

Part 7

Crimes against religion, morality, and public welfare

Crime against religion

123 Blasphemous libel

- (1) Every one is liable to imprisonment for a term not exceeding 1 year who publishes any blasphemous libel.
 - (2) Whether any particular published matter is or is not a blasphemous libel is a question of fact.
 - (3) It is not an offence against this section to express in good faith and in decent language, or to attempt to establish by arguments used in good faith and conveyed in decent language, any opinion whatever on any religious subject.
 - (4) No one shall be prosecuted for an offence against this section without the leave of the Attorney-General, who before giving leave may make such inquiries as he thinks fit.
- Compare: 1908 No 32 s 150

Crimes against morality and decency

124 Distribution or exhibition of indecent matter

- (1) Every one is liable to imprisonment for a term not exceeding 2 years who, without lawful justification or excuse,—
 - (a) sells, exposes for sale, or otherwise distributes to the public any indecent model or object; or
 - (b) exhibits or presents in or within view of any place to which the public have or are permitted to have access any indecent object or indecent show or performance; or
 - (c) exhibits or presents in the presence of any person in consideration or expectation of any payment or otherwise for gain, any indecent show or performance.
- (2) It is a defence to a charge under this section to prove that the public good was served by the acts alleged to have been done.
- (3) It is a question of law whether the sale, exposure for sale, distribution, exhibition, or presentation might in the circumstances serve the public good, and whether there is evidence of excess beyond what the public good requires; but it is a question of fact whether or not the acts complained of did so serve the public good and whether or not there was such excess.

(4) It is no defence that the person charged did not know that the model, object, show, or performance to which the charge relates was indecent, unless that person also satisfies the court—

- (a) that he had no reasonable opportunity of knowing it; and
- (b) that in the circumstances his ignorance was excusable.

(5) No one shall be prosecuted for an offence against this section without the leave of the Attorney-General, who before giving leave may make such inquiries as he thinks fit.

(6) Nothing in this section shall apply to any publication within the meaning of the [Films, Videos, and Publications Classification Act 1993](#), whether the publication is objectionable within the meaning of that Act or not.

(7) *[Repealed]*

Compare: 1908 No 32 s 157

Section 124(1)(b): amended, on 1 January 1967, by section 3(2) of the Crimes Amendment Act 1966 (1966 No 98).

Section 124(1)(c): added, on 1 January 1967, by section 3(1) of the Crimes Amendment Act 1966 (1966 No 98).

Section 124(6): substituted, on 1 October 1994, by [section 150\(1\)](#) of the Films, Videos, and Publications Classification Act 1993 (1993 No 94).

Section 124(7): repealed, on 1 October 1994, by [section 150\(1\)](#) of the Films, Videos, and Publications Classification Act 1993 (1993 No 94).

125 Indecent act in public place

- (1) Every one is liable to imprisonment for a term not exceeding 2 years who wilfully does any indecent act in any place to which the public have or are permitted to have access, or within view of any such place.
- (2) It is a defence to a charge under this section if the person charged proves that he had reasonable grounds for believing that he would not be observed.
- (3) For the purposes of this section, the term **place** includes any railway carriage, and also includes any ship, aircraft, or vehicle used for the carriage of passengers for hire or reward.

Compare: 1908 No 32 s 156(a)

126 Indecent act with intent to insult or offend

- Every one is liable to imprisonment for a term not exceeding 2 years who with intent to insult or offend any person does any indecent act in any place.

Compare: 1908 No 32 s 156(b)

Sexual crimes

127 No presumption because of age

- There is no presumption of law that a person is incapable of sexual connection because of his or her age.

Section 127: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

128 Sexual violation defined

- (1) Sexual violation is the act of a person who—
 - (a) rapes another person; or
 - (b) has unlawful sexual connection with another person.
- (2) Person A rapes person B if person A has sexual connection with person B, effected by the penetration of person B's genitalia by person A's penis,—
 - (a) without person B's consent to the connection; and
 - (b) without believing on reasonable grounds that person B consents to the connection.
- (3) Person A has unlawful sexual connection with person B if person A has sexual connection with person B—
 - (a) without person B's consent to the connection; and
 - (b) without believing on reasonable grounds that person B consents to the connection.
- (4) One person may be convicted of the sexual violation of another person at a time when they were married to each other.

Section 128: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

128A Allowing sexual activity does not amount to consent in some circumstances

- (1) A person does not consent to sexual activity just because he or she does not protest or offer physical resistance to the activity.
- (2) A person does not consent to sexual activity if he or she allows the activity because of—
 - (a) force applied to him or her or some other person; or
 - (b) the threat (express or implied) of the application of force to him or her or some other person; or
 - (c) the fear of the application of force to him or her or some other person.
- (3) A person does not consent to sexual activity if the activity occurs while he or she is asleep or unconscious.
- (4) A person does not consent to sexual activity if the activity occurs while he or she is so affected by alcohol or some other drug that he or she cannot consent or refuse to consent to the activity.
- (5) A person does not consent to sexual activity if the activity occurs while he or she is affected by an intellectual, mental, or physical condition or impairment of such a nature and degree that he or she cannot consent or refuse to consent to the activity.

(6) One person does not consent to sexual activity with another person if he or she allows the sexual activity because he or she is mistaken about who the other person is.

(7) A person does not consent to an act of sexual activity if he or she allows the act because he or she is mistaken about its nature and quality.

(8) This section does not limit the circumstances in which a person does not consent to sexual activity.

(9) For the purposes of this section,—

allows includes acquiesces in, submits to, participates in, and undertakes **sexual activity**, in relation to a person, means—

- (a) sexual connection with the person; or
- (b) the doing on the person of an indecent act that, without the person's consent, would be an indecent assault of the person.

Section 128A: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

128B Sexual violation

- (1) Every one who commits sexual violation is liable to imprisonment for a term not exceeding 20 years.
- (2) A person convicted of sexual violation must be sentenced to imprisonment unless, having regard to the matters stated in subsection (3), the court thinks that the person should not be sentenced to imprisonment.
- (3) The matters are—
 - (a) the particular circumstances of the person convicted; and
 - (b) the particular circumstances of the offence, including the nature of the conduct constituting it.

Section 128B: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

129 Attempted sexual violation and assault with intent to commit sexual violation

- (1) Every one who attempts to commit sexual violation is liable to imprisonment for a term not exceeding 10 years.
- (2) Every one who assaults another person with intent to commit sexual violation of the other person is liable to imprisonment for a term not exceeding 10 years.

Section 129: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

129A Sexual conduct with consent induced by certain threats

- (1) Every one who has sexual connection with another person knowing that the other person has been induced to consent to the connection by threat is liable to imprisonment for a term not exceeding 14 years.

(2) Every one who does an indecent act on another person knowing that the other person has been induced to consent to the act by threat is liable to imprisonment for a term not exceeding 5 years.

(3) For the purposes of subsection (1), a person who has sexual connection with another person knows that the other person has been induced to consent to the sexual connection by threat if (and only if) he or she knows that the other person has been induced to consent to the sexual connection by an express or implied threat of a kind described in subsection (5).

(4) For the purposes of subsection (2),—

- (a) a person who does an indecent act on another person knows that the other person has been induced to consent to the act by threat if (and only if) he or she knows that the other person has been induced to consent to the act by an express or implied threat of a kind described in subsection (5); and
- (b) a person is induced to consent to an indecent act whether—
 - (i) he or she is induced to consent to the doing of an indecent act with or on him or her; or
 - (ii) he or she is induced to consent to do an indecent act himself or herself.

(5) The kinds of threat referred to in subsections (3) and (4)(a) are—

- (a) a threat that the person making the threat or some other person will commit an offence that—
 - (i) is punishable by imprisonment; but
 - (ii) does not involve the actual or threatened application of force to any person; and
- (b) a threat that the person making the threat or some other person will make an accusation or disclosure (whether true or false) about misconduct by any person (whether living or dead) that is likely to damage seriously the reputation of the person against or about whom the accusation or disclosure is made; and
- (c) a threat that the person making the threat will make improper use, to the detriment of the person consenting, of a power or authority arising out of—
 - (i) an occupational or vocational position held by the person making the threat; or
 - (ii) a commercial relationship existing between the person making the threat and the person consenting.

Section 129A: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

130 Incest

- (1) Sexual connection is incest if—

- (a) it is between 2 people whose relationship is that of parent and child, siblings, half-siblings, or grandparent and grandchild; and
 - (b) the person charged knows of the relationship.
- (2) Every one of or over the age of 16 years who commits incest is liable to imprisonment for a term not exceeding 10 years.
- Section 130: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

131 Sexual conduct with dependent family member

- (1) Every one is liable to imprisonment for a term not exceeding 7 years who has sexual connection with a dependent family member under the age of 18 years.
 - (2) Every one is liable to imprisonment for a term not exceeding 7 years who attempts to have sexual connection with a dependent family member under the age of 18 years.
 - (3) Every one is liable to imprisonment for a term not exceeding 3 years who does an indecent act on a dependent family member under the age of 18 years.
 - (4) The dependent family member cannot be charged as a party to the offence.
 - (5) It is not a defence to a charge under this section that the dependent family member consented.
- Section 131: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

131A Dependent family member defined

- (1) For the purposes of [section 131](#), one person is a **dependent family member** of another person—
 - (a) if the other person has power or authority over him or her, and is—
 - (i) his or her parent, step-parent, foster parent, guardian, uncle, or aunt; or
 - (ii) a parent, step-parent, or foster parent of a person described in subparagraph (i); or
 - (iii) a child of his or her parent or step-parent; or
 - (iv) the spouse or de facto partner of a person described in subparagraph (i) or subparagraph (ii) or subparagraph (iii); or
 - (b) if they are members of the same family, whanau, or other culturally recognised family group, and the other person—
 - (i) is not a person referred to in paragraph (a); but
 - (ii) has a responsibility for, or significant role in, his or her care or upbringing; or
 - (c) if he or she is living with the other person as a member of the other person's family, and the other person is not a person referred to in paragraph (a), but has—

- (i) power or authority over him or her; and
- (ii) a responsibility for, or significant role in, his or her care or upbringing.

(2) In subsection (1),—

aunt, in relation to a person, includes a half-sister of one of the person's parents

foster parent includes a former foster parent

guardian—

- (a) means guardian by virtue of the Guardianship Act 1968 or the [Children, Young Persons, and Their Families Act 1989](#); and
- (b) includes a former guardian

step-parent includes a former step-parent

uncle, in relation to a person, includes a half-brother of one of the person's parents.

Section 131A: inserted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

131B Meeting young person under 16 following sexual grooming, etc

- (1) Every person is liable to imprisonment for a term not exceeding 7 years if,—
 - (a) having met or communicated with a person under the age of 16 years (the **young person**) on an earlier occasion, he or she takes one of the following actions:
 - (i) intentionally meets the young person:
 - (ii) travels with the intention of meeting the young person:
 - (iii) arranges for or persuades the young person to travel with the intention of meeting him or her; and
 - (b) at the time of taking the action, he or she intends—
 - (i) to take in respect of the young person an action that, if taken in New Zealand, would be an offence against this Part, or against any of paragraphs (a)(i), (d)(i), (e)(i), (f)(i), of [section 98AA\(1\)](#); or
 - (ii) that the young person should do on him or her an act the doing of which would, if he or she permitted it to be done in New Zealand, be an offence against this Part on his or her part.
- (2) It is a defence to a charge under subsection (1) if the person charged proves that,—
 - (a) before the time he or she took the action concerned, he or she had taken reasonable steps to find out whether the young person was of or over the age of 16 years; and
 - (b) at the time he or she took the action concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16 years.

Section 131B: inserted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

132 Sexual conduct with child under 12

- (1) Every one who has sexual connection with a child is liable to imprisonment for a term not exceeding 14 years.
- (2) Every one who attempts to have sexual connection with a child is liable to imprisonment for a term not exceeding 10 years.
- (3) Every one who does an indecent act on a child is liable to imprisonment for a term not exceeding 10 years.
- (4) It is not a defence to a charge under this section that the person charged believed that the child was of or over the age of 12 years.
- (5) It is not a defence to a charge under this section that the child consented.
- (6) In this section,—
 - (a) **child** means a person under the age of 12 years; and
 - (b) **doing an indecent act on a child** includes indecently assaulting the child.

Section 132: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

133 Indecency with girl under 12

- *[Repealed]*
Section 133: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

134 Sexual conduct with young person under 16

- (1) Every one who has sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years.
- (2) Every one who attempts to have sexual connection with a young person is liable to imprisonment for a term not exceeding 10 years.
- (3) Every one who does an indecent act on a young person is liable to imprisonment for a term not exceeding 7 years.
- (4) No person can be convicted of a charge under this section if he or she was married to the young person concerned at the time of the sexual connection or indecent act concerned.
- (5) The young person in respect of whom an offence against this section was committed cannot be charged as a party to the offence if the person who committed the offence was of or over the age of 16 years when the offence was committed.
- (6) In this section,—
 - (a) **young person** means a person under the age of 16 years; and
 - (b) **doing an indecent act on a young person** includes indecently assaulting the young person.

Section 134: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

134A Defence to charge under section 134

- (1) It is a defence to a charge under [section 134](#) if the person charged proves that,—
 - (a) before the time of the act concerned, he or she had taken reasonable steps to find out whether the young person concerned was of or over the age of 16 years; and
 - (b) at the time of the act concerned, he or she believed on reasonable grounds that the young person was of or over the age of 16 years; and
 - (c) the young person consented.
- (2) Except to the extent provided in subsection (1),—
 - (a) it is not a defence to a charge under [section 134](#) that the young person concerned consented; and
 - (b) it is not a defence to a charge under [section 134](#) that the person charged believed that the young person concerned was of or over the age of 16 years.

Section 134A: inserted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

135 Indecent assault

- Every one is liable to imprisonment for a term not exceeding 7 years who indecently assaults another person.

Section 135: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

136 Conspiracy to induce sexual intercourse

- *[Repealed]*

Section 136: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

137 Inducing sexual intercourse under pretence of marriage

- *[Repealed]*

Section 137: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

138 Sexual exploitation of person with significant impairment

- (1) Every one is liable to imprisonment for a term not exceeding 10 years who has exploitative sexual connection with a person with a significant impairment.
- (2) Every one is liable to imprisonment for a term not exceeding 10 years who attempts to have exploitative sexual connection with a person with a significant impairment.

(3) For the purposes of subsections (1) and (2), a person has exploitative sexual connection with a person with a significant impairment (the **impaired person**) if he or she—

- (a) has sexual connection with the impaired person knowing that the impaired person is a person with a significant impairment; and
- (b) has obtained the impaired person's acquiescence in, submission to, participation in, or undertaking of the connection by taking advantage of the impairment.

(4) Every one is liable to imprisonment for a term not exceeding 5 years who exploitatively does an indecent act on a person with a significant impairment.

(5) For the purposes of subsection (4), a person exploitatively does an indecent act on a person with a significant impairment (the **impaired person**) if he or she—

- (a) does an indecent act on the impaired person knowing that the impaired person is a person with a significant impairment; and
- (b) has obtained the impaired person's acquiescence in, submission to, participation in, or undertaking of the doing of the act by taking advantage of the impairment.

(6) For the purposes of this section, a **significant impairment** is an intellectual, mental, or physical condition or impairment (or a combination of 2 or more intellectual, mental, or physical conditions or impairments) that affects a person to such an extent that it significantly impairs the person's capacity—

- (a) to understand the nature of sexual conduct; or
- (b) to understand the nature of decisions about sexual conduct; or
- (c) to foresee the consequences of decisions about sexual conduct; or
- (d) to communicate decisions about sexual conduct.

Section 138: substituted, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

139 Indecent act between woman and girl

- *[Repealed]*

Section 139: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

140 Indecency with boy under 12

- *[Repealed]*

Section 140: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

140A Indecency with boy between 12 and 16

- *[Repealed]*

Section 140A: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

141 Indecent assault on man or boy

- *[Repealed]*
Section 141: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

142 Anal intercourse

- *[Repealed]*
Section 142: repealed, on 20 May 2005, by [section 7](#) of the Crimes Amendment Act 2005 (2005 No 41).

142A Compelling indecent act with animal

- (1) Every one is liable to imprisonment for a term not exceeding 14 years who compels any other person, by the actual or threatened application of force to that other person or some other person, to perform, or to submit to or acquiesce in, any act of indecency with an animal, whether or not involving penetration.
(2) *[Repealed]*
Section 142A: inserted, on 1 February 1986, by [section 3](#) of the Crimes Amendment Act (No 3) 1985 (1985 No 160).
Section 142A(2): repealed, on 30 June 2002, by [section 164\(b\)](#) of the Sentencing Act 2002 (2002 No 9).

143 Bestiality

- (1) Every one is liable to imprisonment for a term not exceeding 7 years who commits bestiality.
(2) This offence is complete upon penetration.
Compare: 1908 No 32 s 153; 1941 No 10 Schedule

144 Indecency with animal

- Every one is liable to imprisonment for a term not exceeding 3 years who commits any act of indecency with an animal.

Sexual offences outside New Zealand

- Heading: inserted, on 1 September 1995, by section 2 of the Crimes Amendment Act 1995 (1995 No 49).

144A Sexual conduct with children and young people outside New Zealand

- (1) Every one commits an offence who, being a New Zealand citizen or ordinarily resident in New Zealand,—
 - (a) does outside New Zealand, with or on a child under the age of 12 years, an act to which subsection (2) applies; or
 - (b) does outside New Zealand, with or on a person under the age of 16 years, an act to which subsection (3) applies; or
 - (c) does outside New Zealand, with or on a person under the age of 18 years, an act to which subsection (4) applies.

(2) This subsection applies to an act that, if done in New Zealand, would be an offence against—

- (a) [section 132\(1\)](#) (sexual connection with a child under 12); or
- (b) [section 132\(2\)](#) (attempted sexual connection with a child under 12); or
- (c) [section 132\(3\)](#) (doing an indecent act on a child under 12).

(3) This subsection applies to an act that, if done in New Zealand, would be an offence against—

- (a) [section 134\(1\)](#) (sexual connection with a young person); or
- (b) [section 134\(2\)](#) (attempted sexual connection with a young person); or
- (c) [section 134\(3\)](#) (doing an indecent act on a young person).

(4) This subsection applies to an act that, if done in New Zealand, would be an offence against [section 23\(1\)](#) of the Prostitution Reform Act 2003 (breach of prohibitions on use in prostitution of persons under 18 years).

(5) A person who commits an offence against this section in respect of a provision specified in any of subsections (2) to (4) is liable to the penalty to which he or she would be liable if convicted of an offence against the provision.

(6) Every limiting provision that applied to a provision specified in any of subsections (2) to (4) when an offence against this section in respect of the provision specified is alleged to have been committed applies also to—

- (a) the commencement of proceedings for the offence; and
- (b) a charge under this section in respect of the provision specified.

(7) In this section, **limiting provision**, in relation to a provision specified in any of subsections (2) to (4), means a provision of this Act or the [Prostitution Reform Act 2003](#) that states (in relation to the provision specified only, or more generally)—

- (a) circumstances that constitute a defence to a charge under the provision specified; or
- (b) circumstances that do not constitute a defence to a charge under the provision specified; or
- (c) circumstances in which the person on or with whom an offence against the provision specified is committed may not be charged with an offence against that provision.

Section 144A: substituted, on 14 June 2006, by [section 8](#) of the Crimes Amendment Act 2005 (2005 No 41).

144B Consent of Attorney-General required

- (1) No information shall be laid for an offence against [section 144A](#) except with the consent of the Attorney-General.
- (2) A person who is alleged to have committed such an offence may be arrested, or a warrant for the arrest of the person may be issued and executed,

and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the laying of an information for the offence has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(3) The Attorney-General may, before deciding whether or not to give his or her consent under subsection (1), make such inquiries as he or she thinks fit.

Section 144B: inserted, on 1 September 1995, by section 2 of the Crimes Amendment Act 1995 (1995 No 49).

144C Organising or promoting child sex tours

- (1) Every one is liable to imprisonment for a term not exceeding 7 years who—
 - (a) makes or organises any travel arrangements for or on behalf of any other person with the intention of facilitating the commission by that other person of an offence against [section 144A](#), whether or not such an offence is actually committed by that other person; or
 - (b) transports any other person to a place outside New Zealand with the intention of facilitating the commission by that other person of an offence against [section 144A](#), whether or not such an offence is actually committed by that other person; or
 - (c) prints or publishes any information that is intended to promote conduct that would constitute an offence against [section 144A](#), or to assist any other person to engage in such conduct.
- (2) For the purposes of this section,—
 - (a) the **making or organising of travel arrangements** includes, but is not limited to,—
 - (i) the purchase or reservation of tickets for travel to a country outside New Zealand:
 - (ii) the purchase or reservation of accommodation in a country outside New Zealand:
 - (b) the **publication of information** means publication of information by any means, whether by written, electronic, or other form of communication; and includes the distribution of information.

Section 144C: inserted, on 1 September 1995, by section 2 of the Crimes Amendment Act 1995 (1995 No 49).