

# House of Representatives

# Supplementary Order Paper

**Tuesday, 23 June 2015**

## **Harmful Digital Communications Bill**

### *Proposed amendments*

David Seymour, in Committee, to move the following amendments:

#### *Clause 19*

Delete clause 19 (page 16, line 23 to page 18, line 17).

#### *New clause 24A*

After clause 24 (page 23, after line 30), insert:

#### **24A Section 216J amended (Prohibition on publishing, exporting, or selling intimate visual recording)**

After section 216J(1), insert:

- (1A) A person (person A) who takes a visual recording of another person (person B) with person B's knowledge or consent is liable to imprisonment for a term not exceeding 3 years if—
- (a) person A publishes the recording without person B's consent; and
  - (b) the recording is of a kind described in section 216G(1)(a) or (b) and would be an intimate visual recording if taken without person B's knowledge or consent.

### **Explanatory note**

This Supplementary Order Paper amends the Harmful Digital Communications Bill to remove the introduction of a new criminal offence for posting a harmful digital communication with the intention to cause harm. *Clause 19* is problematic as it criminalises conduct online that is not criminal in the non-digital world. *Clause 19* also lacks

the specific reference to the public interest, and other defences available under existing laws.

This Supplementary Order Paper amends the Harmful Digital Communications Bill to extend the intimate covert filming provisions in Part 9A of the Crimes Act 1961. This amendment will criminalise conduct where an intimate recording is taken with consent, but shared online without consent. The wording used to amend section 216J is taken from the Law Commission’s original proposal *2012 Ministerial Briefing Paper, Harmful Digital Communications: The adequacy of the current sanctions and remedies*. This amendment is needed as the current Harmful Digital Communications Bill relies on the “general causing harm” offence in *clause 19* to capture this behaviour.