

[AS REPORTED FROM THE JUSTICE AND LAW REFORM
COMMITTEE]

House of Representatives, 2 July 1987

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 9 July 1987

Words struck out are shown in italics within double bold round brackets, or with double black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Right Hon. Geoffrey Palmer

SUMMARY PROCEEDINGS AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	
2. Interpretation	
PART I	
INFRINGEMENT OFFENCES	
3. Jurisdiction in respect of summary offences	
4. Summary procedure for minor offences	
5. New sections relating to infringement offences procedure inserted	
21. Prosecution commenced by reminder notice	21E. Enforcement of reminder notice
21A. Contents of reminder notice	21F. Defendant deemed to be convicted on filing of reminder notice
21B. Service of reminder notice	21G. Effect of payment of infringement fee
21C. Action where fine not paid and allegation not denied	21H. Defence that another liable and conclusive presumption of liability
21D. Action where allegation denied	21I. Fine to be same as infringement fee
	21J. Presumptions relating to service of notices and non-payment of fees
	6. Mode of service of documents on defendant
	7. Who may serve documents on defendant
	8. Hearing to be granted where service by post not effective

No. 102—3

Price \$4.50

incl. GST \$4.95

Summary Proceedings Amendment

<p style="text-align: center;">PART II FINES ENFORCEMENT</p> <p>9. New Part substituted</p> <p style="text-align: center;">PART III ENFORCEMENT OF FINES</p> <p>79. Interpretation</p> <p>80. Fines generally payable within 28 days</p> <p>81. Time to pay or payment by instalments</p> <p>82. Statement of means where fine or fines in excess of \$250</p> <p>83. Order for immediate payment of fine</p> <p>84. Notice of fine</p> <p>85. Further notice of fine</p> <p>86. Extension of time to pay</p> <p>87. Action where fine not paid</p> <p>88. Action where fine remains unpaid</p> <p>89. Rights of representation and appeal</p> <p>90. Scale of imprisonment for non-payment of fine</p> <p>91. Defendant on substituted sentence to be discharged on payment of fine</p> <p>92. Effect of warrant of commitment</p>	<p>93. Effect of warrant to seize property</p> <p>94. Effect of attachment order</p> <p>95. Attachment order to be served on employer</p> <p>96. Operation of attachment order</p> <p>97. Liability of employer</p> <p>98. Wrongful treatment of employee</p> <p>99. Extent to which attachment orders bind the Crown</p> <p>100. Statement of salary or wages paid</p> <p>101. Transfer of enforcement to another District Court</p> <p>102. Restriction on imprisonment</p> <p>103. Review of Registrar's decision</p> <p style="text-align: center;">PART III TRANSITIONAL PROVISIONS, AMENDMENTS, AND REPEALS</p> <p>10. Transitional provisions for infringement offences</p> <p>11. Transitional provisions for enforcement of fines</p> <p>12. Consequential amendments</p> <p>13. Consequential repeals Schedules</p>
---	---

A BILL INTITULED**An Act to amend the Summary Proceedings Act 1957**

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Summary Proceedings Amendment Act 1987, and shall be read together with and deemed part of the Summary Proceedings Act 1957* (hereinafter referred to as the principal Act). 5

Struck Out

(2) This Act shall come into force on the 1st day of June 1987. 10

*R.S. Vol. 9, p. 583

Amendments: 1982, Nos. 47, 131, 158; 1985, Nos. 51, 55, 99, 162, 191; 1986, (No. 73) Nos. 73, 76

Struck Out

New

(2) This Act shall come into force on a day to be fixed by the Governor-General by Order in Council.

New

(2) This Act shall come into force on the 1st day of November 1987.

2. Interpretation—

New

10 (a1) Section 2 (1) of the principal Act is hereby amended by repealing paragraph (c) of the definition of the term "Defendant" (as substituted by section 15 (1) of the Transport Amendment Act 1980), and substituting the following paragraph:

15 "(c) In relation to an infringement offence for which an infringement notice has been issued, any person served with a reminder notice in respect of the offence, or any person who gives notice requesting a hearing in respect of the offence, pursuant to section
20 21 of this Act:"

(1) Section 2 (1) of the principal Act is hereby amended by repealing paragraph (c) of the definition of the term "Informant" (as substituted by section 15 (1) of the Transport Amendment Act 1980), and substituting the
25 following paragraph:

Struck Out

30 "(c) A person, Department, corporation, or local authority that files a reminder notice under **section 21c** of this Act or a notice of time and place of hearing under **section 21d** of this Act:"

New

“(c) In relation to an infringement offence for which an infringement notice has been issued, the Department, local body, or other authority in or by which the officer who issued the notice was employed:”.

(2) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “Informant” (as so substituted) the following definitions:

New

“ ‘Infringement fee’ in relation to an infringement offence, means the amount fixed as the infringement fee for the offence by or under the Act under which the offence is created:”

“ ‘Infringement notice’ means a notice issued under section 42A of the Transport Act 1962 or section 14 of the Litter Act 1979:”

“ ‘Infringement offence’ means any offence under any Act in respect of which a person may be issued with an infringement notice:”.

Struck Out

(3) Section 2 (1) of the principal Act is hereby amended by adding to the definition of the term “minor traffic offence” (as inserted by section 15 (2) of the Transport Amendment Act 1980) the words “; but does not include any offence for which proceedings are commenced in accordance with section 12 or section 21 of this Act.”

New

(3) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “Minor traffic offence” (as inserted by section 15 (2) of the Transport Amendment Act 1980 and amended by section 52 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986).

Struck Out

(4) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “representative”, the following definition:

5 “‘Salary or wages’, for the purposes of sections 96, 97, and 100 of this Act, includes—

“(a) A retiring allowance or pension or other payment of a like nature:

10 “(b) Earnings related compensation under the Accident Compensation Act 1972 or the Accident Compensation Act 1982:”

PART I

INFRINGEMENT OFFENCES

15 **3. Jurisdiction in respect of summary offences**—Section 9 (3) of the principal Act is hereby amended by repealing paragraph (b), and substituting the following paragraph:

“(b) Where the offence is an infringement offence.”

20 **4. Summary procedure for minor offences**—Section 20A of the principal Act (as inserted by section 7 (1) of the Summary Proceedings Amendment Act 1973) is hereby amended by omitting from subsection (12) (as amended by section 17 (2) (b) of the Transport Amendment Act 1980) the words “; but does not include a minor traffic offence”.

Struck Out

25 **5. New sections relating to infringement offences procedure inserted**—The principal Act is hereby amended by repealing section 21, and substituting the following sections:

30 “21. **Prosecution commenced by reminder notice**—
(1) Except as provided in subsection (2) of this section, every prosecution for an infringement offence shall be commenced by the informant filing in a Court a reminder notice under section 21c of this Act or a notice of time and date of hearing under section 21d of this Act.

35 “(2) With the leave of a Registrar or Judge, a prosecution for an infringement offence may be commenced by the issue of a summons.

Struck Out

“(3) Section 14 of this Act shall apply in respect of every duplicate reminder notice and notice of time and date of hearing filed in a Court as if it were an information.

“21A. **Contents of reminder notice**—(1) Every reminder notice shall clearly— 5

“(a) Inform the defendant of the time, place, and nature of the alleged offence:

“(b) Specify the infringement fee and any other penalty that may be imposed for the offence and the place where the infringement fee may be paid: 10

“(c) Contain a statement of the defendant’s right to deny the allegation and request a hearing in respect of it:

“(d) Contain a statement of the consequences if the defendant does not pay the infringement fee in full and does not make a request under **paragraph (c)** of this subsection: 15

“(e) Contain a statement of the effect of the defendant paying the infringement fee in full and accepting any other specified penalty in respect of the offence: 20

“(f) Contain a statement that the informant believes the accuracy of the allegation against the defendant— and may contain such other information as the Governor-General in Council thinks fit.

“(2) Every reminder notice shall state the consequences of the defendant’s failure to either pay the fine or deny the allegation, including a statement in the prescribed form of the enforcement action that may be taken under **Part III** of this Act. 25

“21B. **Service of reminder notice**—(1) Where an infringement notice has been issued to a defendant, and the defendant has not, within 28 days of the issue of that notice,— 30

“(a) Paid the infringement fee; or

“(b) Notified the informant in writing that the defendant denies the allegation—

the informant shall, if it is decided to commence proceedings, serve on the defendant a reminder notice in the prescribed form. 35

“(2) No reminder notice may be served on a defendant more than 90 days after the issue of the infringement notice in respect of the offence. 40

Struck Out

“21C. **Action where fine not paid and allegation not denied**—(1) Where an infringement notice has been issued and a reminder notice has been served in respect of an alleged offence and the defendant has not, within 28 days of the service of the reminder notice,—

“(a) Paid the infringement fee; or

“(b) Given notice in writing to the informant that the defendant denies the allegation,—
the informant may, on payment of the appropriate prescribed fee (if any) payable by the informant, file a duplicate of the reminder notice in a Court.

“(2) Where a reminder notice is filed in a Court it shall be accompanied by a statement that—

“(a) An infringement notice was issued to the defendant, and the date and method by which it was served:

“(b) A reminder notice was served on the defendant, and the date and method of that service.

“21D. **Action where allegation denied**—(1) Where a defendant wishes to deny an allegation in an infringement notice or a reminder notice, the defendant shall give written notice to the informant that the allegation is denied.

“(2) The notice of denial given under **subsection (1)** of this section shall be given not later than 28 days after the service of a reminder notice on the defendant or such longer period as the informant may allow.

“(3) Where a notice of denial is given under **subsection (1)** of this section before a reminder notice is served on a defendant, it shall not be necessary to serve a reminder notice on the defendant.

“(4) Where a notice of denial is given under **subsection (1)** of this section, the informant shall, if it is desired to commence proceedings, arrange for the service of a notice of time and place of hearing in the prescribed form on the defendant, and subsequent proceedings shall be taken as if that notice were a summons.

“(5) No notice of time and place of hearing shall be filed in a Court until the expiry of 28 days after the date of its service on the defendant.

“(6) Sections 17, 18, 34, 36, 75, 204, 205, and 208 of this Act, Part IV of this Act, and the Costs in Criminal Cases Act 1967

Struck Out

shall apply, with such modifications as are necessary, to every notice of time and place of hearing as if it were an information.

“21E. Enforcement of reminder notice—Where any duplicate reminder notice is filed in any Court, the infringement fee in respect of the offence as specified in that notice and the appropriate prescribed costs may be enforced as if they were a fine. 5

“21F. Defendant deemed to be convicted on filing of reminder notice—Where a duplicate reminder notice is filed in a Court the defendant shall be deemed to be convicted of the offence to which it relates; and Part IV of this Act shall apply as if the conviction was made following the determination of an information by a District Court. 10

“21G. Effect of payment of infringement fee—(1) It shall be a defence to proceedings taken under this Act for an infringement offence if the defendant proves that the infringement fee specified in the infringement notice or reminder notice issued in respect of the offence has been paid to the informant before the earliest date on which the reminder notice or notice of time and place of hearing in respect of the offence could be filed in a Court. 15 20

“(2) It shall not be a defence to proceedings taken under this Act for an infringement offence that the infringement fee specified in an infringement notice or reminder notice issued in respect of the offence has been paid after the earliest date on which the reminder notice or notice of time and place of hearing in respect of the offence could be filed in a Court, irrespective of whether or not the notice had been filed when the payment was made; but where any such notice is filed the infringement fee paid shall be applied towards the payment of the fine payable by the defendant. 25 30

Cf. 1962, No. 135, s. 42A (7), (7A); 1985, No. 50, s. 8

“21H. Defence that another liable and conclusive presumption of liability—(1) It shall be a defence to proceedings taken under this Act for a parking offence as defined in section 42 of the Transport Act 1962 if the defendant proves that— 35

“(a) A reminder notice in respect of the offence has been filed under section 21E of this Act in respect of another person; or 40

Struck Out

- “(b) A Court has imposed a fine in respect of the offence under **section 21** of this Act in respect of another person.
- 5 “(2) It shall be a defence to proceedings taken under this Act against a person pursuant to paragraph (b) or paragraph (c) of section 42 (2) of the Transport Act 1962 if the person proves that—
- 10 “(a) At the time the alleged offence was committed—
- “(i) The person was not lawfully entitled to possession of the vehicle (either jointly with any other person or severally); or
- “(ii) Another person was unlawfully in charge of the vehicle; and
- 15 “(b) Forthwith after becoming aware of the alleged offence the person advised the enforcement authority that, at the time the offence was committed, the person was not lawfully entitled to possession of the vehicle or another person unlawfully had charge of the vehicle, as the case may be; and
- 20 “(c) The person has done everything reasonably possible to comply with all requests of the enforcement authority to supply to the authority information regarding the person lawfully entitled to possession, or who was in charge, of the vehicle at the time of the alleged offence.
- “(3) Subject to **subsection (2)** of this section, in any proceedings taken under this Act pursuant to paragraph (b) or paragraph (c) of section 42 (2) of the Transport Act 1962 it shall be
- 30 conclusively presumed that—
- “(a) The person was the driver, person in charge, and user of the vehicle at the time of the alleged offence (whether or not the person is an individual); and accordingly
- 35 “(b) The acts or omissions of the driver, person in charge, or user of the vehicle at that time were the acts or omissions of the first-mentioned person.
- “(4) This section shall have effect notwithstanding anything to the contrary in any Act or rule of law.
- 40 Cf. 1962, No. 135, s. 42 (3)-(6); 1980, No. 96, s. 7; 1985, No. 50, s. 6

Struck Out

“21I. **Fine to be same as infringement fee**—Where a defendant is found by a Court to have committed an offence for which an infringement notice has been issued, the Court shall impose a fine which shall be the same as the infringement fee specified in the infringement notice or, in the case of a speeding infringement offence or a parking infringement offence, the infringement fee for the offence proved, and the defendant shall also be liable to pay such costs as the Court may order or as may be prescribed.

“21J. **Presumptions relating to service of notices and non-payment of fees**—In any proceedings for an infringement offence for which an infringement notice has been issued it shall be presumed, unless the contrary is proved, that—

“(a) The infringement notice in respect of the offence has been duly issued to the defendant; and

“(b) Any reminder notice or notice of time and place of hearing, or both, that is required to be served on the defendant has been duly served; and

“(c) The infringement fee in respect of the offence has not been paid.”

New

5. Summary procedure for infringement offences—The principal Act is hereby amended by repealing section 21, and substituting the following section:

“21. (1) Proceedings in respect of an infringement offence may be commenced—

“(a) With the leave of a District Court Judge or a Registrar, by laying an information under this Act, or by filing a notice of prosecution under **section 20A** of this Act; or

“(b) Where an infringement notice has been issued in respect of the offence, by filing in a Court a copy of a reminder notice, or a notice of hearing, under this section.

“(2) Where—

New

“(a) An infringement notice has been issued in respect of an infringement offence; and

5 “(b) On the expiration of 28 days from the date of service of the notice, or a copy of the notice,—

“(i) The infringement fee for the offence has not been paid to the informant at the address specified in the notice; and

10 “(ii) The informant has not received at that address a notice requesting a hearing in respect of the offence,—

the informant may serve on the person or one of the persons served with the infringement notice, or a copy of the infringement notice, a reminder notice in the prescribed form
15 containing the same or substantially the same particulars as the infringement notice.

“(3) Where—

“(a) A reminder notice has been served pursuant to **subsection (2)** of this section; and

20 “(b) On the expiration of 28 days from the date of service of that notice,—

“(i) The infringement fee for the offence has not been paid to the informant at the address specified in the notice; and

25 “(ii) The informant has not received at that address a notice requesting a hearing in respect of the offence,—

the informant may file in a Court a copy of the reminder notice, being a copy that has recorded on it the date and
30 method of service on the defendant of the infringement notice, or copy of the infringement notice, and the date and method of service of the reminder notice.

“(4) For the purposes of this section, a reference to a copy of a reminder notice shall be deemed to include a reference to a
35 document that records the contents, or a prescribed part of the contents, of the reminder notice.

“(5) Where a copy of a reminder notice is filed in a Court pursuant to **subsection (3)** of this section within 6 months from the time when the offence is alleged to have been committed,
40 an order shall be deemed to have been made, as if the determination of an information in respect of the offence, that the defendant pay a fine equal to the amount of the

New

infringement fee for the offence together with costs of the prescribed amount.

“(6) A notice requesting a hearing in respect of an infringement offence must—

5

“(a) Be in writing signed by the person or one of the persons served with the infringement notice in respect of the offence, or a copy of the infringement notice; and

“(b) Be delivered to the informant at the address specified in the infringement notice before or within 28 days after service of a reminder notice in respect of the offence, or within such further time as the informant may allow.

10

“(7) A person giving notice requesting a hearing in respect of an infringement offence may, if the person thinks fit, in that notice—

15

“(a) Admit liability in respect of the offence; and

“(b) Make any submissions as to penalty or otherwise that the defendant would wish to be considered by a Court hearing proceedings in respect of the offence.

20

“(8) Where a notice requesting a hearing in respect of an infringement offence is given in accordance with this section, the following provisions shall apply:

“(a) The informant shall, if it is proposed that proceedings be commenced in respect of the offence, file in a Court a notice of hearing in the prescribed form:

25

“(b) Where the defendant does not, in the notice requesting a hearing, admit liability in respect of the offence, the informant shall serve on the defendant a copy of the notice of hearing filed pursuant to paragraph (a) of this subsection:

30

“(c) Where the defendant does, in the notice requesting a hearing, admit liability in respect of the offence, the informant shall file that notice in the Court in which the notice of hearing is filed:

35

“(d) Where a notice of hearing is filed in a Court within 6 months from the time when the offence is alleged to have been committed, the provisions of this Act and the Costs in Criminal Cases Act 1967 shall apply, with such modifications as are necessary,—

40

“(i) In relation to the notice of hearing, as if it were an information:

New

- 5 “(ii) In relation to a copy of the notice served on the defendant pursuant to **paragraph (b)** of this subsection, as if it were a summons to the defendant:
- 10 “(iii) In relation to a notice of the defendant filed in the Court pursuant to **paragraph (c)** of this subsection, as if it were a notice of the defendant pleading guilty to the offence pursuant to section 41 of this Act.
- 15 “(9) Where a defendant is found guilty of, or pleads guilty to, an infringement offence for which an infringement notice has been issued, the Court shall order the defendant to pay costs of the prescribed amount in addition to the fine (if any) and other costs (if any) ordered by the Court.
- 20 “(10) In any proceedings for an infringement offence for which an infringement notice has been issued—
“**(a)** It shall be a defence if the defendant proves that the infringement fee for the offence has been paid to the informant at the address specified in the notice before or within 28 days after service on the defendant of a reminder notice in respect of the offence:
- 25 “**(b)** It shall not be a defence that the infringement fee for the offence has been paid otherwise than as referred to in **paragraph (a)** of this subsection.
- 30 “(11) Where an infringement fee is paid to the informant at the address specified in the infringement notice but not within the time referred to in **subsection (10) (a)** of this section, the amount paid may be held and applied towards any fine or costs that the defendant may become liable to pay in respect of the offence.
- 35 “(12) In any proceedings for an infringement offence for which an infringement notice has been issued it shall be presumed, unless the contrary is proved, that—
“**(a)** The infringement notice in respect of the offence has been duly issued, and the notice, or a copy of the notice, has been served on the defendant:
- 40 “**(b)** Any reminder notice or copy of a notice of hearing required to have been served on the defendant has been duly served:

New

“(c) The infringement fee for the offence has not been paid as required under this section.”

6. Mode of service of documents on defendant—Section 24 (1) of the principal Act is hereby amended by repealing paragraph (d) (as inserted by section 3 (1) of the Summary Proceedings Amendment Act 1985 and amended by section 27 of the Transport Amendment Act (No. 2) 1985), and substituting the following paragraph:

“(d) In the case of a notice relating to an infringement offence or a minor offence as defined in section 20A (12) of this Act, by being sent by letter by ordinary post addressed to the defendant at the defendant’s last known place of residence or business or, in the case of an infringement offence against the Transport Act 1962, the Transport (Vehicle and Driver Registration and Licensing) Act 1986, or any regulations or bylaws made under those Acts, by being posted to any address given by or on behalf of the defendant under section 7, section 10, section 15, or section 20 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986.”

7. Who may serve documents on defendant—(1) The principal Act is hereby amended by repealing section 25, and substituting the following section:

“25. (1) Except as provided in subsection (2) of this section every summons to a defendant and every other document that is required to be served on a defendant may be served by—

“(a) A constable:

“(b) An officer of the Court:

“(c) Any person or member of a class of persons authorised by a District Court Judge or Registrar either generally or in respect of a particular case or class of case:

“(d) In the case of a summons to the defendant or other document required to be served on the defendant in proceedings for an offence against any Act, regulation, or bylaw to which section 68B (1) of the

Transport Act 1962 applies, by a traffic officer within the meaning of the Transport Act 1962:

5 “(e) In the case of a reminder notice or (*notice of time and place of hearing*) copy of a notice of hearing relating to an infringement offence, by any person acting in the course of official duties as an officer or employee of the informant.

“(2) Where any such summons or document is to be served by registered or ordinary letter it shall be so served—

10 “(a) Except in the case of a reminder notice or (*notice of time and place of hearing*) copy of a notice of hearing relating to an infringement offence, by an officer of the Court posting the summons or document to the defendant:

15 “(b) In the case of a reminder notice or (*notice of time and place of hearing*) copy of a notice of hearing relating to an infringement offence, by an officer or employee of the informant posting the notice to the defendant.”

20 *Struck Out*

(2) Section 3 (3) of the Summary Proceedings Amendment Act 1985 is hereby consequentially repealed.

New

25 **7A. Who may conduct proceedings**—Section 37 of the principal Act is hereby amended by adding the following subsection:

30 “(5) Where proceedings have been commenced by the filing of a notice of hearing pursuant to section 21 of this Act, any officer of the Department, local body, or other authority that is the informant may appear and conduct the proceedings on the informant’s behalf.”

New

35 **7B. District Court Judge or Justice may grant rehearing**—Section 75 (1A) of the principal Act (as substituted by section 17 (3) of the Transport Amendment Act 1980) is hereby amended by inserting, after the word “registered”, the words “or ordinary”.

Struck Out

8. Hearing to be granted where service by post not effective—The principal Act is hereby amended by repealing section 78A (as inserted by section 18 (1) of the Transport Amendment Act 1980), and section 78B (as inserted by section 4 (1) of the Summary Proceedings Amendment Act 1985), and substituting the following section: 5

“78B. (1) Where a registered or ordinary letter has been used for the service on a defendant of a reminder notice under **section 21a** of this Act or a notice of time and place of hearing 10 has been so served on a defendant under **section 21b** of this Act, and a duplicate reminder notice has been filed under **section 21c** of this Act or the matter has been dealt with by a Court in the absence of a defendant, a District Court Judge or the Registrar (not being a constable) shall, subject to **subsection (2)** of this 15 section, on the application of the defendant,—

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

“(b) Require another copy of the reminder notice or a copy of the notice of time and place of hearing, or both, 20 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 the defendant under **subsection (2) (a)** of this section, or by personal 25 service on the defendant.

“(2) No hearing shall be granted under **subsection (1)** of this section unless a statutory declaration made by the defendant declaring that the defendant did not receive the reminder notice or, having given a notice of denial, did not receive the 30 notice of time and place of hearing, or both; and—

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

“(b) Declaring that there is no suitable address at which 35 service by post of those notices may be effected, and specifying an address at which the defendant will accept personal service of either or both of those notices.

Struck Out

“(3) Where a hearing has been granted under subsection (1) of this section, no enforcement action shall be taken in respect of the fine or any costs prescribed or ordered to be paid by any
5 Court in respect of the offence.”

New

8. Conviction not to be recorded for infringement offences—The principal Act is hereby amended by repealing section 78A (as inserted by section 18 (1) of the Transport
10 Amendment Act 1980), and substituting the following section:

“78A. (1) Notwithstanding any other provision of this or any other Act, where in proceedings for an infringement offence (whether being an offence for which an infringement notice has been issued or not) the defendant is found guilty of, or pleads
15 guilty to, the offence and the Court would, but for this subsection, convict the defendant, the Court shall not convict the defendant but may order the defendant to pay such fine and costs and may make such other orders as the Court would be authorised to order or make on convicting the defendant of
20 the offence.

“(2) Every reference in this or any other Act or in any regulation or bylaw to a conviction for an offence shall, in relation to an infringement offence where—

25 “(a) An order has been made as referred to in subsection (1) of this section that the defendant pay a fine and costs;
or

“(b) An order is deemed by virtue of section 21 (5) of this Act to have been made that the defendant pay a fine and costs,—

30 be deemed to be a reference to the making of that order.”

8A. Power to correct irregularities in proceedings for infringement offences—The principal Act is hereby amended by repealing section 78B (as inserted by section 4 (1) of the Summary Proceedings Amendment Act 1985), and
35 substituting the following section:

“78B. (1) —This section shall apply to a defendant who,—

New

- “(a) On the filing of a copy of a reminder notice pursuant to section 21 of this Act, is deemed to have been ordered to pay a fine and costs; or
- “(b) On the hearing conducted following the filing of a notice of hearing pursuant to section 21 of this Act, is ordered to pay a fine or costs, or both. 5
- “(2) Where a District Court Judge, on the application of a defendant to whom this section applies, is satisfied, whether on the basis of a statutory declaration or evidence given before the Judge, that— 10
- “(a) The defendant did not in fact receive the reminder notice, or a copy of the notice of hearing, required to have been served on the defendant pursuant to section 21 of this Act; or 15
- “(b) Some other irregularity occurred in the procedures leading up to the order for the fine or costs, or both,—
- the Judge may do one or more of the following: 20
- “(c) Set aside or modify the order: 20
- “(d) Grant a hearing or rehearing of the matter and proceed with the hearing or rehearing immediately or set it down for a later date:
- “(e) Authorise or require another copy of the reminder notice or notice of hearing to be served on the defendant, and for that purpose require the defendant to specify an address at which personal service, service by post, or service by either method may be effected: 25
- “(f) Make any other order as to costs or otherwise that the Judge considers appropriate in the circumstances. 30
- “(3) Where a defendant to whom this section applies makes application accompanied by a statutory declaration made by the defendant—
- “(a) Declaring that the defendant did not in fact receive the reminder notice, or a copy of the notice of hearing, required to have been served on the defendant pursuant to section 21 of this Act; and 35
- “(b) Either—
- “(i) Specifying an address at which the defendant will accept service by post; or 40

New

- 5 “(ii) Declaring that there is no suitable address at which service by post may be effected, and specifying an address at which the defendant will accept personal service,—
- the Registrar (not being a constable) may do either or both of the following:
- “(c) Grant a hearing or rehearing of the matter and set a date for it:
- 10 “(d) Authorise or require another copy of the reminder notice, or the notice of hearing, to be served on the defendant.
- “(4) Where a Registrar exercises a power conferred by **subsection (3)** of this section, the order made or deemed to have
- 15 been made against the defendant shall cease to have effect.
- “(5) Where a defendant granted a rehearing pursuant to this section does not appear at the rehearing, the Court may, if it thinks fit, without rehearing the matter, direct that the original order be restored.”
- 20 **8B. Acts not generally to be done on Sunday**—Section 203 (2) of the principal Act is hereby amended by repealing paragraph (k) (as added by section 17 (4) of the Transport Amendment Act 1980).
- 25 **8C. Payment and recovery of fees**—Section 207 (3) of the principal Act is hereby amended by omitting the word “No”, and substituting the words “Except as provided in regulations made under this Act, no”.

PART II

FINES ENFORCEMENT

- 30 **9. New Part substituted**—The principal Act is hereby amended by repealing Part III, and substituting the following Part:

"PART III

"ENFORCEMENT OF FINES

Struck Out

"79. **Interpretation**—In this Part of this Act, unless the context otherwise requires, references to a fine include any sum of money ordered to be paid by a conviction or order or payable by virtue of any conviction or order, whether described as a fine, or as costs, expenses, fees, or otherwise; and includes any prescribed fees or costs payable in respect of the enforcement of any fine.

Cf. 1957, No. 87, s. 79

New

"79. **Interpretation**—In this Part of this Act, unless the context otherwise requires,—

" 'Employer' includes, in relation to payments of the kind referred to in this section in the definition of the term 'salary or wages', the person or body making the payments:

" 'Fine' includes—

(a) Any sum of money adjudged or ordered to be paid by a conviction or order, whether described as a fine, or as costs, expenses, fees, or otherwise:

(b) Any prescribed costs, expenses, or fees payable in respect of the enforcement of any fine as defined in paragraph (a) of this definition:

" 'Salary or wages' includes—

(a) A retiring allowance or pension or other payment of a similar nature:

(b) Earnings related compensation under the Accident Compensation Act 1972 or the Accident Compensation Act 1982.

"80. **Fines generally payable within 28 days**—Except as otherwise provided in this Act, every fine shall be paid within 28 days after the day on which it is imposed.

Cf. 1957, No. 87, s. 84

"81. **Time to pay or payment by instalments**—(1)

New

Where a Court, on the determination of an information or complaint, proposes to order that the defendant pay a fine—

“(a) That is more than \$250; or 5

“(b) That would amount to more than \$250 when added together with any other fine or fines that are or would be payable under other orders made or proposed to be made against the defendant,—

the Court shall, unless satisfied that the defendant has the financial ability to pay the fine or fines or that any document held in the Court contains a sufficiently accurate statement of the defendant’s means, order that the defendant complete a statement of means before imposing the fine. 10

“(2) For the purpose of having a statement of means completed, a Court may direct that a person be detained in the custody of the Court for such time, not exceeding 2 hours, as may be necessary to complete the statement of means. 15

“(3) The failure of any Court to make an order under **subsection (1)** of this section shall not affect the validity of any *(fine or other penalty imposed by)* other order of the Court. 20

“83. **Order for immediate payment of fine**—(1) Where a fine is to be paid and the Court is of the opinion—

“(a) That the defendant has sufficient means to pay the fine immediately; or 25

“(b) That the defendant has no fixed place of residence; or

“(c) That by reason of the gravity of the offence, the character of the defendant, or other special circumstances, the fine should be paid immediately— 30

the Court may order the defendant to pay the fine immediately, *and in that case section 82 of this Act shall not apply*).

“(2) Where any order under **subsection (1)** of this section is not complied with, the Court may—

“(a) Direct that a warrant to seize property be issued in the prescribed form; or 35

Struck Out

“(b) Direct that a warrant of commitment be issued in the prescribed form imposing on the defendant a period

Struck Out

of imprisonment not exceeding the appropriate maximum period prescribed by **section 90** of this Act.

New

5 “(b) Direct that a warrant of commitment be issued in the prescribed form for the imprisonment of the defendant for a period not exceeding the maximum prescribed by **section 90** of this Act.

Struck Out

10 “(3) A warrant of commitment directed to be issued under **subsection (2) (b)** of this section may be issued by any District Court Judge and shall require that, unless the fine is sooner paid, the defendant be imprisoned in a prison for such time determined in accordance with section 90 of this Act as is
15 specified in the warrant.

“(4) Where a Court makes any order under **subsection (1)** of this section or gives any direction or imposes any period of imprisonment under **subsection (2)** of this section, a record of the order, direction, or imposition and the grounds on which it is
20 made shall be entered in the Criminal Records required to be kept under section 71 of this Act.

New

“**(3)** Any warrant of commitment directed to be issued under **subsection (2) (b)** of this section may be issued by any District
25 Court Judge and may be withdrawn at any time by any District Court Judge.

“**(4)** Where a Court makes an order under **subsection (1)** of this section, or gives a direction under **subsection (2)** of this section, a record of the order or direction and the grounds on which it
30 was made or given shall be entered in the Criminal Records required to be kept under section 71 of this Act.

Cf. 1957, No. 87, s. 85

“84. **Notice of fine**—(1) Where *(following a conviction a)*, on the determination of an information or complaint, the defendant is ordered to pay or becomes liable to pay a fine and no order is made under section 83 (1) of this Act for immediate payment, the Registrar shall, as soon as practicable, deliver to the defendant or send to the defendant by ordinary post addressed to the defendant’s last known place of residence or business, a notice of the fine. 5

“(2) Every notice given under **subsection (1)** of this section shall set out— 10

“(a) The amount of the fine:

“(b) The date on or before which payment of the fine is to be made:

“(c) The times and places at which payment of the fine may be made: 15

Struck Out

“(d) The defendant’s rights to appeal against the conviction or fine:

New

“(d) The defendant’s rights of appeal: 20

“(e) The defendant’s right to apply to the Court for an extension of time to pay, whether by instalments or otherwise:

“(f) A general description of the action that may be taken if the fine is not paid. 25

“(3) Failure to comply with this section shall not of itself invalidate any subsequent proceeding.

“(4) Notwithstanding the requirements of this section, it shall be the responsibility of the defendant to take all necessary steps to find out the decision of the Court, the defendant’s obligations under that decision, and the defendant’s rights in relation to that decision. 30

“(5) It shall not be necessary to comply with the requirements of this section in any case where a fine is paid in full before the notice is delivered or sent. 35

Cf. 1957, No. 87, s. 86

“85. **Further notice of fine**—(1) Where—

“(a) A defendant is liable to pay a fine; and

“(b) No order has been made under **section 81** or **section 83** or **section 86** of this Act; and

“(c) No application has been made and not determined under **section 86** of this Act; and

5 “(d) The fine remains unpaid on the expiry of a period of 21 days beginning with the day on which it was imposed—

the Registrar shall deliver to the defendant or send to the defendant by ordinary post addressed to the defendant’s last
10 known place of residence or business, a further notice of the fine.

“(2) The notice given under **subsection (1)** of this section shall—

15 “(a) Set out the matters specified in (*paragraphs (a) to (g) of section 84 (2)*) of this Act:

“(b) Notify the defendant that if the fine (*remains unpaid on the expiry of a period of 28 days beginning with*) is not paid within 28 days after the day on which it was imposed, and no application has been made for an extension of time to pay, enforcement action may then be commenced by—

20 “(i) An order to seize property; or

“(ii) An attachment order—

and shall set out in general terms the meaning and effects of such orders:

25 “(c) Notify the defendant that, instead of commencing enforcement action as described in **paragraph (b)** of this subsection, the Registrar may issue a warrant to arrest the defendant and have the defendant brought before a District Court Judge with a view to having a substitute sentence imposed.

30 “(3) Failure to comply with this section shall not of itself invalidate any subsequent proceeding.

35 “**86. Extension of time to pay**—(1) Any defendant may make an application to any Registrar for extension of time to pay any fine that is not subject to an order for immediate payment.

“(2) Every application under this section shall be made within 28 days after the day on which the fine was imposed.

Struck Out

“(3) The Registrar may make an order doing either or both of the following things:

“(a) Allow a greater time for payment:

“(b) Allow payment to be made by instalments— 5
but in no case may the period for which a fine may remain unpaid exceed 12 months beginning with the day on which the fine was imposed.

New

“(3) The Registrar may, on an application under this section, 10
make an order doing either or both of the following:

“(a) Allowing a greater time for payment:

“(b) Allowing payment to be made by instalments,—
but in no case may the period for which a fine may remain 15
unpaid exceed 12 months from the day on which the fine was imposed.

“(4) In considering any application under this section the Registrar may—

“(a) Consider any information received from any source concerning the defendant’s financial position: 20

“(b) Decline to make any order until the defendant appears before the Registrar for an examination of the defendant’s ability to pay the fine.

“(6) Where an application is made under this section and has not been determined, the fine to which the application relates 25
need not be paid, and no proceedings shall be taken for its enforcement.

“(7) Where a defendant fails to appear before a Registrar for an examination of the defendant’s ability to pay the fine, the Registrar may refuse the application. 30

“(8) Where an application under this section is refused and the period in which the fine may be paid has expired, enforcement of the fine may proceed.

“(9) Where a fine may be paid by instalments and default is made in the payment of any instalment, proceedings may be 35
taken as if default had been made in the payment of all instalments then remaining unpaid.

Cf. 1957, No. 87, s. 88

“87. **Action where fine not paid**—(1) Where there is default in the payment of any fine, the Registrar may— 40

- “(a) Issue a warrant to seize property; or
- “(b) Make an attachment order attaching any salary or wages payable or to become payable to the defendant.

Struck Out

- 5 “(2) Where the Registrar is satisfied—
- “(a) That no procedure available under **subsection (1)** of this section is likely to be effective in enforcing the fine; or
 - 10 “(b) That the defendant does not have the means to pay the fine—
- the Registrar may, instead of taking any action under **subsection (1) of this section** issue a warrant to arrest the defendant and have the defendant brought before a District Court Judge for the purpose of having a substituted sentence imposed.) (1) of this section, order
- 15 that the defendant be brought before a District Court Judge and, if necessary, issue a warrant for the defendant’s arrest.

Struck Out

- 20 “(3) Where any person is brought before a District Court Judge on a warrant to arrest issued under **subsection (2)** of this section, **section 88** of this Act shall apply as if the defendant had been brought before the Judge on a warrant to arrest issued under that section.

Struck Out

New

- 25 “(3) Where any person is arrested or brought before a District Court Judge pursuant to **subsection (2)** of this section, **section 88** of this Act shall apply as if the defendant had been arrested or brought before the Judge pursuant to that section.
- 30 “(4) Where any action is taken under **subsection (1)** or **subsection (2)** of this section, proceedings in respect of that action shall cease—

Struck Out

- “(a) On payment in full of the unpaid amount of the fine
(and the prescribed costs of the enforcement proceedings;) and
“(b) Notification of that payment has been given to the Registrar of the Court from which the enforcement proceedings were taken. 5

New

(2) Enforcement procedures commenced under this section shall cease on payment of the unpaid amount of the fine. 10

New

“(5) The powers conferred by this section may not be exercised by a Registrar who is a constable.

Cf. 1957, No. 87, s. 89

“88. **Action where fine remains unpaid—** 15

Struck Out

(1) Where a fine in respect of which enforcement proceedings have been taken under **section 87** of this Act remains unpaid, the Registrar shall— 20
“(a) Prepare a report on the circumstances of the case; and
“(b) Issue a warrant to arrest the defendant and have the defendant brought before a District Court Judge.

New

Struck Out

- 5 “(1) Where a fine in respect of which enforcement proceedings have been taken under section 87 of this Act remains unpaid, the Registrar—
- “(a) Shall prepare a report on the circumstances of the case for a District Court Judge; and
- “(b) May order that the defendant be brought before a District Court Judge and, if necessary, issue a warrant for the defendant’s arrest.

10 *New*

- “(1) Where—
- “(a) The Registrar has taken enforcement action under section 87 of this Act but the fine remains unpaid; or
- 15 “(b) The Registrar is satisfied—
- “(i) That the defendant does not have the means to pay the fine; or
- “(ii) That enforcement action under section 87 of this Act would not be likely to be effective,—
- the Registrar—
- 20 “(c) Shall refer the matter to a District Court Judge with a report on the circumstances of the case; and
- “(d) May order that the defendant be brought before the Judge and, if necessary, issue a warrant for the defendant’s arrest.
- 25 “(1A) Where a defendant is arrested pursuant to this section, the following provisions shall apply:
- “(a) The defendant shall be brought before a District Court Judge or, if a District Court Judge is not available, the Registrar:
- 30 “(b) Where the defendant is brought before the Registrar, the Registrar shall appoint a time and place for the defendant to appear before a District Court Judge:
- “(c) The defendant shall be bailable as of right:

New

“(d) The provisions of Part II of this Act relating to adjournments and bail shall apply with necessary modifications as if any such appearance before the Registrar or a District Court Judge constituted part of the hearing of a charge and as if references in those provisions to a Court included references to the Registrar or a District Court Judge: 5

“(e) Where the defendant cannot practicably be brought immediately before a District Court Judge or the Registrar, any constable may take the bail bond of the defendant and the provisions of Part II of this Act relating to bail shall apply with necessary modifications as if the bail bond were taken under section 51 (1) of this Act. 10 15

“(2) The District Court Judge may, after considering the report of the Registrar, and the financial position of the defendant (whether determined from any financial statement prepared by the defendant or from other sources)—

“(a) Refer the matter to the Registrar with a direction that one or both of the *(matters specified)* enforcement procedures referred to in section 87 (1) of this Act, as specified in the direction, be invoked; or 20

“(b) Subject to **section 102** of this Act, direct that a warrant of commitment in the prescribed form be issued; or 25

“(c) Subject to sections 29 to 36 and 58 to 67 of the Criminal Justice Act 1985, sentence the defendant to community service(:); or

“(d) Subject to sections 37 to 45 and 58 to 67 of the Criminal Justice Act 1985 and **(section 101)section 102** of this Act, sentence the defendant to periodic detention(:); or 30

“(e) Subject to sections 68 to 71 of the Criminal Justice Act 1985, sentence the defendant to corrective training(:); or 35

“(f) Direct that action be taken under **paragraph (a) or paragraph (b)** of this subsection in respect of a lesser amount *(that the fine due in respect of the conviction and any subsequent enforcement proceedings that have been taken:)* than the fine due; or 40

“(g) Direct that no further enforcement proceedings be taken in respect of the fine for such period or subject to

~~(such conditions as) such conditions as may be directed by the Judge(.); or~~

New

“(h) Remit the fine or a part of the fine.

5

Struck Out

“(3) Where further time for payment is given or a direction that an order attaching any salary or wages of the defendant is made, the further time given or attachment order shall not extend more than 6 months after the expiry date of any previous time allowed for payment or any previous attachment order in respect of that fine.

New

“(3) Where a direction is given allowing further time for payment of the fine, or a direction is given for an order to be made attaching any salary or wages of the defendant, the further time allowed or the attachment order shall not extend more than 6 months after the expiry date of any previous time allowed for payment or any previous attachment order made in respect of that fine.

20

Struck Out

“(4) A warrant of commitment, or a sentence of periodic detention or community service may be imposed under this section notwithstanding that the offence in respect of which the defendant was ordered to pay the fine was not punishable by imprisonment.

New

“(4) A warrant of commitment, or a sentence of community service, periodic detention, or corrective training, may be issued or imposed under this section notwithstanding that the defendant was not liable to be imprisoned on the determination of the information or complaint in respect of which the fine was imposed.

Struck Out

“(5) Any warrant of commitment issued under this section may be withdrawn at any time by any District Court Judge.

New

“(5) Any warrant of commitment directed to be issued under this section may be issued by any District Court Judge and may be withdrawn at any time by any District Court Judge. 5

“(6) Where any direction is given under **subsection (2) (f)** of this section, the difference between the amount due under the fine and the amount in respect of which action is directed to be taken under that provision shall cease to be payable and no proceedings shall be taken or continued for its recovery. 10

“(7) Where a District Court Judge directs the issue of a warrant of commitment or makes any other order under this section the Judge may postpone the issue or suspend the execution of the warrant, or defer the operation of the order for such period or subject to such conditions as the District Court Judge may direct. 15

Cf. 1957, No. 87, s. 100

“**89. Rights of representation and appeal**—(1) *Every person who is required to attend before a District Court Judge under a warrant to arrest issued under **section 87 (2) (b)** or **section 88 (1) (b)** of this Act or to attend before a Registrar under **section 88 (4) (b)** of this Act shall be entitled to be represented by a barrister or a solicitor of the High Court.* (1) Every defendant attending before a District Court Judge pursuant to **section 87** or **section 88** of this Act shall be entitled to be represented by a barrister or solicitor. 20 25

“(2) Where a defendant is sentenced to community service, periodic detention, or corrective training under **section 88 (2)** of this Act, the defendant shall have the same right to appeal under section 115 of this Act as if the defendant had been convicted on an information or complaint. 30

“(3) On any such appeal the High Court may, in addition to its powers under section 121 of this Act, remit the matter to a District Court Judge to be dealt with as that Judge thinks fit under **section 88 (2)** of this Act, except that that Judge shall not impose a sentence the same as that appealed against. 35

Cf. 1957, No. 87, s. 98

“90. Scale of imprisonment for non-payment of fine—

The period of imprisonment imposed under this Act in respect of the non-payment of any fine or where the sale of any property under any process does not produce sufficient
 5 proceeds to pay the fine, shall be such period as in the opinion of the Court or District Court Judge fixing the period will satisfy the justice of the case, not exceeding,—

“(a) In the case of an offence that was punishable by imprisonment, the maximum term of imprisonment
 10 to which the defendant was liable on the conviction, or a period of 1 year, whichever is the less:

Struck Out

“(b) In the case of an offence not punishable by imprisonment, a period of 3 months:
 15 “(c) In the case of an order for costs enforceable under section 7 (1) (b) or section 7 (2) of the Costs in Criminal Cases Act 1967 against an informant or person acting personally, a period of 3 months.

New

20 “(b) In any other case, a period of 3 months.

Cf. 1957, No. 87, s. 103

“91. Defendant on substituted sentence to be discharged on payment of fine—(1) Where a defendant is, on the non-payment of a fine, imprisoned on a warrant of
 25 commitment and the Superintendent of the penal institution in which the defendant is imprisoned receives written notice from a Registrar that the fine in respect of which the warrant was issued has been paid, the Superintendent shall discharge the defendant from the penal institution unless the defendant is
 30 also in custody for some other reason.

“(2) Where a defendant is, on the non-payment of a fine, undergoing a sentence of corrective training and the Superintendent of the penal institution in which the defendant is undergoing the sentence receives written notice from a
 35 Registrar that the fine in respect of which the sentence was imposed has been paid, the Superintendent shall discharge the defendant from the penal institution.

“(3) Where a defendant is, on the non-payment of a fine, undergoing a sentence of periodic detention and the warden of the periodic detention centre to which the defendant is required to report receives written notice from a Registrar that the fine in respect of which the sentence was imposed has been paid the warden shall direct that the defendant is no longer subject to that sentence in respect of the fine. 5

“(4) Where a defendant is, on the non-payment of a fine, subject to a community service order and the probation officer supervising the sentence receives written notice from a Registrar that the fine in respect of which the sentence was imposed has been paid the probation officer shall direct that the defendant is no longer subject to that sentence in respect of the fine. 10

Cf. 1957, No. 87, s. 104 15

“92. **Effect of warrant of commitment**—A warrant of commitment issued under **section 83 (2) (b)** or **section 88 (2) (b)** of this Act shall require that the defendant be imprisoned in some penal institution for such time as the District Court Judge considers appropriate (not exceeding the appropriate maximum period specified in **(section 102) section 90** of this Act) unless the fine or any lesser amount directed by the Judge under **section 88 (2) (f)** of this Act is sooner paid. 20

Cf. 1957, No. 87, s 102

Struck Out

25

“93. **Effect of warrant to seize property**—(1) Where any warrant to seize property is issued under **section 87 (1) (a)** of this Act, the warrant shall apply so as to authorise the seizure of any property apparently in the possession of the defendant.

“(2) Every warrant to seize property shall contain full details of the fine, the amount remaining unpaid in respect of the fine, and any related costs being recovered as part of the fine. 30

“(3) For the purpose of executing any warrant to seize property any bailiff or constable may, after producing the warrant to any person in apparent charge of the premises, enter on any premises occupied by or under the control of the defendant, by force if necessary, if that bailiff or constable has reasonable cause to believe that property in respect of which the warrant is issued is on the premises. 35

Struck Out

“**(4)** Any bailiff or constable executing a warrant to seize property who seizes any motor vehicle may do so by immobilising the vehicle by attaching to the vehicle any device
5 designed for that purpose.

“**(5)** All property seized under a warrant to seize property shall be delivered by the bailiff or constable to a Registrar who shall retain the property until the fine is paid, or the Court or a Registrar otherwise determines.

10 “**(6)** Where any property has been seized under a warrant to seize property and the fine in respect of which it was issued remains unpaid, the seized property may be sold at auction on the orders of a Registrar, and the purchaser of any property so
15 sold shall, by virtue of this subsection, obtain good title to the property notwithstanding the interests of the owner or any other person in the property prior to the sale.

“**(7)** Where any property has been seized under a warrant to seize property and any person, other than the defendant in respect of whose unpaid fine the property was seized, claims an
20 interest in the property,—

“**(a)** As owner, part-owner, or joint owner; or

“**(b)** As owner under a hire purchase agreement; or

“**(c)** Under a bill of sale or otherwise as a security for a debt;
or

25 “**(d)** In any other capacity,—

a District Court Judge may order the sale of all or part of the property in such manner and on such terms as the Judge thinks fit, and may direct the application of the proceeds of the sale in such manner and on such terms as the Judge thinks fit.

30 “**(8)** Where any property is sold under **subsection (6)** of this section, and before the proceeds of the sale are fully applied or distributed a District Court Judge may direct the application of the proceeds of the sale in such manner and on such terms as the Judge thinks fit where the Judge is satisfied that it would
35 have been appropriate to have made an order under **subsection (7)** of this section before the sale.

“**(9)** Except as provided in any order made by a District Court Judge under **subsection (7)** or **subsection (8)** of this section, any surplus from the sale of any property under **subsection (6)** of
40 this section after the fine, related costs, and costs of the sale have been met shall be paid to the defendant.

Struck Out

“(10) Where any property is seized under a warrant to seize property and not sold it shall be returned to the person from whom it was seized or to the person apparently lawfully entitled to possession of it on payment of the fine and related costs. 5

“(11) Every person commits an offence who interferes with any property knowing it to be seized under a warrant to seize property and is liable on summary conviction to imprisonment for a period not exceeding 3 months or to a fine not exceeding \$2,000, and may be arrested without warrant by any bailiff or constable. 10

Cf. 1957, No. 87, s. 97

New

“**93. Warrant to seize property**—(1) Where any warrant to seize property is issued under **section 83 (2) (a), section 87 (1) (a), or section 88 (2) (a)** of this Act, the warrant shall apply so as to authorise the seizure of any property apparently property of the defendant. 15

“(2) Every warrant to seize property shall contain full details of the fine and the amount remaining unpaid in respect of the fine. 20

“**93A. Seizure and delivery of property**—(1) For the purpose of executing any warrant to seize property any bailiff or constable may, after producing the warrant to any person in apparent charge of the premises, enter on any premises occupied by or under the control of the defendant, by force if necessary, if that bailiff or constable has reasonable cause to believe that property in respect of which the warrant is issued is on the premises. 25 30

“(2) Where the fine is paid on the production of a warrant to seize property, the payment shall be recorded on the warrant and the warrant shall be of no further effect.

“(3) Any bailiff or constable seizing a motor vehicle under a warrant to seize property may in the first place immobilise the vehicle by attaching to the vehicle any device designed for that purpose. 35

New

“4) Where property is seized under a warrant to seize property, the bailiff or constable shall forthwith deliver to the defendant, or leave for the defendant in a conspicuous place at the premises from which the property is seized, a notice in the prescribed form—

“a) Listing all of the property seized; and

“b) Directing the defendant to notify the Registrar, within 7 days after the date of the seizure, whether the property listed is property of the defendant and the name and address of any other person who has an interest in the property as owner or otherwise.

“5) All property seized under a warrant to seize property shall be delivered by the bailiff or constable to the Registrar who shall retain the property until the fine is paid, or the property is sold, or a District Court Judge determines otherwise upon the hearing of a claim in respect of the property.

“93B. **Sale of property seized**—Any property seized under a warrant to seize property may, after the expiration of 7 days from the date of seizure, if the fine remains unpaid and no claim has been made by a person other than the defendant in respect of the property, be sold at public auction on the orders of a District Court Judge or the Registrar, and the purchaser of any property so sold shall, by virtue of this section, obtain good title to the property notwithstanding the interests of the owner or any other person in the property prior to the sale.

“93C. **Claims to property seized**—(1) Where a claim is made by a person other than the defendant in respect of property seized under a warrant to seize property, the claimant may—

“a) Deposit with the Registrar the amount determined by the Registrar as being the value of the property claimed; or

“b) Give the Registrar such security as the Registrar may require for the value of the property claimed,— pending the decision of a District Court Judge upon the claim.

“2) Where a claimant fails to comply with paragraph (a) or paragraph (b) of subsection (1) of this section, the property may be sold as if no such claim had been made and the proceeds of the sale shall be held to abide the decision of a District Court Judge upon the claim.

New

“(3) Where a person other than the defendant has made a claim in respect of property seized under a warrant to seize property, or in respect of the value of the property or the proceeds of its sale, the Registrar shall issue a summons calling the defendant and the claimant before a District Court Judge and, in that event, any action brought in respect of the claim shall be stayed. 5

“(4) On the hearing of the summons, the District Court Judge shall adjudicate upon the claim and shall make such order in respect of the claim and the costs of the proceedings as the Judge thinks fit. 10

“93D. **Procedure where property seized subject to hire purchase agreement, bill of sale, etc.**—(1) Notwithstanding the other provisions of this Act, where any property is seized under a warrant to seize property and, before the sale of the property under **section 93B** of this Act, any person (other than the defendant) claims an interest in the property,— 15

“(a) As owner under a hire purchase agreement; or

“(b) Under a bill of sale or otherwise as a security for a debt,— 20

a District Court Judge may order the sale of all or part of the property in such manner and on such terms as the Judge thinks fit, and may direct the application of the proceeds of the sale in such manner and on such terms as the Judge thinks fit. 25

“(2) Where any property is sold under **section 93B** of this Act and a claim of the kind referred to in **subsection (1)** of this section is made before the proceeds of the sale are fully applied or distributed, a District Court Judge may direct the application of the proceeds of the sale in such manner and on such terms as the Judge thinks fit where the Judge is satisfied that it would have been appropriate to have made an order under **subsection (1)** of this section before the sale. 30

“93E. **Application of proceeds of sale**—Except as provided in any order made by a District Court Judge under **section 93D** of this Act, any surplus from the sale of any property under **section 93B** of this Act after payment of the fine shall be paid to the defendant. 35

“93F. **Compensation to third party with interest in property sold**—(1) Where— 40

New

- “(a) A person (other than the defendant) suffers loss through the sale under **section 93B** of this Act of property in which the person had an interest; and
- 5 “(b) The defendant had not before the sale notified the Registrar of the person’s interest in the property,— a Court may, on the application of that person, order the defendant to pay to the person compensation in respect of the loss.
- 10 “(2) **Subsection (1)** of this section shall not limit or affect any other remedy that a person may have in respect of loss referred to in that subsection.
- “**93G. Return of property on payment of fine**—Where any property is seized under a warrant to seize property and
15 not sold, it shall, on payment of the fine, be returned to the person from whom it was seized or to the person apparently lawfully entitled to it.
- “**93H. Offence to interfere with or rescue property seized**—Every person commits an offence who interferes with,
20 or rescues or attempts to rescue, any property knowing it to be seized under a warrant to seize property and is liable on summary conviction to imprisonment for a period not exceeding 3 months or to a fine not exceeding \$2,000, and may be arrested without warrant by any bailiff or constable.
- 25 “**93I. Protection of Registrar, Bailiff, etc.**—No Registrar and no bailiff, constable or other officer shall be personally liable for any act done or omitted in good faith in the performance or purported performance of any power or function under this Act relating to the seizure of property or its
30 subsequent disposal.

“**94. Effect of attachment order**—(1) *(Where any attachment order is issued under **section 87 (1) (b)** of this Act, the order shall be in the prescribed form and shall apply as provided in **sections 95 to 97** of this Act.)* An attachment order under **section 87 (1) (b)** or **section**
35 **88 (2) (a)** of this Act shall be in writing in the prescribed form and shall be dealt with and have effect as provided in **sections 95 to 99** of this Act.

“(2) Nothing in section 97 of the Shipping and Seamen Act 1952 shall apply to an attachment order.

40 Cf. 1957, No. 87, s. 95

“95. Attachment order to be served on employer—

(1) Where an attachment order is made, a copy of the order shall be served on the employer to whom it relates, either personally or by leaving it at the employer’s place of residence or business, or by sending it by (*registered*) letter addressed to the employer at the employer’s place of residence or business. 5

“(2) Where service of an attachment order is effected by (*registered*) letter, then, in the absence of proof to the contrary, the order shall be deemed to have been served when it would have been delivered in the ordinary course of post, and in proving service it shall be sufficient to prove that the letter was properly addressed and posted. 10

“(3) Every attachment order shall take effect when a copy of the order is served on the employer in accordance with this section. 15

Cf. 1980, No. 94, s. 105

“96. Operation of attachment order—(1) An attachment order shall direct that the money due and payable under the fine shall, by way of weekly payments of such amount as is specified in the attachment order, be a charge on any salary or wages that from time to time while the attachment order remains in force become due and payable by the employer to the defendant. 20

“(2) The charge so created—

“(a) Shall accrue from week to week, and on such day of the week as is specified in the attachment order; and 25

“(b) Shall attach to all salary or wages that become due by the employer to the defendant at any time while the attachment order is in force, whether or not the contract of employment in respect of which the salary or wages so become due existed at the date of the attachment order; and 30

“(c) Shall prevail over and have priority to any assignment or charge created by the defendant (whether before or after the making of the attachment order against the defendant), and so that the attachment order shall have the same effect as if no such assignment or charge had been made or created. 35

“(3) Every attachment order shall specify an amount below which the net earnings paid to the defendant shall not be reduced by reason of compliance with the order. 40

“(4) Every attachment order shall apply for a fixed period stated in the order, and, except as provided in section 88 (3) of

this Act, shall not apply for a period of more than 12 months after the date on which the fine was imposed.

“5) No attachment order under this Act shall operate so that together with any attachment order made under the Family Proceedings Act 1980 the net earnings of the defendant are reduced below the protected earnings rate specified under section 105 (4) of that Act; and where necessary the specified amount in any attachment order under this Act shall be reduced or cancelled accordingly.

10 Cf. 1980, No. 94, s. 107

“97. **Liability of employer**—(1) As long as an attachment order remains in force, the employer to whom it relates shall from time to time, whenever any money becomes due and payable by the employer to the defendant by way of salary or wages—

15 “(a) Deduct from that money such sum as is sufficient to satisfy the charge on the money so far as the same has accrued before the day on which the salary or wages becomes due and payable; and

20 “(b) Not later than the 20th day of the month next after the month in which the deduction is made pay the amount so deducted to the Registrar specified in the attachment order.

“2) All sums so deducted are hereby deemed to have been paid by the employer in satisfaction of the salary or wages payable by the employer to the defendant.

“3) All sums so deducted are hereby deemed to have been paid by the defendant in satisfaction of the defendant’s liability to pay the fine.

30 “4) Where a defendant in respect of whom an attachment order is in force leaves or is dismissed from the employment of the employer, the employer shall within 7 days notify the Registrar of the Court in which the attachment order was issued.

35 “5) Where the employer makes default in the payment of any money in satisfaction of any such charge, that money shall become a debt due by the employer to the Crown, and may be recovered by the Crown by action in any Court of competent jurisdiction.

40 “6) Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who fails without reasonable excuse to comply with paragraph (a) or paragraph (b) of subsection (1) of this section.

Cf. 1980, No. 94, s. 108

“98. Wrongful treatment of employee—(1) Every employer commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who dismisses any employee or alters any employee’s position in the employer’s business or undertaking to the *(employer’s)* employee’s prejudice by reason of an attachment order having been served on the employer. 5

“(2) In the prosecution for an offence against **subsection (1)** of this section in which it is proved that the employer, within 6 months after the serving on the employer of an attachment order in respect of any employee, dismissed the employee or altered the employee’s position in the employer’s business or undertaking to the employee’s prejudice, it shall be deemed to be proved that the action was taken by reason of the order having been served on the employer unless the employer 10 proves to the contrary. 15

Cf. 1980, No. 94, s. 116

“99. Extent to which attachment orders bind the Crown—(1) In this section—

“‘Employing department’ means— 20

“(a) A department of State in which a person is employed; and

“(b) In relation to a person to whom any retiring allowance or pension or other payment of a similar nature is payable out of the Government Superannuation Fund or the National Provident Fund, the Treasury. 25

“‘Servant of the Crown’ means a person in the service of Her Majesty in respect of the Government of New Zealand; and includes a person in temporary or casual service but does not include a person in honorary service; and also includes any person serving in any of the New Zealand Armed Forces; and also includes a person to whom any retiring allowance or pension or other payment of a similar nature is payable out of the Government Superannuation Fund or the National Provident Fund. 30 35

“(2) **Sections 95 to 98** of this Act shall bind the Crown to the extent of and subject to **subsection (3)** of this section.

“(3) Where the defendant liable to pay a fine or related costs is a servant of the Crown, an attachment order may be made against the Crown as employer, and— 40

“(a) The employing department shall be named in the order as the employer; and

5 “(b) Service of the order shall be effected on the permanent head of the employing department, and also on any officer of the Crown (described by the name of the office, the name of the department, and the place where the officer is stationed) specified in the order; and

10 “(c) Service of the order shall be effected in accordance with section 95 of this Act, and, where service is effected by (*registered*) post, it shall be sufficient if the letter is addressed to the person to be served by that person’s official title or any sufficient description without that person’s personal name.

Cf. 1984, No. 94, s. 117

15 “100. **Statement of salary or wages paid**—For the purpose of determining the means of any defendant for the purposes of this Part of this Act, a statutory declaration given by or on behalf of any person stating that the person paid a stated amount of salary or wages to the defendant or in respect of a stated period as the defendant’s employer shall, in the
20 absence of evidence to the contrary, be sufficient evidence of the facts stated in the declaration.

Cf. 1957, No. 87, s. 90

25 “101. **Transfer of enforcement to another District Court**—(1) Where it appears to the Registrar of a Court in which a fine was ordered to be paid or an order was made by the Court or the Registrar of that Court under this Part of this Act, that the fine may be more effectively recovered or the order may be more effectively enforced in another District Court, the Registrar may by an order make the payment of the
30 fine or order enforceable in that Court.

“(2) Every order made under this section shall contain full particulars of the fine or order and the amount due thereunder and shall, in the absence of proof to the contrary, be sufficient evidence of the facts therein stated.

35 “(3) As from the date of the making of an order under this section in respect of any fine or order all functions under this Part of this Act relating to that fine or order which if no such certificate had been given would have been exercisable by the convicting Court or the Registrar of that Court shall be
40 exercisable by the Court to which enforcement of the fine or order has been transferred or its Registrar, as the case may be, and not otherwise.

“(4) The power conferred by **subsection (1)** of this section may be exercised in the same manner by a Registrar of a Court to which enforcement of any fine or order has been transferred.

Cf. 1957, No. 87, s. 91

“**102. Restriction on imprisonment**—(1) A District Court Judge shall not direct the issue of a warrant of commitment or sentence a defendant to periodic detention under this Part of this Act for non-payment of a fine unless an examination has been held into the means of the defendant to pay the fine, and the Judge is satisfied that all other methods of enforcing the fine have been considered or tried and that they are inappropriate or unsuccessful. 5 10

“(2) Nothing in **subsection (1)** of this section shall apply—

“(a) In the case of a warrant of commitment issued under **section 83** of this Act imposing a period of imprisonment; or 15

“(b) In the case of a defendant who, at the time of the sentence being imposed, is already undergoing a sentence of detention in a penal institution.

“**103. Review of Registrar’s decision**—(1) Any defendant or other person affected by any order or decision made by a Registrar under this Part of this Act may apply to a District Court Judge for a review of the order or decision. 20

“(2) On any such review the Judge may confirm, rescind, or vary the Registrar’s order or decision and the order or decision shall have effect, or cease to have effect, accordingly.” 25

Cf. 1957, No. 87, s. 98

PART III

TRANSITIONAL PROVISIONS, AMENDMENTS, AND REPEALS

10. Transitional provisions for infringement offences—The principal Act shall apply in respect of every infringement offence committed or alleged to have been committed before the **(1st day of June 1987)** ((date of commencement of this Act)) 1st day of November 1987 as if this Act had not been passed. 30 35

11. Transitional provisions for enforcement of fines—(1) Part III of the principal Act, as substituted by **section 9** of this Act, shall apply—

“(a) In respect of the enforcement of any fine imposed before the **(1st day of June 1987)** ((date of commencement of this 40

5 Act)) 1st day of November 1987 where default in the
 payment of that fine is made on or after that date:
 “(b) Where default in the payment of any fine is made before
 the **(1st day of June 1987)** (date of commencement of this
 Act)) 1st day of November 1987 and no enforcement
 action has been taken before that date.

 (2) The principal Act shall apply as if this Act had not been
 passed in any case where enforcement action in respect of any
 fine has commenced before the **(1st day of June 1987)** (date of
10 commencement of this Act)) 1st day of November 1987 but has not
 been completed before that date; except that where any such
 enforcement action is completed and further enforcement
 action is to be taken, the further enforcement action shall be
15 **9** of this Act.

12. Consequential amendments—The enactments
specified in the **First** Schedule to this Act are hereby amended in
the manner indicated in that schedule.

20 **13. Consequential repeals**—The enactments specified in
the **Second** Schedule to this Act are hereby repealed.

SCHEDULES

Section 12

FIRST SCHEDULE
CONSEQUENTIAL AMENDMENTS

Act	Amendment
<p>1962, No 135—The Transport Act 1962 (R.S. Vol 16, p. 659)</p>	<p style="text-align: center;"><i>Struck Out</i></p> <p>By repealing section 42, and substituting the following section:</p> <p>“42. Owner liability for parking offences—(1) In this section,—</p> <p>“‘Parking offence’ means parking in any portion of a road in breach of any act or regulation, or of any bylaw made under the authority of section 72 of this Act:</p> <p>“‘Proceedings’ means proceedings under the Summary Proceedings Act 1957, and includes the issue of an infringement notice under section 42A of this Act.</p> <p>“(2) Proceedings for a parking offence may be taken against any one or more of the following persons;</p> <p>“(a) The person who allegedly committed the offence:</p> <p>“(b) Any person who, at the time of the alleged offence, was registered as the owner, or one of the owners, of the vehicle involved in the offence in a register kept under section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986:</p> <p>“(c) Any person who, at the time of the alleged offence, was lawfully entitled to possession of the vehicle involved in the offence (whether jointly with any other person or not)—</p> <p>whether or not (in the case of a person referred to in paragraph (b) or paragraph (c) of this subsection) the person is an individual or was the driver, person in charge, or user of the vehicle at the time alleged offence was committed.</p>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
1962, No. 135—The Transport Act 1962 (R.S. Vol. 16, p. 659)— <i>continued</i>	<p style="text-align: center;"><i>Struck Out</i></p> <p>“(3) This section shall have effect notwithstanding anything to the contrary in any Act or rule of law.”</p> <p>By repealing section 42A (4) (as substituted by section 7 of the Transport Amendment Act 1985), and substituting the following subsection:</p> <p>“(4) Where an infringement notice has been issued, proceedings may not be taken under the Summary Proceedings Act 1957 in respect of the alleged offence unless the infringement fee specified in the notice has not been paid to the enforcement authority within 28 days after the date on which the notice, or a copy thereof, was—</p> <p>“(a) Attached to the vehicle to which it relates; or</p> <p>“(b) Delivered personally or sent in accordance with subsection (3) (c) of this section to any person liable in respect of the alleged offence—whichever occurred first; and, except where a notice of denial has been given under section 21D of that Act, such proceedings may then be commenced in accordance with section 21C of that Act; notwithstanding that the infringement fee may have been paid after the expiry of that 28-day period.”</p> <p>By repealing section 42A (5) (f) and (g) (as substituted by section 7 of the Transport Amendment Act 1980), and substituting the following paragraphs:</p> <p>“(f) A summary of the provisions of subsection (4) of this section and section 21G of the Summary Proceedings Act 1957; and</p> <p>“(g) In the case of an alleged offence that is a parking offence, a summary of the provisions of section 42 (2) of this Act and section 21H of the Summary Proceedings Act 1957; and”</p> <p>By repealing sections 42A (7), (7A), and (8).</p>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
<p>1962, No. 135—The Transport Act 1962 (R.S. Vol. 16, p. 659)—<i>continued</i></p>	<p style="text-align: center;"><i>New</i></p> <p>By omitting from section 42 (2) (b) the expression “section 16 of this Act”, and substituting the expression “section 18 of the Transport (Vehicle and Driver Registration and Licensing) Act 1986”.</p> <p>By repealing section 42 (4) (as amended by section 6 of the Transport Amendment Act 1985), and substituting the following subsection:</p> <p style="padding-left: 2em;">“(4) It shall be a defence to proceedings taken under the Summary Proceedings Act 1957 against a person for a parking offence if the person proves that another person has, by virtue of an order under that Act, become liable to pay a fine or costs, or both, in respect of the offence.”</p> <p>By inserting in section 42 (5) (b), after the words “enforcement authority”, the words “in writing”.</p> <p>By repealing section 42A (as substituted by section 6 of the Transport Amendment Act 1987, and substituting the following section:</p> <p style="padding-left: 2em;">“42A. Infringement offences—(1) In this Act, the term “infringement offence” means an offence specified in the Second Schedule to this Act; and includes an overloading offence.</p> <p style="padding-left: 2em;">“(2) For the purposes of any proceedings in respect of an infringement offence that is an offence against a bylaw made under paragraph (e) or paragraph (g) of section 9 (1) of the Airport Authorities Act 1966, the expressions “traffic officer” and “officer” include traffic officers and officers respectively appointed by an airport authority.</p> <p style="padding-left: 2em;">“(3) Where a traffic officer has reason to believe that the user of a vehicle has committed an infringement offence,—</p> <p style="padding-left: 4em;">“(a) The user of the vehicle may be proceeded against for the alleged offence under the Summary Proceedings Act 1957 (except where the offence is an overloading offence); or</p>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
<p>1962, No. 135—The Transport Act 1962 (R.S. Vol. 16, p. 659)—<i>continued</i></p>	<p style="text-align: center;"><i>New</i></p> <div style="border: 1px solid black; padding: 10px;"> <p>“(b) The traffic officer may issue an infringement notice in respect of the alleged offence.</p> <p>“(4) Where a parking warden has reason to believe that the user of a vehicle has committed an infringement offence that may be enforced by a parking warden under section 68BA of this Act,—</p> <p>“(a) The user of the vehicle may be proceeded against for the alleged offence under the Summary Proceedings Act 1957; or</p> <p>“(b) The parking warden may issue an infringement notice in respect of the alleged offence.</p> <p>“(5) Any officer (not necessarily the traffic officer, parking warden, or officer who issued the infringement notice) may do any one or more of the following things:</p> <p>“(a) Attach an infringement notice, or a copy thereof, to the vehicle to which the notice relates:</p> <p>“(b) Deliver an infringement notice, or a copy thereof, personally to a person:</p> <p>“(c) Send an infringement notice, or a copy thereof, to a person by post addressed to the person at the person’s last known place of residence or business.</p> <p>“(6) For the purposes of the Summary Proceedings Act 1957—</p> <p>“(a) Where an infringement notice, or a copy thereof, is attached to the vehicle to which the notice relates pursuant to subsection (5) (a) of this section, the notice or copy shall be deemed to have been served on every person liable in respect of the alleged offence and to have been served when the notice or copy was attached to the vehicle:</p> </div>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
<p>1962, No. 135—The Transport Act 1962 (R.S. Vol. 16, p. 659)—<i>continued</i></p>	<p style="text-align: center;"><i>New</i></p> <p>“(b) Where an infringement notice, or a copy thereof, is sent to a person by post addressed to the person at the person’s last known place of residence or business pursuant to subsection (5) (c) of this section, the notice or copy shall be deemed to have been served on the person when it was so posted.</p> <p>“(7) Every infringement notice shall be in a form prescribed by regulations made under this Act, and shall contain the following particulars:</p> <p>“(a) Such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and</p> <p>“(b) In the case of a speeding offence, the prescribed limit of speed and the speed at which it is alleged the user was travelling at the time of the alleged offence, and the number of demerit points that will be recorded under this Act in respect of the user if the infringement fee is paid; and</p> <p>“(c) In the case of an infringement offence (other than a speeding offence) in respect of which a scale of infringement fees is prescribed having regard to the extent of the alleged offence, the extent of the infringement offence alleged; and</p> <p>“(d) The amount of the infringement fee specified in respect of that offence in the Second Schedule to this Act; and</p> <p>“(e) The address of the place at which the infringement fee may be paid; and</p> <p>“(f) The time within which the infringement fee may be paid; and</p>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
<p>1962, No. 135—The Transport Act 1962 (R.S. Vol. 16, p. 659)—<i>continued</i></p>	<p style="text-align: center;"><i>New</i></p> <div style="border: 1px solid black; padding: 10px;"> <p>“(g) A summary of the provisions of section 21 (10) of the Summary Proceedings Act 1957; and</p> <p>“(h) In the case of an alleged infringement offence that is a parking offence, a summary of the provisions of section 42 of this Act; and</p> <p>“(i) A statement of the right of the person served with the notice to request a hearing; and</p> <p>“(j) A statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and</p> <p>“(k) Such other particulars as are prescribed.</p> <p>“(8) Different forms of infringement notices may be prescribed in respect of different kinds of infringement offences.</p> <p>“(9) Where an infringement fee is paid to an enforcement authority other than the Department, the authority shall send to the Secretary such particulars of the infringement and of the payment as the Secretary requires.</p> <p>“(10) Where the infringement fee for a speeding offence for which an infringement notice has been issued is paid to the enforcement authority at the address for payment specified in the notice before or within 28 days after service of a reminder notice in respect of the offence pursuant to section 21 of the Summary Proceedings Act 1957, sections 44 to 51 of this Act shall apply as if the person to whom the infringement notice, or a copy thereof, was delivered or sent had been convicted of the infringement offence on the date on which the payment is made.”</p> <p>By inserting, after section 43, the following section:</p> </div>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
1962, No. 135—The Transport Act 1962 (R.S. Vol. 16, p. 659)— <i>continued</i>	<p style="text-align: center;"><i>New</i></p> <p>“43A. Towage fees where parking offences prosecuted—(1) Where, in proceedings in respect of a parking offence,—</p> <p> “(a) The defendant is found guilty of, or pleads guilty to, the offence; and</p> <p> “(b) The Court is satisfied that expenses have been incurred by an enforcement authority in respect of the movement or proposed movement under section 68B (1) (c) or section 68BA (2) (b) of this Act of the vehicle involved in the offence (whether or not the vehicle was in fact moved),</p> <p>the Court shall order the defendant to pay, in addition to the fine (if any) and the costs (if any) ordered by the Court, the amount of the appropriate towage fee.</p> <p> “(2) Where, in proceedings in respect of a parking offence (including proceedings commenced by the filing of a copy of a reminder notice under section 21 (5) of the Summary Proceedings Act 1957), the defendant is ordered to pay an amount in respect of a towage fee, the amount of the fee recovered shall be paid to the enforcement authority that incurred the towage expenses.”</p>
1979, No. 41—The Litter Act 1979	<p style="text-align: center;"><i>New</i></p> <p>By omitting from section 14 (2) (b) the words “registered letter”, and substituting the word “post”.</p> <p>By repealing subsections (3), (4), (5), (6), and (7) of section 14, and substituting the following subsections:</p> <p> “(3) For the purposes of the Summary Proceedings Act 1957, an infringement notice sent to a person by post pursuant to subsection (2) (b) of this section shall be deemed to have been served on the person when it was so posted.</p> <p> “(4) Every infringement notice shall be in such form as the Governor-General may from time to time by Order in Council prescribe, and shall contain the following particulars:</p>

FIRST SCHEDULE—*continued*
 CONSEQUENTIAL AMENDMENTS—*continued*

Act	Amendment
<i>New</i>	
<p>1979, No. 41—The Litter Act 1979—<i>continued</i></p>	<p>“(a) Such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place, and nature of the alleged offence; and</p> <p>“(b) The amount of the infringement fee for the offence; and</p> <p>“(c) The address at which the infringement fee may be paid; and</p> <p>“(d) The time within which the infringement fee may be paid; and</p> <p>“(e) A summary of the provisions of section 21 (10) of the Summary Proceedings Act 1957; and</p> <p>“(f) A statement of the right of the person served with the notice to request a hearing; and</p> <p>“(g) A statement of the consequences if the person served with the notice does not pay the infringement fee and does not make a request for a hearing; and</p> <p>“(h) Such other particulars as are prescribed.”</p> <p>By repealing the Schedule.</p>
<i>New</i>	
<p>1985, No. 120—The Criminal Justice Act 1985</p>	<p>By omitting from section 24 (b) the expression “section 95”, and substituting the expression “sections 95 to 99”.</p> <p>By repealing section 25 (2).</p> <p>By omitting from section 25 (3) the expression “section 83 (1)”, and substituting the expression “section 81”.</p>

SECOND SCHEDULE

Section 13

REPEALS

- 1973, No. 117—The Summary Proceedings Amendment Act 1973: Section 12 (R.S. Vol. 9, p. 742).
- 1976, No. 169—The Summary Proceedings Amendment Act 1976: Sections 7 to 11 (R.S. Vol. 9, p. 746).
- 1980, No. 84—The Summary Proceedings Amendment Act 1980: Section 9 and so much of the Schedule as relates to section 89 of the principal Act (R.S. Vol. 9, p. 750).
- 1980, No. 94—The Family Proceedings Act 1980: So much of the First Schedule as relates to the principal Act.

Struck Out

- 1980, No. 96—The Transport Amendment Act 1980: Sections 16, 17 (2) (b), and 18 (1), (2), (3), and (4) (R.S. Vol. 16, p. 926).
- 1985, No. 50—The Transport Amendment Act 1985: Sections 6, 7, and 8 (R.S. Vol 16, p. 946).

New

- 1980, No. 96—The Transport Amendment Act 1980: Sections 15 (2), 16, 17 (2) (b), 17 (4), and 18 (1), (2), (3), and (4) (R.S. Vol. 16, p. 926).
- 1985, No. 50—The Transport Amendment Act 1985: Section 6 (R.S. Vol. 16, p. 946).

- 1985, No. 51—The Summary Proceedings Amendment Act 1985: Sections 2, 3 (1) and (3), and 4 (1).

New

- 1985, No. 76—The Transport Amendment Act (No. 2) 1985: Section 27.

- 1985, No. 120—The Criminal Justice Act 1985: So much of the First Schedule as relates to sections 100, 102, 104, and 105 of the principal Act.

New

- 1986, No. 6—The Transport (Vehicle and Driver Registration and Licensing) Act 1986: Section 52.