

District Courts Amendment Bill (No 5)

Government Bill

As reported from the committee of the whole
House

This bill was formerly part of the Criminal Procedure Bill as reported from the Law and Order Committee. The committee of the whole House has further amended the bill and has divided it into the following bills:

- Crimes Amendment Bill (No 3) comprising clauses 1 and 2, and Part 1
- Criminal Disclosure Bill comprising Part 2, and Schedules 1 and 2
- This bill comprising Part 3 and Schedule 3
- Juries Amendment Bill comprising Part 4
- Summary Proceedings Amendment Bill (No 4) comprising Part 5, and Schedules 4 to 6
- Victims' Rights Amendment Bill comprising Part 6.

District Courts Amendment Bill (No 5)

Key to symbols used in reprinted bill

**As reported from the committee of the whole
House**

text inserted

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Hon Annette King

District Courts Amendment Bill (No 5)

Government Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the District Courts Amendment Act (No 5) **2008**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

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58 Principal Act amended

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This **Part** amends the District Courts Act 1947.

59 Commencement

This **Part** and **Schedule 3** come into force on the day after the date on which this Act receives the Royal assent.

60 Extent of jurisdiction under Part II of this Act

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(1) Section 28A is amended by repealing subsection (1) and substituting the following subsection:

“(1) A Court that is sitting at a place appointed under section 4(2A) and is presided over by a trial Judge has jurisdiction under this Part in respect of the following offences:

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“(a) any offence for which the accused elects under section 66 of the Summary Proceedings Act 1957 to be tried by a jury:

“(b) all indictable offences under any enactment (other than the offences referred to in **Parts 1 and 2 of Schedule 1A**):

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“(c) the indictable offences referred to in **Part 1 of Schedule 1A**, in any case where—

“(i) the proceedings are transferred to the Court under section 168AA of the Summary Proceedings Act 1957; or

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“(ii) a person pleads guilty under section 153A or 168 of the Summary Proceedings Act 1957, before he or she is committed for trial or sentence to any for any such offence:

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“(d) conspiring to commit an indictable offence to which **paragraph (b) or (c)** applies:

“(e) attempting to commit an indictable offence to which **paragraph (b) or (c)** applies, or inciting or counselling

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

“(f) being an accessory after the fact to any indictable offence to which **paragraph (b) or (c)** applies.”

(2) Section 28A(2) is amended by omitting “paragraphs (d), (f), (g), and (h)” and substituting “paragraphs (c) to (f)”. 5

(3) Section 153A(6)(a) of the Summary Proceedings Act 1957 is consequentially amended by repealing subparagraphs (i) to (v) and substituting the following subparagraphs:

“(i) the defendant elected under section 66 to be tried by a jury; or 10

“(ii) the offence is an indictable offence under any enactment (other than an offence referred to in **Part 2 of Schedule 1A** of the District Courts Act 1947); or 15

“(iii) the offence is an offence to which **section 28A(1)(d), (e), or (f)** of the District Courts Act 1947 applies.—”

(4) Section 168A(1)(a) of the Summary Proceedings Act 1957 is consequentially amended by omitting “paragraphs (a) to (d) of section 28A(1) of the District Courts Act 1947” and substituting “**paragraphs (a), (b), and (d) to (f) of section 28A(1)** of the District Courts Act 1947”. 20

(5) Section 168AA(1) of the Summary Proceedings Act 1957 is consequentially amended by omitting “Part II” and substituting “**Part I**”. 25

61 Maximum sentences

Section 28F(3) is amended by repealing paragraph (a) and substituting the following paragraph:

“(a) a person pleads guilty under section 153A or 168 of the Summary Proceedings Act 1957, before or during the preliminary hearing, to— 30

“(i) any offence for which the accused elects trial by jury under section 66 of the Summary Proceedings Act 1957; or 35

“(ii) any indictable offence under any enactment (other than the offences referred to in **Part 2 of Schedule 1A**); or

“(iii) any offence to which **section 28A(1)(d), (e), or (f)** applies; and”.

62 Appeal against sentence

Section 28H is amended by repealing subsection (2) and substituting the following subsections: 5

“(2) If this section applies, then,—

“(a) in any case where the sentence imposed exceeds the maximum term of imprisonment or the maximum fine that may be imposed by a District Court Judge under section 7 of the Summary Proceedings Act 1957 (which is a term of imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both),— 10

“(i) the person sentenced may appeal to the Court of Appeal under **section 383(1A)** of the Crimes Act 1961; and 15

“(ii) the Solicitor-General may appeal, with the leave of the Court of Appeal, to the Court of Appeal under **section 383(2A)** of the Crimes Act 1961; and

“(b) in any other case,— 20

“(i) the person sentenced may appeal to the High Court under **section 115(2A)** of the Summary Proceedings Act 1957; and

“(ii) the informant, with the consent of the Solicitor-General given under section 115A(2) of the Summary Proceedings Act 1957, may appeal against the sentence to the High Court under **section 115A(1A)** of the Summary Proceedings Act 1957. 25

“(2A) This section is subject to **section 384A** of the Crimes Act 1961.” 30

62A Regulations

Section 123(1) is amended by inserting the following paragraphs after paragraph (be):

“(bf) amending **Schedule 1A** by adding offences to, or removing offences from, **Part 1 or Part 2** of that schedule: 35

“(bg) prescribing transitional arrangements for the trial and sentencing of persons charged with offences that are added to or removed from **Part 1 or Part 2** of **Schedule 1A**”.

- 63 New Schedule 1A substituted** 5
 Schedule 1A is repealed, and the **Schedule 1A** set out in **Schedule 3** substituted.
- 64 Transitional provision**
- (1) **Subsection (2)** applies to any offence that—
- (a) before the commencement of the District Courts Amendment Act **2004**, could be tried by a Court presided over by a trial Judge; but 10
- (b) after the commencement of the District Courts Amendment Act **2004**, cannot be tried by a Court presided over by a trial Judge or can only be so tried after transfer to the Court by the High Court under the Summary Proceedings Act 1957. 15
- (2) If a defendant is committed for trial before the commencement of the District Courts Amendment Act **2004** in respect of an offence to which this subsection applies, and the committal was to the District Court, that Court may try the offence, despite that Act. 20
- (3) This section does not affect the application of the Interpretation Act 1999 in respect of any transitional matter related to the District Courts Amendment Act **2004** not provided for in this section. 25

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Schedule 3**s 63****New Schedule 1A substituted in District
Courts Act 1947****Schedule 1A****ss 28A(1), 28F(3) 5****Offences triable in either District Court
or High Court and offences triable only in
High Court****Part 1****10****Offences triable in either District Court or
High Court (middle band offences)***Part A — Offences against Crimes Act 1961*

Section	Offence
Section 104	Corruption and bribery of law enforcement officer
Section 105	Corruption and bribery of official
Section 105A	Corrupt use of official information
Section 105B	Use or disclosure of personal information disclosed in breach of section 105A
Section 105C	Bribery of foreign public official
Section 105D	Bribery outside New Zealand of foreign public official
Section 128‡	Sexual violation
Section 128*	Rape
Sections 128, 128B	Sexual violation
Section 129‡	Attempt to commit sexual violation
Section 129(1)	Attempted sexual violation
Section 129(2)	Attempted assault with intent to commit sexual violation
Section 129A‡	Inducing sexual connection by coercion
Section 129A(1)	Inducing sexual connection by threat
Section 132(1)‡	Sexual intercourse with girl under 12
Section 132(1)	Sexual connection with child under 12
Section 132(2)	Attempted sexual connection with child under 12
Section 132(3)	Indecent act on child under 12
Section 142‡	Anal intercourse
Section 142**	Sodomy
Section 142A	Compelling indecent act with animal
Section 144A	Sexual conduct with children outside New Zealand

Schedule 1A—*continued*
Part 1—*continued*

Section	Offence
Section 144C	Organising or promoting child sex tours
Section 188	Wounding with intent
Section 191	Aggravated wounding or injury
Section 198	Discharging firearm or doing dangerous act with intent
Section 198A(1)	Using firearm against law enforcement officer, etc
Section 199	Acid throwing
Section 200(1)	Poisoning with intent
Section 201	Infecting with disease
Section 203(1)†	Endangering transport
Section 204	Impeding rescue
Section 208‡	Abduction of woman or girl
Section 208	Abduction for purposes of marriage or sexual connection
Section 209	Kidnapping
Section 232(1)	Aggravated burglary
Section 235(1)(a) and (c)†	Aggravated robbery (causing grievous bodily harm)
Section 235	Aggravated robbery
Section 235(1)(b)†	Aggravated robbery (with other person or persons)
Section 236(1)	Assault with intent to rob
Section 239(1)	Demanding with intent to steal, etc
Section 240A†	Aggravated burglary
Section 267(1)	Arson
Section 269(1)	Intentional damage
Section 270	Endangering transport
Section 294†	Arson
Section 298(1)†	Wilful damage

*as it read before 1 February 1986

**as it read before 8 August 1986

†as it read before 1 October 2003

‡as it read before 20 May 2005

Schedule 1A—*continued*Part 1—*continued**Part B — Offences against Misuse of Drugs Act
1975*

Section	Offence
Section 6	Dealing with controlled drugs (but only where the charge relates to a class B controlled drug)
Section 12C	Commission of offences outside New Zealand (other than offences against subsection (1)(a))

*Part BA — Offences against Prostitution Reform
Act 2003*

Section	Offence
Section 16	Inducing or compelling persons to provide commercial sexual services or earnings from prostitution

Part C — Offences against Securities Act 1978

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Section	Offence
Section 58	Misstatement in advertisement or registered prospectus

Part 2

Offences triable only in High Court

Part A — Offences against Crimes Act 1961

Section	Offence
Section 68(1)	Party to murder outside New Zealand
Section 68(2)	Inciting murder outside New Zealand (not committed)
Section 69(1)	Party to any other crime outside New Zealand
Section 69(2)	Inciting treason outside New Zealand (not committed)
Section 69(3)	Aiding and abetting crime outside New Zealand
Section 73	Treason (or conspiracy to commit treason)
Section 74(3)	Attempted treason
Section 76	Accessory to, or failure to prevent, treason
Section 77	Inciting to mutiny
Section 78	Espionage
Section 79(1)	Sabotage

Schedule 1A—continued
Part 2—continued

Section	Offence
Section 92(1)	Piracy
Sections 93, 94	Piratical acts
Section 95	Attempts to commit piracy
Section 96	Conspiring to commit piracy
Section 97	Accessory after the fact to piracy
Section 98(1)	Dealing in slaves
Section 98C	Smuggling migrants
Section 98D	Trafficking in people by means of coercion or deception
Section 100	Judicial corruption
Section 101	Bribery of judicial officer, etc
Section 102	Corruption and bribery of Minister of the Crown
Section 103	Corruption and bribery of member of Parliament
Section 172	Murder
Section 173	Attempted murder
Section 174	Attempting to procure murder (not committed)
Section 175	Conspiracy to murder
Section 176	Accessory after the fact to murder
Section 177	Manslaughter
Section 178	Infanticide
Section 179	Aiding and abetting suicide
Section 180(2)	Surviving party of suicide pact
Section 182	Killing unborn child
Section 183(1)	Procuring abortion
Section 237	Blackmail
Section 238(1)†	Extortion by certain threats
Section 301†	Wrecking

†as it read before 1 October 2003

*Part B — Offences against Anti-Personnel
Mines Prohibition Act 1998*

Section	Offence
Section 7	Using, etc, an anti-personnel mine

Schedule 1A—*continued*Part 2—*continued**Part C — Offences against Aviation Crimes Act
1972*

Section	Offence
Section 3	Hijacking
Section 5	Other crimes relating to aircraft
Section 5A	Crimes relating to international airports

*Part D — Offences against Chemical Weapons
(Prohibition) Act 1996*

Section	Offence
Section 6	Chemical weapons
Section 8	Riot control agents

*Part E — Offences against Crimes
(Internationally Protected Persons, United
Nations and Associated Personnel, and
Hostages) Act 1980*

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Section	Offence
Section 3	Crimes against persons
Section 4	Crimes against premises or vehicles
Section 5	Threats against persons
Section 6	Threats against premises or vehicles
Section 8(1)	Hostage-taking

*Part F — Crimes against Crimes of Torture Act
1989*

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Section	Offence
Section 3	Acts of torture

Schedule 1A—*continued*Part 2—*continued**Part G — Crimes against Geneva Conventions Act 1958*

Section	Offence
Section 3(4)	Grave breaches of Conventions or First Protocol

Part H — Crimes against Judicature Act 1908

Section	Offence
Section 56C(2)	Contempt of Court
Section 56O	Contempt of Federal Court of Australia

Part I — Offences against Maritime Crimes Act 1999

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Section	Offence
Section 4(1)(a)–(h)	Crimes relating to ships
Section 4(2)(a), (b)	Crimes relating to ships
Section 4(3)(a), (b)	Crimes relating to ships
Section 5(1)(a)–(e)	Crimes relating to fixed platforms
Section 5(2)(a), (b)	Crimes relating to fixed platforms
Section 5(3)(a), (b)	Crimes relating to fixed platforms

Part J — Crimes against Misuse of Drugs Act 1975

Section	Offence
Section 6(2)(a)	Dealing with controlled drugs (Class A)
Section 6(2A)(a)	Conspiring to deal with controlled drugs (Class A)
Section 10(1)	Aiding offences against law of another country

Part K — Crimes against New Zealand Nuclear Free Zone, Disarmament, and Arms Control Act 1987

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Section	Offence
Sections 5–8, 14	Offences against Act

Schedule 1A—*continued*

Part 2—*continued*

*Part L — Crimes against Nuclear-Test-Ban Act
1999*

Section	Offence
Section 5	Nuclear explosions prohibited

Part M — Terrorism Suppression Act 2002

Section	Offence
<u>Section 7(1)</u>	<u>Terrorist bombing</u>
<u>Section 8(1), (2A)</u>	<u>Financing of terrorism</u>
<u>Section 9(1)</u>	<u>Prohibition on dealing with property of, or derived or generated from property of, terrorist and associated entities</u>
<u>Section 10(1)</u>	<u>Prohibition on making property, or financial or related services, available to terrorist and associated entities</u>
<u>Section 12(1)</u>	<u>Recruiting members of terrorist groups</u>
<u>Section 13(1)</u>	<u>Participating in terrorist groups</u>
<u>Section 13A</u>	<u>Harbouring or concealing terrorists</u>
<u>Section 13B</u>	<u>Offences involving use and movement of unmarked plastic explosives</u>
<u>Section 13C</u>	<u>Offences involving physical protection of nuclear material</u>
<u>Section 13D</u>	<u>Importation, acquisition, etc. of radioactive material</u>

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Legislative history

17 June 2008 Divided from Criminal Procedure Bill (Bill 158–2)
by committee of the whole House as Bill 158–3C

