Commission Act 1985 No. 117—**

(1) Section 6 (Principal functions of the Commission)—

(a) Section 6 (1) (b), (2), (4)—

Omit “a Special Prosecutor” wherever occurring, insert instead “the Director of Public Prosecutions”.

(b) Section 6 (5)—

Omit the subsection.

(2) Section 12 (Seizure pursuant to search warrant—special provisions)—

Section 12 (3)—

After “Attorney General”, insert “or the Director of Public Prosecutions”.

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)—**

(1) Schedule 1—

At the end of the Schedule, insert:

Director of Public Prosecutions.

(2) Schedule 2, Part 1—

At the end of the Part, insert:

Deputy Director of Public Prosecutions.  
Solicitor for Public Prosecutions.  
Senior Crown Prosecutor.  
Deputy Senior Crown Prosecutor.  
Crown Prosecutor.

(3) Schedule 2, Part 2—

Omit:

Senior Crown Prosecutor.  
Deputy Senior Crown Prosecutor.  
Crown Prosecutor.

**Supreme Court Act 1970 No. 52—**

**Section 17 (Criminal proceedings)—**

Omit section 17 (2) (b), insert instead:

(b) without limiting the generality of paragraph (a), for—

- (i) providing for the regulation of the sittings and order of business of the Court and the regulation of the vacations and holidays to be observed by the Court and in the offices of the Court; and
- (ii) prescribing the duties and functions of the registrar of the Criminal Division of the Court and other officers of the Court and the records to be kept by them,

*Miscellaneous Acts (Public Prosecutions) Amendment 1986*

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SCHEDULE 1—*continued*

AMENDMENT OF CERTAIN ACTS—*continued*

**Witnesses Examination Act 1900 No. 34—**

**Section 6 (Examinations on commission, etc., in criminal proceedings)—**

Section 6 (1)—

Omit “or the Crown Prosecutor”, insert instead “, the Director of Public Prosecutions or the Crown Prosecutor”.