

Reprint
as at 1 July 2013



Summary Proceedings Amendment
Act (No 2) 2011

Public Act 2011 No 94
Date of assent 17 October 2011
Commencement see section 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.

1 Title

This Act is the Summary Proceedings Amendment Act (No 2) 2011.

2 Commencement

- (1) Sections 4 to 6 come into force on a date appointed by the Governor-General by Order in Council.
- (2) The rest of this Act comes into force on a date appointed by the Governor-General by Order in Council.
- (3) Any provision that has not earlier been brought into force comes into force on the day that is 2 years after the date on which this Act receives the Royal assent.

Section 2(1): sections 4–6 brought into force, on 5 March 2012, by the Summary Proceedings Amendment Act (No 2) 2011 Commencement Order 2011 (SR 2011/415).

Section 2(2): sections 7–9 brought into force, on 1 July 2013, by the Summary Proceedings Amendment Act (No 2) 2011 Commencement Order 2013 (SR 2013/170).

3 Principal Act amended

This Act amends the Summary Proceedings Act 1957.

4 Withdrawal of warrant

[Expired]

Section 4: expired, on 1 July 2013, by section 6.

5 Transitional provision regarding withdrawal of warrants to arrest

The power conferred on a Registrar by section 23(2) of the principal Act (as inserted by section 4 of this Act) may be exercised in relation to any warrant referred to in that subsection, whether the warrant was issued before or after the date on which section 4 came into force.

6 Expiry of section 4

Section 4 expires on the date that section 7 comes into force.

7 Other amendments to principal Act

- (1) The heading to section 1 is amended by omitting “Short”.

(2) The principal Act is amended as set out in the Schedule.

8 Transitional provision relating to enforcement of fines

The principal Act as amended by this Act applies to the enforcement of any fine whether adjudged, ordered, or deemed to be ordered to be paid before or after the date on which this section comes into force.

9 Repeal of sections 19 and 20 of Summary Proceedings Amendment Act (No 2) 2008

Sections 19 and 20 of the Summary Proceedings Amendment Act (No 2) 2008 are repealed.

Schedule

Amendments to principal Act

s 7(2)

Long Title

Repeal.

Section 2(1)

Definitions of **committal for trial**, **Court nearest to the committing Court**, **indictable offence**, **medical practitioner**, **representative**, **sentenced to detention**, **summary offence**, and **trial Judge**: repeal.

Definition of **defendant**: repeal and substitute:

“**defendant** means any person charged with an offence; and includes—

- “(a) in relation to an infringement offence for which an infringement notice has been issued, any person served with a reminder notice in respect of the offence, or any person who gives notice requesting a hearing in respect of the offence, pursuant to section 21; and
- “(b) a Crown organisation, if proceedings are brought against that organisation for an offence referred to in section 6 of the Crown Organisations (Criminal Liability) Act 2002”.

Definition of **informant**: repeal and substitute:

“**informant**, in relation to an infringement offence for which an infringement notice has been issued, includes the department, local body, or other authority in or by which the officer or employee who issued the notice was employed”.

Section 2(2)

Repeal.

Section 3

Repeal.

Part 1

Repeal.

Heading to Part 2

Omit and substitute “**Procedure for infringement offences**”.

Sections 11 to 20A and headings above sections 13 and 19

Repeal.

Section 21

Heading to section 21: omit “**Summary procedure**” and substitute “**Procedure**”.

Subsection (1)(a): repeal and substitute:

- “(a) with the leave of a District Court Judge or a Registrar, by filing a charging document under the Criminal Procedure Act 2011; or”.

Subsection (5)(b): omit “an information” and substitute “a charge”.

Subsection (5A)(b): omit “an information” and substitute “a charge”.

Subsection (8)(d): repeal and substitute:

- “(d) if a notice of hearing is filed in a Court within 6 months from the time when the offence is alleged to have been committed,—
 - “(i) the Criminal Procedure Act 2011 and the Costs in Criminal Cases Act 1967 apply, with any necessary modifications:
 - “(ii) the notice of hearing is to be treated as if it were a charging document:
 - “(iii) a copy of the notice served on the defendant under paragraph (b) is to be treated as if it were a summons to the defendant:
 - “(iv) a notice of the defendant filed in the Court under paragraph (c) is to be treated as if it were a notice of the defendant pleading guilty to the offence under section 38 of the Criminal Procedure Act 2011.”

Sections 22 and 23

Repeal.

Section 24

Subsection (1)(c): omit “registered letter” and substitute “prepaid post”.

Subsection (1)(d): omit “or a minor offence as defined in section 20A(12)”.

Subsection (1)(d): omit “ordinary” and substitute “prepaid”.

Section 25

Subsection (1)(a): repeal and substitute:

“(a) a constable:

“(ab) a Police employee authorised by the Commissioner of Police to serve documents under this Act.”.

Subsection (2): omit “registered or ordinary letter” and substitute “prepaid or ordinary post”.

Section 27

Omit “sworn or non-sworn member of the Police or” and substitute “constable, a Police employee authorised by the Commissioner of Police to serve documents under this Act,”.

Section 29(1)

Omit “registered letter” and substitute “prepaid post”.

Section 29(2)

Omit “on indictment”.

Section 30

Omit “the rules” and substitute “any rules”.

Omit “District Courts Act 1947” and substitute “Criminal Procedure Act 2011”.

Omit “in civil proceedings”.

Sections 31 to 75 and headings above sections 31, 34, 45, 61, 73, 74, and 75

Repeal.

Sections 76 to 78A and heading above section 76

Repeal.

Section 79D(3)

Omit “on indictment”.

Section 82(1)

Repeal.

Section 83(4)

Omit “Criminal Records required to be kept under section 71” and substitute “court record required to be kept under section 184 of the Criminal Procedure Act 2011”.

Section 84(1)

Omit “an information or a complaint” and substitute “a charge for an offence”.

Section 87G

Omit “summary”.

Section 88AB(c)

Omit “section 46 of this Act” and substitute “section 168 of the Criminal Procedure Act 2011”.

Section 88AC(d)

Omit “section 46 of this Act” and substitute “section 168 of the Criminal Procedure Act 2011”.

Section 88AE(3)

Omit “sections 45 to 59” and substitute “sections 167 to 170 of the Criminal Procedure Act 2011”.

Section 88AF(1)

Omit “information or complaint” and substitute “charge”.

Section 89

Repeal subsections (2) and (3) and substitute:

- “(2) If a defendant is sentenced to community work, community detention, or home detention under section 88AE(1) or is imprisoned pursuant to a warrant of commitment issued under that provision, the defendant has a right of appeal under section 244 of the Criminal Procedure Act 2011 as if the defendant had been convicted of an offence.
- “(3) On any such appeal under section 244 of the Criminal Procedure Act 2011 by a defendant sentenced by a District Court Judge, the High Court may, in accordance with its powers under section 251 of the Criminal Procedure Act 2011, remit the matter to a District Court Judge to be dealt with as that Judge thinks fit under section 88AE(1) of this Act, except that that Judge must not impose a sentence the same as that appealed against.”

Section 92

Omit “, or section 28I of the District Courts Act 1947,”.

Section 100C(6)

Omit “summary”.

Section 101

Omit “summary”.

Section 106(6)

Omit “summary”.

Section 106A(1)

Omit “summary”.

New sections 106G and 106H

Insert after section 106F:

“106G Actions under warrant to seize pending appeal

- “(1) If a warrant to seize property is issued before a notice of appeal or an application for leave to appeal is filed under Part 6 of the Criminal Procedure Act 2011, then—

New sections 106G and 106H—continued

- “(a) if the warrant has not been executed, it is suspended until the appeal has been determined or abandoned:
- “(b) if the warrant has been executed,—
 - “(i) any seized property that has not been sold, assigned, applied, released, or otherwise disposed of must be retained while the appeal is pending; or
 - “(ii) if the seized property has been sold but the proceeds of the sale have not been applied in accordance with section 100N or 100R, the proceeds must be retained while the appeal is pending.
- “(2) If, on the determination or abandonment of the appeal, the determination in respect of which the warrant was issued continues in effect, the property must be dealt with, and any fees and costs payable under an enactment in respect of the property are payable, as if the notice of appeal had not been given.
- “(3) If, on the determination or abandonment of the appeal, the determination in respect of which the warrant was issued is set aside, the owner—
 - “(a) is entitled to—
 - “(i) the return of the property if the property has been retained in accordance with subsection (1)(b)(i); or
 - “(ii) the proceeds of any sale if the proceeds have been retained in accordance with subsection (1)(b)(ii); and
 - “(b) is not liable for any fees and costs payable under an enactment in respect of the property.

“106H Application of Criminal Procedure Act 2011

Unless otherwise stated in section 78B or Part 3, the provisions of the Criminal Procedure Act 2011 apply with any necessary modifications to the enforcement of a fine under this Part, or any application under section 78B, if an oral hearing or attendance before a Court or a Registrar is required, as if that matter were proceedings for a category 1 offence.”

Parts 4, 5, 5A, 6, and 7

Repeal.

Sections 201 and 202

Repeal.

New section 203AA

Insert, before section 203:

“203AA Criminal records

Section 184 of the Criminal Procedure Act 2011 applies in respect of any matter to which section 21(8) or 106H applies.”

Section 203

Repeal.

Section 204

Omit “information, complaint, summons, conviction” and substitute “summons”.

Insert “under this Act” after “document”.

Insert “under this Act” after “proceeding”.

Section 205

Repeal.

Section 206

Repeal.

Section 208(1)(a)

Omit “an information” and substitute “a charge”.

Section 209

Repeal.

Section 211

Repeal.

Section 212(2)

Repeal paragraphs (c), (d), (e), (eb), (ec), and (ed).

Sections 213 and 214

Repeal.

Schedules 1 to 4

Repeal.

Schedule: amended, on 1 October 2012, by section 338 of the Search and Surveillance Act 2012 (2012 No 24).

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Notes**1 General**

This is a reprint of the Summary Proceedings Amendment Act (No 2) 2011. 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)*

Summary Proceedings Amendment Act (No 2) 2011 Commencement Order 2013 (SR 2013/170)

Search and Surveillance Act 2012 (2012 No 24): section 338

Summary Proceedings Amendment Act (No 2) 2011 Commencement Order 2011 (SR 2011/415)

Summary Proceedings Amendment Act (No 2) 2011 (2011 No 94): section 6
