

**Legislative Statement
for
Three Strikes Legislation Repeal Bill**

Presented to the House of Representatives

In accordance with Standing Order 272

Legislative Statement for the Three Strikes Legislation Repeal Bill

Introduction

- 1 The Three Strikes Legislation Repeal Bill (the Bill) repeals sections from the Sentencing Act 2002 and the Parole Act 2002 that create what is commonly known as the three strikes law.
- 2 Repealing the law will deliver on a Labour party manifesto commitment.

Background

- 3 The Sentencing and Parole Reform Act 2010 created what is commonly known as the three strikes law.
- 4 Under the three strikes regime, a person convicted of:
 - a) a first specified offence¹ is warned of the consequences if the person is convicted of another specified offence committed after that warning,
 - b) a second specified offence is required to serve any prison sentence in full (i.e. without eligibility for automatic release for short-term sentences or the possibility of parole for long-term sentences) and receives a final warning, and
 - c) a third specified offence is sentenced to the maximum penalty for that offence, and the term of imprisonment must be served without parole unless the Court determines that this would be manifestly unjust.
- 5 The law was intended to deter repeat offenders with the threat of progressively longer mandatory prison terms, and to penalise those who continue to re-offend despite the additional penalties.
- 6 However, there is no clear evidence that the regime has reduced serious offending, and the law has resulted in disproportionate punishment by preventing sentencing judges from taking the circumstances of offending into account. Other sentencing options and orders exist in New Zealand law already which enable judges to impose the same restrictions as provided by the three strikes law, in appropriate cases.

Provisions of the Three Strikes Legislation Repeal Bill

- 7 To effect the repeal, the Bill will repeal sections from the Sentencing Act 2002 and the Parole Act 2002 that create the three strikes law. The Sentencing and Parole Reform Act introduced the term “serious violent offence” into the Sentencing Act. This term has since been referred to in other statutes so will be preserved after the repeal takes effect.

¹ There are 40 qualifying three strike offences, comprising almost all major violent and sexual offences with a maximum penalty of seven years or greater imprisonment, including murder, attempted murder, manslaughter, wounding with intent to cause grievous bodily harm, sexual violation, abduction, kidnapping, and aggravated robbery.

- 8 The Bill does not provide retrospective arrangements for existing strike offenders. That is, the Bill does not contain provisions that would make any offender serving a sentence of imprisonment for a strike offence at the time the repeal legislation takes effect eligible to have that sentence reconsidered.
- 9 However, the Bill is explicit that those who are convicted of or sentenced for an offence that would have been a strike offence prior to the repeal are entitled to the benefit of the lesser penalty.
- 10 The Bill precludes any individual from bringing a claim for compensation for the effects of the three strikes law on their sentence or sentencing process, or for anything that occurred while the person was serving a strike sentence or complying with an order or a direction related to such a sentence. The Bill further provides that this does not prevent individuals from bringing a claim for a breach of their rights under the Bill of Rights Act.

Conclusion

- 11 The Bill will return discretion in sentencing decisions to the judiciary, who are best placed to determine how long a sentence should be and whether (and if so, when) an offender should become eligible for parole.
- 12 The Bill supports the Government's focus on building a justice system that ensures less crime, less offending and fewer victims of crime who are better supported.
- 13 The Bill will also deliver on Labour's 2020 Election Manifesto commitment to repeal the three strikes law.