

DRAFT SECOND READING SPEECH

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Crown Proceedings Amendment Bill 2016

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Madam Speaker, this Bill makes amendments to the *Crown Proceedings Act 1993*.

The *Crown Proceedings Act 1993* provides for the process for legal claims either made by or against the Crown.

This Bill makes amendments to that Act to reflect the organisational restructure of Crown Law whereby the Crown's civil litigation functions have been transferred from the Office of the Director of Public Prosecutions to the Office of the Solicitor-General.

During 2015 the functions and operations of Crown Law were reviewed. Crown Law sits within Output Group 2 of the Department of Justice and consists of the Office of the Solicitor-General, the Office of the Director of Public Prosecutions and the Office of the Crown Solicitor.

Each Office has a separate function and is under the direction of the principal law officer namely the Solicitor-General, Director of Public Prosecutions and Crown Solicitor. The functions of the respective Offices may broadly be described as follows:

- The Office of the Solicitor-General provides legal advice to the Government of the day and undertakes constitutional litigation.
- The Office of the DPP has responsibility for the prosecution of indictable crimes on behalf of the State of Tasmania and appeal matters. The Office also conducts some summary regulatory matters and has responsibility for child protection matters.
- The Office of the Crown Solicitor provides commercial law and conveyancing services to the Crown including services relating to procurements, leases and licences and property acquisition and disposal.

Civil litigation on behalf of the State and its agencies has for the past few years been conducted through the Office of the Director of Public Prosecutions. This has involved personal injuries and workers compensation litigation, as well as contractual and commercial disputes. It has also involved representing state government agencies before various bodies and tribunals such as the Anti-Discrimination Tribunal. The civil work has been performed by a dedicated team of staff lead by a senior legal professional.

During 2015 the three principal law officers decided to examine their respective functions and structures with regard to service levels for agencies, management of files and issues, succession planning and career development, in particular in relation to civil aspects of Crown Law.

It was decided and agreed by the three principal legal officers through this process that, in order to build capacity and enhance operational synergies, the Crown's civil litigation

practice would be better placed under the Office of the Solicitor-General. It was also considered that civil litigation aligns more closely with the Solicitor-General's functions which include advising on statutory interpretation and civil liability legal issues affecting the State.

The Office of the Solicitor-General assumed responsibility for the Crown's civil practice on 1 November 2015 in response to a review of Crown Law.

This realignment of services focuses civil litigation skills into a single unit that is distinct from the Crown's criminal litigation practice. It has also provided efficiencies in case management, professional development and maintenance of quality of civil litigation and advice services to agencies of the Crown.

This Bill has been brought to the House to amend the current service of legal document provisions that need to be amended because of these administrative changes.

The *Crown Proceedings Act 1993* currently provides that service of a process or a document relating to proceedings on the Crown is to be effected on the Director of Public Prosecutions.

The Act also provides that service of a legal process or subpoena on a Minister to appear in a Minister's official capacity to give evidence or produce documents is to be effected by service on the Director of Public Prosecutions.

The Bill removes the requirement to serve legal documents involving the Crown on the Director of Public Prosecutions and provides that the service is now to be effected on the Solicitor-General as a reflection of the new organisational structure.

As noted, the transfer of the Crown's civil litigation practice commenced on 1 November 2015. Since that time, the requirement for service on the Director of Public Prosecutions has been resolved administratively within Crown Law. However, these amendments are required to reflect the new organisational structure.

I commend the Bill to the House.