



## Crimes (Indecency) Amendment Act 2015

Public Act 2015 No 44  
Date of assent 9 April 2015  
Commencement see section 2

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### The Parliament of New Zealand enacts as follows:

#### 1 Title

This Act is the Crimes (Indecency) Amendment Act 2015.

#### 2 Commencement

This Act comes into force on the 28th day after the date on which it receives the Royal assent.

### 3 Principal Act

This Act amends the Crimes Act 1961 (the **principal Act**).

### 4 Section 124 amended (Distribution or exhibition of indecent matter)

Replace section 124(5) with:

- (5) No private prosecution (as defined in section 5 of the Criminal Procedure Act 2011) for an offence against this section can be commenced without the Attorney-General's consent.

### 5 New section 124A inserted (Indecent communication with young person under 16)

After section 124, insert:

#### 124A Indecent communication with young person under 16

- (1) A person of or over the age of 16 years is liable to imprisonment for a term not exceeding 3 years if he or she intentionally exposes a person under the age of 16 years (the **young person**) to indecent material (whether written, spoken, visual, or otherwise, alone or in combination) in communicating in any manner, directly or indirectly, with the young person.
- (2) A reference in subsection (1) to a person under the age of 16 years, or to the young person, includes a reference to a constable (as defined in section 2(1)) who pretends to be a person under the age of 16 years (the **fictitious young person**) if the person charged with an offence against subsection (1), when communicating with the fictitious young person and exposing the fictitious young person to indecent material, believed that the fictitious young person was a person under the age of 16 years.
- (3) It is a defence to a charge under subsection (1) if the person charged proves that,—
  - (a) before communicating with the young person and exposing the young person to the indecent material, the person charged 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 of communicating with the young person and exposing the young person to the indecent material, the person charged believed on reasonable grounds that the young person was of or over the age of 16 years.
- (4) It is no defence to a charge under subsection (1) that the person charged did not know that the material to which the charge relates was indecent, unless the person charged also proves—
  - (a) that the person charged had no reasonable opportunity of knowing it; and
  - (b) that in the circumstances the ignorance of the person charged was excusable.

- (5) No private prosecution (as defined in section 5 of the Criminal Procedure Act 2011) for an offence against this section can be commenced without the Attorney-General's consent.

Compare: Sexual Offences (Scotland) Act 2009, s 24

**6 New section 144AB inserted (Party or accessory liability for sexual acts with children or young people outside New Zealand done by, or involving, foreigner principal parties)**

After section 144A, insert:

**144AB Party or accessory liability for sexual acts with children or young people outside New Zealand done by, or involving, foreigner principal parties**

- (1) A New Zealander is a party under section 66, an accessory after the fact, or both, to a New Zealand sexual offence with a child or young person outside New Zealand if,—
- (a) a sexual act with a child or young person is done or to be done, outside New Zealand, by 1 or more principal parties who are foreigners; and
  - (b) the New Zealander does, outside New Zealand, an act with, or in respect of, the act done or to be done by the 1 or more foreigners; and
  - (c) had both acts been done in New Zealand, the New Zealander would be a party under section 66, an accessory after the fact, or both, to a sexual offence with a child or young person.

- (2) In this section,—

**accessory after the fact** means an accessory after the fact under sections 71 and 312

**foreigner** means a person who—

- (a) is not a New Zealand citizen; and
- (b) is not a person ordinarily resident in New Zealand

**New Zealand sexual offence with a child or young person outside New Zealand** means an offence against section 144A(1)(a), (b), or (c)

**New Zealander** means a person who—

- (a) is a New Zealand citizen; or
- (b) is a person ordinarily resident in New Zealand

**party under section 66** includes a party under that section as extended by section 70

**sexual act with a child or young person** means an act to which section 144A(2), (3), or (4) applies

**sexual offence with a child or young person** means an offence against a section specified in section 144A(2)(a), (b), or (c), (3)(a), (b), or (c), or (4).

(3) This section does not limit or affect section 69(3) or 144C (whether used with, or apart from, section 66).

Compare: Criminal Code Act 1995 Division 272 (Aust); Sexual Offences Act 2003 s 72, Schedule 2 (UK)

### Legislative history

31 March 2015

Divided from Objectionable Publications and  
Indecency Legislation Bill (Bill 124–1) as Bill 124–2C

2 April 2015

Third reading

9 April 2015

Royal assent

This Act is administered by the Ministry of Justice.