

Sentencing Council Bill

Government Bill

As reported from the committee of the whole House

This bill was formerly part of the Criminal Justice Reform Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and divided it as follows:

- This bill, comprising clauses 1 and 2, Part 1, and Schedules 1 and 2
 - The Bail Amendment Bill, comprising subpart 1 of Part 2
 - The Sentencing Amendment Bill (No 3), comprising subpart 2 of Part 2, and Schedule 3
 - The Parole Amendment Bill (No 2), comprising subpart 3 of Part 2
 - The Prisoners' and Victims' Claims Amendment Bill, comprising subpart 4 of Part 2.
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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

(Subject to this Act.)

Words struck out unanimously

Subject to this Act.

Words inserted unanimously

As reported from the committee of the whole House

Struck out

Subject to this Act.

Text struck out

New

Subject to this Act.

Text inserted

((Subject to this Act.))

Words struck out

Subject to this Act.

Words inserted

Hon Mark Burton

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Sentencing Council Act **2007**.
- 2 Commencement**
This Act comes into force on a day to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates. 5
- 4 Interpretation**
In this **Part**, unless the context otherwise requires,— 10
Council means the Sentencing Council established by **section 6**
fees framework has the same meaning as in section 10(1) of the Crown Entities Act 2004
group of guidelines means a group of sentencing guidelines or a group of parole guidelines, or both, that are publicly notified together under **section 14** or that are presented, or are intended to be presented, to the House of Representatives under **section 18** on the same date; and, unless otherwise specified, includes the inaugural guidelines 15
group of parole guidelines means any ((/)) 2 or more parole guidelines that are publicly notified together under **section 14** 20

or that are presented, or are intended to be presented, to the House of Representatives under **section 18** on the same date

group of sentencing guidelines means any ((/)) 2 or more sentencing guidelines that are publicly notified together under **section 14** or that are presented, or are intended to be presented, to the House of Representatives under **section 18** on the same date 5

inaugural guidelines means the group of sentencing guidelines or group of parole guidelines, or both, that are the first group, or groups, of guidelines to be laid before the House of Representatives after **this Part** comes into force 10

Minister means the Minister of Justice

Parole Board means the New Zealand Parole Board established under section 108 of the Parole Act 2002

working day has the meaning set out in section 2(1) of the Public Finance Act 1989. 15

5 **Part binds the Crown**

This **Part** binds the Crown.

Establishment of Council

6 **Sentencing Council established** 20

The Sentencing Council is established as an independent statutory body.

7 **Status of Council**

- (1) The Council— 25
- (a) is a body corporate; and
 - (b) is accordingly a legal entity separate from its members, employees, and the Crown; and
 - (c) continues in existence until it is dissolved by an Act.
- (2) The Council may do anything that a natural person of full age and capacity may do for the purposes of performing its functions or powers under this **Part**. 30
- (3) The Council may do anything authorised by this **Part**, subject to this **Part** or any other Act or any rule of law.

8 Role of Council

- (1) The members of the Council are its governing body, with the authority, in the name of the Council, to exercise its powers and perform its functions.
- (2) All decisions relating to the operation of the Council must be made by, or under the authority of, its governing body in accordance with this **Part**. 5

9 Purposes of Council

The purposes of the Council are,—

- (a) by producing guidelines about sentencing and parole, to— 10
- (i) promote consistency in sentencing practice between different courts and Judges:
 - (ii) ensure transparency in sentencing policy:
 - (iii) promote consistency and transparency in Parole Board practice: 15

Struck out (unanimous)

- (iv) facilitate effective management of penal resources by the Government:

New (unanimous)

- (iv) facilitate the provision of reliable information to enable penal resources to be effectively managed: 20

- (b) to enable the development of sentencing and parole policy to be based on a broad range of experience and expertise:
- (c) to inform members of Parliament and policymakers about sentencing and parole practice and reform options: 25
- (d) to inform and educate the public about sentencing and parole policies and decision making, with a view to promoting public confidence in the criminal justice system. 30

10 Functions of Council

- (1) The functions of the Council are—
- (a) to produce guidelines that are consistent with the Sentencing Act 2002 relating to—
 - (i) sentencing principles: 5
 - (ii) sentencing levels:
 - (iii) particular types of sentences:
 - (iv) other matters relating to sentencing practice:
 - (v) grounds for departure from the sentencing guidelines: 10
 - (b) to produce guidelines that are consistent with the Parole Act 2002 about the granting of parole:
- Struck out (unanimous)**
- (c) to assess and take account of the cost-effectiveness of the guidelines:
- New (unanimous)**
- (c) to assess and take account of the overall costs and benefits of the guidelines: 15
- (d) to provide, in relation to both draft and final guidelines, a statement of the guidelines' likely effect on the prison (*muster*) population:
 - (e) to give advice on, and consider issues about, sentencing and parole as set out in this **Part**: 20
 - (f) to collate information on sentencing practice, and on adherence to and departures from the sentencing guidelines, and provide this information to the judiciary:
 - (g) to collate information on parole decisions, and on adherence to and departures from the parole guidelines, and provide this information to the Parole Board: 25
 - (h) to provide information to the public about sentencing and parole:
 - (i) any functions that are incidental and related to, or consequential on, its functions set out in **paragraphs (a) to (h)**. 30
- (2) Except as expressly provided in this **Part** or any other Act, the Council must carry out its functions and powers independently.

*Membership of Council***11 Membership of Council**

- (1) The Council consists of—
- (a) 1 Judge of the Court of Appeal appointed by the President of the Court of Appeal in consultation with the Chief Justice: 5
 - (b) 1 Judge of the High Court appointed by the Chief High Court Judge in consultation with the Chief Justice:
 - (c) 2 District Court Judges appointed by the Chief District Court Judge in consultation with the Chief Justice: 10
 - (d) the chairperson of the Parole Board:
 - (e) 5 members who are not Judges, appointed by the Governor-General on the recommendation of the House of Representatives.

Struck out (unanimous)

- (2) The Governor-General must, on the recommendation of the House of Representatives, appoint 1 of the members appointed under **subsection (1)(e)** as the chairperson of the Council. 15

New (unanimous)

- (2) The Chief Justice must appoint one of the Judges appointed under **subsection (1)(a), (b), or (c)** as the chairperson of the Council. 20

Struck out (unanimous)

- (3) The Chief Justice must, for the purpose of ensuring that the functions of the chairperson are performed or exercised during any period when the chairperson is absent or incapacitated, appoint one of the Judges appointed under **subsection (1)(a), (b), or (c)** as deputy chairperson. 25

New (unanimous)

- (3) The Governor-General must, on the recommendation of the House of Representatives, appoint one of the members appointed under **subsection (1)(e)** as the deputy chairperson of the Council.
- (3A) The Chairperson may delegate any of his or her functions, either generally or specifically, to the deputy chairperson. 5
- (4) Appointments under **subsections (1), (2), and (3)** must be made by written notice by the appointing authority to the person appointed (with a copy sent to the Council and the Minister).
- (5) The notice must— 10
- (a) state the date on which the appointment takes effect, which must not be earlier than the date on which the notice is received; and
 - (b) state the term of the appointment; and
 - (c) be published by the Minister in the *Gazette* as soon as practicable after being given. 15

12 Administrative provisions relating to Sentencing Council

The provisions set out in **Schedule 1** apply to the Sentencing Council.

13 Other enactments amended 20

The Acts set out in **Schedule 2** are amended in the manner set out in that schedule.

*Public notification of draft guidelines***14 Public notification of draft guidelines**

- (1) The Council must publicly notify each draft guideline or group of guidelines by— 25
- (a) publishing(.) a notice complying with **subsection (2)** in 1 or more daily newspapers circulating in the cities of Whangarei, Auckland, Hamilton, Rotorua, Napier, New Plymouth, Palmerston North, Wellington, Nelson, Christchurch, Dunedin, Invercargill, and any other place the chairperson may direct; and 30

Struck out

- (b) publishing a notice complying with **subsection (2)** on the Internet in a form that is publicly accessible at all reasonable times; and
-
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New

- (b) publishing a notice complying with **subsection (2)** on the Internet in an electronic form that is publicly accessible at all reasonable times for inspection and downloading free of charge; and 5
- (c) giving any further notice that the Council considers appropriate, having regard to the persons likely to have an interest in the draft guidelines. 10
- (2) A notice published or given under **subsection (1)**, in respect of a draft guideline or group of guidelines, must—
- (a) except as provided in **subsection (3)**, contain the title, or other short description of the subject matter, of the guideline or each guideline in the group, as the case may be; and 15
- (b) state that submissions on the draft guideline or guidelines may be made in writing by any person or in any other way the Council may direct; and
- (c) specify how a copy of the draft guideline or group of guidelines may be obtained, which may include, but must not be limited to, obtaining the draft guidelines from an Internet website; and 20
- (d) specify the closing date for the receipt by the Council of submissions on the draft guideline or group of guidelines, which may be a date no earlier than 6 weeks after the date on which the notice is first published in a daily newspaper under **subsection (1)(a)**; and 25
- (e) specify the address of the place to which submissions on the draft guideline or group of guidelines may be delivered or sent. 30
- (3) If the notice published or given under **subsection (1)** is for the inaugural guidelines, the notice is not required to contain the matters described in **subsection (2)(a)**.

- 15 Statement to accompany draft guideline or group of guidelines** 5
 A draft guideline or group of guidelines that is available for inspection must be accompanied by a statement of the guidelines' likely effect on the prison (muster) population.
- 16 Consultation**
 The Council may consult on the draft guideline or group of guidelines as it sees fit, with any person or body, by any appropriate means.
- 17 Council finalises guidelines and presents to Minister** 10
 The Council may, at any time after the time for submissions has expired, finalise the ~~((guidelines))~~ guideline or group of guidelines and present them to the Minister, together with (the) a statement of the guidelines' likely effect on the prison (muster referred to in section 15) population. 15

Parliamentary scrutiny of guidelines

- 18 Presenting guidelines** 20
 The Minister must present each guideline or group of guidelines, together with the statement of the guidelines' likely effect on the prison (muster) population referred to in section (15) 17, to the House of Representatives not later than the 16th sitting day of the House of Representatives after the day on which the guidelines are provided to the Minister by the Council.

Struck out (unanimous)

- 19 Disallowance of guidelines** 25
 (1) A member of Parliament may give a notice of motion to disallow a group of guidelines.
 (2) A group of guidelines may be disallowed as a whole only and not individually.
- 20 When guidelines disallowed** 30
 (1) The inaugural guidelines are disallowed if a notice of motion to disallow those guidelines is called on, moved, and agreed to

Struck out (unanimous)

within 30 sitting days after the date on which the group of guidelines was presented to the House of Representatives.

- (2) A group of guidelines (not being the inaugural guidelines) is disallowed if a notice of motion to disallow those guidelines is called on, moved, and agreed to within 15 sitting days after the date on which the group of guidelines was presented to the House of Representatives. 5

21 Guidelines come into force if not disallowed

A group of guidelines comes into force on the date that is 20 working days after the last date on which the guidelines could have been disallowed under **section 20**, unless the guidelines are disallowed under that section. 10

22 Lapse of notice of motion to disallow guidelines

- (1) A notice of motion to disallow a group of guidelines lapses if— 15
- (a) the notice is not called upon; or
 - (b) the notice is called upon and moved but is not agreed to; or
 - (c) the member of Parliament who gave the notice withdraws it. 20
- (2) The notice of motion lapses if Parliament is dissolved or expires after the date on which the notice was given and before the date that is,—
- (a) in the case of a notice of motion to disallow the inaugural guidelines, 30 sitting days after the date on which the guidelines were presented to the House of Representatives; and 25
 - (b) in the case of a notice of motion to disallow a group of guidelines (not being the inaugural guidelines), 15 sitting days after the date on which the guidelines were presented to the House of Representatives. 30

Sentencing Council

Struck out (unanimous)

23 Notice of resolution to disallow guidelines

- (1) If a resolution disallowing a group of guidelines is passed by the House of Representatives, the Clerk of the House of Representatives must forward notice of the disallowance to the chairperson of the Council.
- (2) The notice must show the date on which the resolution was agreed to and be accompanied by the text of the resolution.
- (3) The notice is conclusive evidence of the date on which the resolution was agreed to.

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New (unanimous)

19 Inaugural guidelines may be disappplied

The inaugural guidelines may be disappplied as a whole by resolution of the House of Representatives passed within 30 sitting days after those guidelines were presented to the House.

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20 Guideline may be disappplied

Any guideline (not being an inaugural guideline) may be disappplied by resolution of the House of Representatives passed within 15 sitting days after that guideline was presented to the House.

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21 Periods of sitting days

The periods of sitting days within which the inaugural guidelines or a guideline may be disappplied under **section 19** or **section 20** must elapse within the term of a single Parliament.

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22 Guidelines come into force if not disappplied

Every guideline comes into force on the date that is 20 working days after the last date on which the guideline could have been disappplied under **section 19** or **section 20** unless that guideline is disappplied under one of those sections.

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- 24 Council must reconsider guidelines if guidelines (disallowed) disappplied**
- (1) If a guideline or group of guidelines is *(disallowed) disappplied* under **(section 20) section 19 or 20**, the Council must—
- (a) reconsider *(and vary)* the guideline or group of guidelines; and 5
- (b) if the Council considers it appropriate, provide *(the)* a varied guideline or group of guidelines to the Minister, together with *(the)* a statement of the guidelines' likely effect on the prison *(muster referred to in section 15, to the Minister)* population. 10
- (2) **Sections 18 to (23) 22 ((and subsection (1) of this section))** apply to the varied guidelines provided to the Minister under **subsection (1)**. 15
- (3) If the inaugural guidelines are *(disallowed) disappplied*, the varied group of guidelines provided to the Minister under **subsection (1)** is treated as being the inaugural guidelines for the purposes of **sections 18 to (23) 22** and **subsections (1) and (2)** of this section. 15

Publication of guidelines 20

- 25 Council must publish guidelines**
- (1) The Council must comply with **subsection (2)** if—
- (a) the last date on which a guideline or group of guidelines could have been *(disallowed) disappplied* under **(section 20) section 19 or 20** has passed; and 25
- (b) the guideline or guidelines were not *(disallowed) disappplied*.
- (2) The Council must, as soon as practicable after the date referred to in **subsection (1)(a)** and before the guidelines come into force under **section (21) 22**,— 30
- (a) arrange for the publication in the *Gazette* of a notice showing the titles of the guidelines, the date on which the guidelines were produced by the Council, the date on which they will come into force, and where copies of the guidelines are available for inspection and purchase; 35
- and
- (b) make copies of the guidelines available on the Internet in an electronic form that is publicly accessible at all reasonable times for inspection and downloading free of charge; and 40

- (c) make copies of the guidelines available for purchase at a reasonable price.

Requests for consideration of issues, and giving of advice

- 26 Consideration of issues relating to sentencing or parole guidelines** 5
- (1) A request may be made by the following persons to the Council to consider any issue relating to guidelines:
- (a) in the case of sentencing guidelines, by the Minister, the Chief Justice, the President of the Court of Appeal, the Chief High Court Judge, *(or)* the Chief District Court Judge, the Solicitor-General, or the President of the New Zealand Law Society: 10
- (b) in the case of parole guidelines, by the Minister, *(or)* the chairperson of the Parole Board, the Solicitor-General, or the President of the New Zealand Law Society. 15
- (2) A request must set out the reasons for the request.
- (3) If a request is made, the Council must, when revising or drafting sentencing guidelines or parole guidelines, *(have regard to)* consider the issue and the reasons given.
- 27 Council may advise Minister *(on own initiative)*** 20
- (1) The Minister may request the Council to provide advice to the Minister on any sentencing or parole issue that relates to the development and use of sentencing guidelines or parole guidelines.
- (2) The Council may, on its own initiative, provide advice to the Minister on any sentencing or parole issue that relates to the development and use of sentencing guidelines or parole guidelines. 25

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Schedule 1**Provisions relating to Sentencing Council****1 Criteria for recommendation by House of Representatives****Struck out (unanimous)**

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|-----|---|----|
| (1) | The House of Representatives may only recommend a person for appointment under section 11(1)(e) who, in its opinion, has the appropriate knowledge, skills, and experience to assist the Council to achieve its purposes and perform its functions and powers. | 5 |
| (2) | In addition to the requirements in subclause (1) , before recommending an appointment, the House of Representatives must be satisfied that the person has expertise in 1 or more of the following areas: | 10 |
| | (a) criminal justice matters: | |
| | (b) policing: | 15 |
| | (c) the assessment of risk of reoffending: | |
| | (d) the reintegration of offenders into society: | |
| | (e) the promotion of the welfare of victims of crime: | |
| | (f) the effect of the criminal justice system on Māori and people from minority cultures: | 20 |
| | (g) community issues affecting the courts and the corrections system: | |
| | (h) public policy. | |
| (3) | In recommending an appointment, the House of Representatives must take into account the desirability of promoting diversity and balance in the membership of the Council. | 25 |
| (4) | Subclause (3) is subject to subclauses (1) and (2) . | |

New (unanimous)

- | | |
|--|----|
| It is considered desirable that any person put forward for appointment under section 11(1)(e) should have the appropriate knowledge, skills, and experience to assist the Council to achieve its purposes and perform its functions, including expertise in 1 or more of the following areas: | 30 |
| (a) criminal justice matters: | |
| (b) policing: | |

New (unanimous)

- | | | |
|-----|---|---|
| (c) | the assessment of risk of reoffending: | |
| (d) | the reintegration of offenders into society: | |
| (e) | the promotion of the rights and welfare of victims of crime: | |
| (f) | the effect of the criminal justice system on Māori and people from minority cultures: | 5 |
| (g) | community issues affecting the courts and the corrections system: | |
| (h) | public policy. | |

Struck out (unanimous)

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|----------|--|----|
| 2 | Qualification of members | 10 |
| (1) | A natural person who is not disqualified by this clause may be a member of the Council. | |
| (2) | The following persons are disqualified from being members: | |
| (a) | a person who is an undischarged bankrupt: | |
| (b) | a person who is prohibited from being a director or promoter, or being concerned or taking part in the management, of a company under section 382, 383, or 385 of the Companies Act 1993: | 15 |
| (c) | a person who is subject to a property order under the Protection of Personal and Property Rights Act 1988: | 20 |
| (d) | a person in respect of whom a personal order has been made under the Protection of Personal and Property Rights Act 1988 that reflects adversely on the person's— | |
| (i) | competence to manage his or her own affairs in relation to his or her property; or | 25 |
| (ii) | capacity to make or to communicate decisions relating to any particular aspect or aspects of his or her personal care and welfare: | |
| (e) | a person who has been convicted of an offence punishable by imprisonment for a term of 2 years or more, or who has been sentenced to imprisonment for any other offence, unless that person has obtained a pardon, | 30 |

Struck out (unanimous)

- served the sentence, or otherwise suffered the penalty imposed on the person:
- (f) a member of Parliament.

3 Matters relating to appointment of Judges

- (1) A Judge's appointment as a member does not affect his or her tenure of judicial office or his or her rank, title, status, precedence, salary, annual or other allowances, or other rights and privileges as a Judge (including those in relation to superannuation), and, for all purposes, his or her service as a member must be taken to be service as a Judge. 5
- (2) A judicial member may, at any time, decline to participate in, or withdraw from participation in, any particular function or activity of the Council if the Judge considers it incompatible with his or her judicial office. 10

4 Term of office of members

- (1) Except as otherwise provided in **Part 1 and this Schedule**, a member of the Council holds office for a term of up to 5 years as specified in the notice of appointment. 15
- (2) A member may be reappointed for 1 further term, but the total of the further term together with the initial term must not exceed 7 years. 20
- (3) A member continues in office despite the expiry of his or her term of office until—
- (a) the member is reappointed; or
- (b) the member's successor is appointed. 25
- (4) This clause does not apply to a member who is the chairperson of the Parole Board.

5 Validity of appointments

- (1) The appointment of a person as a member, chairperson, or deputy chairperson is not invalid only because a defect existed in the appointment of the person. 30
- (2) This clause does not apply to a defect in the qualifications for appointment of a member, chairperson, or deputy chairperson.

- 6 Removal or suspension of non-judicial members**
- (1) A non-judicial member of the Council may at any time be removed or suspended from office by the Governor-General, on address from the House of Representatives, for inability to perform the functions of office, neglect of duty, or misconduct. 5
- (2) At any time when Parliament is not in session, any non-judicial member of the Council may be suspended from office by the Governor-General in Council for inability to perform the functions of the office, neglect of duty, or misconduct proved to the satisfaction of the Governor-General in Council; but any such suspension must not continue in force beyond 2 months after the beginning of the next session of Parliament. 10
- 7 Removal of judicial members**
- A judicial member may be removed as a member at any time under the general law that applies to removal from office as a judge. 15
- 8 Replacement of judicial members**
- (1) A member appointed under **section 11(1)(a), (b), or (c)** may be replaced as a member before the expiry of his or her term,— 20
- (a) in the case of a member appointed under **section 11(1)(a)**, by the President of the Court of Appeal in consultation with the Chief Justice; and
- (b) in the case of a member appointed under **section 11(1)(b)**, by the Chief High Court Judge in consultation with the Chief Justice; and 25
- (c) in the case of a member appointed under **section 11 (1)(c)**, by the Chief District Court Judge in consultation with the Chief Justice.
- (2) The replacement must be made by written notice to the member (with a copy to the Council). 30
- (3) The notice must state the date on which the replacement takes effect, which must not be earlier than the date on which the notice is received.
- 9 Replacement of non-judicial members** 35
- (1) If a non-judicial member of the Council dies or resigns or is, or becomes, disqualified or is removed from office before the

- expiry of his or her term, the vacancy created is to be treated as an extraordinary vacancy.
- (2) An extraordinary vacancy must be filled in the manner in which the appointment was originally made.
- (3) **Clause 4** (which relates to the term of office of a member) applies to an appointment under this clause. 5
- 10 No compensation for loss of office**
- A member of the Council is not entitled to compensation or other payment or benefit relating to his or her ceasing, for any reason, to hold office as a member. 10
- 11 Resignation of members**
- (1) A member of the Council may resign from office by written notice to—
- (a) in the case of a member appointed under **section 11(1)(a)**, the President of the Court of Appeal; and 15
- (b) in the case of a member appointed under **section 11(1)(b)**, the Chief High Court Judge; and
- (c) in the case of a member appointed under **section 11(1)(c)**, the Chief District Court Judge; and
- (d) in the case of a member appointed under **section 11(1)(e)**, the Minister. 20
- (2) The notice under **subclause (1)** must be signed by the member and the member must provide a copy of it to the Council.
- (3) The resignation is effective on receipt, by the appropriate person as provided by **subclause (1)**, of the notice or at any later time specified in the notice. 25
- (4) In relation to a resignation under **subclause (1)(d)**, the Minister must table a copy of the notice of resignation in the House of Representatives.
- 12 Members ceasing to hold office** 30
- (1) A member of the Council ceases to hold office if he or she—
- (a) resigns in accordance with **clause 11**; or
- (b) is removed from office in accordance with **clause 6** or any other enactment; or

Struck out (unanimous)

- (c) is or becomes disqualified from being a member under any of **paragraphs (a) to (f) of clause 2(2)**; or
- (d) otherwise ceases to hold office in accordance with any enactment.
- (2) The Minister must notify in the *Gazette* the fact that a person has ceased to hold office. 5

*Remuneration and expenses***13 Remuneration of members**

- (1) Except as provided in **subclause (2)**, a member of the Council is entitled to receive, from the funds of the Sentencing Council, remuneration for services as a member at such rate as the Remuneration Authority from time to time determines. 10
- (2) An office holder of the following kind is not entitled to any remuneration for services as a member of the Council in addition to his or her remuneration in respect of that office: 15
- (a) a Judge;
- (b) an employee (including a chief executive) within any part of the State services.
- (3) A member of the Council is entitled, in accordance with the fees framework, to be reimbursed out of the funds of the Council for actual and reasonable travelling and other expenses incurred in carrying out his or her office as a member. 20

*Delegation***14 Ability to delegate** 25

- (1) The governing body of the Council may delegate any of its functions or powers, either generally or specifically, to any of the following persons by resolution and written notice to the person or persons: 30
- (a) a member of the Council;
- (b) an employee of the Council;
- (c) any other person or persons approved by its governing body.

Struck out (unanimous)

- (2) The Council's governing body must not delegate the general power of delegation.

New (unanimous)

- (2) The Council's governing body must not delegate—
- (a) the power to produce sentencing and parole guidelines under section **10(1)(a) and (b)**;
 - (b) the general power of delegation.

5

*Procedure for meetings of Council***15 Procedure generally**

Except as otherwise provided in **Part 1 and this Schedule**, the Council may regulate its own procedures.

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New (unanimous)**15A Procedure at meetings**

- (1) A quorum for a meeting of the Council is the number that is half the number of members.
- (2) No business may be transacted at a meeting of the Council if a quorum is not present.

15

16 Voting at meetings

- (1) Each member has 1 vote.

New (unanimous)

- (1A) In addition to his or her general vote, the chairperson has, in the case of an equality of votes, a casting vote.

- (2) All decisions of the Council are decided by a majority of the votes cast by the members present.

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*Protection of members from liability***17 Protection from liability**

- (1) This clause applies to—
 - (a) each member of the Council; and

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- (b) every person employed by the Council.
- (2) No person to whom this section applies is personally liable for any act done or omitted to be done by the Council in good faith in the performance or intended performance of the functions or powers of the Council. 5

Application of State Sector Act 1988

18 Application of sections 84 to 84B of State Sector Act 1988

- (1) The governing body of the Council is an employer in the State services for the purposes of sections 84 to 84B of the State Sector Act 1988. 10
- (2) Sections 84 to 84B of the State Sector Act 1988 apply to the officers and employees of the Council.

Official observers on Council

- 19 Official observers** 15
- The chief executives of the Ministry of Justice and the Department of Corrections may, if either chief executive thinks fit or at the request of the Council, appoint an employee each as an official observer to the Council.

Application of Crown Entities Act 2004 20

20 Application of certain provisions of Crown Entities Act 2004

- (1) For the purposes of the application of the provisions of the Crown Entities Act 2004 listed in sections 45M and 45N and Schedule 4 of the Public Finance Act 1989, the responsible Minister is the Minister of Justice. 25
- (2) A request for information under section 133 of the Crown Entities Act 2004 may not be refused under section 134(1)(b) of that Act (which relates to the refusal to supply information relating to the carrying out of statutorily independent functions) if the request for information by the responsible Minister relates to the operations and performance of the Council. 30

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Schedule 2 Amendments to other enactments

Official Information Act 1982 (1982 No 156)

Schedule 1: insert “Sentencing Council” after “Securities Commission”. 5

Public Finance Act 1989 (1989 No 44)

Schedule 4: insert in the first column, in its appropriate alphabetical order, the item “Sentencing Council” and insert alongside that item, ticks in the third, fourth, fifth, sixth, seventh, eighth, and ninth columns. 10

Legislative history

19 July 2007

Divided from the Criminal Justice Reform Bill
(Bill 93-2) by the committee of the whole House
(Bill 93-3A)
