Reprint
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Summary Proceedings Amendment Act (No 2) 2008

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Commencement	see section 2

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Justice.

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Committal proceedings for indictable offences

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1 Title

This Act is the Summary Proceedings Amendment Act (No 2) 2008.

2 Commencement

(1) This Act (other than this section and sections 3, 8 to 11, 13, and 14) comes into force on a date to be appointed by the Governor-General by Order in Council.

(2) This section and sections 3, 8 to 11, 13, and 14 come into force on the day after the date on which this Act receives the Royal assent.

Section 2(1): Summary Proceedings Amendment Act (No 2) 2008 (except sections 2, 3, 8–11, 13, and 14) brought into force, on 29 June 2009, by the Summary Proceedings Amendment Act (No 2) 2008 Commencement Order 2009 (SR 2009/128).

3 Principal Act amended

This Act amends the Summary Proceedings Act 1957.

4 Power to adjourn

Section 45(3) is repealed.

5 Dealing with defendant on adjournment

Section 46 is amended by repealing subsection (3) and substituting the following subsection:

"(3) If a Registrar remands a person in custody under subsection (1)(c) the defendant must be brought before a court or Justice or Community Magistrate at the earliest opportunity if, at any time during the period of remand, the defendant withdraws his or her agreement under subsection (2)(a) and the Court or Justice or Community Magistrate must declare what action (if

any) should be taken under subsection (1) in respect of the defendant."

6 Section 46AB repealed

Section 46AB is repealed.

7 Application of section 46 during epidemic

(1) Section 46AC is amended by repealing subsection (1) and substituting the following subsection:

"(1) While an epidemic management notice is in force, section 46 has effect as if the reference in subsection (3) to the earliest opportunity has effect as if it is a reference to the earliest opportunity that is reasonable in the circumstances."

(2) Section 46AC is amended by adding the following subsection:

"(3) In this section, **epidemic management notice** means a notice under section 8(1) of the Epidemic Preparedness Act 2006 stating that the application of this Act is modified in order to deal with the practical effects of the outbreak of the disease referred to in the notice."

8 Defendant's right to elect trial by jury where offence punishable by more than 3 months' imprisonment

Section 66 is amended by inserting the following subsections after subsection (5):

"(5A) If a defendant who is an individual is present in Court and deliberately refuses to elect to be tried either by a jury or the Court, or fails to make an election, after being addressed in the manner provided in subsection (2) and being warned, after refusing or failing to make an election, of the consequences of failing to make an election,—

"(a) the Court must, unless it considers that the defendant may be under a disability, order—

"(i) that the defendant be tried by the Court instead of by a jury; or

"(ii) if any defendant who is a co-accused is to be tried by a jury, that the defendant be tried by a jury instead of the Court; and

"(b) an order of the Court under paragraph (a) is to be treated subsequently as an election by the defendant to be tried by the Court or, as the case requires, a jury.

"(5B) Subsection (5A) is subject to subsection (7)."

9 Defendant's general right of appeal to High Court

Section 115 is amended by inserting the following subsection after subsection (2):

"(2A) A person sentenced under section 28F(4) of the District Courts Act 1947 to a term of imprisonment or to a fine that does not exceed the maximum term of imprisonment or the maximum fine that may be imposed by a District Court under section 7 may appeal to the High Court against the sentence."

10 Informant's right of appeal against sentence

Section 115A is amended by inserting the following subsection after subsection (1):

"(1A) The informant may appeal to the High Court against a sentence imposed under section 28F(4) of the District Courts Act 1947 if the sentence appealed against is a term of imprisonment or a fine that does not exceed the maximum term of imprisonment or the maximum fine that may be imposed by a District Court under section 7 (which is a term of imprisonment not exceeding 5 years or a fine not exceeding $10,000, or both)."

11 New section 115DB inserted

The following section is inserted after section 115DA:

"**115DB Rights of appeal subject to Crimes Act 1961**

Sections 115 to 115DA are subject to section 384A of the Crimes Act 1961."

12 New Parts 5 and 5A substituted

Parts 5 and 5A are repealed and the following Parts substituted:

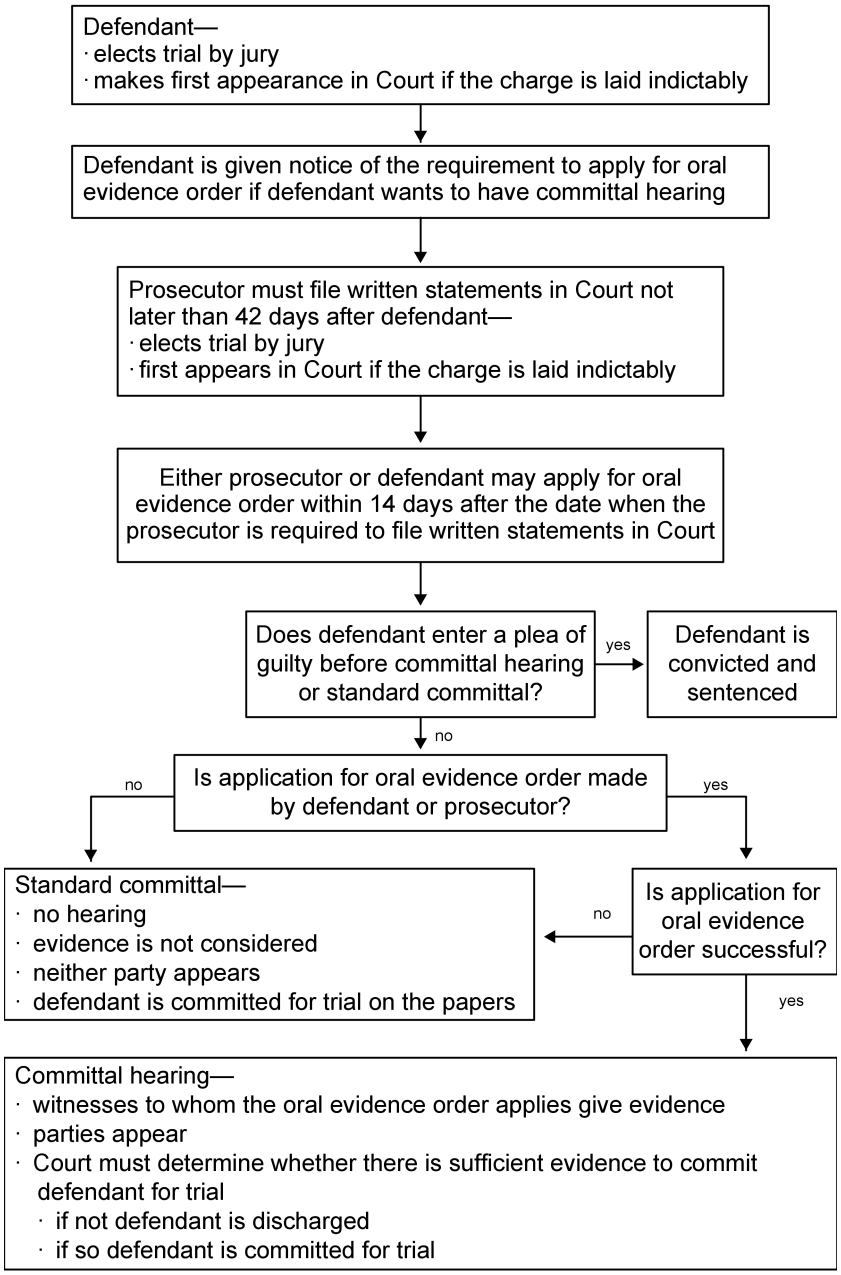
"Part 5
"Committal proceedings for indictable offences

"145 Purpose and overview

"(1) The purpose of this Part is to reform the law relating to preliminary hearings in criminal proceedings by replacing preliminary hearings with a standard committal procedure (which does not involve a hearing or consideration of the evidence), that is followed unless a party has been granted leave to orally examine a witness (in which case a committal hearing is held).

"(2) A general overview of the committal procedures set out in this Part is set out in diagrammatic form as follows:

General overview of committal proceedings for offences to be tried on indictment



Note: This general overview of committal proceedings is by way of indication only. Detailed rules set out in the Act determine how those proceedings are conducted.

"**146 Interpretation**

In this Part and Part 5A,—

"**committal hearing** means a hearing required under this Part as a consequence of an oral evidence order under section 180 or 181

"**committal proceedings**—

"(a) means the proceedings comprising each and every occasion on which a defendant to whom this Part applies is required to appear in Court, or on which a Court considers his or her case under this Part or Part 5A, pending the committal of the defendant for trial or sentence; and

"(b) includes a standard committal, a committal hearing, and any proceedings under section 160, 180 or 181

"**prosecutor** has the same meaning as it has in section 6 of the Criminal Disclosure Act 2008

"**standard committal** is a committal that takes place if no oral evidence order has been made under section 180 or 181 allowing the oral examination of a witness.

"*Commencement of proceedings under this Part*

"**147 Proceedings under this Part**

"(1) This Part applies if the defendant is to be proceeded against by indictment.

"(2) All proceedings to which this Part applies must be commenced by information in form 2 of Schedule 2 and substantiated on oath before a District Court Judge, Justice, Community Magistrate, or any Registrar (not being a constable).

"(3) Subsection (2) is subject to sections 44 and 66.

"(4) Without limiting any other provision of this Act or any other enactment, no information is invalid only because it—

"(a) does not contain the date of birth of the defendant; or

"(b) does not correctly describe the defendant's date of birth.

"(5) No amendment is required to remedy an omission or error of the type described in subsection (4) before the trial.

"Compare: 1957 No 87 s 145

"*Information, summons, and warrant*

"**148 Application of provisions of Part 2**

"(1) The provisions of Part 2 listed in subsection (2), as far as they are applicable and with the necessary modifications, apply to proceedings to which this Part applies.

"(2) The provisions are—

"(a) section 13 (which permits any person to lay an information):

"(b) section 16(1) (which requires an information to be for 1 offence only):

"(c) section 17 (which requires an information to contain sufficient particulars):

"(d) section 17A (which requires that certain informations disclose the range of penalties available for the offence):

"(e) section 18 (which specifies the Court in which an information must be filed):

"(f) section 20 (which relates to the issue of a summons or a warrant for the attendance of a witness):

"(g) section 22 (which specifies the person to whom a warrant is to be directed and the power of the person executing a warrant to enter premises):

"(h) section 23 (which relates to the withdrawal of a warrant).

"Compare: 1957 No 87 s 146

"**149 Notice to defendant**

The Registrar must serve on the defendant's counsel or solicitor, or on the defendant if he or she is not represented, a written notice to the defendant to the following effect as soon as practicable after the defendant has—

"(a) elected trial by jury under section 66; or

"(b) if the information was laid indictably, made his or her first appearance in Court in relation to the offence:

" 'If you wish to have a committal hearing at which you give oral evidence, or call witnesses on your behalf, or cross-examine a prosecution witness, you must apply for an oral evidence order under section 178 of the Summary Proceedings Act 1957.

" 'You are not obliged to apply for an oral evidence order.

" 'If no oral evidence order is made, you will be automatically committed for trial on the basis of the prosecution evidence against you without a committal hearing or consideration of that evidence.

" 'If an application for an oral evidence order is granted, there will be a committal hearing and the oral evidence that is given will be taken down and may be given against you at your trial. If you give oral evidence yourself, you may be cross-examined.

" 'If you provide written evidence at a committal hearing that evidence may be used against you at your trial.

" 'You should take no notice of any promise or threat that any person may have made to persuade you to say anything (other than a promise made in discussions between you or your counsel and the prosecution). If you do not apply for an oral evidence order or provide any written evidence at a committal hearing that fact is not allowed to be the subject of any comment at your trial.'

"Compare: 1957 No 87 s 163(2)

"**150 Issue of summons or warrant**

"(1) When an information has been laid, any District Court Judge, Justice, or Community Magistrate, or the Registrar (not being a constable),—

"(a) may issue a summons to the defendant in the prescribed form; or

"(b) may issue a warrant, in the prescribed form, to arrest the defendant and bring him or her before a Court.

"(2) A warrant under subsection (1)(b) may be issued even if a summons has previously been issued and whether or not that summons has been served.

"Compare: 1957 No 87 s 147

"**151 Issue of warrant if defendant does not attend**

If any person who has been served with a summons issued against him or her in accordance with section 150 does not attend personally at the time and place mentioned in the sum-

mons, or at any time and place to which the proceedings are adjourned, the presiding District Court Judge, Justices, Community Magistrate, or Community Magistrates may issue a warrant, in the prescribed form, to arrest that person and bring him or her before a Court.

"Compare: 1957 No 87 s 148

"**152 Defect in form or variance between charge and evidence**

"(1) No objection may be taken or allowed to any information, summons, or warrant to which this Part applies for any alleged defect in substance or in form, for any variance between it and the evidence adduced on the part of the prosecution at the committal hearing, or for the purposes of the standard committal.

"(2) Despite subsection (1), if there is to be a committal hearing and any variance referred to in subsection (1) appears to the Court to have deceived or misled the defendant or to operate unfairly to the defendant, the Court may, at the defendant's request, adjourn the committal hearing under section 155.

"Compare: 1957 No 87 s 149

"*Service of documents*

"**153 Service of summons on defendant**

Every summons to a defendant must be served on him or her by a constable, by—

"(a) delivering the summons to the defendant personally; or

"(b) bringing it to the defendant's notice if he or she refuses to accept it.

"Compare: 1957 No 87 s 150

"**154 Application of provisions of Part 2**

The following provisions of Part 2, as far as they are applicable and with the necessary modifications, apply to proceedings to which this Part applies:

"(a) section 26 (which prescribes the mode of service of documents on any person other than the defendant):

"(b) section 27 (which specifies who may serve documents on any person other than the defendant):

"(c) subject to the provisions of section 153, section 28 (which prescribes the mode of service in particular cases):

"(d) section 29 (which prescribes the manner in which service may be proved):

"(e) section 30 (which relates to the translation of documents into the Maori language).

"Compare: 1957 No 87 s 151

"*Adjournments and bail*

"**155 Power to adjourn**

"(1) The committal proceedings for any information may, from time to time, be adjourned by the Court to a time and place then appointed if it is necessary or desirable to do so for any reasonable cause.

"(2) If only 1 Justice of the Peace is present at the time and place appointed for those proceedings, or when a defendant is brought before a Court on arrest, that Justice may adjourn the committal proceedings for a period that must not be longer than 8 days unless the parties consent, to a time and place then appointed.

"Compare: 1957 No 87 s 152

"**156 Power of Registrar to adjourn**

"(1) A Registrar may, on the application of either party and with the consent of each party, adjourn committal proceedings for any information to a time and place then appointed if—

"(a) the defendant is not, at the time of the application, in custody (including if the defendant has been released on bail under section 21 of the Bail Act 2000); and

"(b) it is necessary or desirable to do so for any reasonable cause.

"(2) If an adjournment is granted under subsection (1),—

"(a) the present conditions of bail (if any) continue, subject to section 34 of the Bail Act 2000, to the adjourned date of hearing; and

"(b) any order made under section 140 of the Criminal Justice Act 1985 in relation to the defendant, or any other person connected with the proceedings, and having ef-

fect only for a limited period that would expire before the adjourned date of hearing, continues to have effect until the close of the adjourned date of hearing.

"(3) Whenever the Registrar grants an adjournment under this section, the Registrar must notify each party in writing.

"Compare: 1957 No 87 s 152A

"**157 Application of section 46**

Section 46, with the necessary modifications, applies to proceedings to which this Part applies.

"Compare: 1957 No 87 s 153

"*Withdrawal of information and stay of proceedings*

"**158 Withdrawal of information by prosecutor**

"(1) Any information may, by leave of the Court, be withdrawn by the prosecutor at any time before the defendant is discharged or is committed for trial or for sentence.

"(2) Despite subsection (1), the prosecutor may withdraw an information without the leave of the Court if—

"(a) an oral evidence order is made under section 178 allowing the oral examination of a prosecution witness; and

"(b) leave is granted to the defendant, on an application under section 109(1)(d) of the Evidence Act 2006, to put any question to that witness relating to the identity of that witness or of another prosecution witness.

"(3) The withdrawal of an information is not a bar to any other proceedings in the same matter.

"Compare: 1957 No 87 s 157

"**159 Stay of proceedings**

"(1) The Attorney-General may direct that proceedings against any person under this Part be stayed.

"(2) A direction under subsection (1) may be made at any time after an information has been laid against the person and before the person has been committed for trial or for sentence.

"(3) A direction under subsection (1) must be entered into the Criminal Records kept under section 71, and the proceedings are stayed when that entry is made.

"Compare: 1957 No 87 s 173

"*Plea of guilty before committal*

"**160 Defendant may plead guilty before committal**

"(1) This section applies to a defendant who is—

"(a) represented by a barrister or solicitor; or

"(b) unrepresented, but in respect of whom the requirements of section 30(2) of the Sentencing Act 2002 have been satisfied.

"(2) A defendant to whom this section applies may, at any time before the defendant is committed for trial, ask to be brought before the Court (or, if the defendant is at that time before the Court, ask to be permitted) to plead guilty to the offence with which he or she is charged.

"(3) As soon as practicable after a request under subsection (2) is made, the defendant must be brought before the Court to be dealt with (or, if the defendant is before the Court at the time of that request, must be dealt with) under section 161.

"(4) If the defendant is not before the Court at the time of a request under subsection (2) and is not in custody, notice must be given to him or her of the time and place for attendance before the Court for the purpose of being dealt with under section 161.

"Compare: 1957 No 87 s 153A

"**161 Procedure if defendant makes request under section 160**

"(1) When the defendant (or, if the defendant is a corporation, a representative of the defendant) attends before a Court for the purposes of section 160,—

"(a) the charge to which the defendant is required to plead must be read to the defendant; and

"(b) the defendant must then be called on to plead either guilty or not guilty.

"(2) If the defendant does not plead guilty, or if he or she (or, if the defendant is a corporation, a representative of the defendant) does not personally attend the proceedings,—

"(a) the defendant must be treated in all respects as if he or she had not made any request to plead guilty; and

"(b) no comment may be made in any subsequent proceedings on the fact that that request was made; and

"(c) the request is not admissible in evidence against the defendant in any proceedings.

"(3) If the defendant pleads guilty, then, subject to section 66(6), the Court must record the plea and,—

"(a) if—

"(i) the defendant elected under section 66 to be tried by a jury; or

"(ii) the offence is an indictable offence under any enactment (other than an offence referred to in Part 2 of Schedule 1A of the District Courts Act 1947); or

"(iii) the offence is an offence to which section 28A(1)(d), (e), or (f) of the District Courts Act 1947 applies—

the Court must either proceed immediately to sentence the defendant, or adjourn the proceedings for the sentencing of the defendant in accordance with section 28F of the District Courts Act 1947:

"(b) in any other case, commit the defendant to the High Court for sentence.

"(4) Section 47 of this Act and section 50 of the Bail Act 2000 apply to every adjournment under subsection (3)(a).

"(5) If the defendant pleads guilty and is committed to the High Court for sentence under this section, sections 184J(4) and (5), 184K, 184L, and 184T of this Act, and sections 53 and 54 of the Bail Act 2000, as far as they are applicable and with the necessary modifications, apply as if the defendant had pleaded guilty and had been committed to the High Court for sentence after a committal hearing.

"Compare: 1957 No 87 s 153A

"*Formal written statements for purposes of committal*

"**162 Formal written statements**

"(1) A formal written statement by any person is admissible as evidence for the purposes of a standard committal or at a committal hearing to the same extent as oral evidence to the same effect given at a committal hearing by that person.

"(2) A **formal written statement** is either—

"(a) a written statement—

"(i) that purports to be signed by the person making the statement; and

"(ii) that contains a statement at the end that everything in the statement is true to the best of that person's knowledge and belief, and that the person made the statement knowing that it might be admitted as evidence for the purposes of the standard committal or at a committal hearing and that he or she could be prosecuted for perjury if the statement is known by him or her to be false and is intended by him or her to mislead; and

"(iii) that complies with subsections (3) and (4), if applicable; or

"(b) a written statement that does not meet the requirements set out in paragraph (a) if all parties agree to that written statement being admitted as evidence.

"(3) If a formal written statement under subsection (2)(a) is made by a person aged under 18 years, the statement must specify the age of that person.

"(4) If a formal written statement under subsection (2)(a) is made by a person who cannot read it,—

"(a) the statement must be read to that person before the person signs it; and

"(b) the reader must attach to the statement a signed statement by that reader to the effect that the statement was read to the person and that the person to whom it was read appeared to understand its contents.

"(5) Any document or object accompanying a formal written statement, and referred to in that statement as an exhibit, must be

treated as if it had been identified in Court and produced as an exhibit by the maker of the statement.

"Compare: 1957 No 87 s 173A

"**163 False statement in formal written statement deemed to be perjury**

A formal written statement that is admitted in evidence for the purposes of a standard committal or at a committal hearing is to be treated as evidence on oath given in a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

"*Special provisions for taking evidence*

"**164 Power to take statement of person dangerously ill**

"(1) A District Court Judge, Registrar, Justice, or Community Magistrate may take a statement of a person on the oath or affirmation of the person if the District Court Judge, Registrar, Justice, or Community Magistrate is satisfied that,—

"(a) in the opinion of a registered medical practitioner, the person is dangerously ill; and

"(b) the person is able and willing to give material information relating to an indictable offence or relating to a person accused of an indictable offence.

"(2) A statement under this section may be taken in writing or by an electronic form of recording (for example, an audio recording or a video recording) or by any other method of making a permanent recording.

"(3) A District Court Judge, Registrar, Justice, or Community Magistrate who takes a statement under this section must prepare, sign, and attach to the statement a certificate stating—

"(a) whether he or she is satisfied that the statement was taken in accordance with this section; and

"(b) the day on which the statement was taken; and

"(c) the place where the statement was taken; and

"(d) whether any person (other than the dangerously ill person and the District Court Judge, Registrar, Justice, or Community Magistrate) was present at any time while the statement was taken.

"(4) A District Court Judge, Registrar, Justice, or Community Magistrate who takes a statement under this section must,—

"(a) if it relates to an indictable offence for which an accused person is already committed for trial, send it and the attached certificate to the Registrar of the Court in the place to which the accused person has been committed for trial; or

"(b) if it does not relate to an indictable offence for which an accused person is already committed for trial, send it and the attached certificate to the Registrar of the District Court nearest to the place where the trial would be held if the defendant were committed for trial.

"(5) A Registrar of a District Court to whom a statement under subsection (4)(b) is sent must—

"(a) file a copy of it as part of the Court records; and

"(b) forward it to a District Court in which—

"(i) a person to whom it relates is charged with an indictable offence; or

"(ii) a person is charged with an offence to which it relates.

"Compare: 1927 No 37 s 172; 1957 No 87 s 175

"**165 Evidence of statement made by person dangerously ill**

"(1) If each condition set out in subsection (2) is satisfied, a statement taken under section 164 may, without further proof, be given in evidence either—

"(a) for or against the defendant at the committal hearing of, or against the defendant for the purposes of the standard committal for,—

"(i) an information for an offence to which the statement relates (whether or not the defendant had been charged with that offence at the time the statement was taken); or

"(ii) an information charging any person to whom the statement relates; or

"(b) for or against the accused person on the trial of—

"(i) a person for an offence to which the statement relates (whether or not the accused had been

charged with that offence at the time the statement was taken); or

"(ii) a person to whom the statement relates.

"(2) The conditions are—

"(a) that it is proved by such evidence as the District Court or, as the case may be, the High Court considers sufficient (whether legally admissible or not)—

"(i) that the person who made the statement is dead; or

"(ii) that there is no reasonable possibility that the person who made the statement will ever be able to travel or give evidence; and

"(b) that the statement purports to be signed by the District Court Judge, Registrar, Justice, or Community Magistrate before whom the statement purports to be taken; and

"(c) that it is proved to the satisfaction of the District Court or, as the case may be, the High Court—

"(i) that reasonable notice of the intention to take the statement was served upon the party other than the party on whose behalf the statement is proposed to be given; and

"(ii) that that other party or that other party's counsel or solicitor had, or might have had if that other party or counsel or solicitor had chosen to be present, full opportunity of cross-examining the person who made the statement.

"Compare: 1927 No 37 s 173; 1957 No 87 s 176

"166 Provision for person in custody to be present at taking of statement

If a person who is in custody has served or has received a notice of an intention to take a statement as provided in section 164,—

"(a) any District Court Judge or Justice or Community Magistrate may, by an order in writing, direct the Superintendent of the penal institution in which that person is detained to convey the person to the place mentioned in the notice for the purpose of being present

at the taking of the statement (as required by section 165(2)(c)(i); and

"(b) the Superintendent must convey the person accordingly.

"Compare: 1927 No 37 s 174; 1957 No 87 s 177

"Preliminary provisions applicable to committal

"167 Place of committal

"(1) Unless an order is made under section 4A of the District Courts Act 1947 or there is a statutory provision to the contrary, the committal proceedings for an information must take place in the Court in the office of which the information is filed.

"(2) Despite subsection (1), any District Court Judge or Justice or Community Magistrate or Registrar may order that any of the following take place in some other Court:

"(a) the committal proceedings in their entirety:

"(b) the standard committal:

"(c) the committal hearing:

"(d) any other proceedings that form part of the committal proceedings.

"(3) A Registrar must not make an order under subsection (2) without the consent of each party to the proceedings.

"(4) When an order is made under subsection (2), the Registrar must—

"(a) forward the information to the Registrar of the Court to which the committal proceedings, standard committal, committal hearing, or other part of the committal hearings is ordered to be transferred; and

"(b) notify each party in writing.

"Compare: 1957 No 87 s 155

"168 Obligations of prosecutor to file formal written statements within certain period

"(1) The prosecutor must file in the office of the Court the formal written statements that form all or part of the evidence for the prosecution for the purposes of the standard committal or at the committal hearing, as the case may require, together with the exhibits referred to in those statements, not later than—

"(a) 42 days after—

"(i) the date on which the defendant elects trial by jury under section 66; or

"(ii) if the information is laid indictably, the date on which the defendant first appears in Court in relation to that information:

"(b) such earlier or later date specified for the purposes of this section by a District Court Judge.

"(2) Despite subsection (1), the prosecutor may file a written statement later than the date required by that subsection in any case, with the leave of a District Court Judge.

"(3) When the prosecutor files any written statement or statements under this section, the prosecutor must ensure that notice of that filing is given to the defendant's counsel or solicitor, or to the defendant if the defendant is not represented.

"169 Standard committal is not hearing and does not involve prosecutor's or defendant's presence

"(1) A standard committal does not involve any consideration of the evidence or a hearing.

"(2) Neither the prosecutor nor the defendant—

"(a) may be present during a standard committal:

"(b) has the right to make oral or written submissions in relation to a standard committal.

"170 Defendant's entitlement to be present during hearings

"(1) The defendant is entitled to be present in Court during any hearing that is part of the committal proceedings.

"(2) Subsection (1) does not apply if the defendant interrupts the proceedings to such an extent that it is impracticable to continue in the defendant's presence.

"(3) The Court may permit the defendant to be out of Court during the whole or any part of the hearing on whatever terms it thinks fit.

"(4) Nothing in this section limits any other enactment or rule of law under which a defendant may appear or be represented in Court by counsel, rather than having to appear in person.

"Compare: 1957 No 87 s 158

"**171 Charge to be read to defendant in certain circumstances**

"(1) If the defendant is present at any hearing that is part of the committal proceedings and requests that the charge be read, or the Court conducting that hearing so directs, the charge must be read to the defendant.

"(2) At any committal hearing, the charge must be read to the defendant before any written evidence is received by the Court and before any witness is called.

"(3) If the information is amended at any hearing that is part of the committal proceedings, the amended charge must be read to the defendant,—

"(a) in the case of a committal hearing, immediately after all the evidence for the prosecution has been received by the Court:

"(b) in the case of any other hearing, immediately, or if the defendant is not present, at the next hearing that is part of the committal proceedings at which the defendant is present.

"Compare: 1957 No 87 s 160

"**172 Amendment of information**

"(1) The Court may amend any information to which this Part applies in any way, and at any time, during any hearing that is part of the committal proceedings.

"(2) Despite subsection (1), no information in form 2 of Schedule 2 may be amended to an information in form 1 of that schedule.

"(3) Despite subsection (1), the Court may, at the request of the defendant, adjourn the hearing if it is of the opinion that the defendant would be embarrassed in the conduct of his or her case by reason of an amendment made or proposed to be made under this section.

"Compare: 1957 No 87 s 162

"**173 Persons who may give evidence under assumed name**

"(1) An undercover police officer (within the meaning of section 108 of the Evidence Act 2006)—

"(a) may make a written statement, or give oral evidence, in the name by which the officer was known during the relevant investigation; and

"(b) may sign that statement, or the record of that evidence, in that name.

"(2) A witness who is the subject of an application for an anonymity order made under section 110 or 112 of the Evidence Act 2006, or who is the subject of an anonymity order made under either of those sections,—

"(a) may make a written statement, or give oral evidence, using the term 'witness' followed by an initial or mark; and

"(b) may sign that statement, or the record of that evidence, in that manner.

"(3) This section overrides any contrary provision in this Part.

"Compare: 1957 No 87 s 178A

"174 No comment may be made on defendant refraining from answering charge

No comment adverse to the defendant may be made on the fact that the defendant—

"(a) does not provide any evidence in answer to the charge at a committal hearing or any other hearing that is part of the committal proceedings; or

"(b) does not apply for an oral evidence order under section 178.

"Compare: 1957 No 87 s 166

"175 When formal written statement or record of oral evidence in other proceedings may be admitted as evidence at committal hearing or for purposes of standard committal

"(1) If a person is charged with more than 1 offence arising out of the same transaction, or set of circumstances, or incident, or series of incidents, and if the conditions in subsection (2) are met, any 1 or more of the following items may, without further proof, be admitted as evidence for the purposes of that person's standard committal or at that person's committal hearing:

"(a) any formal written statement admitted as evidence for the purposes of that person's standard committal

process or at that person's committal hearing, in respect of another offence arising out of the same transaction, or set of circumstances, or incident, or series of incidents:

"(b) any record of oral evidence given at that person's committal hearing in respect of another offence arising out of the same transaction, or set of circumstances, or incident, or series of incidents.

"(2) A formal written statement or record of oral evidence may be admitted as evidence under subsection (1)—

"(a) if it is proved, by evidence that the Judge considers sufficient (whether legally admissible or not), that the person who made the statement or who gave the oral evidence is—

"(i) out of New Zealand; or

"(ii) dead; or

"(iii) so ill as not to be able to travel; or

"(b) if all parties consent.

"(3) A formal written statement or record of oral evidence must not be admitted as evidence under subsection (1) if it is proved that—

"(a) the formal written statement was not taken and admitted in evidence in accordance with section 162; or

"(b) the record of oral evidence was not signed by the District Court Judge or Justices or Community Magistrate or Community Magistrates purporting to sign it; or

"(c) the record of oral evidence was not taken in accordance with the provisions of this Part.

"Compare: 1957 No 87 s 184

"176 Defendant must disclose evidence to be provided at committal hearing

"(1) If an oral evidence order is made under section 180 or 181, the defendant must, no later than 14 days after the date on which that order is made, disclose to the prosecutor any evidence that the defendant intends to provide to the Court at the committal hearing.

"(2) Sections 10 and 11 of the Criminal Disclosure Act 2008 apply to the disclosure of evidence under this section.

"*Timing and procedure at standard committal*

"**177 Timing and procedure at standard committal**

"(1) A standard committal must not take place,—

"(a) in a case where no application is made for an oral evidence order within the period specified in section 178(2), before the earlier of the expiry of 14 days after—

"(i) the date on which the prosecutor is required to file written statements under section 168(1); or

"(ii) the date on which the Court receives a notice from the defendant that he or she will not apply for an oral evidence order:

"(b) in a case where an application for an oral evidence order is made within the period specified in section 178(2), before the date on which that application is declined.

"(2) At a standard committal, the Court must, without considering any evidence that has been filed by the prosecution, commit the defendant for trial in accordance with sections 184M and 184N.

"Compare: 1957 No 87 s 160A

"*Oral evidence orders*

"**178 Application for oral evidence order**

"(1) Either party may apply to a District Court Judge for an order allowing the oral examination, at a committal hearing, of—

"(a) any witness who has provided a formal written statement; or

"(b) any person who has not provided a formal written statement, whether that person is proposed to be examined as a witness for that party or for the other party; or

"(c) any person who is to give evidence for that party in relation to the exercise of any power or jurisdiction conferred by any of sections 7 to 14 of the Criminal Procedure (Mentally Impaired Persons) Act 2003.

"(2) An application under subsection (1) must be made no later than 14 days after the date on which the prosecutor is required to file written statements under section 168(1).

"(3) Despite subsection (2), a District Court Judge may grant leave for an application under subsection (1) to be made later than the time specified in subsection (2) if the Judge is satisfied that it is necessary in the circumstances of the case.

"**179 Application for leave to question undercover police officer's identity must be removed into High Court**

If the defendant wishes to apply, under section 109(1)(d) of the Evidence Act 2006, for leave to put any questions relating to the identity of a witness called by the prosecutor who is an undercover police officer,—

"(a) that application must be made at the same time as the application is made for an oral evidence order allowing the oral examination of the person to whom those questions are proposed to be put; and

"(b) both applications must be removed into the High Court and heard and determined by a Judge of that Court.

"Compare: 1957 No 87 s 161A

"**180 Determination of application for oral evidence order**

"(1) Before a District Court Judge makes an oral evidence order on an application under section 178, the Judge must be satisfied,—

"(a) if the proposed order is for the oral examination of a witness who has provided a formal written statement, that—

"(i) it is necessary to hear the witness in order to determine whether there is sufficient evidence to commit the defendant for trial; or

"(ii) it is otherwise in the interests of justice to hear the witness; or

"(b) if the proposed order is for the oral examination of a person who has not provided a formal written statement,—

"(i) that the anticipated evidence of that person is relevant to the charge specified in the information; and

"(ii) either—

"(A) that the person has been requested to give evidence in the form of a formal written

statement but has failed or refused to do so; or

"(B) that it is otherwise in the interests of justice to hear the witness; or

"(c) if the proposed order is for the oral examination of a person who is to give evidence in relation to the exercise of any power or jurisdiction conferred by any of sections 7 to 14 of the Criminal Procedure (Mentally Impaired Persons) Act 2003, that the anticipated evidence of that person is relevant to the exercise of such a power or jurisdiction.

"(2) The Judge may refuse an application for an oral evidence order if he or she considers that the application was made—

"(a) for the purpose of delay; or

"(b) for any other improper purpose.

"(3) The Judge must determine an application for an oral evidence order on the basis of—

"(a) the witness's formal written statement (if any); and

"(b) any other written evidence; and

"(c) any written submissions; and

"(d) any oral submissions made in accordance with subsection (4).

"(4) A party who applies for an oral evidence order may make oral submissions to the Judge in support of that application.

"(5) If a party makes oral submissions under subsection (4), the other party may also make oral submissions to the Judge on that application.

"**181 Judge may make oral evidence order of own motion**

"(1) This section applies if—

"(a) a District Court Judge, in considering an application for an oral evidence order, is satisfied that the conditions described in section 180(1) are satisfied in respect of a person who is not the subject of the application; or

"(b) the defendant has not been committed for trial at a standard committal and a District Court Judge considers it desirable to hear the evidence of any witness in connection with the exercise of any power or jurisdic-

tion conferred by any of sections 7 to 14 of the Criminal Procedure (Mentally Impaired Persons) Act 2003.

"(2) The Judge may, of his or her own motion, make an order requiring the oral examination of that other person at a committal hearing.

"**182 Oral evidence of witness who resides at distance, is ill, or is departing New Zealand may be taken at any Court**

"(1) If an oral evidence order is made, that order may permit or require the evidence of a witness to be taken before any District Court or District Court Registrar (not being a constable) if it is desirable to do so.

"(2) The provisions of this Part as to the taking of the evidence of witnesses at a committal hearing, as far as they are applicable and with the necessary modifications, apply with respect to any evidence taken under this section.

"(3) The oral evidence of any witness taken under this section—

"(a) must be forwarded to the Registrar of the Court in which the committal hearing is to take place; and

"(b) has effect as if it were oral evidence taken at the committal hearing.

"(4) Judicial notice must be taken of the signature of any examining District Court Judge or Registrar to any record of oral evidence taken under this section.

"(5) The Court may proceed with a committal hearing without waiting for evidence to be taken from a witness pursuant to an order under subsection (1) if—

"(a) the oral evidence order allowing the oral examination of the witness was granted on the grounds set out in section 180(1)(b); and

"(b) the Court considers that—

"(i) the application for evidence to be taken under subsection (1) was made for the purpose of delay or for any other improper purpose; or

"(ii) there has been undue delay in the taking of that evidence.

"(6) Nothing in this section or in any regulations made under this Act limits or affects the power of the Court to compel the personal attendance of any witness at a committal hearing.

"Compare: 1957 No 87 ss 174, 178

"*When committal hearing must be held*

"**183 Committal hearing required if oral evidence order applies**

"(1) If a District Court Judge or, if section 179 applies, a High Court Judge makes an oral evidence order allowing 1 or more witnesses to be orally examined, a committal hearing must take place.

"(2) To avoid doubt, the District Court Judge who determined the application for an oral evidence order may conduct the committal hearing.

"*Procedure at committal hearing*

"**184 Application of provisions of Part 2**

"(1) The provisions of Part 2 listed in subsection (2), as far as they are applicable and with the necessary modifications, apply to a committal hearing as if—

"(a) references in those provisions to the hearing were references to that committal hearing; and

"(b) references in those provisions to the charge were references to the information.

"(2) The sections are—

"(a) section 37(1), (2), and (3) (which relates to the person who may conduct the proceedings):

"(b) section 38 (which relates to the issue of a warrant for the appearance of a witness):

"(c) section 39 (which relates to the imprisonment of a witness refusing to give evidence):

"(d) section 40(1) (which relates to the power to order witnesses to remain outside the Court):

"(e) section 60 (which requires evidence to be given on oath).

"Compare: 1957 No 87 s 154

"**184A Procedure at committal hearing**

"(1) At any committal hearing the prosecutor must—

"(a) if the Court gives leave, provide to the Court any formal written statements or exhibits that have not already been filed under section 168; and

"(b) call each prosecution witness who is to give oral evidence under an oral evidence order.

"(2) After all the evidence for the prosecution has been given and any amended charge has been read to the defendant, the defendant must, if the defendant intends to provide evidence,—

"(a) provide to the Court any formal written statements or exhibits that have not already been provided to the Court; and

"(b) call any defence witness (including the defendant) who is to give oral evidence for the defence under an oral evidence order.

"(3) Each witness who is called must be examined by the party for whom he or she is giving evidence, and may be cross-examined by the other party and re-examined by the first party.

"(4) Despite subsection (3), a witness may, instead of being examined by the party for whom he or she is giving evidence, read his or her formal written statement (if any) to the Court if—

"(a) all other parties consent; or

"(b) the Court so directs.

"(5) If the defendant gives evidence in accordance with an oral evidence order, the defendant may be cross-examined by the prosecutor and, if the defendant is represented, he or she may be re-examined.

"(6) This section is subject to section 184H.

"Compare: 1957 No 87 s 161(1)

"**184B No oral evidence without order**

The Court must not hear the oral evidence of the defendant or of any witness at a committal hearing unless an oral evidence order has been made in relation to that person.

"**184C Court may direct that formal written statements be read aloud**

At a committal hearing, the Court may direct that a formal written statement provided as evidence be read aloud, or that an oral account be given of so much of the statement as is not read aloud.

"Compare: 1957 No 87 s 173A(4)

"**184D Oral evidence must be recorded in writing**

The evidence of every person who gives oral evidence at a committal hearing, including the defendant if he or she gives oral evidence, must be—

"(a) put into writing; and

"(b) read over to that person; and

"(c) signed by that person and by the presiding District Court Judge or Justices or Community Magistrate or Community Magistrates.

"Compare: 1957 No 87 ss 161(2), 163(3), 165(2)

"**184E Committal hearing may be completed despite witness's failure to appear or give evidence**

If a person fails to appear or to give evidence at a committal hearing, the Court may nevertheless commit the defendant for trial or sentence, or otherwise dispose of the case, if any other evidence received by it is sufficient for that purpose.

"*Determination at committal hearing*

"**184F If evidence insufficient, defendant must be discharged**

When all the evidence has been given at a committal hearing, if the Court is of the opinion that the evidence adduced by the prosecutor is not sufficient to put the defendant on trial for any indictable offence, it must discharge the defendant.

"Compare: 1957 No 87 s 167

"**184G If evidence sufficient, defendant must be committed for trial**

When all the evidence has been given at a committal hearing, if the Court is of the opinion that the evidence adduced by

the prosecutor is sufficient to put the defendant on trial for an indictable offence, the Court must proceed in accordance with sections 184I to 184N.

"*Powers of Court if defendant seeks to provide undisclosed evidence at committal hearing*

"**184H Powers of Court if defendant seeks to provide evidence at committal hearing that was not disclosed as required by section 176**

"(1) This section applies if, at a committal hearing, the Court is satisfied that evidence sought to be provided by the defendant should have been disclosed to the prosecutor under section 176.

"(2) The Court may—

"(a) exclude the evidence; or

"(b) require the evidence to be disclosed to the prosecutor and adjourn the hearing; or

"(c) admit the evidence if it would not be contrary to the interests of justice to do so.

"(3) The Court—

"(a) must not order the exclusion of evidence under this section if it is satisfied that the defendant was not given notice in accordance with section 21 of the Criminal Disclosure Act 2008 of the requirements of section 176; but

"(b) if paragraph (a) applies, must adjourn the hearing if the prosecutor requests an adjournment.

"*Committal for trial or sentence*

"**184I Advice must be given to defendant on committal following committal hearing**

If section 184G applies,—

"(a) the defendant must be addressed by, or on behalf of, the Court as follows:

" 'This Court proposes to commit you for trial, but you may, if you wish, plead guilty to the offence charged' "; and

"(b) unless the Court is presided over by a trial Judge who would himself or herself impose sentence, the Court must also tell

the defendant which Court he or she will be committed to for sentence if he or she pleads guilty.

"Compare: 1957 No 87 s 168(1)(a), (aa)

"*Procedure if defendant pleads guilty*

"**184J Procedure if defendant pleads guilty**

"(1) If, after receiving the advice in section 184I, the defendant pleads guilty, then the Court must record the plea and,—

"(a) if the Court has jurisdiction to sentence the defendant under section 28A of the District Courts Act 1947, either proceed immediately to sentence the defendant, or adjourn the proceedings for the sentencing of the defendant, in accordance with section 28F of that Act; and

"(b) if the Court does not have jurisdiction to sentence the defendant, commit the defendant to the High Court for sentence.

"(2) Subsection (1) is subject to section 66(6) and (6A).

"(3) Section 47 of this Act and section 51 of the Bail Act 2000 apply on an adjournment under subsection (1)(a).

"(4) If the defendant pleads guilty and is committed to the High Court for sentence, the following statement must be endorsed on the information:

" 'I plead guilty to the offence charged in the within information.

" 'Dated [*date*]'

"(5) The defendant must sign the statement referred to in subsection (4) (or, if the defendant is unable to sign the statement, the defendant must put his or her mark on it), and the presiding District Court Judge, Justices, Community Magistrate, or Community Magistrates must witness that signature or mark.

"Compare: 1957 No 87 s 68(1)(b), (2), (3)

"**184K If defendant pleads guilty, no objection may be taken and plea must not be withdrawn without leave**

No objection on any ground whatever may be taken to any information to which the defendant has pleaded guilty, and the

defendant may not withdraw the plea except with the leave of a Judge of the Court in which the defendant is to be sentenced.

"Compare: 1957 No 87 s 169

"**184L Defendant committed for sentence must be brought before High Court**

"(1) A defendant who is committed to the High Court for sentence must, as soon as practicable, be brought before the High Court for sentence.

"(2) Any Judge of the High Court has the same powers of sentencing or of otherwise dealing with the defendant, and of finally disposing of the charge and of all incidental matters, as he or she would have had if the defendant had pleaded guilty to the offence charged, in the High Court.

"Compare: 1957 No 87 s 170

"*Procedure if defendant does not plead guilty*

"**184M Procedure if standard committal occurs or defendant does not plead guilty**

"(1) If section 177 (the standard committal) applies, or if, after receiving the advice in section 184I, the defendant does not plead guilty, then the Court must,—

"(a) if the defendant is a natural person, commit the defendant for trial; or

"(b) if the defendant is a corporation, make an order empowering the filing of an indictment in respect of the offence named in the order.

"(2) If the defendant is a corporation, for the purposes of any enactments referring to committal for trial, an order under subsection (1)(b) is deemed to be a committal for trial.

"(3) This section is subject to section 66(6) of this Act and to section 345 of the Crimes Act 1961.

"Compare: 1957 No 87 s 170

"**184N Court to which defendant must be committed**

"(1) The Court to which a defendant must be committed for trial under section 184M is as follows:

"(a) in respect of any offence that a District Court has jurisdiction to try under section 28A(1)(a), (b), (d), (e), or (f) of the District Courts Act 1947, either—

"(i) the District Court exercising that jurisdiction that is nearest to the committing Court; or

"(ii) any other District Court exercising that jurisdiction that is specified in regulations made under this Act as being a Court to which the defendant may be committed for trial (even if not nearest to the committing Court):

"(b) in respect of any other offence, either—

"(i) the High Court at the place where sittings of the Court are held that is nearest to the committing Court; or

"(ii) the High Court at any other place that may be specified in regulations made under this Act as being the place at which sittings of the High Court are conducted and to which the defendant may be committed for trial (even if not nearest to the committing Court).

"(2) Nothing in this section affects section 28J of the District Courts Act 1947.

"Compare: 1957 No 87 s 168A(1)

"**184O Court to which defendant must be committed if related charge must be heard in High Court**

"(1) This section applies if the defendant has been charged (either alone or together with some other person or persons) with offences arising from an incident or series of incidents, or a transaction or set of circumstances, in respect of which he or she must be committed to the High Court on at least 1 charge.

"(2) In each case to which this section applies, despite section 184N(1), the Court to which the defendant must be committed for trial under section 184M must be either—

"(a) the High Court at the place where sittings of the Court are held that is nearest to the committing Court; or

"(b) the High Court at any other place that is specified in regulations made under this Act as being a place at which sittings of the High Court are conducted and to

which the defendant may be committed for trial (even if not nearest to the committing Court).

"(3) A High Court Judge may, under section 184Q(2), direct that an indictable offence that may be tried in a District Court under section 28A of the District Courts Act 1947 be tried in that Court even if the defendant has been committed to the High Court for trial under subsection (1).

"(4) Nothing in this section affects section 28J of the District Courts Act 1947.

"Compare: 1957 No 87 s 168A(2)–(4)

"**184P Committal to wrong Court**

"(1) If a defendant is committed to a Court for trial and the Court to which he or she is committed is not the correct Court, the Court to which the defendant has been committed may transfer the proceeding to the appropriate Court specified in section 184N or 184O.

"(2) If this section applies, and the Court so directs, the Registrar must ensure that notice is given to the defendant's counsel or solicitor, or to the defendant if the defendant is not represented of the date and time at which the defendant must report to the Court to which the proceedings have been transferred, and—

"(a) if the defendant has been released on bail, making the necessary variations in the conditions of bail; and

"(b) if the defendant has been remanded in custody, making the necessary alterations to the warrant of commitment.

"**184Q High Court Judge must determine trial Court in certain cases**

"(1) This section applies if a defendant is committed to the High Court for trial for any offence referred to in Part 1 of Schedule 1A of the District Courts Act 1947.

"(2) If this section applies, a Judge of the High Court must determine on the papers whether it is more appropriate for the trial to be held in a District Court, and, if the Judge so determines, the Judge may transfer the case to the District Court exercising jurisdiction under Part 2A of the District Courts Act 1947 that is nearest to the committing Court.

"(3) No party is entitled to be heard by, or to make submissions to, the Judge under subsection (2).

"(4) In determining the appropriate Court under subsection (2), the Judge must have regard to the following matters:

"(a) the gravity of the offence charged; and

"(b) the complexity of the issues likely to arise in the proceedings; and

"(c) the desirability of the prompt disposal of trials; and

"(d) the interests of justice generally.

"(5) Nothing in this section applies to proceedings transferred to the High Court by order made under section 28J of the District Courts Act 1947.

"(6) Nothing in this section applies to a proceeding involving a witness who is the subject of an anonymity order made under section 112 of the Evidence Act 2006.

"Compare: 1957 No 87 s 168AA

"**184R Notice of transfer of case to District Court**

"(1) If an order transferring a case to a District Court is made under section 184Q, a Registrar of the High Court must give, or cause to be given,—

"(a) to the defendant's counsel or solicitor, or to the defendant if the defendant is not represented,—

"(i) a copy of the order; and

"(ii) a written notice informing the defendant of the date and time at which the defendant must report to the District Court to which the case has been transferred and, if the defendant has been released on bail, making the necessary variations in the conditions of bail; and

"(b) to each surety of that defendant under any surety bond,—

"(i) a copy of the order; and

"(ii) a copy of the written notice given to the defendant under paragraph (a)(ii).

"(2) If subsection (1) is complied with in relation to a defendant and in relation to each surety of that defendant under a surety

bond, the terms of that surety bond are deemed to be varied accordingly.

"Compare: 1957 No 87 s 168AB

"**184S Defendant must be advised of right to apply for trial before Judge without jury**

"(1) Subsection (2) applies if the Court commits a defendant for trial for any offence other than one referred to in section 361B(5) of the Crimes Act 1961.

"(2) If this subsection applies, the Registrar must, either on committal or as soon as practicable after committal, give, or cause to be given, to the defendant's counsel or solicitor, or to the defendant if he or she is not represented, a written notice of the defendant's right, under section 361B, to apply to a Judge of the High Court or a trial Judge of the District Court, as the case may require, for an order that the defendant be tried before a Judge without a jury.

"(3) A notice under subsection (2) must be in the prescribed form.

"(4) The fact that the written notice was given to the defendant's counsel or solicitor, or to the defendant, must be recorded on the form of committal of the defendant for trial.

"Compare: 1957 No 87 s 168C

"*Procedure after committal for trial or sentence*

"**184T Dealing with defendant committed for trial or for sentence**

"(1) If a defendant is committed for trial at a standard committal, the Court must remand the defendant to appear in the Court to which the defendant is committed for trial, and—

"(a) if the defendant is in custody at the time of committal, the defendant must be remanded in custody; and

"(b) if the defendant is on bail at the time of committal, the Court, despite the absence of the defendant, must impose the condition required by section 52(2) of the Bail Act 2000 and that condition and the conditions of bail to which the defendant is subject continue in force until—

"(i) the date on which the defendant is due to appear in the Court to which the defendant is committed for trial; or

"(ii) any earlier date on which the defendant appears before a Court; and

"(c) the Registrar must ensure that notice of the defendant's committal and the conditions required by section 52(2) of the Bail Act 2000 are given to the defendant, the defendant's counsel (if any), the prosecutor, and also to the sureties under any surety bond.

"(2) If a defendant committed for trial (whether at a standard committal process or at a committal hearing) or for sentence is remanded in custody, whether or not the defendant is present at the time of committal, the District Court must issue a warrant in the prescribed form for the defendant's detention in a prison—

"(a) pending and during the defendant's trial; or

"(b) pending the defendant being brought up for sentence and during his or her sentencing.

"(3) Despite subsection (2), the District Court may, instead of issuing a warrant under that subsection, make an order for the defendant's detention in a psychiatric hospital pending the defendant's trial if the District Court is satisfied of the matters in subsection (4).

"(4) Before making an order under subsection (3), the District Court must be satisfied, on the production of a certificate or certificates by 2 medical practitioners, that—

"(a) the defendant is mentally disordered within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992; and

"(b) the defendant's mental condition requires that, in the defendant's own interest, the defendant be detained in a hospital, within the meaning of that Act, instead of in a prison.

"184U Evidence of witness taken after defendant committed for trial

"(1) A District Court Judge may, after a defendant has been committed for trial, make an order that the evidence of a person

who did not give evidence (whether by formal written statement or orally) be taken.

"(2) Before making an order under subsection (1), the Judge must be satisfied that—

"(a) the person is able to give evidence; and

"(b) it is in the interests of justice that the evidence of that person be taken.

"(3) An order under subsection (1) may be made on an application by the prosecutor or by the defendant.

"(4) An order under subsection (1) must specify whether the evidence of the witness is to be provided by way of formal written statement or taken orally.

"(5) If the Judge orders that the person's evidence be taken orally,—

"(a) the order must specify the time and place at which the evidence of the witness must be taken; and

"(b) the party on whose application an order under subsection (1) is made must give notice to the other party, in the prescribed form, of the time and place at which the evidence must be taken.

"(6) The provisions of this Part as to the taking of the evidence of witnesses at a committal hearing, as far as they are applicable and with the necessary modifications, apply with respect to any evidence taken under this section as if that evidence were taken at a committal hearing.

"(7) The formal written statement provided, or oral evidence taken, under this section—

"(a) must be forwarded to the Registrar of the Court in the place to which the defendant was committed for trial; and

"(b) has effect as if it were a formal written statement or oral evidence taken at a committal hearing.

"Compare: 1957 No 87 s 178

"184V Notice to witnesses to attend at trial Court

"(1) The presiding District Court Judge, Justices, Community Magistrate, Community Magistrates, or Registrar may issue to any person specified in subsection (2) a notice requiring

that person, if the defendant is committed for trial, to attend at the High Court or the District Court, as the case may be, in accordance with the terms of the notice, to give evidence.

"(2) The persons to whom a notice under subsection (1) may be issued are—

"(a) any person who made a formal written statement that was provided in evidence for the purposes of the standard committal or at the committal hearing; and

"(b) any person whose evidence was taken under section 184U; and

"(c) any person who gave oral evidence at the committal hearing (if there was one).

"(3) A notice under subsection (1)—

"(a) must be in the prescribed form; and

"(b) has effect as if it were a summons to a witness issued out of the High Court or District Court, as the case may be; and

"(c) must be served personally, by an officer of the District Court or by any constable, on the person to whom it is addressed.

"(4) The service of a notice under subsection (1) may be proved in the High Court or District Court, as the case may be,—

"(a) by an affidavit made by the person who served the notice that shows the fact and the time of service; or

"(b) by the person who served the notice on oath at the trial; or

"(c) by an endorsement on a copy of the notice that shows the fact and time of service, and that is signed by the person effecting service.

"(5) Every person who wilfully endorses any false statement of the fact or time of service on a copy of the notice commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding $2,000 or to both.

"(6) If, at the conclusion of a committal hearing, the defendant is discharged, every notice given to a witness under subsection (1) is deemed to be cancelled, and the Registrar must cause notice of that cancellation, in the prescribed form, to be given to the witness.

"(7) A notice of cancellation under subsection (6) must be given by delivering it to the witness personally, or by sending it to him or her by registered post addressed to the witness's last known place of residence.

"Compare: 1957 No 87 s 181

"**184W On committal, documents, etc, must be sent to trial Court or sentencing Court**

"(1) If any person is committed for trial or sentence (other than under section 161), the Registrar of the District Court must immediately send to the Registrar of the Court in the place where the trial is to be held or the person is to be sentenced—

"(a) the information; and

"(b) all formal written statements; and

"(c) the record of any oral evidence; and

"(d) any video record of the complainant's evidence provided—

"(i) for the purposes of the standard committal in accordance with section 185D; or

"(ii) at the committal hearing in accordance with section 185D; and

"(e) the form of committal and any other documents relating to the committal; and

"(f) any exhibits in his or her custody; and

"(g) the notice of bail (if any) and any surety bond; and

"(h) any certificate filed by the Commissioner of Police under section 108(2) of the Evidence Act 2006 in respect of any witness; and

"(i) a copy of the notice to attend the Court issued to any witness.

"(2) If any person is committed for sentence under section 161, or under section 28G of the District Courts Act 1947 following a plea of guilty under section 161, the Registrar of the District Court must immediately send to the Registrar of the High Court in the place where the person is to be sentenced—

"(a) the information; and

"(b) a summary of the facts (which must be provided by the prosecutor to the Registrar); and

"(c) any evidence upon which that person has pleaded; and

"(d) the notice of bail (if any) and any surety bond; and

"(e) any other documents or exhibits relating to the committal.

"Compare: 1957 No 87 s 182

"**184X Every party entitled to records of oral evidence or summary of facts**

"(1) Every party to the proceedings is entitled to a copy of any record of oral evidence to which section 184W(1)(c) applies, without fee.

"(2) Every party to the proceedings is entitled to a copy of any summary of facts and evidence sent to the Registrar of the High Court in accordance with section 184W(2)(b) and (c), without fee.

"(3) If the evidence of the complainant is to be given by way of video record in accordance with section 185D, the defendant is not entitled to a copy of the video record, but is entitled to view the video record within the Court precincts in the presence of an officer of the Court.

"Compare: 1957 No 87 s 183

"**184Y When formal written statement or record of oral evidence may be read in evidence at trial**

"(1) If the defendant is committed for trial, any oral evidence that he or she gave at a committal hearing may, without further proof, be given in evidence against him or her at his or her trial.

"(2) If the conditions in subsection (3)(a) or (b) are met, either or both of the following items may, without further proof, be read or given as evidence for any party at the trial of a person who has been committed for trial:

"(a) any formal written statement admitted as evidence at that person's standard committal or committal hearing:

"(b) any record of oral evidence given by a witness at that person's committal hearing.

"(3) A formal written statement or record of oral evidence may be read or given as evidence under subsection (2)—

"(a) if it is proved, by evidence that the Judge considers sufficient (whether legally admissible or not), that the person who made the statement or who gave the oral evidence is—

"(i) out of New Zealand; or

"(ii) dead; or

"(iii) so ill as not to be able to travel; or

"(b) if all parties consent.

"(4) A formal written statement or record of oral evidence may be read or given as evidence under subsection (2)—

"(a) for the offence in respect of which that statement was taken or that oral evidence was given; or

"(b) for any other offence arising out of the same transaction, or set of circumstances, or incident, or series of incidents, as that offence.

"(5) A formal written statement or record of oral evidence must not be read as evidence if it is proved that—

"(a) the formal written statement was not taken and admitted in evidence in accordance with section 162; or

"(b) the record of oral evidence was not signed by the District Court Judge or Justices or Community Magistrate or Community Magistrates purporting to sign it; or

"(c) the record of oral evidence was not taken in accordance with the provisions of this Part.

"Compare: 1957 No 87 ss 163(4), 184

"**185 Witness about to leave New Zealand may be arrested**

"(1) If any person is committed for trial, any District Court Judge, Justice, or Community Magistrate who is satisfied, on oath, that any person referred to in subsection (2) is about to leave New Zealand may issue a warrant in the prescribed form for the arrest of that person.

"(2) The persons are—

"(a) any person who has been summoned to give evidence at the trial; or

"(b) any person on whom a notice has been served under this Part to attend at the High Court or District Court.

"(3) If any person is arrested under subsection (1), the provisions of section 20(4A) to (4D), so far as they are applicable and with any necessary modifications, apply.

"Compare: 1957 No 87 s 185

"Part 5A
"Special provisions relating to standard committal process and committal hearings in cases of sexual nature

"185A Application

"(1) This Part applies to committal hearings for and, so far as applicable, the standard committal for, any of the following offences:

"(a) any offence against sections 128 to 142A of the Crimes Act 1961:

"(b) any offence against section 144A of the Crimes Act 1961:

"(c) any other offence against the person of a sexual nature:

"(d) being a party to the commission of any offence referred to in paragraph (a), (b), or (c):

"(e) conspiring with any person to commit any of those offences.

"(2) Subsection (1) is subject to section 185B.

"185B Certain hearings to be conducted by Judge

Every Court that hears the oral evidence of a complainant at a committal hearing must be presided over by a District Court Judge if the defendant is charged with any of the following offences:

"(a) sexual violation:

"(b) attempted sexual violation:

"(c) assault with intent to commit sexual violation:

"(d) an offence against section 129A of the Crimes Act 1961 (inducing sexual connection by coercion):

"(e) an offence against section 142A of that Act (compelling indecent act with animal):

"(f) being a party to the commission of any offence referred to in paragraphs (a) to (e):

"(g) conspiring with any person to commit any of those offences.

"**185C Evidence of complainant**

"(1) Despite anything in Part 5, at any committal hearing to which this Part applies, the complainant's evidence must be given in the form of a written statement, and the complainant must not be examined or cross-examined on that statement unless—

"(a) the Court is satisfied that the complainant has been advised of the right to give evidence in the form of a written statement but nevertheless wishes to give evidence orally; or

"(b) the Court orders, either of its own motion or on the application of the defendant, that the complainant's evidence be given orally on the ground that it is necessary to hear the witness in order to determine whether there is sufficient evidence to commit the defendant for trial.

"(2) At any committal hearing, no person may be present in the courtroom except the following:

"(a) the Judge:

"(b) the prosecutor:

"(c) the defendant and any person who is for the time being acting as custodian of the defendant:

"(d) any barrister or solicitor engaged in the proceedings:

"(e) any officer of the Court:

"(f) any person who is for the time being responsible for recording the proceedings:

"(g) the constable in charge of the case:

"(h) any accredited news media reporter:

"(i) any person whose presence is requested by the complainant:

"(j) any person expressly permitted by the Judge to be present.

"(3) Before the complainant commences to give evidence at the committal hearing, the Judge must—

"(a) ensure that no person other than those referred to in subsection (2) is present in the courtroom; and

"(b) advise the complainant of the complainant's right to request the presence of any person under subsection (2)(i).

"**185D Child complainant's evidence may be given by video record**

"(1) Despite anything in Part 5 or section 185C, at any standard committal or committal hearing to which this Part applies, the evidence of the complainant may be provided or given, as the case requires, in the form of a video record if,—

"(a) in the case of a standard committal,—

"(i) the complainant is under the age of 17 years or in the opinion of the prosecutor the complainant is mentally handicapped; and

"(ii) the Court is satisfied that the video record has been made, and is identified, in the prescribed manner and form:

"(b) in the case of a committal hearing an order has been made under section 178 for the complainant to give oral evidence at a committal hearing; and

"(i) either—

"(A) the complainant is under the age of 17 years; or

"(B) it is apparent to the Court from viewing the video record, or from some other admissible evidence, that the complainant is mentally handicapped; and

"(ii) the Court is satisfied that the video record has been made, and is identified, in the prescribed manner and form.

"(2) If the video record is shown at a committal hearing, only those persons specified in section 185C(1), and any witness involved in, and testifying about, the making of the video record, may be present in the courtroom.

"(3) No report or account of any matters shown in the video record may be published, and every person who publishes a report or account of those matters commits an offence and is liable on summary conviction to a fine not exceeding $1,000.

"**185E Power of Court to prohibit publication of certain details**

"(1) If, at the time of the standard committal or in any committal hearing to which this Part applies, the Court is of the opinion that the interests of the complainant so require, it may make an

order forbidding the publication of any report or account giving details of the criminal acts alleged to have been performed on the complainant, or of any acts that the complainant is alleged to have been compelled or induced to perform, to consent to, or to acquiesce in.

"(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding $1,000 who commits a breach of any order made under subsection (1), or who evades, or attempts to evade, that order.

"**185F Other powers of Court preserved**

Nothing in section 185C(2) or 185D or 185E limits or affects the powers of the Court to exclude any person or forbid any report or account of any evidence under section 206, or under section 138 of the Criminal Justice Act 1985, or under any other enactment."

Section 12 (substituted section 158(2)(b)): amended, on 29 June 2009, pursuant to section 215 of the Evidence Act 2006 (2006 No 69).

Section 12 (inserted section 184Q): amended, on 29 June 2009, pursuant to section 215 of the Evidence Act 2006 (2006 No 69).

Section 12: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13 Rules and regulations

Section 212 is amended by inserting the following paragraphs after subsection (2)(eb):

"(ec) amending Schedule 1 by adding offences to, or removing offences from, Part 1 or Part 2 of that schedule:

"(ed) prescribing transitional arrangements for the trial and sentencing of persons charged with offences that are added to or removed from Part 1 or Part 2 of Schedule 1".

14 Amendments to Schedule 1

(1) The item relating to Part 5 of the Crimes Act 1961 in Part 1 of Schedule 1 is amended by inserting the following item after the item relating to section 91 of the Crimes Act 1961:

98A	Participation in organised criminal group

(2) The item relating to Part 7 of the Crimes Act 1961 in Part 1 of Schedule 1 is amended—

(a) by inserting the following item after the item relating to sections 125 and 126:

129A(2)	Inducing indecent act by threat

(b) by omitting the items relating to section 132(2) and 132(3):

(c) by omitting "135(1)" and substituting "135".

(3) The items relating to Part 9A of the Crimes Act 1961 in Part 1 of Schedule 1 are amended by inserting the following item after the item relating to section 216D of the Crimes Act 1961:

216F	Unlawful disclosure

(4) The item relating to Part 10 of the Crimes Act 1961 in Part 1 of Schedule 1 is amended—

(a) by omitting the item relating to section 219 of the Crimes Act 1961 and substituting the following items:

219, 223(a) to (c)	Theft or stealing
220, 223(a) to (c)	Theft by person in special relationship
221, 223(a) to (c)	Theft of animals

(b) by inserting the following item after the item relating to section 231 of the Crimes Act 1961:

232(2)	Aggravated burglary

(c) by omitting from the first column "236" and substituting "236(2)":

(d) by omitting from the first column "239" and substituting "239(2)":

(e) by omitting from the first column "240" and substituting "240, 241(a) and (b)":

(f) by omitting from the first column "246" and substituting "246, 247(a) and (b)":

(g) by inserting the following items after the item relating to section 250 of the Crimes Act 1961:

	251	Making, selling, or distributing, or possessing software for committing crime
	252	Accessing computer system without authorisation

(h) by omitting from the first column "269" and substituting "269(2) and (3)":

(i) by omitting the item relating to section 270 of the Crimes Act 1961.

(5) Part 2 of Schedule 1 is amended—

(a) by inserting the following item after the items relating to the Auctioneers Act 1928:

The Aviation Crimes Act 1972	11	Taking firearms, explosives, etc, on to aircraft

(b) by inserting the following items before the items relating to the Commerce Act 1975:

The Citizens Initiated Referenda Act 1993	43(4)(a)	Making false returns
	43(4)(b)	Illegal practice regarding returns

(c) by inserting the following item after the item relating to the Cornish Companies Management Act 1974:

The Coroners Act 1988	43(4)	False statement

(d) by omitting the item relating to the Corporations (Investigation and Management) Act 1989 and substituting the following items in relation to that Act:

9	Information offences
17	Hindering inspection
20(1)	Hindering investigation
20(2)	Information offences
23	Information offences
35(1)	Contravening Registrar
35(2)	Obstruction

36	Unauthorised disclosure
43	Unauthorised removal of assets
68	Destroying, altering, or concealing records

(e) by inserting the following item after the items relating to the Immigration Act 1987:

The Industrial and Provident Societies Act 1908	15(c)(iii)	False declaration

(f) by adding the following item to the items relating to the Insolvency Act 1967:

128A	Offence by undischarged bankrupt

(g) by adding the following item to the items relating to the Land Transfer Act 1952:

228A	Fraudulent removal of records

(h) by inserting the following item before the item relating to the Local Electoral Act 2001:

The Life Insurance Act 1908	29	Falsifying statements, etc

(i) by inserting the following item after the items relating to the Prostitution Reform Act 2003:

The Protection of Personal and Property Rights Act 1988	45(3)	False statement

(j) by inserting the following items after the items relating to the Referenda (Postal Voting) Act 2000:

The Reserve Bank of New Zealand Act 1989	29	Making or issuing of other bank notes or coins
	176	Offence against Act

(k) by inserting the following items before the items relating to the Serious Fraud Office Act 1990:

The Secret Commissions Act 1910	3	Gifts to agent without consent of principal an offence
	4	Acceptance of such gifts by agent an offence
	5	Duty of agent to disclose pecuniary interest in contract

6	Giving false receipt, invoice, etc, to agent an offence
7	Delivery of false receipt, etc, to principal an offence
8	Receiving secret reward for procuring contracts an offence
9	Aiding and abetting offences
10	Offences by person acting on behalf of agents

(l) by inserting the following item after the item relating to the Trade Marks Act 2002:

The Trade Unions Act 1908	29	Circulating false copies of rules, etc

15 Other amendments to principal Act

Schedule 1 makes further amendments to the principal Act.

Repeals, consequential amendments, review provision, and transitional provisions

16 District Courts Act 1947 amended

Section 28C of the District Courts Act 1947 is repealed.

17 Repeals

The enactments specified in Schedule 2 are repealed.

18 Consequential amendments

The Acts and regulations in Schedule 3 are consequentially amended in the manner indicated in that schedule.

19 Review of new Part 5 of principal Act

[Repealed]

Section 19: repealed, on 1 July 2013, by section 9 of the Summary Proceedings Amendment Act (No 2) 2011 (2011 No 94).

20 Transitional provision

[Repealed]

Section 20: repealed, on 1 July 2013, by section 9 of the Summary Proceedings Amendment Act (No 2) 2011 (2011 No 94).

Schedule 1
s 15

Other amendments

Section 2(1)

Omit from the definition of **committal for trial** "section 168A" and substitute "section 184N".

Section 5

Repeal and substitute:

"**5 Jurisdiction in relation to committal for indictable offences**

"(1) A Court presided over by a District Court Judge or by 2 or more Justices or by 1 or more Community Magistrates has jurisdiction to conduct the committal proceedings (including a standard committal, a committal hearing (if required), and proceedings under section 158, 180, or 181) for an indictable offence.

"(2) Unless the proceedings are in the Youth Court, a Court presided over by a District Court Registrar has jurisdiction to conduct a standard committal for an indictable offence.

"(3) Subsections (1) and (2) are subject to section 185B."

Section 33

Omit "section 175 of this Act" and substitute "section 164".

Omit "section 176 of this Act" and substitute "section 165".

Paragraph (b): omit "the preliminary" and substitute "a committal".

Section 66

Subsection (6): omit "section 153A or section 168 of this Act" and substitute "section 160, 161, 184I, 184J, or 184M".

Proviso to subsection (6): insert "or a Registrar" after "Community Magistrates".

Subsection (6A): omit "pursuant to the provisions of section 168 of this Act" and substitute "under sections 184I and 184J".

Section 203

Subsection (2)(h): omit "the provisions of section 175 of this Act:" and substitute "section 164:".

Schedule 2
s 17

Enactments repealed

Bail Act 2000 (2000 No 38)

So much of Schedule 2 as relates to sections 152A(4)(a), 153, 153A(6), 153A(7), 168(1)(b)(i), and 171 of the Summary Proceedings Act 1957.

Crimes Act 1961 (1961 No 43)

So much of Schedule 3 as relates to sections 170 and 172 of the Summary Proceedings Act 1957.

Crimes Amendment Act 1973 (1973 No 118)

Section 12.

Crimes Amendment Act 1995 (1995 No 49)

Section 10(1) and (2).

Crimes Amendment Act (No 2) 1995 (1995 No 68)

So much of Schedule 2 as relates to the Summary Proceedings Act 1957.

Criminal Justice Act 1985 (1985 No 120)

So much of Schedule 1 as relates to section 168(1A) of the Summary Proceedings Act 1957.

Evidence (Witness Anonymity) Amendment Act 1997 (1997 No 103)

So much of the Schedule as relates to sections 168AA(5) and 178A of the Summary Proceedings Act 1957.

Summary Proceedings Amendment Act 1961 (1961 No 44)

Sections 4(1)(g) and 8.

Summary Proceedings Amendment Act 1964 (1964 No 22)

Sections 3 and 5(3).

Summary Proceedings Amendment Act 1973 (1973 No 117)

Sections 21, 22, 23, and 24.

Summary Proceedings Amendment Act 1976 (1976 No 169)

Sections 15, 16, 17 and so much of the Schedule as relates to sections 152(2), 153, 158, 160(1), 161(1), 165(1), 178(1), 180, 181(1), and 182 to 184 of the Summary Proceedings Act 1957.

Summary Proceedings Amendment Act 1979 (1979 No 126)

Section 2.

Summary Proceedings Amendment Act 1980 (1980 No 84)

Sections 10, 11, 13, 14, 16, 17, 18, 19, and 20.

Summary Proceedings Amendment Act (No 2) 1982 (1982 No 131)

Section 2.

Summary Proceedings Amendment Act (No 3) 1982 (1982 No 158)

Section 3.

Summary Proceedings Amendment Act (No 4) 1985 (1985 No 162)

Sections 3 and 4.

Summary Proceedings Amendment Act (No 2) 1986 (1986 No 76)

Summary Proceedings Amendment Act (No 2) 1987 (1987 No 172)

So much of the Schedule as relates to sections 182 and 185 of the Summary Proceedings Act 1957.

Summary Proceedings Amendment Act (No 2) 1989 (1989 No 105)

Summary Proceedings Amendment Act 1991 (1991 No 62)
Sections 5, 7, and 8(1).

Summary Proceedings Amendment Act 1993 (1993 No 47)
Sections 25 and 27.

Summary Proceedings Amendment Act 1994 (1994 No 161)
Section 7.

Summary Proceedings Amendment Act (No 2) 1996 (1996 No 146)
Sections 3, 4(1) to (3), and 5.

Summary Proceedings Amendment Act 1998 (1998 No 61)
Section 4.

Summary Proceedings Amendment Act (No 2) 1998 (1998 No 77)
Sections 27, 28, 29, 32, 33, 34, 35, 36, 40, 41, 42, and 43.

Summary Proceedings Amendment Act 2000 (2000 No 82)
Section 3.

Schedule 3
s 18

Consequential amendments to other enactments

Part 1
Acts amended

Bail Act 2000 (2000 No 38)

Definition of **committal for trial** in section 3: omit "section 168A" and substitute "section 184N or 184O".

Heading above section 49: omit "*preliminary hearing of*" and substitute "*committal proceedings for*".

Section 49(1): omit "preliminary hearings of indictable offences) applies, as if references in those provisions to the hearing were references to the preliminary hearing or the proceedings under section 153A of the Summary Proceedings Act 1957, as the case may be," and substitute "committal proceedings for indictable offences) applies as if references in those provisions to the hearing were references to the committal proceedings".

Heading to section 50: omit "section 153A" and substitute "section 160".

Section 50(1): omit "or during the preliminary hearing and proceedings are adjourned under section 153A(6)(a)" and substitute "the defendant is committed for trial and proceedings are adjourned under section 161(3)(a)".

Section 50: add:

"(3) This section is subject to section 184T of the Summary Proceedings Act 1957."

Heading to section 51: omit "**at preliminary hearing**" and substitute "**at standard committal or committal hearing**".

Section 51: omit "section 168(1)(b)(i)" and substitute "section 184J(1)(a)".

Section 52: add:

"(4) This section is subject to section 184T of the Summary Proceedings Act 1957.

"(5) In this section, every reference to a defendant granted, or released on, bail includes a defendant whose bail is continued in

Part 1—*continued*

Bail Act 2000 (2000 No 38)—*continued*

his or her absence (whether under section 184T of the Summary Proceedings Act 1957 or otherwise)."

Section 54(1): repeal.

Section 54(2): omit "section 171(1)" and substitute "section 184T(2)".

Children, Young Persons, and their Families Act 1989 (1989 No 24)

Section 272(2) and (4): omit "the preliminary hearing of the charge" and substitute in each case "the committal process for the charge".

Section 275(1): repeal and substitute:

"(1) Where section 274 applies and the offence is not murder or manslaughter, if the Youth Court proposes to, or is to, commit the young person for trial for the offence, the Youth Court may give the young person an opportunity of forgoing the right to trial by jury and of electing to have the information heard and determined in a Youth Court by a Youth Court Judge.

"(1A) For the purposes of determining whether to exercise the power conferred by subsection (1), despite section 177 of the Summary Proceedings Act 1957, the Youth Court—

"(a) must consider the evidence produced by the prosecution for the purposes of the standard committal or committal hearing of the young person:

"(b) must allow the prosecutor and the young person to make oral or written submissions as to whether the young person should be given the opportunity referred to in subsection (1):

"(c) without limiting any other power of the Court to adjourn proceedings, may adjourn the committal proceedings for a hearing at which the prosecutor and the young person may make those submissions."

Costs and Criminal Cases Act 1967 (1967 No 129)

Section 5(1): omit "section 167" and substitute "section 184F".

Part 1—*continued*

Crimes Act 1961 (1961 No 43)

Definition of **depositions** in section 2: repeal and substitute:

"**depositions** includes written statements admitted in evidence at the standard committal or the committal hearing under section 162 of the Summary Proceedings Act 1957, and statements made under section 164 of that Act and admitted in evidence at the standard committal or read in evidence at the committal hearing".

Definition of **trial judge in section 2**: omit "pursuant to section 168AA" in both places, and substitute in each case "under section 184Q".

Section 3(c): omit "section 153A or section 168" and substitute "section 160 or 184J".

Section 120(1)(ba): omit " section 171(2)" and substitute "section 184T(3)".

Section 324: omit "section 181" and substitute "section 184V".

Section 345B(5)(a): omit "preliminary hearing" and substitute "committal proceedings for".

Section 345D(4)(a): omit "preliminary hearing of" and substitute "committal proceedings for".

Section 351(1): omit "section 181" and substitute "section 184V".

Section 361B(8): omit "during or at the end of the preliminary hearing before the District Court" and substitute "before or immediately after the person is committed for trial".

Section 361C(2)(a): omit "section 168C" and substitute "section 184S".

Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115)

Section 10(3): omit and substitute:

"(3) The provisions of Part 5 of the Summary Proceedings Act 1957 that relate to the conduct of a committal hearing, so far as they are applicable and with any modifications, apply to every hearing held under subsection (2)."

Part 1—*continued*

Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115)—*continued*

Section 11: omit and substitute:

"**11 Inquiry into defendant's involvement if committal proceedings required**

"(1) This section applies if committal hearings under Part 5 of the Summary Proceedings Act 1957 are required.

"(2) If the question whether the defendant is unfit to stand trial is to be determined before or without a committal hearing, the Court must hold a special hearing to ascertain whether the Court is satisfied of the matter specified in section 9.

"(3) The provisions of Part 5 of the Summary Proceedings Act 1957 that relate to committal hearings, so far as they are applicable and with any necessary modifications, apply to every hearing held under subsection (2).

"(4) A hearing held under subsection (2) takes the place of a committal hearing under Part 5 of the Summary Proceedings Act 1957.

"(5) If the question whether the defendant is unfit to stand trial is to be determined in the course of a committal hearing, the Court must ascertain whether it is satisfied of the matter specified in section 9.

"(6) For the purpose of subsection (5), the Court may (whether on the application of the party or on the Court's own initiative) do either or both of the following:

"(a) consider any evidence presented at the committal hearing:

"(b) hear any new evidence.

"(7) A District Court Judge must preside over a Court that conducts a special hearing under subsection (2) or determines whether the defendant is unfit to stand trial in the course of a committal hearing."

Section 12(2)(a): omit "at the preliminary hearing" and substitute "for the purposes of the standard committal or at the committal hearing".

Part 1—*continued*

Criminal Procedure (Mentally Impaired Persons) Act 2003 (2003 No 115)—*continued*

Section 12(2)(b): omit "of the preliminary hearing" and substitute "for the purposes of the standard committal or of the committal hearing".

District Courts Act 1947 (1947 No 16)

Section 28A(1)(c)(i) (as inserted by the District Courts Amendment Act (No 2) 2008): omit "section 168AA" and substitute "section 184Q".

Section 28A(1)(c)(ii) (as inserted by the District Courts Amendment Act (No 2) 2008): omit "section 153A or section 168 of the Summary Proceedings Act 1957, " and substitute "section 160 or 184J of the Summary Proceedings Act 1957".

Section 28B(2): omit "Except as provided in section 28C of this Act, nothing" and substitute "Nothing".

Section 28F(1)(b): omit "section 168AA(2)" and substitute "section 184Q".

Section 28F(3)(a): omit "section 153A or section 168" and substitute "section 160 or 184J".

Section 28F(3)(a): omit ", before or during the preliminary hearing".

Section 28G: omit "sections 169 to 171" and substitute "sections 184K, 184L, and 184T".

Section 28J(1): omit "section 168A" and substitute "section 184N".

Section 28J(1): omit "section 168AA" and substitute "section 184Q".

Evidence Amendment Act 1980 (No 2) (1980 No 27)

Section 20(3)(e): omit "in a preliminary hearing" and substitute "at a standard committal or for the purposes of a committal hearing".

Evidence Act 2006 (2006 No 69)

Section 106(1)(a): omit "preliminary hearing" and substitute "standard committal or the committal hearing".

Section 106(1)(b): omit "preliminary hearing" and substitute "standard committal or the committal hearing".

Part 1—*continued*

Evidence Act 2006 (2006 No 69)—*continued*

Section 110(2)(a): omit "preliminary hearing" and substitute "standard committal or the committal hearing (if required)".

Section 110(2)(b): omit "at the preliminary hearing" and substitute "for the purposes of or at the standard committal or committal hearing (if required)".

Section 111(b): omit "during the course of the preliminary hearing" and substitute "at the standard committal or during the course of the committal hearing (if required)".

Section 111(b): omit "the preliminary hearing" in the second place where it appears and substitute "that process".

Section 111(c): omit "preliminary hearing" and substitute "committal hearing (if required)".

Section 116(1): omit "the preliminary hearing or" and substitute "any committal hearing or the".

Section 116(2): omit "the preliminary hearing or" and substitute "any committal hearing or the".

Extradition Act 1999 (1999 No 55)

Section 22(1)(a): omit "preliminary" and substitute "committal".

Section 22(3): omit "section 153" and substitute "section 157".

Section 26(1)(a): omit "section 171(2)" and substitute "section 184T(3)".

Section 28(2)(a): omit "section 171(2)" and substitute "section 184T(3)".

Section 43(5): omit "Section 171" and substitute "Section 184T".

Section 46(1)(a): omit "section 171(2)" and substitute "section 184T(3)".

Section 53(2)(b)(i): omit "section 171(2)" and substitute "section 184T(3)".

Section 54(2)(a): omit "section 171(2)" and substitute "section 184T(3)".

Section 79(1): omit "preliminary hearing of" and substitute "committal hearing for".

Part 1—*continued*

International Crimes and International Criminal Court Act 2000 (2000 No 26)

Section 41(5): omit "Section 171" and substitute "Section 184T".

Section 46(2)(a): omit "section 171(2)" and substitute "section 184T(3)".

Land Transport Act 1998 (1998 No 110)

Section 74(7)(a)(ii): omit "section 147" and substitute "section 150".

Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46)

Definition of **special patient** in section 2: omit "section 171(2)" and substitute "section 184T(3)".

Schedule 3 Part 1: amended, on 1 October 2010, by section 16(2)(b) of the Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Act 2010 (2010 No 2).

Part 2
Regulations amended

Costs in Criminal Cases Regulations 1987 (SR 1987/2000)

Paragraph (c) under heading A in Part I of the Schedule: omit "preliminary" and substitute "committal".

Crown Solicitors Regulations 1994 (SR 1994/142)

Regulation 21(2): omit "preliminary" and substitute "committal".

Evidence (Videotaping of Child Complainants) Regulations 1990 (SR 1990/164)

Heading to regulation 13 and regulation 13: omit "preliminary" in both places and substitute "committal" in each case.

Contents

1 General
2 Status of reprints
3 How reprints are prepared
4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
5 List of amendments incorporated in this reprint (most recent first)

Notes

1 General

This is a reprint of the Summary Proceedings Amendment Act (No 2) 2008. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* http://www.pco.parliament.govt.nz/reprints/.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see* http://www.pco.parliament.govt.nz/editorial-conventions/ or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as "of this section" and "of this Act")
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as "the 1st day of January 1999" is now expressed as "1 January 1999")

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 List of amendments incorporated in this reprint (most recent first)

Summary Proceedings Amendment Act (No 2) 2011 (2011 No 94): section 9

Children, Young Persons, and Their Families (Youth Courts Jurisdiction and Orders) Amendment Act 2010 (2010 No 2): section 16(2)(b)

Summary Proceedings Amendment Act (No 2) 2008 Commencement Order 2009 (SR 2009/128)

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Evidence Act 2006 (2006 No 69): section 215

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