

PUBLIC DEFENDERS ACT.

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 No. 60, 1969 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 (1) The Poor Prisoners Defence Act, 1907, is repealed.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.

(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)

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No. 60, 1969 (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 No. 60, 1969
 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.

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 depart-
 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
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 direc-
 tions given to him by the Minister, make arrangements for the
 applicant to be provided with such legal assistance in connec-
 tion 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)

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(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.

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

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".

Sec. 3.

SCHEDULE.

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

C. B. ALEXANDER