

Version
as at 1 July 2013



New Zealand Bill of Rights Act 1990

Public Act 1990 No 109
Date of assent 28 August 1990
Commencement see section 1(2)

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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—

- (a) to affirm, protect, and promote human rights and fundamental freedoms in New Zealand; and**
- (b) to affirm New Zealand's commitment to the International Covenant on Civil and Political Rights**

1 Short Title and commencement

- (1) This Act may be cited as the New Zealand Bill of Rights Act 1990.
- (2) This Act shall come into force on the 28th day after the date on which it receives the Royal assent.

Part 1

General provisions

2 Rights affirmed

The rights and freedoms contained in this Bill of Rights are affirmed.

3 Application

This Bill of Rights applies only to acts done—

- (a) by the legislative, executive, or judicial branches of the Government of New Zealand; or
- (b) by any person or body in the performance of any public function, power, or duty conferred or imposed on that person or body by or pursuant to law.

4 Other enactments not affected

No court shall, in relation to any enactment (whether passed or made before or after the commencement of this Bill of Rights),—

- (a) hold any provision of the enactment to be impliedly repealed or revoked, or to be in any way invalid or ineffective; or
- (b) decline to apply any provision of the enactment—

by reason only that the provision is inconsistent with any provision of this Bill of Rights.

5 Justified limitations

Subject to section 4, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

6 Interpretation consistent with Bill of Rights to be preferred

Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.

7 Attorney-General to report to Parliament where Bill appears to be inconsistent with Bill of Rights

Where any Bill is introduced into the House of Representatives, the Attorney-General shall,—

- (a) in the case of a Government Bill, on the introduction of that Bill; or
- (b) in any other case, as soon as practicable after the introduction of the Bill,—

bring to the attention of the House of Representatives any provision in the Bill that appears to be inconsistent with any of the rights and freedoms contained in this Bill of Rights.

Part 2

Civil and political rights

Life and security of the person

8 Right not to be deprived of life

No one shall be deprived of life except on such grounds as are established by law and are consistent with the principles of fundamental justice.

9 Right not to be subjected to torture or cruel treatment

Everyone has the right not to be subjected to torture or to cruel, degrading, or disproportionately severe treatment or punishment.

10 Right not to be subjected to medical or scientific experimentation

Every person has the right not to be subjected to medical or scientific experimentation without that person's consent.

11 Right to refuse to undergo medical treatment

Everyone has the right to refuse to undergo any medical treatment.

Democratic and civil rights

12 Electoral rights

Every New Zealand citizen who is of or over the age of 18 years—

- (a) has the right to vote in genuine periodic elections of members of the House of Representatives, which elections shall be by equal suffrage and by secret ballot; and
- (b) is qualified for membership of the House of Representatives.

13 Freedom of thought, conscience, and religion

Everyone has the right to freedom of thought, conscience, religion, and belief, including the right to adopt and to hold opinions without interference.

14 Freedom of expression

Everyone has the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form.

15 Manifestation of religion and belief

Every person has the right to manifest that person's religion or belief in worship, observance, practice, or teaching, either individually or in community with others, and either in public or in private.

16 Freedom of peaceful assembly

Everyone has the right to freedom of peaceful assembly.

17 Freedom of association

Everyone has the right to freedom of association.

18 Freedom of movement

- (1) Everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand.
- (2) Every New Zealand citizen has the right to enter New Zealand.
- (3) Everyone has the right to leave New Zealand.
- (4) No one who is not a New Zealand citizen and who is lawfully in New Zealand shall be required to leave New Zealand except under a decision taken on grounds prescribed by law.

Non-discrimination and minority rights

19 Freedom from discrimination

- (1) Everyone has the right to freedom from discrimination on the grounds of discrimination in the Human Rights Act 1993.
- (2) Measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination that is unlawful by virtue of Part 2 of the Human Rights Act 1993 do not constitute discrimination.

Section 19: substituted, on 1 February 1994, by section 145 of the Human Rights Act 1993 (1993 No 82).

20 Rights of minorities

A person who belongs to an ethnic, religious, or linguistic minority in New Zealand shall not be denied the right, in community with other members of that minority, to enjoy the culture, to profess and practise the religion, or to use the language, of that minority.

Search, arrest, and detention

21 Unreasonable search and seizure

Everyone has the right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise.

22 Liberty of the person

Everyone has the right not to be arbitrarily arrested or detained.

23 Rights of persons arrested or detained

- (1) Everyone who is arrested or who is detained under any enactment—
 - (a) shall be informed at the time of the arrest or detention of the reason for it; and
 - (b) shall have the right to consult and instruct a lawyer without delay and to be informed of that right; and
 - (c) shall have the right to have the validity of the arrest or detention determined without delay by way of *habeas corpus* and to be released if the arrest or detention is not lawful.
- (2) Everyone who is arrested for an offence has the right to be charged promptly or to be released.
- (3) Everyone who is arrested for an offence and is not released shall be brought as soon as possible before a court or competent tribunal.
- (4) Everyone who is—
 - (a) arrested; or
 - (b) detained under any enactment—for any offence or suspected offence shall have the right to refrain from making any statement and to be informed of that right.
- (5) Everyone deprived of liberty shall be treated with humanity and with respect for the inherent dignity of the person.

24 Rights of persons charged

Everyone who is charged with an offence—

- (a) shall be informed promptly and in detail of the nature and cause of the charge; and
- (b) shall be released on reasonable terms and conditions unless there is just cause for continued detention; and
- (c) shall have the right to consult and instruct a lawyer; and
- (d) shall have the right to adequate time and facilities to prepare a defence; and
- (e) shall have the right, except in the case of an offence under military law tried before a military tribunal, to the benefit of a trial by jury when the penalty for the offence is or includes imprisonment for 2 years or more; and
- (f) shall have the right to receive legal assistance without cost if the interests of justice so require and the person does not have sufficient means to provide for that assistance; and

- (g) shall have the right to have the free assistance of an interpreter if the person cannot understand or speak the language used in court.

Section 24(e): amended, on 1 July 2013, by section 4 of the New Zealand Bill of Rights Amendment Act 2011 (2011 No 92).

25 Minimum standards of criminal procedure

Everyone who is charged with an offence has, in relation to the determination of the charge, the following minimum rights:

- (a) the right to a fair and public hearing by an independent and impartial court:
- (b) the right to be tried without undue delay:
- (c) the right to be presumed innocent until proved guilty according to law:
- (d) the right not to be compelled to be a witness or to confess guilt:
- (e) the right to be present at the trial and to present a defence:
- (f) the right to examine the witnesses for the prosecution and to obtain the attendance and examination of witnesses for the defence under the same conditions as the prosecution:
- (g) the right, if convicted of an offence in respect of which the penalty has been varied between the commission of the offence and sentencing, to the benefit of the lesser penalty:
- (h) the right, if convicted of the offence, to appeal according to law to a higher court against the conviction or against the sentence or against both:
- (i) the right, in the case of a child, to be dealt with in a manner that takes account of the child's age.

26 Retroactive penalties and double jeopardy

- (1) No one shall be liable to conviction of any offence on account of any act or omission which did not constitute an offence by such person under the law of New Zealand at the time it occurred.
- (2) No one who has been finally acquitted or convicted of, or pardoned for, an offence shall be tried or punished for it again.

27 Right to justice

- (1) Every person has the right to the observance of the principles of natural justice by any tribunal or other public authority which has the power to make a determination in respect of that person's rights, obligations, or interests protected or recognised by law.
- (2) Every person whose rights, obligations, or interests protected or recognised by law have been affected by a determination of any tribunal or other public

authority has the right to apply, in accordance with law, for judicial review of that determination.

- (3) Every person has the right to bring civil proceedings against, and to defend civil proceedings brought by, the Crown, and to have those proceedings heard, according to law, in the same way as civil proceedings between individuals.

Part 3

Miscellaneous provisions

28 Other rights and freedoms not affected

An existing right or freedom shall not be held to be abrogated or restricted by reason only that the right or freedom is not included in this Bill of Rights or is included only in part.

29 Application to legal persons

Except where the provisions of this Bill of Rights otherwise provide, the provisions of this Bill of Rights apply, so far as practicable, for the benefit of all legal persons as well as for the benefit of all natural persons.

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Notes

1 General

This is a reprint of the New Zealand Bill of Rights Act 1990. The reprint incorporates all the amendments to the Act as at 1 July 2013, 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)***

New Zealand Bill of Rights Amendment Act 2011 (2011 No 92)

Human Rights Act 1993 (1993 No 82): section 145