

[This Bill was formerly clauses 11 to 14 of the Traffic  
Infringement Offences Bill (No. 2).]

*Hon R. W. Prebble*

**SUMMARY PROCEEDINGS AMENDMENT**

ANALYSIS

Title	
1. Short Title and commencement	3. Service of notice of traffic prosecution
2. Summary procedure for minor traffic offences	4. Hearing to be granted where service by post not effective

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, as follows:

- 1. Short Title and commencement**—(1) This Act may be cited as the Summary Proceedings Amendment Act 1985, and shall be read together with and deemed part of the Summary Proceedings Act 1957 (hereinafter referred to as the principal Act).
- (2) This Act shall come into force on the 1st day of April 1985.

- 2. Summary procedure for minor traffic offences**—(1) Section 21 of the principal Act (as inserted by section 16 of the Transport Amendment Act 1980) is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) A copy of a notice of traffic prosecution may be served on a person at any time after the notice has been filed in a Court.

“(3) Where a copy of a notice of traffic prosecution is served by any person other than an officer of the Court, a constable, or a traffic officer within the meaning of the Transport Act

1962, the person who serves the notice shall, as soon as practicable thereafter, give proof of service of the notice by affidavit to the Court in which the notice was filed.”

(2) Section 21 of the principal Act (as so inserted) is hereby further amended by omitting from subsection (5) the expression “35 days”, and substituting the expression “14 days”. 5

### 3. Service of notice of traffic prosecution—

(1) Section 24 (1) of the principal Act is hereby amended by adding to paragraph (c) the expression “; or”, and inserting, after that paragraph, the following paragraph: 10

“(d) In the case of a notice of traffic prosecution, by being sent to him by letter sent by ordinary post addressed to him at his last known or usual place of residence or business, or to any address given by him under section 9 (1), section 12 (1), or section 18 of the Transport Act 1962.” 15

(2) Section 24 (3) of the principal Act (as substituted by section 2 (2) of the Summary Proceedings Amendment Act 1968) is hereby amended by inserting, after the expression “paragraph (c)”, the expression “or paragraph (d)”. 20

(3) Section 25 (2) of the principal Act is hereby amended by inserting, after the word “registered”, the words “or ordinary”.

### 4. Hearing to be granted where service by post not effective—

(1) The principal Act is hereby amended by inserting, after section 78A (as inserted by section 18 (1) of the Transport Amendment Act 1980), the following section: 25

“78B. (1) Where a registered or ordinary letter has been used for the service on a defendant of a copy of a notice of traffic prosecution under section 21 of this Act, or a notice of time and place of hearing has been posted to a defendant under subsection (5) of that section, and an order has been made under section 78A (1) of this Act against the defendant in his absence, a District Court Judge or the Registrar (not being a constable) shall, subject to subsection (2) of this section, on the application of the defendant,— 30

“(a) Grant a hearing of the matter and set it down for hearing at a later date; and 35

“(b) Require another copy of the notice of traffic prosecution or a copy of the notice of time and place of hearing, or both, to be served on the defendant; and, in any such case the notice or notices shall be served by posting them by ordinary post to any address specified by the defendant in a declaration made by him under subsection (2) (a) of this section, or by personal service on the defendant. 40 45

“(2) No rehearing shall be granted under **subsection (1)** of this section unless a statutory declaration made by the defendant declaring that he did not receive the copy of the notice of traffic prosecution or did not receive the notice of time and  
5 place of hearing, or both; and—

“(a) Specifying an address at which he will accept service by post of another copy of the notice of traffic prosecution or of the notice of time and date of the hearing; or

10 “(b) Declaring that there is no suitable address at which service by post of those notices may be effected, and specifying an address at which he will accept personal service of either or both of those notices.

“(3) Where a hearing has been granted under **subsection (1)**  
15 of this section, the order made under section 78A (1) of this Act in respect of the offence shall immediately cease to have effect.”

(2) Section 75 (1A) of the principal Act (as substituted by section 17 (3) of the Transport Amendment Act 1980) is hereby  
20 amended—

(a) By omitting the words “or copy of a notice of traffic prosecution under section 21 of this Act, or a notice of time and place of hearing has been posted to a defendant under section 21 of this Act”:

25 (b) By omitting from paragraph (b) the words “or require a copy of the notice of time and place of hearing to be served on the defendant,”.