

Courts and Criminal Matters Bill

Government Bill

Explanatory note

General policy statement

This Bill aims to improve the effectiveness of the Department for Courts' fines and civil enforcement activities. The Bill contains various amendments to a number of statutes impacting on these activities. The Government is concerned to effect policy and technical amendments for this purpose in a timely manner through an omnibus Courts and Criminal Matters Bill.

The powers of the Department for Courts to gather information about fines defaulters and enforce fines were significantly extended by the Summary Proceedings Amendment Act 1998. The new tracing and enforcement options implemented through that legislation have made a significant contribution towards the enforcement of unpaid fines. This Bill makes further improvement in these areas by—

- extending the scope of information that the Department can seek through information-matching programmes with, and requests for information from, other government departments; and
- clarifying certain statutory provisions to remove confusion and better reflect Parliament's original legislative intention; and
- extending additional protection to the public to ensure that they are informed of their rights and responsibilities, and are not unduly penalised as a result of outstanding fines.

In particular, the Bill creates an arrangement allowing the Collections Unit of the Department for Courts to compare its database of

finers defaulters with the New Zealand Customs Service database of people travelling in and out of the country. This will—

- improve the information available to the Collections Unit on finers defaulters who travel overseas; and
- increase the public awareness of action taken at international airports to enforce court-imposed fines, reparation, and infringements; and
- provide greater opportunities for finers defaulters to meet their obligations; and
- increase voluntary compliance with court-imposed fines, reparation, and infringements; and
- enable the interception of finers defaulters owing large amounts of outstanding court-imposed fines who try to leave the country without paying.

It is intended that this Bill be divided into the following 9 separate Bills at the committee of the whole House stage: a Crimes Amendment Bill, a Customs and Excise Amendment Bill, a District Courts Amendment Bill, an Immigration Amendment Bill, a Misuse of Drugs Amendment Bill, a Privacy Amendment Bill, a Sentencing Amendment Bill, a Summary Proceedings Amendment Bill, and a Tax Administration Amendment Bill.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Part 1

Crimes Act 1961

Clause 4 amends section 19C of the Crimes Act 1961, which gives the Registrar of the High Court or of a District Court the power to issue a warrant to collect any fine imposed on conviction on indictment, or any other sum of money that an offender has been ordered to pay, if the fine or other sum is not paid within the specified time. Section 19C is amended to allow a bailiff, in addition to a constable, to execute the warrant. Section 19C is also amended to define bailiff in the same terms as in section 2(1) of the District Courts Act 1947. The effect of the amendments is to confer on the Collections Unit of

the Department for Courts the responsibility for the enforcement of these fines.

Clause 5 amends section 19D of the Crimes Act 1961, which provides that, if a constable makes a report under section 19C on the financial means of the offender or on the fact that the offender cannot be found after reasonable inquiry, the Judge who sentenced the offender to pay a fine or who ordered the offender to pay any other sum of money must consider the report and may make any order that the Judge thinks fit. Section 19D is amended to allow a bailiff, in addition to a constable, to make the report under section 19C. This amendment is consequential on the amendments to section 19C.

Part 2

Customs and Excise Act 1996

Clause 7 inserts *new sections 280C to 280E* into the Customs and Excise Act 1996.

New section 280C defines terms used in *new sections 280D and 280E*.

New section 280D provides for the Customs to supply arrival and departure information to the Department for Courts for the purposes of enabling that department to locate any person who is in serious default in the payment of any fine and to take appropriate fines enforcement action against that person. A person is in serious default in the payment of any fine if—

- the person owes an amount of not less than \$1,000 (or any other amount that may be fixed by the Governor-General in Council) in relation to 1 or more unpaid fines; and
- a warrant to arrest the person has been issued for non-payment of the whole, or any part, of any fine; and
- the warrant has not been withdrawn or executed.

The amendments to the Customs and Excise Act 1996 are related to the amendments to the Immigration Act 1987 set out in *Part 4*. They are intended to give effect to a Government initiative to enforce fines primarily at New Zealand airports. The amendments also allow for the future possibility of enforcing fines at seaports. Under the initiative, it is proposed that persons who are in serious default in the payment of any fine may, depending on the amount of unpaid fine, either be intercepted before departing from, or arriving in, New

Zealand to enable appropriate enforcement action to be taken at the airport or seaport (for example, the execution of a warrant to arrest) or to enable the Department for Courts to contact those persons by obtaining up-to-date contact details from the Customs and the New Zealand Immigration Service under the information-matching programme.

New section 280E provides that the Crown is not liable to any person for any loss or damage suffered as a result of, or in connection with, the execution of a warrant to arrest a person who is in serious default immediately—

- after the arrival of that person in New Zealand; or
- before the departure of that person from New Zealand.

Part 3

District Courts Act 1947

Clause 9 amends section 84C of the District Courts Act 1947, which deals with situations where a judgment debtor fails to appear before the District Court to be orally examined as to the debtor's financial capacity to satisfy the judgment debt. The amendments to section 84C are two-fold. First, section 84C is amended to provide that a Registrar of the District Court may issue a warrant to arrest the debtor regardless of whether or not a District Court Judge is available to issue the warrant. Currently, section 84C provides that a Registrar may issue a warrant to arrest the debtor only if a District Court Judge is not available. Secondly, section 84C is amended to enable a bailiff to take the bail bond of a debtor who has been arrested under the warrant and who cannot practicably be brought immediately before a District Court Judge or Registrar. At present, only a member of the police may take the bail bond.

Clause 10 amends section 84F of the District Courts Act 1947, which defines terms used in the provisions of that Act dealing with attachment orders. The definition of **salary or wages** is amended to include bonus or incentive payments, payments of commission, and payments in consideration of work performed under a contract for services. The effect of the amendment is to bring the definition of **salary or wages** in section 84F into line with the definition of the same term in section 79 of the Summary Proceedings Act 1957.

Clause 11 amends section 84L(4) of the District Courts Act 1947, which provides that, if a judgment debtor is entitled to a benefit within the meaning of the Social Security Act 1964, an attachment

order may be made against the chief executive of the department for the time being responsible for the administration of that Act (currently the Ministry of Social Development). The amendment to section 84L(4) makes a minor change in relation to the place at which the attachment order may be served on that department. Under the amendment, the order may be served not only at the district office of that department nearest to the judgment debtor's place of residence but also at an address notified by the chief executive of that department to the chief executive of the Department for Courts.

Clause 12 amends section 84O of the District Courts Act 1947, which allows a District Court Judge to issue a warrant to arrest a judgment debtor if the judgment debtor fails to appear at the hearing of an application for an order that the judgment debtor undertake community work for non-payment of a judgment debt. The amendment to section 84O enables a bailiff to take the bail bond of a judgment debtor who has been arrested under the warrant and who cannot practicably be brought immediately before a District Court Judge or Registrar.

Clause 13 makes a minor drafting amendment to the heading of section 84Q of the District Courts Act 1947.

Part 4

Immigration Act 1987

Clause 15 inserts *new sections 141AC to 141AE* into the Immigration Act 1987.

New section 141AC defines terms used in *new sections 141AD and 141AE*.

New section 141AD provides for the Department of Labour to supply immigration information to the Department for Courts for the purposes of enabling the Department for Courts to locate any person who is in serious default in the payment of any fine and to take appropriate fines enforcement action against that person. A person is in serious default in the payment of any fine if—

- the person owes an amount of not less than \$1,000 (or any other amount that may be fixed by the Governor-General in Council) in relation to 1 or more unpaid fines; and
- a warrant to arrest the person has been issued for non-payment of the whole, or any part, of any fine; and

- the warrant has not been withdrawn or executed.

New section 141AE is in similar terms to the amendment made in *clause 7* concerning Crown liability. It provides that the Crown is not liable to any person for any loss or damage suffered as a result of, or in connection with, the execution of a warrant to arrest a person who is in serious default immediately—

- after the arrival of that person in New Zealand; or
- before the departure of that person from New Zealand.

The amendments to the Immigration Act 1987 are related to the amendments to the Customs and Excise Act 1996 set out in *Part 2* (see the note to *clause 7* about the effect of these amendments).

Part 5

Misuse of Drugs Amendment Act 1978

Clause 17 amends section 43 of the Misuse of Drugs Amendment Act 1978, which relates to the enforcement of fines that are imposed by the High Court on an offender on conviction on indictment for a drug dealing offence. Currently, section 43 imposes a number of duties on the Registrar of the High Court, including the duty to inquire into the financial means of the offender if the fine imposed by the Court is not paid within the specified time. Section 43 is amended to clarify that the duties of the Registrar may be performed not only by the Registrar of the High Court but also by the Registrar of the District Court and any Deputy Registrar. The amendment is in similar terms to the amendments in *clauses 4 and 5* in that the effect of the amendment is to confer on the Collections Unit of the Department for Courts the ability to enforce these fines.

Part 6

Privacy Act 1993

Clause 19 amends section 103 of the Privacy Act 1993, which prohibits a specified agency from taking adverse action against any individual on the basis of a result produced under an authorised information-matching programme unless the agency has given that individual written notice of any adverse action that it proposes to take. Section 103 is amended to clarify that, despite the provisions of that section, any sworn member of the police or any bailiff may immediately execute a warrant to arrest an individual for the non-payment of the whole or any part of a fine so long as certain procedural matters are complied with. The amendment is required to

enable the Department for Courts to give effect to the Government initiative to enforce fines at New Zealand airports.

Clause 20 amends the Third Schedule of the Privacy Act 1993, which specifies information-matching provisions in other enactments. The amendments in *clause 20* are consequential on the amendments in *Parts 2 and 4* (which authorise the disclosure of information to the Department for Courts for fines enforcement purposes).

Part 7 Sentencing Act 2002

Clause 22 inserts *new sections 145A to 145D* into the Sentencing Act 2002.

New section 145A deals with cases where a person (the **liable person**) is required to pay an amount of reparation to 2 or more persons in relation to the same offence. It provides that, in these cases, any payments received from the liable person must be applied, as between the persons in whose favour the sentence of reparation or order of reparation (or both) was made, in the proportion that reflects the relative total or proportionate amounts ordered to be paid to each of them under the sentence or order (or both). For example, if, under a sentence of reparation, the liable person is required to pay \$600 to person A and \$400 to person B with respect to the same offence, any payments received from the liable person must be applied in the proportion of 60% to person A and 40% to person B.

New section 145B deals with cases where a person (the **liable person**) is required to pay an amount of reparation to 2 or more persons in relation to different offences. It provides that, in these cases, any payments received from the liable person must be applied in the order of priority set out in that section if the amount has not been paid in full.

Under *new section 145B*, any payments received from the liable person must be applied first in satisfaction of the amount of reparation that is payable to the person in whose favour the sentence of reparation or the order of reparation (or both) was made first. Any further payments received from the liable person must then be applied to the person in whose favour the sentence of reparation or the order of reparation (or both) was made next. The effect of this amendment is that reparation payments must be applied on a “first in time” basis. Currently, reparation payments are applied on a “pro

rata” basis, which means that the persons to whom the payments are payable must share each payment in equal proportions.

New section 145C provides that the Crown is not liable to any person for any error, omission, or delay in applying any payment of an amount of reparation in accordance with *new sections 145A and 145B*.

New section 145D defines terms used in *new sections 145A to 145C*.

Part 8

Summary Proceedings Act 1957

Clause 24 corrects errors in the numbering of some paragraphs in the definition of **infringement notice** in section 2(1) of the Summary Proceedings Act 1957.

Clause 25 amends section 21 of the Summary Proceedings Act 1957, which sets out the procedure for proceedings in respect of infringement offences. Section 21(2) of the principal Act provides that, if an infringement notice has been issued in respect of an infringement offence and if, on the expiration of 28 days after the date of service, the informant has not received a notice requesting a hearing, the informant may serve on the person served with the infringement notice a reminder notice that must be in the prescribed form. The prescribed form for the reminder notice, which is set out in the First Schedule of the Summary Proceedings Regulations 1958, is currently used for a variety of offences. As some sections of the form do not apply to many offences for which it is used, section 21(2) is amended to allow for separate forms to be prescribed for the relevant infringement offence. If no form is prescribed for an offence, the form set out in the First Schedule of the Summary Proceedings Regulations 1958 will continue to apply.

Clause 26 amends section 78B of the Summary Proceedings Act 1957, which gives a District Court Judge or Registrar of that Court the power to take certain remedial steps if he or she is satisfied that a defendant who has been ordered to pay a fine or costs (or both) in respect of an infringement offence did not in fact receive a reminder notice or a copy of a notice of hearing in relation to that offence or that some other irregularity occurred in the procedure leading up to the order for the fine or costs (or both). Section 78B is amended to make it clear that, if a Registrar exercises the power to grant a hearing or rehearing of the matter or to authorise or require another copy of the reminder notice or notice of hearing to be served by the

informant on the defendant, the Registrar must take appropriate steps to ensure that the initial reminder notice or notice of hearing is not acted on.

Clause 27 inserts a *new section 86B* into the Summary Proceedings Act 1957. *New section 86B* gives a Registrar of the District Court the power to vary, suspend, or cancel an arrangement extending the time to pay a fine or an attachment order if the Registrar has reason to believe that the defendant has, for the purpose of obtaining or entering into the arrangement, or in connection with the making of the order, supplied false or misleading information about the defendant's financial position or that the defendant's financial position has changed significantly since the date on which the arrangement is entered into or the order is made. Currently, a Registrar cannot unilaterally vary, suspend, or cancel the arrangement or order, which means that other enforcement action cannot be taken against the defendant unless the defendant breaches the terms of the arrangement or the order. This is the case even if the defendant has supplied false or misleading information about the defendant's financial position in order to be considered for the arrangement or order. It is also the case even if the defendant's financial position has changed significantly since the date on which the arrangement was entered into or the order was made (for example, if a defendant who is on a welfare benefit at the material time later secures employment or receives a large sum of money, such as an inheritance). The effect of the amendment is to allow the Registrar to take these matters into account (together with any relevant information received from a government department, organisation, or person whom the Registrar has consulted) and to enable the Registrar to vary, suspend, or cancel the arrangement or order as may be appropriate in the circumstances. The amendment also brings the fines enforcement provisions of the Summary Proceedings Act 1957 into line with the corresponding provisions of the District Courts Act 1947. Under section 84M of the latter Act, a Registrar of the District Court may vary, suspend, or discharge attachment orders made against a judgment debtor in respect of a civil judgment debt.

Clause 28 amends section 87 of the Summary Proceedings Act 1957, which sets out enforcement procedures that may be taken against a defendant who defaults in the payment of any fine. The amendment in this clause is related to the amendment in *clause 27* and is intended to ensure that the range of enforcement actions is

available in cases where the Registrar has had to vary, suspend, or cancel an arrangement or order in accordance with *new section 86B*.

Clause 29 amends section 87AA of the Summary Proceedings Act 1957, which gives a Registrar of the District Court, for the purpose of considering whether to make an attachment order in respect of any benefit payable or to become payable to a defendant, the power to obtain information about the defendant from the department for the time being responsible for the administration of the Social Security Act 1964. Section 87AA is amended to enable the Registrar to obtain additional information about the defendant (for example, the type of any benefit that is paid to the defendant). Section 87AA is also amended to require the chief executive of the department for the time being responsible for the administration of the Social Security Act 1964 to advise the Registrar, if the chief executive is aware of the fact, that the defendant has died.

Clause 30 amends section 88 of the Summary Proceedings Act 1957, which deals with cases where a Registrar of the District Court has taken enforcement action under section 87 of that Act but the fine remains unpaid. Section 88(3)(fa) is amended to clarify that a District Court Judge or Community Magistrate may take the action set out in that paragraph not only in cases where the defendant owes \$10,000 or more in several unpaid fines but also in cases where the amount owing is in relation to 1 unpaid fine only.

Clause 31 amends section 104A of the Summary Proceedings Act 1957, which gives a Registrar of the District Court the power to require the Commissioner of Inland Revenue to provide the Registrar with information about the employer of a defendant if an attachment order is being made in respect of the defendant and the name or address or both of the employer of the defendant is unknown or requires clarification. Section 104A is amended to enable the Registrar to also obtain the telephone number of the employer of the defendant.

Clause 32 amends section 106A of the Summary Proceedings Act 1957, which makes it an offence for an employer to dismiss any employee or to alter any employee's position in the employer's business or undertaking to the employee's prejudice by reason of an attachment order having been served on the employer. Section 106A is amended by also making it an offence for an employer to dismiss any employee or to alter the employee's position by reason of the employee having been ordered to pay a fine or the employer becoming aware that an attachment order is being made or has been made

in respect of the employee. The effect of the amendment is to widen the grounds for a prosecution against an employer under section 106A. Section 106A is also amended to provide that the section does not affect an employer's right to take disciplinary action against an employee for breaching a condition of the employee's employment that relates to the commission of an offence or the failure to pay any fine in full before enforcement action is due.

Clause 33 amends section 203 of the Summary Proceedings Act 1957, which prohibits, subject to exceptions, certain actions being taken on a Sunday. The amendment adds to the list of exceptions in section 203(2) a further category of acts that may be done on a Sunday. The effect of the amendment is that a warrant to arrest any defendant for the non-payment of a fine may be issued and may be executed on a Sunday. The amendment is related to the amendments in *Parts 2 and 4* concerning the enforcement of fines at the border.

Part 9

Tax Administration Act 1994

Clause 35 amends section 85A of the Tax Administration Act 1994, which allows the exchange of information between the Inland Revenue Department and the Department for Courts for the purpose of establishing an information-matching programme to enable the Department for Courts to locate any fines defaulter. Under section 85A, the Inland Revenue Department is authorised to supply to the Department for Courts all or any of the following information that is held by the Inland Revenue Department in relation to that fines defaulter:

- the last known address of the fines defaulter; and
- if applicable, the date when that address was most recently changed; and
- the telephone number of the fines defaulter.

The information held by the Inland Revenue Department about the address of a fines defaulter will soon become obsolete as the requirement for most salary and wage earners to complete an annual tax return has been removed. Instead, employers are now required to provide income and tax information about their employees through employer monthly schedules. The amendment to section 85A is intended to make sure that information about the employer of a fines defaulter is included in the information that may lawfully be supplied by the Inland Revenue Department under that section. This

information includes the name, address, and telephone number of the employer of the fines defaulter.

Regulatory impact and compliance cost statement

Statement of problem and need for action

The Courts and Criminal Matters Bill is an omnibus bill that aims to improve in various ways the effectiveness of the legislation governing fines enforcement and civil debt collection, which are functions carried out by the Collections Unit of the Department for Courts.

If the Collections Unit is able to trace the whereabouts of a fines defaulter, the fine is generally able to be recovered or otherwise resolved. But the Collections Unit is still unable to trace a significant minority of defaulters and, in such cases, is often unable to undertake any meaningful enforcement action beyond issuing a warrant for their arrest. On 30 June 2001, there was a total of \$350 million in unpaid fines in New Zealand, \$203.99 million of which was overdue ("in default"). There are approximately 500,000 individual defaulters and 1.2 million separate fines in default.

Occasionally, the Collections Unit receives information that a fines defaulter for whom a warrant to arrest exists is planning to leave New Zealand or return to New Zealand. In such cases, the Collections Unit will generally arrange with the police to intercept the defaulter at the airport, seek immediate payment or an arrangement, and, in the event that neither can be achieved, ask the police to execute the warrant so that the defaulter can be brought before a judge for further enforcement action or for an alternative sentence to be imposed.

However, the number of fines defaulters who are intercepted in this way is only a tiny proportion of those fines defaulters who undertake international travel. There is no arrangement allowing the Collections Unit to compare its database with the New Zealand Customs Service database of travellers in and out of the country. Most fines defaulters who wish to are, therefore, able to leave New Zealand permanently or leave and re-enter the country without attracting the interest of the Collections Unit.

The effect of this activity is to reduce the credibility of fines as a sentence by suggesting to the public that fines that are imposed will not be collected.

The information that the Department for Courts is currently able to request from the Inland Revenue Department also needs to be

revised because the information that the Inland Revenue Department will hold on individual taxpayers will no longer be up to date following changes to the personal tax system.

In addition, some provisions of the Summary Proceedings Act 1957 are unclear and require amendment. Other provisions require amendment to correct drafting errors.

The Bill also seeks to better align the functions of the Department for Courts by placing responsibility for the enforcement of all fines with the Collections Unit.

Statement of the public policy objective

The objectives of the Bill are to maintain the efficiency and effectiveness, and enhance the fairness, of the Department for Courts' fines and civil debt enforcement activities. This includes improving compliance with monetary orders by fines defaulters who travel overseas, while minimising disruption to other members of the travelling public and the business community. The Bill also corrects some drafting errors that arose in the Summary Proceedings Amendment Act 1998.

The Bill is intended to—

- maintain the effectiveness of the Department's enforcement activities; and
- extend additional protections to the public to ensure that they are informed of their rights and responsibilities and are not unduly penalised; and
- improve the information available to the Collections Unit on fines defaulters who travel overseas; and
- increase the public awareness of collections activity at international airports; and
- provide greater opportunities for fines defaulters to meet their obligations; and
- increase voluntary compliance with fines and infringements orders; and
- clarify certain statutory provisions to remove confusion and better reflect Parliament's original legislative intention.

Statement of options for achieving the desired objective

Because the Bill generally amends existing provisions, the only alternative to it is the status quo. This was not considered to be a viable option, given the operational impact of the problems that the Bill will address. Alternatives to legislative change are discussed below.

IRD information match

The Department for Courts carries out other searches for defaulters, including using the electronic white pages, information matching with the Ministry of Social Development, and manual tracing. However, the Inland Revenue Department information match has the greatest capacity to locate defaulters because of the extent of the Inland Revenue Department's databases. Parliament empowered the Department for Courts to match information with the Inland Revenue Department in 1998. The efficacy of information matching will diminish unless it can be extended to provide employer details. The information matching can only be extended through legislation.

Requests for information

In order to contact defaulters before attaching their income to pay a fine, the Department for Courts requires additional information from the Inland Revenue Department and the Ministry of Social Development. The Department for Courts already carries out searches to locate defaulters. When this has been unsuccessful, the only alternative is to make a request for information. Extending the power to request information can only be achieved through legislation.

Improving clarity of legislation

Section 78B of the Summary Proceedings Act 1957 is the subject of some confusion for the public. The Department for Courts has improved the information it makes available to the public on their rights and obligations in respect of this section. The application of the section could be further clarified by amendments.

Correction of drafting errors

Two drafting errors in the Summary Proceedings Act 1957 impede the operation of fines enforcement as proposed by Parliament. They require amendment.

Transfer of High Court fines enforcement

The involvement of the police in High Court fines enforcement diverts them from performing core functions. The Collections Unit has expertise in fines enforcement and is a preferable agency to carry out the function. The transfer can only be made by amending the law to give bailiffs powers to enforce fines imposed upon conviction on indictment by the High Court.

Enforcement of fines at airports

The proposed initiative will be implemented initially at airports. Although the proposed initiative has not been scoped to apply to seaports, this is an aspect that may be developed after an evaluation of the initial implementation of the proposed initiative at airports.

The proposed initiative represents the most cost-effective combination of the following options, with appropriate thresholds being set for information matching and interception plus possible arrest:

- information matching on some or all fines defaulters against international travellers; and
- information matching plus advice to defaulters who are identified that they must pay their fines; and
- information matching plus interception and arrest of some or all fines defaulters at airports; and
- general publicity about the need to pay outstanding fines.

Statement of the net benefit of this proposal**Benefits**

The Bill will maintain the efficacy of fines enforcement activities by providing the Department for Courts with reliable contact information for fines defaulters. The information-matching initiative between the Department for Courts, New Zealand Customs Service, and New Zealand Immigration Service should enable the Collections Unit to identify addresses for three-quarters of fines defaulters who travel overseas with more than \$1,000 outstanding in unpaid fines.

The proposal to enforce fines at airports will also have the following benefits:

- increased public awareness of collections activity at international airports. This will occur through leaflets at travel

agents, signage at airports, and publicity associated with successful interceptions; and

- greater opportunities for fines defaulters to meet their obligations. The Collections Call Centre will be open for extended hours; and
- increased voluntary compliance with fines and infringements orders. Officials consider that there is likely to be a significant improvement in compliance, particularly arising from publicity about the initiative. Anecdotal evidence suggests that even media comment about the possibility of this initiative has led to payments from fines defaulters who are planning to travel. Officials have, therefore, estimated an increase in voluntary compliance of 0.5%; and
- the interception of serious fines defaulters who try to leave the country without paying. The “hard core” defaulters will not be able to leave New Zealand through international airports without risking arrest.

In monetary terms, based on trial information matches, officials estimate the proposal to enforce fines at airports will provide the opportunity to resolve \$1.5 million of court-imposed fines, reparation, and infringement fees each year that would otherwise not be resolved. Moreover, a further \$1 million a year is likely to be collected as a result of increased voluntary compliance with court-imposed fines, reparation, and infringements of 0.5% of the current total fines in default arising from publicity about the initiative. This would lead to a total direct improvement in the resolution of court-imposed fines, reparation, and infringement fees of \$2.5 million.

The Bill will clarify legislative provisions by correcting drafting errors and more clearly stating existing provisions.

By transferring the responsibility for enforcement of fines imposed upon conviction on indictment by the High Court from the police to the Department for Courts, departmental functions will be better aligned. The Department for Courts' expertise in fines enforcement can be used to enforce all court-imposed fines, removing a function from the police that is not core business.

The Bill will better protect the public from being unduly penalised as a result of fines enforcement by extending current protections contained in the Summary Proceedings Act 1957.

In general, the initiatives should also increase public respect for the justice system as a result of fines being considered a more effective form of sentence.

Costs

The initiative to enforce fines at airports is expected to cost approximately \$938,000 in set-up costs and \$754,000 in ongoing costs. It is expected to have direct ongoing benefits of approximately \$1.017 million, as well as indirect benefits in terms of improving voluntary compliance and the effectiveness of fines as a sanction.

The proposal involves the risk of delays to a very small number of international flights every year when defaulters with a higher value (\$5,000 or more) of outstanding court-imposed fines are arrested and their luggage needs to be unloaded from the aircraft. This would cause inconvenience to innocent travellers (including business travellers) and impose significant costs on airlines, especially if there are slot restrictions or curfews at the destination. It can also disrupt the efficient flow of arriving aircraft if gates are still occupied. The proposal includes measures to minimise this risk.

Travel agents will be issued with leaflets to provide to travellers who intend to travel overseas. However, this will impose very minor costs on travel agents who already provide international travellers with a large amount of information. There will be no cost at all if it is possible to develop a more comprehensive leaflet containing information for travellers from all key government departments.

The proposed changes to the Inland Revenue Department information match were estimated to cost the Department for Courts \$3,250 to establish and incur no ongoing costs. The change will be paid for from the Department for Courts' baseline.

The changes to the prescribed forms will create some set-up costs for local authorities. However, they have indicated a strong preference for the proposed offence-specific reminder notices.

The transfer of the responsibility for the enforcement of fines imposed upon conviction on indictment by the High Court from the police to the Collections Unit will not require a Vote transfer.

Business compliance cost statement

The Bill raises some issues of compliance costs for businesses. Employers may face increased compliance costs as a result of the

changes to information matching with the Inland Revenue Department. A greater number of fines defaulters are likely to be contacted at work once the Department for Courts is able to receive employer details via information matching. The result will be a small loss of time while employees are on the telephone discussing their fines. The average telephone call to discuss overdue fines lasts 2 minutes. It is unlikely that this loss of work time will have a serious impact on employers or employees. Small businesses will not be disproportionately affected by the proposal, and large businesses will still only experience small losses of employee time (less than 0.1% of a 40-hour working week). The proposal is not likely to result in a significantly greater number of attachment orders being made. It will simply allow the Department for Courts to maintain the current level of enforcement in light of the Inland Revenue Department's changes to its tax records. The Department for Courts already contacts fines defaulters at work by visiting them. A greater number of defaulters are likely to be contacted by telephone in future, which may represent a smaller disruption to the defaulter and their employer than a visit in person.

The Bill also prohibits wrongful treatment of an employee because they have been contacted at work about unpaid fines or because they have had an attachment order made against them. Employers may need to take legal advice on the implications of this provision. This does not represent a mandatory cost and is likely to be a one-off cost for most businesses, who will need to seek this advice once. The Department for Courts can assist in reducing compliance costs by providing information on the changes made by the Bill to employers' groups and by updating the information it sends to employers with attachment orders.

Consultation

The Ministry of Justice, New Zealand Police, the Treasury, Inland Revenue Department, Ministry of Social Development, Ministry of Economic Development (Business Compliance Costs Unit), Ministry of Transport, Land Transport Safety Authority, New Zealand Customs Service, Department of Labour (New Zealand Immigration Service), Statistics New Zealand, and the Ministry of Agriculture and Forestry have been consulted on proposals contained in this Bill.

The proposal to enforce fines at the border has been discussed with the New Zealand Air Facilitation Committee convened by the Ministry of Transport, which comprises officials from many of the

departments that have been consulted as well as representatives from the airline industry and airports. The Air Facilitation Committee was generally supportive of the proposal, but wished to note its concern over the risk of even small delays to flights. The Committee supported the proposal to minimise disruption to flights by providing early warning of travellers of interest to airlines and police at the time of check-in.

Hon Margaret Wilson

Courts and Criminal Matters Bill

Government Bill

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		34	Tax Administration Act 1994 called principal Act in this Part
		35	Disclosure of certain information in relation to fines defaulters

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Courts and Criminal Matters Act **2003**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Crimes Act 1961

3 Crimes Act 1961 called principal Act in this Part

In this Part, the Crimes Act 1961¹ is called “the principal Act”.

¹ 1961 No 43

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

- (1) Section 19C(2) of the principal Act is amended by inserting, after the word “constable”, the words “or bailiff”.
- (2) Section 19C is amended by adding the following subsection:
- “(3) In this section and section 19D, **bailiff** means a bailiff of a District Court; and includes any deputy bailiff and any person acting as bailiff under section 15 of the District Courts Act 1947.”

5 Execution

Section 19D of the principal Act is amended by inserting, after the word “constable”, the words “or bailiff”.

Part 2 Customs and Excise Act 1996

6 Customs and Excise Act 1996 called principal Act in this Part

In this Part, the Customs and Excise Act 1996² is called “the principal Act”.

² 1996 No 27

7 New sections 280C to 280E inserted

The principal Act is amended by inserting, after section 280B, the following sections:

“280C Interpretation

In **sections 280D and 280E**, unless the context otherwise requires,—

“authorised officer—

“(a) means any officer, employee, or agent of the Department who is authorised by the chief executive of the Department to supply information to, or receive information from, the chief executive of the Customs under **section 280D**; and

“(b) includes any sworn member of the police

“Department means the Department for Courts or other department of State that, with the authority of the Prime Minister, is for the time being responsible for the enforcement of fines

“fine means—

“(a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957:

“(b) a fine or other sum of money to which any of sections 19 to 19E of the Crimes Act 1961 applies:

“(c) a fine to which any of sections 43 to 46 of the Misuse of Drugs Amendment Act 1978 applies

“fines enforcement action includes the execution of a warrant to arrest that person

“**identifying information** means personal information that identifies an individual, which may include the individual’s passport number

“**serious default**, in relation to a person, means that—

- “(a) the person owes an amount of not less than \$1,000 (or any other amount that may be fixed by the Governor-General by Order in Council) in relation to 1 or more unpaid fines; and
- “(b) a warrant to arrest the person has been issued for non-payment of the whole, or of any part, of any fine; and
- “(c) the warrant has not been withdrawn or executed.

“280D **Disclosure of arrival and departure information for fines enforcement purposes**

- “(1) The purpose of this section is to facilitate the exchange of information between the Customs and the Department for the purposes of enabling the Department—
 - “(a) to locate any person who is in serious default in the payment of any fine; and
 - “(b) to take appropriate fines enforcement action against that person.
- “(2) For the purpose of this section, an authorised officer may supply to the chief executive of the Customs any identifying information about a person who is in serious default.
- “(3) If, in relation to a person who is in serious default, identifying information is supplied in accordance with **subsection (2)**, the chief executive of the Customs may compare that information with any information held by the Customs that relates to that person.
- “(4) If the Customs has information relating to a person who is in serious default, the chief executive of the Customs may, for the purpose of this section, supply to an authorised officer any of the following information relating to that person held by the Customs:
 - “(a) the person’s full name:
 - “(b) the person’s date of birth:
 - “(c) the person’s sex:
 - “(d) the person’s passport number:
 - “(e) the person’s nationality:
 - “(f) if the person arrived or, as the case may be, departed by aircraft, the flight number of the aircraft:

- “(g) if the person arrived or, as the case may be, departed by ship, the name of the ship;
 - “(h) the date on which the person arrived in, or (as the case may be) departed from, New Zealand.
- “(5) The chief executive of the Customs and the chief executive of the Department may, for the purpose of this section, determine by agreement between them—
- “(a) the frequency with which information may be supplied; and
 - “(b) the form in which information may be supplied; and
 - “(c) the method by which information may be supplied.

“280E No Crown liability

The Crown is not liable to any person for any loss or damage suffered as a result of, or in connection with, the execution of a warrant to arrest a person who is in serious default immediately—

- “(a) after the arrival of that person in New Zealand; or
- “(b) before the departure of that person from New Zealand.”

Part 3

District Courts Act 1947

- 8 District Courts Act 1947 called principal Act in this Part**
In this Part, the District Courts Act 1947³ is called “the principal Act”.

³ 1947 No 16

- 9 Where judgment debtor does not appear at examination or order cannot be served**
- (1) Section 84C(1) of the principal Act is amended by omitting the words “a Judge, or if a Judge is not available, a Registrar,” and substituting the words “a Judge or a Registrar”.
 - (2) Section 84C(2) of the principal Act is amended by repealing paragraph (d), and substituting the following paragraph:
 - “(d) if the judgment debtor cannot practicably be brought immediately before a Judge or a Registrar, any member of the police or any bailiff may take the bail bond of the judgment debtor, and Parts 1 to 3 of the Bail Act 2000 apply with any necessary modifications as if the bail bond were taken by a member of the police under section 21(1) of that Act.”

10 Interpretation

Section 84F of the principal Act is amended by inserting in the definition of **salary or wages**, after paragraph (a), the following paragraphs:

“(ab) a bonus or an incentive payment:

“(ac) a payment of commission:

“(ad) a payment in consideration of work performed under a contract for services:”.

11 Extent to which attachment orders bind the Crown

Section 84L(4) of the principal Act is amended by repealing paragraph (a), and substituting the following paragraph:

“(a) service of the order must be effected by leaving a copy of the order at, or sending a copy of the order by post to,—

“(i) the District Office of that department nearest to the judgment debtor’s place of residence; or

“(ii) an address notified by the chief executive of that department to the chief executive of the Department for Courts; and”.

12 Contempt procedures

Section 84O(6) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraph:

“(c) if the judgment debtor cannot practicably be brought immediately before a Judge or a Registrar, any member of the police or any bailiff may take the bail bond of the judgment debtor, and Parts 1 to 3 of the Bail Act 2000 apply with any necessary modifications as if the bail bond were taken by a member of the police under section 21(1) of that Act.”

13 Judgment debtor undergoing periodic detention to be discharged on payment

The heading to section 84Q of the principal Act is amended by omitting the words “**undergoing periodic detention**”, and substituting the words “**doing community work**”.

Part 4

Immigration Act 1987

- 14 Immigration Act 1987 called principal Act in this Part**
In this Part, the Immigration Act 1987⁴ is called “the principal Act”.

⁴ 1987 No 74

- 15 New sections 141AC to 141AE inserted**
The principal Act is amended by inserting, after section 141AB, the following sections:

“141AC Interpretation

In **sections 141AD and 141AE**, unless the context otherwise requires,—

“**authorised officer** means any officer, employee, or agent of the Department who is authorised by the chief executive of the Department to supply information to, or receive information from, the Secretary of Labour under **section 141AD**

“**Department** means the Department for Courts or other department of State that, with the authority of the Prime Minister, is for the time being responsible for the enforcement of fines

“**fine** means—

“(a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957:

“(b) a fine or other sum of money to which any of sections 19 to 19E of the Crimes Act 1961 applies:

“(c) a fine to which any of sections 43 to 46 of the Misuse of Drugs Amendment Act 1978 applies

“**finances enforcement action** includes the execution of a warrant to arrest that person

“**identifying information** means personal information that identifies an individual, which may include the individual’s passport number

“**serious default**, in relation to a person, means that—

“(a) the person owes an amount of not less than \$1,000 (or any other amount that may be fixed by the Governor-General by Order in Council) in relation to 1 or more unpaid fines; and

“(b) a warrant to arrest the person has been issued for non-payment of the whole, or of any part, of any fine; and

“(c) the warrant has not been withdrawn or executed.

“141AD **Disclosure of immigration information for fines enforcement purposes**

“(1) The purpose of this section is to facilitate the exchange of information between the Department of Labour and the Department for the purposes of enabling the Department—

“(a) to locate any person who is in serious default in the payment of any fine; and

“(b) to take appropriate fines enforcement action against that person.

“(2) For the purpose of this section, an authorised officer may supply to the Secretary of Labour any identifying information about a person who is in serious default.

“(3) If, in relation to a person who is in serious default, identifying information is supplied in accordance with **subsection (2)**, the Secretary of Labour may compare that information with any information held by the Department of Labour that relates to that person.

“(4) If the Department of Labour has immigration information relating to a person who is in serious default, the Secretary of Labour may, for the purpose of this section, supply to an authorised officer any of the following information relating to that person held by the Department of Labour:

“(a) the person’s full name:

“(b) any aliases known to be used by the person:

“(c) the person’s date of birth:

“(d) the person’s sex:

“(e) the person’s nationality:

“(f) the person’s address (if known):

“(g) the person’s occupation (if known):

“(h) the expiry date of any permit granted to the person (if applicable):

“(i) the date that the person is expected to return to New Zealand (if applicable).

“(5) The Secretary of Labour and the chief executive of the Department may, for the purpose of this section, determine by agreement between them—

“(a) the frequency with which information may be supplied; and

“(b) the form in which information may be supplied; and

“(c) the method by which information may be supplied.

“141AE No Crown liability

The Crown is not liable to any person for any loss or damage suffered as a result of, or in connection with, the execution of a warrant to arrest a person who is in serious default immediately—

“(a) after the arrival of that person in New Zealand; or

“(b) before the departure of that person from New Zealand.”

Part 5

Misuse of Drugs Amendment Act 1978

16 Misuse of Drugs Amendment Act 1978 called principal Act in this Part

In this Part, the Misuse of Drugs Amendment Act 1978⁵ is called “the principal Act”.

⁵ 1978 No 65

17 Enforcement of fines imposed in High Court

Section 43 of the principal Act is amended by adding, as subsection (2), the following subsection:

“(2) In this section and section 46, Registrar—

“(a) means any Registrar of the High Court or of the District Court; and

“(b) includes any Deputy Registrar.”

Part 6

Privacy Act 1993

18 Privacy Act 1993 called principal Act in this Part

In this Part, the Privacy Act 1993⁶ is called “the principal Act”.

⁶ 1993 No 28

19 Notice of adverse action proposed

(1) Section 103(1) of the principal Act is amended by omitting the words “subsections (1A) and (2)”, and substituting the words “subsections (1A) to **(2A)**”.

(2) Section 103 of the principal Act is amended by inserting, after subsection (2), the following subsection:

- “(2A) Nothing in subsection (1) prevents any sworn member of the police or any bailiff from immediately executing a warrant to arrest an individual for the non-payment of the whole or any part of a fine if the discrepancy arises in respect of arrival and departure information supplied under section 280D of the Customs and Excise Act 1996 and if, before executing the warrant, the individual concerned is—
- “(a) informed of the intention to execute the warrant; and
 - “(b) given an opportunity to confirm—
 - “(i) whether or not he or she is the individual named in the warrant; and
 - “(ii) that neither of the following circumstances apply:
 - “(A) the fine has been paid;
 - “(B) an arrangement to pay the fine over time has been entered into.”
- (3) Section 103 of the principal Act is amended by adding the following subsection:
- “(5) In this section,—
- “**bailiff** means a bailiff of the District Court or of the High Court
 - “**fine** means—
 - “(a) a fine within the meaning of section 79 of the Summary Proceedings Act 1957;
 - “(b) a fine or other sum of money to which any of sections 19 to 19E of the Crimes Act 1961 applies;
 - “(c) a fine to which any of sections 43 to 46 of the Misuse of Drugs Amendment Act 1978 applies.”

20 Third Schedule amended

The Third Schedule of the principal Act is amended by—

- (a) omitting from the item relating to the Customs and Excise Act 1996 the words “Sections 280 and 280B”, and substituting the words “**Sections 280 to 280D**”; and
- (b) omitting from the item relating to the Immigration Act 1987 the expression “Section 141A”, and substituting the words “Sections 141A, **141AC**, and **141AD**”.

Part 7 Sentencing Act 2002

21 Sentencing Act 2002 called principal Act in this Part

In this Part, the Sentencing Act 2002⁷ is called “the principal Act”.

⁷ 2002 No 9

22 New sections 145A to 145C inserted

The principal Act is amended by inserting, after section 145, the following sections:

“145A Manner in which amounts of reparation must be applied in cases involving same offence

“(1) This section applies if a person (the **liable person**) is required to pay an amount of reparation to 2 or more persons in relation to the same offence (whether the requirement to pay the amount of reparation arose before or after the commencement of this section).

“(2) Any payments received from the liable person must be applied, as between the persons in whose favour the sentence of reparation or order of reparation (or both) was made, in the proportion that reflects the relative total or proportionate amounts ordered to be paid to each of them under the sentence or order (or both).

“145B Manner in which amounts of reparation must be applied in cases involving different offences

“(1) This section applies—

“(a) if a person (the **liable person**) is required to pay an amount of reparation to a person or persons in relation to an offence; and

“(b) if the liable person is later required to pay an amount of reparation to another person or other persons in relation to another offence; and

“(c) if both the amounts referred to in **paragraphs (a) and (b)** have not been paid in full; and

“(d) whether the requirements to pay the amounts referred to in **paragraphs (a) and (b)** arose before or after the commencement of this section.

“(2) Any payments received from the liable person must first be applied in satisfaction of the amount of reparation that is payable to the person or persons in whose favour the sentence

of reparation or the order of reparation (or both) was made first.

- “(3) After the amount of reparation referred to in **subsection (2)** has been paid in full, any further payments received from the liable person must next be applied to the person or persons in whose favour the sentence of reparation or the order of reparation (or both) was made next.
- “(4) For the purpose of ascertaining when a sentence of reparation or order of reparation (or both) was made, any sentences of reparation or orders of reparation that are made on the same date must be treated as having been made at the same time for the purposes of **subsections (2) and (3)**.

“145C **No Crown liability for error, etc, in applying payments of amounts of reparation**

The Crown is not liable to any person for any error, omission, or delay in applying any payment of an amount of reparation in accordance with **section 145A** or **section 145B**.

“145D **Definitions for sections 145A to 145C**

In **sections 145A to 145C**,—

amount of reparation means—

- “(a) any amount that is required to be paid under a sentence of reparation; or
- “(b) any amount that is required to be paid under any order of reparation

order of reparation means—

- “(a) an order made under section 106, section 108, or section 110; or
- “(b) an order made in respect of a child, or any parent or guardian of that child, under section 84(1)(b) of the Children, Young Persons, and Their Families Act 1989; or
- “(c) an order made in respect of a young person, or any parent or guardian of that young person, under section 283(f) or (g) of the Children, Young Persons, and Their Families Act 1989; or
- “(d) an order that—
- “(i) requires the payment of any amount as compensation or restitution to the victim of an offence against any enactment; and

“(ii) that is declared by the Governor-General, by Order in Council, to be an order of reparation for the purposes of **sections 145A to 145C.**”

Part 8

Summary Proceedings Act 1957

23 Summary Proceedings Act 1957 called principal Act in this Part

In this Part, the Summary Proceedings Act 1957⁸ is called “the principal Act”.

⁸ 1957 No 87

24 Interpretation

Section 2(1) of the principal Act is amended by repealing paragraphs (f) to (g) of the definition of **infringement notice**, and substituting the following paragraphs:

- “(f) section 66 of the Dog Control Act 1996; or
- “(g) section 139 of the Land Transport Act 1998; or
- “(h) section 260A of the Fisheries Act 1996; or
- “(i) section 162 of the Animal Welfare Act 1999; or
- “(j) any provision of any other Act providing for the use of the infringement notice procedure under section 21”.

25 Summary procedure for infringement offences

(1) Section 21(2) of the principal Act is amended by omitting the words “in the prescribed form containing”, and substituting the words “that contains”.

(2) Section 21 of the principal Act is amended by inserting, after subsection (2), the following subsection:

- “(2AA) The reminder notice referred to in subsection (2) must,—
- “(a) if a form has been prescribed for the relevant infringement offence or the relevant class of infringement offences, be in that form; or
 - “(b) if no form has been so prescribed, be in the general form prescribed in regulations made under this Act.”

26 Power to correct irregularities in proceedings for infringement offences

(1) Section 78B(2) of the principal Act is amended by repealing paragraph (e), and substituting the following paragraph:

- “(e) authorise or require the informant to serve on the defendant another copy of the reminder notice or the notice of hearing, 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.”.
- (2) Section 78B of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) If a Registrar exercises a power under subsection (2)(d) or (e), the order made or deemed to have been made against the defendant ceases to have effect and the Registrar must take appropriate steps to ensure that the initial reminder notice or notice of hearing referred to in subsections (1) and (2) is not acted on.”

27 New section 86B inserted

The principal Act is amended by inserting, after section 86A, the following section:

“86B Registrar may vary, suspend, or cancel arrangement for extension of time to pay fine or attachment order

- “(1) A Registrar may vary, suspend, or cancel an arrangement extending the time to pay a fine, or an attachment order, if the Registrar has reason to believe that—
- “(a) the defendant has, for the purpose of entering into the arrangement, or in connection with the making of the order, supplied false or misleading information about the defendant’s financial position; or
- “(b) the defendant’s financial position has changed significantly since the date on which—
- “(i) the arrangement was entered into; or
- “(ii) the order was made.
- “(2) Before exercising the powers under **subsection (1)**, the Registrar must—
- “(a) consult with the appropriate government department or other body, or with any other organisation or person having relevant information (in which case any government department or government body so consulted must provide the assistance or advice that the Registrar reasonably requires); and
- “(b) serve on the defendant a written notice—
- “(i) setting out the action that the Registrar proposes to take and the reasons for the action; and

- “(ii) indicating that the defendant has a period of 10 working days after the date of the notice in which to make a written submission to the Registrar as to why the Registrar should not take the proposed action; and
 - “(c) consider any submissions received from the defendant within that period.
- “(3) The variation, suspension, or cancellation takes effect,—
- “(a) if no written submissions are received by the Registrar within the 10-working-day period referred to in **subsection (2)(b)(ii)**, on the expiry of that period; or
 - “(b) if written submissions are received by the Registrar within the 10-working-day period referred to in **subsection (2)(b)(ii)** and the Registrar decides to proceed with the proposed action, on a date specified by the Registrar in a further written notice served on the defendant.
- “(4) A notice under this section is sufficiently served if—
- “(a) it is delivered to the defendant; or
 - “(b) it is sent to the defendant by ordinary post to the defendant’s last known place of residence or business.
- “(5) In this section and **section 87, arrangement extending the time to pay a fine** means an arrangement that—
- “(a) provides for either or both of the following:
 - “(i) allowing a defendant a greater time to pay a fine;
 - “(ii) allowing a defendant to pay a fine by instalments; and
 - “(b) is entered into by—
 - “(i) a Registrar under section 86; or
 - “(ii) a bailiff under section 86A (in which case the arrangement must have come into force in accordance with that section).”

28 Action where fine not paid

Section 87 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) This section applies if—
- “(a) the defendant defaults in the payment of any fine; or
 - “(b) the defendant fails to comply with an arrangement extending the time to pay a fine; or

- “(c) a Registrar cancels or suspends the arrangement, or an attachment order, in accordance with **section 86B**.
- “(1A) If this section applies, the Registrar may—
- “(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; or
 - “(c) issue a deduction notice requiring a bank to deduct the amount due from a sum payable or to become payable to the defendant.”

29 Power to obtain information in respect of beneficiaries

- (1) Section 87AA(2) of the principal Act is amended by adding the following paragraphs:
- “(e) the residential address and residential telephone number of the defendant:
 - “(f) the type of any benefit that is paid to the defendant:
 - “(g) the unique number assigned to any benefit that is paid to the defendant.”
- (2) Section 87AA of the principal Act is amended by inserting, after subsection (3), the following subsection:
- “(3A) If the defendant has died and the chief executive is aware of that fact, the chief executive must advise the Registrar accordingly on receipt of a notice under subsection (1).”

30 Action where fine remains unpaid

- (1) Section 88(3) of the principal Act is amended by repealing paragraph (fa), and substituting the following paragraph:
- “(fa) if the amount that the defendant owes in unpaid fines is \$10,000 or more (either in relation to the fine that is being considered by the District Court Judge or a Community Magistrate under this section alone or in relation to that fine together with any 1 or more other unpaid fines), refer the matter to the Registrar with a direction that action be taken under section 96A of the District Courts Act 1947 in relation to 1 or all of the fines making up the total owing by the defendant as if the fine or fines were an order for the payment of money and as if the Registrar had obtained the order; or”.

- (2) Section 88(3)(fb) of the principal Act is amended by inserting, after the word “Judge”, the words “or Community Magistrate”.

31 Power to obtain information in respect of employers

- (1) Section 104A of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

“(1) This section applies if—

“(a) an attachment order is being made in respect of a defendant; and

“(b) the name, address, and telephone number of the employer of the defendant, or any of those details, are unknown or require clarification.

“(1A) If this section applies, a Registrar may, by notice in writing, require the Commissioner of Inland Revenue to provide the Registrar with all or any of the following details:

“(a) the name of the employer of the defendant:

“(b) the address of the employer of the defendant:

“(c) the telephone number of the employer of the defendant.”

- (2) Section 104A(2) of the principal Act is amended by omitting the expression “subsection (1)”, and substituting the expression “**subsection (1A)**”.

- (3) Section 104A of the principal Act is amended by adding the following subsection:

“(3) If the defendant has died and the Commissioner of Inland Revenue is aware of that fact, the Commissioner of Inland Revenue must advise the Registrar accordingly on receipt of a notice under **subsection (1A)**.”

32 Wrongful treatment of employee

- (1) Section 106A of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

“(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 employee’s prejudice by reason of—

“(a) the employee having been ordered to pay 1 or more fines; or

- “(b) an attachment order having been served on the employer; or
 - “(c) the employer becoming aware that an attachment order is being or has been made in respect of the employee.”
- (2) Section 106A(2) of the principal Act is amended by—
- (a) omitting the words “within 6 months after the serving on the employer of an attachment order in respect of any employee”, and substituting the words “within the period referred to in **subsection (3)**”; and
 - (b) by omitting the words “order having been served on the employer”, and substituting the words “circumstances referred to in **subsection (1)(a) or (b) or (c)**”.
- (3) Section 106A of the principal Act is amended by adding the following subsections:
- “(3) The period is 6 months after, as the case may be,—
 - “(a) the employer becomes aware that the employee has been ordered to pay 1 or more fines; or
 - “(b) the employer is served with an attachment order in respect of the employee; or
 - “(c) the employer becomes aware that an attachment order is being made or has been made in respect of the employee.
 - “(4) Nothing in this section affects the employer’s right to take disciplinary action against the employee for breaching a condition of the employee’s employment that relates to—
 - “(a) the commission of an offence; or
 - “(b) the failure to pay any fine in full before enforcement action is due.”
- 33 Acts not generally to be done on Sunday**
- Section 203(2) of the principal Act is amended by inserting, after paragraph (b), the following paragraph:
- “(ba) a warrant under section 88 to arrest any defendant may be issued and may be executed.”.

Part 9

Tax Administration Act 1994

34 Tax Administration Act 1994 called principal Act in this Part

In this Part, the Tax Administration Act 1994⁹ is called “the principal Act”.

⁹ 1994 No 166

35 Disclosure of certain information in relation to fines defaulters

- (1) Section 85A(4) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraphs:

“(c) the telephone number of the fines defaulter; and
“(d) the name of the employer of the fines defaulter; and
“(e) the address of the employer of the fines defaulter; and
“(f) the telephone number of the employer of the fines defaulter.”

- (2) Section 85A(6) of the principal Act is amended by repealing the definition of **fines defaulter information**, and substituting the following definition:

“**fines defaulter information**—

“(a) means information that identifies a fines defaulter; and

“(b) includes—

“(i) the name, address, and telephone number of the fines defaulter; and

“(ii) the name, address, and telephone number of the employer of the fines defaulter”.