

House of Representatives

Supplementary Order Paper

Tuesday, 7 June 2011

Courts and Criminal Matters Bill

Proposed amendments to SOP No 202

Hon Georgina te Heuheu, in Committee, to move the following amendments:

Clause 14

Item relating to *new section 84H(1)(d)*: to omit this item (page 4) and substitute the following item:

New section 84H(1)d: to insert after “amount” in the first place where it appears (line 17 on page 18) “or percentage”.

Clause 34

New section 108A(4): to omit this subsection (page 10).

New section 108A(6): paragraph (d) of the definition of **authorised process server**: to omit this paragraph (page 10) and substitute the following paragraph:

“(d) a person or a member of a class of persons authorised by a District Court Judge or Registrar to serve documents either generally or in respect of a particular case or class of case; or

Clause 35

Item relating to *subclause (4)*: to omit this item (page 12) and substitute the following item:

Subclause (4): to omit this subclause (lines 3 to 11 on page 28) and substitute the following subclause:

- (4) Section 116A is amended by adding the following subsections:
- “(3) If a document is served by sending it by prepaid post, then, unless the contrary is shown, the document is served when it would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the letter concerned was properly addressed and posted.

- “(4) If a document is served by sending it in electronic form, then, unless the contrary is shown, the document is served at the time the electronic communication first enters an information system outside the control of its originator, and in proving service it is sufficient to prove that the document concerned was properly addressed and sent.
- “(5) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.”

Clause 46

To insert the following item after the item relating to *clause 43* (page 14):

Clause 46: new section 103(2)(e)

To omit this paragraph (lines 8 to 10 on page 40) and substitute the following paragraph:

- “(f) a person in respect of whom a driver licence stop order is in effect.”

Clause 47(1AA)

New section 105(6): to omit “If” (page 14) and substitute “Subject to subsection (6A) and section 30(5), if”.

New clauses 47A, 48A, and 48B

To insert the following items after the item relating to *clause 47* (page 14):

New clause 47A

To insert the following clause after *clause 47* (after line 32 on page 40):

47A Powers of parking wardens

Section 128E(1) is amended by repealing paragraph (b) and substituting the following paragraph:

- “(b) may, in relation to enforcing the provisions of any stationary vehicle offence or special vehicle lane offence, direct any person on any road, and apparently in charge of or in any vehicle, to—
- “(i) provide the person’s full name and full address and give any other identifying particulars required as to the person’s identity (for example, the person’s date of birth, occupation, and telephone number);
- “(ii) give any information that is within the person’s knowledge and that may lead to the identification of the driver or person in charge of any vehicle (for example, the other person’s full name, full address, date of birth, occupation, and telephone number):”.

New clauses 48A and 48B

To insert the following clauses after *clause 48* (after line 7 on page 41):

48A Owner liability for stationary vehicle offences

Section 133A(4) is amended by repealing paragraph (c) and substituting the following paragraph:

- “(c) he or she has given the enforcement authority a statutory declaration that—
 - “(i) identifies another person who was, at the time of the alleged offence, lawfully entitled to possession, or was unlawfully in charge, of the vehicle by providing—
 - “(A) the full name and full address of the other person; and
 - “(B) any other identifying particulars of the other person that are known to the person making the declaration (for example, the other person’s date of birth, occupation, and telephone number); or
 - “(ii) establishes that the person making the declaration was unable to identify the other person after taking all reasonable steps to do so.”

48B Issue of infringement notice

Section 139 is amended by repealing subsections (4) and (5).

Clause 58

New section 79A(5): to omit this subsection (page 19).

New section 79A(6): *paragraph (d)* of the definition of **authorised process server**: to omit this paragraph (page 19) and substitute the following paragraph:

- “(d) a person or a member of a class of persons authorised by a District Court Judge or Registrar to serve documents either generally or in respect of a particular case or class of case; or

To add the following item after the item relating to *new section 79D(2) and (3)* (page 21):

New section 79D: to add the following subsections (after line 2 on page 55):

- “(5) If a document is served by sending it by prepaid post, then, unless the contrary is shown, the document is served when it would have been delivered in the ordinary course of post, and in proving service it is sufficient to prove that the letter concerned was properly addressed and posted.
- “(6) If a document is served by sending it in electronic form, then, unless the contrary is shown, the document is served at the time the electronic communication first enters an information

system outside the control of its originator, and in proving service it is sufficient to prove that the document concerned was properly addressed and sent.

“(7) In this section, **information system** means a system for producing, sending, receiving, storing, displaying, or otherwise processing electronic communications.”

Clause 64

To omit the item relating to *new section 86A(7)(c)* (page 24) and substitute the following item:

New section 86A(7)(c): to omit “**subsection (2)(b)(i), (3)(b)(i), or (4)(a)**” (line 20 on page 60) and substitute “**subsection (1)(c) or(d), (2)(b)(i), (3)(b)(i), or (4)**”.

Clause 72

To omit the item relating to *new section 105(1)(c)* (page 41) and substitute the following item:

New section 105(1)(c): to insert after “amount” in the first place where it appears (line 29 on page 98) “or percentage”.

Clause 77

New section 212(2)(daa): to insert after “**section**” (page 47) “**24(1)(e) or**”.

New clause 77B

To omit this clause (page 48).

Clause 79

To insert the following item before the item relating to *new clause 79A* (page 48):

Clause 79

Paragraph (a) of the definition of **traffic offence**: to omit “the Transport Act 1962, the Road User Charges Act 1977, the Transport (Vehicle and Driver Registration and Licensing) Act 1986” (lines 2 to 4 on page 105) and substitute “the Road User Charges Act 1977”.

New clause 79C

New section 19(2): to omit “an order directing that a writ of sale be issued against the property of the offender” (page 49) and substitute “a charging order or sale order in relation to the offender’s real property”.

New section 19: to insert the following subsection after *subsection (2)* (page 49):

“(2A) To avoid doubt, section 88A of the Summary Proceedings Act 1957 does not apply if the High Court makes, in accordance with **subsection (2)**, a charging order or sale order in relation to real property.

New section 19(3)(b)(i): to omit “section 115” (page 50) and substitute “those sections”.

New section 19(6): to omit “subject to any necessary modifications, and,” (page 50) and substitute “subject to any necessary modifications, and”.

New section 19: to insert the following subsection after *subsection (7)* (page 50):

“(7A) A bailiff of a District Court may exercise any jurisdiction and powers conferred on a bailiff of a District Court by Part 3 of the Summary Proceedings Act 1957 in respect of the fine or fines imposed by the High Court to which, under **subsection (1)**, that Part applies.

New clauses 79EA and 79EB

To insert the following clauses after *new clause 79E* (page 51):

79EA Discharge of assets forfeiture order by Official Assignee

Section 82(1) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) thirdly, by paying, in the order of priority set out in **section 86E** of the Summary Proceedings Act 1957, any of the following amounts imposed on the former interest holder:

“(i) any amount of reparation (as defined in **section 79** of the Summary Proceedings Act 1957):

“(ii) any offender levy (as defined in **section 79** of the Summary Proceedings Act 1957):

“(iii) any other type of fine (as defined in **section 79** of the Summary Proceedings Act 1957):”.

79EB Discharge of profit forfeiture order by Official Assignee

Section 83(1) is amended by repealing paragraph (c) and substituting the following paragraph:

“(c) thirdly, by paying, in the order of priority set out in **section 86E** of the Summary Proceedings Act 1957, any of the following amounts imposed on the former interest holder:

“(i) any amount of reparation (as defined in **section 79** of the Summary Proceedings Act 1957):

“(ii) any offender levy (as defined in **section 79** of the Summary Proceedings Act 1957):

“(iii) any other type of fine (as defined in **section 79** of the Summary Proceedings Act 1957):”.

New clause 104A(4)

New definition of **secured party**: to omit “references to security interest are references” (page 64) and substitute “reference to security interest is a reference”.

New clause 109C(2)(c)

To omit this paragraph (page 70) and substitute the following paragraph:

- (c) omitting “terms of the agreement” and substituting “terms of the lease”.

New clauses 111A and 111B

To omit the item relating to *new clauses 111A and 111B* (page 74) and substitute the following item:

New clause 111A

To insert the following clause after *clause 111* (after line 33 on page 113):

111A Sections 145A to 145D repealed

Sections 145A to 145D are repealed.

Subpart 13 of Part 4

To insert the following item after the item relating to *clause 115* (page 76):

Subpart 13 of Part 4: to omit this subpart (line 22 on page 114 to line 15 on page 115).

Schedule 1

To add the following item (page 76):

Item relating to the Child Support Act 1991: to insert the following item after the item relating to section 183(9) (after line 15 on page 116):

“Section 183(10): omit ‘Sections 91 and 95’ and substitute ‘Section 91’.”

Schedule 2A: Part 2

To omit the item relating to the Legal Services Act 2000 and substitute the following item (page 77):

Legal Services Act 2011 (2011 No 4)

Paragraph (b) of the definition of **criminal proceedings** in section 4(1): omit “section 88” and substitute “**sections 88 to 88AG**”.

Explanatory note

This Supplementary Order Paper sets out proposed amendments to Supplementary Order Paper No 202, which amends the Courts and Criminal Matters Bill.

The amendments make a number of minor or technical changes, including—

- changes to the provisions relating to the service of documents that are proposed to be inserted into the District Courts Act 1947 and the Summary Proceedings Act 1957 to clarify when a document sent by prepaid post or in electronic form must be treated as having been served;
- changes to correct cross-references and other minor drafting omissions:

- changes that are consequential on the prior enactment of the Land Transport (Road Safety and Other Matters) Amendment Bill (which amended provisions that the Courts and Criminal Matters Bill is also amending) and the Legal Services Act 2011 (which made a proposed consequential amendment to the Legal Services Act 2000 unnecessary and has required a consequential amendment to the corresponding provision in the new Act):
 - changes to omit certain transitional provisions that are no longer required as a result of the commencement of the Land Transport Amendment Act 2009.
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