

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

House of Representatives, 6 November 1979

Words struck out are shown in italics within bold round brackets; words inserted are shown in roman underlined with a double rule.

Hon. Mr McLay

CRIMES AMENDMENT (NO. 2)

ANALYSIS

Title
1. Short Title

| 2. Internal search of person under
arrest

A BILL INTITULED

An Act to amend the (*Crimes Act 1961*) Misuse of Drugs Act 1975

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

10 1. **Short Title**—This Act may be cited as the (*Crimes Amendment Act (No. 2) 1979*), Misuse of Drugs Amendment Act (No. 2) 1979, and shall be read together with and deemed part of the (*Crimes Act 1961**) Misuse of Drugs Act 1975 (hereinafter referred to as the principal Act).

2. **Internal search of person under arrest**—The principal Act is hereby amended by inserting, after section (316) 18, the following section:

*R.S. Vol. 1, p. 635
Amendment: 1979, No. 5

No. 98—2

“(316A) 18A—(1) Notwithstanding anything in section 57A of the Police Act 1958 or any other enactment or rule of law to the contrary, no member of the Police shall (*except with the consent of the person concerned*) conduct an internal search of any part of the body of any person nor, except in accordance with subsection (2) of this section, shall he cause any other person to conduct such a search: 5

“Provided that, with the consent of the person concerned, a member of the Police may search that person’s mouth.

“(2) Where any person (in this subsection referred to as the suspect) is arrested for any offence against section 6 or section 7 or section 11 of this Act, a (*member*) commissioned officer or non-commissioned officer of the Police who has reasonable (*cause to suspect*) ground for believing that the suspect has secreted within his body any (*money or*) property that may be evidence of the offence with which the suspect is charged, or any (*money or*) property the possession of which by the suspect constitutes (*an offence*) any other offence against any of the said provisions, may require the suspect to permit a medical practitioner, nominated for the purpose by the (*member of Police*) officer, to conduct an internal examination of any part of the suspect’s body by means of an X-ray machine or other similar device, or by means of a manual or visual examination (whether or not facilitated by any instrument or device) through any body orifice. 15 20 25

“(3) Notwithstanding anything in subsection (2) of this subsection or the terms of any requirement made under that section, no medical practitioner shall conduct any such internal examination if he considers that to do so may be prejudicial to the suspect’s health, or if he is satisfied that the suspect is not prepared to permit an internal examination to be conducted. 30

“(4) Notwithstanding anything in the Summary Proceedings Act 1957 or this Act, where the suspect fails to (*comply with any requirement made under subsection (1) of*) permit an internal examination to be conducted under this section and subsequently applies for bail, the Court may (without limiting its discretion to refuse bail) decline to consider the 35

application until the expiry of 2 days after the day on which the requirement to do so was made or until the suspect sooner *(complies with the requirement)* permits such an examination to be conducted, if the Court is satisfied that

5 the requirement was properly made on reasonable grounds; and, in any such case, the Court may order that the suspect shall continue to be detained in police custody until the expiry of that period or until *(that sooner compliance)* the suspect sooner complies, as the case may be.”