

CROWN LAW

STATUTORY OFFENCES REQUIRING
THE CONSENT OF THE
ATTORNEY-GENERAL

As at 1 July 2013

STATUTORY OFFENCES
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Antarctica Act 1960	s 3	Offences in Ross Dependency or any part of Antarctica other than the Ross Dependency not within the jurisdiction of any country committed by a New Zealand citizen or a person ordinarily resident in New Zealand.
Antarctica (Environment) Protection Act 1994	s 6	Contravention of the Act by a person not a New Zealand citizen or ordinarily resident in New Zealand, where contravention of the Act occurs anywhere in Antarctica outside the Ross Dependency or on a ship or aircraft that is not a New Zealand ship or aircraft.
Armed Forces Discipline Act 1971	s 74	Offences against the civil law of New Zealand where a person subject to the Act may not be tried by Court Martial for an offence against the section alleged to have been committed in New Zealand if the corresponding civil offence is treason, murder, manslaughter, sexual violation, or bigamy.
Aviation Crimes Act 1972	s 18	To prosecute for – <ul style="list-style-type: none"> s 3 Hijacking s 4 Acts committed in connection with hijacking. s 5 Other offences, e.g. violence on board an aircraft. s 5A Violence occurring in international airports. s 11 Taking firearms/explosives on aircraft.
Civil Aviation Act 1990	s 65D	Commencing proceedings for an unruly passenger offence committed on a foreign aircraft outside of New Zealand.
Chemical Weapons (Prohibition) Act 1996	s 5	Extraterritorial application to offences under Part 2 of the Act extending to acts done or omitted to be done outside New Zealand by any New Zealand citizen or person resident in New Zealand or by any other person on board any New Zealand ship or aircraft. Consent required to prosecute for –

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	s 6	Chemical Weapons.
	s 7	Forfeiture of chemical weapons.
	s 8	Riot control agents.
	s 9	Toxic chemicals contained in Schedule 1.
	s 10	Import and export of toxic chemicals and precursors.
	s 11	Application of Customs and Excise Act 1996.
Children, Young Persons & Their Families Act 1989	s 446B	The Attorney-General must be consulted before proceedings commenced against person for offences under s 446B of the Act which relate to a child subject to certain protection orders or proceedings under Part 3A of the Act; where the offending under s 446 is alleged to have occurred partly or wholly outside New Zealand, and for which the offender has not been prosecuted in the place of the offence.
Companies (Bond Holders Incorporation) Act 1934 to 1935	s 3	Statements requiring to be delivered to Registrar of Companies by bond issuing companies.
Continental Shelf Act 1964	s 7	Application of criminal and civil law relates to acts about installations or devices associated with the continental shelf in connection with the exploration of the continental shelf or the exploitation of its natural resources acts deems such acts to have taken place in New Zealand.
Cook Islands Act 1915	s 155	Prosecution of offences committed in the Cook Islands by offenders found in New Zealand, where the offence is provided for by the laws of the Cook Islands; the criminal jurisdiction of the High Court of New Zealand to be exercised as if the offence were committed in New Zealand.

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Crimes Act 1961

- s 7B Extraterritorial jurisdiction claimed under s 7A over NZ citizens charged with certain offences: people smuggling, migrant trafficking, sexual exploitation, money-laundering etc and any Crimes Act offence committed in the course of carrying out a “terrorist act” under the Terrorism Suppression Act.
- ss 8 & 400 Jurisdiction in respect of offences punishable by two or more years imprisonment allegedly committed on ships or aircraft beyond New Zealand.
- s 8A Extraterritorial jurisdiction in respect of certain persons subject to diplomatic or consular immunity or family member, staff member or State Sector employee for alleged offending of crimes punishable in NZ by more than one year’s imprisonment.
- s 78B Attorney-General’s consent required for prosecution of espionage (s 78), wrongful communication, retention or copying of official information with intent to prejudice the security or defence of New Zealand (s 78A).
- s 106 Attorney-General’s consent required for prosecution of:
- s 100 Judicial corruption.
 - s 101 Bribery of judicial officer.
 - s 104 Corruption and bribery of law enforcement officer.
 - s 105 Corruption and bribery of an official.
 - s 105A Corrupt use of official information.
 - s 105B Use or disclosure of personal information disclosed in breach of s 105A.
 - s 105C Bribery of foreign public official.
 - s 105D Bribery outside New Zealand of foreign public official.

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	s 123	Blasphemous libel.
	s 124	Distribution or exhibition of indecent matter.
	s 144B	Sexual conduct with children and young persons outside New Zealand under s 144A.
	s 230	Taking, obtaining or copying trade secrets.
Criminal Procedure Act 2011	s 25	Consent of the Solicitor-General required to file a charging document for certain category 1, 2 and 3 offences more than 5 years after their commission.
	s 151	Consent of the Solicitor-General is required before a prosecutor can apply to the High Court for a retrial order on the basis of a tainted acquittal.
	S 153	Consent of the Solicitor-General required before a constable may exercise certain powers in the course of investigating whether an acquitted person has committed a specified serious offence.
Crimes (Internationally Protected Persons, United Nations and Associated Personnel and Hostages) Act 1980	s 14	To prosecute for –
	s 3	Crimes against persons.
	s 4	Crimes against premises or vehicles.
	s 5	Threats against such persons.
	s 6	Threats against such premises or vehicles.
	s 8	Hostage-taking as these crimes relate to the named persons in the title of the Act.
Crimes and Misconduct (Overseas Operations) Act 2004	s 5(3)	Consent to prosecution certain members of overseas operation forces for certain acts and omissions occurring while overseas that would constitute offences if committed in New Zealand.
Crimes of Torture Act 1989	s 12	Consent required for prosecutions under s 3 – acts of torture or procuring torture by a person who is a public official or acting in an official capacity.

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Films, Videos and Publications Classification Act 1993	s 144	To prosecute for offences involving objectionable or restricted publications –
		s 123 Strict liability offences relating to objectionable publications (subject to ss 124A and 128).
		s 124 Knowledge offences relating to objectionable publications (subject to ss 124A and 128).
		s 125 Strict liability offences involving restricted publications.
		s 126 Knowledge offences relating to restricted publications.
		s 127 Offence of exhibiting or displaying an objectionable publication to persons under the age of 18 years.
		s 129 Offence of exhibiting or displaying an objectionable publication in public place.
		s 131 Offence to possess objectionable publication.
		s 131A Knowledge offences relating to possession of objectionable publications.
s 133 Contravention of serial publication order or interim restriction order.		
Fisheries Act 1996	s 113ZE	To prosecute for –
		s 113A Illegal fishing or transportation in a fisheries jurisdiction of a foreign country.
		s 113E Unlawful use of a foreign vessel on high seas by New Zealand nationals.
Flags, Emblems & Names Protection Act 1981	s 25	To prosecute for –
		s 11 Offences involving New Zealand flag.

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		s 12	Unauthorised use of Royal and vice-regal emblems.
		s 13	Unauthorised use of State emblems.
		s 14	Unauthorised use of words suggesting Royal or government patronage.
		s 15	Advertisements claiming government patronage.
Geneva Conventions Act 1958	s 3		Grave breaches of Conventions or First Protocol; s 8 unauthorised use of Red Cross and other emblems.
Human Rights Act 1993	ss 132 & 135		Inciting racial disharmony (s 131); and access by the public to places, vehicles and facilities (s134).
Inspector-General of Intelligence & Security Act 1996	ss 28 & 29		Breaches of secrecy by current/former Inspector-Generals or staff members (s 28); and publication of various materials relating to the office (s 29).
Intelligence & Security Committee Act 1996	s 20		Unauthorised making or disclosure of records relating to the Committee by Committee members or associated persons (except in performance of their duties under the Act).
International Crimes and International Criminal Court Act 2000	s 13		To prosecute for –
		s 9	Genocide or conspiracy to commit genocide in NZ or elsewhere.
		s 10	Crimes against humanity in NZ or elsewhere.
		s 11	War crimes in NZ or elsewhere.
	s 22		To prosecute under –
		s 15	Corruption of Judge, where offence is that Judge (or Registrar or Deputy Registrar) accepts or obtains bribe for themselves or others in NZ or elsewhere.
		s 16	Bribery of Judge by any person giving, offering or agreeing to bribe in NZ or elsewhere.

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	s 17	Corruption and bribery of official of the ICC for an act done or omitted in NZ or elsewhere.
	s 18	Any person giving false evidence in a proceeding of the ICC in NZ or elsewhere.
	s 19	Any person who fabricates evidence with intent to mislead in an ICC proceeding in NZ or elsewhere.
	s 20	Any person who conspires to defeat justice in an ICC proceeding, request or any matter relating to the Act.
	s 21	Interference with witnesses in an ICC proceeding or with ICC officials.
Maritime Crimes Act 1999	s 17	To prosecute under –
	s 4	Certain crimes relating to ships.
	s 5	Certain crimes relating to fixed platforms.
Maritime Transport Act 1994	s 224	Consent required to commence prosecutions under Parts 19 to 28 of the Act against natural persons who are not NZ citizens or resident in NZ where the acts allegedly done have occurred beyond the territorial sea of New Zealand –
	Part 19	Protection of marine environment from harmful substances.
	Part 20	Protection of marine environment from hazardous ships, structures, and offshore operations.
	Part 21	Protection of marine environment from dumping, incineration, and storing of wastes.
	Part 22	Obligations and powers in relation to marine protection documents.
	Part 23	Plans and responses to protect marine environment from marine oil spills.

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		Part 24	Financing plans and responses to protect the marine environment from marine oil spills.
		Part 25	Civil liability for pollution of marine environment.
		Part 26	Compensation from International Oil Pollution Compensation Fund for pollution damage.
		Part 27	Making of marine protection rules and regulations and taking of other measures to protect marine environment.
		Part 28	General offences and provisions in relation to offences and appeals under this Act.
Mercenary Activities (Prohibition) Act 2004	s 19		Consent required before commencing proceedings for any offence against this Act.
Misuse of Drugs Act 1975	s 28A		Offences committed outside New Zealand against ss 6, 9, 12A, 12AB and 12B of the Act.
	s 34A		Protection for undercover police officers against prosecution for any offence under the Act or the regulations while working in that capacity except by leave of the Attorney-General.
New Zealand & Nuclear Free Zone, Disarmament, & Arms Control Act 1987	s 15		To prosecute for committing an offence, conspiring or attempting to commit an offence against the Act.
Nuclear-Test-Ban Act 1999	s 6		To prosecute New Zealand citizens, or any person on a New Zealand ship or aircraft for actions occurring outside New Zealand involving carrying out, or participating in, nuclear weapon test explosion or any other nuclear explosion.
Policing Act 2008	s 87		To file a charging document in relation to conduct which would constitute criminal offence in NZ by police employee or other person who are engaged in an overseas operation or outside NZ.
	s 92		Trial in NZ for crimes committed outside NZ.

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Radiocommunications Act 1989	s 134A	Proceedings for the trial and punishment of person charged with having committed an offence under the regulations for inhibiting unauthorised broadcasting from the high seas into New Zealand territory.
Secret Commissions Act 1910	s 12	Attorney-General consent required to prosecute an offence against the Act.
Submarine Cables and Pipelines Protection Act 1996	s 27	To prosecute for offences committed outside the territorial sea of New Zealand, on board a non-New Zealand vessel and by persons not New Zealand citizens or normally resident in New Zealand.
Summary Offences Act 1981	ss 20 & 42	False claim of qualifications.
	s 20A	Unauthorised disclosure of official information (as defined in s 78A(2) of the Crimes Act 1961); conspiring/attempting to conspire.
Te Ture Whenua Maori Act 1993	s 280(7)(h)	To prosecute any person or persons following an investigation of a Maori incorporation ordered under s 280(1).
Terrorism Suppression Act 2002	s 67	Consent is required for proceedings for any offence against this Act.
United Nations Convention of the Law of the Sea Act 1996	s 9	Criminal and civil jurisdiction applies to NZ Courts relating to acts done or omitted in contravention of the Act beyond New Zealand.
Visiting Forces Act 2004	s 10	To prosecute a member of a visiting force; a member of civilian component; or a dependant.

United Nations Sanctions Regulations

The following also provide that the Attorney-General's consent is required for the prosecution of a person who has allegedly offended against these regulations –

United Nations Sanctions (Iraq) Regulations 1991	s 24
United Nations Sanctions (Sierra Leone) Regulations 1997	s 13
United Nations Sanctions (Somalia) Regulations 1992	s 12