



## ANALYSIS

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*Identification Evidence*

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1982, No. 46

**An Act to amend the Crimes Act 1961 relating to evidence of identification** *[13 November 1982]*

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Crimes Amendment Act 1982, and shall be read together with and deemed part of the Crimes Act 1961 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 28th day after the date on which it receives the Governor-General's assent.

**2. Heading and 3 new sections (relating to identification evidence) inserted in principal Act**—The principal Act is hereby amended by inserting, after section 344A (as inserted by section 3 (1) of the Crimes Amendment Act 1980), the following heading and sections:

*“Identification Evidence***“344B. Attendance at identification parade voluntary—**

(1) No person charged with an offence shall be compelled to attend an identification parade.

“(2) If any person charged with an offence does attend an identification parade, he shall be entitled to have his solicitor present.

“(3) Where a person charged with an offence has refused to attend an identification parade, no comment adverse to the person charged shall be made thereon.

**“344C. Information relating to identification witness to be supplied to defendant—**(1) In this section ‘identification witness’, in relation to the trial of a person accused of any offence, means a person who claims to have seen the offender in the circumstances of the offence.

“(2) Subject to subsection (3) of this section, at any time after a person has been charged with an offence, the prosecutor shall, on request by or on behalf of that person, supply to that person—

“(a) The name and address of each identification witness known to the prosecutor, whether or not the prosecutor intends to call that witness to give evidence at the trial; and

“(b) A statement of any description of the offender given by each such witness to the Police or the prosecutor; and

“(c) A copy of any identikit picture or other drawing made by any such witness or from information supplied by him.

“(3) A Judge may, on the application of the prosecutor, make an order excusing the prosecutor from disclosing to the defendant any information referred to in subsection (2) (a) of this section if he is satisfied that such an order is necessary to protect the identification witness or any other person.

**“344D. Jury to be warned where principal evidence relates to identification—**(1) Where in any proceedings before a jury the case against the accused depends wholly or substantially on the correctness of one or more visual identifications of him, the Judge shall warn the jury of the special need for caution before finding the accused guilty in reliance on the correctness of any such identification.

“(2) The warning need not be in any particular words but shall—

- “(a) Include the reason for the warning; and
  - “(b) Alert the jury to the possibility that a mistaken witness may be convincing; and
  - “(c) Where there is more than one identification witness, advert to the possibility that all of them may be mistaken.”
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This Act is administered in the Department of Justice.

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