



**THE SUMMARY PROCEEDINGS REGULATIONS 1958,  
AMENDMENT NO. 18**

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PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 7th day of February 1989

Present:

THE RIGHT HON. G. W. R. PALMER PRESIDING IN COUNCIL

PURSUANT to section 212 of the Summary Proceedings Act 1957, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Summary Proceedings Regulations 1958, Amendment No. 18, and shall be read together with and deemed part of the Summary Proceedings Regulations 1958\* (hereinafter referred to as the principal regulations).

(2) These regulations shall come into force on the 13th day of March 1989.

**2. Default in payment of sum adjudged to be paid on conviction**—(1) Regulation 15H (1) of the principal regulations (as inserted

\*S.R. 1958/38 (Reprinted with Amendments Nos. 1 to 9: S.R. 1980/84)

Amendment No. 10: S.R. 1981/78

Amendment No. 11: S.R. 1981/228

Amendment No. 12: (Revoked by S.R. 1988/37)

Amendment No. 13: S.R. 1985/231

Amendment No. 14: (Revoked by S.R. 1988/37)

Amendment No. 15: S.R. 1987/211

Amendment No. 16: S.R. 1987/311

Amendment No. 17: S.R. 1988/37

by regulation 2 of the Summary Proceedings Regulations 1958, Amendment No. 7) is hereby amended by omitting the expression “\$55” (as substituted by regulation 2 of the Summary Proceedings Regulations 1958, Amendment No. 17), and substituting the expression “\$75”.

(2) The fee prescribed by this regulation is inclusive of goods and services tax under the Goods and Services Tax Act 1985.

(3) Regulation 2 of the Summary Proceedings Regulations 1958, Amendment No. 17 is hereby consequentially revoked.

**3. New form 5B**—The First Schedule to the principal regulations is hereby amended by inserting, after form 5A, the form 5B set out in the Schedule to these regulations.

SCHEDULE

Reg. 3

NEW FORM 5B PRESCRIBED

Form 5B

TRAFFIC SUMMONS TO DEFENDANT IN RELATION TO BREATH-ALCOHOL  
OFFENCE

*Section 19B, Summary Proceedings Act 1957*

To [Full name], of [Address, occupation].

You have undergone an evidential breath test pursuant to section 58B of the Transport Act 1962.

\* The result of that evidential breath test was positive but you did not, within 10 minutes of being advised of—

- The result of that evidential breath test; and
- Your right to request a blood test; and
- The other matters specified in section 58 (4) (a) of the Transport Act 1962,—

advise a traffic officer or a constable that you wished to undergo a blood test.

\* The result of that evidential breath test, being a test carried out by means of a conclusive evidential breath-testing device, indicated that the proportion of alcohol in your breath exceeded 600 micrograms of alcohol per litre of breath.

The charge against you is that you, the said [Full name], within the space of 6 months last past, namely, on the ..... day of .....  
..... 19..... at .....

\* Drove [\*attempted to drive] a motor vehicle on a road while the proportion of alcohol in your breath, as ascertained by an evidential breath test, exceeded 400 micrograms of alcohol per litre of breath, in that it was . . . micrograms of alcohol per litre of breath (being a summary offence against section 58 (1) (a) of the Transport Act 1962).

SCHEDULE—continued

\* Being a person who did not hold a driver's licence entitling you to drive a motor vehicle of the class that you were driving [\*attempting to drive], drove [\*attempted to drive] such a motor vehicle on a road while the proportion of alcohol in your breath, as ascertained by an evidential breath test, exceeded 150 micrograms of alcohol per litre of breath, in that it was . . . micrograms of alcohol per litre of breath (being a summary offence against section 58 (1) (b) of the Transport Act 1962).

An information in respect of this offence will be laid and filed as soon as practicable, and in any event not later than 7 days after the day the evidential breath test was administered.

YOU ARE SUMMONED to appear on ..... day, the ..... day of ..... 19 ..†, at ..... a.m. (p.m.), at the \*District Court/Children and Young Persons Court at ..... to answer the charge.

Dated at ..... this ..... day of ..... 19 ....

.....  
\*Constable/Traffic Officer

PROSECUTING AUTHORITY
.....
.....
.....

\*Delete which is not applicable.

†This day must be not later than 2 months after the date of this summons.

[Notes to be included on defendant's copy of summons]

NOTES TO DEFENDANT

1. *Failure to appear:* Failure to appear at the Court named in this summons at the time and place stated above may result in the issue of a warrant for your arrest.

2. *Prosecuting authority:* Any enquiries regarding the charge against you should be directed to the prosecuting authority that issued this summons. The prosecuting authority's name and address appear in the box at the bottom of this summons.

3. *Legal advice:* You should whenever possible obtain legal advice before the day on which you are required to attend court. Seek advice from your own lawyer or from a Citizens Advice Bureau or Legal Advice Centre.

4. *Legal aid:* If you want a lawyer to act for you but think you cannot afford one you can apply to the Court for legal aid. Do this as soon as

SCHEDULE—*continued*

possible. If aid is granted the Court will appoint a lawyer to represent you. Apply for legal aid at the District Court. The Registrar will answer any questions you may have.

MARIE SHROFF,  
Clerk of the Executive Council.

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**EXPLANATORY NOTE**

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

These regulations, which come into force on 13 March 1989, amend the Summary Proceedings Regulations 1958.

*Regulation 2* increases from \$55 to \$75 the fee payable in respect of the issue of a summons or warrant where default is made in the payment of a sum adjudged to be paid on a conviction.

*Regulation 3* prescribes the form of summons that may be served on a person who has undergone an evidential breath test where—

- (a) The test is positive but the person does not elect to undergo a blood test in accordance with the provisions of the Transport Act 1962; or
- (b) The test is carried out by means of a conclusive evidential breath-testing device and gives a result of more than 600 micrograms of alcohol per litre of breath.

This form of summons is provided for in section 19B of the Summary Proceedings Act 1957 (as inserted by section 18 (1) of the Transport Amendment Act (No. 2) 1988).

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 9 February 1989.

These regulations are administered in the Department of Justice.