



Crimes and Misconduct (Overseas Operations) Act 2004

Public Act 2004 No 17
Date of assent 5 April 2004
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Crimes and Misconduct (Overseas Operations) Act 2004.

Part 1 **Preliminary provisions**

- 2 Commencement**
This Act is deemed to have come into force on 24 July 2003.
- 3 Purpose**
The purpose of this Act is to—
- (a) ensure that members of the police and other persons serving in overseas operations involving peacekeeping,

the maintenance or restoration of law and order or functioning government institutions, or similar activities, are subject to the jurisdiction of New Zealand Courts for offences against New Zealand law committed overseas, unless there is good reason why they should not be subject to that jurisdiction:

- (b) ensure that members of the police engaged in such operations are subject to the disciplinary processes that apply to members of the police in New Zealand.

4 Interpretation

In this Act, unless the context otherwise requires,—

member of the police includes a non-sworn member of the police

Minister means the Minister of Police

overseas operations force—

- (a) means any group of persons that, before, on, or after the commencement of this Act, is authorised or required by the Government of New Zealand to participate in duties overseas involving peacekeeping, the maintenance or restoration of law and order or functioning government institutions, or similar activities (whether or not in conjunction with personnel from 1 or more other countries); but
- (b) does not include any member of the police who is part of a United Nations force and to whom the United Nations (Police) Act 1964 applies.

Part 2

Jurisdiction over police and civilian members of overseas operations force

5 Jurisdiction over police and civilian members of overseas operations force

- (1) This section applies to any member of the police or any other person who is not a member of the armed forces while that member of the police or that other person—
 - (a) is a member of an overseas operations force; and
 - (b) is outside New Zealand.

- (2) If any person to whom this section applies does, or omits to do, any act outside New Zealand (whether or not the act or omission concerned constitutes an offence under the laws in force in the place where it took place) that if done or omitted within New Zealand would constitute an offence, that act or omission is deemed to have taken place within New Zealand unless—
- (a) the person is subject to the criminal jurisdiction of the place in which the act or omission took place; and
 - (b) the authorities in that place—
 - (i) are not subject to any obligation to cede jurisdiction to the New Zealand authorities in respect of that act or omission; and
 - (ii) bring criminal proceedings against the person in that place.
- (3) No information may be laid against any person over whom jurisdiction is claimed by virtue of subsection (2) without the consent of the Attorney-General.

Compare: 1961 No 43, s 8A(2), (3); 1964 No 1 ss 3, 4

6 Powers of arrest and detention

- (1) Subsection (2) applies to any offence in respect of which the laying of an information requires the consent of the Attorney-General under section 5(3).
- (2) If any person is alleged to have committed an offence to which this subsection applies,—
- (a) the person may be arrested without warrant within or outside New Zealand; or
 - (b) a warrant for the person's arrest may be issued in New Zealand and executed within or outside New Zealand,—
- and the person may be detained in custody within or outside New Zealand or, if the person is in, or has been taken to, New Zealand, remanded in custody or on bail, even though the consent of the Attorney-General has not been obtained to the laying of an information in respect of that offence; but no further proceedings may be taken until that consent has been obtained.
- (3) The provisions of the Crimes Act 1961 relating to arrest apply in respect of the arrest of any person referred to in subsection

(2) for any act or omission to which section 5 applies, in all respects as if the act or omission had occurred in New Zealand.

- (4) Any person arrested outside New Zealand may be detained in custody outside New Zealand for as long as is reasonably necessary to enable the person to be taken to New Zealand.

Compare: 1961 No 43 s 8A(4), (5); 1964 No 1 s 5(1)

7 Misconduct or neglect of duty

If any member of the police does or omits to do any act, and that act or omission would, if it occurred in New Zealand, be misconduct or neglect of duty for the purposes of the Police Act 1958 or any regulations made under that Act,—

- (a) the member may be investigated and, if appropriate, proceeded against under that Act or those regulations by way of disciplinary action and punished, in the same manner in all respects as if the act or omission had occurred in New Zealand; and
- (b) for that purpose, the Police Act 1958 and any regulations made under that Act apply with any necessary modifications.

Compare: 1964 No 1 s 6

8 Saving of jurisdiction

Nothing in this Act limits or affects the provision of any enactment or rule of law relating to the liability of persons in respect of acts done or omitted beyond New Zealand.

Compare: 1964 No 1 s 7

Legislative history

29 July 2003	Introduction (Bill 68-1)
5 August 2003	First reading and referral to Foreign Affairs, Defence and Trade Committee
21 October 2003	Reported from Foreign Affairs, Defence and Trade Committee (Bill 68-2)
17 February 2004	Second reading
30 March 2004	Committee of the whole House, third reading
5 April 2004	Royal assent

This Act is administered in the Police Department.
