

[AS REPORTED FROM THE JUSTICE AND LAW REFORM  
COMMITTEE]

*House of Representatives, 28 November 1995.*

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line. Clauses 16 and 19 have been retained by the Justice and Law Reform Committee, as the Summary Proceedings Amendment Bill (No. 2), for further consideration.

*Hon. D. A. M. Graham*

**COURTS AND CRIMINAL PROCEDURE  
(MISCELLANEOUS PROVISIONS)**

ANALYSIS

Title		
1. Short Title	16A. Effect of attachment order	
<b>PART I</b>		
AMENDMENTS TO SUMMARY PROCEEDINGS ACT 1957	17. Restriction on imprisonment	
2. This Part to be read with Summary Proceedings Act 1957	18. If evidence sufficient defendant may be committed for trial or for sentence	
3. Proof of service	18A. Release on bail of defendant committed for trial or for sentence	
4. Withdrawal of information by informant	<b>PART II</b>	
5. Power of Court to decline summary jurisdiction	AMENDMENTS TO DISTRICT COURTS ACT 1947	
6. Power of Court to decline summary jurisdiction in case of certain summary offences	20. This Part to be read with District Courts Act 1947	
7. Power of Registrar to adjourn	21. Extent of jurisdiction under Part IIA of this Act	
8. Dealing with defendant on adjournment	21A. Right to appeal	
9. Variation of conditions of bail	21B. Time for appeal; security for appeal	
10. Effect on bond of attendance or non-attendance of person bailed by constable	22. Interpretation	
11. Powers of Registrar to adjourn hearing or issue warrant to arrest defendant	22A. Attachment orders	
12. Interpretation	<b>PART III</b>	
13. Publication of name of fines defaulter	AMENDMENTS TO POLICE ACT 1958	
14. Action where fine remains unpaid	23. This Part to be read with Police Act 1958	
15. Immobilisation of motor vehicles	24. Protection of members for acts pursuant to process	

*Courts and Criminal Procedure*  
(*Miscellaneous Provisions*)

<p style="text-align: center;">PART IV</p> <p>AMENDMENTS TO MISUSE OF DRUGS ACT 1975</p> <p>25. This Part to be read with Misuse of Drugs Act 1975</p> <p>26. Enforcement of fines imposed in High Court</p> <p>27. Enforcement of fines imposed in District Court</p> <p style="text-align: center;">PART V</p> <p style="text-align: center;">AMENDMENTS TO CRIMES ACT 1961</p> <p>28. This Part to be read with Crimes Act 1961</p> <p>29. Interpretation</p> <p>30. New sections substituted</p> <p style="padding-left: 20px;">345A. Time for filing indictment</p> <p style="padding-left: 20px;">345B. Extension of time for filing indictment</p> <p style="padding-left: 20px;">345C. Trial Judge may excuse disclosure of information relating to Police investigations</p> <p style="padding-left: 20px;">345D. Leave to file amended indictments</p> <p style="padding-left: 20px;">346. Failure of prosecutor to file indictment</p> <p>31. Further amendments to principal Act and amendments to other enactments</p> <p>32. Savings provision relating to indictments</p> <p>33. Transitional and savings provisions relating to power of District Court to order trial by Trial Judge alone</p>	<p style="text-align: center;">PART VI</p> <p>AMENDMENTS TO CRIMINAL JUSTICE ACT 1985</p> <p>34. This Part to be read with Criminal Justice Act 1985</p> <p>35. Minimum periods of imprisonment</p> <p style="padding-left: 20px;">3 Period on remand to be taken as time served</p> <p>37. Jurisdiction of Parole Board to release offenders on parole</p> <p>37A. Jurisdiction of Parole Board where offender to be released at final release date</p> <p>37B. Jurisdiction of District Prisons Boards where offender to be released at final release date</p> <p>39. Rights of offender whose case is to be considered by Parole Board or District Prisons Board</p> <p>40. Application for recall</p> <p>41. Interim order for recall</p> <p>42. Further amendments to principal Act</p> <p>43. Amendment to Armed Forces Discipline Act 1971</p> <p style="text-align: center;">PART VII</p> <p style="text-align: center;">AMENDMENTS TO JUDICATURE ACT 1908</p> <p>44. This Part to be read with Judicature Act 1908</p> <p>45. Number of Judges increased Schedules</p>
---	---

A BILL INTITULED

**An Act—**

- (a) To amend various enactments relating to courts or criminal procedure; and**
- (b) To provide for related matters**

5

BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title—**(1) This Act may be cited as the Courts and Criminal Procedure (Miscellaneous Provisions) Act **1995**.

*New*

(2) Except as provided in **section 44 (2)** of this Act, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

10

PART I

AMENDMENTS TO SUMMARY PROCEEDINGS ACT 1957

**2. This Part to be read with Summary Proceedings Act 1957**—(1) This Part of this Act shall be read together with and deemed part of the Summary Proceedings Act 1957\* (in this Part of this Act referred to as the principal Act).

*New*

(2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

\*1957, No. 87 (R.S. Vol. 9, p. 583)

Amendments: 1982, No. 47; 1982, No. 131; 1982, No. 158; 1985, No. 51; 1985, No. 55; 1985, No. 162; 1985, No. 191; 1986, No. 73; 1986, No. 76; 1987, No. 165; 1987, No. 172; 1989, No. 21; 1989, No. 105; 1991, No. 62; 1991, No. 105; 1992, No. 82; 1993, No. 47; 1994, No. 161

**3. Proof of service**—(1) Section 29 (1) of the principal Act (as amended by section 2 (2) of the Summary Proceedings Amendment Act 1970 and section 6 of the Summary Proceedings Amendment Act 1993) is hereby amended by omitting the words “or, where service is effected by an officer of the Court or a sworn or non-sworn member of the Police or a traffic officer within the meaning of the Transport Act 1962,”, and substituting the word “, or”.

(2) Section 29 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) If, pursuant to subsection (1) of this section, any person referred to in paragraph (c) or paragraph (e) of section 25 (1) of this Act proves service of any document by endorsement on a copy of the document, that person shall, when returning the endorsed copy to the Court, provide proof that he or she is a person referred to in either of those paragraphs.”

(3) The following enactments are hereby consequentially repealed:

(a) Section 2 (2) of the Summary Proceedings Amendment Act 1970:

(b) Section 6 of the Summary Proceedings Amendment Act 1993.

**4. Withdrawal of information by informant**—Section 36 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) A Registrar may exercise the power conferred by subsection (1) of this section to grant leave if the informant is a

sworn or non-sworn member of the Police and has notified the Registrar in writing that the defendant has successfully completed a programme of diversion (being a programme conducted by the Police).”

**5. Power of Court to decline summary jurisdiction—** 5

Section 44 (2) (a) of the principal Act is hereby amended by omitting the word “convicted”, and substituting the words “found guilty”.

**6. Power of Court to decline summary jurisdiction in case of certain summary offences—** 10  
The principal Act is hereby amended by inserting, after section 44, the following section:

“44A.

*Struck Out*

(1) Whenever the Court commits a defendant to the High Court for sentence in respect of any offence, the Court may also commit the defendant to the High Court for sentence in respect of any other offence that— 15

“(a) Is related to the first-mentioned offence or arises from the same course of conduct as that offence; and 20

“(b) Either—

“(i) Would, but for this subsection, be required to be dealt with summarily; or

“(ii) Is one where the Court may—

“(A) Pursuant to section 44 of this Act, decline to deal summarily with the offence; or 25

“(B) Pursuant to section 28G of the District Courts Act 1947, decline to sentence the defendant,—

but has not declined such jurisdiction. 30

*New*

(1) Whenever the Court commits a defendant to the High Court for sentence in respect of any offence, the Court may also commit the defendant to the High Court for sentence in respect of any other offence— 35

*New*

“(a) That is related to the first-mentioned offence or arises from the same course of conduct as that offence; and

5 “(b) In relation to which the High Court would not, but for this subsection, have jurisdiction to sentence the defendant.

“(2) Except as provided in **subsection (3)** of this section, the sentence that may be imposed by the High Court in any case referred under **subsection (1)** of this section shall not exceed the sentence that could have been imposed in that case by the District Court.

15 “(3) Where the High Court is satisfied that the District Court would have declined jurisdiction to sentence the defendant, the High Court may impose any sentence that it could impose in that case if the District Court had declined such jurisdiction.”

**7. Power of Registrar to adjourn**—(1) Section 45A of the principal Act (as inserted by section 3 of the Summary Proceedings Amendment Act 1991) is hereby amended by adding the following subsection:

20 “(4) For the avoidance of doubt, it is hereby declared that a Registrar may, upon application, grant an adjournment under subsection (1) of this section if—

25 “(a) The defendant has been released on bail under section 51 of this Act; and

“(b) The application is made before the commencement of the hearing.”

30 (2) Section 152A of the principal Act (as inserted by section 5 of the Summary Proceedings Amendment Act 1991) is hereby consequentially amended by adding the following subsection:

“(4) For the avoidance of doubt, it is hereby declared that a Registrar may, upon application and with the consent of each party, grant an adjournment under subsection (1) of this section if—

35 “(a) The defendant has been released on bail under section 51 of this Act; and

“(b) The application is made before the commencement of the preliminary hearing; and

40 “(c) It is necessary or desirable to do so for any reasonable cause.”

**8. Dealing with defendant on adjournment—**

(1) Section 46 of the principal Act (as substituted by section 2 of the Summary Proceedings Amendment Act (No. 2) 1987) is hereby amended by inserting, after subsection (1), the following subsections:

5

*Struck Out*

“(1A) A Registrar may exercise the power conferred by subsection (1)(b) of this section to grant bail if—

“(a) Bail is not opposed by the informant; and

“(b) The maximum sentence of imprisonment that may be imposed for the offence with which the defendant has been charged is less than 10 years; and

“(c) The offence does not involve violence.

10

*New*

“(1A) A Registrar may exercise the power conferred by subsection (1)(b) of this section to grant bail if—

“(a) The informant does not oppose bail; and

“(b) The offence with which the defendant has been charged—

“(i) Is not punishable by imprisonment; or

“(ii) Is punishable by a term of imprisonment of not more than 10 years.

15

20

“(1B) A Registrar may exercise the power conferred by subsection (1)(c) of this section to remand a defendant in custody if—

25

“(a) Both the defendant and the informant agree to the remand; and

“(b) The defendant—

“(i) Is legally represented or has indicated that he or she has received legal advice; or

“(ii) Has had an opportunity to obtain such advice and has declined to do so.

30

“(1c) The following provisions shall apply to every remand imposed by a Registrar under **subsection (1B)** of this section:

“(a) A single period of remand shall not exceed 8 days:

35

“(b) Not more than 2 consecutive periods of remand may be imposed and neither of those periods shall exceed 8 days:

“(c) The defendant shall be brought before a Court or Justice—

5 “(i) At the earliest opportunity if, at any time during the period of remand, the defendant withdraws his or her agreement under **subsection (1b) (a)** of this section; or

10 “(ii) At the earliest opportunity after the expiration of 16 days commencing on the date of the imposition of the remand;—  
and the Court or Justice shall determine what action (if any) under subsection (1) of this section should be taken in respect of the defendant.”

15 (2) Section 46 (2) of the principal Act (as so substituted) is hereby amended by omitting the expression “Subsection (1)”, and substituting the expression “Subsections (1) to **(1b)**”.

(3) The principal Act is hereby consequentially amended by inserting in sections 47, 49, 50 (2A), 53 (1), 54 (1), 55, and 57 (1), after the words “or Justice” wherever they occur, the words “or Registrar”.

20 (4) Section 57 (2) of the principal Act (as added by section 8 (2) of the Summary Proceedings Amendment Act (No. 2) 1987) is hereby consequentially amended by inserting, after the word “Judge”, the words “or Justice or Registrar”.

25 **9. Variation of conditions of bail**—(1) Section 50A of the principal Act (as substituted by section 6 of the Summary Proceedings Amendment Act (No. 2) 1991) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) A Registrar may exercise the power conferred by subsection (1) of this section to make an order if—

30 “(a) The informant does not object; and

“(b) A Registrar imposed the original conditions of bail.”

(2) Section 50A of the principal Act (as so substituted) is hereby amended—

35 (a) By inserting in subsection (1), after the words “District Court Judge”, the words “or Justice”:

(b) By inserting in subsection (2), after the words “or Justice” in both places where they occur, the words “or Registrar”:

40 (c) By inserting in subsection (3), after the words “any Court”, the words “or Justice or Registrar”:

(d) By omitting from subsection (4) the words “shall refer the matter to a District Court Judge, who”, and substituting the words “or a District Court Judge”.

**10. Effect on bond of attendance or non-attendance of person bailed by constable**—The principal Act is hereby amended by repealing section 56, and substituting the following section:

“56. (1) If the defendant attends personally at the time and place— 5

“(a) Specified in any bail bond taken by a constable; or

“(b) To which the hearing has been adjourned under section 45A of this Act—

to answer the charge brought against him or her, the bond shall be void. 10

“(2) If—

“(a) The hearing has not been adjourned under section 45A of this Act and the defendant does not attend personally at the time and place specified in the bond; or 15

“(b) The hearing has been so adjourned, but the defendant does not attend personally at the time and place to which the hearing has been adjourned,—

the presiding District Court Judge or Justice or Justices or any Registrar may certify on the back of the bond or of a copy of the bond drawn up and certified by a constable the non-performance of the condition of the bond.” 20

**11. Powers of Registrar to adjourn hearing or issue warrant to arrest defendant**—(1) The principal Act is hereby amended by inserting, after section 61, the following section: 25

“61A. (1) If the Registrar has the power to adjourn the hearing of any charge under section 45A of this Act, the Registrar may either—

“(a) Adjourn the hearing; or 30

“(b) Exercise the power conferred by section 61 (a) or section 65 or section 66 of this Act to issue a warrant to arrest the defendant.

“(2) If the Registrar does not have power to adjourn the hearing of any charge under section 45A of this Act, but considers that a warrant to arrest the defendant should be issued under section 61 (a) or section 65 or section 66 (7) of this Act, the Registrar shall refer the matter to a District Court Judge who may direct the Registrar to issue a warrant to arrest the defendant. 35 40

“(3) A Registrar shall not exercise any of the powers referred to in subsection (1) (b) of this section unless he or she is satisfied that the defendant—



“(a) Was informed of the defendant’s obligation to attend at the specified time and place; and

“(b) Failed without reasonable excuse to so attend.”

5 (2) Section 61 (a) of the principal Act is hereby consequentially amended by inserting, after the word “Court” where it fourthly occurs, the words “or any Registrar”.

**12. Interpretation**—Section 79 of the principal Act (as substituted by section 14 of the Summary Proceedings Amendment Act 1987) is hereby amended by adding to  
10 paragraph (b) of the definition of the term “salary or wages” the words “or the Accident Rehabilitation and Compensation Insurance Act 1992”.

**13. Publication of name of fines defaulter**—The principal Act is hereby amended by inserting, after section 87  
15 (as substituted by section 14 of the Summary Proceedings Amendment Act 1987), the following section:

“87A. (1) This section applies if—

20 “(a) A defendant has been ordered by a Court (other than a Youth Court) to pay any fine; and

“(b) The defendant has not made any payment in respect of the fine for at least 3 months before the date on which the Registrar proposes to arrange the publication of a notice under **subsection (2)** of this section relating to the defendant; and

25 “(c) The defendant owes not less than \$500 in unpaid fines; and

“(d) Either the fine is not subject to any arrangement under section 81 or section 86 of this Act allowing payment of the fine over a specified period or the fine is subject to such an arrangement but the defendant is not for the time being observing the terms of the arrangement; and

30 “(e) No name suppression order was made in respect of the defendant in the proceedings in which the fine was imposed; and

35 “(f) The Registrar has been unable to locate the defendant after using reasonably available sources of information; and

40 “(g) The Registrar has confirmed the identity of the defendant by checking information held in relation to the defendant on any database accessible to the Registrar; and

“(h) The Registrar has no reason to suspect that the defendant has died.

“(2) If this section applies, the Registrar may cause notice of the fines defaulter to be published in a newspaper circulating in the area where the Court is located and the notice may include one or more of the following details: 5

“(a) The name of the defendant:

“(b) The defendant’s current or last known address:

“(c) The defendant’s *(date of birth)* age *(in years)*.

“(3) A Registrar who causes the publication under **subsection (2)** of this section of any particulars relating to a defendant shall take all reasonable steps to ensure that the particulars published are accurate and current.” 10

**14. Action where fine remains unpaid**—Section 88 of the principal Act (as substituted by section 14 of the Summary Proceedings Amendment Act 1987) is hereby amended by inserting, after subsection (1), the following subsection: 15

“(1A) Without limiting any other provision of this Act, a warrant for the defendant’s arrest under subsection (1)(d) of this section may be in the form of a computer printout of information entered by a Registrar into any computer system accessible to the Police, and the following provisions shall apply in relation to every such warrant: 20

“(a) Information about any defendant that is so entered by the Registrar may be printed out by any sworn member of the Police and shall for all purposes constitute a warrant for the arrest of the defendant: 25

“(b) The absence of any signature on the printout does not affect its validity as a warrant:

“(c) The warrant is valid for a period of 7 days beginning on the date of its printing and shall then lapse: 30

“(d) At any time and from time to time after a warrant lapses under **paragraph (c)** of this subsection,—

“(i) The Registrar may re-enter the particulars into the same computer system or enter the particulars into any other computer system accessible to the Police: 35

“(ii) Any sworn member of the Police may obtain a further printout 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 40

such printout shall constitute a fresh warrant for the arrest of the defendant.”

5 **15. Immobilisation of motor vehicles**—Section 94B (2)(b) of the principal Act (as inserted by section 18 of the Summary Proceedings Amendment Act 1993) is hereby amended by inserting, after the word “bailiff”, the words “or constable”.

10 *Clause 16 has been retained by the Justice and Law Reform Committee, as part of the Summary Proceedings Amendment Bill (No. 2), for further consideration.*

*New*

15 **16A. Effect of attachment order**—Section 103 of the principal Act (as substituted by section 14 of the Summary Proceedings Amendment Act 1987) is hereby amended by repealing subsection (2).

20 **17. Restriction on imprisonment**—Section 106E(4) of the principal Act (as substituted by section 20(1) of the Summary Proceedings Amendment Act 1993) is hereby amended by omitting the expression “subsection (2)”, and substituting the expression “subsection (3)”.

25 **18. If evidence sufficient defendant may be committed for trial or for sentence**—(1) Section 168(1)(b)(i) of the principal Act (as substituted by section 11(3) of the Summary Proceedings Amendment Act 1980) is hereby amended by inserting, after the word “jury”, the words “or where the offence is an indictable offence referred to in Part I of Schedule IA to the District Courts Act 1947”.

30 (2) Every sentence imposed in accordance with section 28F of the District Courts Act 1947 that—

(a) Was imposed on or after the 1st day of October 1991 but before the commencement of this section; and

(b) Relates to proceedings dealt with by the Court under section 168(1)(b)(i) of the principal Act,—

shall be as valid and effectual as it would have been if **subsection (1)** of this section had been in force when the sentence was imposed.

*New*

<b>18A. Release on bail of defendant committed for trial or for sentence</b> —Section 171 of the principal Act is hereby amended by omitting from subsection (5) (as substituted by section 20 (2) of the Summary Proceedings Amendment Act (No. 2) 1991) the words “varies or revokes or substitutes or imposes any condition of bail, or refuses”, and substituting the words “or Justice or Justices vary or revoke or substitute or impose any condition of bail, or refuse”.	5 10
---	---------

. . . . .

*Clause 19 has been retained by the Justice and Law Reform Committee, as part of the Summary Proceedings Amendment Bill (No. 2), for further consideration.*

## PART II

### AMENDMENTS TO DISTRICT COURTS ACT 1947

**20. This Part to be read with District Courts Act 1947**—  
(1) This Part of this Act shall be read together with and deemed part of the District Courts Act 1947\* (in this Part of this Act referred to as the principal Act).

*New*

(2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.	25
--	----

\*1947, No. 16 (R.S. Vol. 28, p. 57)  
Amendments: 1992, No. 138; 1994, No. 29; 1994, No. 147

**21. Extent of jurisdiction under Part IIA of this Act**—  
(1) Section 28A (1) of the principal Act (as substituted by section 4 of the District Courts Amendment Act 1991) is hereby amended by adding the following paragraphs:

“(f) Conspiring to commit any indictable offence referred to in Part I or Part II of Schedule IA to this Act: 30

“(g) Attempting to commit any indictable offence referred to in Part I or Part II of Schedule IA to this Act, or

inciting or counselling or attempting to procure any person to commit any such offence which is not committed:

5 “(h) Being an accessory after the fact to any indictable offence referred to in Part I or Part II of Schedule IA to this Act.”

(2) Section 28A (2) of the principal Act (as so substituted) is hereby amended by omitting the expression “subsection (1) (d)”, and substituting the expression “any of paragraphs (d), (f), (g), and (h) of subsection (1)”.

10 (3) Every determination or order of a District Court—

(a) Made on or after the 1st day of October 1991 but before the commencement of this section; and

15 (b) Made in respect of an offence referred to in any of paragraphs (f), (g), and (h) of section 28A (1) of the principal Act (as added by **subsection (1)** of this section),—

20 shall be as valid and effectual as it would have been if **subsection (1)** of this section had been in force when the determination or order was made.

*New*

**21A. Right to appeal**—Section 71A of the principal Act (as substituted by section 4 (1) of the District Courts Amendment Act 1983) is hereby amended by repealing subsection (4), and substituting the following subsection:

25 “(4) Every application to a District Court under this section for leave to appeal shall be filed in the prescribed manner within 21 days after the date on which the final order or the interlocutory order is sealed.”

30 **21B. Time for appeal; security for appeal**—Section 73 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1) (as substituted by section 6 of the District Courts Amendment Act 1983), and substituting the following paragraph:

35 “(a) The date on which the final order is sealed, in the case of an appeal under subsection (1) (a) of section 71A of this Act; or”.

**22. Interpretation**—Section 84F of the principal Act (as inserted by section 9 of the Districts Courts Amendment Act

1989) is hereby amended by adding to paragraph (b) of the definition of the term “salary or wages” the words “or the Accident Rehabilitation and Compensation Insurance Act 1992”.

*New*

5

**22A. Attachment orders**—Section 84C of the principal Act (as inserted by section 9 of the District Courts Amendment Act 1989) is hereby amended by repealing subsection (8).

### PART III

#### AMENDMENTS TO POLICE ACT 1958

10

**23. This Part to be read with Police Act 1958**—(1) This Part of this Act shall be read together with and deemed part of the Police Act 1958\* (in this Part of this Act referred to as the principal Act).

*New*

15

(2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

\*1958, No. 109 (R.S. Vol. 26, p. 669)

Amendments: 1991, No. 29; 1992, No. 63; 1992, No. 68; 1994, No. 157

**24. Protection of members for acts pursuant to process**—(1) Section 39 of the principal Act is hereby amended by omitting from subsection (1), and also from subsection (2), the words “or Justice”, and substituting in each case the words “Justice, or Registrar or Deputy Registrar of any Court”.

20

(2) Section 39 of the principal Act is hereby amended by adding the following subsection:

25

“(3) For the purposes of this section, the term ‘process’ includes any computer printout to which section 88 (1A) of the Summary Proceedings Act 1957 applies.”

### PART IV

#### AMENDMENTS TO MISUSE OF DRUGS ACT 1975

30

**25. This Part to be read with Misuse of Drugs Act 1975**—(1) This Part of this Act shall be read together with and

deemed part of the Misuse of Drugs Act 1975\* (*in this Part of this Act referred to as the principal Act*).

*New*

5 [ (2) This Part of this Act shall come into force on a date to be appointed by the Governor-General by Order in Council. ]

\*1975, No. 116 (R.S. Vol. 26, p. 567)  
Amendment: 1992, No. 49

**26. Enforcement of fines imposed in High Court—**  
Section 43 of the Misuse of Drugs Amendment Act 1978 is hereby amended—

10 (a) By omitting from paragraph (a)(ii) the words “in the form prescribed for the purpose of section 89 (1) (a) of the Summary Proceedings Act 1957 (with any necessary modifications)”:

(b) By repealing paragraph (b):

15 (c) By omitting from paragraph (c) the words “subsection (4) of section 89 of the Summary Proceedings Act 1957”, and substituting the words “this section”.

**27. Enforcement of fines imposed in District Court—**  
(1) Section 44 of the Misuse of Drugs Amendment Act 1978 is hereby amended by repealing paragraph (a), and substituting the following paragraph:

20 “(a) Part III of the Summary Proceedings Act 1957 (with any necessary modifications):”.

(2) Section 44 (b) of the Misuse of Drugs Amendment Act 1978 is hereby amended by omitting the words “subsection (4) of section 89”, and substituting the expression “Part III”.

## PART V

### AMENDMENTS TO CRIMES ACT 1961

*Struck Out*

30 [ **28. This Part to be read with Crimes Act 1961—**This Part of this Act and the First Schedule to this Act shall be read together with and deemed part of the Crimes Act 1961\*.

*New*

**28. This Part to be read with Crimes Act 1961**—(1) This Part of this Act and the **First and Second Schedules** to this Act shall be read together with and deemed part of the Crimes Act 1961\* (in this Part of this Act referred to as the principal Act). 5

(2) This Part of this Act and the **First and Second Schedules** to this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

\*1961, No. 43 (R.S. Vol. 1, p. 635)

Amendments: 1979, No. 5; 1979, No. 127; 1980, No. 63; 1980, No. 85; 1982, No. 46; 1982, No. 157; 1985, No. 82; 1985, No. 121; 1985, No. 160; 1985, No. 171; 1986, No. 4; 1986, No. 33; 1986, No. 71; 1986, No. 75; 1986, No. 82; 1987, No. 1; 1987, No. 167; 1988, No. 114; 1989, No. 22; 1989, No. 103; 1991, No. 63; 1991, No. 106; 1993, No. 33; 1993, No. 46; 1993, No. 62; 1994, No. 27

**29. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “property”, the following definition: 10

“‘Prosecutor’ means—

“(a) A Crown Solicitor:

“(b) In relation to a Crown prosecution, the Attorney-General: 15

“(c) In relation to a private prosecution, the private prosecutor:”.

(2) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Registrar” (as inserted by section 2 (2) of the Crimes Amendment Act (No. 2) 1980), and substituting the following definition: 20

“‘Registrar’—

“(a) For the purposes of Part XII of this Act, means any Registrar of the trial Court; and includes any Deputy Registrar of that Court: 25

“(b) For any other purpose, means any Registrar of the High Court or of a District Court, as the case may require; and includes any Deputy Registrar:”.

(3) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “territorial waters”, the following definition: 30

“‘Trial Judge’ means—

“(a) If the accused has been committed to the High Court for trial and the case has not been transferred to the District Court for trial pursuant to 35



section 168AA of the Summary Proceedings Act 1957,  
a High Court Judge:

5 “(b) If the accused has been committed to the  
District Court for trial or the case has been  
transferred to that Court for trial pursuant to  
section 168AA of the Summary Proceedings Act 1957,  
and the Court has jurisdiction in the matter under  
section 28AA of that Act, a District Court Judge:”

10 (4) Section 2 (2) of the Crimes Amendment Act (No. 2) 1980  
is hereby consequentially repealed.

**30. New sections substituted**—The principal Act is hereby  
amended by repealing section 346, and substituting the  
following sections:

15 “345A. **Time for filing indictment**—(1) Unless an  
extension is obtained under **section 345B** of this Act, an  
indictment shall be filed not later than 42 days after the date  
on which the accused is committed for trial.

20 “(2) In reckoning the period referred to in **subsection (1)** of this  
section, the period commencing on the 24th day of December  
and ending with the close of the 15th day of January shall be  
disregarded.

25 “(3) If the time for filing an indictment expires on any day  
on which the office of the Court is closed and it is not possible  
for the indictment to be filed on that day by reason of that  
closure, the indictment shall be filed on the next day on which  
that office is open if it has not already been filed.

“(4) If an indictment is filed, the prosecutor shall forthwith  
forward a copy of the indictment—

30 “(a) If the accused is known by the prosecutor to be  
represented by counsel or a solicitor, to that counsel  
or solicitor; or

“(b) In any other case, to the accused at his or her last  
known address.

35 “(5) The accused is entitled to uplift a copy of the indictment  
from the Registrar at any time after it has been filed.

40 “345B. **Extension of time for filing indictment**—(1) If,  
upon application, it appears to a Trial Judge that it is in the  
interests of justice to extend the 42-day period referred to in  
**section 345A** of this Act for filing an indictment, he or she may  
order that the time be extended for such further period or  
periods as he or she thinks fit.

“(2) Without limiting the generality of **subsection (1)** of this section, in considering an application under this section, the Trial Judge may have regard to the following matters:

“(a) The number of offences which will or may be counts in the indictment: 5

“(b) The nature of the offence or offences which will or may be counts in the indictment:

“(c) The complexity of the issues likely to arise in the proceedings:

“(d) Whether the accused is charged jointly with any other person: 10

“(e) Whether further or ongoing inquiries are being conducted by or for the prosecution in relation to the subject-matter of the trial.

“(3) An application under this section may be made before or on or after the expiration of the period allowed for filing the indictment, and any period extended under this section may, in like manner, be further extended. 15

“(4) An application under this section shall, unless a Trial Judge otherwise directs,— 20

“(a) Be in writing; and

“(b) Include a statement of the reasons for seeking an extension; and

“(c) Specify the period for which the extension is sought; and

“(d) Give notice of intention (if any) to apply for an order under **section 345c (1)** of this Act. 25

“(5) An application under this section shall, unless a Trial Judge otherwise directs, be served by the prosecutor on the accused at least 4 working days before the date fixed for the hearing of the application— 30

“(a) If the accused was represented by counsel at the preliminary hearing of the charge or charges, or is known by the prosecutor to be represented by counsel or a solicitor, by leaving a copy of the application at the office of the counsel or solicitor or sending a registered letter addressed to the counsel or solicitor at his or her office: 35

“(b) In any other case, by delivering a copy of the application personally to the accused or in such other manner as a Trial Judge may direct. 40

“(6) Any application under this section may be made to a Trial Judge when sitting in Court or in Chambers, and if the accused is represented by counsel, it is not necessary for the

accused to be brought or appear before the Trial Judge on the hearing of the application.

“(7) A Registrar may exercise the power conferred by **subsection (1)** of this section if—

5 “(a) The period of extension sought does not exceed 1 month; and

“(b) The accused has consented to the extension, whether personally or by his or her counsel or solicitor.

10 “**345c. Trial Judge may excuse disclosure of information relating to Police investigations**—(1) A Trial Judge may, upon application, order that the prosecution be excused from disclosing to the accused any details relating to the nature or the purpose of investigations referred to in the application.

15 “(2) An order shall not be made under this section in any case unless—

“(a) An application has been made under **section 345b** of this Act in relation to the same case; and

20 “(b) The reason for that application is that further or continuing investigations in respect of the subject-matter of the trial in that case or any other matter that may affect the trial are being or are to be made by or for the prosecutor; and

25 “(c) The disclosure of the information will or may prejudice the investigations referred to in the application under this section; and

“(d) It is not contrary to the interests of justice to withhold the information.

30 “(3) At the hearing of an application under this section, any evidence to be adduced by the prosecutor shall be tendered to the Trial Judge in affidavit form and shall not be disclosed to the accused or to his or her counsel or solicitor unless the Trial Judge otherwise directs after considering the evidence and hearing from the prosecutor.

35 “(4) If an order is made under **subsection (1)** of this section, the Registrar shall, at the conclusion of the hearing, hold all evidence adduced by the prosecutor secure against search until the order is discharged by the Court.

40 “(5) A Trial Judge may, at any time after an order under **subsection (1)** of this section has been made, either of his or her own motion or upon application by the accused or the prosecutor, discharge the order if the Trial Judge is satisfied, after hearing from the prosecutor, that—

“(a) The investigations which were the subject of the order have been completed; or

“(b) Disclosure of the information referred to in the order is necessary in the interests of justice.

“345D. **Leave to file amended indictments**—(1) A Trial Judge may, at any time before the commencement of the trial, upon application by the prosecutor, grant leave to allow the prosecutor to file an amended indictment if it appears to the Trial Judge that the filing of an amended indictment would be conducive to the ends of justice. 5

“(2) Without limiting the generality of **subsection (1)** of this section, leave may be granted under that subsection to allow the filed indictment to be amended by— 10

“(a) Amending any particulars; or

“(b) Removing or adding or substituting charges; or 15

“(c) Adding or removing the name of any accused.

“(3) An application under this section shall, unless a Trial Judge otherwise directs,—

“(a) Be in writing; and

“(b) Include a statement of the reasons why an amendment to the filed indictment is necessary or be accompanied by a copy of the amended indictment in respect of which leave is sought. 20

“(4) An application under this section shall, unless a Trial Judge otherwise directs, be served by the prosecutor on the accused at least 4 working days before the date fixed for the hearing of the application— 25

“(a) If the accused was represented by counsel at the preliminary hearing of the charge or charges, or is known by the prosecutor to be represented by counsel or a solicitor, by leaving a copy of the application at the office of the counsel or solicitor or sending a registered letter addressed to the counsel or solicitor at his or her office: 30

“(b) In any other case, by delivering a copy of the application personally to the accused or in such other manner as a Trial Judge may direct. 35

“(5) Any application under this section may be made to a Trial Judge when sitting in Court or in Chambers, and if the accused is represented by counsel, it is not necessary for the accused to be brought or appear before the Trial Judge on the hearing of the application. 40

“(6) A Registrar may exercise the power conferred by **subsection (1)** of this section if the accused has consented to the filing of an amended indictment, whether personally or by his or her counsel or solicitor.

5       “**346. Failure of prosecutor to file indictment**—(1) If the prosecutor does not file an indictment within the 42-day period referred to in **section 345A** of this Act or within such further time as may be allowed under **section 345B** of this Act, the Court may direct that the accused be discharged.

10       “(2) A discharge under this section shall be deemed to be an acquittal.

      “(3) In such a case involving a private prosecution, the Court may order the prosecution to pay the costs of the accused.”

15       **31. Further amendments to principal Act and amendments to other enactments**—(1) The principal Act is hereby amended in the manner indicated in the **First** Schedule to this Act.

20       (2) The enactments specified in the **Second** Schedule to this Act are hereby amended in the manner indicated in that Schedule.

      (3) The principal Act is hereby consequentially amended by omitting from the heading immediately above section 345 the word “*Presenting*”, and substituting the word “*Filing*”.

25       **32. Savings provision relating to indictments**—Nothing in **section 30** of this Act applies to any indictment in respect of an accused committed for trial before the commencement of that section.

30       **33. Transitional and savings provisions relating to power of District Court to order trial by Trial Judge alone**—(1) Nothing effected by **section 31** of this Act in relation to section 28D(1) of the District Courts Act 1947 or section 168c of the Summary Proceedings Act 1957 or section 361B(1) or section 361c(2)(a) of the Crimes Act 1961 applies in relation to any accused committed for trial before  
35       the date of commencement of that section if the trial of the accused has commenced before that date.

      (2) Where the accused has been committed for trial before the date of commencement of the **section 31** of this Act, but the trial of the accused has not commenced before that date,  
40       section 361B(1) of the Crimes Act 1961 (as amended by **section 31** of this Act) shall, so far as it is applicable, apply as if

for the words “date on which he is so committed” there were substituted the words “commencement of **section 31** of the Crimes Amendment Act 1995”.

PART VI

AMENDMENTS TO CRIMINAL JUSTICE ACT 1985

5

**34. This Part to be read with Criminal Justice Act 1985**—(1) This Part of this Act and the **Third Schedule** to this Act shall be read together with and be deemed part of the (*Summary Proceedings Act 1957*) **Criminal Justice Act 1985**\* (in this Part of this Act referred to as the principal Act).

10

*New*

(2) This Part of this Act and the **Third Schedule** to this Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

\*1985, No. 120

Amendments: 1986, No. 83; 1987, No. 25; 1987, No. 95; 1987, No. 168; 1989, No. 20; 1989, No. 91; 1993, No. 43; 1993, No. 93; 1994, No. 28

**35. Minimum periods of imprisonment**—Section 80 of the principal Act (as substituted by section 39 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by repealing subsection (1), and substituting the following subsection:

15

“(1) Subject to subsections (2) and (3) of this section, if a court sentences an offender to an indeterminate sentence, it may also order—

20

“(a) In the case of murder, upon application made within 14 days after the date of the delivery of the verdict; and

25

“(b) In any other case, at the same time as it sentences the offender—

that the offender serve a minimum period of imprisonment of more than 10 years.”

**36. Period on remand to be taken as time served**—

30

(1) Section 81 of the principal Act (as substituted by section 40 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) The superintendent of any penal institution or the person in charge of any hospital, as the case may require, shall for the purposes of this section cause a record to be kept of—

5 “(a) The date on which any person is admitted to the institution on remand or to the hospital for detention under section 121 of this Act or section 45 or section 46 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; and

10 “(b) The total period during which that person is detained in the institution on remand or detained in the hospital—

at any stage of the proceedings leading to the person’s conviction or pending sentence, whether that period or any part of it relates to any charge on which the person was eventually convicted or any other charge on which the person was originally arrested or that the person faced at any time subsequent to his or her arrest and prior to conviction.”

15 (2) Section 81 of the principal Act (as so substituted) is hereby amended by inserting in subsections (2), (3), and (8), after the words “on remand”, the words “or in a hospital”.

20 (3) **Subsection (1)** of this section shall not apply in respect of any sentences imposed before the commencement of this section or any sentences imposed in substitution for any such sentences.

25 *New*

(4) **Subsection (1)** of this section shall not apply in respect of any period spent in any Police jail or any hospital before the date of the commencement of this section.

30 **37. Jurisdiction of Parole Board to release offenders on parole—**

*New*

(1A) Section 97 of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by repealing subsection (1), and substituting the following subsection:

35 “(1) This section applies to—

*New*

“(a) Offenders who are subject to one or more indeterminate sentences or to one or more sentences of imprisonment for term of 7 years or more; and

“(b) Notwithstanding section 100 (1) of this Act, offenders who have been recalled under this Part of this Act to continue serving a sentence, being a sentence in respect of which the offenders have at any time been subject to an order made under section 105 of this Act.”

(1) Section 97 of the principal Act (as *substituted by section 43 (1) of the Criminal Justice Amendment Act 1993* so substituted) is hereby amended by omitting from subsection (2), and also from subsection (3), the expression “subsection (8)”, and substituting in each case the expression “subsections (4), (4A), and (8)”.

(2) Section 97 of the principal Act (as so substituted) is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) An offender referred to in subsection (4) of this section who has been recalled or returned to a penal institution may,—

“(a) At any time after his or her recall or return, apply to the Parole Board to have his or her case considered for parole; and

“(b) From time to time thereafter, apply to the Board to have his or her case considered again;—

and the Board shall consider the case as soon as practicable after an application is made under **paragraph (a)** of this subsection, and shall consider the case again as soon as practicable after each subsequent application under **paragraph (b)** of this subsection unless the application is made within 6 months after a previous application by the offender under this subsection, when it may refuse to consider the case.”

(3) Section 97 (9) of the principal Act (as so substituted) is hereby amended by inserting, after the expression “or subsection (4)”, the expression “or **subsection (4A)**”.



*New*

**37A. Jurisdiction of Parole Board where offender to be released at final release date**—Section 99 of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) This section applies to—

“(a) Offenders who are subject to one or more sentences of imprisonment for a term of 7 years or more and who are to be released at their final release dates pursuant to paragraph (b) or paragraph (d) of subsection (1) or to subsection (4) of section 90 of this Act; and

“(b) Offenders in respect of whom an order has been made under section 105 of this Act and who are to be released at their final release dates pursuant to section 90 (2) of this Act.”

**37B. Jurisdiction of District Prisons Boards where offender to be released at final release date**—Section 101 of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by omitting, from subsection (1), the expression “subsection (2) or”.

*Struck Out*

**38. Offender may be required to serve full term**—Section 105 of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by repealing subsection (7), and substituting the following section:

“(7) On any such review, the Parole Board may—

“(a) Revoke the order if no longer satisfied that the offender would commit a specified offence between the date of release and the applicable release date if the offender were released before his or her applicable release date; and

“(b) At the same time, determine, pursuant to section 99 of this Act, the nature and duration of the conditions

*Struck Out*

to which the offender shall be subject on release; and, if the offender is subject to a sentence of imprisonment of less than 7 years, that section shall apply as if the offender were subject to a sentence of imprisonment of 7 years or more.”

5

**39. Rights of offender whose case is to be considered by Parole Board or District Prisons Board**—Section 107 of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by

10

repealing subsection (5), and substituting the following section:  
“(5) Subject to subsection (6) of this section, whenever any case is to be considered under any of sections 97, 99, 100, and 101 of this Act, a copy of—

“(a) Any report to be submitted to the Parole Board or the appropriate District Prisons Board pursuant to section 106 of this Act; and

15

“(b) Any report referred to in section 102 (4) of this Act that has been prepared in relation to the offender; and

“(c) Any report referred to in section 103 (4) of this Act that has been prepared in relation to the offender—

20

shall be given to the offender in sufficient time to enable the offender to submit any comments he or she may wish to make on the report or reports for consideration by the Board.”

**40. Application for recall**—(1) Section 107<sup>1</sup> of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by repealing subsection (1), and substituting the following subsection:

25

“(1) Subject to subsections (2) and (6) of this section, the Secretary may apply to the Parole Board for an order that any offender who is subject to an indeterminate sentence and has been released under this Part of this Act be recalled to a penal institution to continue serving his or her sentence.”

30

(2) (~~Section 107<sup>1</sup>~~)Section 107<sup>1</sup>(2) of the principal Act (as so substituted) is hereby amended—

35

(a) By omitting the word “psychiatric”;

(b) By omitting the words “any such institution”, and substituting the words “any such hospital”.

(3) Section 107I of the principal Act (as so substituted) is hereby amended by adding the following subsection:

5 “(9) If an order recalling an offender is made under section 107L or section 107M of this Act and the sentence to which the order relates had ceased to run by virtue of subsection (8) of this section, that sentence shall begin to run again only when the offender is taken into custody.”

10 **41. Interim order for recall**—(1) Section 107J (2) of the principal Act (as substituted by section 43 (1) of the Criminal Justice Amendment Act 1993) is hereby amended by inserting, after paragraph (a), the following paragraph:

“(aa) The offender is subject to a sentence of life imprisonment for murder or manslaughter or to a sentence of preventive detention; or”.

15 (2) Section 107J of the principal Act (as so substituted) is hereby amended by inserting, after subsection (2), the following subsection:

20 “(2A) In determining an application under subsection (2) (b) of this section, the Chairperson shall disregard the fact that the offender is or is not for the time being in custody”.

**42. Further amendments to principal Act**—The principal Act is hereby amended in the manner indicated in the **Third** Schedule to this Act.

25 **43. Amendment to Armed Forces Discipline Act 1971**—Section 168 (2) of the Armed Forces Discipline Act 1971 is hereby amended by omitting the expression “section 80 or section 90 or section 91 or sections 93 to 95” (as substituted by section 150 (1) of the principal Act), and substituting the expression “any of sections 89, 90, 91, 94, 97, 99, 100, and  
30 101”.

## PART VII

### AMENDMENTS TO JUDICATURE ACT 1908

35 **44. This Part to be read with Judicature Act 1908**—(1) This Part of this Act shall be read together with and deemed part of the Judicature Act 1908\* (in this Part of this Act referred to as the principal Act).

\*1908, No. 89 (R.S. Vol. 22, p. 107)

Amendments: 1988, No. 194; 1990, No. 44; 1991, No. 60; 1994, No. 42

*New*

(2) This Part of this Act shall come into force on the day after the date on which this Act receives the Royal assent.

**45. Number of Judges increased**—(1) Section 4 (1) of the principal Act (as inserted by section 4 (1) of the Judicature Amendment Act 1957 and amended by section 2 (1) of the Judicature Amendment Act (No. 2) 1988) is hereby amended by omitting the expression “32”, and substituting the expression “36”. 5

(2) The Judicature Amendment Act (No. 2) 1988 is hereby consequentially repealed. 10

---

SCHEDULES

FIRST SCHEDULE

Section 31 (1)

FURTHER AMENDMENTS TO PRINCIPAL ACT

Provision of Principal Act	Amendment
Section 258 (2) (b) ...	By omitting from the proviso the word "presented", and substituting the word "filed".
Section 321 (4) ...	By omitting the word "presented", and substituting the word "filed".
Section 322 ...	By omitting the word "presented" wherever it occurs, and substituting in each case the word "filed".
Section 325 (1) ...	By omitting the word "presented", and substituting the word "filed".
Section 326 (1) ...	By omitting the word "presented" in both places where it occurs, and substituting in each case the word "filed".
Section 335 ...	By omitting the word "presented" wherever it occurs, and substituting in each case the word "filed".
Section 336 ...	By inserting in subsection (2), after the words "amend an indictment", the words "under section 335 of this Act". By adding the following subsection: "(3) Nothing in subsection (2) of this section limits anything in <b>section 345c</b> of this Act."
Section 340 (5) ...	By omitting the word "presented", and substituting the word "filed".
Section 345 ...	By omitting the word "presented" wherever it occurs, and substituting in each case the word "filed".
Section 347 ...	By omitting from subsection (3) the word "present", and substituting the word "file".
Section 348 ...	By omitting the word "presented" wherever it occurs, and substituting in each case the word "filed".
Section 348 ...	By omitting the word "presented", and substituting the word "filed".
Section 350 ...	By omitting the word "presented" wherever it occurs, and substituting in each case the word "filed".
Section 353 ...	By omitting the word "presented" wherever it occurs, and substituting in each case the word "filed".
Section 361 (1) ...	By omitting the word "presented", and substituting the word "filed".

*Courts and Criminal Procedure*  
(Miscellaneous Provisions)

FIRST SCHEDULE—*continued*

FURTHER AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision of Principal Act	Amendment
Section 361B (1) ...	By inserting, before the words “for trial for any offence”, the words “or to a District Court Judge exercising jurisdiction under section 28A of the District Courts Act 1947”.
Section 361C (2) (a) ...	By inserting, before the words “at the place”, the words “or of the District Court, as the case may require,”.
Section 378 ...	By omitting the expression “section 168B”, and substituting the expression “section 168c”.
Section 379A (1) ...	By omitting the word “presented”, and substituting the word “filed”.
Section 379A (1) ...	By inserting, after paragraph (c), the following paragraphs: “(ca) Against an order under section 345B of this Act extending the period allowed for filing an indictment or refusing to do so: “(cb) Against an order under section 345C of this Act excusing the prosecution from the obligation to disclose certain information: “(cc) Against an order under section 345D of this Act granting or refusing leave to file an amended indictment: “(cd) Against an order under section 346 of this Act discharging or refusing to discharge an accused:”.
Section 411 (3) ...	By inserting, after paragraph (c), the following paragraphs: “(ca) Against an order under section 345B of this Act extending the period allowed for filing an indictment or refusing to do so: “(cb) Against an order under section 345C of this Act excusing the prosecution from the obligation to disclose certain information: “(cc) Against an order under section 345D of this Act granting or refusing leave to file an amended indictment: “(cd) Against an order under section 346 of this Act discharging or refusing to discharge an accused:”.
Section 411 (3) ...	By omitting the word “presenting” wherever it occurs, and substituting in each case the word “filing”.
Section 411 (3) ...	By omitting the word “presented”, and substituting the word “filed”.
Second Schedule ...	By omitting from Form 4 the word “presented”, and substituting the word “filed”.

SECOND SCHEDULE  
AMENDMENTS TO OTHER ENACTMENTS

Section 31 (2)

Enactment	Amendment
1947, No. 16—The District Courts Act 1957 (R.S. Vol. 28, p. 57)	By omitting from section 28D(1) (as inserted by section 9 of the District Courts Amendment Act 1980) the word “Every”, and substituting the words “Subject to sections 361B and 361c of the Crimes Act 1961, every”.
1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)	By inserting in section 168c (as inserted by section 2 of the Summary Proceedings Amendment Act 1979 and renumbered by section 12 of the Summary Proceedings Amendment Act 1980), before the words “for an order”, the words “or a trial Judge of the District Court, as the case may require,”.

—

## Section 42

THIRD SCHEDULE  
FURTHER AMENDMENTS TO PRINCIPAL ACT

Provision	Amendment
Section 2 (1)     ...     ...	By omitting from the definition of the term "hospital" the words " , other than a security institution,".
Section 21A (4)     ...     ...	By inserting, after the words "the court", the words "sentencing the offender for the further offence".
Section 36 (1) (c)     ...     ...	By omitting the expression "subsections (1) and (2)", and substituting the expression "subsection (1) or subsection (2) or subsection (2A)".
Section 66 (4) (d)     ...     ...	By omitting the expression "section 88 (3) (c)" (as substituted by section 31 (2) of the Criminal Justice Act 1993), and substituting the expression "section 88 (3) (d)".
Section 75 (3)     ...     ...	By omitting from subsection (3) the words "as if there were added to subsection (1) of that section the words 'and a statement that the court has declined jurisdiction upon the ground that the court has reason to believe that the offender is liable to preventive detention'", and substituting the words "and the court shall endorse on the relevant information a statement to the effect that the court has declined jurisdiction upon the ground that it has reason to believe that the offender is liable to preventive detention".
Section 93     ...     ...	By omitting the expression "7 days", and substituting the expression "14 days".
Section 95 (4) (a)     ...     ...	By omitting the words "subject to an order made under section 45 of that Act or to arrangements made under section 46 of that Act", and substituting the words "detained under section 45 or section 46 of that Act".
Section 100     ...     ...	By omitting from subsection (2), and also from subsection (3), the expression "subsection (8)", and substituting in each case the expression "subsections (4), (4A), and (8)". By inserting, after subsection (4), the following subsection: "(4A) An offender referred to in subsection (4) of this section who has been recal-



THIRD SCHEDULE—*continued*

FURTHER AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision	Amendment
Section 100— <i>continued</i>	<p>led or returned to a penal institution may, —</p> <p>“(a) At any time after his or her recall or return, apply to the Parole Board to have his or her case considered for parole; and</p> <p>“(b) From time to time thereafter, apply to the Board to have his or her case considered again;—</p> <p>and the Board shall consider the case as soon as practicable after an application is made under <b>paragraph (a)</b> of this subsection, and shall consider the case again as soon as practicable after each subsequent application under <b>paragraph (b)</b> of this subsection unless the application is made within 6 months after a previous application by the offender under this subsection, when it may refuse to consider the case.”</p>
Section 103 (1) (b) ...	By adding the words “or on the revocation of an order made under that section”.
Section 105 ...	By omitting from subsection (8) the words “3 months before the sentence expiry date”, and substituting the words “on the applicable release date”.
	By repealing subparagraph (i) of subsection (9) (a), and substituting the following subparagraph:
	<p>“(i) In the case of an offender who is subject to a sentence of imprisonment imposed in respect of a specified offence, 3 months before the sentence expiry date of that sentence:”.</p>
Section 107 ...	By inserting in subsection (1), and also in subsection (2), after the words “An offender”, the words “(including an offender who has been recalled to serve a sentence)”.
	By omitting from subsection (1) the words “an indeterminate sentence or to a sentence”, and substituting the words “one or more indeterminate sentences or to one or more sentences”.

*Courts and Criminal Procedure*  
*(Miscellaneous Provisions)*

THIRD SCHEDULE—*continued*

FURTHER AMENDMENTS TO PRINCIPAL ACT—*continued*

Provision	Amendment
Section 107L (7)      ...	By omitting the words “to whom subsection (1) (b) of this section relates”.
Section 115 (1)      ...	By omitting the words “Mental Health Act 1969”, and substituting the words “Mental Health (Compulsory Assessment and Treatment) Act 1992”.
Section 116 (2) (b)      ...	By omitting the word “committed”.