

Crimes Amendment Bill (No 5)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Criminal Procedure (Reform and Modernisation) Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- the Criminal Procedure Bill comprising clauses 1 and 2, Parts 1 to 8, the Part 9 heading, clause 416, clause 417, clause 442, and Schedules 1, 1A, and 6
- the Bail Amendment Bill (No 3) comprising clauses 401 to 407A, and Schedule 2
- the Children, Young Persons, and Their Families Amendment Bill (No 3) comprising clauses 407B to 407D, and Schedule 3
- the Corrections Amendment Bill comprising clauses 408 to 410A, and Schedule 3A
- this bill comprising clauses 410B to 411B, and Schedule 3B
- the Criminal Disclosure Amendment Bill comprising clauses 412 to 415B, and Schedule 3C
- the Criminal Procedure (Mentally Impaired Persons) Amendment Bill comprising clauses 417A to 417C, and Schedule 4
- the District Courts Amendment Bill (No 2) comprising clauses 418 to 420A, and Schedule 4A

- the Evidence Amendment Bill comprising clauses 421 to 423A, and Schedule 4B
 - the Juries Amendment Bill comprising clauses 424 to 427A, and Schedule 4C
 - the Justices of the Peace Amendment Bill comprising clauses 427B to 428
 - the New Zealand Bill of Rights Amendment Bill comprising clauses 428B and 429
 - the Sentencing Amendment Bill (No 6) comprising clauses 430 to 433A, and Schedule 4D
 - the Summary Proceedings Amendment Bill (No 4) comprising clauses 434 to 437B, and Schedule 5
 - the Victims' Rights Amendment Bill comprising clauses 438 to 441B, and Schedule 5A.
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Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

~~text deleted~~

Hon Simon Power

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Crimes Amendment Act (No 5) **2011**.

- 2 Commencement**
 - (1) **Sections 411(2) and 411A** come into force on a date appointed by the Governor-General by Order in Council. 5

- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council.
- (3) Any provision that has not earlier been brought into force comes into force on the day that is 2 years after the date on which this Act receives the Royal assent. 5

3 Principal Act amended

This Act amends the Crimes Act 1961.

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411 Duty of persons arresting

- (2) Section 316(2) is amended by repealing paragraphs (a) and (b) and substituting the following paragraphs: 10
- “(a) if he or she has the process or warrant, or a copy of it, in his or her possession at the time of the arrest, to produce it if required by that person to do so:
- “(b) if he or she does not have the process or warrant, or a copy of it, in his or her possession at the time of the arrest, to show it to the arrested person as soon as practicable after the arrest, if that person so requires.” 15
- (3) Section 316 is amended by inserting the following subsection after subsection (5):
- “(5A) The obligation under subsection (5) ceases if the person is— 20
- “(a) released following the service of a summons under **section 25** of the **Criminal Procedure (Reform and Modernisation) Act 2010** to appear in court to answer the charge; or
- “(b) released on bail under section 21 of the Bail Act 2000; 25
- or
- “(c) otherwise released from custody.”

411A Transitional provision regarding execution of warrant to arrest

Section 316(2) of the principal Act (as amended by **section 411(2)**) applies to the execution of any warrant of arrest on or after the date on which **section 411(2)** comes into force even if the warrant was issued before ~~the commencement~~ that date. 30

411B Further amendments to Crimes Act 1961

The Crimes Act 1961 is amended as set out in **Schedule 3B**.

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Schedule 3B

Amendments to Crimes Act 1961

s 411B

Section 2Definition of **crime** in subsection (1): repeal.Definition of **depositions** in subsection (1): repeal. 5Definition of **is liable** in subsection (1): omit “on indictment”.Definition of **Judge** in subsection (1): repeal and substitute:

“**Judge**, in relation to a District Court, or **District Court Judge** means a Judge who holds a warrant under **section 5B** of the District Courts Act 1947 to conduct jury trials”.

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Definition of **offence** in subsection (1): repeal.Definition of **Trial Judge** in subsection (1): repeal.

Subsection (2): repeal.

Section 3

Repeal. 15

Section 8

Subsection (2): repeal and substitute:

“(2) If a person does or omits to do any act to which this section applies, and that act or omission would, if it occurred within New Zealand, be an offence, under this Act or any other enactment (whether that enactment was passed before or after the commencement of this Act), punishable by 2 or more years’ imprisonment then, subject to the provisions of this Act and that other enactment, the person is liable on conviction as if the act or omission had occurred in New Zealand. 20 25

“(2A) If any proceedings are taken by virtue of the jurisdiction conferred by this section, it is a defence to prove that the act or omission would not have been an offence under the law of the country of which the person charged was a national or citizen at the time of the act or omission, if it had occurred in that country.” 30

Subsection (3): omit “a crime” and substitute “an offence punishable by 2 or more years’ imprisonment”.

Section 8A

Subsection (3): omit “information shall be laid” and substitute “charging document may be filed”.

Subsection (4): omit “to the laying of an information” and add “before a charging document may be filed”.

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Subsection (5): omit “laying of an information” and substitute “filing of a charging document”.

Section 10(4)

Repeal and substitute:

“(4) No one is liable to be punished twice in respect of the same offence.”

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Section 10B

Repeal.

Section 11

Repeal.

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Section 12

Repeal.

New section 19AA

Insert above section 19:

“19AA Meaning of court and Judge in sections 19 to 19F

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In sections 19 to 19F, unless the context otherwise requires,—

“**court** means the High Court

“**Judge** means a High Court Judge.”

Section 19(1)

Omit “on indictment”.

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Section 19

Subsection (4)(b): repeal and substitute:

“(b) sections 248 and 254 of the Criminal Procedure (Reform and Modernisation) Act 2010 and any other relevant provisions of that Act relating to appeals

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Section 19—*continued*

against sentence apply with any necessary modifications.”

Subsection (7): repeal and substitute:

“(7) For the purposes of subsection (6), the outstanding fine or fines imposed by the District Court must be treated as if the fine or fines were imposed by the High Court and, in accordance with subsection (1), Part 3 of the Summary Proceedings Act 1957 applies to the fine or fines, subject to—

“(a) any necessary modifications; and

“(b) the modifications in subsections (2) and (4), but not the modification in subsection (5), if the outstanding fine or fines were imposed in the District Court.”

Section 19C(1)

Omit “on indictment”.

Section 69(3)

Omit “a crime other than murder” and substitute “an offence other than murder punishable by imprisonment for life or by 2 or more years’ imprisonment” and omit “the crime” and substitute “the offence”.

Section 75(1)

Omit “accused” and substitute “defendant”.

Section 78B(1)

Omit “information shall be laid” and substitute “charging document may be filed”.

Omit “laying of an information” and substitute “filing of a charge”.

Section 78C(3)

Omit “accused” and substitute “defendant”.

Section 112

Omit “accused” and substitute “defendant”.

Section 120(1)(ba)

Omit “section 184T(3) of the Summary Proceedings Act 1957” and substitute “**section 174** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 144B

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Subsection (1): omit “information shall be laid” and substitute “charging document may be filed”.

Subsection (2): omit “laying of an information” and substitute “filing of a charging document”.

Section 178(2)

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Omit “accused” and substitute “defendant”.

Section 191(1)

Omit “crime” in each place it appears and substitute in each case “imprisonable offence”.

Section 192(1)

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Omit “crime” in each place it appears and substitute in each case “imprisonable offence”.

Section 198B(1)

Omit “crime” in each place it appears and substitute in each case “imprisonable offence”.

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Section 216M(1)(a)

Omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 231(1)

Omit “a crime” in each place it appears and substitute in each case “an imprisonable offence”.

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Section 243(1)

Insert after “sections” “**243A**”.

Section 243(5)(a) and (b)

Omit “accused” and substitute in each case “defendant”.

New section 243A

Insert after section 243:

“243A Charges for money laundering

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A person charged with an offence against section 243(2) or (3) or section 12B of the Misuse of Drugs Act 1975 in respect of any property that is the proceeds of a serious offence may be charged whether or not the person who committed that serious offence has been charged or convicted or is amenable to justice.”

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Section 312I(2)

Omit “summary”.

Section 312K(2)

Omit “summary”.

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Section 313

Repeal.

Section 314

Repeal.

Section 314D(1)

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Omit “summary”.

Section 317AB(1)

Omit “summary”.

Section 317B(7)

Omit “summary”.

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Sections 321 to 344A and the headings above sections 321, 322, 328, and 344A

Repeal.

Sections 344C to 378F and the headings above sections 345, 351, and 378A

Repeal.

Part 13

Repeal.

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Section 400(1)

Omit “No information” and substitute “No charging document”.

Omit “laid” and substitute “filed”.

Omit “laying of an information” and substitute “filing of a charging document”.

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Section 401

Repeal.

Section 404

Repeal.

Section 406(a)

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Omit “where the person was convicted or sentenced by a District Court acting in its summary jurisdiction or under section 28F(4) of the District Courts Act 1947” and substitute “where the person’s right of appeal against conviction under **section 233** of the **Criminal Procedure (Reform and Modernisation) Act 2010** was to a District Court or the High Court”.

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Section 409

Repeal.

Section 411

Subsection (2): omit “, whether on indictment or on summary prosecution”.

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Subsection (3): omit “read as a reference to an indictment or, as the case may require, to the filing of an indictment in the High Court or in a District Court (as the case may require), or to an indictment filed” and substitute “read as a reference to a charging document or, as the

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Crimes Amendment Bill (No 5)

Section 411—*continued*

case may require, to the filing of a charging document in the District Court, or to a charging document filed”.

Schedule 2

Heading to form 3: omit “accused person” and substitute “defendant”. 5

Form 3, first paragraph: omit “having been committed to” and substitute “am to appear before”.

Form 3, first paragraph: omit “, now desire” and substitute “. I now desire”.

Form 3, third paragraph: omit “accused person” and substitute “defendant”. 10

Form 3: repeal.

Form 4: repeal.

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Legislative history

29 September 2011

Divided from Criminal Procedure (Reform and Modernisation) Bill (Bill 243–2) by committee of the whole House as Bill 243–3E