

Search and Surveillance Bill

Government Bill

As reported from the committee of the whole
House

Search and Surveillance Bill

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

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Hon Judith Collins

Search and Surveillance Bill

Government Bill

Contents

		Page
1	Title	22
2	Commencement	22
Part 1		
General provisions		
3	Interpretation	22
4	Act binds the Crown	30
4A	Purpose	30
Part 2		
Police powers		
	Subpart 1—Rules about search warrant powers in relation to places, vehicles, and other things	
6	Issuing officer may issue search warrant	31
	Subpart 2—Warrantless powers to enter and search when effecting arrest	
7	Entry without warrant to arrest person unlawfully at large	31
8	Entry without warrant to avoid loss of offender or evidential material	32
	<i>Stopping vehicle without warrant to effect arrest</i>	
9	Stopping vehicle to find persons unlawfully at large or who have committed certain offences	32
10	Powers and duties of constable after vehicle stopped	32

Search and Surveillance Bill

	Subpart 3—Warrantless searches of people who are to be locked up in Police custody	
11	Warrantless searches of people who are, or are to be, locked up in Police custody	33
12	Searchers	34
13	Property taken from people locked up in Police custody	35
	Subpart 4—Warrantless powers of entry in urgent circumstances	
14	Warrantless entry to prevent offence or respond to risk to life or safety	35
	Subpart 5—Warrantless powers for evidential material relating to serious offences	
15	Entry without warrant to find and avoid loss of evidential material relating to certain offences	36
16	Searching people in public place without warrant for evidential material relating to certain offences	37
17	Warrantless entry and search of vehicle for evidential material relating to certain offences	37
	Subpart 6—Warrantless powers in relation to arms offences	
18	Warrantless searches associated with arms	37
	Subpart 7—Police powers in relation to Misuse of Drugs Act 1975 offences	
18A	Search of persons in relation to Misuse of Drugs Act 1975 offence search warrants	38
19	Warrantless search of places and vehicles in relation to some Misuse of Drugs Act 1975 offences	38
20	Warrantless searches of people found in or on places or vehicles	39
21	Warrantless power to search for controlled drugs and precursor substances if offence suspected against Misuse of Drugs Act 1975	39
22	Internal search of person under arrest for offence against section 6 or 7 or 11 of Misuse of Drugs Act 1975	40
23	Effect of not permitting internal search under section 22 on bail application	41

Search and Surveillance Bill

	Subpart 7A—Warrantless powers in relation to offences against section 78 of Crimes Act 1961	
23A	Warrantless searches if offence against section 78 of Crimes Act 1961 suspected	42
	Subpart 8—Warrantless powers in relation to offences against section 202A of Crimes Act 1961	
24	Meaning of disabling substance and offensive weapon in this subpart	42
25	Searching people in public places without search warrant if offence against section 202A(4)(a) of Crimes Act 1961 suspected	43
26	Stopping and searching vehicles without warrant if offence against section 202A of Crimes Act 1961 suspected	43
	Subpart 9—Warrantless search of vehicle for stolen property	
27	Power to search vehicles without warrant for stolen property	44
	Subpart 10—Warrantless powers relating to road blocks	
28	Obtaining authorisation for warrantless road block	44
29	Duration and record of warrantless road block authorisation	45
30	Authorised road blocks implemented without warrant	45
	Subpart 11—Examination orders	
	<i>Examination orders in business contexts</i>	
31	Inspector or more senior officer may apply for examination order in business context	46
32	Conditions for making examination order in business context	47
	<i>Examination orders in contexts other than those of business</i>	
33	Inspector or more senior officer may apply for examination order in non-business context	47
34	Conditions for making examination order in non-business context	48
	<i>Other provisions that apply to examination order applications</i>	
35	Other provisions that apply to examination order applications	49

Search and Surveillance Bill

	<i>Making examination orders and contents of examination orders</i>	
36	Judge may make examination order	49
37	Form and content of examination order	50
	<i>Other provisions relating to examination orders</i>	
38	Presence of lawyer	50
39	Duration of examination order	51
40	Other provisions that apply to examination orders	51
	<i>Examination order reports</i>	
40A	Examination order reports	51
	Subpart 12—Other matters	
41	Common law defence of necessity for people other than constables not affected by this Part	52
	Part 3	
	Enforcement officers' powers and orders	
	Subpart 1—Surveillance device warrants and declaratory orders	
42AA	Restrictions on some trespass surveillance and use of interception device	52
	<i>Surveillance device warrants</i>	
42	Activities for which surveillance device warrant required	52
43	Some activities that do not require warrant under this subpart	53
44	Surveillance device warrant need not be obtained for use of surveillance device in some situations of emergency or urgency	54
	<i>Application for surveillance device warrant</i>	
45	Application for surveillance device warrant	56
45A	Approval of law enforcement agencies other than Police to carry out visual trespass surveillance and use interception devices	57
46	Conditions for issuing surveillance device warrant	58
47	Other provisions that apply to surveillance device warrant applications	59
	<i>Issuing of surveillance device warrant</i>	
48	Who may issue surveillance device warrant	59
49	Restrictions on issue of surveillance device warrant	60
50	Form and content of surveillance device warrant	60

Search and Surveillance Bill

	<i>Carrying out authorised surveillance activities and evidential material relevant to other offences</i>	
51	Carrying out authorised surveillance activities	62
51A	Admissibility of evidential material relevant to other offences	62
	<i>Other provisions applying to surveillance device warrants</i>	
52	Other provisions that apply to surveillance device warrants	63
	<i>Surveillance device warrant reports</i>	
53	Surveillance device warrant report	63
54	Report on use of surveillance device in situation of urgency or emergency	64
55	Actions on receipt of surveillance device warrant report	65
56	Actions on receipt of report on use of surveillance device in situation of urgency or emergency	65
	<i>Retention and destruction of raw surveillance data, excerpts, and other information obtained</i>	
56A	Retention of raw surveillance data, excerpts, and information obtained	66
56B	Disposal of raw surveillance data, excerpts, and information obtained	68
	<i>Declaratory orders</i>	
57	What is a declaratory order	68
	<i>Applying for declaratory order</i>	
58	When to obtain declaratory order	68
59	Application for declaratory order	69
	<i>Making declaratory order</i>	
60	Who may make declaratory order	70
61	Form and content of declaratory order	70
	Subpart 2—Production orders	
68	Interpretation	71
69	Enforcement officer may apply for production order	71
70	Conditions for making production order	72
71	Other provisions that apply to production order applications	73
72	Issuing officer may make production order	73
73	Form and content of production order	73
74	Duration of production order	74

Search and Surveillance Bill

75	Other provisions applying to production orders	74
76	Documents produced under production order	74
77	Copy of retained document to be given	75
	Subpart 3—Police and Customs officer powers to search in relation to delivery under section 12 of Misuse of Drugs Amendment Act 1978	
78	Meaning of terms used in this subpart	75
79	Searches of persons, places, and vehicles relating to deliveries under section 12 of Misuse of Drugs Amendment Act 1978	75
	Subpart 4—Warrantless powers of entry and search incidental to arrest or detention	
80	Application of this subpart	76
81	Entry without warrant after arrest	77
82	Warrantless entry and search of vehicle after arrest	77
83	Rub-down search of arrested or detained person	77
84	Things that can be done to facilitate rub-down search	78
85	Rub-down search may include visual examination	78
86	Warrantless search of arrested or detained person	79

Part 4

**General provisions in relation to search, surveillance,
and inspection powers**

Subpart 1—Application of rules in this Part, and consent
searches

Application of rules

87AA	Application of this Part	82
87	Application of rules in relation to enforcement officers and transfer of things between law enforcement agencies, etc	83

Subpart 1A—Consent searches

88	Application of rules about consent searches	84
89	Purposes for which consent search may be undertaken	84
90	Advice that must be given before consent search undertaken	84
91	Circumstances where search by consent unlawful	85
92	Ability of persons under 14 years to consent to searches of places, vehicles, or other things	85
93	Exceptions to consent search rules	85

Subpart 2—Search warrants

95	Interpretation	86
----	----------------	----

Search and Surveillance Bill

<i>Application for search warrant</i>		
96	Application for search warrant	86
97	Application must be verified	87
98	Mode of application for search warrant	87
99	Retention of documents	88
<i>Issuing of search warrant</i>		
100	Restrictions on issue of search warrant	89
101	Form and content of search warrant	90
102	Issuing officer may require search warrant report	92
103	Transmission of search warrant	92
104	When search warrant executed	93
105	When search warrant invalid	93
106	Authorisation of issuing officers	93
106A	Limitation on jurisdiction of certain issuing officers	94
<i>Subpart 3—Carrying out search powers</i>		
108	Search powers	94
108A	Remote access search of thing authorised by warrant	96
109	Items of uncertain status may be seized	96
110	Powers of persons called to assist	97
110A	Powers of persons called to assist remote access search	99
111	Limitation on exercise of powers	99
<i>Giving directions</i>		
112	Securing place, vehicle, or other thing to be searched	100
<i>Establishing search scene</i>		
113	Special powers where application for search warrant pending	100
<i>Detention of person at search scene</i>		
114	Powers of detention incidental to powers to search places and vehicles	102
<i>Powers of search incidental to powers of arrest</i>		
115	Powers of search by person who has power of arrest	103
116	Powers of search when suspect pursued	103
<i>Stopping vehicles with or without warrant for purposes of search</i>		
117	Stopping vehicles with or without warrant for purposes of search	104

Search and Surveillance Bill

	<i>Moving vehicle for safekeeping and other purposes</i>	
118	Moving vehicles for purpose of search or safekeeping	105
	<i>Seizure of items in plain view</i>	
119	Seizure of items in plain view	105
	<i>Search of persons</i>	
119A	Internal searches generally prohibited	106
120	Special rules about searching persons	106
121	Guidelines and rules about use of strip searching	109
	<i>Search warrants to enter and search vehicles</i>	
122	Search warrants to enter and search vehicles	109
	<i>Duty to remain stopped</i>	
123	Duty to remain stopped	110
	<i>Duty to provide information</i>	
124	Duty to provide information	110
	<i>Computer system searches</i>	
125	Duty of persons with knowledge of computer system or other data storage devices or Internet site to assist access	112
	<i>Identification and notice</i>	
126	Identification and notice requirements for person exercising search power (other than remote access search)	113
126A	Identifications and notice requirements for remote access search	116
127	Inventory of items seized	116
128	Compliance with certain provisions may be deferred in certain circumstances	117
129	Further postponement of, or dispensation from, obligation to comply with certain provisions	118
	Subpart 4—Privilege and confidentiality	
	<i>General</i>	
130	Recognition of privilege	118
131	Lawyers' trust accounts	119
	<i>Examination orders and production orders</i>	
132	Privilege against self-incrimination	120
133	Other privileges	121

Search and Surveillance Bill

Surveillance

134 Effect of privilege on surveillance conducted under this Act 121

134A Claims for privilege in respect of surveillance 123

Search warrants and other search powers

135 Effect of privilege on search warrants and search powers 123

136 Search warrants that extend to lawyers' premises or material held by lawyers 124

137 Search warrant extending to certain other privileged materials 124

138 Searches otherwise affecting privileged materials 125

139 Interim steps pending resolution of privilege claim 126

140 Claims for privilege for things seized or sought to be seized 126

Admission of evidence generally

141 Admission of evidence 127

Subpart 5—Procedures applying to seized or produced materials

142 Disposal of things seized or produced 127

143 Certain things must be returned 128

144 Custody of things seized or produced 128

145 Copies of things seized or produced 129

146 Extension of time for holding thing seized or produced 129

147 Disputed ownership of thing seized or produced 130

148 Seized or produced property forfeit to the Crown if ownership not established 131

Rights of owners and others in relation to things seized or produced

149 Application for release of or access to things seized or produced 131

150 Failure to comply with bond or conditions 132

151 Application to District Court for access to thing seized or produced 133

152 Application to District Court for release of thing seized or produced 133

153 Disposal of unlawful items 134

154 Disposal of forensic copies 135

155 Other copies and generated material may be retained 135

156 Application to District Court to dispose of seized property 136

Search and Surveillance Bill

Subpart 6—Immunities		
157	Immunities of issuing officer	136
158	Immunities in relation to obtaining or execution of orders and warrants	137
159	Other immunities in relation to exercise of entry, search, or surveillance powers	137
160	Immunity of the Crown	137
161	Relationship between sections 157 to 160 and other enactments	138
Subpart 7—Reporting		
162	Reporting of exercise of powers within law enforcement agency	138
162A	Annual reporting of search and surveillance powers by Commissioner	139
163	Annual reporting of search and surveillance powers by agencies other than Police	140
164	Information to be included in report on surveillance device warrants and declaratory orders	141
Subpart 8—Offences		
165	Failing to comply with examination order	143
166	Failing to comply with production order	143
167	False application for examination order, production order, search warrant, surveillance device warrant, or declaratory order	143
168	Leaving search location in breach of direction	143
169	Offences relating to stopping vehicles	144
170	Offence of failing to carry out obligations in relation to computer system search	144
171	Offence to disclose information acquired through search or surveillance	145
Subpart 9—Miscellaneous		
172	Effect of proceedings	145
173	Service of orders and notices	147

Search and Surveillance Bill

Part 5

Amendments, repeals, and miscellaneous provisions

Subpart 1—Amendments to search and seizure powers
in other enactments (and to related provisions) used for
law enforcement purposes or for law enforcement and
regulatory purposes

*Amendments to Agricultural Compounds and Veterinary
Medicines Act 1997*

175	Amendments to Agricultural Compounds and Veterinary Medicines Act 1997	148
176	Powers of entry for inspection	148
177	Issue of search warrants	148
178	Powers of entry with warrant	149
179	Disposal of property seized	149
179A	Section 84 repealed	150
179B	Schedule 1 repealed	150

Amendments to Animal Products Act 1999

180	Amendments to Animal Products Act 1999	150
181	Power of entry	150
182	Power to examine, etc	151
183	New section 91A inserted	151
	91A Disposal of seized animals prior to commencement or determination of proceedings	151
184	Other amendments to Animal Products Act 1999	153

Amendments to Animal Welfare Act 1999

185	Amendments to Animal Welfare Act 1999	155
186	Amendments to sections 130 to 136	155
187	New section 136A inserted	156
	136A Disposal of animals seized or taken into custody prior to commencement or determination of proceedings	156
188	Vehicle, aircraft, ship, or animal may be detained	158
189	Power of court to order that certain animals be forfeited to the Crown or approved organisation	159

*Amendment to Antarctic Marine Living Resources Act
1981*

190	Amendment to Antarctic Marine Living Resources Act 1981	160
-----	---	-----

Search and Surveillance Bill

	<i>Amendments to Antarctica (Environmental Protection) Act 1994</i>	
191	Amendments to Antarctica (Environmental Protection) Act 1994	160
	<i>Amendments to Anti-Money Laundering and Countering Financing of Terrorism Act 2009</i>	
191A	Amendments to Anti-Money Laundering and Countering Financing of Terrorism Act 2009	161
	<i>Amendments to Aviation Crimes Act 1972</i>	
192	Amendments to Aviation Crimes Act 1972	162
	<i>Amendments to Biosecurity Act 1993</i>	
193	Amendments to Biosecurity Act 1993	162
	<i>Amendment to Boxing and Wrestling Act 1981</i>	
194	Amendment to Boxing and Wrestling Act 1981	164
195	New section 9 substituted	164
	9 Search warrants	164
	<i>Amendments to Children, Young Persons, and Their Families Act 1989</i>	
196	Amendments to Children, Young Persons, and Their Families Act 1989	164
197	Amendments to Parts 1 to 9 of Children, Young Persons, and Their Families Act 1989	164
197A	Amendments to Part 10 of Children, Young Persons, and Their Families Act 1989	165
198	New section 445D inserted	165
	445D Certain provisions of Search and Surveillance Act 2009 apply to some warrants	165
	<i>Amendments to Civil Aviation Act 1990</i>	
199	Amendments to Civil Aviation Act 1990	166
	<i>Amendments to Commodity Levies Act 1990</i>	
200	Amendments to Commodity Levies Act 1990	166
	<i>Amendments to Conservation Act 1987</i>	
201	Amendments to Conservation Act 1987	167
	<i>Amendments to Criminal Proceeds (Recovery) Act 2009</i>	
201A	Amendments to Criminal Proceeds (Recovery) Act 2009	167

Search and Surveillance Bill

201B	Amendments to sections 59 and 71 of Criminal Proceeds (Recovery) Act 2009	168
201C	Amendments to sections 101 to 110 of Criminal Proceeds (Recovery) Act 2009	168
201D	New section 114 substituted	169
	114 Application of Part 4 of Search and Surveillance Act 2009	169
201DA	Sections 115 to 122 repealed	169
201E	New section 127 substituted	169
	127 Provisions associated with foreign restraining orders and foreign forfeiture orders	169
201F	Additional matters in respect of registering foreign forfeiture order	170
	<i>Amendments to Customs and Excise Act 1996</i>	
202	Amendments to Customs and Excise Act 1996	170
203	Amendments to sections 139 to 141 of Customs and Excise Act 1996	170
204	Searching vehicles	171
205	Amendments to sections 149A to 149D of Customs and Excise Act 1996	171
206	Examination of goods no longer subject to control of Customs	172
207	Amendments to sections 165 to 167 of Customs and Excise Act 1996	172
208	Amendments to section 172 and repeal of sections 168 to 171 and 173 of Customs and Excise Act 1996	173
209	Seizure and detention of goods suspected to be certain risk goods or evidence of commission of certain offences	173
210	New section 175D inserted	174
	175D Seizure and detention of certain drugs and objectionable publications	174
211	Amendments to Part 17 of Customs and Excise Act 1996	175
	<i>Amendments to Dairy Industry Restructuring Act 2001</i>	
212	Amendments to Dairy Industry Restructuring Act 2001	175
	<i>Amendments to Dog Control Act 1996</i>	
213	Amendments to Dog Control Act 1996	176
214	Power of entry	176
215	Other amendments to Dog Control Act 1996	176

Search and Surveillance Bill

<i>Amendments to Driftnet Prohibition Act 1991</i>		
216	Amendments to Driftnet Prohibition Act 1991	178
217	Powers of search	178
218	Powers of seizure	179
219	Sections 16, 17, and 19 to 22 repealed	179
220	Section 24 repealed	179
<i>Amendments to Electricity Industry Act 2010</i>		
221	Amendments to Electricity Industry Act 2010	179
<i>Amendments to Extradition Act 1999</i>		
222	Amendments to Extradition Act 1999	180
<i>Amendments to Films, Videos, and Publications Classification Act 1993</i>		
223	Amendments to Films, Videos, and Publications Classification Act 1993	180
224	Amendments to sections 109 to 109B of Films, Videos, and Publications Classification Act 1993	180
225	New section 110 substituted	181
	110 Application of Part 4 of Search and Surveillance Act 2009	181
225A	Section 118 repealed	181
<i>Amendments to Financial Markets Authority Act 2011</i>		
225AA	Amendments to Financial Markets Authority Act 2011	182
<i>Amendments to Financial Transactions Reporting Act 1996</i>		
226	Amendments to Financial Transactions Reporting Act 1996	183
<i>Amendments to Fisheries Act 1996</i>		
227	Amendments to Fisheries Act 1996	183
228	New sections 199 and 199A substituted	185
	199 Powers of entry and examination for regulatory purposes	186
	199A Powers of entry and search for law enforcement purposes	187
228A	New section 199B inserted	188
	199B Application of Part 4 of Search and Surveillance Act 2009	188
229	Amendments to sections 200 to 207 of Fisheries Act 1996	188
230	Amendments to sections 208 to 220 of Fisheries Act 1996	189

Search and Surveillance Bill

230A	Schedule 7 repealed	190
	<i>Amendments to Food Act 1981</i>	
231	Amendments to Food Act 1981	190
	<i>Amendments to Gambling Act 2003</i>	
232	Amendments to Gambling Act 2003	191
	<i>Amendments to Hazardous Substances and New Organisms Act 1996</i>	
233	Amendments to Hazardous Substances and New Organisms Act 1996	192
	<i>Amendments to Health Practitioners Competence Assurance Act 2003</i>	
235	Amendments to Health Practitioners Competence Assurance Act 2003	193
	<i>Amendments to Human Assisted Reproductive Technology Act 2004</i>	
236	Amendments to Human Assisted Reproductive Technology Act 2004	194
	<i>Amendments to Human Tissue Act 2008</i>	
237	Amendments to Human Tissue Act 2008	195
	<i>Amendment to Immigration Act 2009</i>	
237A	Amendment to Immigration Act 2009	196
	293A Immigration officer may apply for search warrant	196
	<i>Amendments to Immigration Advisers Licensing Act 2007</i>	
238	Amendments to Immigration Advisers Licensing Act 2007	197
239	New sections 56 and 57 substituted	197
	56 Purposes of inspection	197
	57 Inspection powers	197
240	Amendments to sections 58 to 61 of Immigration Advisers Licensing Act 2007	198
240A	New section 61A inserted	198
	61A Search warrant	199
240B	Other amendments to Immigration Advisers Licensing Act 2007	199

Search and Surveillance Bill

	<i>Amendments to Insurance (Prudential Supervision) Act 2010</i>	
240C	Amendments to Insurance (Prudential Supervision) Act 2010	199
	<i>Amendments to International Crimes and International Criminal Court Act 2000</i>	
241	Amendments to International Crimes and International Criminal Court Act 2000	200
	<i>Amendments to International War Crimes Tribunals Act 1995</i>	
242	Amendments to International War Crimes Tribunals Act 1995	201
	<i>Amendments to Land Transport Act 1998</i>	
243	Amendments to Land Transport Act 1998	202
	<i>Amendments to Local Government Act 2002</i>	
244	Amendments to Local Government Act 2002	203
245	Seizure of property from private land	203
246	Other amendments to Local Government Act 2002	203
	<i>Amendments to Major Events Management Act 2007</i>	
247	Amendments to Major Events Management Act 2007	204
	<i>Amendments to Marine Mammals Protection Act 1978</i>	
248	Amendments to Marine Mammals Protection Act 1978	206
249	Powers of search	206
250	New section 14 substituted	207
	14 Officer may obtain warrant	207
	<i>Amendments to Marine Reserves Act 1971</i>	
251	Amendments to Marine Reserves Act 1971	207
	<i>Amendments to Maritime Security Act 2004</i>	
252	Amendments to Maritime Security Act 2004	207
	<i>Amendments to Maritime Transport Act 1994</i>	
253	Amendments to Maritime Transport Act 1994	208
254	Amendments to Part 30 of Maritime Transport Act 1994	208
255	New sections 454 and 455 substituted	209
	454 Warrant to inspect dwellinghouse, marae, etc	209
	455 Entry in respect of offences	209

Search and Surveillance Bill

<i>Amendments to Meat Board Act 2004</i>		
256	Amendments to Meat Board Act 2004	210
257	Amendments to Part 3 of Meat Board Act 2004	210
258	Amendments to Part 4 of Meat Board Act 2004	211
<i>Amendments to Motor Vehicle Sales Act 2003</i>		
259	Amendments to Motor Vehicle Sales Act 2003	212
<i>Amendments to National Parks Act 1980</i>		
260	Amendments to National Parks Act 1980	212
<i>Amendments to Overseas Investment Act 2005</i>		
261	Amendments to Overseas Investment Act 2005	213
<i>Amendments to Ozone Layer Protection Act 1996</i>		
262	Amendments to Ozone Layer Protection Act 1996	214
263	Search warrants	214
264	New section 25 substituted	214
	25 Retention of property seized	214
265	Return or forfeiture of property seized	214
<i>Amendment to Petroleum Demand Restraint Act 1981</i>		
266	Amendment to Petroleum Demand Restraint Act 1981	215
<i>Amendments to Pork Industry Board Act 1997</i>		
267	Amendments to Pork Industry Board Act 1997	215
<i>Amendments to Prostitution Reform Act 2003</i>		
268	Amendments to Prostitution Reform Act 2003	216
<i>Amendments to Radiation Protection Act 1965</i>		
269	Amendments to Radiation Protection Act 1965	217
<i>Amendments to Radiocommunications Act 1989</i>		
270	Amendments to Radiocommunications Act 1989	218
<i>Amendments to Reserve Bank of New Zealand Act 1989</i>		
271	Amendments to Reserve Bank of New Zealand Act 1989	218
272	Amendments to Parts 4 and 5 of Reserve Bank of New Zealand Act 1989	218
273	Further amendments to Reserve Bank of New Zealand Act 1989	220
<i>Amendments to Reserves Act 1977</i>		
274	Amendments to Reserves Act 1977	220

Search and Surveillance Bill

	<i>Amendments to Resource Management Act 1991</i>	
275	Amendments to Resource Management Act 1991	221
	<i>Amendments to Sale of Liquor Act 1989</i>	
276	Amendments to Sale of Liquor Act 1989	222
	<i>Amendments to Tax Administration Act 1994</i>	
279	Amendments to Tax Administration Act 1994	223
	<i>Amendments to Trade in Endangered Species Act 1989</i>	
280	Amendments to Trade in Endangered Species Act 1989	225
	<i>Amendments to Unsolicited Electronic Messages Act 2007</i>	
281	Amendments to Unsolicited Electronic Messages Act 2007	226
	<i>Amendments to Waste Minimisation Act 2008</i>	
281A	Amendments to Waste Minimisation Act 2008	226
281B	Amendments to Waste Minimisation Act 2008	226
281C	Other amendments to Waste Minimisation Act 2008	227
	<i>Amendments to Wild Animal Control Act 1977</i>	
282	Amendments to Wild Animal Control Act 1977	228
	<i>Amendments to Wildlife Act 1953</i>	
283	Amendments to Wildlife Act 1953	230
	<i>Amendments to Wine Act 2003</i>	
284	Amendments to Wine Act 2003	230
	Subpart 2—Amendments to search and seizure powers in other enactments (and to related provisions) used for regulatory purposes	
	<i>Amendments to Anti-Personnel Mines Prohibition Act 1998</i>	
285	Amendments to Anti-Personnel Mines Prohibition Act 1998	232
	<i>Amendments to Chemical Weapons (Prohibition) Act 1996</i>	
286	Amendments to Chemical Weapons (Prohibition) Act 1996	233
	<i>Amendments to Commerce Act 1986</i>	
287	Amendments to Commerce Act 1986	233

Search and Surveillance Bill

	<i>Amendment to Credit Contracts and Consumer Finance Act 2003</i>	
288	Amendment to Credit Contracts and Consumer Finance Act 2003	234
	<i>Amendments to Electricity Act 1992</i>	
289	Amendments to Electricity Act 1992	234
	<i>Amendments to Fair Trading Act 1986</i>	
290	Amendments to Fair Trading Act 1986	235
	<i>Amendments to Forests Act 1949</i>	
291	Amendments to Forests Act 1949	235
	<i>Amendments to Gas Act 1992</i>	
292	Amendments to Gas Act 1992	237
	<i>Amendment to International Energy Agreement Act 1976</i>	
293	Amendments to International Energy Agreement Act 1976	238
293A	Power of entry	238
293B	New section 11 substituted	238
	11 Search warrants	238
	<i>Amendments to Weights and Measures Act 1987</i>	
294	Amendments to Weights and Measures Act 1987	238
	Subpart 3—Other repeals and amendments	
	<i>Amendments to Arms Act 1983</i>	
295	Arms Act 1983 amended	239
	<i>Amendments to Corrections Act 2004</i>	
296	Corrections Act 2004 amended	239
	<i>Amendments to Crimes Act 1961</i>	
297	Crimes Act 1961 amended	240
	<i>Amendments to Crimes Amendment Act (No 4) 2011</i>	
297A	Amendments to Crimes Amendment Act (No 4) 2011	241
	<i>Amendments to Criminal Procedure Act 2011</i>	
297B	Amendments to Criminal Procedure Act 2011	242
	<i>Amendment to District Courts Act 1947</i>	
298	District Courts Act 1947 amended	243
299	New section 17A substituted	243

Search and Surveillance Bill

17A	Sections 117, 123, and 124 of Search and Surveillance Act 2009 inapplicable to bailiffs	243
	<i>Amendment to Health Act 1956</i>	
301	Health Act 1956 amended	243
	<i>Amendments to Misuse of Drugs Act 1975</i>	
302	Misuse of Drugs Act 1975 amended	243
303	New section 18 substituted	243
	18 Seizing and destroying prohibited plants and seeds	244
304	Application of Customs and Excise Act 1996	244
	<i>Amendments to Misuse of Drugs Amendment Act 1978</i>	
305	Misuse of Drugs Amendment Act 1978 amended	244
	<i>Amendment to Mutual Assistance in Criminal Matters Act 1992</i>	
306	Mutual Assistance in Criminal Matters Act 1992 amended	246
	<i>Amendments to Policing Act 2008</i>	
307	Policing Act 2008 amended	247
	<i>Amendments to Summary Proceedings Act 1957</i>	
309	Summary Proceedings Act 1957 amended	247
	<i>Amendments to Summary Proceedings Amendment Act (No 2) 2011</i>	
309A	Amendments to Summary Proceedings Amendment Act (No 2) 2011	248
	<i>Amendment to Telecommunications Act 2001</i>	
310	Telecommunications Act 2001 amended	248
	<i>Amendment to Telecommunications (Interception Capability) Act 2004</i>	
311	Telecommunications (Interception Capability) Act 2004 amended	248
	<i>Repeal of Telecommunications (Residual Provisions) Act 1987</i>	
312	Telecommunications (Residual Provisions) Act 1987 repealed	249

Search and Surveillance Bill

	Subpart 4—Regulation-making powers, transitional provisions, and review provision	
313	Regulations	249
	<i>Transitional provisions</i>	
314	Transitional provision in relation to reporting requirements	250
314A	Disclosure of prior warrants in applications for surveillance device warrants made in transitional period	250
314B	Disclosure of prior warrants in applications for search warrants	250
314C	Transitional provision relating to Part 11A of Crimes Act 1961	250
314D	Transitional provision relating to sections 14 to 29 of Misuse of Drugs Amendment Act 1978	251
315	Transitional provision in relation to sections 198 to 200 of Summary Proceedings Act 1957	252
315A	Transitional provision relating to sections 200A to 200P of Summary Proceedings Act 1957	252
315B	Transitional provision relating to covert video surveillance	253
315C	Transitional provision relating to provisions brought into force under section 2	253
315D	Certain provisions deemed to be in force during transitional period	254
315E	Certain provisions limited to matters covered in subpart 1 of Part 3 during transitional period	255
315F	Transitional provision relating to Criminal Procedure Act 2011	255
315FA	References to enforcement officer during transitional period	256
315G	Regulations providing for transitional matters	256
	<i>Review provision</i>	
316	Review of operation of Act	257
	Schedule	295
	Powers in other enactments to which all or part of Part 4 of Search and Surveillance Act 2009 applies	

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Search and Surveillance Act **2009**.

2 Commencement

(1) This Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates. 5

(2) To the extent that it is not previously brought into force under **subsection (1)**, the rest of this Act comes into force on **1 April 2012**. 10

2 Commencement

(1) **Part 1 and subpart 1 of Part 3** (other than **section 45(3) and (4)**), and **sections 130, 134, 134A, 141, 155, 158, 159, 160, 161, 162, 162A, 163, 164, 167, 171, 172, 173, 227, 228, 230(3), 297** (other than **section 297(3A) and (5)**), **305(1) and (4A), 309(4), 313, 314, 314C, 314D, 315A, 315B, 315D, 315E, 315F, 315FA, and 315G** come into force on 18 April 2012. 15

(2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council, and 1 or more Orders in Council may be made bringing different provisions into force on different dates. 20

(3) To the extent that it is not previously brought into force under **subsection (2)**, the rest of this Act comes into force on 1 April 2014. 25

(4) In this section, **provision** includes any item, or any part of an item, in the **Schedule**.

Part 1

General provisions

30

3 Interpretation

(1) In this Act, unless the context otherwise requires,—

access, in relation to any computer system, means instruct, communicate with, store data in, receive data from, or otherwise make use of any of the resources of the computer system
access information includes codes, passwords, and encryption keys, and any related information that enables access to a
 5 computer system or any other data storage device

arms means any firearm, airgun, pistol, restricted weapon, imitation firearm, or explosive (as those terms are defined in section 2 of the Arms Act 1983), or any ammunition

business context, in relation to the acquisition of any information by a person, means the acquisition of the information in the person's capacity as— 10

- (a) a provider of professional services or professional advice in relation to a person who is being investigated, or 1 or more of whose transactions are being investigated, in respect of an offence; or 15
- (b) a director, manager, officer, trustee, or employee of an entity that is being investigated, or 1 or more of whose transactions are being investigated, in respect of an offence 20

category 3 offence has the same meaning as in section 6 of the Criminal Procedure Act 2011

category 4 offence has the same meaning as in section 6 of the Criminal Procedure Act 2011

chief executive— 25

- (a) means the chief executive (however described) of any department of State, Crown entity, local authority, or other body that employs or engages enforcement officers as part of its functions; and
- (b) includes the Commissioner 30

Commissioner means the Commissioner of Police

computer system—

- (a) means—
 - (i) a computer; or
 - (ii) 2 or more interconnected computers; or 35
 - (iii) any communication links between computers or to remote terminals or another device; or

- (iv) 2 or more interconnected computers combined with any communication links between computers or to remote terminals or any other device; and
- (b) includes any part of the items described in **paragraph (a)** and all related input, output, processing, storage, software, or communication facilities, and stored data 5
- constable** has the same meaning as in section 4 of the Policing Act 2008
- controlled drug** has the same meaning as in section 2(1) of the Misuse of Drugs Act 1975 10
- Crown entity** has the same meaning as in section 7(1) of the Crown Entities Act 2004
- Customs officer** has the meaning given to it in section 2(1) of the Customs and Excise Act 1996 15
- District Court Judge** means a Judge appointed under the District Courts Act 1947
- enforcement officer**, except in **Parts 4 and 5**,—
- (a) means any of the following persons: 20
- (i) a constable;
- (ii) any person authorised by this Act or an enactment specified in **column 2 of the Schedule** to exercise a power of entry, search, or seizure; but
- (b) does not include any person referred to in **paragraph (a)(ii)** in relation to the exercise by that person of any power of entry, search, or seizure under any enactment that is not— 25
- (i) part of this Act; or
- (ii) an enactment specified in **column 2 of the Schedule** 30
- enforcement officer** means—
- (a) a constable; or
- (b) any person authorised by an enactment specified in **column 2 of the Schedule**, or by any other enactment that expressly applies any provision in **Part 4**, to exercise a power of entry, search, inspection, examination, or seizure 35

equipment includes fingerprint powder and any chemical or other substance used for law enforcement purposes

~~**evidential material**, in relation to a particular offence, means evidence or any other item, tangible or intangible, of relevance to the investigation of the offence~~ 5

evidential material in relation to an offence or a suspected offence, means evidence of the offence, or any other item, tangible or intangible, of relevance to the investigation of the offence

examination order means an examination order made under **section 36** 10

informant has the same meaning as in section 6(1) of the Criminal Disclosure Act 2008

intercept, in relation to a private communication, includes hear, listen to, record, monitor, acquire, or receive the communication either— 15

- (a) while it is taking place; or
- (b) while it is in transit

interception device—

- (a) means any electronic, mechanical, electromagnetic, optical, or electro-optical instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept or record a private communication (including a telecommunication); but 20
- (b) does not include a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing 25

issuing officer means—

- (a) a Judge;
- (b) a person, such as a Justice of the Peace, Community Magistrate, Registrar, or Deputy Registrar, who is for the time being authorised to act as an issuing officer under **section 106** 30

Judge means a District Court Judge or a Judge of the High Court 35

law enforcement agency means any department of State, Crown entity, local authority, or other body that employs or engages enforcement officers as part of its functions

local authority means a local authority within the meaning of section 5(1) of the Local Government Act 2002

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine 5

non-business context means a context other than a business context

non-private premises means premises, or part of a premises, to which members of the public are frequently permitted to have access, and includes any part of a hospital, bus station, railway station, airport, or shop 10

nurse means a health practitioner who is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing whose scope of practice permits the performance of general nursing functions 15

Police article has the same meaning as in section 4 of the Policing Act 2008 20

Police bail has the same meaning as in Part 2 of the Bail Act 2000

Police employee has the same meaning as in section 4 of the Policing Act 2008 25

Police uniform has the same meaning as in section 4 of the Policing Act 2008

precursor substance has the same meaning as in section 2(1) of the Misuse of Drugs Act 1975

private activity means activity that, in the circumstances, any 1 or more of the participants in it ought reasonably to expect is observed or recorded by no one except the participants 30

private communication—

(a) means a communication (whether in oral or written form, or in the form of a telecommunication, or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communi- 35

cation desires it to be confined to the parties to the communication; but

- (b) does not include a communication of that kind occurring in circumstances in which any party to the communication ought reasonably to expect that the communication may be intercepted by some other person without having the express or implied consent of any party to do so 5

private premises means a private dwellinghouse, a marae, and any other premises that are not within the definition of non-private premises 10

production order means a production order made under **section 72**

raw surveillance data—

- (a) means actual video recordings or actual audio recordings; and 15
 (b) includes full transcripts, or substantial parts of transcripts, of audio recordings

remote access search means a search of a thing such as an Internet data storage facility that does not have a physical address that a person can enter and search 20

road block means any form of barrier or obstruction preventing or limiting the passage of vehicles

rub-down search means a search described in **sections 83(2), 84, and 85** 25

search power, in relation to any provision in this Act, means—

- (a) every search warrant issued under this Act or an enactment set out in **column 2 of the Schedule** to which that provision is applied; and 30
 (b) every power, conferred under this Act or an enactment set out in **column 2 of the Schedule** to which that provision is applied, to enter and search, or enter and inspect or examine (without warrant) any place, vehicle, or other thing, or to search a person 35

strip search means a search where the person conducting the search may require the person being searched to undress, or to remove, raise, lower, or open any item or items of clothing so

that the genitals, buttocks, or (in the case of a female) breasts are—

- (a) uncovered; or
- (b) covered only by underclothing

surveillance device means a device that is any 1 or more of the following kinds of devices: 5

- (a) an interception device;
- (b) a tracking device;
- (c) a visual surveillance device

thing seized does not include anything made or generated by a person exercising a search or surveillance power (for example, photographs, drawings, or audio or video recordings made by or on behalf of that person, or a forensic copy of a computer hard drive) 10

tracking device means a device that, when installed in or on a thing, may be used to help ascertain, by electronic or other means, either or both of the following: 15

- (a) the location of that thing or a person in possession of that thing;
- (b) whether a thing has been opened, tampered with, or in some other way dealt with 20

tracking device—

- (a) means a device that may be used to help ascertain, by electronic or other means, either or both of the following: 25
 - (i) the location of a thing or a person;
 - (ii) whether a thing has been opened, tampered with, or in some other way dealt with; but
- (b) does not include a vehicle or other means of transport, such as a boat or helicopter 30

trespass surveillance means surveillance that involves trespass ~~onto private property~~ to land or trespass to goods

unique identifier, in relation to an enforcement officer, means an identifier, used to identify the officer, that is not his or her name and that— 35

- (a) is assigned to him or her by the law enforcement agency that employs or engages him or her for the purposes of its operations; and

- (b) uniquely identifies him or her in relation to the law enforcement agency

unlawfully at large, in relation to a person, means that he or she is any 1 or more of the following:

- (a) ~~a person for whose arrest a warrant is in force (unless no other warrant is in force except a warrant or warrants issued under Part 3 of the Summary Proceedings Act 1957 or sections 19B to 19D of the Crimes Act 1961):~~ 5
- (a) a person for whose arrest a warrant (other than a warrant issued under Part 3 of the Summary Proceedings Act 1957) is in force: 10
- (b) unlawfully at large within the meaning of the Corrections Act 2004 or the Parole Act 2002:
- (c) a prison breaker within the meaning of section 119 of the Crimes Act 1961: 15
- (d) an escapee from lawful custody within the meaning of section 120 of the Crimes Act 1961:
- (e) a special patient or restricted patient within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992 who has escaped or failed to return on the expiry or cancellation of a period of leave: 20
- (f) a care recipient or special care recipient within the meaning of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 who has escaped or failed to return on the expiry or cancellation of a period of leave: 25
- (g) a young person within the meaning of the Children, Young Persons, and Their Families Act 1989 who is subject to an order made under section 311(1) of that Act and who is absconding from the custody of the chief executive (as defined in that Act) 30

vehicle means any conveyance that is capable of being moved under a person's control, whether or not the conveyance is used for the carriage of persons or goods, and includes a motor vehicle, aircraft, train, ship, or bicycle 35

visual surveillance device—

- (a) means any electronic, mechanical, electromagnetic, optical, or electro-optical instrument, apparatus, equipment, or other device that is used or is capable of being

- used to observe, or to observe and record, a private activity; but
- (b) does not include spectacles, contact lenses, or a similar device used to correct subnormal vision of the user to no better than normal vision 5
- visual trespass surveillance** means trespass surveillance involving the use of a visual surveillance device.
- (2) For the purposes of the definition of computer system, a computer is interconnected with another computer if it can be lawfully used to provide access to that other computer— 10
- (a) with or without access information; and
- (b) whether or not either or both computers are currently turned on; and
- (c) whether or not access is currently occurring.
- 4 Act binds the Crown** 15
This Act binds the Crown.
- 4A Purpose**
- The purpose of this Act is to facilitate the monitoring of compliance with the law and the investigation and prosecution of offences in a manner that is consistent with human rights values by— 20
- (a) modernising the law of search, seizure, and surveillance to take into account advances in technologies and to regulate the use of those technologies; and
- (b) providing rules that recognise the importance of the rights and entitlements affirmed in other enactments, including the New Zealand Bill of Rights Act 1990, the Privacy Act 1993, and the Evidence Act 2006; and 25
- (c) ensuring investigative tools are effective and adequate for law enforcement needs. 30

Part 2 Police powers

Subpart 1—Rules about ~~internal searches~~
~~and~~ search warrant powers in relation to
places, vehicles, and other things 5

5 **Internal searches generally prohibited**

- (1) A constable must not conduct an internal search of any part of the body of any person, except for, with the person's consent, searching the person's mouth.
- (2) A constable must not require any other person to conduct an internal search of any part of the body of any person, except as provided in **section 22** (which relates to internal searches in some circumstances of people under arrest for offences against the Misuse of Drugs Act 1975). 10
- (3) This section does not limit or affect sections 13A to 13M of the Misuse of Drugs Amendment Act 1978. 15

6 **Issuing officer may issue search warrant**

An issuing officer may issue a search warrant, in relation to a place, vehicle, or other thing, on application by a constable if the issuing officer is satisfied that there are reasonable grounds— 20

- (a) to suspect that an offence specified in the application and punishable by imprisonment has been committed, or is being committed, or will be committed; and
- (b) to believe that the search will find evidential material in respect of the offence ~~in the place~~ in or on the place, vehicle, or other thing specified in the application. 25

Subpart 2—Warrantless powers to enter and
search when effecting arrest

7 **Entry without warrant to arrest person unlawfully at large** 30

A constable may enter a place or vehicle without warrant to search for and arrest a person if the constable has reasonable grounds—

- (a) to suspect that a person is unlawfully at large; and 35

- (b) to believe that the person is there.

8 Entry without warrant to avoid loss of offender or evidential material

- (1) In the circumstances set out in **subsection (2)**, a constable may— 5
- (a) enter a place or vehicle without a warrant; and
- (b) search for and arrest a person that the constable suspects has committed the offence.
- (2) The circumstances are that the constable has reasonable grounds— 10
- (a) to suspect that the person has committed an offence that is punishable by imprisonment and for which he or she may be arrested without warrant; and
- (b) to believe that the person is there; and
- (c) to suspect believe that, if entry is not effected immediately, either or both of the following may occur: 15
- (i) the person will leave there to avoid arrest;
- (ii) evidential material relating to the offence for which the person is to be arrested will be destroyed, concealed, altered, or damaged. 20

Stopping vehicle without warrant to effect arrest

9 Stopping vehicle to find persons unlawfully at large or who have committed certain offences

- A constable may stop a vehicle without a warrant to arrest a person if the constable has reasonable grounds— 25
- (a) to suspect that a person—
- (i) is unlawfully at large; or
- (ii) has committed an offence punishable by imprisonment; and
- (b) to believe that the person is in or on the vehicle. 30

10 Powers and duties of constable after vehicle stopped

- (1) A constable exercising the stopping power under **section 9** may do any 1 or more of the following:
- (aa) require any person in or on the vehicle who the constable has reasonable grounds to suspect is unlawfully 35

- at large or has committed an offence punishable by imprisonment to supply all or any of his or her name, address, other contact details, and date of birth:
- (a) search the vehicle to locate the person referred to in **section 9**, if the constable has reasonable grounds to believe that the person is in or on the vehicle: 5
 - (b) search the vehicle to locate property that is evidential material in relation to any offence in respect of which the vehicle was stopped under **section 9**, if the person referred to in **section 9**— 10
 - (i) has been arrested; or
 - (ii) is seen fleeing from the vehicle before he or she can be arrested.
- (2) Before conducting a search under a power conferred by **subsection (1)(b)**, a constable must tell the driver the object of the proposed search, if the driver is not the person referred to in **section 9**. 15

Subpart 3—Warrantless searches of people who are to be locked up in Police custody

- 11 Warrantless searches of people who are to be who are, or are to be, locked up in Police custody** 20
- (1) This section applies to any person who—
- (a) has been taken into lawful custody; and
 - (b) is— 25
 - (i) at a Police station; or
 - (ii) in other premises, ~~or about to be placed in or is in, or about to be placed in,~~ a vehicle, being used for Police purposes; and
 - (c) ~~is to be locked up~~ is, or is to be, locked up (whether pending a decision as to bail under section 21 of the Bail Act 2000, or in any other circumstances). 30
- (2) A constable, or a searcher used in accordance with **section 12**, may conduct a search of a person to whom this section applies before that person is locked up.
- (2A) A constable, or a searcher used in accordance with **section 12**, may conduct a search of a person after the person is locked up if— 35

- (a) the person has not been searched under **subsection (2)**;
or
- (b) the person, since any search was conducted under **subsection (2)**, has been in close proximity, or is reasonably suspected of having been in close proximity, to a person who was not locked up in Police custody (other than an enforcement officer or a searcher); or 5
- (c) the person, since any search was conducted under **subsection (2)**, has been in close proximity, or is reasonably suspected of having been in close proximity, to another person who was eligible to be searched under this subsection but was not searched; or 10
- (d) there are reasonable grounds to believe that the person is in possession of anything that may be used to harm himself or herself or others. 15
- ~~(3) A constable or searcher may take from the person any money or other property found during the search.~~
- (3) A constable or searcher may take from the person subject to a search under this section any money or other property found during the search. 20
- Compare: 2008 No 72 s 37

12 Searchers

- (1) A Police employee in charge of a person to whom **section 11** applies may use a searcher to conduct a search of the person under **section 11** if the use of that searcher is necessary to enable the search of the person in custody to be carried out— 25
- (a) by someone of the same sex as the person to be searched; or
- (b) within a reasonable time of the person being taken into custody. 30
- (2) The Police employee in charge of a person who is taken into lawful custody and is to be locked up must be satisfied that a searcher used under this section has received appropriate training before that searcher conducts a search under **section 11**.
- (3) The searcher must carry out the search as if he or she were a Police employee. 35
- Compare: 2008 No 72 s 38

13 Property taken from people locked up in Police custody

- (1) All money and every item of property taken from a person under **section 11** must be returned to him or her when he or she is released from custody, except for the following:
- (a) any money or property that, in the opinion of a constable, may need to be given in evidence in proceedings arising out of a charge brought against the person: 5
 - (b) any money or property whose possession may, in the opinion of a constable, constitute an offence.
- (2) Despite **subsection (1)**, when a person described in **section 11(1)** is released from Police custody and is placed in the custody of another person, all money and every item of property taken from him or her under **section 11** (other than money or property of a kind described in **subsection (1)(a) or (b)**) must, if practicable, be delivered— 10 15
- (a) to the person into whose custody he or she is released; or
 - (b) to the person in charge of the facility, if he or she is being released from Police custody in order to be held in custody in the facility. 20
- (3) **Subsection (1)** is subject to an order made under—
- (a) section 40 of the Policing Act 2008; or
 - ~~(b) section 404 of the Crimes Act 1961.~~
 - (b) section 377 of the Criminal Procedure Act 2011. 25
- Compare: 2008 No 72 s 39

Subpart 4—Warrantless powers of entry in
urgent circumstances

14 Warrantless entry to prevent offence or respond to risk to life or safety

- (1) A constable who has reasonable grounds to suspect that any 1 or more of the circumstances in **subsection (2)** exist in relation to a place or vehicle may— 30
- (a) enter the place or vehicle without a warrant; and
 - (b) take any action that he or she has reasonable grounds to believe is necessary to prevent the offending from being 35 committed or continuing, or to avert the emergency.
- (2) The circumstances are as follows:

- (a) an offence is being committed, or is about to be committed, that would be likely to cause injury to any person, or serious damage to, or serious loss of, any property:
- (b) there is risk to the life or safety of any person that requires an emergency response. 5

Subpart 5—Warrantless powers for
evidential material relating to serious
offences

15 **Entry without warrant to find and avoid loss of evidential material relating to certain offences** 10

A constable may enter and search a place without a warrant if he or she has reasonable grounds—

- (a) to believe that evidential material is in that place; and
- (b) to suspect—
 - (i) that the evidential material relates to an offence, punishable by imprisonment for a term of 14 years or more, that has been committed, or is being committed, or is about to be committed; and 15
 - (ii) that, if entry is delayed in order to obtain a search warrant, the evidential material will be destroyed, concealed, altered, or damaged. 20

15 **Entry without warrant to find and avoid loss of evidential material relating to certain offences**

A constable may enter and search a place without a warrant if he or she has reasonable grounds— 25

- (a) to suspect that an offence punishable by imprisonment for a term of 14 years or more has been committed, or is being committed, or is about to be committed; and
- (b) to believe—
 - (i) that evidential material relating to the offence is in that place; and 30
 - (ii) that, if entry is delayed in order to obtain a search warrant, the evidential material will be destroyed, concealed, altered, or damaged.

16 Searching people in public place without warrant for evidential material relating to certain offences

A constable may search a person without a warrant in a public place if the constable has reasonable grounds to believe that the person is in possession of evidential material relating to an offence punishable by imprisonment for a term of 14 years or more.

17 Warrantless entry and search of vehicle for evidential material relating to certain offences

A constable may, without a warrant, enter and search a vehicle that is in a public place if he or she has reasonable grounds to believe that evidential material relating to an offence punishable by imprisonment for a term of 14 years or more is ~~in the vehicle~~ in or on the vehicle.

Subpart 6—Warrantless powers in relation to arms offences 15

18 Warrantless searches associated with arms

- (1) A constable who has reasonable grounds to suspect that any 1 or more of the circumstances in **subsection (2)** exist in relation to a person may, without a warrant, do any or all of the following: 20
- (a) search the person:
 - (b) search any thing in the person's possession or under his or her control (including a vehicle):
 - (c) enter a place or vehicle to carry out any activity under **paragraph (a) or (b)**: 25
 - (d) seize and detain any arms found:
 - (e) seize and detain any licence under the Arms Act 1983 that is found.
- (2) The circumstances are that the person is carrying arms, or is in possession of them, or has them under his or her control, and— 30
- (a) he or she is in breach of the Arms Act 1983; or
 - (b) he or she, by reason of his or her physical or mental condition (however caused),— 35

- (i) is incapable of having proper control of the arms;
or
- (ii) may kill or cause bodily injury to any person; or
- (c) that, under the Domestic Violence Act 1995,—
- (i) a protection order or a police safety order is in force against the person; or
- (ii) there are grounds to make an application against him or her for a protection order.
- (3) A constable may, without a warrant, enter a place or vehicle, search it, ~~seize any arms found there, and detain the arms~~ seize any arms or any licence under the Arms Act 1983 found there, and detain the arms or licence if he or she has reasonable grounds to suspect that there are arms in the place or vehicle—
- (a) in respect of which ~~an indictable offence~~ a category 3 offence, a category 4 offence, or an offence against the Arms Act 1983 has been committed, or is being committed, or is about to be committed; or
- (b) that may be evidential material in relation to ~~an indictable offence~~ a category 3 offence, a category 4 offence, or an offence against the Arms Act 1983.

Subpart 7—Police powers in relation to Misuse of Drugs Act 1975 offences

18A Search of persons in relation to Misuse of Drugs Act 1975 offence search warrants

A constable may search any person found in or on a place or vehicle, in relation to which a search warrant is issued under **section 6**, if the offence that was specified in the application for the search warrant is an offence against the Misuse of Drugs Act 1975.

19 Warrantless search of places and vehicles in relation to some Misuse of Drugs Act 1975 offences

A constable may enter and search a place or vehicle without a warrant if he or she has reasonable grounds—

- (a) to believe that it is not practicable to obtain a warrant and that in or on the place or vehicle there is—

- (i) a controlled drug specified or described in Schedule 1 of the Misuse of Drugs Act 1975; or
- (ii) a controlled drug specified or described in Part 1 of Schedule 2 of the Misuse of Drugs Act 1975; or 5
- (iii) a controlled drug specified or described in Part 1 of Schedule 3 of the Misuse of Drugs Act 1975; or
- (iv) a precursor substance specified or described in Part 3 of Schedule 4 of the Misuse of Drugs Act 1975; and 10
- (b) to suspect that in or on the place or vehicle an offence against the Misuse of Drugs Act 1975 has been committed, or is being committed, or is about to be committed, in respect of that controlled drug or precursor substance; 15
and
- (c) to believe that, if the entry and search is not carried out immediately, evidential material relating to the suspected offence will be destroyed, concealed, altered, or damaged. 20
- 20 Warrantless searches of people found in or on places or vehicles**
- A constable conducting a search of a place or vehicle under **section 19** may, without a warrant, search any person found in or on the place or vehicle. 25
- 21 Warrantless power to search and detain person, and seize for controlled drugs and precursor substances if offence suspected against Misuse of Drugs Act 1975**
- (†) A constable may, in the circumstances set out in **subsection (2)**, do either or both of the following without a warrant: 30
- (a) search a person;
- (b) seize any controlled drug or precursor substance found during the search.
- (1) A constable may, in the circumstances set out in **subsection (2)**, search a person without a warrant. 35
- (2) The circumstances are that the constable has reasonable grounds—

- (a) to believe that the person is in possession of—
 - (i) a controlled drug specified or described in Schedule 1 of the Misuse of Drugs Act 1975; or
 - (ii) a controlled drug specified or described in Part 1 of Schedule 2 of the Misuse of Drugs Act 1975; 5
or
 - (iii) a controlled drug specified or described in Part 1 of Schedule 3 of the Misuse of Drugs Act 1975; or
 - (iv) a precursor substance specified or described in Part 3 of Schedule 4 of the Misuse of Drugs Act 1975; and 10
- (b) to suspect that an offence against the Misuse of Drugs Act 1975 has been committed, is being committed, or is about to be committed, in respect of that controlled drug or precursor substance. 15
- (3) This section does not—
 - (a) limit **section 19 or 20**; or
 - (b) authorise a constable to enter or search a place or vehicle except in accordance with those sections. 20

22 Internal search of person under arrest for offence against section 6 or 7 or 11 of Misuse of Drugs Act 1975

- (1) In the circumstances set out in **subsection (2)**, a constable may require a person to permit a medical practitioner, nominated for the purpose by the constable, to conduct an internal examination of any part of the person's body by means of— 25
 - (a) an X-ray machine or other similar device; or
 - (b) a manual or visual examination (whether or not facilitated by any instrument or device) through any body orifice. 30
- (2) The circumstances are that—
 - (a) the person is under arrest for an offence against section 6 or 7 or 11 of the Misuse of Drugs Act 1975; and
 - (b) the constable has reasonable grounds to believe that the person has secreted within his or her body any property— 35
 - (i) that may be evidence of the offence with which the person is charged; or

- (ii) the possession of which by the person constitutes any other offence against section 6 or 7 or 11 of the Misuse of Drugs Act 1975.
- (3) A medical practitioner must not conduct an internal examination if he or she— 5
- (a) considers that to do so may be prejudicial to the person's health; or
- (b) is satisfied that the person is not prepared to permit an internal examination to be conducted.
- (4) This section does not limit or affect sections 13A to 13M of the Misuse of Drugs Amendment Act 1978. 10

23 Effect of not permitting internal search under section 22 on bail application

- (1) In the circumstances set out in **subsection (2)**, a court may decline to consider a bail application by a person, and may order that the person continue to be detained in Police custody, until the earlier of the following occurs: 15
- (a) the expiry of 2 days after the day on which the person was required under **section 22(1)** to permit an internal examination by a medical practitioner: 20
- (b) the person permits the examination to be conducted.
- (2) The circumstances are that—
- (a) the person fails to permit an internal examination to be conducted under **section 22**; and
- (b) the court is satisfied that the requirement under **section 22(1)** was properly made on reasonable grounds. 25
- (3) Nothing in **subsection (1)** limits a court's discretion to refuse bail.
- (4) This section overrides any contrary provisions about bail in any of the following: 30
- (a) the Bail Act 2000;
- (b) the Misuse of Drugs Act 1975;
- ~~(c) the Summary Proceedings Act 1957;~~
- (c) the Criminal Procedure Act 2011.

Subpart 7A—Warrantless powers in relation
to offences against section 78 of Crimes Act
1961

23A Warrantless searches if offence against section 78 of
Crimes Act 1961 suspected

5

(1) A constable may, without a warrant, carry out a search in the
circumstances set out in **subsection (2)**.

(2) The circumstances are that there are reasonable grounds—

(a) to suspect that an offence against section 78 of the
Crimes Act 1961 has been, is being, or will be com-
mitted and that the case is one of great urgency and
requires immediate action; and

10

(b) to believe that there is evidence in any place, or in or
on any vehicle or other thing, as to the commission of
that offence or evidence of a thing that is intended to be
used for the purpose of committing that offence.

15

Compare: 1961 No 43 s 78D

Subpart 8—Warrantless powers in relation
to offences against section 202A of Crimes
Act 1961

20

24 **Meaning of disabling substance and offensive weapon in
this subpart**

In this subpart,—

disabling substance means any anaesthetising or other sub-
stance produced to use for disabling a person, or intended for
such use by the person who has it with him or her

25

offensive weapon means any article made or altered to use for
causing bodily injury, or intended for such use by the person
who has it with him or her.

25 **Searching people in public places without search warrant
if offence against section 202A of Crimes Act 1961
suspected**

30

A constable who has reasonable grounds to suspect that a per-
son is committing an offence against section 202A(4)(a) of the
Crimes Act 1961 (which relates to possession of knives, offen-

35

sive weapons, and disabling substances) may, without a warrant,—

- (a) stop the person and—
 - (i) search him or her; and
 - (ii) search any thing that he or she has with him or her that the constable has reasonable grounds to believe contains a knife, offensive weapon, or disabling substance; and
- (b) seize any knife, offensive weapon, or disabling substance found.

25 Searching people in public places without search warrant if offence against section 202A(4)(a) of Crimes Act 1961 suspected

A constable who has reasonable grounds to suspect that a person is committing an offence against section 202A(4)(a) of the Crimes Act 1961 (which relates to possession of knives, offensive weapons, and disabling substances) may, without a warrant, search the person.

26 Stopping and searching vehicles without warrant if offence against section 202A of Crimes Act 1961 suspected

- (1) A constable who has reasonable grounds to suspect that the circumstances in **subsection (2)** exist in relation to a vehicle may—
 - (a) stop and search the vehicle; and
 - (b) detain it for as long as is reasonably necessary to conduct the search; and
 - (c) seize any knife, offensive weapon, or disabling substance found.
- (1) A constable who has reasonable grounds to suspect that the circumstances in **subsection (2)** exist in relation to a vehicle may search the vehicle.
- (2) The circumstances are that—
 - (a) a person travelling in the vehicle or who has alighted from it is committing an offence against section 202A(4)(a) of the Crimes Act 1961 (which relates to possession of knives, offensive weapons, and disabling substances); and

- (b) the vehicle contains a knife, offensive weapon, or disabling substance.

Subpart 9—Warrantless search of vehicle
for stolen property

27 Power to search vehicles without warrant for stolen property 5

A constable who has reasonable grounds to believe that any stolen property is in or on any vehicle may search it without a warrant.

Subpart 10—Warrantless powers relating to
road blocks 10

28 Obtaining authorisation for warrantless road block

- (1) A senior constable may authorise the establishment of a road block for the purpose of arresting a person in the circumstances set out in **subsection (2)**. 15
- (2) The circumstances are that the senior constable—
- (a) has reasonable grounds to believe that in or on a vehicle there is a person who the constable has reasonable grounds to suspect—
- (i) has committed an offence punishable by a term of imprisonment; or 20
- (ii) is unlawfully at large; and
- (b) has reasonable grounds to suspect that the vehicle will travel past the place where it is proposed that the road block be established; and 25
- (c) is satisfied that, as far as is reasonably practicable, the safety of all road users will be ensured in the area in which it is proposed that the road block be established.
- (4) An authorisation may be granted under this section orally or in writing. 30
- (6) In this section, **senior constable** means a constable who holds a level of position of sergeant or higher, and includes any constable who is acting in any such rank.

- 29 Duration and record of warrantless road block authorisation**
- (1) An authorisation under **section 28**—
- (a) is valid for an initial period not exceeding 24 hours specified by the person giving the authorisation; and 5
 - (b) may be renewed from time to time by a District Court Judge for a single further period not exceeding 24 hours specified in writing by the Judge.
- (2) The person giving the authorisation must keep or cause to be kept a written record of the following matters: 10
- (a) the location of the road block that was authorised;
 - (b) the period or periods for which the authorisation was granted or renewed;
 - (c) the grounds on which the authorisation was granted or renewed. 15
- 30 Authorised road blocks implemented without warrant**
- Any constable may do any or all of the following when a road block is authorised under **section 28**:
- (a) establish a road block at the place specified in the authorisation: 20
 - (b) stop vehicles at or in the vicinity of the road block;
 - (c) require any person in or on any vehicle stopped by the road block who the constable has reasonable grounds to suspect has committed an offence punishable by imprisonment to state any or all of his or her name, address, and date of birth: 25
 - (d) search the vehicle for the purpose of locating a person referred to in **section 28(2)(a)(i) or (ii)**, if the constable or any other constable has reasonable grounds to believe that the person is in or on the vehicle. 30
 - (e) ~~require that the vehicle remain stopped for as long as is reasonably necessary to enable a constable to exercise any powers conferred by this section, regardless of whether the powers are exercised in respect of—~~ 35
 - ~~(i) the vehicle; or~~
 - ~~(ii) the occupants of the vehicle.~~

Subpart 11—Examination orders

*Examination orders in business contexts***31 Inspector or more senior officer may apply for examination order in business context**

- (1) A constable who is of or above the level of position of inspector may apply to a Judge for an examination order against a person in a business context if—
- (a) the constable is satisfied that the conditions specified in **section 32** are met in respect of the person; and
 - (b) the making of the application is approved by—
 - (i) a Deputy Commissioner; or
 - (ii) an Assistant Commissioner; or
 - (iii) the District Commander (other than an acting District Commander) of the Police district in which the constable is stationed.
- (2) An application made under this section must be made in writing, and must set out the following particulars:
- (a) the name of the applicant;
 - (b) a description of the offence that it is suspected has been committed, is being committed, or will be committed;
 - (c) the facts relied on to show reasonable grounds to suspect that an offence has been committed, or is being committed, or will be committed;
 - (d) a description of the information sought to be obtained by the examination order;
 - (e) the facts relied on to show reasonable grounds to believe that the person against whom the order is sought has the information;
 - (f) the facts that indicate that the person against whom the order is sought acquired the information in respect of which the order is sought in a business context;
 - (g) the facts that indicate that the person against whom the order is sought has been given a reasonable opportunity by a constable to provide the information but has not done so.

32 **Conditions for making examination order in business context**

The conditions for making an examination order in a business context against a person are that—

- (a) there are reasonable grounds to suspect that an offence punishable by imprisonment for a term of 5 years or more has been committed, or is being committed, or will be committed; and 5
- (b) there are reasonable grounds to believe that the person sought to be examined has information that constitutes evidential material in respect of the offence; and 10
- (c) there are reasonable grounds to believe that the person sought to be examined acquired the information in respect of which the order is sought in a business context; and 15
- (d) the person has been given a reasonable opportunity by a constable to provide that information and has not done so.

Examination orders in contexts other than those of business

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33 **Inspector or more senior officer may apply for examination order in non-business context**

- (1) A constable who is of or above the level of position of inspector may apply to a Judge for an examination order against a person in a non-business context if— 25
 - (a) the constable is satisfied that the conditions specified in **section 34** are met in respect of the person; and
 - (b) the making of the application is approved by—
 - (i) a Deputy Commissioner; or
 - (ii) an Assistant Commissioner; or 30
 - (iii) the District Commander (other than an acting District Commander) of the Police district in which the constable is stationed.
- (2) An application made under this section must be made in writing, and must set out the following particulars: 35
 - (a) the name of the applicant;
 - (b) a description of the offence that it is suspected has been committed, is being committed, or will be committed:

- (c) the facts relied on to show reasonable grounds to suspect that an offence has been committed, or is being committed, or will be committed:
- (d) a description of the information sought to be obtained by the examination order: 5
- (e) the facts relied on to show reasonable grounds to believe that the person against whom the order is sought has the information:
- (f) the facts that indicate that the person against whom the order is sought acquired the information in respect of which the order is sought in a non-business context: 10
- (g) the facts that indicate that the person against whom the order is sought has been given a reasonable opportunity by a constable to provide the information but has not done so. 15

34 Conditions for making examination order in non-business context

The conditions for making an examination order in a non-business context against a person are that—

- (a) there are reasonable grounds to suspect that an offence punishable by imprisonment has been committed, or is being committed, or will be committed, and the offence— 20
 - (i) involves serious or complex fraud that is punishable by imprisonment for a term of 7 years or more; or 25
 - (ii) has been committed, or is being committed, or will be committed wholly or partly by an organised criminal group as defined in section 98A(2) of the Crimes Act 1961; and 30
- (b) there are reasonable grounds to believe that the person sought to be examined has information that constitutes evidential material in respect of the offence; and
- (c) there are reasonable grounds to believe that the person sought to be examined acquired the information in respect of which the order is sought in a non-business context; and 35

- (d) the person has been given a reasonable opportunity by a constable to provide that information and has not done so.

Other provisions that apply to examination order applications 5

35 Other provisions that apply to examination order applications

- (1) The provisions in **subsection (2)** apply to any application for an examination order as if—
- (a) any reference in those provisions to a search warrant were a reference to an examination order; and 10
- (b) any reference in those provisions to an issuing officer were a reference to a Judge; and
- (c) any reference in those provisions to a District Court were a reference to a District Court or a High Court, as the case may be. 15
- (2) The provisions are—
- (a) **section 96(2)** (relating to requirements for further information); and
- (b) **section 97** (relating to verification of application); and 20
- (c) **section 98(1), (2), and (4)** (relating to mode of application); and
- (d) **section 99** (relating to retention of documents).

Making examination orders and contents of examination orders 25

36 Judge may make examination order

A Judge may, on an application made under **section 31 or 33**, make an examination order against a person if the Judge is satisfied that—

- (a) the conditions specified in **section 32 or 34**, as the case may be, are met in respect of the person; and 30
- (b) it is reasonable to subject the person to compulsory examination, having regard to the nature and seriousness of the suspected offending, the nature of the information sought, the relationship between the person to 35

be examined and the suspect, and any alternative ways of obtaining the information.

37 Form and content of examination order

- (1) An examination order made under **section 36** must be in the prescribed ~~form~~ form, if any, and must require the person against whom it is made—
- (a) to attend before the Commissioner or a delegate of the Commissioner; and
 - (b) to answer any questions that are relevant to the information in respect of which the order was made.
- (2) The examination order must set out the following:
- (a) the name of the person required to comply with the order;
 - (b) the grounds on which the order is made;
 - (c) the nature of the questions that the person is to be asked, being questions that are relevant to the information in respect of which the order was made;
 - (d) if the examination is to be conducted by a delegate of the Commissioner, the name of the delegate;
 - (da) a condition that, in accordance with **section 40A**, an examination order report must be provided within 1 month after the completion of the examination conducted under the order to the Judge who made the order or, if that Judge is unable to act, to a Judge of the same court as the Judge who made the order;
 - (db) any requirement that the Judge making the order considers reasonable for inclusion of specified information in the examination order report provided under **section 40A**;
 - (e) where the examination is to take place;
 - (f) when the examination is to take place or how a time for the examination is to be fixed.

Other provisions relating to examination orders

38 Presence of lawyer

A person against whom an examination order is made must, before being required to appear before the Commissioner or

the Commissioner's delegate, be given a reasonable opportunity to arrange for a lawyer to accompany him or her.

39 Duration of examination order

An examination order is in force for the period specified in the order (not exceeding 30 days after the date on which the order is made). 5

40 Other provisions that apply to examination orders

Section 103 (relating to the transmission of search warrants) and **section 105** (relating to when a search warrant is invalid) apply to examination orders as if— 10

- (a) any reference in those provisions to a warrant or search warrant were a reference to an examination order; and
- (b) any reference in those provisions to an issuing officer were a reference to the Judge issuing an examination order. 15

Examination order reports

40A Examination order reports

- (1) The Commissioner or the delegate of the Commissioner, as the case may be, who conducts an examination authorised by an examination order must provide an examination order report within 1 month after the completion of the examination conducted under the order, as specified in the order, to the Judge who made the order, or, if that Judge is unable to act, to a Judge of the same court as the Judge who made the order. 20
- (2) The examination order report must contain the following information: 25
 - (a) whether the examination resulted in obtaining evidential material:
 - (b) whether any criminal proceedings have been brought or are under consideration as a result of evidential material obtained by means of the examination: 30
 - (c) any other information stated in the order as being required for inclusion in the examination order report.

Subpart 12—Other matters

41 Common law defence of necessity for people other than constables not affected by this Part

Nothing in this Part affects the common law defence of necessity as it applies to persons who are not constables.

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Part 3**Enforcement officers' powers and orders**Subpart 1—Surveillance device warrants
and declaratory orders**42AA Restrictions on some trespass surveillance and use of interception device** 10

(1) Nothing in this subpart authorises any enforcement officer to undertake trespass surveillance (other than by means of a tracking device) except in order to obtain evidential material in relation to an offence—

15

(a) that is punishable by a term of imprisonment of 7 years or more; or

(b) against section 44, 45, 50, 51, 54, or 55 of the Arms Act 1983.

(2) Nothing in this subpart authorises any enforcement officer to use an interception device except in order to obtain evidential material in relation to an offence—

20

(a) that is punishable by a term of imprisonment of 7 years or more; or

(b) against section 44, 45, 50, 51, 54, or 55 of the Arms Act 1983.

25

*Surveillance device warrants***42 Activities for which surveillance device warrant required**

(1) Except as provided in **sections 43 and 44**, an enforcement officer who wishes to undertake any 1 or more of the following activities must obtain a surveillance device warrant:

30

(a) use of an interception device to intercept a private communication:

(b) use of a tracking device:

- (b) use of a tracking device, except where a tracking device is installed solely for the purpose of ascertaining whether a thing has been opened, tampered with, or in some other way dealt with, and the installation of the device does not involve trespass to land or trespass to goods: 5
- (c) observation of private activity in private premises, and any recording of that observation, by means of a visual surveillance device:
- ~~(ca) use of a surveillance device that involves trespass onto private property:~~ 10
- (ca) use of a surveillance device that involves trespass to land or trespass to goods:
- (d) observation of private activity in the curtilage of private premises, and any recording of that observation, if any part of the observation or recording is by means of a visual surveillance device, and the duration of the observation, for the purposes of a single investigation, or a connected series of investigations, exceeds— 15
- (i) 3 hours in any 24-hour period; or 20
- (ii) 8 hours in total.
- (2) This section is subject to **section 42AA.**

43 Some activities that do not require warrant under this subpart

- (1) No warrant under this subpart is required by an enforcement officer ~~in any 1 or more of the following circumstances~~ for any 1 or more of the following activities: 25
- ~~(a) the enforcement officer lawfully—~~
- ~~(i) entering private premises; and~~
- ~~(ii) recording what he or she observes or hears there:~~ 30
- (a) the enforcement officer—
- (i) being lawfully in private premises; and
- (ii) recording what he or she observes or hears there (provided that the enforcement officer records only those matters that he or she could see or hear without the use of a surveillance device): 35

- (b) covert audio recording of a voluntary oral communication between 2 or more persons made with the consent of at least 1 of them:
- (c) ~~activities that are carried out—~~
- (i) ~~in a place or vehicle that the enforcement officer enters lawfully; and~~ 5
- (ii) ~~by means of the enforcement officer's unaided sense of smell:~~
- (d) ~~activities carried out by the enforcement officer's use of his or her unaided visual observation or unaided sense of hearing:~~ 10
- (e) activities carried out under the authority of an interception warrant issued under—
- (i) section 4A(1) or (2) of the New Zealand Security Intelligence Service Act 1969; or 15
- (ii) section 17 of the Government Communications Security Bureau Act 2003:
- (f) activities carried out by the enforcement officer's use of a surveillance device, if that use is authorised under any enactment other than this Act. 20
- (1A) **Subsection (1)(b)** does not prevent an enforcement officer from applying for a warrant authorising covert audio recording in the circumstances set out in that subsection.
- (2) ~~In this section,—~~
- ~~**unaided sense of hearing** means unaided except by a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing~~ 25
- ~~**unaided visual observation** means unaided except for the use of spectacles, contact lenses, or a similar device used to correct subnormal vision of the user to no better than normal vision.~~ 30
- (3) ~~This section is subject to **section 42AA**:~~
- 44 Surveillance device warrant need not be obtained for use of surveillance device in some situations of emergency or urgency**
- (1) An enforcement officer who is in any 1 or more of the situations set out in **subsection (2)** may use a surveillance device for a period not exceeding 48 hours from the time the surveil-

lance device is first used without obtaining a surveillance device warrant, if—

- (a) he or she is entitled to apply for a surveillance device warrant in relation to those situations; but
 - (b) obtaining a surveillance device warrant within the time in which it is proposed to undertake the surveillance is impracticable in the circumstances. 5
- (2) The situations are as follows:
- (a) the enforcement officer has reasonable grounds—
 - (i) to suspect that an offence punishable by a term of imprisonment of 14 years or more has been, is being, or is about to be committed; and 10
 - (ii) to believe that use of the surveillance device would obtain evidential material in relation to the offence: 15
 - (b) the enforcement officer has reasonable grounds—
 - (i) to suspect that any 1 or more of the circumstances set out in **section 14(2)** exist; and
 - (ii) to believe that use of the surveillance device is necessary to prevent the offending from being committed or continuing, or to avert the emergency: 20
 - (c) the enforcement officer has reasonable grounds—
 - (i) to suspect that any 1 or more of the circumstances set out in **section 18(2)** exist; and 25
 - (ii) to believe that use of the surveillance device is necessary to facilitate the seizure of the arms:
 - (d) the enforcement officer has reasonable grounds—
 - (i) to suspect that ~~an indictable offence~~ a category 3 or 4 offence in relation to arms or an offence against the Arms Act 1983 has been committed, or is being committed, or is about to be committed; and 30
 - (ii) to believe that use of the surveillance device would obtain evidential material in relation to the offence: 35
 - (e) the enforcement officer has reasonable grounds—
 - (i) to suspect that an offence has been committed, or is being committed, or is about to be committed

- in relation to a controlled drug specified or described in Schedule 1, Part 1 of Schedule 2, or Part 1 of Schedule 3 of the Misuse of Drugs Act 1975, or to a precursor substance specified or described in Part 3 of Schedule 4 of that Act; and 5
- (ii) to believe that use of the surveillance device would obtain evidential material in relation to the offence:
- (f) the enforcement officer has reasonable grounds—
- (i) to ~~suspect~~ believe that a person is in possession of any 1 or more of the things described in **section 79(2)(a) to (d)**; and 10
- (ii) to believe that use of the surveillance device is necessary to facilitate the thing's seizure.
- (2A) An enforcement officer using, or intending to use, a surveillance device in accordance with **subsection (1)** may do any or all of the following, using any force that is reasonable in the circumstances to do so, in order to install, maintain, or remove the surveillance device, or to access and use electricity to power the surveillance device: 15
- (a) enter any premises, area, or vehicle: 20
- (b) break open or interfere with any vehicle or other thing:
- (c) temporarily remove any vehicle or other thing from any place where it is found and return it to that place.
- (3) This section is subject to **section 42AA**. 25

Application for surveillance device warrant

45 Application for surveillance device warrant

- (1) An application for a surveillance device warrant may be made only by an enforcement officer, and must contain, in reasonable detail, the following particulars: 30
- (a) the name of the applicant:
- (b) the provision authorising the making of an application for a search warrant in respect of the suspected offence:
- (c) the grounds on which the application is made:
- (d) the suspected offence in relation to which the surveillance device warrant is sought: 35
- (e) the type of surveillance device to be used:

- (f) the name, address, or other description of the person, place, vehicle, or other thing that is the object of the proposed surveillance:
 - (g) a description of the evidential material believed to be able to be obtained by use of the surveillance device: 5
 - (h) the period for which the warrant is sought.
- (2) If the enforcement officer cannot provide all the information required under **subsection (1)(f) and (g)**, the application must instead state the circumstances in which the surveillance is proposed to be undertaken in enough detail to identify the parameters of, and objectives to be achieved by, the proposed use of the surveillance device. 10
- (3) The applicant must disclose in the application—
- (a) the details of any other applications for a search warrant or a surveillance device warrant that the applicant knows to have been made within the previous 3 months in respect of the person, place, vehicle, or other thing proposed as the object of the surveillance; and 15
 - (b) the result of that application or those applications.
- (4) The applicant must, before making an application for a surveillance device warrant, make reasonable inquiries within the agency in which the applicant is employed or engaged for the purpose of complying with **subsection (3)**. 20
- (5) Despite **subsection (1)**, an application for a surveillance device warrant seeking authority to use visual trespass surveillance or an interception device may only be made by— 25
- (a) a constable; or
 - (b) an enforcement officer employed or engaged by a law enforcement agency that has been approved by an Order in Council made under **section 45A**. 30

45A Approval of law enforcement agencies other than Police to carry out visual trespass surveillance and use interception devices

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Justice, approve a specified law enforcement agency other than the Police to do either or both of the following: 35
- (a) to carry out visual trespass surveillance:

- (b) to use interception devices.
- (2) The Minister of Justice may recommend the making of an Order in Council under **subsection (1)(a)**, following consultation with the Minister of Police, if he or she is satisfied that it is appropriate for the agency to carry out visual trespass surveillance, and that the agency has the technical capability, and the policies and procedures in place, so that the surveillance can be carried out in a manner that ensures the safety of the people involved in the surveillance. 5
- (3) The Minister of Justice may recommend the making of an Order in Council under **subsection (1)(b)**, following consultation with the Minister of Police, if he or she is satisfied that it is appropriate for the agency to use interception devices, and that the agency has— 10
- (a) the technical capability to intercept private communications in a manner that ensures the reliability of any information obtained through the use of an interception device; and 15
- (b) policies and procedures in place to ensure that the integrity of any information obtained through the use of an interception device is preserved; and 20
- (c) the expertise—
- (i) to extract evidential material from information obtained through the use of an interception device in a form that can be used in a criminal proceeding; and 25
- (ii) to ensure that any evidential material obtained through the use of an interception device is presented to the court in an appropriate manner, when the agency intends to proceed with a prosecution. 30
- (4) In this section, **specified law enforcement agency** means—
- (a) the New Zealand Customs Service; or
- (b) the Department of Internal Affairs. 35

46 Conditions for issuing surveillance device warrant

The conditions for issuing a surveillance device warrant are that—

- (a) there are reasonable grounds—
 - (i) to suspect that an offence has been committed, or is being committed, or will be committed in respect of which this Act or any enactment specified in **column 2 of the Schedule** authorises the enforcement officer to apply for a warrant to enter premises for the purpose of obtaining evidence about the suspected offence; and 5
 - (ii) to believe that the proposed use of the surveillance device will obtain information that is evidential material in respect of the offence; and 10
 - (b) the restrictions in **section 42AA** do not prevent the issuing of a surveillance device warrant in the circumstances.
- 47 Other provisions that apply to surveillance device warrant applications** 15
- (1) The provisions in **subsection (2)** apply to any application for a surveillance device warrant as if—
 - (a) any reference in those provisions to a search warrant were a reference to a surveillance device warrant; and 20
 - (b) any reference in those provisions to an issuing officer were a reference to a Judge; and
 - (c) any reference in those provisions to a District Court were a reference to a District Court or a High Court, as the case may be. 25
 - (2) The provisions are—
 - (a) **section 96(2)** (relating to requirements for further information); and
 - (b) **section 97** (relating to verification of application); and
 - (c) **section 98** (relating to mode of application); and 30
 - (d) **section 99** (relating to retention of documents).

Issuing of surveillance device warrant

- 48 Who may issue surveillance device warrant**
- A surveillance device warrant may be issued by a Judge, on application under **section 45**, if he or she is satisfied that the conditions set out in **section 46** are met. 35

49 Restrictions on issue of surveillance device warrant

A Judge must not issue a surveillance device warrant that is primarily intended to facilitate surveillance or recording of activity between a lawyer and his or her client that is communication of a kind to which legal professional privilege normally applies unless the Judge is satisfied that there is a prima facie case that the communication is to be made or received—

- (a) for a dishonest purpose; or
- (b) for the purpose of planning to commit or committing an offence.

50 Form and content of surveillance device warrant

(1) Every surveillance device warrant must—

- (a) be in the prescribed ~~form~~ form, if any; and
- (b) be directed to every enforcement officer who has authority to carry out the activities authorised by the surveillance device warrant; and
- (c) specify a period, of no more than 60 days after the date on which the warrant is issued, for which it is in force; and
- (d) contain a condition that, in accordance with **section 53**, a surveillance device warrant report must be provided within 1 month after the expiry of the period for which the warrant is in force to the Judge who issues the warrant or, if that Judge is unable to act, to a Judge of the same court as the Judge who issues the warrant; and
- (e) contain a condition that the enforcement officer carrying out the activities authorised by the warrant must not use any communication obtained under the authority of the warrant unless the privilege is waived or its use is authorised by a Judge, if he or she has reasonable grounds to believe that the communication may be subject to a privilege specified in **section 130**.

(2) A surveillance device warrant may be subject to any other conditions specified in the warrant that the Judge issuing it considers reasonable, including a requirement for inclusion of specified information in the surveillance device warrant report provided under **section 53**.

- (3) Every surveillance device warrant must also contain, in reasonable detail, the following particulars:
- (a) the name of the Judge issuing the warrant and the date of issue:
 - (b) the provision authorising the making of an application 5
for a search warrant in respect of the suspected offence:
 - (c) the type of surveillance device the use of which the warrant authorises:
 - (d) the name, address, or other description of the person, 10
place, vehicle, or other thing that is the object of the proposed surveillance:
 - (e) the evidential material relating to the suspected offence that may be obtained by use of the surveillance device:
 - (f) that an enforcement officer carrying out the activities 15
authorised by the warrant may use any assistance that is reasonable in the circumstances:
 - (fa) that an enforcement officer who, while carrying out the 20
activities authorised by the warrant, obtains the content of a telecommunication may direct the relevant network operator to provide call associated data (as defined in section 3(1) of the Telecommunications (Interception Capability) Act 2004) that is—
 - (i) a document within the meaning of **section 68**; 25
and
 - (ii) related to that telecommunication: 25
 - (g) that, subject to **section 42AA**, an enforcement officer 30
carrying out the activities authorised by the warrant may do any or all of the following, using any force that is reasonable in the circumstances to do so, in order to install, maintain, or remove the surveillance device, or 30
to access and use electricity to power the surveillance device:
 - (i) enter any premises, area, or vehicle specified in 35
the warrant:
 - (ii) break open or interfere with any vehicle or other 35
thing:
 - (iii) temporarily remove any vehicle or other thing from any place where it is found and return it to that place.

- (4) Despite **subsection (3)(d) and (e)**, if the Judge has not been provided in the application, or otherwise, with the information specified in those provisions because the applicant is unable to provide it, the warrant must instead state the details (as provided under **section 47(2)** or otherwise) of the circumstances in which the surveillance is to be undertaken in enough detail to identify the parameters of, and objectives to be achieved by, the use of the surveillance device. 5
- (5) Despite **subsection (1)(c)**, a Judge may issue a further surveillance device warrant in respect of the same suspected offence in regard to which the Judge, or another Judge, has previously issued a surveillance device warrant. 10

*Carrying out authorised surveillance activities
and evidential material relevant to other
offences*

15

51 Carrying out authorised surveillance activities

A surveillance device warrant allows the following persons to carry out the activities authorised by it:

- (a) any or all of the persons to whom it is directed: 20
- (b) any assistant—
- (i) who is called upon by a person specified in **paragraph (a)** to help him or her to carry out the activities; and
- (ii) who, at all times that he or she is carrying out activities authorised by the warrant, remains under the supervision of a person specified in **paragraph (a)**. 25

51A Admissibility of evidential material relevant to other offences

- (1) **Subsection (2)** applies if, in the course of carrying out activities authorised by a surveillance device warrant or while lawfully using a surveillance device in relation to an offence, a person obtains any evidential material in relation to an offence— 30
- (a) that is not the offence in respect of which the warrant was issued or in respect of which the surveillance device was lawfully put into use, as the case requires; but 35

- (b) in respect of which a surveillance device warrant could have been issued or a surveillance device could have been lawfully used.
- (2) The evidential material referred to in **subsection (1)** is not inadmissible in criminal proceedings by reason only that the surveillance device warrant that authorised the activity that obtained the material was issued in respect of a different offence or, as the case requires, that the material was obtained from the use of a surveillance device that was put into use in respect of a different offence.

Other provisions applying to surveillance device warrants

52 Other provisions that apply to surveillance device warrants

Section 103 (relating to the transmission of search warrants) and **section 105** (relating to when a search warrant is invalid) apply to surveillance device warrants as if—

- (a) any reference in those provisions to a warrant or search warrant were a reference to a surveillance device warrant; and
- (b) any reference in those provisions to an issuing officer were a reference to the Judge issuing a surveillance device warrant.

Surveillance device warrant reports

53 Surveillance device warrant report

- (1) A person who carries out the activities authorised by a surveillance device warrant must provide a surveillance device warrant report within 1 month after the expiry of the period for which the warrant is in force, as specified in the warrant, to the Judge who issued the warrant or, if that Judge is unable to act, to a Judge of the same court as the Judge who issued the warrant.
- (2) The surveillance device warrant report must contain the following information:

- (a) whether carrying out the activities authorised by the surveillance device warrant resulted in obtaining evidential material:
- (ab) whether or not the evidential material obtained as a result of carrying out the activities authorised by the warrant was evidential material specified in the warrant in accordance with **section 50(3)(e)**: 5
- (b) the circumstances in which the surveillance device was used:
- (ba) whether any criminal proceedings have been brought or are under consideration as a result of evidential material obtained under the warrant: 10
- (c) any other information stated in the warrant as being required for inclusion in the surveillance device warrant report. 15

54 Report on use of surveillance device in situation of urgency or emergency

- (1) An enforcement officer who uses a surveillance device under the authority of **section 44** must provide a report to a Judge within 1 month after the date of the last day of any period of 48 hours or less over which the surveillance device was used. 20
- (2) The report made under **subsection (1)** must contain the following information:
 - (a) whether the use of the surveillance device resulted in—
 - (i) obtaining evidential material of the relevant offence (in the case of use of a surveillance device in a situation set out in **section 44(2)(a), (d), or (e)**); or 25
 - (ii) preventing the offending from being committed or continuing, or averting the emergency (in the case of use of a surveillance device in a situation set out in **section 44(2)(b)**); or 30
 - (iii) facilitating the seizure of the arms (in the case of use of a surveillance device in a situation set out in **section 44(2)(c)**); and 35
 - (b) the circumstances in which the surveillance device was used.

- (3) A Judge who receives a report under **subsection (1)** may require the enforcement officer who used the surveillance device to supply further information regarding the circumstances surrounding the use of the surveillance device.

55 Actions on receipt of surveillance device warrant report 5

- (1) A Judge receiving a surveillance device warrant report under **section 53** may do any 1 or more of the following:
- (a) give directions as to the destruction or retention of the material obtained as a result of the surveillance: 10
 - (b) if he or she considers that the surveillance activities carried out were in breach of any of the conditions of the warrant's issue, or of any applicable statutory provision, report on the breach to the chief executive of the relevant agency: 10
 - (c) order that the subject of the surveillance be notified. 15
- (2) The Judge must not make an order under **subsection (1)(c)** unless he or she is satisfied—
- (a) that the circumstances set out in **subsection (3)** exist; and
 - (b) that— 20
 - (i) the warrant should not have been issued; or
 - (ii) there has been a serious breach of any of the conditions of its issue, or of any applicable statutory provision.
- (3) The circumstances are that the public interest in notification outweighs any potential prejudice to any 1 or more of the following: 25
- (a) any investigation by the law enforcement agency;
 - (b) the safety of informants or undercover officers;
 - (c) the supply of information to the law enforcement agency: 30
 - (d) any international relationships of the law enforcement agency.

56 Actions on receipt of report on use of surveillance device in situation of urgency or emergency 35

- (1) A Judge receiving a report under **section 54** may do any 1 or more of the following:

- (a) give directions as to the destruction or retention of the material obtained as a result of the use of the surveillance device:
- (b) if he or she considers that the use of the surveillance device was not authorised under **section 44**, report accordingly to the chief executive of the relevant agency: 5
- (c) order that the subject of the surveillance be notified.
- (2) The Judge must not make an order under **subsection (1)(c)** unless he or she is satisfied that—
 - (a) the circumstances set out in **subsection (3)** exist; and 10
 - (b) use of the surveillance device was a serious breach of the criteria set out in **section 44**.
- (3) The circumstances are that the public interest in notification outweighs any potential prejudice to any 1 or more of the following: 15
 - (a) any investigation by the law enforcement agency:
 - (b) the safety of informants or undercover officers:
 - (c) the supply of information to the law enforcement agency:
 - (d) any international relationships of the law enforcement agency. 20

Retention and destruction of raw surveillance data, excerpts, and other information obtained

- 56A Retention of raw surveillance data, excerpts, and information obtained** 25
- (1) Raw surveillance data may be retained by the law enforcement agency that collected it—
 - (a) until the conclusion of criminal proceedings in relation to an offence in respect of which the data was collected, including the later of— 30
 - (i) the conclusion of any appeal proceedings brought in relation to the offence; or
 - (ii) the expiry of any period for bringing such an appeal; or
 - (b) until the later of a maximum period of 3 years, or any further period specified in an order made under **subsection (2)**, if— 35

-
- (i) no criminal proceedings have commenced in relation to any offence in respect of which the data was collected; but
- (ii) the data is required for an ongoing investigation by the agency. 5
- (2) A Judge may make an order extending by no more than a further 2 years the period for which raw surveillance data may be retained by the agency in the circumstances in **subsection (1)(b)(i) and (ii)** if—
- (a) the agency applies for the order before the expiry of the initial 3-year period; and 10
- (b) the Judge is satisfied that the data is required for that ongoing investigation.
- (3) Excerpts from raw surveillance data may be retained by the law enforcement agency that collected it in accordance with an order made by a Judge on application by the agency. 15
- (4) A Judge may make an order under **subsection (3)** if—
- (a) the law enforcement agency that collected the raw surveillance data applies for the order; and
- (b) the Judge is satisfied that the excerpts may be required for a future investigation. 20
- (5) An order made under **subsection (2) or (3)** may be made subject to any condition specified in the order that the Judge issuing it considers reasonable.
- (6) Information that is obtained from raw surveillance data but that does not itself constitute raw surveillance data may be retained by the law enforcement agency that collected it if there are reasonable grounds to suspect that the information may be relevant to an ongoing or future investigation by the agency. 25
- (7) This section is subject to— 30
- (a) any direction given under **section 55(1)(a)** or **56(1)(a)**; and
- (b) any enactment requiring the retention of information that is part of a court record.

56B Disposal of raw surveillance data, excerpts, and information obtained

A law enforcement agency must ensure that any raw surveillance data, excerpts from raw surveillance data, and information obtained from it that is not itself raw surveillance data, and that is not retained in accordance with **section 56A** or as part of a court record, is deleted or erased. 5

Declaratory orders

57 What is a declaratory order

- (1) A declaratory order is a statement by a Judge that he or she is satisfied that the use of a device, technique, or procedure, or the carrying out of an activity, specified in the order is, in the circumstances of the use or the carrying out of the activity specified in the order, reasonable and lawful. 10
- (2) A declaratory order is advisory in character and does not affect the jurisdiction of any court to determine whether the activity that was the subject of the order was reasonable and lawful. 15

Applying for declaratory order

58 When to obtain declaratory order

- (1) An enforcement officer may apply for a declaratory order in the circumstances set out in **subsection (2)**. 20
- (2) The circumstances are that—
- (a) the enforcement officer wishes to use a device, technique, or procedure, or to carry out an activity, that is not specifically authorised by another statutory regime; 25
 - and
 - (b) the use of the device, technique, or procedure, or the carrying out of the activity, may constitute an intrusion into the reasonable expectation of privacy of any other person. 30

59 Application for declaratory order

- (1) An application for a declaratory order may be made only by an enforcement officer, and must contain, in reasonable detail, the following particulars: 35
- (a) the name of the applicant:

- (b) the grounds on which the application is made:
 - (c) a description of the device, technique, procedure, or activity to be used or undertaken, with enough detail to enable the Judge to understand what is proposed to be used or undertaken: 5
 - (d) the name, address, or other description of the person, place, vehicle, or other thing that is the object of the proposed use of the device, technique, procedure, or activity.
- (2) If the enforcement officer cannot provide all the information required under **subsection (1)(d)**, the application must instead state the circumstances in which the use of the device, technique, procedure, or activity is proposed to be undertaken in enough detail to identify the parameters of, and objectives to be achieved by, the proposed use: 10 15

59 Application for declaratory order

An application for a declaratory order may be made only by an enforcement officer, and must contain, in reasonable detail, the following particulars:

- (a) the name of the applicant: 20
- (b) a description of the device, technique, procedure, or activity, with enough detail to enable the Judge to understand what is proposed to be used or undertaken:
- (c) the name, address, or other description of the person, place, vehicle, or other thing that is the object of the proposed use of the device, technique, or procedure, or of the proposed activity (if available): 25
- (d) the circumstances in which the device, technique, or procedure is proposed to be used, or in which the activity is proposed to be undertaken: 30
- (e) the purpose for which the device, technique, or procedure is to be used, or for which the activity is to be undertaken.

*Making declaratory order***60 Who may make declaratory order**

A Judge may make a declaratory order if he or she is satisfied that the use of a device, technique, or procedure, or the carrying out of an activity, in the circumstances of the proposed use or carrying out of the activity, is reasonable and lawful. 5

61 Form and content of declaratory order

(1) Every declaratory order must be in the prescribed ~~form~~ form, if any.

(2) Every declaratory order must also contain, in reasonable detail, the following particulars: 10

(a) the name of the Judge making the order and the date the order is made:

(b) a description of the device, technique, procedure, or activity to be used or undertaken that the order relates to, and the circumstances covered by the order, with enough detail to enable the enforcement officer using the device, technique, or procedure, or carrying out the activity to which the order relates, to understand what is covered by the order: 15 20

(c) the name, address, or other description of the person, place, vehicle, or other thing that is the object of the proposed use of the device, technique, procedure, or activity.

(2) Every declaratory order must also contain, in reasonable detail, the following particulars: 25

(a) the name of the Judge making the order and the date the order is made:

(b) a description of the device, technique, procedure, or activity that the order relates to, with enough detail to enable the enforcement officer using the device, technique, or procedure, or undertaking the activity, to understand what is covered by the order: 30

(c) the name, address, or other description of the person, place, vehicle, or other thing that is the object of the use of the device, technique, or procedure, or of the activity (if available): 35

- (d) the circumstances in which the device, technique, or procedure is to be used, or in which the activity is to be undertaken.
- (e) the purpose for which the device, technique, procedure, or activity is to be used, or for which the activity is to be undertaken. 5
- (3) Despite **subsection (2)(c)**, if the Judge has not been provided in the application, or otherwise, with the information specified in that provision because the applicant is unable to provide it, the order must instead state the details (as provided under **section 59(2)** or otherwise) of the circumstances in which the use of the device, technique, procedure, or activity is to be undertaken in enough detail to identify the parameters of, and objectives to be achieved by, the use of the device, technique, procedure, or activity. 10 15

Subpart 2—Production orders

68 Interpretation

In this subpart,—

call associated data and **network operator** have the same meanings as in section 3(1) of the Telecommunications (Interception Capability) Act 2004 20

document includes call associated data and the content of telecommunications in respect of which, at the time an application is made under **section 69** for a production order against a network operator, the network operator has storage capability for, and stores in the normal course of its business, that data and content. 25

69 Enforcement officer may apply for production order

- (1) An enforcement officer who may apply for a search warrant to obtain documents may apply to an issuing officer for a production order against a person in respect of those documents if the enforcement officer is satisfied that the conditions, specified in **section 70**, for making the order against the person are met. 30
- (2) An application under this section must be in writing and must set out the following particulars: 35
- (a) the name of the applicant:

- (ab) the provision authorising the making of an application for a search warrant in respect of the suspected offence:
- (b) a description of the offence that it is suspected has been committed, is being committed, or will be committed:
- (c) the facts relied on to show reasonable grounds to suspect that an offence has been committed, or is being committed, or will be committed: 5
- (d) a description of the documents for which production is sought:
- (e) the facts relied on to show reasonable grounds to believe the documents sought are in the possession or under the control of the person against whom the order is sought: 10
- (f) whether the person against whom the order is made should be required to produce,—
 - (i) on 1 occasion only, those documents for which production is sought that are in his or her possession or under his or her control when the order is made; or 15
 - (ii) on an ongoing basis, those documents for which production is sought that are in his or her possession or under his or her control at the time the order is made, and those documents for which production is sought and that come into his or her possession or come under his or her control at any time while the order is in force. 20 25

70 **Conditions for making production order**

The conditions for making a production order are that there are reasonable grounds—

- (a) to suspect that an offence has been committed, or is being committed, or will be committed (being an offence in respect of which this Act or any enactment specified in **column 2 of the Schedule** authorises an enforcement officer to apply for a search warrant); and 30
- (b) to believe that the documents sought by the proposed order— 35
 - (i) constitute evidential material in respect of the offence; and

- (ii) are in the possession or under the control of the person against whom the order is sought, or will come into his or her possession or under his or her control while the order is in force.

- 71 Other provisions that apply to production order applications** 5
- (1) The provisions in **subsection (2)** apply to any application for a production order as if any reference in those provisions to a warrant or search warrant were a reference to a production order. 10
- (2) The provisions are—
- (a) **section 96(2)** (relating to requirements for further information); and
 - (b) **section 97** (relating to verification of application); and
 - (c) **section 98** (relating to mode of application); and 15
 - (d) **section 99** (relating to retention of documents).
- 72 Issuing officer may make production order**
- An issuing officer may make a production order against a person if satisfied, on an application made under **section 69**, that the conditions, specified in **section 70**, for making the order are met. 20
- 73 Form and content of production order**
- (1) A production order must be in the prescribed ~~form~~ form, if any, and must require the person against whom it is made (**person A**)— 25
- (a) to give the enforcement officer who applied for the order, or a person identified in the order, any documents described in the order that are in the possession or under the control of person A, and, if **section 69(2)(f)(ii)** applies to the order, documents described in the order that come into the possession or under the control of person A while the order is in force; and 30
 - (b) if any of those documents are not, or are no longer, in the possession or under the control of person A, to disclose, to the best of person A's knowledge or belief, the location of those documents to the enforcement officer 35

- who applied for the order or to the person identified in the order.
- (2) The production order must set out the following:
- (a) the name of person A:
 - (b) the grounds on which the order is made: 5
 - (c) the documents required to be given:
 - (d) whether the documents must be produced on 1 occasion only, or whether they are required to be produced on an ongoing basis for the duration of the entire order:
 - (e) the time by which, and the way in which, the documents must be produced. 10
- (3) The production order may describe the documents required to be given by reference to a class or category of document.
- (4) If the production order is made against a body corporate or an unincorporated body, the order may specify an individual (whether by name or by reference to a position held in the body) who is to comply with the order as the body's representative. 15
- 74 Duration of production order**
- A production order is in force for the period specified in the order (not exceeding 30 days after the date on which the order is made). 20
- 75 Other provisions applying to production orders**
- Section 103** (relating to the transmission of search warrants) and **section 105** (relating to when a search warrant is invalid) apply to production orders as if any reference in those provisions to a warrant or search warrant were a reference to a production order. 25
- 76 Documents produced under production order**
- When any document is produced in compliance with a production order, the enforcement officer who applied for the order may do any 1 or more of the following things: 30
- (a) retain the original document produced if it is relevant to the investigation:

- (b) take copies of the document, or of extracts from the document:
- (c) if necessary, require the person producing the document to reproduce, or to assist any person nominated by the chief executive or a delegate of the chief executive to reproduce, in usable form, any information recorded or stored in the document. 5

77 Copy of retained document to be given

An enforcement officer who, in accordance with **section 76(a)**, retains an original document that is produced in compliance with a production order must, as soon as practicable after the document is produced, take a copy of the document and give the copy to the person who produced the original document in compliance with the production order. 10

Subpart 3—Police and Customs officer powers to search in relation to delivery under section 12 of Misuse of Drugs Amendment Act 1978 15

78 Meaning of terms used in this subpart

In this subpart, unless the context otherwise requires, **craft**, **package**, and **vehicle** have the same meanings as in section 2(1) of the Customs and Excise Act 1996. 20

79 Searches of persons, places, and vehicles relating to deliveries under section 12 of Misuse of Drugs Amendment Act 1978 25

- (1) In the circumstances set out in **subsection (2)**, a constable or a Customs officer may, during the course of a delivery in relation to which a Customs officer has exercised his or her powers under section 12 of the Misuse of Drugs Amendment Act 1978, do any or all of the following without a warrant: 30
 - (a) search a person involved in a delivery under section 12 of the Misuse of Drugs Amendment Act 1978:
 - (b) enter and search any place, craft, or vehicle:

- (c) seize anything that he or she has reasonable grounds to believe is a thing described in any of **paragraphs (a) to (d) of subsection (2)**.
- (2) The circumstances are that the constable or the Customs officer has reasonable grounds to believe that the person is in possession of, or the place, craft, or vehicle contains, any 1 or more of the following:
- (a) a controlled drug;
- (b) a precursor substance;
- (c) a package in relation to which the Customs officer has replaced all or a portion of any controlled drug or precursor substance;
- (d) evidential material in relation to the commission of an offence under section 6(1)(a) or 12AB of the Misuse of Drugs Act 1975.

Subpart 4—Warrantless powers of entry and search incidental to arrest or detention

80 Application of this subpart

This subpart applies to any person who has exercised a power of arrest or detention, or both, by or under this Act or any other enactment, other than—

- (a) the Armed Forces Discipline Act 1971; or
- (b) the Defence Act 1990; or
- (c) any regulations made under either of those Acts.

81 Entry without warrant after arrest

- (1) ~~A person to whom this subpart applies who has arrested a person and has reasonable grounds to believe that the circumstances in **subsection (2)** exist in a place may enter it without a warrant to search for and seize any evidential material relating to the offence for which the person was arrested.~~
- (2) The circumstances are—
- (a) that evidential material relating to the offence for which the person was arrested is in that place; and
- (b) that, if entry is delayed in order to obtain a search warrant, evidential material relating to the offence

for which the person was arrested will be destroyed, concealed, or damaged.

81 Entry without warrant after arrest

(1) This section applies if a person—

- (a) arrests a person for an offence; and 5
 (b) has reasonable grounds to believe that evidential material relating to the offence is at a place and that the evidential material will be destroyed, concealed, altered, or damaged if entry to that place is delayed to obtain a warrant. 10

(2) The person may enter the place without a warrant to search for the evidential material relating to the offence (whether or not the person was arrested there).

82 Warrantless entry and search of vehicle after arrest

A person to whom this subpart applies who has arrested a person and who has reasonable grounds to believe that evidential material relating to the offence for which the person was arrested is ~~in a vehicle~~ in or on a vehicle may enter and search it without a warrant. 15

83 Rub-down search of arrested or detained person 20

(1) A person to whom this subpart applies may carry out a rub-down search of a person, in accordance with this section, when the person is arrested, or detained under a statutory power of detention, in order to ensure that the person is not carrying anything that may be used— 25

- (a) to harm any person; or
 (b) to facilitate the person's escape.

(2) For the purposes of this section and **sections 84 and 85**, a **rub-down search** means a search of a clothed person in which the person conducting the search may do any or all of the following: 30

- (a) run or pat his or her hand over the body of the person being searched, whether outside or inside the clothing (other than the underclothing) of that person:

- (b) insert his or her hand inside any pocket or pouch in the clothing (other than the underclothing) of the person being searched:
- (c) for the purpose of permitting a visual inspection, require the person being searched to do any or all of the following: 5
 - (i) open his or her mouth:
 - (ii) display the palms of his or her hands:
 - (iii) display the soles of his or her feet:
 - (iv) lift or rub his or her hair. 10

84 Things that can be done to facilitate rub-down search

- (1) For the purpose of facilitating any of the actions referred to in any of **paragraphs (a) to (c) of section 83(2)**, the person conducting a rub-down search may require the person being searched— 15
 - (a) to remove, raise, lower, or open any outer clothing (including (without limitation) any coat, jacket, jumper, or cardigan) being worn by the person being searched, except where that person has no other clothing, or only underclothing, under that outer clothing; and 20
 - (b) to remove any head covering, gloves, or footwear (including socks or stockings) being worn by that person.
- (2) A rub-down search of a person may include searching—
 - (a) any item carried by, or in the possession of, the person; and 25
 - (b) any outer clothing removed, raised, lowered, or opened for the purposes of the search; and
 - (c) any head covering, gloves, or footwear (including socks or stockings) removed for the purposes of the search.

85 Rub-down search may include visual examination 30

A rub-down search may include a visual examination (whether or not facilitated by any instrument or device designed to illuminate or magnify) of the mouth, nose, and ears, but must not include the insertion of any instrument, device, or thing into any of those orifices. 35

86 Warrantless search of arrested or detained person

- (1) A person to whom this subpart applies may, in the circumstances set out in **subsection (2)**, carry out a search of a person.
- (2) The circumstances are that the person to whom this subpart applies has reasonable grounds to believe that there is any thing on or carried by a person who is arrested or detained under a statutory power of detention that—
- (a) may be used to harm any person; or
 - (b) may be used to facilitate the person's escape; or
 - (c) is evidential material relating to the offence in respect of which the arrest is made or the person is detained.

Part 4**General provisions in relation to search and inspection search, surveillance, and inspection powers**

Subpart 1—Application of rules in this Part, and consent searches

*Application of rules***87AA General application rules**

- (1) This **Part** applies, to the extent and in the manner provided by **Part 2, Part 3**, and this **Part**,—
- (a) in respect of—
 - (i) powers conferred on the Police by **Part 2**; and
 - (ii) search warrants and examination orders applied for, issued, or made under that **Part**; and
 - (b) in respect of—
 - (i) powers conferred on enforcement officers by **Part 3**; and
 - (ii) surveillance device warrants, declaratory orders, and production orders applied for, issued, or made under that **Part**; and
 - (c) in respect of any other matter provided for in **Part 2**, or **Part 3**, or this **Part**.

- (2) This **Part** also applies in respect of powers conferred by enactments listed in **column 2** of the **Schedule**, to the extent and in the manner—
- (a) identified in **column 4** of the **Schedule**; and
 - (b) set out in **subparts 1 and 2** of **Part 5**. 5
- (3) If any provision in **subparts 1 to 5** of this **Part** applies in respect of a power conferred by an enactment listed in **column 2** of the **Schedule**, then **subparts 6 to 9** of this **Part** also apply in relation to that power, to the extent and in the manner identified in those **subparts**. 10
- (4) Except to the extent provided in **subsections (2) and (3)**, **Part 5**, and the **Schedule**, this **Part** does not apply in respect of—
- (a) a search warrant, search, inspection, examination, production order, examination order, or any other warrant or order made, executed, or carried out, as the case requires, under any other Act or regulations made under any other Act; or 15
 - (b) surveillance of any kind conducted under any other Act or regulations made under any other Act. 20

87AB Relationship between this Part and Part 5

The way in which the provisions of this **Part** are applied to the Acts amended by **Part 5** is set out in the **Schedule**.

87AC Interpretation

- (1) In this **Part**, unless the context otherwise requires,— 25
- enforcement officer**, in relation to any provision in this **Part**,—
- (a) means any of the following persons:
 - (i) a constable;
 - (ii) any person authorised by this Act, or by any enactment specified in **column 2 of the Schedule** to which that provision is applied, to exercise a power of entry, search, or seizure; but 30
 - (b) does not include any person referred to in **paragraph (a)** in relation to the exercise by that person of any power of entry, search, or seizure under any enactment that is not— 35

- (i) part of this Act; or
(ii) an enactment to which that provision is applied
- search power**, in relation to any provision in this **Part**, means—
- (a) every search warrant issued under this Act or an enactment set out in **column 2 of the Schedule** to which that provision is applied; and
- (b) every power, conferred under this Act or an enactment set out in **column 2 of the Schedule** to which that provision is applied, to enter and search, or enter and inspect or examine (without warrant), any place, vehicle, or other thing.
- (2) If any provision in this **Part** applies (because of the operation of **Part 5** and the **Schedule**) in respect of any warrant that would enable entry and inspection, or entry and examination, every reference in that provision to a search must, in relation to that warrant and its execution, be read instead, as the case requires, as a reference to an inspection, or an examination, or a power of inspection, or a power of examination.
- (3) If any provision in this **Part** applies (because of the operation of **Part 5** and the **Schedule**) in respect of a power to enter and inspect a place, vehicle, or thing, or to enter and examine a place, vehicle, or thing, every reference in this **Part** to a search must, in relation to that power, be read instead, as the case requires, as a reference to an inspection, or a power of inspection, or an examination, or a power of examination.
- (4) **Subsection (3)** does not limit **subsection (2)**.

87AD Definitions related to computers

- (1) In this **Part**, unless the context otherwise requires,—
- access**, in relation to any computer system, means instruct, communicate with, store data in, receive data from, or otherwise make use of any of the resources of the computer system
- access information** includes codes, passwords, and encryption keys, and any related information that enables access to a computer system or any other data storage device
- computer system**—
- (a) means—

- (i) a computer; or
 - (ii) 2 or more interconnected computers; or
 - (iii) any communication links between computers or to remote terminals or another device; or
 - (iv) 2 or more interconnected computers combined with any communication links between computers or to remote terminals or any other device; and
- (b) includes any part of the items described in **paragraph (a)** and all related input, output, processing, storage, software, or communication facilities; and stored data
- remote access search** means a search of a thing such as an Internet data storage facility that does not have a physical address that a person can enter and search.
- (2) For the purposes of the definition of computer system, a computer is interconnected with another computer if it can be lawfully used to provide access to that other computer—
- (a) with or without access information; and
 - (b) whether or not either or both computers are currently turned on; and
 - (c) whether or not access is currently occurring.

87AA Application of this Part

- (1) This Part, so far as applicable and subject to any contrary provisions, applies in respect of matters provided in **Parts 2 and 3**, in respect of each of the following:
- (a) powers conferred on the Police by **Part 2**:
 - (b) search warrants and examination orders applied for, issued, or made under **Part 2**:
 - (c) powers conferred on enforcement officers by **Part 3**:
 - (d) surveillance device warrants, declaratory orders, and production orders applied for, issued, or made under **Part 3**:
 - (e) any other matter provided for in **Part 2** or **3**.
- (2) This Part also applies in respect of powers conferred by—
- (a) the enactments listed in **column 2 of the Schedule**, to the extent identified in **column 4 of the Schedule**:
 - (b) any other enactment, to the extent that the other enactment expressly applies any provisions in this Part.

- (3) To the extent of any inconsistency between **the Schedule** and any other enactment, the other enactment prevails.
- (4) **Column 3 of the Schedule** does not limit, or affect the interpretation of, any enactment described in that column.
- (5) If any provision in this Part applies (because of **subsection (2)**) in respect of any warrant or any power that authorises entry and inspection, or entry and examination, every reference in that provision to a search must, in relation to that warrant and its execution, or in relation to that power and its exercise, be read instead, as the case requires, as a reference to an inspection, or a power of inspection, or an examination, or a power of examination. 5 10
- (6) If any provision in this Part applies (because of **subsection (2)**) in respect of any warrant that may be issued, or any power of entry, search, inspection, or examination that may be exercised, by reason of a contravention other than an offence, every reference in that provision to an offence must, in relation to the warrant and its execution, or to the power and its exercise, be read instead as a reference to such a contravention. 15
- 87 Application of rules in relation to enforcement officers and transfer of things between law enforcement agencies, etc** 20
- (1) Any duty imposed on an enforcement officer under this **Part** may be carried out instead by an enforcement officer employed or engaged by the same law enforcement agency as the other enforcement officer. 25
- (2) **Subsection (3)** applies if any thing is seized by or produced to a person employed or engaged by any law enforcement agency and the thing is then transferred to another law enforcement agency for the purposes of investigation, prosecution, or forfeiture. 30
- (3) If this subsection applies, the obligations imposed by this **Part** on any law enforcement agency or any enforcement officer engaged by that agency must, after the transfer of the thing referred to in **subsection (2)**, be carried out by the law enforcement agency to which the thing is transferred or by an enforcement officer employed by that agency. 35

- (4) **Subsection (3)** is subject to any contrary provisions in any other enactment.

Consent searches

Subpart 1A—Consent searches

- 88 Application of rules about consent searches** 5
Sections 89 to 92 apply in respect of consent searches undertaken by an enforcement officer in circumstances where a power of search by an enforcement officer to which this **Part** applies or any provisions of this **Part** apply (whether a warrantless power or a power able to be conferred by a search warrant) could be exercised if the officer held a particular belief or suspicion. 10
- 89 Purposes for which consent search may be undertaken**
 An enforcement officer may ask a person to consent to undergo a search or to consent to a search being made of a place, vehicle, or other thing apparently in the control of the person, if the enforcement officer wishes to conduct the search for 1 or more of the following purposes: 15
- (a) to prevent the commission of an offence: 20
 - (b) to protect life or property, or to prevent injury or harm: 20
 - (c) to investigate whether an offence has been committed:
 - (d) any purpose in respect of which the enforcement officer could exercise a power of search conferred by an enactment, if he or she held a particular belief or suspicion specified in the enactment. 25
- 90 Advice that must be given before consent search undertaken**
 Before conducting a search by consent, the enforcement officer who proposes to conduct it must— 30
- (a) determine that the search is for a purpose authorised by **section 89**; and
 - (b) advise the person from whom consent is sought of the reason for the proposed search; and

- (c) advise the person that he or she may either consent to the search or refuse to consent to the search.

91 Circumstances where search by consent unlawful

A search by consent is unlawful if—

- (a) it is not for a purpose set out in **section 89**; or 5
 (b) the enforcement officer fails to comply with **section 90(a), (b), or (c)**; or
 (c) the search is undertaken in reliance on a consent given by a person who does not have authority to give that consent. 10

92 Ability of persons under 14 years to consent to searches of places, vehicles, or other things

- (1) A person under 14 years of age is unable to consent to the search of a place, vehicle, or other thing.
 (2) **Subsection (1)** does not apply to a person under 14 years of age who is found driving a vehicle with no passenger of or over the age of 14 years with authority to consent to the search of the vehicle. 15

93 Exceptions to consent search rules

- Sections 89 to 92** do not— 20
 (a) apply to a search conducted as a condition of entry to any public or private place; or
 (b) apply to a search conducted in accordance with a power conferred by an enactment; or
 (c) affect the rule of law relating to the implied licence to enter property. 25

Subpart 2—Search warrants

94 Application of sections 95 to 99

The provisions of **sections 95 to 99** apply in respect of every warrant applied for, or issued, under this Act or any enactment specified in **column 2 of the Schedule** to which those sections are applied that would enable entry, or entry and search, or entry and inspection, or entry and examination, of any land, premises, place, vehicle, or other thing (a **search warrant**). 30

95 Interpretation

In this subpart, unless the context otherwise requires,—

applicant, in relation to any provision in this **subpart**, means any of the following persons:

- (a) a constable: 5
- (b) any other person authorised to apply for a search warrant by this Act or any enactment specified in **column 2 of the Schedule** to which that provision applies

thing includes an intangible thing (for example, an email address or access information to an Internet data storage facility). 10

Application for search warrant

96 Application for search warrant

(1) An application for a search warrant must contain, in reasonable detail, the following particulars:

- (a) the name of the applicant: 15
- (b) the provision authorising the making of the application:
- (c) the grounds on which the application is made (including the reasons why the legal requirements for issuing the warrant are believed by the applicant to be satisfied):
- (d) the address or other description of the place, vehicle, or other thing proposed to be entered, or entered and searched, inspected, or examined: 20
- (e) a description of the item or items or other evidential material believed to be in or on ~~or part of~~ the place, vehicle, or other thing that are sought by the applicant: 25
- (f) the period for which the warrant is sought:
- (g) if the applicant wants to be able to execute the warrant on more than 1 occasion, the grounds on which execution on more than 1 occasion is believed to be necessary.

(2) The issuing officer— 30

- (a) may require the applicant to supply further information concerning the grounds on which the search warrant is sought; but
- (b) must not, in any circumstances, require the applicant to disclose the name, address, or any other identifying detail of an informant unless, and only to the extent that, 35

- such information is necessary for the issuing officer to assess either or both of the following:
- (i) the credibility of the informant:
 - (ii) whether there is a proper basis for issuing the warrant. 5
- (3) The applicant must disclose in the application—
- (a) details of any other application for a search warrant that the applicant knows to have been made within the previous 3 months in respect of the place, vehicle, or other thing proposed to be searched; and 10
 - (b) the result of that application or those applications.
- (4) The applicant must, before making an application for a search warrant, make reasonable inquiries within the law enforcement agency in which the applicant is employed or engaged, for the purpose of complying with **subsection (3)**. 15
- (5) The issuing officer may authorise the search warrant to be executed on more than 1 occasion during the period in which the warrant is in force if he or she is satisfied that this is required for the purposes for which the warrant is being issued.
- 97 Application must be verified** 20
- An application for a search warrant must contain or be accompanied by a statement by the applicant confirming the truth and accuracy of the contents of the application.
- 98 Mode of application for search warrant**
- (1) An application for a search warrant— 25
 - (a) must be in writing, unless **subsection (3)** applies; and
 - (b) may be transmitted to the issuing officer electronically.
 - (2) The applicant must appear in person before, or communicate orally with, the issuing officer, unless **subsection (4)** applies.
 - (3) An issuing officer may allow an application for a search warrant to be made orally (for example, by telephone call) or by personal appearance and excuse the applicant from putting all or any part of the application (including any required material) in writing if— 30
 - (a) the issuing officer is satisfied that the delay that would be caused by requiring an applicant to put all or any 35

- part of the application (including any required material) in writing would compromise the effectiveness of the search; and
- (b) the issuing officer is satisfied that the question of whether the warrant should be issued can properly be determined on the basis of an oral communication or a personal appearance (together with the material described in **paragraph (c)**); and 5
- (c) the information required by **section 96(1) to (3)** is supplied (whether orally, or partly orally and partly in writing) to the issuing officer. 10
- (4) An issuing officer may allow an application for a search warrant to be made without either an appearance in person or an oral communication with the issuing officer if—
- (a) the issuing officer is satisfied that the question of whether the search warrant should be issued can properly be determined on the basis of any written communication by the applicant (including the material described in **paragraph (b)**); and 15
- (b) the information required by **section 96(1) to (3)** has been supplied to the issuing officer; and 20
- (c) the issuing officer is satisfied that there is no need to ask any questions of, or seek any further information from, the applicant.
- (5) An issuing officer who allows an application for a search warrant to be made under **subsection (3)** must record the grounds for the application as soon as practicable. 25

99 Retention of documents

- (1) A copy (whether in electronic form or otherwise) of every written application for a search warrant, or (in the case of an oral application) the record of the application made by the issuing officer, must be retained under the control of the Registrar of the District Court at which, or under the control of the Registrar of the District Court that is closest to the place at which, the application was made, until,— 30
- (a) in a case where a search warrant is issued, the completion of any proceedings in respect of which the validity of the warrant may be in issue; or 35

- (b) in any other case, the expiry of 2 years after the records were first retained under the control of the Registrar of a District Court.
- (2) ~~An applicant to whom a search warrant is issued must retain (whether in electronic form or otherwise) the warrant, a copy of the application (if made in written form), copies of all documents tendered by the applicant in support of the application, and a copy of any search warrant report referred to in **section 102** required to be prepared, until,—~~
- (a) ~~in the case of a warrant that is executed, the completion of any proceedings in respect of which the validity of the warrant may be in issue; or~~
- (b) ~~in any other case, the destruction or transfer of the warrant and other documents is required by the Public Records Act 2005 or any other enactment or rule of law.~~
- (2) An applicant to whom a search warrant is issued must retain (whether in electronic form or otherwise) the warrant, a copy of the application (if made in written form), copies of all documents tendered by the applicant in support of the application, and a copy of any search warrant report referred to in **section 102** that is required to be prepared, until the later of the following dates:
- (a) the date of completion of any proceedings in respect of which the validity of the warrant may be in issue;
- (b) the date of destruction or transfer of the warrant and other documents under the Public Records Act 2005 or any other enactment or rule of law.

Issuing of search warrant

- 100 Restrictions on issue of search warrant**
- An issuing officer must not issue a warrant to seize any thing held by a lawyer that is a communication of a kind to which legal professional privilege normally applies, unless the issuing officer is satisfied that there is a prima facie case that the thing was made, or received, or compiled, or prepared—
- (a) for a dishonest purpose; or

- (b) for the purpose of planning to commit or committing an offence.

101 Form and content of search warrant

- (1) Every search warrant issued must be in the prescribed ~~form~~ form, if any. 5
- (2) Every search warrant issued must be directed to every enforcement officer who has authority to execute the warrant.
- (3) A search warrant may be—
- (a) executed by—
- (i) any or all of the persons to whom it is directed; 10
or
- (ii) any constable (whether or not the warrant is directed to that constable or to every constable):
- (b) subject to any conditions specified in the warrant that the issuing officer considers reasonable, including 15
(without limitation)—
- (i) any restriction on the time of execution that is reasonable:
- (ii) a condition that the occupier or person in charge of a place must provide reasonable assistance to 20
a person executing the warrant if, in the absence of such assistance, it would not be practical to execute the warrant without undue delay:
- (c) executed only once, unless execution on more than 1 occasion has been authorised. 25
- (4) Every search warrant must contain, in reasonable detail, the following particulars:
- (a) the name or other individual designation of the issuing officer and the date of issue:
- (b) the provision or provisions authorising the issue of the 30
warrant (including, where relevant, the suspected offence or offences):
- (c) that the person executing the warrant may use any assistance that is reasonable in the circumstances:
- (d) that any person authorised to do so may execute the 35
warrant:
- (e) that the person executing the warrant may use any force, if authorised by this Act or any other enactment, that is

- reasonable in the circumstances to enter or break open or access any area within the place, vehicle, or other thing being searched, or the thing found:
- (f) the address or description of the place, vehicle, or other thing that may be entered, or entered and searched, inspected, or examined: 5
 - (g) a description of what may be seized:
 - (h) the period during which the warrant may be executed, being—
 - (i) a period specified by the issuing officer not exceeding 14 days from the date of issue; or
 - (ii) if the issuing officer is satisfied that a period of longer than 14 days is necessary for execution, a period specified by the issuing officer not exceeding 30 days from the date of issue: 15
 - (i) any conditions specified by the issuing officer under **subsection (3)(b)**:
 - (j) if the warrant may be executed on more than 1 occasion, the number of times that the warrant may be executed:
 - (k) if the warrant is intended to authorise a remote access search (for example, a search of a thing such as an Internet data storage facility that is not situated at a physical location) the access information that identifies the thing to be searched remotely: 20
 - (l) an explanation of the availability of relevant privileges and an outline of how any of those privileges may be claimed (where applicable): 25
 - (m) a statement that,—
 - (i) in the case of a search under a search warrant issued in relation to offences under the Misuse of Drugs Act 1975, any person found in the place or vehicle to be searched may also be searched; or
 - (ii) in the case of any other search authorised by this Act or any enactment specified in **column 2 of the Schedule** to which ~~this section~~ **section 115** applies, any person found in the place or vehicle to be searched may be searched if there are reasonable grounds to believe that an item being searched for is on that person. 35

- (4A) A search warrant may authorise the search of more than 1 place, vehicle, or thing.
- (4B) An issuing officer may not issue a search warrant authorising the remote access search of a thing unless he or she is satisfied that the thing is not located at a physical address that a person can enter and search. 5
- (5) A person is not required, as a consequence of a condition imposed under **subsection (3)(b)(ii)**, to give any information tending to incriminate the person.
- 102 Issuing officer may require search warrant report** 10
- (1) An issuing officer may impose a condition under **section 101(3)(b)** requiring the employer of any person to whom a search warrant is issued to provide that issuing officer with a search warrant report within a specified period.
- (2) A search warrant report must contain the following information: 15
- (a) whether the search warrant was executed:
- (b) whether the execution of the search warrant resulted in the seizure of evidential material, and, if so, whether that material was material— 20
- (i) specified in the search warrant; or
- (ii) seized under **section 119**; or
- (iii) some of which was specified in the warrant and some of which was seized under **section 119**:
- (c) whether any other powers exercised in conjunction with the execution of the warrant resulted in the seizure of evidential material: 25
- (d) whether any criminal proceedings have been brought, or are under consideration, that relate to any evidential material seized. 30
- 103 Transmission of search warrant**
- If it is not possible or practicable for the person charged with executing the warrant to have it in his or her possession at the time of execution, one of the following documents (which is deemed for all legal purposes to constitute the warrant) may be executed: 35

- (a) a facsimile, or a printout of an electronically generated copy, of a warrant issued by the issuing officer:
- (b) a copy made by the person to whom the warrant is directed, at the direction of the issuing officer and endorsed to that effect.

5

104 When search warrant executed

A search warrant is executed when the person executing the warrant and any person assisting in the execution of the warrant—

- (a) has seized all the items specified in the warrant; or
- (b) leaves the place, vehicle, or other thing being searched and does not return within 4 hours.

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105 When search warrant invalid

(1) A search warrant is invalid—

- (a) if, having regard to the information contained in the application, the grounds or conditions for lawful issue of a warrant set out in **section 6** or, if applicable, the relevant enactment specified in **column 2 of the Schedule** to which this section applies were not satisfied at the time the search warrant was issued:
- (b) if the warrant contains a defect, irregularity, omission, or want of form that is likely to mislead anyone executing or affected by the warrant as to its purpose or scope.

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(2) If a warrant is invalid under this section, ~~section 204 of the Summary Proceedings Act 1957 does not apply~~ neither section 204 of the Summary Proceedings Act 1957 nor section 379 of the Criminal Procedure Act 2011 applies to that warrant.

25

106 Authorisation of issuing officers

(1) The Attorney-General may authorise any Justice of the Peace, Community Magistrate, Registrar, Deputy Registrar, or other person to act as an issuing officer for a term, not exceeding 3 years, specified in the notice of authorisation.

30

(1A) The Attorney-General may not authorise an enforcement officer to act as an issuing officer.

- (2) The Attorney-General may not authorise any Justice of the Peace, Community Magistrate, Registrar, Deputy Registrar, or other person to act as an issuing officer unless the Attorney-General is satisfied that the person has sufficient knowledge, skill, and experience to act as an issuing officer. 5
- (3) The Attorney-General may from time to time renew an authorisation granted under **subsection (1)** for a further term not exceeding 3 years specified in the notice of renewal.
- (4) The Attorney-General may remove an issuing officer, other than a Judge, from office for neglect of duty, inability to perform the duties of office, bankruptcy, or misconduct, proved to the satisfaction of the Attorney-General. 10
- (5) The Attorney-General must remove an issuing officer if he or she becomes an enforcement officer.
- (6) Any issuing officer (other than a Judge) may at any time resign the office of issuing officer by notice in writing addressed to the Attorney-General. 15

106A Limitation on jurisdiction of certain issuing officers

An issuing officer who is employed or engaged by a law enforcement agency must not consider, or perform any function in relation to, any application made by a law enforcement officer employed or engaged by the same law enforcement agency as the issuing officer. 20

Subpart 3—Carrying out search powers

- 108 Search powers** 25
- Every search power authorises the person exercising it—
- (a) to enter and search the place, vehicle, or other thing that the person is authorised to enter and search, and any item or items found in that place or vehicle or thing, at any time that is reasonable: 30
- (b) to request any person to assist with the entry and search (including, without limitation, a member of a hapū or an iwi if the place to be entered is of cultural or spiritual significance to that hapū or iwi):

- (c) to use any force in respect of any property that is reasonable for the purposes of carrying out the entry and search and any lawful seizure:
- (d) if and only if **section 111(2)** applies to the person exercising the power, to detain any person who is at the place or in the vehicle or other thing being searched, or who arrives there while the search is being undertaken, for a reasonable period (using reasonable force if necessary), to enable the person exercising the power to determine whether the person is connected with the object of the search: 5
- (e) to seize any thing that may lawfully be seized:
- (e) to seize anything that is the subject of the search or anything else that may be lawfully seized: 10
- (f) to bring and use in or on the place, vehicle, or other thing searched any equipment, to use any equipment found on the place, vehicle, or other thing, and to extract any electricity from the place, vehicle, or other thing to operate the equipment that it is reasonable to use in the circumstances, for the purposes of carrying out the entry and search: 15 20
- (g) to bring and use in or on the place, vehicle, or other thing searched a dog (being a dog that is trained to undertake searching for law enforcement purposes and that is under the control of its usual handler): 25
- (h) to copy any document, or part of a document, that may lawfully be seized:
- (i) to access and copy intangible material from a computer system or other data storage device located (in whole or in part) at the place, vehicle, or other thing searched (including copying by means of previewing, cloning, or other forensic methods either before or after removal for examination): 30
- (j) to use any reasonable measures to—
- (i) gain access to any computer system or other data storage device located (in whole or in part) at the place or in the vehicle or other thing to be searched; and 35

- (ii) create a forensic copy of any material in such a computer system or other data storage device:
- (i) to use any reasonable measures to access a computer system or other data storage device located (in whole or in part) at the place, vehicle, or other thing if any intangible material that is the subject of the search may be in that computer system or other device: 5
- (j) if any intangible material accessed under **paragraph (i)** is the subject of the search or may otherwise be lawfully seized, to copy that material (including by means of previewing, cloning, or other forensic methods either before or after removal for examination): 10
- (k) to take photographs, sound and video recordings, and drawings of the place, vehicle, or other thing searched, and of any thing ~~found in~~ found in or on that place, vehicle, or other thing, if the person exercising the power has reasonable grounds to believe that the photographs or sound or video recordings or drawings may be relevant to the purposes of the entry and search. 15
- 108A Remote access search of thing authorised by warrant** 20
- Every person executing a search warrant authorising a remote access search may—
- (a) ~~access and copy intangible material from the thing being searched (including copying by means of previewing, cloning, or other forensic methods); and~~ 25
- (b) use reasonable measures to—
- (i) ~~gain access to the thing; and~~
- (ii) ~~create a forensic copy of material in the thing.~~
- (a) use reasonable measures to gain access to the thing to be searched; and 30
- (b) if any intangible material in the thing is the subject of the search or may otherwise be lawfully seized, copy that material (including by means of previewing, cloning, or other forensic methods).
- 109 Items of uncertain status may be seized** 35
- If a person exercising a search power is uncertain whether any item found may lawfully be seized, and it is not reasonably

practicable to determine whether that item can be seized at the place or vehicle where the search takes place, the person exercising the search power may remove the item for the purpose of examination or analysis to determine whether it may be lawfully seized. 5

110 Powers of persons called to assist

- (1) Every person called on to assist a person exercising a search power is subject to the control of the person with overall responsibility for exercising that power.
- (2) Every person called on to assist a person exercising a search power may— 10
 - (a) enter the place, vehicle, or other thing to be searched:
 - (b) while under the direction of the person exercising the power, use reasonable force in respect of any property for the purposes of carrying out the entry and search and any lawful seizure: 15
 - (c) search areas within the place, vehicle, or other thing that the person exercising the power has determined may lawfully be searched:
 - (d) if and only if ~~section 44(2)~~ applies to the person exercising the power, detain any person who is at the place or in the vehicle or other thing being searched, or who arrives there while the search is being undertaken (using reasonable force if necessary), to enable the person exercising the power to determine whether the person is connected with the object of the search: 20 25
 - ~~(e) seize any thing that may lawfully be seized:~~
 - (e) seize anything that is the subject of the search or anything else that may be lawfully seized:
 - (f) take photographs, sound and video recordings, and drawings of the place, vehicle, or other thing, and things ~~found in~~ found in or on the place, vehicle, or other thing, if the person exercising the power has determined that those things may be lawfully taken: 30
 - (g) bring into or onto the place, vehicle, or other thing searched and use any equipment, make use of any equipment ~~found on~~ found in or on the place or in the vehicle or other thing, or extract electricity from 35

- the place, vehicle, or other thing for the purposes of operating the equipment that the person exercising the power has determined may be lawfully used:
- (ga) bring in and use in or on the place, vehicle, or other thing searched a dog (being a dog that is trained to undertake searching for law enforcement purposes and that is under the control of its usual handler): 5
 - (h) ~~access and copy intangible material from a computer system or other data storage device located (in whole or in part) at the place, vehicle, or other thing searched (including copying by means of previewing, cloning, or other forensic methods either before or after removal for examination):~~ 10
 - (h) use any reasonable measures to access a computer system or other data storage device located (in whole or in part) at the place, vehicle, or other thing if any intangible material that is the subject of the search may be in that computer system or other device: 15
 - (ha) if any intangible material accessed under **paragraph (h)** is the subject of the search or may otherwise be lawfully seized, to copy that material (including by means of previewing, cloning, or other forensic methods either before or after removal for examination): 20
 - (i) copy any document, or part of a document, that the person exercising the power has determined may be lawfully copied. 25
 - (j) use any reasonable measures to—
 - (i) ~~gain access to any computer system or other data storage device that is located (in whole or in part) at the place or in the vehicle or other thing to be searched; and~~ 30
 - (ii) create a forensic copy of any material in such a computer system or other data storage device.
- (3) If a constable is assisting another person exercising the search power, that constable may, without any direction or supervision by the person he or she is assisting, exercise any power ordinarily exercisable by that constable. 35
- (4) The person exercising the search power must—

- (a) accompany any assistant on the first occasion when the assistant enters the place, vehicle, or other thing to be searched; and
 - (b) provide such other supervision of any assistant as is reasonable in the circumstances. 5
- (5) **Subsection (4)** does not apply if the assistant is a constable.

110A Powers of persons called to assist remote access search

Every person called on to assist a person executing a search warrant authorising a remote access search may—

- (a) ~~access and copy intangible material from the thing being searched (including copying by means of previewing, cloning, or other forensic methods); and~~ 10
- (b) ~~use reasonable measures to—~~
 - (i) ~~gain access to the thing; and~~
 - (ii) ~~create a forensic copy of material in the thing.~~ 15
- (a) use reasonable measures to gain access to the thing to be searched; and
- (b) if any intangible material in the thing is the subject of the search or may otherwise be lawfully seized, copy that material (including by means of previewing, cloning, or other forensic methods). 20

111 Limitation on exercise of powers

- (1) The powers conferred by **sections 108 to 110A** are subject to—
 - (a) any conditions imposed under **section 101(3)(b)** by an issuing officer who issues a search warrant: 25
 - (b) **subpart 4** of this **Part** (which relates to privilege and confidentiality).
- (2) The powers conferred by **sections 108(d), 110(2)(d), and section 114(1)** to detain a person may only be exercised by a person who has power to arrest the person to be detained—
 - (a) for a suspected offence to which the search relates; or
 - (b) for a suspected offence to which evidential material that is discovered in the course of the search relates. 30
- (3) To avoid doubt, the powers conferred by **sections 108(c) and 110(2)(b)** do not authorise the application of force to any person. 35

*Giving directions***112 Securing place, vehicle, or other thing to be searched**

- (1) The person carrying out a search may, in a manner and for a duration that is reasonable for the purposes of carrying out the search,— 5
- (a) secure the place, vehicle, or other thing searched, any area ~~within~~ in or on that place, vehicle, or other thing, or any thing found ~~within~~ in or on that place, vehicle, or other thing: 10
- (b) exclude any person from the place, vehicle, or other thing searched, or from any area within the place, vehicle, or other thing, or give any other reasonable direction to such a person, if the person carrying out the search has reasonable grounds to believe that the person will obstruct or hinder the exercise of any power under this subsection. 15
- (2) A person who exercises any power under **subsection (1)** must, on the request of any person affected by the exercise of the power,—
- (a) ~~identify himself or herself; and~~ 20
- (b) ~~advise the person affected of the reason and authority for the exercise of the power.~~
- (a) identify himself or herself either by name or by unique identifier; and
- (b) state the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances; and 25
- (c) if not in Police uniform, produce evidence of his or her identity. 30

*Establishing search scene***113 Special powers where application for search warrant pending**

- (1) If an application for a search warrant is about to be made or has been made and has not yet been granted or refused by an issuing officer, an enforcement officer present at the place or 35

vehicle that is or is to be the subject of the application may, if authorised by **subsection (1A)**,—

- (a) enter and secure the place, vehicle, or other thing in respect of which authorisation to enter and search is being sought, and secure any item or items found at that place or ~~in that~~ in or on that vehicle or other thing, at any time that is reasonable in the circumstances: 5
 - (b) direct any person to assist with the entry and securing of the place or vehicle or other thing or the securing of items in it (including, without limitation, a member of a hapū or an iwi if the place to be entered is of cultural or spiritual significance to that hapū or iwi). 10
- (1A) The powers conferred by **subsection (1)** may be exercised if the enforcement officer has reasonable grounds to believe that evidential material may be destroyed, concealed, altered, damaged, or removed before a decision is taken to grant or refuse the issue of a search warrant. 15
- (2) The powers conferred by **subsection (1)** may be exercised until the first of the following occurs:
- (a) the expiry of 6 hours from when the power is first exercised: 20
 - (b) the warrant is available for execution at that place or vehicle or in respect of that other thing:
 - (c) the application for a search warrant is refused.
- (3) A person who exercises any power under **subsection (1)** must, on the request of any person affected by the exercise of the power,— 25
- ~~(a) identify himself or herself; and~~
 - ~~(b) advise the person affected of the reason and authority for the exercise of the power.~~ 30
 - (a) identify himself or herself either by name or by unique identifier; and
 - (b) state the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances; and 35
 - (c) if not in Police uniform, produce evidence of his or her identity.

*Detention of person at search scene***114 Powers of detention incidental to powers to search places and vehicles**

- (1) If any constable or other person (being a person to whom ~~section 111(2)~~ applies) exercises a search power in relation to a place or vehicle, that constable or other person may, for the purposes of determining whether there is any connection between a person at the place or in the vehicle and the object of the search, detain any person—
- (a) who is at the place or in the vehicle at the commencement of the search; or
- (b) who arrives at the place or stops at, or enters, or tries to enter, the vehicle while the search is being carried out.
- (1) If any constable or other person, or a person assisting any constable or other person, exercises a search power in relation to a place or vehicle, that constable or other person may, for the purposes of determining whether there is any connection between a person at the place or in or on the vehicle and the object of the search, detain any person—
- (a) who is at the place or in or on the vehicle at the commencement of the search; or
- (b) who arrives at the place or stops at, or enters, or tries to enter, the vehicle while the search is being carried out.
- (2) A person may be detained under **subsection (1)** for any period that is reasonable, but not for longer than the duration of the search.
- (3) A detention of any person commences under **subsection (1)** when the constable or other person exercising the search power directs that person to remain at the place or ~~in the vehicle~~ in or on the vehicle and ends when that person is told by the constable or ~~other person~~ other person, or a person assisting the constable or other person, exercising the search power that he or she is free to leave the place or vehicle.
- (4) Reasonable force may be used for the purpose of effecting and continuing any detention under **subsection (1)**.
- (5) This section does not limit the powers conferred by ~~section 108(d) or 110(2)(d)~~.

- (5) For the purposes of **subsection (1)**, **other person** means a person to whom **section 111(2)** applies.

Powers of search incidental to powers of arrest

115 Powers of search incidental to by person who has power of arrest 5

- (1) If any person who may exercise a power of arrest is searching a place or vehicle, he or she may search any person found at the place or ~~in the vehicle~~, in or on the vehicle, or who arrives at the place or stops at, or enters, or tries to ~~enter the vehicle~~, enter or get onto the vehicle, if the person conducting the search has reasonable grounds to believe that evidential material that is the object of the search is on that person. 10
- (2) If any person who may exercise a power of arrest is searching a place or vehicle, he or she may search any person found at the place or ~~in the vehicle~~, in or on the vehicle, or who arrives at the place or stops at, or enters, or tries to ~~enter the vehicle~~, enter or get into or onto the vehicle, if the person conducting the search— 15
- (a) has reasonable grounds to suspect that the person is in possession of a dangerous item that poses a threat to safety; and 20
- (b) believes that immediate action is needed to address that threat.
- (3) If any item referred to in **subsection (2)(a)** is seized, it must, unless possession of the item constitutes an offence, be returned to the person from whom it was taken either— 25
- (a) once the search has been completed; or
- (b) when the person who conducted the search is satisfied that there is no longer any threat to safety.

116 Powers of search when suspect pursued 30

- (1) If any person who may exercise a power of arrest intends to conduct a search of a person or vehicle, but that person or vehicle leaves before the search is undertaken or completed, the person who intended to conduct the search may,— 35
- (a) on apprehending the person or vehicle, search the person or vehicle; and

- (b) enter ~~private property~~ any place for the purpose of apprehending the person or vehicle.
- (2) A person may not exercise the powers conferred by **subsection (1)(a) or (b)** unless—
- (a) the person was freshly pursuing the person to be searched from the location of the intended search when the person was apprehended; and
- (b) the person intending to conduct the search has reasonable grounds to believe that relevant evidential material is still on the person who is to be searched or ~~in the vehicle~~ in or on the vehicle.

Stopping vehicles with or without warrant for purposes of search

- 117 Stopping vehicles with or without warrant for purposes of search** 15
- (1) An enforcement officer may stop a vehicle to conduct a search under a power to search without a warrant conferred on that officer by this Act or any enactment specified in **column 2 of the Schedule** to which this section applies if he or she is satisfied that he or she has grounds to search the vehicle. 20
- (2) An enforcement officer may stop a vehicle to conduct a search under a power to search with a warrant issued under this Act or any enactment specified in **column 2 of the Schedule** to which this section applies if he or she is satisfied that the warrant has been issued and is in force. 25
- (3) A person who exercises a power under this section must, on the request of any person affected by the exercise of the power,—
- (a) identify himself or herself either by name or by unique identifier; and
- (b) state the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances; and
- (c) if not in Police uniform, produce evidence of his or her identity. 35

Moving vehicle for safekeeping and other purposes

118 Moving vehicle for purpose of search, safekeeping, or road safety

An enforcement officer may move a vehicle to another place if he or she finds or stops the vehicle and he or she— 5

- (a) has lawful authority to search the vehicle, but it is impracticable to do so at that place; or
- (b) has reasonable grounds to believe that it is necessary to move the vehicle for safekeeping or for road safety purposes. 10

118 Moving vehicles for purpose of search or safekeeping

- (1) An enforcement officer may move a vehicle to another place if he or she finds or stops the vehicle and has lawful authority to search the vehicle, but it is impracticable to do so at that place. 15
- (2) An enforcement officer who has the power to arrest persons may move a vehicle to another place if he or she finds or stops the vehicle and has reasonable grounds to believe that it is necessary to move the vehicle for safekeeping.

Seizure of items in plain view 20

119 Seizure of items in plain view

(1) An enforcement officer who exercises a search power or who is lawfully in any place as part of his or her duties may seize any item or items that he or she, or any person assisting him or her, finds in the course of carrying out the search or as a result of observations at that place, if the enforcement officer has reasonable grounds to believe that he or she could have seized the item or items under— 25

- (a) any search warrant that could have been obtained by him or her under this Act or any other enactment; or 30
- (b) any other search power exercisable by him or her under this Act or any other enactment.

(1) This section applies to an enforcement officer who, as part of his or her duties,—

- (a) exercises a search power; or 35
- (b) is lawfully in any place or in or on a vehicle; or

- (c) is conducting a lawful search of a person.
- (1A) An enforcement officer to whom this section applies may seize any item or items that he or she, or any person assisting him or her, finds in the course of carrying out the search or as a result of observations at the place or in or on the vehicle, if the enforcement officer has reasonable grounds to believe that he or she could have seized the item or items under— 5
- (a) any search warrant that could have been obtained by him or her under this Act or any other enactment; or
- (b) any other search power exercisable by him or her under this Act or any other enactment. 10
- (2) If an enforcement officer seizes any item or items under **sub-section (1) subsection (1A)**, in circumstances where he or she is not already exercising a search power, the enforcement officer may exercise any applicable power conferred by **section 108** in relation to the seizure of the item or items. 15

Search of persons

119A Internal searches generally prohibited

- (1) Unless authorised by another enactment, an enforcement officer must not conduct an internal search of any part of the body of any person, except for, with the person's consent, searching the person's mouth. 20
- (2) A constable must not require any other person to conduct an internal search of any part of the body of any person, except as provided in **section 22** (which relates to internal searches in some circumstances of people under arrest for offences against the Misuse of Drugs Act 1975). 25
- (3) This section does not limit or affect sections 13A to 13M of the Misuse of Drugs Amendment Act 1978.

120 Special rules about searching persons 30

- (1) If a person exercises a power to search a person, the person exercising the power—
- (a) must identify himself or herself either by name or unique identifier; and

- (b) must advise the person to be searched of the authority and reason for the search, unless it is impracticable to do so in the circumstances; and
- (b) must state the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances; and 5
- (ba) if not in Police uniform, must produce evidence of his or her identity; and
- (c) may detain the person to enable the search to be carried out (whether at the place of initial detention or while the person is travelling to or is at any other place where the search is carried out), but only for as long as is necessary to achieve that purpose; and 10
- (d) may use any force that is reasonable for the purposes of the search; and 15
- (e) may, in conducting the search, use any equipment or aid to facilitate the search, if it is used in a way that—
- (i) involves no or minimal contact; and
- (ii) is reasonable in the circumstances; and 20
- (f) may, if he or she considers that either or both of the following are in the interests of the person to be searched, request:
- (i) the assistance of a medical practitioner or nurse;
- (ii) the assistance of a parent, guardian, or other person for the time being responsible for the day-to-day care of the person to be searched; and 25
- (g) if the search is to be a strip search, may request the assistance of another enforcement officer (whether or not employed or engaged in the same or a different law enforcement agency) who is— 30
- (i) authorised under any other enactment to conduct strip searches; and
- (ii) of the same sex as the person to be searched; and
- (h) may search any item that— 35
- (i) the person is wearing or carrying; or
- (ii) is in the person's physical possession or immediate ~~control~~ control; and

- (i) may seize any thing carried by the person or in the physical possession or immediate control of the person being searched if that thing is the subject of the search or may otherwise be lawfully seized; and
- (j) may copy any document, or part of a document, carried by the person or in the physical possession or immediate control of the person being searched if that document is the subject of the search or may otherwise be lawfully seized; and 5
- (k) may use any reasonable measures to access a computer system or other data storage device, that the person being searched is carrying or that is in the person's physical possession or immediate control, if any intangible material that is the subject of the search may be in that computer system or other device; and 10 15
- (l) if any intangible material accessed under **paragraph (k)** is the subject of the search or may otherwise be lawfully seized, may copy that material (including by means of previewing, cloning, or other forensic methods either before or after removal for examination); and 20
- (m) may take photographs, sound and video recordings, and drawings of any thing carried or in the physical possession or immediate control of the person if the person exercising the power has reasonable grounds to believe that the photographs or sound or video recordings or drawings may be relevant to the purposes of the search. 25
- (1AA) Subsection (1)(a), (b), and (ba) do not apply in respect of a search conducted under section 11(2A).**
- (1A) A person who carries out a strip search, rub-down search, or any other personal search must conduct the search with decency and sensitivity and in a manner that affords to the person being searched the degree of privacy and dignity that is consistent with achieving the purpose of the search. 30
- (2) If a person exercises a power to search a person, or searches a person with his or her consent, the person exercising the power must ensure that an inventory of any items seized as a result of the search is prepared promptly and that a copy is given to the person searched. 35

- (3) ~~Subsection (2) does not apply in respect of a search conducted under section 20.~~
- (4) Nothing in **subsection (1)(e)** permits a person carrying out a rub-down search under **sections 83 to 85** (rub-down search of arrested or detained person) to carry out a more intrusive search than is described in those sections. 5

121 Guidelines and rules about use of strip searching

- (1) The chief executive of a law enforcement agency that employs persons who may exercise a power, under an enactment, to search a person must issue guidelines to those employees concerning the circumstances (if any) under which a strip search may be conducted by any of those employees. 10
- (1A) The chief executive of a law enforcement agency who issues guidelines under **subsection (1)** must ensure that a copy of those guidelines is publicly available on the agency's Internet site. 15
- (2) A search of the person is not unlawful by reason only of failure by the person conducting the search to comply with a guideline issued under **subsection (1)**.
- (3) A strip search may be carried out only by a person of the same sex as the person to be searched, and no strip search may be carried out in view of any person who is not of the same sex as the person to be searched. 20

Search warrants to enter and search vehicles

- 122 **Search warrants to enter and search vehicles** 25
If a search warrant is issued authorising the entry and search of a vehicle, the person executing the warrant may enter any place where the person has reasonable grounds to believe that the vehicle is for the purpose of locating it and searching it.

Duty to remain stopped 30

- 123 **Duty to remain stopped**
If an enforcement officer exercises a power to stop or search a vehicle, the enforcement officer may require the vehicle to

remain stopped for as long as is reasonably necessary for the purposes of the stopping or to undertake the search.

123 Duty to remain stopped

If an enforcement officer exercises a power to stop or search a vehicle, the enforcement officer may require the vehicle to remain stopped for as long as is reasonably necessary for the exercise of any powers in respect of—

- (a) the vehicle; or
- (b) the occupants of the vehicle.

Duty to provide information 10

124 Duty to provide information

If an enforcement officer exercises a power to stop a vehicle, he or she must, immediately after stopping the vehicle,—

- (a) identify himself or herself to the driver of the vehicle, either by name or unique identifier; and 15
- (b) ~~inform the driver of the officer's authority to stop the vehicle; and~~
- (b) state the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances; and 20
- (c) if not in Police uniform, produce evidence of his or her identity if the driver requests proof of identity.

Computer system searches

125 Duty of persons with knowledge of computer system or other data storage devices to assist access 25

(1) A person exercising a search power at any place or vehicle or in respect of any other thing may require a specified person to provide access information and other information or assistance that is reasonable and necessary to allow the person exercising the search power to access data held in— 30

- (a) a computer system that is located (in whole or in part) at the place or in the vehicle or other thing being searched:

- (b) any other data storage device that is located (in whole or in part) at the place or in the vehicle or other thing being searched.
- (2) In this section, **specified person** is a person who—
- (a) is the owner or lessee of the computer system or other data storage device, or is in possession or control of the computer system or data storage device, an employee of any of the above, or any service provider who provides service to the above and holds access information; and 5
- (b) has relevant knowledge of— 10
- (i) the computer system or other data storage device; or
- (ii) measures applied to protect data held in, or accessible from, the computer system or other data storage device. 15
- (3) A specified person may not be required under **subsection (1)** to give any information tending to incriminate the person.
- (4) **Subsection (3)** does not prevent a person exercising a search power from requiring a specified person to provide information that— 20
- (a) is reasonable and necessary to allow the person exercising the search power to access data held in, or accessible from, a computer system or other data storage device that—
- (i) is at the premises or in the place, vehicle, or other thing to be searched; and 25
- (ii) contains or may contain information tending to incriminate the specified person; but
- (b) does not itself tend to incriminate the specified person.
- (5) **Subsection (3)** does not prevent a person exercising a search power from requiring a specified person to provide assistance that is reasonable and necessary to allow the person exercising the search power to access data held in, or accessible from, a computer system or other data storage device that— 30
- (a) is at the premises or in the place, vehicle, or other thing concerned; and 35
- (b) contains or may contain information tending to incriminate the specified person.

- (6) **Subsections (1), (4), and (5)** are subject to **subpart 4** of this **Part** (which relates to privilege and confidentiality).

125 Duty of persons with knowledge of computer system or other data storage devices or Internet site to assist access

- (1) A person exercising a search power in respect of any data held in a computer system or other data storage device may require a specified person to provide access information and other information or assistance that is reasonable and necessary to allow the person exercising the search power to access that data. 5
- (2) A specified person may not be required under **subsection (1)** to give any information tending to incriminate the person. 10
- (3) **Subsection (2)** does not prevent a person exercising a search power from requiring a specified person to provide information or providing assistance that is reasonable and necessary to allow the person exercising the search power to access data held in, or accessible from, a computer system or other data storage device that contains or may contain information tending to incriminate the specified person. 15
- (4) **Subsections (2) and (3)** are subject to **subpart 4** of this Part (which relates to privilege and confidentiality). 20
- (5) In this section,—
- specified person** means—
- (a) a user of a computer system or other data storage device or an Internet site who has relevant knowledge of that system, device, or site; or 25
- (b) a person who provides an Internet service or maintains an Internet site and who holds access information
- user**, in relation to a computer system or other data storage device or an Internet site, means a person who—
- (a) owns, leases, possesses, or controls the system, device, or site; or 30
- (b) is entitled, by reason of an account or other arrangement, to access data on an Internet site; or
- (c) is an employee of a person described in **paragraph (a) or (b)**. 35

*Identification and notice***126 Identification and notice requirements for person exercising search power (other than remote access search)**

- (1) A person exercising a search power (other than a remote access search) must,— 5
- (a) before initial entry into or onto the place or vehicle or other thing to be searched,—
- (i) announce his or her intention to enter and search the place, vehicle, or other thing under a statutory power; and 10
- ~~(ii) identify himself or herself; and~~
- (ii) identify himself or herself either by name or by unique identifier; and
- (iii) if not in Police uniform, produce evidence of his or her identity; and 15
- (b) before or on initial entry into or onto the place or vehicle, or other thing to be searched,—
- (i) give the occupier of the place or the person in charge of the vehicle or other thing a copy of the search warrant or advice about the enactment (the **authority**) that authorises him or her to conduct the entry and search; and 20
- (ii) produce to the occupier of the place or any person in charge of the vehicle or other thing evidence of his or her identity (which may include details of a unique identifier instead of a name). 25
- (b) before or on initial entry into or onto the place or vehicle, or other thing to be searched, provide the occupier of the place or the person in charge of the vehicle or other thing with— 30
- (i) a copy of the search warrant; or
- (ii) if the power is exercised without a warrant, the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances. 35
- (2) The person exercising the search power is not required to comply with **subsection (1)** if he or she has reasonable grounds to believe that—

- (a) no person is lawfully present in or on the place, vehicle, or other thing to be searched; or
- (b) compliance with **subsection (1)(a)** would—
- (i) endanger the safety of any person; or
 - (ii) prejudice the successful exercise of the entry and search power; or
 - (iii) prejudice ongoing investigations.
- (3) The person exercising the search power may use reasonable force in order to effect entry into or onto the place, vehicle, or other thing if—
- (a) **subsection (2)** applies; or
 - (b) following a request, the person present refuses entry or does not allow entry within a reasonable time.
- (4) If the occupier of a place is not present at any time during the search, or no person is in charge of the vehicle or other thing during the search, the person carrying out the search must,—
- ~~(a) on completion of the search, leave a copy of the authority referred to in **subsection (1)(b)(i)** and the notice referred to in **subsection (5)** in a prominent position at the place, or in or on the vehicle or other thing; or~~
 - (a) on completion of the search, leave a copy of the notice referred to in **subsection (5)** and a copy of the search warrant (if applicable), in a prominent position at the place, or in or on the vehicle or other thing; or
 - (b) if this is not reasonably practicable, provide the copy of the authority referred to in **subsection (1)(b)(i)** and the notice referred to in **subsection (5)** to the occupier of the place or the owner of the vehicle or other thing no later than 7 days after the exercise of the power.
 - (b) if this is not reasonably practicable, provide a copy of the notice referred to in **subsection (5)** and a copy of the search warrant (if applicable), to the occupier of the place or the owner of the vehicle or other thing no later than 7 days after the exercising of the power.
- (5) The notice required by **subsection (4)** is a written notice containing the following particulars:
- (a) the date and time of the commencement and completion of the search:

- (b) the name or unique identifier of the person who had overall responsibility for that search:
- (ba) where the power is exercised without a warrant, the name of the enactment under which the search is taking place and the reason for the search under that enactment: 5
- (c) the address of the office to which inquiries should be made:
- (d) if nothing is seized, the fact that nothing was seized:
- (e) if anything was seized, the fact that seizure occurred and (if an inventory is not provided at the same time under **sections 127 to 129**) that an inventory of the things seized will be provided to the occupier of the place or person in charge of the vehicle or other thing no later than 7 days after the seizure. 10 15
- (6) For the purposes of this section and **sections 127 to 129**,—
- (a) the following persons may not be treated as the occupier of the place or the person in charge of a vehicle or other thing:
- (i) any person who is under 14 years of age (unless **section 92(2)** applies to that person): 20
- (ii) any person who the person executing the warrant has reasonable grounds to believe is not the occupier of the place or person in charge of the vehicle or other thing: 25
- (b) every reference to a copy of the authority referred to in **subsection (1)(b)(i)** **subsection (1)(b)** means, in a case where a search is undertaken without a search warrant, written advice about the enactment that authorises the search. 30
- (7) **Subsections (4) and (5)** are subject to **sections 128 and 129**.
- (8) This section does not apply to a remote access search.
- (9) For the purposes of this section, **search** includes an entry under **section 7** or **8**. 35

126A Identifications and notice requirements for remote access search

- (1) A person who conducts a remote access search must, on completion of the search, send an electronic message to the email address of the thing searched— 5
- (a) attaching a copy of the search warrant; and
 - (b) setting out the following particulars:
 - (i) the date and time of the commencement and completion of the search:
 - (ii) the name and unique identifier of the person who had overall responsibility for that search: 10
 - (iii) the address of the office to which inquiries should be made.
- (2) If the person conducting the search is unable to deliver the electronic message required by **subsection (1)** (or it is returned undelivered), the person must take all reasonable steps to identify the user of the thing searched and to send the information referred to in **subsection (1)(a) and (b)** to that person. 15

127 Inventory of items seized 20

- (1) The person who carries out a search must, at the time he or she seizes any thing, or as soon as practicable after the seizure of any thing, and in any case not later than 7 days after that seizure, provide to the occupier of the place, or the person in charge of the vehicle or other thing, from where the seizure took place, and to every other person who the person who carried out the search has reason to believe is the owner of the thing that was seized,— 25
- (a) written notice specifying what was seized; and
 - (b) a copy of the authority referred to in **section ~~126(1)(b)(i)~~ section 126(1)(b)**. 30
- (2) A written notice referred to in **subsection (1)(a)**—
- (a) must contain information about the extent to which a person from whom a thing was seized or the owner of the thing has a right to apply— 35
 - (i) to have access to the thing; or
 - (ii) to have access to any document relating to the application for a search warrant or the exercise

- of any other search power that led to the seizure;
and
- (b) must contain information about the right to bring a claim that any privileged or confidential information has been seized; but 5
- (c) need not be provided to the occupier of the place or person in charge of the vehicle or other thing from which the seizure took place, if the person who carries out the search is satisfied that none of the items seized are owned by that person. 10
- (3) If the occupier of the place or person in charge of the vehicle or other thing is not present at the time of seizure, a written notice referred to in **subsection (1)(a)** and a copy of the authority referred to in ~~**section 126(1)(b)(i)**~~ **section 126(1)(b)** may be provided to that person by leaving the notice in a prominent position at the place, or in or on the vehicle or other thing. 15
- (4) **Subsection (1)** is subject to **subsections (2) and (3)**.
- (5) This section is subject to **sections 128 and 129**.
- 128 Compliance with certain provisions may be deferred in certain circumstances** 20
- (1) A person exercising a search power may apply to a District Court Judge for a postponement of the obligation to comply with **section 126(4) or (5) or 127** on the grounds that compliance would—
- (a) endanger the safety of any person; or 25
- (b) prejudice ongoing investigations.
- (2) An application may be made under **subsection (1)**,—
- (a) in the case of an entry and search power that is a search warrant, at the time of the initial application or until the expiry of 7 days after the warrant is finally executed; or 30
- (b) in the case of any other entry and search power, until the expiry of 7 days after the search power is exercised.
- (3) On an application under **subsection (1)**, the District Court Judge may postpone for a specified period not exceeding 12 months the obligation to comply with **section 126(4) or (5) or 127**, if the Judge is satisfied that there are reasonable grounds for believing that compliance would— 35

- (a) endanger the safety of any person; or
- (b) prejudice ongoing investigations.

129 Further postponement of, or dispensation from, obligation to comply with certain provisions

- (1) A person who has obtained an order under **section 128(3)** 5
may, before the expiry of that order, apply to a District Court
Judge for a further postponement of, or dispensation from, the
obligation to comply with **section 126(4) or (5) or 127** on
the grounds that compliance would—
- (a) endanger the safety of any person; or 10
 - (b) prejudice ongoing investigations.
- (2) An application for a further postponement may only be made
on 1 occasion.
- (3) On an application under **subsection (1)**, the District Court
Judge may postpone for a further specified period not exceed- 15
ing 12 months, or order a permanent dispensation from, the
obligation to comply with **section 126(4) or (5) or 127** if
the Judge is satisfied that compliance would—
- (a) endanger the safety of any person; or
 - (b) prejudice ongoing investigations. 20
- (4) A District Court Judge may not grant, under **subsection (3)**,
any postponement of, or dispensation from, an obligation in re-
spect of any thing that has been seized, unless the thing seized
is—
- (a) a copy or clone of any information taken or made; or 25
 - (b) a thing the possession of which by the person from
whom it was seized is unlawful under New Zealand law
(for example, a controlled drug that is found in the pos-
session of a member of the public in circumstances in
which possession by the person of the controlled drug 30
is an offence against the Misuse of Drugs Act 1975).

Subpart 4—Privilege and confidentiality

General

130 Recognition of privilege

- (1) The following privileges are recognised for the purposes of 35
this subpart:

- (a) legal professional privilege, to the extent that (under section 53(5) of the Evidence Act 2006) it forms part of the general law:
- (b) privilege for communications with legal advisers (as described in section 54 of the Evidence Act 2006): 5
- (c) privilege for preparatory materials for proceedings (as described in section 56 of the Evidence Act 2006):
- (d) privilege for settlement negotiations or mediation (as described in section 57 of the Evidence Act 2006):
- (e) privilege for communications with ministers of religion (as described in section 58 of the Evidence Act 2006): 10
- (f) privilege in criminal proceedings for information obtained by medical practitioners and clinical psychologists (as described in section 59 of the Evidence Act 2006): 15
- (g) to the extent provided in **section 132**, and only to that extent, any privilege against self-incrimination (as described in section 60 of the Evidence Act 2006):
- (h) privilege for informers (as described in section 64 of the Evidence Act 2006): 20
- (i) the rights conferred on a journalist under section 68 of the Evidence Act 2006 to protect certain sources.
- (2) For the purposes of this subpart, no privilege applies in respect of any communication or information if there is a prima facie case that the communication or information is made or received, or compiled or prepared,— 25
- (a) for a dishonest purpose; or
- (b) to enable or aid any person to commit or plan to commit what the person claiming the privilege knew, or ought reasonably to have known, to be an offence. 30
- (3) For the purposes of this subpart, the **appropriate court** is,
- (a) in any case that involves the applicability of the rights of journalists recognised by **subsection (1)(i)**, the High Court.
- (b) in any other case, the District Court. 35

131 Lawyers' trust accounts

- (1) **Subsection (2)** applies to documents that are books of account or accounting records kept—

- (a) by a solicitor in relation to any trust account money that is subject to section 112 of the Lawyers and Conveyancers Act 2006; or
 - (b) by a nominee company that—
 - (i) is subject to practice rules made by the Council of the New Zealand Law Society under section 96 of the Lawyers and Conveyancers Act 2006; and
 - (ii) is operated by a barrister and solicitor or an incorporated law firm as a nominee in respect of securities and documents of title held for clients.
- (2) The application by **section 130** of this Act of section 54 of the Evidence Act 2006 (which relates to the privilege for communications with legal advisers) does not prevent, limit, or affect—
- (a) the making of a production order, issuing of a search warrant, or exercise of any other search power in respect of a document to which this subsection applies; or
 - (b) the obligation to comply with that production order, search warrant, or other search power in respect of a document to which this subsection applies; or
 - (c) the admissibility, in a criminal proceeding for an offence described in the production order or search warrant or for an offence in respect of which any other search power was exercised, of any evidence that relates to the contents of a document obtained under the production order or search warrant, or as the result of the exercise of any other search power.

Examination orders and production orders

- 132 Privilege against self-incrimination** 30
- (1) An examination order or a production order does not affect the privilege against self-incrimination that an individual may have under section 60 of the Evidence Act 2006.
 - (2) Any assertion of a privilege against self-incrimination must be based on section 60 of the Evidence Act 2006. 35
 - (3) If any individual refuses to produce any information or document or to answer any question on the ground that it is a priv-

ileged communication under section 60 of the Evidence Act 2006, the Commissioner or other enforcement officer concerned may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid.

- (4) For the purposes of determining any application referred to in **subsection (3)**, the individual must offer sufficient evidence to enable the District Court Judge to assess whether self-incrimination is reasonably likely if the individual produced the information or the document or answered the question. 5
- (5) Section 63 of the Evidence Act 2006 does not apply to an examination order or to a production order. 10

133 Other privileges

- (1) If a person against whom an examination order or a production order is made could, in a criminal proceeding, assert a privilege recognised for the purposes of this subpart, the person is taken to have the same privilege in respect of either order. 15
- (2) If any person refuses to disclose any information on the ground that it is privileged under this section, the Commissioner or other enforcement officer concerned may apply to a ~~District Court Judge~~ Judge of the appropriate court for an order determining whether or not the claim of privilege is valid. 20
- (3) For the purpose of determining any application, the ~~District Court Judge~~ Judge of the appropriate court may require the information or document to be produced to him or her.
- (4) A ~~District Court Judge~~ Judge of the appropriate court must, on the application of the Commissioner or other enforcement officer, disallow a privilege claim under this section if the Judge is satisfied that the claim to privilege would, under section 67(1) of the Evidence Act 2006, be disallowed in a proceeding. 25

Surveillance

30

134 Effect of privilege on surveillance conducted under this Act

- (1) A person who ~~has a privilege recognised by this subpart~~ has a privilege recognised by this subpart ~~makes a claim of privilege (being a privilege recognised by this subpart) in respect of any surveillance~~ has the right— 35

- (a) to prevent, to the extent that it is reasonably practicable to do so, the surveillance under this Act of any communication or information to which the privilege would apply if it were sought to be disclosed in a ~~proceeding~~ proceeding, pending determination of the claim to privilege, and subsequently if the claim to privilege is upheld: 5
- (b) if the claim to privilege is upheld, to require the destruction of any record of any such communication or information, to the extent that this can be achieved without destruction of any record of any other communication or information. 10
- (2) A person who is undertaking surveillance authorised by this Act (whether under a surveillance device warrant or otherwise) must— 15
- (a) take all reasonable steps to prevent the interception of any communication or information to which a privilege recognised by this subpart would apply if the communication or information were sought to be disclosed in a proceeding: 20
- (b) destroy any record of a communication or information made as a consequence of the surveillance to which a privilege recognised by this subpart would apply if the communication or information were sought to be disclosed in a proceeding, unless that is impossible or impracticable without destroying a record of information to which such a privilege does not apply. 25
- (3) A person undertaking surveillance under this Act who is uncertain about whether this section applies to any information or communication or record of a communication or information may apply to a District Court Judge for an order determining whether— 30
- (a) the communication or information can be the subject of surveillance; and
- (b) any record of such communication or information is required to be destroyed under this section. 35
- (4) For the purposes of determining any application, the ~~District Court Judge~~ Judge of the appropriate court may require the

record of the information or communication to be produced to him or her.

- (5) If evidence of any communication or information recorded as a consequence of surveillance under this Act is evidence to which a privilege recognised under this subpart applies, that evidence is not admissible in any proceedings except—
- (a) with the consent of the person entitled to waive that privilege; and
 - (b) if the court agrees to admit it.

134A Claims for privilege in respect of surveillance 10

Any person who wishes to claim privilege in respect of any surveillance under this Act—

- (a) must provide the person responsible for the surveillance with a particularised list of the matters in respect of which the privilege is claimed, as soon as practicable after the person claiming privilege becomes aware of the surveillance of the matters in respect of which privilege is claimed; and 15
- (b) if the matters in respect of which the privilege is claimed cannot be adequately particularised in accordance with **paragraph (a)**, may apply to a Judge of the appropriate court for directions or relief. 20

Search warrants and other search powers

135 Effect of privilege on search warrants and search powers 25

A person who makes a claim of privilege (being a privilege recognised by this subpart) in respect of any thing that is seized or sought to be seized has the right, in accordance with **sections 136 to 141**,—

- (a) to prevent the search under this Act of any communication or information to which the privilege would apply if it were sought to be disclosed in a proceeding, pending determination of the claim to privilege, and subsequently if the claim to privilege is upheld: 30
- (b) to require the return of a copy of, or access to, any such communication or information to the person if it is 35

seized or secured by a person exercising a search power, pending determination of the claim to privilege.

136 Search warrants that extend to lawyers' premises or material held by lawyers

- (1) This section applies to the execution of a search warrant that authorises the search of materials held by a lawyer relating to a client. 5
- (2) If this section applies, the search warrant may not be executed unless—
- (a) the lawyer is present; or 10
- (b) a representative of the lawyer is present.
- (3) If the person who is to execute the search warrant is unable to contact the lawyer or his or her representative, that person must instead contact the New Zealand Law Society and request that a person be appointed by the Society to represent the interests of the clients of the lawyer in relation to the search. 15
- (4) Before executing the search warrant, the person who is to execute it must give the lawyer or his or her representative, or any person appointed by the New Zealand Law Society under **subsection (3)**,— 20
- (a) the opportunity to claim privilege on behalf of the lawyer's client; or
- (b) the opportunity to make an interim claim of privilege if instructions have not been obtained from the client.

137 Search warrant extending to certain other privileged materials 25

- (1) This section applies to the execution of a search warrant that authorises the search of professional material held by a minister of religion, medical practitioner, or clinical psychologist.
- (2) If this section applies, the search warrant may not be executed unless— 30
- (a) the minister of religion, medical practitioner, or clinical psychologist is present; or
- (b) a representative of that person is present.
- (3) If the person who is to execute the search warrant is unable to contact the minister of religion, medical practitioner, or clin- 35

ical psychologist, or his or her representative, that person must instead contact the church or professional body to whom the minister, medical practitioner, or clinical psychologist belongs and request the church or body to appoint a person to represent the interests of the parishioners, patients, or clients of the minister, medical practitioner or clinical psychologist, in relation to the search. 5

- (4) Before executing the search warrant, the person executing it must give the minister of religion, medical practitioner, or clinical psychologist, or his or her personal representative, or the person appointed by the church or professional body under **subsection (3)**,— 10
- (a) the opportunity to claim privilege on behalf of parishioners, patients, or clients of the minister of religion, medical practitioner, or clinical psychologist; or 15
 - (b) the opportunity to make an interim claim of privilege if the minister, medical practitioner, or clinical psychologist, or his or her representative or person appointed under **subsection (3)** is unable to immediately contact the parishioners, patients, or clients. 20

138 Searches otherwise affecting privileged materials

- (1) This section applies if—
- (a) a person executes a search warrant or exercises another search power; and
 - (b) he or she has reasonable grounds to believe that any thing discovered in the search may be the subject of a privilege recognised by this subpart. 25
- (2) If this section applies, the person responsible for executing the search warrant or other person exercising the search power—
- (a) must provide any person who he or she believes may be able to claim a privilege recognised by this subpart a reasonable opportunity to claim it; and 30
 - (b) may, if the person executing the search warrant or exercising the other search power is unable to identify or contact a person who may be able to claim a privilege, or that person's lawyer, within a reasonable period,— 35

- (i) apply to ~~the District Court~~ a Judge of the appropriate court for a determination as to the status of the thing; and
- (ii) do any thing necessary to enable that court to make that determination. 5

139 Interim steps pending resolution of privilege claim

If a person executing a search warrant or exercising another search power is unable, under **section 135, 136, 137, or 138** to search a thing (whether as a result of the requirements of any of those provisions, or because of a claim of privilege made in respect of the thing, or for any other reason), the person— 10

- (a) may—
 - (i) secure the thing; and
 - (ii) if the thing is intangible (for example, computer data), secure the thing by making a forensic copy; and 15
 - (iii) ~~deliver the thing, or a copy of it, to the District Court, to enable the determination of a claim to privilege~~ appropriate court, to enable the determination of a claim to privilege by a Judge of that court; and 20
- (b) must supply the lawyer or other person who may or does claim privilege with a copy of, or access to, the secured thing; and
- (c) must not search the thing secured, unless no claim of privilege is made, or a claim of privilege is withdrawn, or the search is in accordance with the directions of the court determining the claim of privilege. 25

140 Claims for privilege for things seized or sought to be seized 30

Any person who wishes to claim privilege in respect of any thing seized or sought to be seized by a person executing a search warrant or exercising another search power—

- (a) must provide the person responsible for executing the search warrant or exercising the other search power with a particularised list of the things in respect of which the privilege is claimed, as soon as practicable after being 35

provided with the opportunity to claim privilege or being advised that a search is to be, or is being, or has been conducted, as the case requires; and

- (b) if the thing or things in respect of which the privilege is claimed cannot be adequately particularised in accordance with **paragraph (a)**, may apply to a ~~District Court~~ Judge of the appropriate court for directions or relief (with a copy of the thing provided under **section 139(b)**). 5

Admission of evidence generally 10

141 Admission of evidence

- (1) If a ~~District Court~~ Judge of the appropriate court upholds a claim to privilege under **section 132, 133, 134, 138, 139, or 140** in respect of any communication or information, the communication or information to which the privilege applies is not admissible in any proceedings arising from, or related to, the execution of the search warrant or exercise of the other search power or surveillance power or the carrying out of the examination order or production order, as the case requires. 15
- (2) Subject to **subsection (1)**, this subpart does not limit or affect the admissibility of any evidence, or the discretion of any court to admit or refuse to admit any evidence, in any proceedings. 20

Subpart 5—Procedures applying to seized or produced materials

142 Disposal of things seized or produced 25

- (1) If any thing is produced under a production order or is seized under a search warrant or under a search power conferred by this Act or an enactment specified in **column 2** of the **Schedule** to which this section applies, it must be dealt with in accordance with this subpart. 30
- (2) However, this subpart is subject to—
- (a) **section 13** (which deals with property taken from people locked up in Police custody); and
- (b) **subpart 4** of this **Part** (which relates to privilege and confidentiality); and 35
- (c) any other enactment.

143 Certain things must be returned

- (1) A thing seized or produced must, if it is not required for investigative or evidential purposes, or unless it is liable to forfeiture to the Crown or any other person (whether by operation of law or by order of a court or otherwise), be— 5
- (a) returned to its owner or to the person entitled to possession; or
 - (b) made the subject of an application under **section 147**; or
 - (c) disposed of under **section 153 or 154(1)**; or 10
 - (d) destroyed if—
 - (i) it is perishable and has become rotten or has otherwise deteriorated; or
 - (ii) it is perishable and is likely to become rotten or perish before it can be dealt with under any of **paragraphs (a) to (c) or section 156**; or 15
 - (iii) it is likely to pose a risk to public health.
- (2) **Subsection (1)**—
- (a) does not affect the rights of retention conferred by **section 154(2) or 155(1)**; and 20
 - (b) is subject to **section 156**.

144 Custody of things seized or produced

- (1) A seized or produced thing may, if it is required for investigative or evidential purposes, or it is liable to forfeiture to the Crown or any other person (whether by operation of law or by order of a court or otherwise), be held in the custody of the person who exercised the search power or that person's employer or another person acting on behalf of that person or any other person to whom the thing is transferred in accordance with **section 87(2)** (except while it is being used in evidence or is in the custody of any court) until the first of the following occurs: 25
- (a) a decision is made not to bring proceedings for an offence in respect of which the thing was seized or produced: 30
 - (b) the thing is forfeited to the Crown or any other person under any enactment (whether by operation of law or by order of a court or otherwise): 35

- (c) the thing is released under **section 151 or 152**;
- (d) if proceedings for an offence have not been commenced before the date that is 6 months after the thing was seized or produced and a request has been made for the return of the thing, that date or the expiration of a later time ordered by a court under **section 146**;
- (e) in any case where proceedings are brought,—
- (i) the withdrawal or dismissal of the proceedings; or
- (ii) subject to **sections 149 and 152**, the completion of the proceedings;
- (f) the seized or produced thing is disposed of under **section 153**.
- (2) Once the relevant event stated in **subsection (1)(a) to (e)** occurs, the person in whose custody the property is must immediately release the thing in his or her custody,—
- (a) in the case of a **subsection (1)(a), (d), or (e)** event, to the owner or to a person entitled to possession; or
- (b) in the case of any other event, in the manner required by this Act.
- (3) However, if the thing is seized or produced in relation to more than 1 alleged offence, the person in whose custody the property is need not release the property until the first of the events described in **subsection (1)** has occurred in relation to each and every alleged offence.
- (4) This section is subject to **sections 146 and 156**.

145 Copies of things seized or produced

If a photograph or a copy of a seized or produced thing will be adequate for investigative or evidential purposes, the person who exercised the search power, or that person's employer or another person acting on behalf of that person, may, at his or her discretion, return the thing to the owner or to a person entitled to possession.

146 Extension of time for holding thing seized or produced

- (1) If any person who seizes any thing, or to whom any thing is produced, or any other enforcement officer to whom the thing is transferred, wishes to hold it for a period exceeding 6 months

in circumstances where no proceedings for an offence in respect of which the thing is relevant have yet been brought and a request has been made for the return of the thing, the person may apply to the District Court for an extension of the time during which the thing may be held. 5

(2) On an application under **subsection (1)**, the District Court may—

- (a) order an extension of time be granted to a specified date, to enable a determination to be made whether proceedings should be brought; or 10
- (b) decline to order an extension of time.

147 **Disputed ownership of thing seized or produced**

(1) If a thing seized or produced is not to be produced in evidence but there is a dispute about its ownership, ~~or it is perishable~~, or for any reason the person in whose custody it is, is uncertain as to to whom the thing should be returned (for example, because it is unclaimed), the person in whose custody the thing is may apply to the District Court for directions as to the ownership or holding of the property. 15

(2) On an application under **subsection (1)**, the District Court may— 20

- (a) order that the thing be destroyed or, if any other enactment so authorises, forfeited to the Crown;
- (b) order that the thing be delivered to the person appearing to the court to be its owner entitled to possession of it: 25
- (c) if the owner or person entitled to possession cannot be found, make any order with respect to its possession or sale the court thinks fit.

(3) If, after the making of an order under **subsection (2)** in relation to any property, an action is commenced against a Police employee or another enforcement officer or the Crown or any law enforcement agency for the recovery of the thing or its value, the order and the delivery of the thing in accordance with the order may be given and must be received in evidence in bar of the action. 30 35

(4) However, no such order or delivery affects the right of any persons entitled by law to possession of the thing to recover

the thing from any person or body (other than a person or body referred to in **subsection (3)**).

148 Seized or produced property forfeit to the Crown if ownership not established

- (1) A thing that is seized or produced is forfeited to the Crown if— 5
- (a) the owner or person entitled to possession of the thing is not established within 60 days after the date on which the thing was seized or produced; and
 - (b) the thing— 10
 - (i) is not, at the expiry of that period, still required for investigative or evidential purposes; and
 - (ii) has not been disposed of or sold by order of the court within that period.
- (2) For the purpose of trying to establish ownership of any thing to which this section applies, the person who has custody of the thing must (unless it is impossible or impracticable to make contact) advise the following people of the effect of this section: 15
- (a) any person who produced the thing or from whom the thing was seized: 20
 - (b) the occupier or owner of the place or vehicle where the thing was before it was produced or seized:
 - (c) any other person who, in the opinion of the person in whose custody the thing is, may be affected by the forfeiture of the thing. 25

Rights of owners and others in relation to things seized or produced

149 Application for release of or access to things seized or produced

- (1) The persons described in **subsection (2)** may apply, by written notice, to the person in whose custody a seized or produced thing is for the release of or access to it at any time before proceedings are brought for an alleged offence in respect of which the thing was seized or produced. 30
- (2) The persons are as follows: 35

- (a) the person who produced the thing or from whom the thing was seized:
 - (b) the owner or person entitled to possession of the seized or produced thing:
 - (c) any person with a legal or equitable interest in the seized or produced thing. 5
- (3) The person in whose custody the seized or produced thing is may release the thing to the applicant or provide reasonable access to it.
- (4) A person who receives an application for release of a thing, or access to it, may refuse that application on the ground that release of the thing or, as the case requires, access to it, is likely to prejudice the maintenance of the law. 10
- (5) A release or provision of access to a thing may be—
- (a) unconditional; or 15
 - (b) under bond for a sum (with or without sureties), and on conditions, acceptable to the person in whose custody the thing is.
- (6) If any person refuses an application under **subsection (1)**, he or she must inform the applicant of the decision in writing. 20

150 Failure to comply with bond or conditions

- (1) If a person to whom a seized or produced thing is released or who is given access to it under **section 149** fails to comply with any bond, surety, or condition imposed under **subsection (5)(b)** of that section,— 25
- (a) the thing may be seized again, or required to be produced, or the ability to access the thing ended at the direction of the person who released it or provided access to it; and
 - (b) the person who released it or provided access to it may apply to the District Court for an order for estreat of the bond. 30
- (2) If any person applies for an order for estreat of the bond, the Registrar of the District Court must—
- (a) fix a time and place for the hearing of the application; 35
 - and

- (b) not less than 7 days before the time fixed, cause to be served on every person bound by the bond a notice of the time and place for the hearing.
- (3) If the District Court is satisfied that a condition of the bond has not been complied with, the court may make an order to estreat the bond—
 - (a) in the amount that it thinks fit; and
 - (b) to any person bound by the bond on whom notice is proved to have been served under **subsection (2)**.
- (4) An amount payable under **subsection (3)** is recoverable as if it were a fine. 10

151 Application to District Court for access to thing seized or produced

- (1) A person described in **section 149(2)** may apply to the District Court for access to any thing seized by a person exercising a search power or produced to any person under a production order if the person has made an application under **section 149** and it—
 - (a) has been refused; or
 - (b) has been granted, but subject to conditions that the applicant does not accept. 20
- (2) The District Court may either—
 - (a) grant the application; or
 - (b) refuse it on the ground that allowing the person to have access to the thing or varying or cancelling the conditions concerned is likely to prejudice the maintenance of the law. 25
- (3) The District Court may require sureties and impose conditions if it grants an application under **subsection (2)**, and **sections 149 and 150** apply with any necessary modifications. 30

152 Application to District Court for release of thing seized or produced

- (1) A person described in **section 149(2)** may apply to the District Court for the release of any thing seized by a person exercising a search power or produced to a person under a production order. 35

- (2) The court may release the thing to the applicant if it is satisfied that it would be contrary to the interests of justice for the item to be retained in custody, having regard to—
- (a) the gravity of the alleged offence:
 - (b) any loss or damage to the applicant that is caused or likely to be caused by not returning the thing: 5
 - (c) the likely evidential value of the thing, having regard to any other evidence held by the law enforcement agency that employed or engaged the person who seized the thing or to whom the thing was produced: 10
 - (d) whether the evidential value of the thing can be adequately preserved by means other than by keeping it.
- (3) A court may require sureties and impose conditions on a release under **subsection (2)**, and **sections 149 and 150** apply with any necessary modifications. 15
- (4) This section is subject to any enactment that requires an amount of any kind to be paid before any seized thing may be returned.

153 Disposal of unlawful items

- (1) **Subsection (2)** applies if a thing is seized or produced, the possession of which by the person from whom it was seized or who was required to produce it is unlawful under New Zealand law (for example, a controlled drug that is found in the possession of a member of the public in circumstances in which possession by the person of the controlled drug is an offence against the Misuse of Drugs Act 1975), and— 20
- (a) there is no mechanism provided for disposing of the thing or it has not been disposed of under any other enactment; and
 - (b) no order has been made by a court as to its disposal. 30
- (2) If this subsection applies, the person who seized the thing or to whom the thing was produced may destroy it if—
- (a) notice is given to the person from whom the thing was seized or who was required to produce the thing, and that person either— 35
 - (i) consents to its destruction; or
 - (ii) does not within 30 working days object to its destruction; or

- (b) the person to whom notice would otherwise be given under **paragraph (a)** cannot be located after reasonable inquiries have been made; or
- (c) in a case where a person objects to the destruction of the thing within 30 working days of receiving a notice under **paragraph (a)** and any person applies to a court to determine the status of the thing, the court is satisfied that the possession of the thing by the person from whom it was seized or who was required to produce it is unlawful under New Zealand law.

154 Disposal of forensic copies

- (1) A person who makes a forensic copy of any data held in a computer system or other data storage device must, if he or she determines that the data does not contain any evidential material, ensure that the forensic copy and any copies made from that copy are deleted, erased, or otherwise destroyed in a way that prevents retrieval of the copy or copies by any method.
- (2) However, if an examination of the data shows that it contains a mixture of data that is evidential material and data that is not evidential material,—
 - (a) the forensic copy of the data and any copies made of that copy may be retained in their entirety; and
 - (b) that forensic copy and any copies made of that copy may continue to be searched, if such a search was authorised by the search power under which the data was seized and copied.

155 Other copies and generated material may be retained

- (1) Any thing made or generated by a person exercising a search or surveillance power (for example, photographs or audio or video recordings or copies of things) may be retained as part of the permanent records of the employer of the person who exercises the search or surveillance power.
- (2) **Subsection (1)** is subject to **sections 56A** and **130**, and any other enactment or rule of law.

156 Application to District Court to dispose of seized property

- (1) Any person who seizes any thing, or to whom any thing is produced, or any other enforcement officer to whom the thing is transferred, may apply to a District Court for an order that the thing be disposed of (by sale or otherwise) in the manner, and at a time, that the court may direct if,— 5
- (a) in the applicant’s opinion,—
- (i) the thing concerned is perishable or likely to deteriorate; or
- (ii) the cost of holding the thing is unreasonable having regard to its market value; and 10
- (b) the applicant has made reasonable efforts to advise the people described in **section 149(2)** of the intended application.
- (2) The court may grant the order if it is satisfied that— 15
- (a) the thing is perishable or likely to deteriorate; or
- (b) the cost to the applicant or his or her employer, or to any other person to whom the thing might be transferred, of holding it is unreasonable having regard to its market value. 20
- (3) The applicant or his or her employer must hold in custody any proceeds received from carrying out the order (less any deductions permitted under **subsection (4)**) as if the proceeds were the seized property, and **section 144(1)** applies accordingly, with any necessary modifications. 25
- (4) The deductions referred to in **subsection (3)** are, in a case in which the court orders that the thing be disposed of by sale, the costs of sale and any sums required to be paid to a security holder or other person as a condition of the order for sale.
- (5) If the court refuses the order, the applicant or his or her employer or another person to whom the thing is transferred must continue to hold the thing until it is released in accordance with **section 144(2)**. 30

Subpart 6—Immunities

157 Immunities of issuing officer 35

An issuing officer who is not a Judge has the same immunities as a District Court Judge.

158 Immunities in relation to obtaining or execution of orders and warrants

Every person is immune from civil or criminal liability—

- (a) for any act done in good faith in order to obtain an examination order, a production order, a search warrant, a surveillance device warrant, a declaratory order, or other order referred to in this Act: 5
- (ab) for any act done in good faith that is covered by a declaratory order:
- (b) for any act done in good faith in relation to the execution of an examination order, a production order, a search warrant, a surveillance device warrant, or other order referred to in this Act, if the execution is carried out in a reasonable manner. 10

159 Other immunities in relation to exercise of entry, search, or surveillance powers 15

- (1) Every person is immune from civil and criminal liability for any act done in good faith in order to exercise an entry power, a search power, or a surveillance power if—
 - (a) the power is exercised by that person in a reasonable manner; and 20
 - (b) the person believes on reasonable grounds that the pre-conditions for the exercise of that power have been satisfied.
- (2) Every person is immune from civil and criminal liability for any act done in good faith and in a reasonable manner in order to assist a person to exercise an entry power, a search power, or a surveillance power, or in order to examine or analyse any thing that is seized. 25
- (3) In any civil proceeding in which a person asserts that he or she has an immunity under this section, the onus is on that person to prove those facts necessary to establish the basis of the claim. 30

160 Immunity of the Crown

- (1) If any person is immune from civil liability under any of **sections 157 to 159** in respect of anything done or omitted to be 35

done, the Crown is also immune from civil liability in tort in respect of that person's conduct.

- (2) For the purposes of this section, the **Crown** includes Crown entities and the Reserve Bank of New Zealand.

161 Relationship between sections 157 to 160 and other enactments 5

If there is any inconsistency between any of **sections 157 to 160** and the provisions of any other enactment conferring, regulating, or limiting a privilege or immunity, **sections 157 to 160** prevail. 10

Subpart 7—Reporting

162 Reporting of exercise of powers within law enforcement agency

- (1AA) Any constable who exercises a warrantless entry power, search power, or surveillance power conferred by **Part 2 or 3 of this Act** must provide a written report on the exercise of that power to the Commissioner or a Police employee designated to receive reports of that kind by the Commissioner as soon as practicable after the exercise of the power. 15
- (1) Any person (other than a constable) who exercises a warrantless entry power, search power, or surveillance power conferred by this Act or by an enactment specified in **column 2 of the Schedule** must provide a written report on the exercise of that power to an employee designated to receive reports of that kind by the chief executive of the law enforcement agency concerned as soon as is practicable after the exercise of the power. 25
- (2) A report referred to in **subsection (1AA) or (1)** must— 30
- (a) contain a short summary of the circumstances surrounding the exercise of the power, and the reason or reasons why the power needed to be exercised: 35
 - (b) state whether any evidential material was seized or obtained as a result of the exercise of the power:
 - (c) state whether any criminal proceedings have been brought or are being considered as a consequence of the seizure of that evidential material.

- (3) This section does not require the provision of any report in respect of—
- (a) a rub-down search of a person under **section 83 or 86** that is undertaken in conjunction with that person's arrest or detention under any enactment: 5
 - (b) any search of a person in lawful custody carried out under **section 11** or under the Corrections Act 2004:
 - (c) the exercise of any power of entry that does not also confer a power of search:
 - (d) a search undertaken by consent. 10

162A Annual reporting of search and surveillance powers by Commissioner

- (1) The Commissioner must include in every annual report prepared by him or her for the purposes of section 39 of the Public Finance Act 1989— 15
- (a) the number of occasions on which entry or search powers under **Part 2 or 3 of this Act** were exercised without a warrant in the period covered by the report:
 - (b) the number of occasions on which warrantless surveillance powers under **Part 3 of this Act** were exercised in the period covered by the report that involved the use of a surveillance device: 20
 - (c) the number of applications for an examination order that were granted or refused in the period covered by the report: 25
 - (d) in respect of each kind of surveillance device used without a warrant under **Part 3 of this Act** in the period covered by the report, the numbers of that kind of device used—
 - (i) for a period of no more than 24 hours: 30
 - (ii) for a period of more than 24 hours but no more than 48 hours:
 - (e) the number of persons charged in criminal proceedings where the collection of evidential material relevant to those proceedings was significantly assisted by the exercise of a warrantless search or surveillance power, or by an examination conducted under an examination order, in the period covered by the report: 35

- (f) the matters set out in **section 164** in relation to surveillance device warrants and declaratory orders.
- (2) This section does not require the Commissioner to include in any annual report information about—
- (a) a rub-down search of a person under **section 83 or 86** that is undertaken in conjunction with that person's arrest or detention under any enactment: 5
- (b) any search of a person in lawful custody undertaken under **section 11** or under the Corrections Act 2004:
- (c) the exercise of any power of entry that does not also confer a power of search: 10
- (d) a search undertaken by consent:
- (e) any prescribed search or surveillance, or search or surveillance of a prescribed kind, in any prescribed area or an area of a prescribed kind. 15
- (3) In this section, and **sections 163 and 164**, kind of surveillance device means—
- (a) an interception device:
- (b) a visual surveillance device:
- (c) a tracking device. 20

163 Annual reporting of search and surveillance powers by agencies other than Police

- (1) The chief executive of a law enforcement agency (other than the Police) that employs or engages persons who may exercise an entry power, a search power, or a surveillance power conferred by this Act or by an enactment specified in **column 2 of the Schedule** must include in every annual report prepared by the chief executive for the purposes of section 39 of the Public Finance Act 1989, or any other applicable enactment requiring an annual report to Parliament,— 25
- (a) the number of occasions on which entry or search powers were exercised without a warrant in the period covered by the report: 30
- (b) the number of occasions on which warrantless surveillance powers were exercised in the period covered by the report that involved the use of a surveillance device: 35

- (c) in respect of each kind of surveillance device used without a warrant in the period covered by the report, the numbers of that kind of device used—
 - (i) for a period of no more than 24 hours:
 - (ii) for a period of more than 24 hours but no more than 48 hours: 5
 - (d) the number of persons charged in criminal proceedings where the collection of evidential material relevant to those proceedings was significantly assisted by the exercise of a warrantless search or surveillance power in the period covered by the report: 10
 - (f) the matters set out in **section 164** in relation to surveillance device warrants and declaratory orders.
- (2) This section does not require a chief executive to include in any annual report information about— 15
- (a) a rub-down search of a person that is undertaken in conjunction with that person’s arrest or detention under any enactment:
 - (b) any search of a person in lawful custody undertaken under **section 11** or under the Corrections Act 2004: 20
 - (c) the exercise of any power of entry that does not also confer a power of search:
 - (d) a search undertaken by consent:
 - (e) any prescribed search or surveillance, or search or surveillance of a prescribed kind, in any prescribed area or an area of a prescribed kind. 25

164 Information to be included in report on surveillance device warrants and declaratory orders

The information required to be included in an annual report by **section 162A(1)(f) or 163(1)(f)** is the following: 30

- (a) the number of applications for surveillance device warrants and declaratory orders granted or refused in the period covered by the report:
- (b) the number of surveillance device warrants granted in the period covered by the report that authorised the use of a surveillance device, and the number in respect of each kind of surveillance device: 35

- (c) the number of declaratory orders made in the period covered by the report that related to the use of a device, technique, procedure, or activity, and the number in respect of each device, technique, procedure, or activity:
- (d) the number of surveillance device warrants granted during the period covered by the report that authorised entry into private premises: 5
- (e) in respect of each kind of surveillance device authorised by a surveillance device warrant issued during the period covered by the report, the numbers of that kind of device used— 10
- (i) for a period of no more than 24 hours:
- (ii) for a period of more than 24 hours but no more than 3 days:
- (iii) for a period of more than 3 days but no more than 7 days: 15
- (iv) for a period of more than 7 days but no more than 21 days:
- (v) for a period of more than 21 days but no more than 60 days: 20
- (f) in respect of each declaratory order made during the period covered by the report, a general description of the nature of the device, technique, procedure, or activity covered by the order:
- (g) the number of persons charged in criminal proceedings where the collection of evidential material relevant to those proceedings was significantly assisted by carrying out activities— 25
- (i) under the authority of a surveillance device warrant issued in the period covered by the report; or 30
- (ii) covered by a declaratory order made in the period covered by the report:
- (i) if a Judge has reported to the chief executive under **section 55 or 56** about a breach of any of the conditions of the issue of a surveillance device warrant, or about the use of a surveillance device not authorised under **section 44**, the number of those reports and the details of the breaches or the lack of authorisation reported. 35

Subpart 8—Offences

- 165 Failing to comply with examination order**
- (1) Every person commits an offence if he or she, without reasonable excuse, fails to comply with an examination order.
- (2) Every person who commits an offence against **subsection (1)** is liable on ~~indictment~~ conviction,—
- (a) in the case of an individual, to imprisonment for a term not exceeding 1 year:
- (b) in the case of a body corporate, to a fine not exceeding \$40,000. 10
- 166 Failing to comply with production order**
- (1) Every person commits an offence if he or she, without reasonable excuse, fails to comply with a production order.
- (2) Every person who commits an offence against **subsection (1)** is liable on ~~indictment~~ conviction,— 15
- (a) in the case of an individual, to imprisonment for a term not exceeding 1 year:
- (b) in the case of a body corporate, to a fine not exceeding \$40,000.
- 167 False application for examination order, production order, search warrant, surveillance device warrant, or declaratory order** 20
- Every person commits an offence and is liable on ~~summary~~ conviction to imprisonment for a term not exceeding 1 year who makes an application for an examination order, production order, search warrant, surveillance device warrant, or declaratory order that contains any assertion or other statement known by the person to be false. 25
- 168 Leaving search location in breach of direction**
- Every person commits an offence and is liable on ~~summary~~ conviction to imprisonment for a term not exceeding 3 months who, without reasonable excuse,— 30
- (a) fails to comply with a direction under **section 113(1)** (special powers where application for search warrant pending); or 35

- (b) leaves any place or vehicle at which he or she is detained under **section 114(1)**.

169 Offences relating to stopping vehicles

- (1) Every person commits an offence and is liable on ~~summary~~ conviction to imprisonment for a term not exceeding 3 months 5
who—
- (a) fails to stop as soon as practicable when required to do so by an enforcement officer exercising a power to stop or search a vehicle; and
- (b) knows or ought reasonably to know that the person exercising the power is an enforcement officer. 10
- (1A) Every person commits an offence and is liable on ~~summary~~ conviction to imprisonment for a term not exceeding 3 months who—
- (a) fails to comply with a requirement made by a constable 15
under ~~section 10(1)(aa)~~ **section 10(1)(aa) or 30(c)**; and
- (b) knows or ought reasonably to know that the person imposing the requirement is a constable.
- (2) Every person commits an offence and is liable on ~~summary~~ 20
conviction to imprisonment for a term not exceeding 3 months who—
- (a) fails to comply with a requirement made by an enforcement officer under **section 123**; and
- (b) knows or ought reasonably to know that the person imposing the requirement is an enforcement officer. 25
- (3) Any constable may arrest without warrant any person who the constable has reasonable grounds to suspect has committed an offence against **subsection (1) or (2)**.

170 Offence of failing to carry out obligations in relation to computer system search 30

Every person commits an offence and is liable on ~~summary~~ conviction to imprisonment for a term not exceeding 3 months who fails, without reasonable excuse, to assist a person exercising a search power when requested to do so under **section 125(1)**. 35

171 Offence to disclose information acquired through search or surveillance

- (1) No person who, as a consequence of any thing specified in **subsection (1A)**, acquires information about any person may knowingly disclose the substance, meaning, or purport of that information, or any part of that information, otherwise than in the performance of that person's ~~duty~~ duties, functions, or powers. 5
- (1A) The things referred to in **subsection (1)** are— 10
- (a) the exercise of a search or surveillance power: 10
 - (b) an examination order:
 - (c) a production order:
 - (d) the use of a device, technique, or procedure, or the carrying out of an activity specified in a declaratory order. 15
- (2) Every person who acts in contravention of **subsection (1)** commits an offence and is liable on ~~summary~~ conviction,—
- (a) in the case of an individual, to a term of imprisonment not exceeding 6 months:
 - (b) in the case of a body corporate, to a fine not exceeding \$100,000. 20

Subpart 9—Miscellaneous

172 Effect of proceedings

- (1) This section applies when any proceeding has been commenced in any court in respect of— 25
- (a) the exercise of any power conferred by this Act or any enactment specified in **column 2 of the Schedule**; or
 - (b) the discharge of any duty imposed by this Act or any enactment specified in **column 2 of the Schedule**; or
 - (c) the use for investigative purposes of any evidential material obtained from the execution of a power or discharge of a duty imposed by this Act or any enactment specified in **column 2 of the Schedule**. 30
- (2) Until a final decision in relation to the proceeding is given, unless an interim order made under **subsection (3)** is in force,— 35
- (a) the power or duty to which the proceeding relates may be, or may continue to be, exercised or discharged as if

- the proceeding had not been commenced, and no person is excused from fulfilling any obligation under this Act or any other enactment by reason of that proceeding; and
- (b) any evidential material obtained from the execution of the power or discharge of the duty to which the proceeding relates may be, or may continue to be, used for investigative purposes. 5
- (3) An interim order may be made by the High Court overriding the effect of **subsection (2)**, but only if the High Court is satisfied that— 10
- (a) the applicant has established a prima facie case that the warrant or order in question is unlawful; and
- (b) the applicant would suffer substantial harm from the exercise or discharge of the power or duty; and 15
- (c) if the power or duty is exercised or discharged before a final decision is made in the proceeding, none of the remedies specified in **subsection (4)**, or any combination of those remedies, could subsequently provide an adequate remedy for that harm; and 20
- (d) the terms of that order do not unduly hinder or restrict the investigation or prosecution.
- (4) The remedies are as follows:
- (a) any remedy that the court may grant in making a final decision in relation to the proceeding (for example, a declaration): 25
- (b) any damages that the applicant may be able to claim in concurrent or subsequent proceedings:
- (c) any opportunity that the applicant may have, as defendant in a criminal proceeding, to challenge the admissibility of any evidence obtained as a result of the exercise or discharge of the power or duty. 30
- (5) An interim order made under **subsection (3)**—
- (a) ceases to have effect on— 35
- (i) a date specified in that order; or
- (ii) any date subsequently specified by the High Court on being satisfied that **paragraphs (a) to (d) of subsection (3)** continue to apply; and

- (b) may be extended or renewed (whether before, on, or after its expiry) by the High Court, but only if the High Court is satisfied that **paragraphs (a) to (d) of subsection (3)** continue to apply.

- 173 Service of orders and notices** 5
- (1) Where an order or a notice is to be given to a person for the purposes of this Act, it may be given—
- (a) by delivering it personally to the person; or
- (b) by delivering it at the usual or last known place of residence or business of the person, including by fax or by electronic mail; or 10
- (c) by sending it by prepaid post addressed to the person at the usual or last known place of residence or business of the person.
- (2) Where an order or notice is to be served on a corporation for the purposes of this subpart, service on an officer of the corporation, or on the registered office of the corporation, in accordance with **subsection (1)** is deemed to be service on the corporation. 15
- (3) Where an order or notice is to be served on a partnership for the purposes of this subpart, service on any one of the partners in accordance with **subsection (1) or (2)** is deemed to be service on the partnership. 20
- (4) Where an order or notice is sent by post to a person in accordance with **subsection (1)(c)**, the order or notice is deemed, in the absence of proof to the contrary, to have been given on the third day after the day on which it was posted. 25
- (5) This section is subject to any other section of this Act that makes different provision for the service of orders or notices. 30
- Compare: 1990 No 51 s 52

Part 5

Amendments, repeals, and miscellaneous provisions

- Subpart 1—Amendments to search and seizure powers in other enactments (and to 35

- related provisions) used for law enforcement purposes or for law enforcement and regulatory purposes
- Amendments to Agricultural Compounds and Veterinary Medicines Act 1997* 5
- 175 Amendments to Agricultural Compounds and Veterinary Medicines Act 1997**
- Sections 176 to 179** amend the Agricultural Compounds and Veterinary Medicines Act 1997.
- 176 Powers of entry for inspection** 10
- (1) Section 64(2)(c) is amended by omitting “, and remove any documents or other records including records in an electronic form from the place for the purpose of copying such documents or records”.
- Section 64 is amended by repealing subsections (3) and (4) and substituting the following subsection: 15
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (~~except sections 108(d), 110(2)(d), 114, and 115~~) (except subparts 1A and 2, sections 114 and 115, and subpart 7) apply.” 20
- 177 Issue of search warrants**
- (1) Section 69(1) is amended by—
- (a) omitting “Any District Court Judge or Justice of the Peace or any Registrar who is satisfied, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”; and 25
- (b) omitting “in the form set out in Schedule 1”. 30
- (2) Section 69(1) is amended by inserting the following paragraph after paragraph (b):
- “(ba) any trade name product or agricultural compound manufactured or imported in breach of the provisions of this Act.” 35

- (3) Section 69(1)(c) is amended by omitting “paragraph (a) or paragraph (b)” and substituting “paragraph (a), (b), or **(ba)**”.
- (4) Section 69 is amended by repealing subsections (2) to (4) and substituting the following subsection:
- “(2) Subject to section 70, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.” 5
- (4) Section 69 is amended by repealing subsections (2) to (4) and substituting the following subsections:
- “(2) Subject to **subsection (3)** and section 70, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply. 10
- “(3) Despite **subsection (2), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.”

178 Powers of entry with warrant

Section 70 is amended by repealing subsections (1) to (4) and substituting the following subsection: 15

- “(1) Without limiting the powers conferred by any warrant issued under section 69(1), and subject to any conditions imposed by the issuing officer, every warrant issued under that section authorises the constable or the ACVM officer who is executing it, and any person called on by that constable or ACVM officer to assist, to seize and detain any trade name product or agricultural compound that— 20
- “(a) is a risk to public health, agricultural security, trade in or market access for primary produce, or the welfare of animals, or that may breach domestic food residue standards; and 25
- “(b) appears to an ACVM officer, who has made such inquiries as appear reasonable in the circumstances, to have been abandoned or to have no apparent or readily identifiable owner.” 30

179 Disposal of property seized

- (1) Section 71(1) is amended by omitting “Except as provided in subsection (2) of this section, section 199 of the Summary Proceedings Act 1957” and substituting “Subject to subsection 35

~~(3)~~, **subpart 5 of Part 4** of the Search and Surveillance Act **2009**”.

(1) Section 71(1) is repealed and the following subsection substituted:

“(1) Subject to subsection (3), **subparts 1, 4, 5, 6, and 9 of Part 4** of the Search and Surveillance Act **2009** apply in respect of any property seized by any constable under a search warrant issued under section 69 and, with the necessary modifications, in respect of any property seized by any ACVM officer under such a warrant.”

(2) Section 71(2) is repealed.

(3) Section 71(3) is amended by omitting “70(1)(f)(ii)” and substituting “**70(1)**”.

(4) Section 71 is amended by adding the following subsection:

“(4) If any person is convicted of an offence to which the seized property relates, the court may, if it thinks fit, order that the item be disposed of as the court directs at the expense of the convicted person, and may order that the person pay any reasonable costs incurred by the Commissioner of Police or the Director-General.”

179A Section 84 repealed

Section 84 is repealed.

179B Schedule 1 repealed

Schedule 1 is repealed.

Amendments to Animal Products Act 1999

180 Amendments to Animal Products Act 1999

Sections 181 to 184 amend the Animal Products Act 1999.

181 Power of entry

(1AA) Section 87(1) is amended by omitting “at any reasonable time”.

(1) Section 87(2) is amended by omitting “, at any reasonable time,”.

(2) Section 87 is amended by repealing subsection (3).

- (3) Section 87(4) is amended by omitting “, at any time that is reasonable in the circumstances”.
- (4) Section 87 is amended by repealing subsections (5) and (6) and substituting the following subsection:
- ~~“(5) The provisions of **subpart 3 of Part 4** of the Search and Surveillance Act **2009** apply in respect of the exercise of any powers under this section.~~
- “(5) The provisions of **subparts 1, 3, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** (except for **sections 114 and 115**) apply.” 10
- 182 Power to examine, etc**
- (1) Section 88 is amended by repealing subsection (2) and substituting the following subsection:
- ~~“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (other than **sections 108(d), 110(2)(d), 114, and 115**) apply in respect of the exercise of powers under subsection (1)(a) or (b).~~
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (other than **subparts 1A, 2, and 7, and sections 114 and 115**) apply in respect of the exercise of powers under subsection (1)(a) or (b).” 20
- (2) Section 88(3) is amended by inserting “(other than under subsection (1)(a) or (b))” after “this section”.
- 183 New section 91A inserted**
- The following section is inserted after section 91: 25
- “91A Disposal of seized animals prior to commencement or determination of proceedings**
- “(1) This section applies if—
- “(a) a live animal is or live animals are seized by a constable or an animal product officer under the authority of a search warrant issued under section 94; and 30
- “(b) either—
- “(i) proceedings for an offence involving that animal or those animals—
- “(A) have been commenced but not yet determined; or 35

- “(B) have not yet been commenced but are intended to be commenced within a reasonable period; or
- “(ii) the owner of that animal or animals cannot be located. 5
- “(2) If this section applies, a District Court, on its own motion or on an application by a constable or an animal product officer, may make an order authorising—
- “(a) the sale of the animal or animals; or
- “(b) the placement of the animal or animals with another person; or 10
- “(c) the destruction, slaughter, and processing of the animal or animals for animal products for sale, or other disposal of the animal or animals.
- “(3) The District Court— 15
- “(a) must, before making an order under **subsection (2)**, give the owner of the animal or animals, if known and able to be contacted, an opportunity to be heard; and
- “(b) may make an order under **subsection (2)** if it is satisfied that there are good reasons for making that order; 20
- and
- “(c) may, when making the order, impose conditions (whether relating to the payment of any security holder in the animal or animals or otherwise).
- “(4) In determining whether to make any order referred to in **subsection (2)**, the court must have regard to the following matters: 25
- “(a) whether the owner of the animal or animals has been identified, and if not, the steps that have been taken to identify and contact that person: 30
- “(b) the number of animals involved:
- “(c) the cost of continuing to hold the animal or animals:
- “(d) the physical state of the animal or animals:
- “(e) whether it is reasonable or practicable for the animal or animals to be placed elsewhere: 35
- “(f) whether it is reasonable or practicable for the Ministry to retain possession of and care for the animal or animals until the determination of the proceedings relating to the animal or animals:

- “(g) whether any person will suffer material loss, and the extent of that loss, if the animal or animals are or are not sold:
- “(h) the fitness for purpose of any animal products derived from the seized animal or animals: 5
- “(i) any other matters the court considers relevant.
- “(5) If an animal is or animals are sold under an order made under **subsection (2)(a)** or animal products are sold under an order made under **subsection (2)(c)**, the proceeds of sale (if any) must be held by the Ministry (after deducting (in order) the costs of transport and processing, the cost of sale, any sums required to be paid to a security holder or any other person under a condition of the order for sale, and any costs incurred by the Crown in caring for the animal or animals or providing veterinary treatment to that animal or those animals). 10 15
- “(6) The Ministry must, unless the proceeds of sale are otherwise forfeited to the Crown or the owner of the animal or animals is unknown or cannot be contacted, pay the proceeds of sale to the owner as soon as practicable—
- “(a) after the determination of the proceedings for an offence involving that animal or those animals; or 20
- “(b) after a decision is taken not to commence any such proceedings.”
- 184 Other amendments to Animal Products Act 1999**
- (1) Section 92 is repealed. 25
- (2) Section 94(1) is amended by—
- (a) omitting “Any District Court Judge, Community Magistrate, Justice of the Peace, or Registrar may issue a search warrant in the form set out in the Schedule” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search warrant”; and 30
- (b) omitting “on application in writing made on oath” and substituting “on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009** by an animal ~~products~~ product officer or a constable”. 35

- (3) Section 94 is amended by repealing subsections (2) and (3) and substituting the following subsection:
- “(2) Subject to section 95, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”
- (3) Section 94 is amended by repealing subsections (2) and (3) and substituting the following subsections: 5
- “(2) Subject to section 95, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(3) Despite **subsection (2), sections 114 and 115** apply only in respect of a warrant issued to a named constable or to every constable.” 10
- (4) Section 95 is amended by repealing subsection (1) and substituting the following subsections:
- “(1) Without limiting the powers conferred by any search warrant issued under section 94(1), every warrant issued under that section authorises the constable or animal ~~products~~ product officer who is executing it, and any person called on by that constable or officer to assist, to exercise— 15
- “(a) all of the powers of an animal product officer under sections 88 to 91; or 20
- “(b) only such of those powers as are specified in the warrant.
- “(1A) To avoid doubt, **Part 4** of the Search and Surveillance Act **2009** does not apply in respect of any exercise of a power under sections 89 to 91 as a consequence of **subsection (1)** of this section.” 25
- (5) Section 96 is amended by repealing subsections (1) to (3).
- (6) Section 97 is amended by—
- (a) ~~omitting “Section 199 of the Summary Proceedings Act 1957” and substituting “**Subpart 5 of Part 4** of the Search and Surveillance Act **2009**”;~~ and 30
- (a) omitting “Section 199 of the Summary Proceedings Act 1957 applies to any property seized by a constable under a search warrant and, with any necessary modifications, to property seized under a search warrant by an animal product officer” and substituting “**Subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act 35

2009 apply in respect of any property seized under a search warrant”; and

- (b) repealing paragraphs (a) to (c).
 (7) The Schedule is repealed.

Amendments to Animal Welfare Act 1999 5

185 Amendments to Animal Welfare Act 1999

Sections 186 to 189 amend the Animal Welfare Act 1999.

186 Amendments to sections 130 to 136

- (1) Section 130(1)(a) is amended by inserting “(including, if necessary, destroying or arranging for the destruction of the animal)” after “animal”. 10
- (2) Section 130(1)(b) is amended by adding “(including, if necessary, destroying or arranging for the destruction of the animal)”.
- (3) Section 131(1) is amended by omitting “District Court Judge or Justice or Community Magistrate or any Registrar (not being a member of the police) who, on an application in writing made on oath” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 15 20
- (4) Section 131 is amended by repealing subsection (3) and substituting the following subsections:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply, subject to **subsection (4)** and sections 133(2) and (4), 136, and **136A**. 25
- “(4) Despite **subsection (3), sections 108(d), 110(2)(d), 114, 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.” 30
- (5) Sections 132, 133(1), (3), and (5), 134, and 135 are repealed.
- (5A) Section 133(4) is amended by inserting “(including, if necessary, destroying or arranging for the destruction of the animal)” after “suffering of the animal”.

- (6) Section 136(1) is amended by omitting “subsections (2) and (3); section 199 of the Summary Proceedings Act 1957” and substituting “subsections (2) and (3) and **section 136A, subpart 5 of Part 4** of the Search and Surveillance Act 2009”.
- (6) Section 136 is amended by repealing subsection (1) and substituting the following subsection: 5
- “(1) Subject to subsections (2) and (3) and **section 136A, subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act 2009 apply in respect of—
- “(a) any thing seized by a constable (including any animal seized by a constable under the authority of a search warrant issued under section 131 and any animal of which a constable takes possession under section 137(1)); and 10
- “(b) with the necessary modifications, any thing seized by an inspector (including any animal seized by an inspector under the authority of a search warrant issued under section 131 and any animal of which an inspector takes possession under section 127(5)).” 15
- (7) Section 136 is amended by repealing subsection (2) and substituting the following subsection: 20
- “(2) Despite anything in **subpart 5 of Part 4** of the Search and Surveillance Act 2009, a constable or an inspector who has custody of an animal may place that animal in the care of any other person.” 25
- (8) Section 136(3) is amended by omitting “section 199(3) of the Summary Proceedings Act 1957” and substituting “**section 147(2)(c)** of the Search and Surveillance Act 2009”.
- 187 New section 136A inserted**
- The following section is inserted after section 136: 30
- “136A Disposal of animals seized or taken into custody prior to commencement or determination of proceedings**
- “(1) This section applies if—
- “(a) 1 or more animals are seized by a constable or an inspector, under the authority of a search warrant issued under section 131, or are taken into possession by an in- 35

- spector under section 127(5) or a constable under section 137(1); and
- “(b) either—
- “(i) proceedings for an offence involving that animal or those animals— 5
- “(A) have been commenced but not yet determined; or
- “(B) have not yet been commenced but are intended to be commenced within a reasonable period; or 10
- “(ii) the owner of that animal or those animals cannot be located.
- “(2) If this section applies, a District Court, on its own motion, or on an application by a constable or an inspector, may make an order authorising— 15
- “(a) the sale of the animal or animals; or
- “(b) the placement of the animal or animals with another person; or
- “(c) the destruction or other disposal of the animal or animals; or 20
- “(d) the dehorning or performance of other surgical procedures on the animal or animals.
- “(3) The District Court—
- “(a) must, before making an order under **subsection (2)**, give the owner of the animal or animals, if known and able to be contacted, an opportunity to be heard; and 25
- “(b) may make an order under **subsection (2)** if it is satisfied that there are good reasons for making that order; and
- “(c) may, when making the order, impose conditions 30 (whether relating to the payment of any security holder in the animal or animals or otherwise).
- “(4) In determining whether to make any order referred to in **subsection (2)**, the court must have regard to the following matters: 35
- “(a) whether the owner of the animal or animals has been identified, and if not, the steps that have been taken to identify and contact that person:
- “(b) the number of animals involved:

- “(c) whether the animal or animals are being kept for economic purposes or for companionship:
- “(d) the cost of continuing to hold the animal or animals:
- “(e) the physical state of the animal or animals:
- “(f) whether it is reasonable or practicable for the animal or animals to be placed elsewhere: 5
- “(g) whether it is reasonable or practicable for the Ministry or an approved organisation to retain possession of and care for the animal or animals until the determination of the proceedings relating to the animal or animals: 10
- “(h) whether any person will suffer material or other loss, and the extent of that loss, if the animal or animals are sold:
- “(i) any other matters the court considers relevant.
- “(5) If an animal is sold under the authority of an order under **subsection (2)(a)**, the proceeds of sale (if any) must be held by the Ministry or an approved organisation (after deducting (in order) the costs of sale, any sums required to be paid to a security holder or any other person under a condition of the order for sale, and any costs incurred by the Crown or approved organisation in caring for the animal or animals or providing veterinary treatment to that animal or those animals). 15 20
- “(6) The Ministry or approved organisation referred to in **subsection (5)** must, unless the proceeds of sale are forfeited to the Crown under section 172(1) or the owner of the animal is unknown or cannot be contacted, pay the proceeds of sale to the owner as soon as practicable— 25
- “(a) after the determination of the proceedings for an offence involving that animal or those animals; or
- “(b) after a decision is taken not to commence any such proceedings.” 30

188 Vehicle, aircraft, ship, or animal may be detained

- (1) Section 137 is amended by repealing subsections (1) and (2) and substituting the following subsection:

“(1) If a constable arrests a person for an offence against section 22(2), 23(1) or (2), or 40(1) and the person is for the time being in charge of a vehicle, an aircraft, or a ship, or an animal, the constable may— 35

- “(a) take possession of the vehicle, aircraft, or ship, or the animal, or both, and may take that vehicle, aircraft, or ship, or take that animal, or both, as the case may be, to another place; and
- “(b) detain that vehicle, aircraft, or ship, or that animal, or both, at a place chosen by the constable for a period that is reasonably necessary to—
- “(i) conduct a search of the vehicle, aircraft, or ship, or animal, or both, under another provision in this Act or under any other enactment that authorises such a search; or
- “(ii) provide humane treatment for any animal that is moved.”
- (2) Section 137(3) is amended by omitting “subsections (1) and (2)” and substituting “subsection (1)”. 15

189 Power of court to order certain animals be forfeited to the Crown

Section 172 is amended by repealing subsection (1) and substituting the following subsection:

- “(1) If the owner of an animal is convicted of an offence against this Act in respect of that animal, the court may,—
- “(a) if it thinks it desirable for the protection of the animal (in addition to or in substitution for any other penalty), order that the animal be forfeited to the Crown or to an approved organisation; 25
- “(b) if it thinks it desirable (in addition to or in substitution for any other penalty), order that any proceeds of sale of the animal retained under **section 136A** be forfeited to the Crown.”

189 Power of court to order that certain animals be forfeited to the Crown or approved organisation 30

Section 172 is amended by repealing subsections (1) and (1A) and substituting the following subsection:

- “(1) The court convicting a person (the **offender**) of an offence against this Act in respect of an animal or animals may (in addition to or in substitution for any other penalty),— 35

- “(a) if it thinks it desirable for the protection of the animal or animals in question, order that any or all of the following animals be forfeited to the Crown or to an approved organisation:
- “(i) the animal or animals to which the charge relates and of which the offender is the owner: 5
- “(ii) any other animals at the date of conviction owned by the offender:
- “(b) if it thinks it desirable, order that any proceeds of sale of the animal retained under **section 136A** be forfeited to the Crown.” 10

Amendment to Antarctic Marine Living Resources Act 1981

- 190 Amendment to Antarctic Marine Living Resources Act 1981 15**
- (1) This section amends the Antarctic Marine Living Resources Act 1981.
- (2) Section 9 is amended by repealing subsections (3) to (5) and substituting the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.” 20
- (2) Section 9 is amended by repealing subsection (3).
- (3) Section 9 is amended by adding the following subsection:
- “(6) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **subparts 2 and 7**) apply.” 25

Amendments to Antarctica (Environmental Protection) Act 1994

- 191 Amendments to Antarctica (Environmental Protection) Act 1994**
- (1) This section amends the Antarctica (Environmental Protection) Act 1994. 30
- (2) Section 42(1) is amended by—
- (a) omitting “a District Court Judge, a duly authorised Justice, a Community Magistrate, or a Registrar (not being a member of the Police), who, on application made” and 35

- substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”; and
- (b) omitting “, unconditionally or subject to conditions, a warrant authorising the entry and search of the area, at any time on one occasion within 14 days of the issue of the warrant (or within such further time as may be specified in the warrant)” and substituting “a warrant authorising the entry and search of the area”.
- (3) Section 42 is amended by repealing subsections (2) to (4) and substituting the following subsection:
 “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”
- (4) Section 43 is amended by inserting the following subsection after subsection (1):
 “(1A) ~~Subject to subsection (2), the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.~~
“(1A) Subject to subsection (2), the provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **subparts 1A and 2**) apply.”
- (5) Section 44 is amended by omitting “any of sections 41 to 43” and substituting “section 41”.

*Amendments to Anti-Money Laundering and
 Countering Financing of Terrorism Act 2009*

191A Amendments to Anti-Money Laundering and Countering Financing of Terrorism Act 2009

- (1) This section amends the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.
- (2) Section 114(4)(c) is amended by omitting “149C(1) and (2), and 149D” and substituting “and 149C(1)”.
- (3) Section 117 is amended by repealing subsection (2) and substituting the following subsection:
 “(2) The application must be made by an enforcement officer in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**.”

- (4) Section 117(3) is amended by omitting “A District Court Judge, Justice of the Peace, Community Magistrate, or Registrar” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009)”.
- (5) Section 117 is amended by repealing subsections (4), (5), and (6) and substituting the following subsection: 5
- “(4) The provisions of **subparts 1, 2, and 8 of Part 4** of the Search and Surveillance Act 2009 apply.”
- (6) Section 118(1) is amended by repealing paragraphs (a), (b), and (e). 10
- (7) Section 118(1)(c) is amended by omitting “and seize”.
- (8) Section 118(3) is repealed and the following subsection substituted:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act 2009 (except **subpart 2 and sections 114, 115, and 125**) apply.” 15
- (9) Sections 119 to 122, 125 to 128, and 129 are repealed.

Amendments to Aviation Crimes Act 1972

- 192 Amendments to Aviation Crimes Act 1972**
- (1) This section amends the Aviation Crimes Act 1972. 20
- (2) Section 13(1)(b) is amended by adding “and that a search of the first-mentioned person will disclose evidential material about that offence.”
- (3) Section 13 is amended by repealing subsections (3) and (4) and substituting the following subsection: 25
- “(4) ~~The provisions of **Part 4** of the Search and Surveillance Act 2009 apply.~~
- “(4) The provisions of **Part 4** of the Search and Surveillance Act 2009 (except for **subpart 2**) apply.”

Amendments to Biosecurity Act 1993

- 193 Amendments to Biosecurity Act 1993**
- (1) This section amends the Biosecurity Act 1993.
- (2) ~~Section 110(1) is amended by omitting “A District Court Judge, a Justice of the Peace, a Community Magistrate, or~~

a Registrar (not being a member of the police) may, on the written application of an inspector or authorised person made on oath,²² and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application (made in the manner provided by **subpart 2 of Part 4** of that Act) by an inspector or authorised person.”

(2) Section 110 is amended by repealing subsection (1) and substituting the following subsection:

“(1) An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application made in the manner provided by **subpart 2 of Part 4** of that Act by an inspector or authorised person, issue a warrant authorising the inspector or authorised person to enter and inspect the dwellinghouse, marae, or building associated with a marae specified in the application.”

(3) Section 110(2) is amended by omitting “Judge, Justice, Magistrate, or Registrar” and substituting “issuing officer”.

(3A) Section 110 is amended by adding the following subsection:

“(4) The provisions of **subparts 1, 2, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act **2009** apply.”

(4) Section 111(1) is amended by omitting “a District Court Judge, a Justice of the Peace, a Community Magistrate, or a Registrar (not being a member of the Police), who, on the written application (made on oath) of” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application (made in the manner provided by **subpart 2 of Part 4** of that Act) by”.

(4A) Section 111 is amended by adding the following subsection:

“(6) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **sections 114 and 115**) apply.”

(5) Section 112(1)(a)(ii) is amended by inserting “or copy of the warrant” after “warrant” in each place where it appears.

(6) Section 118(2) is amended by omitting “Section 199 of the Summary Proceedings Act 1957” and substituting “**Subpart 5 of Part 4** of the Search and Surveillance Act **2009**”.

(7) Section 118 is amended by adding the following subsection:

“(3) The provisions of **subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply.”

Amendment to Boxing and Wrestling Act 1981

194 Amendment to Boxing and Wrestling Act 1981
Section 195 amends the Boxing and Wrestling Act 1981. 5

195 New section 9 substituted
 Section 9 is repealed and the following section substituted:

“9 Search warrants

“(1) An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search warrant if, on an application made by a constable in the manner provided in **subpart 2 of Part 4** of that Act, he or she is satisfied that there are reasonable grounds for believing that on any premises a contest is being conducted in breach of this Act or any regulations made under it. 10 15

“(2) ~~The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.~~

“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **subparts 1A, 4, 5, and 7**) apply.”

Amendments to Children, Young Persons, and Their Families Act 1989 20

196 Amendments to Children, Young Persons, and Their Families Act 1989
Sections 197 to 198 amend the Children, Young Persons, and Their Families Act 1989. 25

197 Amendments to Parts 1 to 9 of Children, Young Persons, and Their Families Act 1989

(1) Section 39(1) is amended by omitting “any Justice or any Community Magistrate or any Registrar (not being a member of the police), who, on application in writing made on oath” and substituting “any issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on 30

application in writing verified in accordance with **section 97** of that Act”.

- (2) Section 40(1) is amended by omitting “any Justice or any Community Magistrate or any Registrar (not being a member of the police), may, on application in writing made on oath” 5 and substituting “any issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on application in writing verified in accordance with **section 97** of that Act”.
- (3) Section 386(1) is amended by omitting “Any Judge or Justice or Community Magistrate or any Registrar (not being a member of the police) who, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on application in writing verified in accordance with **section 97** of that Act” 15

197A Amendments to Part 10 of Children, Young Persons, and Their Families Act 1989

- (1) Section 445A is amended by— 20
- (a) omitting “section 39 or section 40 or”; and
- (b) omitting “or section 386 of this Act”.
- (2) ~~Section 445B(2) is amended by omitting “section 39, 40, 122, 157(2), 205(2)(b), or 386” and substituting “section 122, 157(2), or 205(2)(b)”.~~
- (2) Section 445B(2) is amended by omitting “section 39, 40, 122, 157(2), 205(2)(b), 296C, or 386” and substituting “section 122, 157(2), 205(2)(b), or 296C”. 25

198 New section 445D inserted

The following section is inserted after section 445C:

- “445D Certain provisions of Search and Surveillance Act 2009 30 apply to some warrants**
- Sections 99 and 103** of the Search and Surveillance Act **2009** apply, with any necessary modifications, in respect of any warrant applied for or issued under section 39, 40, or 386.”

*Amendments to Civil Aviation Act 1990***199 Amendments to Civil Aviation Act 1990**

- (1) This section amends the Civil Aviation Act 1990.
- (2) Section 24(4) is amended by omitting “a judicial officer on written application on oath, which shall not be granted unless the judicial officer” and substituting “an issuing officer on application in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**, which must not be granted unless the issuing officer”. 5
- (3) Section 24 is amended by repealing subsection (5) and substituting the following subsection: 10
- “(5) Subject to subsections (6) and (7), **subparts 2 and 3 of Part 4** of the Search and Surveillance Act **2009** apply in relation to the issue of a warrant under subsection (4) and its execution.” 15
- (3) Section 24 is amended by repealing subsection (5) and substituting the following subsections:
- “(5) Subject to subsections **(5A)**, (6), and (7), **subparts 1, 2, 3, 4, 6, 8, and 9** of the Search and Surveillance Act **2009** apply in relation to the issue of a warrant under subsection (4) and its execution. 20
- “(5A) Despite **subsection (5)**, **sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.” 25

Amendments to Commodity Levies Act 1990 25**200 Amendments to Commodity Levies Act 1990**

- (1) This section amends the Commodity Levies Act 1990.
- (2) Section 19(1) is amended by—
- (a) omitting “A District Court Judge, a Justice, a Community Magistrate, or a Court Registrar (not being a constable) who, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”; and 30
- 35

- (b) omitting “in the form set out in the Schedule to this Act”.
- (3) Section 19 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, and 115**) apply.”²² 5
- (3) Section 19 is amended by repealing subsection (2) and substituting the following subsections:
- “(2) Subject to **subsection (2A)**, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply. 10
- “(2A) Despite **subsection (2), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.”
- (4) Sections 20 to 22 and the Schedule are repealed. 15

Amendments to Conservation Act 1987

201 Amendments to Conservation Act 1987

- (1) This section amends the Conservation Act 1987.
- (2) Section 40(4A) and (4B) are repealed.
- (3) Section 40 is amended by adding the following subsection: 20
- “(7) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply:
- “(7) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **subpart 2**) apply.”
- (4) Section 46 is amended by repealing subsections (1), (2), (3), 25 and (4).

*Amendments to Criminal Proceeds (Recovery)
Act 2009*

201A Amendments to Criminal Proceeds (Recovery) Act 2009

Sections 201B to 201F amend the Criminal Proceeds (Recovery) Act 2009. 30

201B Amendments to sections 59 and 71 of Criminal Proceeds (Recovery) Act 2009

- (1) Section 59(3) is amended by omitting “Sections 115 to 122, so far as applicable and with all necessary modifications, apply” and substituting “**Part 4** of the Search and Surveillance Act 2009 (except **subpart 5**), so far as applicable and with all necessary modifications, applies”. 5
- (2) Section 71(3) is amended by omitting “Sections 115 to 122, so far as applicable and with all necessary modifications, apply” and substituting “**Part 4** of the Search and Surveillance Act 2009 (except **subpart 5**), so far as applicable and with all necessary modifications, applies”. 10

201C Amendments to sections 101 to 110 of Criminal Proceeds (Recovery) Act 2009

- (1) Section 101(1) is amended by omitting “on an application in writing made on oath” and substituting “on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act 2009”. 15
- (2) Section 102(1) is amended by omitting “on an application in writing made on oath” and substituting “on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act 2009”. 20
- (3) Section 104(2) is amended by omitting “in writing and on oath” and substituting “in the manner provided in relation to a search warrant in **sections 97 and 98** of the Search and Surveillance Act 2009”. 25
- (4) Section 104 is amended by adding the following subsections:
- “(3) Every person commits an offence who makes an application for a production order that contains any assertion or other statement known by the person to be false. 30
- “(4) Every person who commits an offence against **subsection (3)** is liable on conviction to imprisonment for a term not exceeding 1 year.”
- (5) Section 106(2) is amended by omitting “in writing and on oath” and substituting “in the manner provided in relation to a search warrant in **sections 97 and 98** of the Search and Surveillance Act 2009”. 35

- (6) Section 106 is amended by adding the following subsections:
- “(3) Every person commits an offence who makes an application for an examination order that contains any assertion or other statement known by the person to be false.
- “(4) Every person who commits an offence against **subsection (3)** is liable on conviction to imprisonment for a term not exceeding 1 year.” 5
- (7) Section 108(1) is amended by omitting “on application in writing made on oath” and substituting “on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”. 10
- (8) Section 108(2) is amended by omitting “in the prescribed form”.
- (9) Section 110(1) is amended by omitting “on an application in writing made on oath” and substituting “on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”. 15

201D New section 114 substituted

Section 114 is repealed and the following section substituted:

- “**114** **Application of Part 4 of Search and Surveillance Act 2009** 20
- “(1) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 5**) apply in respect of every search warrant applied for, or issued, under this Act.
- “(2) The provisions of **subpart 5 of Part 4** of that Act apply to evidence seized under sections 101(2)(a), and 102(2)(b) and (c).” 25

201DA Sections 115 to 122 repealed

Sections 115 to 122 are repealed.

201E New section 127 substituted

Section 127 is repealed and the following section substituted: 30

- “**127** **Provisions associated with foreign restraining orders and foreign forfeiture orders**
- Part 4** of the Search and Surveillance Act **2009** (except **subpart 5**) applies, with any necessary modifications, to an application for a warrant made under any of sections 124 to 126.” 35

201F Additional matters in respect of registering foreign forfeiture order

Section 146(3) is amended by omitting “Sections 115 to 122, so far as applicable and with all necessary modifications, apply” and substituting “Part 4 of the Search and Surveillance Act 2009 (except subpart 5), so far as applicable and with all necessary modifications, applies”. 5

Amendments to Customs and Excise Act 1996

202 Amendments to Customs and Excise Act 1996

Sections 203 to 211 amend the Customs and Excise Act 1996. 10

203 Amendments to sections 139 to 141 of Customs and Excise Act 1996

(1) Section 139 is amended by adding the following subsections:

“(5) The provisions of **Part 4** of the Search and Surveillance Act **2009 (except subpart 2)** apply in respect of the power conferred by subsection (1)(d). 15

“(6) Despite **subsection (5), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.” 20

(2) Section 140(2) is amended by omitting “subsection (1)” and substituting “subsection (1)(a) to (c)”.

(3) Section 140 is amended by adding the following subsections:

“(3) The provisions of **Part 4** of the Search and Surveillance Act **2009 (except subpart 2)** apply in respect of the power conferred by subsection (1)(d). 25

“(4) Despite **subsection (3), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.” 30

(4) Section 141 is amended by omitting “section 139 or section 140” and substituting “section 139(1)(a) to (c) or 140(1)(a) to (c)”.

204 Searching vehicles

Section 144 is amended by adding the following subsections:

- “(6) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subparts 1A and 2**) apply in respect of a search undertaken under this section. 5
- “(7) Despite **subsection (5), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.”

205 Amendments to sections 149A to 149D of Customs and Excise Act 1996 10

- (1) Section 149A(3) is amended by omitting “149D” and substituting “149C”.
- (2) Section 149B(4) to (6) are repealed.
- (3) Section 149B is amended by adding the following subsections: 15
- “(8) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of the powers conferred by this section.
- “(9) Despite **subsection (8), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.” 20
- (4) Section 149BA(1) is amended by omitting “believe” and substituting “suspect”.
- (5) Section 149BA(3) is repealed. 25
- (6) Section 149BA is amended by repealing subsection (5) and substituting the following subsections:
- “(5) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of the powers conferred by this section. 30
- “(6) Despite **subsection (5), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.”
- (7) Section 149C is amended by repealing subsection (2) and substituting the following subsections: 35

- “(2) The provisions of **subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply in respect of the powers conferred by this section.
- “(3) Despite **subsection (2), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 and subpart 5 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.”
- (8) Section 149D is repealed.
- 206 Examination of goods no longer subject to control of Customs**
- Section 152 is amended by inserting the following subsections after subsection (3):
- “(3A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of the powers conferred by this section.
- “(3B) Despite **subsection (3A), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.”
- 207 Amendments to sections 165 to 167 of Customs and Excise Act 1996**
- (1) The heading to section 165 is amended by omitting “**search**” and substituting “**inspection**”.
- (2) Section 165(1) is amended by omitting “search,” in each place where it appears.
- (3) The heading to section 166 is amended by omitting “**search**” and substituting “**inspection**”.
- (4) Section 166(1) is amended by omitting “search,” in each place where it appears.
- (5) Section 167(1) is amended by omitting “A District Court Judge, Justice of the Peace, Community Magistrate, or Registrar (not being a constable) may issue a search warrant in the prescribed form if he or she is satisfied, on an application by a Customs officer in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search war-

rant if he or she is satisfied, on an application by a Customs officer made in the manner provided in **subpart 2 of Part 4** of that Act”.

- (6) Section 167 is amended by repealing subsections (2) to (4) and substituting the following subsections: 5
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(3) Despite **subsection (2), sections 120(2), 126(5)(e), and 127, and subparts 5 and 7 of Part 4** of the Search and Surveillance Act **2009** do not apply to any goods forfeited to the Crown under section 225 of this Act.” 10

208 Amendments to section 172 and repeal of sections 168 to 171 and 173 of Customs and Excise Act 1996

- (1) Sections 168 to 171 and 173 are repealed.
- (2) Section 172(1) is amended by inserting “(other than a power of search to which **Part 4** of the Search and Surveillance Act **2009** applies)” after “conferred by this Act”. 15
- (3) Section 172(2) is amended by omitting “or 171”.

209 Seizure and detention of goods suspected to be certain risk goods or evidence of commission of certain offences 20

- (1AA) The heading to section 175C is amended by inserting “**or documents**” after “**of goods**”.
- (1) Section 175C(1) is amended by inserting “or documents” after “goods” in the second place where it appears.
- (2) Section 175C(2) to (4) are amended by inserting “or documents” after “goods” in each place where it appears. 25
- (3) Section 175C is amended by repealing subsection (5) and substituting the following subsection:
- “(5) ~~**Subpart 5 of Part 4** of the Search and Surveillance Act **2009** applies with any necessary modifications to goods or documents detained under subsection (1):~~ 30
- “(5) **Part 4** of the Search and Surveillance Act **2009** (except **subparts 1A and 2**) applies with any necessary modifications.”

210 New section 175D inserted

The following section is inserted after section 175C:

“175D Seizure and detention of certain drugs and objectionable publications

- “(1) A Customs officer may seize and detain goods or documents 5
that are presented or located in the course of exercising any
power of inspection, search, or examination under this Act, if
he or she has cause to suspect on reasonable grounds that the
goods or documents are evidence of the commission of 1 or
more offences under 1 or more of the following enactments: 10
“(a) section 6, 7, 12A, 13, or 22 of the Misuse of Drugs Act
1975:
“(b) section 123, 124, 131, or 131A of the Films, Videos,
and Publications Classification Act 1993.
- “(2) A Customs officer who detains goods or documents under **sub-** 15
section (1) may, if the appropriate person specified in **sub-**
section (3) agrees, do any of the following:
“(a) deliver the goods or documents into the custody of that
person:
“(b) retain the goods or documents pending further investi- 20
gation:
“(c) treat the goods or documents as forfeited within the
meaning of this Act.
- “(3) The appropriate person referred to in **subsection (2)** is,—
“(a) if the Customs officer believes that **subsection (1)(a)** 25
applies, a constable; or
“(b) if the Customs officer believes that **subsection (1)(b)**
applies, an Inspector of Publications within the mean-
ing of the Films, Videos, and Publications Classification
Act 1993. 30
- “(4) Once goods or documents have been delivered to a person
under **subsection (2)(a)**, responsibility for those goods or
documents passes to that person.
- “(5) The provisions of **subparts 1, 4, 5, 6, 8, and 9 of Part 4** of
the Search and Surveillance Act **2009** apply in respect of the 35
powers conferred by this section.
- “(6) ~~Despite **subsection (5), sections 120(2), 126(5)(e), and**~~
~~**127, and subparts 5 and 7 of Part 4** of the Search and~~

Surveillance Act **2009** do not apply to any forfeited goods (within the meaning of this Act).

“(6) Despite **subsection (5), sections 120(2), 126(5)(e), and 127, and subpart 5 of Part 4** of the Search and Surveillance Act **2009** do not apply to any forfeited goods (within the meaning of this Act).” 5

211 Amendments to Part 17 of Customs and Excise Act 1996

- (1) Section 286(1)(aa) is repealed.
- (2) Section 305A(1) is amended by omitting “167, and 171” and substituting “and 167”. 10

Amendments to Dairy Industry Restructuring Act 2001

212 Amendments to Dairy Industry Restructuring Act 2001

- (1) This section amends the Dairy Industry Restructuring Act 2001. 15
- (2) Section 29C is amended by omitting “29L” and substituting “29H”.
- (3) ~~Section 29D is amended by omitting “29L” and substituting “29H”.~~
- (4) Section 29I(1) is amended by— 20
 - (a) omitting “A District Court Judge, Community Magistrate, Justice of the Peace, or Registrar may issue a search warrant in the form set out in Schedule 5D” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) 25 may issue a search warrant”; and
 - (b) omitting “in writing made on oath” and substituting “made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”.
- (5) Section 29I is amended by repealing subsections (2) and (3) 30 and substituting the following subsections:
 - “(2) ~~The~~ Subject to section 29L and **subsection (3)**, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
 - “(3) Despite **subsection (2), sections 108(d), 110(2)(d), 114, 114 and 115** of the Search and Surveillance Act **2009** apply 35

only in respect of a warrant issued to a named constable or to every constable.”

- (6) Sections 29J and ~~29L~~ 29K are repealed.
- (6A) Section 29L is amended by—
- (a) omitting “Section 199 of the Summary Proceedings Act 1957” and substituting “**Subpart 5 of Part 4** of the Search and Surveillance Act 2009”; and 5
- (b) repealing paragraphs (a) to (c).
- (7) Section 145(j) is amended by omitting “sections 98B to 98G” and substituting “section 98G”. 10
- (8) Schedule 5D is repealed.

Amendments to Dog Control Act 1996

213 Amendments to Dog Control Act 1996

Sections 214 and 215 amend the Dog Control Act 1996.

214 Power of entry 15

- (1) Section 14(3)(a) is amended by omitting “a District Court Judge on written application on oath” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009) on application by a dog control officer in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act 2009”. 20
- (2) Section 14 is amended by adding the following subsection:
 “(5) The provisions of **Part 4** of the Search and Surveillance Act 2009 (except **subpart 5**) apply.”
- (2) Section 14 is amended by adding the following subsections: 25
 “(5) The provisions of **Part 4** of the Search and Surveillance Act 2009 (except **subparts 2, 4, and 5**) apply.
- “(6) Despite **subsection (5), sections 114 and 115** of the Search and Surveillance Act 2009 apply only in respect of a constable.” 30

215 Other amendments to Dog Control Act 1996

- (1) Section 56(3) is amended by omitting paragraph (a) and substituting the following paragraph:

- “(a) he or she is authorised to enter by a warrant issued by an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) made on application by the dog ranger or dog control officer in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**; and”.
- (2) Section 56 is amended by inserting the following subsection after subsection (3):
- “(3A) None of the following persons may act as an issuing officer under this section:
- “(a) the mayor or any elected member of the local authority that employs or engages the dog ranger or dog control officer; or
- “(b) any employee of the local authority that employs or engages the dog ranger or dog control officer.”
- (2A) Section 56 is amended by adding the following subsection:
- “(5) The provisions of **subparts 1, 2, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act **2009** apply in respect of an authority applied for or issued under subsection (3).”
- (3) Section 57(6)(b) is amended by omitting “he or she is authorised in writing to do so by a Justice, who must not grant an authority unless the Justice” and substituting “he or she is authorised to enter by a warrant issued by an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**), made on application by the dog ranger or dog control officer in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**, who must not issue a warrant unless the issuing officer”.
- (4) Section 57 is amended by inserting the following subsection after subsection (6):
- “(6A) None of the following persons may act as an issuing officer under this section:
- “(a) the mayor or any elected member of the local authority that employs or engages the dog ranger or dog control officer; or

“(b) any employee of the local authority that employs or engages the dog ranger or dog control officer.”²²

(4) Section 57 is amended by inserting the following subsections after subsection (6):

“(6A) None of the following persons may act as an issuing officer under this section: 5

“(a) the mayor or any elected member of the local authority that employs or engages the dog ranger or dog control officer; or

“(b) any employee of the local authority that employs or engages the dog ranger or dog control officer. 10

“(6B) The provisions of **subparts 1, 2, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply in respect of an authority applied for or issued under **subsection (6).**”

Amendments to Driftnet Prohibition Act 1991 15

216 Amendments to Driftnet Prohibition Act 1991

Sections 217 to 220 amend the Driftnet Prohibition Act 1991.

217 Powers of search

Section 13 is amended by inserting the following subsection after subsection (3): 20

“(3A) The provisions of **subparts 3 to 6 of Part 4** (other than **sections 108(d), 110(2)(d), 114, and 115**) and **section 172** of the Search and Surveillance Act **2009** apply.

“(3A) The provisions of **subparts 1, 3, 4, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply.” 25

218 New section 16 substituted

Section 16 is repealed and the following section substituted:

“16 Custody of property seized

All property seized under section 15 must be dealt with under **subpart 5 of Part 4** of the Search and Surveillance Act **2009.**”²² 30

218 Powers of seizure

Section 15 is amended by adding the following subsection as subsection (2):

- “(2) Subject to section 18, **subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply in respect of any property seized under this section.” 5

219 Sections 17 to 22 repealed

Sections 17 to 22 are repealed.

219 Sections 16, 17, and 19 to 22 repealed

Sections 16, 17, and 19 to 22 are repealed. 10

220 Section 24 repealed

Section 24 is repealed.

*Amendments to Employment Relations Act 2000***221 Amendments to Employment Relations Act 2000**

- (1) This section amends the Employment Relations Act 2000. 15

- (2) Section 231 is amended by omitting “on oath,” and substituting “in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**.”

- (3) Section 231 is amended by adding the following subsection as subsection (2): 20

- “(2) When making an application under **subsection (1)**, references in **subpart 2 of Part 4** of the Search and Surveillance Act **2009** to an issuing officer are to be treated as references to a Judge.” 25

*Amendments to Electricity Industry Act 2010***221 Amendments to Electricity Industry Act 2010**

- (1) This section amends the Electricity Industry Act 2010.

- (2) Section 47(2) is amended by omitting “A District Court Judge, Justice, or Community Magistrate, or a Court Registrar (not being a constable)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and 30

Surveillance Act 2009), on an application made in the manner provided in **subpart 2 of Part 4** of that Act.”.

(3) Section 47 is amended by repealing subsection (3) and substituting the following subsection:

“(3) The provisions of **Part 4** of the Search and Surveillance Act 2009 (except for **sections 114 and 115**) apply, with any necessary modifications.” 5

Amendments to Extradition Act 1999

222 Amendments to Extradition Act 1999

(1) This section amends the Extradition Act 1999. 10

(2) Section 82 is amended by repealing subsection (3) and substituting the following subsection:

“(3) Nothing in this section limits or affects any power under **section 11** of the Search and Surveillance Act 2009.”

(3) Section 83(2) is amended by omitting “A District Court Judge who, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 15
20

(4) Section 83 is amended by adding the following subsection:

“(4) The provisions of **Part 4** of the Search and Surveillance Act 2009 (except **subpart 5**) apply.”

(5) Sections 84 to 88 are repealed.

*Amendments to Films, Videos, and Publications
Classification Act 1993* 25

**223 Amendments to Films, Videos, and Publications
Classification Act 1993**

Sections 224 to 225A amend **Part 7** of the Films, Videos, and Publications Classification Act 1993. 30

**224 Amendments to sections 109 to 109B of Films, Videos, and
Publications Classification Act 1993**

(1) Section 109 is amended by omitting “A District Court Judge, Justice, or Community Magistrate, or a Registrar (not being a

member of the police) may, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application in the manner provided in **subpart 2 of Part 4** of that Act”.

5

- (2) Section 109A(1) is amended by omitting “may, on an application in writing made on oath” and substituting “may, on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”.

- (2) Section 109A(1) is amended by omitting “A District Court Judge may, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”.

10

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- (3) Section 109B is amended by omitting “A Justice, Community Magistrate, or Registrar (not being a member of the police) may, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”.

20

225 New section 110 substituted

Sections 110 to 114 are repealed and the following section is substituted:

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“110 Application of Part 4 of Search and Surveillance Act 2009

- “(1) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply in respect of any search warrant issued under section 109, 109A, or 109B.

- “(2) This section is subject to sections 115 to 117.”

30

225A Section 118 repealed

Section 118 is repealed.

*Amendments to Financial Markets Authority
Act 2011*

225AA Amendments to Financial Markets Authority Act 2011

- (1) This section amends the Financial Markets Authority Act 2011. 5
- (2) Section 22(6) is amended by omitting “clauses 39 and 40 of Schedule 2 (which provide for immunities in respect of entry or search powers)” and substituting “**sections 158 to 161** of the Search and Surveillance Act **2009** (which provide for immunities in relation to orders and warrants, and entry, search, and surveillance powers)”. 10
- (3) Section 29(3) is amended by—
- (a) omitting “A Judge of the High Court or a District Court Judge may issue a search warrant in relation to a place, vehicle, or other thing, on application” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search warrant in relation to a place, vehicle, or thing, on an application made in the manner provided by **subpart 2 of Part 4** of that Act”; and 15
- (b) omitting “the Judge” and substituting “the issuing officer”. 20
- (4) Section 29(3)(b) is amended by omitting “specified in the application”.
- (5) Section 29(4) is amended by omitting “and Schedule 2”. 25
- (6) The definitions of **evidential material**, **thing** and **vehicle** in section 29(4) are repealed.
- (7) Section 29 is amended by repealing subsection (5) and substituting the following subsection:
- “(5) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply, with any necessary modifications.” 30
- (8) Schedule 2 is repealed.

*Amendments to Financial Transactions
Reporting Act 1996*

226 Amendments to Financial Transactions Reporting Act 1996

- (1) This section amends the Financial Transactions Reporting Act 1996. 5
- (2) Section 38 is amended by repealing subsections (2) to (5) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.” 10
- (3) Section 44 is amended by omitting “Any District Court Judge, Justice, or Community Magistrate, or any Registrar (not being a member of the Police), who, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 15
- (4) Section 44 is amended by adding the following subsection as subsection (2):
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.” 20
- (5) Sections 45 to 51 are repealed.

Amendments to Fisheries Act 1996

227 Amendments to Fisheries Act 1996

Sections 228 to 230 230A amend the Fisheries Act 1996. 25

228 New sections 199 and 199A substituted

Section 199 is repealed and the following sections are substituted:

“199 Powers of entry and examination for regulatory purposes

- “(1) In the course of the enforcement and administration of this Act, a fishery officer may, at any reasonable time,— 30
- “(a) examine any vessel, vehicle, premises, or other place (by stopping or opening the thing or place, as the case requires, where necessary) and—

- “(i) examine any fish, aquatic life, or seaweed in that thing or at that place; or
- “(ii) examine any accounts, records, returns, or other documents in that thing or at that place that may be relevant to monitoring for compliance with this Act or any regulations made under this Act; or 5
- “(iii) examine any record, authority, approval, permission, licence, or authority in that thing or at that place that may be relevant to monitoring for compliance with this Act or any regulations made under this Act; or 10
- “(iv) examine any article, gear, container, apparatus, device, or thing relating to the taking, sale, purchase, farming, or possession of any fish, aquatic life, or seaweed that is in that thing or at that place: 15
- “(b) for the purposes of exercising any power conferred by **paragraph (a)**, enter or pass across any land:
- “(c) stop any person and examine any thing referred to in **paragraph (a)(i) to (iv)** that is in the possession of that person: 20
- “(d) for the purposes of any examination under **paragraph (a) or (c)**,—
- “(i) open or direct any person to open any thing that may be examined; and 25
- “(ii) take any sample of a thing that may be examined, for forensic or other scientific testing.
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (other than **subpart 2 and section 115**) apply. 30
- “(3) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing for any period that is reasonably necessary to enable the fishery officer to carry out an examination under this section. 35

“199A Powers of entry and search for law enforcement purposes

- “(1) **Subsection (2)** applies to a fishery officer if he or she believes, on reasonable grounds, that—
- “(a) an offence is being or has been committed against this Act; and 5
 - “(b) there may be concealed or located or held in any vessel, vehicle, conveyance of any kind, premises, place, parcel, package, record, or thing—
 - “(i) any fish, aquatic life, or seaweed taken or thing used or intended to be used in contravention of this Act; or 10
 - “(ii) any article, record, document, or thing that there is reasonable ground to believe will be evidence as to the commission of an offence against this Act. 15
- “(2) If this subsection applies to a fishery officer, then, for the purpose of enforcing this Act, that officer may—
- “(a) enter, examine, and search any such premises or place, or any such vessel, vehicle, or conveyance of any kind (by stopping or opening the thing or place, as the case requires, where necessary); and 20
 - “(b) examine and search (by opening the thing where necessary) any such parcel, package, record, or thing; and
 - “(c) for the purposes of exercising any power conferred by **paragraph (a)**, enter or pass across any land. 25
- “(3) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing for such period as is reasonably necessary to enable the fishery officer to carry out an examination or a search under this section. 30
- “(4) The provisions of **Part 4** of the Search and Surveillance Act **2009** (other than **subpart 2**) apply.” 35

228 New sections 199 and 199A substituted 35

Section 199 is repealed and the following sections are substituted:

“199 Powers of entry and examination for regulatory purposes

“(1) In the course of the enforcement and administration of this Act, a fishery officer may, at any reasonable time,—

“(a) examine any vessel, vehicle, premises, or other place (by stopping or opening the thing or place, as the case requires, where necessary) and— 5

“(i) examine any fish, aquatic life, or seaweed in that thing or at that place; or

“(ii) examine any accounts, records, returns, or other documents in that thing or at that place that may be relevant to monitoring compliance with this Act or any regulations made under this Act; or 10

“(iii) examine any record, authority, approval, permission, licence, or authority in that thing or at that place that may be relevant to monitoring compliance with this Act or any regulations made under this Act; or 15

“(iv) examine any article, gear, container, apparatus, device, or thing relating to the taking, sale, purchase, farming, or possession of any fish, aquatic life, or seaweed that is in that thing or at that place: 20

“(b) enter, pass across, or remain upon any land for the purpose of observing any public place, including by the use of a visual surveillance device: 25

“(c) stop any person and examine any thing referred to in **paragraph (a)(i) to (iv)** that is in the possession of that person:

“(d) for the purposes of any examination under **paragraph (a) or (c)**,— 30

“(i) open, or direct any person to open, any thing that may be examined; and

“(ii) take any sample of a thing that may be examined, for forensic or other scientific testing:

“(e) for the purposes of exercising any power conferred by **paragraph (a)**, enter or pass across any land. 35

“(2) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing

for any period that is reasonably necessary to enable the fishery officer to carry out an examination under this section.

- “(3) In this section and in **section 199A**, **visual surveillance device** means any electronic, mechanical, electromagnetic, optical, or electro-optical instrument, apparatus, equipment, or other device that is used or is capable of being used to observe, or to observe and record, any object or activity. 5

“199A Powers of entry and search for law enforcement purposes

- “(1) **Subsection (2)** applies to a fishery officer if he or she believes, on reasonable grounds, that— 10
- “(a) an offence is being or has been committed against this Act; and
- “(b) there may be concealed or located or held in any vessel, vehicle, conveyance of any kind, premises, place, parcel, package, record, or thing— 15
- “(i) any fish, aquatic life, or seaweed taken or thing used or intended to be used in contravention of this Act; or
- “(ii) any article, record, document, or thing that will be evidence as to the commission of an offence against this Act. 20
- “(2) If this subsection applies to a fishery officer, then, for the purpose of enforcing this Act, that officer may—
- “(a) enter, examine, and search any such premises or place, or any such vessel, vehicle, or conveyance of any kind (by stopping or opening the thing or place, as the case requires, where necessary); and 25
- “(b) enter, pass across, or remain upon any land for the purpose of observing any public place, including by the use of a visual surveillance device; and 30
- “(c) examine and search (by opening the thing where necessary) any such parcel, package, record, or thing; and
- “(d) for the purposes of exercising any power conferred by **paragraph (a)**, enter or pass across any land. 35
- “(3) A fishery officer may detain any vessel, vehicle, conveyance of any kind, parcel, package, record, document, article, gear, apparatus, device, container, fish, aquatic life, seaweed, or thing

for such period as is reasonably necessary to enable the fishery officer to carry out an examination or a search under this section.”

228A New section 199B inserted

The following section is inserted after **section 199A**:

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“199B Application of Part 4 of Search and Surveillance Act 2009

“(1) The provisions of Part 4 of the Search and Surveillance Act 2009 (other than subparts 1A and 2, section 115, and subpart 7) apply in respect of the powers conferred by section 199(1).

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“(2) The provisions of Part 4 of the Search and Surveillance Act 2009 (other than subparts 2 and 7) apply in respect of the powers conferred by section 199A.”

229 Amendments to sections 200 to 207 of Fisheries Act 1996

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(1) Section 200(1) is amended by omitting “a Justice, Community Magistrate, District Court Judge, or Registrar of a District Court” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009)”.

(2) Section 200 is amended by repealing subsection (2) and substituting the following subsection:

20

“(2) An application for authorisation must be made by a fishery officer in the manner provided for an application for a search warrant under subpart 2 of Part 4 of the Search and Surveillance Act 2009.”

25

(3) Section 200(3) is amended by omitting “A Justice, Community Magistrate, District Court Judge, or Registrar of a District Court” and substituting “An issuing officer”.

~~(4) Section 200 is amended by repealing subsection (4).~~

(4) Section 200 is amended by repealing subsection (4) and substituting the following subsection:

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“(4) The provisions of subparts 1, 2, 6, 8, and 9 of Part 4 of the Search and Surveillance Act 2009 apply.”

(5) Section 205 is amended by omitting “as may be reasonably necessary” and substituting “as is necessary”.

35

(6) Section 206(2) is amended by—

- (a) omitting “section 198A of the Summary Proceedings Act 1957” and substituting “**section 131** of the Search and Surveillance Act **2009**”; and
- (b) omitting “section 198A of that Act” and substituting “**section 131** of that Act”. 5
- (7) Section 207 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) Subject to section 212, any property seized under subsection (1) must be dealt with in accordance with **subpart 5 of Part 4** of the Search and Surveillance Act **2009**.” 10
- “(8) Section 207(3) is amended by—
- “(a) omitting ‘section 198A of the Summary Proceedings Act 1957’ and substituting ‘**section 131** of the Search and Surveillance Act **2009**’; and
- “(b) omitting ‘section 198A of that Act’ and substituting ‘**section 131** of that Act’.” 15
- “(9) Section 207(4) is repealed.”
- (7) Section 207 is amended by repealing subsections (2) to (4) and substituting the following subsection:
- “(2) **Subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply.” 20
- 230 Amendments to sections 208 to 220 of Fisheries Act 1996**
- (1) Sections 208 to 211 are repealed.
- (2) Section 212 is amended by inserting “and the thing is liable to be forfeited under this Act if the owner is convicted,” after “otherwise perish,”. 25
- (3) Section 213(1) is amended by inserting “or **199A**” after “199”.
- (4) Section 217 is amended by adding the following subsection as subsection (2):
- “(2) **Subsection (1)** is subject to the provisions of **subpart 3 of Part 4** of the Search and Surveillance Act **2009** (where applied by this Act).” 30
- (5) Section 218 is amended by adding the following subsection as subsection (2):

“(2) **Subsection (1)** is subject to the provisions of **subpart 3 of Part 4** of the Search and Surveillance Act **2009** (where applied by this Act).”

(6) Section 220 is amended by adding the following subsection:

“(5) This section is subject to **sections 157 to 161** of the Search and Surveillance Act **2009** (where applied by this Act).”

230A Schedule 7 repealed

Schedule 7 is repealed.

Amendments to Food Act 1981

231 Amendments to Food Act 1981

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(1) This section amends the Food Act 1981.

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

“(2A) Subject to sections 14 and 16, the provisions of **Part 4** of the Search and Surveillance Act **2009** (~~other than sections **108(d), 110(2), 114, 115, 120(2), 126(5)(e), and 127, and subparts 5 and 7**~~) (except subparts **1A and 2, sections 114, 115, 120(2), 126(5)(e), and 127, and subparts 5 and 7**) apply in respect of any seizure and detention under subsection (2)(i) or (j).”

15

20

(3) Section 13 is amended by inserting the following subsection after subsection (1):

“(1A) Subject to sections 14 and 16, the provisions of **Part 4** of the Search and Surveillance Act **2009** (~~other than sections **108(d), 110(2), 114, 115, 120(2), 126(5)(e), and 127, and subparts 5 and 7**~~) (except subparts **1A and 2, sections 114, 115, 120(2), 126(5)(e), and 127, and subparts 5 and 7**) apply in respect of any seizure and detention under subsection (1)(d).”

25

(4) Section 14(4)(a) is amended by omitting “employed by the Ministry”.

30

(5) Section 15A is amended by omitting “section 198 of the Summary Proceedings Act 1957” and substituting “**section 6** of the Search and Surveillance Act **2009**”.

- (6) Section 15A is amended by adding the following subsections as subsections (2) and (3):
- “(2) For the purposes of **section 95** of the Search and Surveillance Act **2009**, an officer is a person authorised to apply for a search warrant. 5
- “(3) An officer may exercise the powers of a constable to apply for a search warrant under **section 6** of the Search and Surveillance Act **2009**, in relation to the offences referred to in subsection (1).”
- (6) Section 15A is amended by adding the following subsection as subsection (2): 10
- “(2) An officer who is authorised in writing by the Director-General to apply for search warrants in relation to the offences referred to in subsection (1) may apply for such a warrant under **section 6** of the Search and Surveillance Act **2009** as if that officer were a constable.” 15

Amendments to Gambling Act 2003

232 Amendments to Gambling Act 2003

- (1) This section amends the Gambling Act 2003.
- (2) Section 335 is amended by repealing subsection (3) and substituting the following subsection: 20
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply.”
- (3) Section 335(5) is repealed.
- (4) Section 336 is amended by repealing subsection (3) and substituting the following subsection: 25
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply.”
- (5) Section 336(5) is repealed.
- (6) Section 337 is repealed. 30
- (7) Section 340 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) An application must be made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009** to an issuing officer (within the meaning of **section 3** of that Act).” 35

- (8) Section 340(3) is amended by omitting “The Judge, Justice, Magistrate, or Registrar” and substituting “The issuing officer”.
- (9) Section 340 is amended by inserting the following subsection after subsection (3): 5
- “(3A) ~~The provisions of Part 4 of the Search and Surveillance Act 2009 apply.~~”
- (9) Section 340 is amended by inserting the following subsections after subsection (3):
- “(3A) Subject to subsection (3B), the provisions of Part 4 of the Search and Surveillance Act 2009 apply. 10
- “(3B) Despite subsection (3A), sections 114 and 115 of the Search and Surveillance Act 2009 apply only in respect of a warrant issued to a named constable or every constable.”
- (10) Section 340(4) is amended by omitting “sections 341 and” and substituting “section”. 15
- (11) Sections 341 to 343 and 345 are repealed.
- (12) Section 369(d) is amended by omitting “331, and a search warrant under section 341” and substituting “331”.

Amendments to Hazardous Substances and New Organisms Act 1996 20

233 Amendments to Hazardous Substances and New Organisms Act 1996

- (1) This section amends the Hazardous Substances and New Organisms Act 1996. 25
- (2) Section 119(1) is amended by omitting “District Court Judge or Justice of the Peace or Community Magistrate or any Registrar who is satisfied, on application in writing made on oath” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009) who is satisfied, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 30
- (2) Section 119(1) is amended by—
- (a) omitting “District Court Judge or Justice of the Peace or Community Magistrate or any Registrar who is satisfied, on application in writing made on oath” and substi- 35

- tuting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”; and
- (b) omitting “in the prescribed form”. 5
- (3) Section 119 is amended by repealing subsections (3) to (8) and substituting the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”
- (3) Section 119 is amended by repealing subsections (3) to (8) and substituting the following subsections: 10
- “(3) Subject to **subsection (4)**, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(4) Despite **subsection (3)**, **sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.” 15
- (4) Section 120 is repealed.

*Amendments to Health and Safety in
Employment Act 1992*

- 234 Amendments to Health and Safety in Employment Act 1992** 20
- (1) This section amends the Health and Safety in Employment Act 1992.
- (2) Section 31(3) is amended by omitting “A District Court Judge who, on application made on oath,” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act,”. 25

*Amendments to Health Practitioners
Competence Assurance Act 2003*

- 235 Amendments to Health Practitioners Competence Assurance Act 2003** 30
- (1) This section amends the Health Practitioners Competence Assurance Act 2003. 35

- (2) Section 10(1) is amended by omitting “section 198 of the Summary Proceedings Act 1957” and substituting “**section 6** of the Search and Surveillance Act **2009**”.
- (2A) Section 10 is amended by inserting the following subsection after subsection (1): 5
- “(1A) A person who is authorised in writing by the Director-General of Health to apply for search warrants in relation to the offences referred to in subsection (1) may apply for such a warrant under **section 6** of the Search and Surveillance Act **2009** as if that person were a constable.” 10
- (3) Section 10 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”
- (4) Section 10(3) is amended by— 15
- (a) omitting “section 199 of the Summary Proceedings Act 1957” and substituting “**subpart 5 of Part 4** of the Search and Surveillance Act **2009**”; and
- (b) omitting from paragraph (a) “section 199 of that Act” and substituting “**subpart 5 of Part 4** of that Act”. 20

*Amendments to Human Assisted Reproductive
Technology Act 2004*

**236 Amendments to Human Assisted Reproductive
Technology Act 2004**

- (1) This section amends the Human Assisted Reproductive Technology Act 2004. 25
- (1A) Section 68(1) is amended by repealing paragraphs (c), and (f) to (h).
- (2) Section 68 is amended by repealing subsections (2) to (4) and substituting the following subsection: 30
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, and 115**) (except **subpart 2 and sections 114 and 115**) apply.”
- (3) Section 69(2) is amended by omitting “A District Court Judge, a Justice, or a Court Registrar who is not a member of the police, may, on a written application made on oath by an authorised person, issue a search warrant in the form set out in Sched- 35

ule 2” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application made in the manner provided in **subpart 2 of Part 4** of that Act, issue a search warrant”.

- (4) Section 69 is amended by repealing subsections (3) to (5) and substituting the following subsection: 5
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”
- (4) Section 69 is amended by repealing subsections (4) and (5) and substituting the following subsection: 10
- “(4) Subject to section 72, the provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”
- (5) Sections 70 to 72 and Schedule 2 are repealed.
- (5) Sections 70 and 71, and Schedule 2 are repealed. 15
- (6) Section 72 is amended by—
- (a) omitting “Section 199 of the Summary Proceedings Act 1957” and substituting “**Subpart 5 of Part 4** of the Search and Surveillance Act **2009**”; and
- (b) repealing paragraphs (a) to (c). 20

Amendments to Human Tissue Act 2008

237 Amendments to Human Tissue Act 2008

- (1) This section amends the Human Tissue Act 2008.
- (1A) Section 68(1) is amended by repealing paragraphs (c), and (f) to (h). 25
- (2) Section 68 is amended by repealing subsections (2) and (3) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, and 115**) (except **subpart 2 and sections 114 and 115**) apply with any necessary modifications.” 30
- (3) Section 69(2) is amended by omitting “A District Court Judge, a Community Magistrate, a Justice, or a Registrar who is not a member of the police may, on a written application made on oath by an authorised person, issue a search warrant in the prescribed form” and substituting “An issuing officer (within 35

the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on an application made by an authorised person in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act, issue a search warrant”.

(4) Section 69 is amended by omitting subsections (3) to (5) and substituting the following subsection: 5

“(3) Subject to **subsection (6)**, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply with any necessary modifications.”

(4) Section 69 is amended by repealing subsection (3). 10

(4A) Section 69 is amended by repealing subsection (5) and substituting the following subsection:

“(5) Subject to subsection (6) and section 72, the provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.” 15

(5) Sections 70 to 72 and 79 are repealed:

(5) Sections 70 and 71 are repealed.

(6) Section 72 is amended by—

(a) omitting “Section 199 of the Summary Proceedings Act 1957” and substituting “**Subpart 5 of Part 4** of the Search and Surveillance Act **2009**”; and 20

(b) repealing paragraphs (a) to (c).

(7) Section 79 is repealed.

Amendment to Immigration Act 2009

237A Amendment to Immigration Act 2009 25

(1) This section amends the Immigration Act 2009.

(2) The following section is inserted after section 293:

“**293A Immigration officer may apply for search warrant**

An immigration officer may, in carrying out the immigration officer’s functions under this Act, apply for a search warrant under section 198 of the Summary Proceedings Act 1957.” 30

*Amendments to Immigration Advisers Licensing
Act 2007*

- 238 Amendments to Immigration Advisers Licensing Act 2007**
Sections 239 and 240 to 240B amend the Immigration Ad-
visers Licensing Act 2007. 5
- 239 New sections 56 and 57 substituted**
Sections 56 and 57 are repealed and the following sections
substituted:
- “56 Purposes of inspection**
The powers in **section 57** may be used for 1 or more of the 10
following purposes:
- “(a) administering the licensing regime:
 - “(b) obtaining information in relation to complaints in re-
spect of persons who are or have formerly been licensed
to provide immigration advice: 15
 - “(c) obtaining information in respect of persons who have
applied to be licensed:
 - “(d) investigating offences under this Act.
- “57 Interpretation Inspection powers**
- “(1)** Any person authorised by the Registrar may, for a purpose set 20
out in **section 56**,—
- “(a) at any reasonable time, enter any premises where the
person has good cause to suspect that—
 - “(i) any licensed immigration adviser or former li-
censed immigration adviser works or has worked 25
in the past 2 years; or
 - “(ii) any person who has applied to be licensed as an
immigration adviser works; or
 - “(iii) a person provides immigration advice or con-
tracts or employs a person to provide immigra- 30
tion advice:
 - “(b) question any licensed immigration adviser, former
licensed immigration adviser, or other person at any
premises of a kind described in **paragraph (a)**:
 - “(c) require a person of a kind described in **paragraph (a)** to 35
produce for inspection relevant documents in that per-
son’s possession or under that person’s control:

- “(d) inspect and take copies of documents referred to in **paragraph (c)**:
 “(e) retain documents referred to in **paragraph (c)**, if there are grounds for believing that they are evidence of the commission of an offence. 5
- “(2) If a requirement is made of a person under **subsection (1)(c)**, the person must immediately comply with that requirement.
- “(3) ~~If documents are retained under **subsection (1)(e)**, **subpart 5 of Part 4** of the Search and Surveillance Act 2009 applies.~~
- “(3) The provisions of **subparts 1, 4, 5, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act 2009 apply.” 10

240 Other amendments to Immigration Advisers Licensing Act 2007 Amendments to sections 58 to 61 of Immigration Advisers Licensing Act 2007

- (1) Section 58 is repealed. 15
- (2) Section 59 is amended by omitting “or 58”.
- (3) Section 60 is amended by omitting “or 58”.
- (4) Section 61(1) is amended by omitting “A Judge who, on written application made on oath,” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009) who, on an application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act,”. 20
- (5) Section 61 is amended by repealing subsection (2) and substituting the following subsection: 25
- “(2) The provisions of **subpart 2 subparts 1, 2, and 8 of Part 4** of the Search and Surveillance Act 2009 apply in respect of an entry warrant.”
- (6) Section 62(3)(c) is amended by omitting “or 58”.
- (7) Section 69(1) is amended by omitting “or 58” in each place where it appears. 30

240A New section 61A inserted

The following section is inserted after section 61:

61A Search warrant

(1) For the purposes of **section 95** of the Search and Surveillance Act **2009**, the Registrar is a person authorised to apply for a search warrant.

(2) The Registrar may exercise the powers of a constable to apply for a search warrant under **section 6** of the Search and Surveillance Act **2009** in relation to an offence under this Act.” 5

240B Other amendments to Immigration Advisers Licensing Act 2007

- (1) Section 62(3)(c) is amended by omitting “or 58”.
- (2) Section 69(1) is amended by omitting “or 58” in each place where it appears. 10

*Amendments to Insurance (Prudential Supervision) Act 2010***240C Amendments to Insurance (Prudential Supervision) Act 2010**

(1) This section amends the Insurance (Prudential Supervision) Act 2010. 15

(2) Section 132(2) is amended by omitting “A Judge of the High Court or a District Court Judge who is satisfied, on the application of the investigator,” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made by an investigator in the manner provided in **subpart 2 of Part 4** of that Act, is satisfied” 20

(3) Section 132 is amended by repealing subsection (3) and substituting the following subsection: 25

“(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **sections 114 and 115**) apply.” 30

(4) Section 230 is amended by repealing subsection (3) and substituting the following subsection:

“(3) This section and section 231 are subject to **subpart 6 of Part 4** of the Search and Surveillance Act **2009**.”

(5) Schedule 2 is repealed. 35

*Amendments to International Crimes and
International Criminal Court Act 2000*

241 Amendments to International Crimes and International Criminal Court Act 2000

- (1) This section amends the International Crimes and International Criminal Court Act 2000. 5
- (2) Section 77(3) is amended by omitting “section 37 of the Policing Act 2008” and substituting “**section 11** of the Search and Surveillance Act **2009**”.
- (3) Section 102(1) is amended by omitting “a District Court Judge, on an application in writing made on oath or affirmation” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**), on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 10 15
- (4) Section 102 is amended by repealing subsections (2) to (4) and substituting the following subsection:
- “(2) The provisions of **subparts 1 to 4 and 6 to 9 6, 8, and 9 of Part 4** and **sections 154 and 155** of the Search and Surveillance Act **2009** apply.” 20
- (5) Sections 103 to 106 are repealed.
- (6) The heading to section 107 is amended by omitting “**Notice of execution**” and substituting “**Report to Attorney-General on execution**”.
- (7) Section 107 is amended by repealing subsection (1). 25
- (8) Section 107(2) is amended by—
- (a) omitting “the warrant is executed” and substituting “a warrant issued under section 102 is executed”; and
- (b) omitting “subsection (1)” and substituting “**section 127** of the Search and Surveillance Act **2009**”. 30
- (9) Section 107(3) is amended by omitting “the warrant” and substituting “a warrant issued under section 102”.
- (10) Section 108(4) is amended by omitting “The” and substituting “Subject to **section 148** of the Search and Surveillance Act **2009** (which applies with any necessary modifications), the”. 35
- (11) Section 108(5) is amended by inserting “, but subject to **section 147** of the Search and Surveillance Act **2009** (which

applies with any necessary modifications)” after “subsection (4)”.

*Amendments to International War Crimes
Tribunals Act 1995*

- 242 Amendments to International War Crimes Tribunals Act 1995** 5
- (1) This section amends the International War Crimes Tribunals Act 1995.
- (2) Section 11 is amended by omitting “a Judge” and substituting “an issuing officer”. 10
- (3) Section 29 is amended by omitting “a Judge” and substituting “an issuing officer”.
- (4) Section 48(1) is amended by omitting “Any Judge who, on an application in writing made on oath” and substituting “Any issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 15
- (5) Section 48(2) is amended by omitting “Any Judge who, on application in writing made on oath under section 29 of this Act by a member of the Police authorised under that section” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act by a constable authorised under section 29”. 20
- (6) Section 48 is amended by repealing subsection (3) and substituting the following subsection: 25
- “(3) The provisions of **subparts 1 to 4 and 6 to 9 of Part 4** and **sections 154 and 155** of the Search and Surveillance Act **2009** apply.”
- (7) Sections 49 to 50A and 51 and 52 are repealed. 30
- (8) Section 53 is amended by omitting “the matters set out in paragraphs (a) to (c) of section 52 of this Act” and substituting “the date and time of execution of the warrant, the identity of the person who executed the warrant, and the thing or things seized under the warrant”. 35
- (9) Section 55(5) is amended by omitting “The” and substituting “Subject to **sections 147 and 148** of the Search and Surveil-

lance Act **2009** (which apply with any necessary modifications), the”.

- (10) Section 55(6) is amended by omitting “If” and substituting “Subject to **sections 147 and 148** of the Search and Surveillance Act **2009** (which apply with any necessary modifications), if”.

Amendments to Land Transport Act 1998

243 Amendments to Land Transport Act 1998

- (1) This section amends the Land Transport Act 1998.
- (1A) Section 119 is amended by inserting the following subsection after subsection (2):
- “(2A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of the power in subsection (2).”
- (2) Section 119 is amended by repealing subsection (3) and substituting the following subsection:
- “(3) An enforcement officer may, without warrant, enter, by force if necessary, a building or place where a vehicle to which section 96, 96A, or 123 applies is being stored or kept, and seize and impound the vehicle,—
- “(a) if—
- “(i) an enforcement officer has been freshly pursuing the vehicle; or
- “(ii) it is likely that a person was about to remove, conceal, destroy, or dispose of the vehicle; or
- “(iii) an enforcement officer believes on reasonable grounds that the vehicle was about to be used in the commission of a crime; and
- “(b) if, because of the time of the day or the locality, it was impracticable to obtain a warrant without creating an opportunity for the person to do anything referred to in **paragraph (a)(ii) or (iii)**.”
- (3) Section 119(5) is amended by omitting “apply on oath to a District Court Judge” and substituting “apply, in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**, to an issuing officer (within the meaning of **section 3** of that Act).”.

- (4) Section 119 is amended by repealing subsection (6) and substituting the following subsection:
- “(6) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply in respect of the powers in subsections **(3)** and **(5)** (except for **subpart 2** of that **Part** in relation to **subsection (3)**).”

Amendments to Local Government Act 2002

- 244 Amendments to Local Government Act 2002** 10
Sections 245 and 246 amend the Local Government Act 2002.
- 245 Seizure of property from private land**
- (1) Section 165(1) is amended by omitting “A judicial officer” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”.
- (2) Section 165(2)(a) is amended by omitting “in writing and on oath” and substituting “in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”.
- (3) Section 165(2)(b) is amended by omitting “judicial officer” and substituting “issuing officer”. 20
- (4) Section 165 is amended by repealing subsections (3) and (4) and substituting the following subsections:
- “(3) None of the following persons may act as an issuing officer under this section:
- “(a) the mayor or any elected member of the local authority: 25
“(b) any employee of the local authority.
- “(4) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply as if a warrant issued under subsection (1) were a search warrant.”
- 246 Other amendments to Local Government Act 2002** 30
- (1) Section 166 is amended by repealing subsections (1) and (2) and substituting the following subsections:
- “(1) An enforcement officer executing a warrant issued under section 165(1) must be accompanied by a constable.

- “(2) **Subsection (1)** overrides **section 165(4)**.”
- (2) Section 167(1) is amended by omitting “or section 165”.
- (3) Section 168(1) is amended by inserting “seized and impounded under section 164” after “dispose of property”.
- (4) Section 171(2) and (3) are repealed. 5
- (5) Section 172(3)(a) is amended by omitting “a District Court Judge on written application on oath” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) on application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act”. 10
- (6) Section 172 is amended by repealing subsection (4) and substituting the following subsections:
- “(4) ~~The provisions of **Part 4** of the Search and Surveillance Act **2009** apply in respect of any power of entry under this section, subject to subsection (3)(b).~~ 15
- “(4) Subject to subsections (3)(b) and (5), the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(5) Despite **subsection (4)**, **sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.” 20
- (7) Section 173 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subparts 1A and 2** and **sections 114 and 115**) apply.” 25

*Amendments to Major Events Management Act
2007*

- 247 Amendments to Major Events Management Act 2007** 30
- (1) This section amends the Major Events Management Act 2007.
- (2) Section 67(1) is amended by omitting “High Court Judge, District Court Judge, Community Magistrate, Justice of the Peace, or Registrar of a District Court may issue a search warrant for any place, vehicle, or thing if satisfied, on application in writing made on oath” and substituting “issuing officer (within 35
the meaning of **section 3** of the Search and Surveillance Act

2009) may issue a search warrant for any place, vehicle, or thing if satisfied, on application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”.

- (3) Section 67 is amended by inserting the following subsection 5
after subsection (1):
- “(1A) Despite subsection (1), in addition to satisfying any applicable requirement in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**,—
- “(a) an application under subsection (1) must include details 10
of any thing that is to be searched for and covered; and
- “(b) a search warrant issued under subsection (1) must state whether it authorises any thing to be covered and, if so, contain, in reasonable detail, a description of the thing to be covered; and 15
- “(c) a person who executes a warrant and covers any thing must leave in a prominent position or at the place searched or give to the owner or occupier a written notice stating a list of the particulars of the covered thing, and that it may be uncovered in accordance with sections 77 and 78.” 20
- (4) ~~Section 67 is amended by repealing subsection (2) and substituting the following subsection:~~
- “(2) ~~Subject to section 68, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.~~” 25
- (4) Section 67 is amended by repealing subsection (2) and substituting the following subsections:
- “(2) Subject to section 68 and **subsection (3)**, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(3) Despite **subsection (2)**, **sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.” 30
- (5) Section 68 is amended by repealing subsection (1) and substituting the following subsections:
- “(1) Without limiting the powers conferred by any warrant issued under section 67(1), and subject to any conditions specified by the issuing officer, every warrant issued under that section 35

authorises a person authorised to execute it to search for and cover any thing that the warrant authorises to be covered.

- “(1A) In applying the provisions of **Part 4** of the Search and Surveillance Act **2009**, any requirement in that Part to provide details or other information in relation to a thing that is seized is to be taken to include the same requirement in relation to a thing that is covered.” 5
- (6) Section 68(2) is amended by omitting “in subsection (1)” and substituting “conferred by a warrant”. 5
- (7) Section 68(3) and (4) are repealed. 10
- (8) Sections 69 to 76 are repealed. 10

Amendments to Marine Mammals Protection Act 1978

- 248 Amendments to Marine Mammals Protection Act 1978**
Sections 249 and 250 amend the Marine Mammals Protection Act 1978. 15

249 Powers of search

- (1) Section 13 is amended by repealing subsection (2). 20
- (2) Section 13 is amended by inserting the following subsection after subsection (5): 20
- “(5A) The provisions of the Search and Surveillance Act **2009** apply.” 20

249 Powers of search

- (1) Section 13 is amended by repealing subsection (2) and substituting the following subsection: 25
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **subpart 2**) apply in respect of the powers in subsection (1).” 25
- (2) Section 13 is amended by inserting the following subsection after subsection (5): 30
- “(5A) The provisions of **subparts 1, 4, 5, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act **2009** apply in respect of the powers in subsection (5).” 30

250 New section 14 substituted

Section 14 is repealed and the following section substituted:

“14 Officer may obtain warrant

- “(1) An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on application by an officer made in the manner provided in **subpart 2 of Part 4** of that Act, issue a search warrant, to an officer named in the warrant, authorising the entry and search of any dwellinghouse, place, vehicle, aircraft, or hovercraft if the issuing officer is satisfied that there are reasonable grounds to suspect that—
- “**(a)** any breach of this Act or any regulation made under it has been, is being, or will be committed; or
- “**(b)** preparation has been made to commit a breach of this kind.
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”

*Amendments to Marine Reserves Act 1971***251 Amendments to Marine Reserves Act 1971**

- (1) This section amends the Marine Reserves Act 1971.
- (2) Section 18 is amended by adding the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of any entry and search conducted under subsection (1)(d).”
- (3) Section 18A is amended by repealing subsection (3) and substituting the following subsection:
- “(3) ~~The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.~~
- “(3) Subject to subsection (2), the provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply.”
- (4) Sections 18B to 18F are repealed.

*Amendments to Maritime Security Act 2004***252 Amendments to Maritime Security Act 2004**

- (1) This section amends the Maritime Security Act 2004.
- (2) Section 51(4) is amended by omitting “A judicial officer who, on written application made on oath” and substituting “An is-

- suings officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”.
- (3) Section 51 is amended by inserting the following subsection after subsection (6): 5
- “(6A) Subject to subsections (5) and (6), the provisions of **Part 4** of the Search and Surveillance Act **2009** apply in respect of a warrant issued under subsection (4).”
- (3) Section 51 is amended by inserting the following subsections after subsection (6): 10
- “(6A) Subject to subsections (5), (6), and **(6B)**, the provisions of **Part 4** of the Search and Surveillance Act **2009** apply in respect of a warrant issued under subsection (4).
- “(6B) Despite **subsection (6A), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.” 15
- (4) Section 51 is amended by repealing subsection (12).
- (5) Section 55(1) is amended by omitting paragraph (b) and substituting the following paragraph: 20
- “(b) the constable has reasonable grounds to suspect that— 20
- “(i) an offence against this Act has been, is being, or will be committed, whether by that person or any other person; and
- “(ii) a search of the person refusing to consent will disclose evidential material relating to that offence.” 25

Amendments to Maritime Transport Act 1994

- 253 Amendments to Maritime Transport Act 1994**
Sections 254 and 255 amend the Maritime Transport Act 1994. 30
- 254 Amendments to Part 30 of Maritime Transport Act 1994**
- (1) Section 453(2) is amended by—
- (a) repealing paragraphs (a) and (b); and
- (b) omitting “paragraphs (a) to (c)” and substituting “paragraph (c)”. 35

- (2) Section 453(5) is amended by omitting “or subsection (2)”.
- (3) ~~Sections 456 and 457(1) are repealed.~~
- (3) Section 456 is repealed.
- (4) Section 457(1) is amended by omitting “or section 455”.
- (5) Section 457(2) is repealed. 5

255 New sections 454 and 455 substituted

Sections 454 and 455 are repealed and the following sections substituted:

“454 Warrant to inspect dwellinghouse, marae, etc

- “(1) An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made by an authorised person in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act, is satisfied that entry is essential to enable the inspection of a place referred to in section 453(3) to be carried out, may issue a warrant to the authorised person that authorises that person to enter the place. 10 15

~~“(2) **Part 4** of the Search and Surveillance Act **2009** applies.~~

- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 1A**) apply. 20

“(2A) Despite **subsection (2)**, **sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.

- “(3) In this section and **section 455**, **authorised person** means a person authorised by the Director. 25

“455 Entry in respect of offences

- “(1) Subject to **subsection (2)**, an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a warrant to enter and search a place if, on an application made by an authorised person in the manner provided in **subpart 2 of Part 4** of that Act, the issuing officer is satisfied that there are reasonable grounds for believing that there is on or in the place (being a place specified in the application) any thing— 30

“(a) in respect of which an offence against this Act has been or may have been committed; or 35

- “(b) that is or may be evidence of the commission of an offence against this Act; or
- “(c) that is intended to be used for the commission of an offence against this Act.
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply. 5
- “(3) Despite **subsection (2), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.”
- Amendments to Meat Board Act 2004* 10
- 256 Amendments to Meat Board Act 2004**
Sections 257 and 258 amend the Meat Board Act 2004.
- 257 Amendments to Part 3 of Meat Board Act 2004**
- (1A) Section 42 is amended by inserting the following subsection after subsection (4): 15
- “(4A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subparts 1A and 2, sections 114 and 115,** and **subpart 7**) apply to entry and inspection under subsection (2).”
- (1) Section 42(5) is amended by— 20
- (a) omitting “A District Court Judge or a Court Registrar (not being a member of the police), who on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application 25
made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act,”; and
- (b) omitting “in form 1 in Schedule 3”.
- (2) Section 42 is amended by repealing subsections (7) and (8) 30
and substituting the following subsections:
- “(7) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply in respect of the exercise of any power under subsection (5).
- “(8) Despite **subsection (7), sections 108(d), 110(2)(d), 114,** 35
114 and 115 of the Search and Surveillance Act **2009** apply

only in respect of a warrant issued to a named constable or to every constable.”

258 Amendments to Part 4 of Meat Board Act 2004

- (1) Section 62(1) is amended by—
- (a) omitting “A District Court Judge or a Court Registrar (not being a member of the Police) who, on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”; and
 - (b) omitting “in form 2 of in Schedule 3”.
- (2) Section 62(2) is amended by—
- (a) omitting “A District Court Judge or a Court Registrar (not being a member of the Police) who, on an application in writing made an oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”; and
 - (b) omitting “in form 3 in Schedule 3”.
- ~~(3) Section 62 is amended by repealing subsection (3) and substituting the following subsections:~~
- ~~“(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.~~
- ~~“(3A) Despite **subsection (3), sections 108(d), 110(2)(d), 114, and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.”~~
- (3) Section 62 is amended by repealing subsections (3) and (4) and substituting the following subsections:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.

“(4) Despite **subsection (3), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a warrant issued to a named constable or to every constable.”

(3A) Sections 63 and 64 are repealed.

(4) Schedule 3 is repealed.

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Amendments to Motor Vehicle Sales Act 2003

259 Amendments to Motor Vehicle Sales Act 2003

(1) This section amends the Motor Vehicle Sales Act 2003.

(2) Section 130(1) is amended by omitting “District Court Judge, Community Magistrate, Justice of the Peace, or Registrar of a District Court may issue a search warrant for any place if satisfied, on application in writing made on oath,” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search warrant for any place if satisfied, on application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**,”.

(3) ~~Section 130 is amended by repealing subsection (2) and substituting the following subsection:~~

~~“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”~~

(3) Section 130 is amended by repealing subsection (2) and substituting the following subsections:

“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.

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“(3) Despite **subsection (2), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.”

(4) Sections 131 to 140 are repealed.

Amendments to National Parks Act 1980

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260 Amendments to National Parks Act 1980

(1) This section amends the National Parks Act 1980.

(2) Section 61(2) is repealed.

(3) Section 61(3) is amended by—

- (a) omitting “If” and substituting “If, in any case to which paragraph (a) or (b) applies,”; and
- (ab) omitting “if in proceedings” and substituting “in proceedings”; and
- (b) omitting “then,” and substituting “then, despite **subpart 5 of Part 4** of the Search and Surveillance Act **2009**,”; and 5
- (c) repealing paragraph (c).
- (4) Section 61(6) is amended by omitting “, and shall be retained by the Director-General and dealt with under subsection (7) or subsection (8) of this section” 10
- (5) Section 61 is amended by repealing subsections (7) and (8) and substituting the following subsection:
- “(7) Subject to subsection (3), the provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply.” 15
- (6) Section 65 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2** and **sections 114 and 115**) apply.”
- (7) Section 66 is amended by repealing subsections (2) and (3) 20 and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply.”

Amendments to Overseas Investment Act 2005

- 261 Amendments to Overseas Investment Act 2005** 25
- (1) This section amends the Overseas Investment Act 2005.
- (2) Section 56(2) is amended by omitting “writing and on oath to the Court” and substituting “the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009** to an issuing officer (within the meaning of **section 3** of that Act)” 30
- (3) Section 56(3) is amended by omitting “Court” and substituting “issuing officer”.
- (4) Section 56(4) is amended by omitting “Court” and substituting “issuing officer”.
- (5) Section 56 is amended by adding the following subsection: 35

- “(5) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”
- (6) Sections 57 to 60 are repealed.

*Amendments to Ozone Layer Protection Act
1996*

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262 Amendments to Ozone Layer Protection Act 1996
Sections 263 to 265 amend the Ozone Layer Protection Act 1996.

263 Search warrants

- (1) Section 23(1) is amended by omitting “District Court Judge or Justice or Community Magistrate or any Registrar (not being a constable) who is satisfied, on application in writing made on oath” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 10 15
- (2) Section 23 is amended by repealing subsections (3) to (8) and substituting the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.” 20

264 New section 25 substituted

Section 25 is repealed and the following section substituted:

“**25 Retention of property seized**

If any constable or officer seizes any substance or goods under this Act, **subpart 5 of Part 4** of the Search and Surveillance Act **2009** applies to **subparts 1, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply in respect of the seizure of that substance or those goods.” 25

265 Return or forfeiture of property seized

- (1) The heading to section 26 is amended by omitting “**Return or forfeiture**” and substituting “**Forfeiture**”. 30
- (2) Section 26(1) and (2) are repealed.

*Amendment to Petroleum Demand Restraint Act
1981*

266 Amendment to Petroleum Demand Restraint Act 1981

- (1) This section amends the Petroleum Demand Restraint Act 1981. 5
- (2) Section 17(4) is amended by omitting “sections 198 and 199 of the Summary Proceedings Act 1957” and substituting “**section 6** and **subpart 5 of Part 4** of the Search and Surveillance Act **2009**”.
- (2) Section 17 is amended by repealing subsection (4) and substituting the following subsection: 10
- “(4) Petroleum demand restraint regulations may provide for the following matters in respect of suspected offences against this Act or against any petroleum demand restraint regulations, regardless of whether any such suspected offences (**relevant offences**) are imprisonable or not: 15
- “(a) authorising persons, designated by the Minister in writing for the purpose (**designated persons**), to search places, vehicles, or other things under a warrant in relation to any relevant offence: 20
- “(b) providing for the application of provisions of the Search and Surveillance Act **2009** to the powers conferred under **paragraph (a)** and, in particular and without limitation,—
- “(i) deeming all designated persons, or any designated persons of a specified class, to be enforcement officers for the purposes of that Act: 25
- “(ii) authorising all designated persons, or any designated persons of a specified class, to apply for a warrant under **section 6** of that Act as if such designated persons were constables.” 30

Amendments to Pork Industry Board Act 1997

267 Amendments to Pork Industry Board Act 1997

- (1) This section amends the Pork Industry Board Act 1997.
- (2) Section 44 is amended by inserting the following subsection after subsection (2): 35

- “(2A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, and 115 subpart 1A, sections 114 and 115, and subpart 7**) apply.”
- (3) Section 45(1) is amended by omitting “A District Court Judge or a Court Registrar (not being a member of the Police)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”.
- (3) Section 45(1) is amended by omitting “A District Court Judge or a court Registrar (not being a constable), who on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**), who on an application made in the manner provided in **subpart 2 of Part 4** of that Act”.
- (4) Section 45(2) is amended by omitting “A District Court Judge or a Court Registrar (not being a member of the Police)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”.
- (4) Section 45(2) is amended by omitting “A District Court Judge or a court Registrar (not being a constable), who on an application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**), who on an application made in the manner provided in **subpart 2 of Part 4** of that Act”.
- (5) Section 45 is amended by repealing subsection (3) and substituting the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, 114 and 115**) apply.”
- (6) Sections 46 and 47 and Schedule 3 are repealed.

Amendments to Prostitution Reform Act 2003 30

268 Amendments to Prostitution Reform Act 2003

- (1) This section amends the Prostitution Reform Act 2003.
- (2) Section 30(1) is amended by omitting “A District Court Judge, Justice, Community Magistrate, or Registrar of a District Court (who is not a member of the police)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”.

- (3) Section 30 is amended by repealing subsections (2) and (3) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply as if a warrant referred to in subsection (1) were a search warrant.” 5
- (4) Sections 31 to 33 are repealed.

Amendments to Radiation Protection Act 1965

269 Amendments to Radiation Protection Act 1965

- (1) This section amends the Radiation Protection Act 1965.
- (2) Section 24(2) is amended by omitting— 10
- (a) “If a Justice of the Peace or Community Magistrate is satisfied on oath” and substituting “If an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) is satisfied on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”; and 15
- (b) omitting “Justice or Community Magistrate” and substituting “issuing officer”.
- (2) Section 24(2) is amended by— 20
- (a) omitting “If a Justice of the Peace or Community Magistrate is satisfied on oath” and substituting “If an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) is satisfied on an application made in the manner provided in **subpart 2 of Part 4** of that Act”; and 25
- (b) omitting “Justice or Community Magistrate” and substituting “issuing officer”; and
- (c) omitting “, if necessary by force”.
- (3) Section 24 is amended by repealing subsection (3) and substituting the following subsection: 30
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”
- (3) Section 24 is amended by repealing subsection (3) and substituting the following subsections:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply. 35

“(4) Despite **subsection (3), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.”

Amendments to Radiocommunications Act 1989

- 270 Amendments to Radiocommunications Act 1989** 5
- (1) This section amends the Radiocommunications Act 1989.
- (2) Section 120(3) is amended by—
- (a) omitting “District Court Judge, Justice, or Community Magistrate, or any Court Registrar (not being a constable), is satisfied, on application in writing made on oath” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) is satisfied, on application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”; and 10
- (b) omitting “that District Court Judge, Justice, Community Magistrate, or Court Registrar” and substituting “that issuing officer”. 15
- (3) Section 120 is amended by adding the following subsection:
- “(4) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.” 20
- (4) Sections 121 to 127 are repealed.

Amendments to Reserve Bank of New Zealand Act 1989

- 271 Amendments to Reserve Bank of New Zealand Act 1989** 25
- Sections 272 and 273** amend the Reserve Bank of New Zealand Act 1989.
- 272 Amendments to Parts 4 and 5 of Reserve Bank of New Zealand Act 1989**
- (1) Section 66I is amended by omitting “A Judge of the High Court may issue a warrant to a person appointed under section 66E(2) if the Judge is satisfied, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 30

- 2009**) may issue a warrant to a person appointed under section 66E(2) if the issuing officer is satisfied, on application made in the manner provided in **subpart 2 of Part 4** of that Act”.
- (2) Section 66I is amended by adding the following subsection as subsection (2): 5
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”
- (3) Section 66J is repealed.
- (4) Section 106(1) is amended by—
- (a) omitting “A Judge of the High Court who is satisfied, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on application made in the manner provided in **subpart 2 of Part 4** of that Act”; and 10 15
- (b) omitting “; in terms of section 107 of this Act,”.
- (4) Section 106(1) is amended by omitting “A Judge of the High Court who is satisfied, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on application made in the manner provided in **subpart 2 of Part 4** of that Act”. 20
- (5) Section 106(2) is amended by—
- (a) omitting “A Judge of the High Court who is satisfied, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on application made in the manner provided in **subpart 2 of Part 4** of that Act”; and 25
- (b) omitting “; in terms of section 107 of this Act,”. 30
- (5) Section 106(2) is amended by omitting “A Judge of the High Court who is satisfied, on application in writing made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 35
- (6) Section 106 is amended by repealing subsection (3) and substituting the following subsection:

“(3) **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) applies.”

~~(7) Section 107 is repealed.~~

273 Further amendments to Reserve Bank of New Zealand Act 1989

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(1) Section 157ZM(1) is amended by omitting “A Judge of the High Court or a District Court Judge may issue a search warrant in terms of clause 5 of Schedule 4 to a person appointed under section 157ZJ(2)(b) if the Judge” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search warrant to a person appointed under section 157ZJ(2)(b) if the issuing officer”.

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(2) Section 157ZM is amended by repealing subsection (2) and substituting the following subsection:

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“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”

(3) Section 157ZN(1)(b) is amended by omitting “; and”.

(4) Section 157ZN(1)(c) is repealed.

(5) Section 157ZN(3)(b) is repealed.

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(6) Section 157ZN(3)(c) is amended by omitting “or a search warrant issued under section 157ZM”.

(7) Schedule 4 is repealed.

Amendments to Reserves Act 1977

274 Amendments to Reserves Act 1977

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(1) This section amends the Reserves Act 1977.

(2) Section 93 is amended by repealing subsection (5) and substituting the following subsection:

“(5) In this section, **officer** means—

“(a) any ranger or constable; and

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“(b) any officer or employee of an administering body who is authorised by that body to exercise the powers of an officer under this Part.”

(3) Section 95(1) is amended by omitting “, and shall be retained by the administering body, or by the Commissioner if there is

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no administering body, pending the trial of that person for the offence in respect of which it was seized”.

- (4) Section 95(2) is amended by—
- (a) omitting “then” and substituting “then, despite **subpart 5 of Part 4** of the Search and Surveillance Act **2009**,”; 5
 - and
 - (b) repealing paragraph (c).
- (5) Section 95 is amended by repealing subsection (6) and substituting the following subsections:
- “(6) Any firearm, trap, net, or other like object found illegally in the possession of any person in any reserve, and any tool or instrument or other equipment found in the possession of any person in any reserve and used in committing an offence in the reserve may be seized by any officer (within the meaning of **section 93(5)**). 10 15
- “(6A) Subject to subsection (2), the provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of the seizure of any thing under this section.”
- (6) Section 100 is amended by repealing subsection (2) and substituting the following subsection: 20
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply in respect of any entry, search, or seizure conducted under this section.”

Amendments to Resource Management Act 1991

- 275 Amendments to Resource Management Act 1991** 25
- (1) This section amends the Resource Management Act 1991.
- (1A) ~~Section 332(3) is amended by omitting “and written authorisation”.~~
- (1B) ~~Section 333(3) is amended by omitting “and written authorisation”.~~ 30
- (2) Section 334(1) is amended by—
- (a) omitting “Any District Court Judge or any duly authorised Justice or any Community Magistrate or Registrar who, on an application in writing made on oath,” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)” 35

- who, on an application made in the manner provided in **subpart 2 of Part 4** of that Act,”; and
- (b) omitting “on one occasion within 14 days of the date of issue of the warrant and at any time which is reasonable in the circumstances”.
- (3) ~~Section 334 is amended by repealing subsections (2) and (3) and substituting the following subsection:~~
- ~~“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”~~
- (3) Section 334 is amended by repealing subsections (2) and (3) and substituting the following subsections:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(3) Despite **subsection (2), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.”
- (4) The heading to section 335 is amended by omitting “**Content and effect**” and substituting “**Direction and execution**”.
- (5) Section 335 is amended by repealing ~~subsection (1)(a) and (c), and subsections (2) to (5).~~
- (6) Sections 336 and 337 and the heading above section 336 are repealed.

Amendments to Sale of Liquor Act 1989

276 Amendments to Sale of Liquor Act 1989

- (1) This section amends the Sale of Liquor Act 1989.
- (2) Section 177(1) is amended by—
- (a) omitting “any District Court Judge, Justice, or Community Magistrate, or any Registrar (not being a constable), is satisfied, on application in writing made on oath” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) is satisfied, on an application made by a constable in the manner provided in **subpart 2 of Part 4** of that Act”; and
- (b) omitting “Judge, Justice, Community Magistrate, or Registrar” and substituting “issuing officer”.

(3) Section 177 is amended by repealing subsections (2) to (9) and substituting the following subsection:

“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”

Amendment to Social Security Act 1964

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277 Amendment to Social Security Act 1964

Section 278 amends the Social Security Act 1964.

278 New section 128A inserted

The following section is inserted after section 128:

“128A Chief executive may apply for search warrant

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“(1) For the purposes of **section 95** of the Search and Surveillance Act **2009**, the chief executive is a person authorised to apply for a search warrant.

“(2) The chief executive may exercise the powers of a constable to apply for a search warrant under **section 6** of the Search and Surveillance Act **2009**, in relation to—

15

“(a) an offence against this Act; or

“(b) an offence described in Part 10 of the Crimes Act 1961.”

Amendments to Tax Administration Act 1994

279 Amendments to Tax Administration Act 1994

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(1) This section amends the Tax Administration Act 1994.

(1A) Section 3(1) is amended by repealing the definition of **judicial officer** and substituting the following definition:

“**issuing officer** is defined in sections 16(7) and **16C(8)** for the purposes of those sections”.

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(1B) Section 16(2) is amended by omitting “The occupier of land” and substituting “Despite **section 101(3)(b)(ii)** of the Search and Surveillance Act **2009**, the occupier of land”.

(2) Section 16(4) is amended by omitting “A judicial officer who, on written application made on oath” and substituting “An issuing officer who, on application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”.

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- (3) Section 16(5)(c) is amended by omitting “judicial officer” and substituting “issuing officer”.
- (3) Section 16(5) is amended by repealing paragraph (c) and substituting the following paragraph:
- “(c) is valid for a period not exceeding 14 days from the date of its issue or a period not exceeding 30 days from the date of its issue if the issuing officer is satisfied that a period of longer than 14 days is necessary for execution; and”.
- (3A) Section 16 is amended by inserting the following subsection after subsection (6):
- “(6A) The provisions of **subparts 1, 2, 3, 6, 8, and 9 of Part 4** of the Search and Surveillance Act 2009 (except **sections 114, 115, and 125(4)**) apply.”
- (4) Section 16(7) is amended by omitting the definition of **judicial officer** and substituting the following definition:
- “**issuing officer** has the same meaning as in **section 3** of the Search and Surveillance Act 2009”.
- (5) Section 16C(2) is amended by—
- (a) omitting “A judicial officer” and substituting “An issuing officer”; and
- (b) omitting “on written application made on oath, the judicial officer” and substituting “on application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act 2009, the issuing officer”.
- (6) Section 16C is amended by repealing subsection (8) and substituting the following subsection:
- “(8) In this section, **issuing officer** has the same meaning as in **section 3** of the Search and Surveillance Act 2009.”
- (6) Section 16C is amended by repealing subsection (8) and substituting the following subsections:
- “(8) The provisions of **subparts 1, 2, 3, 6, 8, and 9 of Part 4** of the Search and Surveillance Act 2009 (except **sections 114, 115, and 125(4)**) apply.
- “(9) In this section, **issuing officer** has the same meaning as in **section 3** of the Search and Surveillance Act 2009.”

- (7) Section 20(1) is amended by omitting “Subject to subsections (2) and (3)” and substituting “Despite anything in the Search and Surveillance Act 2009, but subject to subsections (2) and (3)”.
- (8) Section 20B(1) is amended by omitting “A person” and substituting “Despite anything in the Search and Surveillance Act 2009, a person”. 5

*Amendments to Trade in Endangered Species
Act 1989*

- 280 Amendments to Trade in Endangered Species Act 1989** 10
- (1) This section amends the Trade in Endangered Species Act 1989.
- ~~(2) Section 37(3), (4), and (6) are repealed.~~
- (2) Section 37(3) and (4) are repealed.
- (3) Section 37 is amended by adding the following subsection: 15
- “(8) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2**) apply.”
- (4) Section 38(2) is amended by—
- (a) omitting “District Court Judge or Justice of the Peace or Community Magistrate or Registrar of any Court (not being a member of the Police), who, on application by an officer in writing made on oath” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on application made in the manner provided in **subpart 2 of Part 4** of that Act”; and 20
- (b) omitting “; and the provisions of subsections (3) to (8) of section 198 of the Summary Proceedings Act 1957 shall apply accordingly”.
- (5) Section 38 is amended by adding the following subsection: 30
- “(4) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”
- (6) Section 38A is amended by omitting “149C(1) and (2), 149D”, and substituting “149C(1) to **(3)**”.

*Amendments to Unsolicited Electronic Messages
Act 2007*

281 Amendments to Unsolicited Electronic Messages Act 2007

- (1) This section amends the Unsolicited Electronic Messages Act 2007. 5
- (2) Section 51(1) is amended by inserting “in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**” after “may apply”.
- (3) Section 51(2) is repealed.
- (4) Section 51(3) is amended by omitting “in writing and on oath to the District Court” and substituting “to an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”. 10
- (5) Section 51(4) is amended by omitting “District Court” and substituting “issuing officer”. 15
- ~~(5A) Section 51(5) is amended by omitting “District Court” and substituting “issuing officer”.~~
- (6) Section 51 is amended by adding the following subsection:
~~“(6) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.”~~ 20
- (6) Section 51 is amended by repealing subsection (5) and adding the following subsections:
- “(5) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply.
- “(6) Despite subsection (5), **sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.” 25
- (7) Sections 52 to 56 and 58(j) are repealed.

Amendments to Waste Minimisation Act 2008

281A Amendments to Waste Minimisation Act 2008 30
Sections 281B and 281C amend the Waste Minimisation Act 2008.

281B Amendments to Waste Minimisation Act 2008

- (1) Section 65(3)(b) is amended by omitting “an enforcement officer acting under section 78 or” in each place where it appears. 35

- (2) Sections 77 and 78 are repealed.
- (3) Section 79 is amended by inserting the following subsection after subsection (2):
 “(2A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 2 and sections 114 and 115**) apply.” 5
- (4) Section 80 is amended by repealing subsection (2) and substituting the following subsection:
 “(2) An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may, on the application of an enforcement officer made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act, issue a warrant authorising the enforcement officer to enter the dwellinghouse or marae specified in the application.” 10
- (5) Section 80(3) is amended by omitting “judicial officer” and substituting “issuing officer”. 15
- (6) Section 80(3)(a)(ii) is amended by omitting “; and”.
- (7) Section 80(3)(b) is repealed.
- (8) Section 80 is amended by inserting the following subsection after subsection (3):
 “(3A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply as if a warrant issued under **subsection (2)** were a search warrant.” 20

281C Other amendments to Waste Minimisation Act 2008

- (1) Section 82(1) is amended by omitting “A judicial officer” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”. 25
- (2) Section 82(2)(a) is amended by omitting “in writing and on oath” and substituting “in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”. 30
- (3) Section 82(2)(b) is amended by omitting “judicial officer” and substituting “issuing officer”.
- (4) Section 82 is amended by repealing subsection (3) and substituting the following subsections:

- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply as if a warrant issued under subsection (1) were a search warrant.
- “(4) An enforcement officer executing a warrant issued under this section must be accompanied by a member of the Police.” 5
- (5) Section 83 is repealed.
- (6) Section 84(1) is amended by omitting “or 82”.
- (7) The heading to section 85 is amended by inserting “**under section 81**” after “**impounded**”.
- (8) Section 85(1) is amended by inserting “seized or impounded under section 81” after “property”. 10

Amendments to Wild Animal Control Act 1977

282 Amendments to Wild Animal Control Act 1977

- (1) This section amends the Wild Animal Control Act 1977.
- (2) Section 12(10) is amended by— 15
- (a) omitting “, on production of his warrant of appointment if so required,”; and
- (b) omitting from the proviso “under the hand of a District Court Judge” and substituting “in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009** by an issuing officer (within the meaning of **section 3** of that Act)”. 20
- (3) Section 12(11) is amended by—
- (a) omitting “District Court Judge or Justice of the Peace or Community Magistrate who is satisfied on oath that there is probable cause to suspect” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied that there are reasonable grounds to believe”; and 25
- (b) omitting “at such time or times of the day as are mentioned in the warrant, but no such warrant shall continue in force for more than 14 days from the date thereof”. 30
- (4) Section 12 is amended by adding the following subsection:
- “(13) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.” 35

- (5) Section 13(1) is amended by omitting “, on production of his warrant of appointment if so required,”.
- (5A) Section 13 is amended by inserting the following subsection after subsection (5):
- “(5A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subparts 1A and 2** and **sections 114 and 115**) apply in respect of the powers in subsection (1).” 5
- (6) Section 13(6) is amended by—
- (a) omitting “, on production of his warrant of appointment if so required,”; and 10
- (b) omitting “under the hand of a District Court Judge or Justice of the Peace or Community Magistrate” and substituting “issued by an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”.
- (7) Section 13(7) is amended by— 15
- (a) omitting “District Court Judge or Justice of the Peace or Community Magistrate who is satisfied on oath that there is probable cause to suspect” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied that there are reasonable grounds to believe”; and 20
- (b) omitting “at such time or times of the day as are mentioned in the warrant, but no such warrant shall continue in force for more than 14 days from the date thereof”. 25
- (8) Section 13 is amended by adding the following subsection:
- “(10) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”
- (9) The proviso to section 14(2) is amended by omitting “under the hand of a District Court Judge or Justice of the Peace or Community Magistrate” and substituting “issued by an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”. 30
- (10) Section 14 is amended by adding the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.” 35

*Amendments to Wildlife Act 1953***283 Amendments to Wildlife Act 1953**

- (1) This section amends the Wildlife Act 1953.
- (2) The proviso to section 39(1)(f) is amended by—
- (a) omitting “Justice or Community Magistrate who is satisfied on oath that there is probable cause to suspect” and substituting “issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who is satisfied on reasonable grounds”; and
- (b) omitting “at such time or times in the day or night as are mentioned in the warrant, but no such warrant shall continue in force for more than 14 days from the date thereof”.
- (3) Section 39 is amended by adding the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.”
- (4) Section 56A is amended by omitting “149C(1) and (2), 149D”, and substituting “149C(1) to **(3)**”.

*Amendments to Wine Act 2003***284 Amendments to Wine Act 2003**

- (1) This section amends the Wine Act 2003.
- (2) Section 62(1) is amended by omitting “at any reasonable time”.
- (3) Section 62(2) is amended by omitting “, at any time that is reasonable in the circumstances”.
- (4) Section 62 is amended by repealing subsections (3) and (4) and substituting the following subsection:
- “(3) The provisions of **subpart 3 of Part 4** of the Search and Surveillance Act **2009** **subparts 1, 3, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply in respect of the exercise of any powers under this section.”
- (5) Section 63 is amended by repealing subsection (2) and substituting the following subsection:
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (other than **sections 108(d), 110(2)(d), 114,**

and 115) apply in respect of the exercise of powers under subsection (1)(a) and (b).²²

(5) Section 63 is amended by inserting the following subsection after subsection (2):

“(2A) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subparts 1A, 2, and 7** and **sections 114 and 115**) apply.” 5

(6) Section 63(3) is amended by omitting “this section” and substituting “any of paragraphs (c) to (f) of subsection (1)”.

(7) Section 65(1) is amended by— 10

(a) omitting “Any District Court Judge, Community Magistrate, Justice of the Peace, or Registrar may issue a search warrant, in the form set out in Schedule 1” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) may issue a search warrant”; and 15

(b) omitting “on application in writing made on oath” and substituting “on an application by a constable or a wine officer made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”. 20

(8) Section 65 is amended by repealing subsection (2) and substituting the following subsection:

“(2) Subject to section 66, the provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply.” 25

(9) Section 66 is amended by repealing subsection (1) and substituting the following subsection:

“(1) Without limiting the powers conferred by any search warrant issued under section 65(1), every warrant issued under that section authorises the constable or wine officer who is executing it, and any person called on by that constable or officer to assist, to exercise— 30

“(a) all the powers of a wine officer under sections 63 and 64; or

“(b) only such of those powers as are specified in the warrant.” 35

(10) Section 66 is amended by repealing subsections (2) and (4).

(11) Section 67 is amended by repealing subsections (1) to (3).

- (12) Section 68 is amended by—
- (a) ~~omitting “Section 199 of the Summary Proceedings Act 1957” and substituting “**Subpart 5 of Part 4** of the Search and Surveillance Act **2009**”; and~~
 - (a) omitting “Section 199 of the Summary Proceedings Act 1957 applies to any property seized by a constable under a search warrant and, with any necessary modifications, to” and substituting “**Subparts 1, 4, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply in respect of any property seized by a constable under a search warrant and, with any necessary modifications, in respect of”; and
 - (b) ~~repealing paragraphs (a) to (c); and~~
 - (c) ~~omitting from paragraph (d) “forfeited to the Crown or”.~~
- (13) Schedule 1 is repealed.

Subpart 2—Amendments to search and
seizure powers in other enactments (and
to related provisions) used for regulatory
purposes

*Amendments to Anti-Personnel Mines
Prohibition Act 1998*

- 285 Amendments to Anti-Personnel Mines Prohibition Act 1998**
- (1) This section amends the Anti-Personnel Mines Prohibition Act 1998.
 - (2) Section 22(1) is amended by omitting “A District Court Judge, Justice, Community Magistrate, or Registrar (not being a member of the police), who, on an application,” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**,”.
 - (3) Section 22(2) is amended by repealing paragraph (b).
 - (4) Section 22 is amended by repealing subsection (4) and substituting the following subsection:

- “(4) The provisions of **subparts 2 and 3 subparts 1, 2, 3, 6, 8, and 9 of Part 4** of the Search and Surveillance Act 2009 apply.”

*Amendments to Chemical Weapons (Prohibition)
Act 1996*

5

286 Amendments to Chemical Weapons (Prohibition) Act 1996

- (1) This section amends the Chemical Weapons (Prohibition) Act 1996.
- (2) Section 23(2) is amended by— 10
- (a) omitting “a District Court Judge, duly authorised Justice, a Community Magistrate, or a Registrar (not being a member of the Police)” and substituting “an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009)”; and 15
- (b) omitting “, unconditionally or subject to conditions, a warrant authorising the entry of the place, at any time within 14 days of the issue of the warrant (or within such further time as may be specified in the warrant)” and substituting “a warrant authorising the entry of the place”. 20
- (3) Section 23 is amended by adding the following subsection:
- “(4) Subject to subsection (3), the provisions of **subparts 2 and 3 of Part 4** of the Search and Surveillance Act 2009 apply.”
- (4) Sections 24 and 25 are repealed. 25

Amendments to Commerce Act 1986

287 Amendments to Commerce Act 1986

- (1) This section amends the Commerce Act 1986.
- (2) Section 98A(2) is amended by omitting “A District Court Judge, Justice, or Community Magistrate, or a Court Registrar (not being a constable) who is satisfied on application made on oath” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act 2009) who is satisfied, on an application made in the manner provided in **subpart 2 of Part 4** of that Act”. 30 35

- (3) Section 98A is amended by repealing subsection (3) and substituting the following subsection:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 114 and 115**) apply, with any necessary modifications.” 5
- (4) Section 98A(4) is amended by adding “of this Act”.
- (5) Sections 98B to 98F are repealed.
- (6) Section 98G is amended by omitting “to 98F” and substituting “and 98A”.

Amendment to Credit Contracts and Consumer Finance Act 2003 10

288 Amendment to Credit Contracts and Consumer Finance Act 2003

- (1) This section amends the Credit Contracts and Consumer Finance Act 2003. 15
- (2) Section 113(d) is amended by omitting “98A to 98G” and substituting “98A and 98G”.

Amendments to Electricity Act 1992

289 Amendments to Electricity Act 1992

- (1) This section amends the Electricity Act 1992. 20
- (2) Section 159(1) is amended by repealing paragraph (e) and substituting the following paragraph:
- “(e) entry into a dwellinghouse must be authorised by a warrant issued by an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) on an application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**.” 25
- (2A) Section 159 is amended by adding the following subsection:
- “(5) **Subparts 1, 2, 4, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act **2009** apply in respect of an application for, and issue of, a warrant under subsection (1)(e).” 30
- (3) Section 172KD(6) is amended by omitting “by written application on oath” and substituting “by application made in the

manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**²².

- (4) Section 172KD(7) is amended by omitting “A District Court Judge, Justice, or Community Magistrate, or a Court Registrar (not being a constable)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”.

Amendments to Fair Trading Act 1986

290 Amendments to Fair Trading Act 1986

- (1) This section amends the Fair Trading Act 1986. 10
- (2) Section 47(2) is amended by—
- (a) omitting “A District Court Judge, Justice, Community Magistrate, or Court Registrar (not being a constable)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”; and 15
- (b) omitting “on oath” and substituting “in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of that Act”.
- (3) Section 47 is amended by repealing subsection (3) and substituting the following subsection: 20
- “(3) **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, 114 and 115**) applies.”
- (4) Sections 47A to 47E are repealed.

Amendments to Forests Act 1949

25

291 Amendments to Forests Act 1949

- (1) This section amends the Forests Act 1949.
- (2) Section 67D(1)(e) is amended by omitting “under section 67S” and substituting “in accordance with the provisions of **Part 4** of the Search and Surveillance Act **2009**”.
- (2) Section 67D(1)(e) is amended by substituting “in accordance with section 67S and the provisions of **subparts 1, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009**” for “under section 67S”.

- (3) Section 67R is amended by adding the following subsection as subsection (2):
- ~~“(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **sections 108(d), 110(2)(d), 114, and 115**) apply.~~ 5
- “(2) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except for **subparts 1A and 2, sections 114 and 115, and subparts 4 and 7**) apply.”
- ~~(4) Section 67S is repealed.~~
- (4) Section 67S is amended by repealing subsections (1), and (3) to (7). 10
- (5) Section 71B(1) is amended by omitting “subject to the following conditions” and substituting “subject to **Part 4** of the Search and Surveillance Act **2009** and to the following conditions”. 15
- (6) Section 71B(1)(b) to (d) and (f) are repealed.
- (7) Section 71B(1)(e) is amended by omitting “on oath by an authorised person to a District Court Judge, Justice of the Peace, Community Magistrate, or Registrar or Deputy Registrar of any Court” and substituting “in the manner provided for an application for a search warrant in **Part 4** of the Search and Surveillance Act **2009** by an authorised person to an issuing officer”. 20
- (8) Section 71B(2) is amended by inserting “and the conditions set out in **Part 4** of the Search and Surveillance Act **2009** relating to time of entry, notification of intention to enter, and evidence of identification or authorisation to enter,” after “that subsection,”. 25
- (9) Section 71B is amended by adding the following subsections:
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** apply. 30
- “(4) Despite **subsection (3), sections 114 and 115** of the Search and Surveillance Act **2009** apply only in respect of a constable.”

*Amendments to Gas Act 1992***292 Amendments to Gas Act 1992**

- (1) This section amends the Gas Act 1992.
- (2) Section 43W(6) is amended by omitting “by written application on oath” and substituting “by application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”. 5
- (3) Section 43W(7) is amended by omitting “A District Court Judge, Justice, or Community Magistrate, or a Court Registrar (not being a constable)” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**)”. 10
- (3A) Section 43W is amended by adding the following subsection:
- “(8) The provisions of **subparts 1, 2, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act **2009** apply.” 15
- (4) Section 50(1) is amended by repealing paragraph (e) and substituting the following paragraph:
- “(e) entry into a dwellinghouse must be authorised by a warrant issued by an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) on an application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**.” 20
- (5) Section 50 is amended by inserting the following subsection after subsection (1): 25
- “(1A) **Subparts 1, 2, 6, 8, and 9** of **Part 4** of the Search and Surveillance Act **2009** apply in respect of an application for, and issue of, a warrant under subsection (1)(e).”

Amendment to International Energy Agreement Act 1976

30

293 Amendment to International Energy Agreement Act 1976

- (1) This section amends the International Energy Agreement Act 1976.
- (2) Section 9(3) is amended by omitting “sections 198 and 199 of the Summary Proceedings Act 1957” and substituting “~~sec-~~ 35

tion 6 of the Search and Surveillance Act **2009** and **subpart 5 of Part 4** of that Act”.

- (3) Section 11 is amended by omitting “Sections 198 and 199 of the Summary Proceedings Act 1957” and substituting “**Section 6** of the Search and Surveillance Act **2009** and **subpart 5 of Part 4** of that Act”.

293 Amendments to International Energy Agreement Act 1976

Sections 293A and 293B amend the International Energy Agreement Act 1976.

10

293A Power of entry

Section 9(3) is amended by omitting “Without limiting or restricting the application of sections 198 and 199 of the Summary Proceedings Act 1957,”.

293B New section 11 substituted

15

Section 11 is repealed and the following section substituted:

“11 Search warrants

- “(1)** If an offence created by or under this Act has been committed or is suspected of having been committed (notwithstanding that the offence is not punishable by imprisonment), any person authorised in writing by the chief executive may exercise the powers of a constable to apply for a warrant under **section 6** of the Search and Surveillance Act **2009**.

- “(2)** **Subparts 1, 2, 5, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply.

25

- “(3)** For the purposes of this section, **chief executive** means the chief executive of the department that, with the authority of the Prime Minister, is responsible for the administration of this Act.”

Amendments to Weights and Measures Act 1987

30

294 Amendments to Weights and Measures Act 1987

- (1) This section amends the Weights and Measures Act 1987.
 (2) Section 28(3) is amended—

- (a) by omitting “Any District Court Judge, Justice, or Community Magistrate, or any Registrar (not being a constable), who, on an application in writing made on oath,” and substituting “An issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) who, on an application made in the manner provided for an application for a search warrant in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**,”; and 5
- (b) by omitting “in the prescribed form”. 10
- (3) Section 28 is amended by adding the following subsection:
- “(7) The provisions of **subparts 1, 2, 6, 8, and 9 of Part 4** of the Search and Surveillance Act **2009** apply.”

Subpart 3—Other repeals and amendments

Amendments to Arms Act 1983 15

295 Arms Act 1983 amended

- (1) This section amends the Arms Act 1983.
- (2) The heading above section 60 and sections 60 to 61 are repealed.

Amendments to Corrections Act 2004 20

296 Corrections Act 2004 amended

- (1) This section amends the Corrections Act 2004.
- (2) Section 23(1) is amended by omitting “314A to 314D of the Crimes Act 1961” and substituting “**117, 123, 124, and 169** of the Search and Surveillance Act **2009**”. 25
- (3) Section 23(3) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) section 18 of the Misuse of Drugs Act 1975 (which confers powers of search and seizure):”.
- (4) Section 23(3) is amended by repealing paragraph (d) and substituting the following paragraphs: 30
- “(d) **section 22** of the Search and Surveillance Act **2009** (which confers powers in relation to internal searches):”

- “(e) **sections 44 and 45** of the Search and Surveillance Act **2009** (which confer powers in relation to surveillance devices).”
- (5) Section 103(2) is amended by—
- (a) omitting “or section 18A”; and 5
- (b) adding “or **section 22** of the Search and Surveillance Act **2009**”.

Amendments to Crimes Act 1961

297 Crimes Act 1961 amended

- (1) This section amends the Crimes Act 1961. 10
- (2) Section 1(3) is amended by omitting “Part 11A—Obtaining evidence by listening devices (sections 312A to 312Q)”.
- (3) Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:
- “**serious violent offence** means any offence— 15
- “(a) that is punishable by a period of imprisonment for a term of 7 years or more; and
- “(b) where the conduct constituting the offence involves—
- “(i) loss of a person’s life or serious risk of loss of a person’s life; or 20
- “(ii) serious injury to a person or serious risk of serious injury to a person; or
- “(iii) serious damage to property in circumstances endangering the physical safety of any person; or
- “(iv) perverting the course of justice, where the purpose of the conduct is to prevent, seriously hinder, or seriously obstruct the detection, investigation, or prosecution of any offence— 25
- “(A) that is punishable by a period of imprisonment for a term of 7 years or more; and 30
- “(B) that involved, involves, or would involve conduct of the kind referred to in any of **subparagraphs (i) to (iii)**”.
- (3A) Section 78D is repealed.
- (4) Section 98A(2) is amended by omitting “(within the meaning of section 312A(1))” in each place where it appears. 35

- (5) ~~Sections 202B, 216F(1)(a) and (b)(ii), 224, and 225, Part 11A, the heading above section 314A, sections 314A to 314D, and sections 317 to 317B are repealed.~~
- (5) Sections 202B, 224, 225, the heading above section 314A, sections 314A to 314D, and sections 317 to 317B are repealed. 5
- (5A) Section 216F is amended by repealing subsection (1) and substituting the following subsection:
- “(1) An **unlawful disclosure** is the intentional and unauthorised disclosure of any information gained when undertaking maintenance of a communication service.” 10
- (5B) Section 216F(2) is amended by omitting “subsection (1)(b)(i)” and substituting “**subsection (1)**”.
- (5C) Part 11A is repealed.
- (6) Section 216B(2)(b) is amended by repealing subparagraph (i) and substituting the following subparagraph: 15
- “(i) the Search and Surveillance Act **2009**; or”.
- (7) Section 216B(2)(b) is amended by repealing subparagraph (iv).
- (8) Section 216B(3) is repealed.
- (9) ~~Section 216B(7) is amended by inserting “or of a surveillance device warrant issued under the Search and Surveillance Act **2009**” after “interception warrant”.~~ 20
- (9) Section 216B(7) is amended by omitting “an interception warrant” and substituting “a surveillance device warrant issued under the Search and Surveillance Act **2009**”. 25
- (10) ~~Section 252(3)(a) is amended by inserting “or a surveillance device warrant issued under the Search and Surveillance Act **2009**” after “search warrant”.~~
- Amendments to Crimes Amendment Act (No 4)*
2011 30
- 297A Amendments to Crimes Amendment Act (No 4) 2011**
- (1) This section amends the Crimes Amendment Act (No 4) 2011.
- (2) The items relating to sections 312I(2), 312K(2), 314D(1), 317AB(1), and 317B(7) of the principal Act in the Schedule are omitted. 35

*Amendments to Criminal Procedure Act 2011***297B Amendments to Criminal Procedure Act 2011**

(1) This section amends the Criminal Procedure Act 2011.

(2) The following items in Schedule 3 are omitted:

- (a) the item relating to section 137(2) of the Animal Welfare Act 1999; and 5
- (b) the item relating to section 61(1) of the Arms Act 1983; and
- (c) the item relating to section 46(4) of the Conservation Act 1987; and 10
- (d) the items relating to sections 16(1)(a), 16(1)(b), 20, and 21(a) of the Driftnet Prohibition Act 1991; and
- (e) the item relating to section 118(5)(a) of the Films, Videos, and Publications Classification Act 1993; and
- (f) the item relating to section 51(5)(a) of the Financial Transactions Reporting Act 1996; and 15
- (g) the items relating to sections 207(4), 208(1), 209(a), 209(b), and 210(1)(a), and 210(2) of the Fisheries Act 1996; and
- (h) the items relating to sections 67S(3), 67S(4), 67S(6), and 67S(7) of the Forests Act 1949; and 20
- (i) the items relating to Schedule 2 of the Insurance (Prudential Supervision) Act 2010; and
- (j) the items relating to sections 18A(3), 18B(1), 18C(a), 18C(b), 18D(1)(a), and 18D(2) of the Marine Reserves Act 1971; and 25
- (k) the item relating to section 18A(4) of the Misuse of Drugs Act 1975; and
- (l) the items relating to sections 21(2) and 23(2) of the Misuse of Drugs Amendment Act 1978; and 30
- (m) the item relating to section 140(1)(a) of the Motor Vehicle Sales Act 2003; and
- (n) the items relating to the Telecommunications (Residual Provisions) Act 1987; and
- (o) the item relating to section 54(6) of the Unsolicited Electronic Messages Act 2007. 35

*Amendment to District Courts Act 1947***298 District Courts Act 1947 amended**

Section 299 amends the District Courts Act 1947.

299 New section 17A substituted

Section 17A is repealed and the following section substituted: 5

“17A Sections 117, 123, and 124 of Search and Surveillance Act 2009 inapplicable to bailiffs

Sections 117, 123, and 124 of the Search and Surveillance Act **2009** (which relate to a general power to stop vehicles) do not apply to any bailiff.” 10

*Amendment to Electricity Industry Reform Act 1998***300 Electricity Industry Reform Act 1998 amended**

(1) This section amends the Electricity Industry Reform Act 1998.

(2) Section 58(h) is amended by omitting “sections 98B to 98G” and substituting “section 98G”. 15

*Amendment to Health Act 1956***301 Health Act 1956 amended**

(1) This section amends the Health Act 1956.

(2) Section 71A is amended by repealing subsection (5) and substituting the following subsection: 20

“(5) **Sections 123, 124, and 169** of the Search and Surveillance Act **2009**, with any necessary modifications, apply to the powers conferred by subsection (2)(c).”

Amendments to Misuse of Drugs Act 1975

25

302 Misuse of Drugs Act 1975 amended

Sections 303 and 304 amend the Misuse of Drugs Act 1975.

303 New section 18 substituted

Sections 18 and 18A are repealed and the following section is substituted: 30

“18 Seizing and destroying prohibited plants and seeds

“(1) The following persons may take any or all of the actions described in **subsection (2)**:

“(a) a constable:

“(b) a Customs officer: 5

“(c) an officer of the Ministry of Health:

“(d) a Medical Officer of Health:

“(e) an assistant thought to be necessary by any of the persons in **paragraphs (a) to (d)**.

“(2) The actions are to seize and destroy any of the following: 10

“(a) a prohibited plant that is not being cultivated in accordance with—

“(i) the conditions of a licence granted under this Act; or

“(ii) regulations made under this Act: 15

“(b) the seed of a prohibited plant that is not in the possession of a person—

“(i) authorised under this Act to cultivate the plant; or

“(ii) permitted by regulations made under this Act to have the seed in his or her possession.” 20

304 Application of Customs and Excise Act 1996

Section 36(1) is amended by omitting “149C(1) and (2), 149D, 151, 152, 161, 165 to 172” and substituting “149C(1) to **(3)**, 151, 152, 161, 166A to 167”. 25

*Amendments to Misuse of Drugs Amendment
Act 1978*

305 Misuse of Drugs Amendment Act 1978 amended

(1) This section amends the Misuse of Drugs Amendment Act 1978. 30

(2) Section 10(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**serious violent offence** means any offence—

“(a) that is punishable by a period of imprisonment for a term of 7 years or more; and 35

“(b) where the conduct constituting the offence involves—

- “(i) loss of a person’s life or serious risk of loss of a person’s life; or
- “(ii) serious injury to a person or serious risk of serious injury to a person; or
- “(iii) serious damage to property in circumstances endangering the physical safety of any person; or 5
- “(iv) perverting the course of justice, where the purpose of the conduct is to prevent, seriously hinder, or seriously obstruct the detection, investigation, or prosecution of any offence— 10
- “(A) that is punishable by a period of imprisonment for a term of 7 years or more; and
- “(B) that involved, involves, or would involve conduct of the kind referred to in any of **subparagraphs (i) to (iii)** 15
- “**specified offence** means any of the following offences:
- “(a) an offence punishable by a period of imprisonment for a term of 10 years or more:
- “(b) an offence against section 116 of the Crimes Act 1961 (which relates to conspiring to defeat justice): 20
- “(c) an offence against section 117 of the Crimes Act 1961 (which relates to corrupting juries and witnesses):
- “(d) an offence punishable under section 223(b) of the Crimes Act 1961 (theft of property exceeding \$1,000 in value): 25
- “(e) an offence against section 243 of the Crimes Act 1961 (which relates to money laundering):
- “(f) an offence punishable under section 247 of the Crimes Act 1961 (which relates to receiving property dishonestly obtained) 30
- “**terrorist offence** means an offence against any of sections 6A to 13E of the Terrorism Suppression Act 2002”.
- (3) Section 12(1) is amended by inserting the following paragraphs after paragraph (b):
- “(ba) allow the package or goods to be delivered by a person who has agreed to co-operate with Customs; or 35
- “(bb) deliver the package or goods; or”.
- (3) Section 12(1)(b) is amended by omitting “package or goods” and substituting “package, goods, or mail”.

- (3A) Section 12 is amended by inserting the following paragraphs after paragraph (b):
- “(ba) allow the package, goods, or mail to be delivered by a person who has agreed to co-operate with Customs; or
- “(bb) deliver the package, goods, or mail; or” 5
- (3B) Section 12(1)(c) is amended by omitting “goods or mail” and substituting “package, goods, or mail”.
- (3C) Section 12(2) is amended by omitting “goods or mail” in each place where it appears and substituting in each case “package, goods, or mail”. 10
- (4) Sections 12A to 12C, and 14 to 29 are repealed.
- (4) Sections 12A to 12C are repealed.
- (4A) Sections 14 to 29 are repealed.

*Amendment to Mutual Assistance in Criminal
Matters Act 1992*

15

306 Mutual Assistance in Criminal Matters Act 1992 amended

- (1) This section amends the Mutual Assistance in Criminal Matters Act 1992.
- (1A) Section 43(2) is amended by omitting “in writing, to apply to a District Court Judge for a search warrant in accordance with section 44” and substituting “to apply to an issuing officer (within the meaning of **section 3** of the Search and Surveillance Act **2009**) for a search warrant in accordance with section 44 of this Act”. 20
- (1B) Section 44(1) is amended by omitting “Any District Court Judge who, on an application in writing made an oath” and substituting “An issuing officer who, on an application made in the manner provided in **subpart 2 of Part 4** of the Search and Surveillance Act **2009**”. 25
- (1C) Section 44 is amended by adding the following subsection: 30
- “(3) The provisions of **Part 4** of the Search and Surveillance Act **2009** (except **subpart 5**) apply.”
- (1D) Sections 45 to 48 are repealed.
- (2) Section 46A is amended by omitting “314B to 314D of the Crimes Act 1961 apply with any necessary modifications as if references in those sections to a statutory search power are” 35

and substituting “**117, 123, 124, and 169** of the Search and Surveillance Act **2009** apply with any necessary modifications as if references in those sections to a power to stop or search a vehicle conferred under that Act were”.

Amendments to Policing Act 2008

5

307 Policing Act 2008 amended

- (1) This section amends the Policing Act 2008.
- (2) Sections 37 to 39 are repealed.
- (3) Clause 1(a) of Schedule 1 is amended by omitting “36, and 37” and substituting “and 36”. 10
- (4) Clause 1 of Schedule 1 is amended by inserting the following paragraph after paragraph (a):
“(ab) the powers of a constable under **section 11** of the Search and Surveillance Act **2009**.”
- (5) Clause 4(e) of Schedule 1 is amended by omitting “32, 33, and 37” and substituting “32 and 33”. 15
- (6) Clause 4 of Schedule 1 is amended by inserting the following paragraph after paragraph (e):
“(ea) the powers of a constable under **section 11** of the Search and Surveillance Act **2009**.” 20
- (7) Clause 5 of Schedule 1 is amended by omitting “314B of the Crimes Act 1961” and substituting “**117** of the Search and Surveillance Act **2009**”.

Amendments to Summary Proceedings Act 1957

309 Summary Proceedings Act 1957 amended

25

- (1) This section amends the Summary Proceedings Act 1957.
- (2) Section 3(1)(h) is repealed.
- (3) The heading above section 198 and sections 198 to 200 are repealed.
- (4) The heading above section 200A and sections 200A to 200P 30
are repealed.
- (5) Part 2 of Schedule 1 is amended by inserting the following item after the item relating to the Sales Tax Act 1974:

Search and Surveillance Act 2009	165	Failing to comply with examination order	
	166	Failing to comply with production order	

*Amendments to Summary Proceedings
Amendment Act (No 2) 2011*

309A Amendments to Summary Proceedings Amendment Act (No 2) 2011

- | | | |
|-----|---|---|
| (1) | <u>This section amends the Summary Proceedings Amendment Act (No 2) 2011.</u> | 5 |
| (2) | <u>The items relating to sections 198B(6) and 199(4)(a) of the principal Act in the Schedule are omitted.</u> | |

Amendment to Telecommunications Act 2001

- | | | |
|------------|---|----|
| 310 | Telecommunications Act 2001 amended | 10 |
| (1) | This section amends the Telecommunications Act 2001. | |
| (2) | Section 15(g) is amended by omitting “to 98G” and substituting “and 98G”. | |

*Amendment to Telecommunications
(Interception Capability) Act 2004*

311 Telecommunications (Interception Capability) Act 2004 amended

- | | | |
|-----|--|----|
| (1) | This section amends the Telecommunications (Interception Capability) Act 2004. | |
| (2) | Paragraph (a) of the definition of interception warrant in section 3(1) is repealed. | 20 |
| (2) | <u>Section 3(1) is amended by repealing the definition of interception warrant and substituting the following definition:</u> | |
| | <u>“interception warrant means a warrant that is issued under any of the following enactments:</u> | 25 |
| | <u>“(a) section 48 of the Search and Surveillance Act 2009:</u> | |
| | <u>“(b) section 4A(1) or (2) of the New Zealand Security Intelligence Service Act 1969:</u> | |
| | <u>“(c) section 17 of the Government Communications Security Bureau Act 2003.”</u> | 30 |

Repeal of Telecommunications (Residual Provisions) Act 1987

312 Telecommunications (Residual Provisions) Act 1987 repealed

The Telecommunications (Residual Provisions) Act 1987 (1987 No 116) is repealed. 5

Subpart 4—Regulation-making powers,
transitional provisions, and review provision

313 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for any or all of the following purposes: 10
- (a) prescribing the form of an examination order, a surveillance device warrant, declaratory order, production order, search warrant, warrant authorising entry to a dwellinghouse or marae, or similar kinds of warrants: 15
 - (b) prescribing procedures to be followed for the purposes of making and resolving claims of privilege under **subpart 4 of Part 4**: 15
 - (c) authorising a chief executive to omit from any annual report information about search or surveillance generally, or of a particular kind, or in a particular area, or in an area of a particular kind: 20
 - (d) providing for any other matters contemplated by the Act, necessary for its administration, or necessary for giving it full effect. 25
- (2) Regulations made under **subsection (1)(a)** may do any or all of the following:
- (a) prescribe different forms of warrant or order for use under different enactments:
 - (b) prescribe any form of warrant or order by listing the minimum information requirements to be included: 30
 - (c) authorise a chief executive or any other specified person or class of person to authorise variations in the language, provisions, or format of any form of warrant or order in the warrant or order: 35

- (d) authorise a chief executive or any other specified class of person to include additional information in a prescribed form of warrant or order.

Transitional provisions

- 314 Transitional provision in relation to reporting requirements** 5
- (1) For the purposes of **section 162A**, the period to be reported on in the first annual report published after the commencement of that section begins with the commencement of that section and ends with the end of the financial year or other period ordinarily the subject of the report. 10
- (2) For the purposes of **section 163**, the period to be reported on in the first annual report published after the commencement of that section begins with the commencement of that section and ends with the end of the financial year or other period ordinarily the subject of the report. 15
- 314A Disclosure of prior warrants in applications for surveillance device warrants made in transitional period**
- In the period commencing on the date of commencement of **section 45(3)(a)** and ending 3 months later, **section 45(3)(a)** must be read as if for the words “within the previous 3 months” there were substituted the words “since the commencement of this subsection”. 20
- 314B Disclosure of prior warrants in applications for search warrants** 25
- In the period commencing on the date of commencement of **section 96(3)(a)** and ending 3 months later, **section 96(3)(a)** must be read as if for the words “within the previous 3 months” there were substituted the words “since the commencement of this subsection”. 30
- 314C Transitional provision relating to Part 11A of Crimes Act 1961**
- (1) Despite the repeal of Part 11A of the Crimes Act 1961 by this Act,—

- (a) where an application has been made under that Part before 18 April 2012, and the application is not finally determined before that date, that Part continues to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this section) had not been enacted; and 5
- (b) that Part (except for section 312F) continues to apply to a continuing warrant or permit and to any matter or obligation relating to the continuing warrant or permit in all respects as if this Act (other than this section) had not been enacted; and 10
- (c) section 312M of that Act continues to apply to private communications intercepted before 18 April 2012 in all respects as if this Act (other than this section) had not been enacted. 15
- (2) In this section, **continuing warrant or permit** means an interception warrant or emergency permit issued under Part 11A of the Crimes Act 1961—
- (a) before 18 April 2012; or
- (b) on or after that date on an application made before that date. 20

314D Transitional provision relating to sections 14 to 29 of Misuse of Drugs Amendment Act 1978

- (1) Despite the repeal of sections 14 to 29 of the Misuse of Drugs Amendment Act 1978 by this Act,— 25
- (a) where an application has been made under any of those sections before 18 April 2012 and the application is not finally determined before that date, those sections continue to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this section) had not been enacted; and 30
- (b) those sections (except for section 18) continue to apply to a continuing warrant or permit and to any matter or obligation relating to the continuing warrant or permit in all respects as if this Act (other than this section) had not been enacted; and 35

- (c) section 25 of that Act continues to apply to private communications intercepted before 18 April 2012 as if this Act (other than this section) had not been enacted.
- (2) In this section, **continuing warrant or permit** means an interception warrant or emergency permit issued under sections 14 to 29 of the Misuse of Drugs Amendment Act 1978— 5
- (a) before 18 April 2012; or
- (b) on or after that date on an application made before that date.
- 315 Transitional provision in relation to sections 198 to 200 of Summary Proceedings Act 1957** 10
- (1) Despite their repeal by **section 309**, sections 198 to 200 of the Summary Proceedings Act 1957 remain in force for the purposes of any enactment that incorporates or refers to any of those provisions. 15
- (2) **Subsection (1)** does not limit the application of the Interpretation Act 1999.
- (3) This section expires on the close of **30 June 2014**.
- 315A Transitional provision relating to sections 200A to 200P of Summary Proceedings Act 1957** 20
- (1) Despite the repeal of sections 200A to 200P of the Summary Proceedings Act 1957 by this Act,—
- (a) where an application has been made under any of those sections before 18 April 2012, and the application is not finally determined before that date, those sections continue to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this section) had not been enacted; and 25
- (b) those sections (except for section 200F) continue to apply to a continuing warrant and to any matter relating to the continuing warrant in all respects as if this Act (other than this section) had not been enacted; and 30
- (c) those sections continue to apply to anything done, before 18 April 2012, under section 200G of that Act. 35

(2) In this section, **continuing warrant** means a tracking device warrant or a warrant for removal of a tracking device issued under sections 200A to 200P of the Summary Proceedings Act 1957—

- (a) before 18 April 2012; or 5
- (b) on or after that date on an application made before that date.

315B Transitional provision relating to covert video surveillance

(1) For the purposes of assessing the lawfulness of a search (within the meaning of section 4 of the Temporary Act) under a continuing warrant, the search must be treated as if— 10

- (a) this Act (other than this section) had not been enacted; and
- (b) sections 5 to 7 of the Temporary Act continued to apply; and 15
- (c) for the words “before the close of the day that is 6 months after the date on which this Act comes into force” in section 5(1) of that Act there were substituted the words “while the continuing warrant is in force”.

(2) In this section,— 20
continuing warrant means a warrant issued under section 198 of the Summary Proceedings Act 1957—

- (a) before 18 April 2012; or
- (b) on or after that date on an application made before that date 25

Temporary Act means the Video Camera Surveillance (Temporary Measures) Act 2011.

315C Transitional provision relating to provisions brought into force under section 2

(1) Despite any amendment in Part 5 of this Act,— 30

- (a) where an application has been made under an authorising Act before the relevant commencement, and the application is not finally determined before that date, the provisions of that Act continue to apply to the application and to any matter or obligation relating to the application in all respects as if this Act (other than this 35

- section and any provisions in force immediately before the relevant commencement) had not been enacted; and
- (b) those provisions continue to apply to a continuing warrant and to any matter relating to the warrant in all respects as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted; and 5
- (c) those provisions continue to apply to any other proceeding, matter, or thing commenced and not completed before the relevant commencement as if this Act (other than this section and any provisions in force immediately before the relevant commencement) had not been enacted. 10
- (2) **Subsection (1)(c)** does not limit the provisions of the Interpretation Act 1999. 15
- (3) In this section,—
- authorising Act** means an Act amended by **Part 5**
- continuing warrant** means a warrant or other authority issued under an authorising Act—
- (a) before the relevant commencement; or 20
- (b) on or after that date on an application made before that date
- relevant commencement**, in relation to an authorising Act, means the commencement of a provision in **Part 5** that amends an authorising Act. 25
- 315D Certain provisions deemed to be in force during transitional period**
- (1) Until any provision of this Act specified in **subsection (2)** (a **specified provision**) comes into force, the provision is deemed to be in force for the purposes only of any other provision of this Act that— 30
- (a) is in force; and
- (b) refers to the specified provision.
- (2) The specified provisions are **sections 14(2) and 18(2)**, the definition of **document** in **section 68**, **sections 79(2)(a) to (d)**, **96(2)**, **97 to 99**, **103**, and **105**, and **columns 1 and 2 of the Schedule.** 35

315E Certain provisions limited to matters covered in subpart 1 of Part 3 during transitional period

- (1) Until the date on which provisions of this Act are, for the first time, brought into force under **section 2(2) or (3)**, any provision specified in **subsection (2) (a specified provision)** applies only to the extent that it is applicable to matters covered in **subpart 1 of Part 3**. 5
- (2) The specified provisions are **sections 141, 155, 158, 159, 160, 161, 162, 162A, 163, 164, 167, 171, and 172**.

315F Transitional provision relating to Criminal Procedure Act 2011 10

Until the commencement date (within the meaning of section 394 of the Criminal Procedure Act 2011),—

- (a) **section 13(3)(b)** must be read as if the reference to section 377 of the Criminal Procedure Act 2011 were a reference to section 404 of the Crimes Act 1961; and 15
- (b) **section 18(3)(a)** must be read as if the reference to a category 3 or category 4 offence were a reference to an indictable offence; and
- (c) **section 18(3)(b)** must be read as if the reference to a category 3 or category 4 offence were a reference to an indictable offence; and 20
- (d) **section 23(4)(c)** must be read as if the reference to the Criminal Procedure Act 2011 were a reference to the Summary Proceedings Act 1957; and 25
- (e) **section 44(2)(d)(i)** must be read as if the reference to a category 3 or category 4 offence were a reference to an indictable offence; and
- (f) **section 105(2)** must be read as if the reference to section 204 of the Summary Proceedings Act 1957 and section 379 of the Criminal Procedure Act 2011 were a reference only to section 204 of the Summary Proceedings Act 1957; and 30
- (g) **sections 165(2) and 166(2)** must be read as if the offences prescribed in those sections were triable on indictment; and 35

- (h) sections 167, 168, 169, 170, and 171(2) must be read as if the offences prescribed in those sections were punishable on summary conviction.

315FA References to enforcement officer during transitional period

- (1) If the New Zealand Customs Service is approved, under an Order in Council made under **section 45A(1)**, to undertake any activity specified in that subsection, then the definition of **enforcement officer** in **section 3(1)** is, in the period commencing with the commencement of that order and ending on the first day on which all of **sections 202 to 211** are in force, taken to include a Customs officer. 5
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- (2) If the Department of Internal Affairs is approved, under an Order in Council made under **section 45A(1)**, to undertake any activity specified in that subsection, then the definition of **enforcement officer** in **section 3(1)** is, in the period commencing with the commencement of that order and ending on the first day on which all of **sections 223 to 225A** are in force, taken to include an inspector within the meaning of section 2 of the Films, Videos, and Publications Classification Act 1993. 15
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315G Regulations providing for transitional matters

- (1) The Governor-General may, by Order in Council, make regulations—
- (a) providing transitional and savings provisions concerning the coming into force of this Act, which may be in addition to or in place of the transitional and savings provisions of this Part: 25
- (b) to facilitate the bringing into force of any regulations under this Act: 30
- (c) providing that subject to such conditions as are specified in the regulations, during a specified transitional period,—
- (i) specified provisions of this Act (including definitions) do not apply: 35
- (ii) specified terms have the meanings given to them by the regulations:

- (iii) specified provisions repealed or amended by this Act are to continue to apply:
- (d) providing for any other matters necessary for facilitating or ensuring an orderly transition from the provisions of any enactments replaced by this Act to the provisions of this Act. 5
- (2) No regulations made under this section may be made, or continue in force, after 1 April 2017.

Review provision

- 316 Review of operation of Act** 10
- (1) The Minister of Justice must, not later than 30 June 2016, refer to the Law Commission and the Ministry of Justice for consideration the following matters:
- (a) the operation of the provisions of this Act since the date of the commencement of this section: 15
- (b) whether those provisions should be retained or repealed:
- (c) if they should be retained, whether any amendments to this Act are necessary or desirable.
- (2) The Law Commission and the Ministry must report jointly on those matters to the Minister of Justice within 1 year of the date on which the reference occurs. 20
- (3) The Minister of Justice must present a copy of the report provided under this section to the House of Representatives as soon as practicable after receiving it. 25
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Schedule
**Powers in other enactments to which all or
part of Part 4 of Search and Surveillance
Act 2008 applies**

s 87AA

Column 1 Act	Column 2 Section	Column 3 Brief description of power	Column 4 Which provisions in Part 4 apply
Agricultural Compounds and Veterinary Medicines Act 1997	64(1) and (2)	ACVM officer may enter and inspect transitional facility or biosecurity control area	All (except sections 108(d), 140(2)(d), 144, and 145 (which relate to detention and search incidental to power of arrest))
	69(1)	Constable or ACVM officer may obtain and execute search warrant to search for agricultural compounds or biological agents and related objects	All
	71(1)	Constable or ACVM officer may dispose of property seized under search warrant issued under section 69(1) of Agricultural Compounds and Veterinary Medicines Act 1997	* Subpart 5 (which sets out procedures applying to seized or produced materials)
Animal Products Act 1999	87(1) and (2)	Animal product officer may enter place to determine whether person is complying with Animal Products Act 1999 or whether shellfish pose hazard to public health	* Subpart 3 (which relates to carrying out search powers)
	88(1)	Animal product officer may examine things at place entered under section 87(1) or (2) of Animal Products Act 1999	All (except sections 108(d), 140(2)(d), 144, and 145 (which relate to detention and search incidental to power of arrest))

Column 1 Act	Column 2 Section	Column 3 Brief description of power	Column 4 Which provisions in Part 4 apply
	94(1)	Constable or animal product officer may obtain and execute search warrant to search for evidence of offence against Animal Products Act 1999 or in relation to shellfish contaminants	All
	97	Constable or animal product officer may dispose of property seized under search warrant issued under section 94(1) of Animal Products Act 1999	* Subpart 5 (which sets out procedures applying to seized or produced materials)
Animal Welfare Act 1999	131(1) and (2)	Constable or animal welfare inspector may obtain and execute search warrant to search for evidence of offence against Animal Welfare Act 1999 or to prevent or investigate suffering of animal	All (except that sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to power of arrest) apply only to a constable)
	136(1)	Constable or animal welfare inspector may dispose of property seized under search warrant issued under section 131 of Animal Welfare Act 1999 or dispose of any animal taken under section 137 of that Act	* Subpart 5 (which sets out procedures applying to seized or produced materials)
Antarctic Marine Living Resources Act 1981	9(1)	High seas fishery inspector may stop, enter, inspect, and examine vehicle, vessel, aircraft, or hovercraft for evidence of an offence against Antarctic Marine Living Resources Act 1981	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Antarctica (Environmental Protection) Act 1994	42(1)	Special inspector may obtain and execute search warrant to search for evidence of offence against Antarctica (Environmental Protection) Act 1994	All
	43(1)	Special inspector may search without warrant for evidence of offence against Antarctica (Environmental Protection) Act 1994, in exigent circumstances	All
Anti-Personnel Mines Prohibition Act 1998	22	Anti-personnel mines officer may obtain and execute search warrant to enter and inspect place in order to exercise function conferred by Anti-Personnel Mines Prohibition Act 1998	* Subparts 2 and 3 (which relate to applications for, and issuing of, search warrants, and carrying out search powers, respectively)
Aviation Crimes Act 1972	13(1)	Constable may search person who declines to allow his or her luggage to be searched in circumstances where constable believes crime against Aviation Crimes Act 1972 has been, is being, or is likely to be committed	All
Biosecurity Act 1993	110(1)	Inspector or authorised person may obtain and execute search warrant to enter and inspect places for pests, pest agents, unwanted organisms, unauthorised goods, or risk goods, and to check activities carried out under Biosecurity Act 1993	Subpart 2 (which relates to applications for, and issuing of, search warrants)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	111(1)	Inspector or authorised person may obtain, and inspector, authorised person, or constable may execute, search warrant to search for evidence of offence against Biosecurity Act 1993	*Subpart 2 (which relates to applications for, and issuing of, search warrants)
	118(1)	Person exercising power of search conferred by section 111 of Biosecurity Act 1993 may seize things	*Subpart 5 (which sets out procedures applying to seized or produced materials)
Boxing and Wrestling Act 1981	9	Constable may obtain and execute search warrant to obtain evidence of offence against Boxing and Wrestling Act 1981	All
Children, Young Persons, and Their Families Act 1989	39(1) and (3)	Constable or social worker may obtain and execute place of safety warrant authorising search for, and removal of, child at risk of harm	Sections 97 and 103 only (which relate to verification of applications; and transmission of search warrants; respectively)
	40(1) and (4)	On application for order that child is in need of care and protection, constable or social worker may obtain and execute search warrant authorising search for and removal of child	Sections 97 and 103 only (which relate to verification of applications; and transmission of search warrants; respectively)
	386(1)	If child or young person absconds, constable or social worker may obtain and execute search warrant authorising search for, and removal and return of, child or young person	Sections 97 and 103 only (which relate to verification of applications; and transmission of search warrants; respectively)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Civil Aviation Act 1990	24(4)	Authorised person may obtain and execute warrant to enter dwelling-house or marae for purposes of exercising powers of inspection conferred on Director of Civil Aviation by Civil Aviation Act 1990	* Subparts 2 and 3 (which relate to applications for, and issuing of, search warrants, and carrying out search powers, respectively)
Commerce Act 1986	98A(2)	Authorised employee of Commerce Commission may obtain and execute warrant to search for evidence of offence against most provisions of Commerce Act 1986	All
Commodity Levies Act 1990	19(1)	Constable or designated person may obtain and execute warrant to enter and search for evidence of offence against Commodity Levies Act 1990	All (except sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to power of arrest))
Conservation Act 1987	40(1) and (5)	Warranted officer may seize various things held in contravention of Conservation Act 1987 and exercise other powers; constable or warranted officer may seize thing in respect of which it is believed offence is being committed under Conservation Act 1987	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Credit Contracts and Consumer Finance Act 2003	113(d)	Powers of Commerce Commission to search and seize under sections 98A and 98G of Commerce Act 1986 are applied to Credit Contracts and Consumer Finance Act 2003 (with any necessary modifications)	All
Customs and Excise Act 1996	139(1)(d)	Customs officer and authorised person may board craft if officer or authorised person has reasonable cause to suspect craft is involved in offence against Customs and Excise Act 1996 or is carrying dutiable, uncustomed, prohibited, or forfeited goods	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)
	140	Customs officer and authorised person may search craft if officer or authorised person has reasonable cause to suspect craft is involved in offence against Customs and Excise Act 1996 or is carrying dutiable, uncustomed, prohibited, or forfeited goods	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)
	144	Customs officer or, in certain cases, constable may stop and detain vehicle to search it for various kinds of goods	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	149B	Customs officer or, in certain cases, constable may search person if officer or constable has reasonable cause to suspect that certain items are hidden on or about that person and are evidence that the person has committed or is about to commit certain offences against Customs and Excise Act 1996	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)
	149BA	Customs officer or constable may search a person for dangerous items if officer or constable has reasonable grounds to believe that items posing threat to safety are on or about the person	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)
	149C	Customs officer or constable may seize certain things found during search under section 149B or 149BA of Customs and Excise Act 1996	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)
	152	Customs officer may, on direction of chief executive, inspect goods no longer under control of Customs if chief executive has reasonable grounds to suspect goods are goods in respect of which offence has been committed, or that are forfeited to the Crown, under Customs and Excise Act 1996	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	167(1)	Customs officer may obtain and execute search warrant to enter any place or thing to search for evidence of contravention of Customs and Excise Act 1996 or anything that is unlawfully imported or exported; or that is used for the purpose of unlawful exportation or importation of goods	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)
	175C	Customs officer may seize or detain goods suspected to be certain risk goods or evidence of commission of certain offences; if those goods are discovered in the course of exercising powers of inspection; search; or examination under Customs and Excise Act 1996	* Subpart 5 (which sets out procedures applying to seized or produced materials)
	175D	Customs officer may seize and detain goods or documents (located in the course of exercising any power of search; inspection; or examination under Customs and Excise Act 1996) that he or she has reasonable cause to suspect are evidence of any of specified list of offences under Misuse of Drugs Act 1975 or Films, Videos, and Publications Classification Act 1993	All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 of Part 4 do not apply to forfeited goods)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Dairy Industry Restructuring Act 2001	291(1)	Constable or chief executive of Ministry of Agriculture and Forestry or person authorised by chief executive may obtain and execute search warrant to search for evidence of offence against section 31(3) of Dairy Industry Restructuring Act 2001	All (except that sections 408(d), 440(2)(d), 444, and 445 apply only if constable executes search warrant)
Dog Control Act 1996	14(1) to (3)	Dog control officer who has good cause to suspect that offence against Dog Control Act 1996 or bylaw under that Act is being committed may enter land or premises, and inspect any dog, and if authorised by that Act, seize or take custody of dog (note: warrant must be obtained to enter dwellinghouse)	All
	56(3)	Dog ranger or dog control officer may enter dwellinghouse to remove barking dog (following non-compliance with remedial notice) if he or she obtains warrant to enter	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
	57(6)(b)	Dog ranger or dog control officer may enter dwellinghouse to seize dog that has attacked persons or animals if he or she has warrant to enter (note: entry may be without warrant in exigent circumstances)	* Subpart 2 (which relates to applications for, and issuing of, search warrants)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Driftnet Prohibition Act 1991	13(1) and (2)	Enforcement officer may exercise powers of entry and variety of other powers for purposes of enforcing Driftnet Prohibition Act 1991	*Subparts 3 to 6 (except sections 408(d), 440(2)(d), 444, and 445 (which relate to detention and search incidental to power of arrest); and section 472)
	46	Property seized by enforcement officer under section 15 of Driftnet Prohibition Act 1991 may be held	*Subpart 5 (which sets out procedures applying to seized or produced materials)
Electricity Act 1992	459(4)(e)	Dwellinghouse may be entered under general power of entry conferred by Electricity Act 1992 if warrant authorising entry to that dwellinghouse is obtained by person exercising power	*Subpart 2 (which relates to applications for, and issuing of, search warrants)
	172KD(6) and (7)	Authorised person may enter and search any place to ascertain if industry participant has breached electricity governance regulations or rules if he or she obtains search warrant	*Subpart 2 (which relates to applications for, and issuing of, search warrants)
Employment Relations Act 2000	231	Labour inspector may enter dwellinghouse with warrant (which may be issued only if a Judge is satisfied that a person is employed there and that a warrant is only practicable means of enabling inspector to gain entry)	*Subpart 2 (which relates to applications for, and issuing of, search warrants (except that power to issue a warrant is limited to a Judge))

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Extradition Act 1999	83(2)	Issuing officer may issue search warrant to constable to search for evidence of extradition offence	All (except sub-part 5)
Fair Trading Act 1986	47(2)	Authorised employee of Commerce Commission may obtain and execute search warrant to investigate breaches of Fair Trading Act 1986	All (except sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to powers of arrest))
Films, Videos, and Publications Classification Act 1993	109	Constable or inspector may obtain and execute search warrant to search for evidence of offences against Films, Videos, and Publications Classification Act 1993 (other than against sections 126 and 131A)	All
	109A(1) and 109B	Constable or inspector may obtain and execute search warrant to search for evidence of offences against section 126 or 131A of Films, Videos, and Publications Classification Act 1993	All
Financial Transactions Reporting Act 1996	38	Customs officer may search and detain person arriving in or leaving New Zealand with cash if cash report is required and has not been made or report is false, incomplete, incorrect, or misleading	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	44	Constable may obtain and execute search warrant to search for evidence of offence against Financial Transactions Reporting Act 1996 or any regulations made under that Act	All
Fisheries Act 1996	199(1)	Fishery officer may examine any vessel, vehicle, premises, or other place in the course of enforcement and administration of Fisheries Act 1996	All (except subpart 2 and section 145)
	199A	Fishery officer may enter, examine, and search anything that relates to suspected offence against Fisheries Act 1996	All (except subpart 2)
	200(1)	Fishery officer may enter dwellinghouse or surrounds or Māori reservation (under power conferred elsewhere in Fisheries Act 1996) if authorised to do so by issuing officer	*Subpart 2 (which relates to applications for, and issuing of, search warrants)
	207(1)	Property seized by fishery officer in relation to suspected offence against Fisheries Act 1996 may be held	*Subpart 5 (which sets out procedures applying to seized or produced materials)
	217(1)	Fishery officer or high seas fishery inspector exercising power under Fisheries Act 1996 must identify himself or herself	*Subpart 3 (which relates to carrying out search powers)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	217(2)	Production of warrant by fishery officer, high seas fishery inspector, or examiner sufficient proof of authority to act under Fisheries Act 1996	* Subpart 3 (which relates to carrying out search powers)
Food Act 1981	12(1) and (2)	Food officer may seize and detain articles and advertising material or labelling material reasonably believed to be in contravention of Food Act 1981 or, as applicable, any food standards or regulations made under that Act	All (except sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to power of arrest) and sections 120(2), 126(5)(e), and 127 and subparts 5 and 7)
	13(1)	Local authority inspector and any assistant under his or her direction may seize and detain any food or appliance related to certain suspected offences under Food Act 1981	All (except sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to power of arrest) and sections 120(2), 126(5)(e), and 127 and subparts 5 and 7)
Forests Act 1949	67D(1)(e)	Timber seized by Secretary (chief executive of Ministry of Agriculture and Forestry) or forestry officer may be disposed of in accordance with Part 4 of the Search and Surveillance Act 2009	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	67R	Secretary (chief executive of Ministry of Agriculture and Forestry) and any forestry officer may enter various places to inspect indigenous timber from indigenous forest land and may seize indigenous timber involved in a contravention of Forests Act 1949	All (except sections 108(d), 140(2)(d), 144, and 145 (which relate to detention and search incidental to power of arrest))
	71B(1)	Various powers of entry conferred by Forests Act 1949 are subject to specified statutory restrictions (including all of Part 4 of Search and Surveillance Act 2009)	All
Gambling 2003	Act 335(1)	Gambling inspector may, while in casino, seize any gambling equipment, device, or thing that inspector has reasonable grounds to believe is evidence of offence against sections 351 to 353 of Gambling Act 2003	All
	336(1)	Gambling inspector may, while in public place, seize any equipment, device, or thing that inspector has reasonable grounds to believe is evidence of offence against Gambling Act 2003 or related offence involving gambling	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	340(3)	Gambling inspector or constable may obtain and execute search warrant to search for evidence of offence against Gambling Act 2003 or related offence involving gambling	All
Gas Act 1992	43W(6) and (7)	Authorised person may enter home of industry participant under authority of warrant (which may be issued if there are reasonable grounds to believe it is necessary to issue warrant to ascertain whether industry participant has breached, or may breach, gas governance regulations or rules)	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
	50(1)	Any power of entry conferred by Gas Act 1992 or regulations made under that Act may be exercised in respect of dwellinghouse if warrant is issued (note: entry without warrant allowed in exigent circumstances)	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
Hazardous Substances and New Organisms Act 1996	119(1)	Enforcement officer may obtain and execute search warrant to search for evidence of any substance or organism or related thing involved in offence against Hazardous Substances and New Organisms Act 1996	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Health and Safety in Employment Act 1992	31(3)	Health and safety inspector may obtain and execute warrant to enter or go through dwelling-house (note: warrant may be issued only if there are reasonable grounds for believing that the home is or has within it a place of work or is only practical means of entering a place of work)	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
Health Practitioners Competence Assurance Act 2003	10(1)	Constable may obtain and execute search warrant to search for evidence of offence against section 7 or 9 of Health Practitioners Competence Assurance Act 2003	All
Human Assisted Reproductive Technology Act 2004	68(1)	Authorised person may enter place if he or she has reasonable grounds to believe that gamete, embryo, or foetus formed by prohibited action is located there or any assisted reproductive procedure or human reproductive research is conducted there, and inspect equipment at place and exercise other powers (such as powers of inspection and search and seizures at various times)	All (except sections 108(d), 140(2), 144, and 145 (which relate to detention and search incidental to power of arrest))

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	69(2)	Authorised person may enter dwellinghouse and exercise section 68 powers inside house under section 68(1) of Human Assisted Reproductive Technology Act 2004 only if he or she obtains search warrant	All
Human Tissue Act 2008	68(1)	Authorised person may enter place if he or she has reasonable grounds to believe that collection or use of human tissue at place involves contravention of Human Tissue Act 2008; or there is evidence of contraventions of Act at that place; and inspect equipment at place and exercise other powers; such as powers of inspection and search and seizure of various items	All (except sections 108(d), 140(2)(d), 144, and 145 (which relate to detention and search incidental to power of arrest))
	69(2)	Authorised person may enter dwellinghouse and exercise section 68 powers inside house only if he or she obtains search warrant	All
Immigration Advisers Licensing Act 2007	57(1)(e)	Person authorised by Registrar who enters premises for purposes of administering licensing regime may retain certain documents if there are grounds for believing they are evidence of commission of offence	*Subpart 5 (which sets out procedures applying to seized or produced materials)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	61(1)	Person may obtain entry warrant for dwelling-house if there are reasonable grounds to believe that immigration adviser, former immigration adviser, or applicant for licence as immigration adviser has worked there; and obtaining entry warrant is only practicable way in which to obtain entry	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
International Crimes and International Criminal Court Act 2000	102(1) and (2)	Constable may obtain and execute search warrant to search for evidence of international crime or anything related to such crime	* Subparts 4 to 4 and 6 to 9 and also sections 154 and 155 (which relate to disposal or retention of copies made or things generated by person exercising search or surveillance power)
	107(2)	Report on execution of search warrant together with copy of any notice given under section 127 of Search and Surveillance Act 2009 must be given to Attorney-General	Section 127 (which requires provision of inventory of items seized)
	108(4)	Things seized under search warrant issued under section 102 of International Crimes and International Criminal Court Act 2000 must be returned to person from whom they were seized (subject to section 148 of Search and Surveillance Act 2009)	Section 148 (which provides that seized or produced property is forfeited to the Crown if ownership is not established)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	108(5)	Attorney-General may refuse to return thing seized in certain circumstances (subject to section 147 of Search and Surveillance Act 2009)	Section 147 (which sets out procedure for resolving disputes about ownership of things seized or produced)
International Energy Agreement Act 1976	9(3)	Regulations may be made allowing powers of entry conferred by section 9 of International Energy Agreement Act 1976 to be exercised to ensure compliance with those regulations (note: regulations must not limit section 6 of Search and Surveillance Act 2009 or subpart 5 of Part 4 of that Act)	* Subpart 5 (which sets out procedures applying to seized or produced materials)
International War Crimes Tribunals Act 1995	48(1)	Constable who is of or above the level of inspector may obtain and execute warrant to search for evidence of suspected offence for which person has been arrested under section 7 of International War Crimes Tribunals Act 1995 or for any thing in respect of which such offence has been, or is suspected of having been, committed	Subparts 1 to 4 and 6 to 9 and also sections 154 and 155

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	48(2)	Constable, authorised by Attorney-General, may obtain and execute warrant to search for evidence of suspected offence that war crimes tribunal has jurisdiction to try, and for any thing in respect of which such offence has been, or is suspected of having been, committed	Subparts 1 to 4 and 6 to 9 and also sections 154 and 155
	55(5) and (6)	Any thing seized may be retained in certain circumstances, but must otherwise be returned to person from whom it was seized (subject to sections 147 and 148 of Search and Surveillance Act 2009)	Sections 147 and 148 (which set out procedures for resolving disputes about ownership of goods produced or seized, and provide for forfeiture to the Crown where ownership is not established)
Land Transport Act 1998	119(1) and (2)	Enforcement officer may enter any premises if he or she is in fresh pursuit of driver suspected of committing certain offences against Land Transport Act 1998, or of driver who has failed to provide certain information	All
	119(3)	Enforcement officer may enter premises without warrant, in exigent circumstances, to seize and impound vehicle liable to impoundment under various provisions of Land Transport Act 1998	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	119(5)	Enforcement officer may obtain and execute warrant to enter premises and seize and impound vehicle liable to impoundment under various provisions of Land Transport Act 1998	All
Local Government Act 2002	165	Enforcement officer may obtain and execute warrant to enter private land involved in commission of offence and seize and impound property	All
	172	Warranted enforcement officer may enter land for purpose of detecting breach of bylaw or commission of offence against Local Government Act 2002, if officer has reasonable grounds for suspecting such breach or offence has occurred, or is occurring, on the land (note: warrant must be obtained before this power can be exercised in respect of dwelling-house)	All
	173(1)	Local authority, for purposes of doing anything it is authorised to do under Local Government Act 2002, may enter property without giving prior notice in certain circumstances involving sudden emergency or if there is danger to any works or to adjoining property	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Major Events Management Act 2007	67(1)	Constable or enforcement officer may obtain and execute search warrant to search for evidence of offence against Major Events Management Act 2007 or for any related thing	All
Marine Mammals Protection Act 1978	13(1)	Marine mammals officer who has reason to believe or suspect that offence against Marine Mammals Protection Act 1978 has been committed may enter, inspect, and examine any vehicle, vessel, aircraft, or hovercraft	All
	13(5)	Marine mammal officers may exercise certain powers of seizure	All
	14(1)	Marine mammals officer may obtain and execute search warrant to search for evidence of offence against Marine Mammals Protection Act 1978 or of any preparation to commit such offence	All
Marine Reserves Act 1971	18(1)(d)	Ranger may, if he or she reasonably believes that person has committed offence against Marine Reserves Act 1971 or any regulations made under that Act, stop any vessel, vehicle, or aircraft or parcel, package, luggage, or other container in transit and may enter or open and search any such thing	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	18A	Ranger may, if he or she believes there has been breach of Marine Reserves Act 1971 or any regulations made under that Act, exercise certain seizure powers	All
Maritime Security Act 2004	51(4)	Authorised person may obtain and execute search warrant to search certain persons and their personal effects or a ship if issuing officer is satisfied that there are reasonable grounds to believe offence against Maritime Security Act 2004 has been, is being, or is likely to be committed	All
Maritime Transport Act 1994	454	Authorised person may obtain and execute warrant to inspect dwelling-house or marae for purposes of carrying out his or her functions, duties, or powers under Maritime Transport Act 1994 if issuing officer is satisfied that entry is essential to enable inspection to be carried out	All
	455(1)	Authorised person may obtain and execute warrant to search place for evidence of offence against Maritime Transport Act 1994 or for any related thing	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Meat Board Act 2004	42(2)	Auditor may enter place of business where any meat products or related documents are held or are likely to be and examine place and take samples for purposes of undertaking quota compliance audit under Meat Board Act 2004	All
	42(5)	Auditor may obtain and execute warrant to enter and inspect place that is not a place of business if issuing officer is satisfied that there are or are likely to be meat products or related documents at that place	All
	62(1)	Constable or authorised person may obtain and execute warrant to enter and inspect place that is not a place of business if issuing officer is satisfied that a person has taken or is intending to take certain proscribed actions and that meat products or related documents are or are likely to be at the place	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	62(2)	Constable or authorised person may obtain and execute warrant to enter and inspect place that is not a place of business if issuing officer is satisfied that, as consequence of inspection under section 61 of Meat Board Act 2004, there are reasonable grounds to believe that there are or are likely to be meat products or related documents at that place	All
Motor Vehicle Sales Act 2003	130(1)	Constable or Registrar of Motor Vehicles or person authorised by Registrar may obtain and execute search warrant to search for evidence of offence against Motor Vehicle Sales Act 2003 that has been, or is being, committed or for any related thing	All
National Parks Act 1980	61(1)	Ranger may seize article found in possession of any person in national park if ranger has reasonable grounds to believe that the person, in obtaining possession of article, has committed offence against National Parks Act 1980	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	61(6)	Any chainsaw, firearm, trap, net, or similar item found in unlawful possession of any person in national park and any item found on any person and used in commission of offence in national park may be seized by ranger	All
	65(1)	Ranger may stop and search boats or vehicles, or certain animals, or aircraft, and search premises and possessions, in national park if he or she has reasonable cause to believe offence has been committed against National Parks Act 1980 or any bylaws under that Act and that evidence will be found in course of search	All
	66(1)	Authorised person may stop and search boat outside national park if he or she has reasonable cause to believe offence has been committed against National Parks Act 1980 or any bylaws under that Act and that evidence is on boat	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Overseas Investment Act 2005	56(3)	Regulator may obtain search warrant to search place or thing if there are reasonable grounds to believe offence under Overseas Investment Act 2005 has been, or is being, committed at place or thing or there is on, under, or over place or thing evidence of offence against that Act	All
Ozone Layer Protection Act 1996	23(1)	Constable may obtain and execute search warrant to search for evidence of offence against Ozone Layer Protection Act 1996	All
	25	If any constable or officer seizes any substance or goods under Ozone Layer Protection Act 1996, subpart 5 of Part 4 of Search and Surveillance Act 2009 applies	* Subpart 5 (which sets out procedures applying to seized or produced materials)
Petroleum Demand Restraint Act 1981	17(4)	Petroleum demand restraint regulations may provide for application of section 6 of Search and Surveillance Act 2009 and subpart 5 of Part 4 of that Act, where suspected offence is not punishable by imprisonment	* Subpart 5 (which sets out procedures applying to seized or produced materials)
Pork Industry Board Act 1997	44(2)	Authorised person may enter and inspect place of business to ascertain whether requirements of Part 4 of Pork Industry Board Act 1997 are being complied with or to obtain evidence that any of those requirements are not being met	All (except sections 108(d) , 110(2)(d) , 114 , and 115 (which relate to detention and search incidental to power of arrest))

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	45(1)	Authorised person may obtain and execute warrant to enter and inspect place that is not place of business if issuing officer is satisfied that offence against section 49(1) or (2) of Pork Industry Board Act 1997 has been committed and that there are or are likely to be at the place certain documents relating to levy money or slaughter of pigs, or pork products subject to that levy, that are evidence of commission of offence	All (except sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to power of arrest))
	45(2)	Authorised person may obtain and execute warrant to enter and inspect place that is not place of business if issuing officer is satisfied that, as consequence of inspection of place of business under section 44 of Pork Industry Board Act 1997, there are reasonable grounds to believe that there are certain documents relating to levy money or slaughter of pigs, or pork products from pigs subject to that levy, at that place	All (except sections 108(d), 110(2)(d), 114, and 115 (which relate to detention and search incidental to power of arrest))

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Prostitution Reform Act 2003	30(1)	Constable may obtain warrant to enter and search place if issuing officer is satisfied that there is good cause to suspect offence against section 23 or 34 of Prostitution Reform Act 2003 has been or is likely to be committed at that place, or that it is necessary for constable to enter place to prevent or investigate such offence	All
Radiation Protection Act 1965	24(2)	Authorised officer of Ministry of Health who is refused entry to building believed to have radioactive material or irradiating apparatus or who believes that offence has been committed against Radiation Protection Act 1965 may obtain and execute search warrant	All
Radiocommunications Act 1989	120	Authorised Ministry of Economic Development employee or constable may obtain warrant to enter and inspect and remove certain documents if issuing officer is satisfied that a person has committed or is committing offence against Radiocommunications Act 1989 or any regulations made under section 134(1)(g) of that Act	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Reserve Bank of New Zealand Act 1989	66f	Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that certain information supplied to Reserve Bank is false or misleading; or that a person has failed to comply with certain statutory requirements under Reserve Bank of New Zealand Act 1989	All
	106(1)	Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that there has been non-compliance with any of certain provisions in Part 5 of Reserve Bank of New Zealand Act 1989	All
	106(2)	Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that it is necessary to do so for purpose of determining whether to execute statutory powers conferred by section 113 or 117 of Reserve Bank of New Zealand Act 1989	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	157ZM(1)	Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds to believe that deposit taker has committed offence against Part 5D of Reserve Bank of New Zealand Act 1989	All
Reserves Act 1977	95(1)	Certain wildlife and related things found in possession of person in reserve may be seized by constable, ranger, or employee of administering body, if he or she has good cause to suspect that the person, in obtaining possession of the thing, has committed offence against Reserves Act 1977	All
	95(6)	Firearms, traps, nets, or similar objects found illegally in possession of any person in reserve and equipment found in possession of any person that has been used to commit offence in reserve may be seized by constable, ranger, or employee of administering body	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	100(1)	Officer who has good cause to suspect that offence against Reserves Act 1977 or regulations made under that Act has been committed; on, from, or in respect of certain boats may stop boat and exercise certain powers of search and seizure	All
Resource Management Act 1991	334(1)	Constable or enforcement officer may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that at, in, on, over, or under any place or vehicle there is any thing in respect of which imprisonable offence under Resource Management Act 1991 or any regulations made under that Act has been committed or any thing that is evidence of such offence or that is intended to be used to commit such offence	All
Sale of Liquor Act 1989	177(1)	Constable may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that certain contraventions of Sale of Liquor Act 1989 are occurring	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Tax Administration Act 1994	16(4)	Commissioner of Inland Revenue or authorised employee of Inland Revenue Department may obtain and execute warrant to enter private dwelling if issuing officer is satisfied that exercise of applicant's functions under section 16 of Tax Administration Act 1994 requires physical access to that dwelling	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
	16C(2)	Commissioner of Inland Revenue or authorised employee of Inland Revenue Department may obtain and execute warrant to remove books and documents from place and retain them for full and complete inspection if issuing officer is satisfied that this may be required to enable applicant to exercise his or her functions under section 16 of Tax Administration Act 1994	* Subpart 2 (which relates to applications for, and issuing of, search warrants)
Trade in Endangered Species Act 1989	37(1)	Officer who has reasonable grounds to believe that breach of Trade in Endangered Species Act 1989 or of any regulations made under that Act has occurred may exercise certain entry, inspection, and related powers	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	38(1) and (2)	Officer may obtain and execute search warrant to enter and search dwellinghouse or marae if issuing officer is satisfied that there is in that place specimen of endangered, threatened, or exploited species in respect of which offence against Trade in Endangered Species Act 1989 may have been committed, or that there is evidence of such offence at that place or a thing intended to be used for purpose of committing offence	All
Unsolicited Electronic Messages Act 2007	51(4)	Enforcement officer may obtain and execute search warrant to search place or thing if there are reasonable grounds for believing that civil liability event has been, or is being, committed at place or thing or that there is on, over, or under place or thing anything that is evidence of civil liability event	All
Weights and Measures Act 1987	28(3)	Inspector of Weights and Measures may obtain and execute search warrant if issuing officer is satisfied that it is necessary for inspector to enter dwellinghouse to exercise certain entry, examination, and related powers conferred by section 28(1) of Weights and Measures Act 1987	*Subpart 2 (which relates to applications for, and issuing of, search warrants)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
Wild Animal Control Act 1977	12(10)	Warranted officer may enter land or premises of licence or permit holder under Wild Animal Control Act 1977, or any other land or premises on which he or she suspects animal is being kept in breach of section 12 of that Act, in order to ascertain whether conditions of licence or permit are being complied with, or whether animal is being kept in contravention of section 12 (note: a dwellinghouse may not be entered without obtaining a warrant)	All
	12(11)	Warranted officer may obtain and execute warrant to enter dwellinghouse for purpose of detecting offence if issuing officer is satisfied that there is probable cause to suspect that breach of section 12 of Wild Animal Control Act 1977 has been, or is being, committed	All
	13(1), (6); and (7)	Warranted officer may exercise variety of entry and search powers for purpose of enforcing, or preventing or detecting offences against, Wild Animal Control Act 1977	All

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	14(1) and (2)	Warranted officer may obtain and execute warrant to enter dwellinghouse for purpose of detecting offence if issuing officer is satisfied that there is probable cause to suspect that offence against Wild Animal Control Act 1977 has been, or is being, committed there	All
Wildlife Act 1953	Act 39(1)	Ranger may exercise variety of entry, seizure, stopping, and related powers in connection with enforcement of Wildlife Act 1953	All
		Ranger may obtain and execute warrant to enter dwellinghouse for purpose of detecting offence against Wildlife Act 1953, if issuing officer is satisfied that there is probable cause to suspect that breach of Wildlife Act 1953 or any regulations made under that Act has occurred or preparation to commit such breach has occurred on those premises	All
Wine Act 2003	62(1) and (2)	Wine officer may enter any premises (other than dwellinghouse or marae) for purposes of determining whether Wine Act 2003 is being complied with and may enter any place under authority of search warrant	*Subpart 3 (which relates to carrying out search powers)

Column 1	Column 2	Column 3	Column 4
Act	Section	Brief description of power	Which provisions in Part 4 apply
	63(1)(a) and (b)	Wine officer may exercise range of examination and inquiry powers at any place he or she may enter under section 62 of Wine Act 2003	All (except sections 408(d) , 440(2)(d) , 444 , and 445 (which relate to detention and search incidental to power of arrest))
	65(1)	Wine officer or constable may obtain and execute search warrant at any place if issuing officer is satisfied that there are reasonable grounds for believing that there is at place a thing in respect of which offence under Wine Act 2003 has been, or is being committed, or thing that is being used, or is intended for use, in commission of such offence, or that is evidence of such offence	All
	68	Property seized under search warrant issued under section 65 of Wine Act 2003 may be disposed of	*Subpart 5 (which relates to procedures applying to seized or produced materials) *Subpart 4 also applicable (application of rules; and to the extent provided in section 88 (consent searches)) *Subparts 6 to 9 are also applicable (to the extent provided in section 87AA(3))

Schedule **s 87AA**
Powers in other enactments to which all or part of Part 4 of Search and Surveillance Act 2009 applies

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Agricultural Compounds and Veterinary Medicines Act 1997</u>	<u>64(1) and (2)</u>	<u>ACVM officer may enter and inspect transitional facility or biosecurity control area</u>	<u>All (except subparts 1A, 2, and 7 and sections 114 and 115)</u>
	<u>69(1)</u>	<u>Constable or ACVM officer may obtain and execute search warrant to search for agricultural compounds or biological agents and related objects</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
	<u>71(1)</u>	<u>Constable or ACVM officer may dispose of property seized under search warrant issued under section 69(1) of Agricultural Compounds and Veterinary Medicines Act 1997</u>	<u>Subparts 1, 4, 5, 6, and 9</u>
<u>Animal Products Act 1999</u>	<u>87(1) and (2)</u>	<u>Animal product officer may enter place to determine whether person is complying with Animal Products Act 1999 or whether shellfish pose hazard to public health</u>	<u>Subparts 1, 3, 6, 8, and 9</u> (except sections 114 and 115)
	<u>88(1)</u>	<u>Animal product officer may examine things at place entered under section 87(1) or (2) of Animal Products Act 1999</u>	<u>All (except subparts 1A, 2, and 7 and sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>94(1)</u>	<u>Constable or animal product officer may obtain and execute search warrant to search for evidence of offence against Animal Products Act 1999 or in relation to shellfish contaminants</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
	<u>97</u>	<u>Constable or animal product officer may dispose of property seized under search warrant issued under section 94(1) of Animal Products Act 1999</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>
<u>Animal Welfare Act 1999</u>	<u>131(1) and (2)</u>	<u>Constable or animal welfare inspector may obtain and execute search warrant to search for evidence of offence against Animal Welfare Act 1999 or to prevent or investigate suffering of animal</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
	<u>136(1)</u>	<u>Constable or animal welfare inspector may dispose of property seized under search warrant issued under section 131 of Animal Welfare Act 1999 or dispose of any animal taken under section 137 of that Act</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>
<u>Antarctic Marine Living Resources Act 1981</u>	<u>9(1)</u>	<u>High seas fishery inspector may stop, enter, inspect, and examine vehicle, vessel, aircraft, or hovercraft for evidence of offence against Antarctic Marine Living Resources Act 1981</u>	<u>All (except subparts 2 and 7)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Antarctica (Environmental Protection) Act 1994</u>	<u>42(1)</u>	<u>Special inspector may obtain and execute search warrant to search for evidence of offence against Antarctica (Environmental Protection) Act 1994</u>	<u>All</u>
	<u>43(1)</u>	<u>Special inspector may search without warrant for evidence of offence against Antarctica (Environmental Protection) Act 1994 in exigent circumstances</u>	<u>All (except sub-parts 1A and 2)</u>
<u>Anti-Money Laundering and Countering Financing of Terrorism Act 2009</u>	<u>117(1) and (3)</u>	<u>Enforcement officer or constable may obtain and execute search warrant to search for evidence of offence against Act or of failure to comply with requirement under Act</u>	<u>Subparts 1, 2, and 8</u>
	<u>118</u>	<u>Enforcement officer or constable executing search warrant to inspect and copy documents and require a person to produce documents, operate equipment, remove documents, and answer questions</u>	<u>All (except sub-part 2 and sections 114 and 115)</u>
<u>Anti-Personnel Mines Prohibition Act 1998</u>	<u>22</u>	<u>Anti-personnel mines officer may obtain and execute search warrant to enter and inspect place in order to exercise function conferred by Anti-Personnel Mines Prohibition Act 1998</u>	<u>Subparts 1, 2, 3, 6, 8, and 9</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Aviation Crimes Act 1972</u>	<u>13(1)</u>	<u>Constable may search person who declines to allow his or her luggage to be searched in circumstances where constable believes crime against Aviation Crimes Act 1972 has been, is being, or is likely to be committed</u>	<u>All (except sub-part 2)</u>
<u>Biosecurity Act 1993</u>	<u>110(1)</u>	<u>Inspector or authorised person may obtain and execute search warrant to enter and inspect places for pests, pest agents, unwanted organisms, unauthorised goods, or risk goods, and to check activities carried out under Biosecurity Act 1993</u>	<u>Subparts 1, 2, 6, 8, and 9</u>
	<u>111(1)</u>	<u>Inspector or authorised person may obtain, and inspector, authorised person, or constable may execute, search warrant to search for evidence of offence against Biosecurity Act 1993</u>	<u>All (except sections 114 and 115)</u>
	<u>118(1)</u>	<u>Person exercising power of search conferred by section 111 of Biosecurity Act 1993 may seize things</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>
<u>Boxing and Wrestling Act 1981</u>	<u>9</u>	<u>Constable may obtain and execute search warrant to obtain evidence of offence against Boxing and Wrestling Act 1981</u>	<u>Subparts 1, 2, 3, 6, 8, and 9</u>
<u>Chemical Weapons (Prohibition) Act 1996</u>	<u>23</u>	<u>Constable or appointed person may apply for search warrant</u>	<u>Subparts 2 and 3</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Children, Young Persons, and Their Families Act 1989</u>	39(1) and (3)	Constable or social worker may obtain and execute place of safety warrant authorising search for, and removal of, child at risk of harm	Sections 97, 99, and 103
	40(1) and (4)	On application for order that child is in need of care and protection, constable or social worker may obtain and execute search warrant authorising search for and removal of child	Sections 97, 99, and 103
	386(1)	If child or young person absconds, constable or social worker may obtain and execute search warrant authorising search for, and removal and return of, child or young person	Sections 97, 99, and 103
<u>Civil Aviation Act 1990</u>	24(4)	Authorised person may obtain and execute warrant to enter dwelling-house or marae for purposes of exercising powers of inspection conferred on Director of Civil Aviation by Civil Aviation Act 1990	Subparts 1, 2, 3, 4, 6, 8, and 9 (except that sections 114 and 115 apply to constables only)
<u>Commerce Act 1986</u>	98A(2)	Authorised employee of Commerce Commission may obtain and execute warrant to search for evidence of offence against most provisions of Commerce Act 1986	All (except sections 114 and 115)
<u>Commodity Levies Act 1990</u>	19(1)	Constable or designated person may obtain and execute warrant to enter and search for evidence of offence against Commodity Levies Act 1990	All (except that sections 114 and 115 apply to constables only)

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Conservation Act 1987</u>	<u>40(1) and (5)</u>	<u>Warranted officer may seize various things held in contravention of Conservation Act 1987 and exercise other powers; constable or warranted officer may seize thing in respect of which it is believed offence is being committed under Conservation Act 1987</u>	<u>All (except subpart 2)</u>
<u>Credit Contracts and Consumer Finance Act 2003</u>	<u>113(d)</u>	<u>Powers of Commerce Commission to search and seize under sections 98A and 98G of Commerce Act 1986 are applied to Credit Contracts and Consumer Finance Act 2003 (with any necessary modifications)</u>	<u>All (except sections 114 and 115)</u>
<u>Criminal Proceeds (Recovery) Act 2009</u>	<u>59</u>	<u>Court may declare nature, extent, and value of person's interest in property specified in civil forfeiture order, and give directions</u>	<u>All (except subpart 5)</u>
	<u>71</u>	<u>Court may declare nature, extent, and value of person's interest in property specified in instrument forfeiture order, and give directions</u>	<u>All (except subpart 5)</u>
	<u>101(1)</u>	<u>Member of Police may obtain and execute warrant to search any place or thing for instrument of crime or evidence of nature of person's interest in or control over instrument of crime</u>	<u>Subpart 2</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>102(1)</u>	<u>Commissioner of Police may obtain and execute warrant to search any place or thing for tainted property or evidence of person's interest in tainted property or property that is subject of restraining order</u>	<u>Subpart 2</u>
	<u>104(1)</u>	<u>The Commissioner of Police may apply to a Judge for a production order if the Commissioner has reason to believe that a person has possession or control of documents that are relevant to an investigation by the Commissioner under this Act or to any proceedings under this Act.</u>	<u>sections 97 and 98</u>
	<u>106(1)</u>	<u>The Commissioner of Police may apply to a Judge for an examination order.</u>	<u>sections 97 and 98</u>
	<u>108(1)</u>	<u>Commissioner of Police may obtain and execute warrant to search any thing or place for documents or information required to be produced or supplied under Act</u>	<u>Subpart 2</u>
	<u>110(1)</u>	<u>Official Assignee may obtain and execute warrant to search any place or thing for property that is or is likely to be subject of restraining order or that is subject of forfeiture order</u>	<u>Subpart 2</u>
	<u>114</u>	<u>Application and issue of search warrants</u>	<u>All (except <u>sub-part 5</u>)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>127</u>	<u>Applications for warrants under sections 124 to 126</u>	<u>All (except sub-part 5)</u>
	<u>146</u>	<u>High Court may declare the nature, extent, and value of any person's interest in property specified in a foreign forfeiture order</u>	<u>All (except sub-part 5)</u>
<u>Customs and Excise Act 1996</u>	<u>139(1)(d)</u>	<u>Customs officer and authorised person may board craft if officer or authorised person has reasonable cause to suspect craft is involved in offence against Customs and Excise Act 1996 or is carrying dutiable, uncustomed, prohibited, or forfeited goods</u>	<u>Subparts 1, 1A, and 3 to 9 (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>
	<u>140</u>	<u>Customs officer and authorised person may search craft if officer or authorised person has reasonable cause to suspect craft is involved in offence against Customs and Excise Act 1996 or is carrying dutiable, uncustomed, prohibited, or forfeited goods</u>	<u>Subparts 1, 1A, and 3 to 9 (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>
	<u>144</u>	<u>Customs officer or, in certain cases, constable may stop and detain vehicle to search it for various kinds of goods</u>	<u>Subparts 1 and 3 to 9 (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>149B</u>	<u>Customs officer or, in certain cases, constable may search person if officer or constable has reasonable cause to suspect that certain items are hidden on or about that person and are evidence that the person has committed or is about to commit certain offences against Customs and Excise Act 1996</u>	<u>Subparts 1, 1A, and 3 to 9 (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>
	<u>149BA</u>	<u>Customs officer or constable may search a person for dangerous items if officer or constable has reasonable grounds to believe that items posing threat to safety are on or about the person</u>	<u>Subparts 1, 1A, and 3 to 9 (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>
	<u>149C</u>	<u>Customs officer or constable may seize certain things found during search under section 149B or 149BA of Customs and Excise Act 1996</u>	<u>Subparts 1, 4, 5, 6, 8, and 9 (except that sections 120(2), 126(5)(e), and 127 and subpart 5 do not apply to forfeited goods)</u>
	<u>152</u>	<u>Customs officer may, on direction of chief executive, inspect goods no longer under control of Customs if chief executive has reasonable grounds to suspect goods are goods in respect of which offence has been committed, or that are forfeited to the Crown, under Customs and Excise Act 1996</u>	<u>Subparts 1, 1A, and 3 to 9 (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>167(1)</u>	<u>Customs officer may obtain and execute search warrant to enter any place or thing to search for evidence of contravention of Customs and Excise Act 1996 or anything that is unlawfully imported or exported, or that is used for the purpose of unlawful exportation or importation of goods</u>	<u>All (except that sections 120(2), 126(5)(e), and 127 and subparts 5 and 7 do not apply to forfeited goods)</u>
	<u>175C</u>	<u>Customs officer may seize or detain goods suspected to be certain risk goods or evidence of commission of certain offences, if those goods are discovered in the course of exercising powers of inspection, search, or examination under Customs and Excise Act 1996</u>	<u>All (except subparts 1A and 2)</u>
	<u>175D</u>	<u>Customs officer may seize and detain goods or documents (located in the course of exercising any power of search, inspection, or examination under Customs and Excise Act 1996) that he or she has reasonable cause to suspect are evidence of any of specified list of offences under Misuse of Drugs Act 1975 or Films, Videos, and Publications Classification Act 1993</u>	<u>Subparts 1, 4, 5, 6, 8, and 9 (except that sections 120(2), 126(5)(e), and 127 and subpart 5 do not apply to forfeited goods)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Dairy Industry Restructuring Act 2001</u>	<u>29I(1)</u>	<u>Constable or chief executive of Ministry of Agriculture and Forestry or person authorised by chief executive may obtain and execute search warrant to search for evidence of offence against section 31(3) of Dairy Industry Restructuring Act 2001</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Dog Control Act 1996</u>	<u>14(1) to (3)</u>	<u>Dog control officer who has good cause to suspect that offence against Dog Control Act 1996 or bylaw under that Act is being committed may enter land or premises, and inspect any dog, and, if authorised by that Act, seize or take custody of dog (note: warrant must be obtained to enter dwellinghouse)</u>	<u>Subparts 1, 1A, 3, and 6 to 9 (except that sections 114 and 115 apply to constables only)</u>
	<u>56(3)</u>	<u>Dog ranger or dog control officer may enter dwellinghouse to remove barking dog (following non-compliance with remedial notice) if he or she obtains warrant to enter</u>	<u>Subparts 1, 2, 6, 8, and 9</u>
	<u>57(6)(b)</u>	<u>Dog ranger or dog control officer may enter dwellinghouse to seize dog that has attacked persons or animals if he or she has warrant to enter (note: entry may be without warrant in exigent circumstances)</u>	<u>Subparts 1, 2, 6, 8, and 9</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Driftnet Prohibition Act 1991</u>	13(1) and (2)	<u>Enforcement officer may exercise powers of entry and variety of other powers for purposes of enforcing Driftnet Prohibition Act 1991</u>	<u>Subparts 1, 3, 4, 6, 8, and 9</u>
	15	<u>Enforcement officer may seize property</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>
<u>Electricity Act 1992</u>	159(1)(e)	<u>Dwellinghouse may be entered under general power of entry conferred by Electricity Act 1992 if warrant authorising entry to that dwellinghouse is obtained by person exercising power</u>	<u>Subparts 1, 2, 4, 6, 8, and 9</u>
<u>Electricity Industry Act 2010</u>	47(1)	<u>Employee of Authority may obtain and execute warrant to search any place for purpose of ascertaining whether industry participant is in breach of Act, regulations, or Code</u>	<u>All (except sections 114 and 115)</u>
<u>Extradition Act 1999</u>	83(2)	<u>Issuing officer may issue search warrant to constable to search for evidence of extradition offence</u>	<u>All (except subpart 5)</u>
<u>Fair Trading Act 1986</u>	47(2)	<u>Authorised employee of Commerce Commission may obtain and execute search warrant to investigate breaches of Fair Trading Act 1986</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Films, Videos, and Publications Classification Act 1993</u>	<u>109</u>	<u>Constable or inspector may obtain and execute search warrant to search for evidence of offences against Films, Videos, and Publications Classification Act 1993 (other than against sections 126 and 131A)</u>	<u>All (except sections 114 and 115)</u>
	<u>109A(1) and 109B</u>	<u>Constable or inspector may obtain and execute search warrant to search for evidence of offences against section 126 or 131A of Films, Videos, and Publications Classification Act 1993</u>	<u>All (except sections 114 and 115)</u>
<u>Financial Markets Authority Act 2011</u>	<u>29(1) and (3)</u>	<u>Specified person may enter and search place, vehicle, or other thing by consent or with warrant to ascertain if person is contravening financial markets legislation</u>	<u>All (except sections 114 and 115)</u>
<u>Financial Transactions Reporting Act 1996</u>	<u>44</u>	<u>Constable may obtain and execute search warrant to search for evidence of offence against Financial Transactions Reporting Act 1996 or any regulations made under that Act</u>	<u>All</u>
<u>Fisheries Act 1996</u>	<u>199(1)</u>	<u>Fishery officer may examine any vessel, vehicle, premises, or other place in the course of enforcement and administration of Fisheries Act 1996</u>	<u>All (except subparts 1A, 2, and 7 and section 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	199A	<u>Fishery officer may enter, examine, and search any thing that relates to suspected offence against Fisheries Act 1996</u>	<u>All (except sub-parts 2 and 7)</u>
	<u>200(1)</u>	<u>Fishery officer may enter dwellinghouse or surrounds or Māori reservation (under power conferred elsewhere in Fisheries Act 1996) if authorised to do so by issuing officer</u>	<u>Subparts 1, 2, 6, 8, and 9</u>
	<u>207(1)</u>	<u>Property seized by fishery officer in relation to suspected offence against Fisheries Act 1996 may be held</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>
<u>Food Act 1981</u>	<u>12(1) and (2)</u>	<u>Food officer may seize and detain articles and advertising material or labelling material reasonably believed to be in contravention of Food Act 1981 or, as applicable, any food standards or regulations made under that Act</u>	<u>All (except sub-parts 1A, 2, 5, and 7 and sections 114, 115, 120(2), 126(5)(e) and 127)</u>
	<u>13(1)</u>	<u>Local authority inspector and any assistant under his or her direction may seize and detain any food or appliance related to certain suspected offences under Food Act 1981</u>	<u>All (except sub-parts 1A, 2, 5, and 7 and sections 114, 115, 120(2), 126(5)(e), and 127)</u>
	<u>15A</u>	<u>Authorised officer may apply for search warrant in relation to specified offences</u>	<u>Section 6</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Forests Act 1949</u>	<u>67D(1)(e)</u>	Timber seized by Secretary (chief executive of Ministry of Agriculture and Forestry) or forestry officer may be disposed of in accordance with Part 4 of the Search and Surveillance Act 2009	Subparts 1, 5, 6, 8, and 9
	<u>67R</u>	Secretary (chief executive of Ministry of Agriculture and Forestry) and any forestry officer may enter various places to inspect indigenous timber from indigenous forest land and may seize indigenous timber involved in a contravention of Forests Act 1949	All (except subparts 1A, 2, 4, and 7 and sections 114 and 115)
	<u>71B(1)</u>	Various powers of entry conferred by Forests Act 1949 are subject to specified statutory restrictions (including all of Part 4 of Search and Surveillance Act 2009)	All (except that sections 114 and 115 apply to constables only)
<u>Gambling Act 2003</u>	<u>335(1)</u>	Gambling inspector may, while in casino, seize any gambling equipment, device, or thing that inspector has reasonable grounds to believe is evidence of offence against sections 351 to 353 of Gambling Act 2003	All (except Subpart 2)

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>336(1)</u>	<u>Gambling inspector may, while in public place, seize any equipment, device, or thing that inspector has reasonable grounds to believe is evidence of offence against Gambling Act 2003 or related offence involving gambling</u>	<u>All (except Sub-part 2)</u>
	<u>340(3)</u>	<u>Gambling inspector or constable may obtain and execute search warrant to search for evidence of offence against Gambling Act 2003 or related offence involving gambling</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Gas Act 1992</u>	<u>43W(6) and (7)</u>	<u>Authorised person may enter home of industry participant under authority of warrant (which may be issued if there are reasonable grounds to believe it is necessary to issue warrant to ascertain whether industry participant has breached, or may breach, gas governance regulations or rules)</u>	<u>Subparts 1, 2, 6, 8, and 9</u>
	<u>50(1)</u>	<u>Any power of entry conferred by Gas Act 1992 or regulations made under that Act may be exercised in respect of dwellinghouse if warrant is issued (note: entry without warrant allowed in exigent circumstances)</u>	<u>Subparts 1, 2, 6, 8, and 9</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Hazardous Substances and New Organisms Act 1996</u>	<u>119(1)</u>	<u>Enforcement officer may obtain and execute search warrant to search for evidence of any substance or organism or related thing involved in offence against Hazardous Substances and New Organisms Act 1996</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Health Practitioners Competence Assurance Act 2003</u>	<u>10(1)</u>	<u>Constable may obtain and execute search warrant to search for evidence of offence against section 7 or 9 of Health Practitioners Competence Assurance Act 2003</u>	<u>All (except sections 114 and 115)</u>
<u>Human Assisted Reproductive Technology Act 2004</u>	<u>68(1)</u>	<u>Authorised person may enter place if he or she has reasonable grounds to believe that gamete, embryo, or foetus formed by prohibited action is located there or any assisted reproductive procedure or human reproductive research is conducted there, and inspect equipment at place and exercise other powers (such as powers of inspection and search and seizures at various times)</u>	<u>All (except subpart 2 and sections 114 and 115)</u>
	<u>69(2)</u>	<u>Authorised person may enter dwellinghouse and exercise section 68 powers inside house under section 68(1) of Human Assisted Reproductive Technology Act 2004 only if he or she obtains search warrant</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>72</u>	<u>Property seized may be forfeited to Crown on conviction</u>	<u>Subpart 5</u>
<u>Human Tissue Act 2008</u>	<u>68(1)</u>	<u>Authorised person may enter place if he or she has reasonable grounds to believe that collection or use of human tissue at place involves contravention of Human Tissue Act 2008, or there is evidence of contraventions of Act at that place, and inspect equipment at place and exercise other powers, such as powers of inspection and search and seizure of various items</u>	All (except <u>subpart 2 and sections 114 and 115</u>)
	<u>69(2)</u>	<u>Authorised person may enter dwellinghouse and exercise section 68 powers inside house only if he or she obtains search warrant</u>	All (except <u>sections 114 and 115</u>)
	<u>72</u>	<u>Property seized may be forfeited to Crown on conviction</u>	<u>Subpart 5</u>
<u>Immigration Advisers Licensing Act 2007</u>	<u>57(1)(e)</u>	<u>Person authorised by Registrar who enters premises for purposes of administering licensing regime may retain certain documents if there are grounds for believing they are evidence of commission of offence</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>61(1)</u>	<u>Person may obtain entry warrant for dwelling-house if there are reasonable grounds to believe that immigration adviser, former immigration adviser, or applicant for licence as immigration adviser has worked there, and obtaining entry warrant is only practicable way in which to obtain entry</u>	<u>Subparts 1, 2, and 8</u>
	<u>61A</u>	<u>Registrar may apply for a search warrant in relation to an offence under the Act</u>	<u>section 6</u>
<u>Insurance (Prudential Supervision) Act 2010</u>	<u>132(1)</u>	<u>Investigator may enter and search any place by consent or with warrant for purposes of investigating affairs of licensed insurer or associated person</u>	<u>All (except <u>sections 114 and 115</u>)</u>
	<u>230, 231</u>	<u>Protection from liability for acts done in good faith</u>	<u>Subpart 6</u>
<u>International Crimes and International Criminal Court Act 2000</u>	<u>102(1) and (2)</u>	<u>Constable may obtain and execute search warrant to search for evidence of international crime or anything related to such crime</u>	<u>Subparts 1 to 4, 6, 8, and 9</u> and also <u>sections 154 and 155</u>
	<u>107(2)</u>	<u>Report on execution of search warrant together with copy of any notice given under <u>section 127</u> of Search and Surveillance Act 2009 must be given to Attorney-General</u>	<u>Section 127</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>108(4)</u>	<u>Things seized under search warrant issued under section 102 of International Crimes and International Criminal Court Act 2000 must be returned to person from whom they were seized (subject to section 148 of Search and Surveillance Act 2009)</u>	Section 148
	<u>108(5)</u>	<u>Attorney-General may refuse to return thing seized in certain circumstances (subject to section 147 of Search and Surveillance Act 2009)</u>	Section 147
<u>International Energy Agreement Act 1976</u>	<u>11</u>	<u>Regulations may be made allowing powers of entry conferred by section 9 of International Energy Agreement Act 1976 to be exercised to ensure compliance with those regulations (note: regulations must not limit section 6 of Search and Surveillance Act 2009 or subpart 5 of Part 4 of that Act)</u>	section 6 and subparts 1, 2, 5, 6, 8, and 9

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>International War Crimes Tribunals Act 1995</u>	<u>48(1)</u>	<u>Constable who is of or above the level of inspector may obtain and execute warrant to search for evidence of suspected offence for which person has been arrested under section 7 of International War Crimes Tribunals Act 1995 or for any thing in respect of which such offence has been, or is suspected of having been, committed</u>	<u>Subparts 1 to 4 and 6 to 9 and also sections 154 and 155</u>
	<u>48(2)</u>	<u>Constable, authorised by Attorney-General, may obtain and execute warrant to search for evidence of suspected offence that war crimes tribunal has jurisdiction to try, and for any thing in respect of which such offence has been, or is suspected of having been, committed</u>	<u>Subparts 1 to 4 and 6 to 9 and also sections 154 and 155</u>
	<u>55(5) and (6)</u>	<u>Any thing seized may be retained in certain circumstances, but must otherwise be returned to person from whom it was seized (subject to sections 147 and 148 of Search and Surveillance Act 2009)</u>	<u>Sections 147 and 148</u>
<u>Land Transport Act 1998</u>	<u>119(1) and (2)</u>	<u>Enforcement officer may enter any premises if he or she is in fresh pursuit of driver suspected of committing certain offences against Land Transport Act 1998, or of driver who has failed to provide certain information</u>	<u>All (except sub-part 2)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	119(3)	<u>Enforcement officer may enter premises without warrant, in exigent circumstances, to seize and impound vehicle liable to impoundment under various provisions of Land Transport Act 1998</u>	<u>All (except sub-part 2)</u>
	119(5)	<u>Enforcement officer may obtain and execute warrant to enter premises and seize and impound vehicle liable to impoundment under various provisions of Land Transport Act 1998</u>	<u>All</u>
<u>Local Government Act 2002</u>	165	<u>Enforcement officer may obtain and execute warrant to enter private land involved in commission of offence and seize and impound property</u>	<u>All (except sections 114 and 115)</u>
	172	<u>Warranted enforcement officer may enter land for purpose of detecting breach of bylaw or commission of offence against Local Government Act 2002, if officer has reasonable grounds for suspecting such breach or offence has occurred, or is occurring, on the land (note: warrant must be obtained before this power can be exercised in respect of dwelling-house)</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>173(1)</u>	<u>Local authority, for purposes of doing anything it is authorised to do under Local Government Act 2002, may enter property without giving prior notice in certain circumstances involving sudden emergency or if there is danger to any works or to adjoining property</u>	<u>All (except subparts 1A and 2 and sections 114 and 115)</u>
<u>Major Events Management Act 2007</u>	<u>67(1)</u>	<u>Constable or enforcement officer may obtain and execute search warrant to search for evidence of offence against Major Events Management Act 2007 or for any related thing</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Marine Mammals Protection Act 1978</u>	<u>13(1)</u>	<u>Marine mammals officer who has reason to believe or suspect that offence against Marine Mammals Protection Act 1978 has been committed may enter, inspect, and examine any vehicle, vessel, aircraft, or hovercraft</u>	<u>All (except subpart 2)</u>
	<u>13(5)</u>	<u>Marine mammal officers may exercise certain powers of seizure</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>
	<u>14(1)</u>	<u>Marine mammals officer may obtain and execute search warrant to search for evidence of offence against Marine Mammals Protection Act 1978 or of any preparation to commit such offence</u>	<u>All</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Marine Reserves Act 1971</u>	<u>18(1)(d)</u>	<u>Ranger may, if he or she reasonably believes that person has committed offence against Marine Reserves Act 1971 or any regulations made under that Act, stop any vessel, vehicle, or aircraft or parcel, package, luggage, or other container in transit and may enter or open and search any such thing</u>	<u>All (except sub-part 2)</u>
	<u>18A</u>	<u>Ranger may, if he or she believes there has been breach of Marine Reserves Act 1971 or any regulations made under that Act, exercise certain seizure powers</u>	<u>All (except sub-part 2)</u>
<u>Maritime Security Act 2004</u>	<u>51(4)</u>	<u>Authorised person may obtain and execute search warrant to search certain persons and their personal effects or a ship if issuing officer is satisfied that there are reasonable grounds to believe offence against Maritime Security Act 2004 has been, is being, or is likely to be committed</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Maritime Transport Act 1994</u>	<u>454</u>	<u>Authorised person may obtain and execute warrant to inspect dwelling-house or marae for purposes of carrying out his or her functions, duties, or powers under Maritime Transport Act 1994 if issuing officer is satisfied that entry is essential to enable inspection to be carried out</u>	<u>All (except sub-part 1A and that sections 114 and 115 apply to constables only)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	455(1)	<u>Authorised person may obtain and execute warrant to search place for evidence of offence against Maritime Transport Act 1994 or for any related thing</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Meat Board Act 2004</u>	42(2)	<u>Auditor may enter place of business where any meat products or related documents are held or are likely to be and examine place and take samples for purposes of undertaking quota compliance audit under Meat Board Act 2004</u>	Subparts 1, 3 to 6, 8, and 9 (except sections 114 and 115)
	42(5)	<u>Auditor may obtain and execute warrant to enter and inspect place that is not a place of business if issuing officer is satisfied that there are or are likely to be meat products or related documents at that place</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
	62(1)	<u>Constable or authorised person may obtain and execute warrant to enter and inspect place that is not a place of business if issuing officer is satisfied that a person has taken or is intending to take certain proscribed actions and that meat products or related documents are or are likely to be at the place</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>62(2)</u>	<u>Constable or authorised person may obtain and execute warrant to enter and inspect place that is not a place of business if issuing officer is satisfied that, as consequence of inspection under section 61 of Meat Board Act 2004, there are reasonable grounds to believe that there are or are likely to be meat products or related documents at that place</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Motor Vehicle Sales Act 2003</u>	<u>130(1)</u>	<u>Constable or Registrar of Motor Vehicles or person authorised by Registrar may obtain and execute search warrant to search for evidence of offence against Motor Vehicle Sales Act 2003 that has been, or is being, committed or for any related thing</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Mutual Assistance in Criminal Matters Act 1992</u>	<u>44(1)</u>	<u>Constable authorised by Attorney-General under section 43(2) may obtain and execute warrant to search for and seize any thing in respect of which offence under foreign law has been or may have been committed, or that is evidence, or that may be used in commission of such an offence</u>	<u>All (except sub-part 5)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>National Parks Act 1980</u>	<u>61(1)</u>	<u>Ranger may seize article found in possession of any person in national park if ranger has reasonable grounds to believe that the person, in obtaining possession of article, has committed offence against National Parks Act 1980</u>	<u>All (except Sub-part 2)</u>
	<u>61(6)</u>	<u>Ranger may seize any chainsaw, firearm, trap, net, or similar item found in unlawful possession of any person in national park and any item found on any person and used in commission of offence in national park</u>	<u>All (except Sub-part 2)</u>
	<u>65(1)</u>	<u>Ranger may stop and search boats or vehicles, or certain animals, or aircraft, and search premises and possessions, in national park if he or she has reasonable cause to believe offence has been committed against National Parks Act 1980 or any bylaws under that Act and that evidence will be found in course of search</u>	<u>All (except sub-part 2 and sections 114 and 115)</u>
	<u>66(1)</u>	<u>Authorised person may stop and search boat outside national park if he or she has reasonable cause to believe offence has been committed against National Parks Act 1980 or any bylaws under that Act and that evidence is on boat</u>	<u>All (except sub-part 2)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Overseas Investment Act 2005</u>	<u>56(3)</u>	<u>Regulator may obtain search warrant to search place or thing if there are reasonable grounds to believe offence under Overseas Investment Act 2005 has been, or is being, committed at place or thing or there is on, under, or over place or thing evidence of offence against that Act</u>	<u>All (except sections 114 and 115)</u>
<u>Ozone Layer Protection Act 1996</u>	<u>23(1)</u>	<u>Constable may obtain and execute search warrant to search for evidence of offence against Ozone Layer Protection Act 1996</u>	<u>All (except sections 114 and 115)</u>
	25	<u>If any constable or officer seizes any substance or goods under Ozone Layer Protection Act 1996, subparts 1, 5, 6, 8, and 9 of Part 4 of Search and Surveillance Act 2009 apply</u>	Subparts 1, 5, 6, 8, and 9
<u>Pork Industry Board Act 1997</u>	<u>44(2)</u>	<u>Authorised person may enter and inspect place of business to ascertain whether requirements of Part 4 of Pork Industry Board Act 1997 are being complied with or to obtain evidence that any of those requirements are not being met</u>	<u>All (except subpart 1A, sections 114 and 115, and subpart 7)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>45(1)</u>	<u>Authorised person may obtain and execute warrant to enter and inspect place that is not place of business if issuing officer is satisfied that offence against section 49(1) or (2) of Pork Industry Board Act 1997 has been committed and that there are or are likely to be at the place certain documents relating to levy money or slaughter of pigs, or pork products subject to that levy, that are evidence of commission of offence</u>	<u>All (except sections 114 and 115)</u>
	<u>45(2)</u>	<u>Authorised person may obtain and execute warrant to enter and inspect place that is not place of business if issuing officer is satisfied that, as consequence of inspection of place of business under section 44 of Pork Industry Board Act 1997, there are reasonable grounds to believe that there are certain documents relating to levy money or slaughter of pigs, or pork products from pigs subject to that levy, at that place</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Prostitution Reform Act 2003</u>	<u>30(1)</u>	<u>Constable may obtain warrant to enter and search place if issuing officer is satisfied that there is good cause to suspect offence against section 23 or 34 of Prostitution Reform Act 2003 has been or is likely to be committed at that place, or that it is necessary for constable to enter place to prevent or investigate such offence</u>	<u>All</u>
<u>Radiation Protection Act 1965</u>	<u>24(2)</u>	<u>Authorised officer of Ministry of Health who is refused entry to building believed to have radioactive material or irradiating apparatus or who believes that offence has been committed against Radiation Protection Act 1965 may obtain and execute search warrant</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Radiocommunications Act 1989</u>	<u>120</u>	<u>Authorised Ministry of Economic Development employee or constable may obtain warrant to enter and inspect and remove certain documents if issuing officer is satisfied that a person has committed or is committing offence against Radiocommunications Act 1989 or any regulations made under section 134(1)(g) of that Act</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Reserve Bank of New Zealand Act 1989</u>	66I	<u>Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that certain information supplied to Reserve Bank is false or misleading, or that a person has failed to comply with certain statutory requirements under Reserve Bank of New Zealand Act 1989</u>	<u>All (except sections 114 and 115)</u>
	106(1)	<u>Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that there has been non-compliance with any of certain provisions in Part 5 of Reserve Bank of New Zealand Act 1989</u>	<u>All (except sections 114 and 115)</u>
	106(2)	<u>Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that it is necessary to do so for purpose of determining whether to execute statutory powers conferred by section 113 or 117 of Reserve Bank of New Zealand Act 1989</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>157ZM(1)</u>	<u>Suitably qualified person appointed by Reserve Bank may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds to believe that deposit taker has committed offence against Part 5D of Reserve Bank of New Zealand Act 1989</u>	<u>All (except sections 114 and 115)</u>
<u>Reserves Act 1977</u>	<u>95(1)</u>	<u>Certain wildlife and related things found in possession of person in reserve may be seized by constable, ranger, or employee of administering body, if he or she has good cause to suspect that the person, in obtaining possession of the thing, has committed offence against Reserves Act 1977</u>	<u>All (except Sub-part 2)</u>
	<u>95(6)</u>	<u>Firearms, traps, nets, or similar objects found illegally in possession of any person in reserve and equipment found in possession of any person that has been used to commit offence in reserve may be seized by constable, ranger, or employee of administering body</u>	<u>All (except Sub-part 2)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>100(1)</u>	<u>Officer who has good cause to suspect that offence against Reserves Act 1977 or regulations made under that Act has been committed, on, from, or in respect of certain boats may stop boat and exercise certain powers of search and seizure</u>	<u>All (except sub-part 2)</u>
<u>Resource Management Act 1991</u>	<u>334(1)</u>	<u>Constable or enforcement officer may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that at, in, on, over, or under any place or vehicle there is any thing in respect of which imprisonable offence under Resource Management Act 1991 or any regulations made under that Act has been committed or any thing that is evidence of such offence or that is intended to be used to commit such offence</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Sale of Liquor Act 1989</u>	<u>177(1)</u>	<u>Constable may obtain and execute search warrant if issuing officer is satisfied that there are reasonable grounds for believing that certain contraventions of Sale of Liquor Act 1989 are occurring</u>	<u>All</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Tax Administration Act 1994</u>	<u>16(4)</u>	<u>Commissioner of Inland Revenue or authorised employee of Inland Revenue Department may obtain and execute warrant to enter private dwelling if issuing officer is satisfied that exercise of applicant's functions under section 16 of Tax Administration Act 1994 requires physical access to that dwelling</u>	<u>Subparts 1, 2, 3, 6, 8, and 9 (except sections 114, 115, and 125(4))</u>
	<u>16C(2)</u>	<u>Commissioner of Inland Revenue or authorised employee of Inland Revenue Department may obtain and execute warrant to remove books and documents from place and retain them for full and complete inspection if issuing officer is satisfied that this may be required to enable applicant to exercise his or her functions under section 16 of Tax Administration Act 1994</u>	<u>Subparts 1, 2, 3, 6, 8, and 9 (except sections 114, 115, and 125(4))</u>
<u>Trade in Endangered Species Act 1989</u>	<u>37(1)</u>	<u>Officer who has reasonable grounds to believe that breach of Trade in Endangered Species Act 1989 or of any regulations made under that Act has occurred may exercise certain entry, inspection, and related powers</u>	<u>All (except subpart 2)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>38(1) and (2)</u>	<u>Officer may obtain and execute search warrant to enter and search dwellinghouse or marae if issuing officer is satisfied that there is in that place specimen of endangered, threatened, or exploited species in respect of which offence against Trade in Endangered Species Act 1989 may have been committed, or that there is evidence of such offence at that place or a thing intended to be used for purpose of committing offence</u>	<u>All</u>
<u>Unsolicited Electronic Messages Act 2007</u>	<u>51(4)</u>	<u>Enforcement officer may obtain and execute search warrant to search place or thing if there are reasonable grounds for believing that civil liability event has been, or is being, committed at place or thing or that there is on, over, or under place or thing anything that is evidence of civil liability event</u>	<u>All (except that sections 114 and 115 apply to constables only)</u>
<u>Waste Minimisation Act 2008</u>	<u>79(1)</u>	<u>Enforcement officer may enter land or buildings to inspect property and obtain information</u>	<u>All (except sub-part 2 and sections 114 and 115)</u>
	<u>80(3)</u>	<u>Enforcement officer may enter a dwellinghouse or marae with a warrant</u>	<u>All (sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>82(1)</u>	<u>Enforcement officer may enter private land with warrant and seize property materially involved in commission of offence</u>	<u>All (except sections 114 and 115)</u>
<u>Weights and Measures Act 1987</u>	<u>28(3)</u>	<u>Inspector of Weights and Measures may obtain and execute search warrant if issuing officer is satisfied that it is necessary for inspector to enter dwellinghouse to exercise certain entry, examination, and related powers conferred by section 28(1) of Weights and Measures Act 1987</u>	<u>Subparts 1, 2, 6, 8, and 9</u>
<u>Wild Animal Control Act 1977</u>	<u>12(10)</u>	<u>Warranted officer may enter land or premises of licence or permit holder under Wild Animal Control Act 1977, or any other land or premises on which he or she suspects animal is being kept in breach of section 12 of that Act, in order to ascertain whether conditions of licence or permit are being complied with, or whether animal is being kept in contravention of section 12 (note: a dwellinghouse may not be entered without obtaining a warrant)</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
	<u>12(11)</u>	<u>Warranted officer may obtain and execute warrant to enter dwelling-house for purpose of detecting offence if issuing officer is satisfied that there is probable cause to suspect that breach of section 12 of Wild Animal Control Act 1977 has been, or is being, committed</u>	<u>All (except sections 114 and 115)</u>
	<u>13(1)</u>	<u>Warranted officer may exercise variety of entry and search powers for purpose of enforcing, or preventing or detecting offences against, Wild Animal Control Act 1977</u>	<u>All (except subparts 1A and 2 and sections 114 and 115)</u>
	<u>13(6) and (7)</u>	<u>Warranted officer may exercise variety of entry and search powers for purpose of enforcing, or preventing or detecting offences against, Wild Animal Control Act 1977 and may obtain a warrant to enter a dwellinghouse</u>	<u>All (except sections 114 and 115)</u>
	<u>14(1) and (2)</u>	<u>Warranted officer may obtain and execute warrant to enter dwelling-house for purpose of detecting offence if issuing officer is satisfied that there is probable cause to suspect that offence against Wild Animal Control Act 1977 has been, or is being, committed there</u>	<u>All (except sections 114 and 115)</u>

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>	<u>Column 4</u>
<u>Act</u>	<u>Section</u>	<u>Brief description of power</u>	<u>Which provisions in Part 4 apply</u>
<u>Wildlife Act 1953</u>	<u>39(1)</u>	<u>Ranger may exercise variety of entry, seizure, stopping, and related powers in connection with enforcement of Wildlife Act 1953</u>	<u>All (except sections 114 and 115)</u>
<u>Wine Act 2003</u>	<u>62(1) and (2)</u>	<u>Wine officer may enter any premises (other than dwellinghouse or marae) for purposes of determining whether Wine Act 2003 is being complied with</u>	<u>Subparts 1, 3, 6, 8, and 9 (except sections 114 and 115)</u>
	<u>63(1)(a) and (b)</u>	<u>Wine officer may exercise range of examination and inquiry powers at any place he or she may enter under section 62 of Wine Act 2003</u>	<u>All (except subparts 1A, 2, and 7 and sections 114 and 115)</u>
	<u>65(1)</u>	<u>Wine officer or constable may obtain and execute search warrant at any place if issuing officer is satisfied that there are reasonable grounds for believing that there is at place a thing in respect of which offence under Wine Act 2003 has been, or is being, committed or thing that is being used, or is intended for use, in commission of such offence, or that is evidence of such offence</u>	<u>All (except sections 114 and 115)</u>
	<u>68</u>	<u>Property seized under search warrant issued under section 65 of Wine Act 2003 may be disposed of</u>	<u>Subparts 1, 4, 5, 6, 8, and 9</u>

Search and Surveillance Bill

Legislative history

2 July 2009	Introduction (Bill 45-1)
4 August 2009	First reading and referral to Justice and Electoral Committee
6 August 2010	Interim report of Justice and Electoral Committee
4 November 2010	Reported from Justice and Electoral Committee (Bill 45-2)
1 March 2012	Second reading
7 March 2012	Committee of the whole House
20 March 2012	Reported from committee of the whole House (Bill 45-3)
