

LAC Guidelines & Policy

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Introduction

- ◉ LAC Guidelines preventing problems
- ◉ LAC Guidelines solving problems
- ◉ LAC Guidelines & good policy advice

Preventing Problems

- ⦿ The carrot – a weapon in your arsenal
- ⦿ The stick – when things go wrong in legislation, they can go really wrong
 - > Remedial or validating legislation
 - > Expensive Court cases
 - > Expensive Court cases that the Government loses, leaving the policy intent unaccomplished

Summary Proceedings Amendment Bill (No 2) 2008

- 14 (4) The item relating to Part 10 of the Crimes Act 1961 in Part 1 of Schedule 1 is amended—
 - (a) by omitting the item relating to section 219 of the Crimes Act 1961 and substituting the following items:
 - > 219, 223(a) to (c) Theft or stealing...
 - ...
 - (e) by omitting from the first column "240" and substituting "240, 241(a) and (b)":
 - (f) by omitting from the first column "246" and substituting "246, 247(a) and (b)"

Summary Proceedings Amendment Act (No 2) 2010

● 4 Amendments to Schedule 1

The item relating to Part 10 of the Crimes Act 1961 in Part 1 of Schedule 1 is amended by—

- (a) omitting "223(a) to (c)" in each place where it appears and substituting in each case "223(a) to (d)"; and
- (b) omitting "241(a) and (b)" and substituting "241(a) to (c)"; and
- (c) omitting "247(a) and (b)" and substituting "247(a) to (c)".

Smith v Attorney-General

- Is a hang glider an aircraft?
 - > “ **Aircraft** means any machine that can derive support in the atmosphere from the reactions of air otherwise than by the reactions of the air against the surface of the earth”.

Terminals (NZ) Ltd v Comptroller of Customs

- Is adding butane to petrol
“manufacturing”?
- > “**manufacture**, ...means,...
- b) if the goods are a fuel, any
operation, or process, involved in the
production of the goods” ...

Solving Problems: Guidelines do what for advisors?

Policy analysts know legislation is a tool & special – how to enter the world e.g. Ch 16 (Cross border issues)

Give analysts 2 main useful attributes:

- **Guidelines** define **good legislation** – e.g. Chs 1 (Means of achieving the policy objective), 2 (Understandable and accessible legislation) & 7 (Relationship to existing laws)
- Hints on **effective implementation** – e.g. Chs 8 (Creation of new public power) & 13 (Appeal and review)

And **Guidelines** are an overall **checklist**; plus **tests** to run ideas through – for instance Ch 3 (Basic principles)

Guidelines are your friend

Guidelines advise about aspects of policy & legislation that is unfamiliar

Examples that might be useful:

- International obligations (how to incorporate)
- Treaty of Waitangi and Bill of Rights (limits and implications)
- Alternative dispute settlement (when is it useful?)
- Why legislate at all?

Good Policy

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Good Legislation

- ⦿ Legislation & regulation only one tool in the policy toolkit
- ⦿ Legal drafting helps policy implementation
- ⦿ Can't know policy will work, but can test implementation
- ⦿ Mid-course correction is possible
 - > "Triggers" for policy implementation
 - > Legislative reviews

Final thoughts...& Questions