

Reprint
as at 28 August 2020



Crown Prosecution Regulations 2013 (SR 2013/178)

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 20th day of May 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 387(1)(a) to (c) of the Criminal Procedure Act 2011, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Crown Law Office.

Regulations

1 Title

These regulations are the Crown Prosecution Regulations 2013.

2 Commencement

These regulations come into force on 1 July 2013.

3 Interpretation

- (1) In these regulations, unless the context otherwise requires,—

Act means the Criminal Procedure Act 2011

child has the meaning given by section 2(1) of the Oranga Tamariki Act 1989

Crown prosecution notice means a notice filed under section 189 of the Act

notice period means the period referred to in sections 190(1), 191(1), 192(1), and 192A(1) of the Act

young person has the meaning given by section 2(1) of the Oranga Tamariki Act 1989.

- (2) Unless the context otherwise requires, any term or expression that is defined in the Act and used, but not defined, in these regulations has the meaning given by the Act.

Regulation 3(1) **child**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Regulation 3(1) **notice period**: amended, on 28 August 2020, by regulation 4 of the Crown Prosecution Amendment Regulations 2020 (LI 2020/169).

Regulation 3(1) **young person**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

4 Crown prosecutions

- (1) The following proceedings are Crown prosecutions for the purposes of subpart 2 of Part 5 of the Act:
- (a) a proceeding for a category 4 offence:
 - (b) a proceeding for an offence listed in the Schedule:
 - (c) a proceeding for an offence not listed in the Schedule, if the defendant elects to be tried by a jury:
 - (d) a proceeding that is transferred to the High Court if none of paragraphs (a) to (c) apply:
 - (e) any other proceeding, if the Solicitor-General directs that, having regard to the particular features of the proceeding, it is appropriate that it be conducted as a Crown prosecution.

- (2) Despite subclause (1)(a) to (c), a proceeding for an offence in the Youth Court is not a Crown prosecution for the purposes of subpart 2 of Part 5 of the Act unless—
- (a) a defendant in the proceeding is an adult jointly charged with a child or young person; or
 - (b) the proceeding is transferred to a District Court or the High Court in any other case.

5 Time for assuming responsibility for Crown prosecutions

The Solicitor-General must assume responsibility for proceedings that are Crown prosecutions under regulation 4 as follows:

- (a) for a proceeding referred to in regulation 4(1)(a), from the time the proceeding is adjourned following the defendant's first appearance:
- (b) for a proceeding referred to in regulation 4(1)(b), from the time that the proceeding is adjourned following the entry of a plea:
- (c) for a proceeding referred to in regulation 4(1)(c), from the time the proceeding is—
 - (i) adjourned for trial callover; or
 - (ii) transferred to the High Court for sentencing, in any other case:
- (d) for a proceeding referred to in regulation 4(1)(d), from the time the proceeding is transferred to the High Court:
- (e) for a proceeding referred to in regulation 4(1)(e), from the time the Solicitor-General's direction is given:
- (f) for a proceeding referred to in regulation 4(2)(b), from the time the proceeding is transferred to a District Court or the High Court.

6 Notice periods when amending, adding, withdrawing, or joining charges

- (1) The notice period for proceedings referred to in regulation 4(1)(a), (b), (c), (e), and (2)(b) is—
- (a) the period ending with the date of the case review hearing; or
 - (b) if no case review hearing is to be held after the Solicitor-General assumes responsibility for the proceeding and—
 - (i) the procedure for trial is the Judge-alone trial procedure, 25 working days from the date that a Crown prosecution notice is filed under section 189 of the Act; or
 - (ii) the procedure for trial is the jury trial procedure, the period ending on the date that the prosecutor is required to file the trial callover memorandum.
- (2) The court may, on an application by the prosecutor, extend a notice period specified in subclause (1) in the interests of justice.

Regulation 6 heading: amended, on 28 August 2020, by regulation 5 of the Crown Prosecution Amendment Regulations 2020 (LI 2020/169).

Schedule

Offences listed for purposes of regulation 4(1)(b)

r 4

Contempt of Court Act 2019

s 7(2)	Offence to publish certain criminal trial information
s 14(1)	Offence to disclose jury deliberations
s 22(1)	Offence to publish false statement about Judge or court

Crimes Act 1961

Various provisions	Any offence that is not a category 4 offence and is punishable by imprisonment for life or by imprisonment for 14 years or more
s 69(3)	Party to crime other than murder outside New Zealand
s 97	Accessory after the fact to piracy
s 98A	Participation in organised criminal group
s 104	Corruption and bribery of law enforcement officer
s 105	Corruption and bribery of official
s 105A	Corrupt use of official information
s 105B	Use or disclosure of personal information disclosed in breach of section 105A
s 105C	Bribery of foreign public official
s 105D	Bribery outside New Zealand of foreign public official
ss 108, 109(1)	Perjury (but only where that perjury is committed in the context of a Crown prosecution or in an appeal to the High Court, Court of Appeal, or Supreme Court)
s 113	Fabricating evidence (but only where that fabrication is committed in the context of a Crown prosecution or in an appeal to the High Court, Court of Appeal, or Supreme Court)
s 116	Conspiring to defeat justice (but only where that conspiracy is committed in the context of a Crown prosecution or in an appeal to the High Court, Court of Appeal, or Supreme Court)
s 117	Corrupting juries and witnesses
s 118	Assisting escape of prisoners of war or internees
s 129(1)*	Attempted sexual violation
s 129(2)	Assault with intent to commit sexual violation
s 130*	Incest
s 131(1)*	Sexual connection with dependent family member under 18
s 131(2)	Attempted sexual connection with dependent family member under 18
s 131B†	Meeting young person following sexual grooming, etc
s 132(2)*	Attempted sexual connection with child under 12
s 132(3)	Indecent act on child under 12
s 133‡	Indecency with girl under 12
s 134(1)	Sexual connection with young person under 16
s 134(2)	Attempted sexual connection with young person under 16
s 138(1)*	Exploitative sexual connection with person with significant impairment

s 138(2)	Attempted exploitative sexual connection with person with significant impairment
s 140‡	Indecency with boy under 12
s 142‡	Anal intercourse
s 144A§	Sexual conduct with children and young people outside New Zealand
s 144C	Organising or promoting child sex tours
s 151	Duty to provide the necessaries of life
s 152	Duty of parent or guardian to provide necessaries
s 153	Duty of employers to provide necessaries
s 176	Accessory after the fact to murder
s 180	Suicide pact
s 181	Concealing dead body of child
s 186	Supplying means of procuring abortion
s 195	Cruelty to a child
s 195	Ill-treatment or neglect of child or vulnerable adult (where the offence entails an omission that gives rise to complex causation issues or results in grievous bodily harm)
s 195A	Failure to protect child or vulnerable adult
s 198A(2)	Using firearm with intent to resist lawful arrest or detention
s 204A	Female genital mutilation
s 204B	Further offences relating to female genital mutilation
s 231	Burglary (where the offending constitutes serious or repetitive criminal activity)
s 242	False statement by promoter, etc
s 250(1)	Damaging or interfering with computer system endangering life
s 260	False accounting
s 268	Attempted arson (where the completed offence would fall within section 267(1))
s 298A	Causing disease or sickness in animals
s 298B	Contaminating food, crops, water, or other products
s 307A	Threats of harm to people or property
s 310	Conspiring to commit an offence (where the offence is listed in this schedule)
s 311	Attempting to commit or procure the commission of an offence (where the offence is listed in this schedule)
s 312	Accessory after the fact to a crime (where the crime is listed as an offence in this schedule)
The following offences, if the offending involves a complex transaction:	
ss 219, 223(b) (c), or (d)	Theft or stealing (where, in combination with any other charges being heard together in the proceeding, the value of the property stolen is more than \$1,000)
ss 220, 223(a)	Theft by person in special relationship
s 228	Dishonestly taking or using document
s 229	Criminal breach of trust
s 230	Taking, obtaining, or copying trade secrets
ss 240, 241	Obtaining by deception or causing loss by deception (where, in combination with any other charges being heard together in the proceeding, loss caused or value obtained or sought to be obtained exceeds \$1,000)

s 243	Money laundering
s 256(1)	Forgery (making false document with intention to obtain value)
s 257	Using forged documents
s 258	Altering, concealing, destroying, or reproducing documents with intent to deceive
s 259	Using altered or reproduced document with intent to deceive

Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980

s 6	Threats against premises or vehicles
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Land Transport Act 1998

s 36AA	Reckless or dangerous driving causing death
s 36A	Unauthorised street or drag racing causing death
s 61	Driving under the influence of alcohol or a drug causing death

Misuse of Drugs Act 1975

s 6(1)(b) or (2A)	Production or manufacture of, or conspiracy to produce or manufacture, methamphetamine
s 6(1) or (2A)	Dealing or conspiring to deal in a Class A controlled drug (except production or manufacture of, or conspiracy to produce or manufacture, methamphetamine) if— <ol style="list-style-type: none"> (a) the quantity of drugs is more than 5 times the quantity of the presumption threshold, including in combination with any other charges being heard together in the proceeding; or (b) there is evidence of large-scale dealing beyond the actual quantity seized; or (c) there is substantial evidence derived from a surveillance device involving audio interception
s 6(1) or (2A)	Dealing or conspiring to deal in a Class B controlled drug if— <ol style="list-style-type: none"> (a) the quantity of drugs is more than 10 times the quantity of the presumption threshold, including in combination with any other charges being heard together in the proceeding; or (b) there is evidence of large-scale dealing beyond the actual quantity seized; or (c) there is substantial evidence derived from a surveillance device involving audio interception
s 6(1) or (2A)	Dealing or conspiring to deal in a Class C controlled drug where there is— <ol style="list-style-type: none"> (a) evidence of large-scale commercial dealing; or (b) substantial evidence derived from a surveillance device involving audio interception
s 9	Cultivation of (or conspiring to cultivate) a Class C controlled drug where there is— <ol style="list-style-type: none"> (a) evidence of large-scale commercial cultivation; or (b) substantial evidence derived from a surveillance device involving audio interception
s 10	Aiding offences against corresponding law of another country
s 12C	Commission of offences outside New Zealand

Prostitution Reform Act 2003

s 16 Inducing or compelling persons to provide commercial sexual service or earnings from prostitution

Secret Commissions Act 1910

All offences under the Act

Terrorism Suppression Act 2002

Any offence that is not a category 4 offence

Fraud

Any offence prosecuted by the Serious Fraud Office

*Including as it read before 20 May 2005

†Including as it read before 19 March 2012

‡As it read before 20 May 2005

§Including as it read before 14 June 2006

||As it read before 19 March 2012

Schedule: amended, on 28 August 2020, by regulation 6 of the Crown Prosecution Amendment Regulations 2020 (LI 2020/169).

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 23 May 2013.

Reprints notes

1 *General*

This is a reprint of the Crown Prosecution Regulations 2013 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Crown Prosecution Amendment Regulations 2020 (LI 2020/169)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149