

APPENDIX 1

Statutory Functions of the Attorney-General and Solicitor-General

Part A: The Attorney-General's fiat is required to prosecute under the provisions listed below.

- Antarctica Act 1960 s 3 (crimes in Ross Dependency)
- Antarctica (Environmental Protection) Act 1994 s 6 (crimes anywhere in Antarctica outside the Ross Dependency)
- Armed Forces Discipline Act 1971 s 74
- Aviation Crimes Act 1972 ss 10 & 18 (hijacking etc)
- Chemical Weapons (Prohibition) Act 1996 s 5 (extraterritorial application)
- Companies (Bondholders Incorporation) Act 1934-35 s 3
- Continental Shelf Act 1964, s 7
- Cook Islands Act 1915 s 155
- Crimes Act 1961 ss 8A, 10B, 78, 78A (see s 8B inserted by 1982 No 157) (espionage and wrongful communication of Official Information), 100, 101, 104, 105, 105A 105B (all within s 106) 106 (Bribery etc), 123 (Libel), 124 (Indecent Matter), 144A, 144B (sexual conduct with children outside New Zealand) 230 (Criminal breach of trust) 400 (Offences on Ships or Aircraft), 144A, 144B (Sexual offences outside New Zealand), 144C
- Crimes (Internationally Protected Persons and Hostages) Act 1980 s 14
- Crimes of Torture Act 1989 s 12
- Evidence Act 1908 s 48J (evidence by foreign authorities)
- Films Videos and Publications Classification Act 1993 s 144
- Fisheries Act 1996 s 113ZE (illegal fishing or transportation in the fisheries jurisdiction of a foreign country and unlawful use of foreign vessel by NZ national)
- Flags Emblems and Names Protection Act 1981 s 25
- Geneva Conventions Act 1958 s 3 (grave breach of convention) s 8 (use of Red Cross)
- Human Rights Act 1993 ss 131, 132 (inciting racial disharmony), 134, 135 (miscellaneous provisions)

- Inspector-General of Intelligence and Security Act 1996 ss 28, 29
- Intelligence and Security Committee Act 1996 s 20
- Maritime Crimes Act 1999 s 17 (crimes relating to ships and fixed platforms)
- Maritime Transport Act 1994, s 224
- Misuse of Drugs Act 1975 ss 12C (commission of offences outside NZ), 34A (prosecution of undercover officers)
- NZ Nuclear Free Zone Disarmament and Arms Control Act 1987 s 15
- Niue Act 1966 s 108
- Nuclear-Test-Ban Act 1999 s 6 (offences outside NZ)
- Radiocommunications Act s 134A
- Secret Commissions Act 1910 s 12
- Summary Offences Act 1981 ss 20A (1982 No 159) (official information), 42 (false claim of qualifications)
- United Nations Convention on the Law of the Sea Act 1996 s 9
- United Nations (Police) Act 1964 s 4 (trial in NZ of crimes outside NZ)
- United Nations Sanctions (Angola) Regulations 1993 regulation 12 (crimes outside NZ)
- United Nations Sanctions (Federal Republic of Yugoslavia (Serbia and Montenegro)) Regulations 1992 regulation 24 (crimes outside NZ)
- United Nations Sanctions (Iraq) Regulations 1991 regulation 24 (crimes outside NZ)
- United Nations Sanctions (Liberia) Regulations 1992 regulation 12 (crimes outside NZ)
- United Nations Sanctions (Libya) Regulations 1993 regulation 16 (crimes outside NZ)
- United Nations Sanctions (Republic of Bosnia and Herzegovina) Regulations 1994 regulation 9 (crimes outside NZ)
- United Nations Sanctions (Rwanda) Regulations 1994 regulation 12 (crimes outside NZ)
- United Nations Sanctions (Sierra Leone) Regulations 1997 regulation 13 (crimes outside NZ)

- United Nations Sanctions (Somalia) Regulations 1992 regulation 12 (crimes outside NZ)
- United Nations Sanctions (Yugoslavia) Regulations 1991 regulation 12 (crimes outside NZ)
- Wellington Waterworks Act 1871 s 62

Part B: Other Statutory Functions:

- Acts and Regulations Publication Act 1989 ss 4, 6, 7, 9, 10 14, 15, 26 (publication of acts of Parliament, regulations etc)
- Adoption Act 1955 s 20(3) (no application for discharge of adoption orders without approval of Attorney-General)
- Adoption (Intercountry) Act 1997 s 11 (recognition of convention adoptions - no application without approval of Attorney-General)
- Administration Act 1969 s 22 (estate vests in Crown if no executor appointed)
- Anglican Church Trusts Act 1981 ss 15, 16A
- Armed Forces Discipline Act 1971 ss 192(4), 192 (5) and (6) (Minister of Health with concurrence of Attorney-General may direct special patient be detained as committed - power not able to be exercised by Solicitor-General) s 192(8). Section 196(2) (Attorney-General may order mentally disordered prisoner to psychiatric hospital)
- Building Societies Act 1965 ss 14 and 19 (registration and alteration of rules referred to Solicitor-General)
- Charitable Trusts Act 1957 ss 25, 58 and 60 and Parts III and IV (winding up, enquiries into charities and reporting/approval of schemes)
- Chateau Companies Act 1977 s 20 (duty to report offences)
- Chattels Transfer Act 1924 s 5 (reprinting of Act)
- College House Act 1985 ss 3, 5, 6 (scheme approval)
- Commerce Act 1986 s 9 (members of Commerce Commission appointed after consultation with Attorney-General)
- Constitution Act 1986 s 9A (Solicitor-General may perform functions of Attorney-General), s 9C (delegation of powers)
- Copyright Act 1964 s 212 (parties to proceedings)
- Coroners Act 1988 ss 16 (deaths outside New Zealand), 38, 39 and 40 (fresh inquests)

- Corporations (Investigation and Management) Act 1989 s 69 (duty to report offences to Solicitor-General)
- Courts Martial Appeals Act 1953 ss 10 and 18 (Certificate on point of law for appeal to Court of Appeal)
- Crimes Act 1961 ss 345 (presenting indictment), 378 (stay of proceedings), 383(2) (Solicitor-General right of appeal against sentence), 388 (time for appealing) 390 (duty of Solicitor-General to appear for the Crown)
- Crimes of Torture Act 1989 ss 5 (Attorney-General to consider compensation), 11 (restrictions on surrender of offenders)
- Criminal Justice Act 1985 ss 14 (naming Crown as party to proceedings), 15 (recovery of debts in District Court) 16 (service of documents) 22 23 and 24 (barristers and solicitors acting for Attorney-General etc), 21 (Solicitor-General may apply for order for offender to come up for sentence if called on), 21A(7) (the Solicitor-General can apply to the court for the making of an order where a court sentences an offender for a further offence without taking into account the existence of a suspended sentence), 116 and note s 116(8) (special patient held as committed patient – power not able to be exercised by Solicitor-General)
- Crown Proceedings Act 1956 ss 14 ff (making Crown a party to proceedings), 20 (judgments for fines)
- Crown Solicitors Regulations 1994 regulation 4 (Solicitor-General to determine rates), 6 (Solicitor-General to certify fees), 7 (Solicitor-General may delegate), 8(2), 12 (special fees), 25 (second counsel), 26 and 27
- District Courts Act 1947 s 28H (Solicitor-General appeal against sentence)
- Education Act 1989 ss 113 and 156C (Solicitor-General approves scheme)
- Electoral Act 1993 s 257 (report of High Court re corrupt practice laid before Attorney-General)
- Employment Contracts Act 1991 s 15 (restriction on right of entry)
- Enemy Property Act 1951 s 6 (Attorney-General may vest property in custodian)
- Evidence Act 1908 ss 48A (letters or request - application by Solicitor-General), 48H (Attorney-General certification of request for evidence prejudicial to NZ), 48I (Attorney-General may prohibit production of documents requested by foreign authority)
- Evidence Amendment Act 1980 (No 2) s 42 (protection of witnesses)
- Extradition (United States of America) Order 1970 Article X (Attorney-General to authenticate documents)
- Family Proceedings Act 1980 s 161 (intervention)

- Friendly Societies and Credit Unions Act 1982 s 2 (Solicitor-General is revising barrister)
- Government Superannuation Fund Act 1956 s 73 (application to Solicitor-General)
- Health and Disability Commissioner Act 1994 s 64 (disclosure of certain matters)
- Health Reforms (Transitional Provisions) Act 1993 s 11
- High Court Rules ss 381 (Solicitor-General re letters of request), 95 (relator proceedings)
- Higher Salaries Commission Act 1977 4th Schedule and s 12(1)(a)(iv)
- Human Rights Act 1993 s 129 (giving information prejudice detection of offences or disclose Cabinet proceedings)
- Immigration Act 1987 s 33A (revocation of temporary permit for purposes of mutual assistance)
- International War Crimes Tribunals Act 1995
- Judicature Act 1908 ss 51A publication of High Court Rules, 51B (Solicitor-General and Attorney-General members of the Rules Committee), 88A (vexatious litigants), Rule 95(relators), 9A Amicus (costs), 381 (Solicitor-General letters of request from abroad), 438A, 718 (Solicitor-General to appoint amicus if requested)
- Land Transfer Act 1952 s 176 (judgment against absconders)
- Law Practitioners Act 1982 s 31 (appointment of members of Council of Legal Education on advice of Attorney-General)
- Legal Services Act 1991 ss 4(b) and 19(1)(b)(ii) (Attorney-General's Certificate required for legal aid to Privy Council)
- Local Government Official Information and Meetings Act 1987 s 31 (disclosure of information)
- Mental Health (Compulsory Assessment and Treatment) Act 1992 ss 77 to 81 (Special Patients)
- Ministry of Agriculture and Fisheries (Restructuring) Act 1995 s 6 (savings relating to references and proceedings)
- Ministries of Agriculture and Forestry (Restructuring) Act 1997 s 5 (savings relating to references and proceedings)
- Misuse of Drugs Act 1975 s 35C (restrictions on surrender)
- Mutual Assistance in Criminal Matters 1992

- New Zealand Bill of Rights Act 1990 s 7 (Attorney-General to report to Parliament where bill inconsistent)
- New Zealand Council of Law Reporting 1938 s 7 (Solicitor-General and Attorney-General members of Council)
- New Zealand Security Intelligence Service Act 1969 ss 4A (issue of interception warrant), 4G (Solicitor-General, destruction of irrelevant records), 5G (exercise of functions of Commissioner of Security Warrants)
- Official Information Act 1982 s 31(b) (disclosure of information prejudice detention of offences)
- Ombudsmen Act 1975 ss 20 (disclosure of information prejudicial to security), 9(2) (ombudsmen power to examine persons on oath with approval of Attorney-General), 27 (Attorney-General may exclude certain premises from search)
- Parliamentary Service Act 1985 s 64 (Attorney-General to determine maximum number of staff of Parliamentary Counsel Office)
- Patents Act 1953 ss 41 (revocation of patents), 76 (Attorney-General's right to appear to protect public interest), 102 (cancellation of registration of patent attorneys)
- Police Complaints Authority Act 1988 ss 26(1)(b) (disclosure of certain matters not required if Attorney-General certifies), 29 (implementation of recommendations), 34 (publications)
- Port Companies Act 1988 s 36 (Attorney-General to enforce by civil proceedings)
- Presbyterian Church Property Amendment Act 1996 s 13 (notice of scheme to be sent to Attorney-General)
- Privacy Act 1993 s 95 (disclosures of information)
- Proceeds of Crime Act 1991 ss 8, 17, 19, 26, 29, 39, 41, 59, 64, 66, 82 (Solicitor-General may make application to confiscate property and ancillary matters), 23B, 23C (foreign forfeiture orders (Solicitor-General)), 45 (Solicitor-General may give undertakings as to damages or costs), 66A, 66C, 66D, 66H (Solicitor-General – foreign restraining orders)
- Public Service Investment Society Management Act 1979 (No 2) s 23 (offences to be reported to Solicitor-General)
- Public Trust Office Act 1957 s 67 (application for scheme variation)
- Queens Counsel Regulations 1987 Regulation 3 (appointment) and 5 (appearance and proceedings against Crown)
- Rating Valuations Act 1998 s 57 (proceedings)

- Reprint of Statutes Act 1931 (certificate of Attorney-General to be incorporated in reprint)
- Roman Catholic Bishops Empowering Act 1997 Part 4 (Attorney-General must have notice of and may object to variation of trusts)
- School Trustees Act 1989 s 19 (Solicitor-General approves scheme)
- Serious Fraud Office Act 1990 ss 29 (Attorney-General responsible for the Serious Fraud Office), 11 (Solicitor-General to determine responsibility for investigating certain cases of fraud), 30 (Director acts independently from Attorney-General in investigations), 48 (prosecutors panel appointed by Solicitor-General), 1 (Attorney-General approves agreements with overseas agencies)
- State Sector Act 1988 s 44 (provisions relating to Chief Executives not apply to Solicitor-General; Solicitor-General Chief Executive)
- Statutes Drafting and Compilation Act 1920 ss 2 (Parliamentary Counsel Office to be under control of Attorney-General unless Attorney-General is not a Minister of the Crown), 4, 5 (Attorney-General may direct Bill Drafting Department to report as to effect of bills), 6 (number in Parliamentary Counsel Office), 8A (Attorney-General may authorise IRD to draft Government bills)
- Summary Proceedings Act 1957 ss 115A (Solicitor-General only - consent to appeal against sentence), 77A, 173 (stay of proceedings), 20A (official information)
- Te Ture Whenua Maori Act 1993 s 280(7) (consideration of prosecution after investigation of incorporation)
- Transport (Vehicle and Driver Registration and Licensing) Act 1986 s 19 (details of registers to be supplied to applicants - appeal to Attorney-General)
- Trans-Tasman Mutual Recognition Act 1997 s 53 (Attorney-General may be heard on review)
- Trustee Companies Act 1967 s 15 (administration by trustee company of benefit fund)
- Trustee Companies Management Act 1975 s 21 (duty to report offences to Solicitor-General)
- War Funds Act 1915

THE ATTORNEY-GENERAL'S FIAT IS REQUIRED TO PROSECUTE UNDER THE FOLLOWING PROVISIONS

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- Antarctica (Environmental Protection) Act 1994 s 6 (crimes anywhere in Antarctica outside the Ross Dependency)
- Armed Forces Discipline Act 1971 s 74
- Aviation Crimes Act 1972 ss 10 & 18 (hijacking etc)
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- Companies (Bondholders Incorporation) Act 1934-35 s 3
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- Maritime Transport Act 1994, s 224

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- Wellington Waterworks Act 1871 s 62