

INLAND REVENUE OFFENCES BILL

EXPLANATORY NOTE

THIS Bill amends the Inland Revenue Department Act 1974, the Land Tax Act 1976, and the Estate and Gift Duties Act 1968 to give effect to the announcement in the Statement on Taxation and Benefit Reform 1985 that penalties for tax evasion offences committed after 1 April 1986 will be substantially increased.

It is proposed at the appropriate stage to seek the leave of the House to divide the Bill into its component parts for final enactment as separate Bills.

Clause 1 deals with the Short Title and the application. This Bill is to apply to offences committed on or after 1 April 1986.

PART I

AMENDMENTS TO INLAND REVENUE DEPARTMENT ACT 1974

Clause 3 inserts a new section 47A in the principal Act providing that any officer or employee of a corporate body responsible for furnishing to the Commissioner on behalf of that body any information or statement required under the principal Act, who fails to furnish such information or statement, commits an offence.

Clause 4 inserts a new section 47B in the principal Act setting out in one provision all the penalties for offences against the principal Act and increasing the penalties that may be imposed, particularly in the case of subsequent convictions.

Subsection (1) of the new section provides that any person who commits an offence against section 13 (5) or section 14 (7) or section 15 (6) (all breach of secrecy provisions) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a maximum fine of \$15,000.

At present the term of imprisonment is the same, and the maximum fine is \$2,000.

Subsection (2) provides that any person who commits an offence against section 14 (6) (breach of secrecy provision) or section 47 (1)(a) (failure to comply with any provision of the principal Act or any requirement imposed under that Act) is liable on summary conviction to a maximum fine of \$15,000.

At present the maximum fine is \$500.

Subsection (3) provides that any person who commits an offence against section 17 (8) (failure to furnish information on request) or section 18 (9) (failure to appear

before or answer any question at an inquiry by a District Court Judge) or section 19 (3) (failure to appear before or answer any question at an inquiry by the Commissioner) or section 47A (2) (as inserted by *clause 3* of the Bill) is liable on summary conviction to a maximum fine of \$2,000 and \$50 a day of default on first conviction, a maximum fine of \$4,000 and \$100 a day of default on second conviction, and a maximum fine of \$6,000 and \$150 a day of default on any subsequent conviction.

At present the maximum fine for an offence against section 17 (8) is \$25 a day of default, and against section 18 (9) or section 19 (3) is \$1,000.

Subsection (4) provides that the maximum fine for all other offences is to be \$15,000 on first conviction and \$25,000 on any subsequent conviction.

At present the maximum fine is \$500.

Clause 5 deals with consequential amendments.

PART II

AMENDMENTS TO LAND TAX ACT 1976

Clause 7 provides that a person who commits an offence against section 58 (1) (a) (failure to furnish return or information) or section 58A (2) (as inserted by *clause 7* of the Bill) is liable on summary conviction to a maximum fine of \$2,000 on first conviction, \$4,000 on second conviction, and \$6,000 on any subsequent conviction.

At present the maximum fine for an offence against section 58 (1) (a) is \$500.

It also provides that in respect of all other offences against the principal Act the maximum fine is to be \$15,000 on first conviction and \$25,000 on any subsequent conviction.

At present the maximum fine is \$2,000.

Clause 8 inserts a new section 58A in the principal Act providing that any officer or employee of a corporate body responsible for furnishing to the Commissioner on behalf of that body any information or statement or return required under the principal Act, who fails to furnish such information or statement or return, commits an offence.

PART III

AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

Clause 10: Subclause (1) provides that any person who, with intent to evade any duty, penalty, or interest under the principal Act, delivers any document to the Commissioner which that person knows to be false in any particular is to be liable on indictment to imprisonment for a term not exceeding 3 years or to a maximum fine of \$15,000 on first conviction and \$25,000 on any subsequent conviction.

At present the term of imprisonment is the same, and the maximum fine is \$2,000.

It also provides that any person who wilfully or negligently gives any false information to or misleads or attempts to mislead an officer of the Inland Revenue Department in relation to any payment of duty, penalty, or interest payable under the principal Act is liable on summary conviction to a maximum fine of \$15,000 on first conviction and \$25,000 on any subsequent conviction.

At present the maximum fine is \$2,000.

Subclause (2) provides that for all other offences against the principal Act the maximum fine is to be \$2,000 on first conviction, \$4,000 on second conviction, and \$6,000 on any subsequent conviction.

At present the maximum fine is \$500.

Hon. R. O. Douglas

INLAND REVENUE OFFENCES

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A BILL INTITULED

An Act to amend the law relating to offences and to penalties for offences against certain of the Inland Revenue Acts and to amend the Inland Revenue Department Act 1974, the Land Tax Act 1976, and the Estate and Gift Duties Act 1968

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

No. 52—1

1. Short Title and commencement—(1) This Act may be cited as the Inland Revenue Offences Act 1985.

(2) This Act shall come into force on the 1st day of April 1986 and apply to offences committed on or after that date.

(3) Any proceedings commenced (whether before or after the commencement of this Act) for an offence committed before the commencement of this Act shall be heard and determined as if this Act had not been enacted. 5

PART I

AMENDMENTS TO INLAND REVENUE DEPARTMENT ACT 1974 10

2. This Part to be read with Inland Revenue Department Act 1974—This Part of this Act shall be read together with and deemed part of the Inland Revenue Department Act 1974* (in this Part of this Act referred to as the principal Act).

*1974, No. 133

Amendments: 1976, No. 20; 1978, No. 98; 1979, No. 94; 1980, No. 32

3. Officers and employees of corporate bodies—The principal Act is hereby amended by inserting, after section 47, the following section: 15

“47A. (1) For the purposes of this section, unless the context otherwise requires, ‘officer’, in relation to a corporate body, includes— 20

“(a) A director or secretary or other statutory officer of the corporate body:

“(b) A receiver or a manager of any property of the corporate body, or a person having powers or responsibilities, similar to those of such a receiver or manager, in relation to the corporate body: 25

“(c) A liquidator of the corporate body.

“(2) Every person commits an offence against this Act who, being an officer or an employee of a corporate body, is, by reason of that office or, as the case may be, that employment, responsible (whether pursuant to any statute or rule of law, or any instructions of the corporate body or for any other reason) for furnishing to the Commissioner any information or any statement pursuant to this Act or pursuant to any notice, order, or requirement issued, made, or notified pursuant to this Act, and who fails to furnish that information or, as the case may be, that statement to the Commissioner within the time specified for the furnishing thereof.” 30 35

4. Penalties for offences—The principal Act is hereby amended by inserting, after section 47A (as inserted by **section 3** of this Act), the following section:

5 “47B. (1) Every person who commits an offence against section 13 (5) or section 14 (7) or section 15 (6) of this Act is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$15,000.

10 “(2) Every person who commits an offence against section 14 (6) or section 47 (1)(a) of this Act is liable on summary conviction to a fine not exceeding \$15,000.

15 “(3) Every person who commits an offence against section 17 (8) or section 18 (9) or section 19 (3) or **section 47A (2)** of this Act shall, on summary conviction,—

20 “(a) On the first occasion on which that person is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$2,000 or to a fine not exceeding \$50 for each day of default or to both:

25 “(b) On the second occasion on which that person is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$4,000 or to a fine not exceeding \$100 for each day of default or to both:

30 “(c) On every occasion, other than the occasions referred to in **paragraphs (a) and (b)** of this subsection, on which that person is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$6,000 or to a fine not exceeding \$150 for each day of default or to both.

35 “(4) Every person who commits an offence against this Act for which no other penalty is prescribed shall, on summary conviction,—

40 “(a) On the first occasion on which that person is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$15,000:

45 “(b) On every occasion, other than the occasion referred to in **paragraph (a)** of this subsection, on which that person is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$25,000.”

5. Consequential amendments—The principal Act is hereby consequentially amended—

- (a) By omitting from section 13 (5) the words “and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$2,000”, and substituting the words “against this section”: 5
- (b) By omitting from section 14 (6) the words “, and is liable on summary conviction to a fine not exceeding \$1,000”: 10
- (c) By omitting from section 14 (7) the words “and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$2,000”, and substituting the words “against this section”: 15
- (d) By omitting from section 15 (6) the words “and is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$2,000”, and substituting the words “against this section”: 20
- (e) By omitting from section 17 (8) the words “shall be liable on summary conviction to a fine not exceeding \$25 for each day of default”, and substituting the words “commits an offence against this section”:
- (f) By omitting from section 18 (9) the words “shall be liable on summary conviction to a fine not exceeding \$1,000”, and substituting the words “commits an offence against this section”: 25
- (g) By omitting from section 19 (3) the words “shall be liable on summary conviction to a fine not exceeding \$1,000”, and substituting the words “commits an offence against this section”: 30
- (h) By repealing section 47 (2).

PART II

AMENDMENTS TO LAND TAX ACT 1976

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6. This Part to be read with Land Tax Act 1976—This Part of this Act shall be read together with and deemed part of the Land Tax Act 1976* (in this Part of this Act referred to as the principal Act).

*1976, No. 64

Amendments: 1977, No. 59; 1978, No. 21; 1981, No. 17; 1982, No. 139; 1983, No. 12; 1985, No. 68

7. Penalty for failure to furnish returns, etc.—(1) Section 58 of the principal Act (as amended by section 6 (1) of the Land Tax Amendment Act 1977) is hereby further amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) Every person who commits an offence against section 58 (1) (a) or **section 58A (2)** of this Act shall,—

10 “(a) On the first occasion on which that person is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$2,000:

15 “(b) On the second occasion on which that person is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$4,000:

20 “(c) On every occasion, other than the occasions referred to in **paragraphs (a) and (b)** of this subsection, on which that person is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$6,000.

25 “(3) Every person who commits an offence against this Act for which no other penalty is prescribed shall,—

30 “(a) On the first occasion on which that person is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$15,000:

35 “(b) On every occasion, other than the occasion referred to in **paragraph (a)** of this subsection, on which that person is convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$25,000.”

(2) The Land Tax Amendment Act 1977 is hereby consequentially amended by repealing section 6 (1).

8. Officers and employees of corporate bodies—The principal Act is hereby amended by inserting, after section 58, the following section:

“58A. (1) For the purposes of this section, unless the context otherwise requires, ‘officer’, in relation to a corporate body, includes—

“(a) A director or secretary or other statutory officer of the corporate body: 5

“(b) A receiver or a manager of any property of the corporate body, or a person having powers or responsibilities, similar to those of such a receiver or manager, in relation to the corporate body:

“(c) A liquidator of the corporate body. 10

“(2) Every person commits an offence against this Act who, being an officer or an employee of a corporate body, is, by reason of that office or, as the case may be, that employment, responsible (whether pursuant to any statute or rule of law, or any instructions of the corporate body or for any other reason) for furnishing to the Commissioner any information or any statement or any return pursuant to this Act or pursuant to any notice, order, or requirement issued, made, or notified pursuant to this Act, and who fails to furnish that information or that statement or that return, as the case may be, to the Commissioner within the time specified for the furnishing thereof.” 15 20

PART III

AMENDMENTS TO ESTATE AND GIFT DUTIES ACT 1968

9. This Part to be read with Estate and Gift Duties Act 1968—This Part of this Act shall be read together with and deemed part of the Estate and Gift Duties Act 1968* (in this Part of this Act referred to as the principal Act). 25

*Reprinted 1976, Vol. 5, p. 3585

Amendments: 1977, No. 58; 1978, No. 22; 1979, No. 24; 1980, No. 22; 1981, No. 19; 1982, No. 128; 1983, No. 3

10. Offences—(1) Section 95 of the principal Act (as amended by section 7 (1) of the Estate and Gift Duties Amendment Act 1977) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections: 30

“(1) Every person who, with intent to evade the payment of any duty, penalty, or interest under this Act, delivers to the Commissioner any document which that person knows to be false in any particular shall,— 35

“(a) On the first occasion on which that person is convicted on indictment of any such offence or more than one such offence, be liable, in respect of that offence or,

as the case may be, each of those offences, to imprisonment for a term not exceeding 3 years or to a fine not exceeding \$15,000:

5 “(b) On every occasion, other than the occasion referred to in **paragraph (a)** of this subsection, on which that person is convicted on indictment of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to imprisonment for a term
10 not exceeding 3 years or to a fine not exceeding \$25,000.

“(2) Every person who wilfully or negligently either gives any false information to, or misleads or attempts to mislead, the Commissioner or any officer of the Inland Revenue
15 Department in relation to that person’s liability or any other person’s liability to any duty, penalty, or interest payable under this Act shall, on summary conviction,—

“(a) On the first occasion on which that person is so convicted of any such offence or more than one such offence,
20 be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$15,000:

“(b) On every occasion, other than the occasion referred to in **paragraph (a)** of this subsection, on which that
25 person is so convicted of any such offence, or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$25,000.”

(2) Section 95 of the principal Act (as so amended) is hereby
30 further amended by inserting, after subsection (5), the following subsection:

“(5A) Every person who commits an offence against this Act for which no other penalty is prescribed shall, on summary
conviction,—

35 “(a) On the first occasion on which he is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$2,000:

40 “(b) On the second occasion on which he is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$4,000:

“(c) On every occasion, other than the occasions referred to in paragraphs (a) and (b) of this subsection, on which he is so convicted of any such offence or more than one such offence, be liable, in respect of that offence or, as the case may be, each of those offences, to a fine not exceeding \$6,000.” 5

(3) Section 95 of the principal Act (as so amended) is hereby consequentially amended—

(a) By omitting from subsection (3) the words “is liable on summary conviction to a fine not exceeding \$500”, 10 and substituting the words “commits an offence against this Act”:

(b) By omitting from subsection (4) the words “is liable on summary conviction to a fine not exceeding \$500”, 15 and substituting the words “commits an offence against this Act”:

(c) By omitting from subsection (5) the words “is liable on summary conviction to a fine not exceeding \$500”, 20 and substituting the words “commits an offence against this Act”.

(4) The Estate and Gift Duties Amendment Act 1977 is hereby consequentially amended by repealing section 7 (1).