



ANALYSIS

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1969, No. 43

An Act to amend the Summary Proceedings Act 1957

[29 September 1969]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Summary Proceedings Amendment Act 1969, and shall be read together with and deemed part of the Summary Proceedings Act 1957 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1970.

2. Maximum fine on summary conviction for indictable offence—(1) Section 7 of the principal Act (as amended by section 7 (1) of the Decimal Currency Act 1964) is hereby amended by omitting the words “not exceeding four hundred dollars”, and substituting the words “not exceeding \$1,000”.

(2) Section 44 of the Criminal Justice Act 1954 (as amended by section 7 (1) of the Decimal Currency Act 1964)

is hereby amended by omitting from paragraph (b) of the proviso to subsection (2), and also from the proviso to subsection (3), the words "four hundred dollars", and substituting in each case the expression "\$1,000".

3. Summary procedure for certain traffic offences—

(1) Section 21 of the principal Act is hereby amended by repealing paragraphs (b) to (e) of subsection (6), and substituting the following paragraphs:

"(b) Unless a summons is so issued, the Registrar shall cause to be served on the defendant a notice in writing in the prescribed form specifying the date and nature of the alleged offence and the standard fine therefor and the amount of the prescribed fee (being the fee for the time being prescribed under the Act for filing an information). The notice shall state that if the defendant does not wish to deny the offence he may pay the amount of the standard fine and the prescribed fee into the Court office within 14 days after the date of the notice. It shall further state that if he does not pay the sums specified then the charge against him will be brought on for hearing on a date specified in the notice, being a date not earlier than 28 days after the date of the notice, that no further notification of the hearing will be given to him, and that accordingly if he wishes to deny the offence or to be heard on the question of penalty then he should appear on the date specified:

"(c) If the defendant pays the amount of the standard fine and the prescribed fee before the hearing, he shall thereupon be deemed to have pleaded guilty and to have been convicted of the offence and to have paid the amount of the fine and costs imposed on his conviction:

"Provided that the Registrar may in his discretion refuse to accept any sums tendered to him after the expiry of the period of 14 days aforesaid:

"(d) If the defendant does not pay the standard fine and the prescribed fee in accordance with the foregoing paragraphs of this subsection or the Registrar has in his discretion refused to accept a payment tendered more than 14 days after the date of the

notice, then the information shall be heard and determined in accordance with this Part of this Act in all respects as if the notice to the defendant were a summons.”

(2) Section 21 of the principal Act is hereby further amended by omitting from subsection (4) the words “sent to”, and substituting the words “served on”.

4. Proof of previous convictions—(1) The principal Act is hereby amended by inserting, after section 69, the following section:

“69A. (1) Where any person is charged with any summary offence or with any indictable offence that may be dealt with summarily, the informant may serve on the defendant a notice in writing specifying any alleged previous conviction proposed to be brought to the notice of the Court in the event of his conviction of the offence charged.

“(2) Any such notice shall specify—

“(a) The date of the alleged conviction; and

“(b) The Court in which the conviction was entered; and

“(c) The nature of the offence; and

“(d) The sentence of the Court in respect of the conviction (including any order of the Court made on the conviction); and

“(e) A statement to the effect that the Court may, where the defendant is not present in person before the Court and has not notified the Court in writing that he disputes any such conviction or any material details in connection with the conviction, in the event of the conviction of the defendant take into account any conviction specified in the notice and the particulars concerning it as specified in the notice, as if the defendant had been present in person and admitted it.

“(3) In the event of the conviction of the defendant and upon proof that the notice was served on him not less than 7 clear days previously, the Court may, if the defendant is not present in person before the Court and has not notified the Court in writing that he disputes the conviction or any material details in connection with the conviction, take into account any conviction specified in the notice and the particulars concerning it as specified in the notice, as if the defendant had been present in person and admitted it.”

(2) The following enactments are hereby repealed, namely—

- (a) Section 197A of the Transport Act 1962 (as inserted by section 17 of the Transport Amendment Act (No. 2) 1967):
- (b) Section 17 of the Transport Amendment Act (No. 2) 1967.

5. Informant's right to appeal against sentence—(1) The principal Act is hereby amended by inserting, after section 115, the following section:

“115A. (1) Where on the determination by a Magistrate's Court of any information the defendant is convicted and sentenced, the informant may appeal to the Supreme Court against the sentence passed on the conviction, unless the sentence is one fixed by law.

“(2) No appeal shall be brought under this section unless the consent of the Solicitor-General has first been obtained and is lodged with the notice of appeal.

“(3) Every appeal under this section against a sentence of detention which is not heard before the date on which the defendant is released from detention under that sentence, whether that sentence has expired or not, shall lapse on that date, and thereupon the appeal shall be deemed to have been dismissed by the Supreme Court for non-prosecution. The Superintendent of any penal institution from which the defendant is released shall, if he has knowledge of the appeal under this section, notify the Registrar of the Supreme Court that the defendant has been released.

“(4) For the purposes of an appeal under this section, the term 'sentence' shall include any method of disposing of a case following conviction.”

(2) The principal Act is hereby consequentially amended in the manner indicated in the Schedule to this Act.

Section 5 (2)

SCHEDULE
AMENDMENTS OF PRINCIPAL ACT

Provision Amended	Amendment
Section 115	By inserting in subsection (4), after the word "section", the words "or under section 115A of this Act".
Section 116	By inserting in subsection (1), after the words "has been made", the words "or, in the case of an appeal under section 115A of this Act, within 28 days after the person convicted has been sentenced,". By inserting in subsection (3), after the words "ten days'", the words "and also for the words '28 days'".
Section 124	By omitting from subsection (1) the words "the defendant appeals", and substituting the words "either party appeals". By omitting from subsection (3) the words "the defendant appeals", and substituting the words "either party appeals".
Section 127	By omitting from subsection (2) the words "has appealed only against the sentence imposed that", and substituting the words "or the informant has appealed only against the sentence imposed on the inmate, the".
Section 130	By omitting from subsection (2) the words "against a conviction and the sentence passed on the conviction or against the conviction only, the appellant", and substituting the words "by the informant against the sentence passed on the conviction or by the person convicted against a conviction and the sentence passed on the conviction or against the conviction only, the person convicted,". By omitting from subsection (2) the words "the appellant is detained", and substituting the words "the person convicted is detained".
Section 135	By inserting in subsection (3), after the words "sentence only", the words "by the person convicted". By omitting from subsection (4) the words "the appellant" in the first place where they appear, and substituting the words "a party to an appeal". By omitting from subsection (4) the words "the appellant" in the other places where they appear, and substituting in each case the words "that party".

SCHEDULE—continued

Provision Amended	Amendment
Section 136	<p>By omitting from subsection (2) the words “the appellant” in the first place where they appear, and substituting the words “the person sentenced”.</p> <p>By omitting from subsection (2) the words “the appellant” in the second place where they appear, and substituting the words “that person”.</p> <p>By omitting from subsection (4) the words “the appellant”, and substituting the words “any party to the appeal”.</p>
Section 137	By omitting from subsection (1) the words “the defendant” in the first place where they appear, and substituting the words “either party”.
Section 143	<p>By omitting the words “an appellant”, and substituting the words “any party to an appeal”.</p> <p>By omitting the word “his”, and substituting the word “the”.</p>

This Act is administered in the Department of Justice.