



ANALYSIS

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1993, No. 46

An Act to amend the Crimes Act 1961

[23 June 1993]

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Crimes Amendment Act (No. 2) 1993, 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 1st day of September 1993.

2. Penalty for sexual violation—Section 128B of the principal Act (as substituted by section 2 of the Crimes Amendment Act (No. 3) 1985) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Everyone who commits sexual violation is liable to imprisonment,—

“(a) In the case of an offence against section 128 (1) (a) of this Act, for a term not exceeding 20 years;

“(b) In the case of an offence against section 128 (1) (b) of this Act, for a term not exceeding 14 years.”

3. New sections inserted—The principal Act is hereby amended by inserting, after section 317, the following sections:

“317A. **Power to stop vehicles**—(1) Any member of the Police who—

“(a) Has reasonable grounds to suspect that there is in or on any vehicle any person who either—

“(i) Is unlawfully at large; or

“(ii) Has committed an offence punishable by imprisonment; and

“(b) Either—

“(i) Is wearing a uniform or a distinctive cap, hat, or helmet with a badge of authority affixed thereto; or

“(ii) Is following immediately behind the vehicle in a motor vehicle displaying flashing blue lights, or flashing blue and red lights, and sounding a siren—
may stop the vehicle for the purpose of arresting that person.

“(2) A person driving a vehicle shall stop the vehicle as soon as is practicable on being required to do so by a member of the Police exercising the power conferred by subsection (1) of this section.

“(3) Subject to subsections (4) and (5) of this section, where any vehicle is stopped pursuant to subsection (1) of this section, any member of the Police may do all or any of the following:

“(a) Require any person in or on any such vehicle to state his or her name and address or other particulars as to the person’s identity:

“(b) Search the vehicle for the purpose of locating a person referred to in subsection (1) (a) of this section, if the member or any other member of the Police believes on reasonable grounds that the person is in or on the vehicle:

“(c) Use reasonable force to enter a vehicle for the purpose of locating a person referred to in subsection (1) (a) of this section, if the member or any other member of the Police believes on reasonable grounds that such a person is present in the vehicle:

“(d) Require that the vehicle remain stopped for as long as is reasonably necessary to enable a member of the Police to exercise any powers conferred by this subsection, regardless of whether such powers are exercised in respect of—

“(i) The vehicle; or

“(ii) The occupants of the vehicle.

“(4) Every member of the Police exercising any power conferred by subsection (1) of this section shall, immediately after the vehicle has stopped, identify himself or herself to the driver of the vehicle, tell the driver that the power is being exercised under this section, and, if not in uniform and if so

required, produce evidence that he or she is a member of the Police.

“(5) No member of the Police acting under subsection (1) of this section is entitled to request any person to state particulars as to the person’s identity other than the person’s full name and address, unless the member of the Police has reasonable grounds to suspect that the name or address stated by the person is false.

“(6) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who, without reasonable excuse,—

“(a) Fails to stop as soon as is practicable when required to do so by a member of the Police exercising the power conferred by subsection (1) of this section; or

“(b) Fails to comply with a requirement made by a member of the Police under paragraph (a) or paragraph (d) of subsection (3) of this section.

“(7) Where a motor vehicle fails to stop at a road block established under section 317B of this Act, subsection (1) of this section shall be deemed to apply and any member of the Police may, in relation to that vehicle and any person in or on it, exercise all or any of the powers conferred by this section.

“(8) For the purposes of this section, the term ‘unlawfully at large’, in relation to any person, includes (but is not limited to) any case where a warrant for the arrest of that person is for the time being in force.

Cf. 1961, No. 43, s. 202B; 1981, No. 113, s. 48 (1); Road Traffic Act 1988 (U.K.), s. 163

“317B. **Road blocks**—(1) Where any senior member of the Police (holding a rank not lower than sergeant) has reasonable grounds to suspect that there is in or on any vehicle any person who—

“(a) Has committed an offence punishable by a term of imprisonment of 7 years or more; or

“(b) Is unlawfully at large,—
that senior member of the Police may authorise the establishment of a road block for the purpose of arresting that person if he or she—

“(c) Has reasonable grounds to suspect that the vehicle may travel past the place where it is proposed that the road block be established; and

“(d) Is satisfied that as far as is reasonably practicable the safety of all road users will be ensured in the area in which the road block is established.

“(2) An authorisation under this section—

“(a) Shall operate for an initial period not exceeding 24 hours, specified by the person giving the authorisation:

“(b) May be renewed from time to time by a District Court Judge for such further period not exceeding 24 hours as the Judge may specify in writing.

“(3) An authorisation may be granted under this section orally or in writing, but in every case the person giving the authorisation shall keep or cause to be kept a written record of the following matters:

“(a) The place at which the establishment of a road block was authorised:

“(b) The period or periods for which the authorisation was granted or renewed:

“(c) The grounds on which the authorisation was granted or renewed.

“(4) Subject to subsections (5) and (6) of this section, where a road block is authorised under this section, any member of the Police may do all or any of the following:

“(a) Establish a road block at the place or places specified in the authorisation:

“(b) Stop vehicles at or in the vicinity of the road block:

“(c) Require any person in or on any such vehicle to state his or her full name and address or other particulars as to the person’s identity:

“(d) Search the vehicle for the purpose of locating a person referred to in paragraph (a) or paragraph (b) of subsection (1) of this section, if the member or any other member of the Police believes on reasonable grounds that the person is in or on the vehicle:

“(e) Use reasonable force to enter a vehicle for the purpose of locating a person referred to in paragraph (a) or paragraph (b) of subsection (1) of this section, if the member or any other member of the Police believes on reasonable grounds that such a person is in the vehicle:

“(f) Require that the vehicle remain stopped for as long as is reasonably necessary to enable a member of the Police to exercise any powers conferred by this subsection, regardless of whether such powers are exercised in respect of—

“(i) The vehicle; or

“(ii) The occupants of the vehicle.

“(5) Every member of the Police exercising the power conferred by any of paragraphs (b) to (f) of subsection (4) of this section shall identify himself or herself to the driver of the vehicle, tell the driver that the power is being exercised under this section, and, if not in uniform and if so required, produce evidence that he or she is a member of the Police.

“(6) No member of the Police acting under subsection (4) of this section is entitled to request any person to state particulars as to the person’s identity other than the person’s full name and address, unless the member of the Police has reasonable grounds to suspect that the name or address stated by the person is false.

“(7) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who, without reasonable excuse,—

“(a) Fails to stop, as soon as is practicable, when required to do so by a member of the Police exercising the power conferred by subsection (4) (b) of this section; or

“(b) Fails to comply with a requirement made by a member of the Police under paragraph (c) or paragraph (f) of subsection (4) of this section.

“(8) For the purposes of this section, ‘road block’ means any form of barrier or obstruction preventing or limiting the passage of vehicles.

“(9) For the purposes of this section, a person is not unlawfully at large by reason only of the fact that a warrant for the arrest of that person is for the time being in force.

Cf. Police and Criminal Evidence Act 1984 (U.K.), s. 4”

4. Right of appeal in certain cases—Section 379A (1) of the principal Act (as inserted by section 8 (1) of the Crimes Amendment Act 1966) is hereby amended by inserting, after paragraph (b), the following paragraph:

“(ba) Against the making of an order under paragraph (a) or paragraph (b) of section 138 (2) or section 140 of the Criminal Justice Act 1985, or the refusal to make any such order:”.

5. Amendments to District Courts Act 1947—(1) Section 28E of the District Courts Act 1947 (as inserted by section 9 of the District Courts Amendment Act 1980) is hereby amended by inserting, after subsection (2A) (as substituted by section 2 of the District Courts Amendment Act (No. 2) 1991), the following subsection:

“(2B) Where a Court makes an order under paragraph (a) or paragraph (b) of section 138 (2) or section 140 of the Criminal Justice Act 1985 or refuses to make any such order, either the prosecutor or the applicant may appeal to the High Court against the making of that order or refusal; and the provisions of section 115C of the Summary Proceedings Act 1957, as far as they are applicable and with all necessary modifications, shall apply accordingly.”

(2) Schedule 1A to the District Courts Act 1947 (as inserted by section 20 of the District Courts Amendment Act 1991) is hereby amended by inserting in Part I, in its appropriate numerical order, the following item:

“105B Use or disclosure of personal information disclosed in breach of section 105A”.

6. Amendment to Police Act 1958—The Police Act 1958 is hereby amended by adding to section 65 (as amended by section 4 of the Crimes Amendment Act 1979) the following subsection:

“(4) The Commissioner shall include in every annual report prepared by him or her for the purposes of this section—

“(a) The number of road blocks authorised pursuant to section 317B of the Crimes Act 1961 during the period in review; and

“(b) The reason for each authorisation; and

“(c) The number of persons (if any) arrested as a result of the authorisation.”

This Act is administered in the Department of Justice.
