



ELECTION BY PROSECUTOR FOR SUMMARY DISPOSAL SECTION 374 OF THE CRIMES ACT 1900 - DPP ELECTION STATEMENT OF POLICY

BACKGROUND

This Policy applies to all matters where the prosecution may elect summary disposal under section 374 of the *Crimes Act 1900*. It sets out the principles which guide such an election.

In essence, section 374 provides that the prosecution may elect summary jurisdiction for any offence punishable by imprisonment for longer than 2 years but not longer than 5 years. Of course offences punishable by imprisonment of 2 years and less are already summary. The election must be exercised within a specified timeframe.

THE POLICY FOR DETERMINING SUMMARY DISPOSAL

Each case is to be considered on its merits. The over-riding consideration is to achieve justice.

Under no circumstances will the election be made for tactical reasons.

The principal matter to be considered will be whether in the circumstances the Magistrates Court can adequately deal with the matter should it proceed to sentence.

In turn, that will depend on:

- the nature and circumstances of the alleged offending;
- any other matters that a court would have to consider under section 33 of the *Crimes (Sentencing) Act 2005* in sentencing the alleged offender, were the offence to be proved;
- the criminal history if any of the alleged offender.

Other factors to consider are:

- whether the alleged offence is part of a series of related alleged offences, and if so whether it is appropriate to deal with those alleged offences summarily;
- whether there are any co-offenders of the alleged offender, and if so whether it is appropriate for the alleged offender to be dealt with together with the co-offenders.