

# **Crimes Amendment Act (No 2) 2003**

Public Act    2003 No 105  
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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Crimes Amendment Act (No 2) 2003.
- (2) In this Act, the Crimes Act 1961 is called “the principal Act”.

**2 Commencement**

- (1) Sections 3 to 6 come into force on a date to be appointed by the Governor-General by Order in Council; and—
  - (a) one or more Orders in Council may appoint different dates for different provisions; and
  - (b) in the case of a provision inserting or substituting 2 or more provisions in an Act other than this Act, one or more Orders in Council may appoint different dates for different provisions inserted or substituted.
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

**3 Extraterritorial jurisdiction in respect of certain offences with transnational aspects**

Section 7A(1) of the principal Act is amended—

- (a) by inserting, after the words “proceedings may be brought for”, the words “any offence against this Act committed in the course of carrying out a terrorist act (as defined in section 5(1) of the Terrorism Suppression Act 2002) or” ; and
- (b) by omitting the words “or section 257A”, and substituting the words “section 257A, section 298A, or section 298B”.

**4 Attorney-General's consent required where jurisdiction claimed under section 7A**

- (1) Section 7B(1) of the principal Act is amended by omitting the words “or section 257A”, and substituting the words “section 257A, section 298A, or section 298B”.
- (2) Section 7B of the principal Act is amended by adding the following subsection:  
“(3) Proceedings for an offence against this Act committed in the course of carrying out a terrorist act (as defined in section 5(1) of the Terrorism Suppression Act 2002) cannot be brought in a New Zealand court against a person without the Attorney-General's consent, if jurisdiction over the person is claimed solely by virtue of section 7A.”

**5 New sections 298A and 298B inserted**

The principal Act is amended by inserting, after section 298, the following sections:

**“298A Causing disease or sickness in animals**

- “(1) Every one is liable to imprisonment for a term not exceeding 10 years who, without lawful justification or reasonable excuse, directly or indirectly causes or produces in an animal a disease or sickness that causes a situation of a kind described in subsection (2) to occur, either—
  - “(a) intending a situation of that kind to occur; or
  - “(b) being reckless as to whether a situation of that kind occurs.
- “(2) A situation of a kind referred to in subsection (1) is a situation that—
  - “(a) constitutes a serious risk to the health or safety of an animal population; and
  - “(b) is likely, directly or indirectly, to cause major damage to the national economy of New Zealand.

**“298B Contaminating food, crops, water, or other products**

Every one is liable to imprisonment for a term not exceeding 10 years who contaminates food, crops, water, or any other products, without lawful justification or reasonable excuse, and either knowing or being reckless as to whether the food,

crops, water, or products are intended for human consumption, and—

- “(a) intending to harm a person or reckless as to whether any person is harmed; or
- “(b) intending to cause major economic loss to a person or reckless as to whether major economic loss is caused to any person; or
- “(c) intending to cause major damage to the national economy of New Zealand or reckless as to whether major damage is caused to the national economy of New Zealand.”

#### **6 New section 307A inserted**

The principal Act is amended by inserting, after section 307, the following section:

##### **“307A Threats of harm to people or property**

- “(1) Everyone is liable to imprisonment for a term not exceeding 7 years if, without lawful justification or reasonable excuse, and intending to achieve the effect stated in subsection (2), he or she—
  - “(a) threatens to do an act likely to have one or more of the results described in subsection (3); or
  - “(b) communicates information—
    - “(i) that purports to be about an act likely to have one or more of the results described in subsection (3); and
    - “(ii) that he or she believes to be false.
- “(2) The effect is causing a significant disruption of one or more of the following things:
  - “(a) the activities of the civilian population of New Zealand;
  - “(b) something that is or forms part of an infrastructure facility in New Zealand;
  - “(c) civil administration in New Zealand (whether administration undertaken by the Government of New Zealand or by institutions such as local authorities, District Health Boards, or boards of trustees of schools);
  - “(d) commercial activity in New Zealand (whether commercial activity in general or commercial activity of a particular kind).

- “(3) The results are—
- “(a) creating a risk to the health of one or more people:
  - “(b) causing major property damage:
  - “(c) causing major economic loss to one or more persons:
  - “(d) causing major damage to the national economy of New Zealand.
- “(4) To avoid doubt, the fact that a person engages in any protest, advocacy, or dissent, or engages in any strike, lockout, or other industrial action, is not, by itself, a sufficient basis for inferring that a person has committed an offence against subsection (1).”

## 7 Interpretation

Section 312A(1) of the principal Act is amended by adding the following definition:

“**terrorist offence** means an offence against any of sections 7, 8, 9, 10, 12, 13, and 13A of the Terrorism Suppression Act 2002.”

## 8 New sections 312CC and 312CD inserted

The principal Act is amended by inserting, after section 312CB, the following sections:

### “312CC Application by police for warrant to intercept private communications relating to terrorist offences

- “(1) An application may be made to a Judge of the High Court for a warrant for any member of the police to intercept a private communication by means of an interception device if there are reasonable grounds for believing—
- “(a) that a terrorist offence has been committed, or is being committed, or is about to be committed; and
  - “(b) if the offence has yet to be committed, that the use of an interception device to intercept private communications is likely to prevent its commission; and
  - “(c) that it is unlikely that without the granting of such a warrant the police investigation of the case can be brought to a successful conclusion or, as the case may be, the commission of the offence can be prevented.
- “(2) The application must be made by a commissioned officer of the police, in writing and on oath, and must set out the following particulars:

- “(a) a statement of the facts relied on to show that there are reasonable grounds for believing—
  - “(i) that a terrorist offence has been committed, or is being committed, or is about to be committed; and
  - “(ii) if the offence has yet to be committed, that the use of an interception device to intercept private communications is likely to prevent its commission; and
- “(b) a description of how it is proposed to intercept private communications; and
- “(c) either,—
  - “(i) if they are known, the name and address of the suspect the interception of whose private communications there are reasonable grounds for believing will assist the police investigation of the case or (as the case may be) prevent the commission of a terrorist offence; or
  - “(ii) if the name and address of the suspect are not known, a general description of the premises or place in respect of which it is proposed to intercept private communications, being premises or a place believed to be used for any purpose by a person—
    - “(A) who it is believed has committed, or is committing, or is about to commit, a terrorist offence; or
    - “(B) who it is believed was involved, or is involved, or will be involved, in the commission of the offence; and
- “(d) a statement of the period for which the warrant is requested; and
- “(e) whichever of the following is applicable:
  - “(i) both—
    - “(A) a general description of the investigative procedures and techniques that have been tried, but have failed to enable the police to conclude their investigation of the case successfully or (as the case may be) failed

- to help prevent the commission of the offence; and
- “(B) a statement of why those procedures and techniques have failed:
- “(ii) a statement of why it appears that investigative procedures and techniques other than the interception of private communications—
  - “(A) are unlikely to enable the police to conclude their investigation of the case successfully or (as the case may be) to help prevent the commission of the offence, or
  - “(B) are likely to be too dangerous to adopt in the particular case:
- “(iii) a statement of why the case is considered so urgent that it would be impracticable for the police to carry out their investigation using only investigative procedures and techniques other than the interception of private communications.

**“312CD Matters of which Judge must be satisfied in respect of applications relating to terrorist offences**

- “(1) A Judge may grant an interception warrant on an application under section 312CC if satisfied that it is in the best interests of the administration of justice to do so, and—
  - “(a) that there are reasonable grounds for believing,—
    - “(i) that a terrorist offence has been committed, or is being committed, or is about to be committed; and
    - “(ii) if the offence has yet to be committed, that the use of an interception device to intercept private communications is likely to prevent its commission; and
  - “(b) that there are reasonable grounds for believing—
    - “(i) that evidence relevant to the investigation of the case will be obtained through the use of an interception device to intercept private communications; or
    - “(ii) if the offence has yet to be committed, that evidence relevant to the prevention of the offence

- will be obtained through the use of an interception device to intercept private communications; and
- “(c) whichever of the following is applicable:
- “(i) that investigative procedures and techniques other than the interception of private communications have been tried, but have failed to enable the police to conclude their investigation of the case successfully or (as the case may be) failed to help prevent the commission of the offence; and
- “(ii) that investigative procedures and techniques other than the interception of private communications—
- “(A) are unlikely to enable the police to conclude their investigation of the case successfully or (as the case may be) to help prevent the commission of the offence, or
- “(B) are likely to be too dangerous to adopt in the particular case:
- “(iii) that the case is so urgent that it would be impracticable for the police to carry out their investigation using only investigative procedures and techniques other than the interception of private communications; and
- “(d) that the private communications proposed to be intercepted are not likely to be privileged in proceedings in a court of law by virtue of Part 3 of the Evidence Amendment Act (No 2) 1980 or of any rule of law that confers privilege on communications of a professional character between a barrister or solicitor and a client.
- “(2) In determining whether or not the granting of an interception warrant under subsection (1) is in the best interests of the administration of justice, the Judge must consider the extent to which the privacy of any person or persons would be likely to be interfered with by the interception of private communications under it.
- “(3) Subsection (2) does not limit subsection (1).”



**9 New section 312N substituted**

The principal Act is amended by repealing section 312N, and substituting the following section:

**“312N Restriction on admissibility of evidence of private communications lawfully intercepted**

Even if the communication was intercepted under an interception warrant or an emergency permit, evidence of a private communication intercepted by means of an interception device, or of its substance, meaning, or purport, may not be given in any court unless the evidence relates to—

- “(a) a specified offence; or
- “(b) a conspiracy to commit a specified offence; or
- “(c) a terrorist offence; or
- “(d) a conspiracy to commit a terrorist offence; or
- “(e) a serious violent offence; or
- “(f) a conspiracy to commit a serious violent offence; or
- “(g) a drug dealing offence (as that term is defined in section 10 of the Misuse of Drugs Amendment Act 1978); or
- “(h) a prescribed cannabis offence (as that term is defined in section 10 of the Misuse of Drugs Amendment Act 1978); or
- “(i) offences of 2 or more of those kinds.”

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**Legislative history**

21 October 2003

Divided from Counter-Terrorism Bill (Bill 27-2),  
third reading

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