

Organised Crime (Penalties and Sentencing) Bill

Government Bill

Explanatory note

General policy statement

The purpose of this Bill is to increase the maximum penalty for the offence under section 98A of the Crimes Act 1961 (relating to participation in an organised criminal group (**OCG**)) to a maximum of 10 years' imprisonment and to amend section 9 of the Sentencing Act 2002 (relating to aggravating and mitigating factors to be taken into account by a court) to provide that it is an aggravating factor when an offence is committed partly or wholly because of the offender's participation in an OCG.

These amendments are part of a broader strategy aimed at tackling increasing manifestations of organised criminal activity.

It is intended that this Bill be divided into the following 2 separate Bills at the committee of the whole House stage: a Crimes Amendment Bill and a Sentencing Amendment Bill.

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 31 October 2008.

Part 1

Amendment to Crimes Act 1961

Clause 3 states that *Part 1* of the Bill amends the Crimes Act 1961 (the Act).

Clause 4 amends section 98A of the Act, by—

- amending subsection (1) by increasing from 5 to 10 years the maximum term of imprisonment for the offence relating to participation in an organised criminal group; and
- correcting an error of expression in subsection (1)(b).

Part 2

Amendment to Sentencing Act 2002

Clause 5 states that *Part 2* of the Bill amends the Sentencing Act 2002 (the Act).

Clause 6 amends section 9 of the Act, which relates to aggravating and mitigating factors the court must take into account when sentencing or otherwise dealing with an offender. The effect of the amendment is to insert a new aggravating factor that relates to offending connected with participation in organised criminal groups.

Hon Annette King

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Organised Crime (Penalties and Sentencing) Act **2008**.

- 2 Commencement**
This Act comes into force on 31 October 2008. 5

Part 1**Amendment to Crimes Act 1961****3 Crimes Act 1961 amended**

This **Part** amends the Crimes Act 1961.

4 Participation in organised criminal group 5

(1) Section 98A(1) is amended by omitting “5” and substituting “10”.

(2) Section 98A(1)(b) is amended by inserting “is” before “reckless”.

Part 2 10**Amendment to Sentencing Act 2002****5 Sentencing Act 2002 amended**

This **Part** amends the Sentencing Act 2002.

6 Aggravating and mitigating factors

Section 9(1) is amended by inserting the following paragraph after paragraph (ha):

“(hb) that the offender committed the offence partly or wholly because of his or her participation in an organised criminal group (within the meaning of section 98A(2) of the Crimes Act 1961):”.

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