

**Reprint
as at 1 January 2018**



District Courts Amendment Act 2011

Public Act 2011 No 30
Date of assent 22 July 2011
Commencement see section 2

District Courts Amendment Act 2011: repealed, on 1 January 2018, pursuant to section 240 of the District Court Act 2016 (2016 No 49).

Contents

	Page
1 Title	3
2 Commencement	3
3 Principal Act amended	3
4 Interpretation	3
5 Appointment of Registrar	4
6 Deputy Registrars	4
7 Appointment of bailiffs	4
8 Deputy bailiffs	4
9 New section 28I substituted	4
28I Enforcement of fines	4
10 Section 69 repealed	5
11 Nature of proceedings for enforcement of judgment	5
12 New section 79A inserted	6
79A Judgment may be enforced in any District Court	6
13 Heading above section 84A substituted	6
14 New sections 84A to 84EC substituted	6
84A Filing of financial statement	6

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

84B	Notice to complete financial statement	7
84C	Court to request information about judgment debtor's means	7
84D	Court may order hearing if information about judgment debtor's means not provided, etc	7
84E	Application for financial assessment hearing	9
84EA	Power to arrest judgment debtor or officer	9
84EB	Financial assessment hearing	10
84EC	Orders by court following filing of financial statement, etc	11
15	Interpretation	11
16	New sections 84G and 84H substituted	12
84G	Attachment orders	12
84H	Content of attachment orders	12
17	Effect of attachment orders	13
18	Liability of employer	14
19	New section 84K substituted	14
84K	Wrongful treatment of employee	14
20	Extent to which attachment orders bind the Crown	14
21	New section 84M substituted	15
84M	Variation, suspension, and discharge of attachment orders	15
22	Review of Registrar's decision	15
23	New sections 84O to 84OB substituted	16
84O	Contempt procedures	16
84OA	Process for dealing with application for contempt procedures	16
84OB	Warrant to arrest may be issued if judgment debtor cannot be served or fails to appear at hearing	17
24	Judgment debtor doing community work to be discharged on payment	18
25	Heading above section 85 substituted	18
26	Warrant of distress	18
27	Immobilisation of motor vehicles	18
28	Penalty for rescue of goods seized	19
29	Period to elapse before sale	19
30	Sale of goods by public auction unless otherwise ordered	19
31	Protection of bailiff selling goods under execution without notice of claim by third party	19
32	Procedure when goods seized are secured under bill of sale	19
33	New section 91A inserted	19
91A	Personal property securities register to be checked	19
34	Priority of High Court and District Court executions	20
35	Sale of goods where claim made thereto	20
36	Bailiff's interpleader	20

37	Further proceedings if chattels not recovered	20
38	New heading and sections 108A and 108B inserted	20
<i>Service</i>		
	108A Service of documents under this Part	21
	108B Service provisions modified in special cases	22
39	Proof of service of documents by officer or constable	22
40	District Courts Rules	23
41	Regulations	23
42	New section 123AA inserted	23
	123AA Chief executive of Ministry of Justice may approve forms	24
43	Amendments to other Acts	24
44	Transitional provisions	24
Schedule		
Amendments consequential on amendments to District Courts Act 1947		
		26

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the District Courts Amendment Act 2011.

2 Commencement

- (1) Sections 3 and 5 to 8 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates.

Section 2(2): sections 9, 40, 41, and 44(1) brought into force, on 13 February 2012, by the District Courts Amendment Act 2011 Commencement Order 2011 (SR 2011/386).

Section 2(2): sections 4, 10–39, 42, 43, 44(2)–(4), and the Schedule brought into force, on 14 April 2014, by the District Courts Amendment Act 2011 Commencement Order 2013 (SR 2013/410).

3 Principal Act amended

This Act amends the District Courts Act 1947.

4 Interpretation

Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:

constable has the meaning given by section 4 of the Policing Act 2008
financial assessment hearing has the meaning given by section 84E
financial statement has the meaning given by section 84A

Police employee has the meaning given by section 4 of the Policing Act 2008

5 Appointment of Registrar

Section 12 is amended by inserting the following subsection after subsection (2):

- (2A) A person who is appointed as a Registrar may exercise the powers and perform the functions and duties of the Registrar of any District Court.

6 Deputy Registrars

Section 14 is amended by inserting the following subsection after subsection (1):

- (1A) A person who is appointed as a Deputy Registrar may exercise the powers and perform the functions and duties of a Deputy Registrar of any District Court.

7 Appointment of bailiffs

Section 15 is amended by inserting the following subsection after subsection (1):

- (1A) A person who is appointed as a bailiff may exercise the powers and perform the functions and duties of a bailiff of any District Court.

8 Deputy bailiffs

Section 16 is amended by inserting the following subsection after subsection (1):

- (1A) A person who is appointed as a deputy bailiff may exercise the powers and perform the functions and duties of a deputy bailiff of any District Court.

9 New section 28I substituted

Section 28I is repealed and the following section substituted:

28I Enforcement of fines

- (1) If a court exercising jurisdiction under this Part imposes 1 or more fines, Part 3 of the Summary Proceedings Act 1957 applies subject to any necessary modifications and subject to the modification in subsection (2).
- (2) Despite section 90 of the Summary Proceedings Act 1957, the period of imprisonment that the court may impose on the offender for the non-payment of the fine or fines must not exceed, for each fine, the lesser of—
 - (a) the maximum term of imprisonment to which the offender was liable on conviction; or
 - (b) a period of 2 years.
- (3) In this section, **fine** has the meaning given to it in section 79 of the Summary Proceedings Act 1957.

10 Section 69 repealed

Section 69 is repealed.

11 Nature of proceedings for enforcement of judgment

- (1) Section 79(1)(a) is amended by omitting “distress warrant” and substituting “warrant to seize property”.
- (2) Section 79 is amended by repealing subsection (5) and substituting the following subsections:
 - (5) An attachment order to enforce a judgment or order for the payment of money may be made, and proceedings for such an attachment order may be commenced, at any time after the judgment is entered or the order made.
 - (5A) Except as provided in subsection (5), proceedings to enforce a judgment or order may not be commenced unless—
 - (a) at least 48 hours have expired after the judgment was entered or the order made; or
 - (b) a Judge grants leave.
 - (5B) Despite subsections (5) and (5A), if a judgment or order may be appealed against without the leave of the court, a Judge may order a stay of any proceedings to enforce the judgment or order, or order that an attachment order to enforce the judgment or order not take effect, until after the time allowed for giving notice of appeal has expired.
 - (5C) Despite subsections (5) and (5A), an attachment order may be made, and proceedings for such an attachment order may be commenced, immediately after a judgment or order for the payment of money is filed if,—
 - (a) in the case of a money order (as defined in section 19(1A) of the Disputes Tribunals Act 1988 or, as the case may be, section 78(2AB) of the Residential Tenancies Act 1986),—
 - (i) the money order records that the parties have agreed to enforce the payment of money specified in the money order by way of an attachment order made under this Act; and
 - (ii) section 19(1B) of the Disputes Tribunals Act 1988 or, as the case may be, section 78(2AC) of the Residential Tenancies Act 1986 is complied with; or
 - (b) in the case of a judgment or order made by a court,—
 - (i) the judgment or order records that the parties have agreed to enforce the payment of money specified in the judgment or order by way of an attachment order made under this Act; and
 - (ii) subsection (5D) is complied with.
 - (5D) This subsection is complied with if—

- (a) the judgment or order was given or made at or following a hearing at which both parties were present; and
 - (b) the party ordered to pay money consented to the payment of the money being enforced by way of an attachment order; and
 - (c) both parties agreed on the terms of the attachment order, including the details specified in section 84H; and
 - (d) the judgment or order includes the details specified in section 84H.
- (5E) Nothing in subsection (5D)(c) allows the parties to agree on a net amount to be paid for an earnings period that would otherwise derogate from section 84I(3).
- (5F) For the purposes of subsection (5D), **hearing** includes a judicial settlement conference held under the rules.

12 New section 79A inserted

The following section is inserted after section 79:

79A Judgment may be enforced in any District Court

A judgment or order of a District Court or a District Court Judge may be enforced in the District Court in which the judgment was entered or order made or in any other District Court (and enforcement proceedings may be taken concurrently in accordance with section 79(6) in more than 1 District Court).

13 Heading above section 84A substituted

The heading above section 84A is repealed and the following heading substituted:

Information about judgment debtor's means

14 New sections 84A to 84EC substituted

Sections 84A to 84E are repealed and the following sections substituted:

84A Filing of financial statement

- (1) In this Act, **financial statement** means a statement, in a form approved by the chief executive of the Ministry of Justice, of a judgment debtor's—
 - (a) assets and liabilities; and
 - (b) income and expenditure for the preceding 52 weeks.
- (2) A financial statement may be completed by the judgment creditor or the judgment debtor.
- (3) If the financial statement is completed by the judgment creditor, the statement must include details of the source of the information contained in the statement and the date to which the information relates.
- (4) A completed financial statement may be filed in the court at any time after a judgment or order for the payment of money is entered or made.

- (5) The party who files a completed financial statement must serve a copy of the statement on the other party.

84B Notice to complete financial statement

- (1) If a judgment creditor serves a notice to complete a financial statement on the judgment debtor, the judgment debtor must, within 14 days after the date of service,—
- (a) complete a financial statement; and
 - (b) return it to the judgment creditor.
- (2) The notice to complete a financial statement must be—
- (a) in a form approved by the chief executive of the Ministry of Justice; and
 - (b) accompanied by 2 copies of the approved form for a financial statement (1 for the judgment debtor to complete and return, the other for the judgment debtor's use).

84C Court to request information about judgment debtor's means

- (1) If a judgment creditor makes an application in a form approved by the chief executive of the Ministry of Justice, the court must request the judgment debtor to provide the court with information about the judgment debtor's means for satisfying the judgment debt.
- (2) The request may be made by any means of communication that the court considers appropriate.
- (3) The information may be provided at any place and using any means of communication that the court considers appropriate; and the court may request the person providing the information to verify it on oath.
- (4) The jurisdiction of the court under this section may be exercised by the Registrar.

84D Court may order hearing if information about judgment debtor's means not provided, etc

- (1) This section applies if—
- (a) no information about the judgment debtor's means for satisfying the judgment debt is provided to the court following a request under section 84C; or
 - (b) the court wishes to obtain information about the judgment debtor's means for satisfying the judgment debt in addition to information provided under section 84C before exercising its powers under section 84EC; or
 - (c) a person providing information to the court under section 84C refuses to verify it on oath.

- (2) The court may issue a summons, in a form approved by the chief executive of the Ministry of Justice, requiring the judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor to attend a hearing and be questioned by the court about the judgment debtor's means for satisfying the judgment debt.
- (3) If the court issues a summons, the court may also—
 - (a) order any of the judgment debtor's books or other documents to be produced at the hearing;
 - (b) order that the hearing be held at a place other than in a court;
 - (c) impose such other terms and conditions as the court thinks proper in respect of the hearing.
- (4) The summons must be served on the judgment debtor by a person referred to in section 108A(3)(a) and, at the same time as the summons is served, the judgment debtor must be notified of the court's power to cancel the hearing in the circumstances referred to in subsection (6).
- (5) The hearing must not be held until at least 3 working days or any shorter period agreed by the judgment debtor has passed after the date on which the summons was served.
- (6) The court may cancel a hearing if, before the date of the hearing,—
 - (a) such information about the judgment debtor's means for satisfying the judgment debt is provided that, in the opinion of the court, it is unnecessary for the hearing to take place; and
 - (b) if the court so requests, the person providing the information verifies it on oath.
- (7) If a hearing takes place,—
 - (a) the judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor must appear in person;
 - (b) the court may require the judgment debtor or officer and any witness to take an oath before giving evidence;
 - (c) the judgment debtor may be represented by a barrister or solicitor who may question the judgment debtor or officer and be heard on the matter of the judgment debtor's means for satisfying the judgment debt;
 - (d) the judgment debtor or officer may be questioned by the court;
 - (e) any witness may be questioned by or on behalf of the judgment debtor or by the court.
- (8) A hearing may from time to time be adjourned by the court to a time and place to be appointed.
- (9) The jurisdiction of the court under this section may be exercised by the Registrar.

84E Application for financial assessment hearing

- (1) This section applies if a judgment creditor applies, in a form approved by the chief executive of the Ministry of Justice, for a hearing (a **financial assessment hearing**) for the judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor to be questioned about the judgment debtor's means for satisfying the judgment debt.
- (2) The court must issue a summons, in a form approved by the chief executive of the Ministry of Justice, requiring the judgment debtor or an officer of the judgment debtor to attend the hearing.
- (3) The court may also—
 - (a) order any of the judgment debtor's books or other documents to be produced at the hearing;
 - (b) order that the hearing be held at a place other than in a court;
 - (c) impose such other terms and conditions as the court thinks proper in respect of the hearing.
- (4) The summons must be served on the judgment debtor by a person referred to in section 108A(3)(b).
- (5) The hearing must not be held until at least 3 working days or any shorter period agreed by the parties has passed after the date on which the summons was served.
- (6) The court may cancel a hearing at the request of the judgment creditor.
- (7) The jurisdiction of the court under this section may be exercised by the Registrar.

84EA Power to arrest judgment debtor or officer

- (1) This section applies if a summons issued under section 84D or 84E cannot be served on a judgment debtor.
- (2) This section also applies if—
 - (a) a summons was served on a judgment debtor at least 3 working days or any shorter period agreed under section 84D(5) or 84E(5) before the date of the hearing to which the summons relates; but
 - (b) the judgment debtor fails to appear in person at the hearing or at any subsequent adjournment of the hearing.
- (3) This section applies in relation to a judgment debtor that is a body corporate if—
 - (a) a summons was served on an officer of the judgment debtor (the **relevant officer**) at least 3 working days or any shorter period agreed under section 84D(5) or 84E(5) before the date of the hearing to which the summons relates; and

- (b) an officer of the judgment debtor (whether or not the relevant officer) fails to appear in person at the hearing or at any subsequent adjournment of the hearing.
- (4) The summons must not be enforced by committal, but a Judge or Registrar may issue a warrant to arrest the judgment debtor or relevant officer.
- (5) If the judgment debtor or relevant officer is arrested under this section, the following provisions apply:
 - (a) the judgment debtor or relevant officer must be brought before a Judge or Registrar as soon as possible for the purpose of commencing or continuing the hearing:
 - (b) the judgment debtor or relevant officer is bailable as of right:
 - (c) section 168 of the Criminal Procedure Act 2011 and Parts 1 to 3 of the Bail Act 2000 apply, with any necessary modifications, as if an appearance at the hearing before a Judge or Registrar constituted part of the hearing of a charge, and as if references in those provisions to a court included references to a Judge or Registrar:
 - (d) if the judgment debtor or relevant officer cannot practicably be brought immediately before a Judge or Registrar, then a Police employee or bailiff may grant bail to the judgment debtor or relevant officer, and Parts 1 to 3 of the Bail Act 2000 apply, with any necessary modifications, as if the bail were granted by a Police employee under section 21(1) of that Act.
- (6) In this section, **summons** means—
 - (a) a summons to attend a hearing under section 84D:
 - (b) a summons to attend a financial assessment hearing.

84EB Financial assessment hearing

- (1) The judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor must appear in person at a financial assessment hearing.
- (2) The court may require the judgment debtor or officer and any witness to take an oath before giving evidence.
- (3) The judgment debtor may be represented at the hearing by a barrister or solicitor who may question the judgment debtor or officer and be heard on the matter of the judgment debtor's means for satisfying the judgment debt.
- (4) The judgment debtor or officer may be questioned by or on behalf of the judgment creditor or by the court.
- (5) Any witness may be questioned by or on behalf of the judgment creditor or judgment debtor or by the court.
- (6) A financial assessment hearing may from time to time be adjourned by the court to a time and place to be appointed.

- (7) The jurisdiction of the court under this section may be exercised by the Registrar.

84EC Orders by court following filing of financial statement, etc

- (1) This section applies if, after a judgment or order for the payment of money has been entered or made,—
- (a) a financial statement is filed in the court; or
 - (b) the judgment debtor provides the court with information about the judgment debtor's means for satisfying the judgment debt under section 84C; or
 - (c) a hearing under section 84D or a financial assessment hearing takes place.
- (2) The court may do any 1 or more of the following:
- (a) direct that 1 or more of the proceedings referred to in section 79(1) be commenced or continued (as the case may be), and direct that any steps be taken in such proceedings, and, for any such purpose, issue any warrant or summons or make any order;
 - (b) make an attachment order under section 84G;
 - (c) order that the money owing under the judgment or order be paid in instalments;
 - (d) stay any proceedings to enforce the judgment or order;
 - (e) vary any order made under this Act relating to the enforcement of the judgment or order.
- (3) The court may do any of the things referred to in subsection (2) even though—
- (a) no application is made for the direction, order, or stay in question; or
 - (b) an application is made for a different direction, order, or stay; or
 - (c) no hearing takes place; or
 - (d) in a case where a financial statement is filed in the court by 1 party, the other party has not had the opportunity to make representations to the court about the financial statement.
- (4) The jurisdiction of the court under this section may be exercised by the Registrar.

Section 14: amended, on 4 September 2013, by section 44(2) of the Bail Amendment Act 2013 (2013 No 66).

Section 14: amended, on 1 July 2013, by section 6(1)(b) of the District Courts Amendment Act (No 2) 2011 (2011 No 88).

15 Interpretation

Section 84F is amended by inserting the following definition in its appropriate alphabetical order:

earnings period has the meaning given by section 84H

16 New sections 84G and 84H substituted

Sections 84G and 84H are repealed and the following sections substituted:

84G Attachment orders

- (1) The court may make an attachment order to enforce a judgment or order for the payment of money—
 - (a) in the circumstances referred to in section 79(5C); or
 - (b) in the circumstances referred to in section 84EC(1); or
 - (c) on the application of the judgment creditor or judgment debtor.
- (2) If an application is made under subsection (1)(c),—
 - (a) the party who makes the application must serve a copy of it on the other party; and
 - (b) the court may make the attachment order even though the other party has not had the opportunity to make representations to the court about the application.
- (3) If an attachment order is made, it must be served on the employer to whom the order relates, the judgment creditor, and the judgment debtor.
- (4) Except as otherwise ordered by the court, an attachment order takes effect when a copy of the order is served on the employer.
- (5) The jurisdiction of the court under this section may be exercised by the Registrar.

84H Content of attachment orders

An attachment order must be in a form approved by the chief executive of the Ministry of Justice and must specify—

- (a) the employer to whom the order relates; and
- (b) whether deductions are to be made every week, fortnight, or month, or by reference to some other period (the **earnings period**); and
- (c) the amount or percentage to be deducted from the judgment debtor's salary or wages for the earnings period; and
- (d) the amount or percentage below which the net amount paid to the judgment debtor for the earnings period must not fall; and
- (e) the name and address of the person to whom the amounts deducted are to be paid; and
- (f) that the order is to remain in force until the judgment debt has been paid in full or, if the order is to remain in force for a fixed period, that period.

17 Effect of attachment orders

- (1) Section 84I(1) is amended by omitting “by way of weekly payments of such amount as is specified in the attachment order” and substituting “by way of sums of such amount, and payable by reference to such earnings period, as is specified in the attachment order”.
- (2) Section 84I(2)(a) is amended by omitting “week” in each place where it appears and substituting in each case “earnings period”.
- (3) Section 84I(2) is amended by repealing paragraph (c) and substituting the following paragraph:
 - (c) shall be subject to any charge created by an attachment order under the Family Proceedings Act 1980 or the Summary Proceedings Act 1957 and to any item referred to in subsection (5)(a) and (b) (whether created, issued, or authorised before or after the date on which the order referred to in subsection (1) was made); but
- (4) Section 84I is amended by adding the following subsections:
 - (3) Despite subsections (1) and (2), no attachment order is to operate so that, when its effect is considered either alone or with the effect of any item referred to in subsection (5), the net amount paid to a judgment debtor for an earnings period is below the protected earnings rate for the earnings period; and, where necessary, the amount to be deducted from the judgment debtor’s salary or wages for the earnings period is treated as being reduced or cancelled accordingly.
 - (4) Nothing in section 84 of the Social Security Act 1964 applies to an attachment order.
 - (5) The items are—
 - (a) a deduction notice under the Child Support Act 1991, the Family Proceedings Act 1980, the Social Security Act 1964, or the Tax Administration Act 1994;
 - (b) a deduction for the recovery of payments under section 86 of the Social Security Act 1964;
 - (c) a charge created by an attachment order under this or any other Act.
 - (6) In this section,—

net earnings, in relation to an earnings period, means the balance left after deducting from the judgment debtor’s salary or wages for the earnings period the amount of tax required to be withheld or deducted in accordance with the PAYE rules of the Income Tax Act 2007 if the salary or wages were the only salary or wages paid to the judgment debtor by the employer for the earnings period

protected earnings rate, in relation to an earnings period, means the higher of—

 - (a) 60% of net earnings for the earnings period; and

- (b) the amount or percentage referred to in section 84H(d).

18 Liability of employer

- (1) Section 84J(1) is amended by omitting “section 84G(7)” and substituting “section 84I(3)”.
- (2) Section 84J(4) is repealed and the following subsections are substituted:
- (4) If the judgment debtor gives notice of resignation, or is given notice of dismissal, from the employment of the employer to whom the attachment order relates, the employer must, within 7 days after receiving or giving the notice, notify the person referred to in section 84H(e) of the date of the last day of the judgment debtor’s employment.
- (4A) If the employer to whom the attachment order relates ceases to pay salary or wages to the judgment debtor for a reason other than the judgment debtor’s dismissal or resignation from the employment of the employer, the employer must, within 7 days after ceasing to pay the salary or wages, notify the person referred to in section 84H(e) of the day on which the salary or wages ceased to be paid.

19 New section 84K substituted

Section 84K is repealed and the following section substituted:

84K Wrongful treatment of employee

Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who dismisses any employee or alters any employee’s position in the employer’s business or undertaking to the employee’s prejudice by reason of—

- (a) the employee having been ordered to pay money owing under 1 or more judgments or orders imposed by a District Court or the High Court for the payment of a sum of money; or
- (b) an attachment order having been served on the employer; or
- (c) the employer becoming aware that an attachment order is being made or has been made in respect of the employee.

20 Extent to which attachment orders bind the Crown

- (1) Section 84L is amended by repealing subsection (3) and substituting the following subsection:
- (3) If the judgment debtor is a servant of the Crown, an attachment order may be made against the Crown as employer.
- (2) Section 84L(4) is amended by repealing paragraph (a) and substituting the following paragraph:
- (a) service of the order must be effected—

- (i) by leaving a copy of the order at, or sending a copy of the order by post to, either the District Office of the department nearest to the judgment debtor's place of residence or an address notified by the chief executive of the department to the chief executive of the Ministry of Justice; or
- (ii) by sending the order in electronic form to an email address notified by the chief executive of the department to the chief executive of the Ministry of Justice; and

21 New section 84M substituted

Section 84M is repealed and the following section substituted:

84M Variation, suspension, and discharge of attachment orders

- (1) A judgment creditor or judgment debtor may apply to the court at any time for an attachment order to be varied, suspended, or discharged.
- (2) The party who makes an application under subsection (1) must serve a copy of the application on the other party.
- (3) If an application under subsection (1) is made, the court may vary, suspend, or discharge the attachment order if good cause is shown to the satisfaction of the court why the order should be so varied, suspended, or discharged.
- (4) The court may vary, suspend, or discharge the attachment order even though the other party has not had the opportunity to make representations to the court about the application.
- (5) If an attachment order is varied, suspended, or discharged under subsection (3), notice of the variation, suspension, or discharge must be served on the employer to whom the order relates, the judgment creditor, and the judgment debtor.
- (6) A variation, suspension, or discharge of an attachment order takes effect when the notice referred to in subsection (5) is served on the employer, unless (in the case of a discharge) subsection (7) applies.
- (7) An attachment order may also be discharged at any time by written notice from the judgment creditor to the employer to whom the order relates; and the discharge takes effect when the notice is given to the employer.
- (8) The jurisdiction of the court under this section may be exercised by the Registrar.

22 Review of Registrar's decision

- (1) Section 84N(1) is amended by omitting "section 84B or".
- (2) Section 84N is amended by inserting the following subsection after subsection (1):
 - (1A) However, a judgment creditor may apply for a review of an order or direction made by a Registrar under section 84EC or 84G only if a financial assessment

hearing that was attended by the judgment creditor or his or her representative has taken place.

- (3) Section 84N(2) is amended by omitting “Every such application” and substituting “An application under subsection (1)”.

23 New sections 84O to 84OB substituted

Section 84O is repealed and the following sections are substituted:

84O Contempt procedures

- (1) No order may be made under subsection (3) unless any of the circumstances described in subsection (2) apply and the court is satisfied beyond reasonable doubt that—
- (a) the judgment debtor has sufficient means to pay the judgment debt but refuses to do so; and
 - (b) all other methods of enforcing the judgment have been considered or tried and are inappropriate or unsuccessful.
- (2) The circumstances referred to in subsection (1) are as follows:
- (a) a financial statement has been filed in court;
 - (b) the court has been provided with information about the judgment debtor’s means for satisfying the judgment debt under section 84C;
 - (c) a hearing under section 84D or a financial assessment hearing has taken place.
- (3) The court may, on the application of a judgment creditor, order the judgment debtor to do community work, not exceeding 200 hours, as the court thinks fit.
- (4) Alternatively, the court may impose any of the orders referred to in section 79(1), (3), or (4) or do any of the things referred to in section 84EC(2) instead of or in addition to ordering the judgment debtor to do community work under subsection (3).
- (5) An order made under subsection (3) has effect as if it were a sentence of community work, and the relevant provisions of Part 2 of the Sentencing Act 2002, with any necessary modifications, apply accordingly.
- (6) If a District Court, acting under this section, orders a respondent to do community work, the judgment debtor has the same right of appeal to the High Court against the order as the judgment debtor would have had if the judgment debtor had been convicted and sentenced by the District Court before a Judge alone in relation to a charge.
- (7) An order made under subsection (3) does not operate to extinguish or affect the liability of the judgment debtor to pay the judgment debt.

84OA Process for dealing with application for contempt procedures

- (1) On receipt of an application under section 84O(3), the Registrar must—

- (a) appoint a time and place for the hearing of the application if satisfied, on the basis of information provided with the application, that the judgment debtor has sufficient means to pay the judgment debt but refuses to do so; or
 - (b) if not so satisfied, refer the application to a Judge.
- (2) On the referral of the application under subsection (1)(b), the Judge must—
- (a) deal with the application on the papers; and
 - (b) consider whether he or she is satisfied, on the basis of information provided with the application, that the judgment debtor has sufficient means to pay the judgment debt but refuses to do so.
- (3) If the Judge is so satisfied, he or she must direct the Registrar to appoint a time and place for the hearing of the application.
- (4) If the Judge is not so satisfied, he or she must decline the application.
- (5) If the Registrar appoints a time and place for the hearing of the application under subsection (1)(a) or (3), the judgment debtor must be served with a copy of the application, and a notice of the time and place so appointed, by a person referred to in section 108A(3)(c).
- (6) The Registrar must notify the judgment creditor of the time and place so appointed.
- (7) If the application is declined under subsection (4), the Registrar must notify the judgment creditor that the application has been declined.

84OB Warrant to arrest may be issued if judgment debtor cannot be served or fails to appear at hearing

- (1) If a copy of the application cannot be served on the judgment debtor under section 84OA(5), or if the judgment debtor fails to appear at the hearing of the application, a Judge or Registrar may issue a warrant to arrest the judgment debtor and bring the judgment debtor before the court as soon as possible.
- (2) A warrant under subsection (1) ceases to have effect if the judgment debtor pays, or causes to be paid, the amount due under the judgment debt.
- (3) If a judgment debtor is arrested under a warrant issued under subsection (1), the following provisions apply:
- (a) the judgment debtor must be brought before a Judge or, if a Judge is not available, the Registrar:
 - (b) if the judgment debtor is brought before the Registrar, the Registrar must appoint a time and place for the judgment debtor to appear before a Judge for the purpose of commencing or continuing the hearing:
 - (c) the judgment debtor is bailable as of right:
 - (d) section 168 of the Criminal Procedure Act 2011 and Parts 1 to 3 of the Bail Act 2000 apply, with any modifications that may be necessary, as if

the hearing of the application referred to in subsection (1) were the hearing of a charge:

- (e) if the judgment debtor cannot practicably be brought immediately before a Judge or Registrar, then a Police employee or bailiff may grant bail to the judgment debtor, and Parts 1 to 3 of the Bail Act 2000 apply, with any necessary modifications, as if the bail were granted by a Police employee under section 21(1) of that Act.

Section 23: amended, on 4 September 2013, by section 44(3) of the Bail Amendment Act 2013 (2013 No 66).

Section 23: amended, on 1 July 2013, by section 9(1)(b) of the District Courts Amendment Act (No 2) 2011 (2011 No 88).

Section 23: amended, on 1 July 2013, by section 11(1)(c) of the District Courts Amendment Act (No 2) 2011 (2011 No 88).

24 Judgment debtor doing community work to be discharged on payment

Section 84Q(2) is amended by omitting “report to a community work centre” and substituting “report for community work”.

25 Heading above section 85 substituted

The heading above section 85 is repealed and the following heading substituted:

Warrants to seize property

26 Warrant of distress

- (1) Section 85 is amended by omitting the heading and substituting the following heading: “**Warrant to seize property**”.
- (2) Section 85(1) is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
- (3) Section 85 is amended by adding the following subsection:
- (3) A warrant to seize property must be in a form approved by the chief executive of the Ministry of Justice.

27 Immobilisation of motor vehicles

- (1) Section 85A(1) is amended by omitting “A bailiff or constable executing a distress warrant may, instead of seizing a motor vehicle under a warrant of distress” and substituting “A bailiff or constable executing a warrant to seize property may, while seizing, or instead of seizing, a motor vehicle”.
- (2) Section 85A is amended by repealing subsection (4) and substituting the following subsection:
- (4) A person commits an offence if, without reasonable excuse, the person—
 - (a) tampers with, removes, or attempts to remove a device attached to a motor vehicle under subsection (1); or

- (b) removes, or attempts to remove,—
 - (i) a motor vehicle to which a device is, or has been, attached; or
 - (ii) any part of that vehicle; or
 - (iii) any other property from that vehicle.

28 Penalty for rescue of goods seized

Section 87 is amended by omitting “warrant of distress” and substituting “warrant to seize property”.

29 Period to elapse before sale

- (1) Section 88 is amended by omitting “distress warrant” and substituting “warrant to seize property”.
- (2) Section 88 is amended by omitting “5 days” and substituting “7 days”.

30 Sale of goods by public auction unless otherwise ordered

- (1) Section 89 is amended by omitting “warrant of distress” in each place where it appears and substituting in each case “warrant to seize property”.
- (2) Section 89 is amended by adding the following subsection:
- (3) The jurisdiction of a court under this section may be exercised by the Registrar.

31 Protection of bailiff selling goods under execution without notice of claim by third party

- (1) Section 90(1) is amended by omitting “distress warrant” and substituting “warrant to seize property”.
- (2) Section 90(1)(a) is amended by inserting “free of all ownership interests and other proprietary interests held in them before the sale” after “those goods”.

32 Procedure when goods seized are secured under bill of sale

- (1) Section 91 is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
- (2) Section 91 is amended by adding the following subsection as subsection (2):
- (2) The purchaser of property sold under this section obtains, by virtue of this section, good title to the property free of all ownership interests and other proprietary interests held in the property before that sale.

33 New section 91A inserted

The following section is inserted after section 91:

91A Personal property securities register to be checked

- (1) If property is seized under a warrant to seize property, the Registrar must, on the next working day after the property is seized, check whether a financing

statement that relates to the property has been registered on the personal property securities register kept under the Personal Property Securities Act 1999.

- (2) If a financing statement has been registered, the bailiff must promptly notify the person named as the secured party in the financing statement of the following:
- (a) that the court may, under section 89, sell the property after the expiration of 7 days from the date of seizure if the judgment debt remains unpaid and no claim has been made in respect of the property by a person other than the judgment debtor:
 - (b) the rights that may be available to the person under sections 93 and 94.

34 Priority of High Court and District Court executions

Section 92 is amended by omitting “warrant of distress” in each place where it appears and substituting in each case “warrant to seize property”.

35 Sale of goods where claim made thereto

- (1) Section 93(1) is amended by omitting “distress warrant” and substituting “warrant to seize property”.
- (2) Section 93 is amended by adding the following subsection:
- (4) The purchaser of property sold under this section obtains, by virtue of this section, good title to the property free of all ownership interests and other proprietary interests held in the property before that sale.

36 Bailiff’s interpleader

- (1) Section 94 is amended by omitting the heading and substituting the following heading: “**Third party claim process**”.
- (2) Section 94(1) is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
- (3) Section 94 is amended by inserting the following subsection after subsection (1):
- (1A) If a claim is made under section 93 in respect of property that is the subject of a financing statement registered on the personal property securities register kept under the Personal Property Securities Act 1999, the bailiff must obtain from the Registrar a summons calling before the court the party making the claim.

37 Further proceedings if chattels not recovered

Section 104(2) is amended by omitting “warrant of distress” and substituting “warrant to seize property”.

38 New heading and sections 108A and 108B inserted

The following heading and sections are inserted after section 108:

Service

108A Service of documents under this Part

- (1) If a person is required to serve a document under sections 84A to 94, the requirement may be met in any of the following ways:
 - (a) by—
 - (i) delivering the document to the recipient or bringing it to the recipient's notice if the recipient refuses to accept it; or
 - (ii) leaving the document for the recipient at the recipient's place of residence with another person who appears to be of or over the age of 14 years; or
 - (iii) leaving the document for the recipient at the recipient's place of business or place of work with another person:
 - (b) by sending the document to the recipient by prepaid post addressed to the recipient's last known place of residence or business:
 - (c) if the recipient has a known electronic address, by sending it to the recipient at that address in electronic form.
- (2) For recipients to whom section 108B applies, subsection (1) is modified to the extent provided by that section.
- (3) Despite subsection (1), the following documents must be served in accordance with subsection (1)(a) or, where applicable, section 108B(2)(b) or (4):
 - (a) a summons issued under section 84D, which must be served by an authorised process server:
 - (b) a summons issued under section 84E, which must be served by or on behalf of the judgment creditor or by an authorised process server:
 - (c) a copy of the application and notice of the time and place appointed for the hearing of the application that is required to be served on the judgment debtor under section 84OA(5), which must be served by or on behalf of the judgment creditor or by an authorised process server.
- (4) This section is subject to section 84L(4)(a).
- (5) In this section and in section 108B,—

authorised process server means a person who is—

 - (a) a constable; or
 - (b) a Police employee authorised by the Commissioner of Police to serve documents under this Act; or
 - (c) an officer of the court; or
 - (d) a person or a member of a class of persons authorised by a District Court Judge or Registrar to serve documents either generally or in respect of a particular case or class of case; or

- (e) an officer or employee of a corporation that is authorised by the Secretary for Justice to serve documents under this Part

officer, in relation to a body corporate or Crown organisation, includes a person involved in the decision making or management of the body or organisation

recipient means the person required to be served

serve, in relation to a document,—

- (a) includes giving the document to a person; but
(b) does not include filing the document in a court under rules of court.

108B Service provisions modified in special cases

- (1) If a document is served in accordance with this section, it is, for the purposes of section 108A, taken to be served on the recipient concerned.
- (2) If the recipient is a body corporate or a Crown organisation, a document may be served—
- (a) if it may be served under section 108A(1)(b) or (c), by being sent, in accordance with either of those paragraphs, to the body corporate or Crown organisation for the attention of an officer or employee of that body or organisation;
- (b) by being delivered to an officer or employee of the body corporate or Crown organisation at its head office, principal place of business, or registered office, or bringing it to the officer's notice or the employee's notice if that person refuses to accept it.
- (3) If a solicitor has signed a memorandum stating that the solicitor is authorised to accept service of a document on behalf of the recipient, the document may be served on the solicitor in any way authorised by section 108A.
- (4) In addition to the ways of service authorised by section 108A, a document may be served by delivering or sending it to, or by leaving it with,—
- (a) in the case of a recipient who lives or works on board a vessel (including a vessel belonging to the Royal New Zealand Navy), the person on board who is apparently in charge of the vessel;
- (b) in the case of a recipient who is a member of the New Zealand Armed Forces, the officer apparently in command of the unit or detachment to which the recipient belongs;
- (c) in the case of a recipient who is a prisoner, the manager or other officer apparently in charge of the prison.

39 Proof of service of documents by officer or constable

- (1) The heading to section 116A is amended by omitting “**by officer or constable**”.

- (2) Section 116A is amended by repealing subsection (1) and substituting the following subsections:
- (1) If any summons or any other document is served by a person who is authorised to do so under this Act, the rules, or any other enactment, the service may be proved—
- (a) by an endorsement on a copy of the document or, where applicable, on a printout that records an electronic document, showing the fact, date, time, and mode of service; or
- (b) in any other manner prescribed by the rules.
- (1A) An endorsement under subsection (1)(a) must be signed by the person who served the summons or document.
- (3) Section 116A(2) is amended by omitting “Every officer or constable” and substituting “A person”.
- (4) Section 116A is amended by adding the following subsections:
- (3) If a document is served by sending it by prepaid post, then, unless the contrary is shown, the document is served when it would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the letter concerned was properly addressed and posted.
- (4) If a document is served by sending it in electronic form, then, unless the contrary is shown, the document is served at the time the electronic communication first enters an information system outside the control of its originator, and in proving service it is sufficient to prove that the document concerned was properly addressed and sent.
- (5) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.

40 District Courts Rules

Section 122(3) is amended by inserting the following paragraph after paragraph (ia):

- (ib) providing for documents to be sent in electronic form under section 108A(1)(c), including (without limitation) provisions for the retention of records that evidence the fact that, and the date and time when, such documents were sent to electronic addresses:

41 Regulations

Section 123(1)(a) is amended by inserting “filing and” after “fees for the”.

42 New section 123AA inserted

The following section is inserted after section 123:

123AA Chief executive of Ministry of Justice may approve forms

- (1) The chief executive of the Ministry of Justice may approve and issue forms that the chief executive considers necessary for the purposes of this Act, not being forms required to be prescribed by regulations or rules made under this Act.
- (2) Without limiting subsection (1),—
 - (a) more than 1 form may be approved and issued in relation to the same matter; and
 - (b) a form may be described by any name that the chief executive considers appropriate even though it relates to a matter that is described by a different name under this Act, so long as the form refers to the appropriate provision of this Act.
- (3) Every document purporting to be a form approved and issued by the chief executive under and for the purposes of this Act is deemed to have been so approved and issued unless the chief executive otherwise certifies.

43 Amendments to other Acts

The enactments listed in the Schedule are amended in the manner set out in that schedule.

44 Transitional provisions

- (1) Section 28I of the principal Act, as inserted by section 9 of this Act, does not apply in respect of any fine (as defined in section 79 of the Summary Proceedings Act 1957) that was imposed before the commencement of section 9 by a District Court in the exercise of its jurisdiction under Part 2A of the principal Act.
- (2) A person affected by any order or direction that was made before the commencement of section 22 of this Act by a Registrar under section 84B of the principal Act (as it read immediately before that commencement) may, on and after that commencement, apply to a District Court Judge for a review of the order or direction under section 84N of the principal Act (as it read immediately before that commencement) as if this Act had not been enacted.
- (3) If, before the commencement of section 14 of this Act, the examination of a judgment debtor had commenced under section 84B of the principal Act (as it read immediately before that commencement) as to the judgment debtor's means for satisfying the judgment debt, the District Court may, on and after that commencement, do any 1 or more of the things referred to in section 84E(1) of the principal Act (as it read immediately before that commencement) as if this Act had not been enacted.
- (4) If, before the commencement of section 23 of this Act, a judgment debtor was examined under section 84B of the principal Act (as it read immediately before that commencement) as to the judgment debtor's means for satisfying the judg-

ment debt, a judgment creditor may, on and after that commencement, apply for an order of community work under section 84O(1) of the principal Act (as it read immediately before that commencement) as if this Act had not been enacted.

Schedule
Amendments consequential on amendments to District Courts Act
1947

s 43

Child Support Act 1991 (1991 No 142)

Heading to section 183: omit and substitute: “**Warrant to seize property**”.

Section 183: omit “warrant of distress” in each place where it appears and substitute in each case “warrant to seize property”.

Section 183(3): omit “warrants of distress” and substitute “warrants to seize property”.

Section 183(5): omit “the expenses of the distress” and substitute “the expenses of the seizure of property”.

Section 183(8): repeal.

Section 183(9): omit “No distress” and substitute “No seizure of property”.

Section 183(10): omit “Sections 91 and 95” and substitute “Section 91”.

Section 183(10): omit “distress warrant” and substitute “warrant to seize property”.

Dunedin Southern Market Reserve Leasing Act 1882 (1882 No 27 (L))

Heading to section 10: omit “**distress warrant**” and substitute “**warrant to seize property**”.

Section 10: omit “distress warrant” and substitute “warrant to seize property”.

Sale of Goods Act 1908 (1908 No 168)

Definition of **writ of execution** in section 2(1): omit “warrant of distress” and substitute “warrant to seize property”.

Reprints notes

1 *General*

This is a reprint of the District Courts Amendment Act 2011 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

District Court Act 2016 (2016 No 49): section 240

District Courts Amendment Act 2011 Commencement Order 2013 (SR 2013/410)

Bail Amendment Act 2013 (2013 No 66): section 44

District Courts Amendment Act 2011 Commencement Order 2011 (SR 2011/386)

District Courts Amendment Act (No 2) 2011 (2011 No 88): sections 6(1)(b), 9(1)(b), 11(1)(c)