

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

House of Representatives, 26 August 1964

Words inserted by the Statutes Revision Committee are shown with double rule before first line and after last line of new matter.

Hon. Mr Hanan

SUMMARY PROCEEDINGS AMENDMENT

ANALYSIS

Title	2. Release on bail of defendant
1. Short Title	committed for trial

A BILL INTITULED

An Act to amend the Summary Proceedings Act 1957

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

1. Short Title—This Act may be cited as the Summary Proceedings Amendment Act 1964, and shall be read together with and deemed part of the Summary Proceedings Act 1957* (hereinafter referred to as the principal Act).

10 *New*

1A. Taking evidence of prosecution witness at a distance—
Section 31 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

15 “(1A) Notwithstanding anything in this Act, any Magistrate on the application of the informant before the hearing, or the Court on the application of the informant at the hearing, may, with the consent of the defendant, make an

*1957 Reprint, Vol. 15, p. 299
Amendments: 1961, No. 44; 1963, No. 117

New

order for the taking before any other Magistrate's Court or before the Registrar thereof (not being a constable), of the evidence of the informant or of any witness for the prosecution, if for any reason the Magistrate or the Court, as the case may be, considers it desirable or expedient that the evidence of the informant or the witness should be so taken." 5

1b. Variation of conditions of bail—(1) The principal Act is hereby further amended by inserting, after section 49, the following section: 10

"49A. Where the defendant is granted bail, any Magistrate may, on the application of the defendant, make an order varying the terms on which bail has been granted or any conditions of any bail bond entered into or to be entered into or revoking any such conditions. Where a bail bond has been entered into in any case where sureties are required, it shall continue in force and the order shall not take effect until the sureties to the bail bond have consented in writing to the order or a new bail bond is entered into complying with the provisions of the order." 15 20

(2) Section 171 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

"(1A) Where the defendant has been committed for trial and is granted bail, any order under section 49A of this Act (which relates to the variation of the conditions of bail), as applied by this section, may be made at any time before the first date on which pursuant to this section the defendant is required to report to the Registrar of the Supreme Court." 25

1c. Execution of bail bonds—(1) Section 50 of the principal Act is hereby amended— 30

(a) By omitting from subsection (1) the words "any of the parties to it before any Magistrate or Justice or Registrar", and substituting the words "any surety to it before any Magistrate or Justice or Registrar and by the defendant before any Magistrate or Justice or Registrar or the Superintendent of any penal institution in which the defendant is detained": 35

(b) By inserting in subsection (2) and also in the proviso to subsection (3), after the word "Registrar", the words "or Superintendent". 40

(2) Section 50 of the principal Act is hereby further amended by adding the following subsection:

New

“ (4) In this section the term ‘Superintendent’, in relation to a penal institution, includes the person who, in the absence of the Superintendent, is in charge of the penal institution.
5 The fact that any person does any act under this section as the person purporting to be in charge of a penal institution shall be conclusive evidence of his authority to do so.”

1D. Withdrawal of election by defendant—(1) Section 66 of the principal Act is hereby amended by adding to sub-
10 section (6) the following proviso:

“Provided that where the Court is presided over by two or more Justices and the defendant has pleaded guilty to an offence which the Court does not have jurisdiction to deal with summarily by reason of its constitution, the Court shall
15 record the plea and shall adjourn the proceedings for the defendant to be sentenced or otherwise dealt with by a Court presided over by a Magistrate.”

(2) Section 66 of the principal Act is hereby further amended by inserting, after subsection (6), the following
20 subsection:

“ (6A) Where a defendant who has elected under this section to be tried by a jury has pleaded guilty pursuant to the provisions of section 168 of this Act and he is not represented by a barrister or solicitor, the Court, unless it considers
25 that leave should not be granted to the defendant to withdraw his election, shall draw to his attention the provisions of subsection (6) of this section.”

(3) Section 168 of the principal Act is hereby amended—

(a) By inserting in paragraph (b) of subsection (1), after
30 the words “pleads guilty”, the words “then, subject to the provisions of subsections (6) and (6A) of section 66 of this Act”:

(b) By inserting in paragraph (c) of subsection (1), after
35 the words “plead guilty”, the words “then, subject to the provisions of subsection (6) of section 66 of this Act”:

(c) By inserting in subsection (2), after the words “pleaded guilty”, the words “and is committed to the Supreme Court for sentence”.

40 2. Release on bail of defendant committed for trial—

(1) Section 171 of the principal Act (as amended by subsection (1) of section 8 of the Summary Proceedings Amendment Act 1961) is hereby further amended by omitting from sub-

section (1) the words “and report to the Registrar of the Supreme Court, at the place specified in the bond, on the first day of the next sittings of the Supreme Court for the trial of criminal cases at that place, and that he attend personally thereafter on such other day or days during those sittings as may be notified by the Registrar, in writing, to him or to his counsel”, and substituting the words “and report to the Registrar of the Supreme Court, at the place specified in the bond, on such date during the sittings of the Supreme Court then current for the trial of criminal cases at that place as shall be notified by that Registrar, in writing, to him or to his counsel and also to the sureties under the bond, or, if he is not so notified to report during the then current sittings, that he so report on the first day of the next such sittings at that place, and that he attend personally after the date so notified, or, as the case may be, after the first day of those next sittings, on such other day or days during the sittings as may be notified by the Registrar, in writing, to him or to his counsel”.

(2) Section 8 of the Summary Proceedings Amendment Act 1961 is hereby amended by repealing subsection (1).

New

3. Statement of person dangerously ill—Section 175 of the principal Act is hereby amended by omitting from subsection (1) the words “any person dangerously ill, and, in the opinion of a registered medical practitioner, not likely to recover from that illness”, and substituting the words “any person who, in the opinion of a registered medical practitioner, is dangerously ill”.