

1967/176



THE CRIMINAL PROCEEDINGS (ENFORCEMENT OF FINES)
RULES 1967

BERNARD FERGUSSON, Governor-General
ORDER IN COUNCIL

At the Government House at Wellington this 5th day of July 1967

Present:
HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Crimes Act 1961 and the Judicature Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least four of the other members of the Rules Committee constituted under the Judicature Amendment Act 1930 (of whom at least one was a Judge of the Supreme Court), hereby makes the following rules.

RULES

1. Title and commencement—(1) These rules may be cited as the Criminal Proceedings (Enforcement of Fines) Rules 1967.

(2) These rules shall come into force on the day after the date of their notification in the *Gazette*.

2. Writ of sale when immediate execution directed—(1) Every writ of sale issued under section 19B of the Crimes Act 1961 shall be in form 1 in the Schedule to these rules.

(2) Unless the Court otherwise directs, no writ of sale shall be issued under section 19B of the Crimes Act 1961 until the expiration of the period of 14 days commencing with the day after the date on which the fine was imposed or the order was made or until the expiration of any further period which may have been allowed or fixed by the Court.

3. Warrant of commitment for non-payment issued in the first instance—Where the Court, pursuant to section 19B of the Crimes Act 1961, imposes on an offender a period of imprisonment in default of payment of a fine or other sum of money, the Registrar shall issue forthwith a warrant of commitment in form 2 in the Schedule to these rules.

4. Warrant to collect fine or other sum of money ordered to be paid—

(1) Every warrant to collect a fine or other sum of money issued under section 19c of the Crimes Act 1961 shall be in form 3 in the Schedule to these rules.

(2) The Court fee payable in respect of every such warrant shall be fifteen shillings for each offence in respect of which the warrant is issued.

(3) The report made by a constable on any such warrant under section 19c (2) of the Crimes Act 1961 shall be in form 4 in the Schedule to these rules.

5. Writ of sale following issue of warrant to collect—Every writ of sale issued under section 19d of the Crimes Act 1961 shall be in form 5 in the Schedule to these rules.

6. Warrant of commitment following issue of warrant to collect—Where a Judge, pursuant to section 19d of the Crimes Act 1961, makes an order for the immediate imprisonment of an offender, the Registrar shall issue forthwith a warrant of commitment in form 6 in the Schedule to these rules.

7. Sheriff's warrant to bailiff—Every Sheriff to whom a writ of sale in form 1 is delivered shall issue forthwith a warrant in form 7 in the Schedule to these rules.

8. Application of Code of Civil Procedure—The provisions of the Code of Civil Procedure set out in the Second Schedule to the Judicature Act 1908 relating to writs of sale shall apply, with all necessary modifications, to writs of sale issued pursuant to the Crimes Act 1961 in the same way as they apply to writs of sale issued pursuant to the Code.

9. Charging orders—Where the Court orders the issue of a writ of sale under section 19b or section 19d of the Crimes Act 1961 it may at the same time, or at any subsequent time before the execution of the writ, direct that an order be issued under rule 314 of the Code of Civil Procedure set out in the Second Schedule to the Judicature Act 1908 and the other provisions of Part IV of that Code shall apply accordingly with all necessary modifications.

10. Application of Sheriffs' Fees Notice 1952—Nothing in these regulations shall limit the provisions of the Sheriffs' Fees Notice 1952.*

SCHEDULE

Form 1

WRIT OF SALE WHERE IMMEDIATE EXECUTION DIRECTED

Section 19B, Crimes Act 1961

ELIZABETH the Second by the Grace of God of the United Kingdom, New Zealand, and Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

SCHEDULE—*continued*

To the Sheriff of: Greeting

Whereas [*Full name*] of [*Address, occupation*] (hereinafter called the offender) was on the day of 19..... convicted of in the Supreme Court of New Zealand at and ordered to pay the sum of and the sum of for costs:

And whereas the Court is of opinion that the offender has sufficient means to pay the said sums forthwith (*or* that the offender has no fixed place of residence) (*or* that, having regard to special circumstances execution should issue without delay):

We command you that of the personal property of the offender in your district, except personal and family clothing, furniture, and household effects, and tools or implements of trade, not exceeding in all £100 in value, you cause to be made the sum of [*in words*] and the fees and expenses of and incidental to the issue and execution of this writ and immediately after the execution hereof you pay into the Supreme Court at the sum so made.

And we also command you that you indorse on this writ immediately after execution thereof a statement of the manner in which you have executed it.

Issued under the seal of the Supreme Court at this day of 19.....

[*Seal*]

Registrar.

Form 2

WARRANT OF COMMITMENT FOR NON-PAYMENT ISSUED IN THE
FIRST INSTANCE

Section 19B, Crimes Act 1961

To every constable (*or* to [*Full name*], constable), and to the Superintendent of the prison at

[*Full name*], of [*Address, occupation*] (hereinafter called the offender) was on the day of 19..... convicted of in the Supreme Court of New Zealand at and was ordered to pay the sum of and the sum of for costs.

The Court being of opinion that the offender has sufficient means to pay the said sums forthwith (*or* that the offender has no fixed place of residence) (*or* that having regard to special circumstances execution should issue without delay) directed that in default of payment the offender be imprisoned for a period of and that a warrant of commitment be issued in the first instance.

The offender has not paid the said sums.

The Court directs you, the said constable(s), unless the total amount shown at the foot of this warrant is sooner paid to you, to arrest the offender and deliver him to the prison at, and you, the said

SCHEDULE—*continued*

Superintendent, to receive the offender into your custody and detain him for a period of unless the said sums and the costs and charges of the commitment are sooner paid.

Dated at this day of 19....

			£	s.	d.
Amount of fine
Costs
Total sum			£

.....
Registrar.

Form 3

WARRANT TO COLLECT SUM ADJUDGED TO BE PAID ON CONVICTION

Section 19c, Crimes Act 1961

To every constable: (or to [Full name], constable:)

[Full name], of [Address, occupation] (hereinafter called the offender) was on the day of 19.... convicted of in the Supreme Court of New Zealand at and ordered to pay the sum of and the sum of costs. [Here set out the particulars of any order made under section 19 of the Crimes Act 1961.]

The offender has not paid the said sums but has made default. I direct you to collect from the offender the said sums or so much of them as remains unpaid and the fee for the issue of this warrant and pay them to this Court, or, if the offender fails to pay on demand, to make a report as to his means for the Court so far as you have been able to ascertain them, or if after reasonable inquiry the offender cannot be found, to make a report to that effect to the Court.

Dated at this day of 19....

			£	s.	d.
Fine remaining unpaid
Costs
Warrant to collect
Total sum			£

.....
Registrar.

SCHEDULE—continued

Form 4

CONSTABLE'S RETURN TO WARRANT TO COLLECT SUM ADJUDGED
TO BE PAID

Section 19C (2), Crimes Act 1961

I , of , constable, hereby certify to the Supreme Court at that—

After reasonable inquiry the offender could not be found. (or I demanded payment from the offender of the sums within-mentioned, but the said sums have not been paid, and, pursuant to section 19C (2) of the Crimes Act 1961, I hereby make report as to the means of the offender so far as I have been able to ascertain them.) [Here set out report. The report should state whether the offender has attained the age of 21 years.]

Dated this day of 19.....

Constable.

Form 5

WRIT OF SALE FOLLOWING ISSUE OF WARRANT TO COLLECT

Section 19D, Crimes Act 1961

ELIZABETH the Second by the Grace of God of the United Kingdom, New Zealand, and Her Other Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

To the Sheriff of: Greeting

Whereas [Full name] of [Address, occupation] (hereinafter called the offender) was on the day of 19..... convicted of in the Supreme Court of New Zealand at and ordered to pay the sum of and the sum of for costs:

And whereas a constable has made a report to the Court pursuant to a warrant to collect dated the day of 19..... as to the means of the offender (or that the defendant could not be found):

And whereas the offender has not paid the said sums:

And whereas Mr Justice has made an order for the issue of this writ:

We command you that of the real and personal estate of the offender in your district, except personal and family clothing, furniture, and household effects, and tools or implements of trade, not exceeding in all £100 in value, you cause to be made the sum of [in words] and the fees and expenses of and incidental to the issue and execution of this writ and immediately after the execution hereof you pay into the Supreme Court at the sum so made.

And we also command you that you indorse on this writ immediately after execution thereof a statement of the manner in which you have executed it.

Issued under the seal of the Supreme Court at this day of 19.....

[Seal]

Registrar.

SCHEDULE—continued

Form 6

WARRANT OF COMMITMENT FOLLOWING ISSUE OF WARRANT TO COLLECT

Section 19D, Crimes Act 1961

To every constable (or to [Full name], constable), and to the Superintendent of the prison at

[Full name], of [Address, occupation] (hereinafter called the offender) was on the day of 19..... convicted of in the Supreme Court of New Zealand at and was ordered to pay the sum of and the sum of for costs.

A constable has made a report to the Court pursuant to a warrant to collect dated the day of 19..... as to the means of the offender (or that the offender could not be found).

The offender has not paid the said sums and Mr Justice has made an order for the immediate imprisonment of the offender.

Pursuant to that order, you, the said constable(s), are hereby directed, unless the total amount shown at the foot of this warrant is sooner paid to you, to arrest the offender and deliver him to the prison at, and you, the said Superintendent, are hereby directed to receive the offender into your custody and to imprison him for a period of unless the sum due is sooner paid.

Dated at this day of 19.....

£ s. d.

Fine recoverable

Costs recoverable

Warrant to collect

Total sum £

.....
Registrar.

Form 7

SHERIFF'S WARRANT TO BAILIFF (WRIT OF SALE)

Rule 7, Criminal Proceedings (Enforcement of Fines) Rules 1967

From Esquire, Sheriff of the District of in New Zealand,

To every constable (or to [Full name], constable), and to my Bailiff.

Whereas [Full name], of [Address, occupation] (hereinafter called the offender) was on the day of 19..... convicted of in the Supreme Court of New Zealand and was ordered to pay the sum of and the sum of for costs.

SCHEDULE—continued

NOW THEREFORE by virtue of the Queen's Writ issued out of Her Majesty's Supreme Court of New Zealand at to me directed and delivered, I command you that you cause to be made of the personal estate of the offender in my district, except personal and family clothing, furniture, and household effects, and tools or implements of trade, not exceeding in all £100 in value, the sum of and the fees and expenses of and incidental to the issue and execution of the Queen's Writ so that I may cause the said sum of immediately after the execution hereof to be rendered to the Supreme Court at

The said sum is made up as follows:				£	s.	d.
Fine	.....	.....	.....	.....	.....	.....
Costs	.....	.....	.....	.....	.....	.....

				=====		

Given under my hand and seal of my office this day of 19.....

.....
Sheriff.

The fees and expenses of and incidental to the issue and execution of the Writ as follows:

.....
.....
.....

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

These rules prescribe forms and fees as part of the new machinery for the enforcement of fines imposed by the Supreme Court which is provided for in section 2 of the Crimes Amendment Act 1966.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 13 July 1967.
These regulations are administered in the Department of Justice.