

# **Crimes Amendment Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill repeals 3 provisions in the Crimes Act 1961 (the **Act**).

Section 71(2) of the Act protects spouses and civil union partners in cases where they would otherwise be an accessory after the fact to an offence. It gives an immunity to a person who assists their spouse or civil union partner and any other party to the offence to escape after arrest or to avoid arrest or conviction. Section 71(2) is inconsistent with the way that spouses and civil union partners are generally treated in the law. This protection also creates an anomaly in the law because it does not apply to other classes of people who are protecting someone in a close personal relationship.

Section 123 of the Act contains an offence of blasphemous libel. This offence has not been prosecuted in New Zealand since 1922 and may conflict with freedom of expression now protected under the New Zealand Bill of Rights Act 1990.

The Bill also repeals the year-and-a-day rule contained in section 162. The rule provides that no one is criminally responsible for the killing of another person unless the death takes place within a year and a day after the cause of death. There have been calls in New Zealand for the repeal of this rule for decades and most like-minded countries have already done so.

### **Departmental disclosure statement**

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=32>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent.

*Clause 3* states that the principal Act (the Act amended by this Bill) is the Crimes Act 1961.

### Part 1

#### Substantive amendments to principal Act

*Clause 4* repeals section 71(2). This will remove the immunity for a spouse or civil union partner from prosecution as an accessory after the fact under section 71(1). A transitional provision in *clause 1* of *new Schedule IAA* states that the immunity continues to apply on and after the repeal date if an act to which section 71(1) would otherwise apply was done before the repeal date.

*Clause 5* repeals section 123. This will remove the offence of blasphemous libel from the principal Act.

*Clause 6* repeals section 162. This will remove the limitation on prosecution for killing another person if the period of time between the cause of death and the death itself is more than a year and a day. A transitional provision in *clause 2* of *new Schedule IAA* states that the limitation continues to apply on and after the repeal date if an act or omission that is alleged to be a cause of death was done before the repeal date.

### Part 2

#### Other amendments to principal Act

*Clause 7* inserts *new section 4A* into the principal Act to provide the operative provision for *new Schedule IAA*, which is a standard schedule for transitional, savings, and related provisions. *New Schedule IAA* is contained in *Schedule 1* of the Bill.

*Clause 8* inserts *new Schedule IAA* (in *Schedule 1*) into the principal Act. The schedule contains 2 transitional provisions relating to the repeals under *clauses 4 and 6*.

*Clause 9* is the operative provision for making the consequential amendments to the principal Act that are set out in *Schedule 2* of the Bill.

*Hon Andrew Little*

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Crimes Amendment Act **2018**.

<b>2</b>	<b>Commencement</b>	
	This Act comes into force on the day after the date on which it receives the Royal assent.	
<b>3</b>	<b>Principal Act</b>	
	This Act amends the Crimes Act 1961 (the <b>principal Act</b> ).	5
<b>Part 1</b>		
<b>Substantive amendments to principal Act</b>		
<b>4</b>	<b>Section 71 amended (Accessory after the fact)</b>	
	Repeal section 71(2).	
<b>5</b>	<b>Section 123 repealed (Blasphemous libel)</b>	10
	Repeal section 123.	
<b>6</b>	<b>Section 162 repealed (Death must be within a year and a day)</b>	
	Repeal section 162.	
<b>Part 2</b>		
<b>Other amendments to principal Act</b>		
<b>7</b>	<b>New section 4A inserted (Transitional, savings, and related provisions)</b>	
	After section 4, insert:	
<b>4A</b>	<b>Transitional, savings, and related provisions</b>	
	The transitional, savings, and related provisions set out in <b>Schedule 1AA</b> have effect according to their terms.	20
<b>8</b>	<b>New Schedule 1AA inserted</b>	
	Insert the <b>Schedule 1AA</b> set out in <b>Schedule 1</b> of this Act as the first schedule to appear after the last section of the principal Act.	
<b>9</b>	<b>Consequential amendments</b>	
	Amend the principal Act as set out in <b>Schedule 2</b> .	25

**Schedule 1**  
**New Schedule 1AA inserted**

s 8

**Schedule 1AA**  
**Transitional, savings, and related provisions**

5

s 4A

**Part 1**  
**Provisions relating to Crimes Amendment Act 2018**

- 1 Immunity for spouses and civil union partners from prosecution as accessory after the fact** 10
- (1) For the purpose of this clause, **repeal date** means the date on which the Crimes Amendment Act **2018** comes into force.
- (2) The immunity in section 71(2) continues to apply on and after the repeal date if an act to which section 71(1) would otherwise apply was done before the repeal date. 15
- 2 Limitation on prosecution for killing person if period between cause of death and death is more than a year and a day**
- (1) For the purpose of this clause, **repeal date** means the date on which the Crimes Amendment Act **2018** comes into force.
- (2) The limitation on prosecution in section 162 continues to apply on and after the repeal date if an act or omission that is alleged to be a cause of death was done or omitted before the repeal date. 20
- (3) **Subclause (2)** applies whether the alleged resulting death occurred before or after the repeal date.

## Schedule 2

### Consequential amendments to principal Act

s 9

**Section 1**

In section 1(3), after “Part 7—”, replace “Crimes against religion, morality, and public welfare (sections 123 to 150)” with “Crimes against morality and decency, sexual crimes, and crimes against public welfare (sections 124 to 150)”. 5

**Part 7 heading**

Replace the Part 7 heading with:

**Part 7**  
**Crimes against morality and decency, sexual crimes, and crimes  
against public welfare**

10

**Cross-heading above section 123**

Repeal the cross-heading above section 123.