

# ESTIMATES COMMITTEE

## Question Taken on Notice

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**Date:** 21/06/2022

**From:** Mr Steve Edgington

**To:** Hon Chansey Paech

**Portfolio:** Attorney-General & Justice

**Agency:** Attorney-General & Justice

**Subject:** Strict liability offences

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### QUESTION

There has been an increase in strict liability offences in recent years. Can you please outline what considerations are taken into account when determining whether a new or amended offence should be one of strict liability?

### ANSWER:

Strict liability offences are often used in regulatory type matters, such as environment offences, driving offences, or other less serious offences.

When considering whether to make an offence one of strict liability, considerations taken into account can include:

- the seriousness of the offence and the proposed penalty; and
- the regulatory scheme the offence is part of.

Strict liability offences generally attract lower penalties and do not have imprisonment attached.

Offences can be wholly strict liability, or have strict liability apply to one or more physical elements.

Having strict liability elements makes it easier for the prosecution to prove the offence, and so it is only used in limited circumstances where there is adequate justification.

Although strict liability means the prosecution does not need to prove a fault element for part or all of the offence, there are still defences available to some strict liability offences.

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