

Crimes (Repeal of Seditious Offences) Amendment Bill

Government Bill

Explanatory note

This Bill implements the recommendations of the Law Commission in its report of March 2006, *Reforming the Law of Sedition* (NZLC R 96).

The Law Commission was asked to review the seditious offences set out in sections 81 to 85 of the Crimes Act 1961, and make any recommendations for reform that it considered to be necessary and desirable.

The Commission concluded in its report that the seditious offences are overly broad and uncertain. They infringe on the principle of freedom of expression, and have the potential for abuse—a potential that has been realised in some periods of New Zealand history, when these offences have been used to stifle or punish political speech.

The Law Commission report recommended that sections 81 to 85 of the Crimes Act 1961, which contain the seditious offences, should be repealed. Nothing should replace them. To the extent that conduct that would be covered by the existing sedition provisions needs to be punished, it can be more appropriately dealt with by other provisions of the criminal law. Abolishing sedition will better protect the values of democracy and free speech.

In summary, 5 principal reasons were advanced in the report for repealing the sedition provisions of the Crimes Act 1961:

- the legal profile of the offence is broad, variable, and uncertain. The meaning of “sedition” has changed over time;
- as a matter of policy, the present law invades the democratic value of free speech for no adequate public reason;

- specifically, the present law falls foul of the New Zealand Bill of Rights Act 1990:
- the seditious offences can be inappropriately used to impose a form of political censorship, and they have been used for this purpose:
- the law is not needed because those elements of it that should be retained are more appropriately covered by other offences.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on 1 January 2008.

Clause 3 states that this Act amends the Crimes Act 1961 (the **principal Act**).

Part 1 Amendments to principal Act

Clause 4 repeals the heading above section 80 of the principal Act and substitutes a new heading.

Clause 5 repeals sections 81 to 85 of the principal Act (the seditious offences provisions).

Part 2 Amendments to other enactments

Clause 6 repeals the references in Schedule 1A of the District Courts Act 1947 to the Crimes Act 1961 provisions repealed by this Bill.

Hon Mark Burton

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Crimes (Repeal of Seditious Offences) Amendment Act **2007**.
- 2 Commencement**
This Act comes into force on 1 January 2008. 5
- 3 Principal Act amended**
This Act amends the Crimes Act 1961.

Part 1**Amendments to principal Act****4 New heading substituted**

The heading above section 80 is repealed and the following heading substituted: "*Offence of oath to commit offence*".

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5 Sections 81 to 85 repealed

Sections 81 to 85 are repealed.

Part 2**Amendments to other enactments****6 District Courts Act 1947 amended**

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(1) This section amends the District Courts Act 1947.

(2) The items relating to sections 82 to 85 of the Crimes Act 1961 in Part 1 of Schedule 1A are repealed.

