

Reprint
as at 1 July 2013



**Criminal Disclosure Amendment
Act 2011**

Public Act 2011 No 86
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.

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Criminal Disclosure Amendment Act 2011.

2 Commencement

This Act comes into force on the day that is 2 years after the date on which this Act receives the Royal assent unless it is brought into force on an earlier date appointed by the Governor-General by Order in Council.

Section 2: this Act brought into force, on 1 July 2013, by the Criminal Disclosure Amendment Act 2011 Commencement Order 2013 (SR 2013/161).

3 Principal Act amended

This Act amends the Criminal Disclosure Act 2008.

4 Initial disclosure

Section 12(1) is amended by inserting the following paragraph before paragraph (a):

“(aa) a copy of the charging document; and”.

5 New section 14A inserted

The following section is inserted after section 14:

“14A Information relating to identification witnesses to be supplied to defendant

“(1) In this section, **identification witness**, in relation to the trial of a person accused of any offence, means a person who claims to have seen the offender in the circumstances of the offence.

“(2) Subject to subsection (3), at any time after a person has been charged with an offence, the prosecutor must, on request by or on behalf of that person, supply to that person—

“(a) the name and, if disclosure is authorised under section 17, the address of each identification witness known to the prosecutor, whether or not the prosecutor intends to call that witness to give evidence at the trial; and

“(b) a statement of any description of the offender given by each such witness to the Police or the prosecutor; and

“(c) a copy of any identikit picture or other drawing made by any such witness or from information supplied by that witness.

“(3) A Judge may, on the application of the prosecutor, make an order excusing the prosecutor from disclosing to the defendant any information referred to in subsection (2)(a), if the Judge is satisfied that the order is necessary to protect the identification witness or any other person.

“Compare: 1961 No 43 s 344C”.

6 Restriction on disclosing address of witness or informant

(1) Section 17(2) is amended by omitting “with the consent of the witness or informant or”.

(2) Section 17 is amended by adding the following subsection:

“(5) Nothing in subsection (2) applies if it is necessary to disclose the information in the charge in order to ensure that the defendant is fully and fairly informed of the charge.”

7 New section 34A inserted

The following section is inserted after section 34:

“34A Information disclosed late by defendant

The court may adjourn the trial if it is satisfied that evidence sought to be adduced by the defendant is, or is based on,—

“(a) information of a kind to which section 22 applies that was disclosed but not until after the time required by section 22(2); and

“(b) information of a kind to which section 23 applies that was disclosed but not within the time required by section 23(1) (including any further time allowed by the court under section 23(1)).”

8 Further amendments to principal Act

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

Schedule Amendments to principal Act

s 8

Section 3(2)

Amend the flowchart by:

- (a) in the section relating to disclosure by prosecutor to defendant, omitting the text in the fourth box and substituting:
“Full disclosure occurs (as soon as practicable) after the defendant pleads not guilty”; and
- (b) at the foot of the section relating to disclosure by prosecutor to defendant, omitting the sentence “*full disclosure is not required if the defendant pleads guilty instead of not guilty to a charge laid summarily.”; and
- (c) in the section relating to disclosure by non-parties to the defendant, omitting the text from the first box and substituting:
“Defendant may apply to Court for order requiring a non-party to make disclosure
(An application may be made at any time after defendant pleads not guilty)”.

Section 6

Paragraph (c)(i) of the definition of **criminal proceedings** in subsection (1): omit “section 344A of the Crimes Act 1961” and substitute “section 79 or 101 of the Criminal Procedure Act 2011”.

Definition of **defendant** in subsection (1): repeal.

Paragraphs (b) and (c) of the definition of **prosecutor** in subsection (1): omit “laid the information” and substitute “filed the charging document”.

Subsection (3): add “or a defendant to whom section 41 of the Criminal Procedure Act 2011 applies”.

Section 7

Repeal and substitute:

“7 **Meaning of Court and Judge**

In this Act, unless the context otherwise requires,—

“**Court** means the court before which the proceedings are being conducted at a given time

Section 7—*continued*

“**Judge** means a Judge of the court before which the proceedings are being conducted at a given time.”

Section 9

Repeal and substitute:

“9 Time of commencement of criminal proceedings

For the purposes of this Act, criminal proceedings are commenced at the earliest of—

- “(a) the service of a summons:
- “(b) the first appearance of the defendant in Court following his or her arrest, or in response to the filing of a charging document:
- “(c) the date on which the defendant is granted bail under section 21 of the Bail Act 2000:
- “(d) the filing of a notice of hearing under, or in accordance with, section 21(8) of the Summary Proceedings Act 1957.”

Section 10(3)

Omit “4” and substitute “3 working”.

Section 12

Subsection (1)(b): omit “before entering a plea”.

Subsection (3): omit “a minor offence as defined in section 20A(12) of the Summary Proceedings Act 1957 or with”.

Subsection (3): omit “that Act” and substitute “the Summary Proceedings Act 1957”.

Subsection (4)(a): omit “21” and substitute “15 working”.

Section 13

Subsection (1): repeal and substitute:

“(1) The prosecutor must disclose to the defendant the information described in subsection (2) as soon as is reasonably practicable after a defendant has pleaded not guilty.”

Subsection (7)(a): repeal.

Section 13—*continued*

Subsection (7)(b): omit “that Act” and substitute “the Summary Proceedings Act 1957”.

Section 20

Repeal and substitute:

“20 Notice to defendant of disclosure requirements in sections 22 and 23

The Court or the Registrar must give written notice of the requirements of sections 22 and 23 to a defendant—

- “(a) if the defendant pleads not guilty; or
- “(b) when the defendant, if he or she is a child or young person, makes a first appearance in a Youth Court.”

Section 21

Repeal.

Section 22

Subsection (2): repeal and substitute:

“(2) The notice under subsection (1) must be given within 10 working days after the defendant is given notice under section 20.”

Subsection (4): repeal.

Section 23(1)

Omit “14 days before the date fixed for the defendant’s hearing or” and substitute “10 working days before the date fixed for the defendant’s”.

Section 24(1)

Repeal and substitute:

- “(1) This section applies at any time after the defendant has—
 - “(a) pleaded not guilty; or
 - “(b) in the case of a child or young person, made a first appearance in a Youth Court.”

Section 26

Subsection (1): omit “7” and substitute “5 working”.

Section 26—*continued*

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

“(ii) a summons under section 160 of the Criminal Procedure Act 2011; and”.

Section 33(4) and (5)

Repeal and substitute:

“(4) Subpart 2 of Part 6 of the Criminal Procedure Act 2011 applies to appeals under this section with any necessary modifications.

“(5) Despite subpart 2 of Part 6 of the Criminal Procedure Act 2011, a notice of appeal to the High Court must be lodged within 3 working days and an appeal to the Court of Appeal or the Supreme Court must be lodged within 10 working days.”

Section 42(2)

Repeal and substitute:

“(2) Without limiting subsection (1), nothing in this Act applies in respect of any video record made under the Evidence Regulations 2007 or any copy or transcript of such a video record.”

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Notes**1 *General***

This is a reprint of the Criminal Disclosure Amendment Act 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)*

Criminal Disclosure Amendment Act 2011 Commencement Order 2013 (SR 2013/161)
