

Three Strikes Legislation Repeal Bill

Government Bill

As reported from the committee of the whole House

Three Strikes Legislation Repeal Bill

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Kiritapu Allan

Three Strikes Legislation Repeal Bill

Government Bill

Contents

	Page
1 Title	3
2 Commencement	3
Part 1	
Amendments to Sentencing Act 2002	
3 Principal Act	3
4 Section 4 amended (Interpretation)	3
5 Sections 86A to 86I and cross-heading repealed	3
6 Section 89 amended (Imposition of minimum period of imprisonment)	3
7 Section 102 amended (Presumption in favour of life imprisonment for murder)	3
8 Section 103 amended (Imposition of minimum period of imprisonment or imprisonment without parole if life imprisonment imposed for murder)	3
9 Section 104 amended (Imposition of minimum period of imprisonment of 17 years or more)	3
10 Schedule 1AA amended	4
Part 2	
Amendments to other legislation	
Subpart 1—Amendments to Acts	
<i>Amendment to Arms Act 1983</i>	
11 Principal Act	4
12 Section 22H amended (Persons disqualified from holding firearms licence)	4

Three Strikes Legislation Repeal Bill

	<i>Amendment to Criminal Procedure Act 2011</i>	
13	Principal Act	4
14	Section 180 amended (Court may correct erroneous sentence)	4
	<i>Amendment to Evidence Act 2006</i>	
15	Principal Act	4
16	Section 139 amended (Evidence of convictions, acquittals, and other judicial proceedings)	4
	<i>Amendments to Parole Act 2002</i>	
17	Principal Act	4
18	Section 20 amended (Parole eligibility date)	5
19	Section 84 amended (Non-parole periods)	5
20	Section 86 amended (Release date of sentence)	5
<u>20A</u>	<u>Section 88 amended (Chief executive must determine key dates, etc)</u>	<u>5</u>
	<i>Amendments to Victims' Orders Against Violent Offenders Act 2014</i>	
21	Principal Act	5
22	Section 4 amended (Interpretation)	5
23	Section 5 amended (Meaning of violent offender or offender)	7
24	Section 7 amended (Application for non-contact order)	7
25	Section 18 amended (Discharge of non-contact order by operation of law)	7
	Subpart 2—Amendments to secondary legislation	
	<i>Amendments to Criminal Procedure (Transfer of Information) Regulations 2013</i>	
26	Principal regulations	7
27	Regulation 3 amended (Interpretation)	7
28	Regulation 8A amended (Information about criminal proceedings in VOAVOA proceedings)	7
	<i>Amendment to Legal Services (Quality Assurance) Regulations 2011</i>	
29	Principal regulations	7
30	Schedule amended	8
	<i>Amendments to Sentencing Regulations 2002</i>	
31	Principal regulations	8
31A	Regulation 5 amended (Prescribed forms)	8
32	Schedule amended	8
	Schedule	9
	Schedule 1AA amended	

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Three Strikes Legislation Repeal Act **2021**.

2 Commencement

This Act comes into force on ~~1 July 2022~~ the day after the date of Royal assent. 5

Part 1**Amendments to Sentencing Act 2002****3 Principal Act**

This Part amends the Sentencing Act 2002. 10

4 Section 4 amended (Interpretation)

In section 4(1), definition of **minimum period of imprisonment**, replace “section 86, 86D(4), 86E(4)(a), 89, or 103” with “section 86, 89, or 103”.

5 Sections 86A to 86I and cross-heading repealed

Repeal sections 86A to 86I and the cross-heading above section 86A. 15

6 Section 89 amended (Imposition of minimum period of imprisonment)

Repeal section 89(2A).

7 Section 102 amended (Presumption in favour of life imprisonment for murder)

Repeal section 102(3). 20

8 Section 103 amended (Imposition of minimum period of imprisonment or imprisonment without parole if life imprisonment imposed for murder)

Replace section 103(1) with:

- (1) If a court sentences an offender convicted of murder to imprisonment for life, it must— 25
- (a) order that the offender serve a minimum period of imprisonment under that sentence; or
 - (a) if subsection (2A) applies, make an order under that subsection.

9 Section 104 amended (Imposition of minimum period of imprisonment of 17 years or more)

In section 104(2), replace “section 86E(2)(b) or (4)(a) or 103(2A)” with “section 103(2A)”. 30

10 Schedule 1AA amended

In Schedule 1AA,—

- (a) insert the Part set out in the **Schedule** of this Act as the last Part; and
- (b) make all necessary consequential amendments.

Part 2

5

Amendments to other legislation

Subpart 1—Amendments to Acts

*Amendment to Arms Act 1983***11 Principal Act**

Section 12 amends the Arms Act 1983.

10

12 Section 22H amended (Persons disqualified from holding firearms licence)

Replace section 22H(a)(ii) with:

- (ii) a specified violent offence as defined in section 4 of the Victims' Orders Against Violent Offenders Act 2014:

Amendment to Criminal Procedure Act 2011

15

13 Principal Act

Section 14 amends the Criminal Procedure Act 2011.

14 Section 180 amended (Court may correct erroneous sentence)

Repeal section 180(4)(b).

Amendment to Evidence Act 2006

20

15 Principal Act

Section 16 amends the Evidence Act 2006.

16 Section 139 amended (Evidence of convictions, acquittals, and other judicial proceedings)

Repeal section 139(1)(ba).

25

*Amendments to Parole Act 2002***17 Principal Act**

Sections 18 to 20 amend the Parole Act 2002.

- 18 Section 20 amended (Parole eligibility date)**
Repeal section 20(5) to (8).
- 19 Section 84 amended (Non-parole periods)**
- (1) In section 84(2), replace “section 86, section 86D(4), section 86E(4), section 89, or section 103” with “section 86, 89, or 103”. 5
- (2) Replace section 84(3) with:
- (3) The non-parole period of a sentence of imprisonment for life (other than one in respect of which the court has imposed a minimum term of imprisonment) is 10 years. 10
- (3) Repeal sections 84(3A) and 84(5)(ab). 10
- 20 Section 86 amended (Release date of sentence)**
Repeal section 86(1A).
- 20A Section 88 amended (Chief executive must determine key dates, etc)**
After section 88(3), insert:
- (4) A determination made under this section must be made as if the Three Strikes Legislation Repeal Act 2021 had not been enacted. 15
- Amendments to Victims’ Orders Against Violent Offenders Act 2014*
- 21 Principal Act**
Sections 22 to 25 amend the Victims’ Orders Against Violent Offenders Act 2014. 20
- 22 Section 4 amended (Interpretation)**
- (1) In section 4, definition of **immediate family**, paragraph (a), replace “violent offence” with “specified violent offence”.
- (2) In section 4, definition of **victim**, replace “violent offence” with “specified violent offence” in each place. 25
- (3) In section 4, repeal the definition of **violent offence**.
- (4) In section 4, insert in its appropriate alphabetical order:
specified violent offence means an offence against any of the following provisions of the Crimes Act 1961:
- (1) section 128B (sexual violation): 30
- (2) section 129 (attempted sexual violation and assault with intent to commit sexual violation):
- (3) section 129A(1) (sexual connection with consent induced by threat):
- (4) section 131(1) (sexual connection with dependent family member under 18 years): 35

(5)	section 131(2) (attempted sexual connection with dependent family member under 18 years):	
(6)	section 132(1) (sexual connection with child):	
(7)	section 132(2) (attempted sexual connection with child):	
(8)	section 132(3) (indecent act on child):	5
(9)	section 134(1) (sexual connection with young person):	
(10)	section 134(2) (attempted sexual connection with young person):	
(11)	section 134(3) (indecent act on young person):	
(12)	section 135 (indecent assault):	
(13)	section 138(1) (exploitative sexual connection with person with significant impairment):	10
(14)	section 138(2) (attempted exploitative sexual connection with person with significant impairment):	
(15)	section 142A (compelling indecent act with animal):	
(16)	section 144A (sexual conduct with children and young people outside New Zealand):	15
(17)	section 172 (murder):	
(18)	section 173 (attempted murder):	
(19)	section 174 (counselling or attempting to procure murder):	
(20)	section 175 (conspiracy to murder):	20
(21)	section 177 (manslaughter):	
(22)	section 188(1) (wounding with intent to cause grievous bodily harm):	
(23)	section 188(2) (wounding with intent to injure):	
(24)	section 189(1) (injuring with intent to cause grievous bodily harm):	
(25)	section 191(1) (aggravated wounding):	25
(26)	section 191(2) (aggravated injury):	
(27)	section 198(1) (discharging firearm or doing dangerous act with intent to do grievous bodily harm):	
(28)	section 198(2) (discharging firearm or doing dangerous act with intent to injure):	30
(29)	section 198A(1) (using firearm against law enforcement officer, etc):	
(30)	section 198A(2) (using firearm with intent to resist arrest or detention):	
(31)	section 198B (commission of crime with firearm):	
(32)	section 200(1) (poisoning with intent to cause grievous bodily harm):	
(33)	section 201 (infecting with disease):	35

- (34) section 208 (abduction for purposes of marriage or civil union or sexual connection):
- (35) section 209 (kidnapping):
- (36) section 232(1) (aggravated burglary):
- (37) section 234 (robbery): 5
- (38) section 235 (aggravated robbery):
- (39) section 236(1) (causing grievous bodily harm with intent to rob, or assault with intent to rob in specified circumstances):
- (40) section 236(2) (assault with intent to rob)
- 23 Section 5 amended (Meaning of violent offender or offender)** 10
In section 5(1), replace “violent offence” with “specified violent offence”.
- 24 Section 7 amended (Application for non-contact order)**
In section 7(1), replace “violent offence” with “specified violent offence”.
- 25 Section 18 amended (Discharge of non-contact order by operation of law)**
In section 18(1)(a) and (b), replace “violent offence” with “specified violent offence”. 15

Subpart 2—Amendments to secondary legislation

Amendments to Criminal Procedure (Transfer of Information) Regulations 2013

- 26 Principal regulations** 20
Sections 27 and 28 amend the Criminal Procedure (Transfer of Information) Regulations 2013.
- 27 Regulation 3 amended (Interpretation)**
In regulation 3(1), replace the definition of **violent offence** with:
specified violent offence has the same meaning as in section 4 of the Victims’ Orders Against Violent Offenders Act 2014 25
- 28 Regulation 8A amended (Information about criminal proceedings in VOAVOA proceedings)**
In regulation 8A(3)(a) and (c), replace “violent offence” with “specified violent offence”. 30

Amendment to Legal Services (Quality Assurance) Regulations 2011

- 29 Principal regulations**
Section 30 amends the Legal Services (Quality Assurance) Regulations 2011.

30 Schedule amended

In the Schedule, clause 1(1), definition of **approval level 4 criminal proceedings**, revoke paragraph (c).

Amendments to Sentencing Regulations 2002

31 Principal regulations

5

Sections 31A and 32 amend the Sentencing Regulations 2002.

31A Regulation 5 amended (Prescribed forms)

In regulation 5(2), delete “12B to”.

32 Schedule amended

- (1) In the Schedule, form 7,— 10
- (a) heading, replace “*Sections 86, 86D(4), 86E(4)(a), and 103*” with “*Sections 86 and 103*”; and
 - (b) paragraph 2, delete “*or* I am satisfied that section 86D(4)/86E(4)(a)* of the Sentencing Act 2002 applies to the offender. *Select one.”; and
 - (c) paragraph 3, replace “section 86/86D(4)/86E(4)(a)/103*” with “section 86/103*”. 15
- (2) In the Schedule, form 8, paragraph 2, delete “*or* I am satisfied that section 86D(7) of the Sentencing Act 2002 applies to the offender, and consider that a minimum period of imprisonment of [*specify period*] is appropriate”.
- (3) In the Schedule, revoke forms 12B to 12E. 20
- (4) In the Schedule, form 12F,—
- (aaa) heading, replace “*Sections 86C(4), 86D(3), 86E(2), and 103(2A)*” with “*Sections 86 and 103*”; and
 - (a) paragraph 2, delete “*For this paragraph select the statement that applies. I am satisfied that section 86C(4) of the Sentencing Act 2002 applies to the offender. or I am satisfied that section 86D(3) of the Sentencing Act 2002 applies to the offender. or I am satisfied that section 86E(2) of the Sentencing Act 2002 applies to the offender. or*”; and 25
 - (b) paragraph 3,—
 - (i) replace “section 86C(4)/86D(3)/86E(2)/103(2A)*” with “section 103(2A)”; and 30
 - (ii) delete “*Select one.”.

Schedule Schedule 1AA amended

s 10

Part 4

Provisions relating to Three Strikes Legislation Repeal Act 2021

- 13 Treatment of persons convicted and sentenced before enactment of Three Strikes Legislation Repeal Act 2021** 5
- (1) This clause applies to a person who, before ~~1 July 2022~~ the commencement of the Three Strikes Legislation Repeal Act 2021, was convicted of and sentenced for a stage-2 or stage-3 offence. 10
- (2) ~~If this clause applies,—~~
- (a) ~~the person is not eligible for release or re-sentencing as a consequence of any provision brought into force under the Three Strikes Legislation Repeal Act 2021; and~~
- (b) ~~in the case of calculating the non-parole period of a long-term notional single sentence, a sentence for which an order was made under section 86C(4) or 86D(3) of the Sentencing Act 2002 (as it read immediately before 1 July 2022) must be treated as if the full term of that sentence were the non-parole period of that sentence; and~~ 15
- (c) ~~in the case of a short-term sentence for which an order was made under section 86C(4)(b) of the Sentencing Act 2002 (as it read immediately before 1 July 2022), the release date of that sentence is the expiry date of that sentence (whether or not that sentence was part of a short-term notional single sentence).~~ 20
- (2) If this clause applies, the person is not eligible for release or re-sentencing as a consequence of any provision brought into force under the Three Strikes Legislation Repeal Act 2021. 25
- 14 Treatment of persons convicted or sentenced after enactment of Three Strikes Legislation Repeal Act 2021**
- (1) This clause applies to a person who, on or after ~~1 July 2022~~ the commencement of the Three Strikes Legislation Repeal Act 2021, is convicted of or sentenced for an offence that would have been a stage-2 or stage-3 offence if the Three Strikes Legislation Repeal Act 2021 had not been brought into force. 30
- (2) If this clause applies, in the case of a conflict between section 34 of the Legislation Act 2019 and— 35
- (a) section 6 of the Sentencing Act 2002, section 6 prevails; or
- (b) section 25(g) of the New Zealand Bill of Rights Act 1990, section 25(g) prevails.

15	No entitlement to compensation	
(1)	A person is not entitled to compensation of any kind, on account of any alteration of sentencing rules as a consequence of any provision brought into force under the Sentencing and Parole Reform Act 2010, in respect of the fact that the person—	5
	(a) was charged with, or prosecuted for, the offence; or	
	(b) admitted committing or pleaded guilty to, or was found to have committed, was convicted of, was sentenced for, or had an order or a direction made against the person for, the offence; or	
	(c) served a sentence for, or complied with an order or a direction made against the person because of committing, the offence; or	10
	(d) was required to pay a fine or other money (including costs or any amount by way of restitution or compensation) on account of committing, or being convicted of, or sentenced for, the offence; or	
	(e) incurred any loss, or suffered any consequence (including being sentenced, or otherwise dealt with, as an offender, or as a repeat offender, of any kind), as a result of any circumstance referred to in paragraph (a), (b), (c), or (d) .	15
(2)	Nothing in subclause (1) prevents a person from—	
	(a) being entitled to compensation in respect of anything that occurred while the person was serving a sentence or complying with an order or a direction:	20
	(b) bringing a claim for a breach of their rights under the New Zealand Bill of Rights Act 1990 in respect of being convicted of or sentenced for an offence specified in clause 13(1) .	25
(3)	Nothing in subclause (2)(b) is, or implies, an acknowledgement or a denial that relief (monetary or otherwise) may be available for a breach of the New Zealand Bill of Rights Act 1990 in respect of being convicted of or sentenced for an offence specified in clause 13(1) .	
	Compare: 2010 No 24 s 90(1)(b); 2018 No 7 s 23	30

Legislative history

11 November 2021	Introduction (Bill 79–1)
17 November 2021	First reading and referral to Justice Committee
16 May 2022	Reported from Justice Committee (Bill 79–2)
7 June 2022	Second reading
2 August 2022	Committee of the whole House (Bill 79–3)