



ANALYSIS

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1998, No. 35

An Act to amend the Crimes Act 1961

[3 June 1998]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Crimes Amendment Act 1998, and is part of the Crimes Act 1961 (“the principal Act”).

2. Money laundering—(1) Section 257A of the principal Act (as inserted by section 5 of the Crimes Amendment Act 1995) is amended by omitting from subsection (2), and also from subsection (3), the words “subsection (6) of this section”, and substituting in each case the words “subsections (6) to (6B)”.

(2) Section 257A of the principal Act (as so inserted) is amended by repealing subsection (6), and substituting the following subsections:

“(6) It is a defence to a charge under this section if the act to which the charge relates was done by that person, in good faith, for the purpose of or in connection with—

“(a) The enforcement or intended enforcement of this section or any other provision of this Act or of any other enactment relating to a serious offence; or

“(b) The enforcement or intended enforcement of the Proceeds of Crime Act 1991; or

“(c) The enforcement or intended enforcement of the Financial Transactions Reporting Act 1996.

“(6A) Subject to subsection (6B), this section does not apply if—

“(a) Any property is alleged to be the proceeds of a serious offence; and

“(b) The act that is alleged to constitute that serious offence was committed outside New Zealand; and

“(c) The act was not, at the time of its commission, an offence under the law of the place where the act was done.

“(6B) If a person is charged with an offence under this section and the act that is alleged to constitute the serious offence resulting in proceeds was committed outside New Zealand, it is to be presumed, unless the person charged puts the matter at issue, that the act was an offence under the law of the place where the act was done.”

3. When bail not allowable—Section 318 of the principal Act (as substituted by section 2 of the Crimes Amendment Act (No. 2) 1991) is amended by inserting, after subsection (6), the following subsection:

“(6A) Despite subsections (1) and (2), where a Judge of the High Court grants bail to any person to whom subsection (1) or subsection (2) applies, at any stage of the proceedings bail may be continued or renewed by a District Court—

“(a) On the same or substantially the same conditions as originally imposed; or

“(b) With the consent of the person bailed and the prosecution, on any conditions—

until the person is found guilty, pleads guilty, or is discharged.”

4. Refusal of witness to give evidence—Section 352 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) Nothing in this section limits or affects any power or authority of the Court to punish any witness for contempt of Court.”

5. Appeal against order in respect of costs—The principal Act is amended by inserting, after section 379C (as inserted by section 9 of the Crimes Amendment Act (No. 2) 1991), the following section:

“379CA. (1) Where before, during, or after any trial the Court makes an order for the payment of costs or declines to make an order under the Costs in Criminal Cases Act 1967, any

person affected by that decision may appeal against it to the Court of Appeal.

“(2) The Court of Appeal may—

“(a) Confirm the decision; or

“(b) Vary the decision; or

“(c) Set aside the decision; or

“(d) Make any other order it considers appropriate.

“(3) Subject to subsection (4), where a person seeks leave to appeal to the Court of Appeal under this section, that person’s application must be filed as directed by the rules of Court within 10 days after the decision has been made, irrespective of whether the formalities associated with that decision have been completed or whether reasons for it have been given.

“(4) The Court of Appeal may extend the period specified in subsection (3) within which notice of application for leave to appeal may be filed.”

This Act is administered in the Ministry of Justice.
