

Index

ABSOLUTE LIABILITY OFFENCES

- Burden of proof, **8:1**
- Causation defence, **8:7**
- Charter issues, **8:2**
- Common law defences, **8:5**
- General, **4:4**
- Involuntariness defence, **8:6**
- Necessity defence, **8:8**
- Parties to offence, **7:15**

ABUSE OF PROCESS

- Generally, **5:25**

ADVICE, INITIAL

- Generally, **3:6**

APPEALS

- Procedure
 - costs, **12:20**
 - dismissal, **12:19**
 - forms, see APPENDIX D
 - further appeals, **12:20**
 - part I and II appeals, **12:3**
 - part III appeals
 - abandonment, **12:19**
 - appeal court procedural powers, **12:11**
 - appeal court's additional powers, **12:16**
 - attendance, **12:9**
 - counsel, right to, **12:9**
 - custody pending appeal, **12:6**
 - decisional powers against acquittal, **12:13**
 - decisional powers against conviction, **12:12**
 - decisional powers against finding of incapacity, **12:12**
 - decisional powers against sentence, **12:14**
 - defect in information or process, **12:15**
 - fine payment pending appeal, **12:7**
 - forms, see APPENDIX D
 - launching appeal, **12:5 to 12:20**
 - new trials, **12:17**

APPEALS—Cont'd

- Procedure—Cont'd
 - part III appeals—Cont'd
 - stay pending appeal, **12:8**
 - trial de novo, **12:18**
 - written argument, **12:10**
- Re-opening conviction
 - forms, see APPENDIX D
 - part II parking offences, **12:2**
 - part I offences, **12:1**
- Reviews to Ontario Superior Court of Justice, **12:21**

APPEARANCE

- First, **3:7**

BAIL HEARINGS

- Acting for defendant, **9:3**
- Justice at hearing, **9:2**
- Officer at police station, **9:2**

BILINGUAL SIGNAGE

- Generally, **5:31**

CHARTER OF RIGHTS

- Absolute liability offences, **8:2**
- Applications, **9:4**
- Defences, **5:15**
- Issues in classifying offences, **4:6**
- Right to counsel, **10:25**
- Right to silence, **10:26**

CLIENT

- Interview, **3:2**

CORPORATE DEFENDANTS

- Generally, **3:5**

COUNSEL, RIGHT TO

- Generally, **10:25**

COURTS OF JUSTICE ACT

- Regulations under, see APPENDIX C

DEFENCES

- See DUE DILIGENCE; PROCEDURAL ISSUES

DELAY, UNREASONABLE

Generally, 5:29

DE MINIMIS

Generally, 5:28

DISCLOSURE FROM PROSECUTION

Application for further disclosure, 3:11

Forms, see APPENDIX D

General, 3:8

Inadequate, 5:27

Request further disclosure, 3:10

Review with client, 3:9

DISCOVERY FROM THIRD PARTIES

Generally, 3:12

DUE DILIGENCE

Classification of offence and, 4:5

Corporate responsibility, and, 7:14

Evidence of, 7:12

Gravity and likelihood of harm, 7:5

EVIDENCE

See TRIALS; Evidence

EXPERTS

Advice, 3:14

Number at trial, 10:17

FIRST APPEARANCE

Generally, 3:7

FORMS

See APPENDIX B; APPENDIX D

IMPRISONMENT

Generally, 11:12

INITIAL ADVICE

Generally, 3:6

INITIAL PREPARATION

See PREPARATION

INSPECTIONS

Generally, 10:24

INTERVIEW WITH CLIENT

Generally, 3:2

INTERVIEW WITNESSES

Generally, 3:13

JOINDER AND SEVERANCE

Generally, 5:21 to 5:23

**JUDICIAL PRE-TRIAL
CONFERENCES**

Generally, 3:15

LIMITATION PERIODS

See JURISDICTIONAL DEFENCES

MENS REA OFFENCES

Burden of proof, 6:1

Corporate responsibility, 6:10

Defences

causation, 8:7

general, 6:6 to 6:9

intoxication, 6:8

involuntariness, 8:6

mistake of fact, 6:7

necessity, 8:8

to act element, 6:4

to mental element, 6:5

General, 4:2

Parties to offence, 7:15

State of mind, 6:2

MINOR OFFENCES

Generally, 1:4

OFFENCES, TYPES OF

Charter issues in classifying offences, 4:6

Classification of offences, 4:5

Classification scheme

absolute liability offences, 4:4

general, 4:1 to 4:4

mens rea offences, 4:2

strict liability offences, 4:3

Conclusion, 4:7

OFFICIALLY INDUCED ERROR

Generally, 5:26

PARKING INFRACTIONS

Generally, 1:5

PREPARATION

Advice, initial, 3:6

Allegations against client, 3:5

Background details from client, 3:5

Charge screening, 3:1

Client interview, 3:2

Corporate defendants, 3:5

Documents to obtain, 3:3

First appearance, 3:7

Offences charged, determine, 3:4

INDEX

PROBATION

Generally, **11:10**

PROCEDURAL ISSUES

Abuse of process, **5:25**

Constitutional defences

Charter of Rights, **5:15**

general, **5:12 to 5:15**

notice of constitutional challenge, **5:13**

void for vagueness, **5:14**

De minimis, **5:28**

Disclosure, inadequate, **5:27**

Joinder and severance

POA, **5:21**

trying matters separately, **5:23**

trying matters together, **5:22**

Jurisdictional defences

limitation periods

in the charging Act, **5:4**

in the POA, **5:5**

proper service

minor offences, **5:6**

parking offences, **5:7**

serious offences, **5:8 to 5:11**

territorial jurisdiction, **5:2**

timing, **5:1**

Officially induced error, **5:26**

Proof of by-laws or subordinate legislation, **5:30**

Res judicata, **5:24**

Signage, bilingual, **5:31**

Sufficiency of charges

amendments, **5:19**

common objections, **5:17**

dividing counts, **5:18**

general, **5:16 to 5:20**

particulars, **5:20**

Unreasonable delay, **5:29**

PROCEDURAL STREAMS

General, **1:3**

Minor offences, **1:4**

Parking infractions, **1:5**

Serious offences, **1:6**

PROVINCIAL OFFENCES ACT

Purpose, **1:1**

Selected forms, **1:4; 1:5; APPENDIX B; APPENDIX D**

Selected sections, see APPENDIX A

PUBLICATION BANS

Generally, **10:13**

REASONABLE CARE

See STRICT LIABILITY OFFENCES

RES JUDICATA

Generally, **5:24**

RESTITUTION

Generally, **11:13**

RIGHT TO COUNSEL

Generally, **10:25**

ROLE OF THE JUSTICE, PROSECUTOR AND DEFENCE ADVOCATE

Defence, **2:3**

duties, **2:6**

General duties of advocates, **2:7**

Judge, **2:1**

Prosecutor, **2:2**

duties, **2:5**

Rules of professional conduct, **2:4**

SEARCH AND SEIZURE, UNREASONABLE

Generally, **10:24**

SENTENCING

Options

civil enforcement of fines, **11:6**

costs, **11:8**

default of fine, **11:7**

fine option program, **11:5**

imprisonment, **11:12**

licence loss, **11:7**

probation, **11:10**

reducing minimum fines and imprisonment, **11:3**

restitution, **11:13**

surcharge, **11:9**

time to pay fine, **11:4**

Probation, breach of, **11:10, 11:11**

Range of sentences

under charging act, **11:1**

under POA, **11:2**

Submissions on sentence, **11:14**

SERIOUS OFFENCES

Generally, **1:6**

SPECIAL PROCEEDINGS

Bail hearings, **9:2, 9:3**

SPECIAL PROCEEDINGS—Cont'd

- Charter applications, **9:4**
- Other applications, **9:5**
- Young persons, **9:1**

STRICT LIABILITY OFFENCES

- Burden of proof, **7:1, 7:1.50, 7:2**
- Corporate responsibility, **7:14**
- Defences
 - generally, **7:19**
 - due diligence, see DUE DILIGENCE
 - procedural, see PROCEDURAL ISSUES
- Evidentiary issues
 - acts after being charged, **7:18**
 - due diligence, **7:12**
 - similar acts before incident, **7:17**
 - timing of evidence, **7:16**
- General, **4:3**
- Parties to offence, **7:15**
- Plea
 - entering the, **7:2**
 - not guilty, of, **7:1.50**
- Reasonable care considerations
 - after-the-fact compliance, **7:13**
 - alternatives, **7:4**
 - costs of prevention, **7:9**
 - degree of skill expected, **7:6**
 - equipment and technology, **7:8**
 - inspections and compliance programs, **7:7**
 - likelihood and gravity of harm, **7:5**
 - start-up problems, **7:11**
 - warnings, **7:10**

THIRD PARTIES, DISCOVERY FROM

- Generally, **3:12**

TRIALS

- Evidence
 - commission evidence, **10:23**
 - compellability of defendant, **10:21**
 - counsel, right to, **10:25**
 - credibility evidence, **10:19**
 - documents, **10:16**
 - due diligence, of, **7:12**
 - experts, number, **10:17**
 - general, **10:14 to 10:26**
 - hearsay, **10:18**

TRIALS—Cont'd

- Evidence—Cont'd
 - inspections, **10:24**
 - notices required under EA, **10:15**
 - officer's evidence, challenging, **10:20**
 - proving exception, **10:22**
 - right to silence, **10:26**
 - unreasonable search and seizure, **10:24**
 - voluntariness, **10:26**
- Procedure
 - adjournments, **10:6**
 - appearance for trial
 - certificate of offence, **10:1**
 - certificate of parking infraction, **10:1**
 - information, **10:1**
 - defendant appears, **10:9**
 - defendant does not appear, **10:10**
 - excluding public or witnesses, **10:12**
 - failure of defendant to appear
 - compelling defendant to appear, **10:3**
 - excluding defendant from trial, **10:3**
 - general, **10:3**
 - penalty for failing to appear, **10:3**
 - failure of prosecutor to appear for trial
 - general, **10:4**
 - included offences, **10:11**
 - manner of defendant appearing for trial, **10:2**
 - mental capacity of defendant, **10:7**
 - plea, entering, **10:8**
 - publication bans, **10:13**
 - witnesses, ensuring appearance of
 - arrest of witness, **10:5**
 - by summons, **10:5**
 - witness in jail, **10:5**
- Strategy
 - defence's theory, **10:28**
 - persuasion, effective, **10:29**
 - prosecution's case, **10:27**

UNREASONABLE DELAY

- Generally, **5:29**

WITNESSES, INTERVIEW

- Generally, **3:13**

YOUNG PERSONS

- Generally, **9:1**