

House of Representatives
Supplementary Order Paper

Tuesday, 29 July 2014

Objectionable Publications and Indecency Legisla-
tion Bill

Proposed amendments

Hon Judith Collins, in Committee, to move the following amendments:

Clause 7: new section 132B(1)(b)

In *clause 7*, replace *new section 132B(1)(b)* (page 3, lines 31 to 33) with:

“(b) before the repeat offence was committed and the conviction for it was entered, had both committed and been convicted of 1 or more specified publications offences committed before or after that commencement.

Part 2: new subpart 1 heading

After the *Part 2 heading* (page 6, after line 2), insert:

Subpart 1—Amendments to Crimes Act 1961

Part 2: clause 11

In *clause 11*, replace “**Part**” (page 6, line 4) with “**subpart**”.

Part 2: new subparts 2 and 3

After *clause 13* (page 7, after line 16), insert:

Subpart 2—Amendments to
Accident Compensation Act 2001

14 Principal Act

This **subpart** amends the Accident Compensation Act 2001 (the **principal Act**).

15 Schedule 3 amended

(1) In Schedule 3, before the item relating to section 128B(1) of the Crimes Act 1961, insert:

- 124A** Indecent communication with young person under 16
- (2) In Schedule 3, after the item relating to section 131(3) of the Crimes Act 1961, insert:
- 131B Meeting young person following sexual grooming, etc

Subpart 3—Amendment to Vulnerable Children Act 2014

- 16 Principal Act**
 This **subpart** amends the Vulnerable Children Act 2014 (the **principal Act**).
- 17 Schedule 2 amended**
 In Schedule 2, after clause 1(2), insert:
 “(2A) **section 124A** (indecent communication with young person under 16):”.

Explanatory note

This Supplementary Order Paper sets out amendments to the Objectionable Publications and Indecency Legislation Bill.

Subpart 1 of Part 1 is amended to make clearer the application of the presumption of imprisonment for repeat offenders (*new section 132B*, inserted by *clause 7*). The presumption is to apply to an offender convicted of, and to be sentenced in respect of, a specified publications offence (the **repeat offence**). But the presumption is to apply to the offender only if, before he or she committed and was convicted of the repeat offence, he or she had both committed, and been convicted of, 1 or more specified publications offences. The repeat offence must therefore follow both commission of, and a conviction for, an earlier similar offence (as suggested by *Stewart v Transport Department* [1964] NZLR 860 (SC) at 862 per Hardie Boys J; *R v Wain* [1984] 1 NZLR 363 (CA) at 364 per Hardie Boys J; and *Roe v D’Costa* [2014] WASCA 118 at [28] and [40] per Mazza JA). *New section 132B* is accordingly directed more clearly, in line with the policy intention, only to identifiably persistent repeat offenders.

New subpart 2 of Part 2 amends the Accident Compensation Act 2001. Section 21 specifies requirements for when a person has cover for a personal injury that is a mental injury caused by certain criminal acts. The requirements include (section 21(1)(c) and (2)(c)) that the mental injury is caused by an act within the description of an offence listed in Schedule 3. Schedule 3 is amended so it also includes references to—

- the new offence of indecent communication with a young person (under 16 years) under *new section 124A* of the Crimes Act 1961, which is inserted by *clause 13*; and

- the existing, but related, sexual grooming offence under section 131B of the Crimes Act 1961.

New subpart 3 of Part 2 amends the Vulnerable Children Act 2014. The Act's children's worker safety checking provisions prohibit specified organisations from employing or engaging as a core worker a person convicted of a specified offence, unless the person holds an exemption from the prohibition (grantable only if the person would not pose an undue risk to children's safety). The amendment ensures a specified offence, for the purposes of those provisions, includes the new offence of indecent communication with a young person (under 16 years) under *new section 124A* of the Crimes Act 1961.

Departmental disclosure statement

The Ministry of Justice considers that a departmental disclosure statement is not required to be prepared for this Supplementary Order Paper.
