

Interest on Money Claims Bill

(Divided from the Judicature Modernisation Bill)

Government Bill

As reported from the committee of the whole House

This Bill was formerly part of the Judicature 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:

- Senior Courts Bill comprising clauses 1 and 2, Part 1, and Schedules 1A to 4
- District Court Bill comprising Part 2 and Schedules 5 to 7
- Judicial Review Procedure Bill comprising Part 3 and Schedule 8
- this Bill comprising Part 4 and Schedules 9AAA, 9AA, and 9
- Electronic Courts and Tribunals Bill comprising Part 5
- Arbitration Amendment Bill comprising subpart 1 of Part 6
- Bills of Exchange Amendment Bill comprising subpart 2 of Part 6
- Building Societies Amendment Bill comprising subpart 3 of Part 6
- Children, Young Persons, and Their Families Amendment Bill comprising subpart 4 of Part 6
- Companies Amendment Bill (No 2) comprising subpart 5 of Part 6 and Schedule 10
- Contractual Remedies Amendment Bill comprising subpart 6 of Part 6
- Copyright Amendment Bill (No 2) comprising subpart 7 of Part 6
- Courts (Remote Participation) Amendment Bill comprising subpart 8 of Part 6
- Criminal Procedure Amendment Bill comprising subpart 9 of Part 6
- Employment Relations Amendment Bill (No 4) comprising subpart 10 of Part 6
- Family Courts Amendment Bill comprising subpart 11 of Part 6
- Insolvency Amendment Bill comprising subpart 12 of Part 6

- Local Government (Rating) Amendment Bill comprising subpart 13 of Part 6
- Property Law Amendment Bill comprising subpart 14 of Part 6
- Remuneration Authority Amendment Bill (No 2) comprising subpart 14A of Part 6
- Resource Management Amendment Bill comprising subpart 15 of Part 6
- Te Ture Whenua Maori Amendment Bill comprising subpart 16 of Part 6
- Trans-Tasman Proceedings Amendment Bill comprising subpart 17 of Part 6

Interest on Money Claims Bill

Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

~~text deleted~~

Hon Amy Adams

Interest on Money Claims Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Interest on Money Claims Act **2016**.

2 Commencement

This Act comes into force on **1 January 2018**.

5

*Preliminary provisions***445 Primary purpose**

- (1) The primary purpose of this **Act** is to provide for the award of interest as compensation for a delay in the payment of debts, damages, and other money claims in respect of which civil proceedings are commenced. 5
- (2) That purpose is to be achieved by the award of interest in accordance with the following principles:
- (a) interest is to be awarded on all money claims except those expressly excluded by this **Act**;
 - (b) interest is to be paid from the day on which the money claim is quantified until the day of payment: 10
 - (c) the interest rate to be used for the purposes of this **Act** is to reflect fairly and realistically the cost to a creditor of the delay in payment of a money claim by a debtor and, in particular,—
 - (i) the rate is to be capable of fluctuating in accordance with changes in the retail 6-month term deposit rate published by the Reserve Bank of New Zealand; and 15
 - (ii) interest is to be compounded at daily intervals so that it yields the per annum simple interest rate over the period of a year; and
 - (iii) interest is to be calculated using a calculator that is publicly available on an Internet site maintained by or on behalf of the Ministry: 20
 - (d) in special circumstances, a court is to have power to award any interest or compensatory lump sum it may direct, or make no award.

445A Additional purpose

This **Act** has the additional purpose of providing standard provisions for calculating interest on amounts of money payable under certain enactments, using the Internet site calculator (see **Schedule 9AA**). 25

446 Application

This **Act** applies to every civil proceeding commenced after the commencement of this **Act**. 30

447 Interpretation

- (1) In this **Act**, unless the context otherwise requires,—
- court**—
- (a) does not include a tribunal or an arbitral tribunal; and
 - (b) in relation to a matter, means the court by or before which the matter falls to be determined 35

daily effective rate means the interest rate that will yield the per annum simple interest rate when compounded daily over a period of a year

initial amount means the amount specified, in accordance with **section 451**, by the court in a money judgment on which interest is awarded for a specified period under **section 450, 457, or 458**

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interest,—

(a) in relation to the payment or non-payment of interest under another Act or a contract, includes the payment of any amount, however calculated, as compensation for a delay in payment; and

(b) in relation to a claim for, or an award of, interest under this **Act**, includes a claim for or an award of a lump sum under **section 458 or 464**

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interest rate has the meaning set out in **section 452(2)**

Internet site calculator means the calculator established and maintained under **section 453**

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judgment debt means the sum of the amounts, if any, that are required to satisfy the liability of a party under a money judgment, together with interest awarded under this **Act** or any other Act, rule of law, or rule of equity; in respect of any period or periods specified in the judgment

last day, in respect of a period, means—

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(a) the day specified in **section 449(1)(b)**; or

(b) if the period is specified under **section 449(2)(b)**, the date that is at the end of that period

Ministry means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this **Act**

25

money judgment—

(a) means a judgment or an order given or made by a court in a civil proceeding that requires the payment of money; and

(b) includes a judgment obtained by default or in accordance with a summary judgment procedure

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pay, in relation to the satisfaction of a party's liability or a judgment debt, includes to satisfy that liability or judgment debt in any way other than by the payment of money

prescribed means prescribed by regulations made under **section 467**

start date, in respect of a period, means—

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(a) the date on which the period begins under **section 449(1)(a)**; or

(b) if the period is specified under **section 449(2)(b)**, the date that is at the beginning of that period.

(2) An example used in this **Act** has the following status:

- (a) the example is only illustrative of the provision to which it relates and does not limit the provision; and
- (b) if the example and the provision to which it relates are inconsistent, the provision prevails.

447A Transitional, savings, and related provisions 5

The transitional, savings, and related provisions set out in **Schedule 9AAA** have effect according to their terms.

448 Act binds the Crown

This **Act** binds the Crown.

Part 1 10

Award of interest

Interest to be awarded

449 Period for mandatory award of interest

- (1) When giving a money judgment, a court must award interest under this **Act** for the period that— 15
 - (a) begins either—
 - (i) on the day on which the cause of action arose; or
 - (ii) if the amount on which interest is to be awarded was not quantified at the day on which the cause of action arose, on a later day that the court specifies in the judgment as the day at which that amount was quantified; and 20
 - (b) ends on the day on which the judgment debt (including all interest payable under this **Act**) is paid in full.
- (2) **Subsection (1)** applies unless— 25
 - (a) this **Act** expressly provides that interest cannot be awarded under this **Act**; or
 - (b) the court, in accordance with this **Act**, specifies in the judgment any 1 or more shorter periods as the period or periods for which interest is to be awarded under this **Act**.
- (3) Despite **subsections (1) and (2)**, interest under this **Act** does not accrue after the date of payment on an amount paid,— 30
 - (a) after the proceeding has been commenced but before the date of judgment, in or towards satisfying a party's liability; or
 - (b) after the date of judgment, towards satisfying a judgment debt.

450 Mandatory award of interest

- (1) In every money judgment, a court must award interest under this section as compensation for a delay in the payment of money.
- (2) **Subsection (1)** does not apply if this **Act** expressly provides otherwise.
- (3) If, after a proceeding for a money claim is commenced but before a money judgment is given, any amount is paid so that the entire amount due, except for interest, is paid, then (unless this **Act** expressly provides otherwise)—
 - (a) the party who had the money claim is still entitled to interest under this section; and
 - (b) the court must award interest under this section although the judgment requires no other payment to satisfy the liability of a party.

451 Initial amount

- (1) When the court awards interest under **section 450** for a period, the court must specify the amount on which interest is awarded for that period (an **initial amount**).
- (2) The initial amount in respect of a period must include any amount paid in or towards satisfying a party's liability after a proceeding for a money claim is commenced but before a money judgment is given if that period begins at a date earlier than the date of that payment.
- (3) The initial amount in respect of a period must include accrued interest on any amount on which interest is awarded, for any earlier period specified in the judgment, under—
 - (a) **section 450** or any other section of this **Act**; or
 - (b) any other Act; or
 - (c) a contract.

452 Calculation of interest awarded under section 450

- (1) Interest awarded under **section 450** for a period is to be calculated at the relevant interest rate or interest rates on a daily-compounding basis using the Internet site calculator in accordance with **sections 454 and 455**, except if this **Act** expressly provides otherwise.
- (1A) For the purposes of **subsection (1)**, interest accrued over any particular year is to be added to the principal in the subsequent year.
- (2) In this section, **interest rate**, for any given day (day **A**), means the base rate plus the premium expressed as a daily-compound effective rate, where—
 - (a) **base rate** means—
 - (i) the average of the 6 observations for the retail 6-month term deposit rate most recently published by the Reserve Bank of New Zealand before day **A**; or

- (ii) if some other indicator interest rate is prescribed as the base rate that applies for the purposes of this section from a specified date, the prescribed rate, if day A is after the specified date; and
- (b) **premium** means—
- (i) 0.15%; or 5
- (ii) if some other percentage is prescribed as the premium that applies for the purposes of this section from a specified date, the prescribed premium, if day A is after the specified date.
- (3) For the purposes of **subsection (2)(a)(i)**, every observation for the retail 6-month term deposit rate published by the Reserve Bank of New Zealand— 10
- (a) before this Act comes into force is deemed to have been published on the first day of the month following the month to which the observation relates; and
- (b) after this Act comes into force is published on the date that it is first published on the Internet site of the Reserve Bank of New Zealand. 15

Example

Assumed facts

Interest on a debt of \$10,000 is to be calculated in respect of 15 November 2012.

For 15 November 2012, the 6 most recent observations for the retail 6-month term deposit rate that had been published by the Reserve Bank of New Zealand* at that date are 4.13%, 4.11%, 4.11%, 4.10%, 3.96%, and 3.95%, being the rates observed on the last business day of the months from ~~June~~ May 2012 to October 2012. The average of these 6 observations is 4.06%. This is the base rate. 20

The base rate and the premium, namely, 0.15%, are added, with the result for 15 November 2012 being 4.21%. This is a per annum simple interest rate. This is required to be converted to a daily-compound interest effective rate. The formula for this conversion is as follows: 25

Daily-compound interest effective rate = ((1+"per annum simple interest rate as %"/100)^(1/365)-1) x 100

The result of applying this formula to 4.21% is as follows: 30

Daily-compound interest effective rate = 0.0112986952452543. This is the interest rate expressed as a daily-compound effective rate for 15 November 2012.

If the debt was not paid on 16 November 2012, the amount on which interest would accrue would be the \$10,000 plus the interest in respect of 15 November 2012 as calculated without rounding. 35

*See "B3 Retail interest rates on lending and deposits" at <http://www.rbnz.govt.nz/>.

453 Internet site calculator

- (1) The chief executive of the Ministry must—
- (a) establish and maintain a calculator to be used for the purposes of this **Act**; and 40

- (b) make the calculator publicly available at all reasonable times on an Internet site maintained by, or on behalf of, the Ministry.
- (2) The chief executive of the Ministry must ensure that the calculator—
- (a) allows interest to be—
- (i) calculated at the relevant interest rate or interest rates expressed as a ~~daily-compound~~ effective rate; and 5
- (ii) ~~compounded-calculated~~ calculated at daily intervals; and
- (b) complies with any prescribed rules or requirements governing the establishment or operation of the Internet site calculator.
- (3) The calculator is presumed, unless the contrary is shown, to have been established and maintained in accordance with **subsection (2)**. 10
- (4) The court, on an application by a party to a proceeding made before the judgment is sealed or, if permitted by the rules of court, any later date permitted by those rules, may make such orders as it considers just if it is satisfied that the Internet site calculator has not allowed interest to be calculated in accordance with **subsection (2)(a)**, resulting in an error in an award of interest made in the proceeding. 15
- (5) However, no action lies against the Crown, the Reserve Bank of New Zealand, or an officer or employee or Minister of the Crown or the Reserve Bank of New Zealand, or any other person, to recover any damages or other amount for any loss, damage, or other adverse effect due directly or indirectly to any act or omission in respect of the establishment and operation of the Internet site calculator. 20
- (6) No person is exempted from liability under **subsection (5)** for any act or omission that constitutes bad faith on the part of that person. 25

454 Calculation if judgment debt paid in full in 1 payment

- (1) If a party pays, or were to pay, a judgment debt in full in 1 payment, the amount payable is to be calculated using the Internet site calculator by inserting the initial amount, the start date, and the ~~end date~~ last day.
- (2) The resulting amount is the total amount, including interest, that is required to satisfy the judgment debt. 30

Example

Assumed facts

On 15 March 2012, the debtor purchased goods from the creditor for \$10,000 and failed to pay for them. On 1 July 2012, a court gave judgment in respect of the goods sold for an amount of \$10,000 plus interest under this **Act**. The cause of action arose, and the amount on which interest was awarded was quantified, on 15 March 2012 (the date of the sale). The judgment debtor paid in full on 15 December 2012. For each day in the period between 15 March 2012 and 15 December 2012, the average of the 6 most recent observations of the retail 6-month term deposit rate published by the Reserve Bank of New Zealand at that date is used 40

as the base interest rate. The margin of 0.15% is added to the base rate and the result is expressed as a ~~daily-compound~~ effective interest rate.

Calculation

The start date (15 March 2012), the ~~end-date~~ last day (15 December 2012), and the initial amount (\$10,000) are entered into the Internet site calculator. 5

Using that information, the total amount, including interest, required to satisfy the judgment debt on 15 December 2012 is calculated, ~~on a daily-compounding basis~~. That total amount is \$10,323.25.

All calculations are made by the Internet site calculator.

455 Calculation if judgment debt paid in instalments 10

(1) If a party has paid an instalment or instalments of a judgment debt, the balance required to pay the judgment debt in full on a particular date is to be calculated using the Internet site calculator by entering the initial amount, the start date, the ~~end-date~~ last day, the amount of each instalment, and the date of payment of each instalment. 15

(2) The resulting amount is the total amount, including interest, required to satisfy the balance of the judgment debt in full on the particular date.

Example

Assumed facts

On 15 July 2012, a court gave judgment for negligent advice for a sum of \$10,000 damages plus interest under this **Act**. For the purposes of **section 449**, the court specified the date of judgment as the date at which the amount on which interest is awarded was quantified. The judgment debtor paid instalments of \$1,000 on 15 October 2012 and 15 November 2012 and paid the remainder of the money judgment, including interest in full, on 15 December 2012. For each day in the period between 15 July 2012 and 15 December 2012, the average of the 6 most recent observations of the retail 6-month term deposit rate published by the Reserve Bank of New Zealand at that date is used as the base interest rate. The margin of 0.15% is added to the base rate and the result is expressed as a ~~daily-compound interest~~ effective rate. 20
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Calculation

The start date (15 July 2012), the ~~end-date~~ last day (15 December 2012), and the initial amount (\$10,000) are entered into the Internet site calculator. Using that information, the total amount from which the value of the instalments will be subtracted is calculated. This total amount is \$10,177.63. 35

Then the amount of each instalment and the corresponding date of payment are entered into the Internet site calculator (\$1,000 on 15 October 2012 and 15 November 2012). After the 2 instalments are entered, a total value of instalments is calculated. This amount is \$2,010.31.

The total value of instalments is subtracted from \$10,177.63 to give the total amount, including interest, required to satisfy the judgment debt on 15 December 2012. That amount is \$8,167.32. All calculations are made by the Internet site calculator. 40

456 References to paying debt in full or paying instalments

In **sections 454 and 455**, a reference to paying a judgment debt in full in 1
 payment, or paying an instalment or instalments of a judgment debt, is to be
 taken to include paying, after a proceeding for a money claim has been com- 5
 menced (but before judgment has been entered), an amount or instalment in or
 towards satisfaction of the claim.

457 Discretion if money judgment expressed in foreign currency

- (1) If an initial amount specified in a money judgment in respect of a period is ex-
 pressed in a foreign currency, the court may,—
- (a) instead of awarding interest to be calculated as provided in **sections** 10
452 to 456, award interest on that initial amount for that period at a rate
 that the court considers fairly and realistically reflects relevant economic
 circumstances; and
- (b) determine the manner (with or without compounding) by which interest 15
 at that rate is to be calculated.
- (2) The court may not award interest under this section on an amount for any
 period unless interest could have been, but was not, awarded as provided in
sections 450 to 456 on that amount for that period.

458 Discretion in special circumstances

- (1) If, in the opinion of the court, special circumstances make it inequitable to 20
 award interest in a money judgment under **sections 450 to 456, or section**
457, for a period, the court may, for all or part of that period,—
- (a) award interest on all or part of the amount of the money judgment at the
 rate and calculated in the manner (with or without compounding) that 25
 the court directs; or
- (b) award a lump sum as compensation for a delay in the payment of all or
 part of that amount; or
- (c) determine not to award interest or a lump sum.
- (2) The court may not award interest under this section on an initial amount for 30
 any period unless interest could have been, but was not, awarded as provided in
sections 450 to 456 on that amount for that period.

Part 2**Where interest is not to be awarded****459 No interest to be awarded on penalty**

A court may not award interest under this **Act** on an amount that is a penalty or 35
 in the nature of a penalty.

- 460 Restrictions on award of interest for certain specified periods**
- (1) A court may not award interest under this **Act** on costs awarded to a party for a period before the date when the costs are awarded.
- (2) A court may not award interest under this **Act** on an award of exemplary damages for a period before the date on which judgment is given for those damages. 5
- 461 No interest to be awarded for period contrary to provisions of another Act**
- (1) A court may not award interest under this **Act** in a money judgment for a period if a court has awarded interest on that judgment under another Act for that period. 10
- (2) A court may not award interest under this **Act** in a money judgment if it would be inconsistent with the provisions of another Act to do so.
- 462 Award of interest if contract makes relevant provision**
- (1) This section and **section 463** apply to a period for which a contract provides for the award of interest, or provides that no interest is payable, on any amount payable under, or for the breach of, the contract. 15
- (2) A court may award interest for a period to which this section applies in accordance with the rights and obligations of the parties specified in the contract.
- (3) **Subsection (2)** applies despite—
- (a) **Part 1 or section 464**; or 20
- (b) any rule of law that after judgment is given rights and obligations under a contract merge in the judgment.
- (4) A court may not award interest under this **Act** for a period to which this section applies in respect of an amount payable under a contract, or for the breach of a contract, if the court has awarded interest under the contract for that period. 25
- (5) A court may not award interest under **Part 1 or section 464** for a period to which this section applies if it would be inconsistent with the provisions of the contract to do so.
- 463 Rules of interpretation for contractual provisions** 30
- Unless the contract expressly provides otherwise, a provision in the contract as to—
- (a) the payment or non-payment of interest on an unpaid amount payable under, or for the breach of, the contract must be taken to apply for the purposes of **section 462** to the periods before and after the date on which a money judgment is given in respect of that amount; and 35
- (b) a rate of interest payable on any unpaid amount must be taken to be inconsistent with an award of interest under **Part 1 or section 464**.

- 464 Special provision for interest or lump sum relating to contracts entered into before commencement**
- (1) This section applies to the period before the date of a money judgment if the judgment is given for an amount under, or for breach of, a contract entered into before the coming into force of this **Act**. 5
- (2) Where this section applies to a period before the date of a money judgment,—
- (a) the court may not award interest under **Part 1** for the period; but
- (b) the court may—
- (i) award interest on all or part of the amount of the money judgment at a rate not exceeding the rate prescribed for the purposes of this section, calculated in the manner (with or without compounding) that the court directs; or 10
- (ii) award a lump sum that is not greater than could be awarded under **subparagraph (i)** as compensation for a delay in the payment of all or part of that amount; or 15
- (iii) determine not to award interest or a lump sum.

Part 3

Supplementary and miscellaneous provisions

- 465 Court may not award interest unless procedural requirements complied with** 20
- (1) A court may not award interest under a section of this **Act** for a period unless the party who claims interest under the section for that period specifies the section and, as far as possible, the period in that party's statement or notice of claim or counterclaim.
-
- Examples** 25
- In the case of the example in **section 454**, the creditor would specify in its statement of claim **section 450** as the section under which interest is claimed and 1 March 2012 to the date of payment as the period for which interest is claimed.
- In the case of the example in **section 455**, the plaintiff would specify in its statement of claim **section 450** as the section under which interest is claimed and the date of judgment to the date of payment as the period for which interest is claimed. 30
- If the plaintiff wanted to claim that special circumstances make it inequitable to award interest under **sections 450 to 456, or section 457**, the plaintiff could specify in its statement of claim **section 458** as the section under which interest is claimed (the plaintiff would also specify the period for which interest is claimed). 35
-
- (2) If a party claims interest under **section 457, 458, 462, or 464**,—
- (a) the party must specify in that party's statement or notice of claim or counterclaim the amount or rate of interest claimed; and
- (b) the court may not award interest—

- (i) exceeding the amount claimed under **paragraph (a)**; or
- (ii) at a rate exceeding the rate claimed under **paragraph (a)**.
- (3) Nothing in this section prevents interest being claimed in a statement or notice of claim or counterclaim in the alternative.
- (4) Nothing in this section prevents a court from making an award of interest where the court has at any time made or accepted an amendment to a statement or notice of claim or counterclaim in accordance with the rules of court and where that statement or notice of claim or counterclaim, as amended, complies with the requirements in **subsections (1) and (2)**. 5
- 466 Preservation of common law and equitable rights** 10
- (1) This **Act** does not limit or affect the ability of any person to bring a claim, or to continue any existing claim, in any court for interest at common law or in equity.
- (2) However, a court may not award interest under this **Act** in a money judgment for a period if a court has awarded interest on that judgment at common law, or in equity, for that period. 15
- 467 Regulations**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
- (a) prescribing an indicator interest rate (or a formula or other methodology for setting another indicator interest rate) as the base rate for the purposes of **section 452(2)** from a specified date: 20
- (b) prescribing a percentage as the premium for the purposes of **section 452(2)** from a specified date:
- (c) prescribing rules or requirements governing the establishment or operation of the Internet site calculator: 25
- (d) prescribing the rate of interest for the purposes of **section 464(2)(b)(i)**:
- (da) prescribing when a judgment debt or an instalment of a judgment debt is paid or deemed to be paid for the purposes of any provision of this **Act**:
- (e) providing for any other matters contemplated by this **Act** or necessary for its administration or necessary for giving it full effect: 30
- (1A) Regulations for the purposes of **subsection (1)(da)** may make different provision for different methods of payment, and for different circumstances relating to a payment or method of payment (including, without limitation, circumstances concerning the location of persons involved in a payment and any regulatory requirement, limitation, or other matter that may affect when, how, by whom, or the time within which a payment may be made). 35
- (2) The Minister may recommend the making of regulations under **subsection (1)(a) or (b)** only if the Minister is satisfied that the change to the interest rate

in **section 452(2)** that would result is for the purpose of achieving the following objectives:

- (a) simple, accessible, and predictable law;
- (b) commercially realistic, and fair, compensation for creditors;
- (c) a method of calculating interest owed using a published interest multiplier that is updated regularly and administratively, and is easy to use. 5

468 ~~Transitional provisions for civil proceedings already commenced in senior court~~

Despite the repeal of section 87 of the Judicature Act 1908 by **section 179 of the Judicature Modernisation Act 2013**, that section continues to apply to every civil proceeding commenced before this **Part** comes into force as if this **Part** had not been enacted. 10

469 ~~Transitional provision for civil proceedings already commenced in District Court~~

Despite the repeal of sections 62B and 65A of the District Courts Act 1947 by **section 420 of the Judicature Modernisation Act 2013**, those sections continue to apply to every civil proceeding commenced before this **Part** comes into force as if this **Part** had not been enacted. 15

470AA Calculation of interest for amounts under other enactments

The provisions set out in **Schedule 9AA** for calculating interest payable on amounts under certain other enactments have effect according to their terms. 20

470 Amendments to other enactments

The enactments specified in **Schedule 9** are amended in the manner indicated in that schedule.

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Schedule 9AAA
Transitional, savings, and related provisions

s 447A

Part 1**Transitional provisions relating to interest on money claims** 5*Transitional provision relating to repeal of section 87 of Judicature Act 1908***1AAA Transitional provision for civil proceedings already commenced in senior court**

Despite the repeal of section 87 of the Judicature Act 1908 by **section 179(3) of the Judicature Modernisation Act 2013**, that section continues to apply to every civil proceeding commenced before this clause comes into force as if **section 179(3) of the Judicature Modernisation Act 2013** and this Act had not been enacted. 10

*Transitional provision relating to repeal of District Courts Act 1947***1AA Transitional provision for civil proceedings already commenced in District Court** 15

Despite the repeal of sections 62B and 65A of the District Courts Act 1947 by **section 420(2) of the Judicature Modernisation Act 2013**, those sections continue to apply to every civil proceeding commenced before this clause comes into force as if **section 420(2) of the Judicature Modernisation Act 2013** and this Act had not been enacted. 20

*Transitional provisions relating to amendments to other enactments***1 General transitional provision for amendments to other enactments**

- (1) This clause applies to—
- (a) any liability to pay interest that accrues under the following enactments before the commencement of this clause: 25
 - (i) section 112B of the Companies Act 1993:
 - (ii) regulation 4 of the Cadastral Survey (Fees) Regulations 2003:
 - (iii) regulation 46 of the Electricity Industry (Enforcement) Regulations 2010: 30
 - (iv) regulation 56 of the Gas Governance (Compliance) Regulations 2008:
 - (v) regulation 4 of the Land Information New Zealand (Fees and Charges) Regulations 2003:
 - (vi) regulation 42 of the Land Transfer Regulations 2002: 35

- (vii) section 23 of the Maori Reserved Land Amendment Act 1997:
- (viii) section 35 of the Waste Minimisation Act 2008; and
- (b) any power of a body to award or impose interest under the following enactments under, or in respect of, a proceeding commenced before the commencement of this clause: 5
- (i) section 12 of the Arbitration Act 1996:
- (ii) section 20 of the **Disputes Tribunal Act 1988**:
- (iii) clause 11 of Schedule 2 of the Employment Relations Act 2000:
- (iv) section 84 of the Holidays Act 2003:
- (v) section 47 of the Prisoners' and Victims' Claims Act 2005: 10
- (vi) section 94 of the Public Works Act 1981:
- (vii) section 70 of the Retirement Villages Act 2003:
- (viii) clause 157 of the Schedule of the Sharemilking Agreements Act 1937:
- (ix) section 24B of Te Ture Whenua Maori Act 1993: 15
- (x) clause 16 of Schedule 3 of the Weathertight Homes Resolution Services Act 2006; and
- (c) any liability to pay interest that, under clause 25 of Schedule 1 of the Maori Reserved Land Amendment Act 1997, arises in respect of the market value of a lease notified in accordance with clause 24 of that schedule before the commencement of this clause; and 20
- (d) any liability to pay interest that, under clauses 7 and 8 of Schedule 1 of the Maori Reserved Land Amendment Act 1997, arises in respect of an annual rent determined in accordance with clauses 32 to 34 of that schedule (whether by mediation or by arbitration) if mediation under clause 33 of that schedule is initiated before the commencement of this clause. 25
- (2) An enactment referred to in **subclause (1)** continues to apply, as if this Act were not in force, for the purposes of determining or calculating the interest under that enactment referred to in **subclause (1)**. 30
- (3) For the purposes of **subclause (1)(b)**, a proceeding is commenced,—
- (a) in relation to arbitral proceedings, on the date that the respondent receives a request for the dispute to be referred to arbitration or, if the parties have agreed that any other date is to be taken as the date of commencement of the arbitral proceedings, then on that date; and 35
- (b) for the purposes of section 20 of the **Disputes Tribunal Act 1988**, on the date that a claim is lodged in accordance with section 24 of that Act; and

- (c) for the purposes of section 70 of the Retirement Villages Act 2003, on the date that a dispute notice is given in accordance with that Act; and
- (d) for the purposes of clause 8 of Schedule 1 of the Maori Reserved Land Amendment Act 1997, on the date that the dispute or difference is submitted to mediation under clause 33 of that schedule. 5
- 2 Specific transitional provision for amendment to Accident Compensation Act 2001**
- (1) This clause applies to any liability to pay interest under section 114 of the Accident Compensation Act 2001.
- (2) The Accident Compensation Act 2001 continues to apply, as if this Act were not in force, for the purposes of calculating interest in respect of any period before the commencement of this clause. 10
- 3 Specific transitional provision for amendment to Administration Act 1969**
- (1) This clause applies to any liability to pay interest on a legacy or on arrears of an annuity under section 39 of the Administration Act 1969. 15
- (2) The Administration Act 1969 continues to apply, as if this Act were not in force, if the testator dies before the commencement of this clause.
- 4 Specific transitional provision for amendment to sections 309 and 311 of Companies Act 1993**
- (1) This clause applies to the calculation of interest, in respect of claims against a company in liquidation, for the purposes of sections 309 and 311 of the Companies Act 1993. 20
- (2) The Companies Act 1993 continues to apply, as if this Act were not in force, to the calculation of interest for those purposes if the liquidation commenced before the commencement of this clause. 25
- 5 Specific transitional provision for amendment to Life Insurance Act 1908**
- (1) This clause applies to the calculation of interest, in respect of the life of a minor, for the purposes of section 67B of the Life Insurance Act 1908.
- (2) The Life Insurance Act 1908 continues to apply, as if this Act were not in force, to the calculation of interest for those purposes if the minor died before the commencement of this clause. 30
- 6 Specific transitional provision for amendment to Financial Markets Conduct Regulations 2014**
- (1) This clause applies to the calculation of interest, in respect of determining the net present value of an offer, for the purposes of Schedule 20 of the Financial Markets Conduct Regulations 2014. 35

- (2) The Financial Markets Conduct Regulations 2014 continue to apply, as if this Act were not in force, to the calculation of interest for those purposes if the offer was made before the commencement of this clause.

7 Specific transitional provision for amendment to Retirement Villages (General) Regulations 2006

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- (1) This clause applies to the calculation of interest, in respect of a refund arising from the exercise of a right to void an occupation right agreement, for the purposes of regulation 44 of the Retirement Villages (General) Regulations 2006.

- (2) The Retirement Villages (General) Regulations 2006 continue to apply, as if this Act were not in force, to the calculation of interest for those purposes if the right was exercised before the commencement of this clause.

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Schedule 9AA

Calculation of interest for amounts under other enactments

s 470AA

- 1 Purpose**
- The purpose of this schedule is to— 5
- (a) recognise that various enactments provide for interest on certain amounts of money to be calculated on the same basis as that on which interest would be calculated on a money claim in civil proceedings; and
- (b) provide for standard provisions for calculating interest, using the Internet site calculator, to apply for the purposes of those enactments. 10
- 2 Application**
- This schedule applies if an enactment (the **relevant enactment**) provides for interest to be calculated in accordance with this schedule.
- 3 Calculation of interest**
- (1) **Sections 452 to 456** apply to the calculation of interest for the purposes of a relevant enactment, as if it were interest awarded under **section 450**, with the modifications set out in **subclause (2)**. 15
- (2) For the purposes of applying **sections 452 to 456** under **subclause (1)**,—
- (a) the following terms have the following meanings:
- initial amount** means the amount of money on which interest for a period is to be calculated under the relevant enactment 20
- interest rate** has the same meaning as in **section 452(2)**
- judgment debt** means the initial amount together with interest payable under the relevant enactment
- last day** means the last day of the period for which interest is payable under the relevant enactment 25
- start date** means the first day of the period for which interest is payable under the relevant enactment; and
- (b) **clause 4** applies in place of **section 453(4)**; and
- (c) all other necessary modifications must be made. 30
- 4 Discretion if error in Internet site calculator**
- (1) An adjudicating body, on an application made within the permitted time by a person by whom or to whom interest is payable under the relevant enactment, may make such orders as it considers just if it is satisfied that the Internet site calculator has not allowed interest to be calculated in accordance with **section 453(2)**, resulting in an error in the interest payable. 35

(2) In this clause,—

adjudicating body means—

- (a) the body specified in the relevant enactment for the purposes of this clause; or
- (b) if **paragraph (a)** does not apply, the body that ordered the payment of the interest under the relevant enactment; or 5
- (c) if neither **paragraph (a) nor (b)** applies, the District Court

permitted time means—

- (a) the time specified in the relevant enactment for the purposes of this clause; or 10
- (b) if **paragraph (a)** does not apply, the time specified by the adjudicating body; or
- (c) if neither **paragraph (a) nor (b)** applies, the time permitted by the rules of court.

Schedule 9
Consequential amendments to other enactments: interest on money claims

s 470

Part 1
Consequential amendments to Acts

5

Accident Compensation Act 2001 (2001 No 49)

Replace section 114(2)(a) with:

- (a) ~~at the interest rate as defined in section 452(2) of the Judicature Modernisation Act 2013~~ (as at the date of payment); and

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Replace section 114(2) with:

- (2) The Corporation is liable to pay the interest—
 (a) for the period from the date on which payment should have been made to the date on which it is made (the **liability period**); and
 (b) at the interest rate or rates for the liability period.

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(2A) The period described in **subsection (2)(a)**—

- (a) does not include the day on which the payment should have been made; and
 (b) includes the day on which the payment is made.

(3) In this section, **interest rate** means the base rate plus the premium where—

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- (a) the **base rate** is—
 (i) for any day on or after 1 July in a year to the close of 30 June in the year that follows, the average of the 6 observations for the retail 6-month term deposit rate most recently published by the Reserve Bank of New Zealand before 30 April in that year; or
 (ii) if another base rate has been prescribed for the purposes of this section, that base rate:

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(b) the **premium** is—

- (i) 0.95%; or
 (ii) if another premium has been prescribed for the purposes of this section, that premium.

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Accident Compensation Act 2001 (2001 No 49)—continued

(4) The interest rate (as defined in **subclause (3)**) is a per annum simple interest rate.

Example 1*Calculation where same interest rate applies for whole liability period*

The Corporation is liable to make a payment of \$100 on 15 November 2018 but does not do so until 15 March 2019. The liability period, for which the Corporation is liable to pay interest on this amount, is therefore 120 days.

For the liability period, the 6 most recent observations for the retail 6-month term deposit rate published by the Reserve Bank of New Zealand* before 30 April 2018 are, for the purposes of this example, assumed to be 3.25%, 3.35%, 3.35%, 3.38%, 3.31%, and 3.31%, being the published rates for the months from October 2017 to March 2018. The average of these 6 observations is 3.325%. This is the base rate.

The base rate and the premium, namely 0.95% in this case, is 4.275%. This is the interest rate that must be used to calculate how much interest the Corporation must pay, in addition to the overdue amount, on 15 March 2019. The total interest payable may be calculated using the equation—

$$I = P (rt)$$

where—

I is the total amount payable

P is the amount of the payment that should have been made

r is the interest rate

t is the liability period expressed in years

$$I = 100 (0.04275 \times 120/365) = 1.4055$$

$$I = \$1.41$$

*See “B3 Retail interest rates on lending and deposits” at <http://www.rbnz.govt.nz>

Example 2*Calculation where interest rate changes during liability period*

The Corporation is liable to make a payment of \$100 on 15 May 2018 but does not do so until 15 November 2018. The liability period, for which the Corporation is liable to pay interest on this amount, is therefore 184 days.

The base rate for the 46 days from 15 May 2018 to 30 June 2018 is the average of the 6 most recent observations for the retail 6-month term deposit rate published by the Reserve Bank of New Zealand before 30 April 2017. For the purposes of this example, these are assumed to be 3.15%, 3.21%, 3.21%, 3.28%, 3.25%, and 3.25%, being the published rates for the months from October 2016 to March 2017. The average of these 6 observations is 3.225%.

The base rate plus the premium, namely 0.95% in this case, is 4.175%. This is the interest rate that must be used for the first 46 days of the liability period.

The base rate for the remaining 138 days of the liability period, starting on 1 July 2018 and ending on 15 November 2018, is the average of the 6 most recent ob-

Accident Compensation Act 2001 (2001 No 49)—continued

servations for the retail 6-month term deposit rate published by the Reserve Bank of New Zealand before 30 April 2018. For the purposes of this example, these are assumed to be 3.25%, 3.35%, 3.35%, 3.38%, 3.31%, and 3.31%, being the published rates for the months from October 2017 to March 2018. The average of these 6 observations is 3.325%.

The base rate plus the premium, namely 0.95% in this case, is 4.275%. This is the interest rate that must be used for the remaining 138 days of the liability period.

The total interest payable may be calculated using the equation—

$$I = P(r_1t_1 + r_2t_2)$$

where—

- I is the total interest payable
- P is the amount of the interest that should have been paid
- r_1 is the interest rate for the 46 days of the liability period up to 30 June 2018
- t_1 is the portion of the liability period up to 30 June 2018 expressed in years
- r_2 is the interest rate for the 138 days of the liability period starting on 1 July 2018
- t_2 is the portion of the liability period starting on 1 July 2018 expressed in years

$$I = 100(0.04175 \times 46/365 + 0.04275 \times 138/365) = 2.1425$$

$$I = \$2.14$$

After section 114, insert:

114A Corporation must publish applicable interest rate and premium

- (1) The Corporation must, before 1 July in each year, publish the interest rate to apply under **section 114(3)** on and from 1 July in that year, on an Internet site maintained by or on behalf of the Corporation.
- (2) Neither a failure to comply with **subclause (1)** nor an error in a 6-month term deposit rate published by the Reserve Bank of New Zealand affects the Corporation's liability to pay interest in accordance with section 114.

After section 326, insert:

326A Regulations relating to interest on late payments of weekly compensation

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
 - (a) prescribing an indicator interest rate (or a formula or other methodology for setting another interest rate) as the base rate for the purposes of **section 114(3)(a)** on and from a specified date;
 - (b) prescribing a percentage as the premium for the purposes of **section 114(3)(b)** on and from a specified date.

Accident Compensation Act 2001 (2001 No 49)—continued

- (2) The Minister may recommend the making of regulations under this section only if the Minister is satisfied that the interest rate would be consistent with, or promote, the following objectives:
- (a) simple, accessible, and predictable law:
 - (b) realistic and fair compensation for claimants:
 - (c) encouraging the Corporation to calculate and pay claims for weekly compensation as soon as practicable.

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Administration Act 1969 (1969 No 52)

Replace section 39(2) with:

- (2) ~~While~~ If interest is payable on a legacy or on arrears of an annuity, ~~in accordance with~~ for a period under the will or instrument pursuant to which the legacy or annuity is payable or any enactment or rule of law, unless the will or instrument otherwise provides or the court otherwise orders, the interest on the legacy or arrears of the annuity is payable at the same rate and on the same terms as are provided for the award of interest under **subpart 1 of Part 4 of the Judicature Modernisation Act 2013** for that period must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013.**

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Repeal section 39(2B).

Arbitration Act 1996 (1996 No 99)

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In section 12(1)(b)(i), replace “up to the date of the award” with “up to the day on which the sum awarded (including all interest) is paid in full”.

Bills of Exchange Act 1908 (1908 No 15)

Replace section 57(e) with:

- (e) ~~where interest may be recovered under this Act, that interest must be awarded under~~ **subpart 1 of Part 4 of the Judicature Modernisation Act 2013** ~~and, where a bill is expressed to be payable with interest at a given rate, that rate must not be taken to be inconsistent with the rate provided for under~~ **subpart 1 of Part 4** ~~of that Act.~~

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Companies Act 1993 (1993 No 105)

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Replace section 112B(1) with:

- (1) If a sum that must be paid under section 112 or 112A (the initial amount) is outstanding after it falls due under that section,—
- (a) in the case of a share price determined under section 112, interest is payable from the date on which the initial amount falls due until the date of payment of the initial amount (and for this purpose the interest must be

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Companies Act 1993 (1993 No 105)—continued

calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**):

- (b) in the case of a share price determined under section 112A, interest is payable on the basis and at the rate that the arbitral tribunal thinks fit having regard to all of the circumstances.

5

In section 309(2), replace “at the prescribed rate (within the meaning of section 87(3) of the Judicature Act 1908)” with “at the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of commencement of the liquidation)”.

In section 311(1)(b), replace “at such rate as is payable” with “of the amount that is payable”.

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In section 311(2), replace “interest shall be paid at the prescribed rate on those claims” with “the specified interest must be paid on those claims”.

In section 311(4), replace “prescribed rate means the prescribed rate within the meaning of section 87(3) of the Judicature Act 1908” with “prescribed rate means the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date when the claim is paid)”.

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Repeal section 311(4).

Replace section 311(3) with:

- (3) If any surplus assets remain after the payment of specified interest in accordance with subsection (2), interest must be paid, on all admitted claims referred to in subsection (1)(a), of an amount equal to the difference between the specified interest paid under subclause (2) and the interest that would have been payable under the contract for that period and, if the amount of the surplus assets is insufficient to pay interest in full on all those claims, payment must abate rateably among them.

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Replace section 311(4) with:

- (4) For the purpose of subsection (2), **specified interest** means interest calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**.

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Disputes Tribunals Act 1988 (1988 No 110)

In section 20(1), replace “interest at such rate, not exceeding the prescribed rate, as it thinks fit” with “interest, calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**.”.

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Repeal section 20(2)(a).

In section 20(3), replace “interest at such rate, not exceeding the prescribed rate, as the Tribunal thinks fit” with “interest, calculated in accordance with (or on a basis

Disputes Tribunals Act 1988 (1988 No 110)—continued

that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**.”

Replace section 20(5) with:

- (5) In this section, ~~prescribed rate~~ means the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the making of the order).

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Repeal section 20(5).

Employment Relations Act 2000 (2000 No 24)

In Schedule 2, replace clause 11(1) with:

11 Power to award interest

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In any matter involving the recovery of any money, the Authority may, if it thinks fit, order the inclusion, in the sum for which judgment is given, of interest, at such rate not exceeding the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the order) as the Authority thinks fit, calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**, on the whole or part of the money for the whole or part of the period between the date when the cause of action arose and the date of payment in accordance with the determination of the Authority.

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In Schedule 2, repeal clause 11(3).

In Schedule 3, replace clause 14 with:

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14 Power to award interest

In any proceedings for the recovery of any money, the court may, if it thinks fit, order that the amount awarded include interest, at such rate not exceeding the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the order) as the court thinks fit, calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**, on the whole or part of the money for the whole or part of the period between the date when the cause of action arose and the date of payment in accordance with the judgment.

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Holidays Act 2003 (2003 No 129)

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Replace section 84(3) and (4) with:

- (3) Interest included in a judgment or determination must not exceed interest at the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the judgment or determination).

In section 84(3), delete “at the rate”.

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Repeal section 84(4).

Insolvency Act 2006 (2006 No 55)

In section 253(2), replace “rate prescribed under section 87(3) of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of adjudication)”.

In section 267, replace “rate of interest prescribed from time to time under section 87(3) of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date when the claim is paid)”. 5

Judicature Modernisation Act 2013 (2013 No 00)

In **section 185**, repeal the definition of **prescribed rate**.

In **section 257(1)(b)**, replace “that may be payable under section 87 of the Judicature Act 1908” with “that may be payable under **Part 4 of the Judicature Modernisation Act 2013**”. 10

Replace **section 311(2)(b)** with:

- (b) may also order B to pay interest calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**. 15

Land Transfer Act 1952 (1952 No 52)

In section 235(3)(a), replace “rate prescribed for the time being under section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date on which the fee is paid)”. 20

Replace section 235(3)(a) with:

- (a) that interest, calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**, is payable on any unpaid fee for the period specified in the regulations; and

Life Insurance Act 1908 (1908 No 105) 25

In section 41A(3), replace “rate from time to time prescribed for the purposes of section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of payment)”.

In section 67B(1)(a), replace “rate prescribed for the purposes of section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013**”. 30

In section 41A(3), replace “at the rate from time to time prescribed for the purposes of section 87 of the Judicature Act 1908” with “on the basis applicable under **Schedule 9AA of the Judicature Modernisation Act 2013**”.

In section 67B(1)(a), replace “thereon (compounded annually) at the rate from time to time prescribed for the purposes of section 87 of the Judicature Act 1908 at the date of the death of the minor” with “on the total amount of premiums calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”. 35

Maori Reserved Land Amendment Act 1997 (1997 No 101)

In section 23(2), replace “rate prescribed by or under section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of payment)”.

Replace section 23(2) with:

(2) The interest paid under subsection (1) must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**.

In Schedule 1, clause 8, replace “rate prescribed by or under section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the refund or payment)”.

In Schedule 1, clause 8, replace “is to be paid at the rate prescribed by or under section 87 of the Judicature Act 1908” with “must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”.

In Schedule 1, clause 25(3), replace “rate prescribed by or under section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of payment of the market value”.

In Schedule 1, replace clause 25(3) with:

(3) The interest payable under subclause (2) must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**.

Partnership Act 1908 (1908 No 139)

In section 27(e), replace “at the rate of 5 percent per annum from the date of the payment or advance” with “at the same rate and on the same terms as are provided for the award of interest under **subpart 2_1 of Part 4 of the Judicature Modernisation Act 2013**”.

In section 45(1), replace “at the rate of 5 percent per annum on the amount of his share of the partnership assets” with “on the amount of his or her share of the partnership assets at the same rate and on the same terms as are provided for the award of interest under **subpart 2_1 of Part 4 of the Judicature Modernisation Act 2013**”.

Prisoners’ and Victims’ Claims Act 2005 (2005 No 74)

Replace section 47(3) to (5) with:

(3) The Tribunal may, if it thinks fit, include in the amount ordered to be paid to a victim under section 46(3) or (4) interest at a rate, not exceeding the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the order) calculated in accordance with, or on a basis that ensures it does not exceed interest calculated in accordance with, **Schedule 9AA of the Judicature Modernisation Act 2013**, if it thinks fit on some or all of the damages for all or a part of the period between the date on which the cause of action arose and the date of the order.

Public Works Act 1981 (1981 No 35)

In section 94, replace “at such rate as it thinks fit” with “~~at the same rate and on the same terms as are provided for the award of interest under **subpart 1 of Part 4 of the Judicature Modernisation Act 2013**~~, calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**.” 5

Retirement Villages Act 2003 (2003 No 112)

In section 70(1)(c), replace “rate of interest prescribed under section 87 of the Judicature Act 1908” with “interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the order)”. 10

Replace section 70(1)(c) with:

- (c) an order that the operator must pay the resident interest calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**: 15

Sharemilking Agreements Act 1937 (1937 No 37)

In the Schedule, clause 157, replace “rate prescribed under section 87(3) of the Judicature Act 1908” with “rate that would apply on an award of interest on a money judgment under **Part 1 of Part 4 of the Judicature Modernisation Act 2013**”.

Te Ture Whenua Maori Act 1993 (1993 No 4) 20

In section 24B, replace “section 62B of the District Courts Act 1947” with “**Part 1 of Part 4 of the Judicature Modernisation Act 2013**”.

Trustee Act 1956 (1956 No 61)

In section 34A, replace “at the rate of 6% or such other rate as the Governor-General may for the time being by Order in Council prescribe” with “at the same rate and on the same terms as are provided for the award of interest under **subpart 1 of Part 4 of the Judicature Modernisation Act 2013**”. 25

In section 34A, replace “at the rate of 6% or such other rate as the Governor-General may for the time being by Order in Council prescribe” with “of an amount calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”. 30

Waste Minimisation Act 2008 (2008 No 89)

In section 35(1), replace “has the same meaning as in section 87(3) of the Judicature Act 1908” with “is the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** on the day of calculation (but converted into an equivalent daily rate)”. 35

Waste Minimisation Act 2008 (2008 No 89)—continued

In section 35(1), formula, replace “has the same meaning as in section 87(3) of the Judicature Act 1908” with “is the business lending rate published by the Reserve Bank of New Zealand on the most recent 1 July before the day of calculation”.

Weathertight Homes Resolution Services Act 2006 (2006 No 84)

In Schedule 3, replace clause 16 with:

16 Power to award interest

In any adjudication for the recovery of any money, the tribunal may, if it thinks fit, order the inclusion, in the sum for which a determination is given, of interest, ~~at such rate not exceeding the interest rate as defined in **section 452(2) of the Judicature Modernisation Act 2013** (as at the date of the order) as the tribunal thinks fit,~~ calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**, on the whole or part of the money for the whole or part of the period between the date when the cause of action arose and the date of payment in accordance with the judgment.

Part 2**Consequential amendments to legislative instruments****Cadastral Survey (Fees) Regulations 2003 (SR 2003/123)**

Replace regulation 4(3)(a) with:

- (a) calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**; and

Electricity Industry (Enforcement) Regulations 2010 (SR 2010/362)

In regulation 46(3), replace “at the prescribed rate (within the meaning of section 87 of the Judicature Act 1908)” with “, which must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”.

In regulation 89(4), replace “at the prescribed rate (within the meaning of section 87 of the Judicature Act 1908)” with “, which must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”.

Financial Markets Conduct Regulations 2014 (LI 2014/326)

In Schedule 20, Part 1, replace “[interest rate that is prescribed for the purposes of section 87(3) of the Judicature Act 1908]” with “[annual rate that is equivalent to the 6-month term deposit rate most recently published by the Reserve Bank of New Zealand before the date of the offer]”.

In Schedule 20, Part 2, clause 1, formula, item i, replace “rate prescribed, on the date of the offer, for the purposes of section 87(3) of the Judicature Act 1908” with “annu-

Financial Markets Conduct Regulations 2014 (LI 2014/326)—continued

al rate that is equivalent to the 6-month term deposit rate most recently published by the Reserve Bank of New Zealand before the date of the offer”.

In Schedule 20, Part 2, clause 1, Example 1, “the Judicature (Prescribed Rate of Interest) Order 2011 prescribes 5% per year for the purposes of section 87(3) of the Judicature Act 1908” with “the annual rate that is equivalent to the 6-month term deposit rate most recently published by the Reserve Bank of New Zealand is 5%”.

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Gas Governance (Compliance) Regulations 2008 (SR 2008/253)

In regulation 56(3), replace “at the prescribed rate (within the meaning of section 87 of the Judicature Act 1908)” with “, which must be calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”.

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High Court Rules 2016 (LI 2016/00)

In rule 7.65(3), replace “at the rate prescribed under section 87 of the Act” with “calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**”.

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Replace rule 11.27 with:

11.27 Interest as part of judgment debt

Interest must be awarded in a money judgment in accordance with **Part 4 of the Judicature Modernisation Act 2013**.

Replace rule 16.20(c)(ii) with:

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- (ii) if no rate is prescribed by the instrument or instruments creating the debt or debts, interest calculated in accordance with (or on a basis that ensures it does not exceed interest calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**.

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In rule 20.20(2)(b), replace “interest at a rate no greater than the prescribed rate (within the meaning of section 87(3) of the Judicature Act 1908)” with “interest, calculated in accordance with (or on a basis that ensures it does not exceed interest, calculated in accordance with) **Schedule 9AA of the Judicature Modernisation Act 2013**”.

In Schedule 1, form E 7, replace note with:

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1 The money seized will not be enough if it—

- (a) cannot discharge any claims that by law are entitled to be paid in priority to the entitled party’s claim; and
- (b) cannot pay the costs and expenses of executing this order; and
- (c) does not comprise—
- (i) the whole/a portion* of the judgment debt sought by this order of \$[amount] (inclusive of interest calculated using the Internet site

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High Court Rules 2016 (LI 2016/00)—continued

	calculator in accordance with Part 4 of the Judicature Modernisation Act 2013 and the entries set out in paragraph 2 of this note); and	
	(ii) subsequent costs/disbursements [†] of \$[amount].	
	<small>*Select one depending on whether enforcement is sought for less than the full amount for which judgment was sealed. If enforcement is sought for less than the full amount, add the following words: “(, which is less than the full amount of the judgment debt)”. †Select one.</small>	
2	<i>For this paragraph select the statement that applies.</i>	5
	<i>Statement A (if the liable party pays or were to pay the judgment debt in full in 1 payment)</i>	
	The entries made in the Internet site calculator for the purposes of calculating interest are—	
	(a) initial amount: \$[amount]	10
	(b) start date: [date]	
	(c) last day: [date].	
	<i>Statement B (if the liable party has paid an instalment or instalments of the judgment debt)</i>	
	The entries made in the Internet site calculator for the purposes of calculating interest are—	15
	(a) initial amount: \$[amount]	
	(b) start date: [date]	
	(c) last day: [date]	
	††(d) instalment amount: \$[specify the amount of each instalment]	20
	††(e) date of payment: [specify the date of each instalment].	
	<small>††Repeat for each instalment if more than 1 has been paid.</small>	

In **Schedule 1AA, Part 1**, after **clause 2(1)(b)**, insert:

- (ba) the application of provisions of the former High Court Rules relating to interest on money claims:

Land Information New Zealand (Fees and Charges) Regulations 2003 (SR 2003/124) 25

Replace regulation 4(4)(a) with:

- (a) calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**; and

Land Transfer Regulations 2002 (SR 2002/213) 30

Replace regulation 42(3)(a) with:

Land Transfer Regulations 2002 (SR 2002/213)—continued

- (a) calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**; and

Retirement Villages (General) Regulations 2006 (SR 2006/298)

In regulation 44, replace “the same as the prescribed rate as defined in section 87(3) of the Judicature Act 1908” with “the same as applies to the calculation of interest under **Schedule 9AA of the Judicature Modernisation Act 2013**”.

Sharemilking Agreements Order 2011 (SR 2011/295)

In the Schedule, clause 157, replace “set interest rates in excess of the rate prescribed under section 87(3) of the Judicature Act 1908” with “award interest that exceeds interest calculated in accordance with **Schedule 9AA of the Judicature Modernisation Act 2013**”.

Legislative history

14 September 2016

Divided from Judicature Modernisation Bill (Bill 178–2) as
Bill 178–3D