

Jenny Cassie

Barrister

Wellington, New Zealand

QUALIFICATIONS

BA, LL.M, Victoria University of Wellington

Admitted to the bar: 1992

CONTACT DETAILS

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Jenny commenced practice as a barrister sole in 2001 following 9 years as a senior solicitor and solicitor at Chapman Tripp. She specialises in public law and in particular the development of legislation, statutory interpretation, and the governance and accountability of Crown entities.

Development of legislation

Some of Jenny's most recent experience in relation to the development of legislation includes working with policy teams and lawyers within the following departments on the following pieces of legislation:

- Ministry of Fisheries, Ministry of Conservation and Ministry for the Environment – on amendments to the Aquaculture Reform (Repeals and Transitional Provisions) Act 2004, Resource Management Act 1991, Fisheries Act 1996, and Maori Commercial Aquaculture Claims Settlement Act 2004:
- Ministry of Agriculture and Forestry on the -
 - National Animal Identification and Tracing Bill 2010;
 - Climate Change (Forestry Sector) Amendment Regulations 2011 (introducing the “field measurement approach” for measuring carbon in forests); and
 - Climate Change (Pre-1990 Forest Land Allocation Plan) Order 2010 (setting out the process for allocation of emissions units to pre-1990 forest land owners under the Climate Change Response Act 2002):
- Ministry for the Environment on –
 - the Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010; and

- 6 sets of regulations under the Climate Change Response Act 2002 that set out the methodologies for calculating emissions for liquid fossil fuels, stationary energy and industrial processes, synthetic greenhouse gases, waste disposal facilities, and other removal activities, and for unique emissions factors:
- Treasury and then the Ministry for the Environment on the amendments to the Climate Change Response Act which introduced and then amended New Zealand's emissions trading scheme.

In most cases Jenny's work on the legislation included the preparation of drafting instructions for the Parliamentary Counsel Office, and in many cases also analysis and responses to public submissions, preparation and advising on Cabinet papers and Departmental reports, and attendance at Select Committee and/or the House of Representatives to assist with the passage of the Bills through the House.

Jenny has also drafted a number of sets of tertiary legislation in the past few years including a variety of maritime rules for Maritime New Zealand, rules under the Gas Act 1992 for the Gas Industry Company Limited, and Marine Protection Rules for Ballast Water Management for the Ministry of Agriculture and Forestry, as well as reviewing new early childhood education standards for the Ministry of Education.

Other Acts and Bills where Jenny has been involved in drafting or providing drafting instructions to the Parliamentary Counsel Office include the Social Security Amendment Bill 2006, for the Ministry of Social Development; the Crown Entities Act 2004, for the State Service Commission and the Parliamentary Counsel Office; the Maritime Security Act 2004 and the Railways Bill 2005, on behalf of the Ministry of Transport; the Local Government Act 2002 and Local Government (Auckland) Amendment Act 2004, on behalf of the Department of Internal Affairs; and the Marine Reserves Bill 2002, on behalf of the Department of Conservation.

Opinion and policy related work

Jenny provides advice to a range of government departments and Crown entities on matters of statutory interpretation and other legal issues, particularly on matters relating to legislation with which she has been involved. She also provides specialist advice to a number of entities including Housing New Zealand Corporation, Environmental Protection Authority, Environmental Risk Management Authority, New Zealand Food Safety Authority, and the Public Trust, on matters arising from the Crown Entities Act 2004, delegations and conflicts of interest.

In 2005 and 2006, Jenny acted as a consultant assisting the Ministry of Social Development with the rewriting of the Social Security Act 1964, which work included advising the Ministry on a broad range of legal issues arising from the rewrite, from complex operational issues to constitutional issues, such as the appropriate split between the use of primary and delegated legislation.

In 2004, Jenny represented the Ministry of Education on a working party of sector specialists set up to discuss possible legislative and non-legislative changes to the governance and accountability regime for tertiary education institutions following on from the Crown entities reform. Her work included bringing together the various views of the working party members in advice to the Associate Minister of Education setting out proposals for change to the governance and accountability regime for tertiary education institutions set out in the Education Act 1989.

Between 2002 and 2004 Jenny was employed by the Legislation Advisory Committee to assist the committee with writing submissions on a number of Bills, and through this process appeared with LAC members before a number of select committees.

Other areas of practice

In addition to her public law practice, from time to time Jenny also advises on contracts and conducts independent reviews.

She recently worked with the Department of Conservation on the development of a template Crown conservation contract and concession in relation to the storage of carbon on forest land held by the Department.

In recent years Jenny has conducted two internal reviews for a Crown entity in relation to complaints made under a statutory complaints procedure, including interviewing the complainant and other relevant persons, and drafting comprehensive reports of findings and recommendations.

She has also worked for the Ministry of Justice preparing advice to the Minister of Justice on applications to the Governor-General for the exercise of the Royal prerogative of mercy. This work involves seeking information from applicants, the Police and other parties on the various grounds of application, considering the evidence in light of criminal law principles and precedents, and providing advice to the Minister on whether the Minister should recommend to the Governor-General that the applicant's criminal conviction be referred back to the courts.

While at Chapman Tripp Jenny practised primarily in the public and commercial law areas, including as a litigator. Her public law work included drafting various Acts, regulations and statutory rules, while her commercial law work included advising on and drafting service level agreements, (including in relation to on-line facilities), joint venture agreements, sale and purchase agreements, and investment statements and prospectuses for the offer of securities under the Securities Act 1978.

Jenny spent five years in Chapman Tripp's litigation department before transferring within Chapman Tripp to non-litigation public and commercial law teams. As a litigator, she appeared in both the High Court and District Court, particularly on insurance law matters. She also advised and acted for the National Rural Fire Authority on claims under the Forest & Rural Fires Act 1977, and the Earthquake Commission on claims under the Earthquake Commission Act 1993.

Professional development

Jenny completed her LLM in 2007 and has also written papers and presented on legal matters at a number of seminars in recent years.

Papers and publications include -

- "Conflicts of Interest" (paper presented to the Lexis-Nexis Legal Issues for Crown Entities conference, September 2009)
- "The Scope of Judicial Review" (joint paper with Dean Knight presented to the New Zealand Law Society's Administrative Law intensive, Wellington, August 2008)

- “Delegations and Governance of Crown Entities” (paper presented to the Lexis-Nexis Crown Entities Act conference, Wellington, September 2007)
- “Delegations” (paper presented to the Lexis-Nexis Public and Administrative Law Conference, Wellington, February 2007)
- “Crown Entities - capacity and powers” (paper presented to the New Zealand Law Society Crown Entities Act intensive, Wellington, March 2005)
- “Crown Entities – duties and liabilities” (paper presented to the New Zealand Law Society Crown Entities Act intensive, Wellington March 2005).

She is a past member of the Wellington District Law Society’s Public Law Committee and a current member of the New Zealand Law Society’s Public Law Consultative Group.

Pre-law experience

Before becoming a lawyer in 1992, Jenny worked in a variety of positions in the public sector in New Zealand, including at Housing Corporation of New Zealand, the Residual Management Unit of the Ministry of Works and Development, and the Waitangi Tribunal, as well as working as an administration assistant and manager overseas.