

Crown Organisations (Criminal Liability) Bill

Government Bill

As reported from the Law and Order Committee

Commentary

Recommendation

The Law and Order Committee has examined the Crown Organisations (Criminal Liability) Bill and recommends that it be passed with the amendments shown.

Background to the bill

The Crown Organisations (Criminal Liability) Bill (the bill) implements the only remaining recommendation from Judge Noble's report into the Cave Creek tragedy (the Noble report) by removing the Crown's exemption from prosecution for offences under the Building Act 1991 (the Building Act) and the Health and Safety in Employment Act 1992 (the HSE Act).¹ In removing the Crown's exemption from prosecution, the bill makes a significant change in the longstanding constitutional principle that the Crown is indivisible and immune from criminal prosecution.² The bill aims to provide incentives for the Crown to avoid instances of systemic failure under the Building Act and the HSE Act and provide for the accountability of the Crown if systemic failure occurs.

¹ Commission of Inquiry into the collapse of the viewing platform at Cave Creek, Punakaiki, West Coast (1995).

² The principle is described in the judgement of Chief Justice Latham in the case of *Cain v Doyle* (1946) 72 CLR 409. He noted that the fundamental idea of the criminal law is that breaches of the law are offences against the King's peace and it is inconsistent with this principle that the Crown can itself be guilty of a criminal offence.

Is a fine an appropriate penalty for Crown organisation breaches of the Building Act or the HSE Act?

Clause 6 of the bill provides for Crown organisations to be prosecuted for certain offences prescribed by the Building Act and the HSE Act.³ If Crown organisations are convicted of one of these offences, clause 8(3) of the bill subjects them to a fine, the same penalty that can currently be imposed on bodies corporate.⁴

Submitters raise two concerns about the appropriateness of a fine being imposed on Crown organisations. First, they note that a fine, less any reparation to the victim, is normally paid to the Crown. Therefore, if a Crown organisation is held liable under the bill, then any fine it receives is payable to the Crown. The concern is that public money has effectively gone round in a circle. Second, they are concerned that a Crown organisation may have to discontinue or curtail its activities because resources allocated for those activities are likely to be used to pay the fine.

The majority of us agree with submitters that fining a Crown organisation may, in general, be inappropriate, particularly if public money is transferred back to the Crown through a fine. Removing the court's ability to fine Crown organisations for breaches of the HSE Act and the Building Act would avoid the concerns raised by submitters. However, it would also remove one of the options that the court currently has for compensating victims of offences, that is, the court would not be able to award part of a fine to a victim. Removing the power of the court to award all or part of a fine to the victim could therefore place victims of offending by Crown organisations in a less favourable position than victims of offences by other persons or organisations. This is not acceptable to us.

We recommend that the bill be amended by inserting new clauses 8(3A) and 8(3B) to allow a fine to be imposed on Crown organisations, but the amount of the fine should only be the amount that would be otherwise payable to a victim under section 28 of the

³ Building Act 1991, section 80; Health and Safety in Employment Act 1992, sections 49 and 50.

⁴ Section 49(3)(a) of the Health and Safety in Employment Act provides that a person who commits an offence under this section is liable on conviction to imprisonment for up to one year and or a fine of up to \$100,000. As a body corporate is not a physical person, and Crown organisations are subject to the same penalties as bodies corporate, neither can be imprisoned. A body corporate can also be ordered to pay reparation.

Criminal Justice Act 1985.⁵ This means that Crown organisations will be held accountable, ensuring there is no disparity between victims of offending by Crown organisations and victims of offending by other persons or organisations.

However, in making this amendment, it is our intention that it serve only as an interim measure. We are aware that clause 29 of the Sentencing and Parole Reform Bill, which is currently before the Justice and Electoral Committee with a report back date of 12 February 2002, proposes to abolish the power of the courts to award all or part of a fine to a victim and extends the power to award reparation. A consequential amendment to this bill would then be required if clause 29 of the Sentencing and Parole Reform Bill is passed.

Some of us consider that aligning the relevant provisions in the HSE Act and the Building Act to provide for an effective compensation regime would be sufficient in the event of Crown default. The two provisions requiring amendment are section 3(2) of the HSE Act and section 5(3) of the Building Act.

Clarifying the extent of liability of Crown organisations or related persons

Some submitters consider there is a need to clarify the liability of certain Crown organisations, entities or individuals, particularly independent contractors and senior management personnel. One submitter asserts that the bill may create uncertainty about the extent of the criminal liability for Crown organisations under other statutes.

To clarify this issue, we recommend the insertion of new clause 10A, to provide that no person is immune from prosecution under the Building Act or the HSE Act on the basis that they are an employee or agent of, or independent contractor to, a Crown organisation. This amendment is necessary to prevent these persons claiming Crown immunity vicariously.

Further, we consider there is no reason why the rules that apply to private sector body corporates should not also apply to Crown organisations. Therefore, it is appropriate that senior management personnel within Crown organisations, can be held criminally liable in the same way as comparable senior management personnel in

⁵ Section 28 of the Criminal Justice Act 1985 provides that where a person has been convicted of an offence, the court may award all or part of the fine to the victim where the victim has suffered emotional or physical harm.

private sector organisations. To give effect to this, we recommend amending clause 16 and inserting new clause 27A accordingly.

We agree with the submission that the bill in its present form may also create uncertainty about the extent of the criminal liability for Crown organisations under other statutes. To remedy this, most of us recommend an amendment to clause 6 to specify that liability under the bill does not affect the criminal liability of any organisation under any other statute.

Removal of the proposed new Building Act offence

Clause 14 of the bill inserts a new offence into the Building Act, that makes it an offence to use or allow to be used any works until the code compliance certificate is issued. Submitters, notably those in the construction industry, consider this provision may create significant practical difficulties; specifically, the potential for significant delays if a code compliance certificate is mandatory before occupation.

We agree with those submitters. Our view is that more detailed consideration should be given to these issues. This would more appropriately fit within the current review into the Building Act being undertaken by the Department of Labour. Therefore, we recommend that clause 14 be deleted.

Liability for road controlling authorities

A number of submitters signal concern with the implications of criminal liability for road controlling authorities (RCAs) such as Transit New Zealand. They consider that clarification about the extent to which RCAs are liable under the bill for safety at roadwork sites, particularly in terms of roads, is required. They suggest that the Building Act and the HSE Act be amended to address these concerns.

We do not support these suggested amendments, as we consider these issues are matters more appropriately dealt with as part of current reviews of both the Building Act and the HSE Act. We note that the respective discussion documents on the reviews of the Building Act and the HSE Act make reference to consideration being given to the limits on the application of these two Acts.

Appendix

Committee process

The Crown Organisations (Criminal Liability) Bill was referred to the committee on 3 May 2001. Submissions closed on 30 June 2001. Sixteen submissions were received on the bill (6 written and 10 oral).

Nine submissions were heard on 2 August 2001. Hearing evidence took 2 hours and 53 minutes and consideration took 3 hours and 43 minutes.

Advice was received from the Ministry of Justice.

Committee membership

Janet Mackey (Chairperson)

Taito Philip Field (Deputy Chairperson)

Georgina Beyer

Ron Mark

Brian Neeson

Jill Pettis

Hon Ken Shirley

Hon Clem Simich

Hon Judith Tizard

Richard Worth

Gerry Eckhoff, Judy Keall and Simon Power attended as replacement members.

Committee staff

Tracey Rayner, Clerk of the Committee

Michael Wilkinson, Parliamentary Officer (Select Committees)

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (unanimous)

Subject to this Act,

Text struck out unanimously

New (unanimous)

Subject to this Act,

Text inserted unanimously

Hon Phil Goff

Crown Organisations (Criminal Liability) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Crown Organisations (Criminal Liability) Act 2001.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to— 5

- (a) implement recommendations of the report of the Royal Commission of Inquiry into the collapse of a viewing platform at Cave Creek near Punakaiki on the West Coast (the **Noble report**):
- (b) enable the prosecution of Crown organisations for offences under the Building Act 1991 and the Health and Safety in Employment Act 1992: 10

Struck out (unanimous)

- (c) include a new offence in section 80 of the Building Act 1991:

- (d) enable injunctions to be granted requiring Crown organisations to comply with the Building Act 1991: 15
- (e) make related amendments to other enactments.

Part 1**Criminal liability of Crown organisations****4 Interpretation**

In this Act, unless the context otherwise requires,— 20

Crown entity means a body or statutory officer named or described in the Fourth Schedule of the Public Finance Act 1989

Crown organisation means a Crown entity, government department, or government-related organisation 25

government department means a government department named in the First Schedule of the State Sector Act 1988

government-related organisation means—

- (a) the Audit Office: 30
- (b) the New Zealand Defence Force:
- (c) the New Zealand Police:

New (unanimous)

(ca) The New Zealand Railways Corporation:

(d) the Office of the Clerk of the House of Representatives:

(e) the Office of the Ombudsmen:

(f) the Office of the Parliamentary Commissioner for the Environment: 5

(g) the Parliamentary Counsel Office:

(h) the Parliamentary Service

Office of Parliament has the same meaning as in section 2(1) of the Public Finance Act 1989.

5 Act binds Crown

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This Act binds the Crown.

6 Prosecutions against Crown organisations

(1) A Crown organisation may be prosecuted (by the bringing of proceedings in the manner provided for in the Summary Proceedings Act 1957) for any of the following offences: 15

(a) an offence against section 80 of the Building Act 1991:

(b) an offence under section 49 or section 50 of the Health and Safety in Employment Act 1992.

New (unanimous)

(2) This section does not affect any liability of a Crown organisation that arises independently of this section to prosecution for an offence. 20

7 Legal status of certain Crown organisations

A Crown organisation that is not a body corporate has a separate legal personality for the purposes of—

(a) compliance with the obligations imposed by the Building Act 1991 and the Health and Safety in Employment Act 1992; and 25

(b) the bringing, hearing, and determination of proceedings against it for an offence referred to in **section 6**; and

(c) the imposition of sentence if that organisation is convicted; and 30

- (d) the enforcement of any sentence imposed on that organisation.

8 Conduct of proceedings

- (1) Proceedings brought against a Crown organisation for an offence referred to in **section 6** must, as far as practicable, be brought, heard, and determined in the same manner as proceedings against a body corporate for an offence of the same kind. 5
- (2) Proceedings brought against a Crown organisation for an offence referred to in **section 6** must be instituted against the organisation in its own name, and must not cite the Crown as a defendant. 10
- (3) A Crown organisation is liable on conviction for an offence referred to in **section 6** to the same penalties that could be imposed on any body corporate convicted of the same offence. 15

New (unanimous)

- (3A) Despite **subsection (3)**, a court may sentence a Crown organisation to pay a fine in respect of an offence referred to in **section 6** only if— 20
- (a) the offence involves a victim; and
- (b) the Court considers that, in the circumstances of the case, it would be appropriate (if a fine were imposed) to make an award to the victim under section 28 of the Criminal Justice Act 1985; and
- (c) the whole of the fine is awarded to the victim under section 28 of the Criminal Justice Act 1985. 25
- (3B) The amount of any fine imposed on a Crown organisation must not exceed an amount that would, in the opinion of the Court, be an appropriate award under section 28 of the Criminal Justice Act 1985 if the defendant were a person other than a Crown organisation. 30
- (4) This section is subject to section 54 of the Health and Safety in Employment Act 1992 and sections 77A and 115A of the Summary Proceedings Act 1957.

9 Rights and privileges of Crown organisations

- (1) A Crown organisation that is charged with an offence referred to in **section 6** has, in relation to the charge and the hearing and determination of the charge, the same rights and privileges as a body corporate charged with an offence of the same kind. 5
- (2) This section is subject to **section 10**.

10 Restrictions on privilege against self-incrimination

- (1) Despite **section 9** and any other enactment or rule of law, no person may invoke the privilege against self-incrimination on behalf of a Crown organisation as a ground for refusing— 10
- (a) to give any evidence or produce any thing at the hearing of proceedings against a Crown organisation for an offence referred to in **section 6**; or
- (b) to supply information or make a statement in response to any request or requirement to supply information or make a statement made under— 15
- (i) section 31 of the Health and Safety in Employment Act 1992; or
- (ii) section 19 of the Ombudsmen Act 1975; or

New (unanimous)

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|----------------------------------------------|----|
| (iia) section 91 of the Privacy Act 1993; or | 20 |
|----------------------------------------------|----|
- (iii) section 26 of the Public Finance Act 1977; or
- (iv) section 45B of the Public Finance Act 1989; or
- (v) section 9 or section 10 of the State Sector Act 1988; or
- (c) a request for official information made in accordance with section 12 of the Official Information Act 1982; or 25
- (d) to supply information requested by—
- (i) the Minister of the Crown or other person for the time being responsible for the Crown organisation; or 30
- (ii) a committee of Parliament.
- (2) **Subsection (1)** does not affect any right of an individual to invoke the privilege against self-incrimination in relation to any act or omission of that individual.

New (unanimous)

10A Crown immunity not to apply in respect of offences under this Act

No person is immune from prosecution for an offence referred to in **section 6** by reason that the person is an employee or agent of the Crown, or a contractor engaged to provide services to the Crown, or is acting in any other capacity for, or on behalf of, the Crown.

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11 Appropriation

- (1) Any fine, reparation, compensation, or costs imposed by a court on a department or Office of Parliament as a consequence of the prosecution of that organisation for an offence referred to in **section 6** may be paid by that organisation out of its funds without further appropriation than this section.
- (2) In **subsection (1)**, **department** has the same meaning as in section 2(1) of the Public Finance Act 1989.

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Part 2

Amendments to other Acts

Amendments to Building Act 1991

12 Interpretation

Section 2 of the Building Act 1991 is amended by inserting, in their appropriate alphabetical order, the following definitions:

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“**Crown organisation** has the same meaning as in **section 4 of the Crown Organisations (Criminal Liability) Act 2001**

“**employee** includes,—

- “(a) in relation to any Crown organisation, the chief executive or principal officer (however described) of that organisation and any member of the senior executive service who works for that organisation; and
- “(b) in relation to the New Zealand Defence Force, a member of the Armed Forces”.

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13 Act to bind the Crown

- (1) Section 5(1) of the Building Act 1991 is amended by omitting the words “and (3)”, and substituting the words “(3), and (4)”.

- (2) Section 5 of the Building Act 1991 is amended by repealing subsection (3), and substituting the following subsections:
- “(3) An instrument of the Crown may be prosecuted for an offence against this Act if, and only if,—
- “(a) that instrument is a Crown organisation; and 5
- “(b) the offence is alleged to have been committed by the Crown organisation; and
- “(c) the proceedings are instituted—
- “(i) against the Crown organisation in its own name, and do not cite the Crown as a defendant; and 10
- “(ii) in accordance with the **Crown Organisations (Criminal Liability) Act 2001**.
- “(4) The Crown may not be prosecuted for an offence against this Act, except to the extent and in the manner provided in **subsection (3)**.” 15

Struck out (unanimous)

14 Offences

Section 80(1) of the Building Act 1991 is amended by inserting, after paragraph (a), the following paragraph:

- “(ab) uses, or permits to be used, any structure or other building that is for public use or to which the public are to be admitted and for which— 20
- “(i) a building consent has been issued but no code compliance certificate has been issued; or
- “(ii) a building consent is required but no consent has been obtained.” 25

15 Injunctions may be granted by District Court for certain continuing breaches

- (1) Section 81(1) of the Building Act 1991 is amended by inserting, after the expression “paragraph (a)”, the expression “or **paragraph (ab)**”. 30
- (2) Section 81 of the Building Act 1991 is amended by adding, after subsection (5), the following subsection:
- “(6) Despite section 17(1)(a) of the Crown Proceedings Act 1950,—
- “(a) the District Court may grant an injunction against a Crown organisation, but only in its own name; and 35

“(b) for the purposes of imposing or enforcing an injunction referred to in **paragraph (a)**, the Crown organisation, if not a body corporate, has a separate legal personality.”

Struck out (unanimous)

16 Liability of principal for acts of agents

Section 82 of the Building Act 1991 is amended by adding the following subsection: 5

“(4) Subsections (1) and (2) do not apply if an offence is committed by a person acting as the agent or employee of a Crown organisation.”

New (unanimous)

16 Liability of principal for acts of agents

Section 82 of the Building Act 1991 is amended by adding the following subsections: 10

“(4) Subsections (1) and (2) do not apply if an offence is committed by a person acting as the agent or employee of a Crown organisation. 15

“(5) If any Crown organisation is convicted of an offence against this Act, the chief executive or principal officer (however described) of that organisation, and any person concerned in the management of that organisation, is guilty of the like offence if it is proved— 20

“(a) that the act that constituted the offence took place with his or her authority, permission, or consent; and

“(b) that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.” 25

17 New section inserted

The Building Act 1991 is amended by inserting, after section 82, the following new section:

“82A Liability for acts of employees or agents of Crown organisations 30

“(1) If an offence referred to in **section 6(a)** of the **Crown Organisations (Criminal Liability) Act 2001** is committed by a person acting as

the agent or employee of a Crown organisation, that Crown organisation must (without affecting the personal liability of the agent or employee) be treated for all legal purposes as having committed that offence.

- “(2) Despite **subsection (1)**, if proceedings for an offence referred to in **section 6(a)** of the **Crown Organisations (Criminal Liability) Act 2001** are brought against a Crown organisation in reliance on **subsection (1)**, it is a good defence if the Crown organisation proves that—
- “(a) the organisation took all reasonable steps to remedy any effects of the act or omission constituting the offence; and
- “(b) either—
- “(i) no person involved in the management of the organisation knew or could reasonably be expected to have known that the offence was to be or was being committed; or
- “(ii) the organisation took all reasonable steps to prevent the commission of the offence.”

18 Service of documents 20

Section 87 of the Building Act 1991 is amended by inserting, after subsection (3), the following subsection:

- “(3A) Despite subsection (1), if a notice or other document is to be served on a Crown organisation for the purposes of this Act, it may be served—
- “(a) by delivering it personally to an employee of the organisation at its head office or principal place of business; or
- “(b) by delivering it at the organisation’s head office or principal place of business, including by facsimile; or
- “(c) in accordance with a method agreed between the informant and the organisation.”

Amendments to Costs in Criminal Cases Act 1967

19 Interpretation

Section 2 of the Costs in Criminal Cases Act 1967 is amended by inserting, in its appropriate alphabetical order, the following definition: 35

“**Crown organisation** has the same meaning as in **section 4 of the Crown Organisations (Criminal Liability) Act 2001**”.

20 Costs of the prosecutor

Section 4 of the Costs in Criminal Cases Act 1967 is amended by adding the following subsection:

- “(5) If subsection (1) or subsection (3) applies and the defendant or person convicted is a Crown organisation convicted of an offence against the Building Act 1991 or the Health and Safety in Employment Act 1992, any costs and fees awarded must be paid from the funds of that organisation.” 5

21 Payment of defendant’s costs

Section 7 of the Costs in Criminal Cases Act 1967 is amended by adding the following subsection: 10

- “(3) If an order under section 5 or section 6 relating to the payment of costs is made in favour of a Crown organisation that was prosecuted for an offence against the Building Act 1991 or the Health and Safety in Employment Act 1992, those costs must be paid to that Crown organisation.” 15

22 Enforcement of order as to costs made on an appeal

Section 10 of the Costs in Criminal Cases Act 1967 is amended by adding, as subsection (2), the following subsection: 20

- “(2) Despite subsection (1), if, on the determination of any appeal to which a Crown organisation convicted of an offence against the Building Act 1991 or the Health and Safety in Employment Act 1992 is a party, the Crown organisation is ordered to pay costs, the order as to costs is enforceable as if it were a fine imposed on the Crown organisation by the District Court.” 25

*Amendments to Criminal Justice Act 1985***23 Interpretation**

- (1) Section 2(1) of the Criminal Justice Act 1985 is amended by inserting, in its appropriate alphabetical order, the following definition: 30

“**Crown organisation** has the same meaning as in **section 4 of the Crown Organisations (Criminal Liability) Act 2001**”.

- (2) Section 2 of the Criminal Justice Act 1985 is amended by adding the following subsection: 35

- “(4) For the purposes of this Act, the offender, in the case of a Crown organisation that is charged with, or convicted of, an offence against the Building Act 1991 or the Health and Safety in Employment Act 1992, is that Crown organisation and not the Crown.”

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Amendments to Health and Safety in Employment Act 1992

24 Interpretation

- (1) Section 2(1) of the Health and Safety in Employment Act 1992 is amended by inserting, in its appropriate alphabetical order, the following definition:

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“**Crown organisation** has the same meaning as in **section 4 of the Crown Organisations (Criminal Liability) Act 2001**”.

New (unanimous)

- (2) Section 2(1) of the Health and Safety in Employment Act 1992 is amended by repealing the definition of **employer**, and substituting the following definition:

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“**employer**—

“(a) means a person who or that employs any other person to do any work for hire or reward; and, in relation to any employee, means an employer of the employee; and

“(b) includes, in relation to any person employed by the chief executive or other employee of a Crown organisation to do any work for the Crown organisation for hire or reward, that Crown organisation”.

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25 Application of Act to the Crown

- (1) Section 3(1) of the Health and Safety in Employment Act 1992 is amended by omitting the expression “subsection (2)”, and substituting the expression “subsections (2) and (3)”.

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- (2) Section 3 of the Health and Safety in Employment Act 1992 is amended by repealing subsection (2), and substituting the following subsections:

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“(2) An instrument of the Crown may be prosecuted for an offence against this Act if, and only if,—

“(a) that instrument is a Crown organisation; and

- “(b) the offence is alleged to have been committed by the Crown organisation; and
- “(c) the proceedings are instituted—
- “(i) against the Crown organisation in its own name and do not cite the Crown as a defendant; and 5
- “(ii) in accordance with the **Crown Organisations (Criminal Liability Act) 2001**.
- “(3) The Crown may not be prosecuted for an offence against this Act, except to the extent and in the manner provided in **subsection (2)**.” 10

26 Only inspectors to institute prosecutions

Section 54 of the Health and Safety in Employment Act 1992 is amended by adding, as subsection (2), the following subsection:

- “(2) Despite subsection (1), proceedings against the Department of Labour for an offence against this Act may be brought only with the authority of the Solicitor-General, and the informant must be represented in those proceedings by a Crown Solicitor.” 15

27 Other provisions relating to offences

Section 55 of the Health and Safety in Employment Act 1992 is amended by inserting, after subsection (3), the following subsection:

- “(3A) Subsection (3) is subject to section 3(2).” 20

New (unanimous)

27A Offences by bodies corporate

- (1) The heading to section 56 of the Health and Safety in Employment Act 1992 is amended by inserting, after the words “**bodies corporate**”, the words “**or Crown organisations**”. 25
- (2) Section 56 of the Health and Safety in Employment Act 1992 is amended by adding, as subsection (2), the following subsection: 30
- “(2) If a Crown organisation fails to comply with a provision of this Act, any of its officers, directors, agents, or employees concerned in the management of the organisation who

New (unanimous)

directed, authorised, assented to, acquiesced in, or participated in the failure is a party to, and guilty of, the failure and is liable on conviction to the punishment provided for the offence, whether or not the Crown organisation has been prosecuted or convicted.”

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*Amendments to Summary Proceedings Act 1957***28 Interpretation**

- (1) Section 2(1) of the Summary Proceedings Act 1957 is amended by inserting, in its appropriate alphabetical order, the following definition: 10

“**Crown organisation** has the same meaning as in **section 4 of the Crown Organisations (Criminal Liability) Act 2001**”.

- (2) Section 2(1) of the Summary Proceedings Act 1957 is amended by adding to paragraph (c) of the definition of **defendant** the expression “; and”, and by adding the following paragraph: 15

“(d) a Crown organisation, if proceedings are brought against that organisation for an offence referred to in **section 6 of the Crown Organisations (Criminal Liability) Act 2001**”. 20

29 Mode of service of documents on defendant

Section 24 of the Summary Proceedings Act 1957 is amended by inserting, after subsection (1), the following subsection:

- “(1A) Despite subsection (1), if a summons or other document required to be served on a defendant is to be served on a defendant who is a Crown organisation, it may be served— 25

“(a) by delivering it personally to an employee of the organisation at its head office or principal place of business; or

“(b) by delivering it at the organisation’s head office or principal place of business, including by facsimile; or 30

“(c) in accordance with a method agreed between the informant and the organisation.”

30 Stay of proceedings

Section 77A of the Summary Proceedings Act 1957 is amended by adding, as subsection (2), the following subsection:

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“(2) If an information is laid against the Crown Law Office in respect of an offence referred to in **section 6 of the Crown Organisations (Criminal Liability) Act 2001**, any decision to issue a direction under subsection (1) in respect of the proceedings to which the information relates must be made by the Attorney-General personally.”

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31 Informant’s right of appeal against sentence

Section 115A of the Summary Proceedings Act 1957 is amended by inserting, after subsection (2), the following subsection:

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“(2A) If the defendant is the Crown Law Office,—

“(a) subsection (2) does not apply:

“(b) no appeal may be brought under this section unless the consent of the Attorney-General has been obtained and is lodged with the notice of appeal:

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“(c) any decision to give consent under **paragraph (b)** must be made by the Attorney-General personally.”

Legislative history

10 April 2001

Introduction (Bill 120–1)

3 May 2001

First reading and referral to Law and Order Committee