ANALYSIS

Title
1. Short Title and commencement
2. Interpretation
3. Associating with convicted thieves
4. New sections inserted
6A. Associating with violent offenders
6B. Associating with serious drug offenders
6C. Proof of habitual association
5. Intimidation
6. New schedules added
7. Fines increased

SCHEDULES
Schedule 1
New Schedules Added to Principal Act
Schedule 2
Amendments to Principal Act to Increase Fines

1997, No. 97

An Act to amend the Summary Offences Act 1981

[*1 December 1997*

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 Offences Amendment Act 1997, and is part of the Summary Offences Act 1981 ("the principal Act").

(2) This Act comes into force on 1 January 1998.

2. Interpretation—Section 2 (1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

" 'Crime involving violence' means an offence against any of the provisions listed in Schedule 3:

" 'Serious drug offence' means an offence against any of the provisions listed in Schedule 4:".

3. Associating with convicted thieves—Section 6 of the principal Act is amended by inserting, after subsection (2), the following subsection:

"(2A) To avoid any doubt, if a person who is a convicted thief habitually associates with another convicted thief in the circumstances specified in subsection (1), this section does not prevent 1 or both of those persons from being charged with an offence under this section."

4. New sections inserted—The principal Act is amended by inserting, after section 6, the following sections:

"6A. **Associating with violent offenders**—(1) Every person commits an offence against this section who habitually associates with a violent offender in circumstances from which it can reasonably be inferred that the association will lead to the commission of a crime involving violence by that person or any such offender.

"(2) No information for an offence against this section may be laid unless—

"(a) The defendant has been warned by any constable on at least 3 separate occasions that his or her continued association with the violent offender may lead to a charge being brought against him or her under this section; and

"(b) Every warning under paragraph (a) in respect of an association with a violent offender is given not more than 7 years after the date of that violent offender's last conviction for a crime involving violence.

"(3) This section does not apply in respect of any habitual association between 2 persons in either of the following circumstances:

"(a) Where a protection order is in force under the Domestic Violence Act 1995, and that order is for the benefit of 1 of those 2 persons and applies against the other of those 2 persons:

"(b) Where—

"(i) Both persons are, or have been, in a domestic relationship (as defined by section 4 of that Act) with each other; and

"(ii) The crimes involving violence, the commission of which can reasonably be inferred from that association, are crimes that will be committed by 1 of those persons against the other person, or by 1 of those persons against a third person who is in a domestic relationship (as so defined) with the other person.

"(4) To avoid any doubt, if a person who is a violent offender habitually associates with another violent offender in the circumstances specified in subsection (1), this section does not prevent 1 or both of those persons from being charged with an offence under this section.

"(5) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding $2,000.

"(6) In this section 'violent offender' means a person who has been convicted on at least 2 separate occasions of a crime involving violence.

"6B. **Associating with serious drug offenders**—(1) Every person commits an offence against this section who habitually associates with a serious drug offender in circumstances from which it can reasonably be inferred that the association will lead to the commission of a serious drug offence by that person or any such offender.

"(2) This section does not apply in respect of a serious drug offence against—

"(a) Section 6 of the Misuse of Drugs Act 1975 in relation to a Class C controlled drug specified or described in Part I of the Third Schedule of that Act (other than catha edulis plant or coca leaf); or

"(b) Section 9 of that Act in relation to a prohibited plant of the genus *Cannabis*,—

unless the serious drug offence involved dealing with a substantial amount of that drug or cultivation of that drug on a substantial scale, as the case may be.

"(3) No information for an offence against this section may be laid unless—

"(a) The defendant has been warned by any constable on at least 3 separate occasions that his or her continued association with the serious drug offender may lead to a charge being brought against him or her under this section; and

"(b) Every warning under paragraph (a) in respect of an association with a serious drug offender is given not more than 7 years after the date of that serious drug offender's last conviction for a serious drug offence.

"(4) To avoid any doubt, if a person who is a serious drug offender habitually associates with another serious drug offender in the circumstances specified in subsection (1), this section does not prevent 1 or both of those persons from being charged with an offence under this section.

"(5) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding $2,000.

"(6) In this section 'serious drug offender' means a person who has been convicted on at least 2 separate occasions of a serious drug offence.

"6C. **Proof of habitual association**—(1) In proceedings for an offence against section 6 or section 6A or section 6B, the prosecution may prove that the association was an habitual association by proving that,—

"(a) On at least 3 separate occasions, a constable gave the defendant a warning that satisfies the requirements of—

"(i) Section 6 (2), in the case of an offence against section 6; or

"(ii) Section 6A (2), in the case of an offence against section 6A; or

"(iii) Section 6B (3), in the case of an offence against section 6B; and

"(b) All 3 warnings were given within a period of 2 years.

"(2) Subsection (1) does not limit the manner in which the prosecution may prove that the association was an habitual association."

5. Intimidation—The principal Act is amended by repealing section 21, and substituting the following section:

"21. (1) Every person commits an offence who, with intent to frighten or intimidate any other person, or knowing that his or her conduct is likely to cause that other person reasonably to be frightened or intimidated,—

"(a) Threatens to injure that other person or any member of his or her family, or to damage any of that person's property; or

"(b) Follows that other person; or

"(c) Hides any property owned or used by that other person or deprives that person of, or hinders that person in the use of, that property; or

"(d) Watches or loiters near the house or other place, or the approach to the house or other place, where that other person lives, or works, or carries on business, or happens to be; or

"(e) Stops, confronts, or accosts that other person in any public place.

"(2) Every person commits an offence who forcibly hinders or prevents any person from working at or exercising any lawful trade, business, or occupation.

"(3) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding 3 months or a fine not exceeding $2,000."

6. New schedules added—The principal Act is amended by adding the schedules set out in Schedule 1.

7. Fines increased—The principal Act is amended in the manner indicated in Schedule 2.

SCHEDULES

SCHEDULE 1 Section 6

NEW SCHEDULES ADDED TO PRINCIPAL ACT

"SCHEDULE 3 Section 2 (1)

CRIMES INVOLVING VIOLENCE

PART 1

OFFENCES IN CRIMES ACT 1961

Provision of Crimes Act 1961	Subject-matter
87	Riot
90	Riotous damage
128	Sexual violation
129	Attempt to commit sexual violation
167, 168	Murder
171	Manslaughter
173	Attempt to murder
188 (1)	Wounding with intent to cause grievous bodily harm
188 (2)	Wounding with intent to injure
189 (1)	Injuring with intent to cause grievous bodily harm
189 (2)	Injuring with intent to injure, or with reckless disregard for the safety of others
191 (1)	Aggravated wounding
191 (2)	Aggravated injury
192	Aggravated assault
193	Assault with intent to injure
198A	Using any firearm against law enforcement officer, etc
198B	Commission of crime with firearm
199	Acid throwing
202C	Assault with weapon
209	Kidnapping
234	Robbery
235	Aggravated robbery
237	Assault with intent to rob
294	Arson
296	Damage to other property by fire or explosive
298	Wilful damage

SCHEDULE 1—*continued*

NEW SCHEDULES ADDED TO PRINCIPAL ACT—*continued*

"SCHEDULE 3—*continued*

CRIMES INVOLVING VIOLENCE—*continued*

PART 2

OFFENCES IN ARMS ACT 1983

Provision of Arms Act 1983	Subject-matter
54	Use or attempted use of firearm, airgun, pistol, imitation firearm, restricted weapon, ammunition, or explosive to resist or prevent arrest or commit offence
55	Carrying firearm, airgun, pistol, imitation firearm, restricted weapon, ammunition, or explosive with criminal intent

Section 2 (1)

SCHEDULE 4

SERIOUS DRUG OFFENCES

Provision of Misuse of Drugs Act 1975	Subject-matter
6 (1)	Dealing with controlled drugs
6 (2A)	Conspiracy to deal with controlled drugs
9	Cultivation of prohibited plants
10	Aiding offences against corresponding law of another country
11	Theft, etc, of controlled drugs
12	Use of premises or vehicle"

SCHEDULE 2 Section 7

AMENDMENTS TO PRINCIPAL ACT TO INCREASE FINES

Provision Amended	Amendment
Section 3	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 4 (1)	By omitting the expression "$500", and substituting the expression "$1,000".
Section 4 (2)	By omitting the expression "$200", and substituting the expression "$500".
Section 5	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 5A (as inserted by section 2 of the Summary Offences Amendment Act 1989)	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 6	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 7	By omitting the expression "$500", and substituting the expression "$1,000".
Section 8	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 9	By omitting the expression "$2,000", and substituting the expression "$4,000".
Section 10	By omitting the expression "$2,000", and substituting the expression "$4,000".
Section 10A (as inserted by section 453 of the Children, Young Persons, and Their Families Act 1989)	By omitting the expression "$2,000", and substituting the expression "$4,000".
Section 10B (as inserted by section 453 of the Children, Young Persons, and Their Families Act 1989)	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 11	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 12	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 13	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 13A (as inserted by section 2 of the Summary Offences Amendment Act 1986, and section 2 of the Summary Offences Amendment Act (No. 2) 1987)	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 14	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 22	By omitting the expression "$500", and substituting the expression "$1,000".

SCHEDULE 2—*continued*

AMENDMENTS TO PRINCIPAL ACT TO INCREASE FINES—*continued*

Provision Amended	Amendment
Section 23	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 24	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 27	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 28 (2) (a)	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 28 (2) (b)	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 29 (1)	By omitting the expression "$1,000", and substituting the expression "$2,000".
Section 29 (3)	By omitting the expression "$100", and substituting the expression "$500".
Section 32	By omitting the expression "$100", and substituting the expression "$200".
Section 33	By omitting the expression "$100", and substituting the expression "$200".
Section 34	By omitting the expression "$100", and substituting the expression "$200".
Section 35	By omitting the expression "$100", and substituting the expression "$200".
Section 36	By omitting the expression "$100", and substituting the expression "$200".
Section 37	By omitting the expression "$100", and substituting the expression "$200".

This Act is administered in the Department for Courts and the Ministry of Justice.