

Courts and Criminal Matters Bill

Government Bill

Explanatory note

General policy statement

The Courts and Criminal Matters Bill is an omnibus Bill amending a number of statutes to enhance the courts' powers and processes for the collection of fines and other monetary penalties, and civil debt. The Business Committee has agreed to the introduction of this omnibus Bill under Standing Order 259(c).

The Courts and Criminal Matters Bill amends—

- the District Courts Act 1947 to improve the efficiency and effectiveness of the civil debt enforcement system:
- the Land Transport Act 1998 to introduce driver licence stop orders as a new penalty enforcement measure in relation to traffic offences:
- the Summary Proceedings Act 1957 and other Acts to improve the collection and enforcement of monetary penalties including by:
 - authorising the inclusion of overdue penalties in credit reports:
 - giving the courts priority over secured creditors for the sale proceeds of seized property in certain circumstances:

- authorising the courts to substitute prison or home detention sentences for unaffordable and unenforceable reparation sentences and orders:
- the Sentencing Act 2002 to improve the operation of the reparation and vehicle confiscation penalty regimes:
- 16 other statutes, by making consequential amendments.

It is intended that the Bill will be divided at the committee of the whole House stage into separate Bills.

Part 1

Amendments to the District Courts Act 1947

Part 1 amends the District Courts Act 1947 to streamline the most common and effective civil debt enforcement processes—attachment orders and examination hearings.

Attachment orders, which entail mandatory deductions from wages and benefits to pay debts, are the most effective civil debt enforcement option. Currently, an attachment order can only be imposed after an examination hearing has been held to assess the judgment debtor's ability to pay the debt. Both parties have to attend the hearing. This can involve delays, costs and inconvenience for all parties. Amendments in Part 1 enable judgment creditors to file a financial statement or to ask the court to assess the debtor's financial means in their absence. These processes will provide Registrars with the information necessary to make orders to resolve the debt. Creditors will still be able to apply for a formal examination hearing that both parties will have to attend, if they wish.

Judgment debtors will be able to apply for an attachment order, or to file a financial statement that will enable a Registrar to determine the most appropriate means of resolving the debt.

Part 2

Amendments to the Land Transport Act 1998

Part 2 amends the Land Transport Act 1998 to authorise the imposition of driver licence stop orders (DLSOs) to suspend the driver li-

cences of people, who have not made arrangements to pay overdue traffic penalties.

Driver licence stop orders will be a new enforcement measure where a person fails to make payment arrangements for overdue traffic fines and reparation. The key features of DLSOs are that:

- eligible people will be sent a letter warning them that if they do not resolve their overdue traffic penalties within 14 days, their driver licences will be suspended:
- DLSOs will suspend all driver licences held by people in default, including limited licences, and will also prevent those people from obtaining a licence, including a limited licence, while subject to a DLSO:
- following service of a DLSO, all driver licences will be suspended immediately and will remain suspended until the overdue traffic penalties are resolved through payment or entering into a time-to-pay arrangement, or in the case of unaffordable penalties, through being substituted for an alternative sentence:
- if resolution happens after licences have been suspended, there will be a delay of up to 7 days before people can legally drive again:
- if detected driving in breach of a DLSO, the vehicle will be impounded for 28 days:
- if successfully prosecuted for driving on a suspended licence, a person would be subject to mandatory licence disqualification and could be fined or imprisoned.

Part 3

Amendments to the Summary Proceedings Act 1957

Part 3 amends the Summary Proceedings Act 1957 to—

- authorise the routine release of the amount of overdue penalties to credit reporting agencies for inclusion in credit reports when decisions are being made whether or not to advance credit or loans; and to authorise the Ministry of Justice to use information (for example, updated address information) provided by credit reporting agencies when collecting fines:

- provide District Courts with priority over secured creditors for seized property where the overdue penalties could have been discovered before finance was advanced to purchase that property and these penalties are still overdue:
- authorise prison or home detention sentences to be substituted for unaffordable and unenforceable reparation:
- improve the operation of the infringement system and the court collection and enforcement processes by addressing inconsistencies and increasing operational efficiency and flexibility:
- amalgamate some existing provisions relating to the seizure of vehicles and the seizure of property into a single set of provisions. The provisions have been re-ordered to better align with the steps of the seizure process. Appropriate vehicle seizure provisions have been extended to encompass all seized property. For example, the provisions will require Registrars to search the Personal Property Securities Register for financing statements registered against all seized property instead of seized vehicles only.

Part 4

Amendments to other Acts

Part 4 amends 13 other statutes. The main changes are to—

- the Personal Property Securities Act 1999 (*see subpart 6*), to clarify the inter-relationship between securities registered on the personal property securities register and the unencumbered title gained by purchasers when the Court sells confiscated vehicles or seized property. *Subpart 6* also authorises a court to remove any security that no longer has any legal effect from the register following the sale of confiscated or seized property if the secured party has not done so.
- the Sentencing Act 2002 (*subpart 10*), to amend the reparation and vehicle confiscation provisions in the Sentencing Act 2002 to—
 - authorise a court to direct that an offender be detained in the custody of the court for up to 2 hours to complete a declaration of his or her financial capacity; and direct the Registrar to determine how an offender is to pay

a sentence or order of reparation, rather than the court determining this itself:

- clarify that the provisions relating to sentences of reparation also apply to orders of reparation:
- streamlining the sale or disposal process for confiscated vehicles.

Amendments to the following statutes authorise outstanding vehicle confiscation costs to be included in the authorised data matches that provide updated contact information for fines defaulters:

- the Customs and Excise Act 1996 (*subpart 2*):
- the Immigration Act 1987 (*subpart 4*):
- the Immigration Act 2009 (*subpart 5*):
- the Social Security Act 1964 (*subpart 11*):
- the Tax Administration Act 1994 (*subpart 12*).

Other statutes amended by Part 4 are—

- the Children, Young Persons and Their Families Act 1989 (*subpart 1*):
- the Family Courts Act 1980 (*subpart 3*):
- the Prisoners' and Victims' Claims Act 2005 (*subpart 7*):
- the Privacy Act 1993 (*subpart 8*):
- the Railways Act 2005 (*subpart 9*):
- the Transport Act 1962 (*subpart 13*).

Schedules

There are three schedules, which set out consequential amendments. Schedule 1 sets out amendments consequential on the Bill's amendments to the District Courts Act 1947. The statutes amended are—

- the Child Support Act 1991:
- the Dunedin Southern Market Reserve Leasing Act 1882:
- the Sale of Goods Act 1908.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The provisions of the Bill come into force on dates appointed by Order in Council. Provisions in *Parts 3 and 4* that are not in force on the first anniversary of the date on which the Bill receives the Royal assent come into force on

that anniversary. However, it is not possible at this stage to provide a definite timeframe for the commencement of *Parts 1 and 2*. The scale of IT and system change required to operationalise the amendments to the District Courts Act (for some civil debt enforcement process changes) and the Land Transport Act (for the driver licence stop orders) are extensive. In addition, the amendments to the Land Transport Act 1998 need to be co-ordinated across three agencies (the Ministry of Justice, New Zealand Police, and the New Zealand Transport Agency), and this adds to the complexity and time required.

Part 1

Amendments to District Courts Act 1947

Clause 3 states that *Part 1* amends the District Courts Act 1947.

Many of the amendments relate to a change in terminology. The term warrant to seize property replaces the existing terms distress warrant and warrant of distress. *Clause 38 and Schedule 1* make amendments to other Acts to reflect this change of terminology.

Clause 4 inserts new definitions in section 2. The term financial assessment hearing replaces the existing term examination.

Clauses 5, 6, and 7 amend sections 12, 14, and 15 respectively. The effect of the amendments is that Registrars, Deputy Registrars, and bailiffs appointed to a particular District Court may exercise the powers and perform the functions and duties of Registrars, Deputy Registrars, and bailiffs (as the case may be) of other District Courts.

Clause 8 repeals section 69. The combined effect of the repeal and *new section 79A*, inserted by *clause 10*, is that a judgment or order of 1 District Court may be enforced in other District Courts without the need for a Registrar's certificate to be obtained.

Clause 9 amends section 79. The effect of the amendment is that an attachment order to enforce a money judgment may be made immediately after the judgment is entered. Unless a Judge grants leave, it remains necessary to wait 48 hours before commencing other proceedings to enforce a money judgment and any proceedings to enforce a non-money judgment.

Clause 12 repeals existing sections 84A to 84E and substitutes *new sections 84A, 84AB, 84AC, 84AD, 84B, 84C, 84D, and 84E*.

New section 84A provides that a statement of a judgment debtor's means (a financial statement) may be completed and filed in the court

by either the judgment creditor or the judgment debtor. (Currently, a financial statement may be completed only by the judgment debtor.) If completed by the judgment creditor, the financial statement must include details of the source of the information contained in the statement and the date to which the information relates. Once a financial statement is filed in the court, the court may exercise its powers under *new section 84E*.

New section 84AB provides for a judgment creditor to serve a notice to complete a financial statement on a judgment debtor. This largely re-enacts existing section 84A.

New section 84AC provides for a new procedure for information to be obtained about a judgment debtor's means for satisfying the judgment debt. On the application of the judgment creditor, the court must request the judgment debtor to provide the court with information about his or her means. The information may be provided at any place and using any means of communication that the court considers appropriate. Although the court may request that information about the judgment debtor's means be verified on oath, the court has no powers of compulsion under this section. If information about a judgment debtor's means is provided under this section, the court may exercise its powers under *new section 84E*.

New section 84AD gives the court the power to summons a judgment debtor to a hearing to be questioned about his or her means for satisfying the judgment debt. The court may exercise this power if the judgment debtor ignores a request under *new section 84AC* to provide information about his or her means, if the court wishes to obtain more information about the judgment debtor's means in addition to that provided in response to such a request before exercising its powers under *new section 84E*, or if information provided in response to such a request is not verified on oath. If a hearing takes place under this section, the court may exercise its powers under *new section 84E*.

New section 84B provides for a judgment creditor to apply to the court for a financial assessment hearing to question a judgment debtor about his or her means for satisfying the judgment debt. This largely reflects existing section 84B. It is no longer possible for a judgment debtor to apply for a financial assessment hearing.

New section 84C provides for powers to arrest a judgment debtor if a summons to attend a hearing under *new section 84AD* or a summons

to attend a financial assessment hearing cannot be served or if the judgment debtor fails to attend the hearing. This reflects existing section 84C.

New section 84D provides for the procedure at a financial assessment hearing. This reflects existing section 84D.

New section 84E provides for the court's powers in relation to a money judgment if—

- a financial statement is filed in the court; or
- the judgment debtor provides information about his or her means for satisfying the judgment debt in response to a request under *new section 84AC*; or
- a hearing under *new section 84AD* or a financial assessment hearing takes place.

The court may make an order that the money due under the judgment be paid by instalments, make an attachment order, or make a direction that proceedings to enforce the judgment be commenced, continued, or stayed. It is not necessary for a hearing to take place before the court exercises its powers under *new section 84E*. For example, the court may decide to exercise its powers based solely on information contained in a financial statement (which may be completed by either the judgment creditor or the judgment debtor).

Clause 13 inserts a new definition in section 84F.

Clause 14 substitutes *new sections 84G and 84H*.

New section 84G states that the court may make an attachment order in the circumstances referred to in *new section 84E(1)* and also if a free-standing application is made.

New section 84H provides that an attachment order must contain certain information, such as the employer to whom the order relates and the amount to be deducted from the judgment debtor's salary or wages.

Clause 15 amends section 84I. The effect of the amendments to subsections (1) and (2)(a) of section 84I is to make it possible for deductions from salary or wages to be made by reference to periods of other than a week.

New subsections (3) to (5) of section 84I largely re-enact existing section 84G(7) and (9), but there are 2 changes. First, the effect of an attachment order, either alone or when considered with the effect of the items referred to in *new subsection (5)*, must not be such that

the net amount paid to the judgment debtor falls below the protected earnings rate. The protected earnings rate is the higher of 60% of the judgment debtor's net earnings and the net amount stated in the attachment order as the amount below which the net amount paid to the judgment debtor must not fall. Secondly, deduction notices under the Child Support Act 1991 and the Tax Administration Act 1994 are added to the list of items that must be considered for the purpose of determining the effect of an attachment order.

Clause 16 amends section 84J. The effect of the amendment is that an employer in relation to whom an attachment order is made must notify the person to whom deductions from salary or wages are paid, rather than the Registrar, if the employer dismisses the employee or if the employee resigns. Notification must be made within 7 days after giving notice of dismissal or receiving notice of the resignation. The person to whom deductions are paid must also be notified if the employer ceases to pay salary or wages for some other reason, such as the expiry of a fixed-term contract, or if a judgment debtor's pension, benefit, or accident compensation ceases to be paid.

Clause 17 amends section 84L. The effect of the amendment to subsection (4) is that an attachment order may be served electronically on the Ministry of Social Development.

Clause 18 substitutes *new section 84M*. The principal change is that an attachment order may be discharged by the judgment creditor giving written notice to the employer to whom the attachment order relates, without the need for an application to the court.

Clause 19 amends section 84N. The effect of the amendments is that it is no longer possible to apply for a review of ancillary orders under *new section 84B(3)* made by a Registrar. In addition, a judgment creditor may not apply for a review of an order or direction made by a Registrar under *new section 84E or 84G* unless a financial assessment hearing has taken place.

Clause 20 amends section 84O. The effect of the amendments is that the court may order a judgment debtor who has the means to pay the judgment debt but refuses to do so to do community work not only where a financial assessment hearing has taken place but also in the following circumstances:

- where a financial statement has been filed in the court:

- where the court has been provided with information about the judgment debtor's means for satisfying the judgment debt following a request under *new section 84AC*:
- where a hearing under *new section 84AD* has taken place.

Clause 21 amends section 84Q, substituting a reference to reporting for community work for a reference to reporting to a community work centre. (If the court orders a judgment debtor to do community work under section 84O, the judgment debtor need not be required to report to a community work centre.)

Clauses 22, 23, and 25 to 33 make amendments to replace the existing terms distress warrant and warrant of distress with the new term warrant to seize property.

Clause 24 amends section 85A to align the offence with that contained in section 100J of the Summary Proceedings Act 1957. In particular, the offence is expanded to cover the removal of immobilised vehicles or any parts of, or property in, those vehicles.

Clause 34 inserts *new sections 108A and 108B* into Part 6. These sections make provision for who may serve certain documents under Part 6 and how those documents may be served. The District Courts Rules 2009 may provide that some of the documents referred to in *new section 108A* may be served electronically and provide for the form and manner of such service. (*See* also the amendment to section 122 made by *clause 36*.)

Clause 35 amends section 116A. The effect of the amendment is that, no matter who serves a document, service may be proved either by an endorsement on a copy of the document or in any other manner prescribed by the District Courts Rules 2009. (The existing provision is limited to service by an officer of the court or a constable.) In addition, *new subsection (3)* of section 116A provides that service of a document by prepaid post in accordance with *new section 108A* is deemed to have been served when the document would have been delivered in the ordinary course of posting. (Existing section 84H(2), which is repealed, makes similar provision in relation to the service of attachment orders.)

Clause 37 amends section 123. The effect of the amendment is to make it clear that regulations may be made that set fees for filing documents in the court. It is intended, for example, that there be a

fee for filing a financial statement in the court, following which the court may exercise its powers under *new section 84E*.

Part 2

Amendments to Land Transport Act 1998

Clause 39 states that *Part 2* amends the Land Transport Act 1998 (the **principal Act**).

Clause 40 inserts a new definition of driver licence stop order into the principal Act.

Clause 41 amends section 30 of the principal Act, which requires driver licences to be surrendered in certain circumstances. The amendment requires a person served with a driver licence stop order by an enforcement officer to surrender his or her licence to the officer.

Clause 42 amends section 88 of the principal Act, which requires the New Zealand Transport Agency to record demerit points. The amendment relates to infringement offences. Currently, section 88 deems the payment of infringement fees, made before the service of a reminder notice or within 33 days after the service of such a notice, to be a conviction for the purposes of recording demerit points. The amendment extends the conditions for that deeming provision to include the entry of arrangements for time payment of an infringement fee and also extends the current 33-day period after the service of a reminder notice to 43 days after the service of such a notice.

Clause 43 inserts into the principal Act *new sections 91A to 91H*, which deal with the imposition of driver licence stop orders for failing to pay traffic fines.

New section 91A inserts definitions for the purpose of the provisions on driver licence stop orders.

New section 91B states when a person becomes liable to a driver licence stop order. This occurs when a person has an overdue traffic fine that is not resolved. A fine is resolved if it is paid in full or is the subject of a payment arrangement or if it is enforced under one of the enforcement procedures stated in the section or if a court has directed that no further enforcement action be taken.

New section 91C requires the chief executive of the Ministry of Justice to serve a warning notice on a person who has become liable to a driver licence stop order.

New section 91D authorises the chief executive of the Ministry of Justice to impose a driver licence stop order on a person who has been served with a warning notice if 14 days have expired since the person was served with that notice and the person continues to be liable to the imposition of the order.

New section 91E requires a driver licence stop order to be served personally.

New section 91F provides that, once a driver licence stop order is served on a person, any driver licence held by the person is suspended. This includes a limited licence that the person may hold or be otherwise entitled to obtain. If the person does not hold a current driver licence, he or she is disqualified from obtaining a driver licence.

New section 91G authorises the chief executive of the Ministry of Justice to cancel a driver licence stop order if there is good reason for doing so, for example, if the driver licence stop order was imposed in error.

New section 91H provides for the termination of a driver licence stop order. Termination occurs if the traffic fine concerned is paid in full or if it is remitted in full or if it is resolved. The section states how traffic fines may be resolved, for example by making a payment under a payment arrangement.

Clauses 44 and 45 amend sections 96 and 96A respectively of the principal Act, which relate to the impoundment of vehicles. The clauses clarify that impounded vehicles will not be released if they have been seized under the Summary Proceedings Act 1957 or been confiscated under the Sentencing Act 2002.

Clause 46 amends section 103 of the principal Act, which relates to the grant of limited licences by clarifying that persons subject to a driver licence stop order may not apply for a limited licence.

Clause 47 amends section 105 of the principal Act, which relates to court orders granting limited licences. The amendment clarifies that a limited licence is automatically revoked if the holder is convicted of an offence for which an order of disqualification is imposed. The amendment further clarifies that a limited licence is revoked if the holder is subject to a driver licence stop order and that a limited licence may not be issued to a person who is subject to a driver licence stop order.

Clause 48 amends section 133 of the principal Act, which relates to the liability of owners for moving vehicle offences. One of the defences available under this section is that the vehicle was being driven by another person. To establish this defence, the defendant must, if the identity of the driver is known to the defendant, identify the driver by giving the name and address of the driver or such other particulars within the person's knowledge. The amendment requires such a defendant to provide more precise information, namely the full name and full address of the driver and any other identifying particulars known to the defendant, such as the driver's date of birth, occupation, and telephone number.

Clause 49 replaces section 140 of the principal Act, which prescribes the contents required for reminder notices issued for infringement offences. The *new section 140* prescribes the contents for the original infringement notice in very much the same terms as the contents currently prescribed for reminder notices. The new section also provides that a reminder notice must contain the same particulars as in the original infringement notice, as well as advice, if applicable, that demerit points apply to the offence concerned.

Clause 50 amends section 199 of the principal Act, which relates to the national register of driver licences. The amendment provides for driver licence stop orders to be shown against licences affected by those orders.

Part 3 **Amendments to Summary Proceedings** **Act 1957**

Clause 51 states that *Part 3* amends the Summary Proceedings Act 1957 (the **principal Act**).

Clause 52 inserts a new definition of Police employee into the principal Act.

Clause 53 amends section 21 of the principal Act, which sets out a summary procedure for infringement offences. The effect of the amendments made by *subclauses (1) and (2)* is to enable third parties, such as parents or guardians acting on behalf of defendants, to enter into arrangements to pay infringement fees by instalments.

Subclause (3) re-enacts section 21(5) and (5A) to clarify that particulars of the reminder notice must be provided within 6 months, or, in

the case of payment by instalments, 12 months after the alleged commission of the offence.

Clause 54 is related to *new sections 79A to 79D*, which are inserted by *clause 58* and set out special provisions on the service of documents for the purposes of Part 3 of the principal Act. *Clause 54* makes it clear that the existing provisions on service in the principal Act do not apply to Part 3 of the principal Act.

Clause 55 amends section 24 of the principal Act, which relates to service. The effect of the amendment is to remove the option, currently available in the case of traffic offences that are infringement offences, of sending notices to an address given by the defendant for the purposes of vehicle licensing or registration. The amendment also allows notices relating to an infringement offence to be sent to the defendant in electronic form if the defendant does not have a known place of residence in New Zealand.

Clause 56 amends section 78B of the principal Act, which relates to the correction of irregularities in proceedings for infringement offences.

Subclause (1) amends a provision that provides relief on the ground that defendants did not in fact receive a reminder notice or notice of hearing for an infringement offence. The amendment inserts a reference to *new section 78C*, which bars certain defendants from relying on the ground that they did not receive a reminder notice.

Subclause (2) provides that no more than 1 application under section 78B of the principal Act may be approved on the ground that a reminder notice was not received.

Subclause (3) repeals subsection (4) and substitutes *new subsections (4) to (4E)*.

The effect of *new subsection (4)* is to enable the Registrar to set aside an order where the informant applies to have the reminder notice withdrawn.

New subsection (4A) prevents any enforcement action in respect of the alleged infringement offence while an application under section 78B is pending.

New subsection (4B) deals with the case where, before the application was made, property was seized to enforce the order. In that case, the seized property continues in the custody of the court while the application is pending. If the application is declined or withdrawn,

the property is dealt with as if the application had not been made. If the application is granted, the property is returned to the defendant, free of any costs.

New subsection (4C) provides for the case where the court orders that a new reminder notice be served. In that case, references in certain provisions are adjusted to take account of the service of the new reminder notice.

New subsection (4D) stops certain defendants served with a new reminder notice from requesting a hearing for the infringement offence. These are defendants who have previously entered into arrangements to pay the infringement fee by instalments.

New subsection (4E) provides that the setting aside, under section 78B, of an order in respect of an infringement offence does not bar the commencement of other proceedings in the same matter.

Clause 57 inserts a *new section 78C* into the principal Act. The new section bars certain defendants from relief on the ground that they did not receive a reminder notice. The ground is not available if the Registrar is satisfied that the defendant was personally served with the infringement notice. An exception is made in the case of defendants who are party to instalment arrangements and who, though personally served originally, have subsequently been served by post. In the case of certain traffic offences that make the owner of a vehicle liable, a defendant is not eligible to rely on the ground of non-receipt of the reminder notice unless the Registrar is satisfied that, as at the commission of the offence, the defendant never had an ownership interest in the relevant motor vehicle or did have such an interest and fully complied with the defendant's obligations under transport legislation to register the ownership or the change in ownership.

Clause 58 repeals section 79 of the principal Act and replaces it with *new sections 79 to 79D*.

New section 79 replaces the definition section for Part 3 of the principal Act, which relates to fines enforcement. For the purposes of *new sections 92A to 92I*, which deal with the disclosure of default balances to credit reporters, new definitions of default balance, overdue, and resolved are added. The new definitions of lease, security agreement, and security interest relate to the new provisions (*see new sections 100I, 100J, and 100Q* as substituted by *clause 70*) under which

secured parties are liable to lose their priority over fines in specified circumstances.

New sections 79A to 79D set out requirements for the service of documents and the ways in which courts may convey information to parties and interested persons. New features of the service provisions include authority for documents required to be served by the Registrar or by the chief executive of the Ministry of Justice to be sent by ordinary post. The only type of documents that must be served by delivery is a written caution to owners of motor vehicles concerning their liability in the event that defendants use their vehicles to commit further traffic offences (as provided in existing section 100C of the principal Act, to be replaced by *new section 93* as substituted by *clause 70*). Delivery of documents may be effected by leaving the document for the recipient at the recipient's place of residence with another person who appears to be of or over the age of 14 years or by leaving the document for the recipient at the recipient's place of business. The document must be served by an authorised process server (as defined in *new section 79A(3)*).

New forms of serving documents or of conveying information are envisaged by *new section 79A(1)(f) and (g)*, which authorises the electronic transmission of documents if rules or regulations so provide. Regulations may also be made authorising the Registrar to convey the contents of a document orally, including by telephone, in a manner prescribed by the regulations.

New section 79B relates to forms of service that are modified in special cases, for example, service on a prisoner. The new section is substantially the same as existing section 28 of the principal Act.

New section 79C provides that if, under a provision in Part 3, a person has to be notified about a matter, the person may be notified orally, face to face, by telephone, by prepaid post, fax, email, text, or other electronic means.

New section 79D, which relates to proof of service, is substantially the same as existing section 29 of the principal Act.

Clause 59 makes a number of amendments, via *Schedule 2*, to service provisions that flow from *new sections 79A to 79D*, in that specific provisions are repealed and requirements to give notice in writing are omitted to enable information to be transmitted by the alternative methods contemplated by *new section 79C*.

Clause 60 amends section 81 of the principal Act, which relates to time-payment of fines. The amendment enables Registrars to make time-payment orders, if directed to do so by a District Court Judge.

Clause 61 amends section 82, which relates to a defendant's duty to provide a statement of his or her means. The amendment enables the Court to order a defendant to supply a statement of means where a time-payment order is under consideration. This means that the Court may direct that the defendant be detained for up to 2 hours for the purpose of completing the statement of means.

Clause 62 replaces section 84 of the principal Act, which requires defendants ordered to pay a fine to be given a notice setting out certain matters. Currently, a defendant who does not pay the fine after receiving the notice of fine is given a final notice of fine under section 85 of the principal Act. That section is repealed by *clause 63*. The notice to be given under *new section 84* contains the equivalent information currently contained in both the first notice and the final notice. Defendants will accordingly receive only 1 notice.

Clause 63 consequentially repeals section 85 of the principal Act, which requires that a final notice of fine be delivered or sent to the defendant.

Clause 64 repeals sections 86, 86A, and 86B of the principal Act and substitutes *new sections 86 to 86D*. *New section 86*, which is in similar terms to existing section 86, authorises the Registrar to enter into time-payment arrangements with defendants. A new feature is that arrangements may be entered into with representatives of defendants, for example, with the parents of a defendant. Representative is defined as a person who is authorised by operation of law to enter into the arrangement or does so with the written or oral consent of the defendant. *New section 86A* authorises a Registrar to vary, suspend, or cancel a time-payment arrangement or an attachment order. It corresponds to existing section 86B. A new feature is that arrangements with representatives may also be altered by the Registrar. However, if the arrangement is to be altered because the defendant has become liable to a further fine, the arrangement with the representative can be altered only if the representative agrees. Further, defendants and representatives will be able to make submissions orally to the Registrar before the Registrar makes a final determination. Currently, submissions must be made in writing. *New section 86B* sets out when an alteration concerning attachment orders, made by the Registrar under

new section 86A, takes effect. The new sections corresponds to existing section 86B(8) and (9). *New sections 86C and 86D* concern the powers of bailiffs in relation to time-payment arrangements. *New section 86C* authorises bailiffs to enter into time-payment arrangements. The new section corresponds to existing section 86A, but incorporates the new features of *new section 86*, relating to time-payment arrangements entered into by the Registrar. Finally, *new section 86D* authorises bailiffs to vary, suspend, or cancel time-payment arrangements (but not attachment orders) in terms substantially similar to those set out in *new section 86A* for alterations by the Registrar. However, any alteration by a bailiff is subject to the right of the Registrar to cancel the alteration within 7 days after notification.

Clause 65 amends section 87AA of the principal Act, which enables the Registrar to obtain certain information from the Ministry of Social Development about beneficiaries. The clause removes the requirement that inquiries must be made in writing and corrects a drafting error.

Clause 66 amends section 88 of the principal Act, which sets out the action that may be taken against a defendant for not paying the fine.

Subclause (1) amends a provision that allows warrants of arrest to take the form of a computer printout. The amendment removes, as unnecessary, a paragraph that declares that the absence of a signature on the printout does not affect its validity as a warrant.

Subclause (2) concerns a power to take action in respect of a lesser amount than the fine due. This power is currently limited to specified forms of enforcement. The amendment removes that limit.

Subclause (3) amends a provision that is intended to enable outstanding fines of \$5,000 to be enforced through charging orders. The amendment simplifies the provision by enabling directions to be made that treat fines of that amount as orders for the payment of money that have been obtained by the Registrar. The consequences of such a direction are set out in *new section 88A*, as substituted by *clause 67*.

The effect of *subclause (4)* is to allow certain warrants of arrest to be executed by constables as well as bailiffs.

Clause 67 substitutes *new sections 88A and 88B*. *New section 88A* deals with the case where a direction has been made under *section 88(3)(fa)* to treat fines as an order for the payment of money. The

consequence of such a direction is that the fines may be enforced as a civil judgment in all respects; currently, enforcement is limited to obtaining charging orders.

New section 88B relates to the remission of fines. The new section empowers the Registrar to make an order remitting any fine that does not include reparation or compensation if the outstanding amount is \$50 or less (the amount may be altered by regulations) and the fine was imposed at least 1 year previously. In the case of outstanding reparation or other compensation owing to a victim, amounts of not more than \$25 may be remitted if they were imposed at least 3 years previously and the victim consents or has not been found.

Clause 68 replaces section 91 of the principal Act, which requires the release of a defendant from a substituted sentence when the fine in default is paid. The new section is in similar terms to the existing section, but it is made clear that, on the payment of the fine, the Registrar must immediately notify the prison manager or probation officer concerned so that the defendant can be discharged from the substituted sentence.

Clause 69 inserts *new sections 92A to 92I* into the principal Act. The new sections authorise the chief executive of the Ministry of Justice to report default balances owing on fines to credit reporters and other authorised persons. The default balances are of particular relevance to credit providers as, on the sale of property seized to enforce a fine, any security in the sold property is liable to be subordinated to the extent of any discoverable default balance.

New section 92A defines terms for *new sections 92B to 92I*. Definitions of particular interest are fine status query (a query as to whether a query subject has a default balance), query subject (the person about whom a fine status query is made), recognised user (a credit reporter, member of a class specified by regulations, or person authorised by the Minister), and subscriber (a person who has access to information held by that credit reporter under an agreement that complies with requirements prescribed by a code of practice under the Privacy Act 1993).

New section 92B sets out the purpose of disclosure and the authorised uses of the information disclosed. The purpose is to encourage persons with default balances to pay or resolve the required payments. The chief executive is authorised to disclose fine status responses to recognised users. Recognised users who are credit reporters may

pass the information on to their subscribers so that they can assess the creditworthiness of query subjects. The chief executive may use identifying particulars in fine status queries to update fines enforcement records.

New section 92C authorises the chief executive to issue access codes to recognised users to enable them to access the computer system (access codes). These access codes may be issued subject to conditions and may be cancelled for breaches.

New section 92D prescribes the conditions that must be met for the making of a fine status query. These conditions include the prior written consent of the query subject, which must set out the identifying particulars of the query subject. A credit reporter may only send a fine status query in response to a request from a subscriber, made on the day on which the query is sent.

New section 92E sets out the duties the chief executive must comply with on receiving a fine status query. In general terms, these include checking the identifying particulars of the query subject against the fines enforcement records. If those records show that the query subject has a default balance, the default balance is disclosed in the fine status response that is sent in response to the query.

New section 92F sets out restrictions on the disclosure of fine status responses. A recognised user who receives a fine status response may not disclose the response unless the user is a credit reporter who discloses it to the subscriber who requested the information, and then only if the disclosure is made not later than 24 hours after the credit reporter receives the response.

New section 92G deals with the case where the chief executive proposes to combine particulars in the identifying particulars sent in a fine status query with the particulars shown in the fines enforcement records. Before doing so, the chief executive must first comply with section 103 of the Privacy Act 1993, which requires the person concerned to be given written notice of the proposed action. If, following that notice, any information in the fine status response sent to a recognised user is shown to be incorrect, the chief executive must give the recognised user the correct information. Any credit reporter must promptly advise the subscriber of the correct information.

New section 92H requires the chief executive to monitor the compliance of recognised users with the requirements for making fine status

queries and the restrictions on the disclosure of fine status responses. The chief executive must also audit the records of recognised users for compliance with those obligations and restrictions. The chief executive must also monitor his or her own compliance with the requirements of *new sections 92C to 92G*. The chief executive must report to the Privacy Commissioner on the monitoring and auditing conducted under this section.

New section 92I authorises the making of regulations governing the regime for disclosing default balances. These regulations are made on the recommendation of the Minister for Courts. Before a recommendation is made, the Minister must consult the Privacy Commissioner.

Clause 70 substitutes *new sections 93 to 100S*, which are mainly concerned with the seizure of property and its sale for the purposes of enforcing fines.

New section 93 relates to warnings given to owners of motor vehicles whose vehicles are used by other persons to commit traffic offences. The new section corresponds to existing section 100C of the principal Act, but omits the service provisions contained in that section, as matters of service will be dealt with by *new sections 79A to 79D*.

New sections 95 and 96 also concern written cautions, dealing with their effect, and also the right of persons who are treated as “substitutes”, because of a written caution, to challenge the seizure of their motor vehicles. These sections re-enact existing sections 100D and 100R without substantive change, except that *new section 96* confers a jurisdiction on a Judge to return a seized motor vehicle to a substitute on the ground that the sale of the vehicle would be unreasonable in the circumstances.

New section 97 sets out the purposes of *new sections 98 to 100S*. These are to enable fines in default to be collected more effectively through the seizure of property and to reduce opportunities for traffic offending, in cases where the outstanding fine relates to traffic offending. The new section corresponds to existing section 100B.

New section 98 concerns the contents and effect of warrants to seize property. The section corresponds to existing sections 93 and 100F.

New section 99 concerns the powers and obligations of bailiffs and constables who execute warrants to seize property. The new section corresponds to existing section 100F, but there is a new requirement

imposed on bailiffs or constables, on entering premises, to demand payment when they produce their warrants. The section has also been extended to cover all forms of property, not just motor vehicles.

New sections 100, 100A, and 100C deal specifically with motor vehicles, providing for the seizure of motor vehicles impounded under the Land Transport Act 1998, clarifying that seizure is not precluded by low value, and authorising the immobilisation (“clamping”) of vehicles. These new sections correspond respectively to existing sections 100G, 100H, and 100J. *New section 100B* requires seized property to be retained by or for the Registrar. The new section, which corresponds to existing section 100I, deals both with property generally and also, specifically, with motor vehicles.

New section 100D requires the Registrar to check the personal property securities register kept under the Personal Property Securities Act 1999 about each item of property that is seized. The current law, under existing section 100K, requires the Registrar to check the register only when a motor vehicle is seized.

New sections 100E to 100G deal with the ways in which seized property may be released to the persons from whom it was seized or to owners. These new sections cover all forms of property and follow existing sections 100L, 100Q, and 100S.

New section 100H deals with cases where the seized property is leased. The lessor may apply to the Court for the release of the property. The new section is similar to existing section 100T, but is extended from motor vehicles to all forms of property. A new feature of the new section is that the lease is cancelled on the release of the property.

New section 100I requires the Registrar to recognise security agreements on being satisfied that a person has rights over the property as a secured party.

New section 100J requires the Registrar, in relation to each recognised security agreement, to ascertain whether the security interest under the agreement is subject to a default balance, that is whether it is liable to be subordinated by the amount of the default balance that was discoverable, under *new section 92D*, on the date that the agreement was signed or assented to. Security interests under security agreements will not be subordinated if the secured party is not in

the business of taking securities or if the defendant has subsequently become bankrupt or been put into liquidation.

New section 100K authorises the Judge or Registrar to release the property to the secured party subject to the condition that the secured party sell the property and account for the proceeds of sale in accordance with *new section 100M*, which governs the application of the proceeds of sale. When the secured party sells the property, the purchaser obtains good title to the property.

New section 100L requires lessors and secured parties to pay, as a condition for the release of property, certain costs as well as any applicable default balance.

New section 100M sets out how a secured creditor must apply the proceeds from a sale of property released to the creditor by the court with a direction to sell. The secured creditor may retain any costs and default balance paid under *new section 100L*, the costs and expenses of the sale, and the amount to which the secured creditor is entitled under the security agreement. The secured creditor must pay the balance of the proceeds into court, and the Registrar must apply that balance in accordance with *new section 100Q*.

New section 100N deals with the case where a secured creditor does not comply with a direction to sell property. The section substantially corresponds to existing section 100X, except that the existing section is limited to motor vehicles, while the new section applies to all forms of property.

New section 100O provides for the sale of seized property by the court if the fine for which it has been seized remains unpaid. Special provision is made for motor vehicles impounded under the Land Transport Act 1998 and for vehicles that do not comply with transport regulations. These provisions correspond to existing section 100M. When the Court sells property under this section, the purchaser obtains good title to the property.

New section 100P requires the Registrar to defer a sale of property by the court if the costs incurred by the court in storing the property are paid. Payments must be sufficient to cover storage costs for at least 8 days. The section substantially corresponds to existing section 100N, except that the existing section is limited to motor vehicles, while the new section applies to all forms of property.

New section 100Q governs the application of the proceeds from a sale of property by the court. The order of priority prescribed by the section is: first, in payment of any impoundment costs (where the property is a motor vehicle that has been impounded under section 96 or 96A of the Land Transport Act 1998); second, in payment of the costs of the sale; third, in payment to any secured party with a recognised security agreements over the sold property after the deduction of any applicable default balance that has been subordinated under *new section 100J*; fourth, in payment of any sentence or order of reparation payable by the defendant; fifth, in payment of any levy payable by the defendant under the Sentencing Act 2002; sixth, in payment of the fine specified in the warrant; seventh, in payment to any secured party of any subordinated default balance; and, last, in payment to the defendant or, in the case of a motor vehicle seized from a substitute, to the substitute.

New section 100R authorises the Registrar to remit fines and the costs of sale where the sale of a seized motor vehicle does not reduce the fine by more than \$100. This section corresponds substantially to existing section 100P, except for a new qualification barring the Registrar from remitting any levy payable by the defendant under the Sentencing Act 2002.

New section 100S enables the court to order a defendant to compensate a third party for any loss suffered through the sale of property by the court, where the defendant has failed to inform the Registrar of the third party's interest in the property. The new section corresponds substantially to existing sections 99 and 100Y.

Clause 71 amends section 103 of the principal Act, which relates to attachment orders. The effect of the amendment is to require attachment orders to be in a form or forms approved by the chief executive of the Ministry of Justice, rather than as at present in the form prescribed by regulations.

Clause 72 replaces section 105 of the principal Act, which relates to the operation of attachment orders. The new features of the replacement section are that it enables deductions from salary or wages to be made by reference to periods other than a week. The order must state the amount to be deducted for each earnings period and also a protected earnings rate, which is the amount protected from deductions. The protected earnings rate and the amount to be deducted may be stated as a percentage. The protected earnings rate is the amount

stated in the order or 60% of net earnings for the earnings period, whichever is the higher. The replacement section also includes a new definition of net earnings. In other respects, the new section is substantially the same as existing section 105.

Clause 73 amends section 106 of the principal Act, which relates to the liability of an employer whose employee is subject to an attachment order. The amendment makes 2 changes. First, it requires the employer to notify the Registrar 7 days after receiving a notice of resignation or giving a notice of dismissal, rather than, as at present, 7 days after the employee leaves or is dismissed. Second, agencies paying benefits and other non-work related payments will also have to notify the Registrar 7 days after such benefits or payments cease.

Clause 74 amends section 106E of the principal Act, which places restrictions on the imposition of alternative sentences (such as imprisonment) for the non-payment of a fine. Under the existing section, an alternative sentence of community work or community detention may not be imposed unless a statement of means has been completed by the defendant. In the case of alternative sentences of home detention or imprisonment, the statement of means must have been completed by the defendant within the immediately preceding fortnight. The amendment replaces these requirements with a condition for each of the 4 types of alternative sentences (community work, community detention, home detention, and imprisonment) that a statement of the defendant's means has been recently completed. The statement of means may be completed by a person other than the defendant but, if it contains information obtained from third parties, it must give the source and date of the information. Under the existing section, a defendant may not be sentenced to imprisonment or home detention for not paying a fine unless a Judge is satisfied that the defendant has the means to pay the fine (except in the case of a defendant who is undergoing a sentence of imprisonment). The amendment suspends that restriction in cases where the fine consists of, or includes, a reparation payment. *New subsection (6)* provides machinery for the issue and execution of warrants of arrest for hearings in which the question of an alternative sentence is considered. *New subsection (7)* clarifies that the restrictions on imprisonment do not apply where the defendant is, or is to be, imprisoned for an offence. *New subsection (8)* deals with defendants who are, or are going to be, subject to home detention. In that case, the general restric-

tions on the imposition of a sentence of home detention do not apply if the sentence for the non-payment of the fine is concurrent with a sentence of home detention imposed for an offence. If the sentence relating to non-payment of the fine is cumulative on a sentence of home detention for an offence, the only restrictions that apply are that a pre-sentence report has been provided and that the Judge is satisfied of the matters prescribed by section 80A(2)(a) of the Sentencing Act 2002 in respect of sentences of home detention. The defendant may be sentenced to community work without complying with the conditions that would apply if the defendant was not subject to home detention. But a defendant subject to home detention may not also be sentenced to community detention or imprisonment.

Clause 75 amends section 124 of the principal Act, which provides for the case where an appeal is pending and a warrant to seize property has been executed. Existing subsection (5) provides that where any warrant to seize property has been executed to enforce a determination that is under appeal, the seized goods must be returned to the owner. The amendment requires the seized goods to be retained by the court and, if the outcome of the appeal does not affect the determination enforced by the warrant, the goods are dealt with as if the appeal had not been brought. However, if the determination in question is set aside or quashed, the goods are returned to the owner.

Clause 76 streamlines the terminology of a reference in section 193(2) of the principal Act by clarifying that the warrant referred to is a warrant to seize property.

Clause 77 authorises regulations concerning the electronic service of documents, including by communicating the contents of documents orally.

Part 4

Amendments to other Acts

Subpart 1—Amendments to Children, Young Persons, and Their Families Act 1989

This subpart inserts into the Children, Young Persons, and Their Families Act 1989 a new definition of traffic offence, which is in the same terms as the definition inserted into the Land Transport Act 1998 and the Summary Proceedings Act 1957 by **Parts 2 and 3** respectively.

Subpart 2—Amendments to Customs and Excise Act 1996

This subpart amends provisions in the Customs and Excise Act 1996 that govern the exchange of information between the Ministry of Justice and Customs, and also between Customs and the Department of Labour, about fines defaulters. The amendments extend the definition of fine to include costs arising from the sale of motor vehicles, confiscated under the Sentencing Act 2002, to the extent that the proceeds of sale are inadequate to cover the costs of sale and any impoundment costs.

Subpart 3—Amendment to Family Courts Act 1980

This subpart corrects a cross-reference in section 16 of the Family Courts Act 1980.

Subpart 4—Amendment to Immigration Act 1987

This subpart amends provisions in the Immigration Act 1987 that govern the exchange of information between the Ministry of Justice and the Department of Labour about fines defaulters. The amendment extends the definition of fine to include costs arising from the sale of motor vehicles, confiscated under the Sentencing Act 2002, to the extent that the proceeds of sale are inadequate to cover the costs of sale and any impoundment costs.

Subpart 5—Amendment to Immigration Act 2009

This subpart makes the same amendment to the Immigration Act 2009 that *subpart 4* makes to the Immigration Act 1987.

Subpart 6—Amendment to Personal Property Securities Act 1999

This subpart amends the Personal Property Securities Act 1999 to enable the register under that Act to reflect the extinguishment of securities brought about by the sale of personal property under the

Summary Proceedings Act 1957 or the Sentencing Act 2002. A *new section 167A* is inserted, which authorises court registrars to enter financing change statements for that purpose. Secured parties are given notice that the financing change statements will be registered 15 working days after notice is given.

Subpart 7—Amendment to Prisoners’ and Victims’ Claims Act 2005

This subpart amends the Prisoners’ and Victims’ Claims Act 2005 by aligning the definition of order of reparation in section 18(2) with the definition in section 145D of the Sentencing Act 2002.

Subpart 8—Amendment to Privacy Act 1993

This subpart amends, through *Schedule 3*, the Privacy Act 1993 to give the New Zealand Transport Agency access to the records of driver licence stop orders held by the Ministry of Justice.

Subpart 9—Amendments to Railways Act 2005

This subpart amends the Railways Act 2005 to substitute a *new section 100*, which prescribes the contents of infringement and reminder notices. The new section is in similar terms to the *new section 140* of the Land Transport Act 1998, substituted by *Part 2*.

Subpart 10—Amendments to Sentencing Act 2002

Clause 98 states that this subpart amends the Sentencing Act 2002. *Clause 99* amends section 12 to include orders of reparation made under sections 106, 108, and 110. These sections permit the court to order those who are discharged (with or without conviction) and those who, after conviction, are ordered to come up for sentence if called on to pay reparation in respect of the offence. The effect of the amendments is to require the court to order reparation to be paid in these circumstances unless to do so would cause hardship or would otherwise be inappropriate, and to give reasons if the court does not.

Clause 100 amends section 33 to permit the court to order a person to be detained for up to 2 hours for the purpose of making a declaration of financial capacity.

Clause 101 substitutes a *new section 36*. *New section 36* permits the court, after fixing the amount of reparation to be paid, either to determine how that amount should be paid (for example, in instalments) or to direct the Registrar to determine how that amount should be paid. If the court directs the Registrar to determine how the amount of reparation should be paid, the court may also direct that the offender make a declaration of financial capacity and be detained for up to 2 hours for the purpose of making such a declaration. Provision is made for the variation, suspension, and cancellation of a determination of how the amount of reparation should be paid.

Clauses 102, 103, and 104 amend sections 106, 108, and 110 respectively. The effect of the amendments is that sections 33 to 38, which deal with the procedure for determining the amount of reparation, apply when the court orders reparation to be paid by those who are discharged (with or without conviction) and those who, after conviction, are ordered to come up for sentence if called on as well as by those who are sentenced.

Clause 105 replaces section 136A, which requires the Registrar to deregister a motor vehicle that is to be destroyed under a court order. The replacement section makes explicit that the Registrar is, for the purposes of the Land Transport Act 1998 and any regulations made under it, entitled to apply for the cancellation of the registration of the motor vehicle.

Clause 106 amends section 137, which concerns the sale of confiscated motor vehicles. The section requires the proceeds of sale to be applied in paying secured creditors the amounts owed to them under encumbrances over the motor vehicles. Claims by secured parties are currently required to be made within 1 month after the date of sale. The amendment requires claims to be made before the proceeds of sale are fully applied. A new subsection is added to provide that any person to whom a motor vehicle is sold under the section obtains good title to the motor vehicle.

Clause 107 amends section 137A, which provides that certain sales of motor vehicles by the court are conditional on dismantling and destruction. The amendment removes a reference to property passing

from the Crown to the purchaser and replaces it with a reference to property passing to the purchaser.

Clause 108 updates a cross-reference in section 137C.

Clause 109 amends section 138, which relates to the disposal by the Registrar of confiscated motor vehicles that are unsaleable. The amendment add 2 new subsections. The first requires the Registrar to cancel the registration of the motor vehicle. The second provides that the person to whom a motor vehicle is disposed of obtains good title.

Clause 110 amends section 141, which enables confiscated motor vehicles to be released to secured creditors with a direction that the secured creditors sell the vehicles and account for the proceeds to the court. The amendment provides that any person to whom a vehicle is sold under such a direction obtains good title.

Clause 111 amends section 145(2A), which governs the case where the only amount to be enforced is the offender levy. The provision specifies certain provisions of the Summary Proceedings Act 1957 that do not apply. The amendment adds a related provision of that Act.

Subpart 11—Amendment to Social Security Act 1964

This subpart amends provisions of the Social Security Act 1964 that authorise the disclosure of information about beneficiaries for the purpose of locating beneficiaries who are in default in the payment of any fine. For the purposes of that disclosure, the amendment extends the definition of fine to include costs arising from the sale of motor vehicles, confiscated under the Sentencing Act 2002, to the extent that the proceeds of sale are inadequate to cover the costs of sale and any impoundment costs.

Subpart 12—Amendment to Tax Administration Act 1994

This subpart amends provisions of the Tax Administration Act 1994 that authorise an information-matching programme to enable the Ministry of Justice to locate any fines defaulter. For the purposes of that programme, the amendment extends the definition of fine to

include costs arising from the sale of motor vehicles, confiscated under the Sentencing Act 2002, to the extent that the proceeds of sale are inadequate to cover the costs of sale and any impoundment costs.

Subpart 13—Amendment to Transport Act 1962

This subpart amends section 41A of the Transport Act 1962, which relates to owner liability for stationary vehicle offences. Under the section, the registered owner and any person entitled to possession to the motor vehicle concerned are liable for an offence of that nature. It is a defence for an apparently liable person to prove that he or she was not lawfully entitled to possession of the vehicle or that another person was unlawfully in charge of the vehicle. To establish the defence, the apparently liable person is currently required to show that he or she has done everything reasonably possible on his or her part to comply with all requests of the enforcement authority to supply to the enforcement authority information regarding the person lawfully entitled to possession, or who was in charge, of the vehicle at the time of the alleged offence. The amendment will change that requirement so that the apparently liable person will have to give the enforcement authority a statutory declaration identifying the other person who was lawfully entitled to possession, or who was unlawfully in charge, of the vehicle at the time of the alleged offence, by stating the full name and full address of that other person, and any other identifying particulars of the other person, so far as they are within the knowledge of the apparently liable person, such as the other person's date of birth, occupation, and telephone number. If the apparently liable person is unable to comply, he or she must establish in the statutory declaration that he or she has taken all reasonable steps to identify the other person.

Regulatory impact statement

Regulatory Impact Statements for the major amendments contained in this Bill were prepared in 2008 and 2009 respectively, in accordance with the guidelines that were then in place for these statements.

The major amendments are—

- the Driver Licence Stop Orders initiative, contained in Part 2, amending the Land Transport Act 1998; and
- the Credit Reporting and Super Priority initiatives, contained in Part 3, amending the Summary Proceedings Act 1957.

The two Regulatory Impact Statements have been merged into a single document. The combined Regulatory Impact Statement for the Courts and Criminal Matters Bill is available—

- on the Ministry of Justice website at <http://www.justice.govt.nz/policy-and-consultation/regulatoryimpactstatements>;
 - on the Treasury website at <http://www.treasury.govt.nz/publications/informationreleases/ris>.
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Hon Georgina te Heuheu

Courts and Criminal Matters Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Courts and Criminal Matters Act **2010**.

2 Commencement

- (1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council, and 1 or more orders may be made bringing different provisions into force on different dates. 5
- (2) Any provisions in **Parts 3 and 4** that are not in force on the day that is the first anniversary of the date on which this Act

receives the Royal assent come into force on that anniversary day.

Part 1

Amendments to District Courts Act 1947

- 3 Principal Act amended** 5
This **Part** amends the District Courts Act 1947.
- 4 Interpretation**
Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:
“**constable** has the meaning given by section 4 of the Policing Act 2008 10
“**financial assessment hearing** has the meaning given by **section 84B**
“**financial statement** has the meaning given by **section 84A**
“**Police employee** has the meaning given by section 4 of the Policing Act 2008” 15
- 5 Appointment of Registrar**
Section 12 is amended by inserting the following subsection after subsection (2):
“(2A) A person who is appointed as a Registrar may exercise the powers and perform the functions and duties of the Registrar of any District Court.” 20
- 6 Deputy Registrars**
Section 14 is amended by inserting the following subsection after subsection (1): 25
“(1A) A person who is appointed as a Deputy Registrar may exercise the powers and perform the functions and duties of a Deputy Registrar of any District Court.”
- 7 Appointment of bailiffs**
Section 15 is amended by inserting the following subsection after subsection (1): 30

“(1A) A person who is appointed as a bailiff may exercise the powers and perform the functions and duties of a bailiff of any District Court.”

8 Section 69 repealed

Section 69 is repealed.

5

9 Nature of proceedings for enforcement of judgment

(1) Section 79(1)(a) is amended by omitting “distress warrant” and substituting “warrant to seize property”.

(2) Section 79 is amended by repealing subsection (5) and substituting the following subsections:

10

“(5) An attachment order to enforce a judgment or order for the payment of money may be made, and proceedings for such an attachment order may be commenced, at any time after the judgment is entered or the order made.

“(5A) Except as provided in **subsection (5)**, proceedings to enforce a judgment or order may not be commenced unless—

15

“(a) at least 48 hours have expired after the judgment was entered or the order made; or

“(b) a Judge grants leave.

“(5B) Despite **subsections (5) and (5A)**, if a judgment or order may be appealed against without the leave of the court, a Judge may order a stay of any proceedings to enforce the judgment or order, or order that an attachment order to enforce the judgment or order not take effect, until after the time allowed for giving notice of appeal has expired.”

20

25

10 New section 79A inserted

The following section is inserted after section 79:

“79A Judgment may be enforced in any District Court

A judgment or order of a District Court or a District Court Judge may be enforced in the District Court in which the judgment was entered or order made or in any other District Court (and enforcement proceedings may be taken concurrently in accordance with section 79(6) in more than 1 District Court).”

30

- 11 Heading above section 84A substituted**
 The heading above section 84A is repealed and the following heading substituted:
“Information about judgment debtor’s means”.
- 12 New sections 84A to 84E substituted** 5
 Sections 84A to 84E are repealed and the following sections substituted:
- “84A Filing of financial statement**
- “(1) In this Act, **financial statement** means a statement, in a form approved by the chief executive of the Ministry of Justice, of a judgment debtor’s— 10
 “(a) assets and liabilities; and
 “(b) income and expenditure for the preceding 52 weeks.
- “(2) A financial statement may be completed by the judgment creditor or the judgment debtor. 15
- “(3) If the financial statement is completed by the judgment creditor, the statement must include details of the source of the information contained in the statement and the date to which the information relates.
- “(4) A completed financial statement may be filed in the court at any time after a judgment or order for the payment of money is entered or made. 20
- “(5) The party who files a completed financial statement must serve a copy of the statement on the other party.
- “84AB Notice to complete financial statement** 25
- “(1) If a judgment creditor serves a notice to complete a financial statement on the judgment debtor, the judgment debtor must, within 14 days after the date of service,—
 “(a) complete a financial statement; and
 “(b) return it to the judgment creditor. 30
- “(2) The notice to complete a financial statement must be—
 “(a) in a form approved by the chief executive of the Ministry of Justice; and
 “(b) accompanied by 2 copies of the approved form for a financial statement (1 for the judgment debtor to com- 35

plete and return, the other for the judgment debtor's use).

“84AC Court to request information about judgment debtor's means

- “(1) If a judgment creditor makes an application in a form approved by the chief executive of the Ministry of Justice, the court must request the judgment debtor to provide the court with information about the judgment debtor's means for satisfying the judgment debt. 5
- “(2) The request may be made by any means of communication that the court considers appropriate. 10
- “(3) The information may be provided at any place and using any means of communication that the court considers appropriate; and the court may request the person providing the information to verify it on oath. 15
- “(4) The jurisdiction of the court under this section may be exercised by the Registrar.

“84AD Court may order hearing if information about judgment debtor's means not provided, etc

- “(1) This section applies if— 20
- “(a) no information about the judgment debtor's means for satisfying the judgment debt is provided to the court following a request under **section 84AC**; or
- “(b) the court wishes to obtain information about the judgment debtor's means for satisfying the judgment debt in addition to information provided under **section 84AC** before exercising its powers under **section 84E**; or 25
- “(c) a person providing information to the court under **section 84AC** refuses to verify it on oath.
- “(2) The court may issue a summons, in a form approved by the chief executive of the Ministry of Justice, requiring the judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor to attend a hearing and be questioned by the court about the judgment debtor's means for satisfying the judgment debt. 30 35
- “(3) If the court issues a summons, the court may also—

- “(a) order any of the judgment debtor’s books or other documents to be produced at the hearing:
- “(b) order that the hearing be held at a place other than in a court:
- “(c) impose such other terms and conditions as the court 5
thinks proper in respect of the hearing.
- “(4) The court must—
 - “(a) serve the summons on the judgment debtor at least 3 working days before the date of the hearing; and
 - “(b) at the same time as the summons is served notify the 10
judgment debtor of the court’s power to cancel the hearing in the circumstances referred to in **subsection (6)**.
- “(5) The hearing must not be held until at least 3 working days or any shorter period agreed by the judgment debtor has passed after the date on which the summons was served. 15
- “(6) The court may cancel a hearing if, before the date of the hearing,—
 - “(a) such information about the judgment debtor’s means for satisfying the judgment debt is provided that, in the opinion of the court, it is unnecessary for the hearing to 20
take place; and
 - “(b) if the court so requests, the person providing the information verifies it on oath.
- “(7) If a hearing takes place,—
 - “(a) the judgment debtor or, if the judgment debtor is a body 25
corporate, an officer of the judgment debtor must appear in person:
 - “(b) the court may require the judgment debtor or officer and any witness to take an oath before giving evidence:
 - “(c) the judgment debtor may be represented by a barrister or 30
solicitor who may question the judgment debtor or officer and be heard on the matter of the judgment debtor’s means for satisfying the judgment debt:
 - “(d) the judgment debtor or officer may be questioned by the court: 35
 - “(e) any witness may be questioned by or on behalf of the judgment debtor or by the court.
- “(8) A hearing may from time to time be adjourned by the court to a time and place to be appointed.

“(9) The jurisdiction of the court under this section may be exercised by the Registrar.

“**84B Application for financial assessment hearing**

“(1) This section applies if a judgment creditor applies, in a form approved by the chief executive of the Ministry of Justice, for a hearing (a **financial assessment hearing**) for the judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor to be questioned about the judgment debtor’s means for satisfying the judgment debt. 5

“(2) The court must issue a summons, in a form approved by the chief executive of the Ministry of Justice, requiring the judgment debtor or an officer of the judgment debtor to attend the hearing. 10

“(3) The court may also—

“(a) order any of the judgment debtor’s books or other documents to be produced at the hearing: 15

“(b) order that the hearing be held at a place other than in a court:

“(c) impose such other terms and conditions as the court thinks proper in respect of the hearing. 20

“(4) The summons must be served on the judgment debtor.

“(5) The hearing must not be held until at least 3 working days or any shorter period agreed by the parties has passed after the date on which the summons was served.

“(6) The court may cancel a hearing at the request of the judgment creditor. 25

“(7) The jurisdiction of the court under this section may be exercised by the Registrar.

“**84C Power to arrest judgment debtor or officer**

“(1) This section applies if a summons cannot be served on a judgment debtor. 30

“(2) This section also applies if—

“(a) a summons was served on a judgment debtor at least 3 working days or any shorter period agreed under **section 84AD(5) or 84B(5)** before the date of the hearing to which the summons relates; but 35

- “(b) the judgment debtor fails to appear in person at the hearing or at any subsequent adjournment of the hearing.
- “(3) This section applies in relation to a judgment debtor that is a body corporate if—
 - “(a) service of a summons was effected on the judgment debtor by delivering the summons to, or bringing the summons to the notice of, an officer of the judgment debtor (the **relevant officer**) in accordance with **section 108B(b)** at least 3 working days or any shorter period agreed under **section 84AD(5) or 84B(5)** before the date of the hearing to which the summons relates; but
 - “(b) an officer of the judgment debtor (whether or not the relevant officer) fails to appear in person at the hearing or at any subsequent adjournment of the hearing.
- “(4) The summons must not be enforced by committal, but a Judge or Registrar may issue a warrant to arrest the judgment debtor or relevant officer.
- “(5) If the judgment debtor or relevant officer is arrested under this section, the following provisions apply:
 - “(a) the judgment debtor or relevant officer must be brought before a Judge or Registrar as soon as possible for the purpose of commencing or continuing the hearing:
 - “(b) the judgment debtor or relevant officer is bailable as of right:
 - “(c) section 46 of the Summary Proceedings Act 1957 and Parts 1 to 3 of the Bail Act 2000 apply, with any necessary modifications, as if an appearance at the hearing before a Judge or Registrar constituted part of the hearing of a charge, and as if references in those provisions to a court included references to a Judge or Registrar:
 - “(d) if the judgment debtor or relevant officer cannot practicably be brought before a Judge or Registrar, a Police employee or bailiff may take the bail bond of the judgment debtor or relevant officer, and Parts 1 to 3 of the Bail Act 2000 apply, with any necessary modifications, as if the bail bond were taken by a Police employee under section 21(1) of that Act.
- “(6) In this section, **summons** means—

- “(a) a summons to attend a hearing under **section 84AD**:
- “(b) a summons to attend a financial assessment hearing.

“84D Financial assessment hearing

- “(1) The judgment debtor or, if the judgment debtor is a body corporate, an officer of the judgment debtor must appear in person 5
at a financial assessment hearing.
- “(2) The court may require the judgment debtor or officer and any witness to take an oath before giving evidence.
- “(3) The judgment debtor may be represented at the hearing by a barrister or solicitor who may question the judgment debtor 10
or officer and be heard on the matter of the judgment debtor’s means for satisfying the judgment debt.
- “(4) The judgment debtor or officer may be questioned by or on behalf of the judgment creditor or by the court.
- “(5) Any witness may be questioned by or on behalf of the judgment creditor or judgment debtor or by the court. 15
- “(6) A financial assessment hearing may from time to time be adjourned by the court to a time and place to be appointed.
- “(7) The jurisdiction of the court under this section may be exercised by the Registrar. 20

“84E Orders by court following filing of financial statement, etc

- “(1) This section applies if, after a judgment or order for the payment of money has been entered or made,—
 - “(a) a financial statement is filed in the court; or
 - “(b) the judgment debtor provides the court with information 25
about the judgment debtor’s means for satisfying the judgment debt under **section 84AC**; or
 - “(c) a hearing under **section 84AD** or a financial assessment hearing takes place.
- “(2) The court may do any 1 or more of the following: 30
 - “(a) direct that 1 or more of the proceedings referred to in section 79(1) be commenced or continued, direct that any steps be taken in such proceedings, and, for any such purpose, issue any warrant or summons or make 35
any order:
 - “(b) make an attachment order under **section 84G**:

- “(c) order that the money owing under the judgment or order be paid in instalments:
 - “(d) stay any proceedings to enforce the judgment or order:
 - “(e) vary any order made under this Act relating to the enforcement of the judgment or order. 5
- “(3) The court may do any of the things referred to in **subsection (2)** even though—
- “(a) no application is made for the direction, order, or stay in question; or
 - “(b) an application is made for a different direction, order, or stay; or 10
 - “(c) no hearing takes place; or
 - “(d) in a case where a financial statement is filed in the court by 1 party, the other party has not had the opportunity to make representations to the court about the financial statement. 15
- “(4) The jurisdiction of the court under this section may be exercised by the Registrar.”
- 13 Interpretation** 20
- Section 84F is amended by inserting the following definition in its appropriate alphabetical order:
- “**earnings period** has the meaning given by **section 84H**”.
- 14 New sections 84G and 84H substituted** 25
- Sections 84G and 84H are repealed and the following sections substituted:
- “**84G Attachment orders**
- “(1) The court may make an attachment order to enforce a judgment or order for the payment of money—
 - “(a) in the circumstances referred to in **section 84E(1)**; or
 - “(b) on the application of the judgment creditor or judgment debtor. 30
 - “(2) If an attachment order is made, the court must serve a copy of the order on the employer to whom the order relates, the judgment creditor, and the judgment debtor.
 - “(3) Except as otherwise ordered by the court, an attachment order takes effect when a copy of the order is served on the employer. 35

“(4) The jurisdiction of the court under this section may be exercised by the Registrar.

“84H Attachment orders: content

- “(1) An attachment order must be in a form approved by the chief executive of the Ministry of Justice and must specify— 5
- “(a) the employer to whom the order relates; and
 - “(b) whether deductions are to be made every week, fortnight, or month, or by reference to some other period (the **earnings period**); and
 - “(c) the amount to be deducted from the judgment debtor’s salary or wages for the earnings period; and 10
 - “(d) the amount below which the net amount paid to the judgment debtor for the earnings period must not fall; and
 - “(e) the name and address of the person to whom the amounts deducted are to be paid; and 15
 - “(f) that the order is to remain in force until the judgment debt has been paid in full or, if the order is to remain in force for a fixed period, that period.
- “(2) The amounts referred to in **subsection (1)(c) and (d)** may be set by reference to a fixed amount or a percentage (or both).” 20

15 Effect of attachment orders

- (1) Section 84I(1) is amended by omitting “by way of weekly payments of such amount as is specified in the attachment order” and substituting “by way of sums of such amount, and payable by reference to such earnings period, as is specified in the attachment order”. 25
- (2) Section 84I(2)(a) is amended by omitting “week” in each place where it appears and substituting in each case “earnings period”. 30
- (3) Section 84I(2) is amended by repealing paragraph (c) and substituting the following paragraph:
 - “(c) shall be subject to any charge created by an attachment order under the Family Proceedings Act 1980 or the Summary Proceedings Act 1957 and to any item referred to in **subsection (5)(a) and (b)** (whether cre- 35

ated, issued, or authorised before or after the date on which the order referred to in subsection (1) was made); but”.

- (4) Section 84I is amended by adding the following subsections:
 - “(3) Despite subsections (1) and (2), no attachment order is to operate so that, when its effect is considered either alone or with the effect of any item referred to in **subsection (5)**, the net amount paid to a judgment debtor for an earnings period is below the protected earnings rate for the earnings period; and, where necessary, the amount to be deducted from the judgment debtor’s salary or wages for the earnings period is treated as being reduced or cancelled accordingly. 5 10
 - “(4) Nothing in section 84 of the Social Security Act 1964 applies to an attachment order.
 - “(5) The items are— 15
 - “(a) a deduction notice under the Child Support Act 1991, the Family Proceedings Act 1980, the Social Security Act 1964, or the Tax Administration Act 1994:
 - “(b) a deduction for the recovery of payments under section 86 of the Social Security Act 1964: 20
 - “(c) a charge created by an attachment order under this or any other Act.
 - “(6) In this section,—
 - “**net earnings**, in relation to an earnings period, means the balance left after deducting from the judgment debtor’s salary or wages for the earnings period the amount of tax required to be withheld or deducted in accordance with the PAYE rules of the Income Tax Act 2007 if the salary or wages were the only salary or wages paid to the judgment debtor by the employer for the earnings period 25 30
 - “**protected earnings rate**, in relation to an earnings period, means the higher of—
 - “(a) 60% of net earnings for the earnings period; and
 - “(b) the amount referred to in **section 84H(1)(d)**.”
- 16 Liability of employer 35**
- (1) Section 84J(1) is amended by omitting “section 84G(7)” and substituting “**section 84I(3)**”.

(2) Section 84J(4) is repealed and the following subsections are substituted:

“(4) If the judgment debtor gives notice of resignation, or is given notice of dismissal, from the employment of the employer to whom the attachment order relates, the employer must, within 5 7 days after receiving or giving the notice, notify the person referred to in **section 84H(1)(e)** of the date of the last day of the judgment debtor’s employment.

“(4A) If the employer to whom the attachment order relates ceases to pay salary or wages to the judgment debtor for a reason 10 other than the judgment debtor’s dismissal or resignation from the employment of the employer, the employer must, within 7 days after ceasing to pay the salary or wages, notify the person referred to in **section 84H(1)(e)** of the day on which the salary or wages ceased to be paid.” 15

17 **Extent to which attachment orders bind the Crown**

(1) Section 84L(3)(c) is amended by omitting “service of the order shall be effected in accordance with section 84H, and,”.

(2) Section 84L(4) is amended by repealing paragraph (a) and substituting the following paragraph: 20

“(a) service of the order must be effected—

“(i) by leaving a copy of the order at, or sending a copy of the order by post to, either the District Office of the department nearest to the judgment debtor’s place of residence or an address notified 25 by the chief executive of the department to the chief executive of the Ministry of Justice; or

“(ii) by sending the order in electronic form to an email address notified by the chief executive of the department to the chief executive of the Ministry of Justice; and” 30

18 **New section 84M substituted**

Section 84M is repealed and the following section substituted:

“84M Variation, suspension, and discharge of attachment orders

- “(1) A judgment creditor or judgment debtor may apply to the court at any time for an attachment order to be varied, suspended, or discharged. 5
- “(2) The party who makes an application under **subsection (1)** must serve a copy of the application on the other party.
- “(3) If an application under **subsection (1)** is made, the court may vary, suspend, or discharge the attachment order if good cause is shown to the satisfaction of the court why the order should be so varied, suspended, or discharged. 10
- “(4) If an attachment order is varied, suspended, or discharged under **subsection (3)**, the court must serve notice of the variation, suspension and discharge on the employer to whom the order relates, the judgment creditor, and the judgment debtor; and the variation, suspension, or discharge takes effect when the notice is served on the employer. 15
- “(5) An attachment order may also be discharged at any time by written notice from the judgment creditor to the employer to whom the order relates; and the discharge takes effect when the notice is given to the employer. 20
- “(6) The jurisdiction of the court under this section may be exercised by the Registrar.”

19 Review of Registrar’s decision

- (1) Section 84N(1) is amended by omitting “section 84B or”. 25
- (2) Section 84N is amended by inserting the following subsection after subsection (1):
 - “(1A) However, a judgment creditor may apply for a review of an order or direction made by a Registrar under **section 84E or 84G** only if a financial assessment hearing has taken place.” 30
- (3) Section 84N(2) is amended by omitting “Every such application” and substituting “An application under subsection (1)”.

20 Contempt procedures

Section 84O is amended by repealing subsection (1) and substituting the following subsections: 35

- “(1) The court may, on the application of a judgment creditor, order the judgment debtor to do community work for a number of hours, not exceeding 200 hours, as the court thinks fit, if—
- “(a) **subsection (1A)** applies; and
 - “(b) **subsection (1B)** applies. 5
- “(1A) This subsection applies if—
- “(a) a financial statement has been filed in the court; or
 - “(b) the court has been provided with information about the judgment debtor’s means for satisfying the judgment debt under **section 84AC**; or 10
 - “(c) a hearing under **section 84AD** or a financial assessment hearing has taken place.
- “(1B) This subsection applies if the court is satisfied beyond reasonable doubt that—
- “(a) the judgment debtor has sufficient means to pay the judgment debt but refuses to do so; and 15
 - “(b) all other methods of enforcing the judgment have been considered or tried and are inappropriate or unsuccessful.”
- 21 Judgment debtor doing community work to be discharged on payment** 20
- Section 84Q(2) is amended by omitting “report to a community work centre” and substituting “report for community work”.
- 22 Heading above section 85 substituted** 25
- The heading above section 85 is repealed and the following heading substituted:
- “Warrants to seize property”.*
- 23 Warrant of distress**
- (1) Section 85 is amended by omitting the heading and substituting the following heading: **“Warrant to seize property”.** 30
 - (2) Section 85(1) is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
 - (3) Section 85 is amended by adding the following subsection:

“(3) A warrant to seize property must be in a form approved by the chief executive of the Ministry of Justice.”

24 Immobilisation of motor vehicles

(1) Section 85A(1) is amended by omitting “A bailiff or constable executing a distress warrant may, instead of seizing a motor vehicle under a warrant of distress” and substituting “A bailiff or constable executing a warrant to seize property may, while seizing, or instead of seizing, a motor vehicle”.

(2) Section 85A is amended by repealing subsection (4) and substituting the following subsection: 10

“(4) A person commits an offence if, without reasonable excuse, the person—

“(a) tampers with, removes, or attempts to remove a device attached to a motor vehicle under subsection (1); or

“(b) removes, or attempts to remove,— 15

“(i) a motor vehicle to which a device is, or has been, attached; or

“(ii) any part of that vehicle; or

“(iii) any other property from that vehicle.”

25 Penalty for rescue of goods seized 20

Section 87 is amended by omitting “warrant of distress” and substituting “warrant to seize property”.

26 Period to elapse before sale

Section 88 is amended by omitting “distress warrant” and substituting “warrant to seize property”. 25

27 Sale of goods by public auction unless otherwise ordered

Section 89 is amended by omitting “warrant of distress” in each place where it appears and substituting in each case “warrant to seize property”.

28 Protection of bailiff selling goods under execution without notice of claim by third party 30

Section 90(1) is amended by omitting “distress warrant” and substituting “warrant to seize property”.

- 29 Procedure when goods seized are secured under bill of sale**
Section 91 is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
- 30 Priority of High Court and District Court executions**
Section 92 is amended by omitting “warrant of distress” in each place where it appears and substituting in each case “warrant to seize property”.
- 31 Sale of goods where claim made thereto**
Section 93(1) is amended by omitting “distress warrant” and substituting “warrant to seize property”.
- 32 Bailiff’s interpleader**
Section 94(1) is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
- 33 Further proceedings if chattels not recovered**
Section 104(2) is amended by omitting “warrant of distress” and substituting “warrant to seize property”.
- 34 New heading and sections 108A and 108B inserted**
The following heading and sections are inserted after section 108:
- “Service*
- “108A Service of certain documents under this Part**
- “(1) A requirement under this Part for a copy of a completed financial statement or a notice to complete a financial statement to be served on a person (the **recipient**) is met if—
- “(a) service of the document is effected by the judgment creditor, the judgment debtor, or an agent of the judgment creditor or judgment debtor; and
- “(b) that person effects service using any of Methods 1 to 5 or, in a case described in **section 108B**, in the way provided in that section.
- “(2) A requirement under this Part for a summons to attend a hearing under **section 84AD** or an application under **section**

- 84O(1)** (including an affidavit in support of such an application) to be served on a person (the **recipient**) is met if—
- “(a) service of the document is effected by an authorised process server; and
 - “(b) the authorised process server effects service using any of Methods 1 to 3 or, in a case described in **section 108B**, in the way provided in that section. 5
- “(3) A requirement under this Part for a summons to attend a financial assessment hearing to be served on a person (the **recipient**) is met if— 10
- “(a) service of the document is effected by the judgment creditor, an agent of the judgment creditor, or an authorised process server; and
 - “(b) that person effects service using any of Methods 1 to 3 or, in a case described in **section 108B**, in the way provided in that section. 15
- “(4) A requirement under this Part for an application for an attachment order (including an application to vary, suspend, or discharge an attachment order) to be served on a person (the **recipient**) is met if— 20
- “(a) service of the document is effected by the judgment creditor, the judgment debtor, or an agent of the judgment creditor or judgment debtor; and
 - “(b) that person effects service using any of Methods 1 to 5 or, in a case described in **section 108B**, in the way provided in that section. 25
- “(5) A requirement under this Part for an attachment order (including a notice of the variation, suspension, or discharge of an attachment order under **section 84M(4)**) to be served on a person (the **recipient**) is met if— 30
- “(a) service of the document is effected by an authorised process server; and
 - “(b) the authorised process server effects service using any of Methods 1 to 5 or, in a case described in **section 108B**, in the way provided in that section. 35
- “(6) However, an attachment order made against the chief executive of the department responsible for administering the Social Security Act 1964 must be served in accordance with **section 84L(4)(a)**.

- “(7) In this section,—
- “**authorised process server** means—
- “(a) a constable:
- “(b) a Police employee authorised by the Commissioner of Police to serve documents under this Part: 5
- “(c) an officer of the court:
- “(d) a person authorised to serve documents under this Part under a general or particular authority given by a District Court Judge or Registrar:
- “(e) an officer or employee of a body corporate that is authorised by the Secretary for Justice to serve documents under this Part 10
- “**Method 1** means delivering the document to the recipient personally or bringing it to the recipient’s notice if the recipient refuses to accept it 15
- “**Method 2** means leaving the document for the recipient at the recipient’s place of residence with another person who appears to be of or over the age of 14 years
- “**Method 3** means leaving the document for the recipient at the recipient’s place of business with another person 20
- “**Method 4** means sending the document to the recipient by prepaid post addressed to the recipient at the recipient’s last known place of residence or business
- “**Method 5** means, if the rules provide for the document to be served electronically, sending the document in electronic form to the recipient in the manner provided for by the rules.” 25
- “**108B Service of certain documents under this Part: supplementary**
- In a case described in one of the following paragraphs, service of a document may be effected in the way provided in that paragraph: 30
- “(a) if a solicitor has signed a memorandum stating that the solicitor is authorised to accept service of the document on behalf of the recipient, by delivering the document to the solicitor: 35
- “(b) if the recipient is a body corporate, by delivering the document to an officer or employee of the recipient at

its head office, principal place of business, or registered office, or bringing it to the officer’s or employee’s notice if the officer or employee refuses to accept it:

- “(c) if the recipient is a Crown organisation, by delivering the document to an officer or employee of the recipient at the recipient’s head office or principal place of business: 5
- “(d) if the recipient is living or working on board any vessel (including any vessel belonging to the Royal New Zealand Navy), by delivering the document to the person on board who at the time of service is apparently in charge of the vessel: 10
- “(e) if the recipient is a member of the New Zealand Armed Forces, by delivering the document at a barracks, camp, or station to the officer for the time being in command of the unit or detachment to which the recipient belongs: 15
- “(f) if the recipient is a prisoner, by delivering the document to the manager or other officer apparently in charge of the prison.”

35 Proof of service of documents by officer or constable 20

- (1) The heading to section 116A is amended by omitting “**by officer or constable**”.
- (2) Section 116A(1) is amended by omitting “by any officer of a court or by any constable” and substituting “by a person who is authorised to do so under this Act, the rules, or any other enactment” 25
- (3) Section 116A(2) is amended by omitting “Every officer or constable” and substituting “A person”.
- (4) Section 116A is amended by adding the following subsection: 30
- “(3) In the absence of proof to the contrary, where service of a document referred to in **section 108A** is effected by Method 4 (service by prepaid post) in accordance with that section, the document is deemed to have been served on the person to whom the document is addressed at the time when the document would have been delivered in the ordinary course of post, and in providing service it is sufficient to prove that the letter was properly addressed and posted.” 35

36 District Courts Rules

Section 122(3) is amended by inserting the following paragraph after paragraph (ia):

“(ib) providing for electronic service of documents under **section 108A**.”

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37 Regulations

Section 123(1)(a) is amended by inserting “filing and” after “fees for the”.

38 Amendments to other Acts

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

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Part 2**Amendments to Land Transport Act 1998****39 Principal Act amended**

This **Part** amends the Land Transport Act 1998.

15

40 Interpretation

Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:

“**driver licence stop order** means an order imposed under **section 91D**”.

20

41 Driver licences are property of Agency and are to be surrendered in certain circumstances

(1) Section 30 is amended by inserting the following subsection after subsection (3A):

“(3B) If an enforcement officer serves a person with a driver licence stop order, the person must immediately surrender his or her driver licence to the enforcement officer.”

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(2) Section 30(4) is amended by inserting “**(3B)**,” after “(3A).”

42 Demerit points to be recorded by Agency

Section 88 is amended by repealing subsection (5) and substituting the following subsections:

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- “(5) For the purposes of subsections (1) and (4), the provisions of **subsection (6)** apply to an infringement offence in respect of which—
- “(a) an infringement fee is paid to the enforcement authority, at the address for payment specified in the infringement notice, before a reminder notice is served or within 43 days after service of such a reminder notice; or 5
 - “(b) the enforcement authority enters into an arrangement to pay under section 21(3A) of the Summary Proceedings Act 1957. 10
- “(6) The provisions referred to in **subsection (5)** are as follows:
- “(a) the date on which the infringement notice was issued is to be treated as the date on which the offence was committed; and
 - “(b) a summary conviction for the offence is to be treated as having been entered against the offender on the date of the payment of the infringement fee or the date on which the arrangement to pay was entered into, as the case may be.” 15
- 43 New heading and sections 91A to 91H inserted** 20
The following heading and sections are inserted after section 91:
- “Driver licence stop orders*
- “91A Interpretation** 25
In this section and in **sections 91B to 91H**, unless the context otherwise requires,—
- “**attachment order** means an attachment order issued under section 87(1)(b) or 88(3)(a) of the Summary Proceedings Act 1957
 - “**deduction notice** means a notice issued under section 87(1)(c) or 88(3)(a) of the Summary Proceedings Act 1957 30
 - “**defendant** means the person who is required to pay a traffic fine, and includes a young person within the meaning of the Children, Young Persons, and Their Families Act 1989
 - “**payment arrangement** means an arrangement under any of section 81, **86, and 86C** of the Summary Proceedings Act 35

1957 or **section 36** of the Sentencing Act 2002 allowing payment of a traffic fine over a period of time

“**substituted sentence** means a warrant of commitment issued, or any sentence imposed, under section 88(3) of the Summary Proceedings Act 1957

5

“**traffic fine**—

“(a) means any amount of money that a person is for the time being obliged to pay under a sentence imposed or an order made, or deemed to be made, by a court in respect of a traffic offence, whether the amount payable under that sentence or order is described as a fine or as costs, levies, expenses, fees, reparation, or otherwise; and

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“(b) includes an offender levy imposed under section 105B of the Sentencing Act 2002 for a traffic offence and any prescribed costs, expenses, or fees payable in respect of the enforcement of any amount of money described in **paragraph (a)**; but

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“(c) does not include any amount of money adjudged or ordered to be paid in a civil proceeding

“**traffic offence** means—

20

“(a) any offence against this Act, the Transport Act 1962, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Road User Charges Act 1977, or the Land Transport Management Act 2003, or against any regulation, rule, or bylaw made under any of those Acts:

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“(b) any offence against any regulation, rule, or bylaw made under any other Act if the offence relates to the use of motor vehicles or parking places or transport stations.

“**91B Liability to driver licence stop order**

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“(1) A defendant who is obliged to pay a traffic fine is liable to the imposition of a driver licence stop order if—

“(a) the defendant has breached the provisions of an enactment or the terms of a sentence, an order, or a direction by failing to pay the traffic fine within the time provided or fixed by the enactment, sentence, order, or direction; and

35

- “(b) the defendant’s obligation to pay the fine is neither discharged, by payment in full or remission in full, nor otherwise resolved.
- “(2) For the purposes of **subsection (1)**, a defendant’s obligation to pay a traffic fine is **resolved** if— 5
- “(a) the fine is being reduced, or is to be reduced,—
- “(i) by a payment arrangement; or
- “(ii) by a deduction notice; or
- “(iii) by an attachment order; or
- “(iv) in accordance with a direction given under section 88(3)(fb) of the Summary Proceedings Act 1957; or 10
- “(v) in accordance with conditions determined under section 36 of the Sentencing Act 2002; or
- “(b) the defendant is currently subject to a substituted sentence in respect of that fine; or 15
- “(c) no further enforcement proceedings may be taken in respect of that fine under a direction given under section 88(3)(g) of the Summary Proceedings Act 1957; or
- “(d) the order to pay the fine is set aside under section 78B(2)(d) of the Summary Proceedings Act 1957 or the fine otherwise ceases to be payable as a result of an appeal. 20
- “**91C Warning notice to be sent to defendant**
- “(1) If a defendant is liable to the imposition of a driver licence stop order, the chief executive of the Ministry of Justice must arrange for a warning notice to be served on the defendant by delivering it to the defendant or by sending it to the defendant by ordinary post or by electronic means. 25
- “(2) The notice must— 30
- “(a) explain why the defendant is liable to the imposition of a driver licence stop order and provide details of the unpaid traffic fine to which the liability relates; and
- “(b) if the defendant’s liability is related to the cancellation or revocation of a payment arrangement, deduction notice, or an attachment order, give the reason for the cancellation or revocation; and 35

- “(c) state that a driver licence stop order will not be imposed if, before the close of the 14th day after service of the notice, the unpaid traffic fine is paid in full or the defendant’s obligation to pay the fine is resolved within the meaning of **section 91B(2)**. 5
- “(3) No driver licence stop order imposed on a person is invalid merely because a notice under **subsection (1)** was not received by that person or was received by that person after the driver licence stop order was imposed on the person.
- “(4) If a notice under **subsection (1)** is sent by ordinary post addressed to the defendant at the defendant’s last known place of residence or business or postal address, then, unless the contrary is shown, the notice is served when the notice would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the notice was properly addressed and posted. 10 15
- “91D Imposition of driver licence stop order**
- “(1) If, following the expiry of the period of 14 days after service of the notice sent to a defendant under **section 91C**, the defendant continues to be liable to a driver licence stop order because of the traffic fine described in that notice, the chief executive of the Ministry of Justice may impose a driver licence stop order on the defendant and issue it for personal service. 20
- “(2) An order imposed under **subsection (1)** must be in a form approved by the chief executive of the Ministry of Justice and must state— 25
- “(a) the name of the defendant; and
- “(b) the traffic fine in respect of which the order is imposed and the amount owing on that fine; and
- “(c) that the order will stay in effect until the defendant’s obligation to pay the traffic fine is discharged by payment in full or is resolved within the meaning of **section 91H(6)**; and 30
- “(d) that, immediately after the order is served on the defendant, any driver licence held by the defendant, including any limited licence issued under section 105, is suspended until the driver licence stop order is cancelled in 35

- accordance with **section 91G** or terminated in accordance with **section 91H**; and
- “(e) that if the order is served by an employee or agent of the Ministry of Justice, the defendant must surrender any driver licence held by the defendant to that employee or agent or to the Agency, and if the order is served on the defendant by an enforcement officer, the defendant must surrender that driver licence to that enforcement officer; and 5
- “(f) if the defendant does not hold a current driver licence when the order takes effect, that— 10
- “(i) the defendant is disqualified from holding or obtaining a driver licence (including any limited licence) until the driver licence stop order is cancelled in accordance with **section 91G** or terminated in accordance with **section 91H**; and 15
- “(ii) if the defendant is authorised to obtain a limited licence, the limited licence may not be issued by the Agency until the driver licence stop order is so cancelled or terminated. 20
- “(3) When the order is issued for personal service, the defendant becomes liable to pay a single fee for the order, and that single fee—
- “(a) is deemed to be imposed when the order is first issued, regardless of the number of times that the same order may subsequently be reissued; and 25
- “(b) is not affected by the number of fines in respect of which the order is issued, so that if, for example, the order is issued for 2 fines, the fee is 1 fee and not 2 fees; and
- “(c) is, for enforcement purposes, deemed to be a fine. 30
- “(4) The amount of the fee deemed to be imposed by **subsection (3)** is the same as that prescribed by regulations, made under the Summary Proceedings Act 1957, in respect of enforcement action taken under that Act to enforce a fine.
- “**91E Personal service required for driver licence stop order** 35
- “(1) A driver licence stop order imposed on a defendant must be served personally on the defendant by an employee or agent of the Ministry of Justice or by an enforcement officer.

- “(2) A driver licence stop order must be served on the defendant in 1 of the following ways:
- “(a) by being delivered to the defendant personally or by being brought to the defendant’s notice if he or she refuses to accept it: 5
 - “(b) by being left for the defendant at his or her place of residence with another person who appears to be of or over the age of 14 years:
 - “(c) by being left for the defendant at the defendant’s place of business. 10
- “(3) An endorsement on a copy of a driver licence stop order stating the fact and the date and time of service and purporting to be signed by an employee or agent of the Ministry of Justice or by an enforcement officer is, in the absence of evidence to the contrary, sufficient proof of service of the order. 15
- “91F Effect of driver licence stop order**
- “(1) A driver licence stop order that is imposed on a defendant takes effect immediately after the order is served on the defendant and continues in effect until it is cancelled under **section 91G** or terminated under **section 91H**. 20
- “(2) Throughout the time that a driver licence stop order is in effect,—
- “(a) any driver licence held by the defendant on whom the order is imposed, including any limited licence held under section 105, is suspended; and 25
 - “(b) if the defendant on whom the order is imposed does not hold a current driver licence when the order takes effect, the defendant is disqualified from holding or obtaining a driver licence, including any limited licence under section 105; and 30
 - “(c) if the defendant’s driver licence is suspended under **paragraph (a)**, the defendant may not hold or obtain another driver licence, including any limited licence under section 105.
- “(3) A defendant on whom a driver licence stop order is served must,— 35

- “(a) if the order is served by an employee or agent of the Ministry of Justice, surrender his or her licence to that employee or agent or to the Agency:
 - “(b) if the order is served by an enforcement officer, surrender his or her licence to that enforcement officer in accordance with **section 30(3B)**. 5
 - “(4) An employee, agent, or enforcement officer to whom a driver licence has been surrendered under **subsection (3)** must immediately forward the driver licence to the Agency.
 - “(5) The chief executive of the Ministry of Justice must notify the Agency and may notify the Commissioner of the driver licence stop order and of the date and time when it took effect. 10
- “91G Cancellation of driver licence stop order**
- “(1) The chief executive of the Ministry of Justice may, if there is good reason for doing so, cancel a driver licence stop order. 15
 - “(2) Without limiting the generality of **subsection (1)**, a good reason exists, for the purposes of that subsection, if the driver licence stop order—
 - “(a) was imposed or served in error; or
 - “(b) is inconsistent with a judicial determination. 20
 - “(3) The chief executive of the Ministry of Justice must give notice of the cancellation to the person on whom the order was imposed and to the Agency.
 - “(4) The cancellation takes effect when it is shown on the national register maintained under section 199. 25
 - “(5) When the Agency receives notice of the cancellation, the Agency must, if the defendant’s driver licence was surrendered to the Agency and the defendant is otherwise eligible to hold a current driver licence, replace the photo driver licence and send it by ordinary post to the defendant’s address recorded on the national register maintained under section 199. 30
 - “(6) The chief executive of the Ministry of Justice must pay the Agency the prescribed fee for replacing the photo driver licence in accordance with **subsection (5)(b)**. 35

“91H Termination of driver licence stop order if traffic fine paid or resolved

- “(1) The chief executive of the Ministry of Justice must terminate a driver licence stop order if the defendant’s obligation to pay the traffic fine is discharged by payment in full or remission in full or if the defendant’s obligation is resolved. 5
- “(2) The chief executive of the Ministry of Justice must give notice of the termination to the defendant and to the Agency.
- “(3) The termination takes effect when it is shown on the national register maintained under section 199. 10
- “(4) When the Agency receives notice of the termination, the Agency must, if the defendant’s driver licence was surrendered to the Agency and the defendant is otherwise eligible to hold a current driver licence, replace the photo driver licence and send it by ordinary post to the defendant’s address recorded on the national register maintained under section 199. 15
- “(5) The chief executive of the Ministry of Justice must pay the Agency the prescribed fee for replacing the photo driver licence in accordance with **subsection (4)**. 20
- “(6) For the purposes of **subsection (1)**, a defendant’s obligation to pay a traffic fine is **resolved** when—
- “(a) the Ministry of Justice receives the first payment made—
- “(i) under, or in respect of, a payment arrangement entered into in respect of the fine (whether or not that arrangement has come into force); or 25
- “(ii) under an attachment order issued in respect of the fine; or
- “(iii) under a deduction notice issued in respect of the fine; or 30
- “(b) a substituted sentence is imposed on the defendant in respect of the fine; or
- “(c) a Judge or Community Magistrate gives a direction under section 88(3)(fb) of the Summary Proceedings Act 1957 that a greater time for payment of the fine be allowed; or 35
- “(d) a Judge or Community Magistrate gives a direction under section 88(3)(g) of the Summary Proceedings

- Act 1957 that no further enforcement action be taken in respect of the fine; or
- “(e) the order to pay the fine is set aside under section 78B(2)(d) of the Summary Proceedings Act 1957 or the fine otherwise ceases to be payable as a result of an appeal.” 5
- 44 Vehicle seized and impounded for 28 days in certain circumstances**
- Section 96(6) is amended by repealing paragraph (b) and substituting the following paragraph: 10
- “(b) the vehicle has not—
- “(i) been released; or
- “(ii) been seized under the Summary Proceedings Act 1957; or
- “(iii) been confiscated under the Sentencing Act 2002.” 15
- 45 Impoundment of vehicle used in transport service**
- Section 96A(6) is amended by repealing paragraph (b) and substituting the following paragraph:
- “(b) the vehicle has not— 20
- “(i) been released; or
- “(ii) been seized under the Summary Proceedings Act 1957; or
- “(iii) been confiscated under the Sentencing Act 2002.” 25
- 46 Persons who may apply to court for limited licence**
- Section 103(2) is amended by adding the following paragraph:
- “(e) a person on whom a driver licence stop order has been imposed and served, if that order continues in effect.”
- 47 Court may make order authorising grant of limited licence** 30
- (1) Section 105(7)(a) is amended by omitting “must be” and substituting “is”.

- (2) Section 105 is amended by inserting the following subsection after subsection (7):
- “(7A) If a driver licence stop order is imposed and served on a person who holds a limited licence or is authorised to obtain a limited licence, then the limited licence— 5
- “(a) is revoked or may not be issued (as the case may be); and
- “(b) is revived or may be issued (as the case may be) on the cancellation or termination of the driver licence stop order unless the person is otherwise disqualified from holding a limited licence.” 10
- (3) Section 105(8) is amended by inserting “or **(7A)**” after “subsection (7)”.
- 48 Owner liability for moving vehicle offences**
- Section 133(4)(c) is amended by repealing subparagraph (i) 15 and substituting the following subparagraph:
- “(i) identifying the driver, by giving—
- “(A) the full name and full address of the driver; and
- “(B) any other identifying particulars, so far as 20 they are within the person’s knowledge, such as the driver’s date of birth, occupation, telephone number; or”.
- 49 New section 140 substituted**
- Section 140 is repealed and the following section substituted: 25
- “140 Contents of infringement and reminder notices**
- “(1) An infringement notice must be in the form prescribed by regulations made under this Act and must contain—
- “(a) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and 30 nature of the alleged offence; and
- “(b) in the case of a speeding offence, the applicable speed limit and the speed at which it is alleged the driver was travelling at the time of the alleged offence; and
- “(c) in the case of an infringement offence (other than a 35 speeding offence) in respect of which a scale of in-

- fringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement of-
fence alleged; and
- “(d) the amount of the infringement fee specified in respect of that offence; and 5
- “(e) the address of the place at which the infringement fee may be paid; and
- “(f) the time within which the infringement fee may be paid; and
- “(g) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and 10
- “(h) in the case of an alleged infringement offence that is a moving vehicle offence, a summary of the provisions of section 133 of this Act; and
- “(i) a statement of the right of the person served with the notice to request a hearing; and 15
- “(j) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and
- “(k) any other particulars as are prescribed. 20
- “(2) A reminder notice must—
- “(a) be in the form prescribed by regulations made under this Act; and
- “(b) include the same particulars, or substantially the same particulars, as the infringement notice; and 25
- “(c) in the case of an offence to which demerit points apply, include a statement that demerit points apply to the alleged offence.
- “(3) Different forms of infringement notices and reminder notices may be prescribed for different kinds of infringement offences.” 30

50 Agency to maintain register of driver licences

- (1) Section 199(2)(k) is amended by inserting “, including under any driver licence stop order,” after “held by the holder”.
- (2) Section 199(2) is amended by inserting the following paragraph after paragraph (n): 35
- “(na) information about any cancellation or termination of a driver licence stop order:”.

Part 3
Amendments to Summary Proceedings
Act 1957

- 51 Principal Act amended**
This **Part** amends the Summary Proceedings Act 1957. 5
- 52 Interpretation**
Section 2(1) is amended by inserting the following definition in its appropriate alphabetical order:
“**Police employee** has the same meaning as in section 4 of the Policing Act 2008”. 10
- 53 Summary procedure for infringement offences**
- (1) Section 21(3A) is amended by omitting “the defendant to pay the infringement fee” in each place where it appears and substituting in each case “the infringement fee to be paid”. 15
- (2) Section 21(3C)(a) is amended by omitting “the defendant to pay the infringement fee” and substituting “the infringement fee to be paid”. 15
- (3) Section 21 is amended by repealing subsections (5) and (5A) and substituting the following subsections:
- “(5) If,— 20
“(a) under subsection (3), particulars of a reminder notice are provided before the close of the date that is 6 months after the date on which the infringement offence is alleged to have been committed; and
“(b) those particulars are verified under subsection (4B),— 25
then the court in which the reminder notice is deemed, by subsection (4C), to have been filed is also deemed to have made an order (as if on the determination of an information in respect of the offence) that the defendant pay a fine equal to the amount of the infringement fee then remaining unpaid for the offence together with costs of the prescribed amount. 30
- “(5A) If,—
“(a) under subsection (3D), particulars of a reminder notice are provided before the close of the date that is 12 months after the date on which the infringement offence is alleged to have been committed; and 35

“(b) those particulars are verified under subsection (4B),—
then the court in which the reminder notice is deemed, by sub-
section (4C), to have been filed is also deemed to have made
an order (as if on the determination of an information in re-
spect of the offence) that the defendant pay a fine equal to the
amount of the infringement fee then remaining unpaid for the
offence together with costs of the prescribed amount. 5

54 New section 23A inserted

The following section is inserted above section 24:

**“23A Service of documents: sections 24 to 29 not to apply to
Part 3 10**

Sections 24 to 29 do not apply to any summons or other docu-
ment required to be served under Part 3; **sections 79A to 79D**
apply instead.”

55 Mode of service of documents on defendant 15

Section 24(1) is amended by repealing paragraph (d) and sub-
stituting the following paragraphs:

“(d) in the case of a notice relating to an infringement of-
fence or a minor offence as defined in section 20A(12),
by being sent by letter by ordinary post addressed to the
defendant at the defendant’s last known place of resi-
dence or business; or 20

“(e) in the case of a notice relating to an infringement of-
fence required to be served on a defendant who does
not have a known place of residence in New Zealand
but has a known electronic address, by being sent to the
defendant at that address in electronic form in accord-
ance with rules made under this Act.”. 25

**56 Power to correct irregularities in proceedings for
infringement offences 30**

(1) Section 78B(1)(a) is amended by repealing subparagraph (ii)
and substituting the following subparagraphs:

“(ii) the defendant (not being a defendant who, under
section 78C(1) or (3), is ineligible to rely on
this ground) did not in fact receive the reminder 35

- notice required to have been served on the defendant under section 21; or
- “(ia) the defendant did not in fact receive a copy of the notice of hearing required to have been served on the defendant under section 21; or” 5
- (2) Section 78B is amended by inserting the following subsection after subsection (1):
- “(1A) No more than 1 application, made in reliance on the ground stated in **subsection (1)(a)(ii)**, may be granted in respect of the same infringement offence.” 10
- (3) Section 78B is amended by repealing subsection (4) and substituting the following subsections:
- “(4) A Registrar may not exercise the power conferred by subsection (2)(d) except where the application is made under subsection (1)(b). 15
- “(4A) While an application under subsection (1) is pending,—
- “(a) no warrant, order, or notice may be issued or take effect to enforce the order to which that application relates; and
- “(b) the Registrar must take appropriate steps to ensure that the order is not acted on. 20
- “(4B) Despite **subsection (4A)**, if, before an application under subsection (1) is made, any property has been seized under a warrant to seize property to enforce the order to which that application relates, — 25
- “(a) any seized property that has not been sold must be retained under **section 100B(3)** while the application is pending; and
- “(b) if the order to which the application relates continues in effect after the application is determined or is discontinued, the property must be dealt with, and any fees and costs payable under an enactment in respect of the property are payable, as if the application had not been made; and 30
- “(c) if, on the determination of the application the order is set aside or ceases to have effect in accordance with subsection (5), the owner is entitled to the return of the 35

property and is not liable for any fees and costs payable under an enactment in respect of the property.

“(4C) In any case where a Judge or Registrar gives a direction authorising the service of a reminder notice or a copy of a reminder notice under subsection (2)(a) or (b) (a **new reminder notice**) in replacement of, or by reference to, a previous reminder notice, then— 5

“(a) section 21(3)(b), (3D)(b), and (10)(a), if applicable to the case, apply as if the reference to the date of service of the reminder notice were a reference to the date of the direction by the Judge or Registrar; and 10

“(b) section 21(3B)(b) and (8)(d), if applicable to the case, apply as if the reference to the time when the offence is alleged to have been committed were a reference to the date of the direction by the Judge or Registrar. 15

“(4D) If, under subsection (2)(b), a Judge or Registrar authorises the informant to serve on the defendant a new reminder notice, the defendant may not give notice requesting a hearing in respect of the infringement offence to which that notice relates if the Registrar is satisfied— 20

“(a) that the previous reminder notice was sent to the defendant by ordinary post; and

“(b) that this occurred following the defendant’s default in paying 1 or more instalments under an arrangement entered into under section 21(3A) or (3C)(a). 25

“(4E) If, under subsection (2)(d), an order is set aside following an application made by the informant under subsection (1)(b), the setting aside is not a bar to any other proceedings in the same matter.”

57 New section 78C inserted 30

The following section is inserted after section 78B:

“78C Certain defendants ineligible to rely on non-receipt of reminder notice

“(1) A defendant is not eligible to rely, under **section 78B(1)(a)(ii)**, on the ground that the defendant did not in fact receive a reminder notice if the Registrar is satisfied that the defendant was personally served with the infringement notice to which the reminder notice relates. 35

- “(2) However, even though a defendant has been personally served with an infringement notice relating to an infringement offence, **subsection (1)** does not apply to the defendant if the defendant—
- “(a) has entered into an arrangement, under section 21(3A) or (3C)(a), in respect of that infringement offence; and
 - “(b) following a default in the payment of 1 or more instalments under that arrangement, has been served by ordinary post with a reminder notice in respect of that infringement offence.
- “(3) In the case of an infringement notice issued for an owner liability offence, the defendant is not eligible to rely on the ground stated in **section 78B(1)(a)(ii)** unless the Registrar is satisfied, on the basis of documentary evidence of a kind approved by the Registrar, that, at the date of the commission of that offence, the defendant had, in respect of the motor vehicle to which the infringement notice relates, complied with any applicable obligations imposed on the defendant by Part 17 of the Land Transport Act 1998 and regulations made under that Act.
- “(4) In this section, **owner liability offence** means an offence referred to in section 41A of the Transport Act 1962 or section 133 of the Land Transport Act 1998.”
- 58 New sections 79 to 79D and heading substituted**
Section 79 is repealed and the following sections and heading are substituted:
- “79 Interpretation**
- “(1) In this Part, unless the context otherwise requires,—
- “**chief executive** means the chief executive of the Ministry of Justice
 - “**default balance** means the amount owed by a defendant in respect of 1 or more overdue fines
 - “**employer** includes, in relation to payments of the kind referred to in this section in the definition of salary or wages, the person or body making the payments

“**fine**—

“(a) includes any amount of money, or any part of an amount of money, that a person is obliged to pay under a sentence or an order imposed by a court in respect of an offence, whether that amount is described as a fine or as costs, levies, expenses, fees, reparation, or otherwise; and 5

“(b) includes any levy payable under section 105B of the Sentencing Act 2002 and any prescribed costs, expenses, or fees payable in respect of the enforcement of an obligation to pay any amount of money, or any part of an amount of money, described in **paragraph (a)**; but 10

“(c) does not include any amount of money ordered to be paid in a civil proceeding 15

“**imposed**, in relation to a fine, includes ordered and deemed to be ordered

“**impoundment costs**, in relation to a motor vehicle that has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, means the fees and charges for towage and storage that are prescribed or assessed in the manner specified by regulations made under section 167 of that Act, and, where those fees and charges have already been paid by the chief executive, means the amount required to reimburse the chief executive for that payment 20 25

“**interest** means any proprietary interest, whether legal or equitable, and whether vested or contingent

“**lease** does not include a security agreement or a rental service agreement to which the holder of a rental service licence under the Land Transport Act 1998 is a party 30

“**negotiable instrument** has the same meaning as in section 16 of the Personal Property Securities Act 1999

“**overdue**, in relation to a fine, means—

“(a) that the fine has, in breach of the provisions of an enactment or the terms of a sentence, an order, or a direction, not been paid in full within the time provided or fixed by the enactment, sentence, order, or direction; and 35

“(b) that the defendant’s obligation to pay the fine has not been resolved

“**person who is registered**, in relation to a motor vehicle, means the person who is registered under the Land Transport Act 1998 in respect of the vehicle, and where several persons 5 are so registered, means any one of those persons

“**property** includes money and negotiable instruments

“**resolved**, in relation to a defendant’s obligation to pay a fine, means that—

“(a) the fine is being reduced, or is to be reduced,— 10

“(i) by an arrangement under any of sections 81, **86, and 86C**; or

“(ii) by a deduction notice issued under section 87(1)(c) or 88(3)(a); or

“(iii) by an attachment order issued under section 15 87(1)(b) or 88(3)(a); or

“(iv) in accordance with a direction given under section 88(3)(fb); or

“(v) in accordance with conditions determined under **section 36** of the Sentencing Act 2002; or 20

“(b) the defendant is currently subject to a substituted sentence in respect of that fine; or

“(c) the fine may not be further enforced because of a direction given under section 88(3)(g); or

“(d) the order to pay the fine is set aside under section 25 78B(2)(d) or the fine otherwise ceases to be payable as a result of an appeal

“**salary or wages** includes—

“(a) a retiring allowance or pension or other payment of a similar nature: 30

“(b) all payments of weekly compensation made by the Accident Compensation Corporation under the Accident Compensation Act 2001:

“(c) a bonus or an incentive payment:

“(d) a payment of commission: 35

“(e) a payment in consideration of work performed under a contract for services:

“(f) a benefit

“**security agreement** has the same meaning as in section 16 of the Personal Property Securities Act 1999

“**security interest** has the same meaning as in section 17 of the Personal Property Securities Act 1999

“**substituted sentence** means a warrant of commitment issued, or any sentence imposed, under section 88(3) 5

“**traffic fine** means a fine payable in respect of a traffic offence

“**traffic offence** means—

“(a) any offence against the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Land Transport Act 1998, or the Land Transport Management Act 2003 or against any regulation, rule, or bylaw made under any of those Acts: 10

“(b) any offence against any regulation, rule, or bylaw made under any other Act if the offence relates to the use of motor vehicles or parking places or transport stations 15

“**use**, in relation to a motor vehicle, includes driving, drawing, towing, or propelling by means of another vehicle, and permitting to be on any road 20

“**written caution** means a caution issued under **section 93**.

“(2) For the purposes of this section and **sections 93 to 100S**, a person is, in relation to a defendant, a **substitute for the defendant** or a **substitute** if—

“(a) the person is served with a written caution, under **section 93**, about the defendant’s default in paying a traffic fine for a traffic offence; and 25

“(b) within 4 years after the date of service of that written caution, the defendant—

“(i) commits a further traffic offence while using a motor vehicle that, at the time of the commission of that further offence, the person owned or had an interest in; and 30

“(ii) has a traffic fine imposed on him or her for that further traffic offence; and 35

“(iii) defaults, and continues to be in default, on the further fine described in **subparagraph (ii)**.

- “(3) For the purposes of **sections 93 to 100S**, property is owned by a person whether the person owns it solely or as a joint tenant or tenant in common with any other person.
- “(4) For the purposes of the exercise of any power, or the performance of any duty or function, under this Part, the person who is registered in respect of a motor vehicle is taken to be the owner of the motor vehicle unless the person exercising the power or performing the duty or function is satisfied that the person who is registered is not the owner of that motor vehicle. 5
- “(5) A reference in **sections 93 to 100S** to a person holding a motor vehicle as nominee for a defendant or for a substitute for the defendant is a reference to a person who purports to be the owner or who is the person who is registered in respect of the motor vehicle but whose purported ownership or registration is subject to an understanding or arrangement that the person— 10
- “(a) is not to acquire any rights, or only limited rights, in the motor vehicle; and
- “(b) will, in relation to the motor vehicle, act on behalf of the defendant or a substitute for the defendant. 15

“Service under this Part” 20

“79A Mode of service under this Part”

- “(1) A requirement under this Part for a document to be served on, or given to, a person (a **recipient**) may be met in any of the following ways:
- “(a) by an authorised process server delivering the document to the recipient personally or bringing it to the recipient’s notice if the recipient refuses to accept it: 25
- “(b) by an authorised process server leaving the document for the recipient at the recipient’s place of residence with another person (other than the defendant) who appears to be of or over the age of 14 years: 30
- “(c) by an authorised process server leaving the document for the recipient at the recipient’s place of business with another person (other than the defendant):
- “(d) where the document is required to be served or given by the Registrar, by the Registrar or an agent of the Registrar sending the document to the recipient by pre- 35

paid post addressed to the recipient at the recipient’s last known place of residence or business:

“(e) where the document is required to be served or given by the chief executive, by the chief executive or an employee or agent of the chief executive sending the document to the recipient by prepaid post addressed to the recipient at the recipient’s last known place of residence or business: 5

“(f) where the document is required to be served or given by the Registrar, by the Registrar or an agent of the Registrar sending the document to the recipient in electronic form in any case where rules made under section 212 apply specific provisions of the Electronic Transactions Act 2002 to the provision of this Part under which the document is to be served or given: 10 15

“(g) if authorised by regulations made under section 212, by the Registrar or an agent of the Registrar sending the document in electronic form to the recipient, or conveying its contents orally, including by telephone, in a manner prescribed by the regulations. 20

“(2) Despite **subsection (1)**, a written caution under **section 93** may be served only in the manner described in **paragraphs (a) to (c)** of that subsection.

“(3) In this section and in **section 79B**, an **authorised process server** means a person who is— 25

- “(a) a constable; or
- “(b) a Police employee authorised by the Commissioner of Police to serve documents under this Act; or
- “(c) an officer of the Court; or
- “(d) a person who is authorised to serve documents under this Part under a general or particular authority given by a District Court Judge or Registrar; or 30
- “(e) an officer or employee of a corporation that is authorised by the Secretary for Justice to serve documents under this Part. 35

“**79B Mode of service under this Part modified in special cases**
In a case described in one of the following paragraphs, service may be effected in the way provided in that paragraph:

- “(a) if a solicitor has signed a memorandum stating that the solicitor is authorised to accept service of the document on behalf of the recipient, by an authorised process server delivering the document to the solicitor:
- “(b) if the recipient is a body corporate, by an authorised process server delivering the document to an officer or employee of the body corporate at its head office, principal place of business, or registered office, or bringing it to the officer’s or employee’s notice if the officer or employee refuses to accept it: 5
- “(c) if the recipient is a Crown organisation, by an authorised process server delivering the document to an officer or employee of the recipient at the recipient’s head office or principal place of business: 10
- “(d) if the recipient is living or working on board any vessel (including any vessel belonging to the Royal New Zealand Navy), by an authorised process server delivering the document to the person on board who at the time of service is apparently in charge of the vessel: 15
- “(e) if the recipient is a member of the New Zealand Armed Forces, by an authorised process server delivering the document at the barracks, camp, or station to the officer for the time being in command of the unit or detachment to which the recipient belongs: 20
- “(f) if the recipient is a prisoner, by an authorised process server delivering the document to the manager or other officer apparently in charge of the prison. 25
- “**79C Manner of notification not requiring particular document**
- “(1) If a provision in this Part requires or contemplates that an official notify a person about a matter, without requiring that the person receive a particular document, the official may notify the person face to face or by telephone, or by prepaid post, fax, email, text, or other electronic means. 30
- “(2) In this section, **official** means— 35
- “(a) the chief executive; or
- “(b) a Registrar; or
- “(c) a bailiff; or

“(d) an agent of the chief executive, of a Registrar, or of a bailiff.

“79D Proof of service or notification

“(1) The service of any document or the notification of a matter may be proved— 5

“(a) by affidavit or oral evidence made or given by the person who served the document or made the notification, stating the fact, date, time, and mode of service or notification; or

“(b) by an endorsement on a copy of the document or, where applicable, on a printout that records an electronic document, showing the fact, date, time, and mode of service or notification. 10

“(2) An endorsement under **subsection (1)(b)** must,—

“(a) in the case of the service of a document by a person other than the Registrar, be signed by the person who served the document: 15

“(b) in the case of a document served, or a matter notified, by the Registrar, be signed by the Registrar or an agent of the Registrar or by any officer of the Court who knows of the service or the notification. 20

“(3) In the absence of proof to the contrary, service of a document effected, in accordance with **section 79A(1)(d)**, by prepaid post, is deemed to have been effected on the person to whom the letter is addressed at the time when the letter would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the letter was properly addressed and posted. 25

“(4) Every person who wilfully endorses any false statement of the fact, date, time, or mode of service on a copy of any document or on a computer printout commits an offence, and is liable on conviction on indictment to imprisonment for a term not exceeding 2 years or to a fine not exceeding \$2,000 or to both.” 30

59 Further amendments to principal Act relating to service

The principal Act is amended in the manner indicated in **Schedule 2.** 35

- 60 Time to pay or payment by instalments**
Section 81(1) is amended by omitting “the Court” and substituting “a District Court Judge, or a Registrar directed to do so in a particular case by a Judge,”.
- 61 Statement of means** 5
Section 82 is amended by inserting the following subsection after subsection (1):
“(1A) The Court may also order that a defendant supply a statement of means where such a statement of means has not been supplied under subsection (1) in relation to a fine, and a District Court Judge or a Registrar is considering making an order under section 81(1) in relation to that fine.” 10
- 62 New section 84 substituted**
Section 84 is repealed and the following section substituted:
- “84 Notice of fine** 15
“(1) Where, on the determination of an information or a complaint, the defendant is ordered to pay or becomes liable to pay a fine, the Registrar must promptly give the defendant a notice of the fine.
“(2) Every notice given under **subsection (1)** must— 20
“(a) state the amount of the fine:
“(b) state the date on or before which payment of the fine is to be made:
“(c) state the times and places at which payment of the fine may be made: 25
“(d) inform the defendant of the defendant’s rights of appeal:
“(e) inform the defendant that a Registrar or bailiff may enter into an arrangement with the defendant for an extension of time to pay, whether by instalments or otherwise:
“(f) inform the defendant that if the fine is not paid within 28 30 days after the day on which it was imposed, and no order has been made under section 81 and no arrangement has been entered into under **section 86 or 86C**, the following kinds of enforcement may be taken (which must be explained in general terms): 35
“(i) a warrant to seize property:
“(ii) an attachment order:

- “(iii) a deduction notice:
- “(iv) a driver licence stop order:
- “(g) notify the defendant that, instead of taking the kinds of enforcement action described in **paragraph (f)**, the Registrar may issue a warrant to arrest the defendant and have the defendant brought before a District Court Judge with a view to having a substitute sentence imposed: 5
- “(h) notify the defendant that any default balance of the defendant will be disclosed to recognised users (within the meaning of **section 92A**) who are authorised to receive that information. 10
- “(3) Failure to comply with this section does not of itself invalidate any subsequent proceeding.
- “(4) Despite the requirements of this section, it is the responsibility of the defendant to take all necessary steps to find out the decision of the Court, the defendant’s obligations under that decision, and the defendant’s rights in relation to that decision. 15
- “(5) It is not necessary to comply with the requirements of this section in any case where, before the notice is given,— 20
 - “(a) a fine is paid in full; or
 - “(b) an order is made under section 81(1) or 83(1); or
 - “(c) an arrangement is entered into under **section 86 or 86C.**”

- 63 Section 85 repealed** 25

Section 85 (which requires that a final notice of fine be delivered or sent to the defendant) is repealed.

- 64 New sections 86 to 86D substituted**

Sections 86, 86A, and 86B are repealed and the following sections substituted: 30
- “86 Registrar may arrange extension of time to pay**
 - “(1) If a fine is payable and is not subject to an order for immediate payment, the Registrar may enter into an arrangement with a defendant or with a representative of the defendant to allow for either or both of the following: 35
 - “(a) a greater time for payment:

- “(b) payment to be made by instalments.
- “(2) No arrangement under **subsection (1)** may permit a fine to remain unpaid for more than 5 years after the date on which the arrangement is entered into.
- “(3) Before the Registrar enters into an arrangement under **subsection (1)**, the Registrar may consider any information received from any person about the financial position of the defendant or, as the case requires, about the defendant’s representative. 5
- “(4) In any case where any information described in **subsection (3)** comes from a third party, the information must include details of the source of the information and the date to which the information relates. 10
- “(5) If a fine may be paid by instalments and default is made in the payment of any instalment, proceedings may be taken against the defendant as if default had been made in the payment of all instalments then remaining unpaid. 15
- “(6) In this section and in **sections 86A to 86D**, **representative** means a person who enters into the arrangement concerned with the written or oral consent of the defendant or who is authorised to do so by operation of law. 20
- “**86A Registrar may vary, suspend, or cancel arrangement for extension of time to pay fine or attachment order**
- “(1) A Registrar may determine that an arrangement extending the time to pay a fine, or an attachment order, be varied, suspended, or cancelled if the Registrar has reason to believe that— 25
- “(a) the defendant or, as the case requires, the defendant’s representative has, for the purpose of entering into the arrangement, supplied false or misleading information about the financial position of the defendant or, as the case requires, the defendant’s representative; or 30
- “(b) the financial position of the defendant or, as the case requires, the defendant’s representative has changed significantly since the date on which the arrangement was entered into; or 35

- “(c) the defendant has, in connection with the making of the attachment order, supplied false or misleading information about the financial position of the defendant; or
- “(d) the financial position of the defendant has changed significantly since the date on which the attachment order was made. 5
- “(2) A Registrar may determine that an arrangement extending the time to pay a fine be varied, suspended, or cancelled if another fine that is not subject to the arrangement is imposed on the defendant and— 10
 - “(a) the defendant agrees to the determination proposed by the Registrar; or
 - “(b) the defendant defaults in the payment of the subsequent fine, and—
 - “(i) the Registrar is unable to contact the defendant; 15
 - or
 - “(ii) the Registrar contacts the defendant but is unable to reach an agreement with the defendant as to how the subsequent fine is to be paid.
- “(3) If, in a case where there is an arrangement extending the time to pay a fine with a representative of the defendant, a further fine that is not subject to the arrangement is imposed on the defendant, the Registrar may determine that the arrangement— 20
 - “(a) be varied, suspended, or cancelled if the representative agrees to the determination proposed by the Registrar: 25
 - “(b) be suspended or cancelled if the defendant defaults in the payment of the subsequent fine, and—
 - “(i) the Registrar is unable to contact the representative; or
 - “(ii) the Registrar contacts the representative but is 30
 - unable to reach an agreement with the representative as to how the subsequent fine is to be paid.
- “(4) A Registrar may determine that an attachment order be varied, suspended, or cancelled if another fine that is not subject to the attachment order is imposed on the defendant and the defendant defaults in the payment of the subsequent fine, and— 35
 - “(a) the Registrar is unable to contact the defendant; or

- “(b) the Registrar contacts the defendant, but is unable to reach an agreement with the defendant as to how the subsequent fine is to be paid.
- “(5) If **subsection (1), (2)(b)(ii), (3)(b)(ii), or (4)(b)** applies, the Registrar must, before he or she makes a determination in relation to the arrangement or the attachment order,— 5
- “(a) notify the defendant or, as the case requires, the defendant’s representative—
- “(i) of the proposed determination and the reasons for the proposed determination; and 10
- “(ii) that the defendant or, as the case requires, the defendant’s representative may give reasons, in an oral or written submission to the Registrar, why the proposed determination should not be made; and 15
- “(iii) that, if it is intended to make an oral submission, that intention must be advised to the Registrar within 10 days after the date of the notification and that any such submission must be made at a time specified by the Registrar; and 20
- “(iv) that any written submission must be received by the Registrar within 10 days after the date of the notification; and
- “(b) consider any—
- “(i) oral submission made in accordance with **paragraph (a)(iii)**; and 25
- “(ii) written submissions received within the 10-day period referred to in **paragraph (a)(iv)**.
- “(6) In no case may a fine to which a determination relates remain unpaid for more than 5 years after the date on which the determination takes effect. 30
- “(7) A determination under this section takes effect on the following dates:
- “(a) where **subsection (1), (2)(b)(ii), (3)(b)(ii), or (4)(b)** applies,— 35
- “(i) if the Registrar receives neither a request to make an oral submission nor a written submission within the 10-day period referred to in **subsec-**

- tion (5)(a)(iii) or (iv)**, on the date on which that period expires; or
- “(ii) if after hearing an oral submission in accordance with **subsection (5)(a)(iii)**, or considering a written submission received within the 10-day period referred to in **subsection (5)(a)(iv)**, the Registrar decides to proceed with the proposed determination, on a specified date that the Registrar notifies to the defendant or, as the case requires, the defendant’s representative:
- “(b) where **subsection (2)(a) or (3)(a)** applies, on the date that the Registrar obtains the agreement of the defendant or, as the case requires, the defendant’s representative under either of those subsections:
- “(c) where **subsection (2)(b)(i), (3)(b)(i), or (4)(a)** applies, on a date specified by the Registrar.
- “(8) In this section and sections **86C**, 87, and 87AA, **arrangement extending the time to pay a fine** means an arrangement that—
- “(a) allows for either or both of the following:
- “(i) a greater time to pay a fine;
- “(ii) payment by instalments; and
- “(b) is entered into by—
- “(i) a Registrar under **section 86**; or
- “(ii) a bailiff under **section 86C** (in which case the arrangement must have come into force in accordance with that section).
- “**86B Determinations affecting attachment orders**
- “(1) If an attachment order is cancelled or suspended under **section 86A**, the Registrar must serve notice of the cancellation or suspension on the employer to whom it relates and the cancellation or suspension takes effect when it is so served.
- “(2) If a variation of an attachment order takes effect under **section 86A**, the Registrar must issue a new attachment order under section 87 in place of the existing order.
- “**86C Bailiff may arrange extension of time to pay**
- “(1) If a fine is payable and is not subject to an order for immediate payment, a bailiff may enter into an arrangement extending the

- time to pay the fine with a defendant or with a representative of the defendant.
- “(2) No arrangement extending the time to pay the fine may permit a fine to remain unpaid for more than 5 years after the date on which the arrangement is entered into. 5
- “(3) As soon as practicable after a bailiff enters into an arrangement extending the time to pay the fine, the bailiff must notify the Registrar of the arrangement.
- “(4) When the Registrar is notified of the arrangement, the Registrar may, after taking into account any information received from any person about the financial position of the defendant or, as the case requires, of the defendant’s representative, cancel the arrangement within 7 days after being notified of that arrangement. 10
- “(5) In any case where any information described in **subsection (4)** comes from a third party, the information must include details of the source of the information and the date to which the information relates. 15
- “(6) The arrangement comes into force,—
- “(a) if the Registrar approves the arrangement before the expiry of 7 days after the day on which the Registrar is notified of the arrangement, when the Registrar gives that approval: 20
- “(b) if on the expiry of 7 days after the day on which the Registrar is notified of the arrangement the Registrar has neither approved nor cancelled the arrangement, on the eighth day after the day on which the Registrar is so notified. 25
- “(7) The defendant or, as the case requires, the defendant’s representative— 30
- “(a) may make payments under the arrangement when it comes into force in accordance with **subsection (6)**; and
- “(b) is not prevented from making payments in respect of a fine if those payments are not part of the arrangement. 35
- “(8) If a fine may be paid by instalments and default is made in the payment of any instalment, proceedings may be taken against

the defendant as if default had been made in the payment of all instalments then remaining unpaid.

“86D Bailiff may vary, suspend, or cancel arrangement for extension of time to pay fine

- “(1) A bailiff may determine that an arrangement extending the time to pay a fine be varied, suspended, or cancelled if the bailiff has reason to believe that—
 - “(a) the defendant or, as the case requires, the defendant’s representative has, for the purpose of entering into the arrangement, supplied false or misleading information about the financial position of the defendant or, as the case requires, the defendant’s representative; or
 - “(b) the financial position of the defendant or, as the case requires, the defendant’s representative has changed significantly since the date on which the arrangement was entered into.

- “(2) A bailiff may determine that an arrangement extending the time to pay a fine be varied, suspended, or cancelled if another fine that is not subject to the arrangement is imposed on the defendant and—
 - “(a) the defendant agrees to the determination proposed by the bailiff; or
 - “(b) the defendant defaults in the payment of the subsequent fine, and—
 - “(i) the bailiff is unable to contact the defendant; or
 - “(ii) the bailiff contacts the defendant but is unable to reach an agreement with the defendant as to how the subsequent fine is to be paid.

- “(3) If, in a case where a representative of a defendant is party to an arrangement extending the time to pay a fine, a further fine that is not subject to the arrangement is imposed on the defendant, the bailiff may determine that the arrangement—
 - “(a) be varied, suspended, or cancelled if the representative agrees to the determination proposed by the bailiff;
 - “(b) be suspended or cancelled if the defendant defaults in the payment of the subsequent fine, and—
 - “(i) the bailiff is unable to contact the representative; or

- “(ii) the bailiff contacts the representative but is unable to reach an agreement with the representative as to how the subsequent fine is to be paid.
- “(4) If **subsection (1), (2)(b)(ii), or (3)(b)(ii)** applies, the bailiff must, before he or she makes a determination in relation to the arrangement, — 5
- “(a) notify the defendant or, as the case requires, the representative—
- “(i) of the proposed determination and the reasons for the proposed determination; and 10
- “(ii) that the defendant or, as the case requires, the defendant’s representative may give reasons, in an oral or a written submission to the bailiff, why the proposed determination should not be made; and 15
- “(iii) that, if it is intended to make an oral submission, that intention must be advised to the bailiff within 10 days after the date of the notification and that any such submission must be made at a time specified by the bailiff; and 20
- “(iv) that any written submission must be received by the bailiff within 10 days after the date of the notification; and
- “(b) consider any—
- “(i) oral submission made in accordance with **paragraph (a)(iii)**; and 25
- “(ii) written submissions received within the 10-day period referred to in **paragraph (a)(iv)**.”
- “(5) In no case may a fine to which a determination relates remain unpaid for more than 5 years after the date on which the determination takes effect. 30
- “(6) As soon as practicable after the bailiff makes a determination under this section, the bailiff must notify the Registrar of the determination.
- “(7) When the Registrar is notified of the determination, the Registrar may, after taking into account any information received from any person about the financial position of the defendant or, as the case requires, the defendant’s representative, cancel 35

the determination within 7 days after being notified of that determination.

“(8) In any case where any information described in **subsection (7)** comes from a third party, the information must include details of the source of the information and the date to which the information relates. 5

“(9) If the Registrar does not cancel the determination, the determination comes into force 8 days after the Registrar is notified of that determination or on the day on which the Registrar sooner approves the determination.” 10

65 Power to obtain information in respect of beneficiaries

(1) Section 87AA(1) is amended by omitting “, by notice in writing.”.

(2) Section 87AA(2)(g) is amended by omitting “any benefit that is paid to the defendant” and substituting “the defendant in his or her capacity as a beneficiary”. 15

66 Action where fine remains unpaid

(1) Section 88(2C)(b) is repealed.

(2) Section 88(3)(f) is amended by omitting “under paragraph (a) or paragraph (b) of this subsection”. 20

(3) Section 88(3) is amended by repealing paragraph (fa) and substituting the following paragraph:

“(fa) if the amount that the defendant owes in respect of 1 unpaid fine, or in total in respect of more than 1 unpaid fine, is \$5,000 or more, refer the matter to the Registrar with a direction that action be taken to enforce 1 or all of the fines making up the total owing by the defendant as if the fine or fines were an order for the payment of money and as if the Registrar had obtained the order; or”. 25 30

(4) Section 88(10) is amended by adding “or a constable”.

67 New sections 88A and 88B substituted

Sections 88A and 88B are repealed and the following sections substituted:

“88A Civil enforcement of fines

- “(1) If, under **section 88(3)(fa)**, a District Court Judge gives a direction in relation to 1 or more fines, the District Court is deemed to have made, in its civil jurisdiction, an order that the defendant pay the Registrar the total amount of that fine or those fines. 5
- “(2) The order deemed to have been made under **subsection (1)** may be enforced as if that order were a final order for the payment of money and as if the Registrar were the relevant judgment creditor. 10
- “(3) The Registrar may take steps, under section 66 of the District Courts Act 1947, to have the order deemed to have been made under **subsection (1)** removed into the High Court.
- “(4) Action to enforce the order deemed to have been made under **subsection (1)** must be taken— 15
- “(a) under the District Courts Act 1947 and the District Courts Rules 2009 unless that order is removed into the High Court; or
- “(b) under the High Court Rules if that order is removed into the High Court. 20

“88B Remission of fine

- “(1) The Registrar may make an order remitting any fine that includes reparation or compensation to another person if—
- “(a) the amount outstanding is \$25 or less; and
- “(b) the fine was imposed at least 3 years before the date on which the Registrar makes the order remitting the fine; and 25
- “(c) the Registrar has—
- “(i) obtained the consent of the other person to remit the fine; or 30
- “(ii) made reasonable efforts to find the other person and obtain his or her consent, and has not been able to find that person and obtain his or her consent.”
- “(2) The Registrar may make an order remitting any fine that does not include reparation or compensation if— 35

- “(a) the amount outstanding is not greater than \$50 or any other amount prescribed by regulations made under section 212; and
- “(b) the fine was imposed at least 1 year before the date on which the Registrar makes the order remitting the fine. 5
- “(3) The Registrar may make an order remitting any fine other than reparation or compensation if the Registrar is satisfied that the defendant is a deceased individual or a body corporate or an unincorporated body that has been wound up.
- “(4) For the purposes of **subsections (2) and (3)**, court costs or other costs that are referable to any reparation or compensation must be excluded from that reparation or compensation. 10
- “(5) The Registrar may at any time make an order remitting any amount of court costs and costs associated with the enforcement of a fine, including court costs and costs associated with the enforcement of reparation or compensation or any levy payable under the Sentencing Act 2002. 15
- “(6) The Registrar may at any time make an order remitting any fine that is lower than the lowest amount expressed on any coin that is legal tender in New Zealand.” 20

68 New section 91 substituted

Section 91 is repealed and the following section substituted:

“91 Defendant on substituted sentence to be discharged on payment of fine

- “(1) On the payment of a fine for which a defendant is imprisoned on a warrant of commitment for non-payment of the fine, the Registrar must immediately notify the prison manager of the payment, and the manager must discharge the defendant from the prison unless the defendant is also in custody for some other reason. 25 30
- “(2) On the payment of a fine for which a defendant is subject to a sentence of community work, community detention, or home detention for non-payment of the fine, the Registrar must immediately notify the probation officer supervising the sentence of the payment, and the probation officer must direct that the defendant be no longer subject to that sentence in respect of the fine. 35

- “(3) On completion of a term of imprisonment or any sentence referred to in **subsection (2)**, the fine in respect of which the term of imprisonment or the sentence was imposed is remitted.”
- 69 New heading and sections 92A to 92I inserted** 5
The following heading and sections are inserted after section 92:
“Disclosure of default balances to certain authorised persons”
- “92A Interpretation** 10
In this section and in **sections 92B to 92I**, unless the context otherwise requires,—
“**access code** means any form of data that enables a recognised user to submit a fine status query
“**agency** has the same meaning as in section 2(1) of the Privacy Act 1993 15
“**credit reporter** means an agency that carries on the business of reporting to other persons information relevant to the assessment of the creditworthiness of individuals or bodies corporate 20
“**fine status query** means a query as to whether a query subject has a default balance and, if so, the amount of that balance
“**fine status response** means a response to a fine status query
“**finances enforcement records** means the records of the Ministry of Justice described in Schedule 5 of the Privacy Act 1993 in the item relating to the enforcement of fines and other orders 25
“**identifying particulars** means—
“(a) in the case of an individual, the individual’s—
“(i) full name; and
“(ii) former names and aliases (if any); and 30
“(iii) sex; and
“(iv) date of birth; and
“(v) current address; and
“(vi) previous addresses (if applicable), but not more than 2; and 35
“(vii) occupation (if applicable); and
“(viii) employer (if any) identified by name; and

- “(b) in the case of a person that is not an individual, the person’s—
 - “(i) full name; and
 - “(ii) current address; and
 - “(iii) previous addresses (if applicable), but not more than 2; and
 - “(iv) trading name (if applicable)

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“**query subject** means the person about whom a fine status query is to be made, is being made, or has been made, under **section 92D**

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“**recognised user** means an agency that—

- “(a) is a credit reporter; or
- “(b) is a member of a class of persons specified by regulations made under **section 92I** for the purposes of this definition; or
- “(c) is a person authorised by the Minister for Courts to submit fine status queries and receive fine status responses

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“**subscriber**, in relation to a credit reporter, means a person who, under an agreement that complies with requirements prescribed by a code of practice for the time being issued under the Privacy Act 1993, has access to information held by that credit reporter.

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“**92B Purpose of disclosure and use of information**

“(1) The purpose of **sections 92C to 92I** is to provide incentives to defendants who have default balances to pay or resolve the required payments in accordance with this Act.

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“(2) In order to achieve that purpose, **sections 92C to 92I** authorise—

- “(a) the chief executive to disclose fine status responses to recognised users to enable—
 - “(i) credit reporters to report that information to subscribers; and
 - “(ii) recognised users other than credit reporters to assess the creditworthiness of query subjects and to protect themselves against the possible subordination of their security interests that might otherwise be required by this Act:

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“(b) credit reporters to disclose fine status responses—

- “(i) to subscribers to enable them to assess the credit-worthiness of query subjects; and
- “(ii) in particular, to those subscribers who are credit providers to enable them to protect themselves against the possible subordination of their security interests that might otherwise be required by this Act: 5
- “(c) the chief executive to use identifying particulars received from recognised users to enhance the accuracy and completeness of the fines enforcement records. 10

“92C Access codes

- “(1) If satisfied that an agency is a recognised user, the chief executive may issue to the agency an access code.
- “(2) The access code may be issued subject to any conditions or restrictions that the chief executive considers appropriate. 15
- “(3) If satisfied that a recognised user has breached any provision of this Act or regulations made under **section 92I** or has failed to comply with any conditions or restrictions imposed under **subsection (2)**, the chief executive may, in accordance with regulations made under **section 92I**, cancel the access code issued to the recognised user. 20
- “(4) If the chief executive is satisfied that the access code of a recognised user should not have been cancelled or that any breach on the part of any recognised user whose access code has been cancelled is unlikely to recur, the chief executive may issue to that recognised user another access code. 25

“92D Recognised user may submit fine status query

A fine status query must—

- “(a) be sent in a manner approved by the chief executive; and 30
- “(b) identify the recognised user; and
- “(c) set out the identifying particulars of the query subject; and
- “(d) provide an assurance that—
 - “(i) the query subject has consented in writing to the submission of a fine status query that includes the identifying particulars of the query subject, and 35

to the disclosure of any resulting fine status response to the recognised user and, if the recognised user is a credit reporter, also to any subscriber on whose behalf the fine status response is sought; and

- “(ii) if the fine status query is sent by a credit reporter, the credit reporter is acting on a request by a subscriber made on the same day on which the query is sent.

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“92E **Fine status response by chief executive**

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- “(1) When the chief executive receives a fine status query, the chief executive must, where practicable, perform, or have an electronic system perform, the following operations:

“(a) check if the fine status query has been submitted by a recognised user:

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“(b) if the identity of the recognised user is confirmed, compare the identifying particulars of the query subject with identifying particulars recorded in the fines enforcement records:

“(c) if the identifying particulars of the query subject in the fine status query are, according to prescribed criteria, shown to correspond with those of a defendant recorded in the fines enforcement records as having a default balance, the chief executive must send the recognised user a fine status response stating that, as at the date of the response, the query subject has a default balance and the amount of that balance:

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“(d) in any case to which **paragraph (c)** does not apply, the chief executive must send the recognised user a fine status response stating that the identifying particulars of the query subject do not correspond with the identifying particulars of any defendant shown in the fines enforcement records as having a default balance.

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- “(2) If compliance with **subsection (1)** is for any reason impracticable, the chief executive must advise the recognised user that the fine status query cannot be processed and may ask the recognised user to submit another fine status query.

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“92F Disclosure and use of fine status response restricted

“(1) A recognised user may not disclose the information contained in a fine status response unless the recognised user is a credit reporter who makes that disclosure in accordance with **sub-section (2)**. 5

“(2) A credit reporter may only disclose the information contained in a fine status response to the subscriber who requested the information, and only if the disclosure is made not later than 24 hours after receipt, under **section 92E**, of that response.

“(3) A person who contravenes this section is, for the purposes of Part 8 of the Privacy Act 1993, taken to have breached an information privacy principle under section 66(1)(a)(i) of that Act. 10

“92G Query subject to be notified of proposed combination of information

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“(1) This section applies where—

“(a) the identifying particulars submitted in a fine status query about a query subject diverge in 1 or more respects (the **diverging particulars**) from the identifying particulars by which a particular defendant, with a default balance, is identified in the fines enforcement records; and 20

“(b) the chief executive nevertheless has reason to believe that the identifying particulars are those of that defendant; and 25

“(c) the chief executive proposes to combine the diverging particulars with the identifying particulars shown in the fines enforcement records about the defendant.

“(2) Before the chief executive combines the diverging particulars with the identifying particulars shown in the fines enforcement records about the defendant, the chief executive must first comply with section 103 of the Privacy Act 1993 as if the diverging particulars were a discrepancy and the proposed combination were an adverse action taken against the query subject. 30 35

“(3) If, following the chief executive’s compliance with section 103 of the Privacy Act 1993, any information in the fines status response sent to a recognised user about a query subject is

shown to be incorrect, the chief executive must inform the recognised user of the corrected information.

- “(4) If the recognised user is a credit reporter who has disclosed the information contained in the fine status response to a subscriber, the credit reporter must promptly advise the subscriber of the corrected information. 5

“**92H Monitoring and audits by chief executive**

- “(1) The chief executive must—
- “(a) monitor the compliance of recognised users with **sections 92D and 92F**, with regulations made under **section 92I**, and with conditions imposed on recognised users by the chief executive: 10
 - “(b) in accordance with regulations made under **section 92I**, audit the records of recognised users for that compliance. 15
- “(2) In performing the chief executive’s functions under **subsection (1)**, the chief executive must periodically report to the Privacy Commissioner on the performance of the chief executive’s functions under that subsection.
- “(3) The chief executive must— 20
- “(a) monitor his or her compliance with **sections 92C to 92G** and this section and with any regulations made under **section 92I**; and
 - “(b) report to the Privacy Commissioner, at agreed intervals, on that compliance. 25

“**92I Regulations**

- “(1) The Governor-General may, by Order in Council made on the recommendation of the Minister for Courts, make regulations for all or any of the following purposes:
- “(a) prescribing the criteria to be applied by the Minister for Courts in authorising agencies as recognised users: 30
 - “(b) specifying classes of persons for the purposes of the definition of recognised user in **section 92A**;
 - “(c) providing for the manner in which access codes may be cancelled, and in particular the prior notice, and opportunity for submissions, to be given to the recognised user concerned: 35

- “(d) providing for the manner in which fine status responses are disclosed to recognised users:
- “(e) providing for the manner in which identifying particulars received from recognised users are processed:
- “(f) prescribing criteria for assessing whether the identifying particulars of a query subject in a fine status query correspond with those of a person shown in the fines enforcement records as having a default balance: 5
- “(g) prescribing criteria by which divergences in particulars are to be regarded, or are not to be regarded, as diverging particulars for the purposes of **section 92G**: 10
- “(h) prescribing restrictions on the disclosure and use, by recognised users and subscribers, of the information contained in fine status responses, including, without limitation, restrictions on combining that information with other information: 15
- “(i) prescribing the manner in which the information contained in a fine status response may be disclosed by a recognised user who is a credit reporter to the subscriber who requested the information: 20
- “(j) prescribing the period for which fine status responses may be retained or used by recognised users and subscribers, and requiring the destruction of those responses on the expiry of specified periods:
- “(k) providing for the manner and timing of audits conducted under **section 92H**, and for the delivery of audit reports to the Privacy Commissioner and any other persons specified in the regulations: 25
- “(l) prescribing, for audit purposes, the kinds of records that recognised users must keep in respect of fine status queries and fine status responses, and the manner in which, and the duration for which, those records must be kept: 30
- “(m) providing for a person’s status as a recognised user to be terminated by the Minister for Courts in specified circumstances, even though that person comes within the definition of that term in **section 92A**: 35
- “(n) prescribing that a breach of specified regulations made under **paragraph (i) or (j)** must be treated, for the pur-

poses of Part 8 of the Privacy Act 1993, as if it were a breach of an information privacy principle under section 66(1)(a)(i) of that Act:

- “(o) prescribing the fees that are payable in respect of access codes allocated by the chief executive, fine status queries, or fine status responses. 5
- “(2) Before the Minister for Courts recommends the making of regulations under **subsection (1)**, the Minister must consult the Privacy Commissioner.
- “(3) This section does not limit section 212.” 10

70 New headings and sections 93 to 100S substituted

Sections 93 to 100Y are repealed and the following headings and sections substituted:

“Written cautions in case of certain traffic fines

- “93 Written caution to person holding interest in motor vehicle 15**
- “(1) If a defendant defaults in paying any traffic fine for a traffic offence committed while using a motor vehicle in which the defendant does not appear to have an interest, the Registrar may order that a written caution be served on any person who appears to own or to have an interest in the motor vehicle. 20
- “(2) Despite **subsection (1)**, a written caution is not to be served—

 - “(a) on anyone if the Registrar is satisfied that the motor vehicle— 25
 - “(i) was stolen or converted at the material time; or
 - “(ii) was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998:
 - “(b) on a person who the Registrar is satisfied is a secured party under a security agreement relating to the motor vehicle but has no relationship of another kind with the defendant. 30

- “(3) The written caution must state that any motor vehicle in which the person has an interest is liable to be seized if the defendant defaults in paying a traffic fine for any further traffic offence committed— 35

- “(a) while using a motor vehicle in which the person has an interest as owner or otherwise; and
- “(b) within 4 years after the date on which the written caution is served on the person.
- “(4) A written caution must provide the following information: 5
- “(a) the name and identifying details of the defendant:
- “(b) the relevant traffic fine that the defendant has defaulted in paying:
- “(c) the identifying details of the motor vehicle in which the relevant traffic offence or traffic offences were committed: 10
- “(d) that the recipient is believed to have owned or to have had an interest in the motor vehicle at the material time and that none of the reasons stated in **subsection (2)** has been established to the satisfaction of the Registrar: 15
- “(e) the recipient’s right to seek a review of the Registrar’s decision to order the service of the written caution on the recipient.
- “**94 Review of written caution**
- “(1) A person served with a written caution under **section 93** may, within 20 working days after the date of service, apply to the Court for a review by a District Court Judge of the decision to serve the person, on 1 or more of the following grounds: 20
- “(a) the motor vehicle was stolen or converted at the material time: 25
- “(b) the person did not own or have an interest in the motor vehicle at the material time:
- “(c) the person is a secured party under a security agreement relating to the motor vehicle but has no relationship of another kind with the defendant: 30
- “(d) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(2) Every application must include a statutory declaration that specifies a ground stated in **subsection (1)** and why that ground applies. 35
- “(3) The Judge must conduct the review on the papers unless the Judge considers that a hearing is necessary.

- “(4) If the Judge is satisfied that a ground stated in **subsection (1)** applies, the following provisions apply:
- “(a) the Judge must cancel the written caution served on the applicant:
 - “(b) if the ground for cancelling the applicant’s written caution is that stated in **subsection (1)(a) or (d)**, the Judge must also cancel the written caution served on any other person under the same order that required service of the written caution on the applicant: 5
 - “(c) the Registrar must advise every person (including the applicant) whose written caution is cancelled of that outcome: 10
 - “(d) if a written caution served on a person is cancelled, the written caution is deemed not to have been served on the person. 15
- “**95 Written caution of no effect if fine quashed or set aside**
- “(1) If the fine in respect of which a written caution has been served on a person is quashed or set aside, the written caution ceases to have effect and is deemed not to have been served.
- “(2) If a written caution ceases to have effect under **subsection (1)**, the Registrar must advise every person served with the written caution of that outcome. 20
- “**96 Challenge of seizure by persons treated as substitutes**
- “(1) If a motor vehicle is seized on the basis that the person who owns or appears to own it or has or appears to have an interest in it, is a substitute for the defendant, that person may, within 7 days after the date of the seizure, apply to a District Court Judge to challenge the seizure on 1 or more of the following grounds: 25
- “(a) the person did not own or have an interest in the motor vehicle at the material time: 30
 - “(b) the motor vehicle was stolen or converted at the material time:
 - “(c) the person took all reasonable steps to prevent the defendant from committing the traffic offence or traffic offences: 35

- “(d) the person had not, before the commission of the relevant traffic offence, been served with a written caution under **section 93** in relation to the defendant:
- “(e) the person is a secured party under a security agreement relating to the motor vehicle but has no relationship of another kind with the defendant: 5
- “(f) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(2) Every application must include a statutory declaration that specifies a ground stated in **subsection (1)** and why that ground applies. 10
- “(3) The Judge must consider the application on the papers unless the Judge considers that a hearing is necessary.
- “(4) The Judge may order the return of the motor vehicle if satisfied that— 15
- “(a) a ground stated in **subsection (1)(b) or (f)** applies; or
- “(b) another ground stated in **subsection (1)** applies to the applicant and to every other person who is treated as a substitute for the defendant; or 20
- “(c) it would, in the circumstances, be unreasonable for the vehicle to be sold.
- “Seizure, release, and sale of property*
- “**97 Purposes of sections 98 to 100S** 25
- The purposes of **sections 98 to 100S** are—
- “(a) to enable fines in default to be collected more effectively through the seizure of property; and
- “(b) in cases where the fines in default relate to traffic offending, to reduce opportunities for offending of that kind.
- “**98 Warrant to seize property** 30
- “(1) Where any warrant to seize property is issued under section 83(2)(a), 87(1)(a), or 88(3)(a), the warrant applies so as to authorise the seizure of—
- “(a) any property that is apparently the property of the defendant; and 35

- “(b) if the warrant is issued in respect of a traffic fine and there is a substitute for the defendant, any motor vehicle that is apparently the property of the substitute.
- “(2) Every warrant to seize property must contain full details of the fine and the amount remaining unpaid in respect of the fine. 5
- “(3) Without limiting any other provision of this Act, a warrant to seize property referred to in **subsection (1)** may be in the form of a computer printout of information entered by a Registrar into a computer system accessible to the Police or a bailiff, and the following provisions apply in relation to every such warrant: 10
- “(a) information about a defendant that is so entered by the Registrar may be printed out by a constable or a bailiff, and for all purposes constitutes a warrant to seize property: 15
- “(b) the warrant is valid for a period of 28 days beginning on the date of its printing, and the warrant then lapses:
- “(c) at any time and from time to time after a warrant lapses under **paragraph (b)**,—
- “(i) the Registrar may re-enter the particulars into the same computer system or enter the particulars into any other computer system available to the Police or a bailiff: 20
- “(ii) a constable or a bailiff may obtain a further print-out of the original information entered by the Registrar or obtain a printout of the re-entered information or of the information entered into the other computer system, and every such printout constitutes a fresh warrant to seize property. 25
- “**99 Seizure of property** 30
- “(1) For the purpose of executing any warrant to seize property, the bailiff or constable executing it may enter any premises, by force if necessary, if that bailiff or constable has reasonable cause to believe that property in respect of which the warrant is issued is on the premises. 35
- “(2) If any person is in actual occupation of the premises, the bailiff or constable must, on entering, produce the warrant to that person and demand payment.

- “(3) Where the fine is paid on the production of a warrant to seize property, the payment must be recorded on the warrant and the warrant is then of no further effect.
- “(4) Without limiting anything in **section 100C**, any bailiff or constable seizing a motor vehicle under a warrant to seize property may, instead of or while seizing the vehicle, immobilise the vehicle by attaching to the vehicle any device designed for that purpose. 5
- “(5) When property is seized under a warrant to seize property, the bailiff or constable must promptly give the defendant or the substitute a notice in a form approved by the chief executive— 10
- “(a) identifying the property seized; and
- “(b) directing the defendant or the substitute for the defendant to notify the Registrar, within 7 days after the date of the seizure, whether the defendant or the substitute owns or has an interest in the property and to give the Registrar the name and address of any other person who owns or has an interest (including any security interest) in the property. 15
- “(6) The notice required to be given by **subsection (5)** must be delivered to the defendant or the substitute, or left for the defendant or the substitute in a conspicuous place at the premises from which the property is seized, or sent to the defendant or the substitute by ordinary post, fax, email, or other electronic means. 20 25
- “100 Seizure of motor vehicles impounded under Land Transport Act 1998**
- “(1) Any motor vehicle in which the defendant or a substitute for the defendant appears to have an ownership interest or other interest may be seized under a warrant to seize property even if it is impounded under section 96 or 96A of the Land Transport Act 1998, as long as it has been impounded under that Act for at least 14 days. 30
- “(2) The power to seize a motor vehicle described in **subsection (1)** is not limited by any appeal pending under section 102 or 110 of the Land Transport Act 1998. 35

“100A Seizure not precluded by low value or low interest

Consistent with the purposes stated in **section 97**, a motor vehicle may be seized in accordance with this Part even though it would be uneconomic to sell the vehicle or the proceeds from a sale of the vehicle would be insufficient to pay the fine in default or any part of that fine, whether because of the low value of the vehicle or the low value of the interest that the defendant or the substitute has in the motor vehicle, or for any other reason. 5

“100B Seized property to be retained by or for Registrar 10

“(1) The bailiff or constable executing a warrant to seize property must ensure that property seized under the warrant is—

“(a) taken to the Registrar; or

“(b) if the Registrar so directs, taken to, or retained by, any person or at any place specified for the purpose by the Registrar. 15

“(2) If any motor vehicle that is seized under a warrant to seize property fails to comply in any respect with section 242 of the Land Transport Act 1998, then—

“(a) the vehicle may, despite that Act or any other enactment, be towed to any place specified by the Registrar; and 20

“(b) no person who seizes, retains, or disposes of the vehicle in accordance with this Act is under any criminal or civil liability merely because of the failure of the vehicle to comply with that section. 25

“(3) The Registrar must ensure the seized property is retained until the property is sold or released in accordance with a determination of the Registrar or a District Court Judge.

“100C Immobilisation of motor vehicles 30

“(1) Any bailiff or constable executing a warrant to seize property may, while seizing or instead of seizing any motor vehicle, immobilise the vehicle by attaching to the vehicle any device designed for the purpose, pending the payment of the fine in default. 35

“(2) No motor vehicle may be immobilised under **subsection (1)** unless, at the time of its immobilisation, it is—

- “(a) on private property; or
“(b) in a public place and the bailiff or constable is satisfied that immobilising the vehicle will not cause undue inconvenience to other persons.
- “(3) Where any motor vehicle is immobilised under **subsection (1)**, any bailiff or constable— 5
“(a) may at any time seize the vehicle:
“(b) must, on the direction of a Registrar, seize the vehicle.
- “(4) When a motor vehicle is seized under **subsection (3)**, **section 100B** applies accordingly. 10
- “(5) If, 14 days after the date of the immobilisation of any motor vehicle under **subsection (1)**, the fine remains unpaid or is not resolved, the Registrar must direct a bailiff or constable to seize the vehicle.
- “(6) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, without reasonable excuse,— 15
“(a) tampers with, removes, or attempts to remove a device attached to a motor vehicle under **subsection (1)**; or
“(b) removes, or attempts to remove,— 20
“(i) a motor vehicle to which a device is, or has been, attached under **subsection (1)**; or
“(ii) any part of that vehicle; or
“(iii) any other property from that vehicle.
- “**100D Personal property securities register to be checked** 25
- “(1) If property is seized under a warrant to seize property, the Registrar must, on the next working day after the property is seized, check whether a financing statement that relates to the property has been registered on the personal property securities register kept under the Personal Property Securities Act 1999. 30
- “(2) If a financing statement has been registered, the Registrar must promptly notify the person named as the secured party in the financing statement of the following: 35
“(a) that the Registrar may, under **section 1000**, sell the property after the expiration of 7 days from the date of

seizure if the fine remains unpaid and no claim has been made in respect of the property by a person other than—

- “(i) the defendant; or
 - “(ii) a substitute for the defendant; or
 - “(iii) a nominee for the defendant or the substitute: 5
- “(b) of the rights that may be available to the person under **sections 100H, 100I, and 100P.**

“100E Release of property if fine and other costs paid or if certain appeals successful

- “(1) Any property that has been seized and is retained by the Registrar may be returned to the person from whom it was seized or to the person apparently lawfully entitled to it if the following are paid: 10
 - “(a) the fine:
 - “(b) if the property is a motor vehicle that has been impounded under section 96 or 96A of the Land Transport Act 1998, any impoundment costs: 15
 - “(c) all costs incurred in seizing, transporting, and storing the property.
- “(2) **Subsection (1)** applies even though claims under any of **sections 100F, 100H, and 100I** are pending in respect of the property. 20
- “(3) If the property is a motor vehicle that has been seized from a substitute for the defendant, the only type of fines required to be paid under **subsection (1)(a)** are ones imposed in respect of traffic offences committed by the defendant in a motor vehicle that, at the time of the commission of the offence, was owned by the substitute or in which the substitute had an interest. 25
- “(4) If the property is a motor vehicle that has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle may not be released under **subsection (1)** before the day after the close of the 28-day period for which the vehicle would otherwise be required to be impounded under that Act. 30 35
- “(5) **Subsection (4)** is subject to **section 100K(1)(a) and (3).**

- “(6) Despite **subsection (1) and sections 100F to 100K, and 100O**, if an appeal under section 102 or 110 of the Land Transport Act 1998 against the impoundment of the motor vehicle is allowed before the expiry of the 28-day period for which the vehicle would otherwise be required to be impounded under section 96 or 96A of that Act, the Registrar must release the vehicle to the person who is registered in respect of the vehicle. 5
- “(7) **Subsection (6)** does not apply if the motor vehicle has already been released to a lessor or a secured party under **section 100H or 100K(1)(a)** or been sold under **section 100K(1)(b)**. 10
- “**100F Release of property to certain owners**
- “(1) If satisfied that the defendant does not own the seized property, the Registrar or a District Court Judge must release the property to a person who satisfies the Registrar or the Judge that— 15
- “(a) the person is the owner of the property; and
- “(b) in the case of a motor vehicle seized in respect of a traffic fine, the person is not a substitute for the defendant or a nominee for the defendant or the substitute. 20
- “(2) If a person other than the defendant claims to own the property and the Registrar is not satisfied of the matters specified in **subsection (1)**, the Registrar must issue a summons calling before the Court the claimant and the defendant or, if applicable in the case of a motor vehicle seized in respect of a traffic fine, the substitute for the defendant. 25
- “(3) The issue of a summons under **subsection (2)** stays any action brought in respect of the claim.
- “(4) Where a summons has been, or is to be, issued under **subsection (2)**, the Registrar may release the property to the defendant or, if applicable in the case of a motor vehicle, to the substitute for the defendant if a deposit is paid or security is provided for whichever is the lesser of— 30
- “(a) the value of the seized property; or 35
- “(b) the fine in default, including the costs incurred in seizing, transporting, and storing the property, and any impoundment costs.

- “(5) If, on the determination of the claim, the claim is dismissed, the amount of the deposit or the amount obtained from the security may be applied as if it were the proceeds of the sale of the property.
- “(6) In any case where a motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle—
 - “(a) may not be released under this section unless—
 - “(i) the 28-day period for which the vehicle would otherwise be required to be impounded under that Act has expired; and
 - “(ii) any impoundment costs have been paid into Court within 10 days after the close of that period or within any longer period specified by the Registrar in writing; and
 - “(b) may be sold under **section 1000** if those costs are not paid in accordance with **paragraph (a)(ii)**.

“100G Determination of claim by owners

- “(1) In determining a claim under **section 100F(2)**, a District Court Judge may, if the property has not yet been sold, release the property to the claimant if satisfied that—
 - “(a) the defendant does not own the property; and
 - “(b) in the case of a motor vehicle seized in respect of a traffic fine, the claimant is not a substitute for the defendant nor a person who owns the motor vehicle as a nominee for the defendant or for the substitute.
- “(2) The Judge may, if the property is a motor vehicle that has not yet been sold, release the motor vehicle to a person whose motor vehicle was seized because the person was taken to be a substitute for the defendant if satisfied that 1 or more of the following grounds apply:
 - “(a) the person did not own or have an interest in the motor vehicle at the material time;
 - “(b) the motor vehicle was stolen or converted at the material time;
 - “(c) the person is a secured party under a security agreement relating to the motor vehicle but has no relationship of another kind with the defendant;

- “(d) the motor vehicle was let on hire at the material time in accordance with a rental service licence under the Land Transport Act 1998.
- “(3) In the case of a motor vehicle seized in respect of a traffic fine, the Judge may ask any claimant to satisfy the Judge that any agreement, transfer, or change in registration or ownership is genuine if the Judge has reason to question whether the claimant is a nominee for the defendant or any substitute for the defendant. 5
- “(4) A person who claims to have acquired property from the defendant after the commission of any offence or after the taking of any enforcement action against the defendant must satisfy the Judge that the transaction on which the acquisition was based was genuine. 10
- “(5) In any case where the motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle— 15
- “(a) may not be released under this section unless—
- “(i) the 28-day period for which the vehicle would otherwise be required to be impounded under that Act has expired; and 20
- “(ii) any impoundment costs have been paid into Court within 10 days after the close of that period or within any longer period specified by the Registrar in writing; and 25
- “(b) may be sold under **section 1000** if those costs are not paid in accordance with **paragraph (a)(ii)**.
- “(6) If the claimant succeeds in the claim to the property,—
- “(a) any deposit paid or security provided must be returned to the person who provided it; and 30
- “(b) a District Court Judge may order the defendant to reimburse any person for any costs that have been paid into Court under **section 100P**.
- “**100H Lessor may apply to Registrar**
- “(1) This section applies if— 35
- “(a) the property seized is subject to a lease; and
- “(b) the lessor is not the defendant; and

- “(c) the property is a motor vehicle seized in respect of a traffic fine, and the lessor is neither—
- “(i) a substitute for the defendant; nor
- “(ii) a nominee for the defendant or the substitute.
- “(2) The lessor may apply to the Court, at any time before the Registrar has sold the property, for the release of the property to the lessor as if the defendant or the substitute for the defendant or the nominee for the defendant or the substitute had breached the terms of the lease. 5
- “(3) On an application under **subsection (2)**, the Registrar or a District Court Judge may release the property to the lessor. 10
- “(4) Property that is a motor vehicle may also be released under **subsection (3)** if it has been seized while impounded under section 96 or 96A of the Land Transport Act 1998 even though the 28-day period of impoundment for which the motor vehicle would otherwise be required to be impounded under that Act has not yet expired. 15
- “(5) On the release of property under **subsection (3)** to the lessor, the lease is cancelled.
- “(6) This section is subject to **section 100L**. 20
- “Compare: 2002 No 9 s 140

“**100I Claims by secured parties**

- “(1) The Registrar or a District Court Judge must, on application or on his or her own initiative, recognise a security agreement in respect of seized property (other than a security agreement to which **section 100H(1)** applies) if satisfied that a person (not being the defendant or, if the property is a motor vehicle seized in respect of a traffic fine, a substitute for the defendant) has rights over that property as a secured party. 25
- “(2) When a security agreement has been recognised under **subsection (1)**, the Registrar must ascertain, under **section 100J**, whether the security agreement is subject to a default balance. 30

“100J Inquiry whether security interest subject to default balance

- “(1) When a security agreement has been recognised under **section 100I**, the Registrar must take the action prescribed by **subsection (2)** if it appears to the Registrar that— 5
- “(a) the secured party is a person who enters into security agreements in the course of the person’s business; and
 - “(b) the defendant is the debtor under the security agreement; and
 - “(c) the defendant has not become bankrupt or been put into liquidation since the date on which the defendant signed or assented to the security agreement (the **agreement date**). 10
- “(2) The Registrar must—
- “(a) establish the agreement date— 15
 - “(i) from the agreement or any other documentary evidence; or
 - “(ii) if the agreement date cannot be so established, by determining the agreement date on the basis of any information that the Registrar considers 20 relevant:
 - “(b) ascertain whether the defendant had a default balance recorded against the defendant’s name on the working day immediately before the agreement date and, if so, notify the secured party of that fact. 25
- “(3) The secured party may, within 3 working days after being notified under **subsection (2)(b)**, present to the Registrar a fine status response about the defendant that was given, under **section 92E**, not later than the agreement date and not earlier than 2 working days before that date. 30
- “(4) The Registrar may make any inquiries the Registrar considers appropriate to ascertain the authenticity of the fine status response and, if satisfied of its authenticity, must file the response.
- “(5) If the fine status response filed under **subsection (4)** shows 35 that the debtor had no ascertainable default balance, then the Registrar must certify that the secured party’s security interest is not subject to a default balance.

- “(6) If the Registrar is satisfied that the fine status response filed under **subsection (4)** shows that the debtor had a lesser default balance than that ascertained under **subsection (2)(b)**, then the Registrar must certify that the secured party’s security interest is subject to that lesser default balance. 5
- “(7) If neither **subsection (5)** nor **(6)** applies, the Registrar must certify that the secured party’s security interest is subject to the default balance ascertained under **subsection (2)(b)**.
- “(8) If **section 92D** was not in force at the date of the agreement, the Registrar must certify that the secured party’s security interest is not subject to a default balance. 10
- “**100K Sale of secured property by secured party or by Court**
- “(1) When the applicability of a default balance has been ascertained under **section 100J**, a District Court Judge or the Registrar may, if the property has not yet been sold,— 15
- “(a) release the property to a secured party, at the request of the secured party, and direct the secured party to sell the property and account for the proceeds of sale in accordance with **section 100M**; or
- “(b) order the sale of the property under **section 100O**. 20
- “(2) If the Judge or Registrar takes action under **subsection (1)(a)** and 2 or more secured parties have requested the taking of that action, then the Judge or Registrar must release the property to the secured party with the highest-ranking security interest under the order of priority determined by Part 7 or 8 of the 25 Personal Property Securities Act 1999.
- “(3) If the property is a motor vehicle that has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the motor vehicle may also be released under **subsection (1)(a)** even though the 28-day period of impoundment 30 for which the motor vehicle would otherwise be required to be impounded under that Act has not yet expired.
- “(4) A purchaser of property that is sold to the purchaser under a direction given under **subsection (1)(a)** obtains, by virtue of this section, good title to the property free of all ownership 35 interests and other proprietary interests held in the property before that sale.

“(5) **Subsection (1)(a)** is subject to **section 100L**.

“**100L Certain payments required before release to lessor or secured party takes effect**

“(1) An order for the release of property under **section 100H(3) or 100K(1)(a)** does not take effect unless the following costs 5
have been paid into court:

“(a) if the property is a motor vehicle that has been impounded under section 96 or 96A of the Land Transport Act 1998, any impoundment costs:

“(b) any costs incurred in seizing, transporting, and storing 10
the property and in complying with the provisions of this Part:

“(c) in the case of a secured party claiming under a security agreement, any applicable default balance certified under **section 100J** in respect of that agreement. 15

“(2) Any payments required to be paid by **subsection (1)** must be paid within 10 days after the day on which the lessor or secured party is notified of the decision to release the property, or within any longer period specified by the Registrar in writing. 20

“(3) If the payments specified in **subsection (1)** are not paid in accordance with **subsection (2)**, the property may be sold under **section 100O**.

“**100M Application of proceeds of sale by secured party**

“(1) A person to whom property is released under **section 100K(1)(a)** must, on disposing of the property,— 25

“(a) account to the Registrar for the proceeds of the sale:

“(b) pay into Court the proceeds of the sale, less—

“(i) any amount paid under **section 100L**; and

“(ii) the amount of the costs and expenses of, and incidental to, the sale; and 30

“(iii) the amount to which the secured party is entitled under the security agreement.

“(2) The Registrar must then apply the balance remaining in accordance with **section 100Q(1)(d) to (f) and (h)**, with all necessary modifications. 35

“100N Failure by secured party to sell or account for proceeds

- “(1) If the secured party fails to comply with a direction under **section 100K(1)(a)** and has not sold the property,—
- “(a) the Registrar must issue, in a form approved by the chief executive, a warrant to recover property; and 5
 - “(b) the property may be recovered under that warrant as property of the defendant or (if the property is a motor vehicle seized from a substitute of the defendant) the substitute for the defendant; and
 - “(c) **section 98** applies in respect of the property with all necessary modifications. 10
- “(2) As soon as practicable after the property is delivered into a Registrar’s custody under **subsection (1)**, the Registrar must arrange for the sale of the property as if it were a sale under **section 100O** and apply the proceeds of sale in accordance 15 with **section 100Q(1)** or, as the case requires, in accordance with a direction under **section 100Q(5)**.
- “(3) A secured party who fails, in whole or in part, to pay into Court the money required under **section 100M(1)(b)** is liable 20 to the Crown for any amount not paid, and that amount may be recovered from the secured party as a debt due to the Crown.

“100O Sale or disposal of property seized

- “(1) If any fine in respect of which property has been seized under a warrant to seize property remains unpaid, a District Court Judge or the Registrar may, after the expiry of the relevant 25 period specified in **subsection (2)**, order—
- “(a) that the property be sold at public auction or in any other manner that the Judge or Registrar directs; or
 - “(b) in the case of a negotiable instrument, that the Registrar obtain payment under, assign, or otherwise dispose of 30 the negotiable instrument; or
 - “(c) in the case of money, that the Registrar apply the money in accordance with **section 100Q**.
- “(2) The relevant period referred to in **subsection (1)** is 7 days 35 after the day on which the property was seized or, if the property is a motor vehicle that was seized while impounded under section 96 or 96A of the Land Transport Act 1998, the later of—

- “(a) the day after the close of the 28-day period for which the motor vehicle would otherwise be required to be impounded under that Act; or
- “(b) the expiry of 8 days after the day on which the motor vehicle was seized. 5
- “(3) A motor vehicle may be sold under this section even though it fails to comply in any respect with section 242 of the Land Transport Act 1998, and the purchaser of that motor vehicle—
- “(a) is, despite that Act or any other enactment, entitled to tow the motor vehicle to any appropriate place; and 10
- “(b) in so towing the vehicle, is under no criminal or civil liability merely because of the failure of the vehicle to comply with that section; and
- “(c) must comply in all respects with that Act as soon as the motor vehicle has been towed to that place. 15
- “(4) If the Registrar considers that a motor vehicle is not roadworthy and that it would be uneconomic to render it roadworthy, the Registrar must, before the motor vehicle is sold under this section, apply, under the Land Transport Act 1998, to have the registration of the motor vehicle cancelled as if the Registrar were the person who, under that Act, is entitled to apply for that cancellation. 20
- “(5) The sale of a motor vehicle that has been seized while impounded under section 96 or 96A of the Land Transport Act 1998 is not affected by any appeal that is pending after the 28-day period for which the motor vehicle would otherwise be required to be impounded under that Act, or by any appeal that is determined after that period. 25
- “(6) In any case where a motor vehicle has been seized while impounded under section 96 or 96A of the Land Transport Act 1998, the vehicle may be sold under this section (even if the fine and all costs incurred in seizing, towing, and storing the vehicle have been paid) if any impoundment costs are not paid within— 30
- “(a) 10 days after the close of the 28-day period for which the vehicle would otherwise be required to be impounded under that Act; or 35
- “(b) any longer period specified by the Registrar in writing.

- “(7) The sale of property by the Registrar is deferred by a pending claim in respect of the property only if the costs of storage have been paid under **section 100P** or a deposit has been paid, or security has been provided, under **section 100F**.
- “(8) The purchaser or assignee of property sold or disposed of under this section obtains, by virtue of this section, good title to the property free of all ownership interests and other proprietary interests held in the property before that sale or disposition. 5
- “100P Registrar must defer sale if storage costs paid 10**
- “(1) Any person may pay into Court the costs incurred by the Court in storing any property and as long as those costs, and any recurring storage costs, are paid, the Registrar must defer the sale of the property.
- “(2) A payment made under **subsection (1)** may not be less than the amount of the costs incurred in a period of 8 days. 15
- “100Q Application of proceeds of sale**
- “(1) When property is sold under **section 100O**, the proceeds of the sale must be applied in the following manner and order of priority: 20
- “(a) if the property is a motor vehicle that has been impounded under section 96 or 96A of the Land Transport Act 1998, in payment of any impoundment costs: 20
- “(b) in payment of the costs of the sale (including all costs incurred in seizing, transporting, and storing the property and in complying with the provisions of this Part preliminary to sale): 25
- “(c) if 1 or more security agreements have been recognised under **section 100I** before the proceeds of the sale are fully applied, in payment to each secured party of the amount to which the secured party would, but for the extinguishment of the security interest concerned, have been entitled under that agreement less any applicable default balance certified, under **section 100J**, in respect of that agreement: 30
- “(d) in payment of any sentence or order of reparation payable by the defendant: 35

- “(e) in payment of any levy payable by the defendant under section 105B of the Sentencing Act 2002:
- “(f) in payment of the fine specified in the warrant:
- “(g) in payment to any secured party or secured parties of the applicable default balance or the applicable default balances certified under **section 100J** and deducted under **paragraph (c)**: 5
- “(h) to the defendant or, as the case requires, to the substitute for the defendant.
- “(2) If any proceeds of sale are required to be applied to 2 or more security interests under **subsection (1)(c)**, those proceeds must be applied in the order of the priority determined for those security interests by Part 7 or 8 of the Personal Property Securities Act 1999. 10
- “(3) If any proceeds of sale are required to be applied to 2 or more default balances under **subsection (1)(g)**, those proceeds must be applied to those default balances in the order of the priority determined for the applicable security interests by Part 7 or 8 of the Personal Property Securities Act 1999. 15
- “(4) If the proceeds arise out of the sale of a motor vehicle owned by a substitute for the defendant or in which the substitute had an interest, the proceeds must be applied in the manner and order of priority specified in **subsection (1)**, except that the payments described in **paragraphs (d) to (f)** of that subsection are limited to amounts imposed in respect of traffic offences committed by the defendant in a motor vehicle that, at the time of the commission of the offence, was owned by the substitute or in which the substitute had an interest. 20 25
- “(5) The Judge may, on application or on his or her own initiative, give any directions as to the application of the proceeds of sale under this section. 30

“**100R Remission of fine and costs of sale in certain cases involving motor vehicles**

- “(1) This section applies where the realisation, under **section 1000** of any motor vehicle seized in respect of a fine (other than a sale ordered under **section 100K(1)(a)**) does not result in a reduction of the defendant’s fine by more than \$100. 35

- “(2) If this section applies, the Registrar must—
 - “(a) remit the costs of the sale of the motor vehicle, as described in **section 100Q(1)(a) and (b)**; and
 - “(b) remit—
 - “(i) the entire fine in default in respect of which the motor vehicle was seized, in any case where the amount of that fine is \$100 or smaller: 5
 - “(ii) \$100 less any proceeds of that sale that have been applied towards paying the fine, in any case where the fine in default is greater than \$100. 10
- “(3) The reference to **fine** in **subsection (2)(b)** excludes—
 - “(a) any reparation or compensation that the defendant is liable to pay, other than Court costs and other costs that have been added to that reparation or compensation; and
 - “(b) any levy payable by the defendant under section 105B of the Sentencing Act 2002. 15

“100S Compensation to person with interest in property sold

- “(1) This section applies if—
 - “(a) a person (other than the defendant or a substitute for the defendant or a nominee for the defendant or the substitute) suffers loss through the sale under **section 1000** of property in which the person had an interest; and 20
 - “(b) the defendant or the substitute had not before the sale notified the Registrar of the person’s interest in the property. 25
- “(2) If this section applies, a Judge may, on the application of that person, order the defendant to pay to the person compensation in respect of the loss.
- “(3) **Subsection (2)** does not limit or affect any other remedy that a person may have in respect of loss referred to in that subsection.” 30

71 Effect of attachment order

Section 103(1) is amended by omitting “writing in the prescribed form” and substituting “a form or forms approved by the chief executive”. 35

72 New section 105 substituted

Section 105 is repealed and the following section substituted:

“105 Operation of attachment orders: content

- “(1) An attachment order must state—
- “(a) when deductions are to be made, by reference to a 5
period of a week, fortnight, month, or some other
period (the **earnings period**); and
 - “(b) the amount to be deducted from the defendant’s salary
or wages for the earnings period; and
 - “(c) an amount below which the net amount paid to the de- 10
fendant for the earnings period must not fall; and
 - “(d) that the money due and payable under the fine is, by way
of the directed deductions, to be a charge on any salary
or wages that from time to time while the attachment
order remains in force become due and payable by the 15
employer to the defendant.
- “(2) The amounts stated under **subsection (1)(b) and (c)** may be
set by reference to a fixed amount or a percentage (or both).
- “(3) The charge created by the attachment order—
- “(a) accrues from earnings period to earnings period, and on 20
a day within, or following, each period that is specified
in the attachment order; and
 - “(b) attaches to all salary or wages that become due by the
employer to the defendant at any time while the attach-
ment order is in force, whether or not the contract of 25
employment in respect of which the salary or wages so
become due existed at the date of the attachment order;
and
 - “(c) prevails over and has priority to any assignment or
charge created by the defendant (whether before or 30
after the making of the attachment order against the
defendant), so that the attachment order has the same
effect as if no such assignment or charge had been
made or created.
- “(4) Every attachment order applies for a fixed period stated in the 35
order, and must not apply for a period of more than 5 years
after the date on which the order is made by the Registrar.
- “(5) Despite **subsections (1) to (3)**, no attachment order is to op-
erate so that, when its effect is considered either alone or with

the effect of any item specified in **subsection (6)**, the net amount paid to a defendant for an earnings period is below the protected earnings rate for the earnings period; and, where necessary, the amount to be deducted from the defendant's salary or wages for the earnings period is treated as being reduced or cancelled accordingly. 5

“(6) The items referred to in **subsection (5)** are—

“(a) a deduction notice or an attachment order under the Child Support Act 1991, the Family Proceedings Act 1980, the Social Security Act 1964, or the Tax Administration Act 1994: 10

“(b) a deduction for the recovery of payments under section 86 of the Social Security Act 1964.

“(7) If any question arises in any case as to the priority to be accorded to an attachment order made under this Act, each of the items specified in **subsection (6)** has priority over that attachment order. 15

“(8) In this section,—

“**net earnings**, in relation to an earnings period, means the balance left after deducting from the defendant's salary or wages for the earnings period the amount of tax required to be withheld or deducted in accordance with the PAYE rules of the Income Tax Act 2007 if the salary or wages were the only salary or wages paid to the defendant by the employer for the earnings period 20 25

“**protected earnings rate**, in relation to an earnings period, means the higher of—

“(a) 60% of net earnings for the earnings period; and

“(b) the amount stated under **subsection (1)(c)**.”

73 **Liability of employer** 30

Section 106 is amended by repealing subsection (4) and substituting the following subsections:

“(4) If the defendant gives notice of resignation, or is given notice of dismissal, from the employment of the employer to whom the attachment order relates, the employer must, within 7 days after receiving or giving the notice, notify the Registrar of the 35

Court in which the attachment order was issued of the date of the last day of the defendant's employment.

- “(4A) If the employer to whom the attachment order relates ceases to pay salary or wages to the defendant for a reason other than the defendant's dismissal or resignation from the employment of the employer, the employer must, within 7 days after ceasing to pay the salary or wages, notify the Registrar of the Court in which the attachment order was issued of the day on which the salary or wages ceased to be paid.” 5

74 Restrictions on alternative sentences 10

- (1) Section 106E(1) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) a statement of the defendant's means has been recently completed, being a statement that does not include information given by a third party unless it also gives details of the source of the information and the date to which the information relates; and” 15

- (2) Section 106E(1A) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) a statement of the defendant's means has been recently completed, being a statement that does not include information given by a third party unless it also gives details of the source of the information and the date to which the information relates; and” 20

- (3) Section 106E(1B) is amended by repealing paragraphs (a) to (c) and substituting the following paragraphs: 25

“(a) a statement of the defendant's means has been recently completed, being a statement that does not include information given by a third party unless it also gives details of the source of the information and the date to which the information relates; and 30

“(b) the defendant is before a District Court Judge; and

“(c) the statement of means referred to in **paragraph (a)** has been considered by the District Court Judge; and”.

- (4) Section 106E is amended by inserting the following subsection after subsection (1B): 35

- “(1C) Despite subsection (1B)(g), the restriction stated in that paragraph does not apply to a sentence of home detention under this Part for non-payment of any fine that consists of or includes an amount of reparation (as defined in section 145D of the Sentencing Act 2002).” 5
- (5) Section 106E(2) is amended by repealing paragraph (a) and substituting the following paragraph:
- “(a) a statement of the defendant’s means has been recently completed, being a statement that does not include information given by a third party unless it also gives details of the source of the information and the date to which the information relates; and” 10
- (6) Section 106E(2) is amended by repealing paragraph (d) and substituting the following paragraph:
- “(d) the statement of means referred to in **paragraph (a)** has been considered by the District Court Judge; and” 15
- (7) Section 106E is amended by inserting the following subsection after subsection (2):
- “(2A) Despite subsection (2)(g), the restriction stated in that paragraph does not apply to the issue of a warrant of commitment for the imprisonment of the defendant under this Part for non-payment of any fine that consists of or includes an amount of reparation (as defined in section 145D of the Sentencing Act 2002).” 20
- (8) Section 106E is amended by repealing subsections (6) and (7) and substituting the following subsections: 25
- “(6) If a District Court Judge directs that a warrant for the defendant’s arrest be issued under subsection (3), the warrant—
- “(a) may be issued by a Registrar; and
- “(b) may be executed by a constable or by a bailiff. 30
- “(7) If a defendant is already undergoing a sentence of imprisonment or is being sentenced to imprisonment for an offence at the time that a District Court Judge considers sentencing the defendant for the non-payment of a fine, then—
- “(a) the restrictions stated in subsection (2) do not apply to the issue of a warrant of commitment for the imprisonment of the defendant under this Part for the non-payment of the fine: 35

- “(b) no sentence of community work, community detention, or home detention may be imposed on the defendant under this Part for non-payment of the fine.
- “(8) If a defendant is already undergoing a sentence of home detention or is being sentenced to home detention for an offence at the time that a District Court Judge considers sentencing the defendant for the non-payment of a fine, then—
- “(a) the restrictions stated in subsection (1B) do not apply to sentencing the defendant to a concurrent sentence of home detention under this Part for the non-payment of the fine:
- “(b) the restrictions stated in **subsection (1B)(a) to (c) and (f) and (g)** do not apply to sentencing the defendant to a cumulative sentence of home detention under this Part for the non-payment of the fine:
- “(c) the restrictions stated in subsection (1) do not apply to sentencing the defendant to community work under this Part for the non-payment of the fine:
- “(d) no sentence of community detention may be imposed on the defendant under this Part for non-payment of the fine:
- “(e) no warrant of commitment for the imprisonment of the defendant under this Part for the non-payment of the fine may be issued.”
- 75 Provisions as to issue of warrant pending appeal**
- Section 124(5) is repealed and the following subsection substituted:
- “(5) In any case where any warrant to seize property is issued before a notice of intention to appeal is filed, then—
- “(a) if the warrant has not been executed, it must be suspended until the appeal has been determined or, as the case may be, until the District Court Judge or Justice or Justices have certified that it has not been prosecuted, or the Registrar of the High Court has certified that it has been dismissed for non-prosecution:
- “(b) if the warrant has been executed,—
- “(i) any seized property that has not been sold must be retained while the appeal is pending; and

- “(ii) if, on the determination of the appeal or the issue of a certificate described in **paragraph (a)**, the determination in respect of which the warrant was issued continues in effect, the property must be dealt with, and any fees and costs payable under an enactment in respect of the property are payable, as if notice of appeal had not been given; and 5
- “(iii) if, on the determination of the appeal the determination in respect of which the warrant was issued is set aside or quashed, the owner is entitled to the return of the property and is not liable for any fees and costs otherwise payable under an enactment in respect of the property.” 10
- 76 No action against Justice unless act in excess of jurisdiction or without jurisdiction** 15
 Section 193(2) is amended by inserting “property” after “warrant to seize”.
- 77 Rules and regulations** 20
 Section 212(2) is amended by inserting the following paragraphs after paragraph (d):

 - “(daa) specifying, for the purposes of **section 24(1)(e)** the manner in which notices are to be sent in electronic form:
 - “(dab) specifying, for the purposes of **section 79A(1)(g)**, the kinds of documents that may be served by transmitting them in electronic form and prescribing 1 or more means of transmitting such documents and any conditions and restrictions for such transmissions: 25
 - “(dac) specifying, for the purposes of **section 79A(1)(g)**, the kinds of documents that may be served by communicating their contents orally, and prescribing any conditions and restrictions for such communications and the ways in which such communications must be made, including any provisions for the recording of such communications and for the retention, custody, disclosure, use, and destruction of such recordings:” 30 35

Part 4

Amendments to other Acts

Subpart 1—Amendments to Children, Young Persons, and Their Families Act 1989

- 78 Principal Act amended** 5
This **subpart** amends the Children, Young Persons, and Their Families Act 1989.
- 79 Interpretation** 10
Section 2(1) is amended by repealing the definition of **traffic offence** and substituting the following definition:
- “**traffic offence** means—
- “(a) any offence against the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, the Land Transport Act 1998, or the Land Transport Management Act 2003 or against any regulation, rule, or bylaw made under any of those Acts: 15
- “(b) any offence against any regulation, rule, or bylaw made under any other Act if the offence relates to the use of motor vehicles or parking places or transport stations”. 20

Subpart 2—Amendments to Customs and Excise Act 1996

- 80 Principal Act amended**
This **subpart** amends the Customs and Excise Act 1996.
- 81 Interpretation** 25
The definition of **fine** in section 280C is amended by adding the following paragraph:
- “(e) any amount payable under section 138A(1) of the Sentencing Act 2002.”

- 82 Customs may supply information concerning specified fines defaulters to chief executive of Department of Labour**
- Section 280F(3) is amended by repealing the definition of **fine** and substituting the following definition: 5
- “**fine** means a fine within the meaning of that term in section 280C, other than—
- “(a) a fine imposed by, or resulting from the enforcement of, an order made or deemed to have been made under **section 21(5), (5A)**, or (9) of the Summary Proceedings Act 1957; or 10
- “(b) any amount payable under section 138A(1) of the Sentencing Act 2002”.
- Subpart 3—Amendment to Family Courts Act 1980 15
- 83 Principal Act amended**
- This **subpart** amends the Family Courts Act 1980.
- 84 Application of District Courts Act 1947**
- Section 16(4) is amended by omitting “79” and substituting “78A”. 20
- Subpart 4—Amendment to Immigration Act 1987
- 85 Principal Act amended**
- This **subpart** amends the Immigration Act 1987.
- 86 Interpretation** 25
- The definition of **fine** in section 141AD is amended by adding the following paragraph:
- “(e) any amount payable under section 138A(1) of the Sentencing Act 2002”.

Subpart 5—Amendment to Immigration Act
2009

87 Principal Act amended

This **subpart** amends the Immigration Act 2009.

**88 Information matching to locate person in serious default
of payment of fine** 5

The definition of **fine** in section 295(4) is amended by adding the following paragraph:

“(e) any amount payable under section 138A(1) of the Sentencing Act 2002”. 10

Subpart 6—Amendment to Personal
Property Securities Act 1999

89 Principal Act amended

This **subpart** amends the Personal Property Securities Act 1999. 15

90 New section 167A inserted

The following section is inserted after section 167:

**“167A Financing change statement consequential on sale
effected by court under certain enactments**

“(1) This section applies to any personal property (the **personal property**) that— 20

“(a) falls within the collateral description included in a registered financing statement (the **applicable financing statement**); and

“(b) has been sold or disposed of under section 137(1), 138, 25
or 141(3)(b) of the Sentencing Act 2002 or **section 100K(1)(a) or 100O(1)(a)** of the Summary Proceedings Act 1957.

“(2) A Registrar of the High Court or of a District Court may enter in the register a financing change statement that— 30

“(a) discharges the registration of the applicable financing statement if the collateral description in the applicable financing statement relates exclusively to the personal property; or

- “(b) amends the applicable financing statement to exclude the personal property from the collateral description if the collateral description in the applicable financing statement does not relate exclusively to the personal property. 5
- “(3) As soon as is reasonably practicable after the financing change statement is entered in the register, the Registrar must ensure that the secured party is given a notice stating that the financing change statement will be registered 15 working days after the notice is given to the secured party. 10
- “(4) The financing change statement will be registered in accordance with section 144 after the expiry of the period of 15 working days referred to in **subsection (3)**.”

- Subpart 7—Amendment to Prisoners’ and Victims’ Claims Act 2005 15
- 91 Principal Act amended**
This **subpart** amends the Prisoners’ and Victims’ Claims Act 2005.
- 92 Secretary deducts money for legal aid, reparation, and earlier orders, then pays surplus into account** 20
The definition of **order of reparation** in section 18(2) is amended by repealing paragraph (d) and substituting the following paragraph:
“(d) an order that—
 “(i) requires the payment of an amount to compensate, or to make restitution to, the victim of an offence against an enactment; and
 “(ii) is declared by the Governor-General, by Order in Council under section 145D of the Sentencing Act 2002, to be an order of reparation for the purposes of sections 145A to 145C of that Act.” 30

Subpart 8—Amendment to Privacy Act
1993

93 Principal Act amended

This **subpart** amends the Privacy Act 1993.

94 Schedule 5 amended

5

Schedule 5 is amended in the manner indicated in **Schedule 3**.

Subpart 9—Amendments to Railways Act
2005

95 Principal Act amended

10

This **subpart** amends the Railways Act 2005.

96 Issue of infringement notice

Section 99 is amended by repealing subsections (4) and (5).

97 New section 100 substituted

Section 100 is repealed and the following section substituted: 15

“100 Contents of infringement notices and reminder notices

“(1) An infringement notice must contain—

“(a) details of the alleged infringement offence that are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and 20

“(b) in the case of an infringement offence in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and

“(c) the amount of the infringement fee specified in respect of that offence; and 25

“(d) the address of the place at which the infringement fee may be paid; and

“(e) the time within which the infringement fee may be paid; and 30

“(f) a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and

- “(g) a statement of the right of the person served with the notice to request a hearing; and
- “(h) a statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and 5
- “(i) any other particulars that are prescribed.
- “(2) A reminder notice must include the same particulars, or substantially the same particulars, as the infringement notice.
- “(3) If regulations made under this Act prescribe the form of an infringement notice or a reminder notice, the infringement notice or reminder notice must be in that form. 10
- “(4) Different forms of infringement notices and reminder notices may be prescribed for different kinds of infringement offences.”

Subpart 10—Amendments to Sentencing Act 2002 15

98 Principal Act amended

This **subpart** amends the Sentencing Act 2002.

99 Reparation

- (1) Section 12(1) is amended by inserting “or order” after “sentence” in each place where it appears. 20
- (2) Section 12(3) is amended by inserting “or order” after “sentence”.
- (3) Section 12 is amended by adding the following subsection:
- “(4) In this section, **order of reparation** means an order under section 106(3)(b), 108(2)(b), or 110(3)(b).” 25

100 Court may order reparation report

Section 33 is amended by adding the following subsection:

- “(4) A court may direct that the offender be detained in the custody of the court for a period, not exceeding 2 hours, that may be necessary to make the declaration.” 30

101 New section 36 substituted

Section 36 is repealed and the following section substituted:

“36 Conditions of sentence of reparation

- “(1) If the court sentences an offender to make reparation, the court must—
- “(a) determine the conditions of the sentence in respect of the total amount of reparation to be paid by the offender; 5
and
 - “(b) either determine, or direct the Registrar to determine, the conditions of the sentence in respect of the following matters:
 - “(i) whether the total amount of reparation is to be 10
paid in 1 lump sum or in instalments:
 - “(ii) if the amount is to be paid in 1 lump sum, whether it is to be paid immediately or at some specified future date:
 - “(iii) if the amount is to be paid in instalments, the 15
frequency and amounts of the instalments.”
- “(2) If the court directs the Registrar to determine the conditions of the sentence referred to in **subsection (1)(b)**, the court may also direct that the offender—
- “(a) make a declaration as to financial capacity in accord- 20
ance with section 42; and
 - “(b) be detained in the custody of the court for a period, not exceeding 2 hours, for the purpose of making the declaration.
- “(3) The court or Registrar may take into account information re- 25
ceived from any source about the offender’s financial capacity before imposing a condition.
- “(4) The court or Registrar may not impose a condition that an amount to be paid in 1 lump sum must be paid immediately unless the court or Registrar, as the case may be, is satisfied 30
that the offender has sufficient means to pay the amount immediately.
- “(5) If the court imposes a condition under **subsection (1)(b)** and the court is subsequently satisfied either that the offender pro- 35
vided false or misleading information about the offender’s financial position before the condition was imposed or that the offender’s financial position has changed significantly after the condition was imposed, the court may, after giving the of-

fender the opportunity to be heard, vary, suspend, or cancel the condition.

“(6) If a Registrar imposes a condition under this section, **sections 86A and 86D** of the Summary Proceedings Act 1957 apply, with all necessary modifications, as if the condition were an arrangement extending the time to pay a fine within the meaning of those sections.” 5

102 Discharge without conviction

Section 106 is amended by repealing subsection (3A) and substituting the following subsection: 10

“(3A) Sections 33 to 38 apply, with any necessary modifications, to an order under subsection (3)(b) as they apply to a sentence of reparation.”

103 Conviction and discharge

Section 108 is amended by repealing subsection (2A) and substituting the following subsection: 15

“(2A) Sections 33 to 38 apply, with any necessary modifications, to an order under subsection (2)(b) as they apply to a sentence of reparation.”

104 Order to come up for sentence if called on 20

Section 110 is amended by repealing subsection (3A) and substituting the following subsection:

“(3A) Sections 33 to 38 apply, with any necessary modifications, to an order under subsection (3)(b) as they apply to a sentence of reparation.” 25

105 New section 136A substituted

Section 136A is repealed and the following section substituted:

“**136A Registrar must apply for deregistration of motor vehicle subject to confiscation and destruction order** 30

If, under section 129A or 136(4), the court orders a motor vehicle to be confiscated and destroyed, the Registrar—

- “(a) is, for the purposes of the Land Transport Act 1998 and any regulations made under it, entitled to apply for the cancellation of the registration of the motor vehicle; and
“(b) must make that application before the motor vehicle is sold.”

5

106 Sale of confiscated motor vehicles

- (1) Section 137(3)(c) is amended by omitting “within 1 month after the date of sale” and substituting “, before the proceeds of sale are fully applied,”.

- (2) Section 137(4) is amended by omitting “paragraphs (d) and (f)” and substituting “paragraphs (d) to (f)”.

- (3) Section 137 is amended by adding the following subsection:

- “(5) The person to whom a motor vehicle is sold under this section obtains, by virtue of this section, good title to the motor vehicle free of all ownership interests and other proprietary interests held in the motor vehicle before that sale.”

15

107 Certain sales conditional on dismantling and destruction

Section 137A(4) is amended by omitting “from the Crown”.

108 Sale of motor vehicle surrendered or recovered under section 137B

20

Section 137C(1) is amended by omitting “and (2)” and substituting “, (2), and (5)”.

109 Disposal of unsaleable confiscated vehicle

Section 138 is amended by adding the following subsections as subsections (2) and (3):

25

- “(2) If the Registrar proposes to dispose of a motor vehicle under **subsection (1)**, the Registrar—

- “(a) is, for the purposes of the Land Transport Act 1998 and any regulations made under it, entitled to apply for the cancellation of the registration of the motor vehicle; and

30

- “(b) must make that application before the disposal of the motor vehicle.

- “(3) The person to whom a motor vehicle is disposed of under this section obtains, by virtue of this section, good title to the motor

vehicle free of all ownership interests and other proprietary interests held in the motor vehicle before that disposition.”

110 Secured party may apply to court

- (1) Section 141(4) is amended by omitting “This section” and substituting “Subsection (3).” 5
- (2) Section 141 is amended by adding the following subsection:
- “(5) The person to whom a motor vehicle is sold under a direction given under subsection (3)(b) obtains, by virtue of this section, good title to the motor vehicle free of all ownership interests and other proprietary interests held in the motor vehicle before that sale.” 10

111 Enforcement of payment of amounts under sentence of reparation, reparation orders, etc

Section 145(2A) is amended by repealing paragraph (b) and substituting the following paragraph: 15

“(b) sections 83(2)(a) and (b), 87(1)(a), and 88 of the Summary Proceedings Act 1957 do not apply.”

Subpart 11—Amendment to Social Security Act 1964

- 112 Principal Act amended** 20
- This **subpart** amends the Social Security Act 1964.

113 Information on beneficiaries and former beneficiaries may be disclosed to Ministry of Justice for fines enforcement purposes

The definition of **fine** in section 126A(1) is amended by adding the following paragraph: 25

“(d) any amount payable under section 138A(1) of the Sentencing Act 2002.”

Subpart 12—Amendment to Tax Administration Act 1994

- 114 Principal Act amended** 30
- This **subpart** amends the Tax Administration Act 1994.

115 Disclosure of certain information in relation to fines defaulters

The definition of **fines defaulter** in section 85A(6) is amended by adding the following paragraph:

“(f) any amount payable under section 138A(1) of the Sentencing Act 2002”. 5

Subpart 13—Amendments to Transport Act
1962

116 Principal Act amended

This **subpart** amends the Transport Act 1962. 10

117 Owner liability for stationary vehicle offences

Section 41A(5) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) he or she has given the enforcement authority a statutory declaration— 15

“(i) identifying another person who was lawfully entitled to possession, or who was unlawfully in charge, of the vehicle at the time of the alleged offence, by giving—

“(A) the full name and full address of that other person; and 20

“(B) any other identifying particulars of the other person, so far as they are within the knowledge of the person making the declaration, such as the other person’s date of birth, occupation, and telephone number; 25
or

“(ii) establishing that the person making the declaration could not identify the other person, after taking all reasonable steps to do so.” 30

Schedule 1**s 38****Amendments consequential on
amendments to District Courts Act
1947**

Child Support Act 1991 (1991 No 142)	5
Heading to section 183: omit and substitute: “ Warrant to seize property ”.	
Section 183: omit “warrant of distress” in each place where it appears and substitute in each case “warrant to seize property”.	
Section 183(3): omit “warrants of distress” and substitute “warrants to seize property”.	10
Section 183(5): omit “the expenses of the distress” and substitute “the expenses of the seizure of property”.	
Section 183(9): omit “No distress” and substitute “No seizure of property”.	15
Section 183(10): omit “distress warrant” and substitute “warrant to seize property”.	
 Dunedin Southern Market Reserve Leasing Act 1882 (1882 No 27 (L))	
Heading to section 10: omit “ distress warrant ” and substitute “ warrant to seize property ”.	20
Section 10: omit “distress warrant” and substitute “warrant to seize property”.	
 Sale of Goods Act 1908 (1908 No 168)	
Definition of writ of execution in section 2(1): omit “warrant of distress” and substitute “warrant to seize property”.	25

Schedule 2**s 59**

**Amendments consequential on
amendments to Summary Proceedings
Act 1957 relating to service**

Section 87B	5
Subsection (1)(a): omit “section 86A” and substitute “ section 86C ”.	
Subsection (1): omit “, in writing”.	
Subsection (3): repeal and substitute:	
“(3) The Registrar must give the defendant a copy of the deduction notice.”	10
Subsection (4): omit “issue to the defendant” and substitute “give the defendant”.	
 Section 87C(1)	
Omit “in writing”.	
 Section 87H(4)	15
Omit “in accordance with section 87J”.	
 Section 87J	
Repeal.	
 Section 104	
Subsection (1): repeal and substitute:	20
“(1) When an attachment order is made, a copy of the order must be served on the employer to whom it relates.”	
Subsection (2): repeal.	
Subsection (3): omit “this section” and substitute “ section 79A or 79B ”.	25
 Section 104A(1A)	
Omit “, by notice in writing”.	

Schedule 3
Amendment to Schedule 5 of Privacy Act
1993

s 94

Insert after the item relating to enforcement of fines and other orders under the heading *Ministry of Justice records*:

5

Driver licence stop orders	Particulars of each order served, cancelled, or terminated, the full name, full address, telephone number, driver licence number, and date of birth of the person on whom the order was served; the date and time when the order was served on the person, the date of the cancellation or termination of the order, and any amendments required, as at the date of service, cancellation, or termination, to the person's full address and telephone number	New Zealand Transport Agency (access is limited to recording, on the Driver Licence Register, the service, cancellation, or termination of an order and to replacing a driver licence following the cancellation or termination of the order)
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