

Transnational Organised Crime Bill

Government Bill

Explanatory note

General policy statement

This Bill contains the provisions that are needed in New Zealand law to implement obligations in the United Nations Convention against Transnational Organised Crime and its Protocols on the Smuggling of Migrants and Trafficking of Persons, which New Zealand signed in December 2000.

Transnational organised crime is a growing problem for all states, including New Zealand. The activities of organised criminal groups are increasingly diverse and often have an international dimension. Many groups are very sophisticated in their operations, taking full advantage of the latest technologies.

The negotiations on the Convention and Protocols were the culmination of a series of international meetings during the 1990s that sought new ways to tackle transnational organised crime. There is now general recognition that states cannot combat this sort of crime individually, simply by taking unilateral measures. Rather a concerted and co-ordinated international effort is needed, on a number of different fronts. At the same time it is clear that international initiatives cannot be effective unless they enjoy widespread support from a broad range of states, as it is only in that way that safe havens for criminals can be eliminated. For that reason a comprehensive set of multilateral instruments negotiated under the auspices of the United Nations represents a significant step forward at the international level.

The Convention and Protocols are aimed at groups involved in certain highly profitable illegal activities, including smuggling people. The Convention requires States Parties to have a number of

offences in their domestic law relating to money-laundering, corruption, obstruction of justice and participation in organised crime. It also contains measures relating to extradition, mutual assistance in investigations and prosecutions involving organised criminal groups, and the tracing, seizing and confiscation of the proceeds of crime.

Because of the various legislative and other initiatives taken over the last decade, New Zealand is already well-placed to implement the obligations in the Convention. There are money-laundering offences on the statute book as well as laws relating to the proceeds of crime, suspicious financial transactions, mutual legal assistance and extradition. Accordingly, to implement the Convention only a few additional legislative changes are needed. In particular, it is necessary to expand the scope of certain offences relating to corruption, the obstruction of justice and participation in organised criminal groups.

The purpose of the Migrants Protocol is “to prevent and combat the smuggling of migrants, as well as to promote co-operation among States Parties to that end, while protecting the rights of smuggled migrants”. The main obligations relate to the criminalisation of the smuggling of migrants and of associated activities, in particular, the fraudulent use of travel documents for the purpose of smuggling migrants.

The Migrants Protocol does not alter the obligations of state parties to the 1951 Convention relating to the Status of Refugees. Instead, it targets the activities of criminal groups who engage in people smuggling or trafficking for profit. The groups undertaking these activities simply regard the people being smuggled or trafficked as a commodity in a highly profitable global trade. The interpretative notes from the negotiations indicate that the provisions are not intended to encompass the activities of those who provide support to migrants for humanitarian reasons or on the basis of close family ties nor to criminalise the activities of family members or support groups such as religious or non-governmental organisations.

New Zealand does not currently have an offence of “migrant smuggling” as such. It is, however, evident that this is an expanding business for organised crime and that New Zealand’s geographical isolation does not necessarily protect it from becoming a destination of choice. The Bill will therefore create a new offence with a high penalty of 20 years or \$500,000 (or both). In addition, penalties for offences for associated conduct under the Immigration Act 1987 are also increased. The Bill will also extend the range of offences under

the Passports Act 1992 and increase penalties for existing offences. (The latter measures also contribute to the implementation of Security Council Resolution 1373, relating to terrorism, which requires states to have effective measures to prevent the forgery or fraudulent use of their travel documents.)

The Trafficking Protocol aims to prevent and combat trafficking in persons, in particular women and children. This Protocol requires the criminalisation of “trafficking in persons”, which is defined to include harbouring and recruitment. Once again New Zealand does not have an existing offence that adequately covers this conduct. A new offence with the same penalty as that for migrant smuggling is to be created. In addition, amendments are made to the Immigration Act 1987 to expand the range of offences available under that Act to deal with the exploitation of migrant workers.

The Convention (and each Protocol) will enter into force when there are 40 ratifications. It is not possible to become a party to the Protocols without also being a party to the Convention. In recognition that the offences the Convention and Protocols require states to create are needed in New Zealand law now, it is proposed that they come into force immediately rather than await the entry into force of the instruments themselves. However, by early ratification New Zealand will play its part in encouraging others to advance their ratification processes quickly. Ultimately it is in the interests of all states that the instruments come into force as soon as possible, as effective international co-operation is the key to combating this sort of crime.

Clause by clause analysis

Clause 1 relates to the Bill’s Title.

Clause 2 provides that—

- *Parts 2 and 4* come into force as provided by *sections 21 and 32*; and
- the rest of the Bill comes into force on the day after assent.

Clause 3 provides that the Bill’s purpose is—

- to amend various enactments so as to create offences in respect of, and otherwise discourage, transnational crime of certain descriptions; and

- to implement the United Nations Convention against Transnational Organised Crime and its Protocols on the Smuggling of Migrants and Trafficking of Persons

Part 1

Crimes Act 1961

Clause 5 inserts into the principal Act a *new section 7A*, which makes it possible to prosecute people for certain offences in respect of actions taken outside New Zealand.

Proceedings may be brought for an offence against proposed *new section 98A* (which relates to participation in an organised criminal group), sections 100 to 104 (which relate to corruption and bribery), section 105(2) (which relates to corruption and bribery of officials), section 105A (which relates to corrupt use of official information), section 105B (which relates to the use or disclosure of personal information disclosed in breach of section 105A), section 105C(2) (which relates to the bribery of foreign public officials), section 116 (which relates to conspiring to defeat justice), section 117 (which relates to corrupting juries and witnesses), or section 257A (which relates to money laundering) if—

- the person to be charged is a New Zealand citizen, is a stateless person who ordinarily resides in New Zealand, has been found in New Zealand and has not been extradited, or is a corporation incorporated under the law of New Zealand; or
- the offence is alleged to have occurred on board a New Zealand ship or aircraft.

Proceedings may be brought for an offence against proposed *new sections 98AB and 98AC* if—

- the prosecution relates to the smuggling of migrants into or to New Zealand or the trafficking of migrants to New Zealand; or
- the offence is alleged to have occurred on board a New Zealand ship or aircraft; or
- the person to be charged is a New Zealand citizen, is a stateless person who ordinarily resides in New Zealand, has been found in New Zealand and has not been extradited, or is a corporation incorporated under the law of New Zealand; or
- a victim is a New Zealand citizen, or is a stateless person who ordinarily resides in New Zealand.

Proceedings may be brought for an offence against proposed new *section 105C(2)* in any circumstances.

Clause 6 replaces section 98A of the principal Act with *new sections 98A to 98AE*.

New section 98A is to the same general effect as the existing section, but has been recast to align more closely with the Convention. It defines **organised criminal group**, and makes it an offence to participate knowingly in an organised criminal group. The penalty is imprisonment for up to 5 years.

New section 98AA defines terms used in *new sections 98AB to 98AE*. Of particular importance are—

- **act of coercion against the person**, which is defined to include abduction, the use of force, the infliction of harm, and certain threats:
- **arranges the entry into a state**, which is defined to include organising and procuring entry into a state; recruiting for entry into a state; carrying into a state; and arranging, organising, or procuring the reception, concealment, or harbouring in a state after entry into it:
- **for a material benefit and obtain a material benefit:**
- **unauthorised migrant**, which is defined as a person who is neither a citizen of the state entered nor in possession of all the documents required by the law of the state for the person's lawful entry.

New section 98AB creates 2 offences in relation to the smuggling of migrants. Each is punishable by imprisonment for up to 20 years, a fine of up to \$500,000, or both.

New section 98AB(1) makes it an offence to arrange the entry of an unauthorised migrant into New Zealand or another state—

- for a material benefit; and
- knowing that the migrant is, or is reckless as to whether the migrant is, an unauthorised migrant.

New section 98AB(2) makes it an offence to arrange the bringing of an unauthorised migrant to (but not necessarily into) New Zealand or another state—

- for a material benefit; and
- knowing that the migrant is, or is reckless as to whether the migrant is, an unauthorised migrant; and

- either knowing that the migrant intends to try to enter, or reckless as to whether the migrant intends to enter.

Under both *new section 98AB(1)* and *new section 98AB(2)* the offence is the arrangement, and it does not matter if in fact the unauthorised migrant did not enter or come to the state concerned.

New section 98AC creates an offence in relation to trafficking in people by means of coercion or deception. It is also punishable by imprisonment for up to 20 years, a fine of up to \$500,000, or both.

New section 98AD requires certain aggravating factors to be taken into account when a person is being sentenced for an offence against *new section 98AB* or *new section 98AC*.

In both cases, a court must take into account—

- whether bodily harm or death occurred during the commission of the offence:
- whether the offence was committed for the benefit of, at the direction of, or in association with, an organised criminal group:
- whether a person in respect of whom the offence was committed was subjected to inhuman or degrading treatment:
- if the same offence was committed in respect of 2 or more people, the number of people.

In the case of an offence against *new section 98AC*, a court must also take into account—

- whether any person in respect of whom the offence was committed was under 18:
- whether the person convicted committed the offence for a material benefit.

New section 98AE requires the Attorney-General's consent before prosecutions under *new section 98AB* or *new section 98AC* can be commenced.

Clause 7 replaces section 105A of the principal Act (which relates to the corrupt use of official information) with a redrafted section that applies to judicial officers, law enforcement officers, members of the Executive Council, members of Parliament, Ministers of the Crown, officials, and court registrars and deputy registrars. At present it applies only to officials.

Clause 8 amends section 105C of the principal Act (which relates to the bribery of foreign public officials)—

- to make it an offence for a foreign public official to accept bribes within New Zealand; and
- to take account of proposed *new section 7A* (which makes it possible to prosecute people for certain offences in respect of actions taken outside New Zealand).

Clause 9 repeals section 104D of the principal Act, which is no longer necessary now that proposed *new section 7A* makes it possible to prosecute people under section 104C for offences in respect of actions taken outside New Zealand.

Clauses 10 and 11 consequentially amend sections 105E and 106 of the principal Act.

Clause 12 amends section 116 of the principal Act (which relates to conspiring to defeat justice) to make clear that it applies to conspiring to defeat justice in overseas jurisdictions.

Clause 13 replaces section 117 of the principal Act (which relates to corrupting juries and witnesses) with a redrafted section that makes clear that it applies to corrupting juries and witnesses in overseas jurisdictions.

Clause 14 makes amendments to the Customs and Excise Act 1996 so that the existing powers of customs officers in respect of craft on or in respect of which offences against that Act are committed are extended to craft smuggling migrants into New Zealand.

Part 2

Extradition Act 1999

Clause 16 provides that *Part 2* is to be brought into force by Order in Council. This is because the amendments in *Part 2* are dependent on the coming into force of the Convention and Protocols.

Clause 17 adds to the provisions listed in section 101A of the principal Act (all of which relate to the inclusion of offences within certain treaties by operation of law) the *new section 101B* proposed to be inserted by *clause 18*.

Clause 18 inserts into the principal Act a *new section 101B*, which deems a number of offences to be described in existing extradition treaties between New Zealand and other States Parties to the Convention and Protocols. The offences are—

- offences against sections 98A (participation in criminal gang), 100 (judicial corruption), 101 (bribery of judicial officer, etc.), 102 (corruption and bribery of Minister of the

Crown), 103 (corruption and bribery of member of Parliament), 104 (corruption and bribery of law enforcement officer), 105 (corruption and bribery of official), 116 (conspiring to defeat justice), 117 (corrupting juries and witnesses), and 257A (money-laundering) of the Crimes Act 1961:

- offences against 2 new sections—*new section 98AB* (smuggling migrants) and *new section 98AC* (trafficking in people by means of coercion or deception)—proposed to be inserted into the Crimes Act 1961 by this Bill:
- offences against section 32 of the Passports Act 1992:
- offences against any of 3 new sections—*new section 29A* (forged and false New Zealand travel documents), *new section 30* (offences relating to passport information and material), and *new section 30A* (improper issue of New Zealand travel document)—of the Passports Act 1992:
- any offence against any enactment if—
 - (a) it is punishable by imprisonment for 4 years or more; and
 - (b) the offence for which extradition is requested is alleged to involve an organised criminal group; and
 - (c) the person whose extradition is sought is, or is suspected of being, in or on his or her way to the requested country.

Part 3

Immigration Act 1987

Clause 20 amends section 39 of the principal Act to—

- change the penalty for the present offence of allowing a person you know is not entitled under the principal Act to do so to undertake employment (imprisonment for up to 3 months, or to a fine of up to \$5,000, or both) to a fine of up to \$50,000:
- create a new offence (with a penalty of up to \$10,000) of without reasonable excuse allowing a person who is not entitled under the principal Act to do so to undertake employment:
- insert a new *section 39(1B)*, making clear that not knowing that a person is not entitled to undertake employment is not a reasonable excuse.

Clause 21 inserts into the principal Act a *new section 39A*, which creates a new offence relating to the exploitation of people not legally entitled to work.

An offence arises if, while employing a person who under the principal Act is not entitled to be employed, an employer—

- is responsible for a serious failure to pay to the person money payable under the Holidays Act 1981; or
- is in serious default under the Minimum Wage Act 1983 in respect of the person; or
- is responsible for a serious contravention of the Wages Protection Act 1983 in respect of the person; or

An offence also arises if, while knowingly employing a person who under the principal Act is not entitled to be employed, an employer takes an action intended to prevent or hinder the person from—

- leaving the employment; or
- leaving New Zealand; or
- seeking his or her entitlements under the law of New Zealand; or
- communicating with Government officials or the New Zealand Police.

Examples of such actions (if taken with the necessary intent) are—

- taking possession or control of an employee's travel or identity document, or travel tickets;
- preventing or hindering an employee from having access to a telephone, using a telephone, using a telephone privately, leaving premises, or leaving premises unaccompanied;
- preventing or hindering a labour inspector from entering or having access to any place or premises to which he or she is entitled to have access under any enactment.

The penalty is imprisonment for up to 7 years, a fine of up to \$100,000, or both.

Clause 22 amends section 91(1) of the principal Act by adding to the list of offences for which an exempt person may be deported the new offence created by *clause 21*.

Clause 23 amends section 92(2) of the principal Act by adding to the list of offences for which an exempt person may be deported the new offence created by *clause 21*.

Clause 24 amends section 128 of the principal Act so that a person detained under that section may be released under the *new section 128AA* proposed to be inserted by *clause 25*. This is in addition to the present ability to be released under section 128A of the principal Act.

It also adds a new subsection (16), which provides for the period for which detention is authorised by a warrant of commitment to be reckoned excluding any period between the date the person to whom the warrant relates escapes from lawful custody and 72 hours after the date on which the person is taken into custody again.

Clause 25 inserts into the principal Act *new sections 128AA to 128AD*, which provide for some people detained under the principal Act to be able to be conditionally released from detention.

New section 128AA provides for a detained person to be released by order of a District Court Judge. The order must state—

- either a day on which it expires or an event upon the occurrence of which it expires; and
- a place where the person must give himself or herself up when it expires.

New section 128AB relates to the conditions subject to which an order under *new section 128AA* must be made. It—

- must be subject to the condition that the released person must reside at a specified address, and must report to an office of the Department of Labour or to a police station at specified times and intervals, and in a specified manner:
- if the released person is a refugee status claimant, must be subject to a condition relating to attendance at interviews by a refugee status officer or the Refugee Status Appeal Authority:
- may be subject to any other conditions the Judge thinks fit to impose in the circumstances.

New section 128AC provides for the consequences of a released person's breach of a condition, or failure to deliver himself or herself up to immigration officer as required by the order releasing him or her.

New section 128AD provides for the cancellation of an order under *section 128AA*.

An immigration officer may apply to a District Court Judge for an order cancelling an order under *new section 128AA*; and the Judge may make or refuse to make an order, as he or she thinks fit.

Clause 26 corrects a minor drafting error in section 128A of the principal Act.

Clause 27 inserts into the principal Act *new sections 141AA and 141AB*, which are modelled on provisions in the Customs and Excise Act 1996.

New section 141AA empowers the chief executive of the Department of Labour to disclose any information specified in *new section 141AB* to an overseas agency, body, or person whose functions include—

- the prevention, detection, investigation, prosecution, or punishment of immigration or other offences; or
- the processing of international passengers; or
- border security; or
- the enforcement of a law imposing a pecuniary penalty; or
- the protection of public revenue.

Except in the case of an agency whose functions include the prevention, detection, investigation, prosecution, or punishment of immigration or other offences, the disclosure of information must be in accordance with an agreement between the chief executive and the agency, body, or person.

An agreement—

- must be in writing; and
- may relate to disclosures of information generally or to a particular disclosure of information; and
- must state, in respect of information to be disclosed under it,—
 - the use the agency, body, or person may make of the information; and
 - that the agency, body, or person must not disclose the information to any person other than a law enforcement agency in the state concerned; and
 - the use such an agency may make of the information; and

- that the agency, body, or person, and any law enforcement agency in the state concerned to which the information is disclosed, must not disclose the information except for the purpose of law enforcement; and
- may state—
 - the form in which information may be disclosed
 - the method by which information may be disclosed; and
- may be varied from time to time.

The chief executive must—

- notify the Privacy Commissioner of every agreement and variation entered into; and
- if the Privacy Commissioner so requires, undertake a review of the agreement, and the arrangements for disclosure under it; and
- as soon as practicable after conducting any review required to be undertaken, report the result to the Privacy Commissioner.

New section 141AB states the information that may be disclosed. It is—

- airline passenger and crew lists
- craft movements (which may include passenger and crew lists):
- past travel movements of specified people:
- previous convictions of specified people:
- general history of specified people (which may include associates and networks):
- modus operandi of specified people:
- known currency and other financial transactions of relevant interest, including involvement in money laundering:
- intelligence analysis assessments and reports:
- details of mail interceptions
- personal identification details (which may include photograph, distinguishing features, and details of identity and travel documents)
- names and details of immigration personnel and transport personnel

- details of known or suspected involvement of people in illicit activities
- details of any visa or permit held by a person.

Clause 28 amends in various ways section 142 of the principal Act, which relates to offences.

It replaces paragraphs (d) to (f) with redrafted and more comprehensive provisions, including paragraphs creating new offences of—

- for a material benefit, aiding, abetting, inciting, counselling, or procuring another person to be or to remain in New Zealand unlawfully or to breach any condition of a permit granted to the other person or to commit an offence against any provision of this Act or of any regulations made under it; or
- for a material benefit, aiding, abetting, inciting, counselling, or procuring another person to enter New Zealand unlawfully:
- aiding, abetting, inciting, counselling, or procuring another person to enter New Zealand unlawfully.

These offences are not aimed at the people-smuggling activities to which proposed *new section 98AB* of the Crimes Act 1961 applies, but to activities at a lower level.

New offences are also created in relation to the alteration of information entered on forms completed for the purposes of the principal Act.

Clause 29 amends section 144 of the principal Act to—

- state the penalties for the new offences created; and
- increase, in some cases substantially, the penalties for some existing offences.

Clause 30 replaces section 145 of the principal Act (which contains procedural provisions relating to offences) with a redrafted section taking account of the offences the principal Act will now contain, and the penalties for them.

Part 4

Mutual Assistance in Criminal Matters Act 1992

Part 4 has 2 main effects—

- it contains provisions restructuring mechanical elements of the principal Act so as to make the drafting of future legislation extending its application to international conventions to which New Zealand becomes a party easier; and
- it provides for the application of the principal Act to the Convention (in *Part 4* referred to as **the TOC convention**) and Protocols.

The provisions restructuring mechanical elements of the principal Act parallel those in the Terrorism (Bombings and Financing) Bill now before the Foreign Affairs, Defence, and Trade Select Committee (as it is at present proposed to be amended). *Part 4* does not, however, contain any provisions equivalent to those in that Bill relating to actual terrorism offences.

The intention is that—

- whichever of these measures is passed first will contain both the mechanical amendments (in whatever form the House finally decides) and the provisions arising from the particular conventions it deals with;
- the other measure will be amended to omit the mechanical amendments equivalent to those already made.

Clause 32 relates to the commencement of *Part 4*.

Subclause (1) provides that *clauses 45 to 47*, which add to the new schedule proposed to be substituted in the principal Act by *clause 44* additional items relating to the Convention and Protocols, come into force on dates appointed by Order in Council. This is because the Convention and Protocols are not yet in force.

The rest of *Part 4* comes into force on the day after the date on which the Bill receives the Royal assent.

Amendments to principal Act

Clause 33 has 2 substantive effects.

First, it amends the definition in section 2(1) of the principal Act of **foreign serious offence**. At present, a foreign serious offence is an offence under the law of a foreign country punishable by imprisonment for 5 years or more. The amendment has the effect that any

other offence under the law of a foreign country that is a party to the TOC Convention is also a foreign serious offence if—

- it is punishable by imprisonment for 4 years or more; and
- there are reasonable grounds to suspect that it is transnational in nature and involves an organised criminal group.

Secondly, it adds a *new subsection (6)* to section 2 of the principal Act. The subsection, which is similar to section 2(3) of the Extradition Act 1999, provides that references in the principal Act to an offence of a political character do not include—

- an offence constituted by conduct of a kind referred to in a multilateral treaty (to which New Zealand is a party) under which parties have an obligation to provide to one another assistance in criminal matters; or
- any offence that New Zealand has agreed in writing with another country will not be treated as a political offence for the purposes of the provision of assistance in criminal matters between New Zealand and that country.

It also makes a mechanical amendment to the definition of **convention country**.

Clause 34 replaces section 24A of the principal Act with a section that puts in place a simpler system for applying the principal Act to international conventions to which New Zealand becomes a party in future. The new section provides that a request from a convention country for assistance under a convention referred to in column 1 of the table in the Schedule of the principal Act must relate to criminal matters arising from the commission of an offence that, if committed in New Zealand, would correspond to an offence listed or described in column 2 of the table opposite the reference to the convention.

The effect is that, while the principal Act would still have to be applied to a new convention by an amending Act of Parliament, the necessary amendment could be effected by adding new items to that schedule.

Clauses 35 and 36 make to sections 24B and 26(bb) of the principal Act amendments consequential on the *new section 24A* of the principal Act substituted by *clause 34*

Clause 37 amends the heading to section 37 of the principal Act to reflect more accurately the effect it will now have by virtue of the amendments to section 38 effected by *clause 38*.

Clause 38 amends section 38 of the principal Act, which empowers the Attorney-General to help arrange the attendance of a prisoner (or a person who is subject to some other constraint imposed by the criminal justice system) in a foreign country.

The clause adds to the present purpose for which such a person's attendance in a foreign country can be arranged (the giving of evidence in relation to any criminal proceedings) the purpose of providing assistance in relation to a criminal matter in respect of a "foreign serious offence".

Clause 39 amends section 39 of the principal Act, which requires the Attorney-General to obtain certain undertakings from a foreign country before authorising assistance under section 37 or section 38 of the principal Act.

One of those undertakings is that the person whose attendance in the foreign country is arranged will not "be detained, prosecuted, or punished for any offence against the law of the foreign country that is alleged to have been committed, or that was committed, before the person's departure from New Zealand".

The clause adds to those words the words "other than an offence in respect of which the Attorney-General consents to the person's being so detained, prosecuted, or punished".

Clause 40 inserts *new sections 41A and 41B* into the principal Act.

New section 41A states what is to happen to the sentence of a prisoner on remand awaiting trial or sentence in New Zealand who is transferred to a foreign country pursuant to a request by that country under section 38 of the principal Act. It provides that *new section 41B* of the principal Act and *new section 81AA* of the Criminal Justice Act 1985 (which is proposed to be inserted into that Act by *clause 48*) apply to any period the person spends in custody outside New Zealand in connection with the request before any sentence is imposed for the offence in respect of which he or she is awaiting trial or sentence.

New section 41B is an administrative provision stating how the time a person spends in custody outside New Zealand in connection with the a request under section 38 of the principal Act is to be ascertained for the purposes of *new section 41A*.

Clause 41 amends section 61 of the principal Act, which empowers a foreign country to request the Attorney-General to obtain a production order in respect of one or more property-tracking documents if the Attorney-General is satisfied that the request relates to a

criminal matter in the foreign country in respect of a foreign drug-dealing offence.

The amendment now allows the Attorney-General to obtain a production order if the Attorney-General is satisfied that the request—

- was made after the addition of the items relating to the TOC Convention to the proposed new Schedule of the principal Act took effect; and
- relates to a foreign serious offence within the meaning of *paragraph (b)* of the new definition of that term proposed to be substituted in section 2(1) by *clause 33(2)*.

Clause 42 makes to section 64A(1) of the principal Act amendments consequential on the new section 24A of the principal Act substituted by *clause 34*.

Clause 43 repeals section 64B of the principal Act, will be redundant after the enactment of *clause 44*.

Clause 44 is the companion clause to *clause 34*. It replaces the present Schedules 1 and 2 of the principal Act with a single schedule that—

- contains the material at present contained in those schedules; and
- can readily be amended to apply the principal Act to any new convention.

Clause 45, which can be brought into force once the TOC convention is in force, will add material relating to that convention to the new schedule substituted by *clause 44*.

Clause 46, which can be brought into force once the Protocol on the Smuggling of Migrants by Land, Sea and Air is in force, will add material relating to that protocol to the new schedule substituted by *clause 44*.

Clause 47, which can be brought into force once the Protocol on the Trafficking of Persons, especially Women and Children is in force, will add material relating to that protocol to the new schedule substituted by *clause 44*.

Amendment to Criminal Justice Act 1985

Clause 48 inserts a new *section 81AA* into Criminal Justice Act 1985.

The section requires time spent in custody while transferred to a foreign country pursuant to a request by that country under section 38 of the Mutual Assistance in Criminal Matters Act 1992 to be taken as time served in New Zealand.

Part 5

Passports Act 1992

Clause 50 inserts into section 2 of the principal Act a definition of **New Zealand travel document**. This is simply a convenient way of referring to a document that may be a New Zealand passport, a New Zealand certificate of identity, or an emergency travel document.

Clause 51 amends section 4 of the principal Act so that the Minister—

- may refuse to issue a New Zealand passport to a person who would otherwise be entitled to one if the person already holds a New Zealand certificate of identity and refuses to surrender it:
- must refuse to issue a New Zealand passport to a person who would otherwise be entitled to one if there is still in force an order under *new section 32A(1)* of the principal Act (which is proposed to be inserted by *clause 57*) that a New Zealand passport must not be issued to the person.

It should be noted that *new section 32A(2)(a)* provides that an order under *new section 32A(1)* does not prevent the issue of an emergency travel document to the person to whom the order applies.

Clause 52 inserts into the principal Act a *new section 9A*, requiring the Minister to recall and cancel a New Zealand passport if an order that it must be cancelled is made under proposed *new section 32A(1)*.

Clause 53 makes to section 11 of the principal Act an amendment consequential on proposed *new section 9A*.

Clause 54 amends section 20 of the principal Act so that the Minister may cancel a New Zealand certificate of identity if a New Zealand passport has been issued to its holder.

Clause 55 replaces section 30 of the principal Act with *new sections 29A to 30A*.

New section 29A relates to forged and false New Zealand travel documents. The section makes it an offence—

- to forge a New Zealand travel document:
- without reasonable excuse, to use a document you know to be a forged or false New Zealand travel document:
- without reasonable excuse, to have in your possession or under your control a document that you know or have reason to suspect is a forged or false New Zealand travel document:
- without reasonable excuse, to dispose of a document that you know or have reason to suspect is a forged or false New Zealand travel document to another person:
- without lawful authority or reasonable excuse, to make, use, have, or dispose of paper or other material that you know is specially provided for purposes relating to New Zealand travel documents.

The penalty for these offences is imprisonment for up to 10 years, a fine of up to \$250,000, or both.

It should be noted that some of these offences (notably the forgery of a New Zealand travel document) are already offences under other more general statutes. They are repeated in *section 29A* so that *new section 31A* (as proposed to be inserted by *clause 58*) can enable prosecutions in respect of actions taken overseas.

New section 30 has 2 effects.

First, several new offences relating to passport databases are created. (In *new section 30(3)* a **passport database** is defined as a file, register, or device in or on which information is or is to be recorded for the purposes of the principal Act.)

It becomes an offence if, without lawful authority or reasonable excuse, you—

- delete, alter, or copy information recorded in or on a passport database, or allow it to be deleted, altered, or copied:
- record information in or on a passport database, or allow it to be recorded:
- take from where it is officially kept a file or register in or on which information is or is to be recorded for the purposes of the principal Act.

Secondly, it makes it an offence if, without lawful authority or reasonable excuse, you take from where it is officially kept—

- a New Zealand travel document, or a blank or incomplete New Zealand travel document; or

- a seal or stamp that you know is specially used for purposes relating to New Zealand travel documents; or
- paper or other material that you know is specially provided for purposes relating to New Zealand travel documents.

The penalty for these offences is imprisonment for up to 10 years, a fine of up to \$250,000, or both.

New section 30A makes it an offence if, without lawful authority or reasonable excuse, you issue a New Zealand travel document knowing that the person to whom it relates is not entitled to be issued it.

The penalty is imprisonment for up to 10 years, a fine of up to \$250,000, or both.

Clause 56 amends section 31 of the principal Act to—

- omit a provision creating offences now dealt with in *section 29A*;
- increase the penalty for offences against section 31(1) from imprisonment for up to 2 years to imprisonment for up to 10 years, a fine of up to \$250,000, or both.

Clause 57 replaces section 32 of the principal Act with 3 new sections.

New section 31A gives New Zealand courts power to try offences against *new section 29A(1)*, *new section 30(1)*, *new section 30A(1)*, or any of paragraphs (a) to (d) of section 31(1), even if the alleged offence did not occur in New Zealand.

New section 32 is a reworded version of the existing section, but with the penalty increased from imprisonment for up to 3 months, a fine of up to \$2,000, or both, to imprisonment for up to 5 years, a fine of up to \$15,000, or both.

New section 32A empowers a Judge sentencing a person who has committed an offence against the principal Act, but would otherwise still be entitled to the issue of a New Zealand passport, to make an order that—

- a New Zealand passport must not be issued to the person for a specified period not exceeding 10 years
- any New Zealand passport issued to the person must be cancelled.

It will still be possible for the person to obtain an emergency travel document.

Part 6**Proceeds of Crime Act 1991**

Clause 59 amends section 68 of the principal Act (which empowers commissioned officers of Police to apply to the High Court for production orders under section 69 of the principal Act) so that extends to serious offences if they are transnational in nature (as defined in articles 3(2) and 18(1) of the Convention) and involve an organised criminal group (as defined in article 2(a) of the Convention).

Clause 60 makes a consequential amendment to section 76A of the principal Act.

Hon Phil Goff

Transnational Organised Crime Bill

Government Bill

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Transnational Organised Crime

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Schedule
New Schedule of principal Act
substituted

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Transnational Organised Crime Act **2002**.

2 Commencement

- (1) **Parts 2 and 4** come into force as provided by **sections 21 and 32** respectively. 5
- (2) The rest of this Act comes into force on the day after the day on which it receives the Royal assent.

3 Purpose

The purpose of this Act is—

- (a) to amend certain enactments so as to create offences in respect of, and otherwise discourage, transnational crime of certain descriptions; and 10
- (b) to implement in New Zealand law New Zealand’s obligations under—
 - (i) the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000; and 15
 - (ii) the Protocol against the Smuggling of Migrants, by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime, done at New York on 15 November 2000; and 20
 - (iii) the Protocol to Prevent, Suppress and Punish Trafficking of Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime, done at New York on 15 November 2000. 25

Part 1 Crimes Act 1961

- 4 Crimes Act 1961 called principal Act in this Part**
 In this Part, the Crimes Act 1961¹ is called “the principal Act”.
- ¹ 1961 No 43
- 5 New section 7A inserted**
 The principal Act is amended by inserting, after section 7, the following section:
- “7A Jurisdiction**
- “(1) Even if the act or omission alleged to constitute the offence did not occur in New Zealand, proceedings may be brought for an offence against **section 98A**, any of sections 100 to 104, section 105(2), section 105A, section 105B, section 105C(2), section 105D, section 116, **section 117**, or section 257A if—
- “(a) the person to be charged—
- “(i) is a New Zealand citizen; or
- “(ii) is not a citizen of any state, and ordinarily resides in New Zealand; or
- “(iii) has been found in New Zealand and has not been extradited; or
- “(iv) is a body corporate, or a corporation sole, incorporated under the law of New Zealand; or
- “(b) the act or omission is alleged to have occurred—
- “(i) on board a ship registered or required to be registered under the Ship Registration Act 1992; or
- “(ii) on board a ship used as a ship of the New Zealand Defence Force; or
- “(iii) on board an aircraft registered or required to be registered under the Civil Aviation Act 1990; or
- “(iv) on board an aircraft used as an aircraft of the New Zealand Defence Force.
- “(2) Even if the act or omission alleged to constitute the offence did not occur in New Zealand, proceedings may be brought for an offence against **section 98AB** or **section 98AC** if—
- “(a) in the case of an offence against **section 98AB(1)** or **section 98AC**, if the act or omission is alleged to relate to entry of a person into New Zealand; or

- “(b) in the case of an offence against **section 98AB(2)**, if the act or omission is alleged to relate to arranging the bringing of a person to New Zealand; or
- “(c) the person to be charged—
- “(i) is a New Zealand citizen; or 5
 - “(ii) is not a citizen of any state, and ordinarily resides in New Zealand; or
 - “(iii) has been found in New Zealand and has not been extradited; or
 - “(iv) is a body corporate, or a corporation sole, incorporated under the law of New Zealand; or 10
- “(d) a person in respect of whom the offence is alleged to have been committed—
- “(i) is a New Zealand citizen; or
 - “(ii) is not a citizen of any state, and ordinarily resides in New Zealand. 15
- “(3) Even if the act or omission alleged to constitute the offence did not occur in New Zealand, proceedings may be brought for an offence against **section 105C(2)**.
- “(4) **Subsection (2)(c)** does not limit or affect section 8(1).” 20

6 New sections 98A to 98AE and heading substituted

The principal Act is amended by repealing section 98A, and substituting the following sections and heading:

- “98A **Participation in organised criminal group**
- “(1) For the purposes of this Act,— 25
- “(a) a group is an organised criminal group if it is a group of 3 or more people (whether or not some of them are subordinates or employees of others, or act only in association with others) that has as its objective or one of its objectives one or more of the following: 30
 - “(i) an ongoing course of criminal activities intended to result in the acquisition of substantial income, substantial assets, or both;
 - “(ii) the commission of offences to which **subsection (2)** applies: 35
 - “(iii) conduct outside New Zealand that would constitute the commission of offences to which **subsection (2)** applies if taken in New Zealand;
 - “(b) a group of people is capable of being an organised criminal group— 40

- “(i) whether or not the people involved it change from time to time; and
- “(ii) whether or not all the people involved in it at any time are involved in the planning, arrangement, or execution at that time of any particular action, activity, or transaction. 5
- “(2) This subsection applies to—
- “(a) any offence punishable by imprisonment for a term of 10 years or more; and
- “(b) an offence against **section 98AB (smuggling migrants), section 98AC (trafficking in people by means of coercion or deception)**, section 116 (conspiring to defeat justice), section 117 (corrupting juries and witnesses), section 188(2) (wounding with intent), section 189(2) (injuring with intent), section 191(2) (aggravated injury), section 227(ba) (theft), section 257A (money laundering), or section 258 (receiving property dishonestly obtained); or 10
- “(c) an offence against section 6 of the Misuse of Drugs Act 1975; and 15
- “(d) an offence against section 54 or section 55 of the Arms Act 1983. 20
- “(3) Every one is liable to imprisonment for a term not exceeding 5 years who participates in an organised criminal group knowing that it is an organised criminal group. 25

“Smuggling and trafficking in people

“98AA **Terms used in sections 98AB to 98AE**

In **sections 98AB to 98AE**, unless the context otherwise requires,—

“**act of coercion against the person** includes— 30

“(a) abducting the person:

“(b) using force in respect of the person:

“(c) harming the person:

“(d) threatening the person (expressly or by implication) with the use of force in respect of, or the harming of, the person or some other person 35

“**act of deception** includes fraudulent action

“**arranges the bringing to a state** includes—

“(a) organises or procures the bringing to a state:

- “(b) recruits for bringing to a state:
- “(c) carries to a state
- “**arranges the entry into a state** includes—
- “(a) organises or procures the entry into a state: 5
- “(b) recruits for entry into a state:
- “(c) carries into a state:
- “(d) arranges, organises, or procures the reception, concealment, or harbouring in a state after entry into it
- “**document** includes a thing that is or is intended to be—
- “(a) attached to a document; or 10
- “(b) stamped or otherwise signified on a document
- “**for a material benefit**, in relation to doing a thing, means—
- “(a) after having obtained a material benefit for doing the thing; or
- “(b) intending to obtain a material benefit for doing the thing 15
- “**harming of a person** means causing harm of any kind to the person; and (in particular) includes—
- “(a) causing physical, psychological, or financial harm to the person:
- “(b) sexually mistreating the person: 20
- “(c) causing harm to the person’s reputation, status, or prospects
- “**obtain a material benefit**, in relation to the doing of a thing by a person, means obtain, directly or indirectly, any goods, money, pecuniary advantage, privilege, property, or other valuable consideration of any kind for doing the thing (or taking an action that forms part of doing the thing) 25
- “**unauthorised migrant**, in relation to a state, means a person who is neither a citizen of the state nor in possession of all the documents required by or under the law of the state for the person’s lawful entry into the state. 30

“98AB **Smuggling migrants**

- “(1) Every one is liable to the penalty stated in **subsection (3)** who arranges the entry into New Zealand or any other state of an unauthorised migrant, if he or she— 35
- “(a) does so for a material benefit; and
- “(b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant.

- “(2) Every one is liable to the penalty stated in **subsection (3)** who arranges the bringing to New Zealand or any other state of an unauthorised migrant, if he or she—
- “(a) does so for a material benefit; and
 - “(b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant; and
 - “(c) either—
 - “(i) knows that the person intends to try to enter the state; or
 - “(ii) is reckless as to whether the person intends to enter the state.
- “(3) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.
- “(4) Proceedings may be brought under **subsection (1)** even if the unauthorised migrant did not in fact enter the state concerned.
- “(5) Proceedings may be brought under **subsection (2)** even if the unauthorised migrant did not in fact come to the state concerned.
- “**98AC Trafficking in people by means of coercion or deception**
- “(1) Every one is liable to the penalty stated in **subsection (2)** who arranges the entry of a person into New Zealand or any other state by one or more acts of coercion against the person, one or more acts of deception of the person, or both.
- “(2) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.
- “(3) Proceedings may be brought under this section even if the person coerced or deceived did not in fact enter the state concerned.
- “(4) Proceedings may be brought under this section even if parts of the process by which the person coerced or deceived was brought or came to or towards the state concerned were accomplished without an act of coercion or deception.
- “**98AD Aggravating factors**
- “(1) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against **section 98AB or section 98AC**, a court must take into account—

- “(a) whether bodily harm or death (whether to or of a person in respect of whom the offence was committed or some other person) occurred during the commission of the offence:
- “(b) whether the offence was committed for the benefit of, at the direction of, or in association with, an organised criminal group (within the meaning of **section 98A(1)**): 5
- “(c) whether a person in respect of whom the offence was committed was subjected to inhuman or degrading treatment (in relation to work, health conditions, or sexual exploitation, or otherwise) during or as a result of the commission of the offence: 10
- “(d) if during the proceedings concerned the person was convicted of the same offence in respect of 2 or more people, the number of people in respect of whom the offence was committed. 15
- “(2) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against **section 98AC**, a court must also take into account—
- “(a) whether any person in respect of whom the offence was committed was under the age of 18 years: 20
- “(b) whether the person convicted committed the offence, or took actions that were part of it, for a material benefit.
- “(3) This section does not limit the matters that a court may take into account when determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against **section 98AB or section 98AC**. 25
- “98AE Attorney-General’s consent to prosecutions required**
- “(1) Proceedings for an offence against **section 98AB or section 98AC** cannot be brought in a New Zealand court without the Attorney-General’s consent. 30
- “(2) Even though the Attorney-General’s consent to the bringing of proceedings for an offence against **section 98AB or section 98AC** has not been obtained,—
- “(a) a person alleged to have committed the offence may be arrested: 35
- “(b) a warrant for the arrest of a person alleged to have committed the offence may be issued and executed:
- “(c) a person arrested may be remanded in custody or on bail.” 40

7 New section 105A substituted

The principal Act is amended by repealing section 105A, and substituting the following section:

“105A Corrupt use of official information

- “(1) Every person to whom **subsection (2)** applies is liable to imprisonment for a term not exceeding 7 years who, whether within New Zealand or elsewhere, corruptly uses or discloses any information, acquired by him or her in his or her official capacity, to obtain, directly or indirectly, an advantage or a pecuniary gain for himself or herself, or any other person. 5
10
- “(2) This subsection applies to a person who is a judicial officer, a law enforcement officer, a member of the Executive Council, a member of Parliament, a Minister of the Crown, an official, or a Registrar or Deputy Registrar of any Court.
- “(3) In **subsection (1)**, official capacity, in relation to a person to whom **subsection (2)** applies, means in the person’s capacity as a law enforcement officer, a member of the Executive Council, a member of Parliament, a Minister of the Crown, an official, or a Registrar or Deputy Registrar of any Court (as the case may be).” 15
20

8 Bribery of foreign public official

Section 105C of the principal Act is amended by repealing subsections (2) and (3), and substituting the following subsections:

- “(2) Every one is liable to imprisonment for a term not exceeding 7 years who corruptly gives or offers or agrees to give a bribe to a person with intent to influence a foreign public official in respect of any act or omission by that official in his or her official capacity (whether or not the act or omission is within the scope of the official’s authority). 25
30
- “(2A) Every foreign public official is liable to imprisonment for a term not exceeding 7 years who, within New Zealand, corruptly accepts or obtains, or agrees or offers to accept or attempts to obtain, any bribe for himself or herself, or any other person, in respect of any act done or omitted, or to be done or omitted, by him or her in his or her official capacity (whether or not the act or omission is within the scope of his or her authority). 35

- “(3) **Subsection (2)** does not apply if—
- “(a) the act that is alleged to constitute the offence was done—
- “(i) in order to obtain or retain business, or obtain an improper advantage in the conduct of business; but 5
- “(ii) for the sole or primary purpose of ensuring or expediting the performance by a foreign public official of a routine Government action; and
- “(b) the value of the benefit is small.” 10
- 9 Section 105D repealed**
- (1) Section 105D of the principal Act is repealed.
- (2) Section 10(1) of the Crimes (Bribery of Foreign Officials) is amended by omitting the expression “sections 105C and 105D”, and substituting the expression “section 105C”. 15
- 10 Exception in certain circumstances for acts lawful in country of foreign public official**
- (1) The heading to section 105E of the principal Act is amended by inserting, after the word “**Exception**”, the word “**in certain circumstances**”. 20
- (2) Section 105E(1) of the principal Act is amended—
- (a) by omitting the expression “Sections 105C and 105D do”, and substituting the expression “Section 105C does”; and
- (b) by inserting, after the words “New Zealand”, the words “in order to obtain or retain business, or obtain an improper advantage in the conduct of business”. 25
- (3) Section 105E(2) of the principal Act is amended by omitting the words “or section 105D”.
- 11 Restrictions on prosecution** 30
- Section 106(1) of the principal Act is amended by omitting the expression “105C, and 105D”, and substituting the expression “and 105C”.

12 Conspiring to defeat justice

- (1) Section 116 of the principal Act is amended by adding the words “in New Zealand or the course of justice in an overseas jurisdiction”.
- (2) **Subsection (1)** is for the avoidance of doubt. 5

13 New section 117 substituted

- (1) The principal Act is amended by repealing section 7, and substituting the following section:
- “117 **Corrupting juries and witnesses**
- The principal Act is amended by repealing section 117, and substituting the following section: 10
- Every one is liable to imprisonment for a term not exceeding 7 years who—
- “(a) dissuades or attempts to dissuade a person, by threats, bribes, or other corrupt means, from giving evidence in any cause or matter (whether civil or criminal, and whether tried or to be tried in New Zealand or in an overseas jurisdiction); or 15
- “(b) influences or attempts to influence, by threats or bribes or other corrupt means, a member of a jury in his or her conduct as such (whether in a cause or matter tried or to be tried in New Zealand or in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or 20
- “(c) accepts any bribe or other corrupt consideration to abstain from giving evidence (whether in a cause or matter tried or to be tried in New Zealand or in an overseas jurisdiction); or 25
- “(d) accepts any bribe or other corrupt consideration on account of his or her conduct as a member of a jury (whether in a cause or matter tried or to be tried in New Zealand or in an overseas jurisdiction, and whether the member has been sworn as a member of a particular jury or not); or 30
- “(e) wilfully attempts in any other way to obstruct, prevent, pervert, or defeat the course of justice in New Zealand or the course of justice in an overseas jurisdiction.” 35
- (2) **Subsection (1)** is for the avoidance of doubt.

14 Consequential amendments to Customs and Excise Act 1996

- (1) Section 143 of the Customs and Excise Act 1996 is amended by repealing subsection (1), and substituting the following subsections: 5
- “(1AA) **Subsection (1)** applies to a customs officer and a craft—
- “(a) if the officer has reasonable cause to believe that an offence against this Act has been, is being, or is about to be committed on or in respect of the craft while it was or is within New Zealand; or 10
- “(b) if the craft is within New Zealand, and the officer has reasonable cause to believe that—
- “(i) there is on the craft a person who was carried into New Zealand on it; and
- “(ii) the carriage of the person into New Zealand on the craft constituted an offence against **section 98AB(1)** of the Crimes Act 1961. 15
- “(1) If **subsection (1A)** applies to a Customs officer and a craft, the Customs officer—
- “(a) may— 20
- “(i) direct the craft to proceed to the nearest Customs place, or any other place the officer considers appropriate; or
- “(ii) direct that the craft remain where it is; and
- “(b) in either case, may detain the craft for any time and for any purposes reasonably necessary to carry out an investigation into the commission of the offence concerned.” 25
- (2) Section 174 of the Customs and Excise Act 1996 is amended by repealing subsection (2), and substituting the following subsections: 30
- “(2) Notwithstanding **subsection (1)**, a Customs officer may arrest without warrant any person found on a craft if the officer believes on reasonable grounds—
- “(a) that the person has committed, is committing, or is attempting to commit, or is otherwise concerned in the commission of, an offence against this Act that is punishable by imprisonment; or 35
- “(b) that—
- “(i) the person carried into New Zealand some other person who is on the craft; and 40

- “(ii) the carriage of the other person into New Zealand on the craft constituted an offence against **section 98AB(1)** of the Crimes Act 1961.”

Part 2 Extradition Act 1999

- 5
- 15 Extradition Act 1999 called principal Act in this Part**
In this Part, the Extradition Act 1999² is called “the principal Act”.
- ² 1999 No 55
- 16 Commencement** 10
This part comes into force on a date appointed by the Governor-General by Order in Council.
- 17 Treaties deemed to incorporate crimes**
Section 101A(2) of the principal Act is amended by adding the following paragraph:
- “(g) **section 101B** of this Act.” 15
- 18 New section 101B inserted**
The principal Act is amended by inserting, after section 101A, the following section:
- “**101B Certain crimes with transnational aspects deemed to be included in extradition treaties** 20
- “(1) For the purposes of this Act and any Order in Council in force under section 15 or section 104, the following offences are deemed to be offences described in any extradition treaty concluded before the commencement of **Part 4 of the Transnational Organised Crime Act 2002** and for the time being in force between New Zealand and any foreign country that is a party to the convention described in **subsection (2)**: 25
- “(a) every offence against any of sections 98A, **98AB, 98AC**, 100, 101, 102, 103, 104, 105, 116, 117, and 257A of the Crimes Act 1961: 30
- “(b) every offence against any of **sections 29A, 30, 30A, 31(1)**, and 32 of the Passports Act 1992:
- “(c) after the commencement of **section 46 of the Transnational Organised Crime Act 2002**, any offence against any enactment if— 35

- “(i) it is punishable by imprisonment for a term of 4 years or more; and
- “(ii) the offence for which extradition is requested is alleged to involve an organised criminal group (as defined in article 2(a) of the TOC convention); and 5
- “(iii) the person whose extradition is sought is, or is suspected of being, in or on his or her way to the requested country:
- “(2) A person whose surrender is sought from New Zealand in respect of an act that amounts to an offence deemed by **subsection (1)** to be an offence described in an extradition treaty is liable to be surrendered in accordance with this Act and the applicable extradition treaty, whether the act occurred before or after the commencement of **section 22 of the Transnational Organised Crime Act 2002**. 10 15
- “(3) **Subsection (2)** does not apply in respect of an act that, had it occurred within the jurisdiction of New Zealand, would not, at the time that it occurred, have constituted an offence under New Zealand law. 20
- “(4) A certificate under the hand of the Minister of Foreign Affairs and Trade that a foreign country is a party to the TOC Convention, the Migrants Protocol, or the Trafficking Protocol, is, in the absence of proof to the contrary, sufficient evidence of that fact. 25
- “(5) For the purposes of this section,—
- “**foreign country** includes a territory—
- “(a) for whose international relations the Government of a foreign country is responsible; and
- “(b) to which the extradition treaty and (as the case may be) the migrants protocol, TOC Convention, or the trafficking protocol, extend 30
- “**migrants protocol** means the Protocol against the Smuggling of Migrants, by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime, done at New York on 15 November 2000 35
- “**TOC convention** means the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000

“**trafficking protocol** means the Protocol to Prevent, Suppress and Punish Trafficking of Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime, done at New York on 15 November 2000.”

5

Part 3 Immigration Act 1987

19 Immigration Act 1987 called principal Act in this Part

In this Part the Immigration Act 1987³ is called “the principal Act”.

10

³ 1987 No 74

20 Responsibility of employers

(1) Section 39 of the principal Act is amended by inserting, after subsection (1), the following subsections:

“(1A) Every employer commits an offence against this Act who, without reasonable excuse, allows or continues to allow a person who is not entitled under this Act to undertake employment in the employer’s service to undertake that employment.”

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“(1B) For the purposes of **subsection (1A)**, it is not a reasonable excuse for allowing or continuing to allow a person who is not entitled under this Act to undertake employment in an employer’s service that the employer did not know that the person was not entitled under this Act to undertake that employment, unless the employer took all reasonable steps to ascertain whether the person was entitled under this Act to undertake that employment.”

20

25

(2) Section 39(2) of the principal Act is amended by omitting the words “subsection (1) of”.

(3) Section 39 of the principal Act is amended by adding the following subsection:

“(5) A person who commits an offence against this section is liable,—

30

“(a) in the case of an offence against subsection (1), to a fine not exceeding \$50,000:

“(b) in the case of an offence against **subsection (1A)**, to a fine not exceeding \$10,000.”

35

21 New section 39A inserted

The principal Act is amended by inserting, after section 39, the following section:

“39A Exploitation of people not legally entitled to work

- “**(1)** Every employer commits an offence against this Act who,— 5
- “**(a)** while allowing an unlawful employee to undertake employment in the employer’s service,—
- “**(i)** is responsible for a serious failure to pay to the employee money payable under the Holidays Act 1981; or 10
- “**(ii)** is in serious default under the Minimum Wage Act 1983 in respect of the employee; or
- “**(iii)** is responsible for a serious contravention of the Wages Protection Act 1983 in respect of the employee; or 15
- “**(b)** while allowing an unlawful employee to undertake employment in the employer’s service, takes an action with the intention of preventing or hindering the employee from—
- “**(i)** leaving that employment; or 20
- “**(ii)** leaving New Zealand; or
- “**(iii)** ascertaining or seeking his or her entitlements under the law of New Zealand; or
- “**(iv)** communicating with Government officials or the New Zealand Police. 25
- “**(2)** The following are examples of actions of the kinds referred to in **subsection (1)(b)**:
- “**(a)** taking or retaining possession or control of a person’s passport, or any other travel or identity document, or travel tickets: 30
- “**(b)** preventing or hindering a person from—
- “**(i)** having access to a telephone; or
- “**(ii)** using a telephone; or
- “**(iii)** using a telephone privately; or
- “**(iv)** leaving premises; or 35
- “**(v)** leaving premises unaccompanied; or
- “**(c)** preventing or hindering a labour inspector (within the meaning of the Employment Relations Act 2000) from entering or having access to any place or premises to which he or she is entitled to have access under any enactment. 40

- “(3) **Subsection (2)** does not limit the generality of **subsection (1)(b)**.
- “(4) For the purposes of **subsection (1)(a)**, the following are questions of fact:
- “(a) whether a failure to pay to a person money payable under the Holidays Act 1981 is serious: 5
- “(b) whether a default under the Minimum Wage Act 1983 in respect of a person is serious:
- “(c) whether a contravention of the Wages Protection Act 1983 in respect of a person is serious.
- “(5) An information alleging an offence against **subsection (1)** may specify any day on which it is alleged the person was in the employment of the employer, and it is not necessary to state the day on which that employment is alleged to have commenced. 10
- “(6) For the purposes of this section, an employer must be treated as knowing that an employee is not entitled under this Act to undertake any particular employment if, at any time within the preceding 12 months, the employer has been informed of that fact in writing by an immigration officer. 15
- “(7) A person who commits an offence against **subsection (1)** is liable on conviction to imprisonment for a term not exceeding 7 years, a fine not exceeding \$100,000, or both. 20
- “(8) In this section, **unlawful employee**, in relation to an employer, means a person whom the employer knows is not entitled under this Act to undertake employment in the employer’s service.” 25
- 22 Deportation of holders of residence permits following conviction**
- Section 91(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraph: 30
- “(ca) is convicted of an offence against section 39(1) or **section 39A(1)** committed within 10 years after the person is first granted a residence permit; or”.
- 23 Deportation of exempt persons following conviction**
- Section 92(2) of the principal Act is amended by inserting, after paragraph (c), the following paragraph: 35

“(ca) is convicted of an offence against section 39(1) or section 39A(1) committed within 10 years after the person is first granted a residence permit; or”.

- 24 Detention and departure of persons refused permits, etc**
 Section 128 of the principal Act is amended by repealing subsection (15), and substituting the following subsections: 5
- “(15) A person who is detained under this section must not be granted bail, but may be released under **section 128AA** or section 128A.
- “(16) The period for which detention is authorised by a warrant of commitment issued under section 128(7) must be reckoned exclusive of any period commencing on the date on which the person to whom the warrant relates escapes from lawful custody and ending 72 hours after the date on which the person is again taken into custody under this Act.” 10 15
- 25 New sections 128AA to 128AD inserted**
 The principal Act is amended by inserting, after section 128, the following section:
- “128AA Detained person may be conditionally released from detention in certain cases** 20
- “(1) This subsection applies to a person who—
 “(a) is placed in custody under section 128(5); or
 “(b) is the subject of warrant of commitment issued under section 128(7).
- “(2) This subsection applies to a person who is the subject of an application under section 128(13)(a) for the extension or further extension of a warrant of commitment issued under section 128(7). 25
- “(3) An immigration officer may apply to a District Court Judge for an order that a person to whom **subsection (1)** applies be conditionally released from custody. 30
- “(4) An immigration officer or the person concerned may apply to a District Court Judge for an order that a person to whom **subsection (2)** applies be conditionally released from custody.
- “(5) An application under **subsection (3) or subsection (4)** must be made on oath, and state why section 128 applies to the person to whom it relates. 35

- “(6) On an application under **subsection (3) or subsection (4)**, the Judge may make an order for the person’s conditional release.
- “(7) The order must state—
- “(a) either a day on which it expires or an event upon the occurrence of which it expires; and 5
 - “(b) a location at which the person to whom it relates must give himself or herself up when it expires.
- “(8) If the Judge does not make an order for the person’s conditional release,—
- “(a) in the case of an application made under **subsection (3)** in respect of a person who is not already subject to a warrant of commitment issued under section 128(7), the Judge must issue a warrant of commitment authorising the person’s detention for a period not exceeding 28 days in a penal institution or some other premises approved for the purpose by the Judge: 10
 - “(b) in the case of an application made under **subsection (4)**, the Judge may extend or further extend the warrant of commitment concerned— 15
 - “(i) for any period the Judge thinks necessary in the circumstances to allow all the persons in the group concerned to be properly dealt with, if the person detained under the warrant is a member of a group of people— 20
 - “(A) all of whom arrived in New Zealand on the same ship or aircraft; and 25
 - “(B) all or most of whom are people in respect of whom applications have been made under **subsection (4)**; and
 - “(ii) for a further period not exceeding 7 days if the person detained under the warrant is not a member of such a group. 30
- “(9) A warrant of commitment issued under **subsection (8)(a)** must be treated as a warrant of commitment issued under section 128(7). 35
- “(10) On the day or (as the case may be) the occurrence of the event stated in it, an order under **subsection (6)** for a person’s conditional release expires, and the person must deliver himself or herself up to an immigration officer at the location stated in it.
- “(11) If a person delivers himself or herself up to an immigration officer under **subsection (10)**,— 40

- “(a) in the case of a person to whom **subsection (1)** applied by virtue of his or her being placed in custody under section 128(5), if not released,—
- “(i) the person must be treated as a person to whom section 128(5) continues to apply; and 5
- “(ii) if the person is to be detained for more than 48 hours after delivering himself or herself up, an application must be made in accordance with section 128(7):
- “(b) in any other case, if not released, the person must again be taken into custody, and may be detained in custody under section 128 pending the person’s departure from New Zealand on the first available craft. 10
- “(12) The period for which detention is authorised by a warrant of commitment issued under section 128(7) must be reckoned exclusive of any period commencing on the date on which the person to whom the warrant relates is released pursuant to an order under **subsection (6)**, and ending on the earlier of the following: 15
- “(a) the expiration of 72 hours after the date on which the person is again taken into custody under this Act: 20
- “(b) the extension or further extension of the warrant under section 128(13B).
- “(13) An order under **subsection (6)** is cancelled by the granting of a permit under this Act to the person to whom it relates. 25
- “128AB Conditions**
- “(1) An order under **section 128AA(6)**—
- “(a) must be made subject to the condition that the released person—
- “(i) must reside at a specified address; and 30
- “(ii) must report to an office of the Department of Labour or to a police station at specified times and intervals, and in a specified manner:
- “(b) if the released person is a refugee status claimant under Part VIA, must be made subject to a condition relating to attendance at any interview under that Part by a refugee status officer or the Refugee Status Appeal Authority: 35
- “(c) may be made subject to any other conditions the Judge thinks fit to impose in the circumstances. 40

- “(2) The conditions imposed on a released person under **subsection (1)**—
- “(a) must be notified in writing to the person before his or her release; and
- “(b) take effect on his or her release. 5
- “(3) An immigration officer and the released person—
- “(a) may agree to vary a condition imposed under **paragraph (a) or paragraph (b) of subsection (1)**; and
- “(b) if the order containing it so provides, or with the consent of a District Court Judge, may agree to vary a condition imposed under **subsection (1)(c)**. 10
- “(4) A variation of a condition—
- “(a) takes effect immediately; but
- “(b) must be reduced to writing, and notified to the released person, as soon as practicable. 15
- “128AC **Breach of condition or failure to deliver oneself up to immigration officer**
- “(1) This subsection applies to a person who has been released under **section 128AA**—
- “(a) after the person breaches a condition imposed under **section 128AB**: 20
- “(b) at any time between the time the person fails to deliver himself or herself up to an immigration officer as required by **section 128AA(1)** and the time (if any) when the person is granted a permit under this Act. 25
- “(2) If **subsection (1)** applies, the person is liable to be arrested by any member of the Police, without warrant, and placed in custody.
- “(3) If arrested and placed in custody, the person must as soon as possible be brought again before a District Court Judge; and subject to **subsection (4)**,— 30
- “(a) in the case of a person to whom **section 128AA(1)** applied by virtue of his or her being placed in custody under section 128(5), the Judge must decide whether to issue a warrant of commitment authorising his or her detention for a period not exceeding 28 days in a penal institution or some other premises approved for the purpose, or again make an order for the person’s conditional release under **section 128AA**: 35

- “(b) in any other case, the Judge must decide whether to order that the person must again be taken into custody, or again make an order for the person’s conditional release under **section 128AA**.
- “(4) If a person brought before a District Court Judge under **subsection (3)** has breached a condition imposed under **paragraph (a) or paragraph (b) of section 128AB(1)**, the Judge must (as the case may be) issue a warrant of commitment or make an order that the person must again be taken into custody, unless the Judge is satisfied that the person had a reasonable excuse for breaching the condition. 5 10
- “(5) A warrant under **subsection (3)(a)** must be treated as if it has been issued pursuant to section 128(7).
- “(6) If an order is made under **subsection (3)(b)** that a person must again be taken into custody, the person may be retained in custody under section 128 pending the person’s departure from New Zealand on the first available craft. 15
- “(7) If a person is released under **section 128AA**, whether or not he or she breaches a condition imposed under **section 128AB** or fails to deliver himself or herself up to an immigration officer as required by **section 128AA(1)**,— 20
- “(a) the person must continue to be treated as a person to whom section 128 applies who is being detained under that section; and
- “(b) Nothing in Part II applies to the person. 25
- “128AD **Cancellation of order for conditional release**
- “(1) An immigration officer may make an application to a District Court Judge for an order cancelling an order under **section 128AA(6)**.
- “(2) An application under **subsection (1)** must be made on oath, and state why the person to whom the order for release relates should no longer be released on conditions. 30
- “(3) The District Court Judge may make or refuse to make an order, as he or she thinks fit.
- “(4) If the District Court Judge makes an order,— 35
- “(a) the person is liable to be arrested by any member of the Police, without warrant, and placed in custody; and
- “(b) if the person is arrested and placed in custody,—

- “(i) in the case of a person to whom **section 128AA (1)** applied by virtue of his or her being placed in custody under section 128(5),—
- “(A) the person must be treated as a person to whom section 128(5) continues to apply; and 5
- “(B) where that person is to be detained for more than 48 hours after delivering himself or herself up, an application must be made in accordance with section 128(7): 10
- “(ii) in any other case, the person must again be taken into custody, and may be detained in custody under section 128 pending the person’s departure from New Zealand on the first available craft.”
- 26 Procedure under section 128 if review proceedings, etc, brought** 15
- Section 128A(5)(a) of the principal Act is amended, as from the commencement of section 38 of the Immigration Amendment Act 1991, by omitting the word “retained”, and substituting the word “detained”. 20
- 27 New sections 141AA and 141AB inserted**
- The principal Act is amended by inserting, after section 141, the following sections:
- “141AA Disclosure of information overseas**
- “(1) The chief executive may disclose any information specified in **section 141AB** to an overseas agency, body, or person whose functions include— 25
- “(a) the prevention, detection, investigation, prosecution, or punishment of immigration or other offences; or
- “(b) the processing of international passengers; or 30
- “(c) border security; or
- “(d) the enforcement of a law imposing a pecuniary penalty; or
- “(e) the protection of public revenue.
- “(2) The disclosure of information under **subsection (1)** must be in accordance with an agreement between the chief executive and the agency, body, or person. 35
- “(3) The agreement—
- “(a) must be in writing; and

- “(b) may relate to disclosures of information generally or to a particular disclosure of information; and
- “(c) must state, in respect of information to be disclosed under it,—
- “(i) the use the agency, body, or person may make of the information; and 5
- “(ii) that the agency, body, or person must not disclose the information to any person other than a law enforcement agency in the state concerned; and
- “(iii) the use such an agency may make of the information; and 10
- “(iv) that the agency, body, or person, and any law enforcement agency in the state concerned to which the information is disclosed, must not disclose the information except for the purpose of law enforcement; and 15
- “(d) may state—
- “(i) the form in which information may be disclosed:
- “(ii) the method by which information may be disclosed; and 20
- “(e) may be varied from time to time.
- “(4) The chief executive must—
- “(a) notify the Privacy Commissioner of every agreement entered into under this section and every variation of any such agreement; and 25
- “(b) if the Privacy Commissioner so requires, undertake a review of the agreement, and the arrangements for disclosure under it; and
- “(c) as soon as practicable after conducting any review required to be undertaken, report the result to the Privacy Commissioner. 30
- “(5) The Privacy Commissioner must not require the chief executive to undertake a review of an agreement or understanding under **subsection (4)(b)** within 12 months of last doing so.
- “(6) This section does not limit the general powers of the chief executive to enter into agreements not related to the disclosure of information with any overseas agency, body, or person. 35
- “(7) The chief executive may disclose information to an overseas agency whose functions include the prevention, detection, investigation, prosecution, and punishment of immigration or other offences without entering an agreement with the agency. 40

“(8) **Subsection (7)** overrides **subsection (2)**.

“141AB **Information that may be disclosed**

- “(1) The information that may be disclosed under **section 141AA** is—
- “(a) airline passenger and crew lists:
 - “(b) craft movements (which may include passenger and crew lists): 5
 - “(c) past travel movements of specified people:
 - “(d) previous convictions of specified people:
 - “(e) general history of specified people (which may include associates and networks): 10
 - “(f) modus operandi of specified people:
 - “(g) known currency and other financial transactions of relevant interest, including involvement in money laundering:
 - “(h) intelligence analysis assessments and reports: 15
 - “(i) details of mail interceptions:
 - “(j) personal identification details (which may include photograph, distinguishing features, and details of identity or travel documents):
 - “(k) names and details of immigration personnel and transport personnel: 20
 - “(l) details of known or suspected involvement of people in illicit activities:
 - “(m) details of any visa or permit held by a person.
- “(2) **Section 141AA** does not prevent or limit any disclosure of information otherwise than under that section that may be required or authorised by or under law, or any treaty, agreement, or arrangement concluded by the Government of New Zealand.” 25

28 Offences 30

- (1) Section 142 of the principal Act is amended by repealing paragraphs (d) to (f), and substituting the following paragraphs:
- “(d) whether within or outside New Zealand, produces or surrenders or passes off a passport, certificate of identity, visa, permit, or certificate of citizenship, or anything purporting to be a passport, certificate of identity, visa, permit, or certificate of citizenship,— 35

- “(i) as relating to that person when in fact, to that person’s knowledge, it relates to some other person; or
- “(ii) knowing it to be forged or to have been obtained fraudulently; or 5
- “(e) whether within or outside New Zealand, sells, hires, lends, gives, or otherwise disposes of a passport, certificate of identity, visa, permit, or certificate of citizenship relating to that person (or anything purporting to be a passport, certificate of identity, visa, permit, or certificate of citizenship relating to that person) to any other person (**the receiver**)— 10
- “(i) without necessarily knowing which, knowing that the receiver will—
- “(A) produce it or pass it off as relating to the receiver or some other person; or 15
- “(B) sell, hire, lend, give, or otherwise dispose of it; or
- “(ii) without necessarily intending either in particular, intending the receiver to— 20
- “(A) produce it or pass it off as relating to the receiver or some other person; or
- “(B) sell, hire, lend, give, or otherwise dispose of it; or
- “(ea) for a material benefit,— 25
- “(i) whether the other person in fact enters New Zealand, aids, abets, incites, counsels, or procures any other person to enter New Zealand unlawfully; or
- “(ii) aids, abets, incites, counsels, or procures any other person to be or to remain in New Zealand unlawfully or to breach any condition of a permit granted to the other person or to commit an offence against any provision of this Act or of any regulations made under it; or 35
- “(eb) whether the other person in fact enters New Zealand, aids, abets, incites, counsels, or procures any other person to enter New Zealand unlawfully; or
- “(f) aids, abets, incites, counsels, or procures any other person to be or to remain in New Zealand unlawfully or to breach any condition of a permit granted to the other person under this Act or to commit an offence against 40

- any provision of this Act or of any regulations made under it; or”.
- (2) Section 142 of the principal Act is amended by inserting, after paragraph (h), the following paragraph:
- “(ha) not being a visa officer, an immigration officer, or a refugee status officer, after the person to whom a form required to be completed for the purposes of this Act relates has signed it and declared its contents to be true,—
- “(i) alters information entered on it; or
- “(ii) enters further information on it; or
- “(iii) alters any material attached to it; or
- “(iv) attaches any material or further material to it; or”.
- (3) Section 142 of the principal Act is amended by adding, as **subsection (2)**, the following subsection:
- “(2) In **subsection (1)(ea)**, for a **material benefit** has the same meaning as in **section 98AA** of the Crimes Act 1961.”
- 29 General penalty for offences**
- Section 144 of the principal Act is amended by repealing subsections (1) and (1A), and substituting the following subsections:
- “(1) A person who commits an offence against section 142(c), section 142(d), section 142(e), **section 142(ea)**, or **section 142(ha)** is liable to imprisonment for a term not exceeding 7 years, a fine not exceeding \$100,000, or both.
- “(1A) A person who commits an offence against **section 142(fa)** is liable to imprisonment for a term not exceeding 7 years, a fine not exceeding \$100,000, or both, for each person in respect of whom the offence was committed.
- “(1B) A person who commits an offence against section 126(4), **section 142(eb)**, **section 142(f)**, section 142(g), or section 142(j) is liable to imprisonment for a term not exceeding 3 months, a fine not exceeding \$5,000, or both.”
- 30 New section 145 substituted**
- The principal Act is amended by repealing section 145, and substituting the following section:

- “145 **Procedural provisions relating to offences**
- “(1) An offence against **section 39A(1)**, section 142(c), section 142(d), section 142(e), **section 142(ea)**, **section 142(fa)**, or **section 142(ha)** is punishable on indictment.
- “(2) Except as provided in **subsection (1)**, every offence against this Act or any regulations made under it is punishable on summary conviction. 5
- “(3) A prosecution for an offence against this Act or any regulations made under it cannot be commenced except on the information of an immigration officer, a member of the Police, 10 or some other person authorised for that purpose by the Minister.
- “(4) An information for an offence against this Act may be laid at any time within 2 years after the time when the matter of the information arose. 15
- “(5) **Subsection (4)**—
- “(a) overrides section 14 of the Summary Proceedings Act 1957; but
- “(b) does not limit or affect **subsection (1)**.”

Part 4 20

Mutual Assistance in Criminal Matters Act 1992

- 31 Mutual Assistance in Criminal Matters Act 1992 called principal Act in this Part**
- In this Part and **the Schedule**, the Mutual Assistance in Criminal Matters Act 1992⁴ is called “the principal Act”. 25

⁴ 1992 No 86

- 32 Commencement**
- (1) **Sections 45 to 47** come into force on a date appointed by the Governor-General by Order in Council; and different dates may be appointed for different sections.
- (2) The rest of this Part and **the Schedule** come into force on the day 30 after the date on which this Act receives the Royal assent.

*Amendments to principal Act***33 Interpretation**

- (1) Section 2(1) of the principal Act is amended by omitting from the definition of **convention country** the expression “specified in Schedule 1:”, and substituting the expression “referred to in **column 1** of the table in the **Schedule**”. 5
- (2) Section 2(1) of the principal Act is amended by repealing the definition of **foreign serious offence**, and substituting the following definition:
- “**foreign serious offence**— 10
- “(a) means an offence under the law of a foreign country punishable by imprisonment for a term of 5 years or more; and
- “(b) after the commencement of **section 414 of the Transnational Organised Crime Act 2002**, includes an offence under the 15 law of a foreign country that is a party to the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000 if—
- “(i) it is punishable by imprisonment for a term of 4 years or more; and 20
- “(ii) there are reasonable grounds to suspect that it is transnational in nature (as defined in articles 3(2) and 18(1) of that convention) and involves an organised criminal group (as defined in article 2(a) of that convention).” 25
- (3) Section 2 of the principal Act is amended by adding the following subsection:
- “(6) In this Act, a reference to an offence of a political character does not include—
- “(a) an offence— 30
- “(i) that is constituted by conduct of a kind referred to in a multilateral treaty to which New Zealand is a party; and
- “(ii) for which parties have an obligation to provide to one another assistance in criminal matters; or 35
- “(b) any offence in relation to which New Zealand has agreed in writing with another country that the offence will not be treated as a political offence for the purposes of the provision of assistance in criminal matters between New Zealand and that country.” 40

- 34 New section 24A substituted**
The principal Act is amended by repealing section 24A, and substituting the following section:
- “24A Limitations on requests by convention countries**
If a convention country requests assistance under this Part in accordance with a convention referred to in **column 1** of the table in **the Schedule**, the request must relate to criminal matters arising from the commission or suspected commission of an offence that, if committed within the jurisdiction of New Zealand, would correspond to an offence listed or described in **column 2** of that table in the same row as the reference to the convention.”
- 35 Further limitations on requests by convention countries**
- (1) Section 24B(1)(a) of the principal Act is amended by omitting the expression “Schedule 1”, and substituting the words “**column 1** of the table in **the Schedule**”.
- (2) Section 24B(2)(b) of the principal Act is amended by omitting the expression “Schedule 2 or section 24A(3) or section 24A(4) or section 24A(6) or section 24A(7) or section 24A(7)”, and substituting the words “**column 2** of the table in **the Schedule**”.
- (3) Section 24B(3) of the principal Act is amended by omitting the expression “Schedule 2 or section 24A(3) or section 24A(4) or section 24A(6) or section 24A(7) or section 24A(7)”, and substituting the words “**column 2** of the table in **the Schedule**”.
- 36 Form of request**
Section 26(bb) of the principal Act is amended by omitting the expression “Schedule 1”, and substituting the words “**column 1** of the table in **the Schedule**”.
- 37 Assistance in arranging attendance of person to give evidence in foreign country**
The heading to section 37 of the principal Act is amended by omitting the words “**give evidence**”, and substituting the words “**give or provide evidence or assistance in relation to criminal matter**”.

- 38 Assistance in arranging attendance of prisoner**
- (1) The heading to section 38 of the principal Act is amended by adding the words “**in foreign country for specified purposes**”.
- (2) Section 38(1) of the principal Act is amended by inserting, after the words “that country,”, the words “for either or both of the purposes specified in **subsection (1A)**,”. 5
- (3) Section 38(1) of the principal Act is amended by repealing paragraph (e) and the words after it, and substituting the following paragraph: 10
- “(e) subject to a community-based sentence (within the meaning of **section 4 of the Sentencing and Parole Reform Act 2002**).”
- (4) Section 38 of the principal Act is amended by inserting, after subsection (1), the following subsection: 15
- “(1A) The purposes referred to in subsection (1) are—
- “(a) for giving evidence in relation to any criminal proceedings in the foreign country:
- “(b) for assistance in relation to a criminal matter in respect of a foreign serious offence.” 20
- 39 Undertakings required from foreign country**
- Section 39(a)(i) of the principal Act is amended by inserting, before the word “; or”, the words “, other than an offence in respect of which the Attorney-General consents to the person’s being so detained, prosecuted, or punished”. 25
- 40 New sections 41A and 41B inserted**
- The principal Act is amended by inserting, after section 41, the following sections:
- “**41A Effect of transfer to foreign country pursuant to request under section 38 on remand prisoner’s sentence** 30
- “(1) If a prisoner who is charged with or convicted of an offence against the law of New Zealand (the **New Zealand offence**) is transferred to a foreign country pursuant to a request by that country under **section 38, section 41B** of this Act and **section 81AA** of the Criminal Justice Act 1985 apply to any period that the person spends in custody outside New Zealand in connection with the request before sentence is imposed for the New Zealand offence. 35

“(2) Nothing in this section affects section 41.

“41B **Information about time remand prisoner spent in custody overseas pursuant to request under section 38**

- “(1) If a prisoner who is charged with or convicted of an offence against the law of New Zealand (the **New Zealand offence**) is transferred to a foreign country pursuant to a request by that country under **section 38** before sentence is imposed for the New Zealand offence, the Attorney-General may request the foreign country to provide a certificate recording the total period during which the prisoner was detained outside New Zealand in connection with the request until sentence was imposed for the New Zealand offence. 5 10
- “(2) A certificate obtained under **subsection (1)** is presumed to be accurate, unless the contrary is proved.
- “(3) The Attorney-General may issue a certificate setting out the date and period referred to in **subsection (1)** if— 15
- “(a) the foreign country does not provide a certificate within a reasonable time after the Attorney-General makes a request under **subsection (1)**; and
- “(b) the Attorney-General is satisfied from the information that the Attorney-General has that an accurate calculation can be made of the period referred to in **subsection (1)**. 20
- “(4) For the purposes of **section 81AA** of the Criminal Justice Act 1985, a certificate given by the Attorney-General under **subsection (3)** has the same effect as a certificate under **subsection (1)**. 25
- “(5) **Subsection (6)** applies if, after the Attorney-General has given a certificate under **subsection (3)**,— 30
- “(a) a certificate requested under **subsection (1)** is obtained from the foreign country; and
- “(b) the period specified in that certificate is different from that specified in the Attorney-General’s certificate.
- “(6) If this subsection applies, a fresh determination must be made under **section 81AA** of the Criminal Justice Act 1985 in reliance on the certificate from the foreign country.” 35

- 41 Request for production order**
 Section 61(2) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:
 “(a) that the request—
 “(i) relates to a criminal matter in the foreign country in respect of a foreign drug-dealing offence; or
 “(ii) was made after the commencement of **section 45 of the Transnational Organised Crime Act 2002**, and relates to a foreign serious offence within the meaning of **paragraph (b)** of the definition of that term in section 2(1); and”.
- 42 Certificates relating to convention countries**
 Section 64A(1) of the principal Act is amended by omitting the words “specified in Schedule 1”, and substituting the words “referred to in **column 1** of the table in **the Schedule**”.
- 43 Amendment of Schedule 1**
 Section 64B of the principal Act is repealed.
- 44 Schedules 1 and 2 and heading repealed and new Schedule substituted**
- (1) The principal Act is amended by repealing Schedules 1 and 2 and the heading immediately before them, and substituting the schedule set out in **the Schedule** of this Act.
- (2) The following enactments are consequentially repealed:
 (a) section 11 of the Crimes (Bribery of Foreign Public Officials) Amendment Act 2001 (2001 No 28), and the heading immediately above that section; and
 (b) the Mutual Assistance in Criminal Matters Amendment Act 2001 (2001 No 72).
- 45 Schedule amended to refer to United Nations Convention against Transnational Organised Crime**
The Schedule of the principal Act (as substituted by **section 44(1)**) is amended by inserting, in its appropriate numerical order, the following row:

<p>14 The United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000.</p>	<p>An offence against any of the following sections of the Crimes Act 1961</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><i>section</i></th> <th style="text-align: left;"><i>subject matter</i></th> </tr> </thead> <tbody> <tr> <td>100</td> <td>judicial corruption</td> </tr> <tr> <td>101</td> <td>bribery of judicial officer, etc.</td> </tr> <tr> <td>102</td> <td>corruption and bribery of Minister of the Crown</td> </tr> <tr> <td>103</td> <td>corruption and bribery of member of Parliament</td> </tr> <tr> <td>104</td> <td>corruption and bribery of law enforcement officer</td> </tr> <tr> <td>105</td> <td>corruption and bribery of official</td> </tr> <tr> <td>116</td> <td>conspiring to defeat justice</td> </tr> <tr> <td>117</td> <td>corrupting juries and witnesses</td> </tr> <tr> <td>257A</td> <td>money laundering</td> </tr> </tbody> </table> <p>Any offence against any Act if—</p> <p>(a) it is punishable by imprisonment for a term of 4 years or more; and</p> <p>(b) there are reasonable grounds to suspect that it is transnational in nature (as defined in articles 3(2) and 18(1) of the convention referred to in column 1) and involves an organised criminal group (as defined in article 2(a) of that convention)</p>	<i>section</i>	<i>subject matter</i>	100	judicial corruption	101	bribery of judicial officer, etc.	102	corruption and bribery of Minister of the Crown	103	corruption and bribery of member of Parliament	104	corruption and bribery of law enforcement officer	105	corruption and bribery of official	116	conspiring to defeat justice	117	corrupting juries and witnesses	257A	money laundering	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p>
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46 Schedule amended to refer to Protocol on the Smuggling of Migrants by Land, Sea and Air

The Schedule of the principal Act (as substituted by **section 44(1)**) is amended by inserting, in its appropriate numerical order, the following row: 30

<p>15 The Protocol against the Smuggling of Migrants, by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime, done at New York on 15 November 2000.</p>	<p>An offence against any of the following sections of the Crimes Act 1961</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><i>section</i></th> <th style="text-align: left;"><i>subject matter</i></th> </tr> </thead> <tbody> <tr> <td>98AB</td> <td>smuggling migrants</td> </tr> </tbody> </table> <p>An offence against either of the following sections of the Passports Act 1992</p> <table border="0"> <tbody> <tr> <td>30A</td> <td>Improper issue of New Zealand travel document</td> </tr> <tr> <td>29A</td> <td>Forged and false New Zealand travel documents</td> </tr> </tbody> </table>	<i>section</i>	<i>subject matter</i>	98AB	smuggling migrants	30A	Improper issue of New Zealand travel document	29A	Forged and false New Zealand travel documents	<p>35</p> <p>40</p>
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98AB	smuggling migrants									
30A	Improper issue of New Zealand travel document									
29A	Forged and false New Zealand travel documents									

47 Schedule amended to refer to Protocol on the Trafficking of Persons, especially Women and Children

The Schedule of the principal Act (as substituted by **section 44(1)**) is amended by inserting, in its appropriate numerical order, the following row: 45

<p>16 The Protocol to Prevent, Suppress and Punish Trafficking of Persons, especially Women and Children, supplementing the United Nations Convention Against Transnational Organised Crime, done at New York on 15 November 2000.</p>	<p>An offence against the following section of the Crimes Act 1961</p> <table border="0"> <tr> <td style="padding-right: 20px;"><i>section</i></td> <td><i>subject matter</i></td> </tr> <tr> <td>98AC</td> <td>trafficking in people by means of coercion or deception</td> </tr> </table>	<i>section</i>	<i>subject matter</i>	98AC	trafficking in people by means of coercion or deception	<p>5</p> <p>10</p>
<i>section</i>	<i>subject matter</i>					
98AC	trafficking in people by means of coercion or deception					

Amendment to Criminal Justice Act 1985

48 New section 81AA inserted in Criminal Justice Act 1985

The Criminal Justice Act 1985 is amended by inserting, after section 81A, the following section:

- “81AA Period in custody in relation to certain mutual assistance requests to be taken as time served** 15
- “(1) An offender is a mutual assistance offender for the purposes of this section if—
- “(a) **section 41A(1)** of the Mutual Assistance in Criminal Matters Act 1992 applies to the offender; and 20
- “(b) a certificate was obtained under **section 41B** of that Act showing the total period during which the offender was held in custody overseas in relation to a request by a foreign country before the imposition of sentence in New Zealand. 25
- “(2) In determining the length of any sentence of imprisonment to be imposed, the sentencing Judge must not take into account any part of the period during which the offender was detained in custody as recorded on the certificate obtained under **section 41B** of the Mutual Assistance in Criminal Matters Act 1992, and must not specify any such period on the warrant of commitment. 30
- “(3) Subject to **subsection (9)**, on receiving a warrant of commitment for any sentenced offender, the superintendent must cause any period during which the offender was detained in custody in relation to the request by the foreign country (as so recorded) to be determined and entered on the warrant of commitment. 35

- “(4) Subject to **section 41B(2)** of the Mutual Assistance in Criminal Matters Act 1992, subsections (4) to (6) of section 81 of this Act apply to a warrant completed in accordance with **subsection (3)** as if the time in custody entered on the warrant were time on remand entered under section 81(3) of this Act. 5
- “(5) For the purposes of determining the dates on which a mutual assistance offender to whom **subsection (1)** applies will become eligible for parole or final release, as the case may be, the mutual assistance offender is deemed to have been serving the sentence during the period specified on the warrant of commitment in accordance with **subsection (3)**. 10
- “(6) For the purposes of **subsection (5)**, terms of imprisonment under cumulative sentences must be treated as 1 term determined in the manner provided in section 92.
- “(7) Nothing in this section limits or affects section 81 of this Act. 15
- “(8) **Subsection (9)** applies if—
- “(a) a certificate under **section 41B** of the Mutual Assistance in Criminal Matters Act 1992 is not available at the time the superintendent receives the warrant of commitment, but is received by the superintendent at any later date while the offender is still in custody; or 20
- “(b) a further certificate is received in the circumstances described in **section 41B(5)** of the Mutual Assistance in Criminal Matters Act 1992 and a fresh determination is required to be made. 25
- “(9) If this subsection applies, the superintendent must determine and enter the time in custody in accordance with **subsection (3)** when the certificate (or the further certificate) is received.
- “(10) **Subsection (9)** applies even if any time spent by the offender on remand or in detention has been entered on the warrant of commitment under section 81 of this Act and any further process under subsections (4) to (6) of section 81 of this Act has been completed.” 30

Part 5 Passports Act 1992

- 49 Passports Act 1992 called principal Act in this Part** 5
 In this Part, the Passports Act 1992⁵ is called “the principal Act”.
- ⁵ 1992 No 92
- 50 Interpretation**
 Section 2 of the principal Act is amended by inserting, after the definition of **New Zealand passport**, the following definition:
 “**New Zealand travel document** means a document that is a New Zealand passport, a New Zealand certificate of identity, or an emergency travel document” 10
- 51 Issue of passport**
 (1) Section 4(1) of the principal Act is amended by omitting the words “subsection (3) of this section”, and substituting the words “**subsections (3) and (4)**”. 15
 (2) Section 4(3) of the principal Act is amended by adding the following paragraph:
 “(d) if the applicant holds a New Zealand certificate of identity, and (whether or not it has been recalled under section 20 or section 21) refuses to surrender it.” 20
 (3) Section 4 of the principal Act is amended by adding the following subsection:
 “(4) The Minister must refuse to issue a New Zealand passport if an order made under **section 32A(1)** in respect of the applicant has not expired.” 25
- 52 New section 9A inserted**
 The principal Act is amended by inserting, after section 9, the following section:
9A Cancellation of passport pursuant to court order 30
 The Minister must recall a New Zealand passport by notice in writing, and cancel it, if an order that it must be cancelled is made under **section 32A(1)**.”

- 53 Delivery of recalled passport**
Section 11 of the principal Act is amended by omitting the words “section 8 or section 9 or section 10 of this Act”, and substituting the words “any of sections 8 to 10”.
- 54 Cancellation of certificate of identity** 5
Section 20(1) of the principal Act is amended by adding the following paragraph:
“(g) a New Zealand passport has been issued to the person.”
- 55 New sections 29A to 30A substituted** 10
The principal Act is amended by repealing section 30, and substituting the following sections:
- “29A Forged and false New Zealand travel documents**
- “(1) Every person commits an offence who—
- “(a) forges a New Zealand travel document; or
 - “(b) knowing a document to be a forged or false New Zealand travel document, without reasonable excuse— 15
 - “(i) uses, deals with, or acts upon it as if it were genuine; or
 - “(ii) causes another person to use, deal with, or act upon it as if it were genuine; or 20
 - “(c) without reasonable excuse,—
 - “(i) has in his or her possession or under his or her control a document that he or she knows or has reason to suspect is a forged or false New Zealand travel document; or 25
 - “(ii) sells, hires, lends, gives, or otherwise disposes of a document that he or she knows or has reason to suspect is a forged or false New Zealand travel document to another person; or
 - “(d) without lawful authority or reasonable excuse, makes or uses or has in his or her possession or disposes of any paper or other material that he or she knows is specially provided by the proper authorities for any purpose relating to New Zealand travel documents. 30
- “(2) In **subsection (1)**,— 35
“**false New Zealand travel document** means a New Zealand travel document containing information purporting to relate to the person to whom it was issued (being information supplied

- by or on behalf of the person as part of or in connection with the person's application for the document) that—
- “(a) is false; or
 - “(b) relates in fact to some other person
- “**forges and forged** have meanings corresponding to the meaning given to **forgery** by section 264 of the Crimes Act 1961. 5
- “(3) Every person who commits an offence against **subsection (1)** is liable on conviction to imprisonment for a term not exceeding 10 years, a fine not exceeding \$250,000, or both. 10
- “30 **Offences relating to passport information and material**
- “(1) Every person commits an offence who knowingly, and without lawful authority or reasonable excuse,—
- “(a) deletes, alters, or copies any information recorded in or on a passport database; or 15
 - “(b) allows any information recorded in or on a passport database to be deleted, altered, or copied; or
 - “(c) records any information (whether correct or incorrect) in or on a passport database; or
 - “(d) allows any information (whether correct or incorrect) to be recorded in or on a passport database; or 20
 - “(e) takes from where it is officially kept—
 - “(i) a New Zealand travel document or a blank or incomplete New Zealand travel document; or
 - “(ii) a seal, stamp, or other authenticating device or thing, that he or she knows is specially used by the proper authorities for a purpose relating to New Zealand travel documents; or 25
 - “(iii) any paper or other material that he or she knows is specially provided by the proper authorities for a purpose relating to New Zealand travel documents; or 30
 - “(f) takes from where it is officially kept a file or register in or on which information is or is to be recorded by officers for the purposes of this Act. 35
- “(2) **Paragraphs (a) to (d) of subsection (1)**—
- “(a) apply to the deletion or alteration of information recorded in an electronic passport database, or the recording of information in an electronic passport database, whether it is achieved— 40

- “(i) directly; or
“(ii) by altering or damaging the database, its programming, another device, the programming of another device, or any electronic storage; and
“(b) apply to the copying of information recorded in an electronic passport database whether it is achieved directly from the database, by means of another device, by the interception or copying of an electronic message, or from any form of electronic storage. 5
- “(3) In **subsection (1), passport database** means a file, register, or device in or on which information is or is to be recorded by officers for the purposes of this Act. 10
- “(4) Every person who commits an offence against **subsection (1)** is liable on conviction to imprisonment for a term not exceeding 10 years, a fine not exceeding \$250,000, or both. 15
- 30A Improper issue of New Zealand travel document**
- “(1) Every person commits an offence who, without lawful authority or reasonable excuse, issues a New Zealand travel document (whether or not to the person to whom it relates) knowing that the person to whom it relates is not entitled to be issued it. 20
- “(2) Every person who commits an offence against **subsection (1)** is liable on conviction to imprisonment for a term not exceeding 10 years, a fine not exceeding \$250,000, or both.”
- 56 Other offences 25**
- (1) Section 31(1)(e) is repealed.
- (2) Section 31 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:
- “(3) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 10 years, a fine not exceeding \$250,000, or both. 30
- “(4) Every person who commits an offence against subsection (2) is liable on conviction to imprisonment for a term not exceeding 2 years.”
- 57 New sections 31A to 32A substituted 35**
- The principal Act is amended by repealing section 32, and substituting the following sections:

“31A Jurisdiction in respect of actions taken outside New Zealand

Proceedings may be brought for an offence against **section 29A(1), section 30(1), section 30A(1)**, or any of paragraphs (a) to (d) of section 31(1), even if the act or omission alleged to constitute the offence did not occur in New Zealand. 5

“32 False representations

- “(1) Every person commits an offence who, for the purpose of procuring a New Zealand travel document, or a renewal or endorsement of a New Zealand travel document, whether for his or her benefit or for the benefit of any other person,—** 10
- “(a) makes a written or oral statement that he or she knows to be false or misleading in a material particular; or**
- “(b) recklessly makes a written or oral statement that is false or misleading in a material particular.** 15
- “(2) Every person who commits an offence against subsection (1) is liable on conviction to imprisonment for a term not exceeding 5 years, a fine not exceeding \$15,000, or both.**

“32A Court may forbid issue of passport

- “(1) When sentencing or otherwise dealing with a person in respect of an offence against this Act, a court may, in addition to any other sentence or order imposed or made, make an order that—** 20
- “(a) a New Zealand passport must not be issued to the person for a specified period not exceeding 10 years; and** 25
- “(b) any New Zealand passport issued to the person must be cancelled.**
- “(2) An order under subsection (1)—**
- “(a) does not prevent the issue of an emergency travel document to the person; and** 30
- “(b) expires at the end of the specified period after the date of the person’s conviction of the offence.”**

Part 6 Proceeds of Crime Act 1991

- 58 Proceeds of Crime Act 1991 called principal Act in this Part** 5
- In this Part, the Proceeds of Crime Act 1991⁶ is called “the principal Act”.
- ⁶ 1991 No 120
- 59 Application for production order** 10
- Section 68 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:
- “(1) A commissioned officer of Police may apply to a Judge of the High Court for a production order under section 69 of this Act if— 10
- “(a) one of the following situations exists:
- “(i) a person has been convicted of a drug-dealing offence: 15
- “(ii) the officer has reasonable grounds for believing that a person has committed a drug-dealing offence:
- “(iii) a person has been convicted of a serious offence, and there are reasonable grounds to suspect that it is an offence to which **subsection (1A)** applies: 20
- “(iv) the officer has reasonable grounds for believing that a person has committed a serious offence to which **subsection (1A)** applies; and
- “(b) the officer has reasonable grounds for believing that a person has possession or control of one or more property-tracking documents in relation to the offence. 25
- “(1A) This section applies to a serious offence if it is transnational in nature (as defined in articles 3(2) and 18(1) of the United Nations Convention against Transnational Organised Crime, done at New York on 15 November 2000) and involves an organised criminal group (as defined in article 2(a) of that convention).” 30
- 60 Production orders in relation to foreign serious offences** 35
- Section 76A of the principal Act is amended by omitting the word “drug-dealing”, and substituting the word “serious”.

s 44(1)

Schedule New Schedule of principal Act substituted

ss 2(1), 24A, 24B, 26

Schedule Limitations on requests by convention countries

Convention under which request made	New Zealand offence that convention country offence would correspond to	5																																																																																					
1 The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, opened for signature at New York on 14 December 1973	An offence against any of the following sections of the Crimes Act 1961:																																																																																						
	<table style="width: 100%; border: none;"> <tr> <td style="width: 15%;"><i>section</i></td> <td style="width: 85%;"><i>subject matter</i></td> <td></td> </tr> <tr> <td>128</td> <td>sexual violation</td> <td style="text-align: right;">10</td> </tr> <tr> <td>129</td> <td>attempt to commit sexual violation</td> <td></td> </tr> <tr> <td>142A</td> <td>compelling indecent act with animal</td> <td></td> </tr> <tr> <td>167, 168</td> <td>murder</td> <td></td> </tr> <tr> <td>171</td> <td>manslaughter</td> <td></td> </tr> <tr> <td>173</td> <td>attempt to murder</td> <td style="text-align: right;">15</td> </tr> <tr> <td>174</td> <td>counselling or attempting to procure murder</td> <td></td> </tr> <tr> <td>176</td> <td>accessory after the fact to murder</td> <td></td> </tr> <tr> <td>188(1)</td> <td>wounding with intent to cause grievous bodily harm</td> <td style="text-align: right;">20</td> </tr> <tr> <td>188(2)</td> <td>wounding with intent to injure</td> <td></td> </tr> <tr> <td>189(1)</td> <td>injuring with intent to cause grievous bodily harm</td> <td></td> </tr> <tr> <td>189(2)</td> <td>injuring with intent to injure, or with reckless disregard for the safety of others</td> <td style="text-align: right;">25</td> </tr> <tr> <td>191(1)</td> <td>aggravated wounding</td> <td></td> </tr> <tr> <td>191(2)</td> <td>aggravated injury</td> <td></td> </tr> <tr> <td>192</td> <td>aggravated assault</td> <td></td> </tr> <tr> <td>197</td> <td>disabling</td> <td style="text-align: right;">30</td> </tr> <tr> <td>198</td> <td>discharging firearm or doing dangerous act with intent</td> <td></td> </tr> <tr> <td>199</td> <td>acid throwing</td> <td></td> </tr> <tr> <td>200</td> <td>poisoning with intent</td> <td></td> </tr> <tr> <td>201</td> <td>infecting with disease</td> <td style="text-align: right;">35</td> </tr> <tr> <td>209</td> <td>kidnapping</td> <td></td> </tr> <tr> <td>294</td> <td>arson</td> <td></td> </tr> <tr> <td>295</td> <td>attempted arson</td> <td></td> </tr> <tr> <td>296</td> <td>damage to other property by fire or explosive</td> <td style="text-align: right;">40</td> </tr> <tr> <td>297</td> <td>attempt to damage property by fire or explosive</td> <td></td> </tr> <tr> <td>298</td> <td>wilful damage</td> <td></td> </tr> <tr> <td>300</td> <td>interfering with means of transport</td> <td></td> </tr> <tr> <td></td> <td><i>(offences continued over page)</i></td> <td style="text-align: right;">45</td> </tr> </table>	<i>section</i>	<i>subject matter</i>		128	sexual violation	10	129	attempt to commit sexual violation		142A	compelling indecent act with animal		167, 168	murder		171	manslaughter		173	attempt to murder	15	174	counselling or attempting to procure murder		176	accessory after the fact to murder		188(1)	wounding with intent to cause grievous bodily harm	20	188(2)	wounding with intent to injure		189(1)	injuring with intent to cause grievous bodily harm		189(2)	injuring with intent to injure, or with reckless disregard for the safety of others	25	191(1)	aggravated wounding		191(2)	aggravated injury		192	aggravated assault		197	disabling	30	198	discharging firearm or doing dangerous act with intent		199	acid throwing		200	poisoning with intent		201	infecting with disease	35	209	kidnapping		294	arson		295	attempted arson		296	damage to other property by fire or explosive	40	297	attempt to damage property by fire or explosive		298	wilful damage		300	interfering with means of transport			<i>(offences continued over page)</i>
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Schedule—continued

Convention under which request made	New Zealand offence that convention country offence would correspond to	
Any of Conventions 1 and 2 (<i>cont.</i>)	An offence against any of the following sections of the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980: <i>section subject matter</i> 3 crimes against persons 4 crimes against premises or vehicles 5 threats against persons 6 threats against premises or vehicles	5 10
3 The Convention Against the Taking of Hostages, opened for signature at New York on 18 December 1979	An offence against the following section of the Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980: <i>section subject matter</i> 8 hostage taking	15
4 The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna on 19 December 1988	An offence against any of the following sections of the Misuse of Drugs Act 1975: <i>section subject matter</i> 6 dealing with controlled drugs 9 cultivation of prohibited plants 10 aiding offences against corresponding law of another country 12A equipment, material, and substances used in production or cultivation of controlled drugs 12B laundering proceeds of drug offences 12C commission of offences outside New Zealand	20 25 30
5 The Single Convention on Narcotic Drugs, done at New York on 30 March 1961 <i>or</i> 6 The Protocol to the Single Convention on Narcotic Drugs, done at Geneva on 25 March 1972 <i>or</i> 7 The Convention on Psychotropic Substances, done at Vienna on 21 February 1971	An offence against any of the following sections of the Misuse of Drugs Act 1975: <i>section subject matter</i> 6 dealing with controlled drugs 9 cultivation of prohibited plants	35 40 45
8 The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984	An offence against the following section of the Crimes of Torture Act 1989: <i>section subject matter</i> 3 acts of torture	50

Schedule—continued

Convention under which request made	New Zealand offence that convention country offence would correspond to	
9 The Convention for the Suppression of Unlawful Seizure of Aircraft, done at the Hague on 16 December 1970	An offence against any of the following sections of the Aviation Crimes Act 1972: <i>section subject matter</i> 3 hijacking 4 crimes in connection with hijacking	5
10 The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971	An offence against the following section of the Aviation Crimes Act 1972: <i>section subject matter</i> 5 other crimes relating to aircraft	10
11 The Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, done at Montreal on 24 February 1988	An offence against the following section of the Aviation Crimes Act 1972: <i>section subject matter</i> 5A crimes relating to international airports	15 20
12 The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, done at Rome on 10 March 1988	An offence against the following section of the Maritime Crimes Act 1999: <i>section subject matter</i> 4 crimes relating to ships	25
13 The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988	An offence against the following section of the Maritime Crimes Act 1999: <i>section subject matter</i> 5 crimes relating to fixed platforms	30