



CRIMINAL JUSTICE BRANCH, MINISTRY OF ATTORNEY GENERAL
CROWN COUNSEL POLICY MANUAL

ARCS/ORCS FILE NUMBER: 55100-00	EFFECTIVE DATE: September 15, 2004	POLICY CODE: CHA 1.2
SUBJECT: Charge Assessment – Social Regulatory Offences		CROSS-REFERENCE: CHA 1 ELD 1 ENV 1 SEX 2

POLICY

Restraint should be exercised in proceeding with charges of a social regulatory nature. Generally speaking, prosecutions should be initiated only where alternate methods to enforce compliance have been tried and have failed, where the offender has demonstrated a wilful or repeated non-compliance with the social regulatory statute or where the public interest otherwise requires prosecution in order to protect the integrity of the regulatory scheme.

Examples of social regulatory statutes which would be subject to this policy are: the *Private Investigators and Security Agencies Act*, *Business Corporations Act*, *Social Service Tax Act*, *Home Owner Grant Act*, and *Motion Picture Act*. In addition, this policy may have application to offences under the *Criminal Code* and other federal statutes which are primarily social regulatory in nature, for example, certain provisions of the *Criminal Code* concerning the licensing and regulation of firearms and gaming.

Certain locations may experience an inordinate number of liquor or other minor offences of a disruptive nature to the general peace of the community. Where such a location is identified by the police in a Report to Crown Counsel, the public interest may require prosecution.

When it is necessary in the public interest to commence a prosecution for a social regulatory infraction, Crown Counsel should bring the circumstances of any attempts to achieve compliance to the attention of the court at sentencing.

The public interest requires that certain matters be exempted from the application of this policy, including: offences involving motor vehicles (except under the *Motor Dealer Act*); offences under environmental legislation (see ENV 1), the *Family Relations Act*, the *Health Act* (see SEX 2), the *Heritage Conservation Act*, the *Securities Act*, and the *Employment and Assistance Act*; the more serious offences under provincial tax legislation, such as the *Tobacco Tax Act*; and violations of the *Business Practices and Consumer Protection Act* involving elderly people as victims (see ELD 1).

DISCUSSION

Many provincial statutes establish social regulatory schemes relating to the conduct of people and businesses which anticipate that persons who are affected by the legislation will act in an honest, forthright and compliant manner. Some provincial statutes, such as the *Medical Practitioners Act*, regulate professional groups and establish rules for their orderly conduct. As noted above, the *Criminal Code* contains some provisions which are social regulatory or administrative in nature.

Situations to which this policy applies include:

- where persons violate a regulatory scheme under which they are licensed or qualified
- where unlicensed persons practice or do business outside of the scheme without lawful authority
- where persons violate regulatory schemes of general application for which no licence is required