

A BILL INTITULED

An Act to amend the Summary Proceedings Act 1957

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

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1. Short Title and commencement—(1) This Act may be cited as the Summary Proceedings Amendment Act (1972) 1973, and shall be read together with and deemed part of the Summary Proceedings Act 1957* (hereinafter referred to as the principal Act).

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(2) This section and sections 1A, 4, 8, 12, 12A, 13, 15, and 16 of this Act shall come into force on the passing of this Act.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of January 1974.

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(2) Sections 6, 11, 21, 23, and 24 of this Act shall come into force on 1 June 1974.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date of its passing.

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New

1A. Interpretation—Section 2 of the principal Act is hereby amended by omitting from the definition of the term “sentenced to detention” in subsection (1) the words “or corrective training”.

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2. Abolition of unsworn statement in summary proceedings—(1) Section 3 of the principal Act (as substituted by section 2 of the Summary Proceedings Amendment Act 1961) is hereby amended by inserting in subsection (1), after paragraph (j), the following paragraph:

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“(jj) Section 366A (which contains a prohibition on the making of unsworn statements of fact by accused persons):”.

(2) Section 60 of the principal Act is hereby amended by omitting the words “the right of the defendant to make an unsworn statement and to”.

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*Reprinted, 1966, Vol. 4, p. 3101

Amendments: 1967, No. 33; 1968, No. 108; 1969, No. 43; 1970, No. 103

3. Summary jurisdiction in respect of indictable offences—

(1) Section 6 of the principal Act is hereby amended by inserting in subsection (2) (as substituted by section 3 (1) of the Summary Proceedings Amendment Act 1961), after paragraph (a), the following paragraph:

5 “(aa) Conspiring to commit any summary offence (being a conspiracy to which section 310 of the Crimes Act 1961 applies):”.

(2) Section 6 of the principal Act is hereby further amended by inserting in subsection (2) (as so substituted), after paragraph (b), the following paragraph:

10 “(bb) Attempting to commit any summary offence, or inciting, counselling, or attempting to procure the commission of a summary offence which is not
15 committed (being any case to which section 311 of the Crimes Act 1961 applies):”.

4. Summons following arrest—The principal Act is hereby amended by inserting, after section 19, the following section:

20 “19A. (1) Where any person who has been arrested without warrant and who is charged with a summary offence cannot practicably be brought immediately before a Court, (*the constable making the arrest*) any constable may, if he deems it prudent to do so, release the defendant without bail to appear on summons to answer the charge.

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“(2) At the time of the release of any defendant under subsection (1) of this section the constable shall serve on the defendant a summons in the prescribed form. Every such summons shall require the defendant to appear on a day not
30 later than 2 months after the date thereof at the Court where the information required by subsection (3) of this section is to be filed.”

35 “(3) On the release of a defendant under this section the constable shall, as soon as practicable and in any event not later than 7 days after the release of the defendant, lay and file an information under this Part of this Act. A copy of the summons endorsed with the fact, time, and mode of service and signed by the constable shall also be filed.”

New

40 “(2) Every constable who releases a defendant under this section shall, at the time of the release of the defendant, sign and serve on the defendant a summons in a form prescribed for the purposes of this section. Every such summons shall require the defendant to appear on a day not later than 2

New

months after the date thereof at the Court where the information required by subsection (3) of this section is to be filed.

“(3) An information under this Part of this Act in respect of the offence with which the defendant is charged shall be laid and filed by a constable as soon as practicable after the release of the defendant, and in any event not later than 7 days after the day on which the defendant is released. 5

“(4) It shall be the duty of every constable who releases a defendant under this section to ensure that the information required by subsection (3) of this section is laid and filed. 10

“(5) A copy of the summons served under subsection (2) of this section shall be filed with the information. That copy shall bear an endorsement showing the fact, time, and mode of service and that endorsement shall be signed by the constable who released the defendant.” 15

5. Issue of warrant for attendance of witness—(1) Section 20 of the principal Act is hereby amended by inserting, after subsection (4), the following subsections:

“(4A) Any person who is arrested pursuant to a warrant issued under subsection (4) of this section shall be brought as soon as possible before a Magistrate, who may— 20

“(a) By warrant in the prescribed form order that he be committed to a prison to be detained until the hearing; or 25

“(b) Grant him bail, with or without sureties at the discretion of the Magistrate, in such sum or sums and subject to such conditions as the Magistrate thinks fit.

“(4B) Any person committed to prison pursuant to subsection (4A) of this section shall be treated in the same manner as an inmate awaiting trial. 30

“(4C) Where any person who is arrested pursuant to subsection (4) of this section is committed to prison pursuant to subsection (4A) of this section, he shall, if he so requests, be brought before a Magistrate for the purpose of making an application to be granted bail, and the Magistrate may grant him bail, with or without sureties at the discretion of the Magistrate, in such sum or sums and subject to such conditions as the Magistrate thinks fit. Where the Magistrate grants bail under this subsection, the provisions of subsection (2) of section 48 of this Act, with the necessary modifications, shall apply. 35 40

“(4D) Where any person is granted bail pursuant to subsection (4A) of this section, the provisions of subsection (2) of section 47, sections 49, 49A, 50, 53, 54, 55, 57, and 58 of this Act, as far as they are applicable and with the necessary
5 modifications, shall apply as if—

“(a) He were a defendant remanded in custody who had been granted bail; and

“(b) For the words ‘for the period of the adjournment’ in subsection (2) of section 47 there were substituted
10 the words ‘until the date of hearing’; and

“(c) There were inserted in subsection (2) of section 49, after the words ‘time to time adjourned’, the words ‘unless he is released by the Court from further attendance’; and

15 “(d) There were inserted in subsection (1) of section 53, after the words ‘the informant’, the words ‘or the defendant’ and for the words ‘evading justice’ in that subsection there were substituted the words ‘avoiding giving evidence’.”

20 (2) Section 38 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Where any person is arrested pursuant to a warrant issued under subsection (1) of this section, the provisions of subsections (4A) to (4D) of section 20 of this Act shall apply
25 as if he had been arrested pursuant to a warrant issued under subsection (4) of the said section 20.”

6. Summary procedure for minor offences—(1) The principal Act is hereby amended by inserting, after section 20, the following section:

30 “20A. (1) Where a charge is brought by any informant of the kind described in subsection (10) of this section against any person for any minor offence (as defined in subsection (12) of this section) a summons to the defendant shall not be issued in the first instance, unless the informant satisfies the
35 Registrar that for special reasons a summons should be issued or a Magistrate so directs.

“(2) Unless a summons is to be so issued, all proceedings brought under this Part of this Act in respect of a minor offence shall be commenced by the informant filing a notice of
40 prosecution in the prescribed form specifying the date and nature of the alleged offence and a summary of the facts on which the informant bases his allegation that an offence has been committed, and any other matters (not being previous convictions) which the informant considers are relevant to

the imposition of a penalty. The summary of the facts shall be sufficient to fully and fairly inform the defendant of the allegations against him.

“(3) In addition the notice shall—

“(a) Specify the maximum penalty for the offence: 5

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“(aa) Specify the minimum penalty for the offence if such a penalty is expressly provided for:

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“(b) Show whether conviction for the offence would or could result in the defendant being disqualified from holding or obtaining a driver’s licence or any other licence or privilege or the forfeiture of any property: 10

“(c) Inform the defendant of his rights under subsections (5) to (8) of this section: 15

New

“(b) Show whether conviction for the offence would or could result—

“(i) In the defendant being disqualified from holding or obtaining a driver’s licence or any other licence or privilege or the forfeiture of any property; or 20

“(ii) In demerit points being recorded under the Transport Act 1962 in respect of the defendant: 25

“(c) Inform the defendant of his rights under subsections (5) to (8) of this section and, unless a minimum penalty for the offence is expressly provided for, of the right which the Court has under section 42 of the Criminal Justice Act 1954 to discharge a person without convicting him: 30

“(d) *(Include or)* Be accompanied by particulars of any previous conviction of the defendant if the informant wishes the Court to take that conviction into account in the event of the defendant being found guilty: 35

“(e) Contain such other information or advice as may be required by or pursuant to this Act:

“(f) Set out the full name of the informant and, for the purposes of subsection (10) of this section, the capacity in which he is acting in filing the notice: 40

5 “(g) Be signed by the informant who shall certify that he believes that he has just cause for his allegation and that, to the best of his knowledge and belief, his summary of the facts and the other particulars relating to the offence or to the defendant are true and correct.

“(4) The Registrar shall cause a copy of the notice to be served on the defendant.

10 “(5) If the defendant wishes to deny the charge or to appear before the Court for that or any other purpose he must send written advice to that effect to the Registrar by a date specified in the notice, being a date not earlier than 28 days after the date of the notice. Any such advice shall be sufficient for the purposes of this section if, however expressed, it
15 indicates the defendant’s wishes.

“(6) The defendant may plead guilty in accordance with section 41 of this Act and may, in the notice required by that section,—

20 “(a) State matters which he wishes the Court to take into consideration:

“(b) Make submissions with regard to the appropriate penalty:

25 “(c) Put forward reasons why he should be discharged without conviction under section 42 of the Criminal Justice Act 1954.

30 “(7) Unless, before the date specified in the notice referred to in subsection (2) of this section, the defendant indicates in accordance with subsection (5) of this section that he wishes to deny the charge or to appear before the Court for that or any other purpose or pleads guilty in writing in accordance with section 41 of this Act, a Magistrate may, on the basis of the summary of the facts contained in the notice referred to in subsection (2) of this section, deal with the defendant as if he had appeared before a Court and pleaded guilty. Where
35 particulars of any previous conviction of the defendant (*have been included in or*) have accompanied that notice, the Magistrate may take that conviction into account in deciding whether or not to impose a penalty and, if one is imposed, its amount.

40 “(8) If the defendant indicates in accordance with subsection (5) of this section that he wishes to deny the charge or to appear before the Court for that or any other purpose or if in any case a Magistrate so directs, a summons shall be

issued in accordance with section 19 of this Act and subsequent proceedings shall be had on that summons as if the notice under subsection (2) of this section were an information.

“(9) Sections 14, 16, 17, 18, 34, 36, 71, 75, 204, 205, and 208 of this Act, Part IV of this Act, and the Costs in Criminal Cases Act 1967 shall apply, with such modifications as are necessary, to every notice of prosecution filed under subsection (2) of this section as if it were an information. 5

“(10) A notice under subsection (2) of this section may be filed only by— 10

“(a) A member of the Police:

“(b) A traffic officer within the meaning of the Transport Act 1962:

“(c) A person acting in the course of his official duties as an officer or employee of any of the State Services, a local authority, a public body, or a statutory Board: 15

“(d) Any other class of person approved for the time being for the purposes of this section by the Minister of Justice by notice in the *Gazette*. Any such approval may be conditional or may apply only in respect of specified offences or classes of offences. 20

“(11) Every certificate given by an informant under paragraph (g) of subsection (3) of this section shall be deemed to be a statement for the purposes of section 111 of the Crimes Act 1961 (which relates to false statements) notwithstanding that it is not required to be made before any person. 25

“(12) For the purposes of this section, the term ‘minor offence’ means any summary offence for which the defendant is not liable on conviction to a sentence of imprisonment or to a fine exceeding \$500. 30

“(13) This section shall not apply where the defendant, or, where two or more persons are jointly charged, at least one of the defendants, is under the age of 17 years, unless the charge is for a traffic offence (as defined in section 11 (2) of the Child Welfare Amendment Act 1961) which is not punishable by imprisonment. 35

“(14) Subject to the provisions of any other enactment, where a conviction is entered following proceedings under this section the entry in the Criminal Record Book relating to that conviction, the summary of the facts contained in the notice filed under subsection (2) of this section, *[and any documents filed by the defendant pursuant to subsection (6) of this section]* shall be open to inspection by the public. 40 45

New

“(15) Any 2 or more Justices may exercise the powers conferred on a Magistrate by this section in any case where the minor offence with which the defendant is charged is one
 5 in respect of which a Court presided over by a Justice or by 2 or more Justices would have jurisdiction if a summons to the defendant were issued in the first instance.”

(2) Section 12 of the principal Act is hereby amended by inserting in subsection (1), after the word “shall”, the words
 10 “, subject to section 20A of this Act,”.

(3) Section 75 of the principal Act is hereby consequentially amended by inserting in subsection (1A) (as inserted by section 3 of the Summary Proceedings Amendment Act 1968), after the word “summons” wherever it occurs, the words “or
 15 notice under subsection (2) of section 20A of this Act”.

7. Variation of conditions of bail—(1) The principal Act is hereby further amended by repealing section 49A (as inserted by section 3 (1) of the Summary Proceedings Amendment Act 1964), and substituting the following section:

20 “49A. (1) Where the defendant is granted bail, any Magistrate may, on the application of the defendant, make an order varying the terms on which bail has been granted or any conditions of any bail bond entered into or to be entered into or revoking any such conditions.

25 “(2) Where any Court or Justice has in granting bail to any defendant imposed the condition that he report to the police at such time or times and at such place or places as the Court or Justice orders, the Registrar may, on the application of the defendant, make an order varying the time or times
 30 or the place or places at which the defendant is required so to report.

“ (3) Where a bail bond has been entered into in any case where sureties are required, it shall continue in force and no order under subsection (1) or subsection (2) of this section
 35 shall take effect until the sureties to the bail bond have consented in writing to the order or a new bail bond is entered into complying with the provisions of the order.”

(2) Section 54 of the principal Act is hereby amended by inserting in subsection (1), after the words “Court or Justice”,
 40 the words “or Registrar”.

(3) Section 3 of the Summary Proceedings Amendment Act 1964 is hereby amended by repealing subsection (1).

8. Defendant may be admitted to bail by constable in certain cases—Section 51 of the principal Act is hereby amended
 45 by repealing subsection (1), and substituting the following subsection:

“(1) Where any person who is charged with an offence for which he may be proceeded against summarily, and who has been arrested without warrant, cannot practicably be brought immediately before a Court, any constable may, if he deems it prudent to do so, take the bail bond of that person.” 5

9. Defendant’s right to elect trial by jury—Section 66 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Except in any case in which subsection (7) of this section applies, the Court shall, before the charge is gone into in respect of an offence to which this section applies, inform the defendant of the right conferred on him by subsection (1) of this section by causing him to be addressed to the following effect: 10

“This case is one where you have a choice of being tried here in this Court or of being tried by a Judge and jury in the Supreme Court. Do you wish to be tried by a jury or by this Court?” 15

10. Conduct of hearing—Section 67 of the principal Act is hereby amended by repealing the proviso to subsection (7), and substituting the following proviso: 20

“Provided that the defendant, whether or not he calls evidence, may address the Court at the end of the informant’s case.”

11. New Part III substituted—The principal Act is hereby amended by repealing Part III, and substituting the following Part: 25

“PART III

“ENFORCEMENT OF PENALTIES

“**79. Interpretation**—In this Part of this Act, unless the context otherwise requires, references to the sum adjudged to be paid by a conviction shall be deemed to include any sum of money adjudged or ordered to be paid by a conviction or an order, whether as a fine or for costs or otherwise. 30

“**80. Warrant may be addressed to any constable or bailiff** 35
—Every warrant of commitment (whether issued under this Part of this Act or otherwise) and every warrant of distress shall be directed either to any constable or bailiff by name or generally to every constable and bailiff. Any such warrant may be executed by any constable or bailiff. 40

“81. Execution of warrant of commitment—(1) For the purpose of executing any warrant of commitment, the constable or bailiff executing it may at any time enter any premises, by force if necessary, if he has reasonable cause to believe that the defendant is on those premises:

“Provided that if any person in actual occupation of the premises requires a bailiff or a constable not in uniform to produce evidence of his authority, he shall before entering on the premises produce the warrant or his badge or other evidence that he is a constable or bailiff.

“(2) The constable or bailiff by whom any warrant of commitment is executed shall convey the person therein named or described to the penal institution named in the warrant or to some other penal institution and there deliver him, together with the warrant, to the Superintendent, who shall give the constable a receipt in the prescribed form for that purpose.

“82. Default for non-payment of fine, etc., not to be fixed at time of hearing—Except as provided in section 84 of this Act, where the Court by conviction adjudges the defendant to pay a sum of money, it shall not on that occasion impose on him a period of imprisonment in default of payment of that sum.

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“82A. Payment of fine, etc.—(1) Where the Court by a conviction adjudges the defendant to pay a sum of money, it may do one or both of the following things:

“(a) Allow time for payment:

“(b) Direct payment to be made by instalments.

“(2) Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid.

“83. Payment of fine, etc.—Subject to (section 84) sections 82A and 84 of this Act, every sum adjudged to be paid by a conviction shall be paid within 28 days thereafter or within such further time as may be allowed or fixed for the payment thereof, and no summons or warrant shall be issued under section 88 of this Act and no proceedings may be taken for the enforcement of the payment of the said sum

until after the expiration of the said period of 28 days or any extension thereof or while any application for the extension of the said period, made during that period or during any existing extension thereof, is pending.

“84. Immediate execution—(1) If the Court which adjudges any sum to be paid is of opinion— 5

“(a) That the defendant has sufficient means to pay forthwith the sum adjudged to be paid; or

“(b) That the defendant has no fixed place of residence; or 10

“(c) That for any other reason, having reference to the gravity of the offence, the character of the defendant, or other special circumstances, execution should issue without delay,—

the Court may direct that a warrant of distress in the prescribed form be issued, without waiting for the expiration of the period mentioned in section 83 of this Act, or it may impose on the defendant a period of imprisonment in default of payment of the sum adjudged to be paid (not exceeding the appropriate maximum period prescribed by section 102 of this Act), and may direct that a warrant of commitment in the prescribed form be issued in the first instance. 15

“(2) If the Court makes a direction under subsection (1) of this section, a record of the direction and of the grounds upon which it is made shall be entered in the Criminal Record Book. 25

“(3) A warrant of commitment under this section may be issued by any Magistrate or Justice, and shall require that the defendant be imprisoned in some prison for such time as the Court has fixed at the time of the hearing unless the sum adjudged to be paid and the fee for the issue of the warrant are sooner paid. 30

“85. Notice of conviction—(1) Where a defendant is convicted and by that conviction is adjudged to pay a sum of money or to do some act, and no direction is made under subsection (1) of section 84 of this Act, the Registrar shall as soon as practicable deliver to the defendant or send to him by letter addressed to him at his last known or usual place of residence or at his place of business, a notice of the conviction or order. 35 40

“(2) Every notice shall be in the prescribed form and shall set forth—

“(a) The amount of the sum adjudged to be paid:

5 “(b) The terms of any order for the doing of any other act:

“(c) The date on or before which payment is to be made or the act is to be performed:

“(d) The time and place at which payment may be made:

10 “(e) The defendant’s rights of appeal against the conviction and sentence:

“(f) The effect of non-compliance with the terms of the conviction or order and the right to apply to the Court for an extension of the time to pay.

15 “(3) Failure to comply with the provisions of this section shall not of itself invalidate any subsequent proceeding.

“(4) Notwithstanding the provisions of this section it shall be the responsibility of the defendant to take all necessary steps to inform himself of the decision of the Court and of his obligations under it.

20 “(5) It shall not be necessary to comply with subsection (1) of this section in any case where the defendant is adjudged to pay a sum of money and he pays that sum of money before the notice is delivered or sent.

25 “86. Enforcement of fines, etc.—(1) It shall be the duty of the Registrar of the Court in which any person is by a conviction adjudged to pay a sum of money to take all necessary steps to enforce the payment of that sum.

30 “(2) The powers of the Registrar under this Part of this Act may with the approval of the Secretary for Justice be delegated either to a particular person or to the holder for the time being of a particular office.

35 “(3) The fact that any officer exercises the powers of the Registrar under this Part of this Act shall be conclusive evidence of his authority to do so and no person shall be concerned to enquire whether that officer is so authorised or not.

“(4) Nothing in this Part of this Act shall authorise the Registrar to commit any person to prison or to enforce any order by committal.

40 “87. Extension of time to pay—(1) Any defendant adjudged to pay a sum of money may apply in the prescribed form for an extension of the time allowed by section 83 of this Act in which to pay that sum.

“(2) Every application under this section shall be made to the Registrar of the Court in which the defendant was convicted, or, where that Registrar is a constable or where the defendant has been convicted in more than one Court, then in the Court nearest to where the defendant resides or, where the defendant is a corporation, carries on business, being an office under the control of a Registrar not being a constable. 5

“(3) Every such application shall be made within 14 days of the day of sentence:

“Provided that the Registrar may if he is satisfied that there has been no deliberate delay on the part of the applicant accept an application made out of time if it is on its face genuine and reasonable. 10

“(4) Every such application shall be dealt with as if the defendant had been summonsed under section 88 of this Act and the provisions of that section and of section 91 of this Act shall apply accordingly with all necessary modifications and the following specific modifications, namely— 15

“(a) The Registrar may not on any such application apply for the issue of a warrant of distress under paragraph (d) of subsection (1) of section 91 of this Act: 20

“(b) The Registrar may on any such application apply for an order under paragraph (e) of subsection (1) of section 91 of this Act only with the consent in writing of the defendant. 25

“(5) Where an application is refused or not proceeded with within a reasonable time, proceedings for the enforcement of the payment of the sum adjudged to be paid may be had after the expiration of the period allowed by section 83 of this Act. 30

“88. Non-payment of fine, etc.—(1) Where default is made in the payment of any sum adjudged to be paid by a conviction the Registrar shall *(unless the defendant is known to be in gaol)* inquire into the means of the defendant and shall, unless he knows that the defendant is undergoing a sentence of detention,— 35

“(a) Issue a summons in the prescribed form requiring the defendant, unless he sooner pays the amount outstanding under the conviction, to appear at the time and place appointed in the summons; or 40

“(b) If in the opinion of the Registrar a warrant is necessary to compel the attendance of the defendant, issue a warrant to arrest him and bring him before the Court—

5 to enable the defendant to be orally examined as to his means.

“(2) The defendant shall bring with him to Court all books of account and other documents relating to his debts.

“(3) Where the defendant is a corporation the summons or warrant may be issued to any officer of the corporation.

10 “(4) The Registrar may also summon any other person whom the Registrar believes to have in his possession any of the property, or any book, paper, or document relating to the affairs or property, of the defendant, or supposes to be indebted to the defendant or whom he thinks capable of giving
15 any information respecting the defendant, his trade, dealings, or property, or concerning his income from any source, or his expenditure.

“(5) Any person so summonsed may be required to produce at his examination any book, paper, or document relating to
20 the affairs or property of the defendant.

“(6) No person who is required by a summons issued under subsection (4) of this section to travel more than 10 miles to attend the examination shall be bound to attend unless expenses in accordance with the scale prescribed by regulations
25 made under this Act are tendered to him.

“(7) On the failure of any person to appear before the Registrar in answer to a summons under this section, the Registrar may issue a warrant to arrest him and bring him before the Court.

30 “(8) A warrant under this section shall cease to have effect when the sum in respect of which the warrant is issued is paid to the officer executing the warrant.

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35 “(9) An examination under this section shall be made orally on oath before the Registrar and shall be committed to writing and the defendant, officer of the corporation, or other person, as the case may be, on being required to do so, shall sign the same.

New

40 “(9) An examination under this section shall be made orally on oath before the Registrar and shall be committed to writing.

New

“(9A) When the examination of any person under this section has been concluded the written record of the examination shall be read over to that person and signed by the Registrar.

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“(10) Notwithstanding the provisions of subsection (9) subsections (9) and (9A) of this section, the Registrar may accept in lieu of an oral examination a statement in writing verified by statutory declaration.

“(11) Any person attending and failing or refusing to answer any question lawfully put to him by the Registrar commits an offence and is liable on summary conviction to a fine not exceeding \$200 or to imprisonment for a term not exceeding 3 months and if he is the defendant, or, where the defendant is a corporation, an officer or servant of the corporation, the defendant may be deemed to have or have had sufficient means to pay the sum he or it was adjudged to pay.

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“(12) Every defendant or officer of a corporation which is a defendant who is summoned or brought before the Registrar of the Court under this section shall appear personally with or without his counsel or solicitor who may examine the defendant or officer and be heard on the matter of the defendant’s means.

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“(13) Notice of any summons issued under subsection (4) of this section shall be given to the defendant who may cross-examine the witness.

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“(14) On any examination under this section the provisions of sections 45 to 49 of this Act shall apply, so far as they are applicable and with the necessary modifications, as if the examination were the hearing of a charge.

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“(15) In the application of subsection (14) of this section the term ‘Court’ includes the Registrar of the Court.

“(16) Every defendant or other person apprehended under this section shall be bailable as of right.

“89. Statement of wages—A statutory declaration purporting to have been given by or on behalf of the employer of a person and stating that wages of a certain amount have been paid to that person during a specific period shall be prima facie evidence of the facts therein stated for the purposes of this Part of this Act.

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“90. Transfer of enforcement to another Court—(1) Where default is made in the payment of a sum adjudged to be paid by a conviction and it appears to the Registrar of the Court in which the conviction or order was entered or made that the conviction or order may be more effectively enforced in another Magistrate’s Court the Registrar may by an order under his hand make the payment of the sum adjudged to be paid enforceable in that other Court.

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10 “(2) Every order made under this section shall contain full particulars of the conviction or order and the amount due thereunder and shall be prima facie evidence of the facts therein stated.

15 “(3) As from the date of the making of an order under this section in respect of any sum all functions under this Part of this Act relating to that sum which if no such certificate had been given would have been exercisable by the convicting Court or the Registrar of that Court shall be exercisable by the Court to which enforcement of the sum due had been transferred or its Registrar, as the case may be, and not otherwise.

20 “(4) The power conferred by subsection (1) of this section may in like manner and from time to time be exercised by a Registrar of a Court to which enforcement of any sum has been transferred.

25 “91. Enforcement proceedings—(1) Where default is made by a defendant in the payment of a sum adjudged to be paid by a conviction the Registrar may, after enquiry into the defendant’s means under section 88 of this Act, whether consequent on that default or on an application under section 87 of this Act, do all or any of the following things—

30 “(a) Report to a Magistrate under section 99 of this Act if the Registrar is satisfied—

35 “(i) That the defendant has no present means to pay the sum adjudged to be paid either in whole or in part; and

“(ii) That execution against the goods and chattels of the defendant would be more injurious to him or his family than imprisonment; and

40 “(iii) That, having regard to the means of the defendant, the amount adjudged to be paid could not reasonably be paid within a period of 12 months:

- “(b) Allow further time to pay (not exceeding 12 months) and direct that payment be made by such instalments and at such times as are specified in the direction:
- “(c) Take one or more of the steps provided for in section 92 of this Act: 5
- “(d) Apply for the issue of a warrant of distress under section 93 of this Act:
- “(e) Make an order attaching any salary or wages that from time to time become due and payable to the defendant. 10
- “(2) A report may be made under paragraph (a) of subsection (1) of this section without an enquiry if the defendant is (in goal) undergoing a sentence of detention.
- “(3) The Registrar may exercise the powers given by this section from time to time and with or without further enquiry until the sum adjudged to be paid has been satisfied. 15
- “(4) Where a sum is directed to be paid by instalments and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in the payment of all the instalments then remaining unpaid. 20
- “**92. Orders in support**—Whenever any sum adjudged to be paid by conviction is due and payable but remains unpaid the Registrar may in the circumstances set out in subsection (1) of section 91 of this Act take one or more of the following steps, namely— 25
- “(a) Apply to the Court under section 95 of this Act for an order disqualifying the defendant from driving a motor vehicle until he pays the sum adjudged to be paid. 30
- “(b) Issue a warrant under section 96 of this Act:
- “(c) Direct the defendant to take out a prohibition order under section 236 of the Sale of Liquor Act 1962 and, in the event of the defendant failing to do so, from whatever cause, apply to the Court under section 235 of that Act for the making of a prohibition order. 35

“93. Distress warrants—(1) (*Where a Registrar is entitled to apply for the issue of a warrant of distress and is satisfied that the defendant is possessed of goods available for seizure he may*) A Registrar may, where he is satisfied (after an
5 inquiry pursuant to section 88 of this Act) that the defendant is possessed of goods available for seizure, or, for the purposes of giving effect to the direction of a Magistrate under section 99 of this Act, file in a Magistrate’s Court of civil
10 jurisdiction a certificate giving full details of the sum adjudged to be paid by a conviction and the amount remaining unpaid thereunder, together with such other costs as remain outstanding, and shall request that a distress warrant be issued for the recovery of the sum outstanding.

“(2) On the filing of the certificate and request referred to
15 in subsection (1) of this section the Registrar of the Court in which the certificate is filed shall issue a warrant of distress under the provisions of the Magistrates’ Courts Act 1947 as if the sum outstanding under the certificate were a sum due under a judgment.

“(3) Except to the extent that they are modified or varied
20 by this section the provisions of the Magistrates’ Courts Act 1947 shall apply to a warrant issued pursuant to this section.

“(4) A warrant of distress may be issued under this section,
25 notwithstanding that the Act under which proceedings are taken makes no provision for the levy by distress of the sum adjudged to be paid, or provides for the imprisonment of the defendant upon default in payment thereof.

“(5) For the purpose of executing any warrant of distress,
30 the bailiff executing it may at any time enter on any premises, by force if necessary, if he has reasonable cause to believe that the property in respect of which it is issued is on those premises:

“Provided that if any person in actual occupation of the
35 premises requires him to produce evidence of his authority, the bailiff executing the warrant shall produce the warrant before entering on the premises.

“(6) Where a person against whom a warrant of distress
40 is issued pays or tenders to the bailiff executing the warrant the sum or sums therein mentioned together with the amount of the expenses of the distress up to the time of the payment or tender, the warrant shall be deemed to be satisfied.

“(7) Subject, in the case of goods comprised in a hire purchase agreement, to regulations made under this Act, where goods have been seized under a warrant of distress and some third person claims to be entitled to the goods either as owner under a hire purchase agreement or under a bill of sale or otherwise by way of security for a debt, a Court presided over by a Magistrate may order a sale of the whole or part of the goods upon such terms as to payment of the whole or part of the secured debt or otherwise as the Court thinks fit, and may direct the application of the proceeds of the sale in such manner and upon such terms as it deems just.

“(8) The surplus of the sale, if any, shall be handed by the bailiff to the Registrar, who shall pay the amount to the defendant.

“(9) Any goods seized but not sold shall be returned or left by the bailiff at the place from which they were seized.

“(10) No distress made under the authority of this Act shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, by reason of any defect or want of form in the warrant of distress, nor shall any such person be deemed a trespasser from the beginning by reason of any irregularity afterwards committed by him; but all persons aggrieved by any such defect or irregularity may recover satisfaction for the special damage by action at law.

“(11) The provisions of the Magistrates’ Courts Act 1947 relating to distress warrants shall have effect in relation to a warrant issued pursuant to this section as if—

“(a) For each reference to a ‘debtor’ or ‘execution debtor’ there were substituted a reference to a ‘defendant’:

“(b) For each reference to a ‘judgment or order’ there were substituted a reference to a ‘conviction or order’.

“(12) Sections 91 and 95 of the Magistrates’ Courts Act 1947 shall not apply in relation to a distress warrant under this section.

“(13) Where goods have been seized under a warrant of seizure issued pursuant to section 96 of this Act and a warrant of distress is subsequently issued in respect of the goods and chattels of the same defendant and to secure payment of the whole or part of the sum in respect of which the warrant of seizure was issued then, for the purpose of determining priority between that warrant of distress and any other warrant of distress, the application for the issue of the first-mentioned warrant of distress shall be deemed to have been made at the time when the warrant of seizure was issued.

“**94. Attachment of wages—**(1) Every order made under section 91 of this Act attaching the salary or wages of a defendant shall have the same effect as an attachment order made under section 95 of the Domestic Proceedings Act 1968 and the provisions of that Act shall apply accordingly with the following modifications—

- “(a) Subsection (1) of section 95 of that Act shall not apply to an attachment order made under section 91 of this Act:
- 10 “(b) An attachment order or any variation, suspension, or discharge thereof may be made on the Registrar’s own application:
- “(c) Every attachment order shall be for a fixed period not exceeding 12 months and the provisions of subsection (5) of section 95 of the Domestic Proceedings Act 1968 shall not apply:
- 15 “(d) Subsection (1) of section 97 of the Domestic Proceedings Act 1968 shall have effect in relation to any order to which this section applies as if the said section 97 required the order to specify the amount payment of which is to be secured by the order and the rate of weekly or other periodic payments to be made in order to pay the said amount:
- 20 “(e) The provisions of the Domestic Proceedings Act 1968 shall have effect in relation to any such order as if for each reference to a ‘maintenance order’ there were substituted a reference to a ‘conviction or order’.
- 25

30 “**95. Disqualification order—**(1) On the application of the Registrar the Court may if it is satisfied that—

- “(a) Default has been made in the payment of any sum adjudged to be paid by a conviction; and
- “(b) The default has been caused or contributed to by or
- 35 through the use of a motor vehicle; and
- “(c) The application is in accordance with section 91 of this Act,—

make an order disqualifying the defendant from holding or obtaining a driver’s licence for such period not exceeding

40 6 months as the Court thinks fit.
 “(2) Every application made under this section shall be by way of complaint and shall be determined by a Magistrate’s Court presided over by a Magistrate and may in the discretion of the Magistrate be heard in open Court or in Chambers.

“(3) Every order under this section shall have effect as if it had been made under section 30 of the Transport Act 1962.

Struck Out

“96. Warrant of seizure—(1) Where the Registrar is satisfied that default in payment of any sum adjudged to be paid by a conviction is caused wholly or in part by or through the use of a motor vehicle and that the defendant is lawfully entitled to the possession of that motor vehicle, the Registrar may, in accordance with section 91 of this Act, issue a warrant in the prescribed form for the seizure and detention of the motor vehicle described therein.

New

“96. Warrant of seizure—(1) A Registrar may, where he is satisfied (after an inquiry pursuant to section 88 of this Act) that default in payment of any sum adjudged to be paid by a conviction is caused wholly or in part by or through the use of a motor vehicle and that the defendant is lawfully entitled to the possession of that motor vehicle, or, for the purpose of giving effect to the direction of a Magistrate under section 99 of this Act, issue a warrant in the prescribed form for the seizure and detention of the motor vehicle described therein.

“(2) For the purpose of executing any warrant of seizure the bailiff or constable executing it may at any time enter on any premises, by force if necessary, if he has reasonable cause to believe that the property in respect of which it is issued is on those premises:

“Provided that, if any person in actual occupation of the premises requires him to produce evidence of his authority, the bailiff or constable executing the warrant shall produce the warrant before entering on the premises.

“(3) Any vehicle seized under a warrant of seizure shall be delivered by the bailiff to the Registrar who shall retain the same until the amount due under the conviction or order together with the costs of execution are paid or the Court or Registrar otherwise orders.

“(4) Where a vehicle detained under this section is lost, destroyed, or damaged the Registrar shall not be liable for such loss, destruction, or damage unless the same was caused by the default or negligence of the Registrar, his officers, servants, or agents.

“(5) If any person removes or attempts to remove any goods seized under a warrant of seizure, he shall be liable on summary conviction to a fine not exceeding \$200 and any bailiff of the Court or any constable may arrest him without warrant.

5 “(6) Subject to the directions of the Registrar, if a claim is made to or in respect of any vehicle seized under a warrant of seizure the bailiff who is executing or has executed the warrant may, before or after the return of the warrant and whether or not an action has been commenced against him
10 for the seizure, obtain from the Registrar a summons calling before the Court the party making the claim and the provisions of section 94 of the Magistrates’ Courts Act 1947 shall apply to every such summons with such modifications as are necessary.

15 “(7) No seizure made under authority of this section shall be deemed unlawful nor shall any person making the same be deemed a trespasser by reason of any defect or want of form in the warrant of seizure nor shall any such person be deemed a trespasser from the beginning by reason of any
20 irregularity afterwards committed by him; but all persons aggrieved by any such defect or irregularity may recover satisfaction for the special damage by action at law.

“(8) Nothing in this section shall prevent the issue of a warrant of distress in respect of the same goods.

25 “(9) The bailiff executing any warrant of seizure shall from time to time and as required by the Registrar make a report on what he has done under the warrant.

“97. Review of Registrar’s decision—(1) Any defendant or other person who is affected by an order or decision made
30 under this Part of this Act by the Registrar and who is aggrieved by that order or decision may apply to a Magistrate on notice for a review of the order or decision.

“(2) On any such review the Magistrate may confirm, modify, or vary the Registrar’s decision and the decision as
35 confirmed, varied, or modified shall have effect accordingly.

Struck Out

“98. Fees and charges—(1) Where under section 91 of this Act time to pay is extended and payment by instalments is directed there shall be added to the amount outstanding under
40 the conviction such further amount as an administration charge as the Registrar assesses as the additional costs for receiving the payments but being a sum not exceeding 10 per cent of the sum remaining unpaid:

Struck Out

“Provided that this additional amount may in cases of hardship or in any other case where it is fair and equitable be waived or reduced by such amount as the Registrar thinks fit.

5

“(2) Where it appears to the Registrar that the payment of fees payable under this Act or of those fees in full, would cause undue hardship to the defendant he may remit the whole or such part of the fees as he thinks fit, and may, without further appropriation than this section, refund all such fees that have already been paid or any part thereof.

10

New

“98. Remission of fees—Where it appears to the Registrar that the payment of fees payable under this Act or of those fees in full, would cause undue hardship to the defendant he may, remit the whole or such part of the fees as he thinks fit and may, without further appropriation than this section, refund all such fees that have already been paid or any part thereof.”

15

“99. Magistrate to consider report of Registrar—(1) Where default is made in the payment of a sum of money adjudged to be paid by a conviction the Registrar may at any time and from time to time and shall if the sum remains unpaid for more than 12 months from the date of the conviction or order, report thereon to a Stipendiary Magistrate.

25

“(2) Every report shall contain details of the measures taken to enforce payment of the sum and the results of those measures and shall have attached thereto a copy of the transcript of the inquiry, if any, into the defendant’s means.

“(3) Subject to the provisions of section 100 of this Act, the Magistrate, after considering the report of the Registrar and having regard to the offence, character, and personal history of the defendant and all the factors of the case, including any change in the defendant’s circumstances since his conviction, may—

35

“(a) Refer the papers back to the Registrar with a direction that one or more of the measures prescribed in section 91 or section 92 of this Act and specified in the direction be invoked and the Registrar shall give effect to such directions:

40

5 “Provided that where further time for payment has been given or an order attaching any salary or wages has been made such time for payment or period of such order together with any extension of time or period of attachment order given or made earlier shall not exceed 12 months except in special circumstances:

“(b) Direct the issue of a warrant of commitment in the prescribed form:

10 “(c) Sentence the defendant **(to borstal training, or)** to detention in a detention centre or make an order for periodic detention or for release on probation with a direction to undertake community work:

15 “(d) Direct the issue of enforcement proceedings under paragraph (a) or paragraph (b) of this subsection for a sum less than the sum due in respect of the conviction:

20 “(e) Direct that the question of further enforcement proceedings be postponed for such time and upon or subject to such conditions as he thinks fit:

“(f) Remit the sum adjudged to be paid.

25 “(4) Before a sentence is imposed or an order is made under paragraph (c) of subsection (3) of this section, there shall be issued a summons to the defendant in the prescribed form, or, whether or not a summons has been issued or served, a Magistrate may issue a warrant, in the prescribed form to arrest that person and bring him before a Court.

30 “(5) On the appearance of that person before a Court, a Magistrate may, if he thinks fit, but subject to the provisions of this section, and to sections 6 to 13 (relating to release on probation), and sections 16 to 17 (relating to detention in a detention centre), **(and sections 18 to 20 (relating to borstal training))** of the Criminal Justice Act 1954, and to sections 9 (except subsection (2) thereof) and 11 to 22B relating to 35 periodic detention) of the Criminal Justice Amendment Act 1962, sentence that person accordingly or may give a direction or remit the sum under this section.

40 “(6) A warrant may be issued or a sentence imposed or an order made under this section notwithstanding that none of the offences in respect of which the defendant was adjudged to pay a sum of money was punishable by imprisonment.

“(7) Any warrant issued under this section may be withdrawn by the Magistrate who issued it or, if he is not available, by any other Magistrate.

“(8) Where under this section a Magistrate withdraws any warrant or sentences the defendant *(to borstal training, or)* to detention in a detention centre, or to periodic detention or releases the defendant on probation or gives a direction under paragraph (d) of subsection (3) of this section for a sum less than the amount due in respect of the conviction, the amount due or, as the case may require, the difference between that amount and the sum in respect of which the direction is given shall be deemed to be remitted. 5

“(9) Every person who is required to attend before a Court pursuant to a summons or warrant issued under subsection (4) of this section shall be entitled to be represented by a barrister or solicitor. 10

“(10) Where a Court sentences any person under paragraph (c) of subsection (3) of this section that person shall, subject to subsection (6) of this section, have the same right of appeal to the Supreme Court against the sentence as he would have had if the sentence had been imposed by a Magistrate’s Court after his conviction on an information: 15

“Provided that where the Supreme Court quashes the sentence on any such appeal it shall either pass such other sentence warranted in law in substitution therefor as the Supreme Court thinks fit or direct that the case be remitted to a Magistrate to be dealt with under subsection (3) of this section except paragraph (c). 20 25

“(11) Where a Magistrate directs the issue of a warrant or makes an order under this section he may if he thinks it expedient to do so postpone the issue, or, if issued, suspend the execution of, the warrant, or defer the operation of the order, until such time and on such conditions, if any, as the Magistrate thinks just. 30

“100. Restriction on imprisonment—Subject to section 84 of this Act, a Magistrate shall not *[(sentence a defendant to imprisonment or other)]* direct the issue of a warrant of commitment under section 99 of this Act or sentence the defendant to any form of detention under this Part of this Act for non-payment of a sum adjudged to be paid by a conviction unless on an occasion subsequent to his conviction an inquiry into the defendant’s means has been made and the Magistrate is satisfied that the defendant has or has had sufficient means to pay the sum and that all other methods of enforcing payment of that sum have been considered or tried and it appears to the Magistrate that they are inappropriate or unsuccessful: 35 40

“Provided that this section shall not apply in the case of a defendant who is undergoing a sentence of detention in a penal institution:

5 “Provided further that where pursuant to section 43A of the Criminal Justice Act 1954 the Court has adjudged a defendant to pay a sum of money rather than suffer imprisonment the Magistrate may, if he thinks just having regard to all the circumstances of the case, impose a period of imprisonment or otherwise sentence the defendant to detention or
 10 make an order under paragraph (c) of subsection (3) of section 99 of this Act for non-payment of the sum notwithstanding that the defendant has not and has not had sufficient means to pay the same sum.

15 **“101. Warrant of commitment—**A warrant of commitment issued under section 99 of this Act shall require that the defendant be imprisoned in some prison for such time as the Magistrate thinks reasonable (not exceeding the appropriate maximum period prescribed by section 102 of this Act), unless
 20 the amount adjudged to be paid together with costs of execution, or any less amount directed by the Magistrate in accordance with paragraph (d) of subsection (3) of section 99 of this Act is sooner paid.

“102. Scale of imprisonment for non-payment of money—
 The period of imprisonment imposed under this Act or any
 25 other Act in respect of the non-payment of any sum adjudged to be paid by a conviction or in respect of the default of sufficient distress to satisfy any such sum shall be such period as, in the opinion of the Court or Magistrate fixing the period, will satisfy the justice of the case, not exceeding—

30 “(a) In the case of an offence punishable by imprisonment, the maximum term of imprisonment to which the offender was liable on the conviction or a period of 1 year whichever is the less; or

35 “(b) In the case of an offence not punishable by imprisonment, a period of 3 months; or

New

40 “(c) In the case of an order for costs which is enforceable pursuant to paragraph (b) of subsection (1) of section 7 of the Costs in Criminal Cases Act 1967, a period of 3 months.”

“103. Defendant if in prison to be discharged on payment—
 Where a person is imprisoned under a warrant of commitment
 for non-payment of any fine or other sum, he may pay or
 cause to be paid *(to the Superintendent of the prison in which*
he is imprisoned) the sum payable under the warrant of
 commitment, and the Superintendent *(shall)* of the prison in
which that person is imprisoned shall, on receiving that sum
or on being notified by a Registrar of the payment of that
sum, thereupon discharge that person, unless he is in custody
 for some other matter. 5 10

“104. Defendant refusing to obey order may be imprisoned
 —Where an order of the Court is not for the payment of
 money but for the doing of some other act, and the Court
 orders that in the case of the defendant’s neglect or refusal to
 do that act he shall be imprisoned, and the defendant neglects 15
 or refuses to do that act, any Magistrate or any Registrar (not
 being a constable) may issue a warrant of commitment in the
 the prescribed form. A warrant of commitment under this
 section shall require that the defendant be imprisoned in some 20
 prison for such time as the Court at the hearing may have
 ordered or as the Magistrate issuing the warrant thinks rea-
 sonable, not exceeding in either case the maximum period (if
 any) prescribed in that behalf by the Act on which the order
 is founded, or, where no such maximum is prescribed, a period
 of 2 months.” 25

12. Informant’s right to appeal against sentence—Section
 115A of the principal Act (as inserted by section 5 (1) of the
 Summary Proceedings Amendment Act 1969) is hereby
 amended by adding to subsection (2) the following proviso:
 “Provided that any document evidencing the Solicitor- 30
 General’s consent may be signed on his behalf by a person
 purporting to be a Crown Counsel.”

New

12A. Setting down appeal for hearing—Section 118 of the
 principal Act is hereby amended by omitting the words 35
 “whether or not that place is in the same judicial district.”

13. Provisions as to issue of warrant pending appeal—Section 124 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

5 “(3A) Where under any determination in respect of which either party appeals the Court has sentenced the defendant to periodic detention, the term of the sentence shall cease to run on the day notice of appeal is filed.”

14. Variation of conditions of bail granted pending appeal—Section 125 of the principal Act is hereby amended
10 by omitting from subsection (3) the words “section 50”, and substituting the words “sections 49A, 50”.

15. Custody of appellant pending appeal—Section 127 of the principal Act is hereby amended by adding the following subsection:

15 “(4) Where on any appeal a sentence of detention is quashed and a sentence of periodic detention substituted therefor, the time during which the defendant, pending the determination of the appeal, was released on bail, and, subject to any directions which the Supreme Court may give to the
20 contrary on the appeal, the time during which the defendant if in custody was specially treated as an inmate before trial under any regulations as aforesaid, shall not count as part of the sentence of periodic detention; and the term of that sentence shall be deemed to be resumed or to begin to run, as the
25 case requires, as from the day on which the appeal is determined.”

16. Provisions on determination of appeal where defendant sentenced to periodic detention—The principal Act is hereby further amended by inserting, after section 137, the following
30 section:

“137A. (1) Where under any determination in respect of which either party appeals the defendant was sentenced to periodic detention, and—

35 “(a) When the appeal is determined the conviction is not set aside and the sentence is not quashed; or

“ (b) The appeal is not prosecuted or is dismissed for non-prosecution,—

the sentence of periodic detention as imposed by the Magistrate’s Court or as varied by the Supreme Court, as the case

may be, shall be resumed as from the day the appeal is determined or, as the case may be, the Magistrate or Justice or Justices certify that it has not been prosecuted or the Registrar of the Supreme Court certifies that it has been dismissed for non-prosecution. 5

“(2) Where on any appeal a sentence of periodic detention is quashed and any sentence of detention substituted therefor, then, notwithstanding anything in subsection (1A) of section 29 of the Penal Institutions Act 1954, the term of the substituted sentence shall commence on the day on 10 which the defendant is received into custody following the determination of the appeal.”

17. Variation of conditions of bail of defendant proceeded against by indictment—Section 153 of the principal Act is hereby amended by inserting, after paragraph (d), the 15 following paragraph:

“(dd) Section 49A (which relates to the variation of conditions of bail):”.

18. Power to forbid report of preliminary hearing—Section 156 of the principal Act is hereby amended by inserting in 20 subsection (2), after the words “interests of”, the words “justice or of”.

19. Evidence of defendant in answer to charge—(1) The principal Act is hereby further amended by repealing section 163, and substituting the following section: 25

“163. (1) The defendant shall not be entitled to make an unsworn statement of fact at the preliminary hearing.

“(2) In every case where the defendant is not represented by counsel or a solicitor, and after all the evidence for the informant has been given and any amended charge has been 30 read to the defendant, the presiding Magistrate or Justices shall cause the following caution or words to the like effect to be addressed to the defendant:

‘Having heard the evidence against you, do you wish to give evidence yourself or to call witnesses? If you give evidence 35 yourself, you may be cross-examined. You are not obliged to give or call evidence but, if you do, that evidence will be taken down and may be given against you at your trial. You should take no notice of any promise or threat which any

person may have made to persuade you to say anything. If you do not give (or call evidence, no comment on that fact may be made in this Court) evidence in this Court, that fact will not be allowed to be the subject of any comment.

5 “(3) If (following the caution,) the defendant gives evidence, he may be cross-examined by the informant and, if he is represented, he may be re-examined. His evidence shall be put into writing and shall then be read over to him and shall be signed by the presiding Magistrate or Justices.

10 “(4) If the defendant is committed for trial, his evidence may be given in evidence against him at his trial without further proof thereof, unless it is proved that the Magistrate or Justices purporting to sign it did not in fact sign it.”

(2) The principal Act is hereby further amended—

15 *Struck Out*

(a) By omitting from subsection (1) of section 165 the words “and has said anything he wishes to say in answer to the charge”:

New

20 (a) By omitting from subsection (1) of section 165 the words “After the defendant has been cautioned and has said anything he wishes to say in answer to the charge”:

25 (b) By omitting from section 166 the words “saying anything in answer to the charge either by way of unsworn statement or by evidence on oath”, and substituting the words “giving evidence in answer to the charge”.

30 **20. Order for taking evidence**—(1) Section 174 of the principal Act is hereby amended by omitting from subsection (1) the words “any other Magistrate or before the Registrar of any other Magistrate’s Court”, and substituting the words “any Magistrate’s Court or the Registrar thereof”.

35 (2) Section 174 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

40 “(1A) Notwithstanding anything in this Part of this Act, any Magistrate on the application of the informant before the preliminary hearing, or the Court on the application of the informant at the preliminary hearing, may make an order for the taking before any Magistrate’s Court or the Registrar

thereof (not being a constable) of the evidence of any witness for the prosecution, if, in the opinion of the Magistrate, or, as the case may be, of the Court, it is desirable or expedient, by reason of the distance from the Court of the place where the witness resides or of his illness or of his intention to depart from New Zealand before the preliminary hearing, that the evidence of the witness should be so taken: 5

“Provided that, except where the order is made on the ground that the witness intends to depart from New Zealand before the preliminary hearing, no such order shall be made unless the defendant consents.” 10

21. Notice to witness to attend at Supreme Court—

(1) Section 181 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection: 15

“(1) Where any person who gives evidence at the preliminary hearing has completed his evidence, the presiding Magistrate or Justices or the Registrar may issue to him a notice in the prescribed form requiring him in the event of the defendant being committed for trial to attend at the Supreme Court in accordance with the terms of the notice to give evidence.” 20

(2) Section 181 of the principal Act is hereby further amended by adding the following subsection:

“(6) If at the conclusion of the preliminary hearing the defendant is discharged, every notice given to a witness pursuant to subsection (1) of this section shall be deemed to be cancelled, and the Registrar shall cause notice of that cancellation in the prescribed form to be given to the witness. Every such notice shall be given by delivering it to the witness personally or by sending it to him by registered post addressed to him at his last-known place of residence.” 25 30

(3) Section 2 of the Summary Proceedings Amendment Act 1963 is hereby consequentially repealed.

New

21A. Application for order for bond to keep peace—

(1) Section 186 of the principal Act is hereby amended by repealing paragraph (c) (as substituted by section 4 (2) of the Summary Proceedings Amendment Act 1961), and substituting the following paragraph: 40

“(c) That the defendant has threatened to do, or to procure some other person to do, any act which

New

if done would constitute an offence under any of the following provisions of the Crimes Act 1961:

5 “(i) Subsection (1) of section 188 (which relates to wounding with intent to do grievous bodily harm):

“(ii) Subsection (2) of section 189 (which relates to injuring with intent to injure):

10 “(iii) Section 196 (which relates to common assault):

“(iv) Section 294 (which relates to arson):

“(v) Section 296 (which relates to damage to certain property by fire or explosive):

15 “(vi) Section 298 (which relates to wilful damage):

“(vii) Section 299 (which relates to waste or diversion of gas, water, or electricity):

“(viii) Section 300 (which relates to interfering with means of transport):

20 “(ix) Section 301 (which relates to wrecking of ships and aircraft):

“(x) Section 303 (which relates to interfering with navigation signals):

25 “(xi) Section 304 (which relates to interfering with mines).”

(2) Subsection (2) of section 4 of the Summary Proceedings Amendment Act 1961 is hereby consequentially repealed.

30 **22. Regulations**—Section 212 of the principal Act is hereby amended by inserting in subsection (2), after paragraph (e), the following paragraph:

35 “(ea) Prescribing the factors to be taken into account in deciding, for the purposes of Part III of this Act, whether or not a defendant has or has had sufficient means to pay a sum adjudged to be paid by a conviction:”.

23. Consequential amendments—(1) The Summary Proceedings Amendment Act 1970 is hereby consequentially amended by repealing section 3.

New

(1A) Section 16 of the Criminal Justice Act 1954 (as substituted by section 4 of the Criminal Justice Amendment Act 1960 and amended by section 133 of the Domestic Proceedings Act 1963) is hereby amended by repealing subsection (4). 5

(2) Section 48 of the Criminal Justice Act 1954 is hereby amended by inserting, after subsection (1), the following subsections:

“(1A) A Magistrate’s Court may give a direction under subsection (1) of this section for the examination of the defendant as to his means and the provisions of section 88 of the Summary Proceedings Act 1957 shall apply *mutatis mutandis* to an examination under this section. 10

“(1B) After holding the examination the Registrar shall forthwith refer the deposition to the Court.” 15

(3) The Criminal Justice Amendment Act 1962 is hereby consequentially amended—

(a) By repealing section 10:

(b) By omitting from subsection (1) of section 11 (as amended by section 8 (2) of the Criminal Justice Amendment Act 1966) the words “section 10 or section 10A of this Act” in both places where they occur, and substituting in each case the words “section 10A of this Act or under section 99 of the Summary Proceedings Act 1957”. 20 25

(4) Section 8 of the Criminal Justice Amendment Act 1966 is hereby consequentially amended by repealing subsection (2). 30

24. Transitional provision—Notwithstanding the amendments effected by section 11 and section 23 of this Act the enactments amended by those sections shall continue to apply as if this Act had not been passed in any case where before the commencement of those sections a sum has been adjudged by a Magistrate’s Court to be paid by conviction and a Magistrate has fixed a term of imprisonment for default in paying that sum or has issued a summons or warrant under section 10 of the Criminal Justice Amendment Act 1962 for the appearance before a Court of the person adjudged to pay that sum. 35 40