



ANALYSIS

Title	<i>Evidence</i>
1. Short Title and commencement 2. Self-defence and defence of another 3. New subheading and section inserted in principal Act	344A. Interlocutory order relating to admissibility of evidence 4. Consent of Attorney-General to certain prosecutions

 1980, No. 63

An Act to amend the Crimes Act 1961
[17 December 1980]

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 and commencement—(1) This Act may be cited as the Crimes Amendment Act 1980, and shall be read together with and deemed part of the Crimes Act 1961 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1981.

2. Self-defence and defence of another—(1) The principal Act is hereby amended by repealing sections 48 to 51, and substituting the following section:

“48. Every one is justified in using, in the defence of himself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.”

(2) Sections 52 (2), 53 (2), 54 (2), 56 (2), 57 (2), and 57 (3) of the principal Act are hereby repealed.

(3) This section does not apply to any act done before the 1st day of January 1981.

3. New subheading and section inserted in principal Act—

(1) The principal Act is hereby amended by inserting, after section 344, the following subheading and section:

“Evidence

“344A. **Interlocutory order relating to admissibility of evidence—**(1) Where any person is committed for trial and—

“(a) The prosecutor or the accused wishes to adduce any particular evidence at the trial; and

“(b) He believes that the admissibility of that evidence may be challenged,—

he may at any time before the trial apply to a Judge of the Court by or before which the indictment is to be tried for an order to the effect that the evidence is admissible.

“(2) The Judge shall give each party an opportunity to be heard in respect of the application before deciding whether or not to make the order.

“(3) The Judge may make an order under this section on such terms and subject to such conditions as he thinks fit.

“(4) Nothing in this section nor in any order made under this section shall affect the right of the prosecutor or the accused to seek to adduce evidence that he claims is admissible during the trial, nor the discretion of the trial Judge to allow or exclude any evidence in accordance with any rule of law.”

(2) Section 379A of the principal Act (as inserted by section 8 (1) of the Crimes Amendment Act 1966) is hereby amended by inserting in subsection (1), after paragraph (a), the following paragraph:

“(aa) Against the making of an order under section 344A of this Act, or against the refusal of a Judge to make such an order:”

(3) Section 379A of the principal Act (as so inserted) is hereby further amended by adding the following subsection:

“(6) Notwithstanding that an application for leave to appeal under subsection (1) (aa) of this section has been made, the Court may, if it is satisfied that it is in the interests of justice to do so, proceed with the trial without awaiting the determination of the application.”

(4) This section applies whether the person was committed for trial before or after the 1st day of January 1981.

4. Consent of Attorney-General to certain prosecutions—
- (1) Section 400 (1) of the principal Act is hereby amended—
- (a) By omitting the words “Proceedings for the trial and punishment of”, and substituting the words “No information shall, by virtue only of the provisions of this Act, be laid against”:
 - (b) By omitting from paragraph (a), and also from paragraph (b), the words “charged with having”, and substituting in each case the words “alleged to have”:
 - (c) By omitting the words “shall not, by virtue only of the provisions of this Act, be instituted in any Court”:
 - (d) By omitting from the proviso the words “charged with”, and substituting the words “alleged to have committed”:
 - (e) By omitting from the proviso the words “institution of a prosecution”, and substituting the words “laying of an information”.
- (2) Section 314 of the principal Act is hereby amended by omitting the words “taking of the prosecution”, and substituting the words “laying of an information”.

This Act is administered in the Department of Justice.
