Version
as at 27 November 2025

Criminal Procedure Act 2011

Public Act	2011 No 81
Date of assent	17 October 2011
Commencement	see section 2

Contents

		Page
1	Title	19
2	Commencement	20
	Part 1 **Preliminary provisions**	
3	Purpose	20
4	Overview	21
5	Interpretation	23
5A	Interpretation: evidence based on national security information	27
6	Categories of offence defined	27
7	Act subject to other enactments	29
7A	Transitional, savings, and related provisions	29
8	Act binds the Crown	29
	Jurisdiction of District Court to conduct criminal proceedings	
9	Jurisdiction of District Court to conduct criminal proceedings	29
	Who may conduct proceedings	
10	Who may conduct proceedings against defendant	30

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

11	Who may conduct proceedings for defendant	30
12	Representatives of corporations	31
	Procedural requirements in Act, regulations, and rules	
13	Procedural requirements of Act, regulations, and rules to be followed	31
	Part 2	
	Commencement of proceedings and preliminary steps	
	Subpart 1—Filing a charging document	
14	Commencement of criminal proceedings	31
15	Any person may commence proceeding	32
16	Charging documents	32
16A	Specifying that offence charged is, or that conviction entered is for, family violence offence	32
17	Content of charge	33
18	Court may order further particulars	34
19	Charge may be worded in alternative	34
20	Charge may be representative	34
21	Court may amend or divide alternative or representative charge	34
22	Certain charges to disclose range of penalties and previous convictions	35
23	Offence relating to false or misleading information in charging document	35
24	Endorsement of consent	35
25	Time for filing charging document	35
26	Private prosecutions	36
27	Power of Registrar to compile charging information	37
	Subpart 2—Notifying defendant of court appearance	
28	Summons in relation to charge may be served	37
29	Summons following evidential breath test	38
30	Provisions relating to summons issued under section 28 or 29	38
31	Charging document must be filed promptly	38
32	Decision to change charge following summons	39
33	Summons to defendant in private prosecution	39
34	Warrant may be issued if summons cannot be served	39
34A	When warrant may be issued irrespective of whether summons has been issued or served	39
	Subpart 3—Court dealing with proceeding before trial or transfer for trial	
35	Court dealing with proceeding before trial or transfer for trial: categories 1 to 3	40
36	Court dealing with proceeding before transfer for trial: category 4	40

Part 3
Procedure before trial

Subpart 1—Pleas

Entering plea

37	Defendant may enter plea	41
38	Right to plead to category 1 offence by notice	41
39	Requirement for defendant to plead	42
40	Not guilty plea for category 4 offence	42
41	Defendant who refuses or fails to plead under section 39 or 49(3)	42
42	Defendant may change plea of not guilty	42
43	Procedure if defendant indicates intention to plead guilty but does not do so	43
44	Plea where charge alleges previous conviction	43

Special pleas

45	Special pleas	43
46	Previous conviction	44
47	Previous acquittal	44
48	Pardon	44
49	Procedure for dealing with special plea	44

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

50	Defendant charged with category 3 offence may elect trial by jury	45
51	Timing of election	45
52	Judicial officer or Registrar may receive elections	45
53	Withdrawal of election	45

Subpart 3—Case management

54	Adjournment for case review	46
55	Case management discussions and case management memorandum	46
56	Information to be provided in case management memorandum	46
57	Case review	47
58	Court may give directions about case management procedure	48
59	Judge may direct case management procedure for category 1 offence	48

Subpart 4—Sentence indications

60	Meaning of sentence indication	48
61	Giving sentence indication	49
62	Further provisions relating to giving sentence indication	49
63	Offence and penalty relating to sentence indication	49
64	Duration of sentence indication	50
65	Request for sentence indication not admissible in proceeding	50

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

Determination of level of trial court for protocol offences

66 Establishment of protocol 50
67 District Court Judge may recommend level of trial court for protocol offence 50
68 High Court Judge must determine level of trial court for protocol offences 51
68A High Court Judge may reconsider orders made under section 68 in certain circumstances 52
69 Proceedings not invalid 52

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

70 High Court Judge may order proceedings for category 2 or 3 offence be tried in High Court 53

Subpart 6—Trial court, place of trial, transfer of proceedings to trial court, and procedure for trial

71 Category 1 offences 53
72 Category 2 offences 54
73 Category 3 offences 54
74 Category 4 offences 55
75 Transfer of certain proceedings for category 2 and 3 offences to trial court 56
76 Transfer of proceeding from trial court to new trial court 56
77 Notice that defendant to be tried in High Court 56

Subpart 7—Provisions applying only to Judge-alone procedure

78 Court may order pre-trial admissibility hearing if trial to be Judge-alone trial 57
79 Pre-trial admissibility hearing and order that evidence admissible 58
79A Pre-trial admissibility hearing: national security information 59
80 Court may order that certain pre-trial processes under subpart 8 apply 59

Subpart 8—Provisions applying only to jury trial procedure

Application of this subpart

81 Application of this subpart 60

Filing of formal statements

82 Requirements for formal statements 60
83 False statement in formal statement deemed to be perjury 61
84 Persons who may give evidence under assumed name or anonymously 61
85 Prosecutor must file formal statements 62

86 Evidential status of formal statements 62

Trial callover memoranda

87 Trial callover memoranda to be filed in trial court 62
88 Information to be provided in trial callover memoranda 63
89 Unrepresented defendants at trial callover hearing 63

Application for oral evidence order

90 Application for oral evidence order 63
91 Application for leave to question identity of undercover Police officer or intelligence witness to be determined by High Court 64

Oral evidence orders

92 Making oral evidence order 64
93 Further consideration if application for oral evidence order for complainant in case of sexual nature 65
94 Withdrawal of charge if oral evidence order made for examination of undercover Police officer or intelligence witness 65

Procedure for taking oral evidence

95 By whom oral evidence of witness to be taken 66
96 Restriction on who may take oral evidence of complainant in case of sexual nature 66
97 Persons who may be present if oral evidence taken from complainant in case of sexual nature 66
98 Application of subpart 5 of Part 3 of Evidence Act 2006 67
99 Oral evidence must be recorded 67
100 Proceeding may be continued despite witness's failure to appear or give evidence 67

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

101 Pre-trial order relating to admissibility of evidence: jury trial 68
101A National security information: pre-trial hearing and order 69

Trial before Judge alone may be ordered

102 Judge may order Judge-alone trial in cases likely to be long and complex 69
103 Judge may order Judge-alone trial in cases involving intimidation of juror or jurors 70
104 Procedure for trial ordered under section 102 or 103 71

Part 4
Trial

Subpart 1—Provisions applying to Judge-alone trials

105 Conduct of Judge-alone trial 71
106 Decision of court 72

Subpart 2—Provisions applying to jury trials

Conduct of jury trial

107 Conduct of jury trial 72

Charge alleging previous conviction

108 Procedure if charge alleges previous conviction 73

Discretion to keep jury together

109 Discretion to keep jury together 73

Part of murder charge proved

110 Part of murder charge proved 74

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

Alibi

111 Alibi 74

Dismissal of charge in certain cases

112 Court must dismiss charge in certain cases 74

Witnesses

113 Adjourning trial for witness 75

Evidence based on national security information

113A National security information: admissibility hearing in course of trial 75

Part 5
General provisions

Subpart 1—Conduct of proceeding

Defendants who plead guilty or are found guilty

114 Procedure after defendant pleads or is found guilty 76
115 Plea of guilty may be withdrawn by leave of court 77
116 Effect of sentence indication 77

Presence of defendant at hearings

117 Defendant generally may be present at all hearings 78
118 Hearings at which defendant must be present 78

Powers of court when defendant does not appear

119 Non-attendance of defendant charged with offence in category 1 79
120 Non-attendance of defendant charged with offence in category 2, 3, or 4: before plea is entered 79
121 Non-attendance of defendant charged with offence in category 2, 3, or 4: after plea is entered but before trial or sentencing 80
122 Non-attendance of defendant at trial for offence in category 2, 3, or 4 80

123	Sentencing for offence in category 2, 3, or 4 not to proceed in absence of defendant	81
124	Procedure when hearing proceeds in absence of defendant	81
	Retrial or rehearing if defendant found guilty or sentenced in his or her absence	
125	Retrial if defendant found guilty in his or her absence	82
126	Rehearing if defendant sentenced for category 1 offence in his or her absence	83
127	Registrar may deal with applications in relation to category 1 offences	84
128	Effect of application for retrial or rehearing on rights of appeal	84
129	Procedure if retrial or rehearing ordered	84
130	Dealing with defendant pending retrial or rehearing	85
	Powers of court when prosecutor does not appear	
131	Powers of court when prosecutor does not appear	85
	Powers of court when neither party appears	
132	Powers of court when neither party appears	85
	Amendment of charge	
133	Amendment of charge	86
134	Procedure if charge amended before trial	86
135	Procedure if charge amended after order made under section 68 or 70	87
136	Procedure if charge amended during trial	87
136A	Procedure if charge added during trial	88
	Proceedings conducted together	
137	Proceedings against parties to offences, accessories, and receivers	88
138	Trial of different charges together	89
139	Procedure if charges to be heard together	90
140	Procedure if charges to be heard together include new charges	90
	Further provisions relating to charges	
141	Conviction where alternative allegations proved in Judge-alone trial	91
142	Dealing with charge that fails to disclose range of penalties and previous convictions when required	91
143	Included offences	92
144	Conviction of parties	92
145	Conviction of charge containing allegation of previous conviction	92
	Withdrawal and dismissal of charges	
146	Withdrawal of charge generally	92
146A	Withdrawal of charge due to risk to national security interests	93

147	Dismissal of charge generally	93
147A	Dismissal of charge when information withheld due to risk to national security interests	94
148	Prosecutor must notify court if defendant completes programme of diversion	94
	Attempts	
149	Attempt proved when offence is charged	94
150	Offence proved when attempt is charged	94
	Retrial of previously acquitted person	
151	Order for retrial may be granted if acquittal tainted	95
152	Meaning of terms used in sections 153 and 154	96
153	Consent of Solicitor-General required in certain circumstances for exercise of powers in relation to acquitted person	97
154	Order for retrial may be granted by Court of Appeal if new and compelling evidence discovered	98
155	Orders to safeguard fairness of retrial	99
156	Effect of order for retrial	99
	Transfer of proceedings to court at different place	
157	Transfer of proceedings to court at different place or different sitting	100
158	Attendance of witness at substitute court	100
	Obtaining attendance of witnesses	
159	Issue of summons to witness	101
160	Summons to witness to non-party disclosure hearing	101
161	Issue of warrant to obtain attendance of witness	101
	Provisions relating to warrants to arrest defendant or witness	
162	To whom warrant to be directed and power of person executing warrant to enter premises	102
163	Withdrawal of warrant	103
	Dealing with witness arrested under warrant	
164	Dealing with witness arrested under warrant	104
	Dealing with witnesses at the court	
165	Witness refusing to give evidence may be imprisoned	104
166	Witnesses at hearing	105
	Adjournments and bail	
167	Power to adjourn	106
168	Dealing with defendant on adjournment	106
168A	No-contact conditions if family violence offence defendant remanded in custody	107
168B	Provisions about compliance with no-contact conditions	107

169 Order for detention of defendant in hospital or secure facility 108
170 Defendant in custody may be brought up before expiry of period of adjournment 109

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

171 Defendants under 16 must not be imprisoned pending hearing or sentence 109
172 Defendants aged 16 must not be imprisoned pending hearing or sentence except in certain circumstances 110
173 Remand of defendant under 17 in residence or care 110
174 Remand of defendant under 18 years for assessment report 111
175 Remand of defendants aged 17 to 20 years 112

Stay of proceedings

176 Stay of proceedings 113

Retrial or rehearing

177 Court may order retrial or rehearing as to sentence in certain cases 113
178 Procedure if retrial or rehearing ordered 114
179 Dealing with defendant pending retrial or rehearing 114

Correction of erroneous sentence

180 Court may correct erroneous sentence 115
181 Application of chief executive of Department of Corrections to correct erroneous sentence 116
182 Procedure if court corrects erroneous sentence 116

Transfer to wrong court

183 Transfer to wrong court 116

Permanent court record

184 Permanent court record 117

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

185 Solicitor-General responsible for general oversight of public prosecutions 117
186 Attorney-General's responsibility and powers not affected 117
187 Assumption of responsibility for Crown prosecutions by Solicitor-General 117
188 Duty of Crown prosecutor to comply with Solicitor-General's directions 118
189 Crown prosecution notice must be filed 118
190 Power of Solicitor-General or Crown prosecutor to amend charge 118
191 Power of Solicitor-General or Crown prosecutor to add new charges 118

192 Power of Solicitor-General or Crown prosecutor to withdraw charge 119
192A Power of Solicitor-General or Crown prosecutor to join charge or charges 119
193 Independence of Solicitor-General and Crown prosecutors 120

Subpart 3—Public access and restrictions on reporting

Terms used in this subpart

194 Interpretation 120
195 Context in which publication prohibited 120

Court proceedings generally open to public

196 Court proceedings generally open to public 120

Power to clear court

197 Power to clear court 121
198 Exception for members of media 122
198A Hearing may be conducted by audiovisual link or audio link 122
199 Court must be cleared when complainant gives evidence in cases of sexual nature 122
199AA Court may be cleared when victim impact statement read or otherwise presented to court in cases of sexual nature 123

Automatic suppression of previous convictions

199A Automatic suppression of details of previous convictions 125
199B Further provisions relating to automatic suppression 125

Automatic suppression of sexual case complainant's or propensity witness's evidence that is video recorded before trial

199BA Automatic suppression of sexual case complainant's or propensity witness's evidence that is video recorded before trial 126

Temporary suppression of trial-related information

199C Court may temporarily suppress trial-related information 126
199D Further provisions relating to temporary suppression of trial-related information 127

Suppression of names

200 Court may suppress identity of defendant 127
201 Automatic suppression of identity of defendant in specified sexual cases 129
202 Court may suppress identity of witnesses, victims, and connected persons 130
203 Automatic suppression of identity of complainant in sexual cases 131
204 Automatic suppression of identity of child complainants and witnesses 132

Suppression of evidence and submissions

205 Court may suppress evidence and submissions 133

Powers of Registrar

206 Power of Registrar to make and renew interim suppression orders 133

General provisions relating to suppression orders

207 Court must give reasons 133
208 Duration of suppression order and right of review 134
209 Publication by or at request of Police, etc 134
210 Standing of members of media 135

Offences relating to breach of suppression provisions and orders

211 Offences and penalties 135

Part 6
Appeals

Subpart 1—General matters

212 Interpretation 136
213 Leave to appeal 137
214 Duty to determine appeal subject to sections 337 and 338 137

Subpart 2—Appeals against pre-trial decisions

First appeals

215 Right of appeal by prosecutor or defendant against certain pre-trial evidential decisions in Judge-alone case 137
216 Refusal to give leave to appeal under section 215 138
217 Right of appeal by prosecutor or defendant against pre-trial decisions in jury trial case 138
218 Right of appeal by defendant only against pre-trial decisions in jury trial case 140
219 First appeal courts 140
220 How to commence first appeal 141
221 First appeal court to determine appeal 141
222 Trial court may allow trial to proceed 141

Further appeals

223 Right of appeal against determination of first appeal court 141
224 Second appeal courts 142
225 How to commence second appeal 142
226 Second appeal court to determine appeal 142
227 High Court's determination of second appeal final 142
228 Further appeal from determination of second appeal by Court of Appeal 142

Subpart 3—Appeals against conviction

First appeals

229 Right of appeal against conviction 143
230 First appeal courts 143
231 How to commence first appeal 143
232 First appeal court to determine appeal 144
233 Orders, etc, on successful first appeal 144
234 Conviction and sentence for different offence may be substituted 145
235 Acquittal on account of insanity 145
236 Confirmation or substitution of sentence for another offence 146

Further appeals

237 Right of appeal against determination of first appeal court 146
238 Second appeal courts 146
239 How to commence second appeal 146
240 Second appeal court to determine appeal 147
241 Orders, etc, on successful second appeal 147
242 High Court's determination of second appeal final 147
243 Further appeal from determination of second appeal by Court of Appeal 147

Subpart 4—Appeals against sentence

First appeals

244 Convicted person's right of appeal against sentence 148
245 Right of appeal against sentence not affected by sentence indication 148
246 Prosecutor's right of appeal 148
247 First appeal courts 148
248 How to commence first appeal 149
249 Appeal by prosecutor treated as abandoned if not heard before sentence completed 149
250 First appeal court to determine appeal 150
251 Orders, etc, on successful first appeal 150
252 Defendant may not withdraw guilty plea after sentence imposed on appeal 150

Further appeals

253 Right of appeal against determination of first appeal court 151
254 Second appeal courts 151
255 How to commence second appeal 151
256 Second appeal court to determine appeal 151
257 Orders, etc, on successful second appeal 152
258 High Court's determination of second appeal final 152
259 Further appeal from determination of Court of Appeal 152

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

First appeals

260 Right of appeal against finding of or sentence for contempt of court 152
261 First appeal courts 153
262 How to commence first appeal 153
263 First appeal court to determine appeal 153

Further appeals

264 Right of appeal against determination of first appeal court 154
265 Second appeal courts 154
266 How to commence second appeal 154
267 Second appeal court to determine appeal 155
268 High Court's determination of second appeal final 155
269 Further appeal from determination of Court of Appeal 155

Subpart 6—Appeals against decisions on costs orders

First appeals

270 Interpretation 156
271 Right of appeal to first appeal court against decision about costs order 156
272 First appeal courts 156
273 How to commence first appeal 156
274 First appeal court to determine appeal 157
275 Appeal not to suspend trial 157

Further appeals

276 Right of appeal against determination of first appeal court 157
277 Second appeal courts 157
278 How to commence second appeal 158
279 Second appeal court to determine appeal 158
280 High Court's determination of second appeal final 158
281 Further appeal from determination of Court of Appeal 158

Subpart 7—Appeals against suppression orders

First appeals

282 Interpretation 158
283 Right of appeal against decision on suppression order 159
284 First appeal courts 159
285 How to commence first appeal 159
286 Interim suppression order pending determination of first appeal 160
287 First appeal court to determine appeal 160
288 Trial court may allow trial to proceed 160

Further appeals

289 Right of appeal against determination of first appeal court 160
290 Second appeal courts 161
291 How to commence second appeal 161
292 Interim suppression order pending determination of second appeal 161
293 Second appeal court to determine appeal 161
294 Determination of High Court final 161
295 Further appeal from determination of Court of Appeal 162

Subpart 8—Appeals on question of law

First appeals

296 Right of appeal 162
297 First appeal courts 162
298 How to commence first appeal 163
299 Power of first appeal court to amend question stated 163
300 First appeal court to determine appeal 163
301 Deferral or adjournment of trial if notice of application for leave to appeal filed 164
302 How determination of appeal affects outcome of trial 165

Further appeals

303 Right of appeal against determination of first appeal court 165
304 Second appeal courts 165
305 How to commence second appeal 166
306 Second appeal court to determine appeal 166
307 Orders, etc, on successful second appeal 166
308 High Court's determination of second appeal final 166
309 Further appeal from determination of Court of Appeal 166
310 Relationship to other appeals 166

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

311 Right of appeal 167

Subpart 10—Appeals relating to peace bond decisions

312 Right of appeal 167

Subpart 11—Solicitor-General's references

313 Solicitor-General may refer certain questions to Court of Appeal 167
314 Procedure for references under section 313 168
315 Rights of appeal to Supreme Court 168
316 Procedure for appeals under section 315 168
317 Solicitor-General may refer question to Supreme Court 169
318 Procedure for references under section 317 169
319 Power of Court of Appeal or Supreme Court to amend question referred 170

Subpart 12—Further provisions

Procedure for determining jurisdiction where appeals lie to different appeal courts

320 Meaning of related right of appeal 170
321 Related appeals that are to be heard by Court of Appeal 171

Solicitor-General

322 Duty of Solicitor-General 172

Registrar of appeal court to arrange appeal

323 Duties of Registrar 172
324 Custody of exhibits, etc 172

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

325 Right of representation at hearing 173
326 Right of attendance at hearing 173

How applications to be heard

327 Hearings in Court of Appeal 173
328 Hearings in District Court or High Court 174

How appeals to be heard

329 Hearings in Court of Appeal or Supreme Court 174
330 Hearings in District Court or High Court 175

Hearings on papers

331 Provisions about hearing on papers 175

Powers exercisable by 1 or 2 appellate Judges

332 Powers exercisable by Judge of Supreme Court 175
333 Powers exercisable by Judges of Court of Appeal 176

Powers of appeal court to receive evidence, etc

334 Power to receive and hear evidence 177
335 Special powers of appeal courts in appeal involving conviction, sentence, or contempt 177
336 Powers of appeal courts 178

Abandonment

337 Abandonment of appeal by appellant 178
338 Power of appeal court to dismiss appeal for non-compliance with procedural orders 178
339 Appeal against dismissal under section 338 179

Judgment of appeal court

340 Reasons to accompany judgment or be given later 179

341	Delivery of judgment by District Court, High Court, or Court of Appeal	180
342	Judgment to be provided to parties	180
	How appeal affects decisions under appeal	
343	General effect of appeal on sentence	180
344	Issue of committal order for detention of convicted person	180
345	How appeal affects community-based sentences	181
346	Registrar to notify resumption of sentence	181
347	Reporting requirement where sentence resumed after unsuccessful or abandoned appeal	181
348	How appeal affects non-association orders	182
348A	How appeal affects registration orders	182
349	Fine recovery not to be enforced pending contempt appeal	182
350	Successful appellant entitled to return of amount paid under sentence	183
351	Detention following appeal	183
352	Revesting and restitution of property on conviction	184
	Part 7	
	Provisions concerning jurisdiction of District Court	
	Jurisdiction of District Court presided over by District Court Judge	
353	Jurisdiction of District Court Judges	184
	Jurisdiction of District Court in relation to jury trials	
354	Jurisdiction of District Court in relation to jury trials	185
	Jurisdiction of District Court presided over by 1 or more Justices	
355	Jurisdiction of Justices	185
	Jurisdiction of District Court presided over by 1 or more Community Magistrates	
356	Jurisdiction of Community Magistrates	185
357	Jurisdiction of Community Magistrates to impose sentence in respect of certain category 1 and 2 offences	186
358	Power to impose penalties provided for in Land Transport Act 1998	188
359	Ancillary powers under subpart 3 of Part 5, Costs in Criminal Cases Act 1967, Sentencing Act 2002, and Land Transport Act 1998	190
360	Power of Community Magistrates to decline jurisdiction	191
361	Jurisdiction of Justices and Community Magistrates to take pleas	191
362	Jurisdiction of Justices and Community Magistrates to make and renew interim suppression orders	192

362A Jurisdiction of Justices and Community Magistrates relating to amendment or withdrawal of charges 192

Transfer to District Court presided over by District Court Judge

363 Power to transfer matter to District Court presided over by District Court Judge 193

Part 8
Miscellaneous and transitional provisions

Subpart 1—Costs orders and contempt

364 Costs orders 193
365 Contempt of court *[Repealed]* 194

Subpart 2—Conservation of the peace

366 Application for order for bond to keep the peace 194
367 Making of order for bond 195
368 Form of, and entering into, bond 196
369 Making of order for bond where person charged with offence 196
370 Refusal to enter into bond 196
371 Persons imprisoned in default of finding sureties may be released on death of person for whose protection order made 197
372 Forfeiture of bond 197

Subpart 3—Miscellaneous provisions

373 Registrar who is also constable 198
374 Witnesses' expenses 198
375 Conviction not to be recorded for infringement offences 198
376 Person sentenced, etc, deemed to be convicted 199
377 Restitution of property 199
378 Who may take affidavit 200
379 Proceedings not to be questioned for want of form 200
380 Proceedings not invalid because defendant should have been dealt with in Youth Court 200
380A Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances 201
381 Payment of fees, fines, etc 201
382 Payment and recovery of fees 201
383 Enforcement of fines 202
384 Enforcement of fines imposed or varied by appeal court 202
385 Application of section 168 during epidemic 202
385A Judge or Registrar may waive certain fees 202

Rules and regulations

386 Rules 203
387 Regulations 205

387A Regulations under section 387(1)(i) or (j) are confirmable instruments *[Repealed]* 207

Subpart 4—Transitional and savings provisions

Transitional provisions regarding sentence indications

388 Application of provisions regarding sentence indications to existing proceedings 207
389 Transitional provision regarding terminology in relation to sentence indication provisions 207

Transitional provisions regarding public access and restrictions on reporting

390 Transitional provision regarding terminology in relation to public access and restrictions on reporting 208
391 Application of amendments made by section 393 208
392 Transitional provision regarding appeals by members of media 208
393 Consequential amendments relating to public access and restriction on reporting provisions 209

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

394 Meaning of commencement date 209
395 Cities, boroughs, and other places appointed for District Courts under District Courts Act 1947 209
396 Savings provision in relation to warrants held under section 28B of District Courts Act 1947 209
397 Proceedings commenced before commencement date 210
398 Proceedings commenced after commencement date 210
399 Absconding defendants 210
400 When defendants or proceedings to be heard together under same procedural law 211
401 No proceeding invalid if wrongly conducted in accordance with old law 212
402 Transitional provision regarding withdrawal of warrants to arrest 212
403 Transitional provision regarding dealing with witness arrested under warrant 212
403A Transitional provision regarding effect of appeal on sentence of home detention 212
404 Transitional provision regarding correction of erroneous sentence 213
404A Access to court documents 213
405 Limitation periods 213
406 Retrial following acquittal in summary proceedings 213
406A Savings 214

Other transitional matters

407 Transitional provision relating to abandonment of appeals to Court of Appeal 214
408 Regulations providing for transitional matters *[Expired]* 214
409 Regulations making consequential amendments *[Expired]* 214
410 Expiry of sections 408 and 409 214

Subpart 5—Temporary provisions in respect of COVID-19

[Repealed]

410A Application of temporary provisions in Schedule 1AB *[Repealed]* 214

Part 9
Amendments to other enactments

Criminal Justice Act 1985

411 Criminal Justice Act 1985 repealed 215

Criminal Justice Regulations 1985

412 Criminal Justice Regulations 1985 revoked 215

Amendments to other enactments

413 Amendments to other enactments 215

Schedule 1AA 216
Transitional, savings, and related provisions

Schedule 1AB 218
Temporary provisions in respect of COVID-19

[Repealed]

Schedule 1 219
Category 4 offences

Schedule 2 223
Consequential amendments relating to public access and restrictions on reporting provisions

Schedule 3 225
Amendments to other enactments

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:

(a) sections 5, 7, and 8 (which relate to preliminary matters):

(b) sections 60 to 65, 115(2), 116, 245, 252, 388, and 389 (which relate to sentence indications):

(c) subpart 3 of Part 5, and sections 390 to 393 (which relate to public access and restrictions on reporting):

(d) sections 386, 387, 408, and 409 (which are powers to make rules and regulations):

(e) section 407 (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.

(4) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): sections 5, 7, 8, 60–65, 115(2), 116, 245, 252, 388, and 389, subpart 3 of Part 5, sections 390–393, 386, 387, 407, 408, and 409 brought into force, on 5 March 2012, by clause 2 of the Criminal Procedure Act Commencement Order 2011 (SR 2011/413).

Section 2(2): sections 3, 4, 6, 9–59, 66–114, 115(1), 117–193, 212–244, 246–251, 253–385, 394–406 and 410–413 brought into force, on 1 July 2013, by clause 2 of the Criminal Procedure Act Commencement Order 2013 (SR 2013/162).

Section 2(4): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is to—

(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.

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):

Commencement of proceedings

(c) all proceedings begin in the District Court by the filing of a charging document (*see* Part 2):

Category 1 offences

(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 14, rather than by issuing an infringement notice:

(f) all stages of a proceeding for a category 1 offence are dealt with by the District Court:

(g) if the matter proceeds to trial, the trial will be a Judge-alone trial:

Category 2 offences

(h) in general terms, a category 2 offence is an offence punishable by a term of imprisonment of less than 2 years:

(i) a trial for a category 2 offence will be in the District Court unless an order is made transferring the proceeding to the High Court for trial (see sections 68, 68A, and 70):

(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 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 50):

(m) a trial for a category 3 offence will be in the District Court unless an order is made transferring the proceeding to the High Court for trial (see sections 68, 68A, and 70):

(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):

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):

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

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

Pre-trial procedures

(t) 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 and orders about the admissibility of evidence. Sections 54 to 58 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:

(u) 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

(ii) the possibility of taking oral evidence from a potential witness:

Trial

(v) Part 4 contains provisions about the trial:

General provisions

(w) 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

(iii) provisions relating to amendment and withdrawal of charges and conducting proceedings together; and

(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

(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

(viii) public access and restrictions on reporting:

Appeals

(x) Part 6 contains provisions about appeals:

Jurisdiction of District Court

(y) Part 7 contains provisions about the jurisdiction of the District Court. These set out the jurisdiction of Community Magistrates and Justices to conduct various proceedings and to sentence offenders. They also require a District Court Judge conducting jury trials to hold a jury trial warrant under the District Court Act 2016:

Miscellaneous and transitional provisions

(z) 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:

Amendments to other Acts

(za) Part 9 contains amendments to other Acts.

(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.

Section 4(1)(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4(1)(f): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4(1)(i): amended, on 3 November 2021, by Schedule 6 clause 4 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 4(1)(i): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4(1)(m): amended, on 3 November 2021, by Schedule 6 clause 4 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

Section 4(1)(m): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4(1)(y) heading: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 4(1)(y): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

5 Interpretation

In this Act, unless the context otherwise requires,—

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

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

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

Crown prosecution means a prosecution of a kind specified in regulations made under section 387 other than a private prosecution

Crown prosecutor means—

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

(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—

(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

(c) a person in respect of whom an application is made under subpart 2 of Part 8

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:

  (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):

(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

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

evidence based on national security information has the meaning given to it in section 5A

formal statement has the meaning given to it in section 82

hearing includes a trial

imprisonable offence means,—

(a) in the case of an individual, an offence punishable by imprisonment for life or by a term of imprisonment:

(b) in the case of a body corporate, an offence that would be punishable by imprisonment for life or by a term of imprisonment if the offence were committed by an individual

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

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

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 the District Court as determined under section 71, 72, 73, or 74, as the case may be

national security information has the meaning given to it in section 4 of the Security Information in Proceedings Act 2022

national security interests has the meaning given to it in section 4 of the Security Information in Proceedings Act 2022

permanent court record means the permanent court record referred to in section 184

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

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,—

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

protocol offence means a category 2 or 3 offence that is covered by the protocol established under section 66

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

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

rules of court means rules made under section 386 of this Act, section 148 of the Senior Courts Act 2016, and section 228 of the District Court Act 2016, or any of those enactments

special plea means a plea referred to in section 45(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

trial court means, in any particular case, the court before which the defendant, in accordance with subpart 6 of Part 3, is to be tried

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

working day means a day of the week other than—

(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and

(b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and

(c) a day in the period commencing on 25 December in any year and ending with 15 January in the following year.

Compare: 1957 No 87 s 2

Section 5 **evidence based on national security information**: inserted, on 28 November 2023, by section 13 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 5 **imprisonable offence**: inserted, on 1 July 2013, by section 4 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 5 **level of trial court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 5 **national security information**: inserted, on 28 November 2023, by section 13 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 5 **national security interests**: inserted, on 28 November 2023, by section 13 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 5 **rules of court**: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 5 **rules of court**: amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 5 **working day**: replaced, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 5 **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

5A Interpretation: evidence based on national security information

In this Act, evidence is **evidence based on national security information** if it is not itself national security information but is any of the following:

(a) a document that contains national security information and that has been redacted to the extent necessary to prevent the disclosure of that information:

(b) a written summary of national security information that does not disclose that information:

(c) an agreed statement of the facts that the whole or part of the national security information establishes that does not disclose that information.

Section 5A: replaced, on 28 November 2023, by section 14 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

6 Categories of offence defined

(1) In this Act,—

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) of the definition of a category 2 offence; or

(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 14, not by the issuing of an infringement notice

category 2 offence means—

(a) an offence punishable by a term of imprisonment 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 of less than 2 years if committed by an individual

(c) *[Repealed]*

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 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 2 years or more if committed by an individual

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:

(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:

(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.

Section 6(1) **category 1 offence** paragraph (a)(ii): amended, on 14 November 2018, by section 29(1) of the Courts Matters Act 2018 (2018 No 50).

Section 6(1) **category 2 offence** paragraph (b): amended, on 14 November 2018, by section 29(2) of the Courts Matters Act 2018 (2018 No 50).

Section 6(1) **category 2 offence** paragraph (c): repealed, on 14 November 2018, by section 29(3) of the Courts Matters Act 2018 (2018 No 50).

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.

(3) Except as expressly provided in the Oranga Tamariki Act 1989, this Act does not apply to proceedings in the Youth Court or to proceedings on appeal from any decision of the Youth Court.

Compare: 1957 No 87 s 209; 1961 No 43 s 313(1)

Section 7(3): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 7(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

7A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 7A: inserted, on 1 July 2019, by section 45 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

8 Act binds the Crown

This Act binds the Crown.

Jurisdiction of District Court to conduct criminal proceedings

Heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

9 Jurisdiction of District Court to conduct criminal proceedings

(1) Subject to subsections (2) and (3) and section 114(2), the District Court has jurisdiction to deal with a proceeding for any offence.

(2) If, in accordance with section 72 or 73, the level of trial court for a proceeding in respect of a category 2 or 3 offence is the High Court, the District Court has jurisdiction over the proceeding only until the time that it is transferred to the High Court under section 75.

(3) In a proceeding in respect of a category 4 offence, the District Court has jurisdiction to deal with the proceeding only until it is transferred to the High Court under section 36.

(4) Any reference in this Act or any other enactment to the District Court, or to a court where that reference includes the District Court, or to a Judge of the District Court, must be read subject to Part 7.

(5) Nothing in this section limits or affects Part 6.

Section 9 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 9(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 9(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 9(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 9(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Who may conduct proceedings

10 Who may conduct proceedings against defendant

(1) Subject to subsections (2) and (3), only the following persons may conduct proceedings against a defendant:

(a) the person who commenced the proceeding:

(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:

(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:

(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 187 for a Crown prosecution, only the Solicitor-General or a Crown prosecutor may conduct the proceedings against the defendant.

(3) If the trial is to be a jury trial, only a lawyer may conduct the proceedings against the defendant after the proceeding has been—

(a) adjourned to a trial callover, in the case of a category 3 offence; or

(b) transferred to the High Court under section 36, in the case of a category 4 offence.

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

(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

12 Representatives of corporations

(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.

(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

(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.

(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

13 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 387, and rules of court.

Part 2
Commencement of proceedings and preliminary steps

Subpart 1—Filing a charging document

14 Commencement of criminal proceedings

(1) A criminal proceeding in respect of an offence is commenced by filing a charging document in the office of 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.

(2) Despite subsection (1),—

(a) if all the parties to the proposed proceeding agree, the charging document may be filed in another office of the District Court; and

(b) if 2 or more charging documents are to be filed in respect of the same defendant, they may all be filed in an office of the District Court in which any 1 of them could be filed.

(3) A failure to file a charging document in the correct office of the District Court in accordance with this section does not invalidate any proceeding.

Compare: 1957 No 87 ss 12, 18

Section 14(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(2)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

15 Any person may commence proceeding

Any person may commence a proceeding.

Compare: 1957 No 87 s 13

16 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

(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

(d) particulars of the charge that satisfy the requirements of section 17; and

(e) except if the prosecution is a private prosecution brought by an individual,—

(i) the name of the prosecuting organisation; and

(ii) the particulars of an appropriate contact person in relation to the prosecution; and

(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)

Section 16(2)(e): replaced, on 1 July 2013, by section 5 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

16A Specifying that offence charged is, or that conviction entered is for, family violence offence

(1) The charging document may specify that the offence charged is a family violence offence.

(2) The court may, at any time after a charging document is filed and before the delivery of the verdict or decision of the court, amend the document to add, confirm, or remove a specification that the offence charged is a family violence offence.

(3) The power in subsection (2)—

(a) is exercisable on the court's own motion or on the application of the defendant or the prosecutor:

(b) is exercisable by the Registrar, if both the defendant and the prosecutor agree:

(c) does not limit the powers in section 133.

(4) If the defendant is convicted (even if the charging document does not specify that the offence charged is a family violence offence), the court may enter in the permanent court record of the proceeding a specification that the conviction is for a family violence offence.

(5) In this section, **family violence offence** means an offence—

(a) against any enactment (including the Family Violence Act 2018); and

(b) involving family violence (as defined in section 9 of that Act).

Section 16A: inserted, on 1 July 2019, by section 43 of the Family Violence (Amendments) Act 2018 (2018 No 47).

17 Content of charge

(1) A charge must relate to a single offence.

(2) A charge that is worded in the alternative must be identified as such.

(3) A representative charge must be identified as such.

(4) 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.

(5) Without limiting subsection (4), 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

(b) if the charge is a representative charge, the information specified in subsection (6).

(6) The information referred to in subsection (5)(b) is as follows:

(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

(b) the dates on or between which the offending is alleged to have occurred.

(7) Subsection (1) is subject to sections 19 and 20.

Compare: 1957 No 87 s 16; 1961 No 43 ss 330, 340, 343

18 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.

(2) Nothing in subsection (1) limits the power of a court under section 133.

19 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.

Compare: 1957 No 87 s 16(1)

20 Charge may be representative

(1) A charge may 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 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.

(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

(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.

21 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.

(2) This section does not limit section 133.

22 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.

(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.

(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 50 apply in the ordinary way.

(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 142 affects the right of a court, when sentencing the defendant, to take any previous convictions into account.

Compare: 1957 No 87 ss 17A, 69

23 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.

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

24 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.

(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.

(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.

Compare: 1961 No 43 s 314

25 Time for filing charging document

(1) A charging document may be filed at any time in respect of a category 4 offence.

(2) A charging document in respect of a category 3 offence—

(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

(b) may be filed at any time in any other case.

(3) 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—

(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

(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

(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.

(4) 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 (3) 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.

(5) 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.

(6) 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.

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

26 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

(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.

(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.

(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

(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—

(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.

27 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

28 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.

(2) Nothing in this section applies in respect of a private prosecution or proposed private prosecution.

(3) 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)

29 Summons following evidential breath test

(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

(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.

(2) If this section applies, section 28 does not apply.

Compare: 1957 No 87 s 19B(1)

30 Provisions relating to summons issued under section 28 or 29

(1) A summons under section 28 or 29 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.

(2) The summons must contain—

(a) the particulars of the defendant; and

(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)

31 Charging document must be filed promptly

(1) A charging document may be filed before or after a summons is issued or served under section 28 or 29.

(2) Unless section 32(1)(a) applies, if a charging document has not been filed before a summons is served under section 28 or 29, it must be filed as soon as is reasonably practicable after the summons has been served.

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

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

Section 31(2): amended, on 1 July 2013, by section 6 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

32 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—

(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.

(3) If subsection (1)(a) applies, the person does not need to appear in court on the date specified in the summons.

33 Summons to defendant in private prosecution

If the Registrar accepts a charging document for filing under section 26 or the Judge determines that the charging document should be accepted for filing under section 26, the Judge or the Registrar must issue a summons to the defendant.

34 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 28, 29, or 33 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 the District Court if the Judge is satisfied that reasonable efforts have been made to serve the summons on the defendant.

(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 the District Court if the judicial officer or Registrar is satisfied that reasonable efforts have been made to serve the summons on the defendant.

Compare: 1957 No 87 s 19(1)

Section 34(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 34(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

34A When warrant may be issued irrespective of whether summons has been issued or served

(1) This section applies if a charging document has been filed for a category 2, 3, or 4 offence, whether or not a summons has been issued or served.

(2) A judicial officer or Registrar may issue a warrant to arrest the defendant and bring him or her before the District Court if the judicial officer or Registrar is satisfied that—

(a) a warrant is necessary to compel the attendance of the defendant (for example, because the location of the defendant is unknown); or

(b) having regard to the gravity of the alleged offence and the circumstances of the case, a warrant is desirable to compel the attendance of the defendant.

Section 34A: inserted, on 14 November 2018, by section 30 of the Courts Matters Act 2018 (2018 No 50).

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

35 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 at the place where the charging document was filed.

(2) Subject to section 75, the proceeding for a category 2 or 3 offence before the trial must be heard and determined in the District Court at the place where the charging document was filed.

(3) This section is subject to—

(a) section 114(2); and

(b) any order made under section 72 of the District Court Act 2016 or under section 157 of this Act; and

(c) section 139.

Section 35(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 35(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 35(3)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

36 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 at the place where the charging document was filed.

(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—

(a) section 191; and

(b) any order made under section 72 of the District Court Act 2016 or under section 157 of this Act.

Section 36(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 36(3)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Part 3
Procedure before trial

Subpart 1—Pleas

Entering plea

37 Defendant may enter plea

(1) At any time before the court requires a plea under section 39 the court may receive a plea from the defendant.

(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.

38 Right to plead to category 1 offence by notice

(1) Despite section 37, 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

39 Requirement for defendant to plead

(1) If the defendant has not pleaded to a charge under section 37 or 38, 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.

(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 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.

40 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.

41 Defendant who refuses or fails to plead under section 39 or 49(3)

If the defendant refuses to plead, or fails to plead, when required to do so under section 39 or 49(3), the defendant is deemed to have pleaded not guilty and the proceedings must be continued accordingly.

42 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.

(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

(b) the defendant must be called on to plead.

Compare: 1957 No 87 s 160

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

(1) This section applies if a defendant indicates under section 37(6), 39(5), or 42(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

(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.

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

44 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.

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

Special pleas

45 Special pleas

(1) Only the following special pleas may be entered:

(a) a plea of previous conviction:

(b) a plea of previous acquittal:

(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.

Compare: 1961 No 43 s 357(1), (3), (4)

46 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—

(a) the same offence as the offence currently charged, arising from the same facts; or

(b) any other offence arising from those facts.

(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.

Compare: 1961 No 43 s 358(1)

47 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—

(a) the same offence as the offence currently charged, arising from the same facts; or

(b) any other offence arising from those facts.

Compare: 1961 No 43 s 358(1)

48 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—

(a) the same offence as the offence currently charged, arising from the same facts; or

(b) any other offence arising from those facts.

49 Procedure for dealing with special plea

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

(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.

(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.

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

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

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

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

51 Timing of election

(1) An election under section 50 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 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.

52 Judicial officer or Registrar may receive elections

A judicial officer or Registrar may receive an election under section 50 to be tried by a jury.

Compare: 1957 No 87 s 66A

53 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).

(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

(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

(c) in the case of a defendant who is to be tried by a jury under section 139(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.

Subpart 3—Case management

54 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.

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

55 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—

(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 56 (the **case management memorandum**).

(2) If, in accordance with section 138(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.

(3) The case management memorandum must be filed by the defendant by the time prescribed in rules of court.

56 Information to be provided in case management memorandum

(1) A case management memorandum must contain the following information:

(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:

(c) whether the prosecutor proposes to add a new charge or charges against the defendant:

(ca) whether any charges are to be heard together under section 138(1) (including together with charges heard against 1 or more other defendants):

(d) whether the defendant requests a sentence indication under section 61:

(e) whether the prosecutor or the defendant, or both, consider there is a matter (other than one in paragraph (a), (b), or (d)) that requires judicial intervention and, if so, the nature of that matter:

(f) if the offence is a category 2 or 3 offence, whether the prosecutor considers that it is a protocol offence and,—

(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 70:

(g) 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:

(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:

(b) any admissions that the defendant makes under section 9 of the Evidence Act 2006:

(c) 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:

(d) 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:

(e) any other information required by rules of court.

Section 56(1)(ca): inserted, on 29 October 2019, by section 31 of the Courts Matters Act 2018 (2018 No 50).

57 Case review

(1) At the case review hearing, the court must deal with any matter in section 56(1)(a) to (e) that has been identified in the case management memorandum.

(2) If the defendant is unrepresented, the parties must, as appropriate,—

(a) inform the court of the matters specified in section 56(1); and

(b) if the matter is to proceed to a Judge-alone trial, inform the court of the matters referred to in section 56(2).

(3) At the case review hearing the court may,—

(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

(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

(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

(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 56(1)(e).

58 Court may give directions about case management procedure

(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 54 to 57:

(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.

Section 58(1)(a): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

59 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,—

(a) direct that all or any of the requirements of sections 54 to 57 apply:

(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.

Section 59(1)(a): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Subpart 4—Sentence indications

60 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

(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).

61 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.

(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 60(c):

(a) a summary of the facts on which the sentence indication is to be given, agreed on by the prosecutor and the defendant; and

(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.

62 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.

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

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

(4) 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.

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

63 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—

(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,—

(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.

64 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.

65 Request for sentence indication not admissible in proceeding

The fact that a defendant made a request for a sentence indication is not admissible in evidence in any proceeding.

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

Determination of level of trial court for protocol offences

66 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 67 and 68.

(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).

(3) The Chief High Court Judge and the Chief District Court Judge may revise the protocol from time to time.

(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.

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

(1) If the prosecutor identifies the offence charged as a protocol offence, under section 56(1)(f) or otherwise, a District Court Judge may—

(a) decline to make a recommendation for the purposes of section 68, if he or she considers that the offence is not a protocol offence; or

(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

(ii) make a recommendation for the purposes of section 68.

(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.

(4) 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 56(1)(f)(i) or otherwise provided to the court under section 57(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

68 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.

(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

(c) the matters listed in section 67(4)(b).

(3) No party may appeal against an order under subsection (1).

68A High Court Judge may reconsider orders made under section 68 in certain circumstances

(1) A High Court Judge may, on the Judge's own motion,—

(a) reconsider an order made under section 68(1), if there has been any relevant change in circumstances, including (but not limited to)—

(i) the addition of a co-defendant to, or removal of a co-defendant from, the proceedings:

(ii) an increase or a decrease in—

(A) the resources available to the court:

(B) the complexity of the proceedings:

(iii) a jury backlog arising out of particular circumstances (for example, compliance with rules to prevent the spread of COVID-19); and

(b) make a new order under section 68(1) without seeking a recommendation from the District Court Judge under section 67.

(2) Before making a new order under section 68(1) after reconsideration under this section, the High Court Judge must consider the matters specified in sections 67(4) and 68(2)(a) and (b).

(3) No party may appeal against an order made under section 68(1) after reconsideration under this section.

(4) A reference, in legislation or an administrative document, to an order made under section 68 or 68(1) includes, without limitation, a reference to an order of that kind made after reconsideration under this section.

(5) If a conflict arises between this section and section 135, section 135 prevails.

Section 68A: inserted, on 3 November 2021, by Schedule 6 clause 5 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

69 Proceedings not invalid

(1) 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 67 and 68.

(2) No proceeding that relates to a protocol offence is invalid only because—

(a) the offence was identified as a protocol offence; and

(b) an order was made under section 68(1); and

(c) the order was reconsidered (with or without being replaced by a new order made under section 68(1)); but

(d) the order was not reconsidered in accordance with section 68A.

Section 69(2): inserted, on 3 November 2021, by Schedule 6 clause 6 of the COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42).

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

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

(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 68 (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.

(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.

(4) The Judge must determine whether the defendant is to be tried in the District Court or the High Court and make an order accordingly.

(5) Before making an order under subsection (4) the Judge must consider—

(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 67(4)(b).

(6) No party may appeal against an order under subsection (4).

Compare: 1947 No 16 s 28J

Subpart 6—Trial court, place of trial, transfer of proceedings to trial court, and procedure for trial

71 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 at the place where the proceeding is being dealt with in accordance with section 35.

(4) This section is subject to—

(a) any order made under section 72 of the District Court Act 2016 or section 157 of this Act; and

(b) section 139.

Section 71(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 71(4)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

72 Category 2 offences

(1) This section applies to a proceeding for a category 2 offence.

(2) The applicable procedure for trial is the Judge-alone trial procedure.

(3) The level of trial court is the District Court unless an order is made under section 68 or 70 that the proceeding be tried in the High Court.

(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 the District Court, the court that is dealing with the proceeding under subpart 3 of this Part.

(5) This section is subject to—

(a) any order made under section 72 of the District Court Act 2016 or section 157 of this Act; and

(b) section 139.

Section 72(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 72(4)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 72(5)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

73 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—

(i) the defendant does not elect trial by jury under section 50 (or withdraws his or her election under section 53); 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 the District Court unless an order is made under section 68 or 70 that the proceeding be tried in the High Court.

(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 the 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.

(5) In this section, **jury trial jurisdiction**, when used in relation to the District Court, means the District Court at the place where the court has jurisdiction in accordance with section 354(2) and (3) to conduct jury trials.

(6) This section is subject to—

(a) any order made under section 72 of the District Court Act 2016 or section 157 of this Act; and

(b) section 139; and

(c) any regulations made under section 387 that prescribe a different or an alternative place of trial.

Section 73(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 73(4)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 73(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 73(6)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 73(6)(c): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

74 Category 4 offences

(1) This section applies to a proceeding for a category 4 offence.

(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.

(4) The trial court is the High Court at the place that is nearest to the District Court at the place where the court is dealing with the proceeding immediately before it is transferred under section 36.

(5) This section is subject to—

(a) any order made under section 157; and

(b) section 139; and

(c) any regulations made under section 387 that prescribe a different or an alternative place of trial.

Section 74(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 74(4): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 74(5)(c): amended, on 1 March 2017, by section 4 of the Criminal Procedure Amendment Act 2016 (2016 No 61).

75 Transfer of certain proceedings for category 2 and 3 offences to trial court

(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 68(1) or 70(4) 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.

76 Transfer of proceeding from trial court to new trial court

If, as a result of any decision referred to in section 134(6), 135, or 140, the trial court changes but the proceeding had already been transferred to the trial court in accordance with section 75, the Registrar of that court must as soon as practicable transfer the proceeding to the new trial court.

77 Notice that defendant to be tried in High Court

(1) Where, pursuant to an order under section 68 or 70, a proceeding is to be tried in the High Court, the High Court Registrar must give, or cause to be given, to the defendant—

(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.

(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

(b) the High Court Registrar must give, or cause to be given, to each surety of the defendant—

(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.

(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.

Compare: 1957 No 87 s 184R

Subpart 7—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—

(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.

(2A) Subsection (2B) applies if—

(a) the Judge-alone trial is for—

(i) a category 4 offence; or

(ii) a specified category 3 offence; or

(iii) one of the following offences and the High Court grants leave for the application to be made:

(A) a category 3 offence that is not a specified category 3 offence:

(B) an offence against section 48 of the Health and Safety at Work Act 2015; and

(b) either party asserts that the evidence is evidence based on national security information.

(2B) If this subsection applies,—

(a) the party must notify the Solicitor-General that it intends to make the application under subsection (2); and

(b) the application under subsection (2) must be made to the High Court.

(3) An application under subsection (2) must be made by the time prescribed by rules of court.

(4) The court may grant a pre-trial admissibility hearing if—

(a) the court is satisfied that 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

(ii) the outcome of the pre-trial admissibility hearing may obviate the need for a trial; or

(b) the court is satisfied that 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 the District Court and the evidence has been obtained under an order made, or warrant issued, by the High Court; or

(d) the application is an application to which subsection (2A) applies.

(5) 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.

(6) If a pre-trial admissibility hearing is granted on the ground in subsection (4)(c) or (d), that pre-trial hearing must be in the High Court.

(7) In this section, **specified category 3 offence** means a category 3 offence that—

(a) is punishable by imprisonment for life or by imprisonment for 7 years or more; or

(b) if committed by a body corporate, is punishable only by a fine, but that, if committed by an individual, would be punishable by imprisonment for life or by imprisonment for 7 years or more.

Section 78(2A): inserted, on 28 November 2023, by section 15(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 78(2B): inserted, on 28 November 2023, by section 15(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 78(4): replaced, on 28 November 2023, by section 15(2) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 78(6): amended, on 28 November 2023, by section 15(3) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 78(7): inserted, on 28 November 2023, by section 15(4) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

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.

(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

(b) the discretion of the court at the trial to allow or exclude any evidence in accordance with any rule of law.

Compare: 1961 No 43 s 344A

79A Pre-trial admissibility hearing: national security information

(1) This section applies in relation to a pre-trial admissibility hearing under section 79 if the application for the hearing is an application to which section 78(2A) applies.

(2) The hearing is a specified proceeding for the purposes of the Security Information in Proceedings Act 2022 in respect of which the special procedures in Part 2 of that Act apply.

(3) The High Court may make an order under section 79(2) that evidence based on national security information is admissible only if satisfied that—

(a) the requirements of section 79 are met; and

(b) the national security interests that would be likely to be prejudiced by fully disclosing the national security information will be adequately protected.

(4) Nothing in this section affects the discretion of the court to make any additional orders it thinks fit to protect the confidentiality of national security information (for example, an order under section 197 (power to clear court) or 205 (court may suppress evidence and submissions)).

Section 79A: inserted, on 28 November 2023, by section 16 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

80 Court may order that certain pre-trial processes under subpart 8 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),—

(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.

(2) Sections 82 to 86 and 90 to 100 apply, with any necessary modifications, to any order made under this section.

Subpart 8—Provisions applying only to jury trial procedure

Application of this subpart

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—

(a) the statement contains the evidence of that witness; and

(b) 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 may be used in court proceedings; and

(c) the statement complies with subsection (2), (3), or (3A) 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.

(3) If a formal statement under subsection (1) or a declaration required by subsection (1)(b) 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

(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.

(3A) Despite subsection (1)(b), if a formal statement under subsection (1) is made by a person aged under 18 years or by a person who is incapable of making the declaration required by subsection (1)(b), and is in the form of a video record, no declaration is required but the statement must—

(a) be made in the manner prescribed by regulations made under the Evidence Act 2006; and

(b) substantially comply with the requirements prescribed in those regulations (including any provisions in those regulations requiring the witness to tell the truth).

(4) 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.

(5) A formal written statement that satisfies the requirements of section 162 of the Summary Proceedings Act 1957 may be treated as a formal statement that satisfies the requirements of this section.

Compare: 1957 No 87 s 162

Section 82(1)(b): amended, on 29 October 2019, by section 32(1) of the Courts Matters Act 2018 (2018 No 50).

Section 82(1)(c): amended, on 29 October 2019, by section 32(2) of the Courts Matters Act 2018 (2018 No 50).

Section 82(3A): inserted, on 29 October 2019, by section 32(3) of the Courts Matters Act 2018 (2018 No 50).

Section 82(5): inserted, on 1 July 2013, by section 7 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

83 False statement in formal statement deemed to be perjury

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 or anonymously

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

(a) may make a formal statement in the name by which the officer was known during the relevant investigation; and

(b) may authenticate that statement, or any record of evidence prepared under section 99, in that name.

(1A) An intelligence officer or intelligence source (as those terms are defined in section 109A of the Evidence Act 2006)—

(a) may make a formal statement,—

(i) in the case of an intelligence officer who has acquired an assumed identity under subpart 1 of Part 3 of the Intelligence and Security Act 2017, in the name of their assumed identity; or

(ii) in any other case, using the term “witness” followed by an initial or a mark; and

(b) may authenticate that statement, or any record of evidence prepared under section 99, in that name or manner.

(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 formal statement using the term “witness” followed by an initial or mark; and

(b) may authenticate that statement, or any 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

Section 84 heading: amended, on 28 November 2023, by section 17(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 84(1A): inserted, on 28 November 2023, by section 17(2) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

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

(b) the exhibits referred to in those statements.

(2) The formal statements must be filed by the time prescribed in rules of court.

(3) 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.

(4) 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.

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

(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 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 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 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 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

(c) any other information required by rules of court.

(2) A trial callover memorandum filed by the defendant must contain the following information:

(a) any admissions the defendant makes under section 9 of the Evidence Act 2006:

(b) any indication the defendant wishes to give of—

(i) any fact (not being a fact to which paragraph (a) 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:

(c) notice of any pre-trial applications that the defendant intends to make:

(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:

(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).

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.

(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(3).

Compare: 1957 No 87 s 178

Section 90(3): amended, on 28 November 2023, by section 18 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

91 Application for leave to question identity of undercover Police officer or intelligence witness to be determined by High Court

(1) This section applies if the defendant wishes to apply,—

(a) 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; or

(b) under section 109B(2) 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 intelligence officer or an intelligence source.

(2) The application must be made at the same time as the application is made for an oral evidence order allowing the oral examination of the person to whom those questions are proposed to be put.

(3) Both the application referred to in subsection (1) and the application for an oral evidence order must be determined by a High Court Judge.

Section 91: replaced, on 28 November 2023, by section 19 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

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.

(2) Subsection (1) is subject to section 93.

(3) 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.

(4) 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):

(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

(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 or intelligence witness

(1) Despite section 146, the prosecutor may withdraw a charge without the leave of the court if—

(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) or 109B(2) of the Evidence Act 2006, to put any question to that witness relating to the identity of that witness or of another prosecution witness.

(2) The withdrawal of a charge is not a bar to any other proceedings in the same matter.

Compare: 1957 No 87 s 158

Section 94 heading: amended, on 28 November 2023, by section 20(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 94(1)(b): amended, on 28 November 2023, by section 20(2) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Procedure for taking oral evidence

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

(b) a Registrar of the 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.

(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.

(3) 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

Section 95(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

96 Restriction on who may take oral evidence of complainant in case of sexual nature

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

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:

(a) the Judge:

(b) the prosecutor:

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

(d) any 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 198(2):

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

(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; 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 subpart 5 of Part 3 of Evidence Act 2006

If an oral evidence order is made, subpart 5 (alternative ways of giving evidence) of Part 3 (trial process) of the Evidence Act 2006 applies with any necessary modifications to the taking of the oral evidence.

Section 98 heading: amended, on 21 December 2022, by section 42(1) of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 98: amended, on 21 December 2022, by section 42(2) of the Sexual Violence Legislation Act 2021 (2021 No 60).

99 Oral evidence must be recorded

(1) Oral evidence must be recorded and that record must be authenticated.

(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

(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.

Compare: 1957 No 87 s 184D

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

(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

(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 159 to 164 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: 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 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.

(2A) Subsection (2B) applies to an application if—

(a) it relates to a jury trial for—

(i) a category 4 offence; or

(ii) a specified category 3 offence; or

(iii) any other category 3 offence and the High Court grants leave for the application to be made; and

(b) either party asserts that evidence to which the application relates is evidence based on national security information.

(2B) If this subsection applies, the party must notify the Solicitor-General that it intends to make the application under subsection (2).

(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.

(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) The application must be made to the High Court if—

(a) the evidence has been obtained under an order made, or a warrant issued, by the High Court; or

(b) it is an application to which subsection (2A) applies.

(8) In this section, **specified category 3 offence** means a category 3 offence that—

(a) is punishable by imprisonment for life or by imprisonment for 7 years or more; or

(b) if committed by a body corporate, is punishable only by a fine, but that, if committed by an individual, would be punishable by imprisonment for life or by imprisonment for 7 years or more.

Compare: 1961 No 43 s 344A

Section 101(2A): inserted, on 28 November 2023, by section 21(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 101(2B): inserted, on 28 November 2023, by section 21(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 101(7): replaced, on 28 November 2023, by section 21(2) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 101(8): inserted, on 28 November 2023, by section 21(2) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

101A National security information: pre-trial hearing and order

(1) This section applies in relation to a hearing of an application for a pre-trial order if the application is an application referred to in section 101(2A)(b).

(2) The hearing is a specified proceeding for the purposes of the Security Information in Proceedings Act 2022 in respect of which the special procedures in Part 2 of that Act apply.

(3) The High Court may make an order under section 101(5) that evidence that is based on national security information is admissible only if satisfied that—

(a) the requirements of section 101 are met; and

(b) the national security interests that would be likely to be prejudiced by fully disclosing the national security information will be adequately protected.

(4) Nothing in this section affects the discretion of the court to make any additional orders it thinks fit to protect the confidentiality of national security information (for example, an order under section 197 (power to clear court) or 205 (court may suppress evidence and submissions)).

Section 101A: inserted, on 28 November 2023, by section 22 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

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—

(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).

(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 within the time prescribed by rules of court.

(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—

(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; 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.

(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:

(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.

(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.

(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—

(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).

(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.

(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,—

(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

(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 issue or issues at the trial.

(2) Unless the court directs otherwise, the prosecutor and the defendant must call evidence in the following sequence:

(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.

(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.

(4) 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.

(5) Despite subsection (4), 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.

Compare: 1957 No 87 s 67(1), (3), (4), (6), (7)

106 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.

(2) The court must give reasons for its decision under subsection (1).

(3) The court may, if it thinks fit, reserve its decision under subsection (1).

(4) If the court reserves its decision, the court must—

(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.

(5) If a decision is sent to the Registrar under subsection (4), the Registrar must deliver it at a time and place appointed by the Registrar.

(6) A reserved decision delivered by the Registrar has the same force and effect as if given by the court on that date.

(7) The reasons for the court's decision may accompany the court's decision, or be given later.

Compare: 1957 No 87 s 68

Subpart 2—Provisions applying to jury trials

Conduct of jury trial

107 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.

(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:

(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.

(4) Without limiting subsection (3), 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.

(5) 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.

(6) 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.

(7) 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.

Compare: 1961 No 43 s 367

Charge alleging previous conviction

108 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.

(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.

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

Discretion to keep jury together

109 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 167 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

110 Part of murder charge proved

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

(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.

Compare: 1961 No 43 s 339(2)

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

Alibi

111 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.

Compare: 1961 No 43 s 367A

Dismissal of charge in certain cases

112 Court must dismiss charge in certain cases

(1) Where, on an application under section 109(1)(d) or 109B(2) 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.

(2) In a case described in subsection (1), the court must dismiss the charge under section 147.

Compare: 1961 No 43 s 369A

Section 112(1): amended, on 28 November 2023, by section 23 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Witnesses

113 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.

(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—

(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—

(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

Evidence based on national security information

Heading: inserted, on 28 November 2023, by section 24 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

113A National security information: admissibility hearing in course of trial

(1) This section applies if—

(a) the proceedings are for—

(i) a category 4 offence; or

(ii) a specified category 3 offence; or

(iii) 1 or more of the following offences and the High Court grants leave for the application to be made:

(A) a category 3 offence that is not a specified category 3 offence:

(B) an offence against section 48 of the Health and Safety at Work Act 2015; and

(b) either party asserts that evidence that it or the other party wishes to adduce, during the trial, is evidence based on national security information.

(2) The party may apply to the High Court for an order to the effect that the evidence is admissible.

(3) The party must notify the Solicitor-General that it intends to make the application before the application is made.

(4) The High Court must give each party an opportunity to be heard in respect of the application before deciding whether to make the order.

(5) The hearing of the application is a specified proceeding for the purposes of the Security Information in Proceedings Act 2022 in respect of which the special procedures in Part 2 of that Act apply.

(6) The High Court may order that the evidence based on national security information is admissible if the court is satisfied that—

(a) the evidence is admissible; and

(b) the national security interests that would be likely to be prejudiced by fully disclosing the national security information will be adequately protected.

(7) The court may make an order under this section on any terms and subject to any conditions that the court thinks fit.

(8) Nothing in this section affects the discretion of the court to make any additional orders it thinks fit to protect the confidentiality of national security information (for example, an order under section 197 (power to clear court) or 205 (court may suppress evidence and submissions)).

(9) In this section, **specified category 3 offence** means a category 3 offence that—

(a) is punishable by imprisonment for life or by imprisonment for 7 years or more; or

(b) if committed by a body corporate, is punishable only by a fine, but that, if committed by an individual, would be punishable by imprisonment for life or by imprisonment for 7 years or more.

Section 113A: inserted, on 28 November 2023, by section 24 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Part 5
General provisions

Subpart 1—Conduct of proceeding

Defendants who plead guilty or are found guilty

114 Procedure after defendant pleads or is found guilty

(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.

(2) Despite subsection (1), if the defendant is before the District Court the court must transfer the proceeding to the High Court (at the place determined in accordance with section 74(4) and (5) as if the High Court were the trial court) for the sentencing of the defendant if—

(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.

Compare: 1957 No 87 s 67(2)

Section 114(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

115 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 116(1) if—

(a) the court, presided over by the judicial officer that gave the relevant sentence indication, indicates that the circumstances described in section 116(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

(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 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

116 Effect of sentence indication

(1) This section applies to a sentence indication given under section 61 if the defendant pleads guilty to the offence in respect of which it was given within the period that it has effect.

(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

(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.

Presence of defendant at hearings

117 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.

(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.

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

118 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

(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

(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:

(ii) case review, where the Registrar is exercising the power of the court under section 57(4) and the defendant is in custody:

(iii) an alternative way of giving evidence under subpart 5 of Part 3 of the Evidence Act 2006:

(iv) 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:

(v) an application to take oral evidence under section 90:

(vi) a matter concerning the admissibility of evidence under sections 78 and 79 or section 101; or

(d) the defendant has pleaded guilty by filing a notice in court under section 38 and the hearing is not one that the defendant has indicated under section 38(2)(a) that he or she wishes to attend.

Powers of court when defendant does not appear

119 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

(b) the defendant is required, under section 118, to be present at the hearing; and

(c) the prosecutor attends the hearing, but the defendant does not.

(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.

(4) Despite subsection (2), a court may not impose a community-based sentence on a defendant in the defendant's absence.

(5) If the defendant pleads, or is found, guilty and the court has reason to believe that a community-based sentence may be imposed on the defendant, the court may—

(a) issue a summons to bring the defendant before the court; or

(b) issue a warrant to arrest the defendant to bring him or her before the court.

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

Section 119(4): inserted, on 14 November 2018, by section 33 of the Courts Matters Act 2018 (2018 No 50).

Section 119(5): inserted, on 14 November 2018, by section 33 of the Courts Matters Act 2018 (2018 No 50).

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

(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

(c) the defendant is required, under section 118, to be present at the hearing; and

(d) 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.

Compare: 1957 No 87 s 61

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

(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

(c) the defendant is required, under section 118, 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:

(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.

(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:

(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:

(d) the nature and seriousness of the offence:

(e) the interests of any co-defendant.

(5) If the hearing is in front of a Registrar under section 57(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.

122 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

(b) the defendant is required, under section 118, 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.

(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:

(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.

(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 121(4).

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

(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.

124 Procedure when hearing proceeds in absence of defendant

(1) A hearing at which the defendant is required by section 118 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 118 to be present proceeds in the absence of the defendant,—

(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

(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 (unless section 119(4) or (5) applies); 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 118 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 125, 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 118 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 126, 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).

Section 124(2)(d)(i): amended, on 14 November 2018, by section 34 of the Courts Matters Act 2018 (2018 No 50).

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

125 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.

(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—

(i) a notice is served on the defendant under section 124(3)(a); or

(ii) the defendant appears in court pursuant to a warrant issued under section 124(3)(b); and

(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

(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.

(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.

(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

(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.

(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).

126 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 118 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.

(2) The application—

(a) must be filed in the court in which the sentence or order was imposed; and

(b) must be filed no later than 15 working days after the date on which a notice is served on the defendant under section 124(4); and

(c) must be determined by the judicial officer who imposed the sentence or order or, if that is impracticable, any Judge.

(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.

(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—

(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.

(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.

127 Registrar may deal with applications in relation to category 1 offences

Despite section 125(2)(c) or 126(2)(c), a Registrar may exercise the power under section 125 in relation to a category 1 offence or the power under section 126 if—

(a) the prosecutor does not object; and

(b) the application for the retrial or rehearing is made on the grounds that the defendant was not notified of the trial or hearing.

128 Effect of application for retrial or rehearing on rights of appeal

(1) A defendant who applies for a retrial of a charge under section 125 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 126 must not appeal his or her sentence unless that application for a rehearing is denied.

(3) If an application for a retrial or rehearing is made under section 125 or 126, 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.

129 Procedure if retrial or rehearing ordered

If a retrial or rehearing is ordered under section 125 or 126, section 178 applies with any necessary modifications.

130 Dealing with defendant pending retrial or rehearing

If a retrial or rehearing is ordered under section 125 or 126,—

(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 168(1) applies with any necessary modifications as if the proceeding was adjourned.

Powers of court when prosecutor does not appear

131 Powers of court when prosecutor does not appear

(1) This section applies to any hearing if the defendant appears but the prosecutor does not.

(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.

(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

Powers of court when neither party appears

132 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

Amendment of charge

133 Amendment of charge

(1) A charge (including any of the particulars required to be specified in a charging document under section 16(2)) may be amended by the court at any stage in a proceeding before the delivery of the verdict or decision of the court.

(2) The amendment may be made on the court's own motion or on the application of the prosecutor or the defendant.

(3) A Registrar may, in respect of any offence other than a category 4 offence, exercise the power under subsection (1) if the prosecutor and the defendant consent to the amendment.

Compare: 1957 No 87 ss 43, 43A

Section 133(3): inserted, on 1 March 2017, by section 5 of the Criminal Procedure Amendment Act 2016 (2016 No 61).

134 Procedure if charge amended before trial

(1) This section applies if the court amends a charge before the trial.

(2) Subject to this section and section 135, any pre-trial decisions and determinations made in the proceedings apply, to the extent that they are still applicable.

(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

(b) subpart 3 of Part 3 does not apply in respect of the charge as amended unless the court directs otherwise.

(4) The court may, under subsection (3)(b),—

(a) direct that all or any of the requirements of sections 54 to 57 apply; or

(b) give any other directions in relation to the management of the case.

(5) 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 50.

(6) 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 135,—

(a) if the prosecutor identifies the substituted offence as a protocol offence, a District Court Judge may make a recommendation under section 67 and a High Court Judge must determine the level of trial court under section 68; and

(b) in any other case, the defendant or the prosecutor may make an application to transfer the proceeding to the High Court under section 70.

Compare: 1957 No 87 s 43(2)–(4)

135 Procedure if charge amended after order made under section 68 or 70

(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 68 or 70 in relation to the charge before it was amended.

(2) If the order made under section 68 or 70 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 67 and 68 to be applied; and

(b) in any other case, the defendant or the prosecutor may make an application to transfer the proceeding to the High Court under section 70.

(3) If the order made under section 68 or 70 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 67, 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.

136 Procedure if charge amended during trial

(1) Despite sections 21 and 133, during the trial a charge may be amended to substitute one offence for another offence only if—

(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.

(2) 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.

(3) Subsection (4) 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 133.

(4) 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—

(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)

136A Procedure if charge added during trial

(1) During the trial, the court may, on the prosecutor's application, grant leave to add a charge in the proceedings (the **new charge**).

(2) Leave may be granted under subsection (1) only if the court is satisfied—

(a) that there is a variance between the proof and the existing charge or charges; and

(b) the new charge fits with the proof; and

(c) the time for filing a charging document under section 25 for the new charge has not expired; and

(d) that the defendant will not be, or has not been, misled or prejudiced in his or her defence by the addition of the new charge during the trial.

(3) Subsection (4) applies if the court is satisfied that—

(a) the defendant will be, or has been, misled or prejudiced in his or her defence by the addition of the new charge during the trial; but

(b) the effect of that prejudice can be removed by adjourning or postponing the trial.

(4) If this subsection applies, the court may grant leave to add the new charge and may—

(a) adjourn the trial; or

(b) postpone the trial and discharge the jury.

(5) If the court grants leave to add a new charge under subsection (1) or (4),—

(a) a charging document is deemed to have been filed in accordance with section 14 in respect of the new charge; and

(b) leave is deemed to have been given under section 138(2) for the new charge to be added to the proceeding, and section 139 applies accordingly.

Section 136A: inserted, on 29 October 2019, by section 35 of the Courts Matters Act 2018 (2018 No 50).

Proceedings conducted together

137 Proceedings against parties to offences, accessories, and receivers

(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

(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.

(3) Every person to whom subsection (1) applies may be proceeded against and convicted—

(a) alone as for a substantive offence; or

(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.

Compare: 1957 No 87 s 76; 1961 No 43 s 344

138 Trial of different charges together

(1) The prosecutor may, by notifying the court before which a proceeding is being heard, propose that—

(a) 2 or more charges against 1 defendant be heard together; or

(b) the charges against 1 defendant be heard with charges against 1 or more other defendants.

(2) Despite subsection (1), the prosecutor must seek leave for the charges to be heard together if the notification involves a charge in respect of which the proceedings have been adjourned—

(a) for trial, if the trial procedure is the Judge-alone procedure; or

(b) for trial callover, if the trial procedure is the jury trial procedure.

(3) Unless the court makes an order under subsection (4), charges must be heard together—

(a) in accordance with any notification given under subsection (1); or

(b) if leave is granted under subsection (2).

(4) If the court before which the proceeding is being conducted considers it is in the interests of justice to do so, it may, on its own motion or on the application of the prosecutor or a defendant, order that 1 or more charges against the defendant be heard separately.

(5) An order under subsection (4) may be made 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

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

Section 138: replaced, on 29 October 2019, by section 36 of the Courts Matters Act 2018 (2018 No 50).

139 Procedure if charges to be heard together

(1) If, in accordance with section 138, 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.

(2) If in accordance with section 138 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,—

(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; and

(c) if the charges against more than 1 defendant are tried by a jury, for the purposes of this Act, each defendant must be treated as if he or she had elected trial by jury.

Compare: 1961 No 43 ss 329, 340

Section 139(2)(b): amended, on 14 November 2018, by section 37(1) of the Courts Matters Act 2018 (2018 No 50).

Section 139(2)(c): inserted, on 14 November 2018, by section 37(2) of the Courts Matters Act 2018 (2018 No 50).

140 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 191(2) to have been filed) (the **new charge**); and

(b) proceedings in respect of 1 or more other charges against the defendant (the **existing charge or charges**) are in progress; and

(c) in accordance with section 138 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 55(3) in respect of the existing charge or charges, subpart 3 of Part 3 does not apply in respect of the new charge unless the court directs otherwise.

(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 54 to 57 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 74 or 139 the trial court is the High Court, sections 134(6) and 135 apply with any necessary modifications.

(6) 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.

(7) 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.

(8) Nothing in this section limits any other provision of this Act not referred to in subsections (2) to (7).

Further provisions relating to charges

141 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)

142 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 22 to disclose the range of penalties available on conviction, and any relevant previous convictions of the defendant, does not do so.

(2) The charge may be amended before or during the trial in accordance with section 133.

(3) 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),—

(a) the proceeding must otherwise continue as if the defendant were originally charged with the charge as amended; and

(b) section 134(5) and (6) applies as if the charge was amended to substitute one charge for another.

(4) 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.

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

143 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.

Compare: 1961 No 43 s 339

144 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.

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

(b) the defendant, in accordance with section 44, 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 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.

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

Withdrawal and dismissal of charges

146 Withdrawal of charge generally

(1) The prosecutor may, with the leave of the court, withdraw a charge before the trial.

(2) The withdrawal of a charge under this section is not a bar to any other proceeding in the same matter.

(3) A Registrar may, in respect of any offence other than a category 4 offence, exercise the power under subsection (1) if the defendant consents to the prosecutor withdrawing the charge.

Compare: 1957 No 87 s 36

Section 146 heading: amended, on 28 November 2023, by section 25 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 146(3): inserted, on 1 March 2017, by section 6 of the Criminal Procedure Amendment Act 2016 (2016 No 61).

146A Withdrawal of charge due to risk to national security interests

(1) A prosecutor conducting a public prosecution may withdraw a charge before the trial, without the leave of the court, if—

(a) the High Court (or, on appeal, the Court of Appeal or the Supreme Court) makes an order under section 29 or 30 of the Criminal Disclosure Act 2008 requiring disclosure of information to the defendant in the proceedings; and

(b) the prosecutor is satisfied that the disclosure of the information would be likely to prejudice national security interests.

(2) The withdrawal of a charge under this section is not a bar to any other proceeding in the same matter.

(3) Nothing in this section prevents a charge from being withdrawn before the trial under section 192 as an alternative to withdrawal under this section.

Section 146A: inserted, on 28 November 2023, by section 26 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

147 Dismissal of charge generally

(1) The court may dismiss a charge at any time before or during 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.

(3) A decision to dismiss a charge may be made on the basis of 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.

(4) Without limiting subsection (1), the court may dismiss a 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) A decision to dismiss a charge must be given in open court.

(6) If a charge is dismissed under this section the defendant is deemed to be acquitted on that charge.

(7) Nothing in this section affects the power of the court to convict and discharge any person.

Compare: 1961 No 43 s 347

Section 147 heading: amended, on 28 November 2023, by section 27 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

147A Dismissal of charge when information withheld due to risk to national security interests

(1) Without limiting section 147, a court may dismiss a charge under that section if—

(a) the High Court (or, on appeal, the Court of Appeal or Supreme Court) refuses to make a relevant order because it is satisfied that disclosure of the information concerned would prejudice national security interests; and

(b) the court is satisfied that withholding the information creates a real risk of prejudice to a fair trial.

(2) In this section, **relevant order** means an order under section 29 or 30 of the Criminal Disclosure Act 2008 requiring disclosure of information to a defendant in proceedings.

Section 147A: inserted, on 28 November 2023, by section 28 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

148 Prosecutor must notify court if defendant completes programme of diversion

(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.

(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.

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,—

(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

(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

Retrial of previously acquitted person

151 Order for retrial may be granted if acquittal tainted

(1) In this section,—

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 a 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 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

prosecution means—

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

(b) the Solicitor-General

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.

(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 contributing 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.

(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:

(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:

(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:

(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):

(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.

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

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 imprisonment for life or by imprisonment for 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

Section 152(1) **specified serious offence** paragraph (a): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

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.

(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:

(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.

(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 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—

(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

(c) the Solicitor-General's consent is sought as soon as is 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

(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.

(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:

(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:

(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.

(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).

(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:

(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):

(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.

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:

(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,—

(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—

(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

(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 168(1) applies with any necessary modifications as if the proceeding was adjourned:

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

(2) Subsection (1) overrides sections 45 to 48 and any other enactment or rule of law.

Compare: 1961 No 43 s 378F

Transfer of proceedings to court at different place

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 the District Court at a place or sitting other than that determined in accordance with section 35, 71, 72, or 73, 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.

(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 72, 73, or 74, 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.

(3) With the consent of all parties, an order under this section may be made by the District Court presided over by 1 or more Justices or 1 or more Community Magistrates in respect of a proceeding for—

(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.

(3A) A Registrar may exercise the power specified in subsection (3).

(4) Except as provided in sections 217 and 218, no person may object to any order under this section.

Compare: 1961 No 43 ss 322, 326(2)

Section 157(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 157(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 157(3): amended, on 1 July 2013, by section 9(1) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 157(3A): inserted, on 1 July 2013, by section 9(2) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

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 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.

Compare: 1961 No 43 s 324

Obtaining attendance of witnesses

159 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.

(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.

(3) 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

(b) refuses or fails, without reasonable excuse, to appear or to produce any document or thing required by the summons to be produced.

(4) A person who commits an offence under subsection (3) is liable on conviction to a fine not exceeding $1,000.

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

160 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.

(2) If subsection (1) applies, sections 159(2) to (4) and 161 to 164 apply with any necessary modifications.

Compare: 1957 No 87 s 20(1A)

161 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 159 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

(b) the judicial officer is satisfied, whether or not a summons has been issued or served, that—

(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.

Compare: 1957 No 87 s 20(4); 1961 No 43 s 351(1)

Provisions relating to warrants to arrest defendant or witness

162 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.

(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.

(4) Before entry onto the premises, the constable must—

(a) announce his or her intention to enter the premises; and

(b) identify himself or herself.

(5) Before or on entry into the premises, the constable must—

(a) give or show the occupier of the premises a copy of the warrant; and

(b) identify himself or herself by name or by a unique identifier; and

(c) if not in Police uniform, produce evidence of his or her identity.

(6) If the occupier of the premises is not present at any time during the entry, or no person is in charge of the premises during the entry, the constable carrying out the entry must, unless to do so would prejudice an ongoing investigation,—

(a) on completion of the entry, leave a copy of the notice referred to in subsection (6A) and a copy of the arrest warrant (if applicable) in a prominent position at the premises; or

(b) if that is not reasonably practicable, provide a copy of the notice referred to in subsection (6A) and a copy of the arrest warrant (if applicable) to the occupier of the premises no later than 7 days after the exercise of the power.

(6A) The notice required by subsection (6) is a written notice containing the following particulars:

(a) the date and time of the commencement and completion of the entry:

(b) the name or unique identifier of the person who had overall responsibility for the entry:

(c) the address of the office to which inquiries should be made.

(6B) For the purposes of this section, the following persons may not be treated as the occupier of the premises:

(a) any person who is under 14 years of age:

(b) any person who the constable executing the warrant has reasonable grounds to believe is not the occupier of the premises.

(7) The constable is not required to comply with subsection (4), (5), or (6) if he or she has reasonable grounds to believe that compliance with subsection (4), (5), or (6) would endanger the safety of any person or prejudice the successful exercise of the entry and execution of the warrant.

(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.

Compare: 1957 No 87 s 22

Section 162(5): replaced, on 14 November 2018, by section 38(1) of the Courts Matters Act 2018 (2018 No 50).

Section 162(6): replaced, on 14 November 2018, by section 38(1) of the Courts Matters Act 2018 (2018 No 50).

Section 162(6A): inserted, on 14 November 2018, by section 38(1) of the Courts Matters Act 2018 (2018 No 50).

Section 162(6B): inserted, on 14 November 2018, by section 38(1) of the Courts Matters Act 2018 (2018 No 50).

Section 162(7): amended, on 14 November 2018, by section 38(2) of the Courts Matters Act 2018 (2018 No 50).

163 Withdrawal of warrant

(1) A warrant to arrest a defendant or a 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 a warrant to arrest a person required as a witness, whether or not the warrant was issued by the Registrar, if,—

(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

(ii) the defendant reports to the court (whether or not the defendant actually makes an appearance in the court that day); and

(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 have been issued; and

(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

(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 have been issued; and

(iv) the defendant in the proceeding is charged with an offence for which the maximum penalty is 10 or fewer years' imprisonment.

Compare: 1957 No 87 s 23

Dealing with witness arrested under warrant

164 Dealing with witness arrested under warrant

(1) A person who is arrested under a warrant issued under section 161 must be brought as soon as possible before a Judge of the court that issued the warrant, who may—

(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.

(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.

(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—

(a) that person were a defendant remanded in custody who had been granted bail; and

(b) 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

165 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.

(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

(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

(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 Oranga Tamariki Act 1989.

(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.

(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 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 authority or power of the court to punish any witness under the Contempt of Court Act 2019.

Compare: 1957 No 87 s 39; 1961 No 43 s 352

Section 165(4): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 165(8): replaced, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

166 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.

Compare: 1957 No 87 s 40

Adjournments and bail

167 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.

(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 57.

Compare: 1957 No 87 ss 45, 45A

168 Dealing with defendant on adjournment

(1) If a proceeding is adjourned, a judicial officer or Registrar may, subject to sections 171 and 172, and in accordance with any applicable provisions of the Bail Act 2000,—

(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—

(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.

(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—

(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.

Compare: 1957 No 87 s 46

168A No-contact conditions if family violence offence defendant remanded in custody

(1) This section applies to a defendant—

(a) who is charged with an offence that is (even if the charging document does not under section 16A specify that the offence is) a family violence offence; and

(b) who is, or is to be, remanded in custody under section 168(1)(c) (dealing with a defendant on an adjournment).

(2) A judicial officer may give a direction imposing on the defendant 1 or more conditions requiring the defendant, while remanded in custody under section 168(1)(c), to have no contact (except as the judicial officer specifies) with the victim of the offence, any other person specified by the judicial officer, or both.

(3) The power in subsection (2) is exercisable—

(a) on the judicial officer's own motion or on the application of the defendant or the prosecutor:

(b) by the Registrar, if the prosecutor agrees.

(4) In this section and section 168B,—

contact, by a defendant with a person, means contact or communication that is—

(a) direct (that is, face-to-face), or indirect (regardless of the means of contact or communication used); and

(b) initiated, or brought about, by the defendant; and

(c) with the person

family violence offence means an offence—

(a) against any enactment (including the Family Violence Act 2018); and

(b) involving family violence (as defined in section 9 of that Act).

Section 168A: inserted, on 1 July 2019, by section 44 of the Family Violence (Amendments) Act 2018 (2018 No 47).

168B Provisions about compliance with no-contact conditions

(1) A direction given under section 168A must be copied to the defendant and to the manager of the prison in which the defendant is held in custody on remand, and overrides any entitlement of the defendant under enactments in, or made under, the Corrections Act 2004 (for example, under the following sections of that Act:

(a) section 73 (entitlement to private visitors):

(b) section 76 (prisoners may send and receive mail):

(c) section 77 (outgoing telephone calls)).

(2) The manager of the prison in which the defendant is held in custody on remand, or any other person, may use relevant powers of that manager or person under sections 103A to 110C (about opening and reading of mail and withholding of correspondence) of the Corrections Act 2004, or under section 127I or 127J (about monitoring of telephone calls) of that Act, to detect and prevent non-compliance by the defendant with conditions imposed by the direction.

(3) After becoming aware of a breach of those conditions, the manager of the prison in which the defendant is held in custody on remand, or the Police, must take all reasonable steps to notify it promptly to the Registrar.

(4) The Registrar, on being notified, must bring the matter to the attention of a judicial officer, who may reconsider the conditions of remand and any exceptions specified under section 168A(2), and must direct the Registrar that the nature of the condition and the breach be entered in the permanent court record.

(5) Despite subsection (4), the judicial officer may decide not to direct that those matters be entered in the permanent court record if satisfied that—

(a) the defendant had a reasonable excuse for the breach; or

(b) the breach is so minor in nature that it should not be recorded and able to be considered in a later application for bail made by that defendant.

(6) A breach entered under this section in the permanent court record may be considered in a later application for bail made by that defendant over his or her lifetime (whether or not the defendant is charged with a family violence offence).

(7) A direction given under this section by a judicial officer that the breach of the condition be entered in the permanent court record may be appealed against by the defendant under sections 51 and 52 of the Bail Act 2000 (which apply with all necessary modifications).

Section 168B: inserted, on 1 July 2019, by section 44 of the Family Violence (Amendments) Act 2018 (2018 No 47).

Section 168B(2): amended, on 1 October 2024, by section 52 of the Corrections Amendment Act 2024 (2024 No 41).

169 Order for detention of defendant in hospital or secure facility

(1) Despite section 168(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).

(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—

(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:

(b) **hospital** has the same meaning as in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992:

(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)

Section 169 heading: amended, on 1 July 2013, by section 10 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

170 Defendant in custody may be brought up before expiry of period of adjournment

(1) This section applies to a defendant who has been remanded in custody on any charge, even if the period for which the defendant was remanded in custody has not expired.

(2) The defendant may at any time be brought before—

(a) a judicial officer, for the consideration or giving of a direction under section 168A (no-contact conditions if family violence offence defendant remanded in custody):

(b) a court, to be dealt with on that charge.

Compare: 1957 No 87 s 59

Section 170: replaced, on 1 July 2019, by section 45 of the Family Violence (Amendments) Act 2018 (2018 No 47).

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

171 Defendants under 16 must not be imprisoned pending hearing or sentence

(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.

(3) If a person under the age of 16 years is charged with or convicted of an offence in the 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)

Section 171(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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

(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.

(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 the 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) 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—

(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.

(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)

Section 172(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

173 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 the District Court or High Court.

(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 Oranga Tamariki Act 1989 if—

(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.

(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 Oranga Tamariki Act 1989, or under the care of any suitable person pursuant to this Act.

(4) This section is subject to the Oranga Tamariki Act 1989.

Compare: 1985 No 120 s 142(3), (4B), (5)

Section 173(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 173(2): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 173(3): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 173(4): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

174 Remand of defendant under 18 years for assessment report

(1) Any court may remand a defendant who is under 18 years in the custody of the chief executive of the department for the time being responsible for the administration of the Oranga Tamariki Act 1989 for the purposes of an assessment report under section 38 of the Criminal Procedure (Mentally Impaired Persons) Act 2003 if—

(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

(b) the court would (in the absence of section 171 or 172 or 175) 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.

(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 18 years, the provisions of section 38(2)(c) to (4) and sections 40 to 44 of that Act must be read as if—

(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 Oranga Tamariki Act 1989, or under the care of any suitable person pursuant to that Act.

Compare: 1985 No 120 s 142(5)–(5C)

Section 174 heading: amended, on 1 July 2019, by section 142(1) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 174(1): amended, on 1 July 2019, by section 142(2) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 174(1): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 174(1)(b): amended, on 1 July 2019, by section 46 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

Section 174(2): amended, on 1 July 2019, by section 142(2) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 174(3): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

175 Remand of defendants aged 17 to 20 years

(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.

(1A) Despite section 15 of the Bail Act 2000, if the person is aged 17 years and is charged with, or convicted of, any offence in the District Court or the High Court, the court may remand that person in custody, and if the court does so,—

(a) the person must be remanded in the custody of the chief executive of the department responsible for the administration of the Oranga Tamariki Act 1989, unless that chief executive and the chief executive of the Department of Corrections agree on the matter in subsection (1B):

(b) if the 2 chief executives agree on the matter in subsection (1B), the person may instead be remanded in custody in a youth unit of a prison.

(1B) The matter that must be agreed by the 2 chief executives is that detention in a youth unit of a prison is necessary to ensure the safety of a young person (as defined in section 2(1)) who is in the custody of the chief executive.

(2) Despite section 15 of the Bail Act 2000, if the person appears to the court to be aged 18 or 19 years, 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 Oranga Tamariki Act 1989 if—

(i) in the court's opinion it is desirable to do so by reason of special circumstances; and

(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.

(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 Oranga Tamariki Act 1989, or under the care of any suitable person pursuant to that Act.

(4) This section is subject to the Oranga Tamariki Act 1989.

Compare: 1985 No 120 s 142(4)–(5)

Section 175(1A): inserted, on 1 July 2019, by section 143(1) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 175(1B): inserted, on 1 July 2019, by section 143(1) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 175(2): amended, on 1 July 2019, by section 143(2) of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 175(2)(a): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 175(3): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 175(4): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Stay of proceedings

176 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.

(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.

(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.

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

Retrial or rehearing

177 Court may order retrial or rehearing as to sentence in certain cases

(1) This section applies if—

(a) a defendant is convicted of—

(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

(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—

(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 375(1)(b) in relation to an infringement offence.

(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.

(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.

(6) Despite subsection (1), a defendant who is eligible to apply for a retrial under section 125 or a rehearing under section 126 must not apply for a retrial or rehearing under this section.

Compare: 1957 No 87 s 75(1)

178 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

(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

(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.

(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)

179 Dealing with defendant pending retrial or rehearing

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

(b) if the retrial or rehearing is to be proceeded with at a later date, section 168(1) applies with any necessary modifications as if the proceeding were adjourned.

Compare: 1957 No 87 s 75(4)

Correction of erroneous sentence

180 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—

(a) on the application of either of the parties or, as provided in section 181, the chief executive of the Department of Corrections; or

(b) on its own motion.

(2) The decision of the court may be made,—

(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 the District Court,—

(i) by the District Court Judge who imposed the sentence; or

(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.

(3) The court may, by order, remove the matter into the first appeal court described in section 297, and that court may deal with it as if it were an appeal on a question of law under section 296.

(4) In this section, **sentence** includes—

(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 and a record of subsequent warning (as those terms are defined in section 86J of the Sentencing Act 2002), and references 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

Section 180(2)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 180(4): replaced, on 17 June 2025, by section 14 of the Sentencing (Reinstating Three Strikes) Amendment Act 2024 (2024 No 54).

181 Application of chief executive of Department of Corrections to correct erroneous sentence

(1) The chief executive of the Department of Corrections may make an application under section 180(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:

(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 offender.

182 Procedure if court corrects erroneous sentence

(1) In order for a new sentence to be imposed in accordance with section 180, the court may—

(a) issue a summons to bring the defendant before the court to be sentenced; or

(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.

Transfer to wrong court

183 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.

(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.

(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.

Compare: 1957 No 87 s 184P

Permanent court record

184 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.

(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

185 Solicitor-General responsible for general oversight of public prosecutions

(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

(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.

186 Attorney-General's responsibility and powers not affected

Nothing in section 185 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.

187 Assumption of responsibility for Crown prosecutions by Solicitor-General

(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.

(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).

(5) No Crown prosecution is invalid only because the Crown—

(a) did not assume responsibility for a prosecution in accordance with regulations made under this Act; or

(b) assumed responsibility for a prosecution for which it should not have assumed responsibility.

Section 187(5): inserted, on 1 July 2013, by section 11 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

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

A Crown prosecutor who conducts a Crown prosecution under section 187 must conduct that prosecution in accordance with any directions given by the Solicitor-General (either generally or in the particular case).

189 Crown prosecution notice must be filed

When the Solicitor-General or a Crown prosecutor assumes responsibility for a Crown prosecution in accordance with section 187, he or she must file a notice in the court.

190 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 189 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.

(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.

(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 133.

(4) The power to amend a charge under subsection (1) includes a power to substitute one offence for another offence, in which case section 134(2) applies.

191 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 189 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.

(2) For the purposes of this Act,—

(a) a charging document is deemed to have been filed in accordance with section 14 in respect of each new charge specified in the notice; and

(b) a notice filed under subsection (1)—

(i) satisfies the requirements of section 138(1); and

(ii) section 138(2) does not apply when new charges are added to a proceeding in accordance with that notice; and

(c) section 25 (time for filing charging document) applies to the new charges.

Section 191(2)(b): replaced, on 1 July 2013, by section 12 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

192 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 189 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.

(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.

(3) If the Solicitor-General or a Crown prosecutor seeks to withdraw all the charges, the court may—

(a) give leave for the notice to withdraw the charges to be filed; or

(b) dismiss the charges under section 147.

(4) A charge is withdrawn under this section on the filing of a notice to withdraw the charge.

(5) The withdrawal of a charge under this section is not a bar to any other proceeding in the same matter.

192A Power of Solicitor-General or Crown prosecutor to join charge or charges

(1) Without the leave of the court, the Solicitor-General or a Crown prosecutor may, on filing a notice under section 189 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 that—

(a) 2 or more charges against 1 defendant are to be heard together:

(b) the charges against 1 defendant are to be heard with charges against 1 or more other defendants.

(2) Subsection (1) overrides section 138(2).

(3) Subsection (1) does not prevent—

(a) the Solicitor-General or a Crown prosecutor seeking the leave of the court under section 138(2) for charges to be heard together; or

(b) the court, on its own motion or on the application of the prosecutor or defendant, ordering under section 138(4) that 1 or more charges against a defendant be heard separately.

Section 192A: inserted, on 29 October 2019, by section 39 of the Courts Matters Act 2018 (2018 No 50).

193 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.

Subpart 3—Public access and restrictions on reporting

Terms used in this subpart

194 Interpretation

In this subpart, unless the context otherwise requires,—

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 made under—

(a) any of sections 199C, 200, 202, and 205; or

(b) section 199A(3) or 199BA(3) that varies the effect of automatic suppression in any proceedings; or

(c) section 199B(1) or 199D(2).

Section 194 **suppression order**: replaced, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 194 **suppression order** paragraph (b): amended, on 21 December 2022, by section 43 of the Sexual Violence Legislation Act 2021 (2021 No 60).

195 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.

Court proceedings generally open to public

196 Court proceedings generally open to public

(1) Every hearing is open to the public.

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

(3) This section is subject to sections 97, 197, 199, and 199AA, and any other enactment.

Compare: 1985 No 120 s 138(1)

Section 196(3): amended, on 21 December 2021, by section 44 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Power to clear court

197 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:

(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:

(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

(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

(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.

(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)

198 Exception for members of media

(1) An order under section 197 may not exclude members of the media except on the ground set out in section 197(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—

(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

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

Compare: 1985 No 120 s 138(3)

198A Hearing may be conducted by audiovisual link or audio link

(1) Nothing in sections 196 to 198 limits or affects the ability of a court to conduct a hearing wholly or partly by audiovisual link (**AVL**) or audio link (**AL**) and to require some or all members of the media or the public who wish to observe the hearing to attend by AVL or AL.

(2) For the purposes of subsection (1),—

audio link or **AL**, in relation to a proceeding, means facilities that enable audio communication between, or to be received by, participants when some or all of them are not physically present at the place of hearing for all or part of the proceeding

audiovisual link or **AVL**, in relation to a proceeding, means facilities that enable both audio and visual communication between, or to be received by, participants when some or all of them are not physically present at the place of hearing for all or part of the proceeding.

Section 198A: inserted, on 3 September 2024, by section 10 of the Courts (Remote Participation) Amendment Act 2024 (2024 No 33).

199 Court must be cleared when complainant gives evidence in cases of sexual nature

(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:

(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:

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

(g) any member of the media (as defined in section 198(2)), except that this paragraph is subject to an order of the kind specified in subsection (4)(a):

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

(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

(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 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:

(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.

(4) Nothing in this Act limits the following:

(a) an order restricting attendance by, or excluding, members of the media at any making, before trial, of a video record of a sexual case complainant's or propensity witness's evidence:

(b) regulations made under section 201(1)(a) of the Evidence Act 2006 authorising a Judge to make an order of that kind.

Compare: 1961 No 43, s 375A

Section 199(1)(g): replaced, on 21 December 2022, by section 45(1) of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 199(4): inserted, on 21 December 2022, by section 45(2) of the Sexual Violence Legislation Act 2021 (2021 No 60).

199AA Court may be cleared when victim impact statement read or otherwise presented to court in cases of sexual nature

(1) In any case of a sexual nature, a court may, on an application made for the purpose by the prosecutor, make an order that no person may be present in the courtroom while the victim's victim impact statement is read or otherwise presented to the court, except for the following:

(a) the Judge:

(b) the prosecutor:

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

(d) any 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 198(2)):

(h) any person whose presence is requested by the victim:

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

(2) The order may be made only if the court is satisfied that the order is necessary to avoid causing the victim undue distress.

(3) In deciding an application made under this section, the court must take into account, in addition to any other factors the court considers relevant, the following considerations:

(a) the interests of the victim, and any preferences the victim has on how the victim's victim impact statement is read or otherwise presented to the court:

(b) whether those interests and preferences could be served and met by the statement being read or otherwise presented to the court in an alternative way:

(c) whether the statement is to be read to the court by the victim, or by a person nominated by the victim, under section 22(1)(a) or (c) of the Victims' Rights Act 2002.

(4) Even if an order is made under subsection (1), 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 determining the sentence.

(5) In this section,—

case of a sexual nature has the meaning in section 199(3)

read or otherwise presented to the court, for a victim impact statement, means that all or any part of it is read or otherwise presented to the court under section 22 or 22A of the Victims' Rights Act 2002

victim impact statement means a victim impact statement—

(a) as defined in section 17AA of the Victims' Rights Act 2002; and

(b) submitted under section 21 of that Act to the judicial officer sentencing the offender.

Section 199AA: inserted, on 21 December 2021, by section 46 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Automatic suppression of previous convictions

Heading: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

199A Automatic suppression of details of previous convictions

(1) Once a proceeding has commenced for a category 3 offence or a category 4 offence (**offence A**), no person may publish details of any of the defendant's previous convictions for any other offence except as permitted by or under this section.

(2) The automatic suppression in subsection (1) remains in force, unless earlier lifted by the court, until—

(a) the jury delivers a verdict for offence A; or

(b) the charge for offence A is withdrawn, dismissed, stayed, or otherwise disposed of; or

(c) a Judge-alone trial starts for offence A.

(3) However, the court may, by order made on application or on its own initiative,—

(a) lift the suppression before the trial:

(b) vary the effect of the suppression by permitting the publication of any details as specified in the order.

(4) This section does not apply to information published before a proceeding is commenced, unless the court makes an order to that effect under section 199B(1).

Section 199A: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

199B Further provisions relating to automatic suppression

(1) The court may order a person who hosts material on a website or other electronic retrieval system that can be accessed by a user to take down, or disable public access to, details of the defendant's previous convictions on that website or other electronic retrieval system that is under the person's control.

(2) Whenever reasonably practicable, the person who hosts the material must be—

(a) served with the application for an order or notified that the court is considering making an order under subsection (1); and

(b) given an opportunity to be heard by the court.

(3) An order made under subsection (1) expires with the expiry of the automatic suppression to which it relates.

Section 199B: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Automatic suppression of sexual case complainant's or propensity witness's evidence that is video recorded before trial

Heading: inserted, on 21 December 2022, by section 47 of the Sexual Violence Legislation Act 2021 (2021 No 60).

199BA Automatic suppression of sexual case complainant's or propensity witness's evidence that is video recorded before trial

(1) No person may publish the whole or any part of a sexual case complainant's or propensity witness's evidence that is video recorded before trial (*see* sections 106C to 106J of the Evidence Act 2006) except as permitted by or under this section.

(2) The automatic suppression in subsection (1) remains in force, unless earlier lifted by the court, until—

(a) the evidence is presented at trial in the sexual case; or

(b) the relevant charges in the sexual case are withdrawn, dismissed, stayed, or otherwise disposed of.

(3) However, the court may, by order made on application or on its own initiative,—

(a) lift the suppression:

(b) vary the effect of the suppression by permitting the publication of any evidence as specified in the order.

(4) This section does not limit other suppression provisions or orders.

Section 199BA: inserted, on 21 December 2022, by section 47 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Temporary suppression of trial-related information

Heading: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

199C Court may temporarily suppress trial-related information

(1) If a court is satisfied that publication of the information would be likely to create a real risk of prejudice to a fair trial, the court may make an order forbidding publication of any of the following information for any period that the court thinks necessary for that purpose:

(a) any specific information relating to matters of character of the defendant:

(b) any specific information relating to the previous convictions or matters of character of any person who—

(i) may be called as a witness; or

(ii) may be a victim of the offence; or

(iii) is connected with the defendant:

(c) any other offence that the defendant is also currently charged with:

(d) any other specific information in relation to any trial.

(2) Despite subsection (1), the court may make an interim order of the kind described in subsection (1) if the defendant advances an arguable case that publication would be likely to create a real risk of prejudice to a fair trial.

(3) An interim order under subsection (2)—

(a) may be made or renewed only in the absence of an order made under subsection (1); and

(b) may be renewed only if the court is satisfied that publication would be likely to create a real risk of prejudice to a fair trial; and

(c) expires at the defendant's next court appearance for the offence.

Section 199C: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

199D Further provisions relating to temporary suppression of trial-related information

(1) The court may make an order under section 199C at any time after the proceeding is commenced.

(2) The court may limit the effect of an order under section 199C by ordering a person who hosts material on a website or other electronic retrieval system that can be accessed by a user to only take down or disable access to specific information on that website or electronic retrieval system.

(3) Whenever reasonably practicable, the person who hosts the material must be—

(a) served with the application for an order or notified that the court is considering making an order under subsection (2); and

(b) given an opportunity to be heard by the court.

(4) Despite section 208(1) or (2), an order made under subsection (2) or section 199C(1) expires when the defendant is convicted or acquitted, or the charge is otherwise disposed of.

Section 199D: inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Suppression of names

200 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 16B of the Victims' Rights Act 2002.

(7) Subsections (8) and (9) apply—

(a) in the case of an adult who is convicted of an offence against any of sections 128 to 142A or section 144A of the Crimes Act 1961 or any other offence against a person that the court determines is of a sexual nature; and

(b) to any order made under subsection (1) other than an interim order.

(8) The court may make an order under subsection (1) without the agreement of the complainant only if the court is satisfied that the complainant—

(a) is unable or unwilling to engage with the matter; or

(b) despite all reasonable efforts, cannot be contacted.

(9) If the case specified in subsection (7)(a) involves more than 1 complainant,—

(a) the court may make an order under subsection (1) only in respect of the complainants who—

(i) have agreed to the making of the order; or

(ii) are described in subsection (8)(a) or (b); and

(b) the order—

(i) must provide that nothing may be published that could identify the complainants who agreed to the making of the order or who are described in subsection (8)(a) or (b), including (without limitation) the charges involved in the case; and

(ii) must not prevent the identification of the person convicted or the offence for which the person was convicted in relation to any complainant who disagreed with the making of the order.

Compare: 1985 No 120 s 140(1), (4A)

Section 200(6): amended, on 13 December 2022, by section 46 of the Rights for Victims of Insane Offenders Act 2021 (2021 No 55).

Section 200(7): inserted, on 30 October 2025, by section 7 of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 200(8): inserted, on 30 October 2025, by section 7 of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 200(9): inserted, on 30 October 2025, by section 7 of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

201 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.

(2) The purpose of this section is to protect the complainant's privacy and support the complainant's autonomy in connection with the publication of the details of a person accused or convicted of an offence referred to in subsection (1).

(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.

(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

(ii) applies to the court for such an order in accordance with the Criminal Procedure Rules 2012; 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

(c) no order or further order has been made under section 200 prohibiting publication of the identity of the person convicted of the offence.

(4A) The court, when determining whether to make an order under subsection (3), must take into account any views of the complainant (or, if there were 2 or more complainants, each complainant) in respect of the publication of the details of the person accused or convicted of an offence referred to in subsection (1).

(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 200 prohibiting publication of his or her identity; and

(b) the court makes the order or further order under section 200.

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

Section 201(2): replaced, on 30 October 2025, by section 8(1) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 201(4)(a)(ii): replaced, on 30 October 2025, by section 8(2) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 201(4A): inserted, on 30 October 2025, by section 8(3) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

202 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—

(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.

(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

(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

(f) prejudice the security or defence of New Zealand.

(3) Subsection (1) applies whether or not the court has made an order under section 200 suppressing the identity of the defendant.

(4) An order under subsection (1) suppressing the identity of a 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 200) or the nature of the charge.

Compare: 1985 No 120 ss 138(2)(b), 140(1)

203 Automatic suppression of identity of complainant in 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 or any other offence against a person that the court determines is of a sexual nature.

(2) The purpose of this section is to protect the complainant's privacy and support the complainant's autonomy in connection with the publication of their details.

(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 in accordance with the Criminal Procedure Rules 2012; 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 200 prohibiting publication of the identity of that person.

(4A) The court, when determining whether to make an order under subsection (3), must take into account any views of the complainant in respect of the publication of their details.

(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 200 prohibiting publication of his or her identity; and

(c) the court makes the order or further order under section 200.

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

Section 203 heading: amended, on 30 October 2025, by section 9(1) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 203(1): amended, on 30 October 2025, by section 9(2) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 203(2): replaced, on 30 October 2025, by section 9(3) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 203(4)(a)(ii): replaced, on 30 October 2025, by section 9(4) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

Section 203(4A): inserted, on 30 October 2025, by section 9(5) of the Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36).

204 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—

(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

(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 200 prohibiting publication of the identity of that person.

(5) An order made under subsection (4) ceases to have effect if—

(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 200 prohibiting publication of his or her identity; and

(c) the court makes the order or further order under section 200.

Compare: 1985 No 120 s 139A

Suppression of evidence and submissions

205 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.

(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

(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

206 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 200(4) if—

(a) the Registrar adjourns the hearing of any charge; and

(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.

(4) A Registrar may exercise the power conferred by section 208(1)(b) to renew an order made by the court until the date on which the defendant next appears before the court.

Compare: 1957 No 87, s 46A

General provisions relating to suppression orders

207 Court must give reasons

(1) The court must give reasons for making, varying, or revoking a suppression order.

(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.

208 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

(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.

(3) A suppression order may be reviewed and varied by the court at any time.

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

209 Publication by or at request of Police, etc

(1) If a person has escaped from lawful custody or has failed to attend any court when lawfully required to do so,—

(a) nothing in sections 200 to 205 prevents the publication by or at the request of any Police employee of the name, address, or occupation of that person if that publication is made for the purpose of facilitating that person's recapture or arrest; and

(b) nothing in sections 199A to 199D prevents publication by or at the request of any Police employee of any information suppressed under those provisions if that publication is made for the purpose of facilitating that person's recapture or arrest.

(2) Nothing in sections 199A to 205 prevents publication of any suppressed information to—

(a) any person assisting with the administration of the sentence imposed on the person or with the rehabilitation of the person; or

(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

(ba) any specified agency, corresponding Registrar, corresponding overseas agency, or affected person within the meaning of the Child Protection (Child Sex Offender Government Agency Registration) Act 2016 in accordance with sections 43 to 45 of that Act; or

(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

(ii) conducting that public prosecution; or

(d) a lawyer acting for the defendant or for a co-defendant, or a representative acting for a defendant who is a corporation.

Compare: 1985 No 120 s 141

Section 209(1): replaced, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 209(2): amended, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 209(2)(ba): inserted, on 14 October 2016, by section 60 of the Child Protection (Child Sex Offender Government Agency Registration) Act 2016 (2016 No 42).

Section 209(2)(d): inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

210 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

211 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) a suppression order; or

(b) any of sections 199A, 199BA, 201, 203, and 204; or

(c) an order made under section 286 or 292.

(2) Every person commits an offence who publishes any name, address, occupation, or other information in breach of—

(a) a suppression order; or

(b) any of sections 199A, 199BA, 201, 203, and 204; or

(c) an order made under section 286 or 292.

(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,—

(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.

(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.

(7) A defendant has a defence to a charge under subsection (2) if the defendant proves that they—

(a) did not know or could not reasonably have known that the information published was suppressed; and

(b) removed the suppressed material as soon as practicable after becoming aware of the breach.

Section 211(1): replaced, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 211(1)(b): amended, on 21 December 2022, by section 48 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 211(2): replaced, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Section 211(2)(b): amended, on 21 December 2022, by section 48 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 211(7): inserted, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

Part 6
Appeals

Subpart 1—General matters

212 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 364

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 make an order against the convicted person for the payment of costs under section 364 or under the Costs in Criminal Cases Act 1967; or

(ii) a decision, on conviction, to make or decline to make an order under any of sections 200, 202, or 205 (suppression orders); or

(iii) a decision, on conviction, under section 208 to vary or revoke an order under any of those sections specified in subparagraph (ii).

213 Leave to appeal

(1) All rights of appeal to the Supreme Court under this Part are subject to Part 4 of the Senior Courts Act 2016. *See*, especially, sections 73 to 75 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.

(4) The duty of an appeal court to determine an appeal is subject to any leave requirements being met.

Section 213(1): replaced, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

214 Duty to determine appeal subject to sections 337 and 338

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

Subpart 2—Appeals against pre-trial decisions

First appeals

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

(1) This section applies if a court makes a decision specified in subsection (2) in proceedings to be tried by Judge-alone trial procedure.

(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 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):

(ba) granting or refusing to grant an application for a direction under section 106F of the Evidence Act 2006 in respect of a notification under section 106D of that Act that cross-examination evidence is to be given by video record made before trial:

(bb) granting or refusing to grant an application under section 106H of the Evidence Act 2006 for further cross-examination of a sexual case complainant or propensity witness all of whose evidence has been or is to be given by video record made before trial:

(c) giving or refusing to give leave on an application under section 109(1)(d) or 109B(2) of the Evidence Act 2006 (which relates to the identity of a witness):

(ca) making or refusing to make a pre-trial witness anonymity order under section 110 of the Evidence Act 2006:

(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)

Section 215(1): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 215(2)(ba): inserted, on 21 December 2022, by section 49 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 215(2)(bb): inserted, on 21 December 2022, by section 49 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 215(2)(c): amended, on 28 November 2023, by section 29 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 215(2)(ca): inserted, on 24 October 2019, by section 31 of the Statutes Amendment Act 2019 (2019 No 56).

216 Refusal to give leave to appeal under section 215

(1) This section applies if an application for leave to appeal under section 215 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.

(3) Subsection (2) does not limit the first appeal court's power to refuse to give leave for any other reason.

217 Right of appeal by prosecutor or defendant 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—

(a) a category 3 offence after the defendant elected a jury trial; or

(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 21 (to amend, divide, or amalgamate charges):

(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):

(d) making or refusing to make an order under section 103 (that Judge-alone trial be held in case involving intimidation of jurors):

(e) amending or refusing to amend a charge under section 133:

(f) making or refusing to make an order under section 138(4) (that defendant be tried separately on 1 or more charges):

(g) making or refusing to make an order under section 151 (for a person to be retried on ground that acquittal tainted):

(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):

(ia) granting or refusing to grant an application for a direction under section 106F of the Evidence Act 2006 in respect of a notification under section 106D of that Act that cross-examination evidence is to be given by video record made before trial:

(ib) granting or refusing to grant an application under section 106H of the Evidence Act 2006 for further cross-examination of a sexual case complainant or propensity witness all of whose evidence has been or is to be given by video record made before trial:

(j) giving or refusing to give leave on an application under section 109(1)(d) or 109B(2) of the Evidence Act 2006 (relating to the identity of a witness):

(ja) making or refusing to make a pre-trial witness anonymity order under section 110 of the Evidence Act 2006:

(k) making or refusing to make a witness anonymity order under section 112 of the Evidence Act 2006.

Compare: 1961 No 43 s 379A(1)

Section 217(2)(ia): inserted, on 21 December 2022, by section 50 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 217(2)(ib): inserted, on 21 December 2022, by section 50 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 217(2)(j): amended, on 28 November 2023, by section 30 of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Section 217(2)(ja): inserted, on 8 January 2017, by section 38(1) of the Evidence Amendment Act 2016 (2016 No 44).

218 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—

(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:

(a) refusing to make an order under section 18 (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).

Compare: 1961 No 43 s 379A(2)

219 First appeal courts

(1) The first appeal court for an appeal under this subpart is—

(a) the District Court presided over by a District Court Judge, if the appeal is against a decision of the 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 the District Court presided over by a District Court Judge, 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.

(2) For the purposes of subsection (1), if a defendant elected a jury trial but subsequently withdrew his or her election before trial,—

(a) the defendant must be treated as if he or she had not elected a jury trial; but

(b) any appeal commenced before the date on which the defendant withdrew his or her election must be determined by the appeal court that had jurisdiction to determine the appeal at the time it was commenced.

Section 219(1)(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 219(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 219(2): inserted, on 14 November 2018, by section 40 of the Courts Matters Act 2018 (2018 No 50).

220 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.

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

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

221 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

(c) setting aside the decision appealed against and making any other order it considers appropriate.

Compare: 1961 No 43 s 379A(3)

222 Trial court may allow trial to proceed

(1) This section applies if—

(a) a notice of 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.

Section 222(1)(a): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Further appeals

223 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 215 or 217.

(2) The defendant may, with the leave of the second appeal court, appeal to that court against the determination of an appeal under section 218.

(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 miscarriage of justice may have occurred, or may occur unless the appeal is heard.

224 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 the 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.

Section 224(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

225 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.

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

226 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 221.

227 High Court's determination of second appeal final

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

228 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 215 applies may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination.

(2) An appeal under this section may be brought only on a question of law.

(3) Section 225 (how to commence appeal) applies 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).

Subpart 3—Appeals against conviction

First appeals

229 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.

(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)

230 First appeal courts

(1) The first appeal court for an appeal under this subpart is—

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

(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.

(2) For the purposes of subsection (1), if a convicted person elected a jury trial but subsequently withdrew his or her election before trial, the convicted person must be treated as if he or she had not elected a jury trial.

Section 230(1)(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 230(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 230(2): inserted, on 14 November 2018, by section 41 of the Courts Matters Act 2018 (2018 No 50).

231 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

(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.

(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

232 First appeal court to determine appeal

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

(2) 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

(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 miscarriage of justice has occurred; or

(c) in any case, a miscarriage of justice has occurred for any reason.

(3) The first appeal court must dismiss a first appeal under this subpart in any other case.

(4) In subsection (2), **miscarriage of justice** means any error, irregularity, or occurrence in or in relation to or affecting the trial that—

(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.

(5) In subsection (4), **trial** includes a proceeding in which the appellant pleaded guilty.

Compare: 1957 No 87 ss 119(1), 121; 1961 No 43 s 385; Criminal Procedure Act 2009 s 276 (Victoria)

233 Orders, etc, on successful first appeal

(1) This section applies if a first appeal court allows a first appeal under this subpart.

(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 234; or

(d) exercise the powers under section 235(2); or

(e) make any other order it considers justice requires.

(4) The court may also exercise the powers under section 236.

Compare: 1961 No 43 ss 385(2), 386

234 Conviction and sentence for different offence may be substituted

(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 136(1), have substituted for offence A, be entered if satisfied that—

(a) the person could have been found guilty, at the person's trial for offence A, of offence B; and

(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.

(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.

(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

(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).

Compare: 1957 No 87 s 132; 1961 No 43 s 386(2)

235 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.

Compare: 1957 No 87 s 121(2A); 1961 No 43 s 386(4)

236 Confirmation or substitution of sentence for another offence

(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 conviction 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

(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

237 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—

(a) the appeal involves a matter of general or public importance; or

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

238 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 the 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.

Section 238(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

239 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.

(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.

240 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 must allow the appeal if satisfied that the appeal should be allowed on any of the grounds described in section 232(2).

(3) The second appeal court must dismiss the appeal in any other case.

241 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.

242 High Court's determination of second appeal final

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

243 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 may, with the leave of the Supreme Court, appeal under this subpart to the Supreme Court against the determination.

(2) The appeal may be brought only on a question of law.

(3) 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 232(2).

(4) The Supreme Court must dismiss the appeal in any other case.

(5) The following provisions apply with the necessary modifications:

(a) section 239 (how to commence appeal):

(b) section 241 (orders, etc, on successful appeal).

Compare: 1961 No 43 s 383A

Subpart 4—Appeals against sentence

First appeals

244 Convicted person's right of appeal against sentence

(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.

Compare: 1957 No 87 s 115(2), (2A); 1961 No 43 s 383(1)(b)

245 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.

246 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.

(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.

Compare: 1957 No 87 s 115A(1)–(2A); 1961 No 43 s 383(2), (2A)

247 First appeal courts

(1) The first appeal court for an appeal under this subpart is—

(a) the District Court presided over by a District Court Judge, if the appeal is against a sentence imposed by the 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 the District Court presided over by a District Court Judge and if—

(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 the District Court presided over by a District Court Judge for a category 3 offence and if—

(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

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

(2) For the purposes of subsection (1), if a convicted person elected a jury trial but subsequently withdrew his or her election before trial, the convicted person must be treated as if he or she had not elected a jury trial.

Section 247(1)(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 247(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 247(1)(c): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 247(2): inserted, on 14 November 2018, by section 42 of the Courts Matters Act 2018 (2018 No 50).

248 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—

(a) a notice of appeal, if the court appealed to is the 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 the date of the sentence appealed against.

(3) In an appeal by a prosecutor, any document evidencing consent required under section 246 must be filed with the notice of appeal or notice of application for leave to appeal.

(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

(b) a document evidencing consent required under section 246.

Compare: 1961 No 43 s 388

Section 248(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

249 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.

(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.

(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)

250 First appeal court to determine appeal

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

(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.

(3) The first appeal court must dismiss the appeal in any other case.

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

251 Orders, etc, on successful first appeal

(1) This section applies if a first appeal court allows an appeal under this subpart.

(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

(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.

(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)

252 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.

Further appeals

253 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.

(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.

(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 miscarriage of justice may have occurred, or may occur unless the appeal is heard.

254 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 the 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.

Section 254(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

255 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 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.

256 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 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.

257 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.

258 High Court's determination of second appeal final

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

259 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.

(2) The appeal may be brought only on a question of law.

(3) 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.

(4) In any other case, the Supreme Court must dismiss the appeal.

(5) The following provisions apply with the necessary modifications:

(a) section 255 (how to commence appeal):

(b) section 257 (orders, etc, on successful appeal).

Compare: 1961 No 43 s 383A

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

First appeals

260 Right of appeal against finding of or sentence for contempt of court

(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:

(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.

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

261 First appeal courts

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

(a) the District Court presided over by a District Court Judge, if the finding of contempt was made by the 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 finding of contempt was made by the District Court presided over by a District Court Judge; or

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

Section 261(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 261(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

262 How to commence first appeal

(1) A 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, 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—

(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.

(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.

Section 262(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

263 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:

(a) section 232 (appeal court to determine appeal):

(b) section 233(1) to (3) (orders, etc, on successful appeal):

(c) section 234 (conviction and sentence for different offence may be substituted):

(d) section 235 (acquittal on account of insanity).

(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 250 (appeal court to determine appeal):

(b) section 251 (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

264 Right of appeal against determination of first appeal court

(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—

(a) the appeal involves a matter of general or public importance; or

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

265 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 the 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.

Section 265(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

266 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.

(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.

267 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 240 (appeal court to determine appeal):

(b) section 241 (orders, etc, on successful appeal).

(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:

(a) section 256 (appeal court to determine appeal):

(b) section 257 (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.

268 High Court's determination of second appeal final

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

269 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.

(2) The appeal may be brought only on a question of law.

(3) Section 266 (how to commence appeal) applies with the 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 second appeal court has to determine an appeal under this subpart, subject to subsection (4).

Subpart 6—Appeals against decisions on costs orders

First appeals

270 Interpretation

In this subpart, **costs order** means an order for the payment of costs under section 364 or the Costs in Criminal Cases Act 1967.

271 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.

Compare: 1961 No 43 s 379CA

272 First appeal courts

(1) The first appeal court for an appeal under this subpart is—

(a) the District Court presided over by a District Court Judge, if the appeal is against a decision of the 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 the District Court presided over by a District Court Judge 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.

(2) For the purposes of subsection (1), if a defendant elected a jury trial but subsequently withdrew his or her election before trial,—

(a) the defendant must be treated as if he or she had not elected a jury trial; but

(b) any appeal commenced before the date on which the defendant withdrew his or her election must be determined by the appeal court that had jurisdiction to determine the appeal at the time it was commenced.

Section 272(1)(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 272(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 272(2): inserted, on 14 November 2018, by section 43 of the Courts Matters Act 2018 (2018 No 50).

273 How to commence first appeal

(1) A 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

(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.

274 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

(b) varying the decision appealed against; or

(c) setting aside the decision appealed against; or

(d) making any other order it considers appropriate.

275 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.

Further appeals

276 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.

(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 miscarriage of justice may have occurred, or may occur unless the appeal is heard.

277 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 the 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.

Section 277(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

278 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.

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

279 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 has the same powers as a first appeal court has to determine a first appeal under this subpart.

280 High Court's determination of second appeal final

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

281 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.

(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 278 (how to commence appeal) applies 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).

Subpart 7—Appeals against suppression orders

First appeals

282 Interpretation

In this subpart, **suppression order** means an order made under section 199A(3), 199B(1), 199BA(3), 199C, 199D(2), 200, 202, or 205.

Section 282: amended, on 21 December 2022, by section 51 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Section 282: amended, on 26 August 2020, by section 29 of the Contempt of Court Act 2019 (2019 No 44).

283 Right of appeal against decision on suppression order

(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 208.

(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 210(1) applies.

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

284 First appeal courts

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

(a) the District Court presided over by a District Court Judge, if the appeal is against a decision of the 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 the District Court presided over by a District Court Judge; or

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

Section 284(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 284(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

285 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 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.

Section 285(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

286 Interim suppression order pending determination of first appeal

(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 285.

(2) The court must make an interim order to the effect sought by the applicant.

(3) An interim order made under subsection (2) continues in force until—

(a) the expiry of the period specified in section 285(2) for filing a notice of appeal or notice of application for leave to appeal; or

(b) the appeal is finally determined, if the notice is filed within that specified period.

Compare: 1957 No 87 s 115C(2)

287 First appeal court to determine appeal

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.

288 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

(b) a decision to renew, vary, or revoke a suppression order under section 208.

(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.

Further appeals

289 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.

(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 miscarriage of justice may have occurred, or may occur unless the appeal is heard.

290 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 the 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.

Section 290(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

291 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.

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

292 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 287 is to be filed under section 291.

(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—

(a) the expiry of the period specified in section 291(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.

293 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 has the same powers as a first appeal court has to determine a first appeal under this subpart.

294 Determination of High Court final

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

295 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.

(2) The appeal may be brought only on a question of law.

(3) Sections 291 (how to commence appeal) and 292 (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).

Subpart 8—Appeals on question of law

First appeals

296 Right of appeal

(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.

(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).

(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.

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

297 First appeal courts

(1) The first appeal court for an appeal under this subpart is—

(a) the District Court presided over by a District Court Judge, if the appeal is against a ruling by the 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 ruling by the District Court presided over by a District Court Judge, other than a ruling—

(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.

(2) For the purposes of subsection (1), if a defendant elected a jury trial but subsequently withdrew his or her election before trial,—

(a) the defendant must be treated as if he or she had not elected a jury trial; but

(b) any appeal commenced before the date on which the defendant withdrew his or her election must be determined by the appeal court that had jurisdiction to determine the appeal at the time it was commenced.

Section 297(1)(a): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 297(1)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 297(1)(b)(i): amended, on 14 November 2018, by section 44(1) of the Courts Matters Act 2018 (2018 No 50).

Section 297(2): inserted, on 14 November 2018, by section 44(2) of the Courts Matters Act 2018 (2018 No 50).

298 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.

(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.

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

299 Power of first appeal court to amend question stated

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.

300 First appeal court to determine appeal

(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 miscarriage of justice:

(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

(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.

(2) The 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.

(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.

Compare: 1961 No 43 s 382

Section 300(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

301 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.

(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.

(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:

(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

(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.

302 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.

(2) 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

(b) an application for leave to make a further appeal or (if leave is given) the further appeal has been determined.

(3) 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.

Compare: 1961 No 43 ss 380(4), (5), 381A(3)

Further appeals

303 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.

(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 miscarriage of justice may have occurred, or may occur unless the appeal is heard.

304 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 the 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.

Section 304(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

305 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.

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

306 Second appeal court to determine appeal

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

307 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 power that the first appeal court could have exercised under this subpart if it had allowed the first appeal.

308 High Court's determination of second appeal final

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

309 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.

(2) The following provisions apply with the necessary modifications:

(a) section 305 (how to commence appeal):

(b) section 306 (appeal court to determine appeal):

(c) section 307 (orders, etc, on successful appeal).

310 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.

Compare: 1957 No 87 s 114

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

311 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.

(2) This Part applies with all necessary modifications to an appeal under this subpart as if the order appealed against were a sentence.

Subpart 10—Appeals relating to peace bond decisions

312 Right of appeal

(1) A person who is ordered to enter into a bond under section 367 may appeal under this subpart against that decision to the High Court.

(2) A person whose bond is ordered to be forfeit under section 372 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 364.

(4) A person who is committed to a prison under section 370 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.

(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.

Subpart 11—Solicitor-General's references

313 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—

(a) the question arose in or in relation to a trial of a person in the 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.

(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).

(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

(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)

Section 313(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

314 Procedure for references under section 313

(1) An application for leave under section 313(1) must be made within 60 working days after the day on which the criminal proceeding ended.

(2) An application for leave under section 313(3) must be made within 60 working days after the date of the determination by the High Court.

(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 313,—

(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.

(5) For the purpose of section 178 of the Senior Courts Act 2016, a hearing of a reference under section 313 must be treated as an appeal.

(6) The Court of Appeal's determination of a reference under section 313 does not affect anything done in any proceeding to which the reference relates by another court before the date of that determination.

Section 314(5): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

315 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 313.

(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 314.

316 Procedure for appeals under section 315

(1) An application for leave under section 315(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.

(3) The Supreme Court may, on an application under section 315(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 313; or

(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 315(1) and decides to hear and determine the question itself; or

(b) gives leave under section 315(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

(c) determine the question referred.

(6) For the purpose of section 178 of the Senior Courts Act 2016, 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 315 does not affect anything done in any proceeding to which the reference relates by another court before the date of that determination.

(8) Section 314(4) to (6) apply with the necessary modifications if the Supreme Court directs the Court of Appeal to hear and determine a question.

Section 316(6): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

317 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

(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.

318 Procedure for references under section 317

(1) An application for leave under section 317 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.

(3) The Supreme Court must, if it gives leave under section 317,—

(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.

(4) For the purpose of section 178 of the Senior Courts Act 2016, a hearing of a reference under section 317 must be treated as an appeal.

(5) 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.

Section 318(3): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 318(4): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

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.

(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.

Subpart 12—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**,—

(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

(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:

(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:

(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—

(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:

(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 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 282; or

(b) to renew, vary, or revoke a suppression order under section 208.

Compare: 1961 No 43 s 384A(1)

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

(1) This section applies if—

(a) a convicted person appeals to the Court of Appeal against conviction under section 229:

(b) a convicted person appeals to the Court of Appeal against sentence under section 244 or the prosecutor appeals to that court against sentence under section 246.

(2) Appeals arising from the exercise of a related right of appeal by the convicted person or the prosecutor must be heard and determined by the Court of Appeal.

(2A) Subsection (2) does not apply to any appeal to the Supreme Court for which the Supreme Court has given leave.

(3) This Part applies accordingly with the necessary modifications.

Compare: 1961 No 43 s 384A

Section 321(2): replaced, on 1 July 2013, by section 13 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 321(2A): inserted, on 1 July 2013, by section 13 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Solicitor-General

322 Duty of Solicitor-General

(1) The Solicitor-General must represent the Crown on the following appeals under this Part:

(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.

(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:

(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

(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.

(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.

(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.

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:

(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.

(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.

(3) Subsection (2) is subject to section 76 of the Senior Courts Act 2016 and to section 331(3).

Compare: 1961 No 43 s 395(1)

Section 325(3): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

326 Right of attendance at hearing

(1) This section applies to appeals and applications for leave to appeal under this Part.

(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.

(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.

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:

(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.

(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

(1) This section applies to applications for leave to appeal under this Part to the 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.

(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

Section 328(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

How appeals to be heard

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.

(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:

(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:

(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.

(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) 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.

Compare: 1961 No 43 s 392A(1)–(4)

330 Hearings in District Court or High Court

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

Section 330: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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:

(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.

(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.

(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.

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—

(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

(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.

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 (of whom at least 1 must hold office under section 45 of the Senior Courts Act 2016) may act as the court to determine any application for leave to appeal.

(2) A Judge of the Court of Appeal (whether holding office under section 45 or 48 of the Senior Courts Act 2016) 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—

(a) determine any application to extend the time for filing an application or notice:

(b) allow a party to be present at any proceedings in cases where he or she is not entitled to be present without leave:

(c) issue a warrant for the detention of the defendant pending a new trial:

(d) 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 (whether holding office under section 45 or 48 of the Senior Courts Act 2016) 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 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).

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

Section 333(1): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 333(2): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 333(4): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

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—

(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

(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.

(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.

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.

(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:

(c) receive the evidence, if tendered, of any witness (including the appellant) who is a competent but not compellable witness:

(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:

(e) order the production of any document, exhibit, or other thing connected with the proceeding if the court considers that its production is necessary:

(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.

(3) Subsection (2)(a) to (d) and (f) do 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

Section 335(3): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

336 Powers of appeal courts

(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 162 to 164 apply to those warrants.

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

(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.

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 10, an appeal court may dismiss an appeal if the appellant fails to comply with a timetable or other procedural orders fixed for the appeal.

(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.

(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).

(5) In this section, **appeal** includes an application for leave to appeal.

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.

(2) The relevant appeal court is—

(a) the High Court, if the appeal is against the dismissal of an appeal under that section by the 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

(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.

(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.

(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.

(7) The determination of an appeal by the relevant appeal court under this section is final.

Section 339(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Judgment of appeal court

340 Reasons to accompany judgment or be given later

(1) Reasons must be given for an appeal court's determination of an appeal or application under this Part.

(2) The court's reasons must accompany the court's judgment or be given later.

(3) However, subsection (1) does not apply to a determination—

(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 the District Court, the High Court, or the Court of Appeal under this Part.

(2) The court may—

(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—

(a) in open court; or

(b) through the Registrar.

Compare: SR 2001/371 r 33

Section 341(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

342 Judgment to be provided to parties

After an appeal or application is determined by an appeal court under this Part, the Registrar must—

(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.

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—

(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)

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.

(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.

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.

(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—

(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.

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.

(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.

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.

(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).

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.

(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—

(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.

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

348A How appeal affects registration orders

(1) On a conviction to which an appeal relates where the court appealed from made a registration order under section 9 of the Child Protection (Child Sex Offender Government Agency Registration) Act 2016 in respect of the convicted person, the reporting period ceases to run on the day on which notice of appeal or of application for leave to appeal is filed.

(2) The reporting period resumes from the date on which—

(a) the appeal is dismissed or abandoned; or

(b) leave to appeal is refused; or

(c) the appeal is decided, if neither the registration order nor the conviction on which it was imposed is set aside.

Section 348A: inserted, on 14 October 2016, by section 61 of the Child Protection (Child Sex Offender Government Agency Registration) Act 2016 (2016 No 42).

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.

(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.

(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.

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.

Compare: SR 2004/199 r 46

351 Detention following appeal

(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:

(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.

(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

(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.

(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

(b) the committal order for the sentence of the court appealed from has effect as if it were amended in accordance with the notice.

(5) Subsections (2) to (4) apply to a finding of, or sentence for, contempt of court with the necessary modifications.

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 152(1) of the Contract and Commercial Law Act 2017 as to the revesting of the property in stolen goods on conviction, is suspended—

(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

(b) if a notice of appeal against conviction or sentence is filed, until the appeal is determined or abandoned unless the court orders otherwise.

(2) A suspension that applies to the operation of an order or of section 152(1) of the Contract and Commercial Law Act 2017 until an appeal is determined does not take effect as to the property in question if the conviction is set aside on appeal.

(3) 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.

(4) 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.

Compare: 1961 No 43 s 387

Section 352(1): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Section 352(2): amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Part 7
Provisions concerning jurisdiction of District Court

Part 7 heading: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Jurisdiction of District Court presided over by District Court Judge

353 Jurisdiction of District Court Judges

(1) Subject to section 354, the jurisdiction described in section 9(1) may be exercised by the District Court presided over by a District Court Judge.

(2) Nothing in subsection (1) limits sections 360 to 362.

Section 353(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Jurisdiction of District Court in relation to jury trials

Heading: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

354 Jurisdiction of District Court 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 the District Court.

(2) Only the District Court at a place appointed under section 10(5) of the District Court Act 2016 has jurisdiction to conduct a jury trial.

(3) Only the District Court presided over by a District Court Judge who holds a warrant under section 14 of the District Court Act 2016 to conduct jury trials has jurisdiction to conduct the jury trial or exercise any of the powers of the court under subpart 8 of Part 3 in relation to the proceeding.

Section 354: replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Jurisdiction of District Court presided over by 1 or more Justices

355 Jurisdiction of Justices

(1) The 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.

(2) The 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) The District Court presided over by a Justice or Justices does not have any jurisdiction in respect of an offence that is a continuing offence.

Compare: 1957 No 87 s 9A

Section 355(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 355(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 355(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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

356 Jurisdiction of Community Magistrates

(1) The District Court presided over by 1 or more Community Magistrates has jurisdiction in respect of—

(a) a category 1 offence in respect of which the District Court presided over by 1 or more Justices has jurisdiction under section 355(1) or (2)(a); and

(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

(c) a category 1 offence punishable by a fine not exceeding $40,000 unless the offence is prescribed by regulations made under section 387; and

(d) an infringement offence.

(2) The 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.

(3) Nothing in section 357 or 358 limits this section.

Compare: 1957 No 87 s 9B

Section 356(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 356(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 356(1)(c): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 356(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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

(1) This section applies to—

(a) any category 1 offence in respect of which the maximum penalty that can be imposed is a community-based sentence and not a term of imprisonment; and

(b) any category 2 offence in respect of which the maximum term of imprisonment that can be imposed does not exceed 3 months.

(2) If a person who is charged with an offence to which this section applies pleads guilty to that offence, the 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:

(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:

(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:

(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:

(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:

(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:

(m) make, under section 128 or 129 of that Act, a confiscation order in respect of a motor vehicle:

(ma) make, under section 129A of that Act, a confiscation and destruction order in respect of a motor vehicle:

(mb) make, under section 129B of that Act, an order that a written caution be issued and served:

(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.

(3) The District Court presided over by 1 or more Community Magistrates may not impose on any person for any offence a sentence of imprisonment (within the meaning of section 4(1) of the Sentencing Act 2002).

(4) The 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.

(5) Nothing in this section applies when the District Court presided over by 1 or more Community Magistrates is exercising jurisdiction in accordance with section 356.

Compare: 1957 No 87 s 9C

Section 357 heading: amended, on 14 November 2018, by section 45(1) of the Courts Matters Act 2018 (2018 No 50).

Section 357 heading: amended, on 1 July 2013, by section 14(1) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 357(1): replaced, on 14 November 2018, by section 45(2) of the Courts Matters Act 2018 (2018 No 50).

Section 357(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 357(2)(ma): inserted, on 1 July 2013, by section 14(3) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 357(2)(mb): inserted, on 1 July 2013, by section 14(3) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 357(3): replaced, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 357(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 357(5): inserted, on 14 November 2018, by section 45(3) of the Courts Matters Act 2018 (2018 No 50).

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

(1) If a person who is charged with an offence to which section 357 applies pleads guilty to that offence, the District Court presided over by 1 or more Community Magistrates—

(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:

(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:

(ba) must, if that offence is an offence to which section 33 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 33 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:

(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:

(d) must, if that offence is a first or second offence to which section 56, 57A, 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, 57A, 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:

(e) must, if that offence is an offence to which section 57 or 57AA(3) 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 or 57AA(3) 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:

(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:

(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 of Land Transport makes an order under section 100 of that Act removing that disqualification:

(ga) must, if the offence is a qualifying offence as described in section 65AB(1) of the Land Transport Act 1998, impose an alcohol interlock sentence:

(gb) *[Repealed]*

(gc) must, if section 65AI of the Land Transport Act 1998 applies, make an order authorising the person to apply for a zero alcohol licence that has effect for a period of 3 years from the date on which the licence is issued:

(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:

(i) must, if that offence is an offence to which section 79D 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 79D of that Act disqualifying the person from holding or obtaining a transport service licence for 6 months or more, unless the court, for special reasons relating to the offence, thinks fit to order otherwise.

(2) Nothing in this section restricts section 357 or any other duty or power of the District Court presided over by 1 or more Community Magistrates—

(a) to disqualify any person from holding or obtaining a driver licence; or

(b) to impose any other penalty.

Compare: 1957 No 87 s 9D

Section 358(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 358(1)(ba): inserted, on 1 July 2013, by section 15(1) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 358(1)(d): amended, on 1 July 2013, by section 15(2) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 358(1)(e): amended, on 1 July 2013, by section 15(3) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 358(1)(g): amended, on 1 April 2021, by section 175(1) of the Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48).

Section 358(1)(ga): replaced, on 1 July 2018, by section 110(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 358(1)(gb): repealed, on 1 July 2018, by section 110(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 358(1)(gc): inserted, on 1 July 2013, by section 15(5) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 358(1)(gc): amended, on 1 July 2018, by section 110(1) of the Land Transport Amendment Act 2017 (2017 No 34).

Section 358(1)(i): inserted, on 1 July 2013, by section 15(6) of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 358(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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

The District Court presided over by 1 or more Community Magistrates has, in exercising any power conferred on it by section 357 or 358,—

(a) power to make any suppression order under subpart 3 of Part 5:

(b) power to make an order under section 4(3) of the Costs in Criminal Cases Act 1967:

(c) 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 357 or 358.

Compare: 1957 No 87 s 9E

Section 359: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

360 Power of Community Magistrates to decline jurisdiction

(1) The District Court presided over by 1 or more Community Magistrates may decline jurisdiction in respect of an offence and may refer the case to the District Court presided over by a District Court Judge.

(2) If, under subsection (1), the District Court declines jurisdiction in respect of an offence, that court must immediately adjourn the proceeding to a time and place then appointed.

(3) The 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

Section 360(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 360(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 360(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

361 Jurisdiction of Justices and Community Magistrates to take pleas

(1) The District Court presided over by 1 or more Justices or 1 or more Community Magistrates may—

(a) receive a plea under section 37 from a defendant charged with an offence that is not a category 4 offence:

(b) require a plea under section 39 from a defendant charged with an offence that is not a category 4 offence.

(2) If the defendant indicates to the court exercising the power under subsection (1) that he or she wishes to plead guilty to an offence, the defendant must be brought before a Judge to enter a plea.

(3) Subsection (2) does not apply if—

(a) the defendant is entering a plea in respect of any offence to which section 357(1) applies; and

(b) the court exercising jurisdiction under subsection (1) is presided over by 1 or more Community Magistrates.

(4) Nothing in this section applies when the District Court presided over by 1 or more Justices or 1 or more Community Magistrates is exercising jurisdiction in accordance with section 355 or 356.

Section 361: replaced, on 1 July 2013, by section 16 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 361(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 361(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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

(1) Nothing in this section applies when the District Court presided over by 1 or more Justices, or 1 or more Community Magistrates, is exercising—

(a) jurisdiction in accordance with section 355 or 356; or

(b) the power in section 359(a).

(2) On a first appearance in court by a defendant, the 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.

(3) On a subsequent appearance in court by a defendant, the 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 if both parties agree to the making of the order.

(4) Despite section 208, a suppression order made by the 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) In this section, **suppression order** has the meaning given to it in section 194.

Section 362(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 362(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 362(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 362(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

362A Jurisdiction of Justices and Community Magistrates relating to amendment or withdrawal of charges

(1) A presiding Justice or Community Magistrate (as the case may be) may exercise the power specified in—

(a) section 133 (amendment of charge) if the prosecutor and the defendant consent to the amendment:

(b) section 146 (withdrawal of charge) if the defendant consents to the prosecutor withdrawing the charge.

(2) This section applies to category 1, 2, and 3 offences, but not to category 4 offences.

(3) Nothing in this section applies when the District Court presided over by 1 or more Justices or 1 or more Community Magistrates is exercising jurisdiction in accordance with section 355 or 356.

Section 362A: inserted, on 1 March 2017, by section 7 of the Criminal Procedure Amendment Act 2016 (2016 No 61).

Transfer to District Court presided over by District Court Judge

363 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 the District Court presided over by 1 or more Justices or 1 or more Community Magistrates be transferred to the District Court presided over by a District Court Judge.

(2) The 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.

Compare: 1957 No 87 s 9G

Section 363(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 363(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Part 8
Miscellaneous and transitional provisions

Subpart 1—Costs orders and contempt

364 Costs orders

(1) In this section,—

costs order means an order under subsection (2)

procedural failure means a failure, or refusal, 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 that Act

prosecution—

(a) means any proceedings commenced by the filing of a 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 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.

(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 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 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.

Section 364(1): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

365 Contempt of court

[Repealed]

Section 365: repealed, on 1 March 2017, by section 8 of the Criminal Procedure Amendment Act 2016 (2016 No 61).

Subpart 2—Conservation of the peace

366 Application for order for bond to keep the peace

Any person may apply to the 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:

(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

(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,—

(i) used provoking or insulting language; or

(ii) exhibited any offensive writing or object; or

(iii) done any offensive act; or

(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):

(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):

(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).

Compare: 1957 No 87 s 186

Section 366: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

367 Making of order for bond

(1) On the hearing of an application under section 366, the court may order the defendant to enter into a bond if it considers that there are good grounds to do so.

(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.

(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.

(4) No order may be made under this section, unless—

(a) in the case of an application under section 366(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 366(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

(c) in the case of an application under section 366(c), the court is satisfied that there is just cause for fear that the defendant will, if not prevented, carry the threats into execution.

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

368 Form of, and entering into, bond

(1) A bond under section 367 must be entered into by any of the parties to it before a District Court Judge, Justice, Community Magistrate, or Registrar of the District Court.

(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.

(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.

(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.

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

Section 368(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 368(3): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

369 Making of order for bond where person charged with offence

(1) This section applies if—

(a) a person is charged before the District Court presided over by a District Court Judge with an offence; and

(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 367 as if an application had been made under section 366.

Compare: 1957 No 87 s 188

Section 369(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

370 Refusal to enter into bond

(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.

(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 the District

Court presided over by a District Court Judge that he or she has taken reasonable steps to obtain the surety or sureties.

Compare: 1957 No 87 s 189

Section 370(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

371 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 the District Court has required the defendant to find a surety or sureties of the peace dies; and

(b) the defendant is then in a prison in default of finding the surety or sureties.

(2) The 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.

Compare: 1957 No 87 s 190

Section 371(1)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 371(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

372 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 the 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.

(2) On the filing of the application the Registrar must—

(a) fix a time and place for the hearing of the application; and

(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.

(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.

(5) Any penalty payable in accordance with this section is recoverable as if it were a fine.

Compare: 1957 No 87 s 191

Section 372(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Subpart 3—Miscellaneous provisions

373 Registrar who is also constable

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.

374 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.

Compare: 1957 No 87 s 73

375 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—

(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 as if the court were able to convict a defendant of the offence.

(2) Every reference in this or any other Act, or in any secondary legislation, 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

(b) a deemed order that the defendant pay a fine and costs under section 21(5) or (5A) of the Summary Proceedings Act 1957.

(3) However, sections 229, 244, and 246 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.

(3A) This section applies to every infringement offence whether or not there is an express reference to a conviction in the infringement offence provision or in any provision specifying the penalty for the infringement offence.

(4) Subsection (1) overrides any other provision of this Act or any other Act.

Compare: 1957 No 87 s 78A

Section 375(1)(b): amended, on 24 October 2019, by section 32(1) of the Statutes Amendment Act 2019 (2019 No 56).

Section 375(2): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 375(3A): inserted, on 24 October 2019, by section 32(2) of the Statutes Amendment Act 2019 (2019 No 56).

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

377 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.

(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.

(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).

(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.

(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.

(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.

(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.

(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.

Compare: 1961 No 43 s 404

378 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.

Compare: 1957 No 87 s 202

379 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 miscarriage of justice.

Compare: 1957 No 87 s 204

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

(1) This section applies if—

(a) section 177(1) applies; or

(b) the defendant—

(i) is convicted of a category 3 offence punishable by a term of imprisonment exceeding 3 years; and

(ii) did not elect a jury trial.

(2) 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 the Youth Court.

(3) On the application of either party, a retrial of the charge may be granted under section 177.

(4) If, at the time appointed for the retrial, the defendant is still a child or young person within the meaning of the Oranga Tamariki Act 1989, the court must remit the proceedings to the Youth Court to be dealt with in that court.

Section 380: replaced, on 1 July 2013, by section 17 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 380(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 380(4): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 380(4): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

380A Transfer of proceedings commenced in Youth Court back to Youth Court in certain circumstances

Proceedings commenced in the Youth Court and transferred to the District Court or High Court under section 275 or 276AB(1) of the Oranga Tamariki Act 1989 must, if the circumstances described in section 276A of that Act arise and the requirements of that section are met, be transferred back to the Youth Court.

Section 380A: inserted, on 1 July 2019, by section 144 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Section 380A: amended, on 1 July 2019, by section 47 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

381 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.

(2) Section 364 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).

382 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.

(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.

(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:

(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.

(6) *[Repealed]*

(7) *[Repealed]*

Compare: 1957 No 87 s 207

Section 382(6): repealed (without coming into force), on 1 July 2013, by section 18 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 382(7): repealed (without coming into force), on 1 July 2013, by section 18 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

383 Enforcement of fines

(1) If the District Court imposes 1 or more fines, Part 3 of the Summary Proceedings Act 1957 applies.

(2) If the High Court imposes 1 or more fines, section 19 of the Crimes Act 1961 applies.

(3) In this section and section 384, **fine** has the meaning given to it in section 79 of the Summary Proceedings Act 1957.

Compare: 1947 No 16 s 28I

Section 383(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

384 Enforcement of fines imposed or varied by appeal court

(1) If an appeal court (within the meaning of section 212) imposes or varies a fine, the fine is enforceable in accordance with subsection (2) or (3).

(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, section 19 of the Crimes Act 1961 applies.

385 Application of section 168 during epidemic

(1) While an epidemic management notice is in force, section 168 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.

(2) If the notice applies to only stated parts of New Zealand, subsection (1) applies within those parts only.

(3) In this section,—

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

Compare: 1957 No 87 s 46AC

385A Judge or Registrar may waive certain fees

A Judge or Registrar may, subject to any terms or conditions that the Judge or Registrar thinks fit, waive the payment of a fee prescribed under section 387 for accessing documents (in whole or in part) if the Judge or Registrar is satisfied that the person is unable, or should not be required, to pay the fee.

Section 385A: inserted, on 1 July 2013, by section 19 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Rules and regulations

386 Rules

(1) The power to make rules of court under section 148 of the Senior Courts Act 2016 and section 228(1) of the District Court Act 2016 includes the power to make rules regulating the practice and procedure of courts in the exercise of jurisdiction conferred by this Act.

(2) Without limiting the generality of subsection (1), rules made in accordance with that subsection may—

(a) 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:

(b) prescribe the manner in which charging documents, applications, notices, and other documents are to be filed:

(c) 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):

(d) prescribe the manner in which summons, warrants, notices, and other documents are to be issued by a court, a Registrar, or any other person:

(e) prescribe information that must be contained in charging documents, summons, warrants, applications, notices, and other documents to be filed, made, or given:

(f) prescribe forms for charging documents, applications, summons, warrants, notices, and other documents, or other requirements relating to the form or presentation of documents:

(g) 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:

(h) require the service of any summons, application, or other document:

(i) prescribe who has responsibility for serving any summons, application, or other document:

(j) prescribe who may, on behalf of a person responsible under the Act or by rules as described in paragraph (i), serve any summons, application, notice, or other document:

(k) prescribe the procedure for the service of summonses, notices, and other documents:

(l) prescribe the manner of proving service:

(m) prescribe requirements relating to the custody of documents, exhibits, and other things connected with proceedings to which this Act applies:

(n) 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:

(o) 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:

(p) impose duties on Registrars, and prescribe the manner in which Registrars must carry out any action for the purposes of this Act:

(q) prescribe procedures relating to the delivery of judgments and other decisions in proceedings to which this Act applies:

(r) prescribe the manner in which proceedings are to be transferred between courts:

(s) provide for the translation of documents into the Māori language and into sign language:

(t) prescribe matters relating to the permanent court record, including—

(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:

(va) if a protection order is made under section 123B of the Sentencing Act 2002 on sentencing or otherwise dealing with an offender for a family violence offence, authorise disclosure to, or sharing with, an assessor or a service provider (as those terms are defined in section 184 of the Family Violence Act 2018)—

(i) of specified court documents relating to the offender, every protected person for the order, or both; and

(ii) for the purposes of all or stated provisions of that Act; and

(iii) by the court concerned or under its authority or direction:

(u) prescribe the manner in which a record of oral evidence is to be authenticated:

(v) 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:

(w) 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).

(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:

(b) apply differently to different classes of prosecutor or defendant, categories of offence, or classes of document, or on any other differential basis.

(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 the District Court (including the practice and procedure for appeals).

Compare: 1957 No 87 s 212

Section 386(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 386(1): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

Section 386(2)(va): inserted, on 1 July 2019, by section 46 of the Family Violence (Amendments) Act 2018 (2018 No 47).

Section 386(5): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

387 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:

(b) prescribing, for the purpose of section 187(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:

(c) prescribing periods for the purposes of sections 190, 191, and 192:

(d) prescribing, for the purposes of sections 73 and 74, different or alternative places of trial from those specified in sections 73(4) and 74(4):

(e) prescribing the court fees to be paid in respect of any proceedings or any processes to which this Act applies:

(f) prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies:

(g) prescribing the solicitors' fees payable by parties in proceedings to which this Act applies:

(h) providing for information about proceedings under this Act to be transferred between courts, where that information is relevant to proceedings under the Care of Children Act 2004, the Family Violence Act 2018, the Harassment Act 1997, or the Victims' Orders Against Violent Offenders Act 2014, including (without limitation) provision for such information to be transferred between—

(i) different courts; or

(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:

(i) amending Schedule 1 by adding offences to, or removing offences from, that schedule:

(j) prescribing transitional arrangements for the trial and sentencing of persons charged with offences that are added to or removed from Schedule 1:

(k) prescribing offences for the purposes of section 356(1):

(l) 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)(e) or (f) may—

(a) prescribe different fees in respect of different classes of prosecutor or defendant or categories of offence, or on any other differential basis:

(b) prescribe different fees in respect of a matter depending on whether electronic or other means are used in a particular circumstance.

(3) *[Repealed]*

(4) *[Repealed]*

(5) Regulations made under subsection (1)(k) must not be made without the concurrence of the Chief Justice and the Chief District Court Judge.

(6) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(7) Regulations under subsection (1)(i) or (j) must be confirmed by an Act (see subpart 3 of Part 5 of the Legislation Act 2019).

Compare: 1957 No 87 s 212

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 387(1)(d): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Section 387(1)(h): amended, on 1 July 2019, by section 47 of the Family Violence (Amendments) Act 2018 (2018 No 47).

Section 387(1)(h): amended, on 30 December 2014, by section 29(2) of the Victims' Orders Against Violent Offenders Act 2014 (2014 No 45).

Section 387(3): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 387(4): repealed, on 1 January 2016, by section 14 of the Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120).

Section 387(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 387(7): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

387A Regulations under section 387(1)(i) or (j) are confirmable instruments

[Repealed]

Section 387A: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Subpart 4—Transitional and savings provisions

Transitional provisions regarding sentence indications

388 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.

389 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).

(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.

Transitional provisions regarding public access and restrictions on reporting

390 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).

(2) Until the date appointed under section 2(2) or provided by section 2(3), section 196(3) 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.

(3) Until the date appointed under section 2(2) or provided by section 2(3), section 206(1) applies as if, instead of paragraph (a) of that subsection, there were the following paragraph:

(a) the Registrar—

(i) adjourns the hearing of an information under section 45A of the Summary Proceedings Act 1957; 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; and

(4) Until the date appointed under section 2(2) or provided by section 2(3), section 211 must be read as if the offences prescribed in that section were punishable on summary conviction.

391 Application of amendments made by section 393

(1) The amendments made by section 393 apply in relation to a proceeding for an offence that was commenced before section 393 came into force in accordance with the provisions of sections 397 and 399 to 401.

(2) Sections 397 and 399 to 401 apply for the purpose of this section—

(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.

392 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.

(2) Until the commencement of subpart 7 of Part 6, a person described in section 210(1) may appeal against a decision or order made under subpart 3 of Part 5 to which any of the following enactments apply:

(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 for the purpose of this section with the necessary modifications.

(4) Section 397(3) (which sets out when a proceeding has commenced) applies for the purpose of this section whether or not section 397(3) has itself been brought into force.

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

The enactments set out in Schedule 2 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)

394 Meaning of commencement date

In sections 395 to 405, 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).

395 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.

(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.

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

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.

397 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.

(2) Subject to sections 399 and 400, 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—

(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:

(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:

(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:

(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:

(h) an indictment has been filed under section 345(3) of the Crimes Act 1961 in respect of the offence.

398 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.

(2) Subject to sections 400 and 405 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.

399 Absconding defendants

(1) This section applies if—

(a) proceedings were commenced (in any of the ways described in section 397(3)) against a defendant for an offence before the commencement date; and

(b) before, on, or after the commencement date the defendant absconded; and

(c) the defendant is not located until more than 6 months after the commencement date.

(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 50 provided the defendant the right to elect trial by jury.

(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—

(a) the manner of doing anything required to be done under this Act, the rules, or the regulations; or

(b) the time within which any thing required to be done under this Act, the rules, or the regulations is to be done.

Section 399(1)(b): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

400 When defendants or proceedings to be heard together under same procedural law

(1) This section applies if—

(a) proceedings were commenced (in any of the ways described in section 397(3)) before 1 July 2013 against a defendant for an offence; and

(b) the proceedings have not been finally determined; and

(c) the proceedings are not proceedings to which section 399 applies; and

(d) on or after 1 July 2013,—

(i) a charging document is filed against the defendant for an offence arising from the same transaction, set of circumstances, incident, or series of incidents as the offence for which proceedings were commenced before 1 July 2013; or

(ii) a charging document is filed against another person charging him or her with an offence arising from the same transaction, set of circumstances, 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.

(2) The proceedings against the defendant or defendants must be conducted in accordance with the law as it was before 1 July 2013 as if any charging document filed under the Act were an information laid and filed under the Summary Proceedings Act 1957.

(3) The prosecutor must give a notice to the court and the defendant or defendants that states whether the charging document referred to in subsection (2) is to be treated as an information in form 1 of Schedule 2 of the Summary Proceedings Act 1957 (as it read before its repeal) or an information in form 2 of Schedule 2 of that Act (as it read before its repeal).

Section 400: replaced, on 14 November 2018, by section 46 of the Courts Matters Act 2018 (2018 No 50).

401 No proceeding invalid if wrongly conducted in accordance with old law

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.

402 Transitional provision regarding withdrawal of warrants to arrest

Section 163 applies to any warrant of a kind referred to in that section whether it was issued before, on, or after the commencement date.

Section 402: amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

403 Transitional provision regarding dealing with witness arrested under warrant

Section 164 applies to a warrant of a kind referred to in that section whether the warrant was issued before, on, or after the commencement date.

Section 403: amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

403A Transitional provision regarding effect of appeal on sentence of home detention

If, in any proceeding to which section 397 applies, a person is convicted and sentenced to home detention and on or after the date that this section comes into force either party appeals a determination to which the sentence relates, section 397(2) has effect subject to the following:

(a) the sentence of home detention is not suspended just because a notice of appeal or application for leave to appeal has been given unless the appeal court expressly directs that the sentence be suspended; and

(b) section 399 of the Crimes Act 1961 and section 124 of the Summary Proceedings Act 1957 (as each of those provisions read before the commencement date) do not apply; and

(c) the person sentenced to home detention may apply for bail and the provisions of the Bail Act 2000 (as those provisions read before the commencement date) apply except that sections 14, 53, 54, 55, 58, and 60 of that Act (as those provisions read at the time of the appeal) apply with any necessary modifications.

Section 403A: inserted, on 23 October 2013, by section 58 of the Administration of Community Sentences and Orders Act 2013 (2013 No 88).

Section 403A(c): amended, on 14 November 2018, by section 47 of the Courts Matters Act 2018 (2018 No 50).

404 Transitional provision regarding correction of erroneous sentence

(1) Sections 180 to 182 apply to a sentence imposed or an order made before, on, or after the commencement date.

(2) Nothing in subsection (1) affects—

(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.

Section 404(1): amended, on 1 July 2013, by section 24 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

404A Access to court documents

Part 6 of the Criminal Procedure Rules 2012 applies, with any necessary modifications, to a request for access to court documents relating to a proceeding that was commenced prior to the commencement date as if that proceeding were a proceeding under the Criminal Procedure Act 2011.

Section 404A: inserted, on 1 July 2013, by section 20 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

405 Limitation periods

Despite section 25, 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.

406 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.

406A Savings

The Witnesses and Interpreters Fees Regulations 1974, insofar as they apply to criminal proceedings, continue in force, and may be amended, as if they had been made under section 387.

Section 406A: inserted, on 1 July 2013, by section 21 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Other transitional matters

407 Transitional provision relating to abandonment of appeals to Court of Appeal

(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

(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.

408 Regulations providing for transitional matters

[Expired]

Section 408: expired, on 1 July 2015, by section 410.

409 Regulations making consequential amendments

[Expired]

Section 409: expired, on 1 July 2015, by section 410.

410 Expiry of sections 408 and 409

Sections 408 and 409 expire 2 years after the commencement date as defined in section 394.

Subpart 5—Temporary provisions in respect of COVID-19

[Repealed]

Subpart 5: repealed, on 26 November 2024, pursuant to section 410A(4).

410A Application of temporary provisions in Schedule 1AB

[Repealed]

Section 410A: repealed, on 26 November 2024, by section 410A(4).

Part 9
Amendments to other enactments

Criminal Justice Act 1985

411 Criminal Justice Act 1985 repealed

The Criminal Justice Act 1985 (1985 No 120) is repealed.

Criminal Justice Regulations 1985

412 Criminal Justice Regulations 1985 revoked

The Criminal Justice Regulations 1985 (SR 1985/232) are revoked.

Amendments to other enactments

413 Amendments to other enactments

The enactments set out in Schedule 3 are amended in the manner set out in that schedule.

Schedule 1AA
Transitional, savings, and related provisions

s 7A

Schedule 1AA: inserted, on 1 July 2019, by section 48 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

Schedule 1AA heading: amended, on 28 November 2023, by section 31(1) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Part 1
Provisions relating to Oranga Tamariki Legislation Act 2019

Schedule 1AA Part 1: inserted, on 1 July 2019, by section 48 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

1 Interpretation

In this Part,—

2017 Act means the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017

2019 Act means the Oranga Tamariki Legislation Act 2019

commencement date means the date on which section 7(4) of the 2017 Act comes into force

proceeding—

(a) means a proceeding that has been commenced by—

(i) the filing of a charging document; or

(ii) the filing of a notice of hearing under, or in accordance with, section 21(8) of the Summary Proceedings Act 1957; and

(b) includes an appeal against conviction or sentence.

Schedule 1AA clause 1: inserted, on 1 July 2019, by section 48 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

2 Proceeding under way on commencement date against defendant aged 17 years

(1) This clause applies to any defendant aged 17 years in a proceeding that is under way in the District Court or the High Court on the commencement date.

(2) The defendant must be dealt with by the court under this Act as if section 7(4) of the 2017 Act had not come into force.

Schedule 1AA clause 2: inserted, on 1 July 2019, by section 48 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

3 Proceeding commenced on or after commencement date for offence committed before commencement date

(1) This clause applies to any defendant aged 17 years in a proceeding that—

(a) is commenced on or after the commencement date; and

(b) is for an offence, or an alleged offence, that was committed before the commencement date when the defendant was 17 years of age.

(2) The defendant must be dealt with by the court under this Act—

(a) as amended by subpart 1 of Part 2 of the 2017 Act; and

(b) as further amended by sections 35 and 46 of the 2019 Act.

Schedule 1AA clause 3: inserted, on 1 July 2019, by section 48 of the Oranga Tamariki Legislation Act 2019 (2019 No 30).

Part 2
Provision relating to Courts Matters Act 2018

Schedule 1AA Part 2: inserted, on 29 October 2019, by section 48 of the Courts Matters Act 2018 (2018 No 50).

4 Declaration made under old law continues to be admissible

A declaration containing the statement required by section 82(1)(b) of the principal Act (as it read before the amendments made by section 32 of the Courts Matters Act 2018) continues to be admissible in proceedings on and after the commencement of section 32 of the Courts Matters Act 2018.

Schedule 1AA clause 4: inserted, on 29 October 2019, by section 48 of the Courts Matters Act 2018 (2018 No 50).

Part 3
Provision relating to Part 3 of Sexual Violence Legislation Act 2021

Schedule 1AA Part 3: inserted, on 21 December 2021, by section 52 of the Sexual Violence Legislation Act 2021 (2021 No 60).

5 Proceedings affected by Part

(1) Amendments made by a provision of Part 3 of the Sexual Violence Legislation Act 2021 (except for this clause) apply only to proceedings commenced on or after the commencement of that provision.

(2) Proceedings commenced before that commencement, and not finally determined (including any rehearing, retrial, or appeal) before that commencement, continue as if those amendments had not been enacted.

(3) However, the following provisions apply, after they (or, as the case requires, after the amendments made to them by that Part) come into force, to proceedings specified in subclause (2):

(a) section 196(3) (court proceedings generally open to public):

(b) section 199AA (court may be cleared when victim impact statement read or otherwise presented to court in cases of sexual nature).

Schedule 1AA clause 5: inserted, on 21 December 2021, by section 52 of the Sexual Violence Legislation Act 2021 (2021 No 60).

Part 4
Provisions relating to Security Information in Proceedings (Repeals and Amendments) Act 2022

Schedule 1AA Part 4: inserted, on 28 November 2023, by section 31(2)(b) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

6 Interpretation

In this Part, unless the context otherwise requires,—

2022 Act means sections 12 to 31 of the Security Information in Proceedings (Repeals and Amendments) Act 2022

commencement date means the date on which the 2022 Act comes into force.

Schedule 1AA clause 6: inserted, on 28 November 2023, by section 31(2)(b) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

7 Proceedings affected by amendments

(1) The amendments made to this Act by the 2022 Act (except for this clause) apply only to proceedings commenced on or after the commencement date.

(2) Proceedings commenced before the commencement date, and not finally determined before the commencement date (including any rehearing, retrial, or appeal), continue as if those amendments had not been enacted.

Schedule 1AA clause 7: inserted, on 28 November 2023, by section 31(2)(b) of the Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72).

Schedule 1AB
Temporary provisions in respect of COVID-19

[Repealed]

s 410A

Schedule 1AB: repealed, on 26 November 2024, by section 410A(4).

1 Hearing may be conducted by audiovisual link or audio link

[Repealed]

Schedule 1AB clause 1: repealed, on 3 September 2024, by section 11 of the Courts (Remote Participation) Amendment Act 2024 (2024 No 33).

2 Powers relating to right of public to enter and remain in areas of court

[Repealed]

Schedule 1AB clause 2: repealed, on 26 November 2024, by section 410A(4).

Schedule 1
Category 4 offences

s 6

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(1A)	Person owing allegiance being 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 69(2A)	Person owing allegiance inciting treason, mutiny, or espionage outside New Zealand (not committed)
Section 69A(1)	Person owing allegiance being party to crime of treason, inciting to mutiny, or espionage in New Zealand
Section 69A(3)	Person owing allegiance inciting treason, mutiny, or espionage in 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 78AAA(1)	Improper conduct for or on behalf of foreign power to compromise protected New Zealand interest (with intent)
Section 78AAA(3)	Improper conduct for or on behalf of foreign power to compromise protected New Zealand interest (with recklessness)
Section 78AAB(1)	Commission of imprisonable offence for or on behalf of foreign power to provide relevant benefit (with intent)
Section 78AAB(3)	Commission of imprisonable offence for or on behalf of foreign power to provide relevant benefit (with recklessness)
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	Offence
Section 178	Infanticide

Schedule 1 Part 1: amended, on 27 November 2025, by section 17 of the Crimes (Countering Foreign Interference) Amendment Act 2025 (2025 No 71).

Part 2—Offences against other enactments

Anti-Personnel Mines Prohibition Act 1998

Section	Offence
Section 7	Using, etc, an anti-personnel mine

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

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
Section 11	War crimes
Section 15	Corruption of a Judge
Section 16	Bribery of a Judge

Section	Offence
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	Offences relating to ships
Section 4A	Further offences relating to ships
Section 4B	Offences relating to transportation of weapons and nuclear material and equipment
Section 4C	Offences relating to transportation of fugitives by ship
Section 5	Offences relating to fixed platforms
Section 5A	Further offences relating to fixed platforms
Section 6	Offences relating to death and injury

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

Terrorism Suppression Act 2002

Section	Offence
Section 6A	Terrorist act: credible threat, attempt, and carrying out
Section 6B	Terrorist act: planning or other preparations to carry out (but, despite section 6(2)(a) and (b) of this Act, and in line with section 6B(5), this item does not make any of the following also a category 4 offence: (a) conspiring to commit an offence against section 6B: (b) attempting to commit an offence against section 6B: (c) inciting or counselling or procuring or attempting to procure any person to commit an offence against section 6B that is not committed)

Section	**Offence**
Section 7	Terrorist bombing
Section 8	Financing of, or provision of material support for, 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 material support, available to designated terrorist entity
Section 12	Recruiting members of terrorist groups
Section 13	Participating in terrorist groups
Section 13AA	Providing or receiving weapons or combat training for terrorist purposes
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
Section 13F	Travelling intending to commit specified offence

Schedule 1 Part 2 Maritime Crimes Act 1999: replaced, on 27 May 2018, by section 24 of the Maritime Crimes Amendment Act 2017 (2017 No 49).

Schedule 1 Part 2 Terrorism Suppression Act 2002: replaced, on 5 October 2021, by section 57 of the Counter-Terrorism Legislation Act 2021 (2021 No 37).

Schedule 2
Consequential amendments relating to public access and restrictions on reporting provisions

s 393

Armed Forces Discipline Act 1971 (1971 No 53)

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 Act 2011**".

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 Act 2011 applies to the extent that it is".

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 Act 2011".

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 Act 2011".

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 Act 2011, so far as it is applicable, applies with the necessary modifications.

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 200, 202, or 205 of the Criminal Procedure Act 2011".

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 200, 202, or 205 of the Criminal Procedure Act 2011".

Evidence Act 2006 (2006 No 69)

Section 116(3)(b): omit "section 138 of the Criminal Justice Act 1985" and substitute "section 197 of the Criminal Procedure Act 2011".

Land Transport Act 1998 (1998 No 110)

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 Act 2011 (which relates generally to name suppression) applies".

Sentencing Act 2002 (2002 No 9)

Section 112(6): omit "Section 140 of the Criminal Justice Act 1985" and substitute "Section 202 of the Criminal Procedure Act 2011".

Summary Proceedings Act 1957 (1957 No 87)

Heading to section 9E: add "**, and Criminal Procedure Act 2011**".

Section 9E(a): repeal and substitute:

(a) power to make orders of any kind provided under section 197 or 205 of the Criminal Procedure Act 2011, subject to section 198 of that Act:

Section 9E(b): repeal and substitute:

(b) power to make orders of any kind provided under section 200 or 202 of the Criminal Procedure Act 2011:

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.

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 200, 202, or 205 of the Criminal Procedure Act 2011".

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.

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" and substitute "section 200 of the Criminal Procedure Act 2011".

Schedule 3
Amendments to other enactments

s 413

Part 1
Amendments to public Acts

Accident Compensation Act 2001 (2001 No 49)

Section 242(1): insert "on conviction" after "liable".

Section 313: repeal and substitute:

313 Charges

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

(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, 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.

Adoption Act 1955 (1955 No 93)

Heading to section 27: omit "**Summary offences**" and substitute "**Offences**".

Section 27(2): omit "summary".

Section 27A(2): omit "on indictment".

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 Act 2011 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 300 of that Act.

Section 55(5): repeal and substitute:

Agricultural Compounds and Veterinary Medicines Act 1997 (1997 No 87)—*continued*

(5) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 Act 2011 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.

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".

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".

Section 131(3): repeal.

Section 131(4) and (5): insert "on conviction" after "liable".

Section 132(2): omit "summary".

Animal Products Act 1999 (1999 No 93)—*continued*

Section 133(3): omit “summary”.

Section 134(2): omit “summary”.

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 25 of the Criminal Procedure Act 2011, 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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Animal Welfare Act 1999 (1999 No 142)

Section 7(2): omit “accused” and substitute “defendant”.

Section 25: omit “summary”.

Section 28(3): omit “on indictment”.

Section 28A(3): omit “on indictment”.

Section 36(2): omit “summary”.

Section 37: omit “summary”.

Section 40(3): omit “summary”.

Section 54(2): omit “summary”.

Section 119: omit “summary”.

Section 130(3): omit “summary”.

Section 152(2): omit “summary”.

Section 157(4): omit “summary”.

Section 159(2): omit “summary”.

Section 160(2): omit “summary”.

Section 161(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 162(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Section 167: repeal and substitute:

Animal Welfare Act 1999 (1999 No 142)—*continued*

167 Time for filing charging document for offence against section 54 or 130

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Section 168: repeal and substitute:

168 Inspector may conduct proceedings

(1) Subsection (2) applies if proceedings have been commenced by—

(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 Act 2011, an inspector (not necessarily the inspector who commenced the proceedings) may appear and conduct the proceedings against the defendant.

New section 168A: insert after section 168:

168A Burden of proof of reasonable excuse

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.

Section 169B(2): omit “summary”.

Antarctic Marine Living Resources Act 1981 (1981 No 53)

Section 7(1): omit “summary”.

Section 13(3): omit “summary”.

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”.

Heading to section 4: omit “**Crimes**” and substitute “**Offences**”.

Antarctica Act 1960 (1960 No 47)—*continued*

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)

Section 10(3): omit "summary".

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".

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".

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".

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".

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

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 104: repeal and substitute:

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)—*continued*

104 Time limit for prosecution of offences relating to non-compliance with AML/CFT requirements

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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".

Section 15(1): omit "summary".

Section 16(3): omit "summary".

Arms Act 1983 (1983 No 44)—*continued*

Section 17: omit "Without prejudice to section 67(8) of the Summary Proceedings Act 1957, in" and substitute "In".

Section 20(3): omit "summary".

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".

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".

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".

Section 46(1): omit "on indictment".

Section 47: omit "summary".

Section 48: omit "summary".

Section 49(1): omit "summary".

Section 49A: omit "summary".

Section 50(1): omit "on indictment".

Section 51(1): omit "on indictment".

Section 52: omit "summary" in each place where it appears.

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".

Section 57: omit "summary".

Section 58(2): omit "summary".

Section 59(4): omit "summary".

Arms Act 1983 (1983 No 44)—*continued*

Section 64(1): omit "by way of case stated for the opinion of that Court".

Section 64(2): repeal and substitute:

(2) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 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 25 of the Criminal Procedure Act 2011".

Atomic Energy Act 1945 (1945 No 41)

Section 15(2): omit "summary".

Section 18: omit "summary".

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,".

Section 41: repeal.

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".

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".

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.

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".

Aviation Crimes Act 1972 (1972 No 137)—*continued*

Section 5: omit "on indictment".

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".

Section 157(3), (4), (5), (6), and (7): omit "summary".

Section 159(1B): replace "under the Summary Proceedings Act 1957" with "by filing a charging document under section 14 of the Criminal Procedure Act 2011".

Section 159(2)(b): omit ", for the purposes of the Summary Proceedings Act 1957,".

Section 159A(1A): replace "under the Summary Proceedings Act 1957" with "by filing a charging document under section 14 of the Criminal Procedure Act 2011".

Section 160(1)(c): omit "information for the offence was laid" and substitute "charging document for the offence was filed".

Section 160(3)(c): omit "information for the offence was laid" and substitute "charging document for the offence was filed".

Section 162: repeal and substitute:

162 Time for filing charging document for certain offences

(1) This section applies to—

(a) an offence against any of sections 154M, 154N(8) to (21), and 154O(19) to (21):

(b) an offence against any regulations made under this Act.

(2) The limitation period for the offence ends on the date that is 2 years after the date on which the offence was committed.

(3) Section 25 of the Criminal Procedure Act 2011 does not apply to the offence.

Births, Deaths, Marriages, and Relationships Registration Act 1995 (1995 No 16)

Section 89(2): omit "on indictment".

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".

Section 30(4): omit "summary".

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”.

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”.

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”.

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”.

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”.

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”.

Section 314(2) and (4): insert “on conviction” after “liable”.

Section 325(1): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Building Act 2004 (2004 No 72)—*continued*

Section 326(2): insert "on conviction" after "liable".

Section 340(3): repeal and substitute:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Section 363(4): insert "on conviction" after "liable".

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".

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 14 of the Criminal Procedure Act 2011; or

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**".

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 25 of the Criminal Procedure Act 2011, 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 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).

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".

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”.

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”.

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.

(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”.

Section 89(3): insert “on conviction” after “liable”.

Section 113P(3): insert “on conviction” after “liable”.

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”.

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.

Section 135: repeal and substitute:

135 Time for filing charging document

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(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

Building Societies Act 1965 (1965 No 22)—*continued*

(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.

(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.

(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".

Proviso to section 55: omit.

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.

Section 56(1) and (2): insert "on conviction" after "liable".

Section 56(3): omit "on indictment".

Section 57(1): insert "on conviction" after "liable".

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".

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".

Section 55(2): omit "summary".

Section 56: omit "summary".

Section 57(1): omit "summary".

Section 58: omit "summary".

Cadastral Survey Act 2002 (2002 No 12)—*continued*

Section 60(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 61(3): omit "For the purposes of the Summary Proceedings Act 1957, an" and substitute "An".

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".

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 159 of the Criminal Procedure Act 2011 applies".

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 159 and 161 to 165 of the Criminal Procedure Act 2011".

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 159 of the Criminal Procedure Act 2011".

Section 8: new section 46ZF(3): omit "summary".

Charitable Trusts Act 1957 (1957 No 18)

Section 23(3): omit "summary".

Section 58(3): omit "summary".

Charities Act 2005 (2005 No 39)

Section 38(1): omit "summary".

Section 38(2): repeal and substitute:

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against subsection (1) ends

Charities Act 2005 (2005 No 39)—*continued*

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.

Section 52(2): omit "summary".

Section 52(3): repeal and substitute:

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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".

Section 74(3): omit "lay an information" and substitute "file a charging document".

Chartered Professional Engineers of New Zealand Act 2002 (2002 No 17)

Section 7(3): omit "summary".

Section 31(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 32(2): omit "summary".

Section 38(1): omit "by way of case stated for the opinion of that court".

Section 38(3): repeal and substitute:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

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):

(2A) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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)

Section 16(7): omit "summary".

Section 20(3): omit "summary".

Section 22: omit "summary".

Chatham Islands Council Act 1995 (1995 No 41)—*continued*

Section 23(2): omit “summary”.

Chemical Weapons (Prohibition) Act 1996 (1996 No 37)

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”.

Section 14(4): omit “summary”.

Section 15: omit “summary”.

Section 20(2): omit “summary”.

Section 26(1): omit “summary”.

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”.

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”.

Section 192(3): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 194(6): omit “sections 46 to 49A of the Summary Proceedings Act 1957 shall apply” and substitute “sections 168 and 206 of the Criminal Procedure Act 2011 apply”.

Section 196(8): omit “on an information”.

Section 196(9): omit “on an information”.

Section 199(4): omit “summary”.

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.

Section 212: repeal and substitute:

Child Support Act 1991 (1991 No 142)—*continued*

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.

(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.

Section 213: repeal and substitute:

213 Charging document may be filed within 10 years

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011 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.

Section 229(5): omit "Sections 20, 38, and 39 of the Summary Proceedings Act 1957" and substitute "Sections 159 and 161 to 165 of the Criminal Procedure Act 2011".

Section 240(2)(a): omit "indictable or summary".

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".

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".

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)

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”.

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”.

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”.

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”.

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”.

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 under section 14 of the Criminal Procedure Act 2011; or

Section 58(3): omit “For the purposes of the Summary Proceedings Act 1957, an” and substitute “An”.

Civil Aviation Act 1990 (1990 No 98)—*continued*

Section 64(1): omit "Part 4 of the Summary Proceedings Act 1957" and substitute "Part 6 of the Criminal Procedure Act 2011".

Section 64(2) and (3): repeal and substitute:

(2) Any person who is disqualified by an order of a District Court from holding or obtaining an aviation document, and who applies for a removal of that disqualification and whose application is refused, may appeal against the refusal to the High Court in accordance with Part 6 of the Criminal Procedure Act 2011 and that Part applies with the necessary modifications as if the refusal were a sentence.

(3) Any person who is disqualified by an order of the High Court from holding or obtaining an aviation document, and who applies for a removal of that disqualification and whose application is refused, may appeal to the Court of Appeal against the refusal in accordance with Part 6 of the Criminal Procedure Act 2011 and that Part applies with the necessary modifications as if the refusal were a sentence.

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 25 of the Criminal Procedure Act 2011 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.

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),—

(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.

Section 65E(1) and (2): repeal.

Section 65E(3): repeal and substitute:

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011 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.

Section 65F(2): insert "on conviction" after "liable".

Civil Aviation Act 1990 (1990 No 98)—*continued*

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),—

(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.

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”.

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 14 of the Criminal Procedure Act 2011; or

Section 65P(6): omit “summary”.

Section 77H(2): omit “summary”.

Section 77I(2): omit “summary”.

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

(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”.

Section 99C(3) and (4): insert “on conviction” after “liable”.

New section 100A: insert after section 100:

Civil Aviation Act 1990 (1990 No 98)—*continued*

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.

(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.

(3) Subsection (2)(b) is subject to section 17(4) of the Criminal Procedure Act 2011.

Civil Defence Emergency Management Act 2002 (2002 No 33)

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".

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".

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 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against—

(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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

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)

Section 80E(3): repeal.

Section 86B(2): omit "summary".

Section 86B(3): repeal.

Section 87B(2): omit "summary".

Section 87B(3): repeal.

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 Act 2011".

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 165 of the Criminal Procedure Act 2011".

Section 13C: omit "section 384 of the Crimes Act 1961" and substitute "subpart 5 of Part 6 of the Criminal Procedure Act 2011".

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".

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 25 of the Criminal Procedure Act 2011,—

Companies Act 1993 (1993 No 105)—*continued*

(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 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)".

Section 386A(2): omit "on indictment".

Companies (Bondholders Incorporation) Act 1934–35 (1934–35 No 39)

Section 3(3): omit "summary".

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)

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 Act 2011".

Section 43(2): repeal and substitute:

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 46(7A): omit "on the information of" and substitute "by".

Conservation Law Reform Act 1990 (1990 No 31)

Section 62(4): omit "summary".

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)

Section 6(2): omit "summary".

Contraception, Sterilisation, and Abortion Act 1977 (1977 No 112)—*continued*

Section 8(3): omit "summary".

Section 37(1): omit "summary".

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".

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".

Section 18(6): omit "summary".

Section 21(7): omit "summary".

Copyright Act 1994 (1994 No 143)

Section 131A: repeal.

Section 198(4): omit "summary".

Section 200(2): omit "summary".

Section 213(6): omit "summary".

Section 218(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

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".

Section 234(q): omit "summary".

Coroners Act 2006 (2006 No 38)

Section 117(1) and (5): omit "Summary Proceedings Act 1957" and substitute in each case "Criminal Procedure Act 2011".

Section 134: omit "summary".

Section 135(1): omit "summary".

Section 136: omit "summary".

Coroners Act 2006 (2006 No 38)—*continued*

Section 137: omit "summary".

Section 138: omit "on indictment".

Section 139: omit "summary".

Corporations (Investigation and Management) Act 1989 (1989 No 11)

Section 43(2): omit "on indictment".

Section 67(2): omit "summary".

Section 68(1): omit "on indictment".

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".

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".

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".

Section 8(1): omit "the Summary Proceedings Act 1957 or the Crimes Act 1961" and substitute "Part 6 of the Criminal Procedure Act 2011".

Section 8(4): repeal and substitute:

(4) No Judge, Justice, or Community Magistrate is liable to costs 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 Procedure Act 2011 but the appeal is abandoned under that Part, the court appealed to may, subject to any regulations made under this Act, allow the respondent 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 with section 134 of that Act" and substitute "Part 6 of the Criminal Procedure Act 2011, be included in the notice of the decision sent in accordance with section 342 of that Act".

Costs in Criminal Cases Act 1967 (1967 No 129)—*continued*

Section 11: omit "Part 4 of the Summary Proceedings Act 1957" and substitute "Part 6 of the Criminal Procedure Act 2011".

Courts Security Act 1999 (1999 No 115)

Section 30(2): omit "summary".

Credit Contracts and Consumer Finance Act 2003 (2003 No 52)

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 offences

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Section 116(1)(a): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Credit (Repossession) Act 1997 (1997 No 85)

Section 16(2): omit "summary".

Section 19: omit "summary".

Section 41: repeal and substitute:

41 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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.

Section 3(2): omit "on indictment".

Section 4(2): omit "on indictment".

Section 5(2): omit "on indictment".

Crimes (Internationally Protected Persons, United Nations and Associated Personnel, and Hostages) Act 1980 (1980 No 44)—*continued*

Section 6(2): omit "on indictment".

Section 8(3): omit "on indictment".

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)

Definition of **charged** in section 2(1): repeal and substitute:

> **charged**, in relation to a person, means that a charging document charging the person with an offence has been filed in a District Court (including in relation to proceedings in the Youth Court)

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.

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 Act 2011 for that offence.

Section 24C: repeal and substitute:

24C Authority to obtain buccal sample from suspect

(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 Act 2011, a buccal sample may be taken from that suspect, for the purposes of the investigation, on behalf of any constable, only if—

(a) both the suspect and a parent of the suspect have consented to the taking of a buccal sample under section 24G; and

(b) the sample is taken in accordance with the procedures set out in Part 4.

(2) This section is subject to section 72.

(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

Criminal Investigations (Bodily Samples) Act 1995 (1995 No 55)—*continued*

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 Act 2011.

Section 24D(a): omit "indictable".

Section 24F(b)(i): omit "indictable".

Section 24J(1)(b): omit "by way of summons" and substitute "by filing a charging document".

Section 24K(1)(b): omit "by way of summons" and substitute "by filing a charging document".

Section 26(ac)(i): omit "information" and substitute "charge".

Section 26A(3)(b): omit "information" and substitute "charge".

Section 50C(4)(a): omit "laid" and substitute "filed".

Section 50C(4)(b): omit "laid" and substitute "filed".

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".

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 Act 2011".

Section 20(b): repeal and substitute:

(b) in the case of an application made under section 26,—

(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 68 or 70 of the Criminal Procedure Act 2011 transferring the proceedings in relation to the offence to the High Court:

(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 Act 2011 applies as far as applicable with the necessary modifications:

Section 78(2)(b): repeal.

Criminal Proceeds (Recovery) Act 2009 (2009 No 8)—*continued*

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".

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".

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.

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 184 of the Criminal Procedure Act 2011".

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.

Schedule 2, Form 2: repeal.

Crown Minerals Act 1991 (1991 No 70)

Section 100(4): repeal and substitute:

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 101(1), (2), and (3): omit "summary".

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)

Section 6(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Crown Organisations (Criminal Liability) Act 2002 (2002 No 37)—*continued*

Section 8(5): omit "sections 77A and 115A of the Summary Proceedings Act 1957" and substitute "sections 176 and 246 of the Criminal Procedure Act 2011".

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".

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 Act 2011".

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 28 and 30 of the Criminal Procedure Act 2011, the duties under section 31 of that Act relating to the filing of a charging 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".

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".

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".

Section 221(4): repeal and substitute:

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 223(2): omit "an information has been laid" and substitute "a charging document has been filed".

Customs and Excise Act 1996 (1996 No 27)—*continued*

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)".

Section 265(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

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".

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".

Section 83: omit "summary".

Section 84: omit "summary".

Section 85: omit "summary".

Section 86(1): omit "summary".

Section 87(2) and (3): omit "summary".

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)

Section 42(1): omit "on indictment".

Section 42: add:

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011 a charging document may be filed at any time in respect of an offence under subsection (1).

Section 43(1): omit "on indictment".

Section 43: add as subsection (2):

Designs Act 1953 (1953 No 65)—*continued*

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011 a 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".

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".

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 375 of the Criminal Procedure Act 2011, or is deemed to have been so ordered under section 21(5) of the Summary Proceedings Act 1957; or

Section 23A(2): omit "summary".

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 375 of the Criminal Procedure Act 2011, or is deemed to have been so ordered under section 21(5) of the Summary Proceedings Act 1957; or

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 375 of the Criminal Procedure Act 2011, and of every 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".

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".

Dog Control Act 1996 (1996 No 13)—*continued*

Section 36A(6): omit “summary”.

Section 41: omit “summary”.

Section 41A: omit “summary”.

Section 42(1): omit “summary”.

Section 46(4): omit “summary”.

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”.

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”.

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 under section 14 of the Criminal Procedure Act 2011; or

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”.

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 159 and 161 to 165 of the Criminal Procedure Act 2011”.

Section 124I(2)(a): omit “summary”.

Door to Door Sales Act 1967 (1967 No 126)

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 25 of the Criminal Procedure Act 2011, 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:

(b) if the person so delivered into custody is issued with a summons pursuant to sections 28 to 30 of the Criminal Procedure Act 2011, the duties under section 31 of that Act are the duties of an enforcement officer and not of a constable.

Section 16(2): omit “lay any information or” and substitute “file any”.

Section 26(2): repeal.

Section 26(3): repeal and substitute:

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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”.

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”.

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”.

Section 137(1) and (2): omit “summary”.

Section 139AO(1): omit “summary”.

Education Act 1989 (1989 No 80)—*continued*

Section 139AY(3): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

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”.

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 25 of the Criminal Procedure Act 2011, 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.

Section 315(3): omit “summary”.

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)

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”.

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”.

Section 58(2): omit “summary”.

Section 82(8): omit “summary”.

Section 90(4): omit “summary”.

Electoral Act 1993 (1993 No 87)—*continued*

Section 116(2): omit “summary”.

Section 117(4) and (6): omit “summary”.

Section 117A(2): omit “summary”.

Section 118: omit “summary”.

Section 119: omit “summary”.

Section 121: omit “summary”.

Section 154(2): omit “summary”.

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”.

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”.

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”.

Section 206O(2): omit “summary”.

Section 206ZE(1): omit “summary”.

Section 206ZF(2): omit “summary”.

Section 207D: omit “summary”.

Section 207F: omit “summary”.

Section 207H: omit “summary”.

Section 207M(2): omit “summary”.

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”.

Electoral Act 1993 (1993 No 87)—*continued*

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 25 of the Criminal Procedure Act 2011, a".

Section 227: omit "summary".

Electoral Referendum Act 2010 (2010 No 139)

Section 28: omit "A" and substitute "Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a".

Section 67: omit "summary".

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 25 of the Criminal Procedure Act 2011, a".

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".

Section 12(3): repeal and substitute:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

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".

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:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Section 62(5): omit "summary".

Section 130(3): omit "summary".

Section 131(3): omit "summary".

Section 147A(3): omit "summary".

Section 147B(2): omit "summary".

Electricity Act 1992 (1992 No 122)—*continued*

Section 147F(2): omit "summary".

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 Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Section 153(7): omit "summary".

Section 160: omit "summary".

Section 161: omit "summary".

Section 162: omit "summary".

Section 163: omit "summary".

Section 163A: omit "summary".

Section 163B: omit "summary".

Section 163C(3): omit "on indictment".

Section 163C: add:

(6) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011 a charging document may be filed at any time in respect of an offence under this section.

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".

Section 164(2): omit "summary".

Section 165: repeal and substitute:

165 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 165A: repeal and substitute:

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 14 of the Criminal Procedure Act 2011; or

Electricity Act 1992 (1992 No 122)—*continued*

(b) be served with an infringement notice as provided in section 165B.

(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 offence by filing a charging document under the Criminal Procedure Act 2011.

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".

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".

Section 60: omit "summary".

Section 77(6): omit "summary".

Section 78(5): omit "summary".

Section 79(5): omit "summary".

Section 88(6): omit "summary".

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".

Section 112(1)(k): omit "summary".

Section 113(2)(g): omit "summary".

Electronic Identity Verification Act 2012 (2012 No 123)

Section 7: omit the definition of **conviction on indictment**.

Section 60(3): omit "on indictment".

Section 61(2): omit "on indictment".

Section 62(4): omit "on indictment".

Section 63(2): omit "on indictment".

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".

Section 217: omit "an information" and substitute "a charge".

Schedule 2, clause 6(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Schedule 2, clause 8(2): omit "indictment" and substitute "charge".

Schedule 3, clause 7(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Schedule 3, clause 9(2): omit "indictment" and substitute "charge".

Energy Companies Act 1992 (1992 No 56)

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".

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".

Section 23: omit and substitute:

23 Charging document may be filed within 10 years

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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 Act 2011".

Section 24: omit "summary".

Environment Canterbury (Temporary Commissioners and Improved Water Management) Act 2010 (2010 No 12)

Section 55: repeal and substitute:

55 Appeal to Court of Appeal

Subpart 8 of Part 6 of the Criminal Procedure Act 2011 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 294 of that Act.

Equal Pay Act 1972 (1972 No 118)

Section 18(2): omit "summary".

Extradition Act 1999 (1999 No 55)

Section 22: add:

(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 394 of the Criminal Procedure Act 2011.

Section 23: add:

(5) In subsection (3),—

(a) section 31 of the Bail Act 2000 must be read as it read immediately before section 7 of the Bail Amendment Act 2011 came into force; and

(b) section 49 of the Bail Act 2000 must be read as it read immediately before the commencement date as defined in section 394 of the Criminal Procedure Act 2011.

Section 26: add:

(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 394 of the Criminal Procedure Act 2011.

(6) In subsection (3),—

(a) section 31 of the Bail Act 2000 must be read as it read immediately before section 7 of the Bail Amendment Act 2011 came into force; and

(b) section 52 of the Bail Act 2000 must be read as it read immediately before the commencement date as defined in section 394 of the Criminal Procedure Act 2011.

Section 28: add:

(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 394 of the Criminal Procedure Act 2011.

Extradition Act 1999 (1999 No 55)—*continued*

(8) In subsection (6),—

(a) section 31 of the Bail Act 2000 must be read as it read immediately before section 7 of the Bail Amendment Act 2011 came into force; and

(b) section 52 of the Bail Act 2000 must be read as it read immediately before the commencement date as defined in section 394 of the Criminal Procedure Act 2011.

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 Act 2011 as if the proceedings were in respect of a charge for a category 2 offence committed within the jurisdiction of New Zealand:

(b) the following provisions apply to the proceedings, so far as applicable and with the necessary modifications:

(i) sections 14, 35, 157 to 175, subpart 3 of Part 5, and sections 365 and 379 of the Criminal Procedure Act 2011 and any relevant rules of court (including those relating to service) made under that Act:

(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.

(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 168 of the Criminal Procedure Act 2011, 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.

(4) Sections 167 to 169 of the Criminal Procedure Act 2011 and sections 28, 30 to 33, 35, 37 to 39, 44, 45, and 52 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.

Section 44(3): omit “subsection (1) of section 31” and substitute “section 30(1), (2), and (4)”.

Section 46(1)(a): omit “section 184T(3) of the Summary Proceedings Act 1957” and substitute “section 169 of the Criminal Procedure Act 2011”.

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), (2), and (4) of the Bail Act 2000”.

Extradition Act 1999 (1999 No 55)—*continued*

Section 53(2)(b)(i): omit "section 184T(3) of the Summary Proceedings Act 1957" and substitute "section 169 of the Criminal Procedure Act 2011".

Section 54(2)(a): omit "section 184T(3) of the Summary Proceedings Act 1957" and substitute "section 169 of the Criminal Procedure Act 2011".

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 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.

(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 to which the appeal is being taken a notice of appeal in the prescribed form.

Section 69: repeal and substitute:

69 Application to appeal of Bail Act 2000 and Criminal Procedure Act 2011

(1) Section 59 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 Act 2011 against the determination by a District Court of a charge for an offence.

(2) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable 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 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 applicable, as the procedure set out for the taking of oral evidence under sections 95 to 99 of the Criminal Procedure Act 2011.

(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 8 of Part 3 of the Criminal Procedure Act 2011.

Extradition Act 1999 (1999 No 55)—*continued*

(3) Nothing in this section authorises the reception of any evidence 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)

Section 40(1) and (1A): omit "summary".

Section 40(3): repeal.

Section 44(3) and (6): omit "informant" in each place where it appears and substitute in each case "prosecutor".

Section 47F: omit "summary".

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)

Section 11B(6): omit "summary".

Section 16(4): omit "78A" and substitute "78".

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 159 of the Criminal Procedure Act 2011 applies".

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 159 and 161 to 165 of the Criminal Procedure Act 2011".

Farm Ownership Savings Act 1974 (1974 No 45)

Section 16(2): omit "summary".

Section 17(2)(c): omit "summary".

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 Act 2011".

Films, Videos, and Publications Classification Act 1993 (1993 No 94)—*continued*

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”.

Section 125(2): insert “on conviction” after “liable”.

Section 126(2): insert “on conviction” after “liable”.

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”.

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.

Section 143: repeal and substitute:

143 Time for filing charging document

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

(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”.

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,”.

Financial Advisers Act 2008 (2008 No 91)

Section 111(1): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 114(1) and (2): omit “summary”.

Section 115: omit “summary”.

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”.

Section 121: omit “summary”.

Section 126: omit “summary”.

Section 127: omit “summary”.

Section 128: omit “summary”.

Section 129(1) and (2): omit “summary”.

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”.

Section 134B: omit “summary”.

Section 134C: omit “summary”.

Section 134D: omit “summary”.

Section 134E: omit “summary”.

Section 134F: omit “summary”.

Section 134G: omit “summary”.

Section 135: omit “summary”.

Section 136(2): omit “summary”.

Section 137(2): omit “summary”.

Section 137E: omit “on indictment”.

Section 137E: add as subsection (2):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence under this section.

Section 137J: omit “on indictment”.

Section 137J: add as subsection (2):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence under this section.

Financial Advisers Act 2008 (2008 No 91)—*continued*

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 Act 2011".

Section 160: repeal and substitute:

160 Time for filing charging document

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(a) a charging document may be filed at any time in respect of an offence against section 137E or 137J of this Act; and

(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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Financial Markets Authority Act 2011 (2011 No 5)

Section 51(3): omit "summary".

Section 54(2): omit "summary".

Section 60(4): omit "summary".

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 379 of the Criminal Procedure Act 2011 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 Act 2011".

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".

Section 37: omit "summary".

Section 38: omit "summary".

Section 39: omit "summary".

Section 41(1): omit "on indictment".

Financial Reporting Act 1993 (1993 No 106)—*continued*

Section 41A(1)(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 41A(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 Registrar commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.

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

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Financial Service Providers (Registration and Dispute Resolution) Act 2008 (2008 No 97)

Section 11(2): omit "summary".

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".

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".

Section 36(2): insert "on conviction" after "liable".

Section 52: repeal.

Fire Service Act 1975 (1975 No 42)

Section 89(1) and (2): omit "summary".

Fire Service Act 1975 (1975 No 42)—*continued*

Section 92(2)(o): omit "summary".

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".

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".

Section 105: add:

(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

(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:

(5) 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 (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.

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".

Section 191: insert 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 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.

Section 192: insert after subsection (6):

Fisheries Act 1996 (1996 No 88)—*continued*

(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

(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),—

(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.

Section 203(5)(b): repeal and substitute:

(b) if the person so delivered into custody is issued with a summons pursuant to sections 28 and 30 of the Criminal Procedure Act 2011, the duties under section 31 of that Act must be carried out by a fishery officer and not a constable.

Section 213(2): omit "lay an information or charge" and substitute "file a charging document".

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 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act—

(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:

(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 Act 2011".

Section 237(1): omit "specified in subsection (1) of that section" and substitute "permitted by those rules".

Heading to section 238: omit "**Informations**" and substitute "**Charges**".

Section 238(1): repeal and substitute:

Fisheries Act 1996 (1996 No 88)—*continued*

(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—

(a) either—

(i) the offences are founded on the same set of facts; or

(ii) the offences form, or are part of, a series of offences of the same character or similar character; and

(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".

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 17 of the Criminal Procedure Act 2011".

Section 239(2): omit "information" in each place where it appears and substitute in each case "charging document".

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".

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 Act 2011 (not by way of an infringement notice); and

(ii) the person is found guilty of, or pleads guilty to, that offence:

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 under section 14 of the Criminal Procedure Act 2011".

Section 260A(2): repeal and substitute:

Fisheries Act 1996 (1996 No 88)—*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 a fishery officer proceeds with an infringement offence by filing a charging document under section 14 of the Criminal Procedure Act 2011.

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)

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".

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".

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 and substitute:

27 Time for filing charging document

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

(2) Subsection (1) does not apply to an offence against section 11AA.

Section 28: insert "on conviction" after "liable".

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".

Forest and Rural Fires Act 1977 (1977 No 52)—*continued*

Section 62: Repeal and substitute:

62 Time within which charging document must be filed

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Forests Act 1949 (1949 No 19)

Section 54: omit "summary".

Section 61: omit "summary".

Section 67U(1) and (2): omit "summary".

Section 72(1)(c): omit "summary".

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 14 of the Criminal Procedure Act 2011".

Section 25(2)(b): omit "laying an information under the Summary Proceedings Act 1957" and substitute "filing a charging document under section 14 of the Criminal Procedure Act 2011".

Friendly Societies and Credit Unions Act 1982 (1982 No 118)

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:

(5) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 154: omit "summary".

Gambling Act 2003 (2003 No 51)

Section 15(2): omit "summary".

Section 16(3): omit "summary".

Section 19(2) and (3): omit "summary".

Gambling Act 2003 (2003 No 51)—*continued*

Section 82(4): omit “summary”.

Section 83(2): omit “summary”.

Section 84(2): omit “summary”.

Section 104(4): omit “summary”.

Section 105(4): omit “summary”.

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”.

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”.

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”.

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”.

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”.

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”.

Gambling Act 2003 (2003 No 51)—*continued*

Section 331(5): omit "summary".

Section 346(2): omit "summary".

Section 347(3)(a): omit "summary".

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:

355 Proceedings for offences

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

(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

(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 14 of the Criminal Procedure Act 2011; or

(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 Act 2011.

Section 357(3): omit "For the purposes of the Summary Proceedings Act 1957, an" and substitute "An".

Gas Act 1992 (1992 No 124)

Section 13(1): omit "by way of case stated for the opinion of that Court".

Section 13(3): repeal and substitute:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

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

Gas Act 1992 (1992 No 124)—*continued*

has been dismissed for non-prosecution, whichever occurs first" and substitute "or abandoned".

Section 14(2): omit "summary".

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:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

Section 43EA(2): omit "summary".

Section 43EC(1): omit "summary".

Section 43H(5): omit "summary".

Section 43T: omit "summary".

Section 46B: omit "summary".

Section 52: omit "summary".

Section 56B(3): omit "on indictment".

Section 56B: add:

(6) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence under this section.

Section 57(3) and (4): omit "summary".

Section 57A: repeal and substitute:

57A Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided in section 57C.

Gas Act 1992 (1992 No 124)—*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 commences proceedings for an infringement offence by filing a charging document under the Criminal Procedure Act 2011.

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."

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".

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".

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".

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".

Government Superannuation Fund Act 1956 (1956 No 47)

Section 96: omit "summary".

Harassment Act 1997 (1997 No 92)

Section 8(2): omit "summary".

Harassment Act 1997 (1997 No 92)—*continued*

Section 25(2) and (3): omit "summary".

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".

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 14 of the Criminal Procedure Act 2011; or

Section 112(2): omit "for the purpose of the Summary Proceedings Act 1957,".

Section 114(1), (2), and (3): omit "summary".

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 Act 2011 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)

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".

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".

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".

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".

Section 69ZZU: repeal and substitute:

69ZZU Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 69ZZV(1), (2), and (3): omit "summary".

Section 71(3): omit "summary".

Health Act 1956 (1956 No 65)—*continued*

Section 72: insert "on conviction" after "liable".

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".

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.

Health and Disability Commissioner Act 1994 (1994 No 88)

Section 61(4)(c): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 63(4)(a): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 73: omit "summary".

Health and Disability Services (Safety) Act 2001 (2001 No 93)

Section 54(1) and (2): omit "summary".

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

Section 50(1) and (2): omit "summary".

Heading to section 54A: omit and substitute "**Filing charging document**".

Section 54A(1): omit "lay an information" and substitute "file a charging document".

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".

Section 54B: repeal and substitute:

Health and Safety in Employment Act 1992 (1992 No 96)—*continued*

54B Time limit for filing charging document

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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

(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**".

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".

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".

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".

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".

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.

Section 55(2)(b): omit "an information was laid" and substitute "proceedings were commenced".

Section 55(3): omit "indictment or information" and substitute "charge".

Health and Safety in Employment Act 1992 (1992 No 96)—*continued*

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)

Section 7(5): omit "summary".

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".

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 Act 2011".

Section 172: omit "summary".

Section 173: repeal and substitute:

173 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Schedule 1, clause 10(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Schedule 1, clause 12(3): omit "summary".

Schedule 1, clause 13(1): omit "summary".

Heavy Engineering Research Levy Act 1978 (1978 No 81)

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".

Section 98(2): omit "summary".

Section 99(2): omit "summary".

Section 100: omit "summary".

Historic Places Act 1993 (1993 No 38)—*continued*

Section 101: omit “summary”.

Section 102(1) and (2): omit “summary”.

Section 103(2): omit “summary”.

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 25 of the Criminal Procedure Act 2011, 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.

Home Ownership Savings Act 1974 (1974 No 51)

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)

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)

Section 8(4): omit “on indictment”.

Section 9(5) and (6): omit “summary”.

Section 10(9): omit “summary”.

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”.

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”.

Section 111(1): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 113(2): omit “summary”.

Section 121(2): omit “summary”.

Section 128(4)(a): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 131(1): omit “summary conviction” and substitute “conviction”.

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”.

Section 24: omit “summary”.

Section 47(3): omit “summary”.

Section 48(3): omit “summary”.

Section 49(3): omit “summary”.

Section 50(4): omit “summary”.

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”.

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)

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:

Immigration Act 2009 (2009 No 51)—*continued*

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 14 of the Criminal Procedure Act 2011; 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".

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.

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 25 of the Criminal Procedure Act 2011, 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 circumstances to which the offence relates first became known to an immigration officer; or

(b) the date when the incident, situation, or set of circumstances 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 sections 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 Act 2011".

Immigration Advisers Licensing Act 2007 (2007 No 15)

Section 75: repeal and substitute:

75 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(a) a charging document may be filed at any time in respect of an offence against any of sections 63(1)(a), 64(1), 65(1), 67(1)(a), and 68(1)(a); and

Immigration Advisers Licensing Act 2007 (2007 No 15)—*continued*

(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—

(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

(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 Act 2011".

Section 97: repeal.

Schedule, clause 7: omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Schedule, clause 8(2): omit "indictment for" and substitute "charge of".

Imports and Exports (Restrictions) Act 1988 (1988 No 157)

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 3A of this Act must be commenced by the chief executive.

Section 4(9): repeal and substitute:

(9) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Impounding Act 1955 (1955 No 108)

Section 31(3) and (4): insert "on conviction" after "liable".

Section 33(1): insert "on conviction" after "liable".

Section 57(1) and (2): insert "on conviction" after "liable".

Section 58(1) and (2): insert "on conviction" after "liable".

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".

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)

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 Act 2011".

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):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence under this section.

Section 10(i): repeal.

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—

(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.

(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

(b) the Registrar.

Section 10A(4): omit "summary".

Industrial and Provident Societies Act 1908 (1908 No 81)—*continued*

Section 10B(4) and (5): omit "summary".

Section 15(c)(iii): omit "indictable".

Section 15: add as subsection (2):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence under subsection (1)(c)(iii).

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".

Section 12(1) and (1A): omit "Summary Proceedings Act 1957" in each place where it appears and substitute in each case "Criminal Procedure Act 2011".

Insolvency Act 2006 (2006 No 55)

Section 169(3): omit "summary".

Section 248(2): omit "on indictment".

Section 360(3): omit "summary".

Section 360(4): repeal.

Section 371(3): omit "summary".

Section 371(4): repeal.

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):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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:

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 430: add as subsection (2):

Insolvency Act 2006 (2006 No 55)—*continued*

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence against this section.

Section 431(1): omit "summary".

Section 431(2): omit "on indictment".

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".

Section 433(1)(g): repeal.

Section 433(2): repeal.

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,—

(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.

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)".

Insert after section 434:

434A Limitation period for offences against section 433 or 433A

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 435: repeal and substitute:

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.

Section 436(2): repeal and substitute:

Insolvency Act 2006 (2006 No 55)—*continued*

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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.

Section 438(2): omit "lay an information" and substitute "file a charging document".

Section 440(2): omit "summary".

Inspector-General of Intelligence and Security Act 1996 (1996 No 47)

Section 23(6): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 23(8): omit "summary".

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".

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".

Section 33(3)(a) and (b): omit "summary".

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".

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".

Insurance Intermediaries Act 1994 (1994 No 41)—*continued*

Section 15(7): omit “summary”.

Insurance Law Reform Act 1977 (1977 No 14)

Section 12A(3)(a) and (b): omit “summary”.

Insurance (Prudential Supervision) Act 2010 (2010 No 111)

Section 15(2): omit “summary”.

Section 16(2): omit “summary”.

Section 17(4): omit “summary”.

Section 23: omit “summary”.

Section 24(2): omit “summary”.

Section 29: omit “summary”.

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”.

Section 50: omit “summary”.

Section 57: omit “summary”.

Section 60(4): omit “summary”.

Section 64(5): omit “summary”.

Section 65(5): omit “summary”.

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”.

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”.

Section 125(2): omit “summary”.

Section 126(4): omit “summary”.

Section 130(3): omit “summary”.

Insurance (Prudential Supervision) Act 2010 (2010 No 111)—*continued*

Section 133(2): omit “summary”.

Section 135(5): omit “summary”.

Section 136(2): omit “summary”.

Section 142: omit “summary”.

Section 148(3): omit “summary”.

Section 150(5): omit “summary”.

Section 156(2): omit “summary”.

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”.

Section 214(2): omit “summary”.

Section 215(2): omit “summary”.

Section 218(3): omit “summary”.

Section 219(3): omit “summary”.

Section 228: 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”.

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).

Section 128(4): omit “Sections 20, 38, and 39 of the Summary Proceedings Act 1957” and substitute “Sections 159 and 161 to 165 of the Criminal Procedure Act 2011”.

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)

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".

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" in each place where it appears and substitute in each case "commits an offence and is liable on conviction".

Section 16(1) and (2): omit "is liable on conviction on indictment" in each place where it appears 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), (2), 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 365 and 379 of the Criminal Procedure Act 2011".

Section 41(2): omit "Despite section 4 of the Summary Proceedings Act 1957" and substitute "In accordance with section 355 of the Criminal Procedure Act 2011".

Section 41(3): omit "subsections (1) and (2) of section 46 of the Summary Proceedings Act 1957" and substitute "section 168(1) and (2) of the Criminal Procedure Act 2011".

International Crimes and International Criminal Court Act 2000 (2000 No 26)—*continued*

Section 41(5): omit "Section 184T of the Summary Proceedings Act 1957 and sections 52 and 54" and substitute "Section 169 of the Criminal Procedure Act 2011 and sections 27, 30 to 33, 35, 37 to 39, 44, 45, and 52".

Section 46(2)(a): omit "section 184T(3) of the Summary Proceedings Act 1957" and substitute "section 169 of the Criminal Procedure Act 2011".

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.

(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.

Section 68: repeal and substitute:

68 Application to appeal of Bail Act 2000 and Criminal Procedure Act 2011

(1) Section 59 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 Act 2011 against the determination by a District Court of a charge for an offence.

(2) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this Part.

International Energy Agreement Act 1976 (1976 No 155)

Section 6(6): omit "summary".

Section 7(3) and (4): omit "summary".

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 167 to 169 of the Criminal Procedure Act 2011 and sections 28, 30 to 32, 34 and 35, and 37 to 39".

Section 40(3): omit "on indictment".

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".

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 Act 2011".

Section 56A(3): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 56O(2): omit "on indictment".

Section 58A(4): repeal and substitute:

(4) For the purposes of this section, **criminal proceeding** means an appeal or application to the Court of Appeal under Part 6 of the Criminal Procedure Act 2011.

Schedule 2 (High Court Rules), Rule 20.1(1)(a) and (2): omit "Summary Proceedings Act 1957" in each place where it appears and substitute in each case "Criminal Procedure Act 2011".

Judicial Conduct Commissioner and Judicial Conduct Panel Act 2004 (2004 No 38)

Section 30(6): omit "summary".

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".

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".

Section 182(2): repeal and substitute:

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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".

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:

(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 as subsection (2):

(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 2011, and all fines are to be recovered in accordance with Part 3 of".

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".

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)

Definition of **proceedings** in section 2(1): insert "the Criminal Procedure Act 2011 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),—

(a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding $6,000; and

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 1 year or more.

Section 36(1): omit "indictable".

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—

(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—

(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.

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".

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),—

(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 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

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 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

(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".

Section 74(7)(a)(ii): omit "section 19 or section 150 of the Summary Proceedings Act 1957" and substitute "section 34 of the Criminal Procedure Act 2011".

Section 75A(2): omit "or defended hearing".

Section 79A(3): omit "summary".

Section 79B: omit "summary".

Section 79M(2): omit "summary".

Section 88(6)(b): omit "summary".

Section 99(1)(b)(iv): insert "or (3)" after "36A(2)".

Section 107(2): omit "section 107 or section 115 of the Summary Proceedings Act 1957" and substitute "Part 6 of the Criminal Procedure Act 2011".

Section 107(2B): omit "Part 4 of the Summary Proceedings Act 1957" and substitute "Subpart 2 of Part 6 of the Criminal Procedure Act 2011".

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 Act 2011 applies".

Land Transport Act 1998 (1998 No 110)—*continued*

Section 128E(2): insert "on conviction" after "liable".

Section 128E(5): insert "on conviction" after "liable".

Section 133(3): insert "the Criminal Procedure Act 2011 or" after "under".

Section 133A(3): insert "the Criminal Procedure Act 2011 or" after "under".

Heading to section 135: omit and substitute: "**Commencing proceedings, and jurisdiction, for offences**".

Section 135(1): repeal.

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).

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".

Section 136(3): omit "Section 14 of the Summary Proceedings Act 1957" and substitute "Section 25 of the Criminal Procedure Act 2011".

Section 138: repeal and substitute:

138 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 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided in section 139.

(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 Act 2011.

Section 139(3): repeal and substitute:

(3) An infringement notice that—

(a) is attached to a vehicle under subsection (2)(a) must be treated as having been served when it is attached to the vehicle:

Land Transport Act 1998 (1998 No 110)—*continued*

(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.

Section 139(6)(a): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

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".

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 25 of the Criminal Procedure Act 2011, 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.

Section 54(4): omit "summary".

Section 65(2)(c): repeal and substitute:

(c) the following provisions apply accordingly:

(i) the Criminal Procedure Act 2011 and the rules and regulations made under it:

(ii) the Summary Proceedings Act 1957 and the regulations made under it.

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—

(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 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

Lawyers and Conveyancers Act 2006 (2006 No 1)—*continued*

(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.

Section 46: omit "summary".

Section 47(k): repeal and substitute:

(k) section 10 of the Criminal Procedure Act 2011; or

Section 110(4): omit "summary".

Section 111(2): omit "summary".

Section 112(3): omit "summary".

Section 171(2): omit "summary".

Section 251(1): omit "summary".

Section 261(3): omit "summary".

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 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against any provision 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".

Section 337(5): omit "summary".

Schedule 4, clause 7(4): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Layby Sales Act 1971 (1971 No 80)

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 Act 2011 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 300 of that Act.

Section 111(1): omit "summary".

Legal Services Act 2011 (2011 No 4)—*continued*

Section 111(3): repeal and substitute:

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence under this section ends on the date that is 2 years after the date on which the offence was committed.

Section 112: omit "summary".

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 25 of the Criminal Procedure Act 2011, 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".

Section 104(4)(a) and (b): omit "summary".

Section 110(2)(a) and (b): omit "summary".

Limited Partnerships Act 2008 (2008 No 1)—*continued*

Section 112(6)(a) and (b): omit "summary".

Litter Act 1979 (1979 No 41)

Section 10(11): insert "on conviction" after "liable".

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 under section 14 of the Criminal Procedure Act 2011; or

Section 14(3): omit "For the purposes of the Summary Proceedings Act 1957, an" and substitute "An".

Section 19: repeal.

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".

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".

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".

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".

Section 135(2): omit "summary".

Local Electoral Act 2001 (2001 No 35)—*continued*

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".

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."

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".

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 25 of the Criminal Procedure Act 2011, 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.

Section 699B(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 699C(2): omit ", for the purposes of the Summary Proceedings Act 1957,".

Local Government Act 2002 (2002 No 84)

Section 176(2): omit "summarily".

Definition of **unauthorised weapon** in section 212: omit "indictable" and substitute "imprisonable".

Section 224: omit "summary".

Section 225(1): omit "summary".

Section 227: omit "summary".

Section 228: omit "summary".

Section 229: omit "summary".

Section 230(1): omit "summary".

Section 231: omit "summary".

Local Government Act 2002 (2002 No 84)—*continued*

Section 232(2): omit "on indictment".

Section 232(3): omit "summary".

Section 233: omit "summary".

Section 234: omit "summary".

Section 235(1): omit "summary".

Section 236: omit "summary".

Section 237(b): omit "summary".

Section 238(1): omit "summary".

Heading to section 239: omit and substitute "**Breach of bylaw**".

Section 239(1) and (2): omit "summary".

Section 239A(2) (as inserted by section 6 of the Local Government (Alcohol Reform) Amendment Act 2012): omit "the laying of an information under the Summary Proceedings Act 1957, or by the filing of a notice of prosecution under section 20A of that Act" and substitute "filing a charging document under section 14 of the Criminal Procedure Act 2011".

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 25 of the Criminal Procedure Act 2011, 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.

Section 244(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 244(1)(a) (as inserted by section 7 of the Local Government (Alcohol Reform) Amendment Act 2012): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 244(2)(b) (as inserted by section 7 of the Local Government (Alcohol Reform) Amendment Act 2012): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 245(3): omit "For the purposes of the Summary Proceedings Act 1957, an" and substitute "An".

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".

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:

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 became known, or should have become known, to Watercare Services Limited.

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 "Criminal Procedure Act 2011".

Section 29(1) and (2): omit "summary".

Section 33(1): omit "Where an owner is charged with an offence 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:

(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 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".

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”.

Section 31: omit “summary”.

Section 39(5): omit “summary”.

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 25 of the Criminal Procedure Act 2011, 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 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Section 78(1)(a): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

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 Act 2011”.

Section 33(9): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 36(1): omit “in a summary manner under the Summary Proceedings Act 1957” and substitute “under the Criminal Procedure Act 2011”.

Proviso to section 36(1): omit “summarily under the Summary Proceedings Act 1957” and substitute “under the Criminal Procedure Act 2011”.

Section 36(2): omit “summary proceedings have” and substitute “proceedings have” and omit “Summary Proceedings Act 1957” in both places where it appears and substitute in each case “Criminal Procedure Act 2011”.

Section 36(6): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011” and omit “summarily”.

Section 42: omit “summary”.

Maori Fisheries Act 2004 (2004 No 78)

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 25 of the Criminal Procedure Act 2011, 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)

Section 14(2): omit “summary”.

Maori Language Act 1987 (1987 No 176)

Section 21: omit “summary”.

Maori Purposes Act 1931 (1931 No 32)

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)

Section 11(3): omit “summary”.

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 Act 2011”.

Section 81(2): omit “summary”.

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)

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 25 of the Criminal Procedure Act 2011,”.

Marine Reserves Act 1971 (1971 No 15)

Section 18A(4): omit “lay an information or charge” and substitute “file a charging document”.

Section 20: repeal and substitute:

20 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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)

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”.

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”.

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”.

Section 71(2) and (3): insert “on conviction” after “liable”.

Maritime Transport Act 1994 (1994 No 104)—*continued*

Section 79(1): omit "Part 4 of the Summary Proceedings Act 1957" and substitute "Part 6 of the Criminal Procedure Act 2011".

Section 79(2) and (3): repeal and substitute:

(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 Act 2011 and that Part applies with the necessary modifications as if the refusal were a sentence.

(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 Act 2011 and that Part applies with the necessary modifications as if the refusal were a sentence.

Section 127(1) and (2): insert "on conviction" after "liable".

Section 185(1), (2), (3), (4) and (5): insert "on conviction" after "liable".

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".

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".

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".

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 25 of the Criminal Procedure Act 2011, 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 is beyond the limits and territorial sea of New Zealand.

Maritime Transport Act 1994 (1994 No 104)—*continued*

(3) Subsection (1) is subject to subsection (2) and to any special provisions of this Act.

Section 412: omit "information" and substitute "charge".

Section 412: omit "informant" and substitute "prosecutor".

Section 414(1): omit "information" and substitute "charge".

Section 414(1) and (2): omit "informant" in each place where it appears and substitute in each case "prosecutor".

Section 418(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 418(2): omit "section 24 of the Summary Proceedings Act 1957" and substitute "rules made under the Criminal Procedure Act 2011".

Section 418(4): repeal.

Section 422(2)(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 423(3): omit "For the purposes of the Summary Proceedings Act 1957, an" and substitute "An".

Section 460(1) and (2): insert "on conviction" after "liable".

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".

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".

Section 69(3): omit "summary".

Section 72(2): omit "informant" and substitute "prosecutor".

Section 74(2): omit "summary".

Section 76: repeal and substitute:

Meat Board Act 2004 (2004 No 58)—*continued*

76 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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".

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:

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 Act 2011".

Section 96B(3): omit "summary".

Section 107(4): insert "on conviction" after "liable".

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

Paragraph (a)(ii) of the definition of **special patient** in section 2: repeal and substitute:

(ii) section 169 of the Criminal Procedure Act 2011; or

Section 23(4): omit "Sections 20, 38, and 39 of the Summary Proceedings Act 1957" and substitute "Sections 159 and 161 to 165 of the Criminal Procedure Act 2011".

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".

Section 116: insert "on conviction" after "liable".

Section 117: insert "on conviction" after "liable".

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

Section 118: insert "on conviction" after "liable".

Section 119: insert "on conviction" after "liable".

Section 120: repeal and substitute:

120 Who may commence proceedings

Proceedings for an offence against this Act must be commenced by—

(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 159 and 161 to 165 of the Criminal Procedure Act 2011".

Mercenary Activities (Prohibition) Act 2004 (2004 No 69)

Section 7: omit "on indictment" in each place where it appears.

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.

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)

Section 4(7): omit "complaint under the Summary Proceedings Act 1957" and substitute "proceeding commenced by filing a charge under section 14 of the Criminal Procedure Act 2011 (with all necessary modifications)".

Section 5(1): omit "summary".

Mines Rescue Trust Act 1992 (1992 No 97)

Section 9(2): omit "summary".

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”.

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.

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.

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.

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”.

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 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”.

Section 15: insert “on conviction” after “liable”.

Section 22(4) and (5): insert “on conviction” after “liable”.

Section 23(6): insert “on conviction” after “liable”.

Section 23(7): insert “on conviction” after “liable”.

Misuse of Drugs Act 1975 (1975 No 116)—*continued*

Section 27: insert "on conviction" after "liable".

Section 28: repeal and substitute:

28 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(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

(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".

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".

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 "in accordance with sections 24 to 29 of the Summary Proceedings Act 1957" and substitute "as if the certificate were a document required to be served in accordance with rules made under the Criminal Procedure Act 2011".

Misuse of Drugs Amendment Act 1978 (1978 No 65)

Section 43(1): omit "section 28I of the District Courts Act 1947" and substitute "Part 3 of the Summary Proceedings Act 1957".

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".

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".

Section 47(2): omit "summary".

Misuse of Drugs Amendment Act 2005 (2005 No 81)—*continued*

Section 48(3): omit "summary".

Section 49(3): omit "summary".

Section 50(2): omit "summary".

Section 51(2): omit "summary".

Section 52(4): omit "summary".

Section 53(2): omit "summary".

Section 54(5): omit "summary".

Section 59: repeal and substitute:

59 Time for filing charging document under this Part

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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)

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:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

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)

Section 23(3): omit "summary".

Music Teachers Act 1981 (1981 No 3)

Section 31: omit "summary".

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)

Section 40: omit “summary”.

National Parks Act 1980 (1980 No 66)

Section 56I(1): omit “summary”.

Section 56J(2): omit “summary”.

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

(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.

(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.

Section 68: repeal and substitute:

68 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act 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”.

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”.

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”.

New Zealand Institute of Chartered Accountants Act 1996 (1996 No 39)

Section 11(9): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 14(2): omit “summary”.

Section 15(4): omit “summary”.

Section 16(3): omit “summary”.

New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987 (1987 No 86)

Section 14(2): omit “on indictment”.

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)

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”.

Section 83(2): omit “Summary Proceedings Act 1957” and substitute “Criminal Procedure Act 2011”.

Section 86(5): omit “summary”.

New Zealand Railways Corporation Act 1981 (1981 No 119)

Section 18(8): omit “summary”.

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)

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): omit "indictable offence" and substitute "offence punishable by 2 or more years' imprisonment".

Section 12A(4): omit "on indictment".

Section 13: omit "summary".

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".

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".

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)

Section 6(2): omit "summary".

Ombudsmen Act 1975 (1975 No 9)

Section 19(8): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 28A(2): omit "summary".

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".

Section 45(2): omit "summary".

Overseas Investment Act 2005 (2005 No 82)—*continued*

Section 45(3): repeal.

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".

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)

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".

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".

Section 69(4): repeal and substitute:

(4) Subject to this section, sections 323, 325, 326, 328, 334, 335, 337 to 342, 351, 379, and 382 of the Criminal Procedure Act 2011 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.

(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 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".

Section 72(2) and (3): omit "summary".

Section 91(2)(d): repeal and substitute:

Parole Act 2002 (2002 No 10)—*continued*

(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 169 of the Criminal Procedure Act 2011:

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 Act 2011".

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 Act 2011".

Section 107G(3): omit "sections 22 and 23 of the Summary Proceedings Act 1957" and substitute "sections 162 and 163 of the Criminal Procedure Act 2011".

Section 107G(6): repeal and substitute:

(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.

Section 107G(7): repeal and substitute:

(7) The following provisions of the Criminal Procedure Act 2011 apply, with all necessary modifications, to proceedings for an extended supervision order:

(a) section 184 (criminal records):

(b) section 365 (contempt of court):

(c) section 379 (proceedings not to be questioned for want of form).

Section 107G(8): omit "form that" and substitute "form for which the content".

Section 107G(8): omit "section 212 of the Summary Proceedings Act 1957" and substitute "section 386 of the Criminal Procedure Act 2011".

Section 107R(2): repeal and substitute:

(2) Every appeal must be to the Court of Appeal, and Part 6 of the Criminal Procedure Act 2011 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.

Section 107T: omit "summary".

Section 118A(3): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 118D(2): omit "summary".

Passports Act 1992 (1992 No 92)

Definition of **conviction on indictment** in section 2: repeal.

Passports Act 1992 (1992 No 92)—*continued*

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".

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.

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

(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".

Section 25(6): omit "on indictment".

Section 25: add:

(7) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence against subsection (1).

Section 26(8): omit "on indictment".

Section 26: add:

(9) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence against subsection (8).

Section 103(4): omit "summary".

Section 105: omit "on indictment".

Section 105: add as subsection (2):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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".

Patriotic and Canteen Funds Act 1947 (1947 No 63)

Section 49(4): omit “summary”.

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 Act 2011 or” after “proceedings under”.

Section 22(4): insert “the Criminal Procedure Act 2011 or” after “taken under”.

Section 22(4)(b): omit “section 78A of the Summary Proceedings Act 1957” and substitute “section 375 of the Criminal Procedure Act 2011”.

Section 22(5): insert “the Criminal Procedure Act 2011 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 375 of the Criminal Procedure Act 2011”.

Section 23: repeal.

Section 25: repeal.

Plant Variety Rights Act 1987 (1987 No 5)

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”.

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”.

Section 124: omit “summary”.

Section 125(1), (2), and (3): omit “summary”.

Section 125(4): omit “An information must not be laid” and substitute “A charging document must not be filed”.

Section 127: repeal and substitute:

Plumbers, Gasfitters, and Drainlayers Act 2006 (2006 No 74)—*continued*

127 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 128(1)(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; 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 Act 2011.

Section 129(4)(a)(i) and (b): omit "laying of an information" in each place where it appears 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".

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 Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

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 34(3)(a): omit "Crimes Act 1961, or under the Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 34(3)(b): omit "committal process" and substitute "pre-trial".

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.

Section 47(2): insert "on conviction" after "liable".

Section 48(4): insert "on conviction" after "liable".

Section 49(2): insert "on conviction" after "liable".

Section 50(2): insert "on conviction" after "liable".

Section 51(2): insert "on conviction" after "liable".

Section 52(2): insert "on conviction" after "liable".

Policing Act 2008 (2008 No 72)—*continued*

Section 53(2): insert "on conviction" after "liable".

Section 54: repeal.

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" in each place where it appears and substitute in each case "filing of a charging document".

Pork Industry Board Act 1997 (1997 No 106)

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 Act 2011".

Section 13: insert "on conviction" after "liable".

Section 20(3): insert "on conviction" after "liable".

Section 23(2): insert "on conviction" after "liable".

Section 24(2): insert "on conviction" after "liable".

Section 28(2): insert "on conviction" after "liable".

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".

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.

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 184 of the Criminal Procedure Act 2011".

Prisoners' and Victims' Claims Act 2005 (2005 No 74)—*continued*

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".

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 159 of the Criminal Procedure Act 2011 applies".

Section 91(5)(a): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Paragraph (d) of the definition of **fine** in section 103(5): repeal.

Section 114F: omit "summary".

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".

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".

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)

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".

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".

Section 67(5): omit "summary".

Private Security Personnel and Private Investigators Act 2010 (2010 No 115)—*continued*

Section 69: omit “summary”.

Section 70(3): omit “summary”.

Section 104(5): omit “summary”.

Section 105: omit “summary”.

Section 107: omit “summary”.

Section 109(3): omit “summary”.

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”.

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

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”.

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”.

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”.

Protected Objects Act 1975 (1975 No 41)—*continued*

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".

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)

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 159 of the Criminal Procedure Act 2011 applies".

Section 78(4): omit "Sections 20, 38, and 39 of the Summary Proceedings Act 1957" and substitute "Sections 159 and 161 to 165 of the Criminal Procedure Act 2011".

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:

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Section 40(2): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Public Bodies Leases Act 1969 (1969 No 141)

Section 16(2): omit "summary".

Public Finance Act 1989 (1989 No 44)

Section 77(1) and (2): omit "summary".

Section 78: repeal and substitute:

Public Finance Act 1989 (1989 No 44)—*continued*

78 Time for commencing proceedings

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Public Service Investment Society Management Act (No 2) 1979 (1979 No 9)

Section 16(2): omit “summary”.

Section 22(1): omit “on indictment”.

Public Works Act 1981 (1981 No 35)

Section 133(7): omit “summary”.

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”.

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”.

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”.

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”.

Radiocommunications Act 1989 (1989 No 148)

Section 66(4): omit “summary”.

Section 128(1): omit “summary”.

Section 128A(a): repeal and substitute:

Radiocommunications Act 1989 (1989 No 148)—*continued*

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 134A(2): omit "summary".

Railways Act 2005 (2005 No 37)

Section 61(1) and (2): omit "summary".

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".

Section 90(3): repeal and substitute:

(3) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to every appeal under this section.

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.

Section 98: repeal and substitute:

98 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 14 of the Criminal Procedure Act 2011; or

(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 Act 2011.

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)

Section 14(2): omit "summary".

Rates Rebate Act 1973 (1973 No 5)—*continued*

Section 14(3): repeal and substitute:

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 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)

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".

Schedule 1, clause 7(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Schedule 1, clause 8(2): omit "indictment for" and substitute "charge of".

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".

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".

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".

Section 67: omit "summary".

Section 68(2): omit "on indictment".

Referenda (Postal Voting) Act 2000 (2000 No 48)—*continued*

Section 74(1), (2) and (3): omit "summary".

Section 76(1) and (2): omit "summary".

Registered Architects Act 2005 (2005 No 38)

Section 7(4): omit "summary".

Section 34(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

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 Act 2011".

Remuneration Authority Act 1977 (1977 No 110)

Section 9(2): omit "summary".

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".

Section 156AB(1): omit "summary".

Section 156AC(1): omit "summary".

Section 156J(1): omit "summary".

Section 156ZQ(1): omit "summary".

Section 157ZP: omit "summary".

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".

Section 176: omit "summary".

Section 177: repeal and substitute:

177 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, the limitation period in respect of an offence against this Act,—

(a) in the case of an offence against section 28 or 30, ends on the date that is 3 years after the date on which the offence was committed; or

Reserve Bank of New Zealand Act 1989 (1989 No 157)—*continued*

(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".

Section 96(3): omit "summarily".

Section 97(2): omit "summarily".

Section 99: repeal and substitute:

99 Time for filing charging document

Despite section 25 of the Criminal Procedure Act 2011, 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 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".

Section 101(2): omit "laying an information" and substitute "filing a charging document".

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".

Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915 (1915 No 68)

Section 5(3): omit "summary".

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".

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".

Residential Tenancies Act 1986 (1986 No 120)—*continued*

Section 109A(5): omit "summary".

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".

Section 138: repeal and substitute:

138 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Resource Management Act 1991 (1991 No 69)

Section 308(1): repeal and substitute:

(1) Subpart 8 of Part 6 of the Criminal Procedure Act 2011 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 300 of that Act.

Section 338(4): repeal and substitute:

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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".

Section 342(1): omit "information for that offence was laid" and substitute "proceedings in relation to the offence were commenced by or".

Section 343B(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 343C(2): omit "for the purposes of the Summary Proceedings Act 1957,".

Section 352A(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

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 Act 2011".

Definition of **Registrar** in section 352A(4): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31)

Section 158(1): omit "an information" and substitute "a charging document".

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".

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".

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 161 of the Criminal Procedure Act 2011".

Section 23(1), (1A), (2), and (4A): omit "summary".

Section 23(5): repeal and substitute:

(5) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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.

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:

(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 Act 2011 applies as far as applicable with the necessary modifications as if it were an appeal under section 303 of that Act.

(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.

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”.

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:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 162C(2): omit “for the purposes of the Summary Proceedings Act 1957,”.

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”.

Section 168(1): insert “on conviction” after “liable”.

Sale of Liquor Act 1989 (1989 No 63)—*continued*

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”.

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”.

Section 182: repeal.

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.

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”.

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”.

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”.

Section 39(3): omit “summary”.

Section 40(3): omit “summary”.

Section 41(2): omit “summary”.

Section 42(5): omit “summary”.

Secondhand Dealers and Pawnbrokers Act 2004 (2004 No 70)—*continued*

Section 44(4): omit "summary".

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".

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:

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.

(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—

(a) permit the prosecutor to withdraw the charge; or

(b) dismiss the charge.

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.

Section 14: repeal.

Securities Act 1978 (1978 No 103)

Section 38B(5): omit "summary".

Section 58(5): repeal and substitute:

Securities Act 1978 (1978 No 103)—*continued*

(5) Every person who commits an offence against this section is liable on conviction to—

(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.

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.

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".

Section 64: repeal and substitute:

64 Time for filing charging document for certain offences

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

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".

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".

Securities Markets Act 1988 (1988 No 234)—*continued*

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:

43U Time for filing charging document for certain offences

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(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

(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.

(2) Nothing in subsection (1) affects the application of section 25 of the Criminal Procedure Act 2011 in relation to any offence not mentioned in that subsection.

Securities Trustees and Statutory Supervisors Act 2011 (2011 No 10)

Section 8(5): omit "summary".

Section 24(4): omit "summary".

Section 24(6): omit "summary".

Section 36(5): omit "summary".

Section 39(5): omit "summary".

Section 39(7): omit "summary".

Section 49(5): omit "summary".

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".

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)

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”.

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”.

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”.

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 applicable limitation period referred to in section 25 of the Criminal Procedure Act 2011 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”.

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”.

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 14 of the Criminal Procedure Act 2011”.

Smoke-free Environments Act 1990 (1990 No 108)—*continued*

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 25 of the Criminal Procedure Act 2011, 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 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 25 of the Criminal Procedure Act 2011, 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 38B(a): omit "the laying of an information under the Summary Proceedings Act 1957" and substitute "filing a charging document under section 14 of the Criminal Procedure Act 2011".

Section 38C(3): omit "For the purposes of the Summary Proceedings Act 1957, an" and substitute "An".

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.

(3) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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

Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to a determination of the High Court on an appeal under section 12Q as if the determination had been made under section 300 of that Act.

Section 84(2): omit "summary".

Section 86F: omit "summary".

Social Security Act 1964 (1964 No 136)—*continued*

Paragraph (d) of the definition of **fine** in section 126A(1): repeal.

Section 127: omit "summary".

Section 128: repeal and substitute:

128 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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 Act 2011".

Section 148: omit "summary" in each place where it appears.

Schedule 2, clause 10(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

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

Subpart 8 of Part 6 of the Criminal Procedure Act 2011 applies as far as applicable with the necessary modifications to a determination of the High Court under section 33B as if the determination had been made under section 300 of that Act.

Section 55(3): omit "summary".

Section 113(3): omit "in a summary way".

Section 156: repeal.

Section 157: omit "Section 14 of the Summary Proceedings Act 1957" and substitute "Section 25 of the Criminal Procedure Act 2011".

Sport and Recreation New Zealand Act 2002 (2002 No 38)

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 Act 2011".

Section 45(2): omit "summary".

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)

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 25 of the Criminal Procedure Act 2011, 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.

Statutes Amendment Act 1938 (1938 No 20)

Section 46(2) and (3): omit "summary".

Student Loan Scheme Act 2011 (2011 No 62)

Section 164: repeal and substitute:

164 Proceedings to be commenced by Commissioner

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".

Section 165(2): omit "an information" and substitute "a charging document".

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 25 of the Criminal Procedure Act 2011, 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)

Section 9(2): omit “summary”.

Section 11(1): omit “summary”.

Section 13(1) and (2): omit “summary”.

Section 15: omit “summary”.

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” in each place where it appears and substitute in each case “file a charging document”.

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”.

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

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:

> **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.

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”.

Summary Offences Act 1981 (1981 No 113)—*continued*

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".

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".

Section 38B(1)(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

Section 38C(2): omit "for the purposes of the Summary Proceedings Act 1957,".

Section 40(1): omit "summary".

Section 40(3): repeal.

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

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**".

Superannuation Schemes Act 1989 (1989 No 10)

Section 25(1): omit "summary".

Supreme Court Act 2003 (2003 No 53)

Section 10: repeal and substitute:

10 Appeals against decisions in criminal proceedings

The Supreme Court can hear and determine appeals authorised by—

(a) Part 6 of the Criminal Procedure Act 2011; or

(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,”.

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.

Section 44C(2): omit “on indictment”.

Section 44H: omit “on indictment”.

Section 44J(3): omit “on indictment”.

Section 44P: omit “on indictment”.

Insert after the subpart 5 heading and before section 44Q:

44PA Time limit for commencing proceedings for offence under section 44H, 44J, or 44P

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence against section 44H, 44J, or 44P of this Act.

Tax Administration Act 1994 (1994 No 166)

Section 81(4)(a): omit “indictable or summary”.

Paragraph (d) of the definition of **fines defaulter** in section 85A(6): repeal.

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.

Heading to section 150: omit “**Information**” and substitute “**Charging document**”.

Section 150(1): omit “An information” and substitute “A charging document”.

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**”.

Section 150A(1): omit “An information” and substitute “A charging document”.

Section 150A(1): omit “laid” and substitute “filed”.

Heading to section 150B: omit “**Information may be laid**” and substitute “**Charging document may be filed**”.

Tax Administration Act 1994 (1994 No 166)—*continued*

Section 150B(1): omit “An information” and substitute “A charging document”.

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”.

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”.

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 25 of the Criminal Procedure Act 2011,”.

Telecommunications Act 2001 (2001 No 103)

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”.

Section 155L(1): omit “summary”.

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”.

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”.

Section 13C(2): omit “on indictment”.

Section 13D: omit “on indictment”.

Section 13E(2): omit “on indictment”.

Terrorism Suppression Act 2002 (2002 No 34)—*continued*

Section 43(4): omit "on indictment".

Section 47(5): omit "summary".

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".

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".

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".

Section 45(2) and (3): omit "on indictment".

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)

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)

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".

Section 15: omit "summary".

Trade Unions Act 1908 (1908 No 196)—*continued*

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):

(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.

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**".

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 Act 2011,—

(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:

Section 30(b): omit "information or complaint" and substitute "charge".

Transport Accident Investigation Commission Act 1990 (1990 No 99)

Section 14L(3): omit "summary".

Section 14M(2): omit "summary".

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 Act 2011".

Section 68(2): omit "summary".

Section 69(1): omit "summary".

Trans-Tasman Proceedings Act 2010 (2010 No 108)

Section 50(5): omit "summary".

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.

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".

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.

Trustee Companies Act 1967 (1967 No 35)

Section 46(4): omit "summary".

Trustee Companies Management Act 1975 (1975 No 25)

Section 13(2): omit "summary".

Section 20(1): omit "on indictment".

Section 20: add:

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, a charging document may be filed at any time in respect of an offence against this section.

Tuberculosis Act 1948 (1948 No 36)

Section 27: repeal.

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".

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)

Section 8(2): omit “summary”.

Section 11: repeal and substitute:

11 Limitation of proceedings

(1) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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 is beyond the territorial limits of New Zealand.

(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”.

Unsolicited Goods and Services Act 1975 (1975 No 46)

Section 5(2): omit “summary”.

Section 7(2): omit “summary”.

Section 11: omit “summary”.

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”.

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”.

Section 32(2): omit “summary”.

Section 33(2): omit “summary”.

Section 42(4): omit “summary”.

Veterinarians Act 2005 (2005 No 126)—*continued*

Section 49(5): omit "summary".

Section 72(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 Act 2011".

Waitangi National Trust Board Act 1932 (1932 No 28)

Section 6(1): omit "summary".

Walking Access Act 2008 (2008 No 101)

Section 53: Repeal subsection (1) and substitute the following subsections:

(1) Proceedings are commenced by filing a charging document under section 14 of the Criminal Procedure Act 2011.

(1A) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

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".

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".

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

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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.

Waste Minimisation Act 2008 (2008 No 89)

Section 65(1), (2), and (3): omit "summary".

Section 66: omit "summary".

Heading above section 71, and section 71: repeal and substitute:

Waste Minimisation Act 2008 (2008 No 89)—*continued*

Time for filing charge

71 Time for filing charge

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(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

(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.

Section 73(a): repeal and substitute:

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

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" and substitute "Criminal Procedure Act 2011".

Schedule 3, clause 11(2): omit "indictment for" and substitute "charge of".

Weights and Measures Act 1987 (1987 No 15)

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 14 of the Criminal Procedure Act 2011; or

Section 32A(3): repeal and substitute:

(3) If an infringement notice, or a copy of an infringement notice, is—

(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:

Weights and Measures Act 1987 (1987 No 15)—*continued*

(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.

Section 33(1): omit "summary".

Section 36(1)(a): repeal and substitute:

(a) must be commenced by an Inspector; and

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)

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".

Section 37(4): repeal and substitute:

(4) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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) Subsection (4) does not apply to an offence against section 11.

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,".

Section 68A: omit "section 14 of the Summary Proceedings Act 1957" and substitute "section 25 of the Criminal Procedure Act 2011".

Section 70(4): omit "on the information of" and substitute "by".

Wine Act 2003 (2003 No 114)

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.

Wine Act 2003 (2003 No 114)—*continued*

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".

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 25 of the Criminal Procedure Act 2011, 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.

Wool Industry Restructuring Act 2003 (2003 No 40)

Section 54(1): omit "summary".

Schedule 3 Part 1: amended, on 1 July 2013, by section 23 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Schedule 3 Part 1: amended, on 13 June 2013, by section 72 of the Land Transport Management Amendment Act 2013 (2013 No 35).

Schedule 3 Part 1: amended, on 2 April 2013, by section 76 of the Electronic Identity Verification Act 2012 (2012 No 123).

Schedule 3 Part 1: amended, on 1 October 2012, by section 327 of the Search and Surveillance Act 2012 (2012 No 24).

Schedule 3 Part 1: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

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".

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".

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 1927” and substitute “accordance with Part 3 of the Summary Proceedings Act 1957”.

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”.

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”.

Section 53: omit “summary”.

Section 54(2): omit “summary”.

Section 73(2): omit “summary”.

Section 79: omit “a summary manner under” and substitute “accordance with Part 3 of”.

Proviso to section 79: repeal and substitute as subsection (2):

(2) Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011, 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)

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”.

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 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 Act 1957 (the provisions whereof shall, with the necessary modifications, apply),".

Section 11(1) and (2): omit "summary".

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".

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".

Rotorua City Geothermal Energy Empowering Act 1967 (1967 No 2)

Section 4(3): omit "summary".

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 25 of the Criminal Procedure Act 2011, 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.

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".

Section 34(2): omit "laying an information" and substitute "filing a charging document".

Section 34(2): omit "lay informations" and substitute "file charging documents".

Summit Road (Canterbury) Protection Act 2001 (2001 No 3)—*continued*

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)

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)

Section 18: omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Section 35: repeal.

Wanganui District Council (Prohibition of Gang Insignia) Act 2009 (2009 No 1)

Section 12(2): omit "summary".

Section 14(5): omit "summary".

Section 15: repeal and substitute:

15 Filing charging document for offence

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".

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 recovered under the Criminal Procedure Act 2011 and the Summary Proceedings Act 1957, and must be paid into the District Fund of the Wellington Corporation.

Wellington City (Cuba Street Mall) Empowering Act 1967 (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 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".

Section 33: omit "summary".

Section 34(1): omit "summary".

Section 35(2): omit "summary".

Section 57: omit "summary".

Section 64(1): omit "summary".

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 25 of the Criminal Procedure Act 2011, 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)

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 as subsection (2):

(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.

Part 3
Amendments to private Acts

Ashburton County Council Empowering Act 1882 (1882 No 3)

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)

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".

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".

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

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".

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)

Regulation 7(2): omit "summary".

Armed Forces Establishments Road Traffic Bylaws 1978 (SR 1978/149)

Bylaw 7(4): omit "summary".

Arms Regulations 1992 (SR 1992/346)

Regulation 12(2): omit "summary".

Regulation 13(3): omit "summary".

Regulation 27(2): omit "summary".

Arthur's Pass National Park Bylaws 1981 (SR 1981/63)

Bylaw 17: omit "summary".

Biosecurity (Imported Animals, Embryos, and Semen Information) Regulations 1999 (SR 1999/367)

Regulation 9(3): omit “summary”.

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”.

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**”.

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)

Regulation 4(4): omit “summary”.

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)

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)

Regulation 4(2): omit “summary”.

Continental Shelf (Pohokura Platform B Safety Zone) Regulations 2006 (SR 2006/9)

Regulation 6(2): omit “summary”.

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:

(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):

(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):

(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):

(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)

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.

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".

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)

Regulation 45: omit "summary".

Defence Regulations 1990 (SR 1990/78)

Regulation 39: omit "summary".

District Courts (Categorisation of Offences) Regulations 2008 (SR 2008/211)

Revoke.

Education (Early Childhood Centres) Regulations 1998 (SR 1998/85)

Regulation 41: omit “summary”.

Education (Early Childhood Services) Regulations 2008 (SR 2008/204)

Regulation 38: omit “summary”.

Education (Hostels) Regulations 2005 (SR 2005/332)

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)

Regulation 46(5): omit “summary”.

Regulation 68: omit “summary”.

Electricity (China Free Trade Agreement) Regulations 2008 (SR 2008/223)

Regulation 7(2): omit “summary”.

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)

Regulation 26(2): omit “summary”.

Regulation 27(3) and (4): omit “summary”.

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)

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”.

Electricity (Safety) Regulations 2010 (SR 2010/36)—*continued*

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 375 of the Criminal Procedure Act 2011".

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 375 of the Criminal Procedure Act 2011".

Electricity (Statistics) Regulations 1996 (SR 1996/17)

Regulation 12(2): omit "summary".

Employment Court Regulations 2000 (SR 2000/250)

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.

Regulation 72(2): omit "section 71 of the Summary Proceedings Act 1957" and substitute "section 184 of the Criminal Procedure Act 2011".

Schedule 1, heading to form 16: omit and substitute "**Charging document**".

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

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".

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".

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**".

Schedule 2, clause 3: omit "information" and substitute "charge".

Schedule 2, heading to clause 4: omit "**Information**" and substitute "**Charge**".

Employment Court Regulations 2000 (SR 2000/250)—*continued*

Schedule 2, clause 4: omit "an information" and substitute "a charge".

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".

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".

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".

Schedule 2, clause 6(2): omit "an information" and substitute "a charge".

Schedule 2, clause 8(2): omit "informant" and substitute "prosecutor".

Schedule 2, heading to clause 10: omit "**information**" and substitute "**charge**".

Schedule 2, clause 10(1) and (3): omit "information" in each place where it appears and substitute in each case "charge".

Schedule 2, clause 10(2): omit "an information" and substitute "a charge".

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".

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".

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".

Schedule 2, clause 17(1): omit "information" and substitute "charge".

Schedule 2, clause 18(1): omit "informant" and substitute "prosecutor".

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)

Regulation 11(2): omit “summary”.

Engine Fuel Specifications Regulations 2008 (SR 2008/138)

Regulation 22: omit “summary”.

Evidence Regulations 2007 (SR 2007/204)

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”.

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**”.

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.

Films, Videos, and Publications Classification Regulations 1994 (SR 1994/189)

Regulation 46(3): omit “summary”.

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”.

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”.

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”.

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”.

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)

Regulation 16(1) and (2): omit “summary”.

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)

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)

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”.

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)

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)

Regulation 7(1) and (2): omit “summary”.

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)

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)

Regulation 9(2): omit “summary”.

Fisheries (White Pointer Shark—High Seas Protection) Regulations 2007 (SR 2007/48)

Regulation 5(2): omit “summary”.

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)

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)

Regulation 9(2): omit “summary”.

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)

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”.

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 375 of the Criminal Procedure Act 2011”.

Gas (Statistics) Regulations 1997 (SR 1997/128)

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”.

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)

Regulation 32(2): omit “summary”.

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)

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)

Regulation 39(2): omit "summary".

Health and Safety in Employment Regulations 1995 (SR 1995/167)

Regulation 70(2): omit "summary".

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".

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".

Heavy Motor Vehicle Regulations 1974 (SR 1974/218)

Regulation 18(2): omit "summary".

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)

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".

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 in relation to service of a summons made under the Criminal Procedure Act 2011 that apply (with all necessary modifications)".

Regulation 7: revoke.

International War Crimes Tribunals Regulations 1995 (SR 1995/138)

Regulation 4(2): omit "provisions of 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 in relation to service of a summons made under the Criminal Procedure Act 2011 that apply (with all necessary modifications)".

Regulation 4(3): revoke.

Kahurangi National Park Bylaws 2009 (SR 2009/14)

Bylaw 22: omit "summary".

Kiwifruit Export Regulations 1999 (SR 1999/310)

Regulation 3(2): omit "summary".

Labour Relations Regulations 1987 (SR 1987/226)

Regulation 54(2): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Lake Taupo (Crown Facilities, Permits and Fees) Regulations 2004 (SR 2004/140)

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".

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".

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**".

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)

Regulation 41: omit "summary".

Maori Community Development Regulations 1963 (SR 1963/87)

Regulation 8(1): omit "Summary Proceedings Act 1957" and substitute "Criminal Procedure Act 2011".

Maori Reservations Regulations 1994 (SR 1994/57)

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".

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 1998/444)

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**".

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".

Medicines (Designated Prescriber: Nurse Practitioners) Regulations 2005 (SR 2005/266)

Regulation 10(3): omit "summary".

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)

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".

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".

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".

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".

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".

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".

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".

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".

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".

Mental Health (Forms) Regulations 1992 (SR 1992/305)—*continued*

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".

Microwave Ovens Regulations 1982 (SR 1982/221)

Regulation 5(2): omit "summary".

Mount Aspiring National Park Bylaws 1981 (SR 1981/66)

Bylaw 16: omit "summary".

Mount Cook National Park Bylaws 1981 (SR 1981/67)

Bylaw 16: omit "summary".

Mutual Assistance in Criminal Matters Regulations 1993 (SR 1993/92)

Regulation 4(2): omit "provisions of 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 in relation to service of a summons made under the Criminal Procedure Act 2011 that apply (with all necessary modifications)".

Regulation 4(3): revoke.

Nelson Lakes National Park Bylaws 2006 (SR 2006/175)

Bylaw 21: omit "summary".

New Zealand Teachers Council (Conduct) Rules 2004 (SR 2004/143)

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 Act 2011".

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)

Clause 32: omit "summary".

Ozone Layer Protection Regulations 1996 (SR 1996/222)

Regulation 37: omit "summary".

Parole Regulations 2002 (SR 2002/179)

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".

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”.

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”.

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)

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**”.

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)

Regulation 53: omit “summary”.

Securities Act (Contributory Mortgage) Regulations 1988 (SR 1988/143)

Regulation 41: omit “summary”.

Securities Regulations 2009 (SR 2009/230)

Regulation 32(2): omit “summary”.

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.

Schedule, form 3: omit "on indictment" in each place where it appears.

Social Security (SuperGold Card) Regulations 2007 (SR 2007/209)

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)

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".

Te Urewera National Park Bylaws 2006 (SR 2006/115)

Bylaw 24: omit "summary".

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)

Regulation 12(2): omit "summary".

Regulation 13(2): omit "summary".

Regulation 13A(3): omit "summary".

Regulation 13B(2): omit "summary".

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".

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*".

Tokelau (Exclusive Economic Zone) Fishing Regulations 1988 (SR 1988/262)—*continued*

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)

Regulation 7: omit "summary".

Transport (Vehicular Traffic Road Closure) Regulations 1965 (SR 1965/63)

Regulation 11(3): omit "summary".

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)

Clause 30: omit "summary".

War Pensions Regulations 1956 (SR 1956/7)

Regulation 6: omit "summary".

Weights and Measures Regulations 1999 (SR 1999/373)

Regulation 7(2): omit "summary".

Regulation 39(7): omit "summary".

Regulation 80: omit "summary".

Regulation 84(2): omit "summary".

Regulation 85(3): omit "summary".

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)

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”.

Wildlife (Farming of Unprotected Wildlife) Regulations 1985 (SR 1985/201)

Regulation 25: omit “summary”.

Wildlife Regulations 1955 (SR 1955/28)

Regulation 44: omit “summary”.

Schedule 3 Part 4: amended, on 1 July 2013, by section 23 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

Schedule 3 Part 4: amended, on 18 September 2012, by section 93 of the Biosecurity Law Reform Act 2012 (2012 No 73).

Notes

1 General

This is a consolidation of the Criminal Procedure Act 2011 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Crimes (Countering Foreign Interference) Amendment Act 2025 (2025 No 71): section 17

Victims of Sexual Violence (Strengthening Legal Protections) Legislation Act 2025 (2025 No 36): Part 2

Sentencing (Reinstating Three Strikes) Amendment Act 2024 (2024 No 54): Part 2 subpart 1

Corrections Amendment Act 2024 (2024 No 41): section 52

Courts (Remote Participation) Amendment Act 2024 (2024 No 33): Part 2

Security Information in Proceedings (Repeals and Amendments) Act 2022 (2022 No 72): sections 13–31

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Sexual Violence Legislation Act 2021 (2021 No 60): Part 3

Rights for Victims of Insane Offenders Act 2021 (2021 No 55): section 46

COVID-19 Response (Management Measures) Legislation Act 2021 (2021 No 42): Schedule 6 Part 2

Counter-Terrorism Legislation Act 2021 (2021 No 37): section 57

Secondary Legislation Act 2021 (2021 No 7): section 3

Land Transport (NZTA) Legislation Amendment Act 2020 (2020 No 48): section 175(1)

Statutes Amendment Act 2019 (2019 No 56): Part 10

Contempt of Court Act 2019 (2019 No 44): section 29

Oranga Tamariki Legislation Act 2019 (2019 No 30): Part 2 subpart 5

Courts Matters Act 2018 (2018 No 50): Part 2

Family Violence (Amendments) Act 2018 (2018 No 47): Part 4

Maritime Crimes Amendment Act 2017 (2017 No 49): section 24

Land Transport Amendment Act 2017 (2017 No 34): section 110(1)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): Part 2 subpart 1 (as amended by Oranga Tamariki Legislation Act 2019 (2019 No 30))

Contract and Commercial Law Act 2017 (2017 No 5): section 347

Criminal Procedure Amendment Act 2016 (2016 No 61)

District Court Act 2016 (2016 No 49): section 261

Senior Courts Act 2016 (2016 No 48): section 183(b)

Evidence Amendment Act 2016 (2016 No 44): section 38(1)

Child Protection (Child Sex Offender Government Agency Registration) Act 2016 (2016 No 42): sections 60, 61

Legislation (Confirmable Instruments) Amendment Act 2015 (2015 No 120): section 14

Victims' Orders Against Violent Offenders Act 2014 (2014 No 45): section 29

Administration of Community Sentences and Orders Act 2013 (2013 No 88): section 58

Land Transport Management Amendment Act 2013 (2013 No 35): section 72

Criminal Procedure Amendment Act 2013 (2013 No 25)

Criminal Procedure Act Commencement Order 2013 (SR 2013/162)

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Electronic Identity Verification Act 2012 (2012 No 123): section 76

Biosecurity Law Reform Act 2012 (2012 No 73): section 93

Search and Surveillance Act 2012 (2012 No 24): section 327

Criminal Procedure Act Commencement Order 2011 (SR 2011/413)

Criminal Procedure Act 2011 (2011 No 81): sections 410, 410A(4)

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2025