

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

*House of Representatives, 13 October 1955*

Words struck out by the Statutes Revision Committee are shown in italics within bold brackets or in roman enclosed in panel; words inserted are shown in black or in roman with rule down side.

## STATUTES AMENDMENT BILL

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### EXPLANATORY NOTE

#### *Auckland Transport Board*

*Clause 3:* The effect of this clause is that cheques drawn on the Transport Fund Account of the Auckland Transport Board shall be signed by any member appointed by the Board to sign cheques and countersigned by an officer of the Board. The present legislation requires cheques to be signed by two appointed members and countersigned by an officer of the Board.

#### *Bankruptcy*

*Clause 5:* Part V of the Bankruptcy Act 1908 imposes certain duties on bankrupts, such as the filing of a statement of affairs, giving up books to the Official Assignee, making out balance sheets, and aiding of realization of assets. The remedy for non-compliance is to apply to the Supreme Court for a summons to bring the bankrupt before the Supreme Court for contempt of Court (sections 156 and 157 of the Act). This clause provides that failure to comply with any of the provisions of Part V will also be an offence punishable on summary conviction before a Magistrate by imprisonment not exceeding one month or a fine not exceeding £50.

#### *Counties*

*Clause 7:* Section 60 of the Counties Act 1920 requires County Councils to hold a meeting in March in the year in which a triennial election of Councillors is to be held for the purpose of considering and adjusting, if necessary, the representation of the several ridings, so that representation shall, as far as possible, be proportioned to the rateable value and number of electors of the several ridings. This clause provides that Councils may in addition take into account all other relevant factors.

#### *Crimes*

*Clause 9:* This clause makes it clear that a constable exercising powers conferred by a search warrant issued under section 365 of the Crimes Act 1908 may use force to break into the premises referred to in the warrant. The section is silent on the point, and, as other legislation under which search warrants may be issued confer express power to obtain entry by force if necessary, doubts have arisen as to the powers of a constable where the warrant is issued under section 365 of the Crimes Act 1908. The form of search warrant in the Third Schedule to the principal Act is consequentially re-enacted in an amended form, and the clause also provides that the warrant is to remain in force for one month.

### *Criminal Justice*

*Clause 11:* Section 19 (1) of the Criminal Justice Act 1954 provides that a Court shall not sentence an offender to borstal training until a report has been made by a probation officer. The effect of *subclause (1)* of this clause is that the Court may act upon the report of either a probation officer or a child welfare officer.

Section 19 of the principal Act also provides that, if the Court sentences an offender to borstal training without first considering such a report, the offender may apply for a review of sentence by any Court, not necessarily the Court by which he was sentenced. The effect of *subclause (2)* of this clause is that where the application is made to a Court at a distance from the borstal institution where the offender is detained the Court may order the application to be heard in some more convenient Court.

*Clause 12:* Section 21 (1) (b) of the principal Act provides that one of the conditions which must exist before a convicted person may be sentenced to corrective training is that he has twice previously been convicted, on separate dates, of offences punishable by imprisonment for more than three months. It is sometimes difficult to ascertain from the available police records whether a previous offence of which a person was convicted was punishable by imprisonment for more than three months. For instance, certain offences involving dishonesty are punishable by imprisonment for more than three months only where the property involved exceeds £2 in value, but the police records of former convictions do not contain this information. *Subclause (1)* of this clause provides that, instead of the above-mentioned condition, the convicted person must have twice previously been convicted of offences which are either offences punishable by imprisonment for terms exceeding three months or offences involving dishonesty within the meaning of Part IX of the Crimes Act 1908.

*Subclause (2)* makes a corresponding change in section 24 (1) (c) of the principal Act, relating to conditions which must exist before a convicted person may be sentenced to preventive detention.

*Clause 13:* Section 38 of the principal Act specifies the statutory conditions that apply when an offender is released on probation after serving the whole or part of his sentence. Subsection (1) provides that in such a case the statutory conditions set out in section 7 (except those relating to reporting to the probation officer in the district where the Court is situated) will apply, in addition to any special conditions imposed under Part V of the principal Act.

The effect of *subclause (1)* of this clause is that where an offender is released on probation as a result of part of his sentence being remitted under section 31 of the Penal Institutions Act 1954, any special conditions imposed under section 31 of that Act, as amended by *clause 37* of this Bill, will apply also.

*Subclause (2)* provides that, where an offender is released on probation under Part V of the principal Act, it shall be a condition of his release that he must report to the probation officer at the place stated in his probationary licence within twenty-four hours after his arrival at that place or, where he does not proceed direct to that place immediately after his release, to some other probation officer.

### *Crown Grants*

*Clause 15:* Section 36 of the Crown Grants Act 1908 provides that where a Crown grant reserves the right to take part of the land for roads, that right lapses unless it is exercised within five years after the issue of the grant. It was the practice in earlier times for a Crown grant of rural land to reserve the right to

take part of the land for roads, and in some cases also the right was reserved to take part of the land for railways and other public works at any time without payment of compensation, an area of an additional 5 per cent being usually added to allow for this. This clause provides that the provisions of section 36 shall apply where the right to take part of the land for railways and other public works is reserved, so that the right will lapse unless it is exercised within five years. The clause also provides that no compensation is payable to the owner where land has been taken before the passing of the Bill pursuant to a reservation in the Crown grant.

*Clause 16* provides that where any right to take land for roads or railways or other public works lapses by effluxion of time, the District Land Registrar may note the register accordingly.

#### *Dietitians*

*Clause 18:* The effect of this clause is that the Inspecting Dietitian in the Department of Health will replace the Director-General of Health as the Registrar of Dietitians for the purposes of the Dietitians Act 1950.

#### *Harbours*

*Clause 20:* Under section 23 of the Limitation Act 1950 no action against a Harbour Board may be brought unless notice of the proposed action and of the circumstances of the claim is given to the Board as soon as practicable after the date when the cause of action arose, and the action is commenced within one year after that date, but the Court may extend this period up to six years. This clause provides that, where a Board acts as a wharfinger, no action may be commenced against the Board in respect of the loss of or damage to goods while in the custody of the Board as a wharfinger, unless notice of the intended action and of the circumstances of the claim is given to the Board as soon as practicable after the date when the cause of action arose, and in any event within two months after that date, and the action is commenced within three months after that date, but the Court may extend this period up to six years.

#### *Justices of the Peace*

*Clause 22:* The purpose of this clause is to enable Magistrates, after 1 January 1956, to adopt in their own Courts a simplified procedure for dealing with certain traffic offences to be prescribed by Order in Council. Subsection (2) of the new section inserted by this clause authorizes the Governor-General, by Order in Council, to declare certain offences to be traffic offences for the purposes of the section. The offences that may be so declared are limited to offences against Part II or Part III of the Transport Act 1949, or against regulations or by-laws made under that Act or other Acts and relating to vehicles and parking places, that are punishable on summary conviction by any fine not exceeding £50 and are not punishable by imprisonment. Subsections (3) and (4) authorize any Magistrate, or the senior Magistrate where there are two or more in a town, to give a direction to the Registrar of the Court that all or some only of the traffic offences prescribed by the Order in Council are to be dealt with in that Court under the new section. The direction will fix standard fines that may be paid by defendants if they do not wish to attend at the Court for a hearing. The standard fines are not in any case to exceed the maximum fines prescribed by law for the offences. Subsection (6) provides that where an information for any such offence is laid in any Court where such a direction is in force, a summons will not be issued in the first instance, unless the prosecutor desires the case to be heard in the usual way. Instead of the summons, the Registrar will post to the defendant a notice, in a form to be prescribed, giving particulars of the alleged offence and stating the standard fine and the prescribed fee. The notice will state that if the defendant does not wish to deny the offence or

to be heard on the question of penalty he may pay the standard fine and the fee into the Court office within fourteen days after the date of the notice. It will also state that if he does wish to deny the offence or to be heard, he should notify the Registrar within the fourteen days. If he pays, he is deemed to have pleaded guilty and the conviction and payment are recorded without his having to appear. If he asks to be heard, the Registrar will fix a time for the hearing and notify him, and the case will be heard in the usual way, but without the necessity of a summons. If he does nothing, he will receive a summons, and the case will be heard in the usual way. Subsection (7) preserves the right of a defendant who has paid the standard fine and fee to apply later for a rehearing. Subsection (8) provides for the making of regulations to give effect to the section.

#### *Land Agents*

*Clause 24* provides that, where a private company is the holder of a land agent's licence, no person who was not a director or the principal officer of the company at the time of the granting or of the last renewal of the licence may act as a director or the principal officer of the company without the consent of a Magistrate, who must not give his consent unless he is satisfied as to that person's character and fitness.

*Clause 25:* Section 20 of the principal Act provides that money received by any land agent in respect of any transaction must be held only for the person on whose behalf it was received and may be paid only to that person. This clause restores the provision which existed before the 1953 Consolidation that the balance of any money received by a land agent in respect of any transaction in his capacity as a land agent, after payment of his expenses, commission, and other charges, may be paid only to the person lawfully entitled thereto. This provision will place upon the land agent an obligation to ensure that any such balance is paid to a party to the transaction only if he is lawfully entitled to receive it.

#### *Law Reform*

*Clause 26:* Section 3 (3) of the Law Reform Act 1936 provides that proceedings may be taken against the estate of a deceased person for a tort committed by him provided the cause of action arose not earlier than two years before his death and provided the proceedings are taken within twelve months after his personal representative took out representation. This clause provides that notice of the intended action must be given to the personal representative as soon as practicable, and empowers the Court to extend the time for taking action up to six years from the date when the cause of action arose. No extension of time will disturb any distribution of the estate already made.

*Clause 27:* Section 17 of the Law Reform Act 1936 enables one joint tortfeasor from whom damages are recovered for a tort to obtain contribution from another joint tortfeasor, but this contribution may be obtained only if the other tortfeasor would if sued in time have been liable in respect of the same damages. One result of this provision is that where the other tortfeasor is the husband or wife of the person claiming damages the first joint tortfeasor cannot recover contribution from the other, because a husband cannot sue his wife in tort nor a wife sue her husband, and accordingly would not be liable in respect of the same damages. For example, if in a collision between two motor vehicles driven by A and B due to the negligence of both of them A's wife were injured, B would be liable for the whole of the damages and could not recover any contribution from A. The purpose of this clause is to provide that in such a case one joint tortfeasor may recover contribution from the other even though the injured person is the husband or wife of the other tortfeasor.

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*Clause 28* provides that section 2 of the Law Reform Act 1944, which provides that damages may be recovered for injury suffered as a result of mental or nervous shock, shall bind the Crown.

#### *Music Teachers Registration*

*Clause 30* amends the Music Teachers Registration Act 1928 at the request of the Music Teachers Registration Board so as to make the current term of office of every member of the Board expire on 31 December 1956, and to make the two year terms thereafter commence on 1 January. The current term is being reduced by about three months. Under the present legislation and regulations members of the Board do not come into office until more than four months after they are elected.

#### *National Parks*

*Clause 32:* This clause prohibits the discharge of firearms into National Parks, and applies the provisions of section 54 (9) of the National Parks Act 1952 to any person found discharging a firearm in contravention of the proposed provision. It is already an offence to discharge firearms in a Park without authority.

The effect of the clause will be to permit rangers and other officers to take the same action, when an offence relating to the unlawful use of firearms in relation to a National Park is discovered, as could be taken if the offence was committed inside the Park. The clause is intended particularly to prevent offences in respect of those Parks (such as the Fiordland National Park) having boundaries on the sea coast.

*Clause 33:* This clause alters the title of the Sounds (Fiordland) National Park to the Fiordland National Park.

#### *National Roads*

*Clause 35* is consequential on the proposed repeal of sections 118 and 119 of the Public Works Act 1928 by *clause 5* of the Public Works Amendment Bill. This clause amends section 36 of the National Roads Act 1953 by omitting reference to the said sections and words linked with those sections. The provisions of section 36 (3) relating to warrants is made subject to the provisions of *clause 5* (2) of the Public Works Amendment Bill so as to make it clear that that clause shall prevail in respect of the warrants to which it relates.

#### *Penal Institutions*

*Clause 37* authorizes the Minister of Justice, when remitting part of a sentence of imprisonment for good conduct, to impose special conditions.

*Clause 38* removes the right of Visiting Justices and of Superintendents of penal institutions to punish offences by inmates by reduction in grade or postponement of promotion in grade.

#### *Rehabilitation*

*Clause 40* extends until 31 March 1958 the provisions of section 4 of the Rehabilitation Amendment Act 1947, which authorizes the granting of certain rehabilitation assistance to servicemen's widows.

#### *Summary Jurisdiction*

*Clause 42:* Section 5 of the Summary Jurisdiction Act 1952 provides that where a summary prosecution is commenced under that Act, the Court may at any time during the hearing decline to deal summarily with the offence and shall thereupon deal with it as an indictable offence. Doubts have arisen as to whether the Court may decline summary jurisdiction after it has decided to convict the defendant but before he has been sentenced, and this clause makes it clear that the Court may decline summary jurisdiction at any stage of the proceedings before the defendant has been sentenced.

### *Trustee*

*Clause 44* provides that where a trustee is lawfully carrying on any business forming part of the assets of the trust property, he may expend trust funds in the acquisition of shares in any co-operative company or other co-operative enterprise membership of which is essential or highly advantageous to the carrying on of that business, and may retain as part of the trust property and pay calls on any shares held in any such company or enterprise. In this clause the term "trustee" includes a committee or person authorized to administer the estate of a mentally defective person under the Mental Health Act 1911 and the manager of a protected person's estate under the Aged and Infirm Persons Protection Act 1912.

### *Urban Farm Land Rating*

*Clause 46* applies the provisions of the Urban Farm Land Rating Act 1932 to farm land situated in a county town. The effect of this provision is that the owner of the land will be entitled to the same relief from rates as if the land were situated in a borough.

### *Veterinary Services*

*Clause 48* gives effect to an agreement between the Boards concerned to vary the proportions in which they contribute to the Veterinary Services Council. In the current year and future years the amount to be contributed by the Boards is to be met as follows:

- (a) Three-fifths by the Dairy Board:
- (b) Three-tenths by the Meat Producers Board:
- (c) One-tenth by the Wool Board.

### *New*

#### *Reserves and Domains*

*Clause 50:* Section 27 of the Reserves and Domains Act 1953 provides for the leasing of reserves which are not for the time being required for the purposes for which they were reserved. Doubts have arisen as to whether, in the case of reserves vested in the Crown, the Minister is entitled, where special circumstances exist, to lease the land for an aggregate period, including renewals, in excess of thirty-three years. This clause makes it clear that in such a case the Minister may lease land for periods not exceeding thirty-three years, with rights of renewal, perpetual or otherwise, for terms not exceeding thirty-three years at any one time.

*Clause 51:* Under section 29 of the Reserves and Domains Act 1953 the Minister may grant licences to occupy reserves temporarily for terms not exceeding five years for the removal of timber, flax, stone, gravel, kauri gum, and other specified purposes. This clause increases the maximum term of the licence to twenty-one years, and provides that where the land is reserved for river protection, soil conservation, or similar purposes the power of granting licences shall be exercised by the administering body in which the land is vested or which has control of the land. If the land is reserved for other purposes and is vested in an administering body the power shall be exercised by the administering body with the consent of the Minister, and in other cases the power is to be exercised by the Minister.

The clause also provides that no licence for removing timber or kauri gum may be granted in respect of any scenic reserve or historic reserve. The effect of this provision is that licences for the removal of stone, gravel, and other similar substances may be granted in respect of scenic reserves or historic reserves. This was previously prohibited.

*Clause 52:* Section 105 of the Reserves and Domains Act 1953 contains special provisions as to reserves administered under the Tourist and Health Resorts Control Act 1908, and confers on the Minister for the time being having the administration of that Act the powers conferred on the Minister of Lands for leasing land comprised in a public domain. Under section 27 (3) of the Reserves and Domains Act 1953, leases of public domains must not exceed thirty-three years in the case of a lease to a voluntary organization, and ten years in any other case. This clause provides that, where special circumstances exist, leases of land to which the Tourist and Health Resorts Control Act 1908 applies may be granted for terms not exceeding thirty-three years, with rights of renewal, perpetual or otherwise, for terms not exceeding thirty-three years at any one time.

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*Hon. Mr Marshall*

## STATUTES AMENDMENT

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## A BILL INTITULED

**Title.** AN ACT to amend certain enactments of the General Assembly.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows: 5

**Short Title.** 1. This Act may be cited as the Statutes Amendment Act 1955.

*Auckland Transport Board*

Sections to be read with Auckland Transport Board Act 1928, No. 44

2. This section and the *next succeeding* section shall be read together with and deemed part of the Auckland Transport Board Act 1928 (in that section referred to as the principal Act). 10

3. Section fifty-two of the principal Act is hereby amended by omitting from subsection two the words "any two of such of the members as", and substituting the words "any member whom".

Signing of cheques.

5 *Bankruptcy*

4. This section and the *next succeeding* section shall be read together with and deemed part of the Bankruptcy Act 1908 (in that section referred to as the principal Act).

Sections to be read with Bankruptcy Act 1908.

See Reprint of Statutes, Vol. I, p. 466

10 5. The principal Act is hereby amended by inserting, after section one hundred and forty-two, the following section:

Failure to comply with Part V of principal Act.

15 "142A. Without limiting the provisions of section one hundred and fifty-five of this Act, every person commits an offence against this Act who fails to comply in any respect with any of the provisions of Part V of this Act or does any act in contravention of that Part, and is liable on summary conviction before a Magistrate to imprisonment for a term not exceeding one month or to a fine not exceeding fifty pounds."

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*Counties*

6. This section and the *next succeeding* section shall be read together with and deemed part of the Counties Act 1920 (in that section referred to as the principal Act).

Sections to be read with Counties Act 1920.

See Reprint of Statutes, Vol. V, p. 180

25 7. Section sixty of the principal Act is hereby amended by omitting the words "so that the representation of the several ridings shall, as far as possible, be proportioned to the rateable value and number of electors of each riding respectively", and substituting the words "so as to give due representation to the several ridings after taking into account the rateable value and number of electors of each riding and such additional factors of any kind as the Council considers relevant".

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Representation of ridings.

## Crimes

Sections to be read with Crimes Act 1908. See Reprint of Statutes, Vol. II, p. 182

8. This section and the *next succeeding* section shall be read together with and deemed part of the Crimes Act 1908 (in that section referred to as the principal Act).

Use of force to obtain entry in execution of search warrant.

9. (1) Section three hundred and sixty-five of the principal Act is hereby amended by inserting, after subsection one, the following subsection: 5

“(1A) Every such warrant to search any building, ship, carriage, or place shall authorize the constable named therein at any time or times within one month from the date thereof to enter into the building, ship, carriage, or place with such assistants as may be necessary, and, if necessary, to use force for making such entry, whether by breaking open doors or otherwise; and every such warrant to search any box or receptacle shall authorize the constable named therein to break open the box or receptacle, by force if necessary.” 10 15

(2) The Third Schedule to the principal Act is hereby amended by repealing form 1, and substituting the form 1 set out in the Schedule to this Act. 20 25

## Criminal Justice

Sections to be read with Criminal Justice Act 1954. 1954, No. 50

10. This section and the *next three succeeding* sections shall be read together with and deemed part of the Criminal Justice Act 1954 (in those sections referred to as the principal Act). 25

Consideration of reports before passing sentence of borstal training. See Reprint of Statutes, Vol. III, p. 1091

11. (1) Section nineteen of the principal Act is hereby amended by inserting in subsection one, after the words “probation officer”, the words “or by a child welfare officer appointed under the Child Welfare Act 1925”. 30

(2) Section nineteen of the principal Act is hereby further amended by adding to subsection four the following proviso: 35

“Provided that, if any such application is filed in a Court at a distance from the borstal institution where the offender is detained, a Judge or Magistrate may order that the application shall be transferred to and dealt with by a Judge or, as the case may require, a Magistrate’s Court at a place nearer to the institution.”

(3) Section nineteen of the principal Act is hereby further amended by omitting from subsection five the words "to whom the application is made", and substituting the words "by whom the application is heard".

5 12. (1) Section twenty-one of the principal Act is hereby amended by omitting from paragraph (b) of subsection one the words "punishable by imprisonment for terms exceeding three months", and substituting the words "each of which is either an offence punishable by imprisonment for a term exceeding three months or an offence involving dishonesty within the meaning of Part IX of the Crimes Act 1908".

Corrective training and preventive detention. See Reprint of Statutes, Vol. II, p. 250

15 (2) Section twenty-four of the principal Act is hereby amended by omitting from paragraph (c) of subsection one the words "punishable by imprisonment for terms exceeding three months", and substituting the words "each of which is either an offence punishable by imprisonment for a term exceeding three months or an offence involving dishonesty within the meaning of Part IX of the Crimes Act 1908".

20 13. (1) Section thirty-eight of the principal Act is hereby amended by adding to subsection one the words "or under section thirty-one of the Penal Institutions Act 1954".

Conditions of probation.

25 (2) Section thirty-eight of the principal Act is hereby further amended by inserting, after subsection one, the following subsection:

30 "(1A) In addition to the conditions specified in subsection one of this section, every release on probation under this Part of this Act shall be subject to the condition that the probationer shall report—

35 "(a) To the probation officer at the place stated in the probationary licence within twenty-four hours after the arrival of the probationer at that place; or

"(b) Where he does not proceed direct to that place immediately after his release on probation, to some other probation officer within forty-eight hours after his release on probation."

*Crown Grants*

Sections to be read with Crown Grants Act 1908. See Reprint of Statutes, Vol. VII, p. 1062

14. This section and the *next two succeeding* sections shall be read together with and deemed part of the Crown Grants Act 1908 (in those sections referred to as the principal Act).

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Reservation of land for railways and other public works.

15. The principal Act is hereby amended by inserting, after section thirty-six, the following section:

“36A. Whenever in any Crown grant there has been or hereafter may be reserved rights at any time to take part of the land comprised therein for railways or other public works of any kind, the provisions of section thirty-six of this Act shall apply as if references in that section to roads were references to railways or those other public works, as the case may be: 10

“Provided that, where before the commencement of this section any land was taken for railways or other public works after the period of five years from the issue of the grant, no compensation shall be claimed by or paid to the owner of the land.” 15

Removal of lapsed reservations from title.

16. The principal Act is hereby further amended by inserting, after section thirty-six A, as inserted by section *fifteen* of this Act, the following section: 20

“36B. Where any reservation in any Crown grant to take part of the land for roads or railways or other public works of any kind lapses through effluxion of time, the District Land Registrar may enter a memorial in the register that the reservation has lapsed.” 25

*Dietitians*

Sections to be read with Dietitians Act 1950. 1950, No. 44

17. This section and the *next succeeding* section shall be read together with and deemed part of the Dietitians Act 1950 (in that section referred to as the principal Act). 30

Registrar of Dietitians.

18. Section three of the principal Act is hereby amended by omitting the words “as the Director-General of Health under the Health Act 1920”, and substituting the words “in the Department of Health as the Inspecting Dietitian”. 35

Harbours

19. This section and the *next succeeding* section shall be read together with and deemed part of the Harbours Act 1950 (in that section referred to as the principal Act).

Sections to be read with Harbours Act 1950, No. 34

5 20. The principal Act, as amended by subsection two of section thirty-five of the Limitation Act 1950, is hereby further amended by inserting, after section two hundred and sixty-two, the following section:

Limitation of actions against Harbour Boards in respect of loss of or damage to goods. 1950, No. 65

10 “263. (1) No action shall be brought against the Board, being a Board which acts as a wharfinger, in respect of the loss of or damage to any goods while in the custody of the Board as a wharfinger, unless—

15 “(a) Notice in writing giving reasonable information of the circumstances upon which the proposed action will be based and the name and address of the prospective plaintiff and of his solicitor or agent (if any) in the matter is given by the prospective plaintiff to the Board as soon as practicable after the accrual of the cause of action, and in any event not later than two months after the accrual of the cause of action; and

20 “(b) The action is commenced within three months from the date on which the cause of action accrued:

25 “Provided that the Board may consent to the bringing of such an action at any time before the expiration of six years from the date on which the cause of action accrued, whether or not notice has been given to the Board as aforesaid.

30 “(2) Notwithstanding the provisions of subsection one of this section, application may be made to the Court, after notice to the Board, for leave to bring such an action at any time before the expiration of six years from the date on which the cause of action accrued, whether or not notice has been given to the Board under that subsection; and the Court may, if it thinks it is just to do so, grant leave accordingly, subject to such conditions (if any) as it thinks it is just to impose, where it considers

that the failure to give the notice or the delay in bringing the action, as the case may be, was occasioned by mistake or by other reasonable cause or that the Board was not materially prejudiced in its defence or otherwise by the failure or delay.

“(3) Where any notice has to be given under this section, it may be given either—

“(a) By delivering it to the Chairman, Superintendent, Secretary, or Treasurer of the Board, or to any person purporting to have charge of the office of the Board; or

“(b) By sending it by post in a registered letter addressed to the Board at the office of the Board.

“(4) Where a notice is sent by post in manner prescribed by paragraph (b) of subsection three of this section, it shall be deemed to have been given at the time at which the letter would have been delivered in the ordinary course of post.”

#### *Justices of the Peace*

Sections to be read with Justices of the Peace Act 1927.

See Reprint of Statutes, Vol. II, p. 351

Simplified procedure for certain traffic offences.

1949, No. 7

21. This section and the *next succeeding* section shall be read together with and deemed part of the Justices of the Peace Act 1927 (in that section referred to as the principal Act).

22. (1) The principal Act is hereby amended by inserting, after section sixty, the following section:

“60A. (1) In this section, unless the context otherwise requires, the expression ‘traffic offence’ means any offence for the time being declared by the Governor-General, under subsection *two* of this section, to be a traffic offence for the purposes of this section.

“(2) The Governor-General may from time to time, by Order in Council, declare any offence against Part II or Part III of the Transport Act 1949, or against any regulation or by-law made under that Act, or against any regulation or by-law made under any other enactment and relating to the use of vehicles or parking places or transport stations, that is punishable on summary conviction by a fine of any amount not exceeding fifty pounds, and is not punishable by imprisonment, to be a traffic offence for the purposes of this section.

“(3) Notwithstanding anything in this Act, any Magistrate, or, if there are two or more Magistrates ordinarily sitting in the Court in any town, the senior Magistrate in that town, may at any time give to the Registrar of  
5 any Court in which he is authorized to sit a direction in writing that proceedings for traffic offences shall be dealt with in that Court in accordance with this section.

“(4) By any such direction as aforesaid the Magistrate may direct that all traffic offences, or such of them only  
10 as are specified in the direction, shall be so dealt with; and shall fix in respect of every traffic offence to which the direction applies the amount of the fine (in this section referred to as the standard fine) to be specified in any notice sent to any defendant pursuant to subsection  
15 *six* of this section. Different amounts may be so fixed in respect of first, second, and subsequent offences. No amount so fixed shall exceed the maximum fine prescribed by any enactment for that offence.

“(5) Any such direction as aforesaid may from time to  
20 time in like manner be varied or revoked by the Magistrate for the time being authorized to give a direction under this section; and until it is so revoked it shall remain in force in the Court to which it applies.

“(6) While any such direction remains in force, the  
25 following provisions shall apply:

“(a) Where any information is laid against any person for any traffic offence to which the direction applies, a summons to the defendant shall not be issued in the first instance, unless the  
30 informant requires the issue of a summons:

“(b) Unless a summons is so issued, the Registrar shall post to the defendant a notice in writing in the prescribed form specifying the date and nature of the alleged offence and the standard fine therefor and the amount of the prescribed fee  
35 (being the fee for the time being prescribed under this Act for an information and summons). The notice shall state that if the defendant does not wish to deny the offence he may pay the amount of the standard fine and the prescribed fee into the Court office  
40 within fourteen days after the date of the notice, and that if he desires to deny the offence



or to be heard on the question of penalty he should notify the Registrar in writing, within the said period of fourteen days, that he so desires:

- “(c) If before a summons is issued under paragraph 5  
(e) of this subsection the defendant pays the amount of the standard fine and the prescribed fee as aforesaid, he shall thereupon be deemed to have pleaded guilty and to have been convicted of the offence and to have paid the amount of the fine and costs imposed on his conviction: 10
- “(d) If within the said period of fourteen days the defendant notifies the Registrar in writing that he wishes to deny the offence or to be heard 15  
on the question of penalty, the Registrar shall fix a time and place for the hearing, and shall serve or cause to be served on the defendant a notification of the time and place so fixed, and it shall not be necessary for any summons 20  
to the defendant to be issued. At the time and place so fixed the matter of the information shall be heard and determined in all respects as if the notification were a summons:
- “(e) If the defendant does not pay the standard fine 25  
and the prescribed fee or notify the Registrar as aforesaid, a summons to the defendant shall be issued and the matter of the information heard and determined in accordance with this Act. 30
- “(7) Where any person deemed to be convicted under paragraph (c) of subsection six of this section desires to apply for a rehearing of the information under section one hundred and twenty-two of this Act, the application may be made to and dealt with by any Magistrate or 35  
Justice.
- “(8) The Governor-General may from time to time, by any Order in Council under subsection two of this section or by any subsequent Order in Council, make all such regulations as in his opinion are necessary or expedient 40  
for giving full effect to the provisions of this section and

for the due administration thereof. Every such Order in Council shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session."

(2) This section shall come into force on the first day of January, nineteen hundred and fifty-six. Commencement.

*Land Agents*

10 23. This section and the *next two succeeding* sections shall be read together with and deemed part of the Land Agents Act 1953 (in those sections referred to as the principal Act).

Sections to be read with Land Agents Act 1953, No. 86

15 24. (1) Section seventeen of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

Persons not to become director or general manager of private company holding land agent's licence unless Magistrate consents. 1933, No. 29

20 " (1A) Where a company registered under the Companies Act 1933 as a private company is a licensee under this Act, no person who is not at the date of the issue of the licence or, as the case may be, at the date of the last renewal of the licence a director or the principal officer of the company shall act as a director or the principal officer of the company for a period of more than fourteen days without the prior consent of a Magistrate; and the

25 Magistrate shall refuse to grant that consent unless he is satisfied as to the character and fitness of that person."

(2) Section seventeen of the principal Act is hereby further amended by inserting in subsection two, after the words "his licence", the words "or, as the case may be,

30 the licence of the company".

(3) Section twenty-four of the principal Act is hereby amended by inserting in subsection one, after paragraph (e), the following paragraph:

35 "(ee) If after the issue or renewal of a licence to a company registered under the Companies Act 1933 as a private company any person who was not a director or the principal officer of the company at the date of that issue or renewal acts, without the prior consent of a Magistrate, as a director or the principal officer of the

40 company for a period of more than fourteen days; or"

Duty of land agent with respect to money received in course of his business.

25. (1) Section twenty of the principal Act is hereby amended by repealing subsection one, and substituting the following subsections:

*Struck out*

“(1) All money received by a land agent in respect of any transaction in his capacity as a land agent shall be applied as follows: 5  
 “(a) In payment of the expenses, commission, and other charges of or incidental to the transaction in respect of which it was received: 10  
 “(b) In payment of the balance (if any) to the person lawfully entitled thereto.”

*New*

“(1) Subject to the provisions of subsection three of this section, all money received by a land agent in respect of any transaction in his capacity as a land agent shall be paid to the person lawfully entitled thereto. 15

“(1A) Pending the payment of any **【balance】** money as aforesaid, it shall be paid by the land agent into a general or separate trust account at any bank carrying on business in New Zealand under the authority of any Act of the General Assembly, and, **subject to the provisions of subsection three of this section**, shall not be drawn therefrom save for the purpose of paying it to the person lawfully entitled thereto.” 20 25

*Struck out*

(2) Section twenty of the principal Act is hereby further amended as follows: 30  
 (a) By omitting from subsection two the word “moneys”, and substituting the word “balance”:  
 (b) By omitting from subsection two the word “they”, and substituting the words “that balance”.

(3) Section twenty-one of the principal Act is hereby amended as follows:

- (a) By omitting from subsection three the words “on behalf of any person”, and substituting the words “to the person lawfully entitled thereto”:  
 (b) By omitting from subsection four the words “on behalf of any person”. 35 40

*Law Reform*

Claims in tort against estates of deceased persons.  
 1936, No. 31

26. (1) Section three of the Law Reform Act 1936 is hereby amended by adding to paragraph (b) of subsection three the following proviso:

“Provided that no such proceedings shall be maintainable unless notice in writing giving reasonable information of the circumstances upon which the proceedings will be 45

based and the name and address of the prospective plaintiff and of his solicitor or agent (if any) in the matter is given by the prospective plaintiff to the personal representative of the deceased person as soon as practicable after the personal representative took out representation.”

(2) Section three of the Law Reform Act 1936 is hereby further amended by inserting, after subsection three, the following subsection:

“(3A) Notwithstanding anything in subsection three of this section, application may be made to the Court, after notice to the personal representative, for leave to bring the proceedings at any time before the expiration of six years after the date when the cause of action arose, whether or not notice has been given to the personal representative under subsection three of this section; and the Court may, if it thinks it is just to do so, grant leave accordingly, subject to such conditions (if any) as it thinks it is just to impose, where it considers that the failure to give the notice or the delay in bringing the proceedings, as the case may be, was occasioned by mistake or by any other reasonable cause or that the personal representative was not materially prejudiced in his defence or otherwise by the failure or delay. No distribution of any part of the estate of the deceased made before the date of the giving of the notice of the intended application shall be disturbed by reason of the application or of an order made thereon.”

27. Section seventeen of the Law Reform Act 1936 is hereby amended by inserting, after subsection one, the following subsection:

Contribution between tortfeasors.

“(1A) A tortfeasor may recover contribution under this section from the husband or wife or the former husband or wife of the person by whom the damage was suffered, in any case where he could have recovered such contribution if the marriage relationship had never existed.”

28. Section two of the Law Reform Act 1944 is hereby amended by adding the following subsection as subsection two thereof:

Crown liable in damages for mental or nervous shock. 1944, No. 18

“(2) This section shall bind the Crown.”

*Music Teachers Registration*

Sections to be read with Music Teachers Registration Act 1928.

See Reprint of Statutes, Vol. II, p. 1115

Term of office of members of Board.

29. This section and the *next succeeding* section shall be read together with and deemed part of the Music Teachers Registration Act 1928 (in that section referred to as the principal Act).

5

30. (1) Section four of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) The term of office of every member of the Board who is in office at the commencement of this subsection shall expire with the thirty-first day of December, nineteen hundred and fifty-six, and subsequent terms of office of all members of the Board shall commence on the first day of January in the year nineteen hundred and fifty-seven or on that day in every second year thereafter.”

10

15

(2) Section four of the principal Act is hereby further amended by omitting from subsection one the words “from the date of his appointment or election”.

*National Parks*

Sections to be read with National Parks Act 1952.

1952, No. 54

Offence to discharge firearms into National Park.

31. This section and the *next two succeeding* sections shall be read together with and deemed part of the National Parks Act 1952 (in those sections referred to as the principal Act).

20

32. Section fifty-four of the principal Act is hereby amended by inserting, after subsection two, the following subsection:

25

“(2A) Every person commits an offence against this Act who, without being authorized by the Board, discharges any firearm into a Park or who, from outside a Park, shoots at any bird or animal or any other object or thing inside a Park with any weapon or other instrument, and, where any person is found discharging a firearm in contravention of this subsection, the provisions of subsection nine of this section shall apply in respect of that firearm in all respects as if it were illegally in the possession of that person in the Park.”

30

35

33. The principal Act is hereby amended as follows:

Altering name  
of Sounds  
(Fiordland)  
National Park  
to Fiordland  
National Park.

- 5 (a) By omitting from subsection five of section nine the words "The Sounds (Fiordland) National Park", and substituting the words "The Fiordland National Park":
- (b) By omitting from subsection five of section ten the words "Sounds (Fiordland) National Park" wherever they occur, and substituting in each case the words "Fiordland National Park":
- 10 (c) By omitting from subsection one of section eleven the words "Sounds (Fiordland) National Park", and substituting the words "Fiordland National Park":
- 15 (d) By omitting from subsection one of section sixty-two the words "Sounds (Fiordland) National Park" wherever they occur, and substituting in each case the words "Fiordland National Park":
- 20 (e) By omitting from the Fifth Schedule and also from the Seventh and Eighth Schedules the words "Sounds (Fiordland) National Park", and substituting in each case the words "Fiordland National Park".

*National Roads*

34. This section and the *next succeeding* section shall be read together with and deemed part of the National Road Act 1953 (in that section referred to as the principal Act).

Sections to be  
read with  
National Roads  
Act 1953.  
1953, No 118

35. Section thirty-six of the principal Act is hereby amended as follows:

Application of  
provisions of  
Public Works  
Act 1928 in  
respect of  
bridges, etc.

- 30 (a) By omitting from subsection one the words "one hundred and eighteen, one hundred and nineteen", and also the word "road" and the words "of any main highway, or":
- 35 (b) By omitting from subsection two the words "of a main highway, or":
- (c) By inserting in subsection three, before the word "If", the words "Subject to the provisions of subsection *two* of section *five* of the Public Works Amendment Act 1955 (which preserves the effect of warrants issued under sections one hundred and eighteen and one hundred and nineteen of the Public Works Act 1928)",
- 40

*Penal Institutions*

Sections to be read with Penal Institutions Act 1954. 1954, No. 51

Sentence may be remitted subject to conditions.

1954, No. 50

Powers of Visiting Justices and of Superintendent.

36. This section and the *next two succeeding* sections shall be read together with and deemed part of the Penal Institutions Act 1954 (in those sections referred to as the principal Act).

37. Section thirty-one of the principal Act is hereby amended by inserting, after subsection one, the following subsection:

“(1A) Where any person to whom remission of any part of his sentence is granted under this section is released on probation under the provisions of Part V of the Criminal Justice Act 1954, the Minister may impose such special conditions as he thinks fit.”

38. (1) Section thirty-three of the principal Act is hereby amended by repealing paragraph (c) of subsection three.

(2) Section thirty-four of the principal Act is hereby amended by repealing paragraph (c) of subsection three.

*Rehabilitation*

Sections to be read with Rehabilitation Act 1941. 1941, No. 25

Extending duration of powers to assist service-men's widows. 1947, No. 49 1952, No. 6 1953, No. 28

39. This section and the *next succeeding* section shall be read together with and deemed part of the Rehabilitation Act 1941.

40. (1) Section four of the Rehabilitation Amendment Act 1947 (as amended by the Rehabilitation Amendment Act 1952 and the Rehabilitation Amendment Act 1953) is hereby further amended by omitting the words “thirty-first day of December, nineteen hundred and fifty-five”, and substituting the words “thirty-first day of March, nineteen hundred and fifty-eight”.

(2) The Rehabilitation Amendment Act 1953 is hereby consequentially repealed.

*Summary Jurisdiction*

Sections to be read with Summary Jurisdiction Act 1952. 1952, No. 41

Power of the Court to decline summary jurisdiction.

41. This section and the *next succeeding* section shall be read together with and deemed part of the Summary Jurisdiction Act 1952 (in that section referred to as the principal Act).

42. Section five of the principal Act is hereby amended by omitting from subsection one the words “at any time during the hearing”, and substituting the words “at any time before the defendant has been sentenced or otherwise dealt with”.

*Trustee*

43. This section and the *next succeeding* section shall be read together with and deemed part of the Trustee Act 1908 (in that section referred to as the principal Act).

Sections to be read with Trustee Act 1908.  
See Reprint of Statutes, Vol. VIII, p. 873

Trustee carrying on business may invest in shares in co-operative enterprises.

5 44. Section ninety-five of the principal Act is hereby amended by inserting, after subsection one, the following subsections:

10 “(1A) Unless expressly forbidden by the instrument (if any) creating the trust, it shall be lawful and be deemed always to have been lawful for a trustee who is empowered to carry on any business forming part of the assets of the trust property, and so long as he continues lawfully to carry on that business,—

15 “(a) To take up and subscribe for or otherwise acquire, out of such of the trust funds as he may lawfully use in the carrying on of that business, shares in any co-operative company or other co-operative enterprise membership of which is essential or highly advantageous to the carrying on of that business or the marketing of the products of that business:

20 “(b) Subject to the provisions of any other enactment relating to the compulsory surrender of shares, to retain as part of the trust property any shares held in any such company or co-operative enterprise and, out of such of the trust funds as he may lawfully use in the carrying on of that business, pay calls on any such shares.

30 “(1B) In subsection *one A* of this section the terms ‘trustee’ and ‘trust property’ have the same meanings as in section five of the Trustee Amendment Act 1933; and the term ‘trust funds’ has a corresponding meaning.”

1933, No. 32

*Urban Farm Land Rating*

35 45. This section and the *next succeeding* section shall be read together with and deemed part of the Urban Farm Land Rating Act 1932 (in that section referred to as the principal Act).

Sections to be read with Urban Farm Land Rating Act 1932.  
1932, No. 20



Principal Act  
to apply to  
farm land in  
county towns.

1949, No. 27

46. The principal Act is hereby amended by inserting, after section twenty-nine, the following section:

“29A. (1) This Act shall, as far as it is applicable and with the necessary modifications, apply with respect to urban farm land situated within a county town constituted under Part I of the Counties Amendment Act 1949, as if— 5

“(a) References herein to a borough (except in subsection three of section ten) were references to the county town; and 10

“(b) References herein to a Borough Council were references to the County Council; and

“(c) References herein to the Town Clerk were references to the County Clerk.

“(2) Section ten of the principal Act, in its application to urban farm land situated in a county town, shall have effect as if for subsection three there were substituted the following subsection: 15

“(3) No person who is a member or a paid officer of the Council of any county or a member of any county town committee appointed pursuant to section seven of the Counties Amendment Act 1949 shall be appointed a member of the Court for that or any other county.’” 20

*Veterinary Services*

Sections to be  
read with  
Veterinary  
Services Act  
1946.

1946, No. 26

47. (1) This section and the next succeeding section shall be read together with and deemed part of the Veterinary Services Act 1946 (in that section referred to as the principal Act). 25

(2) This section and the next succeeding section shall be deemed to have come into force on the first day of April, nineteen hundred and fifty-five. 30

Contributions  
of contributory  
Boards.

48. The principal Act is hereby amended by repealing section fifteen, and substituting the following section:

“15. Of the amount to be contributed by the contributory Boards pursuant to section fourteen of this Act— 35

“(a) Three-fifths shall be payable by the Dairy Board;

“(b) Three-tenths shall be payable by the Meat Producers Board; and

“(c) One-tenth shall be payable by the Wool Board.”

*New*

*Reserves and Domains*

5 49. This section and the *next three succeeding* sections shall be read together with and deemed part of the Reserves and Domains Act 1953 (in those sections referred to as the principal Act).

Sections to be read with Reserves and Domains Act 1953.  
1953, No. 69

10 50. Section twenty-seven of the principal Act is hereby amended by repealing the proviso to subsection two, and substituting the following proviso:

Leasing of reserves vested in Crown.

15 "Provided that, in the case of any reserve vested in the Crown, the Minister may, where he considers that special circumstances exist, lease the whole or any part of the reserve for such term not exceeding thirty-three years, with or without a right of renewal, perpetual or otherwise, for terms not exceeding thirty-three years at any one time, and upon such terms and conditions, and at such rent, as the Minister thinks fit."

20 51. (1) Section twenty-nine of the principal Act is hereby amended as follows:

Licences to occupy reserves temporarily.

(a) By omitting the words "five years", and substituting the words "twenty-one years":

25 (b) By omitting the words "by the Minister, in the case of reserves vested in the Crown, or, with the approval of the Minister, by the administering body in which the reserve is vested in any other case".

(2) Section twenty-nine of the principal Act is hereby further amended by repealing the proviso to paragraph (a), and substituting the following proviso:

30 "Provided that no licence may be granted under this section to occupy any scenic reserve or historic reserve for the purpose of cutting, felling, or removing timber or for the purpose of winning and removing kauri gum:".

35 (3) Section twenty-nine of the principal Act is hereby further amended by adding the following subsection as subsection two thereof:

"(2) Licences under this section may be granted—

40 "(a) By the administering body, where the land is reserved for river protection, soil conservation, or other like purpose, and either the land is vested in the administering body or the administering body has been appointed to control and manage the land:

Leases of reserves administered under Tourist and Health Resorts Control Act 1908.

“(b) With the consent of the Minister, by the administering body in which the reserve is vested, where the land is reserved for any purpose other than river protection, soil conservation, or other like purpose: 5

“(c) By the Minister in all other cases.”

52. Section one hundred and five of the principal Act is hereby amended by repealing the proviso to paragraph (a) of subsection one, and substituting the following provisos: 10

“Provided that, notwithstanding anything in paragraph (b) of subsection three of section twenty-seven of this Act, the first-mentioned Minister may, where he considers that special circumstances exist, grant leases under that section of the whole or any part of any such reserve for such term not exceeding thirty-three years, with or without a right of renewal, perpetual or otherwise, for terms not exceeding thirty-three years at any one time, and upon such terms and conditions, and at such rents, as he thinks fit: 15 20

“Provided also that no lease shall be granted for an aggregate term, including renewals, exceeding thirty-three years without the written consent of the Minister of Lands:”.

## SCHEDULE

Section 9 (2)

### FORM OF SEARCH WARRANT

#### “(1) Search Warrant

“WHEREAS it appears on the oath of C. B. of M. N. that there is reason to suspect that [*Insert description of the things to be searched for, and of the offence in respect of which the search is made*] are in at :

This is therefore to authorize and require you to enter at any time or times within one month from the date hereof between the hours of [\*] into the said premises with such assistants as may be necessary, and, if necessary, to use force for making such entry, whether by breaking open doors or otherwise, and to search for the said things, and to bring the same before me or some other Justice.

Dated at this day of 19 .

J. S., Justice.

To [*Address to the constable who is to execute the warrant, by his proper title*], of

\*The warrant may be executed between 6 a.m. and 9 p.m., unless the Justice otherwise directs.”