

Reprint  
as at 1 July 2013



**Crown Organisations (Criminal  
Liability) Act 2002**

Public Act 2002 No 37  
Date of assent 17 October 2002  
Commencement see section 2

**Contents**

		Page
1	Title	2
2	Commencement	2
3	Purpose	3

**Part 1**

**Criminal liability of Crown organisations**

4	Interpretation	3
5	Act binds Crown	4
6	Prosecutions against Crown organisations	4
7	Legal status of certain Crown organisations	4
8	Conduct of proceedings	5
9	Rights and privileges of Crown organisations	6
10	Restrictions on privilege against self-incrimination	6
11	Crown immunity not to apply in respect of offences under this Act	7
12	Appropriation	7

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Justice.**

**Part 2****Amendments to other Acts***Amendments to Building Act 1991*

13	Interpretation	7
14	Act to bind the Crown	7
15	Injunctions may be granted by District Court for certain continuing breaches	7
16	Liability of principal for acts of agents	8
17	New section 82A inserted	8
18	Service of documents	8

*Amendments to Costs in Criminal Cases Act 1967*

19	Interpretation	8
20	Costs of the prosecutor	8
21	Payment of defendant's costs	8
22	Enforcement of order as to costs made on an appeal	8

*Amendments to Health and Safety in Employment Act  
1992*

23	Interpretation	8
24	Application of Act to the Crown	8
25	Only inspectors to institute prosecutions [ <i>Repealed</i> ]	8
26	Other provisions relating to offences	9
27	Offences by bodies corporate	9

*Amendments to Sentencing Act 2002*

28	Interpretation	9
----	----------------	---

*Amendments to Summary Proceedings Act 1957*

29	Interpretation	9
30	Mode of service of documents on defendant	9
31	Stay of proceedings	9
32	Informant's right of appeal against sentence	9

**1 Title**

This Act is the Crown Organisations (Criminal Liability) Act 2002.

**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—

- (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 2004, the Health and Safety in Employment Act 1992, and the Resource Management Act 1991;
- (c) enable injunctions to be granted requiring Crown organisations to comply with the Building Act 2004;
- (d) make related amendments to other enactments.

Section 3(b): substituted, on 1 October 2009, by section 163(2) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 3(c): amended, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

## **Part 1**

### **Criminal liability of Crown organisations**

#### **4 Interpretation**

In this Act, unless the context otherwise requires,—

**Crown entity**—

- (a) has the same meaning as in section 7(1) of the Crown Entities Act 2004; and
- (b) includes an organisation named or described in Schedule 4 of the Public Finance Act 1989

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

**government department** means a government department named in Schedule 1 of the State Sector Act 1988

**government-related organisation** means—

- (a) the Audit Office;
- (b) the New Zealand Defence Force;
- (c) the New Zealand Police;
- (d) the New Zealand Railways Corporation;
- (e) the Office of the Clerk of the House of Representatives;
- (f) the Office of the Ombudsmen;

- (g) the Office of the Parliamentary Commissioner for the Environment:
- (h) the Parliamentary Counsel Office:
- (i) the Parliamentary Service

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

Section 4 **Crown entity**: substituted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

## 5 Act binds Crown

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 Criminal Procedure Act 2011) for any of the following offences:
  - (a) an offence against the Building Act 2004:
  - (b) an offence under section 49 or section 50 of the Health and Safety in Employment Act 1992:
  - (c) an offence against the Resource Management Act 1991:
  - (d) an offence against the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.
- (2) This section does not affect any liability of a Crown organisation that arises independently of this section to prosecution for an offence.

Section 6(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 6(1)(a): substituted, on 31 March 2005, by section 414 of the Building Act 2004 (2004 No 72).

Section 6(1)(c): added, on 1 October 2009, by section 163(3) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 6(1)(d): inserted, on 28 June 2013, by section 172(2) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

## 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 2004, the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, the Health and Safety in Employment Act 1992, or the Resource Management Act 1991; and
- (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
- (d) the enforcement of any sentence imposed on that organisation.

Section 7(a): substituted, on 1 October 2009, by section 163(4) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 7(a): amended, on 28 June 2013, by section 172(3) of the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72).

## **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.
- (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.
- (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.
- (4) Despite subsection (3), a court may not sentence a Crown organisation to pay a fine in respect of an offence referred to in section 6.
- (5) This section is subject to section 54 of the Health and Safety in Employment Act 1992, sections 176 and 246 of the Criminal Procedure Act 2011, and section 4(9) of the Resource Management Act 1991.

Section 8(5): substituted, on 1 October 2009, by section 163(5) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 8(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

## **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.
- (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—
  - (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—
    - (i) section 31 of the Health and Safety in Employment Act 1992; or
    - (ii) section 19 of the Ombudsmen Act 1975; or
    - (iii) section 91 of the Privacy Act 1993; or
    - (iv) section 26 of the Public Finance Act 1977; or
    - (v) section 133 of the Crown Entities Act 2004; or
    - (vi) section 9 or section 10 of the State Sector Act 1988; or
    - (vii) section 22 of the Resource Management Act 1991; or
  - (c) a request for official information made in accordance with section 12 of the Official Information Act 1982; or
  - (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
    - (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.

Section 10(1)(b)(v): substituted, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Section 10(1)(b)(vii): added, on 1 October 2009, by section 163(6) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

**11 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.

**12 Appropriation**

- (1) Any 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.

**Part 2**

**Amendments to other Acts**

*Amendments to Building Act 1991*

**13 Interpretation**

*Amendment(s) incorporated in the Act(s).*

**14 Act to bind the Crown**

*Amendment(s) incorporated in the Act(s).*

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

*Amendment(s) incorporated in the Act(s).*

- 16 Liability of principal for acts of agents**  
*Amendment(s) incorporated in the Act(s).*
- 17 New section 82A inserted**  
*Amendment(s) incorporated in the Act(s).*
- 18 Service of documents**  
*Amendment(s) incorporated in the Act(s).*
- Amendments to Costs in Criminal Cases Act  
1967*
- 19 Interpretation**  
*Amendment(s) incorporated in the Act(s).*
- 20 Costs of the prosecutor**  
*Amendment(s) incorporated in the Act(s).*
- 21 Payment of defendant's costs**  
*Amendment(s) incorporated in the Act(s).*
- 22 Enforcement of order as to costs made on an appeal**  
*Amendment(s) incorporated in the Act(s).*
- Amendments to Health and Safety in  
Employment Act 1992*
- 23 Interpretation**  
*Amendment(s) incorporated in the Act(s).*
- 24 Application of Act to the Crown**  
*Amendment(s) incorporated in the Act(s).*
- 25 Only inspectors to institute prosecutions**  
*[Repealed]*
- Section 25: repealed, on 5 May 2003, by section 28(2) of the Health and Safety in Employment Amendment Act 2002 (2002 No 86).



**26 Other provisions relating to offences**  
*Amendment(s) incorporated in the Act(s).*

**27 Offences by bodies corporate**  
*Amendment(s) incorporated in the Act(s).*

*Amendments to Sentencing Act 2002*

**28 Interpretation**  
*Amendment(s) incorporated in the Act(s).*

*Amendments to Summary Proceedings Act 1957*

**29 Interpretation**  
*Amendment(s) incorporated in the Act(s).*

**30 Mode of service of documents on defendant**  
*Amendment(s) incorporated in the Act(s).*

**31 Stay of proceedings**  
*Amendment(s) incorporated in the Act(s).*

**32 Informant's right of appeal against sentence**  
*Amendment(s) incorporated in the Act(s).*

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**Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent first)
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**Notes****1 General**

This is a reprint of the Crown Organisations (Criminal Liability) Act 2002. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 *Changes made under section 17C of the Acts and Regulations Publication Act 1989***

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

## **5** *List of amendments incorporated in this reprint (most recent first)*

Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 (2012 No 72): section 172

Criminal Procedure Act 2011 (2011 No 81): section 413

Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31): section 163

Public Finance Amendment Act 2004 (2004 No 113): section 37(1)

Building Act 2004 (2004 No 72): section 414

Health and Safety in Employment Amendment Act 2002 (2002 No 86): section 28(2)

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Liability) Act 2002**

Notes

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