

**Reprint
as at 1 January 2011**



Crown Proceedings Act 1950

Public Act 1950 No 54
Date of assent 23 November 1950
Commencement see section 1

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Justice.

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An Act to consolidate and amend the law relating to the civil liabilities and rights of the Crown and officers of the Crown, and to civil proceedings by and against the Crown

1 Short Title and commencement

This Act may be cited as the Crown Proceedings Act 1950 and shall come into force on 1 January 1952.

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

agent, in relation to the Crown, includes an independent contractor employed by the Crown

Attorney-General, in respect of any power, duty, authority, or function imposed upon or vested in him by virtue of his office as Attorney-General otherwise than under section 14, includes the Solicitor-General

civil proceedings means any proceedings in any court other than criminal proceedings; but does not include proceedings in relation to habeas corpus, mandamus, prohibition, or certiorari or proceedings by way of an application for review under Part 1 of the Judicature Amendment Act 1972 to the extent that any relief sought in the application is in the nature of mandamus, prohibition, or certiorari

Commonwealth means the British Commonwealth of Nations; and includes every territory for whose international

relations the Government of any country of the Commonwealth is responsible

court means the Supreme Court, the Court of Appeal, the High Court, and (to the extent to which they respectively have jurisdiction) the Compensation Court constituted under section 70 of the Statutes Amendment Act 1939, a District Court constituted under the District Courts Act 1947, a Disputes Tribunal constituted under the Disputes Tribunals Act 1988, a Warden's Court constituted under the Mining Act 1926, and the Maori Land Court constituted under Te Ture Whenua Maori Act 1993

government department or department—

- (a) means Public Trust and every other department or instrument of the Executive Government of New Zealand; and
- (b) includes the Māori Trustee

Her Majesty or the Crown means Her Majesty in right of Her Government in New Zealand

member of a visiting force includes a member of any other force who is attached to a visiting force

New Zealand armed forces means the New Zealand Naval Forces, the New Zealand Army, and the Royal New Zealand Air Force

officer, in relation to the Crown, includes any servant of Her Majesty, and accordingly (but without prejudice to the generality of the foregoing provision) includes a Minister of the Crown; and a member of the New Zealand armed forces; but does not include the Governor-General, or any Judge, District Court Judge, Justice of the Peace, Community Magistrate, or other judicial officer

order includes a judgment, decree, rule, award, or declaration

proceedings against the Crown includes a claim by way of set-off or counterclaim raised in proceedings by the Crown

servant, in relation to the Crown, means any servant of Her Majesty, and accordingly (but without prejudice to the generality of the foregoing provision) includes a Minister of the Crown, and a member of the New Zealand armed forces; but does not include the Governor-General, or any Judge, District

Court Judge, Justice of the Peace, Community Magistrate, or other judicial officer

service aircraft means any aircraft within the meaning of the Civil Aviation Act 1990 which is being used exclusively for the purposes of the Armed Forces of New Zealand

ship includes every description of vessel used in navigation not propelled by oars

visiting force means any naval, military, or air force of any country other than New Zealand which has been granted a right of entry into or passage through or over New Zealand.

- (2) Any reference in this Act to the Crown, in relation to any civil proceedings, or in relation to any order or judgment debt or costs in connection with any civil proceedings, shall be construed as including a reference to the Attorney-General or any government department or officer of the Crown where the Attorney-General, department, or officer is a party or third party to the proceedings in accordance with section 14: provided that the Attorney-General shall not be deemed to be the Crown in relation to any proceedings by reason only of the fact that the proceedings are brought by the Attorney-General upon the relation of some other person.

Compare: 1908 No 34 s 2; 1945 No 40 ss 19, 20; Crown Proceedings Act 1947 s 38 (UK)

Section 2(1) **civil proceedings**: amended, on 20 October 1972, by section 14(1) of the Judicature Amendment Act 1972 (1972 No 130).

Section 2(1) **court**: amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 2(1) **court**: amended, on 1 July 1993, pursuant to section 362(2) of Te Ture Whenua Māori Act 1993 (1993 No 4).

Section 2(1) **court**: amended, on 1 March 1989, by section 82(2) of the Disputes Tribunals Act 1988 (1988 No 110).

Section 2(1) **court**: amended, on 1 April 1980, pursuant to section 2(3) of the District Courts Amendment Act 1979 (1979 No 125).

Section 2(1) **court**: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 2(1) **court**: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 2(1) **government department** or **department**: replaced, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 2(1) **officer**: amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 2(1) **officer**: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 2(1) **servant**: inserted, on 2 October 1958, by section 2 of the Crown Proceedings Amendment Act 1958 (1958 No 61).

Section 2(1) **servant**: amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 2(1) **servant**: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 2(1) **service aircraft**: replaced, on 1 September 1990, by section 101(3) of the Civil Aviation Act 1990 (1990 No 98).

Part 1 Substantive law

3 Claims enforceable by or against the Crown under this Act

- (1) Subject to the provisions of this Act and any other Act, all debts, damages, duties, sums of money, land, or goods, due, payable or belonging to the Crown shall be sued for and recovered by proceedings taken for that purpose in accordance with the provisions of this Act:
provided that nothing in this subsection shall interfere with or restrict any special power or authority vested in the Crown, or in any person on its behalf, with respect to all or any of the matters mentioned in this subsection.
- (2) Subject to the provisions of this Act and any other Act, any person (whether a subject of Her Majesty or not) may enforce as of right, by civil proceedings taken against the Crown for that purpose in accordance with the provisions of this Act, any claim or demand against the Crown in respect of any of the following causes of action:
 - (a) the breach of any contract or trust:
 - (b) any wrong or injury for which the Crown is liable in tort under this Act or under any other Act which is binding on the Crown:
 - (c) any cause of action, in respect of which a claim or demand may be made against the Crown under this Act or under any other Act which is binding on the Crown, and for which there is not another equally convenient or more convenient remedy against the Crown:

- (d) any cause of action, which is independent of contract, trust, or tort, or any Act, for which an action for damages or to recover property of any kind would lie against the Crown if it were a private person of full age and capacity, and for which there is not another equally convenient or more convenient remedy against the Crown:
- (e) any other cause of action in respect of which a petition of right would lie against the Crown at common law or in respect of which relief would be granted against the Crown in equity.

Compare: 1908 No 34 s 3; 1910 No 54 ss 3, 4; Crown Proceedings Act 1947 s 1 (UK)

4 Limitation of actions by or against the Crown

This Act is subject to the Limitation Act 2010, and to any other enactment that—

- (a) limits the time before which, or provides for the determination or fixing of the time before which, or period within which, civil proceedings may be brought by or against the Crown; or
- (b) prescribes a limitation period or other limitation defence for civil proceedings by or against the Crown.

Compare: 1908 No 34 s 37

Section 4: replaced, on 1 January 2011, by section 58 of the Limitation Act 2010 (2010 No 110).

5 Liability of the Crown under other Acts

- (1) Except as expressly provided by this Act or any other Act, this Act shall not be construed so as to make any Act binding upon the Crown which would not otherwise be so binding, or so as to impose any liability on the Crown by virtue of any Act which is not binding on the Crown.
- (2) The enactments mentioned in Schedule 1 shall bind the Crown.

Compare: 1910 No 54 s 7

6 Liability of the Crown in tort

- (1) Subject to the provisions of this Act and any other Act, the Crown shall be subject to all those liabilities in tort to which,

if it were a private person of full age and capacity, it would be subject—

- (a) in respect of torts committed by its servants or agents;
- (b) in respect of any breach of those duties which a person owes to his servants or agents at common law by reason of being their employer; and
- (c) in respect of any breach of the duties attaching at common law to the ownership, occupation, possession, or control of property:

provided that no proceedings shall lie against the Crown by virtue of paragraph (a) in respect of any act or omission of a servant or agent of the Crown unless the act or omission would apart from the provisions of this Act have given rise to a cause of action in tort against that servant or agent or his estate.

- (2) Where the Crown is bound by a statutory duty which is binding also upon persons other than the Crown and its officers, then, subject to the provisions of this Act, the Crown shall, in respect of a failure to comply with that duty, be subject to all those liabilities in tort (if any) to which it would be so subject if it were a private person of full age and capacity.
- (3) Where any functions are conferred or imposed upon an officer of the Crown as such either by any rule of the common law or by statute, and that officer commits a tort while performing or purporting to perform those functions, the liabilities of the Crown in respect of the tort shall be such as they would have been if those functions had been conferred or imposed solely by virtue of instructions lawfully given by the Crown.
- (4) Any enactment which negatives or limits the amount of the liability of any government department or officer of the Crown in respect of any tort committed by that department or officer shall, in the case of proceedings against the Crown under this section in respect of a tort committed by that department or officer, apply in relation to the Crown as it would have applied in relation to that department or officer if the proceedings against the Crown had been proceedings against that department or officer.
- (5) No proceedings shall lie against the Crown by virtue of this section in respect of anything done or omitted to be done by any person while discharging or purporting to discharge any

responsibilities of a judicial nature vested in him, or any responsibilities which he has in connection with the execution of judicial process.

Compare: 1910 No 54 ss 3(c), 4; Crown Proceedings Act 1947 s 2 (UK)

7 Provisions as to industrial property

- (1) Where after the commencement of this Act any servant or agent of the Crown infringes a patent, a registered trade mark, or any copyright in a design, subsisting under the Patents Act 1953 or the Designs Act 1953 or the Trade Marks Act 2002, and the infringement is committed with the authority of the Crown, then, subject to the provisions of this Act, civil proceedings in respect of the infringement shall lie against the Crown.
- (2) Nothing in the last preceding subsection or in any other provision of this Act shall affect the rights of any government department under sections 55 to 57 of the Patents Act 1953 or sections 16 to 19 of the Designs Act 1953, or the rights of any Minister of the Crown under section 26 of the Patents Act 1953.
- (3) Save as expressly provided by this section, no proceedings shall lie against the Crown by virtue of this Act in respect of the infringement of a patent, a registered trade mark, or of any such copyright as is mentioned in subsection (1).

Compare: Crown Proceedings Act 1947 s 3 (UK)

Section 7(1): amended, on 20 August 2003, by section 201 of the Trade Marks Act 2002 (2002 No 49).

Section 7(1): amended, on 1 January 1955, pursuant to section 52(1) of the Designs Act 1953 (1953 No 65).

Section 7(1): amended, on 1 January 1955, pursuant to section 119(1) of the Patents Act 1953 (1953 No 64).

Section 7(2): amended, on 1 January 1955, pursuant to section 52(1) of the Designs Act 1953 (1953 No 65).

Section 7(2): amended, on 1 January 1955, pursuant to section 119(1) of the Patents Act 1953 (1953 No 64).

8 Application of law as to indemnity, contribution, and joint and several tortfeasors

- (1) Where the Crown is subject to any liability by virtue of this Part, the law relating to indemnity and contribution shall be

enforceable by or against the Crown in respect of the liability to which it is so subject as if the Crown were a private person of full age and capacity.

- (2) Without prejudice to the effect of the last preceding subsection, Part 5 of the Law Reform Act 1936 (which relates to proceedings against, and contribution between, joint and several tortfeasors) shall bind the Crown.

Compare: Crown Proceedings Act 1947 s 4 (UK)

9 Crown not liable to pay compensation or damages for death or disablement of members of New Zealand armed forces where pension may be claimed

- (1) No proceedings for compensation or damages shall lie against the Crown or any officer of the Crown in respect of the death or disablement of any member of the New Zealand armed forces, if—

- (a) any pension has at any time been paid or is being paid under the War Pensions Act 1954 in respect of that death or disablement; or
- (b) a War Pensions Board has determined that for the purposes of section 19 of the War Pensions Act 1954 that death or disablement is attributable to, or is deemed to be attributable to, the service of the member with the forces, or that the condition that resulted in that death or disablement was aggravated by his service with the forces:

provided that this subsection shall not exempt an officer of the Crown from liability for any act or omission in any case where the court is satisfied that the act or omission was not connected with the execution of his duties as an officer of the Crown.

- (2) Any determination of a War Pensions Board under subsection (1) may be made by the Board whether or not a claim for a pension has been made under the War Pensions Act 1954.
- (2A) A certificate by the Secretary for War Pensions to the effect that a War Pensions Board has determined that for the purposes of section 19 of the War Pensions Act 1954 the death or disablement of a member is attributable to, or is deemed to be attributable to, his service with the forces, or that the condition that resulted in the death or disablement of the member was ag-

gravated by his service with the forces, shall for the purposes of this section be conclusive as to the fact which it certifies.

- (3) Where any claim is made against the Crown in respect of any damage, loss, or injury sustained or alleged to have been sustained by or through or in connection with the use of any service aircraft, the provisions of section 97 of the Civil Aviation Act 1990 shall, notwithstanding anything in section 3 of that Act, apply with respect to the aircraft as if the applicable provisions of that Act and of any rules made under that Act (if any) have been complied with.

Compare: 1940 No 24 s 10; 1945 No 40 s 22(2); Crown Proceedings Act 1947 s 10 (UK)

Section 9 heading: replaced, on 14 December 1962, by section 2 of the Crown Proceedings Amendment Act 1962 (1962 No 120).

Section 9(1): replaced, on 14 December 1962, by section 2(1) of the Crown Proceedings Amendment Act 1962 (1962 No 120).

Section 9(2): replaced, on 14 December 1962, by section 2(1) of the Crown Proceedings Amendment Act 1962 (1962 No 120).

Section 9(2A): inserted, on 14 December 1962, by section 2(1) of the Crown Proceedings Amendment Act 1962 (1962 No 120).

Section 9(3): replaced, on 1 September 1990, by section 101(3) of the Civil Aviation Act 1990 (1990 No 98).

Section 9(3): amended, on 28 November 1991, by section 12 of the Civil Aviation Amendment Act 1991 (1991 No 116).

10 Claims in respect of visiting forces

[Repealed]

Section 10: repealed, on 1 July 2004, by section 26 of the Visiting Forces Act 2004 (2004 No 59).

11 Saving in respect of acts done under prerogative and statutory powers

- (1) Except as expressly provided in this Part, nothing in this Part shall extinguish or abridge any powers or authorities which, if this Act had not been passed, would have been exercisable by virtue of the prerogative of the Crown, or any powers or authorities conferred on the Crown by any statute, and, in particular, nothing in this Part shall extinguish or abridge any powers or authorities exercisable by the Crown, whether in time of peace or of war, for the purpose of the defence of the realm or of training, or maintaining the efficiency of, any of

the armed forces of New Zealand or of any part of the Commonwealth.

- (2) Where in any proceedings under this Act it is material to determine whether anything was properly done or omitted to be done in the exercise of the prerogative of the Crown, the Minister of Defence, if satisfied that the act or omission was necessary for any such purpose as is mentioned in the last preceding subsection, may issue a certificate to the effect that the act or omission was necessary for that purpose, and the certificate shall, in those proceedings, be conclusive as to the matter so certified.

Compare: Crown Proceedings Act 1947 s 11 (UK)

Part 2

Jurisdiction, procedure, and judgments

12 Civil proceedings by or against the Crown

- (1) Subject to the provisions of this Act or any other Act, all civil proceedings which must be taken by, or may be brought against, the Crown under this Act may be commenced, heard, and determined in the same court and in like manner in all respects as in suits between subject and subject.
- (2) All such civil proceedings by or against the Crown as are mentioned in Schedule 2 are hereby abolished.

Compare: 1908 No 34 ss 25, 36; 1945 No 40 s 23(2); Crown Proceedings Act 1947 ss 13, 15, 23 (UK)

13 Interpleader

Without limiting any other provisions of this Act, it is hereby declared that the Crown may obtain relief by way of interpleader proceedings, and may be made a party to such proceedings, in the manner in which a subject may obtain relief by way of such proceedings or be made a party thereto, and may be made a party to such proceedings notwithstanding that the application for relief is made by a sheriff or bailiff or other like officer; and all rules of court relating to interpleader proceedings shall, subject to the provisions of this Act, have effect accordingly.

Compare: Crown Proceedings Act 1947 s 16 (UK)

14 Method of making Crown a party to proceedings

- (1) Subject to the provisions of this Act and any other Act, civil proceedings under this Act by the Crown may be instituted by—
 - (a) the appropriate government department in its own name if the department has power to sue apart from this section; or
 - (b) the appropriate officer of the Crown in the name in which he may sue on behalf of the Crown or of any government department if the officer has power to sue on behalf of the Crown or of any government department apart from this section; or
 - (c) the Attorney-General if there is no such appropriate department or officer or if the Attorney-General has any reasonable doubt whether any and, if so, which department or officer is appropriate; or
 - (d) any 2 or more of them jointly.
- (2) Subject to the provisions of this Act and any other Act, civil proceedings under this Act against the Crown shall be instituted against—
 - (a) the appropriate government department in its own name if the department may be sued apart from this section; or
 - (b) the appropriate officer of the Crown in the name in which he may be sued on behalf of the Crown or of any government department if the officer may be sued on behalf of the Crown or of any government department apart from this section; or
 - (c) the Attorney-General if there is no such appropriate department or officer or if the person instituting the proceedings has any reasonable doubt whether any and, if so, which department or officer is appropriate; or
 - (d) any 2 or more of them jointly.
- (3) The Crown may be joined as a plaintiff to any civil proceedings to which it could be a plaintiff under this Act by joining as a plaintiff—
 - (a) any government department by which, or officer of the Crown by whom, the proceedings could be instituted under subsection (1); or

- (b) the Attorney-General if there is no such department or officer or if the person seeking to join the Crown as a plaintiff has any reasonable doubt whether any and, if so, which department or officer should be so joined; or
 - (c) any 2 or more of them jointly.
- (4) The Crown may be joined as a defendant or third party to any civil proceedings to which it could be a defendant under this Act by joining as a defendant or third party—
 - (a) any government department against which, or officer of the Crown against whom, the proceedings could be instituted under subsection (2); or
 - (b) the Attorney-General if there is no such department or officer or if the person seeking to join the Crown as a defendant or third party has any reasonable doubt whether any and, if so, which department or officer should be so joined; or
 - (c) any 2 or more of them jointly.
- (5) Where any civil proceedings against the Crown under this Act are instituted against the Attorney-General or the Attorney-General is joined as a party or third party to any such proceedings, an application may at any stage of the proceedings be made to the court by or on behalf of the Attorney-General to have 1 or more of the government departments or officers of the Crown against which or against whom the proceedings could have been instituted under subsection (2) substituted for him as a party or third party to the proceedings; and where any such proceedings are brought against any such government department or officer, or where any such department or officer is joined as a party or third party to any such proceedings, an application may at any stage of the proceedings be made to the court on behalf of the department or officer to have the Attorney-General or any such department or officer substituted for the applicant as a party or third party to the proceedings. Upon any such application the court may if it thinks fit make an order granting the application on such terms as the court thinks just, and the proceedings shall continue accordingly.
- (6) No proceedings instituted in accordance with this Act to which the Attorney-General or any government department or officer of the Crown is a party or third party shall abate or be affected

by any change in the person holding the office of Attorney-General or any other office in the government service or in the person or body of persons constituting the department.

- (7) Where the Attorney-General or any government department or officer of the Crown is a party or third party to any proceedings in accordance with this section, any order of the court against or in favour of the Crown in those proceedings shall be made against or in favour of the Attorney-General or the department or officer as the case may be.

Compare: 1908 No 34 s 15; Crown Proceedings Act 1947 s 17 (UK)

15 Recovery in District Court on behalf of Crown of amounts not exceeding \$500

- (1) Any debt or damages payable to the Crown and not exceeding \$500 may be sued for and recovered in a District Court on behalf of the Crown by and at the suit of any person appointed in that behalf by a warrant under the hand of the Attorney-General or the Solicitor-General, and judicial notice shall be taken of the signature of any such warrant.
- (1A) The Attorney-General or the Solicitor-General may from time to time delegate the power of appointment conferred by subsection (1) to a barrister or solicitor of the High Court holding an appointment as Crown Counsel in the office of the Solicitor-General, and judicial notice shall be taken of the signature of any such barrister or solicitor.
- (1B) Where any Crown Counsel purports to act pursuant to any delegation under this section he shall be presumed to be acting in accordance with the delegation in the absence of proof to the contrary.
- (1C) Every such delegation shall be revocable at will, and no such delegation shall prevent the exercise of the power of appointment by the Attorney-General or the Solicitor-General.
- (1D) Until any such delegation is revoked it shall continue in force according to its tenor. In the event of the Attorney-General or Solicitor-General by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Attorney-General or Solicitor-General, as the case may be.

- (1E) Any warrant of appointment under the foregoing provisions of this section may relate to 1 or more debts or claims for damages, or to all debts and claims for damages, or to any class or classes of debts or claims for damages or both.
- (1F) Where, pursuant to any warrant of appointment under the foregoing provisions of this section, any person sues on behalf of the Crown for any debt or damages, he shall evidence his authority in that behalf by filing in the proceedings either—
- (a) the warrant relating to his appointment; or
 - (b) a certificate by him as to his appointment and as to the non-revocation of his warrant of appointment.
- (1G) In any proceedings for the recovery of a debt or damages, being proceedings in which a warrant of appointment is so filed, if the warrant purports to have been given within 1 year of the date on which it is filed and relates only to the debt or damages sought to be recovered, it shall be presumed, in the absence of proof to the contrary, that the warrant has not been revoked.
- (1H) In any proceedings for the recovery of a debt or damages, being proceedings in which a certificate is so filed, the certificate shall, in the absence of proof to the contrary, be sufficient evidence of the matters therein stated regarding the appointment and the non-revocation of the warrant.
- (1I) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$100 who wilfully or negligently signs any such certificate if the certificate is false in a material respect.
- (2) Every person so appointed to sue on behalf of the Crown shall sue in his own name with the addition of the words “suing on behalf of the Crown”, or words to the like effect.
 - (3) Nothing in this section shall be so construed as to prevent the recovery of moneys payable to the Crown in any manner in which those moneys are recoverable independently of this section.

Compare: 1910 No 54 s 10

Section 15 heading: replaced, on 8 November 1974, by section 2 of the Crown Proceedings Amendment Act 1974 (1974 No 81).

Section 15 heading: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 15(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 15(1): amended, on 8 November 1974, by section 2(1) of the Crown Proceedings Amendment Act 1974 (1974 No 81).

Section 15(1A): inserted, on 23 October 1969, by section 2 of the Crown Proceedings Amendment Act 1969 (1969 No 74).

Section 15(1A): amended, on 1 April 1980, pursuant to section 12 of the Judiciary Amendment Act 1979 (1979 No 124).

Section 15(1B): inserted, on 23 October 1969, by section 2 of the Crown Proceedings Amendment Act 1969 (1969 No 74).

Section 15(1C): inserted, on 23 October 1969, by section 2 of the Crown Proceedings Amendment Act 1969 (1969 No 74).

Section 15(1D): inserted, on 23 October 1969, by section 2 of the Crown Proceedings Amendment Act 1969 (1969 No 74).

Section 15(1E): inserted, on 8 November 1974, by section 2(2) of the Crown Proceedings Amendment Act 1974 (1974 No 81).

Section 15(1F): inserted, on 8 November 1974, by section 2(2) of the Crown Proceedings Amendment Act 1974 (1974 No 81).

Section 15(1G): inserted, on 8 November 1974, by section 2(2) of the Crown Proceedings Amendment Act 1974 (1974 No 81).

Section 15(1H): inserted, on 8 November 1974, by section 2(2) of the Crown Proceedings Amendment Act 1974 (1974 No 81).

Section 15(1I): inserted, on 8 November 1974, by section 2(2) of the Crown Proceedings Amendment Act 1974 (1974 No 81).

16 Service of documents and time for filing defence by Crown

- (1) In any civil proceedings instituted against the Attorney-General, or to which the Attorney-General is joined as a party or third party, as aforesaid, the first document required to be served on him, and any other document required to be served before an address for service has been given by him, shall be served on the Attorney-General by delivering it to the Solicitor-General or by leaving it at the office of the Solicitor-General in Wellington.
- (2) In any civil proceedings against the Crown under this Act the time to be allowed in any writ or summons for the filing of a statement of defence or notice of intention to defend shall be not less than 28 days, or such further time as the court may allow.
- (3) *[Repealed]*
Compare: 1908 No 34 ss 27, 28; Crown Proceedings Act 1947 s 18 (UK)

Section 16(1): amended, on 1 July 1992, by section 22(1) of the District Courts Amendment Act 1991 (1991 No 61).

Section 16(3): repealed, on 1 July 1992, by section 22(2) of the District Courts Amendment Act 1991 (1991 No 61).

17 Nature of relief

- (1) In any civil proceedings under this Act by or against the Crown or to which the Crown is a party or third party the court shall, subject to the provisions of this Act and any other Act, have power to make all such orders as it has power to make in proceedings between subjects, and otherwise to give such appropriate relief as the case may require: provided that—
- (a) where in any proceedings against the Crown any such relief is sought as might in proceedings between subjects be granted by way of injunction or specific performance, the court shall not grant an injunction or make an order for specific performance, but may instead make an order declaratory of the rights of the parties; and
 - (b) in any proceedings against the Crown for the recovery of land or other property, the court shall not make an order for the recovery of the land or the delivery of the property, but may instead make an order declaring that any person is entitled as against the Crown to the land or property or to the possession thereof.
- (2) The court shall not in any civil proceedings grant any injunction or make any order against an officer of the Crown if the effect of granting the injunction or making the order would be to give any relief against the Crown which could not have been obtained in proceedings against the Crown.

Compare: 1908 No 34 s 30; Crown Proceedings Act 1947 s 21 (UK)

18 Appeals, stay of execution, and costs

Subject to the provisions of this Act, all enactments and rules of court relating to appeals and stay of execution shall, with any necessary modifications, apply to civil proceedings by or against the Crown under this Act as they apply to proceedings

between subjects; and the costs of suit shall follow on either side as in ordinary cases between other suitors: provided that the Crown shall not be required under any rule of court or order to deposit or give security for the costs of any other party.

Compare: 1908 No 34 s 30; Crown Proceedings Act 1947 s 22 (UK)

19 Interest on debts, costs, etc

- (1) Any judgment debt due from or to the Crown shall carry interest if it would carry interest if it were due from or to a subject, and any interest so payable shall be at the rate at which it would be payable if the judgment debt were due from or to a subject.
- (2) Any costs awarded to or against the Crown shall carry interest if the costs would carry interest if they were awarded to or against a subject, and any interest so payable shall be at the rate at which it would be payable by a subject.
- (3) Any judgment in any civil proceedings by or against the Crown may award interest to any party to whom interest could be awarded if the proceedings were between subjects at the rate at which interest could be so awarded.
- (4) This section shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.

Compare: Crown Proceedings Act 1947 s 24 (UK)

Judgments for fines and on recognisances

20 Recovery of fines imposed otherwise than by judgment or conviction

- (1) Notwithstanding the foregoing provisions of this Act, where a fine is imposed upon any person otherwise than by a judgment or conviction of some court, and no other procedure is provided by any Act or rule of court for the recovery of the fine, a Judge or District Court Judge of the court by which the fine was imposed shall, if the same is not immediately paid, by writing under his hand in form 1 of Schedule 3 or to the like effect, certify the fact, together with the name and place of abode or business of the person on whom the fine was imposed, and the cause and amount of the fine, and shall deliver

or send by post the writing to the Attorney-General, who, upon receipt thereof, shall cause a final judgment to be signed in the High Court for the amount of the fine, and a sum not exceeding \$10 for costs.

- (2) Every such judgment may be in form 2 of Schedule 3, or to the like effect, and no appeal shall lie therefrom.

Compare: 1908 No 34 s 4

Section 20(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 20(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

21 Recovery of debts due upon recognisance

- (1) Notwithstanding the foregoing provisions of this Act, where any person has entered into a recognisance to Her Majesty, and the recognisance is forfeited, and no other procedure is provided by any Act or rule of court for the estreat thereof, a Judge or District Court Judge of the court before which, or the Justice or Community Magistrate before whom, the same was forfeited may cause the recognisance to be estreated as hereinafter provided.

- (2) The Judge, District Court Judge, Justice, or Community Magistrate shall, by writing under his hand in form 3 of Schedule 3, or to the like effect, certify that the forfeiture has taken place, and shall deliver or send by post the said recognisance and writing to the Attorney-General, who, upon receipt thereof, shall cause a final judgment to be signed in the High Court for the amount of the recognisance, and a sum not exceeding \$10 for costs.

- (3) Every such judgment may be in form 4 of Schedule 3, or to the like effect, and no appeal shall lie therefrom.

Compare: 1908 No 34 s 5

Section 21(1): amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 21(1): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 21(2): amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Section 21(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 21(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

22 Barristers or solicitors may be appointed to act for Attorney-General in each district

- (1) The Governor-General may from time to time appoint for each district constituted under the Judicature Act 1908 a person, being a barrister or solicitor of the High Court, to act in the district for which the person is appointed in the name and on behalf of the Attorney-General in all such matters as by sections 20 and 21 of this Act are to be done by the Attorney-General.
- (2) On any such appointment being made and published in the *Gazette* and while the appointment remains in force—
 - (a) all certificates under section 20 of fines imposed within the district for which the person is appointed shall be sent to him instead of to the Attorney-General, and he shall cause final judgment to be signed thereon in the form mentioned in that section:
 - (b) all recognisances forfeited within the district for which the person is appointed shall, together with the certificate mentioned in section 21, be sent to him, and he shall cause final judgment to be signed thereon on behalf of the Attorney-General in the form mentioned in that section.

Compare: 1908 No 34 s 6

Section 22(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

23 Judgments for fines and on recognisances may be vacated by High Court

Where final judgment has been signed under the provisions of section 20 or section 21, the High Court may order satisfaction to be entered upon the judgment, whether execution has been issued thereon or not:

provided that such an order shall not be made except upon notice calling upon the Attorney-General to show cause; nor unless it is proved by affidavit to the satisfaction of the High Court either that the judgment has been satisfied, or that, ac-

ording to equity and good conscience and the real merits and justice of the case, the defendant ought not to be required to satisfy the same.

Compare: 1908 No 34 s 7

Section 23 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 23: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 23 proviso: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Part 3

Execution

24 Satisfaction of orders against the Crown

- (1) Except as provided in this section, no execution or attachment or process in the nature thereof shall be issued out of any court for enforcing satisfaction by the Crown, or by the Attorney-General, or any government department or officer of the Crown of any order made in any civil proceedings under this Act.
- (2) Where in any civil proceedings any order (whether for costs or otherwise) is made by the court in favour of any person against the Crown or the Attorney-General or any government department or officer of the Crown, and the person in whose favour the order is made so requests, the proper officer of the court shall issue to that person, without payment of any fee, a certificate in form 5 of Schedule 3 or to the like effect: provided that, if the order provides for the payment of money, the court by which the order is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the money so payable, or any part thereof, shall be suspended, and (if the certificate has not been issued) may order any such directions to be inserted therein.
- (3) On receipt of any such certificate the Governor-General, without further appropriation than this section, may cause to be paid to the person therein named the amount payable by the Crown under the order, together with any costs allowed him by the court and the interest, if any, lawfully due thereon, and

may also perform or give effect to the terms of the order so far as it is to be satisfied by the Crown.

- (4) The Minister of Finance shall, forthwith after the end of each financial year, cause to be prepared, in such form as he approves or directs, a statement showing all amounts paid under this section without appropriation other than this section; and shall, as soon as practicable, cause the statement (duly audited by the Auditor-General) to be laid before Parliament.

Compare: 1908 No 34 ss 31, 32; Crown Proceedings Act 1947 s 25 (UK)

Section 24(4): amended, on 1 July 2001, pursuant to section 52 of the Public Audit Act 2001 (2001 No 10).

25 Execution by the Crown

- (1) Subject to the provisions of this Act and any other Act, any order made in favour of the Crown against any person in any civil proceedings may be enforced in the same manner as an order made between subjects is enforced, and not otherwise. This subsection shall apply both in relation to proceedings pending at the commencement of this Act and in relation to proceedings instituted thereafter.
- (2) Nothing in this section shall affect any procedure which immediately before the commencement of this Act was available for enforcing an order made in favour of the Crown in proceedings brought by the Crown for the forfeiture or condemnation of any goods, or the forfeiture of any ship or any share in a ship.

Compare: 1908 No 34 ss 19, 20; Crown Proceedings Act 1947 s 26 (UK)

26 Attachment of money payable by the Crown

Any person who has obtained an order for the payment of money may take proceedings, in accordance with rules of court, to obtain payment to him of the amount of any debt payable by or accruing due from the Crown to the person against whom the order was made, or so much thereof as may be sufficient to satisfy the order and the cost of the garnishee proceedings; and in any such case the court may make any order in respect of the amount payable by or accruing due

from the Crown which it would be entitled to make if the whole proceedings were between subjects:

provided that, except as provided in any other Act, no such order shall be made in respect of—

- (a) any wages, salary, honorarium, allowances, or expenses payable to any officer of the Crown as such:
- (b) any money which is subject to the provisions of any enactment prohibiting or restricting assignment or charging or taking in execution.

Compare: 1947 No 16 s 96; Crown Proceedings Act 1947 s 27 (UK)

Part 4 Miscellaneous and supplemental

Miscellaneous

27 Discovery

- (1) Subject to and in accordance with rules of court,—
 - (a) in any proceedings (other than criminal proceedings) to which the Crown is a party or third party, the Crown may be required by the court to answer interrogatories if the Crown could be required to do so if it were a private person of full age and capacity; and
 - (b) in any such proceedings as aforesaid the Crown may be required by the court to make discovery of documents and produce documents for inspection if the Crown could be required to do so if it were a private person of full age and capacity:

provided that this section shall be without prejudice to any rule of law which authorises or requires the withholding of any document or the refusal to answer any question on the ground that the disclosure of the document or the answering of the question would be injurious to the public interest.
- (2) Any order of the court made under the powers conferred by paragraph (a) of the last preceding subsection shall direct by what officer of the Crown the interrogatories are to be answered.
- (3) Without prejudice to the proviso to subsection (1), any rules made for the purposes of this section shall be such as to secure that the existence of a document will not be disclosed if—

- (a) the Prime Minister certifies that the disclosure of the existence of that document would be likely to prejudice—
 - (i) the security or defence of New Zealand or the international relations of the Government of New Zealand; or
 - (ii) any interest protected by section 7 of the Official Information Act 1982; or
- (b) the Attorney-General certifies that the disclosure of the existence of that document would be likely to prejudice the prevention, investigation, or detection of offences.

Compare: Crown Proceedings Act 1947 s 28 (UK)

Section 27(1)(a): amended, on 1 July 1983, by section 2(1) of the Crown Proceedings Amendment Act 1982 (1982 No 165).

Section 27(3): replaced, on 1 July 1983, by section 2(2) of the Crown Proceedings Amendment Act 1982 (1982 No 165).

28 Exclusion of proceedings *in rem* against the Crown

- (1) Nothing in this Act shall authorise proceedings *in rem* in respect of any claim against the Crown, or the arrest, detention, or sale of any ships or aircraft, or any cargo or other property belonging to Her Majesty, whether in right of Her Government in New Zealand or otherwise, or give to any person any lien on any such ship, aircraft, cargo, or other property.
- (2) Where proceedings *in rem* have been instituted in the High Court against any such ship, aircraft, cargo, or other property, the court may, if satisfied, either on an application by the plaintiff for an order under this subsection or on application by the Crown to set aside the proceedings, that the proceedings were so instituted by the plaintiff in the reasonable belief that the ship, aircraft, cargo, or other property did not belong to the Crown, order that the proceedings shall be treated as if they were *in personam* duly instituted against the Crown in accordance with the provisions of this Act, or duly instituted against any other person whom the court regards as the proper person to be sued in the circumstances, and that the proceedings shall continue accordingly. Any such order may be made upon such terms, if any, as the court thinks just; and, where the court makes any such order, it may make such consequential orders as the court thinks expedient.

Compare: Crown Proceedings Act 1947 s 29 (UK)

Section 28(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

29 Application to the Crown of certain statutory provisions

- (1) This Act shall not prejudice the right of the Crown to take advantage of the provisions of an Act although not named therein; and it is hereby declared that in any civil proceedings against the Crown the provisions of any Act which could, if the proceedings were between subjects, be relied upon by the defendant as a defence to the proceedings, whether in whole or in part, or otherwise, may, subject to any express provision to the contrary, be so relied upon by the Crown.
- (2) Section 55 of the Judicature Act 1908 and section 109 of the District Courts Act 1947 (which empower the High Court or a District Court Judge in certain circumstances to order the arrest of a defendant about to leave New Zealand), shall, with the necessary modifications, apply to civil proceedings by the Crown in the High Court or in a District Court, as the case may be.

Compare: Crown Proceedings Act 1947 s 31 (UK)

Section 29(2): amended, on 1 April 1980, pursuant to section 2(3) of the District Courts Amendment Act 1979 (1979 No 125).

Section 29(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 29(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Supplemental

30 Rules of court

- (1) Any power to make, alter, or revoke rules touching or regulating the practice and procedure of any court shall include power to make, alter, or revoke rules for the purpose of giving effect to the provisions of this Act, and any such rules may contain provisions to have effect in relation to any proceedings by or against the Crown in substitution for or by way of addition to any of the provisions of the rules applying to proceedings between subjects.

- (2) Without prejudice to the generality of the foregoing provisions of this section, rules may be made with respect to the following matters:
- (a) for providing for service outside New Zealand of process or notice thereof, in the case of proceedings by the Crown against persons, whether British subjects or not;
 - (b) for securing that where any civil proceedings are brought against the Crown in accordance with the provisions of this Act the plaintiff shall, before the Crown is required to take any steps in the proceedings, provide the Crown with such information as the Crown may reasonably require as to the circumstances in which it is alleged that the liability of the Crown has arisen and as to the departments and officers of the Crown concerned;
 - (c) for providing that in the case of proceedings against the Crown the plaintiff shall not enter judgment in default of appearance or pleading without the leave of the court to be obtained on an application of which notice has been given to the Crown;
 - (d) for excepting proceedings brought against the Crown from the operation of any rule of court providing for summary judgment without trial;
 - (e) for providing that a person shall not be entitled to avail himself of any set-off or counterclaim in any proceedings by the Crown for the recovery of taxes, duties, or penalties, or to avail himself in proceedings of any other nature by the Crown of any set-off or counterclaim arising out of a right or claim to repayment in respect of any taxes, duties, or penalties;
 - (f) for providing that a person shall not be entitled, without the leave of the court, to avail himself of any set-off or counterclaim in any proceedings by the Crown if either the subject matter of the set-off or counterclaim does not relate to the government department or officer of the Crown in whose name the proceedings are brought, or the proceedings are brought in the name of the Attorney-General;

- (g) for providing that the Crown, when sued in the name of a government department or of an officer of the Crown, shall not, without the leave of the court, be entitled to avail itself of any set-off or counterclaim if the subject matter thereof does not relate to that department or officer; and
- (h) for providing that the Crown, when sued in the name of the Attorney-General, shall not be entitled to avail itself of any set-off or counterclaim without the leave of the court.

Compare: Crown Proceedings Act 1947 s 35 (UK)

31 General rules to apply in the absence of special rules

Subject to the provisions of this Act and any other Act, and to any rules made pursuant to the last preceding section, the laws, statutes, and rules for the time being in force as to pleading, joinder of parties, third party procedure, evidence, hearing and trial, amendment, arbitration, special cases, the means of procuring and taking evidence, set-off, appeal, and all other laws, statutes, and rules for the time being available as between plaintiffs and defendants in personal actions between subjects, and the practice and course of procedure of the court in its legal and equitable jurisdiction respectively for the time being in reference to such suits and personal actions, shall, unless the court otherwise orders, be applicable and apply and extend to civil proceedings by or against the Crown.

Compare: 1908 No 34 s 34

32 Crown proceedings in the Cook Islands

Amendment(s) incorporated in the Act(s).

33 Crown proceedings in Western Samoa

[Repealed]

Section 33: repealed, at 11 pm on 1 January 1962, by section 10(1) of the Western Samoa Act 1961 (1961 No 68).

34 Repeals and savings

- (1) The enactments specified in Schedule 4 are hereby repealed.

- (2) All appointments, rules, orders, warrants, records, instruments, and generally all acts of authority which originated under any of the said enactments, or under the corresponding provisions of any former enactment, and are subsisting or in force at the commencement of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.
- (3) All matters and proceedings commenced under any such enactment and pending or in progress at the commencement of this Act may be continued and completed under the said enactments in all respects as if the said enactments continued in force.

35 Saving of certain rights, etc

- (1) Nothing in this Act shall apply to or authorise proceedings by or against Her Majesty in Her private capacity.
- (2) Except as therein otherwise expressly provided, nothing in this Act shall—
 - (a) affect the law relating to prize salvage, or apply to proceedings in causes or matters within the jurisdiction of the High Court as a Prize Court, or to any criminal proceedings; or
 - (b) authorise proceedings to be taken against the Crown under or in accordance with this Act in respect of any alleged liability of the Crown arising otherwise than in respect of Her Majesty's Government in New Zealand, or affect proceedings against the Crown in respect of any such alleged liability as aforesaid; or
 - (c) affect any proceedings by the Crown otherwise than in right of Her Majesty's Government in New Zealand; or
 - (d) subject the Crown to any greater liabilities in respect of the acts or omissions of any independent contractor employed by the Crown than those to which the Crown would be subject in respect of the acts or omissions if the Crown were a private person; or
 - (e) subject the Crown to any liability in respect of the acts or omissions of any medical practitioner, pharmaceut-

- ical chemist, midwife, obstetric nurse, dentist, or any other person while any such person is rendering any professional or other service or supplying any medicine, drug, appliance, or material in respect of any benefit provided in accordance with Part 2 of the Social Security Act 1964, unless the medical practitioner, pharmaceutical chemist, midwife, obstetric nurse, dentist, or other person is acting as a servant of the Crown at the time of the act or omission; or
- (f) subject the Crown, in its capacity as a highway authority, to any greater liability than that to which a local authority is subject in that capacity; or
 - (g) interfere with or affect any Act that now is or hereafter may be in force whereby the Crown, or any of its officers and servants, is exempt from liability for anything done under the Act or affect any power, authority, or liability vested in or imposed upon the Crown or any of its officers or servants under any such Act; or
 - (h) affect any right of the Crown to control or otherwise intervene in proceedings affecting the Crown's rights, property, or profits; or
 - (i) *[Repealed]*
 - (j) affect any liability imposed on the Māori Trustee or on a Crown Bank Account by the Māori Trustee Act 1953; or
 - (k) affect any liability imposed on the Government Insurance Commissioner, the Government Insurance Department, or on a Crown Bank Account by the Government Life Insurance Act 1908; or
 - (l) affect any liability imposed on the State Fire Insurance General Manager or the State Fire Insurance Department or on the public revenues of New Zealand by the State Fire Insurance Act 1908 or by the Government Life Insurance Act 1908; or
 - (m) affect any liability imposed on the Housing New Zealand Corporation or on a Crown Bank Account by the Housing Corporation Act 1974.
- (3) A certificate of the Attorney-General—

- (a) to the effect that any alleged liability of the Crown arises otherwise than in respect of Her Majesty's Government in New Zealand; or
- (b) to the effect that any proceedings by the Crown are proceedings otherwise than in right of Her Majesty's Government in New Zealand,—
- shall, for the purposes of this Act, be conclusive as to the matter so certified.
- (4) Where any property vests in the Crown by virtue of any rule of law which operates independently of the acts or the intentions of the Crown, the Crown shall not by virtue of this Act be subject to any liabilities in tort by reason only of the property being so vested; but the provisions of this subsection shall be without prejudice to the liabilities of the Crown under this Act in respect of any period after the Crown or any person acting for the Crown has in fact taken possession or control of any such property, or entered into occupation thereof.
- (5) This Act shall not operate to limit the discretion of the court to grant relief by way of mandamus in cases in which such relief might have been granted before the commencement of this Act, notwithstanding that by reason of the provisions of this Act some other and further remedy is available.

Compare: 1908 No 34 s 39; Crown Proceedings Act 1947 s 40 (UK)

Section 35(2)(a): amended, on 1 April 1980, pursuant to section 12 of the Judiciary Amendment Act 1979 (1979 No 124).

Section 35(2)(e): amended, on 1 January 1978, pursuant to section 61(1)(b) of the Nurses Act 1977 (1977 No 53).

Section 35(2)(e): amended, on 1 April 1965, pursuant to section 135(1) of the Social Security Act 1964 (1964 No 136).

Section 35(2)(i): repealed, on 1 March 2002, by section 170(1) of the Public Trust Act 2001 (2001 No 100).

Section 35(2)(j): amended, on 1 July 2009, by section 30(1) of the Māori Trustee Amendment Act 2009 (2009 No 12).

Section 35(2)(j): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 35(2)(j): amended, on 1 April 1954, pursuant to section 53(1) of the Māori Trustee Act 1953 (1953 No 95).

Section 35(2)(k): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 35(2)(m): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 35(2)(m): amended, on 1 July 2001, pursuant to section 50(3)(a) of the Housing Corporation Act 1974 (1974 No 19).

Section 35(2)(m): amended, on 14 October 1974, pursuant to section 50(2) of the Housing Corporation Act 1974 (1974 No 19).

Schedule 1

s 5(2)

Enactments to bind the Crown

Acts Interpretation Act 1924 (1924 No 11) (Reprint of Statutes, Vol VIII, p 568)

Bills of Exchange Act 1908 (1908 No 15) (Reprint of Statutes, Vol I, p 583)

Declaratory Judgments Act 1908 (1908 No 220) (Reprint of Statutes, Vol II, p 51)

District Courts Act 1947 (1947 No 16)

Evidence Act 1908 (1908 No 56) (Reprint of Statutes, Vol III, p 106)

Imprisonment for Debt Limitation Act 1908 (1908 No 80) (Reprint of Statutes, Vol IV, p 388)

Infants Act 1908 (1908 No 86) (Reprint of Statutes, Vol III, p 1072)

Part 2

Inferior Courts Procedure Act 1909 (1909 No 13) (Reprint of Statutes, Vol II, p 55)

Judicature Act 1908 (1908 No 89) (Reprint of Statutes, Vol II, p 60)

Section 51, Part 3, and Schedules 2 and 3

Law Reform Act 1936 (1936 No 31)

Parts 1 and 7

Mercantile Law Act 1908 (1908 No 117) (Reprint of Statutes, Vol V, p 823)

Part 2

**Sale of Goods Act 1908 (1908 No 168) (Reprint of Statutes,
Vol VIII, p 93)****Sea Carriage of Goods Act 1940 (1940 No 31)**

Schedule 1: amended, on 1 April 1986, by section 4(1)(c) of the Insurance Law Reform Act 1985 (1985 No 117).

Schedule 1: amended, on 1 April 1983, by section 161(2) of the Friendly Societies and Credit Unions Act 1982 (1982 No 118).

Schedule 1: amended, on 1 April 1980, pursuant to section 2(3) of the District Courts Amendment Act 1979 (1979 No 125).

Schedule 1: amended, on 14 June 1967, by section 14 of the Carriage by Air Act 1962 (1962 No 19).

Schedule 1: amended, on 1 April 1957, by section 99(1) of the Government Superannuation Fund Act 1956 (1956 No 47).

Schedule 1: amended, on 1 January 1953, by section 79(1) of the Administration Act 1952 (1952 No 56).

Schedule 1: amended, on 1 January 1953, by section 155(2) of the Property Law Act 1952 (1952 No 51).

Schedule 1: amended, on 1 January 1953, by section 23(1) of the Deaths by Accidents Compensation Act 1952 (1952 No 35).

Schedule 2

s 12

Proceedings abolished by this Act

- 1 Proceedings by Her Majesty by way of—
 - (a) writs of *capias ad respondendum*;
 - (b) informations in civil suits in lieu of statements of claim, except where such proceedings are expressly authorised by any Act;
 - (c) writs of *feri facias* and *feri capias*;
 - (d) informations of intrusion and writs of intrusion.

Schedule 2 clause 1(d): inserted, on 1 January 1989, by section 2 of the Crown Proceedings Amendment Act 1988 (1988 No 115).

 - 2 Proceedings against Her Majesty by way of petition of right, including proceedings by way of petition of right under section 52 of the Naval Prize Act 1864 of the United Kingdom Parliament.
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Schedule 3**Forms**

Form 1

s 20(1)

Certificate of fine

This is to certify to the Attorney-General that, at the [*specify*] this day held at [*place*], the several persons whose names and places of abode or business are specified in the Schedule below were fined the several sums therein set opposite to their respective names, and that the cause of each such fine is duly and truly set forth in the said schedule.

Schedule

Full name	Place of abode or business	Cause of fine	Amount
		<i>Behaving and conducting himself in a disorderly manner in court</i>	\$
		Total	\$

Given under my hand:

Date:

Signature:

(Judge *or* District Court Judge)

Schedule 3 form 1: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Form 2
Judgment in respect of fine

s 20(2)

No:

In the High Court of New Zealand at *[place]*.

Be it remembered that the Attorney- (or Solicitor-) General has informed the court that at the *[specify]* held at *[place]* on *[date]*, before *[specify]* a fine of \$*[amount]* was imposed and inflicted upon *[name]* because he, the said *[name]* (*behaved and conducted himself in a disorderly manner in the said court, or as the case may be*) as by the certificate of the said *[name]* now filed of record appears. Therefore, on *[date]*, it is adjudged by the court here that the Crown do recover against the said *[name]* the sum of \$*[amount]*, and also the sum of \$*[amount]* for costs, making together the sum of \$*[amount]*.

Dated at: *[place, date]*

Signature:

(Registrar)

Schedule 3 form 2: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Schedule 3 form 2: amended, on 1 April 1973, by section 18(3) of the Judicature Amendment Act 1972 (1972 No 130).

Form 3

s 21(2)

Certificate of forfeiture of recognisance

This is to certify to the Attorney-General that, at the [*specify*] this day held at [*place*] the recognisances hereunto annexed were forfeited, and were there and then caused to be estreated.

Given under my hand:

Date:

Signature:

(Judge, District Court Judge, Justice, *or* Community Magistrate)

Schedule 3 form 3: amended, on 30 June 1998, by section 7 of the District Courts Amendment Act 1998 (1998 No 76).

Schedule 3 form 3: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Form 4

s 21(3)

Judgment in respect of recognisance

In the High Court of New Zealand at *[place]*.

Be it remembered that the Attorney- (*or* Solicitor-) General has informed the court that at the *[specify]* held at *[place]* on *[date]*, before *[specify]*, the recognisance of one *[specify]*, by which he acknowledged to owe to the Crown the sum of \$*[amount]*, was forfeited and estreated as by the said recognisance and the certificate of the said *[specify]* now filed of record appears. Therefore, on *[date]*, it is adjudged by the court here that the Crown do recover against the said *[name]* the sum of \$*[amount]*, and also the sum of \$*[amount]* for costs, making together the sum of \$*[amount]*.

Dated at: *[place, date]*

Signature:

(Registrar)

Schedule 3 form 4: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Schedule 3 form 4: amended, on 1 April 1973, by section 18(3) of the Judicature Amendment Act 1972 (1972 No 130).

Form 5

s 24(2)

Certificate of judgment, etc

In the High Court of New Zealand at *[place]**(or In the District Court held at [place]).*Between *[name]*, plaintiff,and *[name]*, defendant.

I hereby certify that *[name]*, of *[place]*, did on *[date]*, in the High Court *(or the District Court)* at *[place]*, obtain a judgment (order, decree, *or* declaration); and that by the judgment (order, decree, *or* declaration) the Crown was ordered to pay to him the sum of \$*[amount]* *(or as the case may be)*.

Dated at: *[place, date]*

Signature:

(Registrar)

Schedule 3 form 5: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Schedule 3 form 5: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Schedule 3 form 5: amended, on 1 April 1973, by section 18(3) of the Judicature Amendment Act 1972 (1972 No 130).

Schedule 4

s 34(1)

Enactments repealed

Crown Suits Act 1908 (1908 No 34) (Reprint of Statutes, Vol II, p 550)

Crown Suits Amendment Act 1910 (1910 No 54) (Reprint of Statutes, Vol II, p 566)

Law Reform Act 1936 (1936 No 31)

Amendment(s) incorporated in the Act(s).

Statutes Amendment Act 1945 (1945 No 40)

Amendment(s) incorporated in the Act(s).

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 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
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Notes**1 General**

This is a reprint of the Crown Proceedings Act 1950. The reprint incorporates all the amendments to the Act as at 1 January 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint (most recent first)*

Limitation Act 2010 (2010 No 110): section 58
Māori Trustee Amendment Act 2009 (2009 No 12): section 30(1)
Visiting Forces Act 2004 (2004 No 59): section 26
Supreme Court Act 2003 (2003 No 53): section 48(1)
Trade Marks Act 2002 (2002 No 49): section 201
Public Trust Act 2001 (2001 No 100): section 170(1)
Public Audit Act 2001 (2001 No 10): section 52
District Courts Amendment Act 1998 (1998 No 76): section 7
Te Ture Whenua Maori Act 1993 (1993 No 4): section 362(2)
Civil Aviation Amendment Act 1991 (1991 No 116): section 12
District Courts Amendment Act 1991 (1991 No 61): section 22
Civil Aviation Act 1990 (1990 No 98): section 101(3)

Public Finance Act 1989 (1989 No 44): section 83(7)
Crown Proceedings Amendment Act 1988 (1988 No 115)
Disputes Tribunals Act 1988 (1988 No 110): section 82(2)
Insurance Law Reform Act 1985 (1985 No 117): section 4(1)(c)
Crown Proceedings Amendment Act 1982 (1982 No 165)
Friendly Societies and Credit Unions Act 1982 (1982 No 118): section 161(2)
District Courts Amendment Act 1979 (1979 No 125): sections 2(3), 18(2)
Judicature Amendment Act 1979 (1979 No 124): section 12
Nurses Act 1977 (1977 No 53): section 61(1)(b)
Crown Proceedings Amendment Act 1974 (1974 No 81)
Housing Corporation Act 1974 (1974 No 19): section 50(2), (3)(a)
Judicature Amendment Act 1972 (1972 No 130): sections 14(1), 18(3)
Crown Proceedings Amendment Act 1969 (1969 No 74)
Social Security Act 1964 (1964 No 136): section 135(1)
Crown Proceedings Amendment Act 1962 (1962 No 120)
Carriage by Air Act 1962 (1962 No 19): section 14
Western Samoa Act 1961 (1961 No 68): section 10(1)
Crown Proceedings Amendment Act 1958 (1958 No 61)
Government Superannuation Fund Act 1956 (1956 No 47): section 99(1)
Māori Trustee Act 1953 (1953 No 95): section 53(1)
Designs Act 1953 (1953 No 65): section 52(1)
Patents Act 1953 (1953 No 64): section 119(1)
Administration Act 1952 (1952 No 56): section 79(1)
Property Law Act 1952 (1952 No 51): section 155(2)
Deaths by Accidents Compensation Act 1952 (1952 No 35): section 23(1)
