



ANALYSIS

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1977, No. 113

An Act to amend the Crimes Act 1961

[16 December 1977]

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

1. Short Title—This Act may be cited as the Crimes Amendment Act 1977, and shall be read together with and deemed part of the Crimes Act 1961 (hereinafter referred to as the principal Act).

2. Further provisions relating to surgical operations—The principal Act is hereby amended by inserting, after section 61, the following section:

“61A. (1) Every one is protected from criminal responsibility for performing with reasonable care and skill any surgical operation upon any person if the operation is performed with the consent of that person, or of any person lawfully entitled to consent on his behalf to the operation, and for a lawful purpose.

“(2) Without limiting the term ‘lawful purpose’ in subsection (1) of this section, a surgical operation that is performed for the purpose of rendering the patient sterile is performed for a lawful purpose.”

3. Miscarriage defined—The principal Act is hereby amended by inserting, after section 182, the following section:

“182A. For the purposes of sections 183 to 187 of this Act the term ‘miscarriage’ means—

- “(a) The destruction or death of an embryo or fetus after implantation; or
- “(b) The premature expulsion or removal of an embryo or fetus after implantation, otherwise than for the purpose of inducing the birth of a fetus believed to be viable or removing a fetus that has died.”

4. Procuring abortion by any means—The principal Act is hereby amended by repealing sections 183 and 184, and substituting the following section:

“183. (1) Every one is liable to imprisonment for a term not exceeding 14 years who, with intent to procure the miscarriage of any woman or girl, whether she is pregnant or not,—

- “(a) Unlawfully administers to or causes to be taken by her any poison or any drug or any noxious thing; or
- “(b) Unlawfully uses on her any instrument; or
- “(c) Unlawfully uses on her any means other than any means referred to in paragraph (a) or paragraph (b) of this subsection.

“(2) The woman or girl shall not be charged as a party to an offence against this section.”

5. Female procuring her own miscarriage—Section 185 of the principal Act is hereby repealed.

6. Meaning of “unlawfully”—The principal Act is hereby amended by inserting, after section 187, the following section:

“187A. (1) For the purposes of sections 183 and 186 of this Act, any act specified in either of those sections is done unlawfully unless, in the case of a pregnancy of not more than 20 weeks’ gestation, the person doing the act believes—

- “(a) That the continuance of the pregnancy would result in serious danger (not being danger normally attendant upon childbirth) to the life, or to the physical or mental health, of the woman or girl, and that the danger cannot be averted by any other means; or

- “(b) That the pregnancy is the result of sexual intercourse between—
- “(i) A parent and child; or
 - “(ii) A brother and sister, whether of the whole blood or of the half blood; or
 - “(iii) A grandparent and grandchild; or
- “(c) That the pregnancy is the result of sexual intercourse that constitutes an offence against section 131 (1) of this Act; or
- “(d) That the woman or girl is severely subnormal within the meaning of section 138 (2) of this Act.
- “(2) The following matters, while not in themselves grounds for any act specified in section 183 or section 186 of this Act, may be taken into account in determining for the purposes of subsection (1) (a) of this section, whether the continuance of the pregnancy would result in serious danger to her life or to her physical or mental health:
- “(a) The age of the woman or girl concerned is near the beginning or the end of the usual child-bearing years:
 - “(b) The fact (where such is the case) that there are reasonable grounds for believing that the pregnancy is the result of rape.
- “(3) For the purposes of sections 183 and 186 of this Act, any act specified in either of those sections is done unlawfully unless, in the case of a pregnancy of more than 20 weeks’ gestation, the person doing the act believes that the miscarriage is necessary to save the life of the woman or girl or to prevent serious permanent injury to her physical or mental health.
- “(4) Where a registered medical practitioner, in pursuance of a certificate issued by 2 certifying consultants under section 33 of the Contraception, Sterilisation, and Abortion Act 1977, does any act specified in section 183 or section 186 of this Act, the doing of that act shall not be unlawful for the purposes of the section applicable unless it is proved that, at the time when he did that act, he did not believe it to be lawful in terms of subsection (1) or subsection (3) of this section, as the case may require.”