

Criminal Procedure Bill

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Criminal Procedure (Reform and Modernisation) Bill as reported from the Justice and Electoral Committee. The committee of the whole House has further amended the bill and divided it into the following bills:

- this bill comprising clauses 1 and 2, Parts 1 to 8, the Part 9 heading, clause 416, clause 417, clause 442, and Schedules 1, 1A, and 6
- the Bail Amendment Bill (No 3) comprising clauses 401 to 407A, and Schedule 2
- the Children, Young Persons, and Their Families Amendment Bill (No 3) comprising clauses 407B to 407D, and Schedule 3
- the Corrections Amendment Bill comprising clauses 408 to 410A, and Schedule 3A
- the Crimes Amendment Bill (No 5) comprising clauses 410B to 411B, and Schedule 3B
- the Criminal Disclosure Amendment Bill comprising clauses 412 to 415B, and Schedule 3C
- the Criminal Procedure (Mentally Impaired Persons) Amendment Bill comprising clauses 417A to 417C, and Schedule 4

- the District Courts Amendment Bill (No 2) comprising clauses 418 to 420A, and Schedule 4A
 - the Evidence Amendment Bill comprising clauses 421 to 423A, and Schedule 4B
 - the Juries Amendment Bill comprising clauses 424 to 427A, and Schedule 4C
 - the Justices of the Peace Amendment Bill comprising clauses 427B to 428
 - the New Zealand Bill of Rights Amendment Bill comprising clauses 428B and 429
 - the Sentencing Amendment Bill (No 6) comprising clauses 430 to 433A, and Schedule 4D
 - the Summary Proceedings Amendment Bill (No 4) comprising clauses 434 to 437B, and Schedule 5
 - the Victims' Rights Amendment Bill comprising clauses 438 to 441B, and Schedule 5A.
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Key to symbols used in reprinted bill

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House**

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Hon Simon Power

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Criminal Procedure Act **2011**.

2 Commencement

- (1) The following provisions come 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
- (a) **sections 5, 7, and 8** (which relate to preliminary matters):
 - (b) **sections 58 to 63, 121(2), 122, 249, 256, 385, and 385A** (which relate to sentence indications): 10
 - (c) **subpart 3 of Part 5, and sections 386 to 387** (which relate to public access and restrictions on reporting):
 - (d) **sections 382, 383, 399, and 400** (which are powers to make rules and regulations): 15
 - (e) **section 396** (which is a transitional provision relating to appeals).
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council.
- (3) Any provision that has not earlier been brought into force comes into force on the day that is 2 years after the date on which this Act receives the Royal assent. 20

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to—

25

- (a) set out the procedure for the conduct of criminal proceedings; and
- (b) provide for the use of electronic technology in relation to criminal procedure and the court record of criminal proceedings. 5

4 Overview

- (1) This Act provides for the following matters:
 - (a) for procedural purposes, there are 4 categories of offence (*see section 6*):
 - (b) there are 2 types of trial process—Judge-alone trials and jury trials (*see Part 4*): 10
Commencement of proceedings
 - (c) all proceedings begin in a District Court by the filing of a charging document (*see Part 2*):
Category 1 offences 15
 - (d) in general terms, a category 1 offence is an offence that is not punishable by imprisonment:
 - (e) an infringement offence is a category 1 offence if proceedings in relation to that infringement offence are commenced by filing a charging document under **section 12**, rather than by issuing an infringement notice: 20
 - (f) all stages of a proceeding for a category 1 offence are dealt with by a District Court:
 - (g) if the matter proceeds to trial, the trial will be a Judge-alone trial: 25
Category 2 offences
 - (h) in general terms, a category 2 offence is an offence punishable by a term of imprisonment ~~not exceeding 3 years~~ of less than 2 years:
 - (i) a trial for a category 2 offence will be in a District Court unless an order is made transferring the proceeding to the High Court for trial (*see sections 70 and 72*): 30
 - (j) if the matter proceeds to trial, the trial will be a Judge-alone trial:

Category 3 offences

- (k) in general terms, a category 3 offence is an offence punishable by a term of imprisonment of ~~more than 3 years~~ 2 years or more (other than a category 4 offence):
- (l) a defendant charged with a category 3 offence has a choice about whether or not to elect a trial by jury (*see section 48*): 5
- (m) a trial for a category 3 offence will be in a District Court unless an order is made transferring the proceeding to the High Court for trial (*see sections 70 and 72*): 10
- (n) the procedure for a category 3 offence generally depends on whether the defendant elects trial by jury:
- (o) if the defendant does not elect trial by jury, and the matter proceeds to trial, the trial will be a Judge-alone trial:
- (p) if the defendant elects trial by jury, and the matter proceeds to trial, the trial will be a jury trial (unless a Judge-alone trial is ordered under **section 102 or 103**): 15

Category 4 offences

- (q) category 4 offences are listed in **Schedule 1**:
- (r) if the matter proceeds to trial, the trial will be a jury trial in the High Court (unless a Judge-alone trial is ordered under **section 102 or 103**): 20

Procedure may vary if proceeding joined with proceeding for more serious offences

- (ra) the procedure for an offence may vary from the general rule if the proceeding is joined with proceedings for a more serious offence: 25

Pre-trial procedures

- (s) there will be pre-trial procedures for all categories of offence. These are set out in **Part 3**. Pre-trial matters include entering a plea, ~~requirements for the defendant to notify issues in dispute~~, and orders about the admissibility of evidence. **Sections 52 to 56** set out the case management procedures that must be followed if a defendant pleads not guilty to a category 2, 3, or 4 offence, including requirements to complete case management memoranda and attend at case review hearings in certain cases: 30
35

- (t) there are additional pre-trial procedures and powers that automatically apply to jury trials (and that a court may also apply in some Judge-alone proceedings). These include—
- (i) the filing of formal statements; and 5
 - (ii) the possibility of taking oral evidence from a potential witness:
- Trial*
- (u) **Part 4** contains provisions about the trial: 10
- General provisions*
- (v) **Part 5** contains provisions that may apply to all or various categories of proceedings at stages throughout a proceeding. These include—
- (i) pleading, or being found, guilty; and
 - (ii) requirements for the presence of the defendant at hearings, and the powers of the court if the defendant does not attend; and 15
 - (iii) provisions relating to amendment and withdrawal of charges and conducting proceedings together; and 20
 - (iv) provisions relating to the dismissal of charges; and
 - (v) certain rights to a retrial or rehearing (for category 1 and 2 offences, or if a defendant is convicted or sentenced in his or her absence); and 25
 - (vi) provisions about dealing with witnesses, adjournments and bail; and
 - (vii) provisions relating to the Solicitor-General’s responsibility for oversight and conduct of certain prosecutions; and 30
 - (viii) public access and restrictions on reporting:
- Appeals*
- (w) **Part 6** contains provisions about appeals:
- Jurisdiction of District Courts*
- (x) **Part 7** contains provisions about the jurisdiction of District Courts. These set out the jurisdiction of Community Magistrates and Justices to conduct various proceedings and to sentence offenders. They also require 35

a District Court Judge conducting jury trials to hold a jury trial warrant under the District Courts Act 1947:

Miscellaneous and transitional provisions

- (y) **Part 8** contains miscellaneous and transitional provisions. Among other things, provisions in this Part deal with contempt and costs orders for failure to comply with the requirements of this Act and rules and regulations made under it: 5

Amendments to other Acts

- (z) **Part 9** contains amendments to other Acts. 10
- (2) This section is by way of explanation only. If a provision of this or any other Act is inconsistent with this section, the other provision prevails.

5 Interpretation

In this Act, unless the context otherwise requires,— 15

before the trial means—

- (a) in the case of a Judge-alone trial, before the proceedings under **section 105** begin; and
- (b) in the case of a jury trial, before the defendant is given in charge to the jury 20

category 1 offence, category 2 offence, category 3 offence, and category 4 offence have the meanings given to them in **section 6**

constable has the meaning given to it in section 4 of the Policing Act 2008 25

court means a court presided over by a judicial officer with authority to exercise the court's jurisdiction in relation to the matter

Crown organisation has the same meaning as in section 4 of the Crown Organisations (Criminal Liability) Act 2002 30

Crown prosecution means a prosecution of a kind specified in regulations made under **section 383** other than a private prosecution

Crown prosecutor means—

- (a) a Crown solicitor or a lawyer representing a Crown solicitor; or 35

- (b) any other lawyer employed or instructed by the Solicitor-General to conduct a Crown prosecution

Crown solicitor means a lawyer holding a warrant of appointment as a Crown solicitor from the Governor-General

defendant means any person charged with an offence; and includes— 5

- (a) a person against whom proceedings have been commenced by filing a charging document in relation to an offence in any category; and
- (b) a Crown organisation, if proceedings are brought against it for an offence referred to in section 6 of the Crown Organisations (Criminal Liability) Act 2002; and 10
- (c) a person in respect of whom an application is made under **subpart 2 of Part 8** 15

document—

- (a) means a document in any form (including, without limitation, a document in an electronic form); and
- (b) includes, without limitation, any of the following: 20
- (i) any writing on any material;
- (ii) information recorded or stored by means of a tape recorder, computer, or other device;
- (iii) material subsequently derived from information recorded or stored in the manner described in **subparagraph (ii)**: 25
- (iv) labels, markings, or other writing that identifies or describes any thing of which it forms part, or to which it is attached by any means;
- (v) books, maps, plans, graphs, or drawings;
- (vi) photographs, films, negatives, tapes, or any other device in which 1 or more visual images are embodied so as to be capable (with or without the aid of some other equipment) of being reproduced 30

electronic includes electrical, digital, magnetic, optical, electromagnetic, biometric, and photonic 35

formal statement has the meaning given to it in **section 82**

hearing includes a trial

infringement offence has the meaning given to it in section 2 of the Summary Proceedings Act 1957

Judge-alone trial means a trial in accordance with **subparts 1 and 3 of Part 4** and any other applicable provision of **Part 5**

5

judicial officer means a High Court Judge, a District Court Judge, a Community Magistrate, or a Justice of the Peace

jury trial means a trial in accordance with **subparts 2 and 3 of Part 4** and any other applicable provision of **Part 5**

Justice means a Justice of the Peace

10

lawyer means a person who holds a current practising certificate as a barrister or as a barrister and solicitor under the Lawyers and Conveyancers Act 2006

level of trial court, in relation to a proceeding, means either the High Court or a District Court as determined under **section 73, 73A, 75, or 76**, as the case may be

15

permanent court record means the permanent court record referred to in **section 189**

Police employee has the meaning given to it in section 4 of the Policing Act 2008

20

private prosecution means a proceeding against a defendant in respect of an offence that is not—

- (a) a public prosecution; or
- (b) a proceeding in respect of an offence commenced by or on behalf of a local authority, or other statutory public body or board,—

25

and **private prosecutor** has a corresponding meaning

prosecutor means the person who is for the time being conducting the case against the defendant in accordance with **section 10**

30

protocol offence means a category 2 or 3 offence that is covered by the protocol established under **section 68**

public prosecution means a proceeding in respect of an offence that is commenced by or on behalf of the Crown, and includes a proceeding in respect of an offence that is commenced by or on behalf of a Crown entity within the meaning of section 7 of the Crown Entities Act 2004

35

Registrar means the Registrar of a court; and includes a Deputy Registrar

representative, in relation to a corporation, means a person duly appointed by the corporation to represent it to do any act or thing specified by the corporation for the purposes of this Act 5

rules of court means rules made under **section 382**

rules of court means rules made under **section 382** of this Act, section 51C of the Judicature Act 1908, and section 122 of the District Courts Act 1947, or any of those enactments 10

special plea means a plea referred to in **section 42(1)**

trial,—

- (a) in **subpart 1** of **Part 4**, means a Judge-alone trial:
- (b) in **subpart 2** of **Part 4**, means a jury trial:
- (c) in the other provisions of this Act, means a Judge-alone trial or jury trial 15

trial court means, in any particular case, the court before which the defendant, in accordance with **subpart 5 of Part 3**, is to be tried

victim has the meaning given to it in section 4 of the Victims' Rights Act 2002 20

working day means a day that is not—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, or Waitangi Day; or 25
- (b) a day in the period commencing on 25 December in one year and ending on 15 January in the next year.

Compare: 1957 No 87 s 2

6 Categories of offence defined

(1) In this Act,— 30

category 1 offence means—

- (a) an offence that is not punishable by a term of imprisonment, other than—
 - (i) an infringement offence; or
 - (ii) an offence described in **paragraph (b) or (c)** of the definition of a category 2 offence; or 35

- (iii) an offence described in **paragraph (b)** of the definition of a category 3 offence; or
- (b) an infringement offence, if proceedings in relation to that offence are commenced by filing a charging document under **section 12**, not by the issuing of an infringement notice 5
- category 2 offence** means—
- (a) an offence punishable by a term of imprisonment ~~not exceeding 3 years~~ of less than 2 years; or
- (b) an offence that, if committed by a body corporate, is punishable by only a fine, but that would be punishable by a term of imprisonment ~~not exceeding 3 years~~ of less than 2 years if committed by an individual; or 10
- (c) an offence punishable by a community-based sentence and not punishable by a term of imprisonment 15
- category 3 offence** means an offence, other than an offence listed in **Schedule 1**,—
- (a) that is punishable by imprisonment for life or by imprisonment for ~~more than 3 years~~ 2 years or more; or
- (b) that, if committed by a body corporate, is punishable by only a fine, but that would be punishable by imprisonment for life or by imprisonment for ~~more than 3 years~~ 2 years or more if committed by an individual 20
- category 4 offence** means an offence listed in **Schedule 1**.
- (2) If an offence is in a given category, then the following is also an offence in that category: 25
- (a) conspiring to commit that offence;
- (b) attempting to commit that offence, or inciting or procuring or attempting to procure any person to commit an offence of that kind that is not committed: 30
- (c) being an accessory after the fact to that offence.
- (3) If an offence is punishable by a greater penalty where the defendant has previously been convicted of that offence or of some other offence, the offence is an offence in the category that applies to offences punishable by that greater penalty only if the charge alleges that the defendant has such a previous conviction. 35

- 7 Act subject to other enactments**
- (1) This Act must be read subject to any special provisions of any other enactment relating to the procedure in any particular case.
- (2) Except as expressly provided in the Armed Forces Discipline Act 1971, this Act does not apply to proceedings under that Act, or to proceedings on appeal from any decision under that Act. 5
- (3) Except as expressly provided in the Children, Young Persons, and Their Families Act 1989, this Act does not apply to proceedings in any Youth Court or to proceedings on appeal from any decision of a Youth Court. 10
Compare: 1957 No 87 s 209; 1961 No 43 s 313(1)
- 8 Act binds the Crown** 15
This Act binds the Crown.
- Jurisdiction of District Courts to conduct criminal proceedings*
- 9 Jurisdiction of District Courts to conduct criminal proceedings**
- (1) Subject to **subsections (2) and (3) and section 120(2)**, a District Court has jurisdiction to deal with a proceeding for any offence. 20
- (2) If, in accordance with **section 73A or 75**, the level of trial court for a proceeding in respect of a category 2 or 3 offence is the High Court, a District Court has jurisdiction over the proceeding only until the time that it is transferred to the High Court under **section 76A**. 25
- (3) In a proceeding in respect of a category 4 offence, a District Court has jurisdiction to deal with the proceeding only until it is transferred to the High Court under **section 32A**. 30
- (4) Any reference in this Act or any other enactment to a District Court, or to a court where that reference includes a District Court, or to a Judge of a District Court, must be read subject to **Part 7**.
- (5) Nothing in this section limits or affects **Part 6**. 35

*Who may conduct proceedings***10 Who may conduct proceedings against defendant**

- (1) Subject to **subsections (2) and (5)**, only the following persons may conduct proceedings against a defendant:
- (a) the person who commenced the proceeding: 5
 - (b) a lawyer representing the person who commenced the proceeding:
 - (c) if the proceeding was commenced by a Police employee, any constable or any other Police employee authorised by the Commissioner of Police to conduct prosecutions: 10
 - (d) if the proceeding was commenced by an officer or employee of any of the following organisations, any other officer or employee of that organisation:
 - (i) a Department of State or a Crown entity within the meaning of section 7 of the Crown Entities Act 2004: 15
 - (ii) a local authority or other statutory public body or board.
- (2) If the Solicitor-General or a Crown prosecutor has assumed responsibility under **section 192** for a Crown prosecution, only the Solicitor-General or a Crown prosecutor may conduct the proceedings against the defendant. 20
- (5) If the trial is to be a jury trial, only a lawyer may conduct the proceedings against the defendant after the proceeding has been— 25
- (a) adjourned to a trial callover, in the case of a category 3 offence; or
 - (b) transferred to the High Court under **section 32A**, in the case of a category 4 offence. 30

Compare: 1957 No 87 s 37

11 Who may conduct proceedings for defendant

The defendant's case may be conducted by—

- (a) a lawyer; or
- (b) the defendant personally; or 35

- (c) if the defendant is a corporation, a representative (as defined in **section 5**) to the extent authorised by the corporation.

Compare: 1957 No 87 s 37(1); 1961 No 43 s 354

- 11A Representatives of corporations** 5
- (1) A statement that complies with **subsection (2)** to the effect that the person named in it has been appointed as the representative of a corporation for the purposes of this Act is admissible without further proof as prima facie evidence that the person has been so appointed. 10
- (2) The statement must—
- (a) be in writing; and
- (b) be made by a managing director of the corporation, or by any person (by whatever name that person is called) having, or being one of the persons having, the management of the affairs of the corporation; and 15
- (c) specify whether the representative is authorised to represent the defendant in the proceeding for all the purposes of the Act or specified purposes only; and
- (d) be authenticated by the person making it. 20
- (3) No representative may act for a corporation in relation to any matter under this Act until a statement that complies with **subsection (2)** is filed in court.
- Procedural requirements in Act, regulations,
and rules* 25
- 11B Procedural requirements of Act, regulations, and rules to be followed**
- All matters to which this Act applies must be dealt with in accordance with this Act, any regulations made under **section 383**, and rules of court. 30

Part 2
Commencement of proceedings and preliminary steps

Subpart 1—Filing a charging document

- 12 Commencement of criminal proceedings** 5
- (1) A criminal proceeding in respect of an offence is commenced by filing a charging document in the District Court that is—
- (a) nearest to where the offence is alleged to have been committed; or
 - (b) nearest to where the person filing the charging document believes the defendant can be found. 10
- (2) Despite **subsection (1)**,—
- (a) if all the parties to the proposed proceeding agree, the charging document may be filed in another District Court; and 15
 - (b) if 2 or more charging documents are to be filed in respect of the same defendant, they may all be filed in a District Court in which any 1 of them could be filed.
- (3) A failure to file a charging document in the correct District Court in accordance with this section does not invalidate any proceeding. 20
- Compare: 1957 No 87 ss 12, 18
- 12A Any person may commence proceeding**
- Any person may commence a proceeding. 25
- Compare: 1957 No 87 s 13
- 13 Charging documents**
- (1) The charging document must contain 1 charge only.
- (2) The charging document must include—
- (a) particulars of the defendant; and
 - (b) particulars of the person commencing the proceeding; and 30
 - (c) a statement by the person commencing the proceeding that he or she has good cause to suspect that the defendant has committed the offence specified in the charge; and 35

- (d) particulars of the charge that satisfy the requirements of **section 14**; and
 - (e) except if the prosecution is a private prosecution, the name of the employer of the person commencing the proceeding and particulars of an appropriate contact person in relation to the prosecution; and 5
 - (f) any other information required by rules of court.
- Compare: 1957 No 87 ss 15, 17; 1961 No 43 ss 329(3)–(5), 331, 336(1)

14 Content of charge

- (1) A charge must relate to a single offence. 10
- (1A) A charge that is worded in the alternative must be identified as such.
- (1B) A representative charge must be identified as such.
- (2) A charge must contain sufficient particulars to fully and fairly inform the defendant of the substance of the offence that it is alleged that the defendant has committed. 15
- (3) Without limiting **subsection (2)**, the particulars provided under that subsection must include—
 - (a) a reference to a provision of an enactment creating the offence that it is alleged that the defendant has committed; and 20
 - (b) if the charge is a representative charge, the information specified in **subsection (3A)**.
- (3A) The information referred to in **subsection (3)(b)** is as follows: 25
 - (a) particulars of the offences of which the charge is representative, including, without limitation, when values, amounts, or quantities are relevant, particulars of the minimum values, amounts, or quantities that the prosecution must establish in order for the charge to be proved; and 30
 - (b) the dates on or between which the offending is alleged to have occurred.
- (4) **Subsection (1)** is subject to **sections 16 and 17**. 35
Compare: 1957 No 87 s 16; 1961 No 43 ss 330, 340, 343

15 Court may order further particulars

- (1) A court may, if satisfied that it is necessary for a fair trial, order that further particulars of any document, person, thing, or any other matter relevant to setting out the charge against the defendant be provided by the prosecutor. 5
- (2) Nothing in **subsection (1)** limits the power of a court under **section 135**.

16 Charge may be worded in alternative

A charge may allege several different matters, acts, or omissions in the alternative if the relevant offence is worded in the alternative in the enactment that prescribes it. 10

Compare: 1957 No 87 s 16(1)

17 Charge may be representative

- (1) A charge may be representative if— 15
- (a) multiple offences of the same type are alleged; and
 - (b) the offences are alleged to have been committed in similar circumstances over a period of time; and
 - (c) the nature and circumstances of the offences are such that the complainant cannot reasonably be expected to particularise dates or other details of the offences. 20
- (2) A charge may also be representative if—
- (a) multiple offences of the same type are alleged; and
 - (b) the offences are alleged to have been committed in similar circumstances such that it is likely that the same plea would be entered by the defendant in relation to all the offences if they were charged separately; and 25
 - (c) because of the number of offences alleged, if the offences were to be charged separately but tried together it would be unduly difficult for the court (including, in any jury trial, the jury) to manage the separate charges. 30

18 Court may amend or divide alternative or representative charge

- (1) The court may on the application of any party or on its own motion, in the interests of justice,—

- (a) order that any charge worded in the alternative, or that is representative, be amended, or divided into 2 or more charges; or
 - (b) order that 2 or more charges be amalgamated into a representative charge. 5
- (2) This section does not limit **section 135**.

19 Certain charges to disclose range of penalties and previous convictions

- (1) This section applies if a defendant is charged with an offence for which the penalty is greater if the defendant has previously been convicted of that offence, or of some other offence. 10
- (2) The charge must disclose—
 - (a) the range of penalties available on conviction for the offence; and
 - (b) the existence of any previous conviction or convictions which, if admitted by or proved against the defendant, would make the defendant liable to a greater penalty. 15
- (3) To avoid doubt, if a charge discloses the existence of a previous conviction or convictions in accordance with this section, and as a result the offence is a category 3 offence in accordance with **section 6(3)**, the provisions of **section 48** apply in the ordinary way. 20
- (4) A charge must not be dismissed solely on the grounds that it does not comply with **subsection (2)**.
- (5) Nothing in this section or **section 143** affects the right of a court, when sentencing the defendant, to take any previous convictions into account. 25

Compare: 1957 No 87 ss 17A, 69

20 Offence relating to false or misleading information in charging document

- (1) A person commits an offence who includes, or directs any other person to include, in a charging document any false or misleading information that the person knows is false or misleading. 30

- (2) A person who commits an offence under **subsection (1)** is liable on conviction to a term of imprisonment not exceeding 3 years.

21 Endorsement of consent

- (1) This section applies if a person is to be charged with an offence in respect of which the consent of the Attorney-General or any other person for the filing of the charging document is required. 5
- (2) The consent of the Attorney-General or other person may be set out in a memorandum and, if so, must be accepted by the court as proof that the consent has been given. 10
- (3) A reference in **subsection (1)** to the consent of the Attorney-General or other person includes a requirement for that person to grant leave or issue a certificate before proceedings can be commenced or progressed. 15
- Compare: 1961 No 43 s 314

22 Time for filing charging document

- (1) A charging document may be filed at any time in respect of an offence in category 3 or 4.
- (2) A charging document in respect of a category 1 or 2 offence must be filed— 20
- (a) within 12 months after the date on which the offence was committed; if an enactment specifies that the penalty for the offence—
- (i) includes a term of imprisonment not exceeding 6 months; or 25
- (ii) does not include a term of imprisonment, but includes a fine not exceeding \$20,000; or
- (b) within 5 years after the date on which the offence was committed in any other case, unless the prior consent of the Solicitor-General is obtained to file a charging document after that date. 30
- (1) A charging document may be filed at any time in respect of a category 4 offence.
- (1A) A charging document in respect of a category 3 offence— 35

- (a) must be filed within 5 years after the date on which the offence was committed, if an enactment specifies that the penalty for the offence includes a term of imprisonment not exceeding 3 years, unless the prior consent of the Solicitor-General is obtained to file a charging document after that date; or 5
- (b) may be filed at any time in any other case.
- (2) A charging document in respect of a category 1 or 2 offence must be filed—
- (a) within 6 months after the date on which the offence was committed if an enactment specifies that the penalty for the offence— 10
- (i) includes a term of imprisonment not exceeding 3 months; or
- (ii) does not include a term of imprisonment, but includes a fine not exceeding \$7,500; or 15
- (b) within 12 months after the date on which the offence was committed if an enactment specifies that the penalty for the offence—
- (i) includes a term of imprisonment greater than 3 months but not exceeding 6 months; or 20
- (ii) does not include a term of imprisonment, but includes a fine greater than \$7,500 but not exceeding \$20,000; or
- (c) within 5 years after the date on which the offence was committed in any other case, unless the prior consent of the Solicitor-General is obtained to file a charging document after that date. 25
- (3) In the case of a category 1 or 2 offence that is a continuing offence, the time for filing a charging document must be determined under **subsection (2)** by reference to the maximum fine that may be imposed for the initial offending (or, if there is no separate fine prescribed for the initial offending, the fine prescribed for each day or each instance of offending) without taking into account the amount of any further fines that may be imposed as a result of the offence continuing. 30 35
- (4) If a body corporate is charged with an offence, the limitation period within which a charging document must be filed is the period that would apply to a natural person charged with the

same offence, irrespective of the penalty that may be imposed against the body corporate.

- (5) This section is subject to any provision in any other enactment that provides a different limitation period for filing a charging document in relation to an offence. 5

Compare: 1957 No 87 s 14; 1961 No 43 s 10B

23 Private prosecutions

- (1) If a person who is proposing to commence a private prosecution seeks to file a charging document, the Registrar may—
- (a) accept the charging document for filing; or 10
 - (b) refer the matter to a District Court Judge for a direction that the person proposing to commence the proceeding file formal statements, and the exhibits referred to in those statements, that form the evidence that the person proposes to call at trial or such part of that evidence that the person considers is sufficient to justify a trial. 15
- (2) The Registrar must refer formal statements and exhibits that are filed in accordance with **subsection (1)(b)** to a District Court Judge, who must determine whether the charging document should be accepted for filing. 20
- (3) A Judge may issue a direction that a charging document must not be accepted for filing if he or she considers that—
- (a) the evidence provided by the proposed private prosecutor in accordance with **subsection (1)(b)** is insufficient to justify a trial; or 25
 - (b) the proposed prosecution is otherwise an abuse of process.
- (4) If the Judge determines under **subsection (2)** that the charging document should not be accepted for filing, the Registrar must— 30
- (a) notify the proposed private prosecutor that the charging document will not be accepted for filing; and
 - (b) retain a copy of the proposed charging document.
- (5) Nothing in this section limits the power of a Registrar to refuse to accept a charging document for want of form. 35

- 24 Power of Registrar to compile charging information**
- Nothing in this Act prevents a Registrar compiling the information in any 1 or more charging documents in any manner or form—
- (a) that enables that information to be accessed or used as authorised or required by this Act; or
 - (b) for the purposes of maintaining the permanent court record of the proceeding; or
 - (c) for any other reason of administrative convenience.
- Subpart 2—Notifying defendant of court appearance 10
- 25 Summons in relation to charge may be served**
- (1) A constable or any other person may issue and serve a summons on a person if that constable or other person—
 - (a) has good cause to suspect that the person has committed an offence; and
 - (b) has filed, or intends to file, a charging document in respect of that offence.
 - (1A) Nothing in this section applies in respect of a private prosecution or proposed private prosecution. 20
 - (2) Nothing in this section allows a summons to be issued in respect of an offence for which a person has been arrested under a warrant or released on Police bail.
Compare: 1957 No 87 ss 19, 19A(1)
- 26 Summons following evidential breath test** 25
- (1) An enforcement officer (within the meaning of section 2(1) of the Land Transport Act 1998) may issue and serve a summons on a person if—
 - (a) the person undergoes an evidential breath test under section 69 of the Land Transport Act 1998 and the test is positive; and 30
 - (b) the person does not advise an enforcement officer within 10 minutes of being advised of the matters in section 77(3)(a) of the Land Transport Act 1998 that he or she wishes to undergo a blood test. 35

- (2) If this section applies, **section 25** does not apply.

Compare: 1957 No 87 s 19B(1)

27 Provisions relating to summons issued under section 25 or 26

- (1) A summons under **section 25 or 26** must require the person to appear on a day not later than 2 months after the date of the summons at the court where the charging document has been or is to be filed. 5

- (2) The summons must contain—

- (a) the particulars of the defendant; and 10
 (b) the particulars of the charge; and
 (c) the court and date and time at which the defendant is required to appear; and
 (d) any other information required by rules of court.

Compare: 1957 No 87 ss 19A(2), 19B(1)

15

28 Charging document must be filed promptly

- (1) A charging document may be filed before or after a summons is issued or served under **section 25 or 26**.

- (2) Unless **section 29(1)(a)** applies, if a charging document has not been filed before a summons is served under **section 25 or 26**, it must be filed as soon as is reasonably practicable after the summons has been served and in any event not less than 5 working days before the date on which the defendant is required by the summons to appear. 20

- (3) A constable or other person who issues a summons must ensure that the charging document required by **subsection (2)** is filed. 25

Compare: 1957 No 87 ss 19A(3), (4), 19B(3), (4)

29 Decision to change charge following summons

- (1) This section applies if a summons has been issued before the charging document has been filed and the person who issued the summons decides that— 30

- (a) a charging document in respect of the summons will not be filed; or

- (b) a charging document in respect of the summons will be filed but will contain a charge that is different from that for which the person was summoned.
- (2) The person who issued the summons must, as soon as is reasonably practicable after a decision in **subsection (1)** has been made, take all reasonable steps to notify the person summoned of the decision before the date on which the defendant is required by the summons to appear. 5
- (3) If **subsection (1)(a)** applies, the person does not need to appear in court on the date specified in the summons. 10
- 30 Summons to defendant in private prosecution**
If the Registrar accepts a charging document for filing under **section 23** or the Judge determines that the charging document should be accepted for filing under **section 23**, the Judge or the Registrar must issue a summons to the defendant. 15
- 31 Warrant may be issued if summons cannot be served**
- (1) This section applies if a charging document has been filed and a summons has been issued under **section 25, 26, or 30** that has not been served on the defendant.
- (2) If the summons relates to a category 1 offence, a District Court Judge may issue a warrant to arrest the defendant and bring him or her before a District Court if the Judge is satisfied that reasonable efforts have been made to serve the summons on the defendant. 20
- (3) If the summons relates to a category 2, 3, or 4 offence, a judicial officer or Registrar may issue a warrant to arrest the defendant and bring him or her before a District Court if the judicial officer or Registrar is satisfied that reasonable efforts have been made to serve the summons on the defendant. 25
- Compare: 1957 No 87 s 19(1) 30

Subpart 3—Court dealing with proceeding
before trial or transfer for trial

**32 Court dealing with proceeding before trial or transfer
for trial: categories 1 to 3**

- (1) The proceeding for a category 1 offence before the trial must be heard and determined in the District Court in which the charging document was filed. 5
- (2) Subject to **section 76A**, the proceeding for a category 2 or 3 offence before the trial must be heard and determined in the District Court in which the charging document was filed. 10
- (4) This section is subject to—
- (aa) **section 120(2)**; and
- (a) any order made under section 4A of the District Courts Act 1947 or under **section 157** of this Act; and
- (b) **section 141**. 15

**32A Court dealing with proceeding before transfer for trial:
category 4**

- (1) A defendant's first appearance in court for a category 4 offence before the proceeding is transferred under **subsection (2)** must be in the District Court in which the charging document was filed. 20
- (2) On the adjournment of the proceeding after the defendant's first appearance in court the court must transfer the proceeding to the High Court.
- (3) This section is subject to— 25
- (a) **section 195A**; and
- (b) any order made under section 4A of the District Courts Act 1947 or under **section 157** of this Act.

Part 3

Procedure before trial

30

Subpart 1—Pleas

Entering plea

33 Defendant may enter plea

- (1) At any time before the court requires a plea under **section 35** the court may receive a plea from the defendant. 35

- (2) The defendant may plead either guilty or not guilty, or enter a special plea.
- (3) If the defendant is not represented by a lawyer,—
- (a) the court must be satisfied that the defendant—
 - (i) has been informed of his or her rights to legal representation, including the right to apply for legal aid under the Legal Services Act 2011; and
 - (ii) has fully understood those rights; and
 - (iii) has had a reasonable opportunity to exercise those rights; and
 - (b) the substance of the charge must be read to the defendant.
- (4) A defendant who is represented by a lawyer may plead not guilty or enter a special plea by filing a notice in court.
- (5) The Registrar must notify the prosecutor if a notice is received under **subsection (4)** from the defendant.
- (6) If the defendant is not before the court but indicates that he or she intends to plead guilty, the defendant must be brought before the court to enter a plea.
- (7) A Registrar may exercise the power of the court under this section to receive a not guilty plea from a defendant charged with a category 1, 2, or 3 offence.

34 Right to plead to category 1 offence by notice

- (1) Despite **section 33**, a defendant charged with a category 1 offence may plead guilty or not guilty, or enter a special plea, by filing a notice in court.
- (2) A defendant who pleads guilty may—
- (a) indicate in the notice whether he or she wishes to appear at court for sentencing; and
 - (b) if the defendant thinks fit (and regardless of whether the defendant wishes to appear at court for sentencing), include in or with the notice written submissions to be taken into account at sentencing.
- (3) The Registrar must notify the prosecutor if a notice is received under **subsection (1)** from the defendant.

- (4) At any time before the trial, the defendant may change a plea of not guilty by giving a notice under **subsection (1)**.

Compare: 1957 No 87 s 41

35 Requirement for defendant to plead

- (1) If the defendant has not pleaded to a charge under **section 33 or 34**, the court may require a defendant to plead if the court is satisfied that the defendant has had initial disclosure in accordance with section 12(1) of the Criminal Disclosure Act 2008. 5
- (2) The defendant may plead either guilty or not guilty, or enter a special plea. 10
- (3) If the defendant is not represented by a lawyer,—
- (a) the court must be satisfied that the defendant—
 - (i) has been informed of his or her rights to legal representation, including the right to apply for legal aid under the Legal Services Act 2011; and 15
 - (ii) has fully understood those rights; and
 - (iii) has had a reasonable opportunity to exercise those rights; and
 - (b) the substance of the charge must be read to the defendant. 20
- (4) A Registrar may exercise the power of the court under this section to require a plea from a defendant charged with a category 1, 2, or 3 offence.
- (5) If the defendant indicates to a Registrar exercising the powers of the court in accordance with **subsection (4)** that he or she intends to plead guilty, the defendant must be brought before the court to enter a plea. 25

35A Not guilty plea for category 4 offence

A not guilty plea to a charge for a category 4 offence may be entered only in the High Court. 30

36 Defendant who refuses or fails to plead under section 35 or 47(3)

If the defendant refuses to plead, or fails to plead, when required to do so under **section 35 or 47(3)**, the defendant is 35

deemed to have pleaded not guilty and the proceedings must be continued accordingly.

37 Defendant may change plea of not guilty

- (1) A defendant may ask to be brought before the court (or, if the defendant is at that time before the court, ask to be permitted) to change a plea of not guilty to a plea of guilty or to a special plea to the offence with which he or she is charged. 5
- (2) When the defendant attends before a court for the purposes of this section,—
- (a) if the defendant is not represented by a lawyer, the substance of the charge must be read to the defendant; and 10
- (b) the defendant must be called on to plead.

Compare: 1957 No 87 s 160

38 Procedure if defendant indicates intention to plead guilty but does not do so

15

- (1) This section applies if a defendant indicates under **section 33(6), 35(5), or 37(1)** that he or she intends to plead guilty.
- (2) If the defendant does not plead guilty, or if he or she does not personally attend the proceedings,—
- (a) the defendant must be treated in all respects as if he or she had not indicated any intention to plead guilty; and 20
- (b) no comment may be made in any subsequent proceedings on the fact that the defendant indicated an intention to plead guilty; and
- (c) the fact that the defendant indicated an intention to plead guilty is not admissible in evidence against the defendant in any proceedings. 25

Compare: 1957 No 87 s 161(1), (2)

40 Plea where charge alleges previous conviction

If a charge contains an allegation that the defendant has been previously convicted, the defendant is not required to plead to that allegation, unless he or she pleads guilty to the rest of the charge. 30

Compare: 1961 No 43 s 341(1)(a)

*Special pleas***42 Special pleas**

- (1) Only the following special pleas may be entered:
- (a) a plea of previous conviction:
 - (b) a plea of previous acquittal: 5
 - (c) a plea of pardon.
- (2) More than 1 special plea may be entered in relation to the same charge.
- (3) If the defendant enters any of the special pleas, the defendant must provide information about the conviction, acquittal, or pardon on which the plea is based. 10
Compare: 1961 No 43 s 357(1), (3), (4)

43 Previous conviction

- (1) If a plea of previous conviction is entered in relation to a charge, the court must dismiss the charge under **section 147** if the court is satisfied that the defendant has been convicted of— 15
- (a) the same offence as the offence currently charged, arising from the same facts; or
 - (b) any other offence arising from those facts. 20
- (2) **Subsection (1)** does not apply if—
- (a) the defendant was convicted of an offence and is currently charged with a more serious offence arising from the same facts; and
 - (b) the court is satisfied that the evidence of the more serious offence was not readily available at the time the charging document for the previous offence was filed. 25
- Compare: 1961 No 43 s 358(1)

44 Previous acquittal

- If a plea of previous acquittal is entered in relation to a charge, the court must dismiss the charge under **section 147** if the court is satisfied that the defendant has been acquitted of— 30
- (a) the same offence as the offence currently charged, arising from the same facts; or
 - (b) any other offence arising from those facts. 35
- Compare: 1961 No 43 s 358(1)

46 Pardon

If a plea of pardon is entered in relation to a charge, the court must dismiss the charge under **section 147** if the court is satisfied that the defendant has been convicted and pardoned of—

5

- (a) the same offence as the offence currently charged, arising from the same facts; or
- (b) any other offence arising from those facts.

47 Procedure for dealing with special plea

(1) If a special plea is entered, the availability of that plea must be decided by a Judge. 10

(2) In deciding whether a special plea is available to the defendant, the Judge may consider any evidence the Judge considers appropriate.

(3) If the Judge decides that the special plea entered is not available to the defendant, the defendant must be required to enter a plea of guilty or not guilty to the charge. 15

(4) Despite **subsection (1)**, if a special plea is entered in relation to a charge for a category 4 offence, the availability of that plea must be decided by a High Court Judge. 20

Compare: 1961 No 43 ss 357(3), 360

Subpart 2—Decision regarding trial by jury
for category 3 offences

48 Defendant charged with category 3 offence may elect trial by jury

25

A defendant who is charged with a category 3 offence, and who pleads not guilty to that offence, may elect to be tried by a jury.

Compare: 1957 No 87 s 66

49 Timing of election

30

(1) An election under **section 48** must be made at the time of entering a not guilty plea, unless the defendant obtains the leave of the court under **subsection (2)**.

(2) The court may grant leave to make an election at a later time, but only if the court is satisfied that there has been a change 35

in circumstances that might reasonably affect the defendant's decision whether to elect a trial by jury.

- (3) The court must not grant leave under **subsection (2)** after a Judge-alone trial has commenced.

50 Judicial officer or Registrar may receive elections 5

A judicial officer or Registrar may receive an election under **section 48** to be tried by a jury.

Compare: 1957 No 87 s 66A

51 Withdrawal of election

- (1) A defendant may not withdraw his or her election to be tried by a jury unless the defendant obtains the leave of the court under **subsection (2)**. 10

- (2) A court may grant leave to a defendant to withdraw the defendant's election to be tried by a jury, but only if—

(a) the court is satisfied that there has been a change in circumstances that might reasonably affect the defendant's decision to elect a trial by jury; or 15

(b) the court is satisfied that the withdrawal of the defendant's election is unlikely to cause a delay in the defendant's trial being concluded; or 20

(c) in the case of a defendant who is to be tried by a jury under **section 141(2)(a)**, the defendant's co-defendant is, or co-defendants are, no longer to be tried by a jury.

- (3) The court must not grant leave under **subsection (2)** after the jury trial has commenced. 25

Subpart 3—Case management

52 Adjournment for case review

- (1) If the defendant pleads not guilty to a charge for a category 2, 3, or 4 offence, a judicial officer must adjourn the proceeding for case review. 30

- (2) A Registrar may exercise the power under **subsection (1)** to adjourn a proceeding for a category 2 or 3 offence.

53 Case management discussions and case management memorandum

- (1) If the defendant is represented by a lawyer, before the date to which the proceeding is adjourned for case review the prosecutor and defendant must— 5
- (a) engage in case management discussions to ascertain whether the proceeding will proceed to trial and, if so, make any arrangements necessary for its fair and expeditious resolution; and
 - (b) jointly complete a memorandum containing the information specified in **section 54** (the **case management memorandum**). 10
- (2) If, in accordance with **section 140(1)(a)**, 2 or more charges are to be heard together, a single case management memorandum may be filed in respect of all the charges to be heard together. 15
- (3) The case management memorandum must be filed by the defendant by the time prescribed in rules of court.

54 Information to be provided in case management memorandum

- (1) A case management memorandum must contain the following information: 20
- (a) whether the defendant intends to change his or her plea:
 - (b) whether the prosecutor intends to seek leave to amend or withdraw any charges: 25
 - (ba) whether the prosecutor proposes to add a new charge or charges against the defendant:
 - (c) whether the defendant requests a sentence indication under **section 59**:
 - (d) whether the prosecutor or the defendant, or both, consider there is a matter (other than one in **paragraph (a), (b), or (c)**) that requires judicial intervention and, if so, the nature of that matter: 30
 - (e) if the offence is a category 2 or 3 offence, whether the prosecutor considers that it is a protocol offence and,— 35
 - (i) if so, the views of the prosecutor and the defendant as to the appropriate court in which the proceeding should be tried; or

- (ii) if not, whether the prosecutor or the defendant intends to apply for a transfer of the proceeding under **section 72**:
- (f) any other information required by rules of court.
- (2) If the trial procedure is the Judge-alone trial procedure, a case management memorandum must also contain the following information: 5
- (a) notice of any pre-trial applications (other than those referred to in **subsection (1)**) that the prosecutor or the defendant, or both, intend to make: 10
- (b) any admissions that the defendant makes under section 9 of the Evidence Act 2006:
- (ba) any indication the defendant wishes to give of—
- (i) any fact (not being a fact to which **paragraph (b)** refers) that the defendant will, or will not, dispute at the trial; and 15
- (ii) any issue that the defendant will, or will not, dispute at the trial or on which the defendant intends to rely at the trial:
- (c) the number of witnesses proposed to be called, the estimated duration of the trial, and any other information in relation to the management of the trial that is required by rules of court: 20
- (d) any other information required by rules of court.
- 55 Case review** 25
- (1) At the case review hearing, the court must deal with any matter in **section 54(1)(a) to (d)** that has been identified in the case management memorandum.
- (2) If the defendant is unrepresented, the parties must, as appropriate,— 30
- (a) inform the court of the matters specified in **section 54(1)**; and
- (b) if the matter is to proceed to a Judge-alone trial, inform the court of the matters referred to in **section 54(2)**.
- (3) At the case review hearing the court may,— 35
- (a) in the case of a proceeding for which there will be a Judge-alone trial, adjourn the proceedings for trial; and

- (b) in the case of a proceeding for which there will be a jury trial, adjourn the proceedings for trial callover.
- (4) A Registrar must exercise the power of the court under this section if—
- (a) the defendant is represented; and 5
 - (b) a case management memorandum has been filed; and
 - (c) according to the case management memorandum,—
 - (i) the defendant does not intend to change his or her plea; and
 - (ii) the prosecutor does not intend to seek leave to amend or withdraw any charge; and 10
 - (iii) the prosecutor does not propose to add any new charge or charges against the defendant; and
 - (iv) the defendant does not request a sentence indication; and 15
 - (v) no party has given notice that it intends to make any other pre-trial application; and
 - (vi) no other matter is identified of a kind described in **section 54(1)(d)**.
- 56 Court may give directions about case management procedure** 20
- (1) If the court considers that it will facilitate resolution of the proceeding, or it is otherwise in the interests of justice, the court may—
- (a) authorise or accept a departure from any of the requirements of **sections 52 to 55**; or 25
 - (b) give any other directions in relation to the management of the case.
- (2) A direction under **subsection (1)** may be given on the court’s own motion or on the application of the prosecutor or the defendant. 30
- 57 Judge may direct case management procedure for category 1 offence**
- (1) If the defendant pleads not guilty to a charge for a category 1 offence, a Judge may, if the Judge considers that it will facilitate resolution of the proceeding or is otherwise in the interests of justice,— 35

- (a) direct that all or any of the requirements of **sections 52 to 55** apply; or
 - (b) give any other directions in relation to the management of the case.
- (2) A direction under **subsection (1)** may be given on the Judge's own motion or on the application of the prosecutor or the defendant. 5

Subpart 3A—Sentence indications

58 Meaning of sentence indication

A **sentence indication** is a statement by the court that, if the defendant pleads guilty to the offence alleged in the charge, or any other specified offence, at that time, the court would or would not (as the case may be) be likely to impose on the defendant—

- (a) a sentence of a particular type or types; or 15
- (b) a sentence of a particular type or types within a specified range (for example, periods of time or monetary amounts); or
- (c) a sentence of a particular type or types and of a particular quantum (for example, periods of time or monetary amounts). 20

59 Giving sentence indication

- (1) A court may give a sentence indication, but only at the request of the defendant made before the trial.
- (2) Subject to **subsection (3)**, if the defendant requests a sentence indication the court may give one if it is satisfied that the information available to it at that time is sufficient for that purpose. 25
- (3) Without limiting the information that the court may require before giving a sentence indication, the court must have the following information before giving a sentence indication of a kind described in **section 58(c)**: 30
 - (a) a summary of the facts on which the sentence indication is to be given, agreed on by the prosecutor and the defendant; and 35

- (b) information as to any previous conviction of the defendant; and
- (c) a copy of any victim impact statement that has been prepared in relation to the offence concerned under the Victims' Rights Act 2002.

5

60 Further provisions relating to giving sentence indication

- (1) If the court proposes to give a sentence indication, the court may give the prosecutor and the defendant an opportunity to be heard on the matter.

(1A) A sentence indication must be given in open court. 10

- (2) Every sentence indication must be recorded by the court.

- (3) A second or subsequent sentence indication may be given in a proceeding only if, since the previous sentence indication, there has been a change in circumstances that is likely to materially affect the question of the appropriate sentence type or quantum. 15

- (4) No party may appeal against a decision to give or not to give a sentence indication.

61 Offence and penalty relating to sentence indication

- (1) Every person commits an offence who, before the defendant has been sentenced or the charge has been dismissed, knowingly publishes any information about— 20

- (a) a request for a sentence indication; or
- (b) a sentence indication that has been given.

- (2) A person who commits an offence against **subsection (1)** is liable on conviction,— 25

- (a) in the case of an individual, to a term of imprisonment not exceeding 3 months;
- (b) in the case of a body corporate, to a fine not exceeding \$50,000. 30

62 Duration of sentence indication

A sentence indication has effect—

- (a) until the close of the date specified by the court; or

- (b) if no date is specified, until the expiry of 5 working days after the date on which the sentence indication was given.

- 63 Request for sentence indication not admissible in proceeding** 5
- The fact that a defendant made a request for a sentence indication is not admissible in evidence in any proceeding.

~~Subpart 3B—Notification of issues in dispute~~

- 64 Defendant must notify issues in dispute** 10
- (1) The defendant must, in accordance with **subsection (2) or (3)**,—
- (a) give notice of any individual elements of the offence that the defendant disputes; and
 - (b) give notice of any defence, justification, exception, exemption, proviso, or excuse on which the defendant intends to rely. 15
- (1A) Nothing in **subsection (1)** requires the defendant to give notice of—
- (a) any evidence to be adduced by the prosecution that is disputed; or 20
 - (b) any evidence that the defendant intends to adduce; or
 - (c) any witnesses that the defendant intends to call.
- (2) If the procedure for trial is the Judge-alone trial procedure, a notice under **subsection (1)** must— 25
- (a) be filed with the case management memorandum filed under **section 53(3)**; or
 - (b) be given at the case review hearing, if the defendant fails to file a case management memorandum or is unrepresented; or 30
 - (c) be given in accordance with rules of court, in any other case.
- (3) If the procedure for trial is the jury trial procedure, a notice under **subsection (1)** must—
- (a) be filed with the trial callover memorandum filed under **section 87(2)**; or 35

- (b) be given at the trial callover hearing; if the defendant fails to file a trial callover memorandum or is unrepresented; or
- (c) be given in accordance with rules of court; in any other case.

5

65 Defendant may give notice out of time

(1) The defendant may give notice to the court of an issue of the kind described in **section 64(1)** otherwise than in accordance with **section 64** but before the trial.

(2) The defendant may apply for the leave of the court in relation to a notice given under **subsection (1)**.

10

(3) If the court grants leave under **subsection (2)**—

(a) no inference may be drawn under **section 106** or **sections 112 to 114** in relation to the issue; and

(b) no comment may be made to the jury under **sections 112 to 114** on the fact that the notification was otherwise than in accordance with **section 64**.

15

65A Conduct of defendant's case

Nothing in **section 64** or **65** limits the conduct of the defendant's case at trial.

20

66 Defendant may give notice at any time that issue no longer in dispute

A defendant may, at any time and without leave of the court, give notice that an issue of the kind described in **section 64(1)** previously notified by the defendant as being in dispute is no longer disputed by the defendant.

25

67 Conduct that may be failure to notify adequately issues in dispute

Without limiting **sections 106 and 112 to 114**, a failure to notify adequately the issues in dispute may include—

30

(a) failing to give notice under **section 64**;

(b) giving notice under **section 64** that all issues are in dispute without identifying individual issues in dispute.

- (c) ~~notifying issues in dispute that, if the defendant's contention in relation to each were to be accepted, would be mutually contradictory.~~

Subpart 4—Determination of level of trial court for category 2 and 3 offences 5

Determination of level of trial court for protocol offences

68 Establishment of protocol

- (1) The Chief High Court Judge and the Chief District Court Judge must establish a protocol that identifies those category 2 and 3 offences in relation to which the level of trial court must be determined in accordance with **sections 69 and 70**. 10
- (2) Without limiting **subsection (1)**, the protocol may identify—
- (a) specific offences:
 - (b) offences where certain circumstances are present (for example, offending that involves more than 1 defendant, or that results in a particular level of harm, or in relation to which the prosecution is brought by a particular prosecuting agency). 15
- (3) The Chief High Court Judge and the Chief District Court Judge may revise the protocol from time to time. 20
- (4) The Chief High Court Judge and the Chief District Court Judge must publish in the *Gazette* the protocol and the revisions of the protocol. 25

69 District Court Judge may recommend level of trial court for protocol offence 25

- (1) If the prosecutor identifies the offence charged as a protocol offence, under **section 54(1)(e)** or otherwise, a District Court Judge may—
- (a) decline to make a recommendation for the purposes of **section 70**, if he or she considers that the offence is not a protocol offence; or 30
 - (b) if the Judge considers that the offence is a protocol offence,—
 - (i) consider whether the trial should be held in the District Court or the High Court; and 35

- (ii) make a recommendation for the purposes of **section 70**.
- (2) The District Court Judge must make a recommendation under **subsection (1)(b)** if—
- (a) the prosecutor or the defendant seeks to have the trial held in the High Court; or
- (b) the Judge considers that not all of the proceedings that are awaiting trial in the District Court at the place at which the trial would be held are able to be heard within a reasonable timeframe.
- (3) For the purposes of **subsection (1)**, the prosecutor and the defendant may make written submissions to the Judge, but no party is entitled to be heard.
- (5) Before making a recommendation under **subsection (1)**, the Judge must—
- (a) consider any submissions from the prosecutor and the defendant, including anything submitted to the court under **section 54(1)(e)(i)** or otherwise provided to the court under **section 55(2)(a)**; and
- (b) consider the following matters:
- (i) the nature and seriousness of the offence charged; and
- (ii) the complexity of the factual and legal issues likely to arise in the proceeding; and
- (iii) the likelihood that the proceeding will be of wide public concern; and
- (iv) any need for enhanced security or facilities during the trial that are not readily available in the District Court; and
- (v) the desirability of the prompt disposal of trials and the respective workloads of the High Court and the District Court in the locality of the trial; and
- (vi) the likelihood of a sentence beyond the jurisdiction of the District Court; and
- (vii) the interests of justice generally.

Compare: 1957 No 87 s 184Q

70 High Court Judge must determine level of trial court for protocol offences

- (1) A High Court Judge must determine whether the trial of a protocol offence is to be held in the District Court or the High Court and make an order accordingly. 5
- (2) Before making an order under **subsection (1)**, the High Court Judge must consider—
- (a) any recommendation of the District Court Judge; and
 - (b) any submissions made by the prosecutor and the defendant to the District Court Judge; and 10
 - (c) the matters listed in **section 69(5)(b)**.
- (3) No party may appeal against an order under **subsection (1)**.

71 Proceedings not invalid

No proceeding that relates to a protocol offence is invalid only because it failed to be identified as a protocol offence and considered in accordance with **sections 69 and 70**. 15

Order that proceeding for category 2 or 3 offence be tried in High Court

72 High Court Judge may order proceedings for category 2 or 3 offence be tried in High Court 20

- (1) This section applies if a defendant is charged with a category 2 or 3 offence, and a High Court Judge has not made an order under **section 70** (whether or not the offence is a protocol offence).
- (2) The defendant or the prosecutor may apply to a High Court Judge for an order directing that the defendant be tried in the High Court. 25
- (3) The prosecutor and the defendant may make written submissions in relation to an application under **subsection (2)**, but no party is entitled to be heard. 30
- (5) The Judge must determine whether the defendant is to be tried in the District Court or the High Court and make an order accordingly.
- (6) Before making an order under **subsection (5)** the Judge must consider— 35

- (a) any information provided by the District Court about its capacity to hold the trial; and
- (b) any submissions from the prosecutor and the defendant; and
- (c) the matters listed in **section 69(5)(b)**. 5
- (7) No party may appeal against an order under **subsection (5)**.
Compare: 1947 No 16 s 28J
- Subpart 5—Trial court, place of trial,
transfer of proceedings to trial court, and
procedure for trial 10
- 73 Category 1 offences**
- (1) This section applies to a proceeding for a category 1 offence.
- (2) The applicable procedure for trial is the Judge-alone trial procedure.
- (3) The trial court is the District Court that is dealing with the proceeding before the trial in accordance with **section 32**. 15
- ~~(4) This section is subject to—~~
- ~~(a) **section 141**; and~~
- ~~(b) any order made under **section 157**.~~
- (4) This section is subject to— 20
- (a) any order made under section 4A of the District Courts Act 1947 or **section 157** of this Act; and
- (b) **section 141**.
- 73A Category 2 offences**
- (1) This section applies to a proceeding for a category 2 offence. 25
- (2) The applicable procedure for trial is the Judge-alone trial procedure.
- (3) The level of trial court is a District Court unless an order is made under **section 70 or 72** that the proceeding be tried in the High Court. 30
- (4) The place of trial is,—
- (a) if the trial court is the High Court, the High Court at the place nearest to the court that is dealing with the proceeding under **subpart 3 of this Part**:

- (b) if the trial court is a District Court, the court that is dealing with the proceeding under **subpart 3 of this Part**.
- ~~(5) This section is subject to—~~
- (a) ~~section 141~~; and 5
- (b) ~~any order made under section 157~~.
- (5) This section is subject to—
- (a) any order made under section 4A of the District Courts Act 1947 or section 157 of this Act; and
- (b) section 141. 10
- 75 Category 3 offences**
- (1) This section applies to a proceeding for a category 3 offence.
- (2) The applicable procedure for trial is—
- (a) the Judge-alone trial procedure if— 15
- (i) the defendant does not elect trial by jury under **section 48** (or withdraws his or her election under **section 51**); or
- (ii) an order is made under **section 102 or 103**; or
- (b) the jury trial procedure in any other case.
- (3) The level of trial court is a District Court unless an order is made under **section 70 or 72** that the proceeding be tried in the High Court. 20
- (4) The place of trial is,—
- (a) if the trial court is the High Court, the High Court at the place nearest to the court that is dealing with the proceeding under **subpart 3 of this Part**; 25
- (b) if the trial court is a District Court,—
- (i) the court that is dealing with the proceeding under **subpart 3 of this Part**; or
- (ii) if the trial procedure is jury trial, and the court that is dealing with the proceeding under **subpart 3 of this Part** does not have jury trial jurisdiction, the District Court with jury trial jurisdiction that is nearest to that court. 30
- (5) In this section, **jury trial jurisdiction**, when used in relation to a District Court, means a District Court that has jurisdiction 35

in accordance with **section 352B(2) and (3)** to conduct jury trials.

- (6) This section is subject to—
- (a) any order made under section 4A of the District Courts Act 1947 or **section 157** of this Act; and 5
 - (b) **section 141**; and
 - (c) any regulations made under **section 383** that prescribe a different place of trial.
- 76 Category 4 offences**
- (1) This section applies to a proceeding for a category 4 offence. 10
- (2) The applicable procedure for trial is—
- (a) the jury trial procedure; or
 - (b) the Judge-alone trial procedure if an order is made under **section 102 or 103**.
- (3) The level of trial court is the High Court. 15
- (4) The trial court is the High Court that is nearest to the District Court that is dealing with the proceeding immediately before it is transferred under **section 32A**.
- (5) This section is subject to—
- (a) any order made under **section 157**; and 20
 - (b) **section 141**; and
 - (c) any regulations made under **section 383** that prescribe a different place of trial.
- 76A Transfer of certain proceedings for category 2 and 3 offences to trial court** 25
- (1) The Registrar must transfer a proceeding for a category 2 or 3 offence to the trial court as soon as practicable after any order is made under **section 70(1) or 72(5)** that the trial is to be in the High Court.
- (2) The Registrar of the court that adjourns the proceeding for a category 3 offence for trial callover (if that court is not the trial court) must transfer the proceeding to the trial court as soon as practicable. 30

- 76B Transfer of proceeding from trial court to new trial court**
 If, as a result of any decision referred to in **section 136(5), 137, or 141A**, the trial court changes but the proceeding had already been transferred to the trial court in accordance with **section 76A**, the Registrar of that court must as soon as practicable transfer the proceeding to the new trial court. 5
- 77 Notice that defendant to be tried in High Court**
- (1) Where, pursuant to an order under **section 70 or 72**, a proceeding is to be tried in the High Court, the High Court Registrar must give, or cause to be given, to the defendant— 10
- (a) a copy of the order; and
- (b) a notice informing the defendant of the date and time at which the defendant must report to the High Court in which the defendant will be tried.
- (2) If the defendant has been remanded in custody, the High Court Registrar must if necessary, issue a new warrant for the detention of the defendant that accords with the date and time on which, and place to which, the defendant must report. 15
- (3) If the defendant has been released on bail,—
- (a) the conditions of the defendant’s bail are deemed to be varied in accordance with the notice under **subsection (1)(b)**, and no new notice of bail is required; and 20
- (b) the High Court Registrar must give, or cause to be given, to each surety of the defendant— 25
- (i) a copy of the order; and
- (ii) a copy of the notice under **subsection (1)(b)**; and
- (c) the terms of each surety bond in relation to which **paragraph (b)** is complied with are deemed to be varied in accordance with the notice. 30
- (4) The High Court Registrar must ensure that any witness summoned to attend the proceeding is given notice of the date and time at which and the place at which the defendant will be tried.
- (5) The notice given under **subsection (4)** has the same effect as if it were a summons to attend the court to which the proceeding is transferred. 35

Compare: 1957 No 87 s 184R

Subpart 6—Provisions applying only to
Judge-alone procedure

- 78 Court may order pre-trial admissibility hearing if trial to be Judge-alone trial**
- (1) This section applies if— 5
- (a) the prosecutor or the defendant wishes to adduce any particular evidence at a Judge-alone trial; and
 - (b) he or she believes that the admissibility of that evidence may be challenged.
- (2) The prosecutor or the defendant may apply to the court for a hearing (a **pre-trial admissibility hearing**) for the purposes of obtaining a pre-trial order to the effect that the evidence is admissible. 10
- (3) An application under **subsection (2)** must be made by the time prescribed by rules of court. 15
- (5) The court may grant a pre-trial admissibility hearing if the court is satisfied that—
- (a) it is more convenient to deal with the issues before the trial and—
 - (i) the evidence raises a complex admissibility issue and the decision about whether it is admissible is likely to make a substantial difference to the overall conduct of the proceeding; or 20
 - (ii) the outcome of the pre-trial admissibility hearing may obviate the need for a trial; or 25
 - (b) the complainant or witness is particularly vulnerable and resolving the admissibility issue is in the interests of justice; or
 - (c) the trial is to be in a District Court and the evidence has been obtained under an order made, or warrant issued, by the High Court. 30
- (6) The court may grant a pre-trial admissibility hearing on any terms and subject to any conditions that the court thinks fit, and may make any order permitted under **section 80**.
- (7) If a pre-trial admissibility hearing is granted on the ground in **subsection (5)(c)**, that pre-trial hearing must be in the High Court. 35

- 79 Pre-trial admissibility hearing and order that evidence admissible**
- (1) The court at a pre-trial admissibility hearing must give each party an opportunity to be heard.
- (2) The court may make an order that the evidence is admissible. 5
- (3) The order may be made on any terms and subject to any conditions that the court thinks fit.
- (4) Nothing in this section, or **section 78**, or in any order made under this section, affects—
- (a) the right of the prosecutor or the defendant to seek to adduce evidence that he or she claims is admissible during the trial; or 10
- (b) the discretion of the court at the trial to allow or exclude any evidence in accordance with any rule of law. 15
- Compare: 1961 No 43 s 344A
- 80 Court may order that certain pre-trial processes under subpart 7 apply**
- (1) The court to which an application is made under **section 78** may, to assist the court to determine whether or not to make an order as to the admissibility of the evidence under **section 79(2)**,— 20
- (a) make an order requiring any potential witness or witnesses to file a formal statement; or
- (b) make an order that the evidence of a potential witness be taken orally. 25
- (2) **Sections 82 to 86 and 90 to 100** apply, with any necessary modifications, to any order made under this section.
- Subpart 7—Provisions applying only to jury trial procedure
- Application of this subpart* 30
- 81 Application of this subpart**
- This subpart applies to a proceeding—
- (a) that has been adjourned for trial callover; and
- (b) for which the procedure is a jury trial.

*Filing of formal statements***82 Requirements for formal statements**

- (1) A **formal statement** is a statement recorded in any medium by a person who is a potential witness in a criminal proceeding where— 5
- (a) the statement contains the evidence of that witness; and
 - (c) the statement contains, or is accompanied by, a declaration by the witness that the statement is true and that the witness made it with the knowledge that it is to be used in court proceedings; and 10
 - (d) the statement complies with **subsections (2) and (3)** if applicable.
- (2) If a formal statement under **subsection (1)** is made by a person aged under 18 years, the statement must specify the age of that person. 15
- (3) If a formal statement under **subsection (1)** or a declaration required by **subsection (1)(c)** is made in written form by a person who cannot read it,—
- (a) the statement or declaration must be read to that person before the person authenticates it; and 20
 - (b) the reader must attach to the statement or declaration an authenticated statement by that reader to the effect that the statement or declaration was read to the person and that the person to whom it was read appeared to understand its contents. 25
- (5) When filing a formal statement, the prosecutor may file, in addition to the statement itself, a summary of the parts of it that the prosecutor intends to rely on as evidence at the trial.

Compare: 1957 No 87 s 162

83 False statement in formal statement deemed to be perjury 30

A formal statement filed under **section 85** is to be treated as evidence on oath given in a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

Compare: 1957 No 87 s 163

84 Persons who may give evidence under assumed name

- (1) An undercover Police officer (within the meaning of section 108 of the Evidence Act 2006)—
- (a) may make a ~~written~~ formal statement in the name by which the officer was known during the relevant investigation; and 5
 - (b) may ~~sign~~ authenticate that statement, or any ~~written~~ record of evidence prepared under **section 99**, in that name.
- (2) A witness who is the subject of an application for an anonymity order made under section 110 or 112 of the Evidence Act 2006, or who is the subject of an anonymity order made under either of those sections,—
- (a) may make a ~~written~~ formal statement using the term “witness” followed by an initial or mark; and 15
 - (b) may ~~sign~~ authenticate that statement, or any ~~written~~ record of evidence prepared under **section 99**, in that manner.
- (3) This section overrides any contrary provision in **this subpart**.
Compare: 1957 No 87 s 173 20

85 Prosecutor must file formal statements

- (1) The prosecutor must file in the trial court—
- (a) the formal statements that form the evidence for the prosecution that the prosecutor proposes to call at trial, or such part of that evidence as the prosecutor considers is sufficient to justify a trial; and 25
 - (b) the exhibits referred to in those statements.
- (2) The formal statements must be filed by the time prescribed in rules of court.
- (4) If the prosecutor fails to file formal statements within the prescribed time, the court may—
- (a) extend the time for filing the formal statements; or
 - (b) dismiss the charge in accordance with **section 147**. 30
- (5) For the purpose of this section, evidence is sufficient to justify a trial of a defendant if, as a matter of law, a properly directed jury could reasonably convict the defendant on that evidence. 35
Compare: 1957 No 87 s 168

86 Evidential status of formal statements

- (1) A formal statement filed under **section 85**—
- (a) is admissible as evidence for the purposes of any pre-trial application to the same extent as if it were oral evidence; and 5
 - (b) is to be treated as a previous statement of that witness at the trial.
- (2) Any document or object accompanying a formal statement, and referred to in that statement as an exhibit, must be treated as if it had been identified in court and produced as an exhibit 10 by the maker of the statement.

Compare: 1957 No 87 s 162(5)

*Trial callover memoranda***87 Trial callover memoranda to be filed in trial court**

- (1) The prosecutor must file in the trial court a memorandum in 15 accordance with **section 88(1)**.
- (2) Unless the defendant is unrepresented, the defendant must file in the trial court a memorandum in accordance with **section 88(2)**.
- (3) The memorandum must be filed by the time prescribed in rules 20 of court.

88 Information to be provided in trial callover memoranda

- (1) A trial callover memorandum filed by the prosecutor must contain the following information:
- (a) notice of any pre-trial applications that the prosecutor 25 intends to make; and
 - (b) the number of witnesses proposed to be called, the estimated duration of the prosecution case, and any other information in relation to the management of the trial that is required by rules of court; and 30
 - (c) any other information required by rules of court.
- (2) A trial callover memorandum filed by the defendant must contain the following information:
- (b) any admissions the defendant makes under section 9 of the Evidence Act 2006: 35
 - (ba) any indication the defendant wishes to give of—

- (i) any fact (not being a fact to which **paragraph (b)** refers) that the defendant will, or will not, dispute at the trial; and
- (ii) any issue that the defendant will, or will not, dispute at the trial or on which the defendant intends to rely at the trial. 5
- (c) notice of any pre-trial applications that the defendant intends to make; ~~and;~~
- (d) the number of witnesses proposed to be called, the estimated duration of the defence case, and any other information in relation to the management of the trial that is required by rules of court: 10
- (e) any other information required by rules of court.

89 Unrepresented defendants at trial callover hearing

At the trial callover hearing an unrepresented defendant must, if the matter is to proceed to trial, inform the court of the matters referred to in **section 88(2)**. 15

Application for oral evidence order

90 Application for oral evidence order

- (1) Either party may apply to the court for an order allowing the oral examination of a potential witness whether or not that witness has provided a formal statement. 20
- (2) An application under **subsection (1)** must be made within the time prescribed by rules of court.
- (3) The requirement under **subsection (1)** to apply to the court is subject to **section 91(b)**. 25

Compare: 1957 No 87 s 178

91 Application for leave to question undercover Police officer's identity must be dealt with by High Court

If the defendant wishes to apply, under section 109(1)(d) of the Evidence Act 2006, for leave to put any questions relating to the identity of a witness called by the prosecutor who is an undercover Police officer,— 30

- (a) that application must be made at the same time as the application is made for an oral evidence order allowing 35

the oral examination of the person to whom those questions are proposed to be put; and

- (b) both applications must be determined by a High Court Judge.

Compare: 1957 No 87 s 179

5

Oral evidence orders

92 Making oral evidence order

- (1) On an application under **section 90** the court may make an oral evidence order if the court is satisfied that—
- (a) it is necessary to take the oral evidence of the witness in order to determine a pre-trial application on any matter; or
- (b) the person has been requested to give evidence in the form of a formal statement but has failed or refused to do so, and the anticipated evidence of that person is relevant to the charge against the defendant; or
- (c) it is otherwise in the interests of justice to take the oral evidence of the witness.
- (3) **Subsection (1)** is subject to **section 93**.
- (4) The court may refuse an application for an oral evidence order if it considers that the application was made—
- (a) for the purpose of delay; or
- (b) for any other improper purpose.
- (5) The court must determine an application for an oral evidence order on the basis of—
- (a) the witness's formal statement (if any); and
- (b) any other written evidence; and
- (c) any submissions from the parties.

Compare: 1957 No 87 ss 180, 181

93 Further consideration if application for oral evidence order for complainant in case of sexual nature

- (1) This section applies if the court is considering whether to make an oral evidence order under **section 92** for the examination of the complainant in a proceeding for—
- (a) any offence against sections 128 to 142A of the Crimes Act 1961:

- (b) any offence against section 144A of the Crimes Act 1961:
- (c) any other offence against the person of a sexual nature:
- (d) being a party to the commission of any offence referred to in **paragraph (a), (b), or (c)**: 5
- (e) conspiring with any person to commit any of those offences.
- (2) The court must, in addition to the matters in **section 92(1)**, consider—
- (a) the particular vulnerability of the complainant; and 10
- (b) the impact on the complainant of giving oral evidence.
- 94 Withdrawal of charge if oral evidence order made for examination of undercover Police officer**
- (1) Despite **section 146**, the prosecutor may withdraw a charge without the leave of the court if— 15
- (a) an oral evidence order is made under **section 92** allowing the oral examination of a prosecution witness; and
- (b) leave is granted to the defendant, on an application under section 109(1)(d) of the Evidence Act 2006, to put any question to that witness relating to the identity of that witness or of another prosecution witness. 20
- (2) The withdrawal of a charge is not a bar to any other proceedings in the same matter.
- Compare: 1957 No 87 s 158
- Procedure for taking oral evidence* 25
- 95 By whom oral evidence of witness to be taken**
- (1) If an oral evidence order is made, the court may direct that the evidence be taken at any court or place that the court considers suitable for the purpose before—
- (a) a District Court Judge; or 30
- (b) a Registrar of a District Court; or
- (c) 1 or more Justices; or
- (d) 1 or more Community Magistrates; or
- (e) a High Court Judge; or
- (f) a Registrar of the High Court. 35

- (2) The oral evidence of any witness taken under this section at a court or place other than the trial court—
- (a) must be forwarded to the Registrar of the trial court; and
 - (b) has effect as if it were oral evidence taken at the trial court. 5
- (4) Despite **subsection (1)** only a High Court Judge may direct that evidence be taken by a High Court Judge or a Registrar of the High Court.
Compare: 1957 No 87 s 182
- 96 Restriction on who may take oral evidence of complainant in case of sexual nature** 10
Despite **section 95(1)**, the oral evidence of a complainant may be taken only by a Judge if the defendant is charged with an offence specified in **section 93(1)**.
Compare: 1957 No 87 s 185B 15
- 97 Persons who may be present if oral evidence taken from complainant in case of sexual nature**
- (1) If, in accordance with an oral evidence order, oral evidence is taken from a complainant in a proceeding for an offence specified in **section 93(1)**, no person may be present except the following: 20
- (a) the Judge:
 - (b) the prosecutor:
 - (c) the defendant and any person who is for the time being acting as custodian of the defendant: 25
 - (d) any lawyer engaged in the proceedings:
 - (e) any officer of the court:
 - (f) the Police employee in charge of the case:
 - (g) any member of the media as defined in **section 202(2)**:
 - (h) any person whose presence is requested by the complainant: 30
 - (i) any person expressly permitted by the Judge to be present.
- (2) Before the complainant starts to give evidence, the Judge must— 35
- (a) ensure that no person other than those referred to in **subsection (1)** is present; and

- (b) advise the complainant of the complainant's right to request the presence of any person under **subsection (1)(h)**.

Compare: 1957 No 87 s 185C(2), (3)

98 Application of sections 103 to 105 of Evidence Act 2006 5

If an oral evidence order is made, sections 103 to 105 of the Evidence Act 2006 apply with any necessary modifications to the taking of the oral evidence.

99 Oral evidence must be recorded

- (1) Oral evidence must be recorded and that record must be authenticated. 10
- (2) If the oral evidence is given by a person who cannot read and is recorded in writing,—
- (a) the record of the evidence must be read to that person before the person authenticates it; and 15
- (b) the reader must attach to the record an authenticated statement by that reader to the effect that the record was read to the person and that the person to whom it was read appeared to understand its contents.
- (3) Judicial notice must be taken of the authentication of any examining judicial officer or Registrar given in a manner prescribed by rules of court to any record of oral evidence taken under this section. 20

Compare: 1957 No 87 s 184D

100 Proceeding may be continued despite witness's failure to appear or give evidence 25

- (1) If a person fails to appear to give oral evidence, the court may—
- (a) direct that the oral evidence of that person be taken at a time or place directed by the court; or 30
- (b) direct that the proceeding continue to trial without the taking of the oral evidence of that person.

- (2) If **subsection (1)(a)** applies, **sections 164 to 169** apply as if the requirement for the person to appear to give oral evidence were a requirement to appear at a hearing.

Compare: 1957 No 87 s 184E

Pre-trial orders as to admissibility of evidence: 5
jury trial procedure

101 Pre-trial order relating to admissibility of evidence: jury trial

- (1) This section applies if—
- (a) the prosecutor or the defendant wishes to adduce any particular evidence at ~~the trial~~ a jury trial; and
 - (b) he or she believes that the admissibility of that evidence may be challenged.
- (2) The prosecutor or the defendant may apply to the court for a pre-trial order to the effect that the evidence is admissible. 15
- (3) An application under **subsection (2)** must be made by the time prescribed by rules of court.
- (4) The court must give each party an opportunity to be heard in respect of the application before deciding whether or not to make the order. 20
- (5) The court may make an order under this section on any terms and subject to any conditions that the court thinks fit.
- (6) Nothing in this section nor in any order made under this section affects—
- (a) the right of the prosecutor or the defendant to seek to adduce evidence that he or she claims is admissible during the trial; or
 - (b) the discretion of the court at the trial to allow or exclude any evidence in accordance with any rule of law.
- (7) If the evidence has been obtained under an order made, or a warrant issued, by the High Court, the application must be made to the High Court. 30

Compare: 1961 No 43 s 344A

*Trial before Judge alone may be ordered***102 Judge may order Judge-alone trial in cases likely to be long and complex**

- (1) This section applies if the defendant is charged with an offence that is not— 5
- (a) an offence for which the maximum penalty is imprisonment for life or imprisonment for 14 years or more; or
 - (b) an offence of attempting or conspiring to commit, or of being a party to the commission of, or of being an accessory after the fact to, an offence referred to in **paragraph (a)**. 10
- (2) The court may, on the application of the prosecutor, or of its own motion, order that the defendant be tried for the offence before a Judge without a jury.
- (3) An application by the prosecutor under **subsection (2)** must be made before the trial ~~by~~ within the time prescribed by rules of court. 15
- (4) The court must not make an order under **subsection (2)** unless the prosecutor and the defendant have been given an opportunity to be heard in relation to the application and, following such hearing, the court is satisfied— 20
- (a) that all reasonable procedural orders (if any), and all other reasonable arrangements (if any), to facilitate the shortening of the trial have been made, but the duration of the trial still seems likely to exceed 20 sitting days; 25
and
 - (b) that, in the circumstances of the case, the defendant's right to trial by jury is outweighed by the likelihood that potential jurors will not be able to perform their duties effectively. 30
- (5) For the purposes of **subsection (4)(b)** the court must consider the following matters:
- (a) the number and nature of the offences with which the defendant is charged:
 - (b) the nature of the issues likely to be involved: 35
 - (c) the volume of evidence likely to be presented:
 - (d) the imposition on potential jurors of sitting for the likely duration of the trial:

- (e) any other matters the court considers relevant.
- (6) If the defendant is one of 2 or more co-defendants to be tried together, all of them must be tried before a Judge with a jury unless an order under **subsection (2)** for all of them to be tried by a Judge without a jury is applied for and made. 5
- (7) This section does not limit **section 103**.
Compare: 1961 No 43 s 361D

103 Judge may order Judge-alone trial in cases involving intimidation of juror or jurors

- (1) The court may, on the application of the prosecutor, order that the defendant be tried before a Judge without a jury. 10
- (2) An application under **subsection (1)** must be made before the trial and within the time prescribed by rules of court.
- (3) The court must not make an order under **subsection (1)** unless the court is satisfied that there are reasonable grounds to believe— 15
- (a) that intimidation of any person or persons who may be selected as a juror or jurors has occurred, is occurring, or may occur; and
- (b) that the effects of that intimidation can be avoided effectively only by making an order under **subsection (1)**. 20
- (4) If the defendant is one of 2 or more co-defendants to be tried together, all of them must be tried before a Judge with a jury unless an order under **subsection (1)** for all of them to be tried by a Judge without a jury is applied for and made. 25
- (5) This section does not limit **section 102**.
Compare: 1961 No 43 s 361E

104 Procedure for trial ordered under section 102 or 103

- If an order is made under **section 102 or 103** that 1 or more defendants be tried before a Judge without a jury,— 30
- (a) the provisions of this **subpart** apply before the trial, with any necessary modifications; and
- (b) **subpart 1 of Part 4** applies to the conduct of the trial.

Part 4 Trial

Subpart 1—Provisions applying to Judge-alone trials

- 105 Conduct of Judge-alone trial** 5
- (1) Unless the court directs otherwise, neither the prosecutor nor the defendant may make an opening statement other than,—
- (a) in the case of the prosecutor, a short outline of the charge or charges the defendant faces; and
 - (b) ~~in the case of the defendant, a short outline of the issues of the kind described in **section 64(1)**.~~ 10
 - (b) in the case of the defendant, a short outline of the issue or issues at the trial.
- (2) Unless the court directs otherwise, the prosecutor and the defendant must call evidence in the following sequence: 15
- (a) the prosecutor may adduce the evidence in support of the prosecution case:
 - (b) the defendant may adduce any evidence that he or she wishes to present:
 - (c) subject to section 98 of the Evidence Act 2006, the prosecutor may adduce evidence in rebuttal of evidence given by or on behalf of the defendant. 20
- (3) Without limiting **subsection (2)**, the court may give the defendant leave to call 1 or more witnesses (for example, an expert witness) immediately after the prosecutor has called a particular witness or witnesses. 25
- (5) Unless the court directs otherwise, neither party may—
- (a) make submissions on the facts; or
 - (b) address the court on the evidence given by either party.
- (6) Despite **subsection (5)**, the defendant, whether or not he or she intends to call evidence, may address the court at the end of the prosecutor’s case to submit that the charge should be dismissed. 30
- Compare: 1957 No 87 s 67(1), (3), (4), (6), (7)
- 106 Inference from failure to notify adequately issues in dispute** 35
- (1) ~~This section applies if the court is satisfied that—~~

- (a) the defendant failed to notify adequately the issues in dispute before the trial; and
- (b) there is no reasonable explanation for that failure.
- (2) In deciding whether the defendant is guilty of the offence, the court may, on its own motion or at the request of the prosecutor or a co-defendant, draw any inference from the failure referred to in **subsection (1)** that appears to the court to be proper in the circumstances. 5
- (3) If the court proposes to draw an inference of the kind described in **subsection (2)**, the court must be satisfied that the prosecutor and the defendant have been given a reasonable opportunity to be heard on whether— 10
- (a) the defendant failed to notify adequately the issues in dispute; and
- (b) there is a reasonable explanation for that failure. 15
- (3A) If a co-defendant requests that the court draw an inference of the kind described in **subsection (2)**, the court must also be satisfied that the co-defendant has been given a reasonable opportunity to be heard on the matters specified in **subsection (3)(a) and (b)**. 20
- (4) If a court draws an inference of the kind described in **subsection (2)**, the court must, when giving its decision,—
- (a) state that it has drawn the inference; and
- (b) set out its reasons for drawing that inference.
- (5) No defendant may be found guilty of an offence solely on the basis of an inference of the kind referred to in **subsection (2)**. 25

107 Decision of court

- (1) The court, having heard what each party has to say and the evidence adduced by each, must consider the matter and may find the defendant guilty or not guilty. 30
- (1A) The court must give reasons for its decision under **subsection (1)**.
- (2) The court may, if it thinks fit, reserve its decision under **subsection (1)**.
- (3) If the court reserves its decision, the court must— 35
- (a) give it at any adjourned or subsequent sitting of the court; or

- (b) record the decision, authenticate it, and send it to the Registrar.
- (4) If a decision is sent to the Registrar under **subsection (3)**, the Registrar must deliver it at a time and place appointed by the Registrar. 5
- (5) A reserved decision delivered by the Registrar has the same force and effect as if given by the court on that date.
- (6) The reasons for the court's decision may accompany the court's decision, or be given later. 10
- Compare: 1957 No 87 s 68

Subpart 2—Provisions applying to jury trials

Conduct of jury trial

110 Conduct of jury trial

- (1) The prosecutor must make an opening statement that indicates to the jury the nature of the offences alleged and the evidence that he or she will call. 15
- (2) ~~After the opening statement by the prosecutor and before any evidence is adduced, the defendant must make an opening statement for the purposes of identifying any issues of the kind described in **section 64(1)**.~~ 20
- (2) After the opening statement by the prosecutor and before any evidence is adduced, the defendant may make an opening statement for the purposes of identifying the issue or issues at the trial.
- (3) Unless the court directs otherwise, the prosecutor and the defendant must call evidence in the following sequence: 25
- (a) the prosecutor may adduce the evidence in support of the prosecution case:
- (b) the defendant may adduce any evidence that he or she wishes to present: 30
- (c) subject to section 98 of the Evidence Act 2006, the prosecutor may adduce evidence in rebuttal of evidence given by or on behalf of the defendant.
- (4) Without limiting **subsection (3)**, the court may give the defendant leave to call 1 or more witnesses (for example, an ex- 35

pert witness) immediately after the prosecutor has called a particular witness or witnesses.

- (6) At the end of the prosecution case, the defendant may make a further statement that indicates to the jury the nature of his or her case and the evidence that he or she will call. 5
- (7) When all the evidence (including any evidence given on cross-examination, re-examination, or in rebuttal) is concluded, the prosecutor may make a closing address.
- (8) After the closing address (if any) by the prosecutor, the defendant may make a closing address and the prosecutor has no right of reply in any case. 10

Compare: 1961 No 43 s 367

Charge alleging previous conviction

111 Procedure if charge alleges previous conviction

- (1) If a charge contains an allegation that the defendant has been previously convicted, and the defendant pleads not guilty to the rest of the charge, the allegation must not be mentioned to the jury when the defendant is given in charge to them. 15
- (2) Despite **subsection (1)**, if during the trial evidence of the defendant's good character is given by or on behalf of the defendant, the prosecutor, in answer to that evidence, may prove the previous conviction. 20

Compare: 1961 No 43 s 341(1)(b) and (2)

Provisions relating to identification of issues in dispute

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112 References by prosecutor in jury trial to failure to notify adequately issues in dispute

- (1) The prosecutor may comment to the jury on a failure by the defendant to notify adequately an issue in dispute before the trial only with the leave of the court. 30
- (2) If the court is asked to grant leave, the court must be satisfied that the prosecutor and the defendant have been given a reasonable opportunity to be heard on whether—
- (a) the defendant failed to notify adequately the issues in dispute; and 35
- (b) there is a reasonable explanation for that failure.

- (3) The court may grant leave for the purpose of **subsection (4)** only if the court is satisfied that—
- (a) the defendant failed to notify adequately the issues in dispute before the trial; and
 - (b) there is no reasonable explanation for that failure. 5
- (4) If the court grants leave under **subsection (3)**, the prosecutor may, subject to any conditions imposed by the court, comment to the jury about the inferences that the jury may draw from that failure in deciding whether or not the defendant is guilty of the offence. 10

112A References by co-defendant in jury trial to failure to notify adequately issues in dispute

- (1) A co-defendant (**defendant A**) may comment to the jury on a failure by the defendant (**defendant B**) to notify adequately an issue in dispute before the trial only with the leave of the court. 15
- (2) If the court is asked to grant leave, the court must be satisfied that the prosecutor, defendant A, and defendant B have been given a reasonable opportunity to be heard on whether—
- (a) defendant B failed to notify adequately the issues in dispute; and 20
 - (b) there is a reasonable explanation for that failure.
- (3) The court may grant leave for the purpose of **subsection (4)** only if the court is satisfied that—
- (a) defendant B failed to notify adequately the issues in dispute before the trial; and 25
 - (b) there is no reasonable explanation for that failure.
- (4) If the court grants leave under **subsection (3)**, defendant A may, subject to any conditions imposed by the court, comment to the jury about the inferences that the jury may draw from that failure in deciding whether defendant B is guilty of the offence. 30

113 References by court in jury trial to failure to notify adequately issues in dispute

- (1) This section applies if the court is satisfied that— 35

- (a) the defendant failed to notify adequately the issues in dispute before the trial; and
- (b) there is no reasonable explanation for that failure.
- (2) The court when summing up may comment to the jury on that failure only if the court is satisfied that the prosecutor and the defendant have been given an opportunity to be heard on whether—
- (a) the defendant failed to notify adequately the issues in dispute; and
- (b) there is a reasonable explanation for that failure.
- 114 Instruction to jury regarding drawing inferences from failure to identify issues in dispute**
- (1) This section applies if comments to the jury on a failure by the defendant to notify adequately the issues in dispute before the trial are made by any of the following:
- (a) the court;
- (b) the prosecutor;
- (c) the defendant;
- (d) a co-defendant.
- (2) The court must, in summing up, instruct the jury to the effect that, in deciding whether the defendant is guilty of an offence,—
- (a) the jury may draw any inference from that failure that appears to the jury to be proper in the circumstances; but
- (b) the jury must not find the defendant guilty of an offence solely on the basis of such an inference.

Discretion to keep jury together

- 115 Discretion to keep jury together**
- (1) From the time when the defendant is given in charge to the jury the trial must proceed continuously, subject to the power of the court under **section 172** to adjourn it.
- (2) If the court adjourns the trial, it may direct that during the adjournment the jury must be kept together, and that proper provision be made for preventing the jury from communicating with anyone on the subject of the trial.

- (3) If no direction under **subsection (2)** is given, the jury may separate during the adjournment.
Compare: 1961 No 43 s 373

Part of murder charge proved

- 116 Part of murder charge proved** 5
On a charge of murder, the jury—
- (a) may,—
- (i) in accordance with **section 149**, find the defendant guilty of an attempt to commit murder; or
- (ii) if the evidence proves manslaughter but does not prove murder, find the defendant guilty of manslaughter; but 10
- (b) must not on that charge, except in accordance with section 178(2) of the Crimes Act 1961 (which relates to infanticide), find the defendant guilty of any other offence. 15
- Compare: 1961 No 43 s 339(2)

Subpart 3—Provisions applying to both
Judge-alone and jury trials

Alibi 20

- 117 Alibi**
- (1) Any evidence tendered to disprove an alibi may, subject to any directions by the court as to the time when it is to be given, be given before or after evidence is given in support of the alibi.
- (2) For the purposes of this section, **evidence in support of an alibi** means evidence tending to show that by reason of the presence of the defendant at a particular place or in a particular area at a particular time he or she was not, or was unlikely to have been, at the place where the offence is alleged to have been committed at the time of its alleged commission. 25 30
- Compare: 1961 No 43 s 367A

*Dismissal of charge in certain cases***118 Court must dismiss charge in certain cases**

- (1) Where, on an application under section 109(1)(d) of the Evidence Act 2006, leave is granted to the defendant to put any question relating to the identity of a witness called by the prosecutor, the prosecutor may inform the court that the prosecution does not intend to proceed with the charge. 5
- (2) In a case described in **subsection (1)**, the court must dismiss the charge under **section 147**. 10

Compare: 1961 No 43 s 369A

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*Witnesses***119 Adjourning trial for witness**

- (1) **Subsection (2)** applies if the court is of the opinion that the defendant is taken by surprise, in a manner likely to prejudice the defendant's defence, by the production of a prosecution witness without sufficient notice to the defendant. 15
- (2) The court may, on the application of the defendant,—
- (a) adjourn the trial; or
 - (b) discharge the jury and postpone the trial.
- (3) If the court is of the opinion that a witness who is not called for the prosecution ought to be called, it may— 20
- (a) require the prosecution to call the witness; and
 - (b) if the witness is not present, make an order for the attendance of the witness.
- (4) In the case described in **subsection (3)**, the court may— 25
- (a) adjourn the trial; or
 - (b) if it is of the opinion that it would be in the interests of justice to do so, on the application of the defendant, discharge the jury and postpone the trial.

Compare: 1961 No 43 s 368

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Part 5 General provisions

Subpart 1—Conduct of proceeding

Defendants who plead guilty or are found guilty

- 120 Procedure after defendant pleads or is found guilty** 5
- (1) If a defendant pleads guilty or is found guilty, the court may convict or deal with the defendant in any other manner authorised by law and—
- (a) adjourn the proceeding; or
- (b) sentence or otherwise deal with the defendant immediately. 10
- (2) Despite **subsection (1)**, if the defendant is before a District Court the court must transfer the proceeding to the High Court (at the place determined in accordance with **section 76(4) and (5)** as if the High Court were the trial court) for the sentencing of the defendant if— 15
- (a) **section 81B** of the Sentencing Act 2002 applies; or
- (b) section 90 of the Sentencing Act 2002 applies; or
- (c) the offence is a category 4 offence. 20
- Compare: 1957 No 87 s 67(2)
- 121 Plea of guilty may be withdrawn by leave of court**
- (1) A plea of guilty may, by leave of the court, be withdrawn at any time before the defendant has been sentenced or otherwise dealt with.
- (2) The court must grant leave to a defendant to withdraw a plea of guilty referred to in **section 122(1)** if— 25
- (a) the court, presided over by the judicial officer that gave the relevant sentence indication, indicates that the circumstances described in **section 122(2)** apply and it proposes to impose a sentence of a different type or types, or of the same type or types but a greater quantum, than that specified in the sentence indication; or 30
- (b) the court, presided over by a judicial officer other than the one that gave the relevant sentence indication, indicates that it proposes to impose a sentence of a different 35

type or types, or of the same type or types but a greater quantum, than that specified in the sentence indication.

Compare: 1957 No 87 s 42

122 Effect of sentence indication

- (1) This section applies to a sentence indication given under **section 59** if the defendant pleads guilty to the offence in respect of which it was given within the period that it has effect. 5
- (2) The sentence indication is binding on the judicial officer that gave it unless—
- (a) information becomes available to the court after the sentence indication was given but before sentencing; and 10
 - (b) the judicial officer is satisfied that the information materially affects the basis on which it was given.
- (3) The sentence indication is not binding on a judicial officer other than the judicial officer who gave the indication. 15

Presence of defendant at hearings

124 Defendant generally may be present at all hearings

- (1) The defendant may be present in court during any hearing in relation to the charge against him or her.
- (2) **Subsection (1)** does not apply if the defendant interrupts the hearing to such an extent that it is impracticable to continue in his or her presence. 20
- (3) The court may permit the defendant to be out of court during the whole or any part of a hearing on any terms the court thinks fit. 25

Compare: 1957 No 87 s 170; 1961 No 43 s 376

125 Hearings at which defendant must be present

- (1) A defendant must be present at any hearing if he or she—
- (a) is on police bail, or has been summoned, to attend that hearing; or 30
 - (b) has been remanded in custody, or on bail or at large, to attend that hearing.
- (2) **Subsection (1)** does not apply if—
- (a) the court excuses the defendant from attending the hearing or any part of the hearing; or 35

- (b) the court orders that the defendant be removed from the court for interrupting the hearing to such an extent that it is impracticable to continue in the defendant's presence; or
- (c) the defendant is represented by a lawyer and the hearing is only in respect of—
- (i) the place or date of the trial:
 - (ia) case review, where the Registrar is exercising the power of the court under **section 55(4)** and the defendant is in custody: 10
 - (ii) an alternative way of giving evidence under subpart 5 of Part 3 of the Evidence Act 2006:
 - (iii) whether 2 or more charges are to be tried together, or whether the charges against 1 defendant are to be tried with charges against 1 or more other defendants: 15
 - (iv) an application to take oral evidence under **section 90**:
 - (v) a matter concerning the admissibility of evidence under **sections 78 and 79 or section 101**; or 20
- (d) the defendant has pleaded guilty by filing a notice in court under **section 34** and the hearing is not one that the defendant has indicated under **section 34(2)(a)** that he or she wishes to attend.

Powers of court when defendant does not appear 25

126 Non-attendance of defendant charged with offence in category 1

- (1) This section applies to any hearing, including a sentencing hearing, if—
- (a) the offence charged is a category 1 offence; and
 - (c) the defendant is required, under **section 125**, to be present at the hearing; and
 - (d) the prosecutor attends the hearing, but the defendant does not. 35
- (2) The court may proceed with the hearing in the absence of the defendant.

- (3) If the court proceeds with a trial in the absence of the defendant, it must proceed as if the defendant had entered a plea of not guilty.

Compare: 1957 No 87 s 61(b)(ii)

127 Non-attendance of defendant charged with offence in category 2, 3, or 4: before plea is entered 5

- (1) This section applies to any hearing if—
- (a) the offence charged is a category 2, 3, or 4 offence; and
 - (b) the defendant has not entered a plea; and
 - (d) the defendant is required, under **section 125**, to be present at the hearing; and 10
 - (e) the prosecutor attends the hearing, but the defendant does not.
- (2) A judicial officer or the Registrar may issue a warrant to arrest the defendant and bring him or her before the court. 15

Compare: 1957 No 87 s 61

128 Non-attendance of defendant charged with offence in category 2, 3, or 4: after plea is entered but before sentencing

- (1) This section applies to any hearing, other than a sentencing hearing, if— 20
- (a) the offence charged is a category 2, 3, or 4 offence; and
 - (b) a not guilty plea has been entered to the offence charged; and
 - (c) the defendant is required, under **section 125**, to be present at the hearing; and 25
 - (d) the prosecutor attends the hearing, but the defendant does not.
- (2) When this section applies,—
- (a) if the court is satisfied that the defendant has a reasonable excuse for his or her non-attendance the court may proceed with the hearing in the absence of the defendant; 30
 - (b) if the court is not satisfied that the defendant has a reasonable excuse for his or her non-attendance, and the prosecutor is ready to proceed, the court must proceed with the hearing in the absence of the defendant. 35

- (c) in either case, the court may issue a warrant to arrest the defendant and bring him or her before the court.
- (3) Despite **subsection (2)**, the court must not proceed with a hearing in the absence of the defendant if the court is satisfied that it would be contrary to the interests of justice to do so. 5
- (4) Without limiting the matters the court may consider in making its decision under **subsection (3)**, the court must consider the following factors:
- (a) any issues of the kind described in **section 64(1)** that the defendant has notified as being in dispute and the extent to which the defendant's evidence is critical to an evaluation of those issues: 10
- (b) the likely length of any adjournment, given the particular interests of victims and witnesses that a trial take place within a reasonable time of the events to which it relates and the effect of delay on the memories of witnesses: 15
- (c) the nature and seriousness of the offence:
- (d) the interests of any co-defendant.
- (5) If the hearing is in front of a Registrar under **section 55(4)**, the Registrar may— 20
- (a) if not satisfied that the defendant has a reasonable excuse for his or her non-attendance, issue a warrant to arrest the defendant and bring him or her before the court; 25
- or
- (b) if satisfied that the defendant has a reasonable excuse for his or her non-attendance, proceed with the hearing in the absence of the defendant.

128 Non-attendance of defendant charged with offence in category 2, 3, or 4: after plea is entered but before trial or sentencing 30

- (1) This section applies to any hearing, other than a trial or a sentencing hearing, if—
- (a) the offence charged is a category 2, 3, or 4 offence; and
- (b) a not guilty plea has been entered to the offence charged; and 35
- (c) the defendant is required, under **section 125**, to be present at the hearing; and

- (d) the prosecutor attends the hearing, but the defendant does not.
- (2) When this section applies, the court may do either or both of the following:
- (a) proceed in the absence of the defendant: 5
- (b) issue a warrant to arrest the defendant and bring him or her before the court.
- (3) Despite **subsection (2)**, the court must not proceed with a hearing in the absence of the defendant if the court is satisfied that it would be contrary to the interests of justice to do so. 10
- (4) Without limiting the matters the court may consider in making its decision under **subsection (3)**, the court must consider the following factors:
- (a) any information available to the court about the reasons for the defendant's absence: 15
- (b) any issues that the defendant has indicated are in dispute and the extent to which the defendant's evidence is critical to an evaluation of those issues:
- (c) the likely length of any adjournment, given the particular interests of victims and witnesses that a trial takes place within a reasonable time of the events to which it relates and the effect of any delay on the memories of witnesses: 20
- (d) the nature and seriousness of the offence:
- (e) the interests of any co-defendant. 25
- (5) If the hearing is in front of a Registrar under **section 55(4)**, the Registrar may—
- (a) proceed with the hearing in the absence of the defendant; or
- (b) issue a warrant to arrest the defendant and bring him or her before the court. 30

128AA Non-attendance of defendant at trial for offence in category 2, 3, or 4

- (1) This section applies to any trial if—
- (a) the offence charged is a category 2, 3, or 4 offence; and 35
- (b) the defendant is required, under **section 125**, to be present at the trial; and

- (c) the prosecutor attends the trial, but the defendant does not.
- (2) If the court is satisfied that the defendant has a reasonable excuse for his or her non-attendance, the court must not proceed with the trial unless it is satisfied that the defendant's absence will not prejudice his or her defence. 5
- (3) If the court is not satisfied that the defendant has a reasonable excuse for his or her non-attendance, the court may do either or both of the following:
- (a) proceed with the trial in the absence of the defendant. 10
- (b) issue a warrant to arrest the defendant and bring him or her before the court.
- (4) Despite **subsection (3)**, the court must not proceed with the trial in the absence of the defendant if the court is satisfied that it would be contrary to the interests of justice to do so. 15
- (5) Without limiting the matters the court may consider in making its decision under **subsection (4)**, the court must consider the matters set out in **section 128(4)**.

128A Sentencing for offence in category 2, 3, or 4 not to proceed in absence of defendant 20

- (1) A court must not sentence a defendant for an offence in category 2, 3, or 4 in the absence of the defendant.
- (2) If a defendant does not attend a sentencing hearing for an offence in category 2, 3, or 4, the court may issue a warrant to arrest the defendant and bring him or her before the court. 25

129 Procedure when hearing proceeds in absence of defendant

- (1) A hearing at which the defendant is required by **section 125** to be present may proceed in the absence of the defendant even if the defendant is not, or ceases to be, represented by a lawyer.
- (2) If a hearing at which the defendant is required by **section 125** to be present proceeds in the absence of the defendant,— 30
- (a) the lawyer for the defendant may continue to represent the defendant; and
- (b) all provisions that relate to the conduct of the proceedings continue to apply, with any necessary modifications; and 35

- (c) if the offence charged is a category 1 offence, evidence of a fact or opinion that would be admissible if given by oral evidence, is also admissible if given by way of an affidavit or a formal statement; and
- (d) the charge against the defendant may be proceeded with up to and including,—
- (i) in the case of a category 1 offence, sentencing; or
 - (ii) in any other case, delivery of the decision or verdict of the Judge or jury.
- (3) If a person is found guilty in his or her absence at a hearing at which the defendant is required by **section 125** to be present, the court may—
- (a) direct that a notice be served on the defendant advising the defendant—
 - (i) that he or she has been found guilty in his or her absence; and
 - (ii) of the date on which he or she must appear for sentencing; and
 - (iii) that, if he or she wishes to apply for a retrial under **section 130**, the application must be filed no later than 15 working days after the date of service of the notice; or
 - (b) if the person is liable on conviction to a sentence of imprisonment, issue a warrant to arrest the defendant and bring him or her before the court for sentencing.
- (4) If a person is sentenced in his or her absence for a category 1 offence at a hearing at which the defendant was required by **section 125** to be present, the court may direct that a notice be served on the defendant advising the defendant that—
- (a) he or she has been sentenced in his or her absence; and
 - (b) if he or she wishes to apply for a rehearing under **section 131**, the application must be filed no later than 15 working days after the date of service of the notice.
- (5) A formal statement admitted as evidence under **subsection (2)(c)** is to be treated as evidence on oath given in a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury).

*Retrial or rehearing if defendant found guilty or
sentenced in his or her absence*

130 Retrial if defendant found guilty in his or her absence

- (1) A defendant who is found guilty following a trial that proceeded in his or her absence may apply to a court for an order granting a retrial of the charge. 5
- (2) The application—
- (a) must be filed in the court in which the defendant’s trial was held; and
 - (b) must be filed no later than 15 working days after the date on which— 10
 - (i) a notice is served on the defendant under **section 129(3)(a)**; or
 - (ii) the defendant appears in court pursuant to a warrant issued under **section 129(3)(b)**; and 15
 - (c) must be determined by the judicial officer who presided over the trial or, if that is impracticable, any Judge.
- (3) If the application is on the ground described in **subsection (7)(b)**, it must be supported by—
- (a) an outline of the defence on which the defendant intends to rely if a retrial is granted; and 20
 - (b) a formal statement from each witness who the defendant intends to call.
- (4) The Registrar of the court must cause a copy of the application to be served on the prosecutor. 25
- (5) The prosecutor may file a written response to the application no later than 15 working days after being served with a copy of it.
- (6) The court may consider the application on the papers or at an oral hearing. 30
- (7) The court may order a retrial of the charge if—
- (a) the court is satisfied that—
 - (i) the defendant was notified of the trial and had a reasonable excuse for non-attendance at the trial, but that reasonable excuse was not known to the court at the time of the trial; and 35
 - (ii) it is in the interests of justice; or

- (b) regardless of whether the defendant had a reasonable excuse for non-attendance, the court is satisfied that the defendant had a defence that would have had a reasonable prospect of success if he or she had attended the trial. 5
- (8) Despite **subsection (7)**, the court must order a retrial if satisfied that the defendant was not notified of the trial.
- (9) A formal statement provided to the court in accordance with **subsection (3)(b)** is to be treated as evidence on oath given in a judicial proceeding within the meaning of section 108 of the Crimes Act 1961 (which relates to perjury). 10
- 131 Rehearing if defendant sentenced for category 1 offence in his or her absence**
- (1) A defendant who is sentenced for a category 1 offence, following a sentencing hearing at which the defendant was required by **section 125** to be present but that proceeded in his or her absence, may apply to a court for a rehearing in relation to the sentence or order imposed on the defendant. 15
- (2) The application—
- (a) must be filed in the court in which the sentence or order was imposed; and 20
- (b) must be filed no later than 15 working days after the date on which a notice is served on the defendant under **section 129(4)**; and
- (c) must be determined by the judicial officer who imposed the sentence or order or, if that is impracticable, any Judge. 25
- (3) The Registrar of the court must cause a copy of the application to be served on the prosecutor.
- (4) The prosecutor may file a written response to the application no later than 15 working days after being served with a copy of it. 30
- (5) The court may consider the application on the papers or at an oral hearing.
- (6) The court may order a rehearing in relation to the sentence or order imposed on the defendant if the court is satisfied that— 35

- (a) the defendant was notified of the hearing and had a reasonable excuse for non-attendance at the hearing, but that reasonable excuse was not known to the court at the time; and
- (b) it is in the interests of justice. 5
- (7) Despite **subsection (6)**, the court must order a rehearing in relation to the sentence or order imposed on the defendant if the court is satisfied that the defendant was not notified of the hearing.
- 131A Registrar may deal with applications in relation to category 1 offences** 10
- Despite **section 130(2)(c) or 131(2)(c)**, a Registrar may exercise the power under **section 130** in relation to a category 1 offence or the power under **section 131** if—
- (a) the prosecutor does not object; and 15
- (b) the application for the retrial or rehearing is made on the grounds that the defendant was not notified of the trial or hearing.
- 132 Effect of application for retrial or rehearing on rights of appeal** 20
- (1) A defendant who applies for a retrial of a charge under **section 130** must not appeal his or her conviction unless that application for a retrial is denied.
- (2) A defendant who applies for a rehearing under **section 131** must not appeal his or her sentence unless that application for a rehearing is denied. 25
- (3) If an application for a retrial or rehearing is made under **section 130 or 131**, the time period for filing an appeal under **Part 6** is suspended until the application is determined.
- (4) **Subsections (1) and (2)** do not limit any right of appeal in relation to a further conviction, sentence, or order entered, imposed, or made at the defendant's retrial or rehearing. 30
- 132A Procedure if retrial or rehearing ordered**
- If a retrial or rehearing is ordered under **section 130 or 131**, **section 183B** applies with any necessary modifications. 35

132B Dealing with defendant pending retrial or rehearing

If a retrial or rehearing is ordered under **section 130 or 131**,—

- (a) the court may—
 - (i) issue a summons to bring the defendant before the court; or
 - (ii) issue a warrant to arrest the defendant and bring him or her before the court; and
- (b) if the retrial or rehearing is to be proceeded with at a later date, **section 173(1)** applies with any necessary modifications as if the proceeding was adjourned.

Powers of court when prosecutor does not appear

133 Powers of court when prosecutor does not appear

- (1) This section applies to any hearing if the defendant appears but the prosecutor does not. 15
- (2) If the defendant is in custody or has been released on bail and the prosecutor has not had adequate notice of the hearing, the court must adjourn the hearing to the time and place, and on the conditions, that it thinks fit to enable the prosecutor to appear. 20
- (3) In any other case, the court may—
 - (a) dismiss the charge under **section 147**; or
 - (b) adjourn the hearing to a time and place, and on any conditions, that the court thinks fit.

Compare: 1957 No 87 s 62

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Powers of court when neither party appears

134 Powers of court when neither party appears

- (1) This section applies to any hearing if neither the prosecutor nor the defendant appears.
- (2) The court may—
 - (a) dismiss the charge under **section 147**; or
 - (b) adjourn the hearing to a time and place, and on any conditions, that the court thinks fit.

Compare: 1957 No 87 s 63

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*Amendment of charge***135 Amendment of charge**

- (1) A charge (including any of the particulars required to be specified in a charging document under **section 13(2)**) may be amended by the court at any stage in a proceeding before the delivery of the verdict or decision of the court. 5
- (1A) The amendment may be made on the court's own motion or on the application of the prosecutor or the defendant.
- Compare: 1957 No 87 ss 43, 43A

136 Procedure if charge is amended before trial 10

- (1) This section applies if the court amends a charge before the trial.
- (2) Subject to this section and **section 137**, any pre-trial decisions and determinations made in the proceedings apply, to the extent that they are still applicable. 15
- (3) If the defendant entered a plea to the charge before it was amended,—
- (a) the court may ask the defendant to plead to the charge as amended, and **subpart 1 of Part 3** applies with all necessary modifications; and 20
- (b) **subpart 3 of Part 3** does not apply in respect of the charge as amended unless the court directs otherwise.
- (3A) The court may, under **subsection (3)(b)**,—
- (a) direct that all or any of the requirements of **sections 52 to 55** apply; or 25
- (b) give any other directions in relation to the management of the case.
- ~~(3B) If the defendant gave a notice of issues in dispute in accordance with **section 64** in relation to the charge before it was amended—~~ 30
- ~~(a) the defendant must give a new notice of issues in dispute if the charge is amended to substitute one offence for another; and~~
- ~~(b) in any other case, the court may require the defendant to give an amended notice of the issues in dispute.~~ 35
- ~~(3C) Any new or amended notice under **subsection (3B)**—~~

- (a) ~~must be given within the time prescribed by rules of court, or as directed by the court; and~~
- (b) ~~is, for the purposes of this Act, to be treated as a notice given under **section 64**.~~
- (4) If the charge is amended to substitute one offence for another and the substituted offence is a category 3 offence, the defendant may make an election under **section 48**. 5
- (5) If the charge is amended to substitute one offence for another and the substituted offence is a category 2 or 3 offence, then, subject to **section 137**,— 10
- (a) if the prosecutor identifies the substituted offence as a protocol offence, a District Court Judge may make a recommendation under **section 69** and a High Court Judge must determine the level of trial court under **section 70**; and 15
- (b) in any other case, the defendant or the prosecutor may make an application to transfer the proceeding to the High Court under **section 72**.

Compare: 1957 No 87 s 43(2)–(4)

- 137 Procedure if charge amended after order made under section 70 or 72** 20
- (1) This section applies if a charge is amended before the trial to substitute one offence for another offence that is a category 2 or 3 offence and an order determining the level of trial court had been made under **section 70 or 72** in relation to the charge before it was amended. 25
- (2) If the order made under **section 70 or 72** was that the trial be held in the District Court—
- (a) if the prosecutor identifies the offence in the charge (as amended) as a protocol offence, the court may (but is not required to) refer the charge for **sections 69 to 70** to be applied; and 30
- (b) in any other case, the defendant or the prosecutor may make an application to transfer the proceeding to the High Court under **section 72**. 35
- (3) If the order made under **section 70 or 72** was that the trial be held in a High Court, a High Court Judge—

- (a) may, on his or her own motion, or on application by the prosecutor or defendant, reconsider whether the trial is to be held in the District Court or the High Court; and
- (b) may, without seeking a new recommendation from the District Court Judge under **section 69**, order that the trial be held in the District Court, if doing so will not unduly delay proceedings and is otherwise in the interests of justice. 5

138 Procedure if charge amended during trial

- (1) Despite **sections 18 and 135**, during the trial a charge may be amended to substitute one offence for another offence only if— 10
 - (a) there appears to be a variance between the proof and the charge; and
 - (b) the amendment will make the charge fit with the proof. 15
- (1A) A charge must be amended under **subsection (1)** if in the court's opinion the defendant will not be or has not been misled or prejudiced in his or her defence by the amendment.
- (2) **Subsection (3)** applies if, in the court's opinion, the defendant has been misled or prejudiced in his or her defence by any amendment of a charge made during the trial under **section 135**. 20
- (3) If, in the court's opinion, the effect of the defendant having been misled or prejudiced might be removed by adjourning or postponing the trial, the court may make the amendment and— 25
 - (a) adjourn the trial; or
 - (b) postpone the trial and discharge the jury.

Compare: 1957 No 87 s 43(5); 1961 No 43 s 335(1), (2), (4), (5)

Proceedings conducted together

- 139 Proceedings against parties to offences, accessories, and receivers** 30
- (1) This section applies to every person charged—
 - (a) as a party to an offence (not being the person who actually committed it); or
 - (b) with being an accessory after the fact to any offence; or 35

- (c) with receiving property knowing it to have been stolen or dishonestly obtained.
- (2) Every person to whom **subsection (1)** applies may be proceeded against and convicted for the offence whether or not the principal offender or any other party to the offence or the person by whom the property was obtained has been proceeded against or convicted. 5
- (3) Every person to whom **subsection (1)** applies may be proceeded against and convicted—
- (a) alone as for a substantive offence; or 10
- (b) jointly with the principal or other offender or person by whom the property was stolen or dishonestly obtained.
- (4) If any property has been stolen or dishonestly obtained, any number of receivers at different times of that property, or of any part or parts of it, may be charged with substantive offences, and may be tried together. 15
- Compare: 1957 No 87 s 76; 1961 No 43 s 344

140 Trial of different charges together

- (1) The prosecutor may notify the court before which a proceeding is being conducted proposing that— 20
- (a) 2 or more charges be heard together; or
- (b) the charges against 1 defendant be heard with charges against 1 or more other defendants.
- (2) The prosecutor may seek leave, at any time before the trial, to amend the notification given under **subsection (1)**. 25
- (3) Charges must be heard in accordance with the notification given by the prosecutor under **subsection (1)** unless the court makes an order under **subsection (4)**.
- (4) If the court before which the proceeding is being conducted thinks it is in the interests of justice to do so, it may, on its own motion or on the application of a defendant, order that 1 or more charges against the defendant be heard separately. 30
- (5) An order under **subsection (4)** may be made either before or during the trial and—
- (a) if it is made during the course of a Judge-alone trial, the court must adjourn the trial of the charges in respect of which the trial is not to proceed; and 35

- (b) if it is made during the course of a jury trial, the jury must be discharged from giving a verdict on the charges on which the trial is not to proceed.

Compare: 1961 No 43 s 340(4)

141 Procedure if charges to be heard together 5

- (1) If, in accordance with **section 140**, 2 or more charges against a defendant are to be heard together—
- (a) if 1 charge is to be tried by a jury, all charges must be tried by a jury; and
- (b) if 1 charge is to be tried in the High Court, all charges must be tried in the High Court. 10
- (2) If in accordance with **section 140** the charges against a defendant are to be heard with charges against 1 or more other defendants, unless there are exceptional circumstances that make separate trials necessary in the interests of justice, then,— 15
- (a) if 1 defendant elects to be tried by a jury on 1 charge, all charges against all the defendants must be tried by a jury; and
- (b) if 1 charge is to be tried in the High Court, all charges against all defendants must be tried in the High Court. 20

Compare: 1961 No 43 ss 329, 340

141A Procedure if charges to be heard together include new charges

- (1) This section applies if—
- (a) a charging document charging a defendant with an offence is filed (including one deemed by **section 195A(2)** to have been filed) (the **new charge**); and 25
- (b) proceedings in respect of 1 or more other charges against the defendant (the **existing charge or charges**) are in progress; and 30
- (c) in accordance with **section 140** the new charge and the existing charge or charges are to be heard together; and
- (d) the defendant pleads not guilty to the new charge.
- (2) If a case management memorandum has been filed under **section 53(3)** in respect of the existing charge or charges, **sub-part 3 of Part 3** does not apply in respect of the new charge unless the court directs otherwise. 35

- (3) If the defendant is unrepresented and a case review hearing has been held, **subpart 3 of Part 3** does not apply in respect of the new charge unless the court directs otherwise.
- (4) The court may, under **subsection (2) or (3)**,—
- (a) direct that all or any of the requirements of **sections 52 to 55** apply; or
 - (b) give any other directions in relation to the management of the case.
- (5) If the new charge is for a category 2 or 3 offence, then unless, in accordance with **section 76 or 141** the trial court is the High Court, **sections 136(5) and 137** apply with any necessary modifications.
- (6) ~~If the defendant gave a notice of issues in dispute in accordance with **section 64** in relation to the existing charge or charges—~~
- ~~(a) the defendant must, within the time prescribed in rules of court or as directed by the court, give an amended notice of the issues in dispute; and~~
 - ~~(b) the amended notice is, for the purposes of this Act, to be treated as a notice given under **section 64**.~~
- (7) If formal statements have been filed in respect of the existing charge or charges, the prosecutor is not required to file formal statements in respect of the new charge.
- (8) If the defendant has filed a trial callover memorandum in respect of the existing charge or charges neither party is required to file a trial callover memorandum in respect of the new charge.
- (9) Nothing in this section limits any other provision of this Act not referred to in **subsections (2) to (8)**.

Further provisions relating to charges

142 Conviction where alternative allegations proved in Judge-alone trial

When convicting a defendant of a charge that includes alternative allegations, the court in a Judge-alone trial must limit that conviction to 1 of the alternatives charged.

Compare: 1957 No 87 s 16(4)

143 Dealing with charge that fails to disclose range of penalties and previous convictions when required

- (1) This section applies if a charge that is required by **section 19** to disclose the range of penalties available on conviction, and any relevant previous convictions of the defendant, does not do so. 5
- (2) The charge may be amended before or during the trial in accordance with **section 135**.
- (4) If the charge is amended before the trial to disclose a previous conviction, and the offence becomes a category 2 or 3 offence in accordance with **section 6(3)**,— 10
- (a) the proceeding must otherwise continue as if the defendant were originally charged with the charge as amended; and
- (b) **section 136(4) and (5)** applies as if the charge was amended to substitute one charge for another. 15
- (5) If the charge is not amended, and the defendant is convicted, then the maximum penalty to which the defendant is liable for the offence is the penalty to which he or she would be liable if he or she did not have previous convictions for the same or any other specified offence. 20

Compare: 1957 No 87 ss 17A(4), 69(4)

144 Included offences

If the commission of the offence alleged (as described in the enactment creating the offence or in the charge) includes the commission of any other offence, the defendant may be convicted of that other offence if it is proved, even if the whole offence in the charge is not proved. 25

Compare: 1961 No 43 s 339

144A Conviction of parties

Every person who is a party to any offence may be convicted either on a charge that the person committed that offence, where the nature of the charge allows, or on a charge specifying how the person was a party to that offence. 30

Compare: 1961 No 43 s 343

145 Conviction of charge containing allegation of previous conviction

- (1) This section applies if—
- (a) a charge contains an allegation that the defendant has been previously convicted; and 5
 - (b) the defendant, in accordance with **section 40**, has not pleaded to that allegation; and
 - (c) the defendant pleads guilty to or is found guilty of the charge.
- (2) Before the defendant is sentenced, he or she must be asked 10 whether or not he or she has been previously convicted as alleged.
- (3) If the defendant says that he or she has not been previously convicted as alleged, or does not say that he or she has been so convicted, the judicial officer must determine the matter. 15
- Compare: 1961 No 43 s 341(1)(c)

*Withdrawal and dismissal of charges***146 Withdrawal of charge**

- (1) The prosecutor may, with the leave of the court, withdraw a charge before the trial. 20
- (2) The withdrawal of a charge under this section is not a bar to any other proceeding in the same matter.
- Compare: 1957 No 87 s 36

147 Dismissal of charge

- (1) The court may dismiss a charge at any time before or during 25 the trial, but before the defendant is found guilty or not guilty, or enters a plea of guilty.
- (2) The court may dismiss the charge on its own motion or on the application of the prosecutor or the defendant.
- (2A) A decision to dismiss a charge may be made on the basis of 30 any formal statements, any oral evidence taken in accordance with an order made under **section 92**, and any other evidence and information that is provided by the prosecutor or the defendant.
- (3) Without limiting **subsection (1)**, the court may dismiss a 35 charge if—

- (a) the prosecutor has not offered evidence at trial; or
 - (b) in relation to a charge for which the trial procedure is the Judge-alone procedure, the court is satisfied that there is no case to answer; or
 - (c) in relation to a charge to be tried, or being tried, by a jury, the Judge is satisfied that, as a matter of law, a properly directed jury could not reasonably convict the defendant. 5
- (4) A decision to dismiss a charge must be given in open court.
- (5) If a charge is dismissed under this section the defendant is deemed to be acquitted on that charge. 10
- (6) Nothing in this section affects the power of the court to convict and discharge any person.
- Compare: 1961 No 43 s 347

148 Prosecutor must notify court if defendant completes programme of diversion 15

- (1) The prosecutor must ensure that the court is notified if a defendant has successfully completed a programme of diversion (being a programme conducted in relation to any public prosecution) in respect of the offence charged. 20
- (2) If notification is given under **subsection (1)**, the court or the Registrar must dismiss the charge under **section 147**.

Attempts

149 Attempt proved when offence is charged

Where the commission of the offence charged is not proved, but the evidence establishes an attempt to commit the offence, the defendant may be convicted of the attempt. 25

Compare: 1961 No 43 s 337

150 Offence proved when attempt is charged

- (1) Where an attempt to commit an offence is charged, but the evidence establishes the commission of the full offence, the court may,— 30
- (a) if in the court’s opinion the defendant will not be or has not been misled or prejudiced in his or her defence by the amendment, amend the charge; or 35

- (b) convict the defendant of the attempt.
- (2) After a conviction for that attempt the defendant is not liable to be tried again for the offence that he or she was charged with attempting to commit.

Compare: 1961 No 43 s 338

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Retrial of previously acquitted person

151 Order for retrial may be granted if acquittal tainted

- (1) In this section,—

acquittal—

- (a) includes— 10
- (i) the dismissal of a charge under **section 147**; and
- (ii) the setting aside of a conviction on appeal, without an order for a retrial; but
- (b) does not include a discharge without conviction under section 106 of the Sentencing Act 2002 15

acquitted person means a person who has previously been acquitted of a specified offence, and who has, since that acquittal, been convicted of an administration of justice offence

administration of justice offence means an offence against any of sections 101, 104, 109, 113, 116, and 117 of the Crimes Act 1961 20

prosecution means—

- (a) a prosecutor acting with the prior consent of the Solicitor-General; or
- (b) the Solicitor-General 25

specified offence, in relation to an acquitted person,—

- (a) means an offence that is punishable by a term of imprisonment and for which the person has previously been acquitted; and
- (b) includes any offence for which the person may not be tried because of that acquittal. 30

- (2) The High Court may, on the application of the prosecution, order that an acquitted person be retried for a specified offence if the High Court is satisfied that—

- (a) it is more likely than not that the commission of the administration of justice offence was a significant con- 35

- tributing factor in the person's acquittal for the specified offence; and
- (b) no appeal or application in relation to the administration of justice offence is pending before any court; and
- (c) the retrial is in the interests of justice. 5
- (3) In determining whether the retrial sought by the prosecution is in the interests of justice, the High Court must have particular regard to the following matters:
- (a) the length of time since the acquitted person is alleged to have committed the specified offence: 10
- (b) whether the prosecution acted with reasonable speed since discovering evidence of the administration of justice offence:
- (c) the interests of any victim of the specified offence alleged to have been committed: 15
- (d) whether the retrial for which leave is sought can be conducted fairly.
- (4) If the prosecution makes an application under this section,—
- (a) the prosecution must take all reasonable steps to serve a copy of the application on the acquitted person, and must file in the office of the High Court notice that the copy has been served or that a copy has not been served but all reasonable steps to do so have been taken: 20
- (b) the acquitted person is entitled to be heard at the hearing of the application, which must be held not less than 10 working days after notice is filed in the office of the High Court under **paragraph (a)**: 25
- (c) if the application is granted, and the acquitted person is again acquitted at the retrial, the prosecution may not make any further application for an order for the retrial of the acquitted person for the specified offence that was the subject of the application. 30
- (5) This section does not apply if the acquitted person was acquitted of the specified offence before 26 June 2008. 35
- Compare: 1961 No 43 s 378A

152 Meaning of terms used in sections 153 and 154

- (1) In **sections 153 and 154**,—

acquittal—

- (a) includes—
- (i) the dismissal of a charge under **section 147**; and
 - (ii) the setting aside of a conviction on appeal, without an order for retrial; but
- (b) does not include a discharge without conviction under section 106 of the Sentencing Act 2002

acquitted person means a person who has previously been acquitted of a specified serious offence

specified serious offence, in relation to an acquitted person,—

- (a) means an offence that is punishable by a term of imprisonment of 14 years or more and for which the person has previously been acquitted; and
 - (b) includes any offence for which the person may not be tried because of that acquittal.
- (2) For the purposes of **sections 153 and 154**, evidence is **new** if—
- (a) it was not given in the proceedings that resulted in the acquittal of the acquitted person; and
 - (b) it could not, with the exercise of reasonable diligence, have been given in those proceedings.
- (3) For the purposes of **sections 153 and 154**, evidence is **compelling** if—
- (a) it is a reliable and substantial addition to the evidence given in the proceedings that resulted in the acquittal of the acquitted person; and
 - (b) it implicates the acquitted person with a high degree of probability in the commission of the specified serious offence.

Compare: 1961 No 43 s 378B

153 Consent of Solicitor-General required in certain circumstances for exercise of powers in relation to acquitted person

- (1) **Subsection (2)** applies if a constable has good cause to suspect that information obtained, or likely to be obtained as a result of an investigation, will tend to implicate an acquitted person in the commission of a specified serious offence.

- (2) If this subsection applies, a constable may exercise any of the powers referred to in **subsection (3)** in the course of a further investigation of whether the acquitted person has committed a specified serious offence only if a constable first obtains the consent of the Solicitor-General. 5
- (3) The powers in respect of which **subsection (2)** applies are the following:
- (a) questioning the acquitted person or any other person:
 - (b) searching the acquitted person or any other person:
 - (c) searching any premises or vehicles: 10
 - (d) seizing any thing:
 - (e) taking fingerprints or samples:
 - (f) conducting or commissioning forensic tests or analyses.
- (4) The acquitted person does not need to be notified of any proposal to seek the Solicitor-General's consent under **subsection (2)** or of the fact that the consent is being, or has been, sought. 15
- (5) The Solicitor-General may consent under **subsection (2)** only if he or she has reasonable grounds to believe that there is, or that a further investigation is likely to reveal, or confirm 20 the existence of, new and compelling evidence to implicate the acquitted person in the commission of the specified serious offence.
- (6) This section does not prevent a constable from taking any action if— 25
- (a) the action is necessary as a matter of urgency to prevent substantial prejudice to an investigation or to the administration of justice; and
 - (b) it is not reasonably practicable to obtain the consent of the Solicitor-General; and 30
 - (c) the Solicitor-General's consent is sought as soon as reasonably practicable after the action is taken.

Compare: 1961 No 43 s 378C

154 Order for retrial may be granted by Court of Appeal if new and compelling evidence discovered 35

- (1) The Court of Appeal may, on the application of the Solicitor-General, order that an acquitted person be retried for a specified serious offence, if the Court of Appeal is satisfied that—

-
- (a) there is new and compelling evidence to implicate the acquitted person in the commission of the specified serious offence; and
- (b) a further trial of the acquitted person is in the interests of justice. 5
- (2) In determining whether a retrial of the acquitted person is in the interests of justice, the Court of Appeal must have particular regard to the following matters:
- (a) whether before or during the proceedings that led to the acquittal of the acquitted person for the specified serious offence all reasonable efforts were made to obtain and present all relevant evidence then available: 10
- (b) the length of time since the acquitted person is alleged to have committed the specified serious offence:
- (c) whether the Police and the Solicitor-General acted with reasonable speed in making the application after obtaining new evidence against the acquitted person: 15
- (d) the interests of any victim of the specified serious offence alleged to have been committed:
- (e) whether the retrial for which leave is sought can be conducted fairly. 20
- (3) The Court of Appeal may, if it thinks it just to do so, exclude from its consideration any evidence against the acquitted person that has been obtained in contravention of **section 153**.
- (4) The Solicitor-General may apply under this section only if satisfied of the matters stated in **subsection (1)(a) and (b)**. 25
- (5) If the Solicitor-General makes an application under this section,—
- (a) the Solicitor-General must take all reasonable steps to serve a copy of the application on the acquitted person, and must file in the Court of Appeal notice that the copy has been served or that a copy has not been served but all reasonable steps to do so have been taken: 30
- (b) the acquitted person is entitled to be heard at the hearing of the application, which must be held not less than 10 working days after notice is filed in the office of the Court of Appeal under **paragraph (a)**: 35
- (c) if the application is granted, and the acquitted person is again acquitted, the Solicitor-General may not make

any further application for an order for the retrial of the person for the specified serious offence that was the subject of the application.

- (6) This section does not apply if the acquitted person was acquitted of the specified serious offence before 26 June 2008. 5

Compare: 1961 No 43 s 378D

155 Orders to safeguard fairness of retrial

An order for a retrial under **section 151 or 154** may be granted subject to—

- (a) any conditions that the court considers are required to safeguard the fairness of the retrial: 10
- (b) any other directions as to the conduct of the retrial.

Compare: 1961 No 43 s 378E

156 Effect of order for retrial

- (1) If an order for a retrial is granted under **section 151 or 154**,— 15

(a) the order of the court must be certified by the Judge or, as the case requires, the presiding Judge to the Registrar of the court before which the person was tried, and the order must be carried into effect:

(b) the court that orders the retrial or the court before which the person was tried may— 20

(i) issue a summons to the person to attend at the court before which the person was tried (and the provisions of this Act apply as if it were a summons to attend a hearing); or 25

(ii) issue a warrant to arrest the person and bring him or her before a court (and the provisions of this Act apply as if it were a warrant to arrest a defendant):

(c) if the person appears in court in accordance with a summons or is brought before a court under an arrest warrant, **section 173(1)** applies with any necessary modifications as if the proceeding was adjourned: 30

(d) the retrial must be conducted in the same manner as a retrial ordered following a successful appeal by a defendant against conviction. 35

- (2) **Subsection (1)** overrides **sections 42 to 46** and any other enactment or rule of law.
Compare: 1961 No 43 s 378F

Transfer of proceedings to court at different place

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157 Transfer of proceedings to court at different place or different sitting

- (1) A District Court Judge may, on his or her own motion or on the application of the prosecutor or the defendant, transfer a proceeding to a District Court at a place or sitting other than that determined in accordance with **section 32, 73, 73A, or 75**, as the case may be, if the court is satisfied that it is in the interests of justice that the proceeding be heard at that other place or sitting. 10
- (2) The High Court at a place may, on its own motion or on the application of the prosecutor or the defendant, transfer a proceeding to the High Court at a place or sitting other than that determined in accordance with **section 73A, 75, or 76**, as the case may be, if the court is satisfied that it is in the interests of justice that the proceeding be heard at that other place or sitting. 15 20
- ~~(4) With the consent of all parties, an order under this section in respect of a proceeding for a category 1 or 2 offence may be made by the Registrar.~~
- (4) With the consent of all parties, an order under this section may be made by the Registrar in respect of a proceeding for— 25
- (a) a category 1 or 2 offence; or
- (b) a category 3 offence punishable by a term of imprisonment not exceeding 3 years, if the defendant has not elected a jury trial. 30
- (5) Except as provided in **sections 222 and 223**, no person may object to any order under this section.
Compare: 1961 No 43 ss 322, 326(2)

158 Attendance of witness at substitute court

- (1) If a proceeding is transferred under **section 157**, the Registrar of the court that transfers the proceeding must ensure that any 35

witness summoned to attend the proceeding is given notice of the transfer.

- (2) The notice given under **subsection (1)** has the same effect as if it were a summons to attend the court to which the proceeding is transferred. 5

Compare: 1961 No 43 s 324

Obtaining attendance of witnesses

164 Issue of summons to witness

- (1) Either the prosecutor or the defendant may at any time obtain from a judicial officer or a Registrar a summons calling on any person to appear as a witness at any hearing in relation to a charge. 10

- (2) A summons issued under **subsection (1)** may require the person summoned to bring with him or her and produce at the hearing any document or thing that is specified in the summons. 15

- (4) A person commits an offence if that person—
 (a) has been served with a summons issued under **subsection (1)** requiring the person to appear as a witness at a hearing; and 20
 (b) refuses or fails, without reasonable excuse, to appear or to produce any document or thing required by the summons to be produced.

- (5) A person who commits an offence under **subsection (4)** is liable on conviction to a fine not exceeding \$1000. 25

Compare: 1957 No 87 s 20(1), (2), (5); 1961 No 43 s 351(2)

165 Summons to witness to non-party disclosure hearing

- (1) If an application for a non-party disclosure hearing is granted under section 25 of the Criminal Disclosure Act 2008, the defendant may apply to a judicial officer or the Registrar for the issue of a summons calling on any person to appear at that hearing. 30

- (2) If **subsection (1)** applies, **sections 164(2) to (5)** and **166 to 169** apply with any necessary modifications.

Compare: 1957 No 87 s 20(1A)

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166 Issue of warrant to obtain attendance of witness

- (1) A judicial officer may issue a warrant to arrest a person and bring him or her before the court if—
- (a) the person summoned as a witness under **section 164** fails to appear at the time and place appointed and no reasonable excuse is offered for his or her failure, and the judicial officer is satisfied that the summons was served on the person; or 5
 - (b) the judicial officer is satisfied, whether or not a summons has been issued or served, that— 10
 - (i) a person's evidence is required at the hearing by either the prosecutor or the defendant; and
 - (ii) the person will not attend to give evidence without being compelled to do so.
- (2) A Registrar may exercise the power under this section. 15
Compare: 1957 No 87 s 20(4); 1961 No 43 s 351(1)

*Provisions relating to warrants to arrest
defendant or witness*

167 To whom warrant to be directed and power of person executing warrant to enter premises

- (1) A warrant to arrest a defendant or a warrant to arrest a person required as a witness must be directed either to any constable by name or generally to every constable. 20
- (2) The warrant may be executed by any constable.
- (3) For the purposes of executing the warrant, the constable executing it may at any time enter on to any premises, if he or she has reasonable cause to believe that the person against whom it is issued is on those premises. 25
- (4) Before entry onto the premises, the constable must— 30
- (a) announce his or her intention to enter the premises; and
 - (b) identify himself or herself.
- (5) Before or on entry onto the premises, the constable must— 35
- (a) give the occupier of the premises a copy of the warrant; and
 - (b) produce to the occupier of the premises evidence of his or her identity (which may include details of a unique identifier instead of a name).

- (6) For the purposes of **subsection (5)**, the following persons must not be treated as the occupier of the premises:
- (a) any person who is under the age of 14 years:
 - (b) any person who the constable has reasonable grounds to believe is not the occupier of the premises. 5
- (7) The constable is not required to comply with **subsection (4) or (5)** if he or she has reasonable grounds to believe that compliance with **subsection (4) or (5)** would endanger the safety of any person or prejudice the successful exercise of the entry and execution of the warrant. 10
- (8) The constable may use reasonable force in order to effect entry into the premises if **subsection (7)** applies or if, following a request, the person present refuses entry or does not allow entry within a reasonable time. 15
- Compare: 1957 No 87 s 22

168 **Withdrawal of warrant**

- (1) A warrant to arrest a defendant or warrant to arrest a person required as a witness may, at any time before it is executed, be withdrawn by leave of a judicial officer.
- (2) A Registrar, at any time before it is executed, may withdraw a warrant to arrest a defendant or warrant to arrest a person required as a witness, whether or not the warrant was issued by the Registrar, if,— 20
- (a) in the case of a warrant to arrest a defendant,—
 - (i) the warrant was issued under this Act or **section 37** of the Bail Act 2000 because the defendant failed to appear at court; and 25
 - (ii) the defendant reports to the court (whether or not the defendant actually makes an appearance in the court that day); and 30
 - (iii) no breaches of bail by the defendant in relation to the charge have been recorded under **section 39** of the Bail Act 2000; and
 - (iv) no other warrants for the arrest of the defendant in relation to the proceeding ~~are outstanding~~ have been issued; and 35

- (v) the defendant is charged with an offence for which the maximum penalty is 10 or fewer years' imprisonment:
- (b) in the case of a warrant to arrest a witness,—
 - (i) the warrant was issued under this Act because the witness failed to appear at court; and 5
 - (ii) the witness reports to the court (whether or not the defendant actually makes an appearance in the court that day); and
 - (iii) no other warrants for the arrest of the witness in relation to the proceeding ~~are outstanding~~ have been issued; and 10
 - (iv) the defendant in the proceeding is charged with an offence for which the maximum penalty is 10 or fewer years' imprisonment. 15

Compare: 1957 No 87 s 23

Dealing with witness arrested under warrant

169 Dealing with witness arrested under warrant

- (1) A person who is arrested under a warrant issued under **section 166** must be brought as soon as possible before a Judge of the court that issued the warrant, who may— 20
 - (a) issue a warrant ordering that the person be committed to a prison to be detained until the hearing for which the witness is required; or
 - (b) grant the person bail. 25
- (2) A person committed to prison under **subsection (1)**—
 - (a) must be treated in the same way as a prisoner awaiting trial; and
 - (b) must, if he or she so requests, be brought before a District Court Judge for the purpose of making an application for bail, and the Judge may grant or refuse to grant bail on that application. 30
- (3) If a person is granted bail under **subsection (1) or (2), sections 28, 29(3), and 30 to 39** of the Bail Act 2000, as far as they are applicable and with any necessary modifications, apply as if— 35
 - (a) that person were a defendant remanded in custody who had been granted bail; and

- (c) for the words “evading justice” in **section 35(1)(a)** of the Bail Act 2000 there were substituted the words “avoiding giving evidence”.

Compare: 1957 No 87 s 20(4A)–(4D)

Dealing with witnesses at the court

5

170 Witness refusing to give evidence may be imprisoned

- (1) At any hearing any person present in court who could have been compelled to give evidence for the party seeking to call the person as a witness may be required to give evidence, whether that person has been summoned to give evidence or not. 10
- (2) **Subsection (3)** applies if a person—
- (a) without offering any just excuse refuses to give evidence when required; or
- (b) refuses to be sworn; or 15
- (c) having been sworn refuses to answer any questions concerning the charges that are put to him or her.
- (3) If this subsection applies, the court may—
- (a) order that, unless he or she consents to give evidence or to be sworn or to answer the questions put to him or her, as the case may be, he or she be detained in custody for any period not exceeding 7 days; and 20
- (b) issue a warrant for his or her arrest and detention in accordance with the order.
- (4) If the person is under the age of 20 years, the warrant issued under **subsection (3)(b)** may direct that the person be detained in the custody of the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989. 25
- (5) **Subsection (6)** applies if a person detained under **subsection (3)**, on being brought up at the adjourned hearing, again refuses to give evidence or to be sworn or, having been sworn, to answer the questions put to him or her. 30
- (6) If this subsection applies, the court, if it thinks fit, may again direct the witness to be detained in custody for the period referred to in **subsection (3)**, until he or she consents to give 35

evidence or to be sworn or to answer as described in **subsection (2)**.

- (7) The power in **subsection (6)** may be exercised more than once.
- (8) Nothing in this section limits or affects any power or authority of the court to punish any witness for contempt of court. 5
Compare: 1957 No 87 s 39; 1961 No 43 s 352

171 Witnesses at hearing

The court may if it thinks fit, on its own motion or at the request of any party at any time during a hearing, order all or any witnesses other than any witness who has given or is giving his or her evidence to leave the courtroom and to remain out of hearing but within call until required to give evidence. 10
Compare: 1957 No 87 s 40

Adjournments and bail 15

172 Power to adjourn

- (1) Any proceeding may from time to time be adjourned by a judicial officer to a time and place then appointed.
- (2) A Registrar may adjourn any proceeding before the trial to a time and place then appointed if the defendant is not in custody. 20
- (3) Despite **subsection (2)**, a Registrar may adjourn a proceeding in any case if the Registrar is exercising the power of the court under **section 55**.
Compare: 1957 No 87 ss 45, 45A 25

173 Dealing with defendant on adjournment

- (1) If a proceeding is adjourned, a judicial officer or Registrar may, subject to **sections 178 and 179**, and in accordance with any applicable provisions of the Bail Act 2000,— 30
- (a) allow the defendant to go at large; or
 - (b) grant the defendant bail under the Bail Act 2000; or
 - (c) if the defendant is liable on conviction to a sentence of imprisonment or if the defendant has been arrested, remand the defendant in custody.

- (2) A Registrar may exercise the power conferred by **subsection (1)(c)** to remand a defendant in custody if—
- (a) both the defendant and the prosecutor agree to the remand; and
 - (b) the defendant— 5
 - (i) is legally represented or has indicated that he or she has received legal advice; or
 - (ii) has declined an opportunity to obtain legal advice.
- (3) If a Registrar remands a person in custody under **subsection (1)(c)** the defendant must be brought before a judicial officer at the earliest opportunity if, at any time during the period of remand, the defendant withdraws his or her agreement under **subsection (2)(a)** and the judicial officer must declare what action (if any) should be taken under **subsection (1)** in respect of the defendant. 10
15
- (4) If a defendant is remanded in custody under **subsection (1)(c)**, the judicial officer or Registrar must issue a warrant for the detention of the defendant in a prison— 20
- (a) for the period of the adjournment; or
 - (b) pending and during the defendant’s trial; or
 - (c) pending the defendant being brought up for sentence and during his or her sentencing.
- (5) If a Registrar adjourns a proceeding and the defendant or the prosecutor are not present, the Registrar must notify the absent party in writing. 25

Compare: 1957 No 87 s 46

174 Warrant for detention of defendant in hospital or secure facility

- (1) Despite **section 173(4)**, the court may, instead of issuing a warrant under that subsection, make an order for the defendant’s detention in a hospital or secure facility pending the defendant’s trial if the court is satisfied of the matters in **subsection (2)**. 30
- (2) Before making an order under **subsection (1)**, the court must be satisfied, on the production of a certificate or certificates by 2 health assessors, that— 35
- (a) the defendant is mentally impaired; and

- (b) the defendant's mental condition requires that, in the defendant's own interest, the defendant should be detained in a hospital or secure facility instead of in a prison.
- (3) In this section,—
- (a) **health assessor** has the same meaning as in section 4(1) of the Criminal Procedure (Mentally Impaired Persons) Act 2003: 5
- (b) **hospital** has the same meaning as in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992: 10
- (c) **secure facility** has the same meaning as in section 9(2) of the Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003.
- Compare: 1957 No 87 s 184T(2), (3)

- 176 Defendant in custody may be brought up before expiry of period of adjournment** 15
- A defendant who has been remanded in custody on any charge may be brought before a court at any time to be dealt with on that charge, even if the period for which the defendant was remanded in custody has not expired. 20
- Compare: 1957 No 87 s 59

Special provisions applying to defendants under the age of 20 pending hearing or sentence

- 178 Defendants under 16 must not be imprisoned pending hearing or sentence** 25
- (1) Despite any other enactment, no person under the age of 16 years may be remanded to a prison pending any hearing in relation to any charge, or pending sentence.
- (2) In this section a reference to a **prison** does not include a police jail. 30
- (3) If a person under the age of 16 years is charged with or convicted of an offence in a District Court or the High Court, and the court remands the person for hearing or sentence, section 15 of the Bail Act 2000 applies.

- (4) Nothing in **subsection (1)** applies in respect of any person who is subject to a sentence or term of imprisonment.

Compare: 1985 No 120 s 142(1), (2A), (6).

179 Defendants aged 16 must not be imprisoned pending hearing or sentence except in certain circumstances 5

- (1) Despite any other enactment, a person who has attained the age of 16 years but has not attained the age of 17 years must not be remanded to a prison pending any hearing in relation to any charge, or pending sentence, unless **subsection (4)** applies.

- (2) In this section a reference to a **prison** does not include a police jail. 10

- (3) If a person who has attained the age of 16 years but has not attained the age of 17 years is charged with or convicted of an offence in a District Court or the High Court, and the court remands the person for hearing or sentence, section 15 of the Bail Act 2000 applies. 15

- (4) Despite section 15(1) of the Bail Act 2000, the court may direct that a person who has attained the age of 16 years but has not attained the age of 17 years be detained in a prison if—

- (a) that person is charged with or convicted of— 20

(i) a category 4 offence; or

(ii) a category 3 offence punishable by imprisonment for life or for at least 14 years; and

- (b) in the court's opinion no other course is desirable, having regard to all the circumstances. 25

- (5) Nothing in **subsection (1)** applies in respect of any person who is subject to a sentence or term of imprisonment.

Compare: 1985 No 120 s 142(2), (2A), (3), (4), (4A), (6).

180 Remand of defendant under 17 in residence or care

- (1) This section applies to any person under the age of 17 years who is charged with or convicted of an offence in a District Court or High Court. 30

- (2) Despite section 15 of the Bail Act 2000, the court may remand the person in the custody of the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 if— 35

- (a) in the court's opinion it is desirable to do so by reason of special circumstances; and
- (b) the court is satisfied that the chief executive of that department is able and willing to keep the person in custody in accordance with this section. 5
- (3) If a person is remanded in the custody of the chief executive, that person may, until he or she is brought up for hearing or sentence, be placed in any residence under the Children, Young Persons, and Their Families Act 1989, or under the care of any suitable person pursuant to this Act. 10
- (4) This section is subject to the Children, Young Persons, and Their Families Act 1989.
- Compare: 1985 No 120 s 142(3), (4B), (5)

181 Remand of defendant under 17 years for assessment report 15

- (1) Any court may remand a defendant who is under 17 years in the custody of the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 for the purposes of an assessment report under section 38 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 if— 20
- (a) the court is satisfied that the chief executive is able and willing to keep the defendant in custody for the purpose of the assessment report for any period, not exceeding 14 days, that the court thinks fit; and 25
- (b) the court would (in the absence of **section 178 or 179**) have remanded the defendant to a prison in accordance with section 38(2)(b) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 for the purposes of the assessment report. 30
- (2) If, in any case to which section 38(1) of the Criminal Procedure (Mentally Impaired Persons) Act 2003 applies, the defendant is under the age of 17 years, the provisions of section 38(2)(c) to (4) and sections 40 to 44 of that Act must be read as if— 35
- (a) any reference to remand to a prison were a reference to remand to the custody of the chief executive; and
- (b) any reference to the manager of a prison were a reference to the chief executive; and

- (c) any reference to penal custody were a reference to the custody of the chief executive.
- (3) If a person is remanded in the custody of the chief executive under **subsection (1)**, that person may, until he or she is brought up for hearing or sentence, be placed in any residence under the Children, Young Persons, and Their Families Act 1989, or under the care of any suitable person pursuant to that Act. 5
- Compare: 1985 No 120 s 142(5)–(5C)
- 182 Remand of defendants aged 17 to 20 years** 10
- (1) This section applies to a person who is remanded pending hearing or sentence and who appears to the court to be of or over the age of 17 years but under the age of 20 years.
- (2) Despite section 15 of the Bail Act 2000, the court may—
- (a) remand the defendant in the custody of the chief executive of the department for the time being responsible for the administration of the Children, Young Persons, and Their Families Act 1989 if— 15
- (i) in the court’s opinion it is desirable to do so by reason of special circumstances; and 20
- (ii) the court is satisfied that the chief executive of that department is able and willing to keep the person in custody in accordance with this section; or
- (b) direct that the defendant be detained in a prison if, in the court’s opinion, no other course is desirable having regard to all of the circumstances. 25
- (3) If a person is remanded in the custody of the chief executive, that person may, until he or she is brought up for hearing or sentence, be placed in any residence under the Children, Young Persons, and Their Families Act 1989, or under the care of any suitable person pursuant to that Act. 30
- (4) This section is subject to the Children, Young Persons, and Their Families Act 1989. 35
- Compare: 1985 No 120 s 142(4)–(5).

*Stay of proceedings***183 Stay of proceedings**

- (1) The Attorney-General may, at any time after a person has been charged with an offence and before judgment is given, direct that the proceedings be stayed. 5
- (2) If a direction is given under **subsection (1)**, the relevant proceedings are stayed.
- (3) If a charge is filed against the Crown Law Office in respect of an offence referred to in section 6 of the Crown Organisations (Criminal Liability) Act 2002, any decision to issue a direction under **subsection (1)** in respect of the proceedings to which the charge relates must be made by the Attorney-General personally. 10
- (4) The Attorney-General must give notice to the court if he or she gives a direction under **subsection (1)**, but failure to give notice does not affect that direction. 15

Compare: 1957 No 87 s 77A; 1961 No 43 s 378

*Retrial or rehearing***183A Court may order retrial or rehearing as to sentence in certain cases**

- (1) ~~This section applies if—~~ 20
- (a) a defendant is convicted of a category 1 or 2 offence; or
- (b) an order is made under section 106(3) of the Sentencing Act 2002 in relation to a defendant who pleads guilty or is found guilty of a category 1 or 2 offence; or 25
- (c) an order is made under **section 372(1)(b)** in relation to an infringement offence.
- (1) This section applies if—
- (a) a defendant is convicted of—
- (i) a category 1 or 2 offence; or 30
- (ii) a category 3 offence punishable by a term of imprisonment not exceeding 3 years, if the defendant did not elect a jury trial; or
- (b) an order is made under section 106(3) of the Sentencing Act 2002 in relation to a defendant who pleads guilty or is found guilty of— 35
- (i) a category 1 or 2 offence; or

- (ii) a category 3 offence punishable by a term of imprisonment not exceeding 3 years, if the defendant did not elect a jury trial; or
- (c) an order is made under **section 372(1)(b)** in relation to an infringement offence. 5
- (2) A court may order—
- (a) a retrial of the charge; or
- (b) a rehearing in relation to the sentence or order imposed on the defendant.
- (3) An application for a retrial or rehearing must be determined by the judicial officer who presided over the first trial or hearing. 10
- (4) If it is impracticable for the judicial officer who presided over the first trial or hearing to determine the application, any Judge may determine it.
- (5) A retrial or rehearing may be ordered under **subsection (2)**, on any terms the court thinks fit, and as to the whole matter, or only as to the sentence or order. 15
- (6) Despite **subsection (1)**, a defendant who is eligible to apply for a retrial under **section 130** or a rehearing under **section 131** must not apply for a retrial or rehearing under this section. 20
- Compare: 1957 No 87 s 75(1)

183B Procedure if retrial or rehearing ordered

- (1) If a retrial or rehearing is ordered,—
- (a) the conviction or, as the case may be, the sentence or order only, immediately ceases to have effect; and 25
- (b) the retrial or rehearing may be proceeded with immediately or at a later date.
- (2) At the retrial,—
- (a) all pre-trial decisions and determinations made in the proceeding apply to the extent that they are still applicable; and 30
- (b) the court has the same powers and must apply the procedure in this subpart as if the retrial were the first trial.
- (3) The retrial or rehearing need not take place before the judicial officer who presided at the first trial or hearing. 35

- (4) If the defendant does not appear at the retrial or rehearing, the court may, without rehearing the matter, direct that the original conviction, sentence, or order be restored.

Compare: 1957 No 87 s 75(2), (3), (5), (6)

183C Dealing with defendant pending retrial or rehearing 5

If a retrial or rehearing is ordered—

- (a) the court may—
- (i) issue a summons to bring the defendant before the court; or
- (ii) issue a warrant to arrest the defendant and bring him or her before the court; and 10
- (b) if the retrial or rehearing is to be proceeded with at a later date, **section 173(1)** applies with any necessary modifications as if the proceeding were adjourned.

Compare: 1957 No 87 s 75(4)

15

Correction of erroneous sentence

185 Court may correct erroneous sentence

- (1) If any sentence is one that could not by law be imposed, or if the court does not impose a sentence that is required by law to be imposed, the court may impose a new sentence— 20
- (a) on the application of either of the parties or, as provided in **section 186**, the chief executive of the Department of Corrections; or
- (b) on its own motion.
- (2) The decision of the court may be made,— 25
- (a) if sentence was imposed in the High Court, by the High Court Judge who imposed the sentence or, if that Judge is not available, by any High Court Judge; or
- (b) if sentence was imposed in a District Court,—
- (i) by the District Court Judge who imposed the sentence; or 30
- (ii) by any District Court Judge if the Judge who imposed the sentence is not available or the sentence was imposed by 1 or more Community Magistrates or Justices. 35

- (3) The court may, by order, remove the matter into the first appeal court described in **section 300**, and that court may deal with it as if it were an appeal on a question of law under **section 299**.
- (4) In this section, the term **sentence** includes— 5
- (a) an order, and references to the imposition of a sentence include references to the making of an order:
 - (b) a record of first warning (within the meaning of section 86A of the Sentencing Act 2002) and a record of final warning (within the meaning of that section), and refer- 10
ences to the imposition of a sentence include references to the giving and recording of a warning of either kind.

Compare: 1957 No 87 s 77; 1961 No 43 s 372

186 Application of chief executive of Department of Corrections to correct erroneous sentence 15

- (1) The chief executive of the Department of Corrections may make an application under **section 185(1)** if the sentence that was imposed or that the chief executive alleges ought to have been imposed is—
- (a) a sentence of imprisonment within the meaning of section 4 of the Sentencing Act 2002: 20
 - (b) a sentence of home detention:
 - (c) a community-based sentence.
- (2) The chief executive of the Department of Corrections must give notice of the application to the prosecutor and the of- 25
fender.

187 Procedure if court corrects erroneous sentence

- (1) In order for a new sentence to be imposed in accordance with **section 185**, the court may—
- (a) issue a summons to bring the defendant before the court to be sentenced; or 30
 - (b) whether or not a summons has been issued or served, issue a warrant to arrest the defendant and bring him or her before the court to be sentenced.
- (2) If the court imposes a new sentence, the time for appeal against conviction or sentence, or both, runs from the date of the new sentence. 35

*Transfer to wrong court***188 Transfer to wrong court**

- (1) If a proceeding is transferred to a court, but the court to which it is transferred is not the correct court, the court to which the proceeding is transferred may transfer the proceeding to the appropriate court. 5
- (2) If the court that is transferring the proceeding so directs, the Registrar of that court must give or cause to be given a notice to the prosecutor, and to the defendant, of the date and time at which the defendant must report to the court to which the proceedings have been transferred. 10
- (3) If the defendant has been released on bail, the conditions of bail are deemed to be varied in accordance with the notice, and no new notice of bail is required.
- (4) If the defendant has been remanded in custody, the Registrar must, if necessary, issue a new warrant for the detention of the defendant that accords with the date and time on which, and place to which, the defendant must report. 15

Compare: 1957 No 87 s 184P

Permanent court record 20**189 Permanent court record**

- (1) Courts conducting criminal proceedings must continue to maintain a permanent court record of the formal steps in those proceedings.
- (2) Courts must maintain the permanent court record in accordance with rules of court. 25
- (3) The permanent court record is, subject to the power of the court to amend it, conclusive evidence of the matters recorded in it.

Compare: 1957 No 87 s 71; 1961 No 43 s 353

Subpart 2—Solicitor-General’s
responsibility for oversight and conduct of
certain prosecutions

- 190 Solicitor-General responsible for general oversight of public prosecutions** 5
- (1) The Solicitor-General is responsible for maintaining general oversight of the conduct of public prosecutions.
- (2) In discharging his or her responsibility under **subsection (1)**, the Solicitor-General may—
- (a) maintain guidelines for the conduct of public prosecutions; and 10
- (b) provide general advice and guidance to agencies that conduct public prosecutions on the conduct of those prosecutions.
- (3) Nothing in this section requires the Solicitor-General to supervise the conduct of any particular public prosecution or makes the Solicitor-General responsible for the conduct of any public prosecution. 15
- 191 Attorney-General’s responsibility and powers not affected** 20
- Nothing in **section 190** limits or affects—
- (a) the responsibilities of the Attorney-General relating to the administration of the criminal law; or
- (b) the exercise of any power by the Attorney-General under any enactment or rule of law.
- 192 Assumption of responsibility for Crown prosecutions by Solicitor-General** 25
- (1) The Solicitor-General must assume responsibility for and conduct every Crown prosecution from the time or stage in the proceedings prescribed in regulations.
- (2) The Solicitor-General’s duty under **subsection (1)** may be performed by any Crown prosecutor. 30
- (3) The Solicitor-General may specify in any proceeding the Crown prosecutor who is to conduct the prosecution.
- (4) **Subsection (2)** is subject to **subsection (3)**.

193 Duty of Crown prosecutor to comply with Solicitor-General's directions

A Crown prosecutor who conducts a Crown prosecution under **section 192** must conduct that prosecution in accordance with any directions given by the Solicitor-General (either generally or in the particular case). 5

194 Crown prosecution notice must be filed

When the Solicitor-General or a Crown prosecutor assumes responsibility for a Crown prosecution in accordance with **section 192**, he or she must file a notice in the court. 10

195 Power of Solicitor-General or Crown prosecutor to amend charge

- (1) Without the leave of the court, the Solicitor-General or a Crown prosecutor may, on filing a notice under **section 194** in relation to a proceeding, or before the trial and within any prescribed period after filing that notice, file in the court hearing the proceeding a notice to amend any charge to which that proceeding relates. 15
- (2) On receipt of a notice to amend a charge under **subsection (1)** the court hearing the proceeding must amend the charge in accordance with the notice. 20
- (3) Nothing in this section prevents the Solicitor-General or a Crown prosecutor at any other time requesting that the court amend a charge under **section 135**.
- (4) The power to amend a charge under **subsection (1)** includes a power to substitute one offence for another offence, in which case **section 136(2)** applies. 25

195A Power of Solicitor-General or Crown prosecutor to add new charges

- (1) Without the leave of the court, the Solicitor-General or a Crown prosecutor may, on filing a notice under **section 194** in relation to a proceeding, or before the trial and within any prescribed period after filing that notice, file in the court hearing the proceeding a notice to add any new charge or charges to that proceeding. 30
35

- (2) For the purposes of this Act,—
- (a) a charging document is deemed to have been filed in accordance with **section 12** in respect of each new charge specified in the notice; and
 - (b) the prosecutor is deemed to have given a notification under **section 140(1)** that the new charges would be tried together with the charges that were already the subject of the proceeding; and
 - (c) **section 22** (time for filing charging document) applies to the new charges.

196 Power of Solicitor-General or Crown prosecutor to withdraw charge

- (1) Without leave of the court and despite **section 146(1)**, on filing a notice under **section 194** in relation to a proceeding, or before the trial and within any prescribed period after filing that notice, the Solicitor-General or a Crown prosecutor may file in the court hearing the proceeding a notice to withdraw any charge to which that proceeding relates. 15
- (2) Despite **subsection (1)**, the Solicitor-General or a Crown prosecutor may only file a notice to withdraw all of the charges to which a proceeding relates with the leave of the court. 20
- (3) If the Solicitor-General or a Crown prosecutor seeks to withdraw all the charges, the court may—
- ~~(a) give leave to withdraw the charges; or~~
 - (a) give leave for the notice to withdraw the charges to be filed; or 25
 - (b) dismiss the charges under **section 147**.
- (3A) A charge is withdrawn under this section on the filing of a notice to withdraw the charge.
- (4) The withdrawal of a charge under this section is not a bar to any other proceeding in the same matter. 30

197 Independence of Solicitor-General and Crown prosecutors

The Solicitor-General and every Crown prosecutor must, in conducting a Crown prosecution, act independently of the agency from which the Solicitor-General or Crown prosecutor assumed responsibility for the prosecution. 35

Subpart 3—Public access and restrictions on reporting

Terms used in this subpart

198 Interpretation

In this subpart, unless the context otherwise requires,— 5
name, in relation to a person, means the person’s name and any particulars likely to lead to the person’s identification
suppression order means an order under any of **sections 204, 206, and 209**.

199 Context in which publication prohibited

For the purposes of **this subpart**, **publication** means publication in the context of any report or account relating to the proceeding in respect of which the section applies or the order was made (as the case may be), and **publish** has a corresponding meaning. 15

Court proceedings generally open to public

200 Court proceedings generally open to public

(1) Every hearing is open to the public.

(1A) **Subsection (1)** does not apply to any hearing on the papers.

(2) This section is subject to **sections 97, 201, and 203**, and any other enactment. 20

Compare: 1985 No 120 s 138(1)

Power to clear court

201 Power to clear court

(1) A court may make an order excluding from the whole or any part of any proceeding in respect of an offence all or any persons other than the following: 25

(a) the presiding judicial officer and jury:

(b) the prosecutor:

(c) the defendant and any person who is for the time being acting as custodian of the defendant: 30

(d) any lawyer engaged in the proceedings:

(e) any officer of the court:

(f) the Police employee in charge of the case.

- (2) The court may make an order under **subsection (1)** only if the court is satisfied that—
- (a) the order is necessary to avoid—
 - (i) undue disruption to the conduct of the proceedings; or 5
 - (ii) prejudicing the security or defence of New Zealand; or
 - (iii) a real risk of prejudice to a fair trial; or
 - (iv) endangering the safety of any person; or
 - (v) prejudicing the maintenance of the law, including the prevention, investigation and detection of offences; and 10
 - (b) a suppression order is not sufficient to avoid that risk.
- (3) Even if an order is made under **subsection (1)**, the announcement of the verdict or decision of the court, and the passing of sentence, must take place in public; but, if the court is satisfied that exceptional circumstances exist, it may decline to state in public all or any of the facts, reasons, or other considerations that it has taken into account in reaching its decision or verdict, or in determining the sentence. 15 20
- (4) The power conferred by this section is in substitution for any power to clear the court that a court may have had under any inherent jurisdiction or any rule of law.
- Compare: 1985 No 120 s 138(2)(c), (5), (6)
- 202 Exception for members of media** 25
- (1) An order under **section 201** may not exclude members of the media except on the ground set out in **section 201(2)(a)(ii)** (which relates to the security or defence of New Zealand).
- (2) For the purposes of this section, **member of the media** means— 30
- (a) a person who is in the court for the purpose of reporting on the proceedings and who is either subject to or employed by an organisation that is subject to—
 - (i) a code of ethics; and
 - (ii) the complaints procedure of the Broadcasting Standards Authority or the Press Council; or 35

- (b) any other person reporting on the proceedings with the permission of the court.

Compare: 1985 No 120 s 138(3)

- 203 Court must be cleared when complainant gives evidence in cases of sexual nature** 5
- (1) In any case of a sexual nature, no person may be present in the courtroom while the complainant gives oral evidence (whether in chief or under cross-examination or on re-examination), except for the following:
- (a) the Judge and jury: 10
- (b) the prosecutor:
- (c) the defendant and any person who is for the time being acting as custodian of the defendant:
- (d) any lawyer engaged in the proceedings:
- (e) any officer of the court: 15
- (f) the Police employee in charge of the case:
- (g) any member of the media (as defined in **section 202(2)**):
- (h) any person whose presence is requested by the complainant: 20
- (i) any person expressly permitted by the Judge to be present.
- (2) Before the complainant starts to give evidence, the Judge must—
- (a) ensure that no person other than those referred to in **subsection (1)** is present in the courtroom; and 25
- (b) advise the complainant of the complainant's right to request the presence of any person under **subsection (1)(h)**.
- (3) For the purposes of this section, **case of a sexual nature** means 30 proceedings in which a person is charged with, or is to be sentenced for, any of the following offences:
- (a) any offence against sections 128 to 142A of the Crimes Act 1961:
- (b) any offence against section 144A of the Crimes Act 1961: 35
- (c) any other offence against the person of a sexual nature:

(d) being a party to the commission of any offence referred to in **paragraphs (a) to (c)**:

(e) conspiring with any person to commit any such offence.

Compare: 1961 No 43, s 375A

Suppression of names

5

204 Court may suppress identity of defendant

- (1) A court may make an order forbidding publication of the name, address, or occupation of a person who is charged with, or convicted or acquitted of, an offence.
- (2) The court may make an order under **subsection (1)** only if the court is satisfied that publication would be likely to—
- (a) cause extreme hardship to the person charged with, or convicted of, or acquitted of the offence, or any person connected with that person; or
 - (b) cast suspicion on another person that may cause undue hardship to that person; or
 - (c) cause undue hardship to any victim of the offence; or
 - (d) create a real risk of prejudice to a fair trial; or
 - (e) endanger the safety of any person; or
 - (f) lead to the identification of another person whose name is suppressed by order or by law; or
 - (g) prejudice the maintenance of the law, including the prevention, investigation, and detection of offences; or
 - (h) prejudice the security or defence of New Zealand.
- (3) The fact that a defendant is well known does not, of itself, mean that publication of his or her name will result in extreme hardship for the purposes of **subsection (2)(a)**.
- (4) Despite **subsection (2)**, when a person who is charged with an offence first appears before the court the court may make an interim order under **subsection (1)** if that person advances an arguable case that one of the grounds in **subsection (2)** applies.
- (5) An interim order made in accordance with **subsection (4)** expires at the person's next court appearance, and may only be renewed if the court is satisfied that one of the grounds in **subsection (2)** applies.

- (6) When determining whether to make an order or further order under **subsection (1)** that is to have effect permanently, a court must take into account any views of a victim of the offence conveyed in accordance with section 28 of the Victims' Rights Act 2002. 5
Compare: 1985 No 120 s 140(1), (4A)
- 205 Automatic suppression of identity of defendant in specified sexual cases**
- (1) This section applies if a person is accused or convicted of an offence against section 130 or 131 of the Crimes Act 1961. 10
- (2) The purpose of this section is to protect the complainant.
- (3) No person may publish the name, address, or occupation of a person accused or convicted of an offence mentioned in **subsection (1)** unless the court, by order, permits that publication. 15
- (4) The court must make an order referred to in **subsection (3)** if—
- (a) the complainant (or, if there were 2 or more complainants, each complainant)—
- (i) is aged 18 years or older (whether or not he or she was aged 18 years or older when the offence was, or is alleged to have been, committed); and 20
- (ii) applies to the court for such an order; and
- (b) the court is satisfied that the complainant (or, as the case requires, each complainant) understands the nature and effect of his or her decision to apply to the court for the order; and 25
- (c) no order or further order has been made under **section 204** prohibiting publication of the identity of the person convicted of the offence. 30
- (5) An order made under **subsection (4)** ceases to have effect if—
- (a) the person convicted of the offence applies to a court for an order or further order under **section 204** prohibiting publication of his or her identity; and 35
- (b) the court makes the order or further order under **section 204**.

Compare: 1985 No 120 s 139(1AA), (2), (2A), (2B)

206 Court may suppress identity of witnesses, victims, and connected persons

- (1) A court that is hearing a proceeding in respect of an offence may make an order forbidding publication of the name, address, or occupation of any person who— 5
- (a) is called as a witness; or
 - (b) is a victim of the offence; or
 - (c) is connected with the proceedings, or is connected with the person who is accused of, or convicted of, or acquitted of the offence. 10
- (2) The court may make an order under **subsection (1)** only if the court is satisfied that publication would be likely to—
- (a) cause undue hardship to the witness, victim, or connected person; or
 - (b) create a real risk of prejudice to a fair trial; or 15
 - (c) endanger the safety of any person; or
 - (d) lead to the identification of another person whose name is suppressed by order or by law; or
 - (e) prejudice the maintenance of the law, including the prevention, investigation and detection of offences; or 20
 - (f) prejudice the security or defence of New Zealand.
- (3) **Subsection (1)** applies whether or not the court has made an order under **section 204** suppressing the identity of the defendant.
- (4) An order under **subsection (1)** suppressing the identity of a 25
witness, victim, or connected person may not prevent publication of the name of the defendant (which may be prohibited only by an order made under **section 204**) or the nature of the charge.
- Compare: 1985 No 120 ss 138(2)(b), 140(1) 30

207 Automatic suppression of identity of complainant in specified sexual cases

- (1) This section applies if a person is accused or convicted of an offence against any of sections 128 to 142A or 144A of the Crimes Act 1961. 35
- (2) The purpose of this section is to protect the complainant.

- (3) No person may publish the name, address, or occupation of the complainant, unless—
- (a) the complainant is aged 18 years or older; and
 - (b) the court, by order, permits such publication.
- (4) The court must make an order referred to in **subsection (3)(b)** if—
- (a) the complainant—
 - (i) is aged 18 years or older (whether or not he or she was aged 18 years or older when the offence was, or is alleged to have been, committed); and
 - (ii) applies to the court for such an order; and
 - (b) the court is satisfied that the complainant understands the nature and effect of his or her decision to apply to the court for the order; and
 - (c) in any case where publication of the identity of the complainant may lead to the identification of the person who is charged with or convicted of the offence, no order or further order has been made under **section 204** prohibiting publication of the identity of that person.
- (5) An order made under **subsection (3)(b)** ceases to have effect if—
- (a) publication of the identity of the complainant may lead to the identification of the person who is charged with or convicted of the offence; and
 - (b) that person applies to a court for an order or further order under **section 204** prohibiting publication of his or her identity; and
 - (c) the court makes the order or further order under **section 204**.

Compare: 1985 No 120 s 139(1AA), (1), (1A)

208 Automatic suppression of identity of child complainants and witnesses

- (1) Unless the court, by order, permits publication, no person may publish the name, address, or occupation of a person who is under the age of 18 years who—
- (a) is the complainant; or
 - (b) is called as a witness in any proceeding in respect of an offence.

- (2) Despite **subsection (1)**, the name, address, or occupation of a child who dies as a result of the offence may be published.
- (3) Nothing in **subsection (1)** prevents publication of the name of the defendant or the nature of the charge.
- (4) The court must make an order permitting any person to publish the name, address, or occupation of a complainant or witness, if— 5
- (a) the complainant or witness, having reached the age of 18 years, applies to the court for such an order; and
 - (b) the court is satisfied that the complainant or witness understands the nature and effect of his or her decision to apply to the court for the order; and 10
 - (c) in any case where publication of the identity of the complainant or witness may lead to the identification of the person who is charged with or convicted of the offence, no order or further order has been made under **section 204** prohibiting publication of the identity of that person. 15
- (5) An order made under **subsection (4)** ceases to have effect if— 20
- (a) publication of the identity of the complainant or witness may lead to the identification of the person who is charged with or convicted of the offence; and
 - (b) that person applies to a court for an order or further order under **section 204** prohibiting publication of his or her identity; and 25
 - (c) the court makes the order or further order under **section 204**. 30

Compare: 1985 No 120 s 139A

Suppression of evidence and submissions 30

209 Court may suppress evidence and submissions

- (1) A court may make an order forbidding publication of any report or account of the whole or any part of the evidence adduced or the submissions made in any proceeding in respect of an offence. 35
- (2) The court may make an order under **subsection (1)** only if the court is satisfied that publication would be likely to—

- (a) cause undue hardship to any victim of the offence; or
 - (b) create a real risk of prejudice to a fair trial; or
 - (c) endanger the safety of any person; or
 - (d) lead to the identification of a person whose name is suppressed by order or by law; or 5
 - (e) prejudice the maintenance of the law, including the prevention, investigation, and detection of offences; or
 - (f) prejudice the security or defence of New Zealand.
- Compare: 1985 No 120 s 138(2)(a)

Powers of Registrar 10

210 Power of Registrar to make and renew interim suppression orders

- (1) On a defendant's first appearance in court, a Registrar may make an interim order under **section 204(4)** if—
 - (a) the Registrar adjourns the hearing of any charge; and 15
 - (b) both parties agree to the making of the order.
 - (2) If a Registrar makes an interim order, that order may have effect for a limited period of up to 28 days from the date on which the order is made.
 - (3) No Registrar may exercise the power under **subsection (1)** more than once in relation to any particular charge. 20
 - (4) A Registrar may exercise the power conferred by **section 212(1)(b)** to renew an order made by the court until the date on which the defendant next appears before the court. 25
- Compare: 1957 No 87, s 46A

General provisions relating to suppression orders

211 Court must give reasons

- (1) The court must give reasons for making, varying, or revoking a suppression order. 30
- (2) If the court is satisfied that exceptional circumstances exist, it may decline to state in public all or any of the facts, reasons, or other considerations that it has taken into account in reaching its decision.

212 Duration of suppression order and right of review

- (1) A suppression order—
- (a) may be made permanently, or for a limited period ending on a date specified in the order; and
 - (b) if it is made for a limited period, may be renewed for a further period or periods by the court; and 5
 - (c) if it is made permanently, may be revoked by the court at any time.
- (2) If the term of a suppression order is not specified, it has permanent effect. 10
- (3) A suppression order may be reviewed and varied by the court at any time.

Compare: 1985 No 120, s 138(4), 140(2)

213 Publication by or at request of Police, etc

- (1) Nothing in **sections 204 to 209** prevents publication by or at the request of any Police employee of the name, address, or occupation of any person who has escaped from lawful custody or has failed to attend any court when lawfully required to do so if that publication is made for the purpose of facilitating that person's recapture or arrest. 15 20
- (2) Nothing in **sections 204 to 209** prevents publication of the name, address, or occupation of any person, or any details of the offences charged to—
- (a) any person assisting with the administration of the sentence imposed on the person or with the rehabilitation of the person; or 25
 - (b) any Police employee, or any officer or employee of the Department of Corrections or of the Ministry of Justice, who requires the information for the purposes of his or her official duties; or 30
 - (c) any person who is conducting or proposing to conduct a public prosecution against the person for an offence, and who requires the information for the purposes of—
 - (i) deciding whether or not to commence proceedings; or 35
 - (ii) conducting that public prosecution.

Compare: 1985 No 120 s141

214 Standing of members of media

- (1) This section applies to—
- (a) a person who is reporting on the proceedings and who is either subject to or employed by an organisation that is subject to—
 - (i) a code of ethics; and
 - (ii) the complaints procedures of the Broadcasting Standards Authority or the Press Council; and
 - (b) any other person reporting on the proceedings with the permission of the court.
- (2) A person to whom this section applies has standing to initiate, and be heard in relation to, any application for a suppression order, and any application to renew, vary, or revoke a suppression order.

Offences relating to breach of suppression provisions and orders 15

215 Offences and penalties

- (1) Every person commits an offence who knowingly or recklessly publishes any name, address, occupation, or other information in breach of a suppression order or in breach of any of **sections 205, 207, and 208**. 20
- (2) Every person commits an offence who publishes any name, address, occupation, or other information in breach of a suppression order or in breach of any of **sections 205, 207, and 208**. 25
- (3) **Subsection (2)** does not apply to a person who hosts material on websites or other electronic retrieval systems that can be accessed by a user unless the specific information has been placed or entered on the site or system by that person.
- (4) A person who commits an offence against **subsection (1)** is liable on conviction,— 30
- (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. 35
- (5) A person who commits an offence against **subsection (2)** is liable on conviction,—

- (a) in the case of an individual, to a fine not exceeding \$25,000:
 - (b) in the case of a body corporate, to a fine not exceeding \$50,000.
- (6) In a prosecution for an offence against **subsection (2)**, it is not necessary for the prosecution to prove that the defendant intended to commit an offence. 5

Part 6 Appeals

Subpart 1—General matters 10

217 Interpretation

In this Part, unless the context otherwise requires,—

appeal court means a first appeal court, second appeal court, or other appeal court specified by this Part

prosecution has the meaning given to it in **section 361** 15
sentence—

- (a) includes any method of disposing of a case following conviction; but
- (b) does not include—
 - (i) a decision, on conviction, to make or decline to 20
make an order against the convicted person for the payment of costs under **section 361** or under the Costs in Criminal Cases Act 1967; or
 - (ii) a decision, on conviction, to make or decline to 25
make an order under any of **sections 204, 206, or 209** (suppression orders); or
 - (iii) a decision, on conviction, under **section 212**
to vary or revoke an order under any of those sections specified in **subparagraph (ii)**.

218 Leave to appeal 30

- (1) All rights of appeal to the Supreme Court under this Part are subject to the Supreme Court Act 2003. *See* especially sections 12 to 14 of that Act.

- (2) Leave to appeal to any court other than the Supreme Court under this Part is required only if leave is expressly required by this Part or any other Act.
- (3) An appeal court's decision to give or refuse leave for the purposes of this Part is final unless otherwise expressly provided by this Part or any other Act. 5
- (4) The duty of an appeal court to determine an appeal is subject to any leave requirements being met.

219 Duty to determine appeal subject to sections 337 and 338

The duty of an appeal court to determine an appeal under **subparts 2 to 9** is subject to **sections 337 and 338** (when appeal abandoned or dismissed). 10

Subpart 2—Appeals against pre-trial decisions

First appeals

15

220 Right of appeal by prosecutor or defendant against certain pre-trial evidential decisions in Judge-alone case

- (1) This section applies if a Judge makes a decision specified in **subsection (2)** in proceedings to be tried by a Judge alone.
- (2) The defendant or the prosecutor may, with the leave of the first appeal court, appeal to that court against a decision that is one of the following: 20
 - (a) making or refusing to make an order under **section 79** (as to admissibility of evidence):
 - (b) granting or refusing to grant permission under section 44 of the Evidence Act 2006 (which relates to the cross-examination of a complainant): 25
 - (c) giving or refusing to give leave on an application under section 109(1)(d) of the Evidence Act 2006 (which relates to the identity of a witness): 30
 - (d) making or refusing to make a witness anonymity order under section 112 of the Evidence Act 2006.

Compare: 1961 No 43 s 379A(1)(aa), (e), (f), (g)

221 Refusal to give leave to appeal under section 220

- (1) This section applies if an application for leave to appeal under **section 220** is filed.
- (2) The first appeal court may refuse to give leave to appeal if the court considers that it is expedient for the issue under appeal to be determined by way of an appeal at the conclusion of the trial. 5
- (3) **Subsection (2)** does not limit the first appeal court's power to refuse to give leave for any other reason.

222 Right of appeal by prosecutor or defendant against pre-trial decisions in jury trial case 10

- (1) This section applies if a court makes a decision specified in **subsection (2)** in proceedings for—
 - (a) a category 3 offence after the defendant elected a jury trial; or 15
 - (b) a category 4 offence.
- (2) The defendant or the prosecutor may, with the leave of the first appeal court, appeal to that court against a decision that is one of the following:
 - (a) making or refusing to make an order under **section 18** (to amend, divide, or amalgamate charges): 20
 - (b) making or refusing to make an order under **section 101** (pre-trial order about admissibility of evidence):
 - (c) making or refusing to make an order under **section 102** (that Judge-alone trial be held in case likely to be long and complex): 25
 - (d) making or refusing to make an order under **section 103** (that Judge-alone trial be held in case involving intimidation of jurors):
 - (f) amending or refusing to amend a charge under **section 135**: 30
 - (g) making or refusing to make an order under **section 140(4)** (that defendant be tried separately on 1 or more charges):
 - (ga) making or refusing to make an order under **section 151** (for a person to be retried on ground that acquittal tainted): 35

- (h) refusing to make an order under **section 157** (to transfer proceeding to a court at another place):
- (i) granting or refusing to grant permission under section 44 of the Evidence Act 2006 (relating to the cross-examination of a complainant): 5
- (j) giving or refusing to give leave on an application under section 109(1)(d) of the Evidence Act 2006 (relating to the identity of a witness):
- (k) making or refusing to make a witness anonymity order under section 112 of the Evidence Act 2006. 10

Compare: 1961 No 43 s 379A(1)

223 Right of appeal by defendant only against pre-trial decisions in jury trial case

- (1) This section applies if a court makes a decision specified in **subsection (2)** in proceedings for— 15
 - (a) a category 3 offence after the defendant elected a jury trial; or
 - (b) a category 4 offence.
- (2) The defendant may, with the leave of the first appeal court, appeal to that court against a decision that is either of the following: 20
 - (a) refusing to make an order under **section 15** (that prosecutor provide further particulars relevant to setting out of charge):
 - (b) making an order under **section 157** (to transfer proceeding to court at another place). 25

Compare: 1961 No 43 s 379A(2)

224 First appeal courts

The first appeal court for an appeal under this subpart is—

- (a) a District Court presided over by a District Court Judge, 30 if the appeal is against a decision of a District Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or
- (b) the High Court, if the appeal is against a decision of a District Court presided over by a District Court Judge, 35 other than a decision—

- (i) made in proceedings for a category 3 offence after the defendant elected a jury trial; or
- (ii) made in proceedings for a category 4 offence; or
- (c) either the Court of Appeal or the Supreme Court, in any other case. 5

225 How to commence first appeal

- (1) A defendant or prosecutor commences a first appeal under this subpart by filing in the first appeal court a notice of application for leave to appeal to that court.
- (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the decision to which the appeal relates. 10
- (3) The first appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal. 15

Compare: 1961 No 43 s 379A(5), (6)

226 First appeal court to determine appeal

A first appeal court must determine a first appeal under this subpart by—

- (a) confirming the decision appealed against; or
- (b) varying the decision appealed against; or 20
- (c) setting aside the decision appealed against and making any other order it considers appropriate.

Compare: 1961 No 43 s 379A(3)

226A Trial court may allow trial to proceed

- (1) This section applies if— 25
 - (a) an application for leave to appeal has been filed under this subpart but not determined; or
 - (b) leave to appeal has been given under this subpart but the appeal has not been determined.
- (2) The trial court may allow the trial to which the application or appeal relates to commence or continue, as the case may be, even though the application or appeal has not been determined, if satisfied that it is in the interests of justice to do so. 30

*Further appeals***227 Right of appeal against determination of first appeal court**

- (1) The defendant or the prosecutor may, with the leave of the second appeal court, appeal to that court against the determination of an appeal under **section 220 or 222.** 5
- (2) The defendant may, with the leave of the second appeal court, appeal to that court against the determination of an appeal under **section 223.**
- (3) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that— 10
- (a) the appeal involves a matter of general or public importance; or
 - (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard.

228 Second appeal courts 15

- The second appeal court for an appeal under this subpart is—
- (a) the High Court, if the appeal is against a determination of a District Court; or
 - (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or 20
 - (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal.

229 How to commence second appeal

- (1) A party commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court. 25
- (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the determination appealed against.
- (3) The second appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal. 30

230 Second appeal court to determine appeal

- (1) A second appeal court must determine a second appeal under this subpart in accordance with this section.

- (2) The second appeal court determines the appeal by exercising any powers that the first appeal court exercised or could have exercised in determining the first appeal under **section 226**.

231 High Court’s determination of second appeal final

Every determination of a second appeal under this subpart by the High Court is final. 5

232 Further appeal from determination of second appeal by Court of Appeal

- (1) A party to a second appeal determined under this subpart by the Court of Appeal in a case to which **section 220** applies may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination. 10
- (2) An appeal under this section may be brought only on a question of law.
- (3) **Section 229** (how to commence appeal) applies with necessary modifications. 15
- (4) The Supreme Court may allow an appeal only if satisfied that the determination appealed against is wrong in law.
- (5) The Supreme Court has the same powers as a first appeal court has to determine a first appeal under this subpart, subject to **subsection (4)**. 20

Subpart 3—Appeals against conviction

First appeals

233 Right of appeal against conviction

- (1) A person convicted of an offence may appeal under this subpart to the first appeal court against the conviction. 25
- (2) An appeal against a finding that the convicted person is guilty of a contempt of court must be brought under **subpart 5**.
Compare: 1957 No 87 s 115(1), (2); 1961 No 43 s 383(1)(a)

234 First appeal courts

The first appeal court for an appeal under this subpart is— 30

(a) a District Court presided over by a District Court Judge, if the appeal is against a conviction entered by a District

- Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or
- (b) the High Court, if the appeal is against a conviction entered by a District Court presided over by a District Court Judge, other than a conviction for— 5
- (i) a category 3 offence after the convicted person elected a jury trial; or
- (ii) a category 4 offence; or
- (c) either the Court of Appeal or the Supreme Court, in any other case. 10
- 235 How to commence first appeal**
- (1) A convicted person commences a first appeal under this subpart by filing in the first appeal court—
- (a) a notice of appeal, if the court appealed to is the District Court, High Court, or Court of Appeal; or 15
- (b) a notice of application for leave to appeal, if the court appealed to is the Supreme Court.
- (2) A notice of appeal or notice of application for leave to appeal must be filed within 20 working days after the date of sentence for the conviction appealed against. 20
- (3) The first appeal court may, at any time, extend the time allowed for filing a notice of appeal or notice of application for leave to appeal.
- Compare: 1961 No 43 s 388
- 236 First appeal court to determine appeal** 25
- (1) A first appeal court must determine a first appeal under this subpart in accordance with this section.
- (3) The first appeal court must allow a first appeal under this subpart if satisfied that,—
- (a) in the case of a jury trial, having regard to the evidence, the jury’s verdict was unreasonable; or 30
- (b) in the case of a Judge-alone trial, the Judge erred in his or her assessment of the evidence to such an extent that a ~~substantial~~ miscarriage of justice has occurred; or
- (c) in any case, a ~~substantial~~ miscarriage of justice has occurred for any reason. 35

- (4) The first appeal court must dismiss a first appeal under this subpart in any other case.
- (5) In **subsection (3)**, **substantial miscarriage of justice** means any error, irregularity, or occurrence in or in relation to or affecting the trial that— 5
- (a) has created a real risk that the outcome of the trial was affected; or
- (b) has resulted in an unfair trial or a trial that was a nullity.
- (6) In **subsection (5)**, **trial** includes a proceeding in which the appellant pleaded guilty. 10
- Compare: 1957, No 87, ss 119(1), 121; 1961 No 43 s 385; Criminal Procedure Act 2009 s 276 (Victoria)
- 237 Orders, etc, on successful first appeal**
- (1) This section applies if a first appeal court allows a first appeal under this subpart. 15
- (2) The court must set aside the conviction.
- (3) The court must also—
- (a) direct that a judgment of acquittal be entered; or
- (b) direct that a new trial be held; or
- (c) exercise the powers under **section 238**; or 20
- (d) exercise the powers under **section 239(2)**; or
- (e) make any other order it considers justice requires.
- (4) The court may also exercise the powers under **section 240**. 20
- Compare: 1961 No 43 ss 385(2), 386
- 238 Conviction and sentence for different offence may be substituted** 25
- (1) **Subsection (2)** applies if a person was found guilty at trial of an offence (**offence A**) and the first appeal court allows the convicted person's appeal against conviction for that offence.
- (2) The first appeal court may direct that a judgment of conviction for a different offence (**offence B**), including an offence that the trial court could, in accordance with **section 138(1)**, have substituted for offence A, be entered if satisfied that— 30
- (a) the person could have been found guilty, at the person's trial for offence A, of offence B; and 35

- (b) the trial judge or the jury, as required, must have been satisfied of facts that prove the person guilty of offence B.
- (3) **Subsection (4)** applies if a person pleaded guilty before or at trial to an offence (**offence A**) and the first appeal court allows the convicted person's appeal against conviction for that offence. 5
- (4) If the first appeal court is satisfied that facts admitted by the convicted person in relation to the charge for offence A support a conviction for a different offence (**offence B**), the first appeal court may, if the convicted person agrees, direct that a judgment of conviction for offence B be entered. 10
- (5) On making a direction under **subsection (2) or (4)**, the first appeal court may—
- (a) impose a sentence for offence B (whether more or less severe) that is allowed by law; or 15
- (b) remit the proceeding to the court that imposed the sentence for offence A and direct that court to take the action described in **paragraph (a)**. 20
- Compare: 1957 No 87 s 132; 1961 No 43 s 386(2) 20

239 Acquittal on account of insanity

- (1) This section applies if a first appeal court is satisfied that the convicted person should have been acquitted at trial on account of his or her insanity at the time of the offence.
- (2) Sections 23 to 26, 28, and 33 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 apply in that case as far as applicable and as if the convicted person had been acquitted on the ground of insanity. 25
- Compare: 1957 No 87 s 121(2A); 1961 No 43 s 386(4)

240 Confirmation or substitution of sentence for another offence 30

- (1) This section applies if—
- (a) a first appeal court allows a convicted person's appeal against conviction for one offence (**offence A**); and
- (b) the sentencing court took the sentence it imposed for offence A into account in imposing sentence for a con- 35

viction for a different offence (**offence B**) and the convicted person remains convicted of offence B.

- (2) The first appeal court may—
- (a) confirm the trial court’s sentence for offence B; or
 - (b) substitute any sentence that is allowed by law; or 5
 - (c) remit the proceeding to the court that imposed the sentence for offence B and direct that court to take any action of a kind described in **paragraph (a) or (b)**.

Compare: 1961 No 43 s 386(1)

Further appeals

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241 Right of appeal against determination of first appeal court

- (1) A convicted person may, with the leave of the second appeal court, appeal to that court against the determination of the person’s first appeal under this subpart.
- (2) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that— 15
- (a) the appeal involves a matter of general or public importance; or
 - (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard. 20

242 Second appeal courts

The second appeal court for an appeal under this subpart is—

- (a) the High Court, if the appeal is against a determination of a District Court; or
- (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or 25
- (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal.

243 How to commence second appeal

- (1) A convicted person commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court. 30
- (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the determination appealed against. 35

- (3) The second appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal.

244 Second appeal court to determine appeal

- (1) A second appeal court must determine a second appeal under this subpart in accordance with this section. 5
- (2) The second appeal court must allow the appeal if satisfied that the appeal should be allowed on any of the grounds described in **section 236(3)**.
- (3) The second appeal court must dismiss the appeal in any other case. 10

245 Orders, etc, on successful second appeal

- (1) This section applies if a second appeal court allows a second appeal under this subpart.
- (2) The second appeal court may exercise any powers that the first appeal court exercised or could have exercised under this subpart if it had allowed the first appeal. 15

246 High Court's determination of second appeal final

Every determination of a second appeal under this subpart by the High Court is final.

247 Further appeal from determination of second appeal by Court of Appeal 20

- (1) A party to a second appeal determined under this subpart by the Court of Appeal may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination. 25
- (2) The appeal may be brought only on a question of law.
- (2A) The Supreme Court must allow the appeal if satisfied that—
 (a) the determination appealed against is wrong in law; and
 (b) the appeal should be allowed on any of the grounds described in **section 236(3)**. 30
- (2B) The Supreme Court must dismiss the appeal in any other case.
- (3) The following provisions apply with the necessary modifications:
 (a) **section 243** (how to commence appeal):

(c) **section 245** (orders, etc, on successful appeal).

Compare: 1961 No 43 s 383A

Subpart 4—Appeals against sentence

First appeals

- 248 Convicted person’s right of appeal against sentence** 5
- (1) A person convicted of an offence may appeal under this subpart to the first appeal court against the sentence imposed for that offence, unless the sentence is one fixed by law.
- (2) An appeal by a person against a sentence imposed on finding the person guilty of a contempt of court must be brought under **subpart 5**. 10
- Compare: 1957 No 87 s 115(2), (2A); 1961 No 43 s 383(1)(b)
- 249 Right of appeal against sentence not affected by sentence indication**
- The fact that a defendant has received a sentence indication does not affect the right of the defendant or the prosecutor to appeal against sentence. 15
- 250 Prosecutor’s right of appeal**
- (1) A prosecutor may, in accordance with this section, appeal under this subpart to the first appeal court against the sentence imposed for an offence, unless the sentence is one fixed by law. 20
- (2) An appeal under this subpart by a prosecutor may be brought only by or with the consent of the Solicitor-General.
- (3) However, if the defendant is the Crown Law Office, the appeal may be brought only with the consent of the Attorney-General and any decision to give consent must be given personally by the Attorney-General. 25
- Compare: 1957 No 87 s 115A(1)–(2A); 1961 No 43 s 383(2), (2A)
- 251 First appeal courts** 30
- The first appeal court for an appeal under this subpart is—
- (a) a District Court presided over by a District Court Judge, if the appeal is against a sentence imposed by a District

- Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or
- (b) the High Court, if the appeal is against a sentence imposed by a District Court presided over by a District Court Judge and if— 5
- (i) the sentence was for a category 1 or 2 offence; or
- (ii) the sentence was for a category 3 offence and the convicted person did not elect a jury trial; or
- (c) the High Court, if the appeal is against a sentence imposed by a District Court presided over by a District Court Judge for a category 3 offence and if— 10
- (i) the convicted person elected a jury trial; and
- (ii) the convicted person pleaded guilty to the offence before the trial; and
- (iii) the sentence appealed against is not a sentence of imprisonment exceeding 5 years; or 15
- (d) either the Court of Appeal or the Supreme Court, in any other case.

252 How to commence first appeal

- (1) A convicted person or prosecutor commences a first appeal under this subpart by filing in the first appeal court— 20
- (a) a notice of appeal, if the court appealed to is a District Court, the High Court, or the Court of Appeal; or
- (b) a notice of application for leave to appeal, if the court appealed to is the Supreme Court. 25
- (2) A notice of appeal or notice of application for leave to appeal must be filed within 20 working days after the date of the sentence appealed against.
- (3) In an appeal by a prosecutor, any document evidencing consent required under **section 250** must be filed with the notice of appeal or notice of application for leave to appeal. 30
- (4) The first appeal court may, at any time, extend the time allowed for filing—
- (a) a notice of appeal or notice of application for leave to appeal; or 35
- (b) a document evidencing consent required under **section 250**.

Compare: 1961 No 43 s 388

253 Appeal by prosecutor treated as abandoned if not heard before sentence completed

- (1) Every appeal under this subpart by the prosecutor against a sentence of imprisonment that is not heard before the date on which the person convicted has completed serving that sentence lapses on that date. 5
- (2) The manager of any prison from which the defendant is released must, if he or she has knowledge of the appeal, notify the Registrar of the appeal court that the defendant has been released. 10
- (3) The appeal must be treated as having been abandoned under **section 337**.

Compare: 1957 No 87 s 115A(3); 1961 No 43 s 383(3)

254 First appeal court to determine appeal

- (1) A first appeal court must determine a first appeal under this subpart in accordance with this section. 15
- (2) The first appeal court must allow the appeal if satisfied that—
- (a) for any reason, there is an error in the sentence imposed on conviction; and
 - (b) a different sentence should be imposed. 20
- (3) The first appeal court must dismiss the appeal in any other case.

Compare: 1957 No 87 s 121; 1961 No 43 s 385

255 Orders, etc, on successful first appeal

- (1) This section applies if a first appeal court allows an appeal under this subpart. 25
- (2) The first appeal court must, within the limits allowed by law,—
- (a) set aside the sentence and impose another sentence (whether more or less severe) that it considers appropriate; or 30
 - (b) vary the sentence, vary any part of the sentence, or vary any condition of the sentence; or
 - (c) remit the sentence to the court that imposed it and direct that court to take any action of a kind described in **paragraph (a) or (b)** as specified by the first appeal court. 35

- (3) In remitting a sentence under **subsection (2)(c)**, the first appeal court may give the sentencing court any further directions it considers appropriate about the manner in which the specified action is to be taken by the sentencing court.

Compare: 1961 No 43 s 385(3)

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256 Defendant may not withdraw guilty plea after sentence imposed on appeal

Except with the leave of the appeal court if that court considers it is in the interests of justice, a defendant who has received a sentence indication is not entitled to withdraw his or her guilty plea if a more severe sentence than that indicated is imposed on appeal.

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Further appeals

257 Right of appeal against determination of first appeal court

- (1) A convicted person may, with the leave of the second appeal court, appeal to that court against the determination of a first appeal by that person or the prosecutor under this subpart in respect of the person's sentence.

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- (2) A prosecutor may, with the leave of the second appeal court, appeal to that court against the determination of the prosecutor's first appeal under this subpart.

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- (3) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that—

- (a) the appeal involves a matter of general or public importance; or
 (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard.

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258 Second appeal courts

The second appeal court for an appeal under this subpart is—

- (a) the High Court, if the appeal is against a determination of a District Court; or
 (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or
 (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal.

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259 How to commence second appeal

- (1) A convicted person or prosecutor commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court.
- (2) A notice of application for leave to appeal must be filed within 5 20 working days after the date of the determination appealed against.
- (3) The second appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal.

260 Second appeal court to determine appeal

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- (1) A second appeal court must determine a second appeal under this subpart in accordance with this section.
- (2) The second appeal court must allow the appeal if satisfied that,—
 - (a) for any reason, there is an error in the sentence imposed on conviction; and
 - (b) a different sentence should be imposed.
- (3) The second appeal court must dismiss the appeal in any other case.

261 Orders, etc, on successful second appeal

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- (1) This section applies if a second appeal court allows a second appeal under this subpart.
- (2) The second appeal court may exercise any powers that the first appeal court exercised or could have exercised under this subpart if it had allowed the first appeal. 25

262 High Court's determination of second appeal final

Every determination of a second appeal under this subpart by the High Court is final.

263 Further appeal from determination of Court of Appeal

- (1) A party to a second appeal determined under this subpart by the Court of Appeal may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination. 30
- (2) The appeal may be brought only on a question of law.

- (2A) The Supreme Court must allow the appeal if satisfied that—
- (a) the determination appealed against is wrong in law; and
 - (b) for any reason, there is an error in the sentence imposed on conviction; and
 - (c) a different sentence should be imposed. 5
- (2B) In any other case, the Supreme Court must dismiss the appeal.
- (3) The following provisions apply with the necessary modifications:
- (a) **section 259** (how to commence appeal):
 - (c) **section 261** (orders, etc, on successful appeal). 10
- Compare: 1961 No 43 s 383A

Subpart 5—Appeals against finding of or sentence for contempt of court

First appeals

- 264 Right of appeal against finding of or sentence for contempt of court** 15
- (1) This section applies if a court finds a person guilty of a criminal contempt of court, whether or not committed in the face of a court.
- (2) The person found guilty of the contempt may appeal under this subpart to the first appeal court against either or both of the following: 20
- (a) the finding of contempt of court:
 - (b) any sentence imposed, other than an order that the person be detained in custody until the rising of the court. 25

Compare: 1957 No 87 s 115B; 1961 No 43 s 384

265 First appeal courts

The first appeal court for an appeal under this subpart is—

- (a) a District Court presided over by a District Court Judge, if the finding of contempt was made by a District Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or 30
- (b) the High Court, if the finding of contempt was made by a District Court presided over by a District Court Judge; or 35

- (c) either the Court of Appeal or the Supreme Court, in any other case.

266 How to commence first appeal

- (1) A person commences a first appeal under this subpart by filing in the first appeal court— 5
- (a) a notice of appeal, if the court appealed to is a District Court, the High Court, or the Court of Appeal; or
- (b) a notice of application for leave to appeal, if the court appealed to is the Supreme Court.
- (2) A notice of appeal or notice of application for leave to appeal must be filed within 20 working days after— 10
- (a) the date of the finding of contempt, if the appeal is against the finding only;
- (b) the date of the sentence imposed for the contempt, in any other case. 15
- (3) The first appeal court may, at any time, extend the time allowed for filing a notice of appeal or notice of application for leave to appeal.

267 First appeal court to determine appeal

- (1) A first appeal court must determine a first appeal under this subpart against a finding of contempt as if it were a first appeal against conviction under **subpart 3**, and the following provisions apply as far as applicable and with the necessary modifications: 20
- (a) **section 236** (appeal court to determine appeal): 25
- (b) **section 237(1) to (3)** (orders, etc, on successful appeal):
- (c) **section 238** (conviction and sentence for different offence may be substituted):
- (d) **section 239** (acquittal on account of insanity). 30
- (2) A first appeal court must determine a first appeal against a sentence imposed for contempt as if it were a first appeal against sentence under **subpart 4**, and the following provisions apply as far as applicable and with the necessary modifications:
- (a) **section 254** (appeal court to determine appeal): 35
- (b) **section 255** (orders, etc, on successful appeal).

- (3) In a first appeal against both the finding of contempt and the sentence imposed on that finding, the first appeal court must apply **subsections (1) and (2)** as appropriate.

Further appeals

- 268 Right of appeal against determination of first appeal court** 5
- (1) A person may, with the leave of the second appeal court, appeal to that court against the determination of the person's first appeal under this subpart.
- (2) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that— 10
- (a) the appeal involves a matter of general or public importance; or
- (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard.
- 269 Second appeal courts** 15
- The second appeal court for an appeal under this subpart is—
- (a) the High Court, if the appeal is against a determination of a District Court; or
- (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or 20
- (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal.
- 270 How to commence second appeal**
- (1) A person commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court. 25
- (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the determination appealed against.
- (3) The second appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal. 30
- 271 Second appeal court to determine appeal**
- (1) A second appeal court must determine a second appeal under this subpart against a finding of contempt as if it were a second

appeal against conviction under **subpart 3**, and the following provisions apply as far as applicable and with the necessary modifications:

- (a) **section 244** (appeal court to determine appeal):
- (b) **section 245** (orders, etc, on successful appeal). 5
- (2) A second appeal court must determine a second appeal against a sentence imposed for contempt as if it were a second appeal against sentence under **subpart 4**, and the following provisions apply as far as applicable and with the necessary modifications: 10
 - (a) **section 260** (appeal court to determine appeal):
 - (b) **section 261** (orders, etc, on successful appeal).
- (3) In a second appeal against both the finding of contempt and the sentence imposed on that finding, the second appeal court must apply **subsections (1) and (2)** as appropriate. 15

272 High Court’s determination of second appeal final

Every determination of a second appeal under this subpart by the High Court is final.

273 Further appeal from determination of Court of Appeal

- (1) A party to a second appeal determined under this subpart by the Court of Appeal may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination. 20
- (2) The appeal may be brought only on a question of law.
- (3) **Section 270** (how to commence appeal) applies with the necessary modifications. 25
- (4) The Supreme Court may allow an appeal only if satisfied that the determination appealed against is wrong in law.
- (5) The Supreme Court has the same powers as a second appeal court has to determine an appeal under this subpart, subject to **subsection (4)**. 30

Subpart 6—Appeals against decisions on costs orders

First appeals

274 Interpretation

In this subpart, **costs order** means an order for the payment of costs under **section 361** or the Costs in Criminal Cases Act 1967. 5

275 Right of appeal to first appeal court against decision about costs order

A person affected by a decision to make or refuse to make a costs order may appeal under this subpart against the decision to the first appeal court. 10

Compare: 1961 No 43 s 379CA

276 First appeal courts

The first appeal court for an appeal under this subpart is— 15

- (a) a District Court presided over by a District Court Judge, if the appeal is against a decision of a District Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or
- (b) the High Court, if the appeal is against a decision of a District Court presided over by a District Court Judge other than a decision— 20
 - (i) made in proceedings for a category 3 offence after the defendant elected a jury trial; or
 - (ii) made in proceedings for a category 4 offence; or 25
- (c) either the Court of Appeal or the Supreme Court, in any other case. 25

277 How to commence first appeal

(1) A person commences a first appeal under this subpart by filing in the first appeal court— 30

- (a) a notice of appeal, if the court appealed to is the District Court, High Court, or Court of Appeal; or
- (b) a notice of application for leave to appeal, if the court appealed to is the Supreme Court.

- (2) A notice of appeal or notice of application for leave to appeal must be filed within 20 working days after the date of the decision appealed against.
- (3) The first appeal court may, at any time, extend the time allowed for filing the notice of appeal or notice of application for leave to appeal. 5

278 First appeal court to determine appeal

The first appeal court must determine a first appeal under this subpart by—

- (a) confirming the decision appealed against; or 10
 (b) varying the decision appealed against; or
 (c) setting aside the decision appealed against; or
 (d) making any other order it considers appropriate.

279 Appeal not to suspend trial

A court is not required to suspend the commencement or continuation of a trial just because, in the course of the prosecution to which the trial relates, an appeal has been filed against a decision to make or refuse to make a costs order. 15

Further appeals

280 Right of appeal against determination of first appeal court 20

- (1) Any party to a first appeal under this subpart may, with the leave of the second appeal court, appeal to that court against the determination of the first appeal under this subpart.
- (2) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that— 25
 (a) the appeal involves a matter of general or public importance; or
 (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard.

281 Second appeal courts 30

The second appeal court for an appeal under this subpart is—

- (a) the High Court, if the appeal is against a determination of a District Court; or

- (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or
- (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal.

- 282 How to commence second appeal** 5
- (1) A party commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court.
 - (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the determination appealed against. 10
 - (3) The second appeal court may, at any time, extend the time allowed for filing the notice of application for leave to appeal.
- 283 Second appeal court to determine appeal**
- (1) A second appeal court must determine a second appeal under this subpart in accordance with this section. 15
 - (2) The second appeal court has the same powers as a first appeal court has to determine a first appeal under this subpart.
- 284 High Court's determination of second appeal final**
- Every determination of a second appeal under this subpart by the High Court is final. 20
- 285 Further appeal from determination of Court of Appeal**
- (1) Any party to a second appeal determined under this subpart by the Court of Appeal may, with the leave of the Supreme Court, appeal to the Supreme Court against the determination. 25
 - (2) An appeal under this subpart against a determination of a second appeal by the Court of Appeal may be brought only on a question of law.
 - (3) **Section 282** (how to commence appeal) applies with necessary modifications. 30
 - (4) The Supreme Court may allow an appeal only if satisfied that the determination appealed against is wrong in law.

- (5) The Supreme Court has the same powers as a first appeal court has to determine a first appeal under this subpart, subject to **subsection (4)**.

Subpart 7—Appeals against suppression
orders

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First appeals

286 Interpretation

In this subpart, **suppression order** means an order made under **section 204, 206, or 209**.

287 Right of appeal against decision on suppression order

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- (1) A person specified in **subsection (2)** may appeal under this subpart to the first appeal court against a decision of a court—
- (a) to make or refuse to make a suppression order; or
 - (b) to renew, vary, or revoke a suppression order under **section 212**.

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- (2) The persons who may appeal are—

- (a) the applicant for the suppression order; or
- (b) the prosecutor; or
- (c) a member of the media to whom **section 214(1)** applies.

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Compare: 1957 No 87 s 115C(1); 1961 No 43 s 379A(1)(ba)

288 First appeal courts

The first appeal court for an appeal under this subpart is—

- (a) a District Court presided over by a District Court Judge, if the appeal is against a decision of a District Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or
- (b) the High Court, if the appeal is against a decision of a District Court presided over by a District Court Judge; or
- (c) either the Court of Appeal or the Supreme Court, in any other case.

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289 How to commence first appeal

- (1) A person commences a first appeal by filing in the first appeal court—
- (a) a notice of appeal, if the court appealed to is a District Court, High Court, or Court of Appeal; or 5
 - (b) a notice of application for leave to appeal, if the court appealed to is the Supreme Court.
- (2) A notice of appeal or notice of application for leave to appeal must be filed within 20 working days after the date of the decision appealed against. 10
- (3) The first appeal court may, at any time, extend the time allowed for filing the notice of appeal or notice of application for leave to appeal.

290 Interim suppression order pending determination of first appeal 15

- (1) This section applies if a court refuses to make the suppression order sought by the applicant and the applicant for the order satisfies that court that an appeal against that decision is to be filed under **section 289**.
- (2) The court must make an interim order to the effect sought by the applicant. 20
- (3) An interim order made under **subsection (2)** continues in force until—
- (a) the expiry of the period specified in **section 289(2)** for filing a notice of appeal or notice of application for leave to appeal; or 25
 - (b) the appeal is finally determined, if the notice is filed within that specified period.

Compare: 1957 No 87 s 115C(2)

291 First appeal court to determine appeal 30

- A first appeal court must determine a first appeal by—
- (a) confirming the decision appealed against; or
 - (b) varying the decision appealed against; or
 - (c) setting aside the decision appealed against; or
 - (d) making any other order it considers appropriate. 35

292 Trial court may allow trial to proceed

- (1) This section applies if an appeal has been filed under this subpart against—
- (a) a decision to make or refuse to make a suppression order; or 5
 - (b) a decision to renew, vary, or revoke a suppression order under **section 212**.
- (2) The trial court may allow the trial to which the appeal relates to commence or continue, as the case may be, even though the appeal has not been determined. 10

*Further appeals***293 Right of appeal against determination of first appeal court**

- (1) Any party to a first appeal under this subpart may, with the leave of the second appeal court, appeal to that court against the determination of the first appeal under this subpart. 15
- (2) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that—
- (a) the appeal involves a matter of general or public importance; or
 - (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard. 20

294 Second appeal courts

The second appeal court for an appeal under this subpart is—

- (a) the High Court, if the appeal is against a determination of a District Court; or 25
- (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or
- (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal.

295 How to commence second appeal

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- (1) A party commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court.

- (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the determination appealed against.
- (3) The second appeal court may, at any time, extend the time allowed for filing the notice of application for leave to appeal. 5

295A Interim suppression order pending determination of second appeal

- (1) This section applies if the applicant for the suppression order satisfies the first appeal court that an appeal against the court's determination under **section 291** is to be filed under **section 295**. 10
- (2) The court may make an interim order to the effect sought by the applicant.
- (3) An interim order made under **subsection (2)** continues in force until— 15
- (a) the expiry of the period specified in **section 295(2)** for filing a notice of application for leave to appeal; or
- (b) the appeal is finally determined, if the notice is filed within that specified period and leave is given.

296 Second appeal court to determine appeal 20

- (1) A second appeal court must determine a second appeal under this subpart in accordance with this section.
- (2) The second appeal court has the same powers as a first appeal court has to determine a first appeal under this subpart.

297 Determination of High Court final 25

Every determination of a second appeal under this subpart by the High Court is final.

298 Further appeal from determination of Court of Appeal

- (1) A party to a second appeal determined under this subpart by the Court of Appeal may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination. 30
- (2) The appeal may be brought only on a question of law.

- (3) **Sections 295** (how to commence appeal) and **295A** (interim suppression order) apply with necessary modifications.
- (4) The Supreme Court may allow an appeal only if satisfied that the determination appealed against is wrong in law.
- (5) The Supreme Court has the same powers as a first appeal court has to determine a first appeal under this subpart, subject to **subsection (4)**. 5

Subpart 8—Appeals on question of law

First appeals

299 Right of appeal 10

- (1) This section applies if a person has been charged with an offence.
- (2) The prosecutor or the defendant may, with the leave of the first appeal court, appeal under this subpart to that court on a question of law against a ruling by the trial court. 15
- (3) The question of law in a first appeal under this subpart must arise—
- (a) in proceedings that relate to or follow the determination of the charge; or
 - (b) in the determination of the charge (including, without limitation, a conviction, an acquittal, the dismissal of the charge under **section 147**, or a stay of prosecution). 20
- (4) The question of law must not be one that—
- (a) arises from a jury verdict; or
 - (b) arose before the trial and has already been decided under **subpart 2**. 25

Compare: 1957 No 87 ss 78, 107; 1961 No 43 ss 380, 381A

300 First appeal courts

The first appeal court for an appeal under this subpart is—

- (a) a District Court presided over by a District Court Judge, if the appeal is against a ruling by a District Court presided over by 1 or more Community Magistrates or 1 or more Justices of the Peace; or 30

- (b) the High Court, if the appeal is against a ruling by a District Court presided over by a District Court Judge, other than a ruling—
 - (i) made in proceedings for a category 3 offence after the person charged elected a jury trial; or 5
 - (ii) made in proceedings for a category 4 offence; or
- (c) either the Court of Appeal or the Supreme Court, in any other case.

301 How to commence first appeal

- (1) A defendant or prosecutor commences a first appeal under this subpart by filing a notice of application for leave to appeal in the first appeal court. 10
- (2) The notice of application for leave to appeal must state the question of law on which the appeal is being taken.
- (3) A notice of application for leave to appeal must be filed within 20 working days after the date of the ruling to which the appeal relates. 15
- (4) The first appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal.

302 Power of first appeal court to amend question stated 20

The first appeal court may, at any time before determining an appeal under this subpart, amend or restate any question of law to be determined in the appeal if it considers it necessary or desirable to do so.

304 First appeal court to determine appeal 25

- (1) A first appeal court must determine a first appeal under this subpart by—
 - (a) confirming the ruling appealed against; or
 - (b) doing any of the following if the court considers the ruling is erroneous and, in the case of the person's conviction or acquittal or of a direction by a court to stay the prosecution or to dismiss the charge under **section 147**, also resulted in a ~~substantial~~ miscarriage of justice: 30

- (i) setting aside the conviction and entering an acquittal, if the person has been convicted; or
 - (ii) directing a new trial, in any case; or
 - (c) varying or substituting the sentence or remitting the sentence to the sentencing court with directions, if the decision relates to sentence and the court thinks the decision is erroneous; or 5
 - (d) remitting the matter to the trial court in accordance with the opinion of the appeal court; or
 - (e) making any other order that the court considers justice requires. 10
- (2) A District Court may order that a first appeal to that court be removed to the High Court, and the High Court then has the same powers under this subpart as if it were the first appeal court for the purpose of determining the appeal. 15
- (3) The High Court may order that a first appeal to that court be removed to the Court of Appeal, and the Court of Appeal then has the same powers under this subpart as if it were the first appeal court for the purpose of determining the appeal.
- (4) The first appeal court may give separate directions concerning each charge to which the appeal relates. 20

Compare: 1961 No 43 s 382

304A Deferral or adjournment of trial if notice of application for leave to appeal filed

- (1) **Subsection (2)** applies if a notice of application for leave to appeal under this subpart is filed before the trial. 25
- (2) The trial must not commence before the first appeal court determines the application for leave and (if it gives leave) the question of law, unless the trial court is satisfied that it is in the interests of justice to do so and proceeds accordingly. 30
- (3) **Subsection (4)** applies if a notice of application for leave to appeal under this subpart is filed during the trial.
- (4) The trial court—
- (a) must continue with the trial if it is a jury trial, unless the court considers it in the interests of justice for the jury to be discharged: 35

- (b) may adjourn the trial in any other case until the first appeal court determines the application and (if it gives leave) the question of law if satisfied that the determination of the question of law may—
- (i) make the trial unnecessary; or 5
 - (ii) have a substantial impact on the outcome of the trial; or
 - (iii) substantially reduce the length of the trial; or
 - (iv) answer a novel question of law that is necessary for the proper conduct of the trial. 10

305 How determination of appeal affects outcome of trial

- (1) This section applies if, before a first appeal is determined, the trial to which a first appeal relates proceeds and the outcome is an acquittal, a conviction, a dismissal under **section 147**, or a stay of prosecution. 15
- (3) The trial court may, if the person is convicted, postpone sentencing the person or defer the commencement of any sentence imposed until—
- (a) the first appeal court determines the application for leave to appeal or determines the question of law; or 20
 - (b) an application for leave to make a further appeal or (if leave is given) the further appeal has been determined.
- (4) If the outcome of the trial is an acquittal or a dismissal, or the prosecution is stayed, a person is subject to being rearrested or summoned to appear if the first appeal court orders a new trial. 25
- Compare: 1961 No 43 ss 380(4), (5), 381A(3)

Further appeals

306 Right of appeal against determination of first appeal court

- (1) A party to a first appeal under this subpart may, with the leave of the second appeal court, appeal under this subpart to that court against the determination of the first appeal. 30
- (2) The High Court or the Court of Appeal must not give leave for a second appeal under this subpart unless satisfied that—
- (a) the appeal involves a matter of general or public importance; or 35

- (b) a ~~substantial~~ miscarriage of justice may have occurred, or may occur unless the appeal is heard.

307 Second appeal courts

The second appeal court for an appeal under this subpart is—

- (a) the High Court, if the appeal is against a determination of a District Court; or 5
- (b) either the Court of Appeal or the Supreme Court, if the appeal is against a determination of the High Court; or
- (c) the Supreme Court, if the appeal is against a determination of the Court of Appeal. 10

308 How to commence second appeal

- (1) A party commences a second appeal under this subpart by filing a notice of application for leave to appeal in the second appeal court.
- (2) A notice of application for leave to appeal must be filed within 20 working days after the date of the determination appealed against. 15
- (3) The second appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal.

309 Second appeal court to determine appeal 20

A second appeal court must determine a second appeal by allowing the appeal or dismissing it.

310 Orders, etc, on successful second appeal

- (1) This section applies if a second appeal court allows a second appeal under this subpart. 25
- (2) The second appeal court may exercise any power that the first appeal court could have exercised under this subpart if it had allowed the first appeal.

311 High Court's determination of second appeal final

Every determination of a second appeal under this subpart by the High Court is final. 30

312 Further appeal from determination of Court of Appeal

- (1) A party to a second appeal determined under this subpart by the Court of Appeal may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination. 5
- (2) The following provisions apply with the necessary modifications:
- (a) **section 308** (how to commence appeal):
 - (b) **section 309** (appeal court to determine appeal):
 - (c) **section 310** (orders, etc, on successful appeal). 10

313 Relationship to other appeals

A defendant who appeals under this subpart against a ruling may not appeal under any other subpart of this Part against the same ruling unless the first appeal court gives the defendant leave to withdraw the appeal under this subpart and extends the time within which a notice of application for leave to appeal or a notice of appeal under any other subpart of this Part may be filed. 15

Compare: 1957 No 87 s 114

Subpart 9AA—Appeals against order under section 106(3) of Sentencing Act 2002 20

314AA Right of appeal

- (1) A person against whom an order is made under section 106(3) of the Sentencing Act 2002 (orders that may be made on discharge of offender) may appeal under this subpart against that order. 25
- (2) This Part applies with all necessary modifications to an appeal under this subpart as if the order appealed against were a sentence.

Subpart 9—Appeals relating to peace bond decisions

314 Right of appeal

- (1) A person who is ordered to enter into a bond under **section 364** may appeal under this subpart against that decision to the High Court. 5
- (2) A person whose bond is ordered to be forfeit under **section 369** may appeal under this subpart against that decision to the High Court.
- (3) This Part applies as far as applicable with all necessary modifications to an appeal under **subsection (1) or (2)** as if the order appealed against were a costs order within the meaning of **section 361**. 10
- (4) A person who is committed to a prison under **section 367** for refusing to enter into a bond or failure to obtain a surety may appeal under this subpart against that decision to the High Court. 15
- (5) This Part applies as far as applicable with all necessary modifications to an appeal under **subsection (4)** as if the order appealed against were a sentence. 20

Subpart 10—Solicitor-General’s references

315 Solicitor-General may refer certain questions to Court of Appeal

- (1) The Solicitor-General may, with the leave of the Court of Appeal, refer a question of law to that court under this subsection if— 25
 - (a) the question arose in or in relation to a trial of a person in a District Court or the High Court for an offence (the **criminal proceeding**); and
 - (b) the criminal proceeding in the District Court or High Court has ended, whether because the person tried for the offence has been acquitted or convicted, the charge has been dismissed, or the proceeding has been stayed or otherwise brought to an end. 30
- (2) The fact that an appeal against conviction or sentence has been filed does not prevent the Solicitor-General referring a question to that court under **subsection (1)**. 35

- (3) The Solicitor-General may, with the leave of the Court of Appeal, refer a question of law to that court under this subsection if—
- (a) the question of law arose in or in relation to a defendant's first appeal against conviction or sentence; and 5
 - (b) the High Court was the first appeal court and it allowed the appeal, and the prosecutor has no right of appeal against that court's determination.
- Compare: Supreme Court Act 1933 s 37S (ACT); Criminal Justice Act 1972 s 36 (UK) 10

316 Procedure for references under section 315

- (1) An application for leave under **section 315(1)** must be made within 60 working days after the day on which the criminal proceeding ended.
- (2) An application for leave under **section 315(3)** must be made within 60 working days after the date of the determination by the High Court. 15
- (3) The Court of Appeal may, at any time, extend the time allowed for filing the application for leave.
- (4) The Court of Appeal must, if it gives leave under **section 315**,— 20
 - (a) appoint counsel to assist the court; and
 - (b) deal with the reference by way of a hearing involving oral submissions; and
 - (c) determine the question referred. 25
- (5) For the purpose of section 99A of the Judicature Act 1908, a hearing of a reference under **section 315** must be treated as an appeal.
- (6) The Court of Appeal's determination of a reference under **section 315** does not affect anything done in any proceeding to which the reference relates by another court before the date of that determination. 30

317 Rights of appeal to Supreme Court

- (1) The Solicitor-General may, with the leave of the Supreme Court, appeal to that court under this subsection against a decision of the Court of Appeal refusing to give leave under **section 315**. 35

- (2) The Solicitor-General may, with the leave of the Supreme Court, appeal to that court under this subsection against the Court of Appeal's determination of a question of law under **section 316**.

318 Procedure for appeals under section 317 5

- (1) An application for leave under **section 317(1) or (2)** must be made within 30 working days after the date of the determination appealed against.
- (2) The Supreme Court may, at any time, extend the time allowed for filing the application for leave. 10
- (3) The Supreme Court may, on an application under **section 317(1)**,—
- (a) refuse to give leave; or
 - (b) give leave and direct that the Court of Appeal hear and determine the question as if it were a reference under **section 315**; or 15
 - (c) give leave and hear and determine the question itself.
- (4) **Subsection (5)** applies if the Supreme Court—
- (a) gives leave to appeal under **section 317(1)** and decides to hear and determine the question itself; or 20
 - (b) gives leave under **section 317(2)**.
- (5) The Supreme Court must, if this subsection applies,—
- (a) appoint counsel to assist the court; and
 - (b) deal with the appeal or reference by way of a hearing involving oral submissions; and 25
 - (c) determine the question referred.
- (6) For the purpose of section 99A of the Judicature Act 1908, a hearing of a reference by the Supreme Court under this section must be treated as an appeal.
- (7) The Supreme Court's determination of a reference under **section 317** does not affect anything done in any proceeding to which the reference relates by another court before the date of that determination. 30
- (8) **Section 316(4) to (6)** apply with the necessary modifications if the Supreme Court directs the Court of Appeal to hear and determine a question. 35

318A Solicitor-General may refer question to Supreme Court

The Solicitor-General may, with the leave of the Supreme Court, refer a question of law to that court under this subsection if—

- (a) the question arose in or in relation to a defendant's first appeal against conviction or sentence; and 5
- (b) the Court of Appeal was the first appeal court and it allowed the appeal, and the prosecutor has no right of appeal against that court's determination.

318B Procedure for references under section 318A

10

- (1) An application for leave under **section 318A** must be made within 60 working days after the date of the determination by the Court of Appeal.
- (2) The Supreme Court may, at any time, extend the time allowed for filing the application for leave. 15
- (3) The Supreme Court must, if it gives leave to appeal,—
 - (a) appoint counsel to assist the court; and
 - (b) deal with the reference by way of a hearing involving oral submissions; and
 - (c) determine the question referred. 20
- (4) For the purpose of section 99A of the Judicature Act 1908, a hearing of a reference under **section 318A** must be treated as an appeal.
- (5) The Supreme Court's determination of a reference under **section 318A** does not affect anything done in any proceeding to which the reference relates by another court before the date of that determination. 25

319 Power of Court of Appeal or Supreme Court to amend question referred

- (1) The Court of Appeal may, at any time before determining a question of law referred to it under this subpart, amend or restate the question if it considers it necessary or desirable to do so. 30
- (2) The Supreme Court has the same powers as the Court of Appeal under **subsection (1)** if the Supreme Court decides to determine a question referred to it under this subpart. 35

Subpart 11—Further provisions

*Procedure for determining jurisdiction where
appeals lie to different appeal courts***320 Meaning of related right of appeal**

- (1) For the purpose of **section 321, related right of appeal**,— 5
- (a) in relation to a first appeal by a convicted person to the Court of Appeal against conviction or sentence, means a right of appeal to the High Court or the Supreme Court against conviction or sentence for—
- (i) an offence that arises from the same incident or series of incidents as the offence to which the appeal to the Court of Appeal relates; or 10
- (ii) an offence for which the convicted person was sentenced on the same occasion as that on which the sentencing court imposed the sentence to which the appeal to the Court of Appeal relates: 15
- (b) in relation to a first appeal by a convicted person to the Court of Appeal against conviction, means a right of appeal to the High Court or the Supreme Court against the sentence for the offence to which the appeal to the Court of Appeal relates: 20
- (c) in relation to a first appeal by the prosecutor to the Court of Appeal against sentence, means a right of appeal to the High Court or the Supreme Court against sentence for— 25
- (i) an offence that arises from the same incident or series of incidents as the offence to which the prosecutor’s appeal to the Court of Appeal relates; or
- (ii) an offence for which the convicted person was sentenced on the same occasion as that on which the sentencing court imposed the sentence to which the prosecutor’s appeal to the Court of Appeal relates: 30
- (d) in relation to a first appeal by the convicted person to the Court of Appeal against conviction or sentence or a first appeal by the prosecutor to the Court of Appeal against sentence, means a right of appeal to the High Court against a suppression decision made on conviction for 35

the offence to which the convicted person's appeal to the Court of Appeal relates.

- (2) In **subsection (1)(d)**, **suppression decision** means a decision—
- (a) to make or refuse to make a suppression order within the meaning of **section 286**; or
 - (b) to renew, vary, or revoke a suppression order under **section 212**.

Compare: 1961 No 43 s 384A(1)

321 Related appeals that are to be heard by Court of Appeal 10

- (1) This section applies if—
- (a) a convicted person appeals to the Court of Appeal against conviction under **section 233**;
 - (b) a convicted person appeals to the Court of Appeal against sentence under **section 248** or the prosecutor appeals to that court against sentence under **section 250**.
- (2) Appeals from the exercise of a related right of appeal by the convicted person or the prosecutor must be heard and determined— 20
- (a) by the Court of Appeal, unless **paragraph (b)** applies;
 - (b) by the Supreme Court, if 1 or more of those appeals is to that court and it gives leave to appeal.
- (3) This Part applies accordingly with the necessary modifications. 25

Compare: 1961 No 43 s 384A

Solicitor-General

322 Duty of Solicitor-General

- (1) The Solicitor-General must represent the Crown on the following appeals under this Part: 30
- (a) every first appeal to the Court of Appeal against conviction or sentence and every further appeal to the Supreme Court against a decision of the Court of Appeal; and
 - (b) every first appeal to the Supreme Court against conviction or sentence. 35

- (2) The Solicitor-General must appear at every hearing involving oral submissions on the following appeals or applications for leave to appeal under this Part:
- (a) every first appeal to the Court of Appeal and every further appeal to the Supreme Court against a decision of the Court of Appeal: 5
 - (b) every first appeal to the Supreme Court.
- (3) The Solicitor-General's duties under this section—
- (a) may be performed by any lawyer employed or instructed by the Solicitor-General; and 10
 - (b) do not apply in the case of a private prosecution.

Compare: 1961 No 43 s 390

Registrar of appeal court to arrange appeal

323 Duties of Registrar

- (1) The Registrar of the appeal court must take all necessary steps for obtaining a hearing of any appeal or application for leave to appeal for which notice is filed. 15
- (2) The Registrar of the appeal court must obtain and provide to the court all documents, exhibits, and other things that appear necessary for the proper determination of the appeal or application. 20
- (3) The Registrar of the appeal court must inform the parties to the appeal or application of the procedures and time frames for hearing the appeal or application. 25

Compare: 1961 No 43 s 392(1), (4), (6)

324 Custody of exhibits, etc

Any documents, exhibits, or other things connected with the trial of any person who, if convicted, is entitled or may be authorised to appeal against conviction or sentence—

- (a) must be kept in the custody of the trial court or appeal court, as the case may be, in accordance with any rules of court: 30
- (b) may be released in accordance with any rules of court.

Compare: 1961 No 43 s 392(3)

*Rights of representation and attendance at
hearing of appeal or application for leave to
appeal*

325 Right of representation at hearing

- (1) This section applies to appeals and applications for leave to appeal under this Part. 5
- (2) A party may be represented by a lawyer at the hearing of—
- (a) an application for leave to appeal; or
 - (b) an appeal; or
 - (c) proceedings preliminary or incidental to an application or appeal. 10
- (3) **Subsection (2)** is subject to section 15(2) of the Supreme Court Act 2003 and to **section 331(3)**.
Compare: 1961 No 43 s 395(1)

326 Right of attendance at hearing

- (1) This section applies to appeals and applications for leave to appeal under this Part. 15
- (2) A party who is in custody is not entitled to be present at a hearing involving oral submissions unless the court gives leave for him or her to be present. 20
- (3) However, a party who is in custody is entitled to present his or her case or argument in writing instead of by oral argument.
- (4) The power of the appeal court to impose any sentence under this Part may be exercised in the absence of a party. 25
Compare: 1961 No 43 s 395(1A)–(3)

How applications to be heard

327 Hearings in Court of Appeal

- (1) This section applies to the following applications under this Part to the Court of Appeal:
- (a) applications for leave to appeal: 30
 - (b) applications to extend the time for filing an application or notice.
- (2) A Judge of the Court of Appeal, acting alone, may decide how a particular application is to be heard, but no Judge acting alone may reverse a decision of the court on how an application is to be heard. 35

- (3) A decision to deal with an application for leave just on the basis of written material must be in writing, be accompanied by reasons, and be provided by the Registrar to the parties.

Compare: 1961 No 43 s 393; 2003 No 53 s 15

328 Hearings in District Court or High Court 5

- (1) This section applies to applications for leave to appeal under this Part to a District Court or the High Court.

- (2) The court may decide whether an oral hearing of an application should be held or whether an application should be determined just on the basis of written material provided to the court. 10

- (3) A decision to deal with an application just on the basis of written material must be in writing, be accompanied by reasons, and be provided by the Registrar to the parties.

Compare: 2003 No 53 s 15

How appeals to be heard 15

329 Hearings in Court of Appeal or Supreme Court

- (1) An appeal under this Part to the Court of Appeal or the Supreme Court must be dealt with by way of a hearing involving oral submissions unless the court directs that the appeal be determined just on the basis of written material. 20

- (2) The court may at any time direct that an appeal be determined just on the basis of written material provided to it if—

- (a) the court is satisfied that the appeal can fairly be determined on that basis, having regard to the following:

- (i) whether the parties have been assisted by counsel in preparing the appeal: 25

- (ii) whether the parties have been provided with copies of the relevant trial documentation:

- (iii) the gravity of the offence:

- (iv) the nature and complexity of the issues raised by the appeal: 30

- (v) whether evidence should be called:

- (vi) any relevant cultural or personal factors; and

- (b) either the appeal has no realistic prospect of success or should clearly be allowed. 35

- (3) The court may at any time direct that an appeal be determined just on the basis of written material provided to it if both parties agree that the appeal should be determined on that basis.
- (4) A Judge of the Court of Appeal, acting alone, may decide how a particular appeal is to be heard, but no Judge acting alone may reverse a decision of the court on how an appeal is to be heard. 5
- (5) A decision to deal with an appeal just on the basis of written material must be in writing, be accompanied by reasons, and be provided by the Registrar to the parties. 10
Compare: 1961 No 43 s 392A(1)–(4)

330 Hearings in District Court or High Court

An appeal under this Part to a District Court or the High Court must be dealt with by way of a hearing involving oral submissions. 15

Hearings on papers

331 Provisions about hearing on papers

- (1) This section applies to the following if they are determined just on the basis of written material before the court:
- (a) every application for leave to appeal under this Part to any appeal court: 20
- (b) every application under this Part to the Court of Appeal for an extension of time:
- (c) every appeal under this Part to the Court of Appeal or the Supreme Court. 25
- (2) The parties may make written, but not oral, submissions to the court, and may include in their submissions—
- (a) additional relevant written material; and
- (b) responses to any submissions made by the other party.
- (3) Neither the parties nor their representatives may appear before the court. 30
- (4) The appeal must be determined by the court on the basis of the written material before it.
- (5) The court may consider the written material before it in any manner it thinks fit. 35
Compare: 1961 No 43 s 392A(5), (6)

*Powers exercisable by 1 or 2 appellate Judges***332 Powers exercisable by Judge of Supreme Court**

- (1) A Judge of the Supreme Court may exercise, in the same manner as it may be exercised by that court and subject to the same provisions, any power of that court to— 5
- (a) extend the time within which notice of appeal or of an application for leave to appeal may be given; or
 - (b) allow a party to be present at any proceedings in cases where he or she is not entitled to be present without leave; or 10
 - (c) issue a warrant for the detention of the defendant pending a new trial; or
 - (d) grant bail to a party.
- (2) A party may have an application for the exercise of a power under **subsection (1)** decided by the court if a Judge refuses to exercise the power in favour of the party. 15
- Compare: 1961 No 43 s 393(2), (3)

333 Powers exercisable by Judges of Court of Appeal

- (1) Any 2 or more Judges of the Court of Appeal may act as the court to determine any application for leave to appeal. 20
- (2) A Judge of the Court of Appeal may exercise, in the same manner as it may be exercised by that court and subject to the same provisions, the power of that court to—
- (aa) determine any application to extend the time for filing an application or notice: 25
 - (a) allow a party to be present at any proceedings in cases where he or she is not entitled to be present without leave:
 - (b) issue a warrant for the detention of the defendant pending a new trial: 30
 - (c) grant bail to a party.
- (3) A party may have an application for the exercise of a power under **subsection (2)** decided by the court if a Judge refuses to exercise the power in favour of the party.
- (4) A Judge of the Court of Appeal may make any incidental orders and give any incidental directions that he or she thinks fit, other than an order or a direction that determines the appeal 35

or disposes of any question or issue that is before the court in the appeal.

- (5) An order or direction made or given by a Judge of the Court of Appeal under **subsection (4)** may be discharged or varied by the court but **subsection (3)** does not apply to the exercise of a power under **subsection (4)**. 5

Compare: 1908 No 89 s 61A(1)–(4); 1961 No 43 s 393(2), (3)

Powers of appeal court to receive evidence, etc

334 Power to receive and hear evidence

- (1) An appeal court may require the court appealed from to provide it with— 10
- (a) documents, exhibits, or other things relevant to the appeal; and
 - (b) a copy of notes made by the judicial officer who presided at the hearing; and 15
 - (c) a report from the judicial officer who presided at the hearing about any matter arising at or relating to the hearing.
- (2) The appeal court may rehear the whole or any part of the evidence. 20
- (3) The appeal court has the same jurisdiction and authority as the court appealed from had—
- (a) to hear and receive evidence, and to require evidence to be taken before another court or Registrar; and
 - (b) to make any related order or issue any related summons, warrant, or other process. 25

Compare: 1957 No 87 s 119(2), (3)

335 Special powers of appeal courts in appeal involving conviction, sentence, or contempt

- (1) This section applies to an appeal or application for leave to appeal under **subpart 3, 4, or 5**. 30
- (2) For the purposes of an appeal or application for leave to appeal, an appeal court may, if it thinks it necessary or expedient in the interests of justice,—

- (a) order any witnesses who would have been compellable witnesses at the trial to attend and be examined before the court, whether or not they were called at the trial:
 - (b) order the examination of those witnesses to be conducted before any Judge of the court or before any officer of the court or other person appointed by the court for the purpose, and allow the admission of any formal statements before the court: 5
 - (c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness: 10
 - (d) order that a question arising on the appeal be referred to a special commissioner appointed by the court if the court thinks the question involves prolonged examination of documents or accounts, or any scientific or local investigation, and cannot conveniently be conducted before the court, and act on the report of the commissioner so far as the court thinks fit to adopt it: 15
 - (e) order the production of any document, exhibit, or other thing connected with the proceeding if the court considers that its production is necessary: 20
 - (f) appoint any person with special expert knowledge to act as assessor to the court if the court thinks that special knowledge is required for the proper determination of the case. 25
- (3) **Subsection (2)** does not apply if an appeal or application is determined just on the basis of written material before the appeal court.

Compare: 1961 No 43 s 389

- 336 Powers of appeal courts** 30
- (1) The Court of Appeal and the Supreme Court may each exercise any other powers that may for the time being be exercised by the court on appeals in civil matters.
 - (2) Any appeal court may issue any warrants necessary for enforcing the orders made under **section 335**, and **sections 167 to 169** apply to those warrants. 35

*Abandonment***337 Abandonment of appeal by appellant**

- (1) An appellant may, at any time, abandon an appeal by filing in the appeal court a notice advising that he or she—
- (a) does not intend further to prosecute the appeal; and 5
 - (b) abandons all further proceedings concerning that appeal.
- (2) The notice must be authenticated by—
- (a) the appellant personally; or
 - (b) the appellant's lawyer. 10

Compare: 1957 No 87 s 129; SR 2004/199 r 39

338 Power of appeal court to dismiss appeal for non-compliance with procedural orders

- (1) Despite anything in **subparts 2 to 9**, an appeal court may dismiss an appeal if the appellant fails to comply with a timetable or other procedural orders fixed for the appeal. 15
- (2) Before dismissing an appeal under **subsection (1)**, the appeal court must give the appellant 10 working days' notice of its intention to dismiss the appeal.
- (3) The appeal court must not dismiss an appeal under **subsection (1)** if the appellant, after having been given notice under **subsection (2)**, rectifies the non-compliance within the notice period given by the court. 20
- (4) A reference in any enactment other than this section to the abandonment of an appeal under this Act must, unless the context otherwise requires, be read as including a reference to a dismissal under **subsection (1)**. 25
- (5) In this section, **appeal** includes an application for leave to appeal. 30

Compare: SR 2004/199 r 38(4)

339 Appeal against dismissal under section 338

- (1) An appellant may, with the leave of the relevant appeal court, appeal to that court against a dismissal of an appeal under **section 338**. 35
- (2) The relevant appeal court is—

- (a) the High Court, if the appeal is against the dismissal of an appeal under that section by a District Court; or
 - (b) the Court of Appeal, if the appeal is against the dismissal of an appeal under that section by the High Court; or 5
 - (c) the Supreme Court, if the appeal is against the dismissal of an appeal under that section by the Court of Appeal.
- (3) An appellant commences an appeal under this section by filing a notice of application for leave to appeal in the relevant appeal court. 10
- (4) A notice of application for leave to appeal must be filed within 20 working days after the date of the dismissal appealed against.
- (5) The relevant appeal court may, at any time, extend the time allowed for filing a notice of application for leave to appeal. 15
- (6) The relevant appeal court must determine an appeal under this section by either—
- (a) dismissing the appeal; or
 - (b) allowing the appeal and remitting the matter to the court appealed from with any directions it considers appropriate. 20
- (7) The determination of an appeal by the relevant appeal court under this section is final.

Judgment of appeal court

- 340 Reasons to accompany judgment or be given later** 25
- (1) Reasons must be given for an appeal court's determination of an appeal or application under this Part.
- (1A) The court's reasons must accompany the court's judgment or be given later.
- (2) However, **subsection (1)** does not apply to a determination— 30
- (a) giving leave to appeal; or
 - (b) relating to a preliminary or incidental matter.

Compare: 1961 No 43 s 398; 2003 No 53 s 16(1)

341 Delivery of judgment by District Court, High Court, or Court of Appeal

- (1) This section applies to a judgment of a District Court, the High Court, or the Court of Appeal under this Part.
- (2) The court may— 5
- (a) deliver its judgment orally; or
- (b) reserve its judgment.
- (3) A judgment that is delivered orally is given when a Judge or Judges deliver it in open court.
- (4) A judgment that is reserved may be delivered— 10
- (a) in open court; or
- (b) through the Registrar.

Compare: SR 2001/371 r 33

342 Judgment to be provided to parties

- After an appeal or application is determined by an appeal court under this Part, the Registrar must— 15
- (a) send a copy of the court's judgment to the parties as soon as is reasonably practicable; and
- (b) send a notice of the decision to the court appealed from. 20

Compare: 1957 No 87 s 134; 1961 No 43 s 392(7)

*How appeal affects decisions under appeal***343 General effect of appeal on sentence**

- No sentence may be suspended just because a person files a notice of appeal or notice of an application for leave to appeal under this Part, unless— 25
- (a) the appeal court expressly directs that the sentence be suspended; or
- (b) an enactment provides for the sentence to be suspended in that case.

Compare: 1961 No 43 s 399(1)

30

344 Issue of committal order for detention of convicted person

- (1) This section applies if a notice of an appeal or notice of an application for leave to appeal is filed by either party under this Part and the convicted person has been sentenced to imprisonment under the determination to which the appeal relates. 35

- (2) The sentencing court must issue a committal order in the form of a warrant, writ, order, direction, or authority requiring the detention of the convicted person, despite the appeal.
- (3) However, if the convicted person is released on bail before the committal order is enforced, the order is suspended until the appeal has been determined or abandoned. 5
- Compare: 1957 No 87 s 124(1), (2)

345 How appeal affects community-based sentences

- (1) On a conviction to which an appeal relates where the court appealed from sentenced the convicted person to community detention, community work, supervision, or intensive supervision under the Sentencing Act 2002, that sentence ceases to run on the day on which notice of appeal or of application for leave to appeal is filed. 10
- (2) A sentence to which **subsection (1)** applies, as imposed by the court appealed from or as varied by the appeal court, as the case may be, is resumed from the date on which— 15
- (a) the appeal is dismissed or abandoned; or
 - (b) leave to appeal is refused; or
 - (c) the appeal is decided, if neither the sentence nor the conviction on which it was made is set aside. 20

Compare: 1961 No 43 s 399(3)–(4B)

346 Registrar to notify resumption of sentence

- (1) This section applies if a sentence is resumed in accordance with **section 345**. 25
- (2) The Registrar of the appeal court must—
- (a) notify the controlling officer of the probation area in which the sentence is to be served of the date on which the sentence is to resume; and
 - (b) notify the convicted person of that date if he or she is not present in court at the time the appeal is disposed of in the manner referred to in **section 345**. 30

Compare: 1957 No 87 s 137(5)

347 Reporting requirement where sentence resumed after unsuccessful or abandoned appeal

- (1) This section applies if an appeal is unsuccessful or abandoned, and the convicted person is subject to a sentence of community detention, community work, supervision, or intensive supervision under the Sentencing Act 2002. 5
- (2) After the sentence is resumed in accordance with **section 345**, the convicted person must report in accordance with the same reporting requirement that applied to him or her after that sentence was imposed by the sentencing court (as specified in section 49(1)(a), 54F(1)(a), 59(a), or 69E(1)(b) of the Sentencing Act 2002). 10

348 How appeal affects non-association orders

- (1) On a conviction to which an appeal relates where the court appealed from made a non-association order in respect of the convicted person, the period of non-association ceases to run on the day on which notice of appeal or of application for leave to appeal is filed. 15
- (2) The period of non-association as imposed by the court appealed from or as varied by the appeal court, as the case may be, resumes from the date on which— 20
- (a) the appeal is dismissed or abandoned; or
 - (b) leave to appeal is refused; or
 - (c) the appeal is decided, if neither the non-association order nor the conviction on which it was imposed is set aside. 25

Compare: 1961 No 43 s 399(4G), (4H)

349 Fine recovery not to be enforced pending contempt appeal

- (1) This section applies if a person is fined for criminal contempt of court and has a right of appeal under **subpart 5** against the finding of contempt. 30
- (2) Nothing in section 20 of the Crown Proceedings Act 1950 (which relates to the recovery of fines imposed otherwise than by judgment or conviction) applies until the time for filing notice of appeal or application for leave to appeal has expired, or, if that notice is filed, until the appeal has been determined or abandoned. 35

- (3) On the determination of the appeal where the decision appealed against is not set aside and the amount of the fine imposed by the court appealed from is varied by the appeal court, the amount for which final judgment may be signed under section 20 of that Act is varied accordingly. 5
Compare: 1961 No 43 s 399(5)
- 350 Successful appellant entitled to return of amount paid under sentence**
- An appellant who has paid a fine or other monetary amount in accordance with a sentence and is successful on an appeal under this Part relating to that sentence is entitled, subject to the order of the appeal court, to the return of the amount paid or part of the amount paid, as the case may be. 10
Compare: SR 2004/199 r 46
- 351 Detention following appeal** 15
- (1) This section applies on—
- (a) the determination of an appeal under this Part against conviction or sentence or on a question of law:
 - (b) the determination of an appeal under this Part against a finding of, or sentence for, contempt of court: 20
 - (c) abandonment of an appeal under this Part.
- (2) If the convicted person is not in custody, a constable or officer of a prison may arrest the convicted person without warrant if, under the determination appealed against or the determination of the appeal court, the person is liable to be detained to serve a sentence of imprisonment. 25
- (3) If the appeal court sets aside the convicted person's sentence of imprisonment and does not impose another sentence of imprisonment or remit the proceeding for sentence,—
- (a) the Registrar of the appeal court must send to the manager of the prison in which the person sentenced is detained or from which he or she was released on bail a notice setting out the result of the appeal; and 30
 - (b) if that person is in the custody of the manager and is not in custody for any other matter, he or she must be released. 35

- (4) If the appeal court varies a sentence of imprisonment imposed by the court appealed from or amends the conviction for which a sentence of imprisonment was imposed by that court,—
- (a) the Registrar of the appeal court must send to the manager of the prison in which the person sentenced is detained or from which he or she was released on bail a notice setting out the result of the appeal; and 5
- (b) the committal order for the sentence of the court appealed from has effect as if it were amended in accordance with the notice. 10
- (5) **Subsections (2) to (4)** apply to a finding of, or sentence for, contempt of court with the necessary modifications. 10
- Compare: 1957 No 87 s 136(1)–(3)

352 Revesting and restitution of property on conviction

- (1) The operation of an order for the restitution of property to a person made on a conviction, and the operation in that case of the provisions of section 26(1) of the Sale of Goods Act 1908 as to the revesting of the property in stolen goods on conviction, is suspended— 15
- (a) in all cases until the end of any period for filing a notice of appeal or notice of application for leave to appeal against conviction or sentence; and 20
- (b) if a notice of appeal against conviction or sentence is filed, until the appeal is determined or abandoned unless the court orders otherwise. 25
- (2) A suspension that applies to the operation of an order or of section 26(1) of the Sale of Goods Act 1908 until an appeal is determined does not take effect as to the property in question if the conviction is set aside on appeal.
- (4) The court in which a conviction is entered may direct that there be no suspension under **subsection (1)** if it considers that the title to the property is not in dispute. 30
- (5) The first appeal court may set aside or vary any order made on conviction for the restitution of any property to any person, although the conviction itself is not set aside. 35
- Compare: 1961 No 43 s 387

Part 7

Provisions concerning jurisdiction of District Courts

Jurisdiction of District Court presided over by District Court Judge 5

352A Jurisdiction of District Court Judges

- (1) Subject to **section 352B**, the jurisdiction described in **section 9(1)** may be exercised by a District Court presided over by a District Court Judge.
- (2) Nothing in **subsection (1)** limits **sections 358 to 358B**. 10

Jurisdiction of District Courts in relation to jury trials

352B Jurisdiction of District Courts in relation to jury trials

- (1) This section applies if the trial of a proceeding is to be a jury trial and the level of trial court is a District Court. 15
- (2) Only a District Court at a place appointed under section 4(2A) of the District Courts Act 1947 has jurisdiction to conduct a jury trial.
- (3) Only a District Court presided over by a District Court Judge who holds a warrant under **section 5B** of the District Courts Act 1947 to conduct jury trials has jurisdiction to conduct the jury trial or exercise any of the powers of the court under **subpart 7 of Part 3** in relation to the proceeding. 20

Compare: 1947 No 16 ss 28A, 28B

Jurisdiction of District Court presided over by 1 or more Justices 25

353 Jurisdiction of Justices

- (1) A District Court presided over by a Justice has jurisdiction in respect of an offence only if the enactment creating the offence or another enactment provides that jurisdiction may be exercised by a Justice. 30
- (2) A District Court presided over by 2 or more Justices has jurisdiction in respect of an offence if—

- (a) the enactment creating the offence or another enactment provides that jurisdiction may be exercised by a Justice or Justices:
 - (b) the offence is an infringement offence.
- (3) A District Court presided over by a Justice or Justices does not have any jurisdiction in respect of an offence that is a continuing offence. 5
- Compare: 1957 No 87 s 9A

*Jurisdiction of District Court presided over by 1
or more Community Magistrates* 10

354 Jurisdiction of Community Magistrates

- (1) A District Court presided over by 1 or more Community Magistrates has jurisdiction in respect of—
- (a) a category 1 offence in respect of which a District Court presided over by 1 or more Justices has jurisdiction under **section 353(1) or (2)(a)**; and 15
 - (b) a category 1 offence, if the enactment creating the offence or another enactment states that the jurisdiction may be exercised by 1 or more Community Magistrates; and 20
 - (c) a category 1 offence punishable by a fine not exceeding \$40,000 that is prescribed by regulations made under **section 383**; and
 - (d) an infringement offence.
- (2) A District Court presided over by 1 or more Community Magistrates does not have any jurisdiction in respect of a category 1 offence that is a continuing offence. 25
- (3) Nothing in **section 355 or 356** limits this section.
- Compare: 1957 No 87 s 9B

355 Jurisdiction of Community Magistrates to impose sentence in respect of certain category 1 and 2 offences 30

- (1) This section applies to any category 1 or 2 offence (not being a continuing offence) in respect of which—
- (a) the maximum term of imprisonment (if any) that can be imposed does not exceed 3 months; and 35

- (b) the maximum fine (if any) that can be imposed does not exceed \$7,500.
- (2) If a person who is charged with an offence to which this section applies pleads guilty to that offence, a District Court presided over by 1 or more Community Magistrates may, in accordance with the Sentencing Act 2002, do 1 or more of the following acts:
- (a) impose, under section 32 of that Act, a sentence of reparation on the offender:
- (b) subject to section 40(3) of that Act, sentence the offender to pay a fine: 10
- (c) impose, under section 45 of that Act, a sentence of supervision on the offender:
- (d) impose, under section 54B of that Act, a sentence of intensive supervision on the offender: 15
- (e) impose, under section 55 of that Act, a sentence of community work on the offender:
- (f) impose, under section 69B of that Act, a sentence of community detention on the offender:
- (g) discharge the offender without conviction under section 106 of that Act and, if the court thinks fit, make an order under subsection (3) of that section: 20
- (h) discharge the offender under section 108 of that Act and, if the court thinks fit, make an order under subsection (2) of that section: 25
- (i) make, under section 110 of that Act, an order requiring the offender to appear for sentence if called upon to do so within a period, not exceeding 1 year commencing with the date of conviction, that the court may specify in the order: 30
- (j) on making an order under section 110(1) of that Act, also make an order under section 110(3) of that Act:
- (k) make, under section 112 of that Act, a non-association order in respect of the offender:
- (l) make, under section 124 of that Act, an order that disqualifies the offender from holding or obtaining a driver licence: 35
- (m) make, under section 128 or 129 of that Act, a confiscation order in respect of a motor vehicle:

- (n) make, under section 131(2)(a) of that Act, an order that prohibits the offender from acquiring any interest in any motor vehicle within 12 months after the date of the order:
- (o) make, under section 131(3)(a) of that Act, an order that sets aside the disposition by the offender of a motor vehicle or of an interest in a motor vehicle. 5
- (3) No District Court presided over by 1 or more Community Magistrates may impose on any person for any offence a sentence of imprisonment (within the meaning of section 4(1) of the Sentencing Act 2002). 10
- (4) A District Court presided over by 1 or more Community Magistrates does not have any jurisdiction to impose a sentence under this section in respect of a category 1 or 2 offence that is a continuing offence. 15
- Compare: 1957 No 87 s 9C

356 Power to impose penalties provided for in Land Transport Act 1998

- (1) If a person who is charged with an offence to which **section 355** applies pleads guilty to that offence, a District Court presided over by 1 or more Community Magistrates— 20
- (a) may, if that offence is an offence to which section 80 of the Land Transport Act 1998 applies, make, under that section, an order disqualifying the person from holding or obtaining a driver licence for any period that the court thinks fit, whether or not the court imposes any other penalty for the offence: 25
- (b) must, if that offence is a first or second offence to which section 32 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act, an order under section 32 of that Act disqualifying the person from holding or obtaining a driver licence for 6 months or more, unless the court, for special reasons relating to the offence, thinks fit to order otherwise: 30 35
- (c) must, if that offence is an offence to which section 35 or 38 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject

- to sections 81 and 94 of that Act, an order under section 35 or 38 of that Act disqualifying the person from holding or obtaining a driver licence for 6 months or more, unless the court, for special reasons relating to the offence, thinks fit to order otherwise: 5
- (d) must, if that offence is a first or second offence to which section 56, 58, or 60 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act, an order under section 56, 58, or 60 of that Act disqualifying the person from holding or obtaining a driver licence for 6 months or more, unless the court, for special reasons relating to the offence, thinks fit to order otherwise: 10
- (e) must, if that offence is an offence to which section 57 of the Land Transport Act 1998 applies, make, in addition to any other penalties it may impose but subject to sections 81 and 94 of that Act, an order under section 57 of that Act disqualifying the person from holding or obtaining a driver licence for 3 months or more, unless the court, for special reasons relating to the offence, thinks fit to order otherwise: 15 20
- (f) may, if that offence is an offence to which section 59 of the Land Transport Act 1998 applies, make an order under that section disqualifying the person from holding or obtaining a driver licence for any period that the court thinks fit, whether or not the court imposes any other penalty for the offence: 25
- (g) must, if the offence is one to which section 65 of the Land Transport Act 1998 applies, make, subject to subsection (3) of that section, an order under that section requiring the person to attend an Assessment Centre and disqualifying the person from holding or obtaining a driver licence until the Director makes an order under section 100 of that Act removing that disqualification: 30 35
- (h) must, if the offence is one to which section 63 of the Land Transport Act 1998 applies, make, in addition to any other penalty the court may impose, and despite section 94 of that Act, an order under section 63 of that Act

disqualifying the person from driving any vehicle being used in a transport service (other than a rental service) for any period exceeding 1 year but not exceeding 10 years that the court thinks fit.

- (2) Nothing in this section restricts **section 355** or any other duty or power of a District Court presided over by 1 or more Community Magistrates— 5
- (a) to disqualify any person from holding or obtaining a driver licence; or
- (b) to impose any other penalty. 10
- Compare: 1957 No 87 s 9D

357 Ancillary powers under subpart 3 of Part 5, Costs in Criminal Cases Act 1967, Sentencing Act 2002, and Land Transport Act 1998

- A District Court presided over by 1 or more Community Magistrates has, in exercising any power conferred on it by **section 355 or 356**,— 15
- (a) power to make any suppression order under **subpart 3 of Part 5**:
- (ab) power to make an order under section 4(3) of the Costs in Criminal Cases Act 1967: 20
- (b) all the powers and processes that a court has under the Sentencing Act 2002 or the Land Transport Act 1998 for the purpose of perfecting, or giving full effect to, any sentence imposed or order made under any of the provisions of those Acts referred to in **section 355 or 356**. 25

Compare: 1957 No 87 s 9E

358 Power of Community Magistrates to decline jurisdiction

- (1) A District Court presided over by 1 or more Community Magistrates may decline jurisdiction in respect of an offence and may refer the case to a District Court presided over by a District Court Judge. 30
- (2) If, under **subsection (1)**, a District Court declines jurisdiction in respect of an offence, that court must immediately adjourn the proceeding to a time and place then appointed. 35

- (3) A District Court to which a matter is referred under **subsection (1)** may complete or otherwise deal with the matter as if it had been brought before that court in the first instance.

Compare: 1957 No 87 s 9F

358A Jurisdiction of Justices and Community Magistrates to take pleas 5

- (1) Nothing in this section applies when a District Court presided over by 1 or more Justices or 1 or more Community Magistrates is exercising jurisdiction in accordance with **section 353 or 354**. 10
- (2) A District Court presided over by 1 or more Justices or 1 or more Community Magistrates may receive a plea under **section 33** from a defendant charged with an offence that is not a category 4 offence.
- (3) A District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, may require a plea under **section 35** from a defendant charged with an offence that is not a category 4 offence. 15
- (4) If the defendant indicates to the court exercising the power under **subsection (2) or (3)** that he or she wishes to plead guilty to an offence, the defendant must be brought before a Judge to enter a plea. 20

358B Jurisdiction of Justices and Community Magistrates to make and renew interim suppression orders

- (1) Nothing in this section applies when a District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, is exercising— 25
- (a) jurisdiction in accordance with **section 353 or 354**; or
- (b) the power in **section 357(a)**.
- (2) On a first appearance in court by a defendant, a District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, may make a suppression order under **subpart 3 of Part 5**. 30
- (3) On a subsequent appearance in court by a defendant, a District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, may make a suppression order under 35

subpart 3 of Part 5 if both parties agree to the making of the order.

- (4) Despite **section 212**, a suppression order made by a District Court presided over by 1 or more Justices, or 1 or more Community Magistrates in the exercise of its jurisdiction under this section may only have effect for a limited period of up to 28 days from the date on which the order is made. 5
- (5) In this section, **suppression order** has the meaning given to it in **section 198**.

*Transfer to District Court presided over by
District Court Judge* 10

359 Power to transfer matter to District Court presided over by District Court Judge

- (1) A District Court Judge may, in any case in which the District Court Judge considers it appropriate, order that any matter before a District Court presided over by 1 or more Justices or 1 or more Community Magistrates be transferred to a District Court presided over by a District Court Judge. 15
- (2) A District Court to which a matter is transferred under **subsection (1)** may complete or otherwise deal with the matter as if it had been brought before a court presided over by a District Court Judge in the first instance. 20

Compare: 1957 No 87 s 9G

Part 8

Miscellaneous and transitional provisions 25

Subpart 1—Costs orders and contempt

361 Costs orders

- (1) In this section and **section 378**,—
costs order means an order under **subsection (2)**
fail includes refuse 30
prosecution—
 (a) means any proceedings commenced by the filing of a charging document; but
 (b) does not include an appeal.

- (2) ~~If in the course of a prosecution the defendant, the defendant's lawyer, or the prosecutor fails without reasonable excuse to comply with a requirement imposed by or under this Act or any rules of court or regulations made under it, or the Criminal Disclosure Act 2008 or any regulations made under it, the court may order him or her to pay a sum in respect of the failure.~~ 5
- (1) In this section and **section 378**,—
costs order means an order under **subsection (2)**
procedural failure means a failure, or refusal, to comply with 10
a requirement imposed by or under this Act or any rules of court or regulations made under it, or the Criminal Disclosure Act 2008 or any regulations made under that Act
prosecution—
(a) means any proceedings commenced by the filing of a 15
charging document; but
(b) does not include an appeal.
- (2) A court may order the defendant, the defendant's lawyer, or the prosecutor to pay a sum in respect of any procedural failure by that person in the course of a prosecution if the court is satisfied 20
that the failure is significant and there is no reasonable excuse for that failure.
- (3) The sum must be no more than is just and reasonable in the light of the costs incurred by the court, victims, witnesses, and any other person. 25
- (4) A costs order may be made on the court's own motion, or on application by the defendant, the defendant's lawyer, or the prosecutor.
- (5) Before making a costs order, the court must give the person against whom it is to be made a reasonable opportunity to be 30
heard.
- (6) A costs order may be made even if the defendant has not yet been convicted, or is eventually discharged, or the charge is dismissed.
- (7) The court may make more than 1 costs order against the same 35
person in the course of the same prosecution.

- (8) The court may order that some or all of the amount ordered to be paid under a costs order be paid to any person connected with the prosecution.
- (9) **Subsections (2) to (8)** do not limit or affect the Costs in Criminal Cases Act 1967. 5
- 362 Contempt of court**
- (1) This section applies if any person—
- (a) wilfully insults a judicial officer, or any Registrar, or any officer of the court, or any juror, or any witness, during his or her sitting or attendance in court, or in going to or returning from the court; or 10
 - (b) wilfully interrupts the proceedings of a court or otherwise misbehaves in court; or
 - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of the hearing of any proceedings. 15
- (2) If this section applies,—
- (a) any constable or officer of the court, with or without the assistance of any other person, may, by order of a judicial officer, take the person into custody and detain him or her until the rising of the court; and 20
 - (b) the judicial officer may, if he or she thinks fit, sentence the person to—
 - (i) imprisonment for a period not exceeding 3 months; or 25
 - (ii) a fine not exceeding \$1,000 for each offence.
- (3) Nothing in this section limits or affects any power or authority of a court to punish any person for contempt of court in any case to which this section does not apply. 30
- Compare: 1957 No 87 s 206; 1961 No 43 s 401

Subpart 2—Conservation of the peace

363 Application for order for bond to keep the peace

Any person may apply to a District Court presided over by a District Court Judge for an order requiring any other person to enter into a bond, either with or without sureties, for keeping the peace, on any of the following grounds: 35

- (a) that the applicant has cause to fear that the defendant will—
- (i) do bodily harm to the applicant or his or her wife, husband, civil union partner, or de facto partner or his or her child or any member of his or her household; or 5
 - (ii) destroy or damage the applicant's house; or
 - (iii) procure any other person to do anything described in **subparagraph (i) or (ii)**; or
- (b) that the defendant has, to or in the presence of the applicant for the purpose of annoyance or provocation, or to the common annoyance of members of the public,— 10
- (i) used provoking or insulting language; or
 - (ii) exhibited any offensive writing or object; or
 - (iii) done any offensive act; or 15
- (c) that the defendant has threatened to do, or to procure some other person to do, any act that, if done, would constitute an offence under any of the following provisions of the Crimes Act 1961:
- (i) section 188(1) (which relates to wounding with intent to do grievous bodily harm): 20
 - (ii) section 189(2) (which relates to injuring with intent to injure):
 - (iii) section 196 (which relates to common assault):
 - (iv) section 267 (which relates to arson): 25
 - (v) section 269 (which relates to intentional damage):
 - (vi) section 270 (which relates to endangering transport):
 - (vii) section 271 (which relates to waste or diversion of electricity, gas, or water). 30

Compare: 1957 No 87 s 186

364 Making of order for bond

- (1) On the hearing of an application under **section 363**, the court may order the defendant to enter into a bond if it considers that there are good grounds to do so. 35
- (2) The bond—

- (a) may be either with or without sureties as the court thinks fit; and
 - (b) must be in the sum or sums that the court thinks sufficient; and
 - (c) is subject to the condition that, for the period specified by the court, the defendant keep the peace towards the applicant and refrain from doing the act feared or threatened or repeating the conduct complained of. 5
- (3) The period specified by the court for the purpose of **subsection (2)(c)** must not exceed 1 year from the date of the bond. 10
- (4) No order may be made under this section, unless—
- (a) in the case of an application under **section 363(a)**, the court is satisfied that the applicant has just cause for his or her fear; or
 - (b) in the case of an application under **section 363(b)**, the court is of the opinion that the conduct complained of is likely to be repeated and may tend to provoke a breach of the peace; or 15
 - (c) in the case of an application under **section 363(c)**, the court is satisfied that there is just cause for fear that the defendant will, if not prevented, carry the threats into execution. 20

Compare: 1957 No 87 s 187(1), (2)

365 Form of, and entering into, bond

- (1) A bond under **section 364** must be entered into by any of the parties to it before a District Court Judge, Justice, Community Magistrate, or Registrar of a District Court. 25
- (2) It is not necessary for all the parties to the bond to be present at the same time or place, and more than 1 copy or form of the bond may be authenticated. 30
- (3) The persons before whom a bond is entered into must give each of the persons entering into it before him or her a notice in accordance with rules of court.
- (4) If a surety or sureties are required, the court may at any time, if it is satisfied that the defendant is unable to obtain the surety or sureties, order that the surety or, as the case may be, any or all of the sureties be dispensed with. 35

Compare: 1957 No 87 s 187(3), (4)

366 Making of order for bond where person charged with offence

- (1) This section applies if—
- (a) a person is charged before a District Court presided over by a District Court Judge with an offence; and 5
 - (b) the evidence establishes 1 or more grounds that would justify the making of an order for a bond for keeping the peace.
- (2) Whether or not the defendant is convicted of the offence and whether or not any penalty is imposed on the defendant in respect of the offence, the court may make an order under **section 364** as if an application had been made under **section 363**. 10

Compare: 1957 No 87 s 188

367 Refusal to enter into bond 15

- (1) If a defendant refuses to enter into a bond for keeping the peace when ordered or fails to obtain a surety or sureties as required by the order, the court may order that he or she be committed to a prison for any period not exceeding 2 months.
- (2) Despite **subsection (1)**, a defendant who has failed to obtain the required surety or sureties must not be ordered to be committed to a prison if the defendant satisfies the court that he or she has taken reasonable steps to obtain them. 20
- (3) A defendant who has been committed to a prison must be immediately released if he or she enters into the bond, or obtains the required surety or sureties, or before the expiry of the period of his or her detention satisfies a District Court presided over by a District Court Judge that he or she has taken reasonable steps to obtain the surety or sureties. 25

Compare: 1957 No 87 s 189

30

368 Persons imprisoned in default of finding sureties may be released on death of person for whose protection order made

- (1) This section applies if—
- (a) the person for whose protection a District Court has required the defendant to find a surety or sureties of the peace dies; and 35

- (b) the defendant is then in a prison in default of finding the surety or sureties.
- (2) A District Court presided over by a District Court Judge may, if it thinks fit, order that the defendant be released from custody without finding the surety or sureties. 5
- Compare: 1957 No 87 s 190

369 Forfeiture of bond

- (1) Any person who has obtained an order requiring any other person to enter into a bond for keeping the peace may apply to a District Court presided over by a District Court Judge for an order for forfeiture of the bond on the ground that the other person has failed to keep the condition of the bond. 10
- (2) On the filing of the application the Registrar must—
- (a) fix a time and place for the hearing of the application; and 15
- (b) not less than 5 working days before the time fixed, cause to be served on every person bound by the bond a notice of that time and place.
- (3) **Subsection (4)** applies if on the hearing of any application made under this section it is proved to the satisfaction of the court that the condition of the bond has not been kept. 20
- (4) The court may make an order that the bond is forfeit to the amount that it thinks fit as to any person bound by the bond on whom notice is proved to have been served in accordance with this section. 25
- (6) Any penalty payable in accordance with this section is recoverable as if it were a fine.
- Compare: 1957 No 87 s 191

Subpart 3—Miscellaneous provisions

- 370 Registrar who is also constable** 30
- A Registrar who is also a constable has no jurisdiction to exercise any power or take any step in his or her capacity as a Registrar in a proceeding in which he or she has exercised any power or taken any step in his or her capacity as a constable.

371 Witnesses' expenses

- (1) The court may order any party at whose instance a witness appears at the court to pay the costs and expenses of that witness, in accordance with regulations made under this Act.
- (2) An order under this section may be enforced in the same manner as a fine. 5

Compare: 1957 No 87 s 73

372 Conviction not to be recorded for infringement offences

- (1) If a defendant is found guilty of, or pleads guilty to, an infringement offence (whether or not an infringement notice has been issued), the court— 10
- (a) must not convict the defendant; but
 - (b) may order the defendant to pay any fine and costs and may make any other order that the court would be authorised to order or make on convicting the defendant of that offence. 15
- (2) Every reference in this or any other Act, or in any regulation or bylaw, to a conviction for an offence is, in relation to an infringement offence, deemed to be a reference to—
- (a) an order that the defendant pay a fine and costs under **subsection (1)(b)**; or 20
 - (b) a deemed order that the defendant pay a fine and costs under section 21(5) or 21(5A) of the Summary Proceedings Act 1957.
- (2A) However, **sections 233, 248, and 250** do not apply to any deemed order that the defendant pay a fine and costs under section 21(5) or (5A) of the Summary Proceedings Act 1957. 25
- (3) **Subsection (1)** overrides any other provision of this Act or any other Act. 30

Compare: 1957 No 87 s 78A

373 Person sentenced, etc, deemed to be convicted

Except as otherwise ordered by the court or as specifically provided under any other provision of this Act, if a court proceeds to sentence a defendant or make an order under section 108 or 110 of the Sentencing Act 2002 but does not make an order 35

convicting the defendant, the defendant is deemed to be convicted.

374 Restitution of property

- (1) If a person is convicted of an offence, any property found in his or her possession, or in the possession of any other person for him or her, may be ordered by the court to be delivered to the person who appears to the court to be entitled to it. 5
- (2) If an order is made under **subsection (1)**, and it appears to the court that a purchaser has bought the property in good faith and without knowledge that it was dishonestly obtained, the court may order that on the restitution of the property the offender must pay to the purchaser a sum not exceeding the amount paid by the purchaser. 10
- (3) If, on the arrest of the offender, any money was taken from him or her, the court may in its discretion order the whole or any part of the money to be applied to any payment required to be made under **subsection (2)**. 15
- (4) An order for payment under **subsection (2)** may be enforced in the same manner as a fine.
- (5) An order for payment under **subsection (2)** does not affect the right of any person to recover by civil proceedings any sum in excess of the amount received under the order. 20
- (6) If a person is convicted of having stolen or dishonestly obtained any property, and it appears to the court that the property has been pawned to a pawnbroker, the court may order the pawnbroker to deliver it to the person appearing to the court to be entitled to it, either on payment or without payment to the pawnbroker of the amount of the loan or any part of the loan, as the court in all the circumstances of the case considers just. 25
- (7) Before an order is made for the delivery of the property without payment to the pawnbroker under **subsection (6)**, the pawnbroker must be given an opportunity to be heard. 30
- (8) If a person in whose favour any order under **subsection (6)** is made, by that order, obtains the property, that person may not afterwards question the validity of the pawn. 35
- (9) Except as provided in **subsection (8)**, an order made under this section—

- (a) has no further effect than to change the possession; and
- (b) does not prejudice any right of property, or any right of action in respect of any property, existing or acquired in the goods either before or after the offence was committed.

5

Compare: 1961 No 43 s 404

375 Who may take affidavit

An affidavit required for the purposes of this Act may be sworn or affirmed before any judicial officer or Registrar or before any lawyer not engaged in the proceedings.

10

Compare: 1957 No 87 s 202

376 Proceedings not to be questioned for want of form

No charging document, summons, conviction, sentence, order, bond, warrant, or other document, and no process or proceeding may be dismissed, set aside, or held invalid by any court by reason only of any defect, irregularity, omission, or want of form unless the court is satisfied that there has been a ~~substantial~~ miscarriage of justice.

15

Compare: 1957 No 87 s 204

377 Proceedings not invalid because defendant should have been dealt with in Youth Court

20

- (1) No conviction or order or other process or proceeding is invalid by reason only that at the time the defendant was convicted the defendant should by reason of his or her age have been dealt with in a Youth Court.

25

- (2) If **subsection (1)** applies, on the application of either party a retrial of the charge may be granted under **section 108**.

- (3) If at the time appointed for the retrial the defendant is still a child or young person within the meaning of the Children, Young Persons, and Their Families Act 1989, the court must remit the proceedings to a Youth Court to be dealt with in that Court.

30

Compare: 1957 No 87 s 205

378 Payment of fees, fines, etc

- (1) Section 208 of the Summary Proceedings Act 1957 applies to all fees, fines, reparation, costs, and other money payable on any proceedings commenced by the filing of a charging document. 5
- (2) **Section 361** and this section override every enactment other than the Diplomatic Privileges and Immunities Act 1968 and the Consular Privileges and Immunities Act 1971 (whether passed before or after the commencement of this section) having the effect of granting people of any description, or the holders of stated offices or positions, protection or immunity from criminal or civil liability (or both). 10

379 Payment and recovery of fees

- (1) All prescribed fees must be paid in the first instance by the party on whose behalf any proceedings are taken. 15
- (2) Subject to **subsection (4)**, no judicial officer or Registrar may do any act for which a prescribed fee is payable unless the fee is first paid.
- (3) No act referred to in **subsection (2)**, if done without the prescribed fee being first paid, is invalid by reason only of the non-payment of the fee. 20
- (4) Except as provided in regulations made under this Act, no fee is payable by any of the following persons in respect of proceedings instituted by that person in the execution of his or her duty: 25
- (a) a constable:
 - (b) a duly appointed officer or employee of the Crown or of any local authority or other statutory public body or board.
- (5) In default of the payment of any prescribed fees by the person by whom they are payable in the first instance, the amount is recoverable as a debt due to the Crown. 30
- (6) A fee referred to in **subsection (1)** must be paid in the first instance either to— 35
- (a) a Registrar; or
 - (b) any person nominated by the chief executive of the department for the time being responsible for the admin-

istration of this Act as a person who may receive payments under this section.

- (7) Any sum received under this section by a Registrar or person nominated under subsection (6)(b) must be paid by him or her into a Departmental Bank Account or a Crown Bank Account, in accordance with the Public Finance Act 1989. 5

Compare: 1957 No 87 s 207

380 Enforcement of fines

- (1) If a District Court imposes 1 or more fines, Part 3 of the Summary Proceedings Act 1957 applies. 10
- ~~(2) If the High Court imposes 1 or more fines, sections 19AA to 19F of the Crimes Act 1961 apply.~~
- (2) If the High Court imposes 1 or more fines, section 19 of the Crimes Act 1961 applies.
- (3) In this section and **section 380A**, **fine** has the meaning given to it in section 79 of the Summary Proceedings Act 1957. 15

Compare: 1947 No 16 s 28I

380A Enforcement of fines imposed or varied by appeal court

- (1) If an appeal court (within the meaning of **section 217**) imposes or varies a fine, the fine is enforceable in accordance with subsection (2) or (3). 20
- (2) If the court that imposed the sentence or made the decision or order under appeal was the District Court, Part 3 of the Summary Proceedings Act 1957 applies.
- ~~(3) In any other case, sections 19AA to 19F of the Crimes Act 1961 apply.~~ 25
- (3) In any other case, section 19 of the Crimes Act 1961 applies.

381 Application of section 173 during epidemic

- (1) While an epidemic management notice is in force, **section 173** has effect as if the reference in **subsection (3)** to the earliest opportunity is a reference to the earliest opportunity that is reasonable in the circumstances. 30
- (2) If the notice applies to only stated parts of New Zealand, **subsection (1)** applies within those parts only.
- (3) In this section, 35

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

5

Compare: 1957 No 87 s 46AC

Rules and regulations

382 Rules

- (1) The power to make rules of court under section 51C of the Judicature Act 1908 and section 122(1) of the District Courts Act 1947 includes the power to make rules regulating the practice and procedure of courts in the exercise of jurisdiction conferred by this Act. 10
- (2) Without limiting the generality of **subsection (1)**, rules made in accordance with that subsection may— 15
- (aa) prescribe the manner in which applications and notices or notifications may be made or given (including whether orally or in writing), and the manner in which they may be responded to:
- (a) prescribe the manner in which charging documents, applications, notices, and other documents are to be filed: 20
- (b) prescribe the manner in which charging documents, summons, warrants, applications, notices, and other documents are to be authenticated (including by signature or any other means): 25
- (ba) prescribe the manner in which summons, warrants, notices, and other documents are to be issued by a court, a Registrar, or any other person:
- (c) prescribe information that must be contained in charging documents, summons, warrants, applications, notices, and other documents to be filed, made, or given: 30
- (d) prescribe forms for charging documents, applications, summons, warrants, notices, and other documents, or other requirements relating to the form or presentation of documents: 35
- (e) prescribe other information that may be required in connection with proceedings to which this Act applies and

- any requirements relating to the form and presentation of that information:
- (ea) require the service of any summons, application, or other document:
 - (f) prescribe who has responsibility for serving any summons, application, or other document: 5
 - (g) prescribe who may, on behalf of a person responsible under the Act or by rules as described in **paragraph (f)**, serve any summons, application, notice, or other document: 10
 - (ga) prescribe the procedure for the service of summonses, notices, and other documents:
 - (gb) prescribe the manner of proving service:
 - (h) prescribe requirements relating to the custody of documents, exhibits, and other things connected with proceedings to which this Act applies: 15
 - (i) prescribe periods, or minimum or maximum periods, within which, or times or stages in the proceedings before or after which, steps required or permitted by the Act or the rules must, or must not, be taken: 20
 - (ja) prescribe circumstances in which a judicial officer may grant leave for applications or any other matter to be made or done later than a time prescribed in the rules:
 - (jb) impose duties on Registrars, and prescribe the manner in which Registrars must carry out any action for the purposes of this Act: 25
 - (k) prescribe procedures relating to the delivery of judgments and other decisions in proceedings to which this Act applies:
 - (l) prescribe the manner in which proceedings are to be transferred between courts: 30
 - (n) provide for the translation of documents into the Māori language and into sign language:
 - (o) prescribe matters relating to the permanent court record, including— 35
 - (i) the formal steps in a proceeding that must be recorded:
 - (ii) the manner in which the permanent court record must be maintained:

- (iii) who may discharge courts' obligations to maintain the permanent court record:
- (iv) procedures for ensuring the accuracy of the permanent court record:
- (v) procedures for correcting the permanent court record: 5
- (q) prescribe the manner in which a record of oral evidence is to be authenticated:
- (qa) provide for the establishment, form, and maintenance of registers of notices of appeal and judgments, and provide for the registers to be available for inspection by members of the public in accordance with the rules: 10
- (r) provide for any other matters in respect of which rules are contemplated by this Act.
- (3) Without limiting the generality of **subsection (1)**, rules made in accordance with that subsection may provide for the use of electronic technology in relation to any matter described in **subsection (2)**. 15
- (4) Rules made in accordance with **subsection (1)** may—
 - (a) apply generally or only to a particular class of prosecutor or defendant, category of offence, class of document, or other matter or thing: 20
 - (b) apply differently to different classes of prosecutor or defendant, categories of offence, or classes of document, or on any other differential basis. 25
- (5) Rules made in accordance with **subsection (1)** may regulate the practice and procedure in proceedings under this Act in the Supreme Court, the Court of Appeal, the High Court, and District Courts (including the practice and procedure for appeals). 30
Compare: 1957 No 87 s 212

383 Regulations

- (1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
 - (a) providing that proceedings with specified features, or in relation to particular offences, or particular categories or classes of offence, are Crown prosecutions for the purposes of **subpart 2 of Part 5**: 35

- (b) prescribing, for the purpose of **section 192(1)**, the time or stage in a proceeding at which the Solicitor-General must assume responsibility for a Crown prosecution, and regulations under this paragraph may prescribe different times or stages for the assumption of that responsibility in different classes of proceeding: 5
- (ba) prescribing periods for the purposes of **sections 195, 195A, and 196**:
- (c) prescribing, for the purposes of **sections 75 and 76**, places of trial other than those specified in **sections 75(4) and 76(4)**: 10
- (d) prescribing the court fees to be paid in respect of any proceedings or any processes to which this Act applies:
- (e) prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies: 15
- (ea) prescribing the solicitors' fees payable by parties in proceedings to which this Act applies:
- (f) providing for information about proceedings under this Act to be transferred between courts, where that information is relevant to proceedings under the Domestic Violence Act 1995 or the Harassment Act 1997, including (without limitation) provision for such information to be transferred between— 20
- (i) different courts; or 25
- (ii) different divisions of the same court; or
- (iii) courts exercising civil jurisdiction and courts exercising criminal jurisdiction; or
- (iv) courts exercising original jurisdiction and courts exercising appellate jurisdiction: 30
- (g) amending Schedule 1 by adding offences to, or removing offences from, that schedule:
- (h) prescribing transitional arrangements for the trial and sentencing of persons charged with offences that are added to or removed from Schedule 1: 35
- (ha) prescribing offences for the purposes of **section 354(1)**:

- (i) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- (2) Regulations made under **subsection (1)(d) or (e)** may—
- (a) prescribe different fees in respect of different classes of prosecutor or defendant or categories of offence, or on any other differential basis: 5
- (b) prescribe different fees in respect of a matter depending on whether electronic or other means are used in a particular circumstance. 10
- (3) Regulations made under **subsection (1)(g) or (h)**,—
- (a) if made on or before 30 June in any year, expire on the close of 31 December of that year unless they are expressly confirmed by Act of Parliament passed during that year; and 15
- (b) if made on or after 1 July in any year, expire on the close of 31 December in the following year unless they are expressly confirmed by Act of Parliament passed before the end of that following year.
- (4) The expiry of regulations made under **subsection (1)(g) or (h)** does not affect the validity of any act done pursuant to, or in accordance with, the regulations before the regulations expire. 20
- (5) Regulations made under **subsection (1)(ha)** must not be made without the concurrence of the Chief Justice and the Chief District Court Judge. 25
- Compare: 1957 No 87 s 212

Subpart 4—Transitional and savings provisions

Transitional provisions regarding sentence indications 30

385 Application of provisions regarding sentence indications to existing proceedings

The provisions specified in **section 2(1)(b)** apply to any proceeding commenced before the commencement of those provisions if the trial, or summary hearing at which the charge will be determined, has not begun. 35

385A Transitional provision regarding terminology in relation to sentence indication provisions

- (1) This section applies if an Order in Council is made under **section 2(1)** bringing the provisions specified in **section 2(1)(b)** into force before the date appointed under **section 2(2)** or provided by **section 2(3)**. 5
- (2) Until the date appointed under **section 2(2)** or provided by **section 2(3)**, any reference in those provisions to a charge must be read as a reference to the information or indictment charging the defendant. 10

*Transitional provisions regarding public access
and restrictions on reporting*

386 Transitional provision regarding terminology in relation to public access and restrictions on reporting

- (1) This section applies if an Order in Council is made under **section 2(1)** bringing the provisions specified in **section 2(1)(c)** into force before the date appointed under **section 2(2)** or provided by **section 2(3)**. 15
- (1A) Until the date appointed under **section 2(2)** or provided by **section 2(3)**, **section 200(2)** applies as if instead of the reference in that section to **section 97** of this Act, there was a reference to section 185C of the Summary Proceedings Act 1957. 20
- (2) Until the date appointed under **section 2(2)** or provided by **section 2(3)**, **section 210(1)** applies as if, instead of **paragraph (a)** of that subsection, there were the following paragraph: 25
- “(a) the Registrar—
- “(i) adjourns the hearing of an information under section 45A of the Summary Proceedings Act 1957; 30
- or
- “(ii) grants a defendant bail under section 28 of the Bail Act 2000; or
- “(iii) remands a defendant in custody under section 46(2) of the Summary Proceedings Act 1957; 35
- and”.

- (3) Until the date appointed under **section 2(2)** or provided by **section 2(3)**, **section 215** must be read as if the offences prescribed in that section were punishable on summary conviction.

386A Application of amendments made by section 387 5

- (1) The amendments made by **section 387** apply in relation to a proceeding for an offence that was commenced before **section 387** came into force in accordance with the provisions of **sections 389 and 391 to 393**.
- (2) **Sections 389 and 391 to 393** apply for the purpose of this section,— 10
- (a) as if the commencement date referred to in those sections were the date on which this section comes into force; and
- (b) with any other necessary modifications. 15

386B Transitional provision regarding appeals by members of media

- (1) This section applies in relation to a proceeding for an offence that was commenced after the commencement of **subpart 3 of Part 5** and before the commencement of **subpart 7 of Part 6**. 20
- (2) Until the commencement of **subpart 7 of Part 6**, a person described in **section 214(1)** may appeal against a decision or order made under **subpart 3 of Part 5** to which any of the following enactments apply: 25
- (a) section 379A(1)(ba) or 383(1)(b) of the Crimes Act 1961;
- (b) section 28E(2B) of the District Courts Act 1947;
- (c) section 115C(1) of the Summary Proceedings Act 1957.
- (3) The enactments referred to in **subsection (2)(a) to (c)** apply 30 for the purpose of this section with the necessary modifications.
- (4) **Section 389(3)** (which sets out when a proceeding has commenced) applies for the purpose of this section whether or not **section 389(3)** has itself been brought into force. 35

387 Consequential amendments relating to public access and restriction on reporting provisions

The enactments set out in **Schedule 1A** are amended in the manner set out in that schedule.

Transitional and savings provisions in relation to provisions brought into force under section 2(2) or 2(3) 5

388AA Meaning of commencement date

In **sections 388 to 394**, the **commencement date** means the date appointed under **section 2(2)** or, if no such date is appointed, the date provided in **section 2(3)**. 10

388 Cities, boroughs, and other places appointed for District Courts under District Courts Act 1947

(1) Any city, borough, or other place that immediately before the commencement date was appointed under section 4(2) of the District Courts Act 1947 as a place at which District Courts may be held for the exercise of summary criminal jurisdiction under the Summary Proceedings Act 1957 is deemed to be appointed as a place at which District Courts may be held for the conduct of Judge-alone trials under this Act. 15 20

(2) Any city, borough, or other place that immediately before the commencement date was appointed under section 4(2A) of the District Courts Act 1947 as a place at which District Courts may be held for the exercise of criminal jurisdiction in respect of indictable offences under Part 2A of the District Courts Act 1947 is deemed to be appointed as a place at which District Courts may be held for the conduct of jury trials under this Act. 25

388A Savings provision in relation to warrants held under section 28B of District Courts Act 1947 30

Any warrant of appointment held under section 28B of the District Courts Act 1947 immediately before the commencement date is, on and after that date, to be treated as a warrant to exercise the criminal jurisdiction of the courts in respect of jury trials under this Act. 35

389 Proceedings commenced before commencement date

- (1) This section applies to proceedings—
- (a) commenced before the commencement date; and
 - (b) not finally determined (including any rehearing, retrial, or appeal) before the commencement date. 5
- (2) Subject to **sections 391 and 392**, and to the other provisions of this subpart, the proceeding must continue in accordance with the law as it was before the commencement date.
- (3) For the purposes of **subsection (1)**, a proceeding has commenced if— 10
- (a) an information has been laid in accordance with the Summary Proceedings Act 1957 in respect of an offence:
 - (b) a complaint has been made in accordance with the Summary Proceedings Act 1957: 15
 - (c) particulars of a charge have been set out in a charge sheet under section 12(2) of the Summary Proceedings Act 1957:
 - (d) a person has been served with a summons issued under section 19A of the Summary Proceedings Act 1957 but no information had yet been laid in respect of the offence: 20
 - (e) a person has been served with a summons under section 19B of the Summary Proceedings Act 1957 but no information had yet been laid in respect of the offence: 25
 - (f) a notice of prosecution has been filed under section 20A(2) of the Summary Proceedings Act 1957 in respect of a minor offence:
 - (g) a notice of hearing has been filed under section 21(8) of the Summary Proceedings Act 1957: 30
 - (h) an indictment has been filed under section 345(3) of the Crimes Act 1961 in respect of the offence.

390 Proceedings commenced after commencement date

- (1) This section applies to any proceeding for an offence that is sought to be commenced on or after the commencement date. 35
- (2) Subject to **sections 392 and 394** and to any express provision to the contrary in this or any other Act the proceeding must, whether the offence was committed before or after that

date, be commenced and dealt with under the law as it is after the commencement date.

391 Absconding defendants

- (1) This section applies if—
 - (a) proceedings were commenced (in any of the ways described in **section 389(3)**) against a defendant for an offence before the commencement date; and 5
 - (b) before or after the commencement date the defendant absconded; and
 - (c) the defendant is not located until more than 6 months after the commencement date. 10
- (2) The proceedings must be conducted in accordance with the law as it is after the commencement date.
- (3) Despite **subsection (2)**, if the defendant had before the commencement date elected trial by jury, or would have had the right to elect trial by jury had the proceedings been continued under the law as it was before the commencement date, the Act applies to the defendant as if **section 48** provided the defendant the right to elect trial by jury. 15
- (4) The court may, despite anything in the Act, rules of court, or the regulations made under this Act, give any directions that the court thinks fit in the interests of justice and to avoid any undue prejudice to the defendant in the conduct of his or her defence about— 20
 - (a) the manner of doing anything required to be done under this Act, the rules, or the regulations; or 25
 - (b) the time within which any thing required to be done under this Act, the rules, or the regulations is to be done.

392 Defendants and proceedings to be tried together

- (1) This section applies if proceedings were commenced (in any of the ways described in **section 389(3)**) against a defendant for an offence before the commencement date, and after the commencement date— 30
 - (a) a charging document is filed against the defendant for an offence arising from the same transaction, or set of circumstances, or incident, or series of incidents, as the 35

- offence for which proceedings were commenced before the commencement date; or
- (b) a charging document is filed against another person charging him or her with an offence arising from the same transaction, or set of circumstances, or incident, or series of incidents, specified in the information laid against the defendant, and the prosecutor wishes the charges against both defendants to be heard together. 5
- (2) The proceedings against the defendant or defendants must be conducted in accordance with the law as it was before the commencement date as if any charging document filed under this Act were an information laid and filed under the Summary Proceedings Act 1957. 10
- (3) The prosecutor must give a notice to the court and the defendant or defendants stating whether the charging document referred to in **subsection (2)** is to be treated as an information in form 1 of Schedule 1 of the Summary Proceedings Act 1957 or an information in form 2 of Schedule 1 of that Act. 15
- 393 No proceeding invalid if wrongly conducted in accordance with old law** 20
 No proceeding is invalid only because it was conducted under the law as it was before the commencement date when it ought, in accordance with any provision of this subpart, to have been conducted in accordance with the law as it is after the commencement date. 25
- 393A Transitional provision regarding withdrawal of warrants to arrest**
Section 168 applies to any warrant of a kind referred to in that section whether it was issued before or after the commencement date. 30
- 393B Transitional provision regarding dealing with witness arrested under warrant**
Section 169 applies to a warrant of a kind referred to in that section whether the warrant was issued before or after the commencement date. 35

393C Transitional provision regarding correction of erroneous sentence

- (1) **Sections 185 to 187** apply to a sentence imposed or an order made before or after the commencement date.
- (2) Nothing in **subsection (1)** affects— 5
- (a) any application made under section 372(1) of the Crimes Act 1961 before the commencement date; or
- (b) any process underway under section 77 of the Summary Proceedings Act 1957 immediately before the commencement date to correct a sentence. 10

394 Limitation periods

Despite **section 22**, if a charging document filed on or after the commencement date alleges the commission of an offence before the commencement date, the limitation period applicable to the filing of that charging document is that which would have applied under the law as it was before the commencement date. 15

395 Retrial following acquittal in summary proceedings

For the purposes of **sections 151 and 154**, if the proceedings that are the subject of the application were summary proceedings under the Summary Proceedings Act 1957, dismissal of a charge under **section 147** must be read as a reference to the dismissal or discharge of an information. 20

*Other transitional matters***396 Transitional provision relating to abandonment of appeals to Court of Appeal** 25

- (1) This section applies to a criminal appeal to the Court of Appeal if—
- (a) the appeal is pending before the court when this section comes into force; or 30
- (b) a notice of application for leave to appeal or notice of appeal is filed for the appeal on or after the commencement of this section.

- (2) **Sections 338 and 339** are deemed to be in force for the purpose of, and to apply to, every appeal to which this section applies.

399 Regulations providing for transitional matters

- (1) The Governor-General may, by Order in Council, make regulations— 5
- (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 and of any of the following enactments: 10
- (i) **sections 401 to 407A:**
- (ii) **sections 407B to 407D:**
- (iii) **sections 410B to 411B:**
- (iv) **sections 417A to 417C:** 15
- (v) **sections 434 to 437B:**
- (b) to facilitate the bringing into force of any regulations under this Act:
- (c) providing that subject to such conditions as are specified in the regulations, during a specified transitional period,— 20
- (i) specified provisions of this Act (including definitions) do not apply:
- (ii) specified terms have the meanings given to them by the regulations: 25
- (iii) specified provisions repealed or amended or revoked 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 30 of this Act.
- (2) No regulations made under this section may be made, or continue in force, later than 2 years after the commencement date as defined in **section 388AA**.

400 Regulations making consequential amendments

The Governor-General may, by Order in Council made on the recommendation of the Minister of Justice, make regulations 35

under this section that amend any enactment made or enacted before the commencement date as defined in **section 388AA** for the purposes of making that enactment consistent with this Act, by omitting or modifying references to:

- (a) the Summary Proceedings Act 1957: 5
- (b) “summary conviction” or “conviction on indictment” or any related terminology:
- (ba) “summary offence” or any related terminology:
- (bb) the “laying of a complaint” or any related terminology:
- (c) “an information” or “an informant”, or any related terminology. 10

400A Expiry of sections 399 and 400

Sections 399 and 400 expire 2 years after the commencement date as defined in **section 388AA**.

Part 9

15

Amendments to other enactments

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Criminal Justice Act 1985

416 Criminal Justice Act 1985 repealed

The Criminal Justice Act 1985 (1985 No 120) is repealed.

Criminal Justice Regulations 1985

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417 Criminal Justice Regulations 1985 revoked

The Criminal Justice Regulations 1985 (SR 1985/232) are revoked.

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Amendments to other enactments

442 Amendments to other enactments

The enactments set out in **Schedule 6** are amended in the manner set out in that schedule.

Schedule 1**s 6****Category 4 offences***Part 1—Offences against Crimes Act 1961*

Section	Offence
Section 68(1)	Party to murder outside New Zealand
Section 68(2)	Inciting murder outside New Zealand (not committed)
Section 69(1)	Party to crime of treason, inciting to mutiny, or espionage outside New Zealand
Section 69(2)	Inciting treason, mutiny, or espionage outside New Zealand (not committed)
Section 73	Treason (or conspiracy to commit treason)
Section 74(3)	Attempted treason
Section 76	Accessory to, or failure to prevent, treason
Section 77	Inciting to mutiny
Section 78	Espionage
Section 79(1)	Sabotage
Section 92(1)	Piracy
Section 95	Attempts to commit piracy
Section 96	Conspiring to commit piracy
Section 98(1)	Dealing in slaves
Section 100	Judicial corruption
Section 101	Bribery of judicial officer, etc
Section 102	Corruption and bribery of Minister of the Crown
Section 103	Corruption and bribery of member of Parliament
Section 172	Murder
Section 173	Attempted murder
Section 174	Attempting to procure murder (not committed)
Section 175	Conspiracy to murder
Section 177	Manslaughter
Section 178	Infanticide

*Part 2—Offences against other enactments***Anti-Personnel Mines Prohibition Act 1998****5**

Section	Offence
Section 7	Using, etc, an anti-personnel mine

Part 2—*continued***Aviation Crimes Act 1972**

Section	Offence
Section 3	Hijacking
Section 5	Other crimes relating to aircraft
Section 5A	Crimes relating to international airports

Chemical Weapons (Prohibition) Act 1996

Section	Offence
Section 6	Chemical weapons
Section 8	Riot control agents

Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980

Section	Offence
Section 3	Crimes against persons
Section 4	Crimes against premises or vehicles
Section 5	Threats against persons
Section 8	Hostage-taking

Crimes of Torture Act 1989

5

Section	Offence
Section 3	Acts of torture

Geneva Conventions Act 1958

Section	Offence
Section 3(1)	Grave breaches of Conventions or First Protocol

International Crimes and International Criminal Court Act 2000

Section	Offence
Section 9	Genocide
Section 10	Crimes against humanity

Part 2—*continued*

Section	Offence
Section 11	War crimes
Section 15	Corruption of a Judge
Section 16	Bribery of a Judge
Section 17	Corruption and bribery of an official of the ICC
Section 18	Giving false evidence before the ICC
Section 19	Fabricating evidence before the ICC
Section 20	Conspiracy to defeat justice in the ICC
Section 21	Interference with witnesses or officials of the ICC

Maritime Crimes Act 1999

Section	Offence
Section 4	Crimes relating to ships
Section 5	Crimes relating to fixed platforms

Mercenary Activities (Prohibition) Act 2004

Section	Offence
Section 7	Recruiting a person to be a mercenary
Section 8	Using a mercenary
Section 9	Financing a mercenary
Section 10	Training a prospective mercenary
Section 11	Training a mercenary
Section 12	Taking part as a mercenary in hostilities in an armed conflict or in a concerted act of violence

New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987

Section	Offence
Sections 5–8, 14	Offences against Act

Nuclear-Test-Ban Act 1999

Section	Offence
Section 5	Nuclear explosions prohibited

5

Part 2—*continued***Terrorism Suppression Act 2002**

Section	Offence
Section 6A	Engaging in a terrorist act
Section 7	Terrorist bombing
Section 8	Financing of terrorism
Section 9	Prohibition on dealing with property of, or derived or generated from property of, designated terrorist entity
Section 10	Prohibition on making property, or financial or related services, available to designated terrorist entity
Section 12	Recruiting members of terrorist groups
Section 13	Participating in terrorist groups
Section 13A	Harbouring or concealing terrorists
Section 13B	Offences involving use and movement of unmarked plastic explosives
Section 13C	Offences involving physical protection of nuclear material
Section 13D	Importation, acquisition, etc, of radioactive material
Section 13E	Offences involving radioactive material and radioactive devices

Schedule 1A

s 387

**Consequential amendments relating to
public access and restrictions on reporting
provisions**

Armed Forces Discipline Act 1971 (1971 No 53)

5

Heading to section 145: omit “sections 139 to 141 of Criminal Justice Act 1985” and substitute “**subpart 3 of Part 5 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 145: omit “sections 139 to 141 of Criminal Justice Act 1985 apply to the extent that they are” and substitute “**subpart 3 of Part 5 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies to the extent that it is”.

10

Court Martial Act 2007 (2007 No 101)

Section 44(4)(j): omit “any of sections 139 to 141 of the Criminal Justice Act 1985” and substitute “**subpart 3 of Part 5 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

15

Court Martial Appeals Act 1953 (1953 No 100)

Section 7(5)(j): omit “any of sections 139 to 141 of the Criminal Justice Act 1985” and substitute “**subpart 3 of Part 5 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

20

Crimes Act 1961 (1961 No 43)

Section 375A: repeal.

Section 378E(3): repeal and substitute:

“(3) For the purposes of subsection (2), **subpart 3 of Part 5 of the Criminal Procedure (Reform and Modernisation) Act 2010**, so far as it is applicable, applies with the necessary modifications.”

25

Section 379A(1)(ba): omit “paragraph (a) or paragraph (b) of section 138(2) or section 140 of the Criminal Justice Act 1985” and substitute “**section 204, 206, or 209 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

30

Criminal Justice Act 1985 (1985 No 120)

Sections 138 to 141: repeal.

District Courts Act 1947 (1947 No 16)

Section 28E(2B): omit “paragraph (a) or paragraph (b) of section 138(2) or section 140 of the Criminal Justice Act 1985” and substitute “**section 204, 206, or 209** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

5

Evidence Act 2006 (2006 No 69)

Section 116(3)(b): omit “section 138 of the Criminal Justice Act 1985” and substitute “**section 201** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Land Transport Act 1998 (1998 No 110)

10

Section 66: repeal.

Parole Act 2002 (2002 No 10)

Section 107G(10): omit “Sections 138 to 141 of the Criminal Justice Act 1985 (which relate generally to name suppression) apply” and substitute “**Subpart 3 of Part 5** of the **Criminal Procedure (Reform and Modernisation) Act 2010** (which relates generally to name suppression) applies”.

15

Sentencing Act 2002 (2002 No 9)

Section 112(6): omit “Section 140 of the Criminal Justice Act 1985” and substitute “**Section 206** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

20

Summary Proceedings Act 1957 (1957 No 87)

Heading to section 9E: add “, and **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 9E(a): repeal and substitute:

25

“(a) power to make orders of any kind provided under **section 201 or 209** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, subject to **section 202** of that Act.”.

Section 9E(b): repeal and substitute:

30

“(b) power to make orders of any kind provided under **section 204 or 206** of the **Criminal Procedure (Reform and Modernisation) Act 2010**.”.

Summary Proceedings Act 1957 (1957 No 87)—*continued*

Section 36(1B): repeal.

Section 45A(2): repeal and substitute:

“(2) If an adjournment is granted under subsection (1), the present conditions of bail (if any) continue, subject to section 34 of the Bail Act 2000, to the adjourned date of hearing.” 5

Section 46A: repeal.

Section 115C(1): omit “paragraph (a) or paragraph (b) of section 138(2), or under section 140, of the Criminal Justice Act 1985” and substitute “**section 204, 206, or 209** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 156(2): repeal and substitute:

“(2) If an adjournment is granted under subsection (1), the present conditions of bail (if any) continue, subject to section 34 of the Bail Act 2000, to the adjourned date of hearing.”

Section 185E: repeal. 15

Section 185F: omit “or 185E”.

Section 185F: omit “, or under section 138 of the Criminal Justice Act 1985,”.

Victims’ Rights Act 2002 (2002 No 39)

Section 28(1): omit “section 140 of the Criminal Justice Act 1985” 20 and substitute “**section 204** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

• • • • •

Schedule 6**s 442****Amendments to other enactments**

Part 1

Amendments to public Acts

Accident Compensation Act 2001 (2001 No 49)	5
Section 242(1): insert “on conviction” after “liable”.	
Section 313: repeal and substitute:	
“ 313 Charges	
“(1) Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 ,	10
the limitation period in respect of an offence against this Act, or any regulations made under it, ends on the date that is 5 years after the termination of the year in which the offence was committed.	
“(2) A charging document may charge the defendant with any number of offences against this Act (whether arising under this section or otherwise) or against regulations made under this Act.	15
“(3) A charging document that charges more than 1 such offence must set out separately the particulars of each offence charged.	
“(4) Multiple charges must be heard together unless the court,	20
either before or at any time during the trial, considers it just that any charge should be heard separately and makes an order to that effect.”	
Heading above section 314: repeal.	
Section 314: repeal.	25
Adoption Act 1955 (1955 No 93)	
<u>Heading to section 27: omit “Summary offences” and substitute “Offences”.</u>	
Section 27(2): omit “summary”.	
<u>Section 27A(2): omit “on indictment”.</u>	30

Part 1—*continued***Agricultural Compounds and Veterinary Medicines Act 1997
(1997 No 87)**

Section 54: repeal and substitute:

“54 Appeals to Court of Appeal

Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010 applies as far as applicable with the necessary modifications to a decision of the High Court on an appeal under section 46 as if the decision had been made under **section 304** of that Act.”

Section 55(5): repeal and substitute:

“(5) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this section ends on the date that is 4 years after the date on which the offence was committed.”

Section 56(1): omit “summary”.

Section 56(1A): omit “summary”.

Section 56(2): omit “summary”.

Section 56(3): omit “summary”.

Airport Authorities Act 1966 (1966 No 51)

Section 9(8): omit “summary”.

Section 9D(3): omit “summary”.

Section 9D(4): omit “summary”.

Alcoholism and Drug Addiction Act 1966 (1966 No 97)

Section 23: omit “the Summary Proceedings Act 1957 in respect of appeals from convictions or orders” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** in respect of appeals against sentence”.

Section 23: omit “detention within the meaning of the Summary Proceedings Act 1957” and substitute “imprisonment”.

Section 24: insert “on conviction” after “liable”.

Section 36: insert “on conviction” after “liable”.

Section 37: repeal.

Part 1—*continued***Animal Products Act 1999 (1999 No 93)**

- Section 126(3): repeal.
- Section 126(4) and (5): insert “on conviction” after “liable”.
- Section 127(2): repeal.
- Section 127(3): insert “on conviction” after “liable”. 5
- Section 128(3): repeal.
- Section 128(5): insert “on conviction” after “liable”.
- Section 129(3): omit “summary”.
- Section 130(2): repeal.
- Section 130(3): insert “on conviction” after “liable”. 10
- Section 131(3): repeal.
- Section 131(4) and (5): insert “on conviction” after “liable”.
- Section 132(2): omit “summary”.
- Section 133(3): omit “summary”.
- Section 134(2): omit “summary”. 15
- Section 135(3): omit “summary”.
- Section 145: repeal and substitute:
- “145 Time limit for filing charging document for offence against section 129 or 135**
- “(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against section 129 or 135 of this Act ends on the date that is 2 years after the date on which the offence was committed. 20
- “(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.” 25

Animal Welfare Act 1999 (1999 No 142)

- Section 7(2): omit “accused” and substitute “defendant”. 30
- Section 25: omit “summary”.
- Section 28(3): omit “on indictment”.
- Section 28A(3): omit “on indictment”.

Part 1—*continued***Animal Welfare Act 1999 (1999 No 142)**—*continued*

Section 36(2): omit “summary”.	
Section 37: omit “summary”.	
Section 40(3): omit “summary”.	
Section 54(2): omit “summary”.	
Section 119: omit “summary”.	5
Section 130(3): omit “summary”.	
Section 137(2): omit “information” and substitute “charge”.	
Section 152(2): omit “summary”.	
Section 157(4): omit “summary”.	
Section 159(2): omit “summary”.	10
Section 160(2): omit “summary”.	
Section 161(a): repeal and substitute:	
“(a) be proceeded against by filing a charging document under section 12 of the Criminal Procedure (Reform and Modernisation) Act 2010 ; or”.	15
Section 162(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.	
Section 167: repeal and substitute:	
“ 167 Time for filing charging document for offence against section 54 or 130	20
“(1) Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 , the limitation period in respect of an offence against section 54 or 130 of this Act ends on the date that is 2 years after the date on which the offence was committed.	25
“(2) Nothing in subsection (1) affects the application of section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 in relation to any offence not mentioned in that subsection.”	
Section 168: repeal and substitute:	30
“ 168 Inspector may conduct proceedings	
“(1) Subsection (2) applies if proceedings have been commenced by—	

Part 1—*continued***Animal Welfare Act 1999 (1999 No 142)**—*continued*

“(a) the filing of a charging document in the name of an inspector; or

“(b) the filing of a notice under section 21 of the Summary Proceedings Act 1957.

“(2) Despite **section 10** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, an inspector (not necessarily the inspector who commenced the proceedings) may appear and conduct the proceedings against the defendant.” 5

New section 168A: insert after section 168:

“**168A Burden of proof of reasonable excuse** 10

In proceedings for an offence against any of sections 14, 21, 22, 23, 34, 35, 36, 54, and 130,—

“(a) the prosecutor need not assert absence of reasonable excuse in the charging document; and

“(b) the burden of proving that the defendant had a reasonable excuse lies on the defendant.” 15

Section 169B(2): omit “summary”.

Antarctic Marine Living Resources Act 1981 (1981 No 53)

Section 7(1): omit “summary”.

Section 13(3): omit “summary”. 20

Antarctica Act 1960 (1960 No 47)

Heading to section 3: omit “**Crimes**” and substitute “**Offences**”.

Section 3: omit “a crime” in each place where it appears and substitute in each case “an offence”.

Proviso to section 3(3): omit “the crime” and substitute “the offence”. 25

Heading to section 4: omit “**Crimes**” and substitute “**Offences**”

Section 4(2) omit “a crime” in each place it appears and substitute in each case “an offence”.

Antarctica (Environmental Protection) Act 1994 (1994 No 119) 30

Section 10(3): omit “summary”.

Part 1—*continued***Antarctica (Environmental Protection) Act 1994 (1994 No 119)**—*continued*

- Section 15: omit “on indictment”.
- Section 24(3): omit “summary”.
- Section 33(1): omit “summary”.
- Section 37(1): omit “summary”.
- Section 38(3): omit “summary”. 5
- Section 45(3): omit “an information to be laid” and substitute “a charging document to be filed”.
- Section 45(6): omit “32(3), 32(4), 33(1), 33(2), 36, 37(1), 37(3), and 37(4)” and substitute “31(1), 31(4), 32(1), 32(2), 37, and 38”.
- Section 46(1)(a): omit “lay any information” and substitute “file a charging document”. 10
- Section 46(1)(b): omit “an information is laid” and substitute “a charging document is filed”.
- Section 46(2): omit “an information to be laid” and substitute “a charging document to be filed”. 15
- Section 46(3)(a): omit “lay an information” and substitute “file a charging document”.
- Section 46(3)(b): omit “an information has been laid” and substitute “a charging document has been filed”.
- Section 47: omit “summary”. 20
- Section 55(4): omit “summary”.

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)

- Section 99: repeal and substitute:
- “99 Time limit for prosecution of offences relating to civil liability act and suspicious transaction reports** 25
- Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence under any of sections 91 to 97 of this Act ends on the date that is 3 years after the date on which the offence was committed.” 30

Part 1—*continued***Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)**—*continued*

Section 104: repeal and substitute:

“104 Time limit for prosecution of offences relating to non-compliance with AML/CFT requirements

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,
the limitation period in respect of an offence under any of sections 101 to 103 of this Act ends on the date that is 3 years after the date on which the offence was committed.”

Section 112: omit “summary”.

Section 113(2): omit “an information has been laid” and substitute
“a charging document has been filed”.

Anti-Personnel Mines Prohibition Act 1998 (1998 No 111)

Section 7(3): omit “on indictment”.

Section 13(4): omit “summary”.

Section 15(2): omit “summary”.

Section 16(2): omit “summary”.

Section 20(4): omit “summary”.

Section 24(3): omit “summary”.

Section 26(1)(b): omit “summary”.

Armed Forces Discipline Act 1971 (1971 No 53)

Definition of **civil court** in section 2(1): omit “; and includes a court of summary jurisdiction”.

Section 20(3)(b): omit “an indictment or information may be laid” and substitute “a charging document may be filed”.

Section 185(2): repeal and substitute:

“(2) Once a certificate under subsection (1) is filed, the fine may be enforced in accordance with Part 3 of the Summary Proceedings Act 1957.”

Section 188(4): omit “discharge the accused” and substitute “dismiss the charge”.

Section 188(5): repeal.

Part 1—*continued***Arms Act 1983 (1983 No 44)**

Section 5(4): omit “summary”.	
Section 10(3): omit “summary”.	
Section 11(2): omit “summary”.	
Section 12(3): omit “summary”.	5
Section 15(1): omit “summary”.	
Section 16(3): omit “summary”.	
Section 17: omit “Without prejudice to section 67(8) of the Summary Proceedings Act 1957, in” and substitute “In”.	
Section 20(3): omit “summary”.	10
Section 21(2): omit “summary”.	
Section 26(3): omit “summary”.	
Section 28(5): omit “summary”.	
Section 34(3): omit “summary”.	
Section 36(3): omit “summary”.	15
Section 38(2): omit “summary”.	
Section 39(2): omit “summary”.	
Section 40(3): omit “summary”.	
Section 41(4): omit “summary”.	
Section 42(1): omit “summary”.	20
Section 43(1): omit “summary”.	
Section 43A(1): omit “summary”.	
Section 43B(1): omit “summary”.	
Section 44(1): omit “on indictment”.	
Section 45(1): omit “on indictment”.	25
Section 46(1): omit “on indictment”.	
Section 47: omit “summary”.	
Section 48: omit “summary”.	
Section 49(1): omit “summary”.	
Section 49A: omit “summary”.	30
Section 50(1): omit “on indictment”.	
Section 51(1): omit “on indictment”.	
Section 52: omit “summary” in each place where it appears.	

Part 1—*continued***Arms Act 1983 (1983 No 44)**—*continued*

Section 53: omit “on indictment” in each place where it appears.	
Section 53(4): omit “upon the indictment”.	
Section 54: omit “on indictment” in each place where it appears.	
Section 55(1): omit “on indictment”.	
Section 56: omit “summary”.	5
Section 57: omit “summary”.	
Section 58(2): omit “summary”.	
Section 59(4): omit “summary”.	
Section 61(1): omit “indictable” and substitute “category 3 or 4”.	
<u>Section 61(1): omit “indictable offence” and substitute “category 3 offence punishable by imprisonment for life or by more than 3 years’ imprisonment or a category 4 offence”.</u>	10
Section 64(1): omit “by way of case stated for the opinion of that Court”.	
Section 64(2): repeal and substitute:	15
“(2) Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010 applies as far as applicable with the necessary modifications to every appeal under this section.”	
Section 68: omit “Section 14 of the Summary Proceedings Act 1957” and substitute “ Section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 ”.	20
Atomic Energy Act 1945 (1945 No 41)	
Section 15(2): omit “summary”.	
Section 18: omit “summary”.	25
Auckland Harbour Bridge Authority Dissolution Act 1983 (1983 No 153)	
Section 7(6): omit “summary”.	
Auctioneers Act 1928 (1928 No 29)	
Section 25(1)(c): omit “, whether summarily or on indictment,”.	30
Section 41: repeal.	

Part 1—*continued***Auditor Regulation Act 2011 (2011 No 21)**

Section 8(2): omit “summary”.

Section 9(3): omit “summary”.

Section 13(3): omit “summary”.

Section 42(3): omit “summary”.

5

Section 51(4): omit “summary”.

Section 54(4): omit “summary”.

Section 58: omit “summary”.

Section 69(3): omit “summary”.

Section 71(1)(a): omit “summary”.

10

Section 71(2)(a): omit “summary”.

Section 77(3): omit “summary”.

Section 96(3): omit “summary”.

Aviation Crimes Act 1972 (1972 No 137)Definition of **conviction on indictment** in section 2(1): repeal.

15

Section 3: omit “on indictment”.

Section 4(1): omit “a crime, commits that crime” and substitute “an offence punishable by imprisonment for life or by 2 or more years’ imprisonment, commits that offence”.

Section 5: omit “on indictment”.

20

Section 5A: omit “on indictment” in each place where it appears.

Section 11: omit “on indictment” in each place where it appears.

Section 15(8): omit “summary”.

Biosecurity Act 1993 (1993 No 95)

Section 157(1): omit “on indictment”.

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Section 157(3), (4), (5), (6), and (7): omit “summary”.

Section 158(1): omit “the information for that offence was laid” and substitute “the charging document for that offence was filed”.

Section 159(1)(a): repeal and substitute:

“(a) the defendant may be proceeded against by filing a charging document under **section 12** of the **Criminal**

Part 1—*continued***Biosecurity Act 1993 (1993 No 95)**—*continued*

Procedure (Reform and Modernisation) Act 2010;
or”.

Section 159(2)(b): omit “, for the purposes of the Summary Proceedings Act 1957,”.

Section 159A(1)(a): repeal and substitute: 5

“(a) the defendant may be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010;**
or”.

Section 162: repeal and substitute: 10

“162 Time for filing charging document in relation to certain offences

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against section 154(d), (e), (ma), (o), (p), (q), (r), (s), (u), or (v), or against any regulations made under this Act, ends on the date that is 2 years after the date on which the offence was committed. 15

“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.” 20

Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

Section 89(2): omit “on indictment”. 25

Section 89(2A) and (3): omit “summary”.

Boxing and Wrestling Act 1981 (1981 No 28)

Section 8: omit “summary”.

Broadcasting Act 1989 (1989 No 25)

Section 14: omit “summary”. 30

Section 30(4): omit “summary”.

Part 1—*continued***Broadcasting Act 1989 (1989 No 25)**—*continued*

Section 30G: omit “summary”.

Section 80: omit “summary”.

Section 81(3): omit “summary”.

Building Act 2004 (2004 No 72)

Section 27(3): insert “on conviction” after “liable”.	5
Section 40(3): insert “on conviction” after “liable”.	
Section 42(3): insert “on conviction” after “liable”.	
Section 58(4): insert “on conviction” after “liable”.	
Section 63(5): insert “on conviction” after “liable”.	
Section 85(2): insert “on conviction” after “liable”.	10
Section 86(2): insert “on conviction” after “liable”.	
Section 101(3): insert “on conviction” after “liable”.	
Section 108(6): insert “on conviction” after “liable”.	
Section 114(4): insert “on conviction” after “liable”.	
Section 116B(3): insert “on conviction” after “liable”.	15
Section 124(4): insert “on conviction” after “liable”.	
Section 128(3): insert “on conviction” after “liable”.	
Section 134(4): insert “on conviction” after “liable”.	
Section 138(5): insert “on conviction” after “liable”.	
Section 140(4): insert “on conviction” after “liable”.	20
Section 145(5): insert “on conviction” after “liable”.	
Section 150(5): insert “on conviction” after “liable”.	
Section 154(4): insert “on conviction” after “liable”.	
Section 168(2): insert “on conviction” after “liable”.	
Section 199(3): insert “on conviction” after “liable”.	25
Section 206(4): insert “on conviction” after “liable”.	
Section 225(2): insert “on conviction” after “liable”.	
Section 231(2): insert “on conviction” after “liable”.	
Section 238(5): insert “on conviction” after “liable”.	
Section 270(5): insert “on conviction” after “liable”.	30
Section 314(2) and (4): insert “on conviction” after “liable”.	

Part 1—*continued***Building Act 2004 (2004 No 72)**—*continued*

Section 325(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 326(2): insert “on conviction” after “liable”.

Section 340(3): repeal and substitute: 5

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.”

Section 363(4): insert “on conviction” after “liable”. 10

Section 364(3): insert “on conviction” after “liable”.

Section 365(2): insert “on conviction” after “liable”.

Section 366(2): insert “on conviction” after “liable”.

Section 367(2): insert “on conviction” after “liable”.

Section 368(2): insert “on conviction” after “liable”. 15

Section 369(2): insert “on conviction” after “liable”.

Section 371(1)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12 of the Criminal Procedure (Reform and Modernisation) Act 2010**; or”. 20

Section 372(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 376: repeal.

Heading to section 377: omit and substitute “**Filing charging document**”. 25

Section 377: omit “lay an information” and substitute “file a charging document”.

Section 378: repeal and substitute:

“**378 Time limit for filing charging document**

Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 6 months after the date when the matter 30

Part 1—*continued***Building Act 2004 (2004 No 72)**—*continued*

giving rise to the charge first became known, or should have become known, to any of the following persons:

“(a) the chief executive; or

“(b) a territorial authority; or

“(c) a regional authority; or

“(d) any person referred to in section 176(g).”

5

Section 389(1): omit “laid the information” and substitute “commenced the proceedings”.

Section 389(6): omit “information for the offence has been laid” and substitute “proceedings for the offence were commenced”.

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Section 394(4)(c): omit “between the informant and” and substitute “with”.

Building Research Levy Act 1969 (1969 No 23)

Section 7(5) and (6): omit “summary”.

Section 12(6): omit “summary”.

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Section 16(1): omit “summary”.

Building Societies Act 1965 (1965 No 22)

Section 2(3): insert “on conviction” after “liable”.

Section 20(3): insert “on conviction” after “liable”.

Section 22(2): insert “on conviction” after “liable”.

20

Section 28(2): repeal and substitute:

“(2) Every society or person who acts in contravention of this section commits an offence and is liable on conviction to a fine not exceeding \$10 for every day during which business has been carried on without a certificate of incorporation having been obtained.

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“(3) Proceedings for an offence against this section must be commenced by the FMA.”

Section 29(5): omit “on indictment” in each place where it appears.

Section 87(2)(a) and (b) and (3): insert “on conviction” after “liable”.

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Section 89(3): insert “on conviction” after “liable”.

Section 113P(3): insert “on conviction” after “liable”.

Part 1—*continued***Building Societies Act 1965 (1965 No 22)**—*continued*

Section 116(3): insert “on conviction” after “liable”.

Section 136: insert “on conviction” after “liable”.

Section 122A(7), (8), and (9): insert “on conviction” after “liable”

Section 94(1): omit “summary”.

Section 132(2): omit “on indictment”. 5

Section 132(4): omit “An information in respect of an offence against this section may not be laid” and substitute “Proceedings in respect of an offence against this section may not be commenced”.

Section 133(1): omit “on indictment”.

Section 134: repeal. 10

Section 135: repeal and substitute:

“135 Time for filing charging document

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,—

“(a) a charging document may be filed at any time in respect of an offence against section 29(5), 132(2), or 133(1); and 15

“(b) the limitation period in respect of any other offence against this Act ends on the date that is 2 years after the date on which evidence, sufficient in the opinion of the Registrar to justify a prosecution for the offence, comes to the Registrar’s knowledge. 20

“(2) Nothing in **subsection (1)(b)** authorises the filing of a charging document in respect of an offence at a time more than 3 years after the date on which the offence was committed. 25

“(3) **Subsection (1)** is subject to **subsection (2)**.”

Burial and Cremation Act 1964 (1964 No 75)

Section 54AA: omit “summary”.

Section 54: insert “on conviction” after “liable”.

Section 55: insert “on conviction” after “liable”. 30

Proviso to section 55: omit.

Part 1—*continued***Burial and Cremation Act 1964 (1964 No 75)**—*continued*

Section 55: add as subsection (2):

“(2) Proceedings for an offence against this section may only be commenced by a member of the Police, an officer of the Ministry of Health, an officer of the Ministry of Māori Development, a member or officer of a local authority, or a trustee, manager, or other person having control of the place where the body was buried before its disinterment or removal.” 5

Section 56(1) and (2): insert “on conviction” after “liable”.

Section 56(3): omit “on indictment”.

Section 57(1): insert “on conviction” after “liable”. 10

Section 58: repeal.

Bylaws Act 1910 (1910 No 28)

Heading to section 19: omit and substitute “**Procedure for recovery of fines**”.

Section 19: omit “summary”. 15

Cadastral Survey Act 2002 (2002 No 12)

Section 31: omit “summary”.

Section 43(2): omit “summary”.

Section 54: omit “summary”.

Section 55(1): omit “summary”. 20

Section 55(2): omit “summary”.

Section 56: omit “summary”.

Section 57(1): omit “summary”.

Section 58: omit “summary”.

Section 60(a): repeal and substitute: 25

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 61(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”. 30

Part 1—*continued***Cancer Registry Act 1993 (1993 No 102)**

Section 8: omit “summary”.

Canterbury Earthquake Recovery Act 2011 (2011 No 12)

Section 42(2): omit “summary”.

Section 47(2): omit “summary”.

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Section 81(2): omit “summary”.

Care of Children Act 2004 (2004 No 90)

Section 69(2): omit “Section 20(1) to (3) and (5) of the Summary Proceedings Act 1957 applies” and substitute “**Section 164** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies”.

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Section 78(1): omit “summary”.

Section 79: omit “summary”.

Section 80: omit “summary”.

Section 129(5): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

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Care of Children Amendment Act 2008 (2008 No 74)

Section 8: new section 46ZE(3): omit “Section 20(1) to (3) and (5) of the Summary Proceedings Act 1957” and substitute “**Section 164** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

20

Section 8: new section 46ZF(3): omit “summary”.

Charitable Trusts Act 1957 (1957 No 18)

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Section 23(3): omit “summary”.

Section 58(3): omit “summary”.

Charities Act 2005 (2005 No 39)

Section 38(1): omit “summary”.

Part 1—*continued***Charities Act 2005 (2005 No 39)**—*continued*

Section 38(2): repeal and substitute:

“(2) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against subsection (1) ends on the date that is 2 years after the date on which the matter giving rise to the contravention was discovered or ought reasonably to have been discovered.” 5

Section 52(2): omit “summary”.

Section 52(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against subsection (2) ends on the date that is 6 months after the date on which the matter giving rise to the contravention was discovered or ought reasonably to have been discovered.” 10 15

Section 74(1): omit “An information in respect of an offence against this Act must be laid” and substitute “Proceedings in respect of an offence against this Act must be commenced”.

Section 74(2): omit “an information in respect of an offence against the Act is laid” and substitute “a charging document in respect of an offence against this Act is filed”. 20

Section 74(3): omit “lay an information” and substitute “file a charging document”.

Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17) 25

Section 7(3): omit “summary”.

Section 31(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 32(2): omit “summary”.

Section 38(1): omit “by way of case stated for the opinion of that court”. 30

Part 1—*continued***Chartered Professional Engineers of New Zealand Act 2002
(2002 No 17)**—*continued*

Section 38(3): repeal and substitute:

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.”

5

Section 77(2): omit “summary”.

Chateau Companies Act 1977 (1977 No 4)

Section 14(2): omit “summary”.

Section 19(1): omit “on indictment”.

Section 19: insert the following subsection after subsection (2):

10

“(2A) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document in respect of an offence against this section may be filed at any time.”

Chatham Islands Council Act 1995 (1995 No 41)

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Section 16(7): omit “summary”.

Section 20(3): omit “summary”.

Section 22: omit “summary”.

Section 23(2): omit “summary”.

Chemical Weapons (Prohibition) Act 1996 (1996 No 37)

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Section 6(1): omit “on indictment”.

Section 8: omit “on indictment”.

Section 9(1): omit “summary”.

Section 10(3): omit “summary”.

Section 13(3): omit “summary”.

25

Section 14(4): omit “summary”.

Section 15: omit “summary”.

Section 20(2): omit “summary”.

Section 26(1): omit “summary”.

Part 1—*continued***Chemical Weapons (Prohibition) Act 1996 (1996 No 37)**—*continued*

Section 27(3): omit “summary”.

Section 29(1)(b): omit “summary”.

Child Support Act 1991 (1991 No 142)

Section 89X(3): omit “summary”.

Section 96P(3): omit “summary”. 5

Section 96ZF(3): omit “summary”.

Section 190(1): omit “undergoing a sentence of detention, as defined in the Summary Proceedings Act 1957” and substitute “undergoing a custodial sentence, as defined in section 4 of the Criminal Records (Clean Slate) Act 2004”. 10

Section 192(3): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 194(6): omit “sections 46 to 49A of the Summary Proceedings Act 1957 shall apply” and substitute “**sections 173 and 210** of the **Criminal Procedure (Reform and Modernisation) Act 2010** apply”. 15

Section 196(8): omit “on an information”.

Section 196(9): omit “on an information”.

Section 199(4): omit “summary”. 20

Section 210(4): insert “on conviction” after “liable”.

Section 211: repeal and substitute:

“211 Proceedings must be commenced by Commissioner

All proceedings for offences against this Act must be commenced by filing a charging document in the name of the Commissioner.” 25

Section 212: repeal and substitute:

“212 Charging document may charge several offences

“(1) Any charging document may charge the defendant with any number of offences against this Act if those offences are founded on the same set of facts or form or are part of a series of offences of the same or similar character. 30

Part 1—*continued***Child Support Act 1991 (1991 No 142)**—*continued*

“(2) Where a charging document charges more than 1 such offence, particulars of each offence charged shall be set out separately in the charging document.

“(3) All such charges shall be heard together, unless the court, either before or at any time during the hearing, considers it just that any charge should be heard separately and makes an order to that effect.” 5

Section 213: repeal and substitute:

“213 Charging document may be filed within 10 years

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** or in any other Act, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 10 years after the end of the child support year in which the offence was committed.” 10 15

Section 229(5): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 240(2)(a): omit “indictable or summary”. 20

Section 240(7): omit “summary”.

Children’s Commissioner Act 2003 (2003 No 121)

Section 21(3): omit “summary”.

Children’s Health Camps Board Dissolution Act 1999 (1999 No 141)

Section 14(3): omit “summary”. 25

Christchurch-Lyttelton Road Tunnel Authority Dissolution Act 1978 (1978 No 51)

Section 8(5): omit “summary”.

Citizens Initiated Referenda Act 1993 (1993 No 101)

Section 42: omit “summary”. 30

Part 1—*continued***Citizens Initiated Referenda Act 1993 (1993 No 101)**—*continued*

Section 43(3): omit “summary”.

Section 43(4): omit “on indictment” in each place where it appears.

Section 52(1): omit “summary”.

Section 54(2) and (3): omit “summary”.

Citizenship Act 1977 (1977 No 61)

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Section 27: omit “on indictment” in each place where it appears.

Civil Aviation Act 1990 (1990 No 98)

Section 43(2): insert “on conviction” after “liable”.

Section 43A(2): insert “on conviction” after “liable”.

Section 44(3): insert “on conviction” after “liable”.

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Section 44A(2): insert “on conviction” after “liable”.

Section 46(2): insert “on conviction” after “liable”.

Section 46A(2): insert “on conviction” after “liable”.

Section 46B(2): insert “on conviction” after “liable”.

Section 46C(2): insert “on conviction” after “liable”.

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Section 46D(2): insert “on conviction” after “liable”.

Section 46E(2): insert “on conviction” after “liable”.

Section 48(2): insert “on conviction” after “liable”.

Section 49(2): insert “on conviction” after “liable”.

Section 49A(2): insert “on conviction” after “liable”.

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Section 49B(2): insert “on conviction” after “liable”.

Section 50(1): insert “on conviction” after “liable”.

Section 50A(2): insert “on conviction” after “liable”.

Section 51: insert “on conviction” after “liable”.

Section 52(2): insert “on conviction” after “liable”.

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Section 52A: insert “on conviction” after “liable”.

Section 52B(2): insert “on conviction” after “liable”.

Section 52C(2): insert “on conviction” after “liable”.

Section 53: insert “on conviction” after “liable”.

Section 54(2)(a) and (b): insert “on conviction” after “liable”.

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Part 1—*continued***Civil Aviation Act 1990 (1990 No 98)**—*continued*

Section 55(2): insert “on conviction” after “liable”.

Section 56(2): insert “on conviction” after “liable”.

Section 56A(2): insert “on conviction” after “liable”.

Section 57(2)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document 5
under **section 12** of the **Criminal Procedure (Re-**
form and Modernisation) Act 2010; or”.

Section 58(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 64(1): omit “Part 4 of the Summary Proceedings Act 1957” 10
and substitute “**Part 6** of the **Criminal Procedure (Reform and**
Modernisation) Act 2010”.

Section 64(2) and (3): repeal and substitute:

“(2) Any person who is disqualified by an order of a District Court 15
from holding or obtaining an aviation document, and who ap-
plies for a removal of that disqualification and whose appli-
cation is refused, may appeal against the refusal to the High
Court in accordance with **Part 6** of the **Criminal Procedure**
(Reform and Modernisation) Act 2010 and that Part ap-
plies with the necessary modifications as if the refusal were a 20
sentence.

“(3) Any person who is disqualified by an order of the High Court 25
from holding or obtaining an aviation document, and who ap-
plies for a removal of that disqualification and whose applica-
tion is refused, may appeal to the Court of Appeal against the
refusal in accordance with **Part 6** of the **Criminal Proced-**
ure (Reform and Modernisation) Act 2010 and that Part
applies with the necessary modifications as if the refusal were
a sentence.”

Part 1—*continued***Civil Aviation Act 1990 (1990 No 98)**—*continued*

Heading above section 65: repeal and substitute:

“*Charging documents and burden of proof*”.

Section 65: repeal and substitute:

“65 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was committed. 5

“65AA Burden of proof of reasonable excuse

In proceedings for an offence against any of sections 44A(1), 46C(1), 49(1)(b) and (c), 50A(1), 51, 52A, 52B(1), 52C(1), 53, 56A(1)(b), 65P(6), 77I(1), 96B(1) and (2), and 99C(1)(a) and (b),— 10

- “(a) the prosecutor need not assert absence of reasonable excuse in the charging document; and 15
 “(b) the burden of proving that the defendant had a reasonable excuse lies on the defendant.”

Section 65E(1) and (2): repeal.

Section 65E(3): repeal and substitute:

- “**(3)** Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of the offences specified in this Part (except sections 65F and 65G(1)(d)) ends on the date that is 12 months after the date on which the offence was committed.” 20 25

Section 65F(2): insert “on conviction” after “liable”.

Section 65G(2) and (3): insert “on conviction” after “liable”.

Section 65H(2): insert “on conviction” after “liable”.

Section 65I(1): insert after subsection (1):

- “**(1A)** In proceedings for an offence against subsection (1),— 30

Part 1—*continued***Civil Aviation Act 1990 (1990 No 98)**—*continued*

“(a) the prosecutor need not assert, in the charging document, that the defendant was not a person under medical care; and

“(b) the burden of proving that the defendant was under medical care lies on the defendant.” 5

Section 65I(2)(a) and (b): insert “on conviction” after “liable”.

Section 65J(2): insert “on conviction” after “liable”.

Section 65K(2): insert “on conviction” after “liable”.

Section 65L(2): insert “on conviction” after “liable”.

Section 65M(2): insert “on conviction” after “liable”. 10

Section 65N(2): insert “on conviction” after “liable”.

Section 65O(2): insert “on conviction” after “liable”.

Section 65P(2)(a): omit and substitute:

“(a) the defendant may be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or” 15

Section 65P(6): omit “summary”.

Section 77H(2): omit “summary”.

Section 77I(2): omit “summary”. 20

Section 80H(3): omit “summary”.

Section 80H: add:

“(4) In proceedings for an offence against subsection (3),—

“(a) the prosecutor need not assert absence of lawful authority or reasonable excuse in the charging document; and 25

“(b) the burden of proving that the defendant had lawful authority or a reasonable excuse lies on the defendant.”

Section 96(2)(b): omit “summary”.

Section 96(3): insert “on conviction” after “liable”.

Section 96B(4): insert “on conviction” after “liable”. 30

Section 99C(3) and (4): insert “on conviction” after “liable”.

Part 1—*continued***Civil Aviation Act 1990 (1990 No 98)**—*continued*

New section 100A: insert after section 100:

“100A Burden of proof of exceptions, etc, for offences in rules and regulations

“(1) This section applies to any offence contained in rules or regulations made pursuant to this Act. 5

“(2) Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence,—

“(a) may be proved by the defendant; but

“(b) need not be negatived in the charging document, and, whether or not it is so negatived, no proof in relation to the matter is required on the part of the prosecutor. 10

“(3) **Subsection (2)(b)** is subject to **section 14(2)** of the **Criminal Procedure (Reform and Modernisation) Act 2010.**”

Civil Defence Emergency Management Act 2002 (2002 No 33) 15

Section 104: omit “summary”.

Civil Union Act 2004 (2004 No 102)

Section 30: omit “on indictment” in each place where it appears.

Section 31: omit “on indictment”.

Section 32: omit “on indictment”. 20

Climate Change Response Act 2002 (2002 No 40)

Section 129(2): omit “summary”.

Section 130: omit “summary”.

Section 131(2): omit “summary”.

Section 132(2): omit “summary”. 25

Section 133(2): omit “on indictment”.

Section 142: repeal and substitute:

“142 Limitation period for commencement of proceedings

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, 30
the limitation period in respect of an offence against—

Part 1—*continued***Climate Change Response Act 2002 (2002 No 40)**—*continued*

“(a) section 131 or 132(1)(a), (b), (g), (h), or (i) ends on the date that is 2 years from the date on which the offence was committed:

“(b) section 129, 130, or 132(1)(c) to (f) ends on the date that is 7 years from the date on which the offence was committed. 5

“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.” 10

Cluster Munitions Prohibition Act 2009 (2009 No 68)

Section 10(4): omit “on indictment”.

Section 17(4): omit “summary”.

Section 19(1)(c): omit “summary”.

Commerce Act 1986 (1986 No 5)

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Section 80E(3): repeal.

Section 86B(2): omit “summary”.

Section 86B(3): repeal.

Section 87B(2): omit “summary”.

Section 87B(3): repeal. 20

Section 99A(3): omit “summary”.

Section 100(4): omit “summary”.

Section 103(4): omit “summary”.

Commissions of Inquiry Act 1908 (1908 No 25)

Section 7(1): omit “Summary Proceedings Act 1957” and substitute **“Criminal Procedure (Reform and Modernisation) Act 2010”**. 25

Section 9(3): omit “summary”.

Section 13A(2)(b): omit “(which warrant shall be in a form similar to that of the form prescribed for the purposes of section 39 of the Summary Proceedings Act 1957)” and substitute “(which warrant must contain the information prescribed for the purposes of **section** 30

Part 1—*continued***Commissions of Inquiry Act 1908 (1908 No 25)**—*continued*

170 of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 13C: omit “section 384 of the Crimes Act 1961” and substitute “**subpart 5 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

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Commodity Levies Act 1990 (1990 No 127)

Section 24(1): omit “summary”.

Commonwealth Games Symbol Protection Act 1974 (1974 No 23)

Section 3(4): omit “summary”.

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Companies Act 1993 (1993 No 105)

Section 77(4): insert “on conviction” after “liable”.

Section 375(1) and (2): repeal.

Section 375(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,— 15
 “(a) a charging document may be filed at any time in respect of an offence against section 373(4); and
 “(b) the limitation period in respect of an offence specified in section 373(1) or (2), or section 374 of this Act ends 20
 on the date that is 3 years after the date on which the offence was committed.”

Section 382(1)(a): omit “on indictment” and substitute “under any of subparagraphs (g) to (j) of section 373 (4)”.

Section 383(1)(a): omit “on indictment” and substitute “under section 373(4)”.

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Section 386A(2): omit “on indictment”.

Companies (Bondholders Incorporation) Act 1934–35 (1934–35 No 39)

Section 3(3): omit “summary”.

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Part 1—*continued***Companies (Bondholders Incorporation) Act 1934–35 (1934–35 No 39)**—*continued*

Section 14(2): omit “summary”.

Section 16(3): omit “summary”.

Companies Reregistration Act 1993 (1993 No 121)

Section 17(1) and (2): omit “summary”.

Conservation Act 1987 (1987 No 65)

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Section 26ZZP: omit “summary”.

Section 26ZZQ(2): omit “summary”.

Section 26ZZR(2): omit “summary”.

Section 43(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

10

Section 43(2): repeal and substitute:

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was committed.”

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Section 46(4): omit “information” and substitute “charge”.

Section 46(7A): omit “on the information of” and substitute “by”.

Conservation Law Reform Act 1990 (1990 No 31)

Section 62(4): omit “summary”.

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Section 63(4): omit “summary”.

Continental Shelf Act 1964 (1964 No 28)

Section 5(7): omit “summary”.

Contraception, Sterilisation, and Abortion Act 1977 (1977 No 112)

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Section 6(2): omit “summary”.

Section 8(3): omit “summary”.

Section 37(1): omit “summary”.

Part 1—*continued***Contraception, Sterilisation, and Abortion Act 1977 (1977 No 112)**—*continued*

Section 44(1): omit “summary”.

Cook Islands Act 1915 (1915 No 40)

Section 155(1): omit “indictable.”

Section 155(1): add “that are within the jurisdiction of the High Court of New Zealand”.

5

Section 155(3): omit “indictable” and substitute “such”.

Section 155(3A): omit “information” and substitute “charging document”, and omit “informant” and substitute “prosecutor”.

Co-operative Companies Act 1996 (1996 No 24)

Section 10(8) and (9): omit “summary”.

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Section 18(6): omit “summary”.

Section 21(7): omit “summary”.

Copyright Act 1994 (1994 No 143)

Section 131A: repeal.

Section 198(4): omit “summary”.

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Section 200(2): omit “summary”.

Section 213(6): omit “summary”.

Section 218(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

20

Section 220(2): omit “summary”.

Section 221(1): omit “summary”.

Section 226C(4): omit “on indictment”.

Section 226J(2): omit “on indictment”.

Section 227(1): omit “summary”.

25

Section 234(q): omit “summary”.

Part 1—*continued***Coroners Act 2006 (2006 No 38)**

Section 117(1) and (5): omit “Summary Proceedings Act 1957” and substitute in each case “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 134: omit “summary”. 5

Section 135(1): omit “summary”.

Section 136: omit “summary”.

Section 137: omit “summary”.

Section 138: omit “on indictment”.

Section 139: omit “summary”. 10

Corporations (Investment and Management) Act 1989 (1989 No 11)

Section 43(2): omit “on indictment”.

Section 67(2): omit “summary”.

Section 68(1): omit “on indictment”. 15

Section 70: omit “on indictment”.

Costs in Criminal Cases Act 1967 (1967 No 129)

Section 4(3): omit “informant or”.

Section 5(1): omit “information charging him with an offence” and substitute “charge”. 20

Section 5(1): omit “or where he is discharged under section 184F of the Summary Proceedings Act 1957”.

Section 5(2)(e): omit “information” and substitute “charge”.

Section 5(2)(f): omit “information” and substitute “charge”.

Section 5(4): omit “discharged or that any information charging him with an offence” and substitute “that any charge”. 25

Section 7(1)(b): omit “informant” and substitute “person who commenced the proceedings”.

Section 7(1)(b): omit “as if it were an order made under Part 2 of the Summary Proceedings Act 1957” and substitute “as if it were a fine”. 30

Part 1—*continued***Costs in Criminal Cases Act 1967 (1967 No 129)**—*continued*

Section 8(1): omit “the Summary Proceedings Act 1957 or the Crimes Act 1961” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 8(4): repeal and substitute:

“(4) No Judge, Justice, or Community Magistrate is liable to costs 5
just because an appeal is filed against a determination by that
judicial officer.”

Section 9(1): repeal and substitute:

“(1) If a notice of appeal is given under **Part 6 of the Criminal 10
Procedure (Reform and Modernisation) Act 2010** but the
appeal is abandoned under that Part, the court appealed to may,
subject to any regulations made under this Act, allow the re-
spondent any costs that it thinks fit.”

Section 10(1): omit “Part 4 of the Summary Proceedings Act 1957,
be included in the certificate of the decision transmitted in accordance 15
with section 134 of that Act” and substitute “**Part 6 of the Criminal
Procedure (Reform and Modernisation) Act 2010**, be included
in the notice of the decision sent in accordance with **section 342** of
that Act”.

Section 11: omit “Part 4 of the Summary Proceedings Act 1957” 20
and substitute “**Part 6 of the Criminal Procedure (Reform and
Modernisation) Act 2010**”.

Courts Security Act 1999 (1999 No 115)

Section 30(2): omit “summary”.

Credit Contracts and Consumer Finance Act 2003 (2003 No 52) 25

Section 103(1) and (3): omit “summary”.

Section 103(2): omit “on indictment”.

Section 105: repeal and substitute:

“**105 When proceedings may be commenced for certain 30
offences**

“(1) Despite anything to the contrary in **section 22 of the Crim-
inal Procedure (Reform and Modernisation) Act 2010**,—

Part 1—*continued***Credit Contracts and Consumer Finance Act 2003 (2003 No 52)**—*continued*

“(a) a charging document may be filed at any time in respect of an offence against section 103(2); and

“(b) the limitation period in respect of an offence against section 103(3) ends on the date that is 3 years after the date on which the offence was committed. 5

“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.”

Section 116(1)(a): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Credit (Repossession) Act 1997 (1997 No 85)

Section 16(2): omit “summary”.

Section 19: omit “summary”. 15

Section 41: repeal and substitute:

“41 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed.” 20

Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980 (1980 No 44)

Definition of **conviction on indictment** in section 2(1): repeal. 25

Section 3(2): omit “on indictment”.

Section 4(2): omit “on indictment”.

Section 5(2): omit “on indictment”.

Section 6(2): omit “on indictment”.

Section 8(3): omit “on indictment”. 30

Part 1—*continued***Crimes of Torture Act 1989 (1989 No 106)**

Definition of **conviction on indictment** in section 2(1): repeal.

Section 3(1): omit “on indictment”.

Section 3(2): omit “on indictment”.

Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55) 5

Definition of **charged** in section 2(1): omit “an information” and substitute “a charging document”.

Paragraph (c) of the definition of **conviction** in section 2(1): omit “an information” and substitute “a charge”.

Definition of **indictable offence** in section 2(1): repeal. 10

Section 8(1A): repeal and substitute:

“(1A) However, a suspect who is a child, or was a child at the time the offence is alleged to have been committed, may consent to the taking of a buccal sample as a result of a Part 2A request if, in accordance with section 272 of the Children, Young Persons, and Their Families Act 1989, he or she may not be lawfully prosecuted under the **Criminal Procedure (Reform and Modernisation) Act 2010** for that offence.” 15

Section 24C: repeal and substitute:

“**24C Authority to obtain buccal sample from suspect** 20

“(1) In a criminal investigation in respect of an offence committed or believed to have been committed by a suspect who is a child or was a child at the time the offence was committed and for which, in accordance with section 272 of the Children, Young Persons, and Their Families Act 1989, that suspect may not be lawfully prosecuted under the **Criminal Procedure (Reform and Modernisation) Act 2010**, a buccal sample may be taken from that suspect, for the purposes of the investigation, on behalf of any constable, only if— 25

“(a) both the suspect and a parent of the suspect have consented to the taking of a buccal sample under section 24G; and 30

“(b) the sample is taken in accordance with the procedures set out in Part 4.

“(2) This section is subject to section 72. 35

Part 1—*continued***Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)**—*continued*

“(3) Every reference in this Part to an offence for which a suspect who is or was a child at the time the offence was committed may not be lawfully prosecuted is a reference to an offence for which, in accordance with section 272 of the Children, Young Persons, and Their Families Act 1989, that suspect may not be lawfully prosecuted under the **Criminal Procedure (Reform and Modernisation) Act 2010**.” 5

Section 24D(a): omit “indictable”.

Section 24F(b)(i): omit “indictable”.

Section 26(ac)(i): omit “information” and substitute “charge”. 10

Section 26A(3)(b): omit “information” and substitute “charge”.

Section 77(1) and (3): omit “summary”.

Section 77(2): omit “on indictment”.

Criminal Proceeds (Recovery) Act 2009 (2009 No 8)

Paragraph (b)(ii) of the definition of **prosecutor** in section 5: omit “laid the information in the proceedings” and substitute “commenced the proceedings”. 15

Paragraph (b)(iii) of the definition of **prosecutor** in section 5: omit “laid the information” and substitute “commenced the proceedings”.

Section 10(2): omit “the Summary Proceedings Act 1957 or the Crimes Act 1961, as the case requires” and substitute “**subpart 4 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 20(b): repeal and substitute:

“(b) in the case of an application made under section 26,— 25

“(i) the High Court, if the offence with which the instrument of crime is associated is for a category 4 offence, or if an order has been made under **section 70 or 72 of the Criminal Procedure (Reform and Modernisation) Act 2010** transferring the proceedings in relation to the offence to the High Court: 30

Part 1—*continued***Criminal Proceeds (Recovery) Act 2009 (2009 No 8)**—*continued*

“(ii) the District Court, if **subparagraph (i)** does not apply.”

Section 78(2)(a): repeal and substitute:

“(a) **subpart 6 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications:” 5

Section 78(2)(b): repeal.

Section 101(4): omit “an information has been laid” and substitute “a charging document has been filed”.

Section 101(5): omit “an information” in each place where it appears and substitute in each case “a charging document”. 10

Section 101(5): omit “laid” in each place where it appears and substitute in each case “filed”.

Section 150(2): omit “on indictment”.

Section 151(2): omit “on indictment”. 15

Section 152(3): omit “indictment” and substitute “conviction”.

Section 154: omit “indictment” and substitute “conviction”.

Section 155: omit “indictment” and substitute “conviction”.

Criminal Records (Clean Slate) Act 2004 (2004 No 36)

Definition of **offence** in section 4: repeal. 20

Section 13(4): omit “summary”.

Section 17(2): omit “summary”.

Section 18(2): omit “summary”.

Section 21(1)(a): omit “section 71(4) of the Summary Proceedings Act 1957” and substitute “**section 189** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Crown Entities Act 2004 (2004 No 115)

Section 172(1) and (2): omit “summary”.

Crown Grants Act 1908 (1908 No 33)

Section 45(4) and (5): repeal. 30

Schedule 2, Form 2: repeal.

Part 1—*continued***Crown Minerals Act 1991 (1991 No 70)**

Section 100(4): repeal and substitute:

“(4) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against subsection (1) ends on the date that is 12 months after the date on which the contravention giving rise to the charge first became known, or should have become known, to the Secretary.” 5

Section 101(1), (2), and (3): omit “summary”.

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37) 10

Section 6(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 8(5): omit “sections 77A and 115A of the Summary Proceedings Act 1957” and substitute “**sections 183 and 250** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Crown Proceedings Act 1950 (1950 No 54)

Section 15(1I): omit “summary”.

Customs and Excise Act 1996 (1996 No 27)

Section 130(e): omit “an information for an offence against this Act has been laid” and substitute “a charging document for an offence against this Act has been filed”. 20

Section 166(5)(a): omit “the Summary Proceedings Act 1957 or, as the case may require, the time prescribed by the Crimes Act 1961” and substitute “**Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 166D(3)(a): omit “an information is laid” and substitute “a charging document is filed”.

Section 174(4): repeal and substitute:

“(4) If the person so delivered into custody is issued with a summons pursuant to **sections 25 and 27** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the duties under **section 28** of that Act relating to the filing of a charg- 30

Part 1—*continued***Customs and Excise Act 1996 (1996 No 27)**—*continued*

ing document are the duties of a Customs officer and not of a constable.”

Section 182(2): omit “on indictment”.

Section 183(2): omit “on indictment”.

Section 205(6): omit “on indictment”.

5

Section 209(5): omit “on indictment”.

Section 220: repeal.

Heading to section 221: omit and substitute “**Filing of charging document**”.

Section 221(1): omit “Every information under the Summary Proceedings Act 1957 for any offence against this Act (other than one for an offence against section 216 of this Act) must be laid by” and substitute “Proceedings for any offence against this Act (other than for an offence against section 216) must be commenced by”.

10

Section 221(3): omit “An information under the Summary Proceedings Act 1957 for an offence against section 216 of this Act must be laid by” and substitute “Proceedings for an offence against section 216 of this Act must be commenced by”.

15

Section 221(4): repeal and substitute:

“(4) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 5 years after the date on which the offence was committed.”

20

Section 223(2): omit “an information has been laid” and substitute “a charging document has been filed”.

25

Section 239(1): omit “indictable offence” and substitute “offence against section 182(2), 183(2), 205(6), or 209(5)”.

Section 239(1): omit “information” and substitute “charge”.

Section 240: omit “indictable offence” and substitute “offence against section 182(1), 183(1), 205(5), or 209(1A)”.

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Section 265(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Part 1—*continued***Customs and Excise Act 1996 (1996 No 27)**—*continued*

Paragraph (d) of the definition of **fine** in section 280C: repeal.

Dairy Industry Restructuring Act 2001 (2001 No 51)

Section 31(1) and (2): omit “summary”.

Section 33(2): omit “informant” and substitute “prosecutor”.

Section 35(2): omit “summary”. 5

Section 41(3): omit “summary”.

Section 67(3) and (4): omit “summary”.

Section 118(3) and (4): omit “summary”.

Defence Act 1990 (1990 No 28)

Section 82: omit “summary”. 10

Section 83: omit “summary”.

Section 84: omit “summary”.

Section 85: omit “summary”.

Section 86(1): omit “summary”.

Section 87(2) and (3): omit “summary”. 15

Section 88: omit “summary”.

Section 89(1): omit “summary”.

Section 93(2)(h): omit “summary”.

Section 101(1)(gc): omit “summary”.

Designs Act 1953 (1953 No 65)

20

Section 42(1): omit “on indictment”.

Section 42: add as subsection (3):

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a charging document may be filed at any time in respect of an offence under subsection (1).” 25

Section 43(1): omit “on indictment”.

Section 43: add as subsection (2):

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a 30

Part 1—*continued***Designs Act 1953 (1953 No 65)**—*continued*

charging document may be filed at any time in respect of an offence under subsection (1).”

Section 44(1) and (2): omit “summary”.

Disputes Tribunals Act 1988 (1988 No 110)

Section 56(1): omit “summary”. 5

Section 58(1): omit “Part 7 of the Summary Proceedings Act 1957” and substitute “**sections 4A to 4F** of the Justices of the Peace Act 1957”.

Dog Control Act 1996 (1996 No 13)

Section 18: omit “summary”. 10

Section 19(2): omit “summary”.

Section 19A(2): omit “summary”.

Section 20(5): omit “summary”.

Section 21(3)(a): repeal and substitute:

“(a) that person has been ordered to pay a fine and costs under **section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, or is deemed to have been so ordered under section 21(5) of the Summary Proceedings Act 1957; or”. 15

Section 23A(2): omit “summary”. 20

Section 24(5): omit “summary”.

Section 25(2)(a): repeal and substitute:

“(a) that person has been ordered to pay a fine and costs under **section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, or is deemed to have been so ordered under section 21(5) of the Summary Proceedings Act 1957; or”. 25

Section 28(5): omit “summary”.

Section 30(1)(a): omit “section 78A(1) of the Summary Proceedings Act 1957, and of every order deemed to have been made under section 21(5) of that Act” and substitute “**section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, and of every 30

Part 1—*continued***Dog Control Act 1996 (1996 No 13)**—*continued*

order deemed to have been made under section 21(5) of the Summary Proceedings Act 1957”.

Section 30(1)(a)(i): omit “an information was laid by” and substitute “a charging document was filed in the name of”.

Section 30A(4): omit “summary”. 5

Section 32(2) and (4): omit “summary”.

Section 33EC(1): omit “summary”.

Section 33F(3): omit “summary”.

Section 35(5)(a): omit “information or complaint” and substitute “charge”. 10

Section 36A(6): omit “summary”.

Section 41: omit “summary”.

Section 41A: omit “summary”.

Section 42(1): omit “summary”.

Section 46(4): omit “summary”. 15

Section 48(3): omit “summary”.

Section 49(4): omit “summary”.

Section 51(1): omit “summary”.

Section 52A(3): omit “summary”.

Section 53(1): omit “summary”. 20

Section 54(2): omit “summary”.

Section 54A(2): omit “summary”.

Section 55(7): omit “summary”.

Section 57(2): omit “summary”.

Section 57A(2)(a): omit “summary”. 25

Section 61(2): omit “summary”.

Section 62(4) and (5): omit “summary”.

Section 64(6): omit “summary”.

Section 65(2)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document 30
under **section 12** of the **Criminal Procedure (Re-
form and Modernisation) Act 2010**; or”.

Part 1—*continued***Dog Control Act 1996 (1996 No 13)**—*continued*

Section 66(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 72(2): omit “summary”.

Section 77: omit “informant” and substitute “person who commenced the proceedings”. 5

Section 78(3): omit “summary”.

Domestic Violence Act 1995 (1995 No 86)

Section 49(3): omit “on indictment”.

Section 49A(2): omit “summary”.

Section 82(4): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 124I(2)(a): omit “summary”.

Door to Door Sales Act 1967 (1967 No 126)

15

Section 14(1) and (2): omit “summary”.

Section 15: repeal and substitute:

“15 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, 20
the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed.”

Driftnet Prohibition Act 1991 (1991 No 18)

Section 14(2)(b): repeal and substitute: 25

“(b) if the person so delivered into custody is issued with a summons pursuant to **sections 25 to 27** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the duties under **section 28** of that Act are the duties of an enforcement officer and not of a constable.” 30

Part 1—*continued***Driftnet Prohibition Act 1991 (1991 No 18)**—*continued*

Section 16(1)(a): omit “lay any information or” and substitute “file any”.

Section 16(1)(b): omit “or information is laid” and substitute “is filed”.

Section 16(2): omit “lay any information or” and substitute “file any” 5

Section 20: omit “information or charge has been laid” and substitute “charging document has been filed”.

Section 21(a): omit “lay an information or” and substitute “file a”.

Section 26(2): repeal. 10

Section 26(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed.” 15

Earthquake Commission Act 1993 (1993 No 84)

Section 35(1) and (2): omit “summary”.

Education Act 1964 (1964 No 135)

Section 162(3): omit “summary”. 20

Education Act 1989 (1989 No 80)

Section 9(3): omit “summary”.

Section 24(1): omit “summary”.

Section 28(3): omit “summary”.

Section 29(1): omit “summary”. 25

Section 30(2): omit “summary”.

Section 31(6): omit “summary”.

Section 31(7): omit “lay informations” and substitute “file charging documents”.

Section 35R(4): omit “summary”. 30

Part 1—*continued***Education Act 1989 (1989 No 80)**—*continued*

Section 137(1) and (2): omit “summary”.

Section 139AO(1): omit “summary”.

Section 139AY(3): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

5

Section 139AZ(1) and (2): omit “summary”.

Section 139C(1): omit “summary”.

Section 144C(1)(c) and (e)(vii): omit “summary”.

Section 144D(4): omit “summary”.

Section 226B(1): omit “summary”.

10

Section 238C(1): omit “summary”.

Section 292(11): omit “summary”.

Section 307AA(1), (2), and (2A): omit “summary”.

Section 307AA(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this section ends on the date that is 12 months after the date on which the offence was brought to the Ministry’s attention.”

15

Section 315(3): omit “summary”.

20

Section 317(2)(j): omit “summary”.

Section 319G: omit “summary”.

Section 319H: omit “summary”.

Section 346(1) and (2): omit “summary”.

Electoral Act 1993 (1993 No 87)

25

Section 30: omit “any indictable offence” and substitute “an offence punishable by imprisonment for life or by 2 or more years’ imprisonment”.

Section 48: omit “summary”.

Section 55(1)(d): omit “a crime punishable by imprisonment for a term of 2 years or upwards” and substitute “an offence punishable by imprisonment for life or by 2 or more years’ imprisonment”.

30

Part 1—*continued***Electoral Act 1993 (1993 No 87)**—*continued*

Section 56(5): omit “summary”.	
Section 57(1): omit “a crime punishable by imprisonment for a term of 2 years or upwards” and substitute “an offence punishable by imprisonment for life or by 2 or more years’ imprisonment”.	
Section 57(2): omit “summary”.	5
Section 58(2): omit “summary”.	
Section 82(8): omit “summary”.	
Section 90(4): omit “summary”.	
Section 116(2): omit “summary”.	
Section 117(4) and (6): omit “summary”.	10
Section 117A(2): omit “summary”.	
Section 118: omit “summary”.	
Section 119: omit “summary”.	
Section 121: omit “summary”.	
Section 154(2): omit “summary”.	15
Section 162(3) and (4): omit “summary”.	
Section 165(2): omit “summary”.	
Section 166(3) and (4): omit “summary”.	
Section 167(4): omit “summary”.	
Section 170(5): omit “summary”.	20
Section 174G(1): omit “summary”.	
Section 196(4): omit “summary”.	
Section 196A(1) and (2): omit “summary”.	
Section 197(1): omit “summary”.	
Section 200: omit “summary”.	25
Section 201: omit “on indictment” in each place where it appears.	
Section 204E(4): omit “summary”.	
Section 205N(1): omit “summary”.	
Section 205O(2): omit “summary”.	
Section 206N(1): omit “summary”.	30
Section 206O(2): omit “summary”.	
Section 206ZE(1): omit “summary”.	

Part 1—*continued***Electoral Act 1993 (1993 No 87)**—*continued*

Section 206ZF(2): omit “summary”.	
Section 207D: omit “summary”.	
Section 207F: omit “summary”.	
Section 207H: omit “summary”.	
Section 207M(2): omit “summary”.	5
Section 207N(2): omit “summary”.	
Section 209B(1): omit “summary”.	
Section 209C(2): omit “summary”.	
Section 210D(1): omit “summary”.	
Section 210E(2): omit “summary”.	10
Section 224: omit “on indictment” in each place where it appears.	
Section 226(1), (1A), and (2): omit “A” and substitute “Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 , a”.	
Section 227: omit “summary”.	15

Electoral Referendum Act 2010 (2010 No 139)

Section 28: omit “A” and substitute “Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 , a”.	
Section 67: omit “summary”.	20
Section 68(1): omit “summary”.	
Section 71(1): omit “on indictment”.	
Section 71(2): omit “on indictment”.	
Section 72(1): omit “A” and substitute “Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 , a”.	25
Section 82 and heading above section 82: repeal.	

Electricity Act 1992 (1992 No 122)

Section 12(1): omit “by way of case stated for the opinion of that Court”.	30
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Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

Section 12(3): repeal and substitute:

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.” 5

Section 12(4): omit “, or until a District Court Judge certifies that the appeal has not been prosecuted, or the Registrar of the High Court has certified that the appeal has been dismissed for non-prosecution, whichever occurs first” and substitute “or abandoned”.

Section 13(2): omit “summary”. 10

Section 20: omit “summary”.

Section 26(1): omit “summary”.

Section 29(1): omit “by way of case stated for the opinion of that Court”.

Section 29(3): repeal and substitute: 15

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.”

Section 62(5): omit “summary”. 20

Section 130(3): omit “summary”.

Section 131(3): omit “summary”.

Section 147A(3): omit “summary”.

Section 147B(2): omit “summary”.

Section 147F(2): omit “summary”. 25

Section 147ZF(2): omit “summary”.

Section 147ZH(1): omit “by way of case stated for the opinion of that Court”.

Section 147ZH(3): repeal and substitute:

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.” 30

Section 153(7): omit “summary”.

Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

Section 160: omit “summary”.

Section 161: omit “summary”.

Section 162: omit “summary”.

Section 163: omit “summary”.

Section 163A: omit “summary”. 5

Section 163B: omit “summary”.

Section 163C(3): omit “on indictment”.

Section 163C: add as subsection (6):

“(6) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a charging document may be filed at any time in respect of an offence under this section.” 10

Section 163D(1) and (2): omit “summary”.

Section 163D(3): omit “An information must not be laid” and substitute “A charging document must not be filed”. 15

Section 164(2): omit “summary”.

Section 165: repeal and substitute:

“165 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act (other than an offence under section 163C) or against any regulations made under section 169 ends on the date that is 5 years after the date on which the offence was committed.” 20

Section 165A: repeal and substitute: 25

“165A Infringement offences

“(1) If a person is alleged to have committed an infringement offence, the person may either—

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or 30

“(b) be served with an infringement notice as provided in section 165B.

Part 1—*continued***Electricity Act 1992 (1992 No 122)**—*continued*

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the Secretary, the Registrar, or the Board commences proceedings for an infringement of offence by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010.**” 5

Section 165B(4)(a)(i): omit “laying of an information” and substitute “filing of a charging document”.

Section 165B(4)(b): omit “laying of an information” and substitute “filing of a charging document”. 10

Section 165C(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Electricity Industry Act 2010 (2010 No 116)

Section 31(1) and (2): omit “summary”.

Section 57: omit “summary”. 15

Section 60: omit “summary”.

Section 77(6): omit “summary”.

Section 78(5): omit “summary”.

Section 79(5): omit “summary”.

Section 88(6): omit “summary”. 20

Section 89(4): omit “summary”.

Section 96(2): omit “summary”.

Section 98(1): omit “summary”.

Section 104(2): omit “summary”.

Section 105(4): omit “summary”. 25

Section 112(1)(k): omit “summary”.

Section 113(2)(g): omit “summary”.

Employment Relations Act 2000 (2000 No 24)

Section 176(1): omit “Part 7 of the Summary Proceedings Act 1957” and substitute “**Sections 4B to 4F** of the Justices of the Peace Act 1957”. 30

Part 1—*continued***Employment Relations Act 2000 (2000 No 24)**—*continued*

Section 217: omit “an information” and substitute “a charge”.

Schedule 2, clause 6(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Schedule 2, clause 8(2): omit “indictment” and substitute “charge”. 5

Schedule 3, clause 7(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Schedule 3, clause 9(2): omit “indictment” and substitute “charge”.

Energy Companies Act 1992 (1992 No 56) 10

Section 6(4): omit “summary”.

Energy Efficiency and Conservation Act 2000 (2000 No 14)

Section 39: omit “summary”.

Energy (Fuels, Levies, and References) Act 1989 (1989 No 140)

Section 37(2): omit “summary”. 15

Energy Resources Levy Act 1976 (1976 No 71)

Section 21(2): omit “summary”.

Section 22(1): omit “information” and substitute “charging document”.

Section 22(2): omit “information” in each place where it appears and substitute in each case “charging document”. 20

Section 23: omit and substitute:

“23 Charging document may be filed within 10 years

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, 25
the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 10 years after the date on which the offence was committed.”

Part 1—*continued***Engineering Associates Act 1961 (1961 No 70)**

Section 17(5): omit “summary”.

Section 34: omit “summary”.

Environment Act 1986 (1986 No 127)

Section 19(7): omit “Summary Proceedings Act 1957” and substitute **“Criminal Procedure (Reform and Modernisation) Act 2010”**. 5

Section 24: omit “summary”.

Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (2010 No 12)

Section 55: repeal and substitute: 10

“55 Appeal to Court of Appeal

Subpart 8 of Part 6 of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to a decision of the High Court on an appeal under section 53 as if the decision had been made under **section 297** of that Act.” 15

Equal Pay Act 1972 (1972 No 118)

Section 18(2): omit “summary”.

Extradition Act 1999 (1999 No 55)

Section 22: add the following subsection: 20

“(4) The enactments (other than this Act, its provisions, Parts, and regulations made under it) specified in this section must be read as they read immediately before the commencement date as defined in **section 388AA** of the **Criminal Procedure (Reform and Modernisation) Act 2010**.” 25

Section 23: add the following subsection:

“(5) In subsection (3),—
 “(a) section 31 of the Bail Act 2000 must be read as it read immediately before **section 405** of the **Criminal Procedure (Reform and Modernisation) Act 2010** came into force; and 30

Part 1—*continued***Extradition Act 1999 (1999 No 55)**—*continued*

“(b) section 49 of the Bail Act 2000 must be read as it read immediately before the commencement date as defined in **section 388AA** of the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

Section 26: add the following subsections: 5

“(5) Enactments other than this Act and its provisions that are specified in subsection (1)(a) must be read as they read immediately before the commencement date as defined in **section 388AA** of the **Criminal Procedure (Reform and Modernisation) Act 2010**. 10

“(6) In subsection (3),—

“(a) section 31 of the Bail Act 2000 must be read as it read immediately before **section 405** of the **Criminal Procedure (Reform and Modernisation) Act 2010** came into force; and 15

“(b) section 52 of the Bail Act 2000 must be read as it read immediately before the commencement date as defined in **section 388AA** of the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

Section 28: add the following subsections: 20

“(7) Enactments other than this Act and its provisions that are specified in subsection (2)(a) must be read as they read immediately before the commencement date as defined in **section 388AA** of the **Criminal Procedure (Reform and Modernisation) Act 2010**. 25

“(8) In subsection (6),—

“(a) section 31 of the Bail Act 2000 must be read as it read immediately before **section 405** of the **Criminal Procedure (Reform and Modernisation) Act 2010** came into force; and 30

“(b) section 52 of the Bail Act 2000 must be read as it read immediately before the commencement date as defined in **section 388AA** of the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

Part 1—*continued***Extradition Act 1999 (1999 No 55)**—*continued*

Section 43: repeal and substitute:

“43 Powers of court

“(1) In proceedings under this Part, except as expressly provided in this Act or in regulations made under section 102,—

“(a) the court has the same jurisdiction and powers under the **Criminal Procedure (Reform and Modernisation) Act 2010** as if the proceedings were in respect of a charge for a category 2 offence committed within the jurisdiction of New Zealand: 5

“(b) the following provisions apply to the proceedings, so far as applicable and with the necessary modifications: 10

“(i) **sections 12, 32, 157 to 182, subpart 3 of Part 5, and sections 362 and 376 of the Criminal Procedure (Reform and Modernisation) Act 2010** and any relevant rules of court (including those relating to service) made under that Act: 15

“(ii) Parts 1 (except sections 9 to 12), 2, and 3 of the Bail Act 2000:

“(iii) sections 38 to 44 of the Criminal Procedure (Mentally Impaired Persons) Act 2003. 20

“(2) A District Court presided over by 1 or more Justices or 1 or more Community Magistrates does not have jurisdiction to conduct proceedings under this Part.

“(3) Despite **section 173 of the Criminal Procedure (Reform and Modernisation) Act 2010**, and **section 27(2)** of the Bail Act 2000, a decision under this Part to remand a person in custody or on bail may be made only by a Judge. 25

“(4) **Sections 172 to 174 of the Criminal Procedure (Reform and Modernisation) Act 2010** and **sections 28, 30 to 33, 35, 37 to 39, 43, 44, and 50** of the Bail Act 2000 apply, so far as applicable and with the necessary modifications, to a person who is detained under any of sections 46, 53, or 54.” 30

Section 44(3): omit “subsection (1) of section 31” and substitute **“section 30(1), (3), and (4)”**. 35

Part 1—*continued***Extradition Act 1999 (1999 No 55)**—*continued*

Section 46(1)(a): omit “section 184T(3) of the Summary Proceedings Act 1957” and substitute “**section 174 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 46(3): omit “subsections (1) to (3) of section 31 of the Bail Act 2000 (as applied by section 52 of that Act)” and substitute “**section 30(1), (3), and (4)** of the Bail Act 2000”. 5

Section 53(2)(b)(i): omit “section 184T(3) of the Summary Proceedings Act 1957” and substitute “**section 174 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 54(2)(a): omit “section 184T(3) of the Summary Proceedings Act 1957” and substitute “**section 174 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 68: repeal and substitute:

“**68 Appeal on question of law only**

“(1) This section applies if a District Court determines under section 24 or section 45 that a person is or is not eligible for surrender in relation to any offence or offences for which surrender is sought, and either party considers the determination erroneous in point of law. 15

“(2) If this section applies, the party may appeal against the determination to the High Court on a question of law only. 20

“(3) To lodge an appeal the party must, within 15 days after the determination, file in the office of the court that made the determination a notice of appeal in the prescribed form.” 25

Section 69: repeal and substitute:

“**69 Application to appeal of Bail Act 2000 and Criminal Procedure (Reform and Modernisation) Act 2010**

“(1) **Section 56** of the Bail Act 2000 (which relates to the surrender of an appellant released on bail) applies with any necessary modifications to an appeal under this Part as if it were an appeal under **subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** against the determination by a District Court of a charge for an offence. 30

“(2) **Subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable 35

Part 1—*continued***Extradition Act 1999 (1999 No 55)**—*continued*

with the necessary modifications to every appeal under this Part.”

Section 79: repeal and substitute:

“79 Evidence taken in New Zealand for use overseas

“(1) For the purpose of any request made by New Zealand for the 5
surrender of a person from another country, a District Court
may, in the absence of the person accused or convicted of an
offence, take evidence in the same manner, so far as applic-
able, as the procedure set out for the taking of oral evidence
under **sections 95 to 99 of the Criminal Procedure (Re- 10
form and Modernisation) Act 2010.**

“(2) For the purposes of taking evidence under **subsection (1),**
the District Court Judge has the same jurisdiction and powers
as if the proceedings were the taking of oral evidence under
**subpart 7 of Part 3 of the Criminal Procedure (Reform 15
and Modernisation) Act 2010.**

“(3) Nothing in this section authorises the reception of any evi-
dence referred to in **subsection (1)** in evidence against any
person on his or her trial for any offence.”

Fair Trading Act 1986 (1986 No 121) 20

Section 40(1) and (1A): omit “summary”.

Section 40(3): repeal.

Section 44(3) and (6): omit “informant” and substitute in each case
“prosecutor”.

Section 47F: omit “summary”. 25

Section 47J(2): omit “summary”.

Section 47J(3): repeal.

Family Benefits (Home Ownership) Act 1964 (1964 No 32)

Section 26(2) and (3): omit “summary”.

Family Courts Act 1980 (1980 No 161) 30

Section 11B(6): omit “summary”.

Section 16(4): omit “78A” and substitute “78”.

Part 1—*continued***Family Proceedings Act 1980 (1980 No 94)**

Section 17(2): omit “Subsections (1) to (3) and (5) of section 20 of the Summary Proceedings Act 1957 shall apply” and substitute “**Section 164 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies”. 5

Section 18(3): omit “summary”.

Section 53: omit “summary”.

Section 59: omit “summary”.

Section 165(5): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Farm Ownership Savings Act 1974 (1974 No 45)

Section 16(2): omit “summary”.

Section 17(2)(c): omit “summary”. 15

Fencing of Swimming Pools Act 1987 (1987 No 178)

Section 9(1): omit “summary”.

Films, Videos, and Publications Classification Act 1993 (1993 No 94)

Section 117(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 118(5)(a): omit “Summary Proceedings Act 1957 or, as the case may require, the time prescribed by the Crimes Act 1961” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 120(5): insert “on conviction” after “liable”.

Section 121(2): insert “on conviction” after “liable”.

Section 123(2): insert “on conviction” after “liable”.

Section 124(2): insert “on conviction” after “liable”. 30

Section 125(2): insert “on conviction” after “liable”.

Section 126(2): insert “on conviction” after “liable”.

Part 1—*continued***Films, Videos, and Publications Classification Act 1993 (1993 No 94)**—*continued*

- Section 127(2) and (5): insert “on conviction” after “liable”.
- Section 129(2A) and (4): insert “on conviction” after “liable”.
- Section 130(2): insert “on conviction” after “liable”.
- Section 131(2): insert “on conviction” after “liable”.
- Section 131A(2): insert “on conviction” after “liable”. 5
- Section 133: insert “on conviction” after “liable”.
- Section 134: insert “on conviction” after “liable”.
- Section 135: insert “on conviction” after “liable”.
- Section 141A: repeal.
- Section 142: repeal. 10
- Section 143: repeal and substitute:
- “143 Time for filing charging document**
- “(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed. 15
- “(2) This section does not apply to an offence against section 124(1), 127(4), or 131A(1).”
- Section 147(5): insert “on conviction” after “liable”. 20
- Section 149(o): omit “summary”.

Finance Act (No 2) 1948 (1948 No 78)

- Section 57(2)(b): omit “Offences punishable on summary conviction under that Act” and substitute “Offences under that Act, other than offences against sections 7, 10, and 15,”. 25

Financial Advisers Act 2008 (2008 No 91)

- Section 111(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.
- Section 114(1) and (2): omit “summary”. 30
- Section 115: omit “summary”.

Part 1—*continued***Financial Advisers Act 2008 (2008 No 91)**—*continued*

Section 116(1) and (2): omit “summary”.	
Section 117: omit “summary”.	
Section 118: omit “summary”.	
Section 119: omit “summary”.	
Section 120: omit “summary”.	5
Section 121: omit “summary”.	
Section 126: omit “summary”.	
Section 127: omit “summary”.	
Section 128: omit “summary”.	
Section 129(1) and (2): omit “summary”.	10
Section 130(1) and (2): omit “summary”.	
Section 131(1) and (2): omit “summary”.	
Section 132: omit “summary”.	
Section 133: omit “summary”.	
Section 134: omit “summary”.	15
Section 134B: omit “summary”.	
Section 134C: omit “summary”.	
Section 134D: omit “summary”.	
Section 134E: omit “summary”.	
Section 134F: omit “summary”.	20
Section 134G: omit “summary”.	
Section 135: omit “summary”.	
Section 136(2): omit “summary”.	
Section 137(2): omit “summary”.	
Section 137E: omit “on indictment”.	25
Section 137E: add as subsection (2):	
“(2) Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 a charging document may be filed at any time in respect of an offence under this section.”	30
Section 137J: omit “on indictment”.	

Part 1—*continued***Financial Advisers Act 2008 (2008 No 91)**—*continued*

Section 137J: add as subsection (2):

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a charging document may be filed at any time in respect of an offence under this section.” 5

Section 137S(1): omit “summary”.

Section 146(3): omit “Part 4 of the Summary Proceedings Act 1957 (together with the other provisions of that Act that are applied in that Part)” and substitute “**Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 160: repeal and substitute:

“160 Time for filing charging document

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,—

“(a) a charging document may be filed at any time in respect of an offence against section 137E or 137J of this Act; and 15

“(b) the limitation period in respect of an offence against section 114, 115, 116, 120, 126, 127, 128, 134C, 134D, 134E, 134F, 134G, 135, or 137 of this Act ends on the date that is 3 years after the date on which the offence was committed. 20

“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.” 25

Financial Markets Authority Act 2011 (2011 No 5)

Section 51(3): omit “summary”.

Section 54(2): omit “summary”.

Section 60(4): omit “summary”. 30

Section 61(3): omit “summary”.

Schedule 2, clause 10(2): omit “section 204 of the Summary Proceedings Act 1957 does not” and substitute “neither **section 376** of

Part 1—*continued***Financial Markets Authority Act 2011 (2011 No 5)**—*continued*

the **Criminal Procedure (Reform and Modernisation) Act 2010** nor section 204 of the Summary Proceedings Act 1957”.

Schedule 2, clause 37(1)(a): omit “Summary Proceedings Act 1957” and substitute “**Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

5

Schedule 2, clause 41: omit “summary”.

Schedule 2, clause 42: omit “summary”.

Financial Reporting Act 1993 (1993 No 106)

Section 36(1) and (2): omit “summary”.

Section 36A(3): omit “summary conviction” and substitute “conviction”.

10

Section 37: omit “summary”.

Section 38: omit “summary”.

Section 39: omit “summary”.

Section 41(1): omit “on indictment”.

15

Section 41A(1)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 41A(2): repeal and substitute:

20

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the Registrar commences proceedings for an infringement offence by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

25

Section 41C(2): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 42: repeal and substitute:

“**42 Time for filing charging document for offence against section 37**

30

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,

Part 1—*continued***Financial Reporting Act 1993 (1993 No 106)**—*continued*

the limitation period in respect of an offence against section 37 of this Act ends on the date that is 3 years after the date on which the offence was committed.

“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.” 5

Financial Service Providers (Registration and Dispute Resolution) Act 2008 (2008 No 97)

Section 11(2): omit “summary”. 10

Section 12(2): omit “summary”.

Section 17(3) and (4): omit “summary”.

Section 37(7) and (8): omit “summary”.

Section 38(3): omit “summary”.

Section 41(2): omit “summary”. 15

Section 49G(1): omit “summary”.

Financial Transactions Reporting Act 1996 (1996 No 9)

Section 13(2): insert “on conviction” after “liable”.

Section 22(2), (3), (6), (7), and (8): insert “on conviction” after “liable”. 20

Section 36(2): insert “on conviction” after “liable”.

Section 51(5)(a): omit “Summary Proceedings Act 1957 or, as the case may require, the time prescribed by the Crimes Act 1961” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 52: repeal.

Fire Service Act 1975 (1975 No 42)

Section 89(1) and (2): omit “summary”.

Section 92(2)(o): omit “summary”.

Part 1—*continued***Fisheries Act 1983 (1983 No 14)**

Section 3(3): omit “summary”.

Fisheries Act 1996 (1996 No 88)

Section 88(1)(b): omit “information or charge has been laid” and substitute “charge has been filed”. 5

Section 88(4)(b): omit “laying of any information or charge” and substitute “filing of any charging document”.

Section 88(10): omit “summary”.

Section 88(11): omit “information or charge may be laid” and substitute “charging document may be filed”. 10

Section 105: add after subsection (6):

“(7) In proceedings for an offence relating to a contravention of subsection (1),—

“(a) the prosecutor need not assert in the charging document that the exceptions set out in paragraphs (b) to (d) do not apply; and 15

“(b) the burden of proving that any of the exceptions set out in paragraphs (b) to (d) applies lies on the defendant.”

Section 113: add after subsection (4):

“(5) In proceedings for an offence relating to a contravention of subsection (1),— 20

“(a) the prosecutor need not assert in the charging document that the exceptions set out in paragraphs (a) to (c) do not apply; and

“(b) the burden of proving that any of the exceptions set out in paragraphs (a) to (c) applies lies on the defendant.” 25

Section 113ZA(3)(a): omit “laying of an information or charge” and substitute “filing of a charging document”.

Section 113ZC(4): omit “summary”.

Section 113ZC(5): omit “information or charge may be laid” and substitute “charging document may be filed”. 30

Section 191: insert after subsection (6):

“(7) In proceedings for an offence relating to a contravention of subsection (1),—

Part 1—*continued***Fisheries Act 1996 (1996 No 88)**—*continued*

- “(a) the prosecutor need not assert in the charging document that any exception or excuse in subsection (2) or (5) does not apply; and
- “(b) the burden of proving that the exception set out in subsection (5)(d) applies lies on the defendant.” 5

Section 192: insert after subsection (6):

“(6A) In proceedings for an offence relating to a contravention of any of subsections (1) to (5),—

- “(a) the prosecutor need not assert in the charging document that any exception or excuse in those subsections does not apply; and 10
- “(b) the burden of proving that any exception or excuse applies lies on the defendant.”

Section 192A: insert after subsection (5):

“(6) In proceedings for an offence relating to a contravention of subsection (1),— 15

- “(a) the prosecutor need not assert in the charging document that the exceptions set out in paragraphs (a) to (c) do not apply; and
- “(b) the burden of proving that any of the exceptions set out in paragraphs (a) to (c) applies lies on the defendant.” 20

Section 203(5)(b): repeal and substitute:

- “(b) if the person so delivered into custody is issued with a summons pursuant to **sections 25 and 27** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the duties under **section 28** of that Act must be carried out by a fishery officer and not a constable.” 25

Section 207(4): omit “lay any information or charge” and substitute “file any charging document”.

Section 208(1): omit “an information or charge is laid” and substitute “a charging document is filed”. 30

Section 209(a): omit “lay any information or charge” and substitute “file any charging document”.

Section 209(b): omit “charge or information is laid” and substitute “charging document is filed”. 35

Part 1—*continued***Fisheries Act 1996 (1996 No 88)**—*continued*

Section 210(1)(a): omit “lay an information or charge” and substitute “file a charging document”.

Section 210(2): omit “information or charge has been laid” and substitute “charging document has been filed”.

Section 213(2): omit “lay an information or charge” and substitute “file a charging document”. 5

Section 214(8): omit “lay an information or charge” and substitute “file a charging document”.

Section 236(2): repeal and substitute:

- “(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act— 10
- “(a) ends on the date that is 12 months after the date on which the offence was committed if the offence is one for which the maximum fine does not exceed \$10,000: 15
- “(b) ends on the date that is 2 years after the date on which the offence was committed if the offence is one for which the maximum fine exceeds \$10,000.”

Section 237(1): omit “section 24 of the Summary Proceedings Act 1957” and substitute “rules made under the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Heading to section 238: omit “**Informations**” and substitute “**Charges**”.

Section 238(1): repeal and substitute:

- “(1) If 2 or more charging documents charging a defendant with any offence against this Act have been filed, the court may, despite any other enactment or rule of law, order that any specified charges be tried together, if satisfied that— 25
- “(a) either—
- “(i) the offences are founded on the same set of facts; 30
- or
- “(ii) the offences form, or are part of, a series of offences of the same character or similar character; and

Part 1—*continued***Fisheries Act 1996 (1996 No 88)**—*continued*

“(b) it is in the interests of justice that the charges be tried together.”

Section 238(2): omit “information” and substitute “charge”.

Section 238(3): omit “informations” in each place where it appears and substitute in each case “charges”. 5

Section 238(3): omit “information” in each place where it appears and substitute in each case “charge”.

Heading to section 239: omit “**Information**” and substitute “**Charging document**”.

Section 239(1): omit “information may, notwithstanding section 16 of the Summary Proceedings Act 1957” and substitute “charging document may, notwithstanding **section 14** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 239(2): omit “information” in each place where it appears and substitute in each case “charging document”. 15

Section 241(3): omit “informant” and substitute “prosecutor”.

Section 250: omit “an information or indictment” and substitute “a charge”.

Section 251: omit “informant” and substitute “prosecutor”.

Section 252(1): omit “on indictment”. 20

Section 253(2): omit “summary”.

Section 255B(1)(b): repeal and substitute:

“(b) where—

“(i) a person is charged with an infringement offence against this Act and proceedings in respect of that offence are commenced under the **Criminal Procedure (Reform and Modernisation) Act 2010** (not by way of an infringement notice); and 25

“(ii) the person is found guilty of, or pleads guilty to, that offence.”. 30

Section 260 and heading above section 260: repeal.

Section 260A(1)(a): omit “laying an information under the Summary Proceedings Act 1957” and substitute “filing a charging document

Part 1—*continued***Fisheries Act 1996 (1996 No 88)**—*continued*

under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 260A(2): repeal and substitute:

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if a fishery officer proceeds with an infringement offence by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

Section 260A(4): omit “for the purposes of the Summary Proceedings Act 1957”.

Fishing Vessel Ownership Savings Act 1977 (1977 No 62)

Section 27(2): omit “summary”.

Section 28(2)(c): omit “summary”.

Flags, Emblems, and Names Protection Act 1981 (1981 No 47) 15

Section 24: omit “summary”.

Section 25: omit “information” and substitute “charging document”.

Section 25: omit “shall be laid” and substitute “may be filed”.

Food Act 1981 (1981 No 45)

Section 8ZQ(2) and (3): insert “on conviction” after “liable”. 20

Section 8ZR(4) and (5): insert “on conviction” after “liable”.

Section 8ZZE(2) and (3): insert “on conviction” after “liable”.

Section 9(5) and (6): insert “on conviction” after “liable”.

Section 10(2) and (3): insert “on conviction” after “liable”.

Section 11(3) and (4): insert “on conviction” after “liable”. 25

Section 11AA(2): omit “on indictment”.

Section 11Q(1) and (2): insert “on conviction” after “liable”.

Section 11ZE(2) and (3): insert “on conviction” after “liable”.

~~Section 27: repeal.~~

Part 1—*continued***Food Act 1981 (1981 No 45)**—*continued*

Section 27: repeal and substitute:

“27 Time for filing charging document

“(1) Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed. 5

“(2) Subsection (1) does not apply to an offence against section 11AA.”

Section 28: insert “on conviction” after “liable”. 10

Forest and Rural Fires Act 1977 (1977 No 52)

Section 61(2), (3), and (4): omit “summary”.

Section 61(5): omit “informant” and substitute “prosecutor”.

Section 62: Repeal and substitute:

“62 Time within which charging document must be filed 15
 Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was discovered.” 20

Forests Act 1949 (1949 No 19)

Section 54: omit “summary”.

Section 61: omit “summary”.

Section 67S(3): omit “information” and substitute “charge”.

Section 67S(4): omit “an information or charge is laid” and substitute “a charging document is filed”. 25

Section 67S(6): omit “information or charge has been laid” and substitute “charging document has been filed”.

Section 67S(7): omit “lay any information or charge” and substitute “file any charging document”. 30

Section 67U(1) and (2): omit “summary”.

Section 72(1)(c): omit “summary”.

Part 1—*continued***Freedom Camping Act 2011 (2011 No 61)**

Section 25(1): omit “laying an information under the Summary Proceedings Act 1957” and substitute “filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

5

Section 25(2)(b): omit “laying an information under the Summary Proceedings Act 1957” and substitute “filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Friendly Societies and Credit Unions Act 1982 (1982 No 118)

10

Section 8(4), (5), and (6): omit “summary”.

Section 133(5): omit “summary”.

Section 150(1) and (2): omit “summary”.

Section 153(4): omit “summary”.

Section 153(5): repeal and substitute:

15

“(5) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was actually brought to the knowledge of the Registrar; but no charging document may be filed after the expiration of 3 years after the date on which the offence was committed.”

20

Section 154: omit “summary”.

Gambling Act 2003 (2003 No 51)

25

Section 15(2): omit “summary”.

Section 16(3): omit “summary”.

Section 19(2) and (3): omit “summary”.

Section 82(4): omit “summary”.

Section 83(2): omit “summary”.

30

Section 84(2): omit “summary”.

Section 104(4): omit “summary”.

Section 105(4): omit “summary”.

Part 1—*continued***Gambling Act 2003 (2003 No 51)**—*continued*

Section 106(2): omit “summary”.	
Section 110(5): omit “summary”.	
Section 111(2): omit “summary”.	
Section 113(2) and (3): omit “summary”.	
Section 115(2): omit “summary”.	5
Section 117(5): omit “summary”.	
Section 118(5): omit “summary”.	
Section 121(5): omit “summary”.	
Section 169(2): omit “summary”.	
Section 170(2): omit “summary”.	10
Section 172(2): omit “summary”.	
Section 175(3): omit “summary”.	
Section 176(6): omit “summary”.	
Section 179(2): omit “summary”.	
Section 180(2): omit “summary”.	15
Section 189(2): omit “summary”.	
Section 191(4): omit “summary”.	
Section 203(6): omit “summary”.	
Section 211(5): omit “summary”.	
Section 213(5): omit “summary”.	20
Section 251(3): omit “summary”.	
Section 267(3): omit “summary”.	
Section 268(2): omit “summary”.	
Section 301(6)(a) and (b): omit “summary”.	
Section 302(7)(a), (b), and (c): omit “summary”.	25
Section 303(5)(a) and (b): omit “summary”.	
Section 304(5): omit “summary”.	
Section 308(5): omit “summary”.	
Section 312(4)(a) and (b): omit “summary”.	
Section 331(5): omit “summary”.	30
Section 346(2): omit “summary”.	
Section 347(3)(a): omit “summary”.	

Part 1—*continued***Gambling Act 2003 (2003 No 51)**—*continued*

Section 348(3): omit “summary”.

Section 351(2): omit “summary”.

Section 352(2): omit “summary”.

Section 353(4): omit “on indictment” in each place where it appears.

Section 355: repeal and substitute: 5

“355 Proceedings for offences

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 2 years 10
after the date on which the offence was committed.

“(2) Only a gambling inspector or a constable may file a charging document for an offence against this Act.”

Section 356: repeal and substitute:

“356 Infringement offences 15

“(1) If a person is alleged to have committed an infringement offence, the person may either—

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or 20

“(b) be served with an infringement notice as provided in section 357.

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if proceedings for an infringement offence are commenced by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010**.” 25

Section 357(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”. 30

Gas Act 1992 (1992 No 124)

Section 13(1): omit “by way of case stated for the opinion of that Court”.

Part 1—*continued***Gas Act 1992 (1992 No 124)**—*continued*

Section 13(3): repeal and substitute:

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.” 5

Section 13(4): omit “, or until a District Court Judge certifies that the appeal has not been prosecuted, or the Registrar of the High Court has certified that the appeal has been dismissed for non-prosecution, whichever occurs first” and substitute “or abandoned”.

Section 14(2): omit “summary”. 10

Section 21: omit “summary”.

Section 27(1): omit “summary”.

Section 30(1): omit “by way of case stated for the opinion of that Court”.

Section 30(3): repeal and substitute: 15

“(3) **Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.”

Section 43EA(2): omit “summary”. 20

Section 43EC(1): omit “summary”.

Section 43H(5): omit “summary”.

Section 43T: omit “summary”.

Section 46B: omit “summary”.

Section 52: omit “summary”. 25

Section 56B(3): omit “on indictment”.

Section 56B: add:

“(6) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence under this section.” 30

Section 57(3) and (4): omit “summary”.

Part 1—*continued***Gas Act 1992 (1992 No 124)**—*continued*

Section 57A: repeal and substitute:

“57A Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under section 54 or 55 ends on the date that is 5 years after the date on which the offence was committed.”

Section 57B: repeal and substitute:

“57B Infringement offences

“(1) If a person is alleged to have committed an infringement offence, the person may either—

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or

“(b) be served with an infringement notice as provided in section 57C.

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the Secretary commences proceedings for an infringement offence by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

Section 57C(4)(a)(i): omit “laying of an information” and substitute “filing of a charging document”.

Section 57D(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Geneva Conventions Act 1958 (1958 No 19)

Section 3(1): omit “indictable”.

Section 8(2): omit “summary”.

Section 10(5): omit “For the purposes of this subsection, subsection (1) of section 3 of this Act shall apply as if the word ‘indictable’ were omitted.”

Part 1—*continued***Government Communications Security Bureau Act 2003 (2003 No 9)**

Paragraph (a) of the definition of **serious crime** in section 4: omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”. 5

Paragraph (b) of the definition of **serious crime** in section 4: omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

Section 11(2): omit “summary”.

Section 23(2): omit “summary”. 10

Government Roading Powers Act 1989 (1989 No 75)

Section 50(6): omit “summary”.

Section 51(2): omit “summary”.

Section 51(4): omit “information or complaint is laid” and substitute “charging document is filed”. 15

Section 55(7): omit “summary”.

Section 55(9): omit “laying of an information” and substitute “filing of a charging document”.

Section 87(1): omit “summary”.

Section 97: omit “summary”. 20

Government Superannuation Fund Act 1956 (1956 No 47)

Section 96: omit “summary”.

Harassment Act 1997 (1997 No 92)

Section 8(2): omit “summary”.

Section 25(2) and (3): omit “summary”. 25

Section 27: omit “summary”.

Section 41(2): omit “summary”.

Hawke’s Bay Earthquake Relief Funds Act 1931 (1931 No 29)

Section 7(2): omit “summary”.

Section 12: omit “summary”. 30

Part 1—*continued***Hazardous Substances and New Organisms Act 1996 (1996 No 30)**

Section 109A: repeal and substitute:

“109A Time for filing charging document

“(1) The limitation period in respect of an offence against this Act that relates to a hazardous substance ends on the date that is 6 months after the earlier of—

“(a) the date when the incident, situation, or set of circumstances to which the offence relates first became known to the person by whom the proceedings are commenced; or

“(b) the date when the incident, situation, or set of circumstances to which the offence relates should reasonably have become known to the person.

“(2) The limitation period in respect of an offence against this Act that relates to a new organism ends on the date that is 2 years after the date on which the offence was committed.

“(3) **Subsection (1)** is subject to section 109B.”

Heading to section 109B: omit “**laying information**” and substitute “**filing charging document**”.

Section 109B(1): omit “lay an information” and substitute “file a charging document”.

Section 109B(3)(a): omit “lay an information” and substitute “file a charging document”.

Section 109B(3)(c): omit “an information is able to be laid” and substitute “a charging document is able to be filed”.

Section 109B(3)(d): omit “laying the information” and substitute “filing the charging document”.

Section 111(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 112(2): omit “for the purpose of the Summary Proceedings Act 1957,”.

Section 114(1), (2), and (3): omit “summary”.

Part 1—*continued***Hazardous Substances and New Organisms Act 1996 (1996 No 30)**—*continued*

Section 118(1): omit “information for that offence was laid” and substitute “charging document for that offence was filed”.

Section 134: repeal and substitute:

“134 Appeals to Court of Appeal

Subpart 8 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010 applies as far as applicable with the necessary modifications to a decision of the High Court under section 126 as if the decision were made under **section 304** of that Act.”

Hazardous Substances and New Organisms Amendment Act 2010 (2010 No 18) 10

Heading to section 38: omit “**laying information**” and substitute “**filing charging document**”.

Section 38(1): omit “an information” and substitute “a charge”.

Section 38(2): omit “information must be laid” and substitute “charging document must be filed”. 15

Section 38(3): omit “an information” and substitute “a charge”.

Section 38(4): omit “information must be laid” and substitute “charging document must be filed”.

Section 38(4)(a): omit “matter of the information arose” and substitute “offence was committed”. 20

Health Act 1956 (1956 No 65)

Section 39(2): insert “on conviction” after “liable”.

Section 54(6): insert “on conviction” after “liable”.

Section 58(4): insert “on conviction” after “liable”. 25

Section 60(1) and (2): insert “on conviction” after “liable”.

Section 66(1): insert “on conviction” after “liable”.

Section 69ZZT(2): insert “on conviction” after “liable”.

Section 69ZZO(2): omit “on indictment”.

Section 69ZZQ(3): omit “summary”. 30

Part 1—*continued***Health Act 1956 (1956 No 65)**—*continued*

Section 69ZZU: repeal and substitute:

“69ZZU Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence under this Part ends on the date that is 3 years after the date on which the offence was committed.” 5

Section 69ZZV(1), (2), and (3): omit “summary”.

Section 71(3): omit “summary”.

Section 72: insert “on conviction” after “liable”. 10

Section 74AA(3)(b): insert “on conviction” after “liable”.

Section 91: omit “summary”.

Section 92: omit “summary”.

Section 102(5) and (6): insert “on conviction” after “liable”.

Section 109(3)(b): insert “on conviction” after “liable”. 15

Section 110(3)(a): insert “on conviction” after “liable”.

Section 112(1), (2), and (3): omit “summary”.

Section 112ZP(3): omit “summary”.

Section 136: insert “on conviction” after “liable”.

Section 137: repeal. 20

Health and Disability Commissioner Act 1994 (1994 No 88)

Section 61(4)(c): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 63(4)(a): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 73: omit “summary”.

Health and Disability Services (Safety) Act 2001 (2001 No 93)

Section 54(1) and (2): omit “summary”. 30

Part 1—*continued***Health and Safety in Employment Act 1992 (1992 No 96)**

Definition of **enforcement action** in section 2(1) paragraphs (a)(i) and (b)(i): repeal and substitute in each case:

“(i) the filing of a charging document under this Act; or” 5

Section 50(1) and (2): omit “summary”.

Heading to section 54A: repeal and substitute “**Filing charging document**”.

Section 54A(1): omit “lay an information” and substitute “file a charging document” 10

Section 54A(2): omit “lay an information” and substitute “file a charging document”.

Section 54A(3): omit “lay an information” and substitute “file a charging document”.

Section 54A(3)(a): omit “lay the information” and substitute “file the charging document” 15

Section 54B: repeal and substitute:

“54B Time limit for filing charging document

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, 20 the limitation period in respect of an offence against this Act ends on the date that is 6 months after the earlier of—

“(a) the date when the incident, situation, or set of circumstances to which the offence relates first became known to an inspector; or 25

“(b) the date when the incident, situation, or set of circumstances to which the offence relates should reasonably have become known to an inspector.

“(2) This section is subject to sections 54C and 54D.”

Heading to section 54C: omit “**lay information**” and substitute “**file charging document**” 30

Section 54C(2): omit “lay an information” and substitute “file a charging document”.

Section 54C(4)(a): omit “lay an information” and substitute “file a charging document” 35

Part 1—*continued***Health and Safety in Employment Act 1992 (1992 No 96)**—*continued*

Section 54C(5)(c): omit “an information should be laid” and substitute “a charging document should be filed”.

Heading to section 54D: omit “**lay information**” and substitute “**file charging document**”.

Section 54D(1): omit “lay an information” and substitute “file a charging document” 5

Section 54D(2): omit “laying an information” and substitute “filing a charging document”.

Section 54D(4)(a): omit “lay an information” and substitute “file a charging document” 10

Section 54D(4)(c): omit “an information is able to be laid” and substitute “a charging document is able to be filed”.

Section 54D(4)(d): omit “laying the information” and substitute “filing the charging document”.

Section 54D(5)(c): omit “an information should be laid” and substitute “a charging document should be filed” 15

Section 55(1): repeal and substitute:

“(1) A proceeding commenced by an inspector in respect of any offence against this Act may be proceeded with and conducted by that inspector, any other inspector, or any other person permitted by the court to proceed with and conduct it.” 20

Section 55(2)(b): omit “an information was laid” and substitute “proceedings were commenced”.

Section 55(3): omit “indictment or information” and substitute “charge” 25

Section 55(5): omit “lay an information” and substitute “file a charging document”.

Section 56E(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Health Practitioners Competence Assurance Act 2003 (2003 No 48) 30

Section 7(5): omit “summary”.

Part 1—*continued***Health Practitioners Competence Assurance Act 2003 (2003 No 48)**—*continued*

Section 9(6): omit “summary”.	
Section 33(3): omit “summary”.	
Section 44(3): omit “summary”.	
Section 59(6): omit “summary”.	
Section 78(4): omit “summary”.	5
Section 95(7): omit “summary”.	
Section 98(5): omit “summary”.	
Section 113(4): omit “Part 4 of the Summary Proceedings Act 1957 (together with the other provisions of that Act that are applied in that Part)” and substitute “ Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010 ”.	10
Section 172: omit “summary”.	
Section 173: repeal and substitute:	
“ 173 Time for filing charging document	
Despite anything to the contrary in section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010 , the limitation period in respect of an offence against this Act ends on the date that is 3 years after the date on which the offence was committed.”	15
Schedule 1, clause 10(1): omit “Summary Proceedings Act 1957” and substitute “ Criminal Procedure (Reform and Modernisation) Act 2010 ”.	20
Schedule 1, clause 12(3): omit “summary”.	
Schedule 1, clause 13(1): omit “summary”.	
Heavy Engineering Research Levy Act 1978 (1978 No 81)	25
Section 18(1) and (2): omit “summary”.	
Section 19(1): omit “summary”.	
Historic Places Act 1993 (1993 No 38)	
Section 65: omit “summary”.	
Section 97(2): omit “summary”.	30
Section 98(2): omit “summary”.	

Part 1—*continued***Historic Places Act 1993 (1993 No 38)**—*continued*

Section 99(2): omit “summary”.

Section 100: omit “summary”.

Section 101: omit “summary”.

Section 102(1) and (2): omit “summary”.

Section 103(2): omit “summary”.

5

Section 104: omit “summary”.

Section 107(3): omit “summary”.

Section 108: repeal and substitute:

“108 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was committed.”

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Home Ownership Savings Act 1974 (1974 No 51)

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Section 16(2): omit “summary”.

Section 17(2)(c): omit “summary”.

Hotel Association of New Zealand Act 1969 (1969 No 139)

Section 14(3): omit “summary”.

Housing Act 1955 (1955 No 51)

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Section 29(7): omit “summary”.

Housing Corporation Act 1974 (1974 No 19)

Section 43(3): omit “summary”.

Human Assisted Reproductive Technology Act 2004 (2004 No 92)

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Section 8(4): omit “on indictment”.

Section 9(5) and (6): omit “summary”.

Section 10(9): omit “summary”.

Part 1—*continued***Human Assisted Reproductive Technology Act 2004 (2004 No 92)**—*continued*

Section 11(2): omit “summary”.

Section 12(2): omit “summary”.

Section 13(2): omit “summary”.

Section 14(5): omit “summary”.

Section 15(3): omit “summary”.

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Section 16(2): omit “summary”.

Section 26(2): omit “summary”.

Section 75(2): omit “summary”.

Human Rights Act 1993 (1993 No 82)

Section 107(4): omit “summary”.

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Section 111(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 113(2): omit “summary”.

Section 121(2): omit “summary”.

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Section 128(4)(a): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 131(1): omit “summary conviction” and substitute “conviction”.

20

Section 134(2): omit “summary”.

Section 143: omit “summary”.

Human Tissue Act 2008 (2008 No 28)

Section 22(1): omit “summary”.

Section 23: omit “summary”.

25

Section 24: omit “summary”.

Section 47(3): omit “summary”.

Section 48(3): omit “summary”.

Section 49(3): omit “summary”.

Section 50(4): omit “summary”.

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Part 1—*continued***Human Tissue Act 2008 (2008 No 28)**—*continued*

Section 51(2): omit “summary”.

Section 52(2): omit “summary”.

Section 56(2): omit “summary”.

Section 57(2): omit “summary”.

Section 58(2): omit “summary”.

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Section 59(2): omit “summary”.

Section 61(2): omit “summary”.

Section 66(3): omit “summary”.

Section 73: omit “summary”.

Immigration Act 2009 (2009 No 51)

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Paragraph (d) of the definition of **fine** in section 295(4): repeal.

Section 350(5): omit “An information” and substitute “A charge”.

Section 351(6): omit “An information” and substitute “A charge”.

Section 352(6): omit “An information” and substitute “A charge”.

Section 360: repeal and substitute:

15

“360 Proceedings for infringement offences

If a person who is a carrier, or a person in charge, of any craft is alleged to have committed an infringement offence, the person may either—

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or

“(b) be served with an infringement notice as provided in section 362.”

Section 362(4): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

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Section 370(1) and (2): repeal.

Section 370(3): repeal and substitute:

“(3) Only an immigration officer, a constable, or some other person authorised for the purpose by the Minister, may commence a proceeding for an offence against this Act or any regulations made under it.”

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Part 1—*continued***Immigration Act 2009 (2009 No 51)**—*continued*

Section 371(b): omit “an information was laid” and substitute “proceedings were commenced”.

Section 372: repeal and substitute:

“372 Time for filing charging document

“(1) Despite anything to the contrary in **section 22** of the **Crim- 5**
inal Procedure (Reform and Modernisation) Act 2010,
the limitation period in respect of an offence against this Act
ends on the date that is 2 years after the earlier of—

“(a) the date when the incident, situation, or set of circum- 10
stances to which the offence relates first became known
to an immigration officer; or

“(b) the date when the incident, situation, or set of circum-
stances to which the offence relates should reasonably
have become known to an immigration officer.

“(2) **Subsection (1)** does not apply to the offences set out in sec- 15
tions 342(1)(b), 343(1)(a), (b), or (c)(i), 345, 348, and 351.”

Schedule 2, clause 16(1): omit “Summary Proceedings Act 1957”
and substitute “**Criminal Procedure (Reform and Modernisa-
tion) Act 2010**”.

Immigration Advisers Licensing Act 2007 (2007 No 15) 20

Section 75: repeal and substitute:

“75 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Crim-
inal Procedure (Reform and Modernisation) Act 2010**,—

“(a) a charging document may be filed at any time in respect 25
of an offence against any of sections 63(1)(a), 64(1),
65(1), 67(1)(a), and 68(1)(a); and

“(b) the limitation period in respect of an offence against any
other offence against this Act ends on the date that is 2
years after the earlier of— 30

“(i) the date when the incident, situation, or set of
circumstances to which the offence relates first
became known to an employee of the Department
responsible for the enforcement of this Act; or

Part 1—*continued***Immigration Advisers Licensing Act 2007 (2007 No 15)**—*continued*

- “(ii) the date when the incident, situation, or set of circumstances to which the offence relates should reasonably have become known to such an employee.”

Section 85(3): omit “Part 4 of the Summary Proceedings Act 1957 (together with other provisions of that Act that are applied in that Part)” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 97: repeal.

Schedule, clause 7: omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Schedule, clause 8(2): omit “indictment for” and substitute “charge of”.

Imports and Exports (Restrictions) Act 1988 (1988 No 157) 15

Section 4(7): repeal.

Section 4(8): repeal and substitute:

- “(8) Proceedings for an offence against this section or against any Order in Council made under section 3 or section 3A of this Act must be commenced by the Chief Executive.” 20

Section 4(9): repeal and substitute:

- “(9) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this section or against any Order in Council made under section 3 or 3A ends on the date that is 3 years after the date on which the offence was committed.” 25

Impounding Act 1955 (1955 No 108)

Section 31(3) and (4): insert “on conviction” after “liable”.

Section 33(1): insert “on conviction” after “liable”. 30

Section 57(1) and (2): insert “on conviction” after “liable”.

Section 58(1) and (2): insert “on conviction” after “liable”.

Part 1—*continued***Impounding Act 1955 (1955 No 108)**—*continued*

Section 60: insert “on conviction” after “liable”.

Section 61: repeal.

Imprisonment for Debt Limitation Act 1908 (1908 No 80)

Section 3(2)(b): omit “summarily before a District Court Judge or Justice or Justices” and substitute “before a District Court”. 5

Incorporated Societies Act 1908 (1908 No 212)

Section 11A(2): omit “summary”.

Section 23A(4): omit “summary”.

Section 23B(4) and (5): omit “summary”.

Incorporated Societies Amendment Act 1953 (1953 No 80)

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Section 3: omit “summary”.

Independent Police Conduct Authority Act 1988 (1988 No 2)

Section 25(5)(a): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Section 37: omit “summary”.

Industrial and Provident Societies Act 1908 (1908 No 81)

Section 5A(2): omit “summary”.

Section 7(f): omit “indictable”.

Section 7: add as subsection (2):

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“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence under this section.”

Section 10(i): repeal.

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Part 1—*continued***Industrial and Provident Societies Act 1908 (1908 No 81)**—*continued*

New section 10AA: insert after section 10:

“10AA Offences in relation to property of societies

“(1) A person commits an offence and is liable on conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$100 who— 5

“(a) obtains possession of any property of a society by false representation; or

“(b) having property of a society in his or her possession—

“(i) withholds or misapplies the property; or

“(ii) wilfully applies any part of the property to purposes other than those expressed or directed in the rules of the society and authorised by this Act. 10

“(2) A charging document in respect of an offence against this section may be filed only by—

“(a) the society that owns the property, or a member authorised by the society or committee of the society; or 15

“(b) the Registrar.”

Section 10A(4): omit “summary”.

Section 10B(4) and (5): omit “summary”.

Section 15(c)(iii): omit “indictable”. 20

Section 15: add as subsection (2):

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence under subsection (1)(c)(iii).” 25

Section 16(d): repeal.

Section 17(2): omit “information or complaint” and substitute “charging document”.

Inferior Courts Procedure Act 1909 (1909 No 13)

Section 10: omit “an information” and substitute “a charging document”. 30

Part 1—*continued***Inferior Courts Procedure Act 1909 (1909 No 13)**—*continued*

Section 12(1) and (1A): omit “Summary Proceedings Act 1957” and substitute in each case “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Insolvency Act 2006 (2006 No 55)

- Section 169(3): omit “summary”. 5
- Section 248(2): omit “on indictment”.
- Section 360(3): omit “summary”.
- Section 360(4): repeal.
- Section 371(3): omit “summary”.
- Section 371(4): repeal. 10
- Heading above section 419: omit.
- Heading to section 428: omit “**indictable offences by bankrupt**” and substitute “**offences under sections 419 to 426 by bankrupt**”.
- Section 428: omit “on indictment”.
- Section 428: add as subsection (2): 15
- “(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence against any of sections 419 to 426.”
- Section 429(2): repeal and substitute: 20
- “(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period for filing a charging document against a bankrupt in respect of an offence under this section ends on the date that is 2 years after the date of his or her adjudication.” 25
- Section 430: add as subsection (2):
- “(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence against this section.” 30
- Section 431(1): omit “summary”.
- Section 431(2): omit “on indictment”.

Part 1—*continued***Insolvency Act 2006 (2006 No 55)**—*continued*

Heading above section 433: omit and substitute:

“*Offences in relation to Assignee*”.

Heading to section 433: omit and substitute “**Offences in relation to Assignee**”.

Section 433(1)(f)(ii): omit “; or”. 5

Section 433(1)(g): repeal.

Section 433(2): repeal.

New section 433A: insert after section 433:

“433A Offence in relation to obtaining credit

A bankrupt (**B**) commits an offence if B, before B obtains a final order or discharge, or before a suspended order of discharge takes effect under this Act,— 10

“(a) alone, or jointly with another person, obtains credit of \$1,000 or more; or

“(b) incurs liability to any person of \$1,000 or more for the purpose of obtaining credit for another person.” 15

Heading to section 434: omit “**summary offences**” and substitute “**offence**”.

Section 434(1): omit “433(1)(g)(i)” and substitute “**433A(a)**”.

Section 434(2): omit “433(1)(g)(ii)” and substitute “**433A(b)**”. 20

New section 434A: insert after section 434:

“434A Limitation period for offences against section 433 or 433A

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period for filing a charging document against a bankrupt in respect of an offence against section 433 or **433A** ends on the date that is 2 years after the date on which the offence was committed.” 25

Section 435: repeal and substitute: 30

“435 Penalty for offences under sections 433 and 433A

A person who commits an offence under section 433 or **433A** is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.”

Part 1—*continued***Insolvency Act 2006 (2006 No 55)**—*continued*

Section 436(2): repeal and substitute:

“(2) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence under subsection (1) ends on the date that is 2 years after the date on which the offence was committed.” 5

Section 437: repeal and substitute:

“**437 Penalties for offence in relation to management of companies**

A person who commits an offence under section 436 is liable, on conviction, to imprisonment for a term not exceeding 2 years.” 10

Section 438(2): omit “lay an information” and substitute “file a charging document”.

Section 440(2): omit “summary”. 15

Inspector-General of Intelligence and Security Act 1996 (1996 No 47)

Section 23(6): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 23(8): omit “summary”. 20

Section 28(3): omit “on indictment”.

Section 29(4): omit “summary”.

Insurance Companies (Ratings and Inspections) Act 1994 (1994 No 117)

Section 5(3): omit “summary”. 25

Section 6(5): omit “summary”.

Section 8(4): omit “summary”.

Section 20(2): omit “summary”.

Section 26(4), (5)(a), (5)(b), and (6): omit “summary”.

Section 27(4): omit “summary”. 30

Section 33(3)(a) and (b): omit “summary”.

Part 1—*continued***Insurance Companies' Deposits Act 1953 (1953 No 50)**

Section 15(2): omit "summary".

Section 17: omit "summary".

Section 20(1): omit "summary".

Section 20A(2): omit "summary".

5

Section 22(1): omit "summary".

Insurance Intermediaries Act 1994 (1994 No 41)

Section 8(4): omit "summary".

Section 13(4): omit "summary".

Section 14(6): omit "summary".

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Section 15(7): omit "summary".

Insurance Law Reform Act 1977 (1977 No 14)

Section 112A(3)(a) and (b): omit "summary".

Insurance (Prudential Supervision) Act 2010 (2010 No 111)

Section 15(2): omit "summary".

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Section 16(2): omit "summary".

Section 17(4): omit "summary".

Section 23: omit "summary".

Section 24(2): omit "summary".

Section 29: omit "summary".

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Section 31(5): omit "summary".

Section 34(6): omit "summary".

Section 37(6): omit "summary".

Section 41(2): omit "summary".

Section 44(4): omit "summary".

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Section 50: omit "summary".

Section 57: omit "summary".

Section 60(4): omit "summary".

Section 64(5): omit "summary".

Section 65(5): omit "summary".

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Part 1—*continued***Insurance (Prudential Supervision) Act 2010 (2010 No 111)**—*continued*

Section 71: omit “summary”.	
Section 72(2): omit “summary”.	
Section 75: omit “summary”.	
Section 77(5): omit “summary”.	
Section 80(2) and (4): omit “summary”.	5
Section 81(6): omit “summary”.	
Section 118(1): omit “summary”.	
Section 121(6): omit “summary”.	
Section 123(2): omit “summary”.	
Section 124(4): omit “summary”.	10
Section 125(2): omit “summary”.	
Section 126(4): omit “summary”.	
Section 130(3): omit “summary”.	
Section 133(2): omit “summary”.	
Section 135(5): omit “summary”.	15
Section 136(2): omit “summary”.	
Section 142: omit “summary”.	
Section 148(3): omit “summary”.	
Section 150(5): omit “summary”.	
Section 156(2): omit “summary”.	20
Section 157(2): omit “summary”.	
Section 180(b): omit “summary”.	
Section 200(2): omit “summary”.	
Section 201(4): omit “summary”.	
Section 207(3): omit “summary”.	25
Section 214(2): omit “summary”.	
Section 215(2): omit “summary”.	
Section 218(3): omit “summary”.	
Section 219(3): omit “summary”.	
Section 228: omit “summary”.	30
Schedule 2, clause 31: omit “summary”.	

Part 1—*continued***Insurance (Prudential Supervision) Act 2010 (2010 No 111)**—*continued*

Schedule 2, clause 32: omit “summary”.

Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003 (2003 No 116)

Section 71(3): omit “section 142A of the Criminal Justice Act 1985” and substitute “**section 34A** of the Corrections Act 2004”. 5

Section 105(2)(a) and (b): repeal and substitute:

“(a) if the Judge considers the accused is capable of being tried on the charge, direct that the accused be brought before the appropriate court; or

“(b) if in the circumstances of the case the Judge considers it proper to do so and the interests of justice so permit, direct that the charge against the accused be dismissed (whether or not the accused is capable of being tried).” 10

Section 128(4): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Intelligence and Security Committee Act 1996 (1996 No 46)

Section 20(2): omit “on indictment”.

International Crimes and International Criminal Court Act 2000 (2000 No 26) 20

Section 4(2)(a): repeal.

Section 9(1): omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 10(1): omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”. 25

Section 11(1): omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 15(1) and (2): omit “is liable on conviction on indictment” and substitute in each case “commits an offence and is liable on conviction”. 30

Part 1—*continued***International Crimes and International Criminal Court Act
2000 (2000 No 26)**—*continued*

Section 16(1) and (2): omit “is liable on conviction on indictment” and substitute in each case “commits an offence and is liable on conviction”.

Section 17(1): omit “is liable to imprisonment on conviction on indictment” and substitute “commits an offence and is liable on conviction to imprisonment”.

Section 17(2): omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 18(2): omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 19: omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 20: omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 21: omit “is liable on conviction on indictment” and substitute “commits an offence and is liable on conviction”.

Section 39(3): omit “section 31(1) to (3) of the Bail Act 2000 (as applied by section 49 of that Act)” and substitute “**section 30(1), (3), and (4)** of the Bail Act 2000”.

Section 41(1)(a): omit “summary” and substitute “category 1 or 2”.

Section 41(1)(b)(i): omit “Part 2 and sections 203, 204, and 206 of the Summary Proceedings Act 1957” and substitute “**subparts 1 and 3 of Part 4, Part 5, and sections 362 and 376** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 41(2): omit “Despite section 4 of the Summary Proceedings Act 1957” and substitute “In accordance with **section 353** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 41(3): omit “subsections (1) and (2) of section 46 of the Summary Proceedings Act 1957” and substitute “**section 173(1) and (2)** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 41(5): omit “Section 184T of the Summary Proceedings Act 1957 and sections 52 and 54” and substitute “**Section 174** of the

Part 1—*continued***International Crimes and International Criminal Court Act 2000 (2000 No 26)**—*continued***Criminal Procedure (Reform and Modernisation) Act 2010** and **sections 27, 30 to 33, 35, 37 to 39, 43, 44, and 50**”.

Section 46(2)(a): omit “section 184T(3) of the Summary Proceedings Act 1957” and substitute “**section 174** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

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Section 67: repeal and substitute:

“67 Appeal on question of law only

“(1) This section applies if a District Court determines under section 43 that a person is or is not eligible for surrender in relation to any crime for which surrender is sought, and either party considers the determination erroneous in point of law.

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“(2) If this section applies, the party may appeal against the determination to the High Court on a question of law only.

“(3) To lodge an appeal the party must, within 15 days after the determination, file in the office of the court that made the determination a notice of appeal in the prescribed form.”

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Section 68: repeal and substitute:

“68 Application to appeal of Bail Act 2000 and Criminal Procedure (Reform and Modernisation) Act 2010

“(1) **Section 56** of the Bail Act 2000 (which relates to the surrender of an appellant released on bail) applies with any necessary modifications to an appeal under this Part as if it were an appeal under **subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** against the determination by a District Court of a charge for an offence.

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“(2) **Subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this Part.”

International Energy Agreement Act 1976 (1976 No 155)

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Section 6(6): omit “summary”.

Section 7(3) and (4): omit “summary”.

Part 1—*continued***International Terrorism (Emergency Powers) Act 1987 (1987 No 179)**

Section 21(2) and (3): omit “summary”.

International War Crimes Tribunals Act 1995 (1995 No 27)

Section 9(3): omit “sections 45, 45A, 46, and 47 of the Summary Proceedings Act 1957, and sections 28 to 38” and substitute “**sections 172 to 175** of the **Criminal Procedure (Reform and Modernisation) Act 2010** and **sections 28, 30 to 32, 34 and 35, and 37 to 39**”.

Section 40(3): omit “on indictment”. 10

Interpretation Act 1999 (1999 No 85)

Definition of **committed for trial** in section 29: repeal.

Definition of **summary conviction** in section 29: repeal.

Joint Family Homes Act 1964 (1964 No 45)

Section 8(4)(a) and (b): omit “summary”. 15

Section 12(2)(a) and (b): omit “summary”.

Judicature Act 1908 (1908 No 89)

Section 51B(1): insert after “District Courts Act 1947” “and the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 56A(3): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 56O(2): omit “on indictment”.

Section 58A(4): repeal and substitute:

“(4) For the purposes of this section, **criminal proceeding** means 25
an appeal or application to the Court of Appeal under **Part 6**
of the **Criminal Procedure (Reform and Modernisation)**
Act 2010.”

Schedule 2 (High Court Rules), Rule 20.1(1)(a) and (2): omit “Summary Proceedings Act 1957” in each place where it appears and sub- 30

Part 1—*continued***Judicature Act 1908 (1908 No 89)**—*continued*

stitute in each case “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 (2004 No 38)

Section 30(6): omit “summary”. 5

KiwiSaver Act 2006 (2006 No 40)

Section 197(1): omit “summary”.

Section 198(1): omit “summary”.

Land Act 1948 (1948 No 64)

Section 24(3): omit “informant” and substitute “prosecutor”. 10

Section 176(3): repeal and substitute:

“(3) Only the Commissioner, or some person appointed in writing by the Commissioner, may file a charging document for an offence under this section.”

Section 182(1): omit “summary”. 15

Section 182(2): repeal and substitute:

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was committed.” 20

Land Drainage Act 1908 (1908 No 96)

Section 26: omit “before any Justice or Community Magistrate in a summary way” and substitute “in accordance with Part 3 of the Summary Proceedings Act 1957”. 25

Section 45(3): omit “in a summary way”.

Section 63(a) and (b): repeal and substitute:

“(a) the ratepayer may apply to a District Court for an order requiring the council to comply with the notice:

Part 1—*continued***Land Drainage Act 1908 (1908 No 96)**—*continued*

“(b) on the hearing of the application the District Court has jurisdiction to determine whether and to what extent the notice should be complied with by the local authority, and the decision of the District Court is final.”

Proviso to section 63: repeal and substitute: 5

“(2) Any order made by the local authority pursuant to the District Court’s decision is subject to appeal as provided in section 62.”

Section 82: omit “is liable on indictment” and substitute “commits an offence and is liable on conviction”.

Section 84: omit “, and all fines imposed by this Act shall be recoverable in a summary way before 2 Justices or one or more Community Magistrates in the manner provided by” and substitute “before 2 Justices and 1 or more Community Magistrates in accordance with the **Criminal Procedure Act (Reform and Modernisation) 2010**, and all fines are to be recovered in accordance with Part 3 of”. 15

Land Transfer Act 1952 (1952 No 52)

Section 121B(2)(a) and (b): omit “summary”.

Section 121G(7)(a) and (b): omit “summary”.

Section 121K(5)(a) and (b): omit “summary”.

Section 164(3): omit “summary”. 20

Section 189(2): omit “summary”.

Section 212: omit “summary”.

Section 225(1): omit “on indictment”.

Section 226: omit “on indictment”.

Land Transport Act 1998 (1998 No 110) 25

Definition of **proceedings** in section 2(1): insert “the **Criminal Procedure (Reform and Modernisation) Act 2010** or” after “proceedings under”.

Section 32(4): repeal and substitute:

“(4) If a person is convicted of a third or subsequent offence against subsection (1) (whether or not of the same kind of offence as the previous offences),— 30

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

“(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.”

Section 36(1): omit “indictable”. 5

Section 36AA(1): omit “indictable”.

Section 36A(2) and (3): repeal and substitute:

“(2) A person who commits an offence against subsection (1)(a) or (c) and by that act or omission causes an injury to another person— 10

“(a) is liable on conviction to imprisonment for a term not exceeding 5 years or a fine not exceeding \$20,000; and

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.

“(3) A person who commits an offence against subsection (1)(a) or (c) and by the act or omission causes the death of another person— 15

“(a) is liable on conviction to imprisonment for a term not exceeding 10 years or a fine not exceeding \$20,000; and

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for 1 year or more.” 20

Section 36A(4): omit “that is not an indictable offence is liable” and substitute “but does not, by that act or omission, cause injury to, or the death of, another person is liable on conviction”.

Section 36A(5): insert “on conviction” after “liable”. 25

Section 39(1): omit “indictable”.

Section 56(4): repeal and substitute:

“(4) If a person is convicted of a third or subsequent offence against subsection (1) or subsection (2), or any of sections 57A(1), 58(1), 60(1), or 61(1) or (2) (whether or not that offence is of the same kind as the person’s first or second offence against any of those provisions),— 30

“(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.”

Section 57A(3): repeal and substitute:

“(3) If a person is convicted of a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 58(1), 60(1), 61(1), and 61(2) (whether or not that offence is of the same kind as the person’s first or second offence against any of those provisions),—

“(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.”

Section 58(3): repeal and substitute:

“(3) If a person is convicted of a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 57A(1), 60(1), and 61(1) and (2) (whether or not that offence is of the same kind as the person’s first or second offence against any of those provisions),—

“(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.”

Section 60(3): repeal and substitute:

“(3) If a person is convicted of a third or subsequent offence against subsection (1) or any of sections 56(1), 56(2), 57A(1), 58(1), and 61(1) and (2) (whether or not that offence is of the same kind as the person’s first or second offence against any of those provisions),—

“(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

“(b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.”

Section 61(1) and (2): omit “indictable”.

Section 62(1) and (1B): omit “indictable”.

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Section 74(7)(a)(ii): omit “section 19 or section 150 of the Summary Proceedings Act 1957” and substitute “**section 31 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 75A(2): omit “or defended hearing”.

Section 79A(3): omit “summary”.

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Section 79B: omit “summary”.

Section 79M(2): omit “summary”.

~~Section 88(5)(b): omit “summary”.~~

Section 88(6)(b): omit “summary”.

Section 99(1)(b)(iv): insert “or (3)” after “36A(2)”.

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Section 107(2): omit “section 107 or section 115 of the Summary Proceedings Act 1957” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 107(2B): omit “Part 4 of the Summary Proceedings Act 1957” and substitute “**Subpart 2 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

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Section 107(3): omit “subsections (3) to (5) of section 379A of the Crimes Act 1961 apply” and substitute “**subpart 2 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010 applies**”.

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Section 128E(2): insert “on conviction” after “liable”.

Section 128E(5): insert “on conviction” after “liable”.

Section 133(3): insert “the **Criminal Procedure (Reform and Modernisation) Act 2010** or” after “under”.

Section 133A(3): insert “the **Criminal Procedure (Reform and Modernisation) Act 2010** or” after “under”.

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Heading to section 135: repeal and substitute: “**Commencing proceedings, and jurisdiction, for offences**”.

Section 135(1): repeal.

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

Section 135(1A) and (1B): repeal and substitute:

“(1A) Proceedings for an offence against Part 6A or 6B must be commenced by the Agency or an enforcement officer.

“(1B) In the absence of proof to the contrary, it is presumed that proceedings for an offence against Part 6A or 6B have been commenced by a person authorised to do so under **subsection (1A)**.” 5

Section 135(2): omit “summary” and substitute “category 1” and omit “, that is not punishable by imprisonment”.

Section 136(1): omit “an offence punishable on summary conviction against this Act, the court may dismiss the information” and substitute “a category 1 or 2 offence against this Act, the court may dismiss the charge”. 10

Section 136(3): omit “Section 14 of the Summary Proceedings Act 1957” and substitute “**Section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Section 138: repeal and substitute:

“138 Infringement offences

“(1) If a person is alleged to have committed an infringement offence, the person may either— 20

“(a) be proceeded against by filing a charging document under **section 12 of the Criminal Procedure (Reform and Modernisation) Act 2010**; or

“(b) be served with an infringement notice as provided in section 139. 25

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the enforcement authority commences proceedings for an infringement offence by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010**.” 30

Section 139(3): repeal and substitute:

“(3) An infringement notice that—

Part 1—*continued***Land Transport Act 1998 (1998 No 110)**—*continued*

“(a) is attached to a vehicle under subsection (2)(a) must be treated as having been served when it is attached to the vehicle:

“(b) is sent to a person by post under subsection (2)(c) or (d) must be treated as having been served on the person when it would have been delivered in the ordinary course of post.” 5

Section 139(6)(a): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Land Transport (Road Safety and Other Matters) Amendment Act 2011 (2011 No 13)

New section 57AA(1) and (2) in section 26: omit “a summary” and substitute “an”.

New section 57AA(4) and (5) in section 26: omit “indictable”. 15

Land Transport Management Act 2003 (2003 No 118)

Section 43(2): omit “summary”.

Section 43(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against subsection (1) ends on the date that is 3 years after the date on which the offence was committed.” 20

Section 54(4): omit “summary”.

Section 65(2)(c): repeal and substitute: 25

“(c) the following provisions apply accordingly:

“(i) the **Criminal Procedure (Reform and Modernisation) Act 2010** and the rules and regulations made under it:

“(ii) the Summary Proceedings Act 1957 and the regulations made under it.” 30

Section 65ZD(3): omit “summary”.

Part 1—*continued***Land Transport Management Act 2003 (2003 No 118)**—*continued*

Section 65ZD(4): repeal and substitute:

“(4) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against subsection (1) or (2) ends on the date that is 3 years after the date on which the offence was committed.” 5

Lawyers and Conveyancers Act 2006 (2006 No 1)

Section 28(1): repeal and substitute:

“(1) A charging document in respect of an offence against any provision of sections 21 to 24 may be filed only— 10
 “(a) by the President of the New Zealand Law Society; or
 “(b) by a person authorised by the Council of the New Zealand Law Society to file that charging document.”

Section 34(1): repeal and substitute:

“(1) A charging document in respect of an offence against section 15
 32 or 33 may be filed only—
 “(a) by the President of the New Zealand Law Society; or
 “(b) by the President of the New Zealand Society of Conveyancers; or
 “(c) by a person authorised by the Council of the New Zealand Law Society or the Council of the New Zealand Society of Conveyancers to file that charging document.” 20

Section 46: omit “summary”.

Section 47(k): repeal and substitute: 25

“(k) **section 10** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 110(4): omit “summary”.

Section 111(2): omit “summary”.

Section 112(3): omit “summary”. 30

Section 171(2): omit “summary”.

Section 251(1): omit “summary”.

Section 261(3): omit “summary”.

Part 1—*continued***Lawyers and Conveyancers Act 2006 (2006 No 1)**—*continued*

Section 262(3): omit “summary”.

Section 263(2): omit “summary”.

Section 265: repeal and substitute:

“265 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Crim- 5**
inal Procedure (Reform and Modernisation) Act 2010,
the limitation period in respect of an offence against any pro-
vision of sections 261 to 263 ends on the date that is 2 years
after the date on which the offence was committed.”

Section 319: omit “summary”. 10

Section 337(5): omit “summary”.

Schedule 4, clause 7(4): omit “Summary Proceedings Act 1957” and
substitute “**Criminal Procedure (Reform and Modernisation)**
Act 2010”.

Layby Sales Act 1971 (1971 No 80) 15

Section 7(4): omit “summary”.

Legal Services Act 2011 (2011 No 4)

Section 60: repeal and substitute:

“60 Appeals to Court of Appeal and Supreme Court

Subpart 8 of Part 6 of the **Criminal Procedure (Reform 20**
and Modernisation) Act 2010 applies as far as applicable
with the necessary modifications to a decision of the High
Court on an appeal under section 59 as if the decision had been
made under **section 304** of that Act.”

Section 111(1): omit “summary”. 25

Section 111(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22** of the **Crim- 30**
inal Procedure (Reform and Modernisation) Act 2010,
the limitation period in respect of an offence under this sec-
tion ends on the date that is 2 years after the date on which the
offence was committed.”

Section 112: omit “summary”.

Part 1—*continued***Legal Services Act 2011 (2011 No 4)**—*continued*

Section 113: omit “summary”.

Legislature Act 1908 (1908 No 101)

Section 253(4): omit “indictment for” and substitute “a charge of”.

Life Insurance Act 1908 (1908 No 105)

Section 29: omit “on indictment”.

Section 29: omit “, or, on summary conviction thereof, to a fine not exceeding \$100”.

Section 39: omit “only in a summary way, in the manner prescribed by” and substitute “in accordance with Part 3 of”.

Section 67E: omit “summary”.

Life Insurance Amendment Act 1920 (1920 No 84)

Section 16: repeal.

Limited Partnerships Act 2008 (2008 No 1)

Section 32(6)(a) and (b) and (7): omit “summary”.

Section 41(4): omit “summary”.

Section 59(3): omit “summary”.

Section 60(4): omit “summary”.

Section 69(6): omit “summary”.

Section 74(4)(a) and (b): omit “summary”.

Section 75(4): omit “summary”.

Section 75(6): repeal and substitute:

“(6) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence under subsection (4) ends on the date that is 3 years after the date on which the offence was committed.”

Section 76(9): omit “summary”.

Section 78(5): omit “summary”.

Section 79(4): omit “summary”.

Part 1—*continued***Limited Partnerships Act 2008 (2008 No 1)**—*continued*

Section 104(4)(a) and (b): omit “summary”.

Section 110(2)(a) and (b): omit “summary”.

Section 112(6)(a) and (b): omit “summary”.

Litter Act 1979 (1979 No 41)

Section 10(11): insert “on conviction” after “liable”. 5

Section 15(1) and (2): insert “on conviction” after “liable”.

Section 16: insert “on conviction” after “liable”.

Section 17(1): insert “on conviction” after “liable”.

Section 13(5)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document 10
under **section 12** of the **Criminal Procedure (Re-
form and Modernisation) Act 2010**; or”.

Section 14(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 19: repeal. 15

Local Authorities (Members’ Interests) Act 1968 (1968 No 147)

Section 5: omit “summary”.

Section 7(1): omit “summary”.

Local Electoral Act 2001 (2001 No 35)

Section 121: omit “summary”. 20

Section 122(1): omit “summary”.

Section 123(2): omit “on indictment”.

Section 124: omit “on indictment”.

Section 125(3): omit “bribery is liable on conviction on indictment”
and substitute “the offence of bribery is liable on conviction”. 25

Section 126(5): omit “or indictment”.

Section 127(2): omit “on indictment”.

Section 128(2): omit “on indictment”.

Section 129(6): omit “summary”.

Section 130(3): omit “summary”. 30

Part 1—*continued***Local Electoral Act 2001 (2001 No 35)**—*continued*

Section 131: omit “summary”.

Section 132(2): omit “summary”.

Section 133(2): omit “summary”.

Section 134(1): omit “on indictment”.

Section 134(2): omit “summary”.

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Section 135(2): omit “summary”.

Section 136(1): omit “on indictment”.

Section 136(2): omit “summary”.

Local Government Act 1974 (1974 No 66)

Section 350: insert “on conviction” after “liable”.

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Section 355(4): insert “on conviction” after “liable”.

Section 357(1): insert “on conviction” after “liable”.

Proviso to section 357(1): omit “Provided that no fine shall be imposed unless the information is laid by authority of the council or by an officer thereof.”

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Section 357: insert, after subsection (1):

“(1A) Proceedings for an offence against subsection (1) must be commenced on the authority of the council, or by an officer of the council.”

Section 468(4): insert “on conviction” after “liable”.

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Section 698(1): insert “on conviction” after “liable”.

Section 699: repeal and substitute:

“699 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations or bylaws made under it ends on the date that is 12 months after the date on which the offence was committed.”

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Part 1—*continued***Local Government Act 1974 (1974 No 66)**—*continued*

Section 699B(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 699C(2): omit “, for the purposes of the Summary Proceedings Act 1957,”. 5

Local Government Act 2002 (2002 No 84)

Section 176(2): omit “summarily”.

Definition of **unauthorised weapon** in section 212: omit “indictable” and substitute “imprisonable”. 10

Section 224: omit “summary”.

Section 225(1): omit “summary”.

Section 227: omit “summary”.

Section 228: omit “summary”.

Section 229: omit “summary”. 15

Section 230(1): omit “summary”.

Section 231: omit “summary”.

Section 232(2): omit “on indictment”.

Section 232(3): omit “summary”.

Section 233: omit “summary”. 20

Section 234: omit “summary”.

Section 235(1): omit “summary”.

Section 236: omit “summary”.

Section 237(b): omit “summary”.

Section 238(1): omit “summary”. 25

Heading to section 239: repeal and substitute “**Breach of bylaw**”.

Section 239(1) and (2): omit “summary”.

Part 1—*continued***Local Government Act 2002 (2002 No 84)**—*continued*

Heading above section 241: repeal and substitute:

“Time for filing charging document”.

Section 241: repeal and substitute:

“241 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Crim-** 5
inal Procedure (Reform and Modernisation) Act 2010, a
 local authority may file a charging document in respect of an
 offence against this Act within 6 months after the time when
 the matter giving rise to the charge first became known, or
 should have become known, to the local authority.” 10

Section 244(a): repeal and substitute:

“(a) be proceeded against by filing a charging document
 under **section 12** of the **Criminal Procedure (Re-**
form and Modernisation) Act 2010; or”.

Section 245(3): omit “For the purposes of the Summary Proceedings
 Act 1947, an” and substitute “An”. 15

Local Government (Auckland Council) Act 2009 (2009 No 32)

Section 74(2): omit “summary”.

Section 75(1): omit “summary”.

Section 76(2): omit “on indictment”. 20

Section 76(3): omit “summary”.

**Local Government (Auckland Transitional Provisions) Act 2010
(2010 No 37)**

Section 26(1): omit “summary”.

Section 26(2): repeal and substitute: 25

“(2) Despite anything to the contrary in **section 22** of the **Crim-**
inal Procedure (Reform and Modernisation) Act 2010,
 Watercare Services Limited may file a charging document for
 an offence against subsection (1) at any time within 6 months
 after the time when the matter giving rise to the charge first 30
 became known, or should have become known, to Watercare
 Services Limited.”

Part 1—*continued***Local Restoration Polls Act 1990 (1990 No 4)**

Section 21(2): omit “summary”.

Section 29: omit “summary”.

Machinery Act 1950 (1950 No 52)

Section 23(3): omit “Summary Proceedings Act 1957” and substitute 5
“Criminal Procedure (Reform and Modernisation) Act 2010”.

Section 29(1) and (2): omit “summary”.

Section 33(1): omit “Where an owner is charged with an offence 10
under this Act he shall be entitled, upon information duly laid by him,
to have any other person whom he alleges to be the actual offender”
and substitute “An owner who is charged with an offence under this
Act may commence proceedings against any other person whom the
owner alleges to be the actual offender, and have that person”.

Section 34(1): repeal.

Section 34(2): repeal and substitute: 15

“(2) Except as provided in section 33, only an Inspector may file a
charging document in respect of an offence under this Act.”

Section 35(1): omit “lays an information or makes a complaint” and
substitute “files a charging document”.

Section 35(1), (2), and (3): omit “information or complaint” in each 20
place where it appears and substitute in each case “charge”.

Section 35(5): omit “or complaints” in both places where it appears,
and omit “or complaint” in both places where it appears.

Section 35(6): repeal.

Section 35(8): omit “summary”. 25

Major Events Management Act 2007 (2007 No 35)

Section 13(3): omit “summary”.

Section 23(2): omit “summary”.

Section 26(2): omit “summary”.

Section 27(3): omit “summary”. 30

Section 31: omit “summary”.

Section 39(5): omit “summary”.

Part 1—*continued***Major Events Management Act 2007 (2007 No 35)**—*continued*

Section 64: repeal and substitute:

“64 Time for filing charging document for offence against section 26 or 28

“(1) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**,
5 the limitation period in respect of an offence against section 26 or 28 of this Act ends on the date that is 3 years after the date on which the offence was committed.

“(2) Nothing in **subsection (1)** affects the application of **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in
10 that subsection.”

Section 78(1)(a): omit “Summary Proceedings Act 1957” and substitute **“Criminal Procedure (Reform and Modernisation) Act 2010”**.
15

Maori Affairs Restructuring Act 1989 (1989 No 68)

Section 84(1): omit “summary”.

Maori Community Development Act 1962 (1962 No 133)

Section 30(2): omit “Summary Proceedings Act 1957” and substitute **“Criminal Procedure (Reform and Modernisation) Act 2010”**.
20

Section 33(9): omit “Summary Proceedings Act 1957” and substitute **“Criminal Procedure (Reform and Modernisation) Act 2010”**.

Section 36(1): omit “in a summary manner under the Summary Proceedings Act 1957” and substitute “under the **Criminal Procedure (Reform and Modernisation) Act 2010**”.
25

Proviso to section 36(1): omit “summarily under the Summary Proceedings Act 1957” and substitute “under the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 36(2): omit “summary proceedings have” and substitute “proceedings have” and omit “Summary Proceedings Act 1957” in
30 both places where it appears and substitute in each case **“Criminal Procedure (Reform and Modernisation) Act 2010”**.

Part 1—*continued***Maori Community Development Act 1962 (1962 No 133)**—*continued*

Section 36(6): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**” and omit “summarily”.

Section 42: omit “summary”.

Maori Fisheries Act 2004 (2004 No 78)

5

Section 212(3): omit “summary”.

Maori Housing Act 1935 (1935 No 34)

Section 14B(1): omit “summary”.

Section 14B(2): repeal and substitute:

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was committed.”

Maori Land Amendment and Maori Land Claims Adjustment Act 1926 (1926 No 64)

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Section 14(2): omit “summary”.

Maori Language Act 1987 (1987 No 176)

Section 21: omit “summary”.

Maori Purposes Act 1931 (1931 No 32)

20

Section 66(7): omit “a summary manner” and substitute “accordance with Part 3 of the Summary Proceedings Act 1957”.

Maori Purposes Act 1959 (1959 No 90)

Section 11: omit “summary”.

Māori Television Service (Te Aratuku Whakaata Irirangi Māori) Act 2003 (2003 No 21)

25

Section 11(3): omit “summary”.

Part 1—*continued***Marine and Coastal Area (Takutai Moana) Act 2011 (2011 No 3)**

Section 69(2): omit “summary”.

Section 70(2): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 81(2): omit “summary”. 5

Section 120(1)(e): omit “summary”.

Section 122(3): omit “summary”.

Marine Insurance Act 1908 (1908 No 112)

Section 26(1): omit “summary”.

Marine Mammals Protection Act 1978 (1978 No 80)

10

Section 23(3): omit “summary”.

Section 25: omit “Notwithstanding anything to the contrary in section 14 of the Summary Proceedings Act 1957,” and substitute “Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,”.

15

Marine Reserves Act 1971 (1971 No 15)

Section 18A(3): omit “lay any information or charge” and substitute “file a charging document”.

Section 18A(4): omit “lay an information or charge” and substitute “file a charging document”. 20

Section 18B(1): omit “an information or charge is laid” and substitute “a charging document is filed”.

Section 18C(a): omit “lay any information or charge” and substitute “file a charging document”.

Section 18C(b): omit “charge or information is laid” and substitute “charging document is filed”. 25

Section 18D(1)(a): repeal and substitute:

“(a) if a decision is made not to file a charging document, or on the withdrawal or dismissal of a charge; or”.

Section 18D(2): omit “any information or charge has been laid” and substitute “a charging document has been filed”. 30

Part 1—*continued***Marine Reserves Act 1971 (1971 No 15)**—*continued*

Section 20: repeal and substitute:

“20 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed.”

Section 24(2)(f): omit “summary”.

Maritime Crimes Act 1999 (1999 No 56)

Section 7: omit “on indictment” in each place where it appears. 10

Section 11(6): omit “summary”.

Maritime Security Act 2004 (2004 No 16)

Section 50(1): omit “on indictment”.

Section 76(2): omit “summary”.

Maritime Transport Act 1994 (1994 No 104) 15

Section 19(4): insert “on conviction” after “liable”.

Section 27(2): insert “on conviction” after “liable”.

Section 32(6): insert “on conviction” after “liable”.

Section 33(2): insert “on conviction” after “liable”.

Section 38(2): insert “on conviction” after “liable”. 20

Section 53(4): insert “on conviction” after “liable”.

Section 55(10): insert “on conviction” after “liable”.

Section 58(5): insert “on conviction” after “liable”.

Section 64(2): insert “on conviction” after “liable”.

Section 65(3): insert “on conviction” after “liable”. 25

Section 65A(1): insert “on conviction” after “liable”.

Section 67(2): insert “on conviction” after “liable”.

Section 68(3): insert “on conviction” after “liable”.

Section 69(2): insert “on conviction” after “liable”.

Section 70(2): insert “on conviction” after “liable”. 30

Part 1—*continued***Maritime Transport Act 1994 (1994 No 104)**—*continued*

Section 71(2) and (3): insert “on conviction” after “liable”.

Section 79(1): omit “Part 4 of the Summary Proceedings Act 1957” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 79(2) and (3): repeal and substitute: 5

“(2) Any person whose application under section 77 to the District Court is refused may appeal against the refusal to the High Court in accordance with **Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** and that Part applies with the necessary modifications as if the refusal were a sentence. 10

“(3) Any person whose application under section 77 to the High Court is refused may appeal to the Court of Appeal against the refusal in accordance with **Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010** and that Part applies with the necessary modifications as if the refusal were a sentence.” 15

Section 127(1) and (2): insert “on conviction” after “liable”.

Section 185(1), (2), (3), (4) and (5): insert “on conviction” after “liable”. 20

Section 198(4): insert “on conviction” after “liable”.

Section 235(6): insert “on conviction” after “liable”.

Section 244(1) and (3): insert “on conviction” after “liable”.

Section 245: insert “on conviction” after “liable”.

Section 253(4): insert “on conviction” after “liable”. 25

Section 266: insert “on conviction” after “liable”.

Section 279: insert “on conviction” after “liable”.

Section 280: insert “on conviction” after “liable”.

Section 317: insert “on conviction” after “liable”.

Section 340(2): insert “on conviction” after “liable”. 30

Section 367(1), (2), and (3): insert “on conviction” after “liable”.

Section 402: insert “on conviction” after “liable”.

Section 403(1) and (2): insert “on conviction” after “liable”.

Part 1—*continued***Maritime Transport Act 1994 (1994 No 104)**—*continued*

Section 407(1), (2), and (3): insert “on conviction” after “liable”.

Section 408: repeal.

Section 411: repeal and substitute:

“411 Limitation of proceedings

“(1) Despite anything to the contrary in **section 22** of the **Crim- 5**
inal Procedure (Reform and Modernisation) Act 2010,
the limitation period in respect of an offence against this Act
ends on the date that is 6 months after the date on which the
offence was committed.

“(2) The period of 6 months does not run while the person charged 10
is beyond the limits and territorial sea of New Zealand.

“(3) **Subsection (1)** is subject to **subsection (2)** and to any spe-
cial provisions of this Act.”

Section 412: omit “information” and substitute “charge”.

Section 412: omit “informant” and substitute “prosecutor”. 15

Section 414(1): omit “information” and substitute “charge”

Section 414(1) and (2): omit “informant” and substitute in each case
“prosecutor”.

Section 418(1): omit “Summary Proceedings Act 1957” and sub-
stitute “**Criminal Procedure (Reform and Modernisation) Act 20**
2010”.

Section 418(2): omit “section 24 of the Summary Proceedings Act
1957” and substitute “rules made under the **Criminal Procedure**
(Reform and Modernisation) Act 2010”.

Section 418(4): repeal. 25

Section 422(2)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document
under **section 12** of the **Criminal Procedure (Re-**
form and Modernisation) Act 2010; or”.

Section 423(3): omit “For the purposes of the Summary Proceedings 30
Act 1957, an” and substitute “An”.

Section 460(1) and (2): insert “on conviction” after “liable”.

Part 1—*continued***Marriage Act 1955 (1955 No 92)**

Section 35(2): omit “summary”.

Section 56(1): omit “summary”.

Section 57: omit “summary”.

Section 58: omit “on indictment”.

5

Section 59: omit “on indictment”.

Section 60: omit “on indictment”.

Meat Board Act 2004 (2004 No 58)

Section 67(1) and (2): omit “summary”.

Section 68(2), (3), and (4): omit “summary”.

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Section 69(3): omit “summary”.

Section 72(2): omit “informant” and substitute “prosecutor”.

Section 74(2): omit “summary”.

Section 76: repeal and substitute:

“76 Time for filing charging document

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Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed.”

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Schedule 1, clause 10(4): omit “summary”.

Medicines Act 1981 (1981 No 118)

Section 17(2): omit “summary”.

Section 36(5): insert “on conviction” after “liable”.

Section 38(8): insert “on conviction” after “liable”.

25

Section 41(2): insert “on conviction” after “liable”.

Section 59(5): insert “on conviction” after “liable”.

Section 76(2): insert “on conviction” after “liable”.

Section 77(1): repeal.

Section 77(2): repeal and substitute:

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“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,

Part 1—*continued***Medicines Act 1981 (1981 No 118)**—*continued*

the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed.”

Section 78: insert “on conviction” after “liable”.

Section 83(6): omit “Part 4 of the Summary Proceedings Act 1957” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 96B(3): omit “summary”.

Section 107(4): insert “on conviction” after “liable”.

Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46) 10

Paragraph (a)(ii) of the definition of **special patient** in section 2: repeal and substitute:

“(ii) **section 174 of the Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 23(4): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 84(4): omit “or committed for trial” and omit “or indictment”.

Section 84(5): omit “or committed for trial” and omit “or indictment”.

Section 114(2): omit “on indictment”.

Section 115(2) and (3): insert “on conviction” after “liable”. 25

Section 116: insert “on conviction” after “liable”.

Section 117: insert “on conviction” after “liable”.

Section 118: insert “on conviction” after “liable”.

Section 119: insert “on conviction” after “liable”.

Section 120: repeal and substitute: 30

“120 Who may commence proceedings

Proceedings for an offence against this Act must be commenced by—

Part 1—*continued***Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46)**—*continued*

- “(a) the Director or some other person authorised in writing by the Director in a particular case; or
 (b) any constable.”

Section 121: insert “on conviction” after “liable”.

Schedule 1, clause 6: omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “**Sections 164 and 166 to 170** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Mercenary Activities (Prohibition) Act 2004 (2004 No 69)

- Section 7: omit “on indictment” in each place where it appears. 10
 Section 8: omit “on indictment”.
 Section 9(1): omit “on indictment”.
 Section 10: omit “on indictment” in each place where it appears.
 Section 11: omit “on indictment”.
 Section 12: omit “on indictment” in each place where it appears. 15

Military Decorations and Distinctive Badges Act 1918 (1918 No 3)

- Section 4A(2): omit “summary”.
 Section 6: omit “summary”.

Military Manoeuvres Act 1915 (1915 No 42) 20

- Section 4(7): omit “complaint under the Summary Proceedings Act 1957” and substitute “proceeding commenced by filing a charge under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010** (with all necessary modifications).”
 Section 5(1): omit “summary”. 25

Mines Rescue Trust Act 1992 (1992 No 97)

- Section 9(2): omit “summary”.

Part 1—*continued***Mining Tenures Registration Act 1962 (1962 No 48)**

Section 6(4): omit “summary”.

Misuse of Drugs Act 1975 (1975 No 116)

Section 6(2): omit “on indictment”.

Section 6(2A): omit “on indictment”. 5

Section 6(3): repeal.

Section 6(4A): omit “subsections (3) and (4) of this section” and substitute “subsection (4)”.

Section 9(2): omit “on indictment”.

Section 9(3): repeal. 10

Section 10(2): omit “on indictment”.

Section 10(3): repeal.

Section 11(1): omit “on indictment”.

Section 12(2): omit “on indictment”.

Section 12(3): repeal. 15

Section 12A(3): omit “on indictment”.

Section 12A(4): repeal.

Section 12AB(2): omit “on indictment”.

Section 12AB(3): repeal.

Section 12AC(3) and (4): repeal. 20

Section 12AC(5): omit “summary”.

Section 12B(1): omit “In this section” and substitute “In this section and **section 12BA**”.

Section 12B(2) and (3): omit “on indictment”.

Section 12B(5)(a) and (b): omit “accused” and substitute in each case “defendant”. 25

New section 12BA: insert after section 12B:

“12BA Charges for money laundering

A person charged with an offence against section 12B or section 243(2) or (3) of the Crimes Act 1961 in respect of any property that is the proceeds of a serious offence may be charged whether or not the person who committed that 30

Part 1—*continued***Misuse of Drugs Act 1975 (1975 No 116)**—*continued*

serious offence has been charged or convicted or is amenable to justice.

“Compare: 1961 No 43 s 344AA”.

Section 12C(3): omit “on indictment”.

Section 13(3): insert “on conviction” after “liable”. 5

Section 15: insert “on conviction” after “liable”.

Section 18A(4): omit “Summary Proceedings Act 1957” and substitute “Bail Act 2000, the **Criminal Procedure (Reform and Modernisation) Act 2010**,”.

Section 22(4) and (5): insert “on conviction” after “liable”. 10

Section 23(6): insert “on conviction” after “liable”.

Section 23(7): insert “on conviction” after “liable”.

Section 27: insert “on conviction” after “liable”.

Section 28: repeal and substitute:

“28 Time for filing charging document” 15

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,—

“(a) a charging document in respect of an offence against section 6, 9, or 10 of this Act may be filed at any time; and 20

“(b) the limitation period in respect of any other offence against this Act, or any regulations made under it, ends on the date that is 4 years after the date on which the offence was committed.”

Section 28A(1): omit “information may be laid” and substitute “charging document may be filed”. 25

Section 28A(2): omit “laying of the information” and substitute “filing of the charging document”.

Section 29A(1) and (2): omit “summary” and substitute in each case “Judge-alone”. 30

Section 30: omit “Without prejudice to subsection (8) of section 67 of the Summary Proceedings Act 1957, in” and substitute “In”.

Definition of **served** in section 31(5): omit “sections 24 to 29 of the Summary Proceedings Act 1957” and substitute “rules made

Part 1—*continued***Misuse of Drugs Act 1975 (1975 No 116)**—*continued*

under the **Criminal Procedure (Reform and Modernisation) Act 2010**".

Misuse of Drugs Amendment Act 1978 (1978 No 65)

Section 21(2): omit "summary".

Section 23(2): omit "summary".

5

~~Section 43: omit "Court sentences an offender on conviction on indictment" and substitute "High Court sentences an offender on conviction".~~

Section 43(1): omit "section 28I of the District Courts Act 1947" and substitute "Part 3 of the Summary Proceedings Act 1957".

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Misuse of Drugs Amendment Act 2005 (2005 No 81)

Section 36(2): omit "summary".

Section 38(2): omit "summary".

Section 39(2): omit "summary".

Section 41(2): omit "summary".

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Section 42(4): omit "summary".

Section 43(4): omit "summary".

Section 44(3): omit "summary".

Section 45(3): omit "summary".

Section 46(2): omit "summary".

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Section 47(2): omit "summary".

Section 48(3): omit "summary".

Section 49(3): omit "summary".

Section 50(2): omit "summary".

Section 51(2): omit "summary".

25

Section 52(4): omit "summary".

Section 53(2): omit "summary".

Section 54(5): omit "summary".

Part 1—*continued***Misuse of Drugs Amendment Act 2005 (2005 No 81)**—*continued*

Section 59: repeal and substitute:

“59 Time for filing charging document under this Part

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Part ends on the date that is 12 months after the date on which the offence was committed.”

Section 60(2): omit “summary”.

Section 61(2): omit “summary”.

Mortgagors and Lessees Rehabilitation Act 1936 (1936 No 33) 10

Section 34(1): omit “summary”.

Section 65(2): omit “summary”.

Motor Vehicle Sales Act 2003 (2003 No 12)

Section 111: repeal.

Section 112(1)(a): repeal and substitute: 15

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 140(1)(a): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 142(5): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Museum of New Zealand Te Papa Tongarewa Act 1992 (1992 No 19) 25

Section 23(3): omit “summary”.

Music Teachers Act 1981 (1981 No 3)

Section 31: omit “summary”.

Part 1—*continued***Mutual Insurance Act 1955 (1955 No 23)**

Section 29B(5) and (7): omit “summary”.

Section 30B(4): omit “summary”.

Section 40(2): omit “summary”.

National Library of New Zealand (Te Puna Mātauranga o Aotearoa) Act 2003 (2003 No 19)

5

Section 40: omit “summary”.

National Parks Act 1980 (1980 No 66)

Section 56I(1): omit “summary”.

Section 56J(2): omit “summary”.

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Section 60(8): omit “summarily”.

Section 61(3): omit “information” and substitute “charge”.

Section 62(6): omit “summarily”.

Section 67: repeal and substitute:

“67 Proceedings in respect of offences

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“(1) Only the Director-General, or some person appointed by the Director-General or by the Minister, may file a charging document for an offence against this Act or any bylaws made under this Act.

“(2) An appointment under **subsection (1)** may be for the purpose of filing a charging document in respect of a particular offence, or may be a general appointment to file charging documents in respect of offences.

20

“(3) Any officer in the department, although not the person who filed the charging document, may appear and conduct the prosecution in any proceedings for offences against this Act or any bylaws made under this Act.”

25

Section 68: repeal and substitute:

“68 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act

30

Part 1—*continued***National Parks Act 1980 (1980 No 66)**—*continued*

or against any bylaws made under it ends on the date that is 12 months after the date on which the offence is discovered.”

Section 70: omit “summary”.

Native Plants Protection Act 1934 (1934 No 15)

Section 8: omit “summary”.

5

National War Memorial Act 1992 (1992 No 20)

Section 15(3): omit “summary”.

New Zealand Antarctic Institute Act 1996 (1996 No 38)

Section 11(3): omit “summary”.

New Zealand Film Commission Act 1978 (1978 No 61)

Section 34(3): omit “summary”.

10

New Zealand Horticulture Export Authority Act 1987 (1987 No 93)

Section 22(2): omit “summary”.

Section 34(4): omit “summary”.

Section 63(2): omit “summary”.

15

New Zealand Institute of Chartered Accountants Act 1996 (1996 No 39)

Section 11(9): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 14(2): omit “summary”.

Section 15(4): omit “summary”.

Section 16(3): omit “summary”.

20

New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987 (1987 No 86)

Section 14(2): omit “on indictment”.

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Part 1—*continued***New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987 (1987 No 86)**—*continued*

Section 15(1): omit “information shall be laid” and substitute “charging document may be filed”.

Section 15(1): omit “laying of an information” and substitute “filing of a charging document”.

New Zealand Planning Council Dissolution Act 1991 (1991 No 97) 5

Section 6(3): omit “summary”.

New Zealand Public Health and Disability Act 2000 (2000 No 91)

Section 59E(5): insert “on conviction” after “liable”.

Section 59E(6): omit “summary”. 10

Section 83(2): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 86(5): omit “summary”.

New Zealand Railways Corporation Act 1981 (1981 No 119)

Section 18(8): omit “summary”. 15

Section 110(2)(d): omit “summary”.

Section 115(1) and (2): omit “summary”.

Section 116: omit “summary”.

New Zealand Security Intelligence Service Act 1969 (1969 No 24) 20

Section 4G(3): omit “summary”.

Paragraph (a) of the definition of **serious crime** in section 4H(2): omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

Paragraph (b) of the definition of **serious crime** in section 4H(2): 25
omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

Section 12A(4): omit “on indictment”.

Section 13: omit “summary”.

Part 1—*continued***New Zealand Security Intelligence Service Act 1969 (1969 No 24)**—*continued*

Section 13A(1): omit “summary”.

New Zealand Symphony Orchestra Act 2004 (2004 No 20)

Section 28(3): omit “summary”.

Nuclear-Test-Ban Act 1999 (1999 No 10)

Section 5(3): omit “on indictment”. 5

Section 6(2)(a): repeal and substitute:

“(a) a charging document may be filed only with the consent of the Attorney-General and on his or her certificate that it is expedient that the charging document be filed.”.

Section 8(2): omit “summary”. 10

Section 9(2): omit “summary”.

Section 14(3): omit “summary”.

Section 20(3): omit “summary”.

Section 22(1)(b): omit “summary”.

Oaths and Declarations Act 1957 (1957 No 88) 15

Section 6(2): omit “summary”.

Ombudsmen Act 1975 (1975 No 9)

Section 19(8): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 28A(2): omit “summary”. 20

Section 30: omit “summary”.

Overseas Investment Act 2005 (2005 No 82)

Section 42(2): omit “on indictment”.

Section 43(2): omit “on indictment”.

Section 44(2): omit “on indictment”. 25

Section 45(2): omit “summary”.

Section 45(3): repeal.

Part 1—*continued***Overseas Investment Act 2005 (2005 No 82)**—*continued*

Section 46(3): omit “summary”.

Section 46(4): repeal.

Ozone Layer Protection Act 1996 (1996 No 40)

Section 10(3): omit “summary”.

Section 11(3): omit “summary”.

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Section 12(2): omit “summary”.

Section 15(1), (2), and (3): omit “summary”.

Section 16(1)(e): omit “summary”.

Section 22(5): omit “summary”.

Parental Leave and Employment Protection Act 1987 (1987 No 129)

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Section 71Z(3): omit “summary”.

Section 71Z(4): omit “An information in respect of an offence against this section may be laid” and substitute “A charging document in respect of an offence against this section may be filed”.

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Parole Act 2002 (2002 No 10)

Section 11: omit “section 142A of the Criminal Justice Act 1985” and substitute “**section 34A** of the Corrections Act 2004”.

Section 13(8): omit “summary”.

Section 13AC(1): omit “summary”.

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Section 69(4): repeal and substitute:

“(4) Subject to this section, **sections 323, 325, 326, 328, 334, 335, 337 to 342, 351, 376, and 379** of the **Criminal Procedure (Reform and Modernisation) Act 2010** apply to an appeal under section 68 with the necessary modifications as if the order appealed against were an order made by a District Court Judge.

25

“(4A) Any Judge of the High Court may, on the application of the appellant or intending appellant,—

“(a) review a decision of a District Court to refuse to extend the time allowed for lodging an appeal under section

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Part 1—*continued***Parole Act 2002 (2002 No 10)**—*continued*

68, and confirm the decision or reverse it and allow any extension of time that he or she thinks fit:

“(b) in any other case, extend any time allowed for lodging an appeal under section 68.”

Section 71(1): omit “summary”. 5

Section 72(2) and (3): omit “summary”.

Section 91(2)(d): repeal and substitute:

“(d) in a hospital or secure facility pursuant to an order under—

“(i) section 171(2) or 184T(3) or (4) of the Summary Proceedings Act 1957; or

“(ii) **section 174 of the Criminal Procedure (Reform and Modernisation) Act 2010**.” 10

Section 92(4): omit “Part 4 of the Summary Proceedings Act 1957, or (as the case may require) Part 13 of the Crimes Act 1961,” and substitute “**subpart 4 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Section 107G(2): omit “sections 24 and 25 of the Summary Proceedings Act 1957” and substitute “rules in relation to service made under the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 107G(3): omit “sections 22 and 23 of the Summary Proceedings Act 1957” and substitute “**sections 167 and 168 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 107G(6): repeal and substitute: 25

“(6) If an offender who is the subject of an application for an extended supervision order may be granted bail, the Bail Act 2000 applies, with all necessary modifications, as if the offender were charged with an offence and was not bailable as of right.” 30

Section 107G(7): repeal and substitute:

“(7) The following provisions of the **Criminal Procedure (Reform and Modernisation) Act 2010** apply, with all necessary modifications, to proceedings for an extended supervision order: 35

Part 1—*continued***Parole Act 2002 (2002 No 10)**—*continued*

- “(a) **section 189** (criminal records):
- “(b) **section 362** (contempt of court):
- “(c) **section 376** (proceedings not to be questioned for want of form).”

Section 107G(8): omit “section 212 of the Summary Proceedings Act 1957” and substitute “**section 382** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 5

Section 107R(2): repeal and substitute:

- “(2) Every appeal must be to the Court of Appeal, and **Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications, and subject to section 107H of this Act, as if the appeal were an appeal against sentence.” 10

Section 107T: omit “summary”.

Section 118A(3): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Section 118D(2): omit “summary”.

Passports Act 1992 (1992 No 92)

Definition of **conviction on indictment** in section 2: repeal. 20

Section 29A(3): omit “on indictment”.

Section 30(4): omit “on indictment”.

Section 30A(2): omit “on indictment”.

Section 31(1) and (2): omit “a crime” and substitute in each case “an offence”. 25

Section 31(3) and (4): omit “on indictment”.

Section 32(2): omit “on indictment”.

Section 38: repeal and substitute:

“38 Penalties

- “(1) Every person who commits an offence under this Act in respect of which no penalty is provided elsewhere than in this section is liable on conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000. 30

Part 1—*continued***Passports Act 1992 (1992 No 92)**—*continued*

- “(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed. 5
- “(3) **Subsection (2)** does not limit the time for filing a charging document for an offence against any of sections 29A(1), 30(1), 30A(1), 31(1) or (2), or 32(1).”

Patents Act 1953 (1953 No 64)

Section 6(2) and (3): omit “summary”. 10

Section 25(6): omit “on indictment”.

Section 25: add:

- “(7) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a charging document may be filed at any time in respect of an offence against subsection (1).” 15

Section 26(8): omit “on indictment”.

Section 26: add:

- “(9) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a charging document may be filed at any time in respect of an offence against subsection (8).” 20

Section 103(4): omit “summary”.

Section 105: omit “on indictment”.

Section 105: add as subsection (2): 25

- “(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** a charging document may be filed at any time in respect of an offence against subsection (1).”

Section 106(1), (2), and (4): omit “summary”. 30

Patriotic and Canteen Funds Act 1947 (1947 No 63)

Section 49(4): omit “summary”.

Part 1—*continued***Petroleum Demand Restraint Act 1981 (1981 No 12)**

Section 12: omit “accused” and substitute “defendant”.

Section 21: omit “summary”.

Definition of **proceedings** in section 22(1): insert “the **Criminal Procedure (Reform and Modernisation) Act 2010** or” after “pro- 5
ceedings under”.

Section 22(4): insert “the **Criminal Procedure (Reform and Modernisation) Act 2010** or” after “taken under”.

Section 22(4)(b): omit “section 78A of the Summary Proceedings Act 1957” and substitute “**section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 22(5): insert “the **Criminal Procedure (Reform and Modernisation) Act 2010** or” after “taken under”.

Section 22(8): omit “sections 21 and 78A of the Summary Proceedings Act 1957” and substitute “section 21 of the Summary Proceedings Act 1957 and **section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Section 23: repeal.

Section 25: repeal.

Plant Variety Rights Act 1987 (1987 No 5) 20

Section 37(7): omit “summary”.

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)

Section 76(3): omit “summary”.

Section 77(3): omit “summary”.

Section 94(3): omit “summary”. 25

Section 99(2): omit “summary”.

Section 113(7): omit “summary”.

Section 121: omit “summary”.

Section 122: omit “summary”.

Section 123(1), (2), (3), and (4): omit “summary”. 30

Section 124: omit “summary”.

Section 125(1), (2), and (3): omit “summary”.

Part 1—*continued***Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)**—*continued*

Section 125(4): omit “An information must not be laid” and substitute “A charging document must not be filed”.

Section 127: repeal and substitute:

“127 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence under this Part ends on the date that is 5 years after the date on which the offence was committed.” 5

Section 128(1)(a): repeal and substitute: 10

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 128(2): repeal and substitute:

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the Board or the Registrar commences proceedings for an infringement offence by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010**.” 15 20

Section 129(4)(a)(i) and (b): omit “laying of an information” and substitute in each case “filing of a charging document”.

Section 130(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 167(2): omit “summary”. 25

Section 169(1): omit “by way of case stated for the opinion of that Court”.

Section 169(3): repeal and substitute:

“(3) **Subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.” 30

Part 1—*continued***Policing Act 2008 (2008 No 72)**

Section 32(4)(b): insert “on conviction” after “liable”.

Section 33(4)(b): insert “on conviction” after “liable”.

Section 35(1)(c): repeal and substitute:

“(c) an offence punishable by 10 or more years’ imprisonment has been committed or discovered at or near that place.” 5

Section 47(2): insert “on conviction” after “liable”.

Section 48(4): insert “on conviction” after “liable”.

Section 49(2): insert “on conviction” after “liable”. 10

Section 50(2): insert “on conviction” after “liable”.

Section 51(2): insert “on conviction” after “liable”.

Section 52(2): insert “on conviction” after “liable”.

Section 53(2): insert “on conviction” after “liable”.

Section 54: repeal. 15

Section 87(3): omit “information may be laid” and substitute “charging document may be filed”.

Section 88(1) and (2): omit “laying of an information” and substitute in each case “filing of a charging document”.

Pork Industry Board Act 1997 (1997 No 106) 20

Section 49(1), (2), and (3): omit “summary”.

Schedule 1, clause 10(4): omit “summary”.

Postal Services Act 1998 (1998 No 2)

Section 4(3): insert “on conviction” after “liable”.

Section 8(4): omit “the Summary Proceedings Act 1957” and substitute “**subpart 4 of Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 13: insert “on conviction” after “liable”.

Section 20(3): insert “on conviction” after “liable”.

Section 23(2): insert “on conviction” after “liable”. 30

Section 24(2): insert “on conviction” after “liable”.

Section 28(2): insert “on conviction” after “liable”.

Part 1—*continued***Postal Services Act 1998 (1998 No 2)**—*continued*

Section 31(2): insert “on conviction” after “liable”.	
Section 33(4): insert “on conviction” after “liable”.	
Section 39(3): insert “on conviction” after “liable”.	
Section 42(1): insert “on conviction” after “liable”.	
Section 46(2): insert “on conviction” after “liable”.	5
Section 47(3): insert “on conviction” after “liable”.	
Section 56(3) and (4): insert “on conviction” after “liable”.	
Section 57: insert “on conviction” after “liable”.	
Section 58: repeal.	
Section 59: repeal.	10

Primary Products Marketing Act 1953 (1953 No 10)

Section 14(1): omit “summary”.

Prisoners’ and Victims’ Claims Act 2005 (2005 No 74)

Section 35(2)(a): omit “section 71 of the Summary Proceedings Act 1957” and substitute “ section 189 of the Criminal Procedure (Reform and Modernisation) Act 2010 ”.	15
Section 35(2)(b)(i): omit “committed for trial or sentence” and substitute “to be tried or sentenced”.	
Section 39(5): omit “summary”.	
Section 43(2): omit “summary”.	20

Privacy Act 1993 (1993 No 28)

Section 76(4): omit “Subsections (1), (2), (3), and (5) of section 20 of the Summary Proceedings Act 1957 shall apply” and substitute “ Section 164 of the Criminal Procedure (Reform and Modernisation) Act 2010 applies”.	25
Section 91(5)(a): omit “Summary Proceedings Act 1957” and substitute “ Criminal Procedure (Reform and Modernisation) Act 2010 ”.	
<u>Paragraph (d) of the definition of fine in section 103(5): repeal.</u>	
Section 114F: omit “summary”.	30

Part 1—*continued***Privacy Act 1993 (1993 No 28)**—*continued*

Section 127: omit “summary”.

Second column of the item relating to Court document processing under the heading Ministry of Justice records in Schedule 5: insert “or charging documents filed” after “laid”.

Second column of the item relating to Details of hearings under the heading Ministry of Justice records in Schedule 5: insert “or charging documents filed” after “laid”. 5

Second column of the item relating to Enforcement of fines and other orders under the heading Ministry of Justice records in Schedule 5: insert “or filing a charging document” after “information”. 10

Second column of the item relating to Non-performance of bail conditions under the heading Ministry of Justice records in Schedule 5: omit “section 38(3) or section 63(3)” and substitute “**section 39(3)**”.

Private Investigators and Security Guards Act 1974 (1974 No 48)

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Section 51(4): omit “summary”.

Section 70(2): omit “summary”.

Private Security Personnel and Private Investigators Act 2010 (2010 No 115)

Section 23(2): omit “summary”. 20

Section 40(5) and (6): omit “summary”.

Section 44(2): omit “summary”.

Section 45(3): omit “summary”.

Section 65(3): omit “summary”.

Section 66(3): omit “summary”. 25

Section 67(5): omit “summary”.

Section 69: omit “summary”.

Section 70(3): omit “summary”.

Section 104(5): omit “summary”.

Section 105: omit “summary”. 30

Section 107: omit “summary”.

Section 109(3): omit “summary”.

Part 1—*continued***Property Law Act 2007 (2007 No 91)**

Section 20(4): omit “summary”.

Section 156(3): omit “summary”.

Section 162(4): omit “summary”.

Section 163(4): omit “summary”.

5

Section 165(4): omit “summary”.

Section 167(4): omit “summary”.

Section 173(3): omit “summary”.

Section 269(3)(b)(ii): omit and substitute:

“*(ii)* constitutes an imprisonable offence; or”.

10

Property (Relationships) Act 1976 (1976 No 166)

Section 45(2): omit “summary”.

Prostitution Reform Act 2003 (2003 No 28)

Section 8(2): omit “summary”.

Section 9(4): omit “summary”.

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Section 11(2): omit “summary”.

Section 16(3): omit “on indictment”.

Section 23(1): omit “on indictment”.

Section 29: omit “summary”.

Section 34(2): omit “summary”.

20

Section 39(3): omit “summary”.

Section 40(2): omit “summary”.

Section 41(3): omit “summary”.

Protected Objects Act 1975 (1975 No 41)

Section 5(2): omit “summary”.

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Section 11(9): omit “summary”.

Section 13(4): omit “summary”.

Section 14(7): omit “summary”.

Section 14A(2): omit “summary”.

Section 15(7): omit “summary”.

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Part 1—*continued***Protected Objects Act 1975 (1975 No 41)**—*continued*

Section 16(4): omit “summary”.

Section 17(2): omit “summary”.

Section 18(2): omit “summary”.

Section 18A: omit “summary”.

Protection of Personal and Property Rights Act 1988 (1988 No 4) 5

Section 45(3): omit “on indictment”.

Section 45(4): omit “summary”.

Section 71(2): omit “Subsections (1), (2), (3), and (5) of section 20 of the Summary Proceedings Act 1957 shall apply” and substitute
“Section 164 of the Criminal Procedure (Reform and Moderni- 10
sation) Act 2010 applies”.

Section 78(4): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute **“Sections 164 and 166 to 170 of the Criminal Procedure (Reform and Modernisation) Act 2010”.** 15

Section 99C(2): omit “summary”.

Section 103C(7): omit “summary”.

Public Audit Act 2001 (2001 No 10)

Section 39(2): omit “summary”.

Section 40(1): repeal and substitute: 20

“(1) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 2 years after the date on which the offence was committed.” 25

Section 40(2): omit “Summary Proceedings Act 1957” and substitute **“Criminal Procedure (Reform and Modernisation) Act 2010”.**

Public Bodies Leases Act 1969 (1969 No 141)

Section 16(2): omit “summary”.

Part 1—*continued***Public Finance Act 1989 (1989 No 44)**

Section 77(1) and (2): omit “summary”.

Section 78: repeal and substitute:

“78 Time for commencing proceedings

Despite anything to the contrary in **section 22** of the **Crim- 5**
inal Procedure (Reform and Modernisation) Act 2010,
 the limitation period in respect of an offence against this Act
 ends on the date that is 2 years after the date on which the of-
 fence was committed.”

Public Service Investment Society Management Act (No 2) 1979 10
(1979 No 9)

Section 16(2): omit “summary”.

Section 22(1): omit “on indictment”.

Public Transport Management Act 2008 (2008 No 87)

Section 57: omit “summary”. 15

Section 58: omit “summary”.

Section 59(1): omit “summary”.

Section 60(1): omit “summary”.

Public Works Act 1981 (1981 No 35)

Section 133(7): omit “summary”. 20

Section 179(2): omit “summary”.

Section 180(3): omit “summary”.

Section 181(2): omit “summary”.

Section 182(2): omit “summary”.

Section 183(3): omit “summary”. 25

Section 185: omit “summary”.

Section 242(2): omit “summary”.

Queen Elizabeth the Second National Trust Act 1977 (1977
No 102)

Section 34(5): omit “summary”. 30

Part 1—*continued***Racing Act 2003 (2003 No 3)**

Section 35(3): omit “summary”.

Section 49(2): omit “summary”.

Section 51(5): omit “summary”.

Section 63(5): omit “summary”.

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Section 63A(3): omit “summary”.

Radiation Protection Act 1965 (1965 No 23)

Section 26(2): omit “summary”.

Radio New Zealand Act 1995 (1995 No 52)

Section 18(3): omit “summary”.

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Radiocommunications Act 1989 (1989 No 148)

Section 66(4): omit “summary”.

Section 128(1): omit “summary”.

Section 128A(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

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Section 134A(2): omit “summary”.

Railways Act 2005 (2005 No 37)

Section 61(1) and (2): omit “summary”.

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Section 62(1) and (2): omit “summary”.

Section 63(1) and (2): omit “summary”.

Section 64: omit “summary”.

Section 90(1): omit “by way of case stated for the opinion of the High Court”.

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Section 90(3): repeal and substitute:

“(3) **Subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to every appeal under this section.”

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Part 1—*continued***Railways Act 2005 (2005 No 37)**—*continued*

Section 92(1)(a) and (b): omit “summary”.

Section 95: repeal and substitute:

“95 Who may file charging document for offence

A charging document for an offence against this Act may be filed only by the Agency or an enforcement officer.”

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Section 98: repeal and substitute:

“98 Infringement offences

“(1) If a person is alleged to have committed an infringement of-
fence, the person may either—

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or

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“(b) be served with an infringement notice as provided in section 99.

“(2) Despite section 21 of the Summary Proceedings Act 1957, leave of a District Court Judge or Registrar to file a charging document is not necessary if the enforcement authority commences proceedings for an infringement offence by filing a charging document under the **Criminal Procedure (Reform and Modernisation) Act 2010**.”

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Section 99(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Rangitaiki Land Drainage Act 1956 (1956 No 34)

Section 10(4): omit “summary”.

Rates Rebate Act 1973 (1973 No 5)

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Section 14(2): omit “summary”.

Section 14(3): repeal and substitute:

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the

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Part 1—*continued***Rates Rebate Act 1973 (1973 No 5)**—*continued*

knowledge of any officer of the Department of Internal Affairs concerned in the administration of this Act.”

Rating Valuations Act 1998 (1998 No 69)

Section 45(8): omit “summary”.

Real Estate Agents Act 2008 (2008 No 66)

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Section 138: insert “on conviction” after “liable”.

Section 140: repeal.

Section 145(2): insert “on conviction” after “liable”.

Section 148(2): insert “on conviction” after “liable”.

Section 152(2): insert “on conviction” after “liable”.

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Schedule 1, clause 7(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Schedule 1, clause 8(2): omit “indictment for” and substitute “charge of”.

15

Receiverships Act 1993 (1993 No 122)

Section 5(3): omit “summary”.

Section 8(4): omit “summary”.

Section 10(4): omit “summary”.

Section 11(8): omit “summary”.

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Section 23(4): omit “summary”.

Section 24(4): omit “summary”.

Section 26(5): omit “summary”.

Section 28(2): omit “summary”.

Section 29(2): omit “summary”.

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Referenda (Postal Voting) Act 2000 (2000 No 48)

Section 64(1), (2), and (3): omit “summary”.

Section 65(1) and (2): omit “summary”.

Section 66(2): omit “summary”.

Part 1—*continued***Referenda (Postal Voting) Act 2000 (2000 No 48)**—*continued*

Section 67: omit “summary”.

Section 68(2): omit “on indictment”.

Section 74(1), (2) and (3): omit “summary”.

Section 76(1) and (2): omit “summary”.

Registered Architects Act 2005 (2005 No 38) 5

Section 7(4): omit “summary”.

Section 34(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 35(2): omit “summary”.

Section 46(3): omit “Part 4 of the Summary Proceedings Act 1957 (together with the other provisions of that Act that are applied in that Part)” and substitute “**Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Remuneration Authority Act 1977 (1977 No 110)

Section 9(2): omit “summary”. 15

Reserve Bank of New Zealand Act 1989 (1989 No 157)

Section 28(3): omit “summary”.

Section 29(2): omit “on indictment”.

Section 66M(1): omit “summary”.

Section 156AA(1): omit “summary”. 20

Section 156AB(1): omit “summary”.

Section 156AC(1): omit “summary”.

Section 156J(1): omit “summary”.

Section 156ZQ(1): omit “summary”.

Section 157ZP: omit “summary”. 25

Section 157ZU(1): omit “defendant be discharged” and substitute “charge against the defendant be dismissed”.

Section 157ZU(3): omit “A discharge” and substitute “The dismissal of a charge”.

Section 157ZX(1), (2), (3), and (4): omit “summary”. 30

Part 1—*continued***Reserve Bank of New Zealand Act 1989 (1989 No 157)**—*continued*

Section 176: omit “summary”.

Section 177: repeal and substitute:

“177 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,
the limitation period in respect of an offence against this Act,—

- “(a) in the case of an offence against section 28 or section 30,
ends on the date that is 3 years after the date on which
the offence was committed; or
- “(b) in any other case, ends on the date that is 6 years after
the date on which the offence was committed.”

Reserves Act 1977 (1977 No 66)

Section 94(5) and (6): omit “summarily”.

Section 95(2): omit “information” and substitute “charge”. 15

Section 96(3): omit “summarily”.

Section 97(2): omit “summarily”.

~~Section 99: repeal.~~

Section 99: repeal and substitute:

“99 Time for filing charging document 20

Despite **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed.” 25

Section 101(1): omit “All offences against this Act or any regulations or bylaws under this Act shall be punishable on summary conviction on the information of” and substitute “All charging documents in respect of offences against this Act or any regulations or bylaws under it must be filed in the name of”. 30

Section 101(2): omit “laying an information” and substitute “filing a charging document”.

Part 1—*continued***Reserves Act 1977 (1977 No 66)**—*continued*

Section 101(2): omit “lay informations” and substitute “file charging documents”.

Section 101(3): omit “informant” and substitute “person who filed the charging document”.

Section 105: omit “on the information of” in each place where it appears and substitute in each case “in respect of a charging document filed in the name of”. 5

Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915 (1915 No 68)

Section 5(3): omit “summary”. 10

Reserves and other Lands Disposal and Public Bodies Empowering Act 1921-22 (1921-22 No 59)

Section 126(2): omit “summary”.

Residential Tenancies Act 1986 (1986 No 120)

Section 48(6): insert “on conviction” after “liable”. 15

Section 63(2): insert “on conviction” after “liable”.

Section 70: omit “Part 7 of the Summary Proceedings Act 1957” and substitute “**sections 4A to 4F** of the Justices of the Peace Act 1957”.

Section 90(1): insert “on conviction” after “liable”.

Section 109A(5): omit “summary”. 20

Section 110(1): omit “summary”.

Section 111: omit “indictment” and substitute “conviction”.

Section 112(1): omit “summary”.

Section 114(7): insert “on conviction” after “liable”.

Section 133(2): insert “on conviction” after “liable”. 25

Section 138: repeal and substitute:

“138 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act 30

Part 1—*continued***Residential Tenancies Act 1986 (1986 No 120)**—*continued*

or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed.”

Resource Management Act 1991 (1991 No 69)

Section 308(1): repeal and substitute:

“(1) **Subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to a decision of the High Court under section 299 as if the decision had been made under **section 304** of that Act.” 5

Section 338(4): repeal and substitute: 10

“(4) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against subsection (1), (1A), or (1B) ends on the date that is 6 months after the date on which the contravention giving rise to the charge first became known, or should have become known, to the local authority or consent authority.” 15

Section 339(2) and (3): omit “summary”.

Section 339C(2): omit “where a local authority caused the information in respect of that offence to be laid” and substitute “if the proceedings in relation to the offence were commenced by or on behalf of a local authority” 20

Section 342(1): omit “information for that offence was laid” and substitute “proceedings in relation to the offence were commenced by or” 25

Section 343B(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”.

Section 343C(2): omit “for the purposes of the Summary Proceedings Act 1957,” 30

Section 352A(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Part 1—*continued***Resource Management Act 1991 (1991 No 69)—*continued***

Section 352A(2): omit “section 24 of the Summary Proceedings Act 1957” and substitute “rules made under the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Definition of **Registrar** in section 352A(4): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 5

Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31)

Section 158(1): omit “an information” and substitute “a charging document”. 10

Section 158(1): omit “laid” in each place where it appears and substitute in each case “filed”.

Section 158(2): omit “information” and substitute “charge”.

Section 158(3): omit “laying an information” and substitute “filing a charging document”. 15

Retirement Villages Act 2003 (2003 No 112)

Section 79: omit “summary” in each place where it appears.

River Boards Act 1908 (1908 No 165)

Section 4(d): omit “exercising summary jurisdiction”.

Section 79: omit “summary”. 20

Section 117(1): omit “in a summary way”.

River Boards Amendment Act 1952 (1952 No 48)

Section 5(2): omit “summary”.

Road User Charges Act 1977 (1977 No 124)

Section 18B(1): omit “section 20(4) of the Summary Proceedings Act 1957” and substitute “**section 166** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Section 23(1), (1A), (2), and (4A): omit “summary”.

Part 1—*continued***Road User Charges Act 1977 (1977 No 124)**—*continued*

Section 23(5): repeal and substitute:

“(5) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 2 years after the date on which the offence was committed.” 5

Rugby World Cup 2011 (Empowering) Act 2010 (2010 No 123)

Section 47(3): omit “summary”.

Section 87(1): insert “on conviction” after “liable”.

Section 91(1): repeal. 10

Rural Intermediate Credit Act 1927 (1927 No 45)

Section 74(2): omit “summary”.

Sale of Liquor Act 1989 (1989 No 63)

Section 94(2): insert “on conviction” after “liable”.

Section 112(3): repeal and substitute: 15

“(3) The High Court may order the removal into the Court of Appeal of any case stated under this section; and on the removal the Court of Appeal has the same power to adjudicate on the proceedings as the High Court had.

“(4) Either party may, with the leave of the High Court or of the Court of Appeal, appeal to the Court of Appeal against any decision of the High Court on a case stated under this section, and **subpart 8 of Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications as if it were an appeal under **section 306** of that Act. 20 25

“(5) On the removal of any case to the Court of Appeal or on an appeal to the Court of Appeal under this section, the decision of the Court of Appeal is final; and the same judgment must be entered in the High Court, and the same execution and other consequences and proceedings follow, as if the decision had been given in the High Court.” 30

Part 1—*continued***Sale of Liquor Act 1989 (1989 No 63)**—*continued*

Section 131(4) and (5): insert “on conviction” after “liable”.	
Section 151: insert “on conviction” after “liable”.	
Section 152: insert “on conviction” after “liable”.	
Section 153(1): insert “on conviction” after “liable”.	
Section 154(1): insert “on conviction” after “liable”.	5
Section 154A: insert “on conviction” after “liable”.	
Section 155(1) and (2): insert “on conviction” after “liable”.	
Section 160(1): insert “on conviction” after “liable”.	
Section 161(2): insert “on conviction” after “liable”.	
Section 162B(a): repeal and substitute:	10
“(a) be proceeded against by filing a charging document under section 12 of the Criminal Procedure (Reform and Modernisation) Act 2010 ; or”.	
Section 162C(2): omit “for the purposes of the Summary Proceedings Act 1957,”.	15
Section 163(1) and (2): insert “on conviction” after “liable”.	
Section 164(1): insert “on conviction” after “liable”.	
Section 165(1): insert “on conviction” after “liable”.	
Section 166(1) and (2): insert “on conviction” after “liable”.	
Section 167(1): insert “on conviction” after “liable”.	20
Section 168(1): insert “on conviction” after “liable”.	
Section 169(1): insert “on conviction” after “liable”.	
Section 170(1): insert “on conviction” after “liable”.	
Section 171: insert “on conviction” after “liable”.	
Section 172(1) and (2): insert “on conviction” after “liable”.	25
Section 172A: insert “on conviction” after “liable”.	
Section 173(4) and (5): insert “on conviction” after “liable”.	
Section 174(6) and (7): insert “on conviction” after “liable”.	
Section 175(4) and (5): insert “on conviction” after “liable”.	
Section 176(4): insert “on conviction” after “liable”.	30
Section 182: repeal.	

Part 1—*continued***Sale of Liquor Act 1989 (1989 No 63)**—*continued*

Section 184(1): repeal and substitute:

“(1) Any person who files a charging document in respect of an offence against this Act against a manager of any licensed premises must send a copy of the charging document to the licensee.”

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Section 200(4): insert “on conviction” after “liable”.

Seamen’s Union Funds Act 1971 (1971 No 71)

Section 8(2): omit “summary”.

Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70)

Section 6(6): omit “summary”.

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Section 7(3): omit “summary”.

Section 16(5): omit “summary”.

Section 17(4): omit “summary”.

Section 20(1) and (3): omit “summary”.

Section 31(4): omit “summary”.

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Section 32(2): omit “summary”.

Section 33(4): omit “summary”.

Section 36(3): omit “summary”.

Section 37(5): omit “summary”.

Section 38(3): omit “summary”.

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Section 39(3): omit “summary”.

Section 40(3): omit “summary”.

Section 41(2): omit “summary”.

Section 42(5): omit “summary”.

Section 44(4): omit “summary”.

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Section 45(3): omit “summary”.

Section 50(1) and (2): omit “summary”.

Section 51(4): omit “summary”.

Section 53(4): omit “summary”.

Section 54(3): omit “summary”.

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Part 1—*continued***Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70)**—*continued*

Section 67(1) and (2): omit “summary”.

Section 68(6): omit “summary”.

Section 69(5): omit “summary”.

Secret Commissions Act 1910 (1910 No 40)

Section 12: repeal and substitute: 5

“12 Consent of Attorney-General necessary for prosecution

“(1) No prosecution for an offence against this Act may be commenced without the leave of the Attorney-General.

“(2) The leave of the Attorney-General may be granted without notice to the defendant and it is not necessary in the charge to state that leave has been granted, or to state the terms of that leave. 10

“(3) Objections to a charge for want of leave, or for want of conformity to the terms of leave, must be made before a District Court Judge before the trial, and if the District Court Judge is satisfied that leave has not been granted, or that the terms thereof have not been conformed to, the District Court Judge must either— 15

“(a) permit the prosecutor to withdraw the charge; or

“(b) dismiss the charge.” 20

Section 13: repeal and substitute:

“13 Penalty on conviction

Any person convicted of an offence against this Act is liable, if a corporation, to a fine not exceeding \$2,000; and if any other person, to imprisonment for any period not exceeding 2 years or to a fine not exceeding \$1,000.” 25

Section 14: repeal.

Securities Act 1978 (1978 No 103)

Section 38B(5): omit “summary”.

Section 58(5): repeal and substitute: 30

“(5) Every person who commits an offence against this section is liable on conviction to—

Part 1—*continued***Securities Act 1978 (1978 No 103)**—*continued*

- “(a) imprisonment for a term not exceeding 5 years; or
 “(b) a fine not exceeding \$300,000 and, if the offence is a continuing one, to a further fine not exceeding \$10,000 for every day or part of a day during which the offence is continued.”

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Section 59(1): omit “summary”.

Section 59: add:

- “(3) In proceedings for an offence against this section, the burden of proving any of the matters described in subsection (2) lies on the defendant.”

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Section 59A(3): omit “summary”.

Section 60(1) and (2): omit “summary”.

Section 60C: omit “on indictment”.

Section 60E(3): omit “on indictment”.

Section 60K: omit “on indictment”.

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Section 64: repeal and substitute:

“64 Time for filing charging document for certain offences

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,—

- “(a) a charging document may be filed at any time in relation to an offence against section 58, 60C, 60E(3), or 60K of this Act; and
 “(b) the limitation period in respect of an offence against section 38B(5) or 60(1) of this Act ends on the date that is 3 years after the date on which the offence was committed.

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“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.”

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Section 76(2): omit “summary”.

Securities Amendment Act 2011 (2011 No 6)

New section 43Q(3) in section 22: omit “summary”.

Section 49(6): omit “summary”.

Part 1—*continued***Securities Markets Act 1988 (1988 No 234)**

Section 43(1): omit “on indictment”.

Section 43A(1) and (2): omit “summary”.

Section 43B(1), (2), (3), and (4): omit “summary”.

Section 43C(1): omit “on indictment”.

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Section 43C(2): omit “summary”.

Section 43D(1) and (2): omit “summary”.

Section 43E(1) and (2): omit “on indictment”.

Section 43E(4): omit “summary”.

Section 43U: repeal and substitute:

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“43U Time for filing charging document for certain offences

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,—

“(a) a charging document may be filed at any time in respect of an offence against section 39, 43H, 43I, 43M, 43N, or 43T of this Act; and

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“(b) the limitation period in respect of an offence against section 36A(1), 36B(1), 36G(1), 36P(1), or 36Z of this Act ends on the date that is 3 years after the date on which the offence was committed.

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“(2) Nothing in **subsection (1)** affects the application of **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** in relation to any offence not mentioned in that subsection.”

Securities Trustees and Statutory Supervisors Act 2011 (2011 No 10)

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Section 8(5): omit “summary”.

Section 24(4): omit “summary”.

Section 24(6): omit “summary”.

Section 36(5): omit “summary”.

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Section 39(5): omit “summary”.

Section 39(7): omit “summary”.

Section 49(5): omit “summary”.

Part 1—*continued***Serious Fraud Office Act 1990 (1990 No 51)**

Section 36(4): omit “summary”.

Section 37(4): omit “summary”.

Section 39(3): omit “summary”.

Section 40(2): omit “summary”.

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Section 41(2) and (3): omit “summary”.

Section 45: omit “on indictment”.

Section 46(1): omit “on indictment”.

Section 47: omit “summary”.

Ship Registration Act 1992 (1992 No 89)

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Section 7(7): insert “on conviction” after “liable”.

Section 11(3): insert “on conviction” after “liable”.

Section 12(5): insert “on conviction” after “liable”.

Section 14(4): insert “on conviction” after “liable”.

Section 16(7) and (8): insert “on conviction” after “liable”.

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Section 19(10): insert “on conviction” after “liable”.

Section 25(3): insert “on conviction” after “liable”.

Section 28(3): insert “on conviction” after “liable”.

Section 29(5): insert “on conviction” after “liable”.

Section 30(4): insert “on conviction” after “liable”.

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Section 32(5): insert “on conviction” after “liable”.

Section 35(4): insert “on conviction” after “liable”.

Section 58(5): insert “on conviction” after “liable”.

Section 60(3): insert “on conviction” after “liable”.

Section 71(3): insert “on conviction” after “liable”.

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Section 74(1) and (2): insert “on conviction” after “liable”.

Section 75(1) and (2): insert “on conviction” after “liable”.

Section 77: repeal.

Section 78(b): omit “The period of 6 months referred to in section 14 of the Summary Proceedings Act 1957 for the laying of an information” and substitute “The period of 12 months referred to in **section**

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Part 1—*continued***Ship Registration Act 1992 (1992 No 89)**—*continued*

22 of the **Criminal Procedure (Reform and Modernisation) Act 2010** for the filing of a charging document”.

Section 78(b): omit “The period of 6 months referred to in section 14 of the Summary Proceedings Act 1957 for the laying of an information” and substitute “The applicable limitation period referred to in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010** for the filing of a charging document”.

Section 79(2): insert “on conviction” after “liable”.

Shipping Act 1987 (1987 No 183)

Section 11(1): omit “summary”. 10

Shop Trading Hours Act Repeal Act 1990 (1990 No 57)

Section 5(1): omit “summary”.

Section 5(3)(a): omit “information” in both places where it appears and substitute in each case “charging document”.

Section 5(3)(b): omit “information” and substitute “charge”. 15

Smoke-free Environments Act 1990 (1990 No 108)

Section 16(6): omit “a complaint may be laid under the Summary Proceedings Act 1957” and substitute “a charging document may be filed under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 18: repeal and substitute:

“18 Prosecution of offences

“(1) Every prosecution for an offence against this Part must be commenced by a person appointed under section 14.

“(2) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Part ends on the date that is 12 months after the date on which the offence was committed.” 25

Part 1—*continued***Smoke-free Environments Act 1990 (1990 No 108)**—*continued*

Section 37(2) and (3): repeal and substitute:

“(2) Every prosecution for an offence against this Part must be commenced by the Director-General or a person authorised by the Director-General.

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Part ends on the date that is 12 months after the date on which the offence was committed.” 5

Section 38B(a): omit “the laying of an information under the Summary Proceedings Act 1957” and substitute “filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 10

Section 38C(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”. 15

Section 41E: omit “summary”.

Section 41F(2) to (4): repeal and substitute:

“(2) Every prosecution for an offence against this Part must be commenced by the Director-General or a person authorised by the Director-General. 20

“(3) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Part ends on the date that is 12 months after the date on which the offence was committed.” 25

Social Security Act 1964 (1964 No 136)

Section 11(3): omit “summary”.

Section 12N(5): omit “summary”.

Section 12R: repeal and substitute:

“**12R Appeals to Court of Appeal** 30

Subpart 8 of Part 6 of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable with the necessary modifications to a determination of the

Part 1—*continued***Social Security Act 1964 (1964 No 136)**—*continued*

High Court on an appeal under section 12Q as if the determination had been made under **section 304** of that Act.”

Section 84(2): omit “summary”.

Section 86F: omit “summary”.

Paragraph (d) of the definition of **fine** in section 126A(1): repeal. 5

Section 127: omit “summary”.

Section 128: repeal and substitute:

“128 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the knowledge of any officer concerned in the administration of this Act.” 10
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Section 129: omit “summary”.

Social Workers Registration Act 2003 (2003 No 17)

Section 96(3): omit “Part 4 of the Summary Proceedings Act 1957 (together with the other provisions of that Act that are applied in that Part)” and substitute “**Part 6** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”. 20

Section 148: omit “summary” in each place where it appears.

Schedule 2, clause 10(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 25

Schedule 2, clause 12(4): omit “summary”.

Schedule 2, clause 13(1) and (2): omit “summary”.

Soil Conservation and Rivers Control Act 1941 (1941 No 12)

Section 33J: repeal and substitute:

“33J Appeals to Court of Appeal 30

Subpart 8 of Part 6 of the **Criminal Procedure (Reform and Modernisation) Act 2010** applies as far as applicable

Part 1—*continued***Soil Conservation and Rivers Control Act 1941 (1941 No 12)**—*continued*

with the necessary modifications to a determination of the High Court under section 33B as if the determination had been made under **section 304** of that Act.”

Section 55(3): omit “summary”.

Section 113(3): omit “in a summary way”. 5

Section 156: repeal.

Section 157: omit “Section 14 of the Summary Proceedings Act 1957” and substitute “**Section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Sport and Recreation New Zealand Act 2002 (2002 No 38) 10

Section 12(3): omit “summary”.

Sports Anti-Doping Act 2006 (2006 No 58)

Section 43(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 45(2): omit “summary”. 15

Section 46(1): omit “summary”.

State Sector Act 1988 (1988 No 20)

Section 76(2): omit “summary”.

Section 85(2): omit “summary”.

Statistics Act 1975 (1975 No 1) 20

Section 43(1) and (2): omit “summary”.

Section 47: omit “summary”.

Section 48: repeal and substitute:

“48 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the offence was committed.” 25

Part 1—*continued***Statutes Amendment Act 1938 (1938 No 20)**

Section 46(2) and (3): omit “summary”.

Student Loan Scheme Act 1992 (1992 No 141)

Section 82: repeal and substitute:

“82 Proceedings to be commenced by Commissioner 5

All proceedings for offences under this Act must be commenced by the filing of a charging document in the name of the Commissioner.”

Heading to section 83: omit “**Information**” and substitute “**Charge**”. 10

Section 83(1): omit “information” and substitute “charge”.

Section 83(2): omit “information” in each place where it appears and substitute in each case “charge”.

Section 84: repeal and substitute:

“84 Time for filing charging document 15

Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 10 years after the end of the year in which the offence was committed.” 20

Student Loan Scheme Act 2011 (2011 No 62)

Section 164: repeal and substitute:

“164 Proceedings to be commenced by Commissioner 25

A proceeding for an offence against section 163 must be commenced by the filing of a charging document in the name of the Commissioner.”

Heading to section 165: omit “**Information**” and substitute “**Charge**”.

Section 165(1): omit “An information” and substitute “A charge”. 30

Section 165(2): omit “an information” and substitute “a charging document”.

Part 1—*continued***Student Loan Scheme Act 2011 (2011 No 62)**—*continued*

Section 165(2)(a): omit “information” and substitute “charging document”.

Section 166: repeal and substitute:

“166 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against section 163 ends on the date that is 10 years after the end of the year in which the offence was committed.”

Submarine Cables and Pipelines Protection Act 1996 (1996 No 22) 10

Section 9(2): omit “summary”.

Section 11(1): omit “summary”.

Section 13(1) and (2): omit “summary”.

Section 15: omit “summary”. 15

Section 17(2): omit “summary”.

Section 19(2): omit “summary”.

Section 20(5): omit “summary”.

Section 21(2): omit “summary”.

Section 24(1)(a) and (2): omit “lay an information” and substitute in each case “file a charging document”. 20

Section 24(1)(b): omit “an information” and substitute “a charge”.

Section 29: omit “summary”.

Sugar Loaf Islands Marine Protected Area Act 1991 (1991 No 8)

Section 10(2): omit “summary”. 25

Summary Offences Act 1981 (1981 No 113)

Definition of **crime** in section 2(1): repeal.

Definition of **crime involving dishonesty** in section 2(1): repeal and substitute:

“**crime involving dishonesty** has the meaning given to it in section 2(1) of the Crimes Act 1961”.

Part 1—*continued***Summary Offences Act 1981 (1981 No 113)**—*continued*

Definition of **crime involving violence** in section 2(1): repeal and substitute in its appropriate alphabetical order:

“**offence involving violence** means an offence against any of the provisions listed in Schedule 3”.

Definition of **is liable** in section 2(1): repeal and substitute: 5

“**is liable** means is liable on conviction”.

Section 6(2): repeal and substitute:

“(2) No charging document for an offence against this section may be filed unless the defendant has been warned by any constable on at least 3 separate occasions that his or her continued association with the convicted thief may lead to a charge being brought against him or her under this section.” 10

Section 6A: omit “a crime” in each place where it appears and substitute in each case “an offence”.

Section 6A(3)(b)(ii): omit “crimes” in each place where it appears and substitute in each case “offences”. 15

Section 6A(2): omit “No information for an offence against this section may be laid” and substitute “No charging document for an offence against this section may be filed”.

Section 6B(3): omit “No information for an offence against this section may be laid” and substitute “No charging document for an offence against this section may be filed”. 20

Section 20A(2): omit “No information shall be laid” and substitute “No charging document may be filed”.

Section 20A(2): omit “laying of an information” and substitute “filing of a charging document”. 25

Section 38B(1)(a): repeal and substitute:

“(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”. 30

Section 38C(2): omit “for the purposes of the Summary Proceedings Act 1957,”.

Section 40(1): omit “summary”.

Section 40(3): repeal.

Part 1—*continued***Summary Offences Act 1981 (1981 No 113)**—*continued*

Heading to section 41: omit “**Information**” and substitute “**Charge**”.

Section 41: omit “information” and substitute “charge”.

Section 42: repeal and substitute:

“**42 Charge alleging false claim of qualifications** 5
No charging document for an offence against section 20 may be filed without the consent of the Attorney-General.”

Section 43: repeal.

Section 44: omit “information” and substitute “charge”.

Schedule 3: omit from the heading “**Crimes**” and substitute “**Offences**”. 10

Superannuation Schemes Act 1989 (1989 No 10)

Section 25(1): omit “summary”.

Supreme Court Act 2003 (2003 No 53)

Section 10: repeal and substitute: 15

“**10 Appeals against decisions in criminal proceedings**
The Supreme Court can hear and determine appeals authorised by—

“(a) **Part 6 of the Criminal Procedure (Reform and Modernisation) Act 2010**; or 20

“(b) section 10 or 10A of the Court Martial Appeals Act 1953.”

Takeovers Act 1993 (1993 No 107)

Section 31F(2): omit “summary”.

Section 44(2): omit “, without reasonable excuse,”. 25

Section 44(5): omit “summary”.

Section 44A: add:

“(3) In proceedings for an offence against section 44, the burden of proving any of the matters described in subsections (1) and (2) lies on the defendant.” 30

Section 44C(2): omit “on indictment”.

Part 1—*continued***Takeovers Act 1993 (1993 No 107)**—*continued*

Section 44H: omit “on indictment”.

Section 44J(3): omit “on indictment”.

Section 44P: omit “on indictment”.

New section 44PA: insert after the Subpart 5 heading and before section 44Q: 5

“44PA Time limit for commencing proceedings for offence under section 44H, 44J, or 44P

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence against section 44H, 44J, or 44P of this Act.” 10

Tax Administration Act 1994 (1994 No 166)

Section 81(4)(a): omit “indictable or summary”.

Paragraph (d) of the definition of **finer defaulter** in section 85A(6):
repeal. 15

Section 149B: repeal and substitute:

“149B Proceedings for offences

“(1) A charging document for an offence against this Act may be filed only by the Commissioner.

“(2) Nothing in **subsection (1)** applies to offences against section 143G.” 20

Heading to section 150: omit “**Information**” and substitute “**Charging document**”.

Section 150(1): omit “An information” and substitute “A charging document”. 25

Section 150(2): omit “an information” and substitute “a charging document”.

Section 150(2): omit “the information” and substitute “the charging document”.

Heading to section 150A: omit “**Information may be laid**” and substitute “**Charging document may be filed**”. 30

Section 150A(1): omit “An information” and substitute “A charging document”.

Part 1—*continued***Tax Administration Act 1994 (1994 No 166)**—*continued*

Section 150A(1): omit “laid” and substitute “filed”.

Heading to section 150B: omit “**Information may be laid**” and substitute “**Charging document may be filed**”.

Section 150B(1): omit “An information” and substitute “A charging document”.

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Section 150B(1): omit “laid” and substitute “filed”.

Heading to section 150C: omit “**lay information**” and substitute “**file charging document**”.

Section 150C: omit “lays an information” and substitute “files a charging document”.

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Section 152(13): omit “information” and substitute “charge”.

Te Ture Whenua Maori Act 1993 (1993 No 4)

Section 89(2): omit “summary”.

Section 91: omit “summary”.

Section 346(1): omit “summary”.

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Section 346(5): omit “Notwithstanding the provisions of section 14 of the Summary Proceedings Act 1957,” and substitute “Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,”.

Telecommunications Act 2001 (2001 No 103)

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Section 112(3): omit “summary”.

Section 113(2): omit “summary”.

Section 140(2): omit “summary”.

Section 146(2): omit “summary”.

Section 152(2): omit “summary”.

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Section 155L(1): omit “summary”.

Telecommunications (Residual Provisions) Act 1987 (1987 No 116)

Section 10E: omit “summary”.

Section 10H(2) and (4): omit “summary”.

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Part 1—*continued***Terrorism Suppression Act 2002 (2002 No 34)**

Section 6A(2): omit “on indictment”.

Section 7(3): omit “on indictment”.

Section 8(4): omit “on indictment”.

Section 9(4): omit “on indictment”.

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Section 10(5): omit “on indictment”.

Section 12(2): omit “on indictment”.

Section 13(3): omit “on indictment”.

Section 13A(2): omit “on indictment”.

Section 13B(1): omit “on indictment”.

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Section 13C(2): omit “on indictment”.

Section 13D: omit “on indictment”.

Section 13E(2): omit “on indictment”.

Section 43(4): omit “on indictment”.

Section 47(5): omit “summary”.

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Section 47G(2) and (4): omit “summary”.

Testing Laboratory Registration Act 1972 (1972 No 36)

Section 30(2): omit “summary”.

Tourist and Health Resorts Control Act 1908 (1908 No 194)

Section 10: omit “may be recovered in a summary manner, and”.

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Trade in Endangered Species Act 1989 (1989 No 18)

Section 39C(2): omit “discharged or”.

Section 40(3)(c) and (4): omit “lay any information or charge” and substitute “file any charging document”.

Section 40(3)(d): omit “charge or information is laid” and substitute “charging document is filed”.

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Section 41(a): omit “lay an information or charge” and substitute “file a charging document”.

Section 44(2) and (3): omit “on indictment”.

Section 44(4): omit “summary”.

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Section 45(2) and (3): omit “on indictment”.

Part 1—*continued***Trade in Endangered Species Act 1989 (1989 No 18)**—*continued*

Section 45(4): omit “summary”.

Section 46(2): omit “summary”.

Section 47(2): omit “summary”.

Section 49: omit “summary”.

Trade Marks Act 2002 (2002 No 49) 5

Section 117(2): repeal.

Section 118(a): omit “section 22(1)(b) of the Criminal Justice Act 1985” and substitute “section 32(1)(a) and (c) of the Sentencing Act 2002”.

Trade Unions Act 1908 (1908 No 196) 10

Section 10(3): omit “actions, or indictments, or summary proceedings before any Court of summary jurisdiction” and substitute “proceedings before a court”.

Section 15: omit “on complaint made” and substitute “in proceedings commenced”.

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Section 15: omit “summary”.

Section 15: omit “; but nothing herein shall prevent any such person from being proceeded against by way of indictment, if not previously convicted of the same offence under the provisions of this Act”.

Section 15: add as subsection (2):

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“(2) Nothing in this section prevents a person being proceeded against under any other enactment for an offence constituted by conduct in a particular case that is the same as conduct punishable under this section if the person has not previously been convicted under this section in respect of that particular conduct.”

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Section 29: omit “he shall be liable on indictment” and substitute “he or she commits an offence and is liable on conviction”.

Heading to section 30: omit “**Summary proceedings**” and substitute “**Proceedings**”.

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Part 1—*continued***Trade Unions Act 1908 (1908 No 196)**—*continued*

Section 30(a): repeal and substitute:

“(a) proceedings for offences against this Act must be commenced by filing a charging document in accordance with the **Criminal Procedure (Reform and Modernisation) Act 2010**,—

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“(i) in the case of a prosecution against a trade union or branch, or its officers, in the place where the registered office of the trade union is, or where the offence was committed; or

“(ii) in the case of a prosecution against any person other than a trade union or branch, or its officers, in the place where such person is resident at the time of the institution of such prosecution, or where the offence was committed.”

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Section 30(b): omit “information or complaint” and substitute “charge”. 15

Transport Accident Investigation Commission Act 1990 (1990 No 99)

Section 14L(3): omit “summary”.

Section 14M(2): omit “summary”.

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Trans-Tasman Mutual Recognition Act 1997 (1997 No 60)

Section 61(7): omit “summary”.

Section 66(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 68(2): omit “summary”.

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Section 69(1): omit “summary”.

Trans-Tasman Proceedings Act 2010 (2010 No 108)

Section 50(5): omit “summary”.

Part 1—*continued***Trespass Act 1980 (1980 No 65)**

Section 10: repeal and substitute:

“10 Charges

Proceedings under this Act may be commenced only by an occupier of the place concerned or a constable.”

5

Section 11(1): repeal.

Trustee Act 1956 (1956 No 61)

Section 31(7C): omit “summary”.

Section 51(2)(b): omit “, whether summarily or on indictment.”

Section 77(8): omit “commits an offence and shall be liable on summary” and substitute “or she commits an offence and is liable on”.

10

Section 83B(9): repeal and substitute:

“(9) If any person in any statement of accounts, report, or certificate required for the purposes of this section wilfully makes a statement that is false in any material particular, he or she is liable on conviction to imprisonment for a term not exceeding 2 years or a fine not exceeding \$200, or both.”

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Trustee Companies Act 1967 (1967 No 35)

Section 46(4): omit “summary”.

Trustee Companies Management Act 1975 (1975 No 25)

20

Section 13(2): omit “summary”.

Section 20(1): omit “on indictment”.

Section 20: add:

“(4) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, a charging document may be filed at any time in respect of an offence against this section.”

25

Tuberculosis Act 1948 (1948 No 36)

Section 27: repeal.

Part 1—*continued***Unclaimed Money Act 1971 (1971 No 28)**

Section 12(2): omit “summary”.

Section 13: omit “summary”.

Unit Trusts Act 1960 (1960 No 99)

Section 21(3): omit “summary”. 5

Section 25(1), (2), and (3): omit “summary”.

United Nations Act 1946 (1946 No 7)

Section 3(1): omit “summary”.

Section 3(2): omit “accused” and substitute “defendant”.

**United Nations Convention on the Law of the Sea Act 1996
(1996 No 69)** 10

Section 8(2): omit “summary”.

Section 11: repeal and substitute:

“11 Limitation of proceedings

“(1) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 6 months after the date on which the offence was committed. 15

“(2) The period of 6 months does not run while the person charged is beyond the territorial limits of New Zealand. 20

“(3) **Subsection (1)** is subject to **subsection (2)**.

“Compare: 1994 No 104 s 411”.

Unsolicited Electronic Messages Act 2007 (2007 No 7)

Section 22(5): omit “summary”. 25

Section 54(6): omit “summary”.

Unsolicited Goods and Services Act 1975 (1975 No 46)

Section 5(2): omit “summary”.

Section 7(2): omit “summary”.

Section 11: omit “summary”. 30

Part 1—*continued***Utilities Access Act 2010 (2010 No 98)**

Section 8: omit “summary”.

Valuers Act 1948 (1948 No 63)

Heading to section 31: omit “indictable”.

Section 31(1)(a): omit “indictable”. 5

Section 43: omit “summary”.

Veterinarians Act 2005 (2005 No 126)

Section 21(1), (2), and (3): omit “summary”.

Section 23(5): omit “summary”.

Section 31(1) and (2): omit “summary”. 10

Section 32(2): omit “summary”.

Section 33(2): omit “summary”.

Section 42(4): omit “summary”.

Section 49(5): omit “summary”.

Section 72(3): omit “Part 4 of the Summary Proceedings Act 1957 15
(together with the other provisions of that Act that are applied in that
Part)” and substitute “**Part 6 of the Criminal Procedure (Reform
and Modernisation) Act 2010**”.

Waitangi National Trust Board Act 1932 (1932 No 28)

Section 6(1): omit “summary”. 20

Walking Access Act 2008 (2008 No 101)

Section 53: Repeal subsection (1) and substitute the following sub-
sections:

“(1) Proceedings are commenced by filing a charging document 25
under **section 12** of the **Criminal Procedure (Reform and
Modernisation) Act 2010**.

“(1A) Despite anything to the contrary in **section 22** of the **Crim-
inal Procedure (Reform and Modernisation) Act 2010**,
the limitation period in respect of an offence against this Act
ends on the date that is 12 months after the date on which the 30
offence was committed.”

Part 1—*continued***Walking Access Act 2008 (2008 No 101)**—*continued*

Section 53(2): omit “lay an information” and substitute “file a charging document”.

Section 59(1) and (2): omit “summary”.

Section 61: omit “summary”.

Section 68(5): omit “summary”. 5

Wanganui Harbour and River Conservators Board Act 1876 (1876 No 86)

Section 53: omit “before any one or more Justices in a summary way” and substitute “in accordance with Part 3 of the Summary Proceedings Act 1957”. 10

War Pensions Act 1954 (1954 No 54)

Section 89(2): omit “summary”.

Section 92: omit “summary”.

Section 93: repeal and substitute:

“**93 Time for filing charge** 15

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the facts alleged in the charging document are brought to the knowledge of the person by whom the proceedings are instituted.” 20

Waste Minimisation Act 2008 (2008 No 89)

Section 65(1), (2), and (3): omit “summary”.

Section 66: omit “summary”. 25

Heading above section 71, and section 71: repeal and substitute:

“Time for filing charge

“**71 Time for filing charge**

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**,— 30

Part 1—*continued***Waste Minimisation Act 2008 (2008 No 89)**—*continued*

- “(a) the limitation period in respect of an offence against this Act ends on the date that is 12 months after the date on which the matter giving rise to the charge first became known, or should have become known, to the person who commences the proceedings; and 5
- “(b) the limitation period in respect of an offence against a bylaw made under section 56 ends on the date that is 6 months after the date on which the matter giving rise to the charge first became known, or should have become known, to the territorial authority that commences the proceedings.” 10

Section 73(a): repeal and substitute:

- “(a) be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”. 15

Section 74(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Weathertight Homes Resolution Services Act 2006 (2006 No 84)

Section 115: omit “summary”.

Schedule 3, clause 10(1): omit “Summary Proceedings Act 1957” 20
and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Schedule 3, clause 11(2): omit “indictment for” and substitute “charge of”.

Weights and Measures Act 1987 (1987 No 15) 25

Section 16A(6): repeal.

Section 32A(1)(a): repeal and substitute:

- “(a) that person may be proceeded against by filing a charging document under **section 12** of the **Criminal Procedure (Reform and Modernisation) Act 2010**; or”. 30

Section 32A(3): repeal and substitute:

- “(3) If an infringement notice, or a copy of an infringement notice, is—

Part 1—*continued***Weights and Measures Act 1987 (1987 No 15)**—*continued*

“(a) attached to the weight, measure, weighing or measuring instrument, or goods to which the notice relates pursuant to subsection (2)(a), the notice or copy is deemed to have been served on every person liable in respect of the alleged offence and to have been served when the notice or copy was attached to the weight, measure, weighing or measuring instrument, or goods: 5

“(b) sent to a person by post addressed to the person at the person’s last known place of residence or business pursuant to subsection (2)(c), the notice or copy is deemed to have been served on the person when it was so posted.” 10

Section 33(1): omit “summary”.

Section 36(1)(a): repeal and substitute:

“(a) must be commenced by an Inspector; and” 15

Section 36(2): omit “lays an information” and substitute “files a charging document”.

Wheat Industry Research Levies Act 1989 (1989 No 64)

Section 35(1) and (2): omit “summary”.

Wild Animal Control Act 1977 (1977 No 111) 20

Heading to section 37: omit and substitute “**Proceedings for offences**”.

Section 37(1) and (2): repeal.

Section 37(3): omit “any such offence” and substitute “an offence against this Act” 25

Section 37(4): repeal and substitute:

“(4) Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act or any regulations made under it ends on the date that is 12 months after the date on which the offence was committed. 30

“(5) **Subsection (4)** does not apply to an offence against section 11.”

Part 1—*continued***Wildlife Act 1953 (1953 No 31)**

Heading to section 68: omit and substitute “**Conduct of proceedings and recovery of fines**”.

Section 68(1): repeal.

Section 68(2): omit “although not the informant.” 5

Section 68A: omit “section 14 of the Summary Proceedings Act 1957” and substitute “**section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 70(4): omit “on the information of” and substitute “by”.

Wine Act 2003 (2003 No 114)

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Section 97(2): repeal.

Section 97(3): insert “on conviction” after “liable”.

Section 98(3): repeal.

Section 98(4): insert “on conviction” after “liable”.

Section 99(3): repeal. 15

Section 99(4): insert “on conviction” after “liable”.

Section 100(3): repeal.

Section 100(4): insert “on conviction” after “liable”.

Section 101(3): omit “summary”.

Section 102(2): omit “summary”. 20

Section 103(2): omit “summary”.

Section 110: repeal and substitute:

“**110 Time for filing charge for offence against section 102 or 103**

Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against section 102 or 103 of this Act ends on the date that is 2 years after the date on which the offence was committed.” 25

Wool Industry Restructuring Act 2003 (2003 No 40)

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Section 54(1): omit “summary”.

Part 2

Amendments to local and provincial Acts

Akaroa High School Act 1881 (1881 No 16)

Section 5: omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

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Ashburton High School Act 1878 (1878 No 49)

Section 4: omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

Auckland Domain Act 1987 (1987 No 7)

Section 12: omit “summary”.

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Christchurch District Drainage Act 1951 (1951 No 21)

Section 12(3): omit “summary”.

Section 39(1): omit “summary”.

Section 89: omit “a summary way before any two Justices in the manner provided by the Justices of the Peace Act 1972” and substitute “accordance with Part 3 of the Summary Proceedings Act 1957”.

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Greytown District Trust Lands Act 1979 (1979 No 4)

Section 9(3): omit “summary”.

Hawera Borough Drainage Empowering Act 1900 (1900 No 21)

Section 25: omit “in a summary manner under” and substitute “on conviction in accordance with Part 3 of”.

20

Hawke’s Bay Crematorium Act 1944 (1944 No 7)

Section 39(1): omit “summary”.

Hutt Valley Drainage Act 1967 (1967 No 3)

Section 10(2): omit “summary”.

25

Section 53: omit “summary”.

Section 54(2): omit “summary”.

Section 73(2): omit “summary”.

Part 2—*continued***Hutt Valley Drainage Act 1967 (1967 No 3)**—*continued*

Section 79: omit “a summary manner under” and substitute “accordance with Part 3 of”.

Proviso to section 79: repeal and substitute:

“(2) Despite anything to the contrary in **section 22 of the Criminal Procedure (Reform and Modernisation) Act 2010**,
5 the limitation period in respect of an offence against this Act or any bylaw made under it ends on the date that is 12 months after the date on which the offence was committed.”

Section 81: omit “summary”.

Mahinapua Creek and Lake Reserves Act 1893 (1893 No 18) 10

Section 3: omit “in a summary way” and substitute “in accordance with Part 3 of the Summary Proceedings Act 1957”.

Masterton Borough Council Staff Retiring Fund Act 1962 (1962 No 9)

Section 14(1): omit “summary”. 15

Masterton Trust Lands Act 2003 (2003 No 1)

Section 26(3): omit “summary”.

Section 28(6): omit “summary”.

Nelson Waterworks Act 1863 (1863 No 1)

Section 29: omit “in a summary manner before any Justice or Justices
20 of the Peace” and substitute “on conviction in accordance with Part 3 of the Summary Proceedings Act 1957”.

New Plymouth Borough Land Exchange and Empowering Act 1939 (1939 No 6)

Section 9(2): omit “by complaint under the Summary Proceedings
25 Act 1957 (the provisions whereof shall, with the necessary modifications, apply),”.

Section 11(1) and (2): omit “summary”.

Part 2—*continued***New Plymouth High School Act 1889 (1889 No 2)**

Section 6: omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

Ohai Railway Board Act 1932 (1932 No 2)

Section 19A(2): omit “summary”. 5

Otago Boys’ and Girls’ High School Act 1877 (1877 No 52)

Section 4: omit “indictable offence” and substitute “offence punishable by 2 or more years’ imprisonment”.

Riccarton Bush Act 1914 (1914 No 15)

Section 19: insert “on conviction” after “is liable” and also omit “in a summary way” and substitute “in accordance with Part 3 of the Summary Proceedings Act 1957”. 10

Rotorua City Geothermal Energy Empowering Act 1967 (1967 No 2)

Section 4(3): omit “summary”. 15
Section 7(2): omit “summary”.

Summit Road (Canterbury) Protection Act 2001 (2001 No 3)

Section 32: repeal and substitute:

“32 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Criminal Procedure (Reform and Modernisation) Act 2010**, the limitation period in respect of an offence against this Act ends on the date that is 6 months after the date on which the offence first came to the notice of the Authority.” 20

Section 34(1): omit “An offence against this Act is punishable on summary conviction on the information of” and substitute “A charging document for an offence against this Act may be filed in the name of”. 25

Section 34(2): omit “laying an information” and substitute “filing a charging document”. 30

Part 2—*continued***Summit Road (Canterbury) Protection Act 2001 (2001 No 3)**—*continued*

Section 34(2): omit “lay informations” and substitute “file charging documents”.

Section 34(3): omit “(whether or not an informant)”.

Tauranga City Council and Maunganui Borough Council (Tauranga Harbour Bridge) Empowering Act 1972 (1972 No 4) 5

Section 25: omit “summary”.

Tauranga District Council (Route K Toll) Empowering Act 2000 (2000 No 1)

Section 19: omit “summary”.

Timaru Borough Drainage, Sewerage, and Loans Act 1905 (1905 No 5) 10

Section 18: omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Section 35: repeal.

Wanganui District Council (Prohibition of Gang Insignia) Act 2009 (2009 No 1) 15

Section 12(2): omit “summary”.

Section 14(5): omit “summary”.

Section 15: repeal and substitute:

“15 Filing charging document for offence 20
Only a constable may file a charging document for an offence against this Act.”

Wellington College and Girls’ High School Act 1887 (1887 No 17)

Section 5: omit “indictable misdemeanour” and substitute “offence punishable by 2 or more years’ imprisonment”.

Part 2—*continued***Wellington and Karori Sanitation and Water-supply Act 1912
(1912 No 17)**

Section 13: repeal and substitute:

“13 Fines to be paid to Wellington District Fund

All fines imposed by any bylaw made under this Act may be 5
recovered under the **Criminal Procedure (Reform and Mod-
ernisation) Act 2010** and the Summary Proceedings Act
1957, and must be paid into the District Fund of the Welling-
ton Corporation.”

**Wellington City (Cuba Street Mall) Empowering Act 1967 10
(1967 No 1)**

Section 4: omit “summary”.

Wellington City Drainage Empowering Act 1894 (1894 No 6)

Section 25: repeal.

**Wellington City Reclamation and Empowering Act 1906 (1906 15
No 28)**

Section 5(2): omit “summary”.

Wellington Regional Water Board Act 1972 (1972 No 3)

Section 11(2): omit “summary”.

Section 13(6): omit “summary”.

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Section 33: omit “summary”.

Section 34(1): omit “summary”.

Section 35(2): omit “summary”.

Section 57: omit “summary”.

Section 64(1): omit “summary”.

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Section 101(3): omit “summary”.

Section 110(4): omit “summary”.

Section 113: repeal and substitute:

“113 Time for filing charging document

Despite anything to the contrary in **section 22** of the **Crim- 30
inal Procedure (Reform and Modernisation) Act 2010**,

Part 2—*continued***Wellington Regional Water Board Act 1972 (1972 No 3)**—*continued*

the limitation period in respect of an offence against this Act or any bylaw made under it ends on the date that is 12 months after the date on which the offence was committed.”

Westland and Nelson Coal Fields Administration Act 1877 (1877 No 73)

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Section 34: omit “in a summary way” and substitute “in accordance with Part 3 of the Summary Proceedings Act 1957”.

Proviso to section 34: repeal and substitute:

“(2) Only the Minister of Land Information, or a person appointed in writing by the Minister of Land Information, may file a charging document for any of the offences mentioned in this section.”

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Part 3

Amendments to private Acts

Ashburton County Council Empowering Act 1882 (1882 No 3)

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Section 8: omit “in a summary way before any two or more Justices of the Peace in the manner provided by the Justices of the Peace Act 1882” and substitute “on conviction in accordance with Part 3 of the Summary Proceedings Act 1957”.

Auckland Agricultural Pastoral and Industrial Shows Board Act 1972 (1972 No 4)

20

Section 14(1): omit “summary”.

Dunedin Waterworks Extension Act 1875 (1875 No 5)

Section 8: insert “on conviction” after “liable” and omit “a summary way under the Justices of the Peace Act 1866, or any Act or Acts amending the same as aforesaid” and substitute “accordance with Part 3 of the Summary Proceedings Act 1957”.

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Part 3—*continued***Eastwoodhill Trust Act 1975 (1975 No 1)**

Section 15(1): omit “summary”.

Eden Park Trust Act 1955 (1955 No 3)

Section 19: insert “on conviction” after “liable” and omit “a summary way” and substitute “accordance with Part 3 of the Summary Proceedings Act 1957”. 5

Eden Park Trust Amendment Act 2009 (2009 No 1)

Definition of **offence** in section 12(4): repeal and substitute:

“**offence** means any act or omission for which anyone can be punished on conviction under the Crimes Act 1961 or any other enactment”. 10

Waikato Show Trust Act 1965 (1965 No 3)

Section 17: insert “on conviction” after “is liable” and omit “a summary way” and substitute “accordance with Part 3 of the Summary Proceedings Act 1957”. 15

Part 4

Amendments to regulations

Abel Tasman National Park Bylaws 2009 (SR 2009/46)

Bylaw 23: omit “summary”.

Animal Welfare (Records and Statistics) Regulations 1999 (SR 1999/392) 20

Regulation 7(2): omit “summary”.

Armed Forces Establishments Road Traffic Bylaws 1978 (SR 1978/149)

Bylaw 7(4): omit “summary”. 25

Arms Regulations 1992 (SR 1992/346)

Regulation 12(2): omit “summary”.

Regulation 13(3): omit “summary”.

Part 4—*continued***Arms Regulations 1992 (SR 1992/346)**—*continued*

Regulation 27(2): omit “summary”.

Arthur’s Pass National Park Bylaws 1981 (SR 1981/63)

Bylaw 17: omit “summary”.

Biosecurity (Forms) Regulations 1995 (SR 1995/129)

Schedule, form D, Note 1: omit “Summary Proceedings Act 1957” 5
and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Biosecurity (Imported Animals, Embryos, and Semen Information) Regulations 1999 (SR 1999/367)

Regulation 9(3): omit “summary”. 10

Biosecurity (Meat and Food Waste for Pigs) Regulations 2005 (SR 2005/150)

Regulation 8(4)(b)(i): omit “informant” and substitute “prosecutor”.

Biosecurity (Ruminant Protein) Regulations 1999 (SR 1999/410)

Regulation 18AA(4)(b)(i): omit “informant” and substitute “prosecutor”. 15

Citizenship Regulations 2002 (SR 2002/73)

Regulation 19: omit “summary”.

Civil Aviation (Offences) Regulations 2006 (SR 2006/168)

Heading to regulation 4: omit “**Summary offences**” and substitute “**Offences**”. 20

Regulation 4(2): omit “summary”.

Schedule 1, heading above columns 3 and 4 of the table: omit “**Summary conviction**” and substitute “**Conviction**”.

Civil Defence Emergency Management Regulations 2003 (SR 2003/89) 25

Regulation 4(4): omit “summary”.

Part 4—*continued***Continental Shelf (Kupe Wellhead Platform Safety Zone)
Regulations 2006 (SR 2006/381)**

Regulation 6(2): omit “summary”.

**Continental Shelf (Maari Development Safety Zones)
Regulations 2008 (SR 2008/125)**

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Regulation 7(2): omit “summary”.

**Continental Shelf (Maui A Safety Zone) Regulations 1975
(SR 1975/300)**

Regulation 4(2): omit “summary”.

**Continental Shelf (Maui B Safety Zone) Regulations 1991
(SR 1991/278)**

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Regulation 4(2): omit “summary”.

**Continental Shelf (Pohokura Platform B Safety Zone)
Regulations 2006 (SR 2006/9)**

Regulation 6(2): omit “summary”.

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**Continental Shelf (Umuroa Installation Safety Zone)
Regulations 2008 (SR 2008/11)**

Regulation 6(2): omit “summary”.

Corrections Regulations 2005 (SR 2005/53)

Regulation 26(2): repeal and substitute:

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“(2) In this regulation, **serious violent offence** means an offence against any of the following provisions of the Crimes Act 1961 in respect of which a determinate sentence of more than 2 years’ imprisonment is imposed on the offender:

“(a) section 128 (sexual violation):

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“(b) section 171 (manslaughter):

“(c) section 173 (attempt to murder):

“(d) section 188(1) (wounding with intent to cause grievous bodily harm):

“(e) section 188(2) (wounding with intent to injure):

30

Part 4—*continued***Corrections Regulations 2005 (SR 2005/53)**—*continued*

- “(f) section 189(1) (injuring with intent to cause grievous bodily harm):
- “(g) section 189(2) (injuring with intent to injure):
- “(h) section 198A (using a firearm against law enforcement officer, etc): 5
- “(i) section 198B (commission of crime with firearm):
- “(j) section 234 (robbery):
- “(k) section 235 (aggravated robbery).”

Coromandel County Foreshore Licence Order 1973 (SR 1973/278) 10
 Clause 21: omit “summary”.

Criminal Investigations (Bodily Samples) Regulations 2004 (SR 2004/53)
 Schedule, form 2: omit “indictable” in each place where it appears.
 Schedule, form 5: omit “indictable” in each place where it appears. 15

Criminal Proceeds (Recovery) Regulations 2009 (SR 2009/311)
 Schedule, form 32, paragraph 2(c), Statement A: omit “an information has been laid” and substitute “a charging document has been filed”.
 Schedule, form 32, paragraph 2(c), Statement B: omit “an information will be laid” and substitute “a charging document will be filed”. 20

Dairy Industry (Herd Testing and New Zealand Dairy Core Database) Regulations 2001 (SR 2001/373)
 Regulation 32(1) and (2): omit “summary”.

Deer Industry New Zealand Regulations 2004 (SR 2004/323) 25
 Regulation 45: omit “summary”.

Defence Regulations 1990 (SR 1990/78)
 Regulation 39: omit “summary”.

Part 4—*continued***District Courts (Categorisation of Offences) Regulations 2008
(SR 2008/211)**

Revoke.

**Education (Early Childhood Centres) Regulations 1998
(SR 1998/85)**

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Regulation 41: omit “summary”.

**Education (Early Childhood Services) Regulations 2008
(SR 2008/204)**

Regulation 38: omit “summary”.

Education (Hostels) Regulations 2005 (SR 2005/332)

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Regulation 74(3): omit “summary”.

Regulation 75(3): omit “summary”.

Egmont National Park Bylaws 1981 (SR 1981/64)

Bylaw 15: omit “summary”.

Electoral Regulations 1996 (SR 1996/93)

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Regulation 46(5): omit “summary”.

Regulation 68: omit “summary”.

**Electricity (China Free Trade Agreement) Regulations 2008
(SR 2008/223)**

Regulation 7(2): omit “summary”.

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**Electricity Industry (Enforcement) Regulations 2010
(SR 2010/362)**

Regulation 7(4): omit “summary”.

Regulation 49: omit “summary”.

Electricity (Hazards from Trees) Regulations 2003 (SR 2003/375)

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Regulation 26(2): omit “summary”.

Regulation 27(3) and (4): omit “summary”.

Part 4—*continued***Electricity (Hazards from Trees) Regulations 2003
(SR 2003/375)—*continued***

Regulation 37(1): omit “Part 7 of the Summary Proceedings Act 1957” and substitute “**sections 4A to 4F** of the Justices of the Peace Act 1957”.

Electricity (Low Fixed Charge Tariff Option for Domestic Consumers) Regulations 2004 (SR 2004/272)

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Regulation 24(1), (2), and (3): omit “summary”.

Regulation 25: omit “summary”.

Electricity (Safety) Regulations 2010 (SR 2010/36)

Regulation 10(1) and (2): omit “summary”.

Schedule 3, form 1: omit “sections 21 and 78A of the Summary Proceedings Act 1957” and substitute “section 21 of the Summary Proceedings Act 1957 and **section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

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Schedule 3, form 2: omit “sections 21 and 78A of the Summary Proceedings Act 1957” and substitute “section 21 of the Summary Proceedings Act 1957 and **section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

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Electricity (Statistics) Regulations 1996 (SR 1996/17)

Regulation 12(2): omit “summary”.

Employment Court Regulations 2000 (SR 2000/250)

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Regulation 71(2): omit “information” and substitute “charging document”.

Regulation 71(3): revoke and substitute:

“(3) Every charging document for an offence must be filed within 6 months after the date on which the offence was committed.”

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Regulation 72(2): omit “section 71 of the Summary Proceedings Act 1957” and substitute “**section 189** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.

Schedule 1, Heading to form 16: omit and substitute “**Charging document**”.

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Part 4—*continued***Employment Court Regulations 2000 (SR 2000/250)**—*continued*

- Schedule 1, form 16: omit “say on oath that I”.
- Schedule 1, form 16: omit “*informant*” and substitute “*prosecutor*”.
- Schedule 1, form 16: omit:
 “Sworn before me at this day of 20.....
 “Judge of the Employment Court 5
 “*or* Justice of the Peace *or*
 “Registrar of the Employment Court”
- Schedule 1, form 17: omit “on oath”.
- Schedule 1, form 17: omit “information” and substitute “charging document”. 10
- Schedule 2, clause 1(1): omit “an information” and substitute “a charge”.
- Schedule 2, clause 1(2): omit “information” and substitute “charge”.
- Schedule 2, clause 1(3): omit “information” in both places where it appears and substitute in each case “charge”. 15
- Schedule 2, heading to clause 2: omit “**Information**” and substitute “**Charge**”.
- Schedule 2, clause 2: omit “An information” and substitute “A charge”.
- Schedule 2, heading to clause 3: omit “**Information**” and substitute “**Charge**”. 20
- Schedule 2, clause 3: omit “information” and substitute “charge”.
- Schedule 2, heading to clause 4: omit “**Information**” and substitute “**Charge**”.
- Schedule 2, clause 4: omit “an information” and substitute “a charge”. 25
- Schedule 2, clause 4: omit “that information” and substitute “that charge”.
- Schedule 2, clause 4: omit “informant” in each place where it appears and substitute in each case “prosecutor”. 30
- Schedule 2, clause 5: omit “When an information has been substantiated on oath or by affirmation” and substitute “When a charging document has been filed”.

Part 4—*continued***Employment Court Regulations 2000 (SR 2000/250)**—*continued*

Schedule 2, heading to clause 6: omit “**information by informant**” and substitute “**charge by prosecutor**”.

Schedule 2, clause 6(1): omit “information” in each place where it appears and substitute in each case “charge”.

Schedule 2, clause 6(1): omit “informant” and substitute “prosecutor”. 5

Schedule 2, clause 6(2): omit “an information” and substitute “a charge”.

Schedule 2, clause 8(2): omit “informant” and substitute “prosecutor”. 10

Schedule 2, heading to clause 10: omit “**information**” and substitute “**charge**”.

Schedule 2, clause 10(1) and (3): omit “information” and substitute in each case “charge”.

Schedule 2, clause 10(2): omit “an information” and substitute “a charge”. 15

Schedule 2, clause 11: omit “informant” and substitute “prosecutor”.

Schedule 2, heading to clause 12: omit “**informant**” and substitute “**prosecutor**”.

Schedule 2, clause 12: omit “information” and substitute “charge”. 20

Schedule 2, clause 13: omit “informant” and substitute “prosecutor”.

Schedule 2, clause 13: omit “information” and substitute “charge”.

Schedule 2, clause 14: omit “an information” and substitute “a charge”.

Schedule 2, clause 15(1): omit “informant” and substitute “prosecutor”. 25

Schedule 2, clause 16: omit “informant” in each place where it appears and substitute in each case “prosecutor”.

Schedule 2, clause 16(7): omit “information” and substitute “charge”. 30

Schedule 2, clause 17(1): omit “information” and substitute “charge”.

Schedule 2, clause 18(1): omit “informant” and substitute “prosecutor”.

Part 4—*continued***Energy Efficiency (Energy Using Products) Regulations 2002
(SR 2002/9)**

Regulation 13(1): omit “summary”.

Regulation 14(4)(a): omit “informant” and substitute “prosecutor”.

**Energy Efficiency (Vehicle Fuel Economy Labelling)
Regulations 2007 (SR 2007/398)**

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Regulation 11(2): omit “summary”.

Engine Fuel Specifications Regulations 2008 (SR 2008/138)

Regulation 22: omit “summary”.

Evidence Regulations 2007 (SR 2007/204)

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Regulation 4(b): omit “informant” and substitute “prosecutor”.

Regulation 20(b)(ii): omit “laid” and substitute “filed”.

Regulation 20(b)(iii): revoke.

Regulation 21(1): omit “or any other complainant of the kind described in section 185CA(1)(a) of the Summary Proceedings Act 1957”.

15

Regulation 22(1): omit “or any other complainant of the kind described in section 185CA(1)(a) of the Summary Proceedings Act 1957”.

Heading to regulation 28: omit “**before preliminary hearing or defended summary hearing**” and substitute “**after defendant pleads not guilty**”.

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Regulation 28(1): revoke and substitute:

“(1) The prosecutor must ensure a typed transcript of a working copy is given to the defendant or the defendant’s lawyer as soon as practicable after the defendant has pleaded not guilty.”

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**Films, Videos, and Publications Classification Regulations 1994
(SR 1994/189)**

Regulation 46(3): omit “summary”.

Part 4—*continued***Fiordland National Park Bylaws 1981 (SR 1981/65)**

Bylaw 16: omit “summary”.

**Fire Safety and Evacuation of Buildings Regulations 2006
(SR 2006/123)**

Regulation 14: omit “summary”. 5

Fire Service Regulations 2003 (SR 2003/241)

Regulation 9(2): omit “summary”.

**Fish and Game Council Elections Regulations 1990
(SR 1990/361)**

Regulation 25(1) and (2): omit “summary”. 10

Fisheries (Amateur Fishing) Regulations 1986 (SR 1986/221)

Regulation 29(1) and (2): omit “summary”.

**Fisheries (Auckland and Kermadec Areas Amateur Fishing)
Regulations 1986 (SR 1986/222)**

Regulation 11(1) and (2): omit “summary”. 15

**Fisheries (Auckland and Kermadec Areas Commercial Fishing)
Regulations 1986 (SR 1986/216)**

Regulation 24(1) and (2): omit “summary”.

**Fisheries (Benthic Protection Areas) Regulations 2007
(SR 2007/308)**

Regulation 13(1), (2), and (3): omit “summary”. 20

**Fisheries (Central Area Amateur Fishing) Regulations 1986
(SR 1986/223)**

Regulation 6(1) and (2): omit “summary”.

**Fisheries (Central Area Commercial Fishing) Regulations 1986
(SR 1986/217)** 25

Regulation 16(1) and (2): omit “summary”.

Part 4—*continued***Fisheries (Challenger Area Amateur Fishing) Regulations 1986 (SR 1986/224)**

Regulation 5(1) and (2): omit “summary”.

Fisheries (Challenger Area Commercial Fishing) Regulations 1986 (SR 1986/218)

5

Regulation 15(1) and (2): omit “summary”.

Fisheries (Commercial Fishing) Regulations 2001 (SR 2001/253)

Regulation 85(1), (2), (3) and (4): omit “summary”.

Fisheries (Licensed Fish Receivers) Regulations 1997 (SR 1997/291)

10

Regulation 23(2): omit “summary”.

Fisheries (Recordkeeping) Regulations 1990 (SR 1990/219)

Regulation 28(2): omit “summary”.

Fisheries (Reporting) Regulations 2001 (SR 2001/188)

Regulation 43(a), (b), and (c): omit “summary”.

15

Fisheries (Satellite Vessel Monitoring) Regulations 1993 (SR 1993/354)

Regulation 8(2): omit “summary”.

Fisheries (South-East Area Amateur Fishing) Regulations 1986 (SR 1986/225)

20

Regulation 8(1) and (2): omit “summary”.

Fisheries (South-East Area Commercial Fishing) Regulations 1986 (SR 1986/219)

Regulation 12(1) and (2): omit “summary”.

Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (SR 1991/57)

25

Regulation 7(1) and (2): omit “summary”.

Part 4—*continued***Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 (SR 1986/220)**

Regulation 16(1) and (2): omit “summary”.

Fisheries (South Tasman Rise Orange Roughy Fishery) Regulations 2000 (SR 2000/11)

5

Regulation 18(2): omit “summary”.

Fisheries (Toothfish Catch Documentation Scheme) Regulations 2000 (SR 2000/57)

Regulation 9(4): omit “summary”.

Fisheries (Western and Central Pacific Ocean Highly Migratory Fish Stocks) Regulations 2003 (SR 2003/347)

10

Regulation 9(2): omit “summary”.

Fisheries (White Pointer Shark—High Seas Protection) Regulations 2007 (SR 2007/48)

Regulation 5(2): omit “summary”.

15

Food Hygiene Regulations 1974 (SR 1974/169)

Regulation 86(2): omit “summary”.

Foreshore Licence Regulations 1960 (SR 1960/32)

Regulation 17: omit “summary”.

Forest and Rural Fires Regulations 2005 (SR 2005/153)

20

Regulation 60: omit “summary”.

Forestry (East Coast) Grants Regulations 2000 (SR 2000/55)

Regulation 22(2): omit “summary”.

Forestry (Indigenous Timber Milling) Regulations 1993 (SR 1993/227)

25

Regulation 9(2): omit “summary”.

Part 4—*continued***Freshwater Fisheries Regulations 1983 (SR 1983/277)**

Regulation 72(1): omit “summary”.

Freshwater Fish Farming Regulations 1983 (SR 1983/278)

Regulation 35(2)(a) and (b): omit “summary”.

Futures Industry (Client Funds) Regulations 1990 (SR 1990/227) 5

Regulation 25(1): omit “summary”.

Gas Governance (Compliance) Regulations 2008 (SR 2008/253)

Regulation 51: omit “summary”.

Gas (Safety and Measurement) Regulations 2010 (SR 2010/76)

Regulation 6(1) and (2): omit “summary”. 10

Schedule 2, forms 1 and 2: omit “sections 21 and 78A of the Summary Proceedings Act 1957” and substitute “section 21 of the Summary Proceedings Act 1957 and **section 372** of the **Criminal Procedure (Reform and Modernisation) Act 2010**”.**Gas (Statistics) Regulations 1997 (SR 1997/128) 15**

Regulation 13(2): omit “summary”.

Geothermal Energy Regulations 1961 (SR 1961/124)

Regulation 36(2): omit “summary”.

Golden Bay County Foreshore Licence Order 1960 (SR 1960/69)

Clause 43: omit “summary”. 20

Health and Safety in Employment (Asbestos) Regulations 1998 (SR 1998/443)

Regulation 36(2): omit “summary”.

Health and Safety in Employment (Mining Administration) Regulations 1996 (SR 1996/220) 25

Regulation 32(2): omit “summary”.

Part 4—*continued***Health and Safety in Employment (Mining—Underground) Regulations 1999 (SR 1999/331)**

Regulation 60(2): omit “summary”.

Health and Safety in Employment (Petroleum Exploration and Extraction) Regulations 1999 (SR 1999/349)

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Regulation 35(2): omit “summary”.

Health and Safety in Employment (Pipelines) Regulations 1999 (SR 1999/350)

Regulation 19(2): omit “summary”.

Health and Safety in Employment (Pressure Equipment, Cranes, and Passenger Ropeways) Regulations 1999 (SR 1999/128)

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Regulation 39(2): omit “summary”.

Health and Safety in Employment Regulations 1995 (SR 1995/167)

Regulation 70(2): omit “summary”.

15

Health (Cervical Screening (Kaitiaki)) Regulations 1995 (SR 1995/29)

Regulation 11: omit “summary”.

Health Entitlement Cards Regulations 1993 (SR 1993/169)

Regulation 15(3): omit “summary”.

20

Health (Needles and Syringes) Regulations 1998 (SR 1998/254)

Regulation 14: omit “summary”.

Health (Retention of Health Information) Regulations 1996 (SR 1996/343)

Regulation 11(2): omit “summary”.

25

Heavy Motor Vehicle Regulations 1974 (SR 1974/218)

Regulation 18(2): omit “summary”.

Part 4—*continued***Herd Testing Regulations 1958 (SR 1958/44)**

Regulation 5: omit “summary”.

Historic Places Trust Elections Regulations 1993 (SR 1993/302)

Regulation 22(1) and (2): omit “summary”.

Housing Improvement Regulations 1947 (SR 1947/200)

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Regulation 20(1): omit “summary”.

Regulation 21(9): omit “summary”.

Housing Restructuring and Tenancy Matters (Appeals) Regulations 2000 (SR 2000/212)

Regulation 20(8): omit “Part 7 of the Summary Proceedings Act 1957” and substitute “**sections 4A to 4F** of the Justices of the Peace Act 1957”.

10

International Criminal Court Regulations 2004 (SR 2004/80)

Regulation 6(2): omit “section 24 of the Summary Proceedings Act 1957 as if references in that section to the defendant were references to the person required to be served” and substitute “rules made under the **Criminal Procedure (Reform and Modernisation) Act 2010** that apply to service on a defendant”.

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International War Crimes Tribunals Regulations 1995 (SR 1995/138)

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Regulation 4(2): omit “section 24 of the Summary Proceedings Act 1957 as if references in that section to the defendant were references to the person required to be served” and substitute “rules made under the **Criminal Procedure (Reform and Modernisation) Act 2010** that apply to service on a defendant”.

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Kahurangi National Park Bylaws 2009 (SR 2009/14)

Bylaw 22: omit “summary”.

Kiwifruit Export Regulations 1999 (SR 1999/310)

Regulation 3(2): omit “summary”.

Part 4—*continued***Labour Relations Regulations 1987 (SR 1987/226)**

Regulation 54(2): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Lake Taupo (Crown Facilities, Permits and Fees) Regulations 2004 (SR 2004/140) 5

Regulation 13(1) and (2): omit “summary”.

Land Act Regulations 1949 (SR 1949/37)

Regulation 17(16): omit “summary”.

Regulation 20(3) and (4): omit “summary”. 10

Regulation 21(1): omit “summary”.

Regulation 24(2): omit “summary”.

Land Transport (Motor Vehicle Registration and Licensing) Regulations 2011 (SR 2011/79)

Regulation 92: omit “summary”. 15

Schedule 6, headings above columns 3 and 4 of the table: omit “**summary**”.

Land Transport (Offences and Penalties) Regulations 1999 (SR 1999/99)

Heading to regulation 3: omit “**Summary offences**” and substitute “**Offences**”. 20

Regulation 3(2) and (4): omit “summary”.

Schedule 1, headings above columns 3 and 4 of the table: omit “**summary**”.

Lawyers and Conveyancers Act (Trust Account) Regulations 2008 (SR 2008/183) 25

Regulation 41: omit “summary”.

Part 4—*continued***Maori Community Development Regulations 1963 (SR 1963/87)**

Regulation 8(1): omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”.

Maori Reservations Regulations 1994 (SR 1994/57)

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Regulation 23(2): omit “summary”.

Marine Protection (Offences) Regulations 1998 (SR 1998/205)

Heading to regulation 3: omit “**Summary offences**” and substitute “**Offences**”.

Regulation 3(2): omit “summary”.

10

Schedule 1, headings above columns 3 and 4 of the table: omit “**summary**”.

Marine Reserves Regulations 1993 (SR 1993/230)

Regulation 17(2): omit “summary”.

Maritime (Offences) Regulations 1998 (SR 1988/444)

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Heading to regulation 3: omit “**Summary offences**” and substitute “**Offences**”.

Regulation 3(2): omit “summary”.

Schedule 1, headings above columns 3 and 4 of the table: omit “**summary**”.

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Medicines Regulations 1984 (SR 1984/143)

Regulation 64(2): omit “summary”.

Medicines (Database of Medical Devices) Regulations 2003 (SR 2003/325)

Regulation 14: omit “summary”.

25

Medicines (Designated Prescriber: Nurse Practitioners) Regulations 2005 (SR 2005/266)

Regulation 10(3): omit “summary”.

Part 4—*continued***Medicines (Designated Prescriber: Optometrists) Regulations 2005 (SR 2005/256)**

Regulation 10(3): omit “summary”.

Medicines (Designated Prescriber—Registered Nurses Practising in Diabetes Health) Regulations 2011 (SR 2011/54) 5

Regulation 10(3): omit “summary”.

Medicines (Standing Order) Regulations 2002 (SR 2002/373)

Regulation 10(3): omit “summary”.

Mental Health (Forms) Regulations 1992 (SR 1992/305)

Regulation 4(1): omit “section 115(1)(a) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 10

Regulation 4(2): omit “section 115(1)(b) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 15

Regulation 7(1): omit “section 115(1)(a) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”.

Regulation 7(2): omit “section 115(1)(b) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 20

Schedule 1, form 2: omit “section 115(1)(a) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”.

Schedule 1, form 2: omit “section 116 of the Criminal Justice Act 1985” in each place where it appears and substitute in each case “section 31 of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 25

Schedule 1, form 3: omit “section 115(1)(b) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 30

Part 4—*continued***Mental Health (Forms) Regulations 1992 (SR 1992/305)**—*continued*

Schedule 1, form 3: omit “section 117 of the Criminal Justice Act 1985” in each place where it appears and substitute in each case “section 33 of the Criminal Procedure (Mentally Impaired Persons) Act 2003”.

Schedule 1, heading to form 6: omit “section 115(1)(a), Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 5

Schedule 1, form 6: omit “section 115(1)(a) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 10

Schedule 1, form 6: omit “section 116 of the Criminal Justice Act 1985” and substitute “section 31 of the Criminal Procedure (Mentally Impaired Persons) Act 2003”.

Schedule 1, heading to form 7: omit “section 115(1)(b), Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 15

Schedule 1, form 7: omit “section 115(1)(b) of the Criminal Justice Act 1985” and substitute “section 24(2)(a) of the Criminal Procedure (Mentally Impaired Persons) Act 2003”.

Schedule 1, form 7: omit “section 117 of the Criminal Justice Act 1985” and substitute “section 33 of the Criminal Procedure (Mentally Impaired Persons) Act 2003”. 20

Microwave Ovens Regulations 1982 (SR 1982/221)

Regulation 5(2): omit “summary”.

Mount Aspiring National Park Bylaws 1981 (SR 1981/66) 25

Bylaw 16: omit “summary”.

Mount Cook National Park Bylaws 1981 (SR 1981/67)

Bylaw 16: omit “summary”.

Part 4—*continued***Mutual Assistance in Criminal Matters Regulations 1993
(SR 1993/92)**

Regulation 4(2): omit “section 24 of the Summary Proceedings Act 1957 as if references in that section to the defendant were references to the person required to be served” and substitute “rules made under the **Criminal Procedure (Reform and Modernisation) Act 2010** that apply to service on a defendant”. 5

Nelson Lakes National Park Bylaws 2006 (SR 2006/175)

Bylaw 21: omit “summary”.

**New Zealand Teachers Council (Conduct) Rules 2004 (SR
2004/143)** 10

Text of section 139AY(3) of the Education Act 1989, as set out in the box after rule 36: omit “Summary Proceedings Act 1957” and substitute “**Criminal Procedure (Reform and Modernisation) Act 2010**”. 15

Text of section 139AZ(1) and (2) of the Education Act 1989, as set out in the box after rule 36: omit “summary”.

Noxious Substances Regulations 1954 (SR 1954/128)

Regulation 21: omit “summary”.

**Otamatea County Council Wharves Vesting Order 1962
(SR 1962/185)** 20

Clause 32: omit “summary”.

Ozone Layer Protection Regulations 1996 (SR 1996/222)

Regulation 37: omit “summary”.

Parole Regulations 2002 (SR 2002/179) 25

Definition of **controlling officer** in regulation 3: omit “section 127 of the Criminal Justice Act 1985” and substitute “section 27 of the Corrections Act 2004”.

Part 4—*continued***Patents Regulations 1954 (SR 1954/211)**

Regulation 147: omit “summary”.

Private Security Personnel and Private Investigators (Forms) Regulations 2011 (SR 2011/73)

Schedule, forms 1 and 2, Notes, paragraph 2: omit “summary”. 5

Schedule, form 6, Notes, paragraph 3: omit “summary”.

Schedule, form 7, Notes, paragraph 2: omit “summary”.

Proceeds of Crime Regulations 1992 (SR 1992/167)

Schedule, form 2: omit “an information” in each place where it appears and substitute in each case “a charging document”. 10

Schedule, form 2: omit “laid” in each place where it appears and substitute in each case “filed”.

Radiocommunications Regulations 2001 (SR 2001/240)

Regulation 48(2): omit “summary”.

Rangitoto Island Foreshore Licence Order 1960 (SR 1960/52) 15

Clause 16: omit “summary”.

Real Estate Agents (Audit) Regulations 2009 (SR 2009/279)

Regulation 30: omit “summary”.

Rock Oyster Farming Regulations 1964 (SR 1964/207)

Heading to regulation 66: omit “summary”. 20

Regulation 66: omit “summary”.

Rock Oyster Farming Regulations 1964, Amendment No 1 (SR 1966/142)

Regulation 25(2): omit “summary”.

Rotoaira Trout Fishing Regulations 1979 (SR 1979/38) 25

Regulation 53: omit “summary”.

Part 4—*continued***Securities Act (Contributory Mortgage) Regulations 1988
(SR 1988/143)**

Regulation 41: omit “summary”.

Securities Regulations 2009 (SR 2009/230)

Regulation 32(2): omit “summary”.

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Regulation 33(3): omit “summary”.

Regulation 34(1): omit “summary”.

**Serious Fraud Office (Prescribed Forms) Regulations 1990
(SR 1990/163)**

Schedule, form 1: omit “on indictment” in each place where it appears. 10

Schedule, form 3: omit “on indictment” in each place where it appears.

**Social Security (SuperGold Card) Regulations 2007
(SR 2007/209)**

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Regulation 14(3): omit “summary”.

Spray Coating Regulations 1962 (SR 1962/54)

Regulation 40A: omit “summary”.

**State Forest Parks and Forest Recreation Regulations 1979
(SR 1979/214)**

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Regulation 29: omit “summary”.

Taupo Fishery Regulations 2004 (SR 2004/135)

Regulation 29(2): omit “summary”.

Te Arawa Lakes (Fisheries) Regulations 2006 (SR 2006/340)

Regulation 30(1), (2), and (3): omit “summary”. 25

Te Urewera National Park Bylaws 2006 (SR 2006/115)

Bylaw 24: omit “summary”.

Part 4—*continued***Titi (Muttonbird) Islands Regulations 1978 (SR 1978/59)**

Regulation 11(1): omit “lay an information” and substitute “file a charging document”.

Regulation 11(3): omit “summary”.

Tokelau (Exclusive Economic Zone) Fishing Regulations 1988 (SR 1988/262) 5

Regulation 12(2): omit “summary”.

Regulation 13(2): omit “summary”.

Regulation 13A(3): omit “summary”.

Regulation 13B(2): omit “summary” 10

Regulation 13C(2): omit “summary”.

Regulation 16(1), (2), (3), and (4): omit “summary”.

Regulation 18(1): omit “an information or charge is laid” and substitute “a charging document is filed”.

Regulation 18(1): omit “that information or charge” and substitute “that charge” 15

Regulation 18(4)(i), (ii), and (iii): omit “information or”.

Schedule, paragraph 2: omit “An information [*or* charge] has been laid” and substitute “A charging document has been filed”, and omit “*information or*” 20

Schedule, paragraph headed *Condition of bond*: omit “information or” in each place where it appears.

Tongariro National Park Bylaws 1981 (SR 1981/69)

Bylaw 18: omit “summary”.

Trade in Endangered Species Regulations 1991 (SR 1991/274) 25

Regulation 7: omit “summary”.

Transport (Vehicular Traffic Road Closure) Regulations 1965 (SR 1965/63)

Regulation 11(3): omit “summary”.

Part 4—*continued***Tuberculosis Regulations 1951 (SR 1951/290)**

Regulation 14: omit “summary”.

Valuers Regulations 1949 (SR 1949/25)

Regulation 28(2): omit “summary”.

**Waiheke Road District Foreshore Licence Order 1962
(SR 1962/63)**

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Clause 30: omit “summary”.

War Pensions Regulations 1956 (SR 1956/7)

Regulation 6: omit “summary”.

Weights and Measures Regulations 1999 (SR 1999/373)

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Regulation 7(2): omit “summary”.

Regulation 39(7): omit “summary”.

Regulation 80: omit “summary”.

Regulation 84(2): omit “summary”.

Regulation 85(3): omit “summary”.

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Westland National Park Bylaws 1981 (SR 1981/71)

Bylaw 16: omit “summary”.

Whangamata Foreshore Licence Order 1960 (SR 1960/53)

Clause 21: omit “summary”.

Whanganui National Park Bylaws 1993 (SR 1993/342)

20

Bylaw 7: omit “summary”.

Whitebait Fishing Regulations 1994 (SR 1994/65)

Regulation 16: omit “summary”.

Whitebait Fishing (West Coast) Regulations 1994 (SR 1994/66)

Regulation 19: omit “summary”.

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Criminal Procedure Bill

Part 4—*continued*

**Wildlife (Farming of Unprotected Wildlife) Regulations 1985
(SR 1985/201)**

Regulation 25: omit “summary”.

Wildlife Regulations 1955 (SR 1955/28)

Regulation 44: omit “summary”.

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Legislative history

29 September 2011

Divided from Criminal Procedure (Reform and
Modernisation) Bill (Bill 243–2) by committee of
the whole House as Bill 243–3A
