

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

(As read a first time)

**DIRECTOR OF PUBLIC PROSECUTIONS (CONSEQUENTIAL
AMENDMENTS) BILL 1983**

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1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
THE SENATE

(Presented pursuant to leave granted and read 1^o, 10 November 1983)

(ATTORNEY-GENERAL, SENATOR GARETH EVANS)

A BILL

FOR

**An Act to amend certain Acts in consequence of the enactment
of the *Director of Public Prosecutions Act 1983***

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

PART I—PRELIMINARY

Short title

5 **1.** This Act may be cited as the *Director of Public Prosecutions (Consequential Amendments) Act 1983*.

Commencement

10 **2. (1)** Subject to this section, this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, on the day on which the *Director of Public Prosecutions Act 1983* comes into operation.

(2) If Part XXII of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982* does not come into operation before the commencement of the

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Director of Public Prosecutions Act 1983, sub-section 8 (1) of this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of that Part.

(3) If section 8 of the *Crimes Amendment Act 1982* does not come into operation before the commencement of the *Director of Public Prosecutions Act 1983*, sub-section 8 (2) of this Act shall come into operation, or shall be deemed to have come into operation, as the case requires, immediately after the commencement of the first-mentioned section.

**PART II—AMENDMENT OF AUSTRALIAN CAPITAL
TERRITORY SUPREME COURT ACT 1933**

Principal Act

3. The *Australian Capital Territory Supreme Court Act 1933*¹ is in this Part referred to as the Principal Act.

Indictable offences

4. Section 53 of the Principal Act is amended—

(a) by inserting after sub-section (3) the following sub-section:

“(3A) Nothing in sub-section (1)—

(a) affects the power of the Director of Public Prosecutions to prosecute by information in his official name; or

(b) affects, or shall be taken to have affected, the power of a Special Prosecutor to prosecute by information in his own name,

an indictable offence triable before the Supreme Court.”; and

(b) by adding at the end thereof the following sub-section:

“(7) Nothing in sub-section (6)—

(a) affects the power under sub-section 9 (4) of the *Director of Public Prosecutions Act 1983* of the Director of Public Prosecutions; or

(b) affects, or shall be taken to have affected, the power under sub-section 8 (2) of the *Special Prosecutors Act 1982* of a Special Prosecutor.”.

**PART III—AMENDMENT OF COMMONWEALTH PLACES
(APPLICATION OF LAWS) ACT 1970**

Principal Act

5. The *Commonwealth Places (Application of Laws) Act 1970*² is in this Part referred to as the Principal Act.

Schedule

6. The Schedule to the Principal Act is amended by adding at the end thereof the following clause:

5 “3. Paragraphs 6 (1) (a) to (f), sub-sections 9 (1), (3), (4) and (5) and section 11 of the *Director of Public Prosecutions Act 1983*.”.

PART IV—AMENDMENTS OF CRIMES ACT 1914

Principal Act

7. The *Crimes Act 1914*³ is in this Part referred to as the Principal Act.

Power to discharge or vary conditions of recognizance

10 8. (1) Section 20AA of the Principal Act is amended by omitting from sub-section (6) “Crown Solicitor, or the Deputy Crown Solicitor in the State or Territory in which the application is made” and substituting “Director of Public Prosecutions or, if the Director of Public Prosecutions has not established an office in the State or Territory in which the application is made,
15 on the Deputy Crown Solicitor in that State or Territory”.

(2) Section 20AA of the Principal Act is amended by inserting in sub-section (12) “, the Director of Public Prosecutions” after “Attorney-General”.

Taking other offences into account

20 9. Section 21AA of the Principal Act is amended by omitting paragraph (1) (c) and substituting the following paragraph:

“(c) the document has been signed—

- (i) by the Director of Public Prosecutions;
- 25 (ii) for and on behalf of the Director of Public Prosecutions, by a person authorized by the Director of Public Prosecutions, by instrument in writing, to sign documents under this sub-section; or
- (iii) by a person appointed under section 69 of the *Judiciary Act 1903* to prosecute indictable offences against the laws of the
30 Commonwealth,

and by the person convicted;”.

PART V—AMENDMENT OF CRIMES (AIRCRAFT) ACT 1963

Principal Act

35 10. The *Crimes (Aircraft) Act 1963*⁴ is in this Part referred to as the Principal Act.

Change of venue

11. Section 24 of the Principal Act is amended—

- (a) by inserting in sub-section (3) “or the Director of Public Prosecutions” after “Attorney-General”;
- (b) by inserting in sub-section (4) “or the Director of Public Prosecutions” after “Attorney-General”; and
- (c) by omitting paragraph (5) (a) and substituting the following paragraphs:

“(a) at the time at which the defendant is to appear before a court, neither the Attorney-General nor the Director of Public Prosecutions has notified that court that he does not intend to file an indictment against the defendant in a court in another part of Australia;

(aa) neither the Attorney-General nor the Director of Public Prosecutions notifies the first-mentioned court before or at that time that he has filed such an indictment; and”.

PART VI—AMENDMENT OF CRIMES (HIJACKING OF AIRCRAFT) ACT 1972

Principal Act

12. The *Crimes (Hijacking of Aircraft) Act 1972^s* is in this Part referred to as the Principal Act.

Change of venue

13. Section 22 of the Principal Act is amended—

- (a) by inserting in sub-section (3) “or the Director of Public Prosecutions” after “Attorney-General”;
- (b) by inserting in sub-section (4) “or the Director of Public Prosecutions” after “Attorney-General”; and
- (c) by omitting paragraph (5) (a) and substituting the following paragraphs:

“(a) at the time at which the defendant is to appear before a court, neither the Attorney-General nor the Director of Public Prosecutions has notified that court that he does not intend to file an indictment against the defendant in a court in another part of Australia;

(aa) neither the Attorney-General nor the Director of Public Prosecutions notifies the first-mentioned court before or at that time that he has filed such an indictment; and”.

**PART VII—AMENDMENT OF CRIMES (PROTECTION OF
AIRCRAFT) ACT 1973**

Principal Act

5 **14.** The *Crimes (Protection of Aircraft) Act 1973*⁶ is in this Part referred to as the Principal Act.

Change of venue

15. Section 19 of the Principal Act is amended—

- (a) by inserting in sub-section (3) “or the Director of Public Prosecutions” after “Attorney-General”;
- 10 (b) by inserting in sub-section (4) “or the Director of Public Prosecutions” after “Attorney-General”; and
- (c) by omitting paragraph (5) (a) and substituting the following paragraphs:
- 15 “(a) at the time at which the defendant is to appear before a court, neither the Attorney-General nor the Director of Public Prosecutions has notified that court that he does not intend to file an indictment against the defendant in a court in another part of Australia;
- 20 (aa) neither the Attorney-General nor the Director of Public Prosecutions notifies the first-mentioned court before or at that time that he has filed such an indictment; and”.

**PART VIII—AMENDMENT OF DEFENCE (TRANSITIONAL
PROVISIONS) ACT 1946**

Principal Act

25 **16.** The *Defence (Transitional Provisions) Act 1946*⁷ is in this Part referred to as the Principal Act.

Trial of offences

17. Section 15 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

30 “(4) An offence against this Act shall not be prosecuted summarily without the written consent of the Attorney-General, of a person thereto authorized in writing by the Attorney-General or of the Director of Public Prosecutions, and an offence against this Act shall not be prosecuted on indictment except in the name of the Attorney-General or of the Director of
35 Public Prosecutions.”.

PART IX—AMENDMENT OF GENEVA CONVENTIONS ACT 1957

Principal Act

18. The *Geneva Conventions Act 1957*⁸ is in this Part referred to as the Principal Act.

Punishment of grave breaches of Conventions

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19. Section 7 of the Principal Act is amended by omitting sub-section (6) and substituting the following sub-section:

“(6) An offence against this section shall not be prosecuted in a court except by indictment in the name of the Attorney-General or of the Director of Public Prosecutions.”.

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PART X—AMENDMENTS OF JUDICIARY ACT 1903

Principal Act

20. The *Judiciary Act 1903*⁹ is in this Part referred to as the Principal Act.

Indictments

21. Section 69 of the Principal Act is amended by inserting after sub-section (2) the following sub-section:

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“(2A) Nothing in sub-section (1)—

(a) affects the power of the Director of Public Prosecutions to prosecute by indictment in his official name; or

(b) affects, or shall be taken to have affected, the power of a Special Prosecutor to prosecute by indictment in his own name,

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indictable offences against the laws of the Commonwealth.”.

Discharge of persons committed for trial

22. Section 71 of the Principal Act is amended by adding at the end thereof the following sub-section:

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“(2) Nothing in sub-section (1)—

(a) affects the power under sub-section 9 (4) of the *Director of Public Prosecutions Act 1983* of the Director of Public Prosecutions; or

(b) affects, or shall be taken to have affected, the power under sub-section 8 (2) of the *Special Prosecutors Act 1982* of a Special Prosecutor.”.

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PART XI—AMENDMENT OF PUBLIC ACCOUNTS COMMITTEE ACT 1951

Principal Act

23. The *Public Accounts Committee Act 1951*¹⁰ is in this Part referred to as the Principal Act.

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Offences

24. Section 21 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-section:

5 “(4) An offence against this Act shall not be prosecuted summarily without the written consent of the Attorney-General, of a person thereto authorized in writing by the Attorney-General or of the Director of Public Prosecutions, and an offence against this Act shall not be prosecuted on indictment except in the name of the Attorney-General or of the Director of Public Prosecutions.”.

10 PART XII—AMENDMENTS OF PUBLIC ORDER (PROTECTION OF PERSONS AND PROPERTY) ACT 1971

Principal Act

25. The *Public Order (Protection of Persons and Property) Act 1971*¹¹ is in this Part referred to as the Principal Act.

15 Additional offences on premises in a Territory

26. Section 11 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

20 “(3) Notwithstanding section 23, the consent of the Director of Public Prosecutions is not required for the institution of proceedings for the prosecution of an offence against this section.”.

Prosecutions

27. (1) Section 23 of the Principal Act is amended by omitting from sub-section (2) all the words after “writing” and substituting “of the Director of Public Prosecutions”.

25 (2) Notwithstanding the amendment of section 23 of the Principal Act made by sub-section (1) of this section, where a consent to the institution of proceedings has been given in accordance with that section as in force before the commencement of this section, the proceedings may be instituted after that commencement as if that amendment had not been made.

30 PART XIII—AMENDMENTS OF ROYAL COMMISSIONS ACT 1902

Principal Act

28. The *Royal Commissions Act 1902*¹² is in this Part referred to as the Principal Act.

35 Power of Commission in relation to documents and other things

29. Section 6F of the Principal Act is amended by inserting in sub-section (2) “(aa),” after “(a),”.

Commission may communicate information

30. Section 6P of the Principal Act is amended by inserting after paragraph (1) (a) the following paragraph:

“(aa) the Director of Public Prosecutions;”.

Institution of proceedings in respect of other offences

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31. Section 10 of the Principal Act is amended by omitting from sub-section (1) “in the name of the King” and substituting “or the Director of Public Prosecutions”.

**PART XIV—AMENDMENT OF SPECIAL PROSECUTORS ACT
1982**

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Principal Act

32. The *Special Prosecutors Act 1982*¹³ is in this Part referred to as the Principal Act.

Powers of Special Prosecutor

33. Section 8 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

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“(3) Nothing in this Act affects, or shall be taken to have affected—

- (a) the power of the Attorney-General, or of a person appointed by the Governor-General, to prosecute by indictment in his own name indictable offences against the laws of the Commonwealth; 20
- (b) the power of the Attorney-General, or of a person appointed by the Attorney-General, to prosecute by information in his own name an indictable offence triable before the Supreme Court of the Australian Capital Territory;
- (c) the power of the Director of Public Prosecutions— 25
 - (i) to prosecute by indictment in his official name indictable offences against the laws of the Commonwealth; or
 - (ii) to prosecute by information in his official name an indictable offence triable before the Supreme Court of the Australian Capital Territory; 30
- (d) the power under section 61 of the *Judiciary Act 1903* of the Attorney-General or of a person appointed by the Attorney-General;
- (e) the power under section 71 of the *Judiciary Act 1903* of the Attorney-General or of a person appointed by the Governor-General;
- (f) the power under sub-section 53 (6) of the *Australian Capital Territory Supreme Court Act 1933* of the Attorney-General or of a person appointed by the Attorney-General; or 35
- (g) the power of the Director of Public Prosecutions under sub-section 9 (4) of the *Director of Public Prosecutions Act 1983*.

**PART XV—AMENDMENT OF TELECOMMUNICATIONS
(INTERCEPTION) ACT 1979**

Principal Act

5 **34.** The *Telecommunications (Interception) Act 1979*¹⁴ is in this Part referred to as the Principal Act.

Telecommunications not to be intercepted

35. Section 7 of the Principal Act is amended by inserting in paragraph (7) (b) “or the Director of Public Prosecutions” after “Attorney-General”.

NOTES

1. No. 34, 1933, as amended. For previous amendments, see No. 27, 1935; No. 57, 1945; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 36, 1955; No. 47, 1956; No. 34, 1957; No. 43, 1958; No. 51, 1959; No. 110, 1960; No. 109, 1964; No. 92, 1965; Nos. 8 and 93, 1966; No. 156, 1968; No. 40, 1969; Nos. 13 and 98, 1971; No. 216, 1973; No. 158, 1976; No. 3, 1978; Nos. 61 and 92, 1981; No. 176, 1981 (as amended by No. 80, 1982); and No. 26, 1982.
2. No. 121, 1970, as amended. For previous amendments, see No. 216, 1973; and No. 80, 1982.
3. No. 12, 1914, as amended. For previous amendments, see No. 6, 1915; No. 54, 1920; No. 9, 1926; No. 13, 1928; No. 30, 1932; No. 5, 1937; No. 6, 1941; No. 77, 1946; No. 80, 1950; No. 10, 1955; No. 11, 1959; No. 84, 1960; No. 93, 1966; Nos. 33 and 216, 1973; No. 56, 1975; Nos. 19 and 155, 1979; No. 70, 1980; No. 122, 1981; and Nos. 67, 80 and 153, 1982.
4. No. 64, 1963, as amended. For previous amendments, see No. 216, 1973; No. 7, 1977; No. 129, 1979; No. 80, 1982; and No. 39, 1983.
5. No. 101, 1972, as amended. For previous amendments, see No. 216, 1973.
6. No. 34, 1973.
7. No. 77, 1946, as amended. For previous amendments, see No. 78, 1947; No. 88, 1948; No. 70, 1949; No. 78, 1950; No. 43, 1951; No. 2, 1953; No. 93, 1966; and No. 216, 1973.
8. No. 103, 1957, as amended. For previous amendments, see No. 93, 1966; No. 216, 1973; and No. 153, 1982.
9. No. 6, 1903, as amended. For previous amendments, see No. 5, 1906; No. 8, 1907; No. 34, 1910; No. 31, 1912; No. 11, 1914; No. 4, 1915; No. 38, 1920; No. 39, 1926; No. 9, 1927; No. 60, 1932; Nos. 34 and 65, 1933; No. 45, 1934; No. 5, 1937; No. 43, 1939; No. 50, 1940; No. 10, 1946; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 35, 1955; No. 50, 1959; Nos. 32 and 109, 1960; No. 91, 1965; Nos. 55 and 93, 1966; No. 134, 1968; No. 39, 1969; No. 216, 1973; No. 164, 1976; No. 36, 1978; Nos. 19, 86 and 138, 1979; No. 61, 1981; No. 26, 1982; and No. 39, 1982.

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NOTES—continued

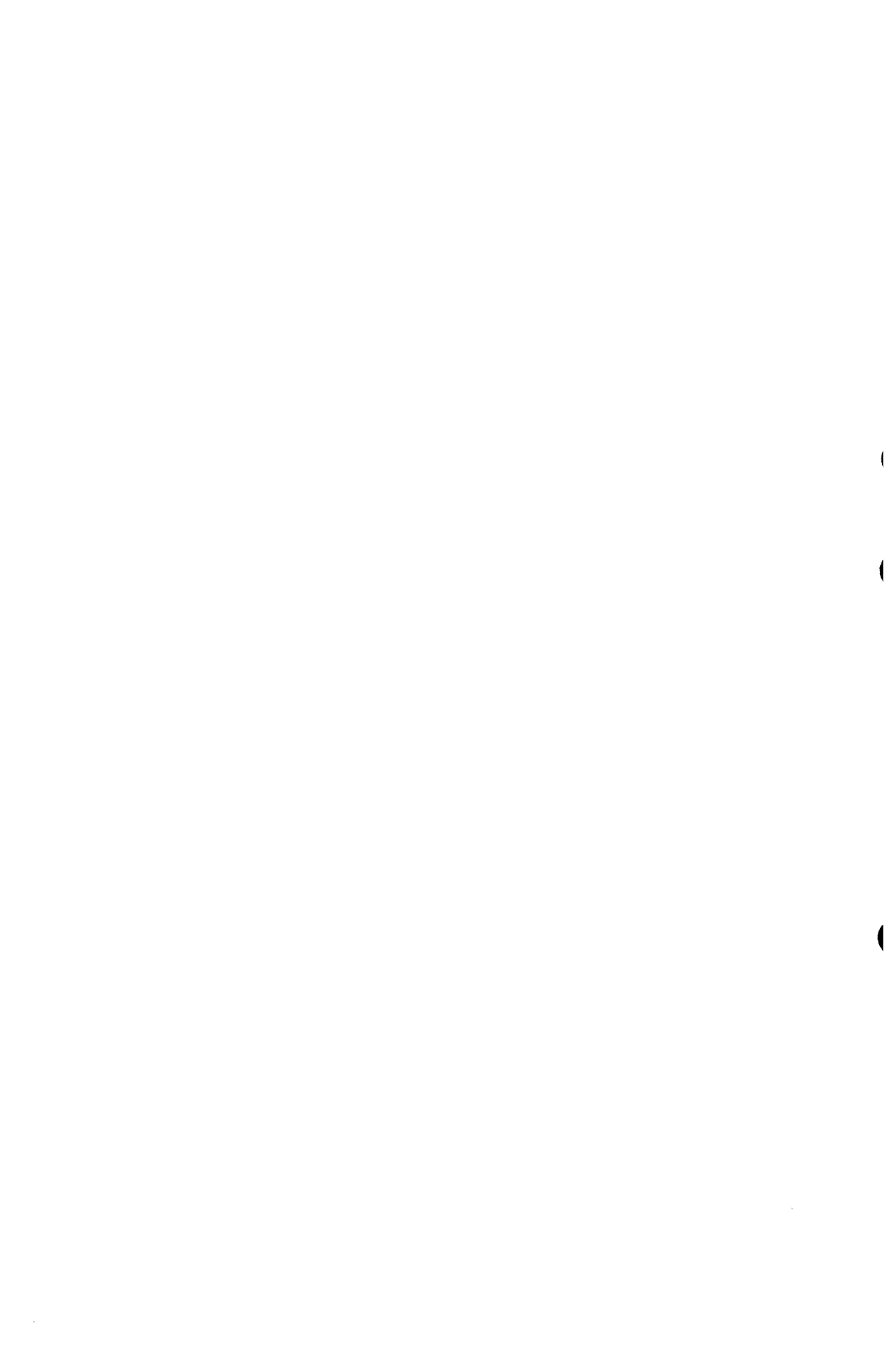
10. No. 60, 1951, as amended. For previous amendments, see No. 79, 1965; No. 93, 1966; No. 216, 1973; No. 70, 1976; No. 36, 1978; No. 187, 1979; and No. 80, 1982.
11. No. 26, 1971, as amended. For previous amendments, see No. 216, 1973; No. 155, 1979; and No. 70, 1980.
12. No. 12, 1902, as amended. For previous amendments, see No. 4, 1912; No. 1, 1933; No. 93, 1966; No. 216, 1973; No. 36, 1978; No. 19, 1979; and Nos. 26 and 139, 1982.
13. No. 79, 1982, as amended. For previous amendments, see No. 39, 1983.
14. No. 114, 1979, as amended. For previous amendments, see No. 181, 1979.

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