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Contempt of Court Act 2019

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Commencement	see section 2

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Justice.

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Contempt of Court Act 2019.

2 Commencement

(1) This Act comes into force on the earlier of—

(a) a date appointed by the Governor-General by Order in Council; and

(b) the date that is 1 year after the date on which this Act receives the Royal assent.

(2) One or more Orders in Council may be made under subsection (1)(a) appointing different dates for different provisions.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Part 1
Preliminary provisions

3 Purposes

(1) The principal purposes of this Act are to—

(a) promote and facilitate the administration of justice and uphold the rule of law; and

(b) maintain and enhance public confidence in the judicial system; and

(c) reform the law of contempt of court.

(2) For those purposes, this Act enables courts to make certain orders and impose certain sanctions so that—

(a) civil and criminal court proceedings are heard and determined fairly by independent and impartial Judges; and

(b) jury verdicts are based only on facts admitted or proved by properly adduced evidence after free, frank, and confidential jury discussions, and the finality of verdicts is protected; and

(c) individual cases are heard and determined in a manner that is expeditious, efficient, and consistent with the principles of justice and the rule of law; and

(d) except in proceedings where the law restricts access to the court or restricts the reporting of proceedings (such as proceedings in the Family Court or the Youth Court) or in unusual circumstances, proceedings are open to the public and news media; and

(e) orders made by the courts are enforceable; and

(f) the independence, integrity, impartiality, and authority of the judiciary are protected.

(3) In reforming the law of contempt of court in New Zealand, this Act—

(a) abolishes the common law contempts of—

(i) contempt in the face of the court; and

(ii) publishing information that interferes with a fair trial; and

(iii) jurors researching information relevant to the trial; and

(iv) disclosing juror deliberations; and

(v) disobeying court orders; and

(vi) scandalising the court; but

(b) preserves the inherent jurisdiction of the High Court to punish for contempt of court in circumstances where this Act does not apply.

4 Interpretation

In this Act, unless the context otherwise requires,—

bailiff has the same meaning as in section 4 of the District Court Act 2016

category 3 offence and **category 4 offence** have the meanings given to them in section 6 of the Criminal Procedure Act 2011

charged, in relation to an offence, means a charging document for the offence has been filed under the Criminal Procedure Act 2011

constable has the same meaning as in section 4 of the Policing Act 2008

court means any of the following courts:

(a) the District Court:

(b) the High Court:

(c) the Court of Appeal:

(d) the Supreme Court

judicial officer means—

(a) a High Court Judge:

(b) a District Court Judge:

(c) a Community Magistrate:

(d) a Justice of the Peace

officer of the court means—

(a) a person who holds an office referred to in section 33 of the Senior Courts Act 2016:

(b) a person who is an officer of the court as defined in section 4 of the District Court Act 2016

online content host, in relation to any information, means the person who has control over the part of the electronic retrieval system, such as an Internet site or an online application, on which the information is posted and accessible by the user

person, in relation to a defendant or other party in any proceedings, includes a body corporate

Police employee has the same meaning as in section 4 of the Policing Act 2008

publish includes—

(a) insert in any newspaper or other periodical publication printed, published, or distributed in New Zealand; or

(b) send to any person, by post or otherwise; or

(c) deliver to any person or leave upon premises occupied by any person; or

(d) broadcast within the meaning of the Broadcasting Act 1989; or

(e) include in any film or video recording; or

(f) disseminate by means of the Internet or any other electronic, digital, or similar medium; or

(g) display by way of a sign, a notice, a poster, or other means.

5 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

6 Act binds the Crown

(1) This Act binds the Crown.

(2) However, to avoid doubt, a court may not issue a warrant, impose a fine, or make an order under section 16(4)(a) or (b) against the Crown, the Attorney-General, a government department as defined in section 2(1) of the Crown Proceedings Act 1950, or an officer of the Crown.

(3) Nothing in subsection (2) prevents any person seeking a declaratory order under the Declaratory Judgments Act 1908 that the Crown, Attorney-General, government department, or officer of the Crown is in breach of a judgment or order against the Crown.

Part 2
Provisions to promote and facilitate administration of justice

Subpart 1—Prohibiting publication of certain criminal trial information

7 Offence to publish certain criminal trial information

(1) This section applies if a person (**person A**) is arrested for or charged with a category 3 offence or a category 4 offence, and—

(a) applies from the time of the arrest or charge (whichever happens first) until the delivery of the verdict; and

(b) ceases to apply if—

(i) person A is not charged; or

(ii) person A pleads guilty to the offence or a jury delivers a verdict for the offence; or

(iii) the charge for the offence is withdrawn, dismissed, stayed, or otherwise disposed of; or

(iv) a Judge-alone trial starts for the offence.

(2) A person commits an offence if—

(a) the person intentionally publishes any information; and

(b) the information is relevant to any trial of person A; and

(c) there is a real risk that the publication could prejudice person A's right to a fair trial.

(3) A person who commits an offence against subsection (2) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding $25,000; or

(b) in the case of a body corporate, to a fine not exceeding $100,000.

(4) A person has a defence in a prosecution for an offence against subsection (2) if the person proves that,—

(a) at the time of the publication of the information and after taking all reasonable care, the person did not know or could not reasonably have known of person A's arrest or charge or the possibility or existence of a jury trial; or

(b) as the online content host or the distributor of the publication, after taking all reasonable care, the person did not know or could not reasonably have known that it contained information that created a real risk of prejudicing person A's right to a fair trial.

(5) Subsection (2) does not apply to a fair and accurate report of a hearing held in public that is published contemporaneously with the hearing and in good faith.

8 How court determines whether publication creates real risk of prejudice to right to fair trial

(1) In determining whether, for the purpose of section 7(2)(c), a publication creates a real risk of prejudice to person A's right to a fair trial, the court must consider the following:

(a) the likely effect of the publication as a whole:

(b) whether the publication is likely to be available to jurors or potential jurors:

(c) the medium in which the publication is presented and its potential accessibility and durability:

(d) the content of the publication:

(e) the character of the publication, including the language and tone used in it:

(f) any other relevant circumstances relating to the likely effect of the publication.

(2) In its consideration of the content of the publication, the court may (without limitation) consider whether the publication includes any of the following:

(a) information indicating that person A is of bad character, including previous misconduct, criminal or gang affiliations, criticism of person A's personality, or information about previous charges or acquittals:

(b) information indicating that person A has confessed to the charge, or any component of it, or to conduct that may result in person A being charged or convicted:

(c) information commenting on the credibility of person A or any witnesses:

(d) information given at trial in the jury's absence or information that has been ruled inadmissible at trial:

(e) photographs, pictorial information, or other information that reveals the appearance of person A if the identity of the alleged offender is, or is likely to be, in issue at trial.

9 Further provisions applying for purpose of section 7

(1) If a person is convicted of an offence against section 7(2), the court may also order any person (including an online content host) to take down, or disable public access to, the information concerned if it is under the person's control.

(2) A person who knowingly or recklessly fails to comply with an order made under subsection (1) commits an offence, and section 211 of the Criminal Procedure Act 2011 applies as if the order were a suppression order and the offence were an offence to which section 211(1) of that Act applies.

(3) A person who fails to comply with an order made under subsection (1) commits an offence, and section 211 of the Criminal Procedure Act 2011 applies as

if the order were a suppression order and the offence were an offence to which section 211(2) of that Act applies.

(4) Subpart 7 of Part 6 of the Criminal Procedure Act 2011 (appeals against suppression orders) applies to any decision to make or refuse to make an order under subsection (1).

Subpart 2—Dealing with disruptive behaviour relating to court proceedings

10 Judicial officer may cite disruptive behaviour

(1) This section applies if a judicial officer believes that any person is—

(a) wilfully disrupting the proceedings of a court; or

(b) wilfully and without lawful excuse disobeying any order or direction of the court in the course of the hearing of any proceedings.

(2) The judicial officer may take 1 or more of the following actions:

(a) order that the person be excluded from the sitting of the court:

(b) cite the person for disruptive behaviour and order that the person be taken into custody and detained until a time no later than the time the court rises for the day.

(3) Any constable or officer of the court, with or without the assistance of any other person, is authorised to execute the order and may take the person into custody or remove the person in accordance with the order.

(4) Any person taken into custody under this section must be dealt with in accordance with the procedure in section 11, which applies for the purpose of this subpart.

11 Procedure for dealing with person cited for disruptive behaviour

(1) While being held in custody, a person cited for disruptive behaviour must be given a reasonable opportunity to—

(a) obtain legal representation; and

(b) apologise to the court.

(2) Before the court rises for the day on which the person is cited and ordered to be detained, the judicial officer must review the matter and, if the judicial officer considers that further punishment is necessary, the judicial officer must—

(a) provide a written statement to the person cited that specifies the behaviour that the judicial officer believes was disruptive behaviour; and

(b) if the judicial officer is a Judge, consider whether there are exceptional circumstances that warrant a different Judge hearing the matter; and

(c) set the matter down for determination before a Judge within the next 7 days.

(3) If the matter is set down for determination, section 168 of the Criminal Procedure Act 2011 (dealing with a defendant on adjournment) applies with the necessary modifications.

(4) At the hearing,—

(a) the Judge may receive from any person any evidence or statement that the Judge considers relevant; and

(b) the Judge must make a finding under subsection (5).

(5) On finding beyond reasonable doubt that the person is guilty of the conduct described in section 10(1)(a) or (b), the Judge—

(a) must not convict the person; but

(b) may—

(i) issue a warrant committing the person to imprisonment for a term not exceeding 3 months; or

(ii) impose on the person a fine not exceeding $10,000; or

(iii) order the person to do community work, not exceeding 200 hours, as the Judge thinks fit.

12 Further provisions applying for purpose of this subpart

(1) Subparts 1, 2, and 3 of Part 2 of the Sentencing Act 2002 apply to any action taken under section 11(5) as if the finding were a conviction for an offence and any imprisonment, fine, or order to do community work were a sentence.

(2) Subpart 5 of Part 6 of the Criminal Procedure Act 2011 (appeals against finding of or sentence for contempt of court) applies to any finding of guilt and to any imprisonment, fine, or order to do community work under section 11(5).

(3) A warrant for the committal of any person to prison under section 11(5) must be directed to a bailiff or constable, who may take the person into custody, and every constable has a duty to assist in the execution of the orders or warrants issued under that provision.

(4) Any person committed to prison by any court under section 11(5) must be committed to a prison established under or deemed to be established under the Corrections Act 2004, and the prison manager of the prison mentioned in the order or warrant is bound to receive and keep the person until the person is lawfully discharged.

Subpart 3—Provisions relating to juries

13 Jury members who investigate or research case are liable to fine

(1) This section applies if a person who is a member of a jury constituted for a trial,—

(a) during the trial period, intentionally investigates or researches information relevant to the trial; and

(b) does so when the person knew or ought reasonably to have known it is or may be information relevant to the trial.

(2) This section does not apply if the person undertakes the investigation or research with the permission, or at the direction, of the trial Judge.

(3) If this section applies, the Judge—

(a) must explain or provide a written statement to the person that specifies the behaviour that the Judge believes may constitute a breach of subsection (1) and cause the person to be liable for a fine; and

(b) must give the person a reasonable opportunity to obtain legal advice; and

(c) may receive from any person any evidence or statement that the Judge considers relevant; and

(d) must make a finding under subsection (4).

(4) On finding beyond reasonable doubt that the person is guilty of the conduct described in subsection (1), the Judge—

(a) must not convict the person; but

(b) may impose on the person a fine not exceeding $5,000.

(5) Subpart 5 of Part 6 of the Criminal Procedure Act 2011 (appeals against finding of or sentence for contempt of court) applies to any finding of guilt and to any fine under subsection (4).

(6) In this section,—

information relevant to the trial means information about any of the following:

(a) the defendant:

(b) any other person involved in the events which are the subject of the trial:

(c) any person involved in the trial, including a witness:

(d) the events that are the subject of the trial:

(e) the law relating to the trial:

(f) the law of evidence

investigate or research includes—

(a) ask a question or have a discussion (by any means) with a person who is not a jury member or the trial Judge:

(b) search any information source, including the Internet:

(c) visit or inspect a place or an object:

(d) conduct an experiment:

(e) ask another person to perform any of the actions listed above

trial period means the period that—

(a) begins when a jury has been constituted under section 19 of the Juries Act 1981; and

(b) ends when the jury is discharged or, in the case of an individual jury member who is discharged during the trial, the member is discharged.

14 Offence to disclose jury deliberations

(1) A person commits an offence if the person intentionally discloses, solicits, or obtains information about statements made, opinions expressed, arguments advanced, or votes cast by members of a jury in the course of their deliberations in proceedings before a court.

(2) A person who commits an offence against subsection (1) is liable on conviction to,—

(a) in the case of an individual, imprisonment for a term not exceeding 3 months or a fine not exceeding $10,000; or

(b) in the case of a body corporate, a fine not exceeding $40,000.

15 Exceptions to section 14

(1) It is not an offence against section 14(1) if the information—

(a) is sought by, or disclosed to, the court in the course of the performance of the jury's functions; or

(b) is disclosed to the trial Judge during or after the trial in a complaint or allegation of misconduct by a juror; or

(c) is sought or disclosed by a current or former juror in discussions with a health practitioner who is treating the juror in relation to issues arising out of their jury service; or

(d) is sought or disclosed during or after the trial with the permission of the presiding Judge or the relevant head of bench, including for the purpose of conducting research about juries or jury service; or

(e) is sought or disclosed as directed by a court (including on an appeal); or

(f) is disclosed under subsections (2) to (5).

(2) A person who has reason to believe that an offence against section 14(1) may have been committed in relation to the jury trial, or that the conduct of any juror in the trial may provide grounds for an appeal, may refer the matter to any person referred to in subsection (3).

(3) The persons concerned are—

(a) the Solicitor-General:

(b) a Police employee:

(c) the prosecutor in the trial:

(d) a lawyer acting for the defendant.

(4) The person who refers the matter may disclose to the recipient information about statements made, opinions expressed, arguments advanced, or votes cast by members of a jury in the course of their deliberations.

(5) A recipient of information under subsection (4) may disclose the information to any other person only for the purpose of considering whether an offence against section 14(1) may have been committed or the conduct of any juror in the trial may provide grounds for an appeal.

(6) In this section, **health practitioner** has the same meaning as in section 5 of the Health Practitioners Competence Assurance Act 2003.

Subpart 4—Enforcement of certain court orders

16 Certain court orders and undertakings may be enforced

(1) This section applies to—

(a) any interim or final order, decision, decree, direction, or judgment of a court (a **court order**) to do or abstain from doing something, except as provided in section 17:

(b) any undertaking given to the court if, on the faith of the undertaking, the court has sanctioned a particular course of action or inaction.

(2) A court may enforce the court order or undertaking against the party, non-party, or other person bound by the order or undertaking by taking action provided for in subsections (3) and (4) on application by—

(a) the party who sought the order or undertaking being enforced; or

(b) a person who benefits from, or has an interest under, the order or undertaking; or

(c) the Solicitor-General, if the Solicitor-General is satisfied that there is a high degree of public interest in enforcing the order or undertaking.

(3) The court—

(a) must not proceed further under this section unless it is satisfied that other methods of enforcing the court order or undertaking have been considered and are inappropriate or have been tried unsuccessfully; and

(b) if so satisfied, must make a finding as to whether it is proved beyond reasonable doubt that—

(i) the court order or undertaking being enforced has been made in clear and unambiguous terms and is clearly binding on the person; and

(ii) the person had knowledge or proper notice of the terms of the court order or undertaking being enforced; and

(iii) the person has, without reasonable excuse, knowingly failed to comply with the court order or undertaking being enforced.

(4) On finding beyond reasonable doubt that the requirements of subsection (3)(b)(i) to (iii) are met, the court may—

(a) do any of the following:

(i) issue a warrant committing the person or a director or an officer of the body corporate, as the case may be, to a term of imprisonment not exceeding 6 months:

(ii) impose a fine,—

(A) in the case of an individual, not exceeding $25,000; or

(B) in the case of a body corporate, not exceeding $100,000:

(iii) order the individual or a director or an officer of the body corporate, as the case may be, to do community work, not exceeding 200 hours, as the court thinks fit:

(b) if the court is the High Court, make a sequestration order in accordance with the rules of court.

(5) An applicant may apply under subsection (2) on 1 or more occasions to enforce the same court order or undertaking, and the court may take further action under subsections (3) and (4) as it thinks necessary to enforce the order or undertaking.

(6) Any enforcement action under this section does not operate to extinguish or affect the liability of the person to comply with a court order or an undertaking.

17 Jurisdiction to take certain action under section 16

(1) A court may take action under section 16 to enforce a court order to pay a sum of money only if the default in making payment is within an exception listed in section 3(2) of the Imprisonment for Debt Limitation Act 1908 or the order applies to money held by a person, trust, or entity other than the defaulter.

(2) Only the High Court may take action under section 16 to enforce a court order for the recovery of land.

18 Provisions relating to fines and orders

(1) If the court fines a person under section 16, the court may direct that a portion of the fine be paid to 1 or more of the persons referred to in section 16(2)(a) to (c).

(2) If the remedy sought under section 16 is a sequestration order and the application is filed in a court other than the High Court, the court may transfer the application to the High Court for enforcement action.

(3) Section 16 does not limit a court's power to make other orders that are available in the proceedings before it (for example, an order for costs or a stay of proceedings).

19 Application of Sentencing Act 2002 and Criminal Procedure Act 2011

(1) Subparts 1, 2, and 3 of Part 2 of the Sentencing Act 2002 apply to any action taken under section 16(4)(a) as if the person had been convicted of an offence and any imprisonment, fine, or order to do community work were a sentence.

(2) Subpart 5 of Part 6 of the Criminal Procedure Act 2011 (appeals against finding of or sentence for contempt of court) applies to any finding of a failure to comply and to any imprisonment, fine, order to do community work, or sequestration order under section 16(4)(a) or (b).

20 Provisions relating to imprisonment imposed under section 16

(1) A warrant for the committal of any person to prison under section 16(4) must be directed to a bailiff or constable, who may take the person into custody, and every constable has a duty to assist in the execution of warrants issued under that provision.

(2) Any person committed to prison by any court under section 16(4) must be committed to a prison established under or deemed to be established under the Corrections Act 2004, and the prison manager of the prison mentioned in the warrant is bound to receive and keep the person until the person is lawfully discharged.

(3) If at any time it appears to the satisfaction of a Judge of the court that committed the person to prison that the person ought for any reason to be discharged, the Judge may order the person's discharge from prison on any terms (including liability to rearrest if the terms are not complied with) that the Judge thinks fit.

Subpart 5—Prohibiting publication of false statements about Judge or court, and power to make take-down orders

21 Interpretation

In this subpart,—

court means any court, including a court as defined in section 4

Judge means a Judge of any court.

22 Offence to publish false statement about Judge or court

(1) A person commits an offence if—

(a) the person publishes a false statement about a Judge or court; and

(b) the person knew or ought reasonably to have known that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court; and

(c) there is a real risk that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court.

(2) A person who commits an offence against subsection (1) is liable on conviction,—

(a) in the case of an individual, to a term of imprisonment not exceeding 6 months or a fine not exceeding $25,000:

(b) in the case of a body corporate, to a fine not exceeding $100,000.

23 Further provisions applying for purpose of section 22

(1) A charging document for an offence against section 22(1) may be filed only with the consent of the Solicitor-General.

(2) Despite any other enactment, a proceeding against a defendant for an offence against section 22(1) must be transferred to the High Court on adjournment of the defendant's first appearance in the District Court, and the proceeding from that point, including the trial, must be in the High Court.

24 Power to make take-down order

Interim order

(1) On application by the Solicitor-General, the High Court may, if satisfied on the grounds set out in subsection (2), order any person (including an online content host) to take down, or disable public access to, the information concerned if it is under the person's control.

(2) The court may make an order under subsection (1) (an **interim order**) if satisfied on the balance of probabilities that there is an arguable case that—

(a) the person has published a false statement about a Judge or court; and

(b) there is a real risk that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court.

(3) An interim order expires if—

(a) an application for a permanent order is not made within 20 working days (as defined in section 5 of the Criminal Procedure Act 2011); or

(b) an application for a permanent order is made within that period, but the application—

(i) is declined; or

(ii) is withdrawn or otherwise lapses; or

(c) a permanent order is made.

Permanent order

(4) On application by the Solicitor-General, the High Court may, if satisfied on the grounds set out in subsection (5), order any person (including an online content host) to take down, or disable public access to, the information concerned if it is under the person's control.

(5) The court may make an order under subsection (4) (a **permanent order**) if satisfied on the balance of probabilities that—

(a) the person has published a false statement about a Judge or court; and

(b) there is a real risk that the statement could undermine public confidence in the independence, integrity, impartiality, or authority of the judiciary or a court.

Part 3
General provisions and consequential amendments

25 Judicial powers exercisable as often as necessary to control proceedings

(1) This section applies to any order that may be made, or action taken, under—

(a) section 10; or

(b) section 11; or

(c) section 13; or

(d) section 16.

(2) Unless the context otherwise requires, the power of a judicial officer to make any order or take any action under this Act to which this section applies is exercisable in any proceedings as often as the judicial officer considers necessary to control the proceedings.

26 How this Act relates to other authority or power to punish for contempt of court

(1) Where this Act confers on a court or Judge any jurisdiction, authority, or power to punish a person for contravening or failing to comply with any provision of this Act, the court or Judge has no inherent jurisdiction or power to punish that conduct.

(2) Nothing in this Act limits or affects any authority or power of a court, including the authority of the High Court under its inherent jurisdiction, to punish any person for contempt of court in any circumstances to which this Act does not apply.

(3) However, if any court, tribunal, or inquiry constituted by or under an Act lacks authority to punish a contempt or enforce its processes, the High Court may punish a contempt or enforce the processes of the court, tribunal, or inquiry in the same manner as it may punish a contempt or enforce the processes of the High Court under this Act.

(4) The Supreme Court and the Court of Appeal have the same authority as the High Court to punish any person for contempt of court in any circumstances to which this Act does not apply.

(5) The following contempts are abolished as part of the common law of New Zealand:

(a) contempt in the face of the court:

(b) publishing information that interferes with a fair trial:

(c) jurors researching information relevant to the trial:

(d) disclosing juror deliberations:

(e) disobeying court orders:

(f) scandalising the court.

27 Maximum penalty and appeal rights for finding of contempt under inherent jurisdiction

(1) The maximum penalty that may be imposed by the High Court in the exercise of its inherent jurisdiction to punish any person for contempt of court in any circumstances to which this Act does not apply is 6 months' imprisonment.

(2) Subpart 5 of Part 6 of the Criminal Procedure Act 2011 applies to the finding of contempt and the penalty imposed by the High Court in those circumstances.

28 References in other Acts to contempt of court

Unless the context otherwise requires, references in any other Act to the power of a court to punish a person for contempt of court or to proceedings for contempt of court must be read as references to the power to punish for contempt of court, or to proceedings, under this Act.

29 Consequential amendments

Amend the enactments specified in Schedule 2 as set out in that schedule.

Schedule 1
Transitional, savings, and related provisions

s 5

1 Contempt of court proceedings begun before commencement of this Act to be completed under former law

(1) Any contempt of court proceeding at common law that was begun before the commencement of this Act must be continued and completed, or otherwise disposed of, as if this Act had not been passed.

(2) Any contempt of court proceeding under any Act that was begun before the commencement of this Act must also be continued and completed, or otherwise disposed of, as if this Act had not been passed.

2 Proceedings under this Act may enforce existing court order or undertaking

Sections 16 and 17 apply to any court order or undertaking of a kind described in section 16 that was made or given before the commencement of this Act.

Schedule 2
Amendments to other enactments

s 29

Commissions of Inquiry Act 1908 (1908 No 25)

In section 13B, replace "be contempt of Court, the doing of that act, whether in the face of that Commission or otherwise, shall constitute contempt of that Commission, and any member of that Commission who is a Judge of the High Court or a former Judge of the High Court may punish that person for contempt of that Commission by exercising, in relation to that person, the same powers as a Judge of the High Court would have had if that person had been guilty of contempt of Court (including the powers conferred by section 165 of the Senior Courts Act 2016); and the provisions of section 165 of the Senior Courts Act 2016 shall, with all necessary modifications, apply accordingly" with "be punishable by the High Court under subpart 2 of Part 2 of the Contempt of Court Act 2019, constitutes a disruption of the Commission and any member of that Commission who is a Judge of the High Court or a former Judge of the High Court may exercise the same powers as a Judge of the High Court can under subpart 2 of Part 2 of the Contempt of Court Act 2019, and that subpart applies with the necessary modifications".

Coroners Act 2006 (2006 No 38)

After section 117(5), insert:

(5A) A coroner exercising the power under subsection (3)(e) has the same powers that a Judge has under subpart 2 of Part 2 of the Contempt of Court Act 2019, and subpart 2 and sections 25 and 26(1) and (2) of that Act apply with the necessary modifications.

Corporations (Investigation and Management) Act 1989 (1989 No 11)

In section 67(3), replace "had been guilty of contempt of court" with "were liable under subpart 4 of Part 2 of the Contempt of Court Act 2019 for a breach of a court order".

Courts Security Act 1999 (1999 No 115)

In section 33(1), replace "section 165 of the Senior Courts Act 2016" with "subpart 2 of Part 2 of the Contempt of Court Act 2019".

Crimes Act 1961 (1961 No 43)

In section 9(a), delete "or of any court".

In section 9, insert as subsection (2):

(2) The jurisdiction, authority, or power of a court to punish for contempt is subject to the Contempt of Court Act 2019.

Criminal Disclosure Act 2008 (2008 No 38)

In section 29(6), replace "as a contempt of court" with "under subpart 4 of Part 2 of the Contempt of Court Act 2019 as a breach of a court order".

In section 32(3)(b), replace "as a contempt of court" with "under subpart 4 of Part 2 of the Contempt of Court Act 2019 as a breach of a court order".

Criminal Procedure Act 2011 (2011 No 81)

Replace section 165(8) with:

(8) Nothing in this section limits or affects any authority or power of the court to punish any witness under the Contempt of Court Act 2019.

In section 194, replace the definition of **suppression order** with:

suppression order means an order made under—

(a) any of sections 199C, 200, 202, and 205; or

(b) section 199A(3) that varies the effect of automatic suppression in any proceedings; or

(c) section 199B(1) or 199D(2).

After section 199, insert:

Automatic suppression of previous convictions

199A Automatic suppression of details of previous convictions

(1) Once a proceeding has commenced for a category 3 offence or a category 4 offence (**offence A**), no person may publish details of any of the defendant's previous convictions for any other offence except as permitted by or under this section.

(2) The automatic suppression in subsection (1) remains in force, unless earlier lifted by the court, until—

(a) the jury delivers a verdict for offence A; or

(b) the charge for offence A is withdrawn, dismissed, stayed, or otherwise disposed of; or

(c) a Judge-alone trial starts for offence A.

(3) However, the court may, by order made on application or on its own initiative,—

(a) lift the suppression before the trial:

(b) vary the effect of the suppression by permitting the publication of any details as specified in the order.

(4) This section does not apply to information published before a proceeding is commenced, unless the court makes an order to that effect under section 199B(1).

Criminal Procedure Act 2011 (2011 No 81)—*continued*

199B Further provisions relating to automatic suppression

(1) The court may order a person who hosts material on a website or other electronic retrieval system that can be accessed by a user to take down, or disable public access to, details of the defendant's previous convictions on that website or other electronic retrieval system that is under the person's control.

(2) Whenever reasonably practicable, the person who hosts the material must be—

(a) served with the application for an order or notified that the court is considering making an order under subsection (1); and

(b) given an opportunity to be heard by the court.

(3) An order made under subsection (1) expires with the expiry of the automatic suppression to which it relates.

Temporary suppression of trial-related information

199C Court may temporarily suppress trial-related information

(1) If a court is satisfied that publication of the information would be likely to create a real risk of prejudice to a fair trial, the court may make an order forbidding publication of any of the following information for any period that the court thinks necessary for that purpose:

(a) any specific information relating to matters of character of the defendant:

(b) any specific information relating to the previous convictions or matters of character of any person who—

(i) may be called as a witness; or

(ii) may be a victim of the offence; or

(iii) is connected with the defendant:

(c) any other offence that the defendant is also currently charged with:

(d) any other specific information in relation to any trial.

(2) Despite subsection (1), the court may make an interim order of the kind described in subsection (1) if the defendant advances an arguable case that publication would be likely to create a real risk of prejudice to a fair trial.

(3) An interim order under subsection (2)—

(a) may be made or renewed only in the absence of an order made under subsection (1); and

(b) may be renewed only if the court is satisfied that publication would be likely to create a real risk of prejudice to a fair trial; and

(c) expires at the defendant's next court appearance for the offence.

Criminal Procedure Act 2011 (2011 No 81)—*continued*

199D Further provisions relating to temporary suppression of trial-related information

(1) The court may make an order under section 199C at any time after the proceeding is commenced.

(2) The court may limit the effect of an order under section 199C by ordering a person who hosts material on a website or other electronic retrieval system that can be accessed by a user to only take down or disable access to specific information on that website or electronic retrieval system.

(3) Whenever reasonably practicable, the person who hosts the material must be—

(a) served with the application for an order or notified that the court is considering making an order under subsection (2); and

(b) given an opportunity to be heard by the court.

(4) Despite section 208(1) or (2), an order made under subsection (2) or section 199C(1) expires when the defendant is convicted or acquitted, or the charge is otherwise disposed of.

Replace section 209(1) with:

(1) If a person has escaped from lawful custody or has failed to attend any court when lawfully required to do so,—

(a) nothing in sections 200 to 205 prevents the publication by or at the request of any Police employee of the name, address, or occupation of that person if that publication is made for the purpose of facilitating that person's recapture or arrest; and

(b) nothing in sections 199A to 199D prevents publication by or at the request of any Police employee of any information suppressed under those provisions if that publication is made for the purpose of facilitating that person's recapture or arrest.

In section 209(2), replace "Nothing in sections 200 to 205 prevents publication of the name, address, or occupation of any person, or any details of the offences charged to" with "Nothing in sections 199A to 205 prevents publication of any suppressed information to".

After section 209(2)(c), insert:

(d) a lawyer acting for the defendant or for a co-defendant, or a representative acting for a defendant who is a corporation.

Replace section 211(1) and (2) with:

(1) Every person commits an offence who knowingly or recklessly publishes any name, address, occupation, or other information in breach of—

(a) a suppression order; or

(b) any of sections 199A, 201, 203, and 204; or

Criminal Procedure Act 2011 (2011 No 81)—*continued*

(c) an order made under section 286 or 292.

(2) Every person commits an offence who publishes any name, address, occupation, or other information in breach of—

(a) a suppression order; or

(b) any of sections 199A, 201, 203, and 204; or

(c) an order made under section 286 or 292.

After section 211(6), insert:

(7) A defendant has a defence to a charge under subsection (2) if the defendant proves that they—

(a) did not know or could not reasonably have known that the information published was suppressed; and

(b) removed the suppressed material as soon as practicable after becoming aware of the breach.

In section 282, replace "section 200, 202, or 205" with "section 199A(3), 199B(1), 199C, 199D(2), 200, 202, or 205".

District Court Act 2016 (2016 No 49)

In section 123, definition of **decision**, delete ", but does not include an order under section 212 (which relates to an order for contempt of court)".

Repeal section 131(b) and (c).

Repeal sections 134, 135, 137(b) and (c), and 212 and the cross-heading above section 212.

Electoral Act 1993 (1993 No 87)

In section 247(2), delete ", and every person who refuses to obey any such order shall be guilty of contempt of court".

After section 247(2), insert:

(2A) Section 42 of the Senior Courts Act 2016 applies to a person who refuses or fails to comply with an order to attend as a witness.

Employment Relations Act 2000 (2000 No 24)

Replace section 196 with:

196 Application of Contempt of Court Act 2019

(1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Employment Court and the Employment Relations Authority.

(2) Those provisions apply to proceedings of the Employment Court as if—

(a) references to a court include the Employment Court; and

Employment Relations Act 2000 (2000 No 24)—*continued*

(b) references to a Judge or judicial officer include a Judge of the Employment Court; and

(c) references to an officer of the court include an officer of the Employment Court.

(3) Those provisions apply to proceedings of the Employment Relations Authority as if—

(a) references to a judicial officer include the Employment Relations Authority; and

(b) references to disrupting the proceedings of a court or disobeying any order or direction of the court made in the course of the hearing of any proceedings include disruption of the proceedings of the Authority and disobedience of any order or direction of the Authority given in the course of the hearing of any proceedings; and

(c) a disruption of the proceedings of the Authority includes the disruption of an investigation meeting held by the Authority.

Family Court Act 1980 (1980 No 161)

After section 15, insert:

15A Application of Contempt of Court Act 2019

(1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Family Court.

(2) Those provisions apply to proceedings of the Family Court as if—

(a) references to a court include the Family Court; and

(b) references to a judicial officer or to a Judge include Judges of the Family Court.

Habeas Corpus Act 2001 (2001 No 31)

Replace section 19 with:

19 Application of Contempt of Court Act 2019

(1) Subpart 2 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to a person who wilfully hinders the prompt disposal of an application.

(2) Subpart 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to a person who,—

(a) having been released under an interim order made under section 11, fails to comply with a condition attached to the order; or

Habeas Corpus Act 2001 (2001 No 31)—*continued*

(b) wilfully fails to comply with a writ of habeas corpus ordering the release from detention of a person.

(3) Subpart 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply, as if the application were a court order, to a person who is aware that an application has been made to the High Court seeking the release from detention of a person and removes or attempts to remove that person from the jurisdiction of the court.

Harassment Act 1997 (1997 No 92)

Replace section 41(3) with:

(3) The failure to comply with any order made under section 39(1)(c) may be dealt with under subpart 4 of Part 2 of the Contempt of Court Act 2019.

Human Rights Act 1993 (1993 No 82)

Replace section 114 with:

114 Application of Contempt of Court Act 2019

(1) Subpart 2 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Tribunal.

(2) Those provisions apply to proceedings of the Tribunal as if—

(a) references to a court include the Tribunal; and

(b) references to a Judge include a Chairperson of the Tribunal; and

(c) references to a judicial officer include a member of the Tribunal; and

(d) references to an officer of the court include an officer of the Tribunal;

(e) section 11(2)(b) of that Act does not apply if there is only 1 Chairperson of the Tribunal.

Inquiries Act 2013 (2013 No 60)

Replace section 31 with:

31 Application of Contempt of Court Act 2019

(1) The Solicitor-General, on the Solicitor-General's own initiative or at the request of an inquiry, may commence proceedings in the High Court—

(a) under subpart 4 of Part 2 of the Contempt of Court Act 2019; or

(b) under the inherent jurisdiction of the High Court to punish any contempt of an inquiry or enforce its processes, as described in section 26(3) of that Act.

Inquiries Act 2013 (2013 No 60)—*continued*

(2) In determining any proceedings commenced under subsection (1), the court may make any orders that it considers necessary and just to enable the inquiry to fulfil its purpose.

Juries Act 1981 (1981 No 23)

In section 14A(6), replace "as contempt of court" with "under subpart 2 of Part 2 of the Contempt of Court Act 2019".

Lawyers and Conveyancers Act 2006 (2006 No 1)

Repeal section 29.

Parole Act 2002 (2002 No 10)

Repeal section 107G(7)(b).

Reserve Bank of New Zealand Act 1989 (1989 No 157)

In section 150(3), replace "had been guilty of contempt of court" with "were liable under subpart 4 of Part 2 of the Contempt of Court Act 2019 for breach of a court order".

Resource Management Act 1991 (1991 No 69)

Replace section 282 with:

282 Application of Contempt of Court Act 2019

(1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Environment Court.

(2) Those provisions apply to proceedings of the Environment Court as if—

(a) references to a court include the Environment Court; and

(b) references to a Judge include an Environment Judge and an Alternate Environment Judge; and

(c) references to a judicial officer include an Environment Commissioner and a Deputy Environment Commissioner; and

(d) references to an officer of the court include an officer of the Environment Court.

Senior Courts Act 2016 (2016 No 48)

After section 20(2)(h), insert:

(i) subpart 2 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019.

Replace section 23 with:

Senior Courts Act 2016 (2016 No 48)—*continued*

23 Application of provisions relating to witnesses and contempt

(1) Sections 42 and 43 (which relate to the power to deal with witnesses) apply to a proceeding before an Associate Judge in the same way as they apply to a proceeding before a High Court Judge.

(2) Subpart 2 of Part 2 of the Contempt of Court Act 2019 (which relates to contempt) applies to a proceeding before an Associate Judge, and references in that subpart to a Judge include an Associate Judge.

Replace section 43(4) with:

(4) Nothing in this section limits or affects any power or authority of the High Court under the Contempt of Court Act 2019.

Replace section 146(5)(b) with:

(b) sections 10, 40 to 43, 148 to 155, 162, 172, 176, and 181; and

(c) the Contempt of Court Act 2019.

Repeal section 165 and the cross-heading above section 165.

Tax Administration Act 1994 (1994 No 166)

Replace section 143G(2) with:

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a period not exceeding 3 months or a fine not exceeding $1,000 for each offence.

Te Ture Whenua Maori Act 1993 (1993 No 4)

Replace section 90 with:

90 Application of Contempt of Court Act 2019

(1) Subparts 2 and 4 of Part 2 and sections 25 and 26(1) and (2) of the Contempt of Court Act 2019 apply with the necessary modifications to proceedings of the Maori Land Court and the Maori Appellate Court.

(2) Those provisions apply to proceedings of the Maori Land Court and the Maori Appellate Court as if—

(a) references to a court include the Maori Land Court and the Maori Appellate Court; and

(b) references to a judicial officer or to a Judge include a Judge of the Maori Land Court or the Maori Appellate Court; and

(c) references to an officer of the court in those provisions include an officer of the Maori Land Court or the Maori Appellate Court.

Trustee Companies Management Act 1975 (1975 No 25)

In section 13(3), replace "had been guilty of contempt of court" with "were liable to punishment under subpart 4 of Part 2 of the Contempt of Court Act 2019 for breach of a court order".

Victims' Orders Against Violent Offenders Act 2014 (2014 No 45)

Replace section 24C(3) with:

(3) The failure to comply with any order made under section 24A(1)(c) may be dealt with under subpart 4 of Part 2 of the Contempt of Court Act 2019.

Notes

1 General

This is a consolidation of the Contempt of Court Act 2019 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Secondary Legislation Act 2021 (2021 No 7): section 3

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