

New Zealand

Crimes Act 1961 No 43 (as at 08 December 2009)

98 Dealing in slaves

(1) Every one is liable to imprisonment for a term not exceeding 14 years who, within or outside New Zealand,—

- (a) sells, purchases, transfers, barter, lets, hires, or in any way whatsoever deals with any person as a slave; or
- (b) employs or uses any person as a slave, or permits any person to be so employed or used; or
- (c) detains, confines, imprisons, carries away, removes, receives, transports, imports, or brings into any place whatsoever any person as a slave or to be dealt with as a slave; or
- (d) induces any person to sell, let, or give himself, or any other person dependent on him or in his charge, as a slave; or
- (e) in any case not covered by paragraph (d), induces any person to sell, let, or give any other person into debt-bondage or serfdom; or
- (f) builds, fits out, sells, purchases, transfers, lets, hires, uses, provides with personnel, navigates, or serves on board any ship or aircraft for any of the purposes in paragraphs (a) to (e); or
- (g) for gain or reward gives in marriage or transfers any woman to another person without her consent; or
- (h) is a party to the inheritance by any person of a woman on the death of her husband; or
- (i) being a parent or guardian of any child under the age of 18 years, delivers that child to another person with intent that the child or his labour shall be exploited; or
- (j) agrees or offers to do any of the acts mentioned in this subsection.

(2) For the purposes of this section—

debt-bondage means the status or condition arising from a pledge by a debtor of his personal services, or of the personal services of any person under his control, as security for a debt, if the value of those services, as reasonably assessed, is not applied towards the liquidation of the debt or if the length and nature of those services are not limited and defined

serfdom means the status or condition of a tenant who is by any law, custom, or agreement bound to live and labour on land belonging to another person and to render some determinate service to that other person, whether for reward or not, and who is not free to change that status or condition

slave includes, without limitation, a person subject to debt-bondage or serfdom.

Compare: Slave Trade Act 1824 ss 2, 3, 10 (UK); Slave Trade Act 1843 s 1 (UK)

Section 98(1)(e): substituted, on 4 April 2001, by [section 3\(1\)](#) of the Crimes Amendment Act 2001 (2001 No 9).

Section 98(1)(f): substituted, on 4 April 2001, by [section 3\(1\)](#) of the Crimes Amendment Act 2001 (2001 No 9).

Section 98(2) **slave**: added, on 4 April 2001, by [section 3\(2\)](#) of the Crimes Amendment Act 2001 (2001 No 9).

98 AA Dealing in people under 18 for sexual exploitation, removal of body parts, or engagement in forced labour

(1) Every one is liable to imprisonment for a term not exceeding 14 years who—

(a) sells, buys, transfers, barter, rents, hires, or in any other way enters into a dealing involving a person under the age of 18 years for the purpose of—

- (i) the sexual exploitation of the person; or
- (ii) the removal of body parts from the person; or
- (iii) the engagement of the person in forced labour; or

(b) engages a person under the age of 18 years in forced labour; or

(c) permits a person under the age of 18 years to be engaged in forced labour; or

(d) detains, confines, imprisons, or carries away a person under the age of 18 years for the purpose of—

- (i) the sexual exploitation of the person; or
- (ii) the removal of body parts from the person; or
- (iii) the engagement of the person in forced labour; or

(e) removes, receives, transports, imports, or brings into any place a person under the age of 18 years for the purpose of—

- (i) the sexual exploitation of the person; or
- (ii) the removal of body parts from the person for a material benefit; or
- (iii) the engagement of the person in forced labour; or

(f) induces a person under the age of 18 years to sell, rent, or give himself or herself for the purpose of—

- (i) the sexual exploitation of the person; or
- (ii) the removal of body parts from the person for a material benefit; or
- (iii) the engagement of the person in forced labour; or

(g) induces a person to sell, rent, or give another person (being a person who is under the age of 18 years and who is dependent on him or her or in his or her charge) for the purpose of—

- (i) the sexual exploitation of the other person; or
- (ii) the removal of body parts from the other person; or
- (iii) the engagement of the other person in forced labour; or

(h) builds, fits out, sells, buys, transfers, rents, hires, uses, provides with personnel, navigates, or serves on board a ship, aircraft, or other vehicle for the purpose of doing an act stated in any of paragraphs (a) to (g); or

(i) agrees or offers to do an act stated in any of paragraphs (a) to (h).

(2) It is a defence to a charge under this section if the person charged proves that he or she believed on reasonable grounds that the person under the age of 18 years concerned was of or over the age of 18 years.

(3) For the purposes of subsection (1), *sexual exploitation*, in relation to a person, includes the following acts:

(a) the taking by any means, or transmission by any means, of still or moving images of the person engaged in explicit sexual activities (whether real or simulated):

(b) the taking by any means or transmission by any means, for a material benefit, of still or moving images of the person's genitalia, anus, or breasts (not being an act described in subsection (4) or subsection (5)):

(c) the person's participation in a performance or display (not being an act described in subsection (4)) that—

(i) is undertaken for a material benefit; and

(ii) involves the exposure of the person's genitalia, anus, or breasts:

(d) the person's undertaking of an activity (for example, employment in a restaurant) that—

(i) is undertaken for a material benefit; and

(ii) involves the exposure of the person's genitalia, anus, or breasts.

(4) For the purposes of paragraphs (b) and (c) of subsection (3), *sexual exploitation*, in relation to a person, does not include the recording or transmission of an artistic or cultural performance or display honestly undertaken primarily for purposes other than the exposure of body parts for the sexual gratification of viewers.

(5) For the purposes of subsection (3)(b), *sexual exploitation*, in relation to a person, does not include the taking or transmission of images of the person's genitalia, anus, or breasts for the purpose of depicting a medical condition, or a surgical or medical technique, for the instruction or information of health professionals.

(6) For the purposes of subsection (3)(b), *sexual exploitation*, in relation to a person, does not include the taking or transmission of images of the person's genitalia, anus, or breasts if the images are honestly intended—

(a) to provide medical or health education; or

(b) to provide information relating to medical or health matters; or

(c) to advertise a product, instrument, or service intended to be used for medical or health purposes.

(7) The person under the age of 18 years in respect of whom an offence against this section was committed cannot be charged as a party to the offence.

(8) This section does not limit or affect the generality of [section 98](#).

Section 98AA: inserted, on 14 June 2006, by [section 6](#) of the Crimes Amendment Act 2005 (2005 No 41).

98 B Terms used in sections 98C to 98F

In [sections 98C to 98F](#), unless the context otherwise requires,—

act of coercion against the person includes—

- (a) abducting the person:
- (b) using force in respect of the person:
- (c) harming the person:
- (d) threatening the person (expressly or by implication) with the use of force in respect of, or the harming of, the person or some other person

act of deception includes fraudulent action

arranges for an unauthorised migrant to be brought to a State includes—

- (a) organises or procures the bringing to a State:
- (b) recruits for bringing to a State:
- (c) carries to a State

arranges for an unauthorised migrant to enter a State includes—

- (a) organises or procures the entry into a State:
- (b) recruits for entry into a State:
- (c) carries into a State

document includes a thing that is or is intended to be—

- (a) attached to a document; or
- (b) stamped or otherwise signified on a document

harming of a person means causing harm of any kind to the person; and (in particular) includes—

- (a) causing physical, psychological, or financial harm to the person:
- (b) sexually mistreating the person:
- (c) causing harm to the person's reputation, status, or prospects

unauthorised migrant, in relation to a State, means a person who is neither a citizen of the State nor in possession of all the documents required by or under the law of the State for the person's lawful entry into the State.

Section 98B: inserted, on 18 June 2002, by [section 5](#) of the Crimes Amendment Act 2002 (2002 No 20).

Section 98B **for a material benefit**: repealed, on 20 May 2005, by [section 3\(3\)](#) of the Crimes Amendment Act 2005 (2005 No 41).

98 C Smuggling migrants

(1) Every one is liable to the penalty stated in subsection (3) who arranges for an unauthorised migrant to enter New Zealand or any other State, if he or she—

(a) does so for a material benefit; and

(b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant.

(2) Every one is liable to the penalty stated in subsection (3) who arranges for an unauthorised migrant to be brought to New Zealand or any other State, if he or she—

(a) does so for a material benefit; and

(b) either knows that the person is, or is reckless as to whether the person is, an unauthorised migrant; and

(c) either—

(i) knows that the person intends to try to enter the State; or

(ii) is reckless as to whether the person intends to try to enter the State.

(3) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.

(4) Proceedings may be brought under subsection (1) even if the unauthorised migrant did not in fact enter the State concerned.

(5) Proceedings may be brought under subsection (2) even if the unauthorised migrant was not in fact brought to the State concerned.

Section 98C: inserted, on 18 June 2002, by [section 5](#) of the Crimes Amendment Act 2002 (2002 No 20).

98 D Trafficking in people by means of coercion or deception

(1) Every one is liable to the penalty stated in subsection (2) who—

(a) arranges the entry of a person into New Zealand or any other State by 1 or more acts of coercion against the person, 1 or more acts of deception of the person, or both; or

(b) arranges, organises, or procures the reception, concealment, or harbouring in New Zealand or any other State of a person, knowing that the person's entry into New Zealand or that State was arranged by 1 or more acts of coercion against the person, 1 or more acts of deception of the person, or both.

(2) The penalty is imprisonment for a term not exceeding 20 years, a fine not exceeding \$500,000, or both.

(3) Proceedings may be brought under this section even if the person coerced or deceived—

(a) did not in fact enter the State concerned; or (as the case may be)

(b) was not in fact received, concealed, or harboured in the State concerned.

(4) Proceedings may be brought under this section even if parts of the process by which the person coerced or deceived was brought or came to or towards the State concerned were accomplished without an act of coercion or deception.

Section 98D: inserted, on 18 June 2002, by [section 5](#) of the Crimes Amendment Act 2002 (2002 No 20).

98 E Aggravating factors

(1) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against [section 98C](#) or [section 98D](#), a court must take into account—

(a) whether bodily harm or death (whether to or of a person in respect of whom the offence was committed or some other person) occurred during the commission of the offence:

(b) whether the offence was committed for the benefit of, at the direction of, or in association with, an organised criminal group (within the meaning of [section 98A\(2\)](#)):

(c) whether a person in respect of whom the offence was committed was subjected to inhuman or degrading treatment as a result of the commission of the offence:

(d) if during the proceedings concerned the person was convicted of the same offence in respect of 2 or more people, the number of people in respect of whom the offence was committed.

(2) When determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against [section 98D](#), a court must also take into account—

(a) whether a person in respect of whom the offence was committed was subjected to exploitation (for example, sexual exploitation, a requirement to undertake forced labour, or the removal of organs) as a result of the commission of the offence:

(b) the age of the person in respect of whom the offence was committed and, in particular, whether the person was under the age of 18 years:

(c) whether the person convicted committed the offence, or took actions that were part of it, for a material benefit.

(3) The examples in paragraph (a) of subsection (2) do not limit the generality of that paragraph.

(4) This section does not limit the matters that a court may take into account when determining the sentence to be imposed on, or other way of dealing with, a person convicted of an offence against [section 98C](#) or [section 98D](#).

Section 98E: inserted, on 18 June 2002, by [section 5](#) of the Crimes Amendment Act 2002 (2002 No 20).

98 F Attorney-General's consent to prosecutions required

(1) Proceedings for an offence against [section 98C](#) or [section 98D](#) cannot be brought in a New Zealand court without the Attorney-General's consent.

(2) A person alleged to have committed an offence against [section 98C](#) or [section 98D](#) may be arrested, or a warrant for the person's arrest may be issued and executed, and the person be

remanded in custody or on bail, even though the Attorney-General's consent to the bringing of proceedings against the person has not been obtained.

Section 98F: inserted, on 18 June 2002, by [section 5](#) of the Crimes Amendment Act 2002 (2002 No 20).