

Inquiry into the operation of the *Criminal Procedure Act 1921*

You are asked to inquire into, and report to the Attorney-General on the operation of the *Criminal Procedure Act 1921* (as amended by the Amendment Act) and in particular:

- What efficiencies, if any, have been realised as a result of the Amendment Act;
- The extent to which the Amendment Act has achieved the intended outcomes, as stated by the former Attorney-General
- Any factors that exist, or have existed, which are, or have been, an impediment to the Amendment Act achieving the intended outcomes;
- Relevant statutory regimes in other jurisdictions regarding how major indictable matters are dealt with in the criminal justice system;
- Recommendations to improve the operation of the *Criminal Procedure Act 1921* to realise the efficiencies sought by the Amendment Act or to otherwise improve how major indictable matters are dealt with within the criminal justice system;
- Any other recommendations arising from your inquiry.

Background

The *Summary Procedure (Indictable Offences) Amendment Act 2017* (the Amendment Act) commenced operation on 5 March 2018. The Amendment Act was designed to improve the manner in which major indictable matters are dealt with in the criminal justice system.

In particular it aimed to address concerns regarding unnecessary appearances in the Magistrates Court; long delays between arraignment and trial while police continued to gather evidence; the entering of late guilty pleas; and the late identification of matters in dispute, leading to backlogs and the practice of over-listing by the criminal courts (where the court will list more matters than it can hear, based on the expectation that a number of listed criminal trials will resolve due to late guilty pleas and late withdrawals).

The Amendment Act made amendments to the *Summary Procedure Act 1921* (including changing its name to the *Criminal Procedure Act 1921*) and made related amendments to a number of other Acts.

During introduction of the Amendment Act (as a Bill) into Parliament, the former Attorney-General spoke about the intended outcomes of the reform as follows:

The Summary Procedure (Indictable Offences) Amendment Bill 2016 improves how major indictable matters are dealt with within the criminal justice system. The changes are designed to enable courts, police, forensic services and prosecutors to focus their resources where they are most needed and ease the pressures on our court system by:

- *introducing a tiered prosecution disclosure regime that will allow for earlier disclosure of the primary evidence to defendants;*
- *requiring major indictable matters to be the subject of a charged determination by the Director of Public Prosecutions prior to the commencement of committal proceedings;*
- *giving the courts discretion to set realistic adjournment time frames that reflect the needs of individual cases and reduce unnecessary court appearances for major indictable matters when they are in the Magistrates Court;*
- *requiring case statements to be filed by prosecution and defence prior to a matter being arraigned in the District Court or Supreme Court to identify the matters that are genuinely in dispute in contested matters, thus enabling the courts, the police, forensic and prosecution resources to focus on those issues;*
- *changing the way subpoenas are issued in major indictable matters; and*
- *refining the discounts on sentence that already exist where guilty pleas are entered early and introducing a discount representing an incentive for cooperative conduct of the defence case.*