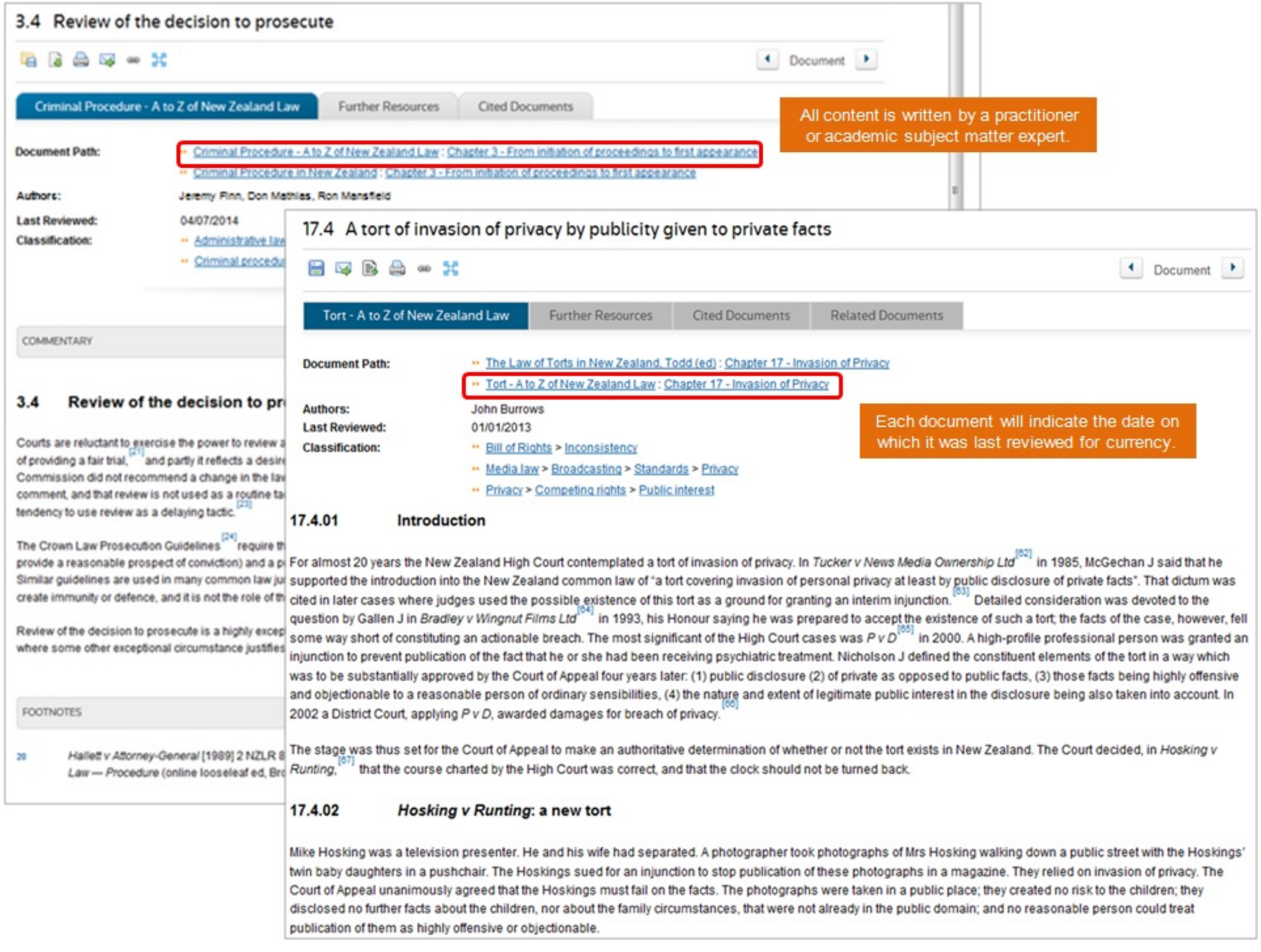
3.4 Review of the decision to prosecute
Document
Criminal Procedure - A to Z of New Zealand Law
Further Resources
Cited Documents
All content is written by a practitioner or academic subject matter expert.
Document Path:
Criminal Procedure - A to Z of New Zealand Law : Chapter 3 - From initiation of proceedings to first appearance
Criminal Procedure in New Zealand : Chapter 3 - From initiation of proceedings to first appearance
Authors:
Jeremy Finn, Don Mathias, Ron Mansfield
Last Reviewed:
04/07/2014
Classification:
COMMENTARY
3.4 Review of the decision to pr
Courts are reluctant to exercise the power to review a
of providing a fair trial,[21] and partly it reflects a desire
Commission did not recommend a change in the law
comment, and that review is not used as a routine ta
tendency to use review as a delaying tactic.[23]
The Crown Law Prosecution Guidelines[24] require th
provide a reasonable prospect of conviction) and a p
Similar guidelines are used in many common law ju
create immunity or defence, and it is not the role of th
Review of the decision to prosecute is a highly excep
where some other exceptional circumstance justifies
FOOTNOTES
20 Hallett v Attorney-General [1989] 2 NZLR 8
Law — Procedure (online looseleaf ed, Bro
17.4 A tort of invasion of privacy by publicity given to private facts
Document
Tort - A to Z of New Zealand Law
Further Resources
Cited Documents
Related Documents
Each document will indicate the date on which it was last reviewed for currency.
Document Path:
The Law of Torts in New Zealand, Todd (ed) : Chapter 17 - Invasion of Privacy
Tort - A to Z of New Zealand Law : Chapter 17 - Invasion of Privacy
Authors:
John Burrows
Last Reviewed:
01/01/2013
Classification:
Bill of Rights > Inconsistency
Media law > Broadcasting > Standards > Privacy
Privacy > Competing rights > Public interest
17.4.01 Introduction
For almost 20 years the New Zealand High Court contemplated a tort of invasion of privacy. In Tucker v News Media Ownership Ltd[62] in 1985, McGechan J said that he supported the introduction into the New Zealand common law of "a tort covering invasion of personal privacy at least by public disclosure of private facts". That dictum was cited in later cases where judges used the possible existence of this tort as a ground for granting an interim injunction.[63] Detailed consideration was devoted to the question by Gallen J in Bradley v Wingnut Films Ltd[64] in 1993, his Honour saying he was prepared to accept the existence of such a tort; the facts of the case, however, fell some way short of constituting an actionable breach. The most significant of the High Court cases was P v D[65] in 2000. A high-profile professional person was granted an injunction to prevent publication of the fact that he or she had been receiving psychiatric treatment. Nicholson J defined the constituent elements of the tort in a way which was to be substantially approved by the Court of Appeal four years later: (1) public disclosure (2) of private as opposed to public facts, (3) those facts being highly offensive and objectionable to a reasonable person of ordinary sensibilities, (4) the nature and extent of legitimate public interest in the disclosure being also taken into account. In 2002 a District Court, applying P v D, awarded damages for breach of privacy.[66]
The stage was thus set for the Court of Appeal to make an authoritative determination of whether or not the tort exists in New Zealand. The Court decided, in Hosking v Runting,[67] that the course charted by the High Court was correct, and that the clock should not be turned back.
17.4.02 Hosking v Runting: a new tort
Mike Hosking was a television presenter. He and his wife had separated. A photographer took photographs of Mrs Hosking walking down a public street with the Hoskings' twin baby daughters in a pushchair. The Hoskings sued for an injunction to stop publication of these photographs in a magazine. They relied on invasion of privacy. The Court of Appeal unanimously agreed that the Hoskings must fail on the facts. The photographs were taken in a public place; they created no risk to the children; they disclosed no further facts about the children, nor about the family circumstances, that were not already in the public domain; and no reasonable person could treat publication of them as highly offensive or objectionable.