

**Reprint
as at 1 July 2013**



**Justices of the Peace Amendment
Act 2011**

Public Act 2011 No 91
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 Justices of the Peace 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 Justices of the Peace Amendment Act 2011 Commencement Order 2013 (SR 2013/167).

3 Principal Act amended

This Act amends the Justices of the Peace Act 1957.

4 Functions and powers of Justices

Section 4(b) is amended by omitting “Summary Proceedings Act 1957” and substituting “Criminal Procedure Act 2011”.

5 New sections 4A to 4F inserted

The following sections are inserted after section 4:

“4A Application of sections 4B to 4F

Sections 4B to 4F apply to Justices performing judicial powers and functions under section 4(b).

“4B No proceeding against Justice unless he or she acted without jurisdiction

“(1) No proceeding may be commenced against any Justice for any act done by him or her, unless he or she has exceeded his or her jurisdiction or has acted without jurisdiction.

“(2) If a warrant to seize property or warrant of commitment is granted by a Justice in good faith in reliance on a conviction or order entered or made by 1 or more Justices or 1 or more Community Magistrates, no proceeding may be commenced against the Justice who granted the warrant by reason of any defect in the conviction or order, or by reason of any want of

jurisdiction in the Justice or Justices or Community Magistrate or Community Magistrates who entered or made it.

“Compare: 1927 No 37 ss 341, 344, 345, 348; 1957 No 87 s 193

“4C No proceeding against Justice to be commenced in District Court

No proceeding against any Justice by any person claiming to have been injured by an act done by the Justice in excess of jurisdiction or without jurisdiction may be commenced in a District Court.

“Compare: 1927 No 37 s 353; 1957 No 87 s 194

“4D Onus of proof

In any proceeding commenced against a Justice by a person claiming to have been injured by an act done by the Justice in excess of jurisdiction or without jurisdiction, the onus of proving the excess or want of jurisdiction lies on the person alleging it.

“Compare: 1927 No 37 s 365; 1957 No 87 s 195

“4E Plaintiff may be ordered to give security for costs

“(1) This section applies to any proceedings commenced against a Justice by a person claiming to have been injured by an act done by the Justice in excess of jurisdiction or without jurisdiction.

“(2) The High Court or any Judge of that Court, on application by the Justice at any time before the day fixed for the trial of the proceeding, may order the plaintiff to give security for the costs of the proceeding to the satisfaction of the Registrar of the High Court in a sum not exceeding \$500.

“(3) If security is ordered to be given, the Court or Judge may direct that in the meantime all proceedings are stayed.

“Compare: 1927 No 37 ss 357, 359; 1957 No 87 s 196

“4F Indemnity to Justice

“(1) Subsection (2) applies to any Justice against whom a judgment has been entered to pay damages or costs to any person injured

as a result of any act done by the Justice in excess of jurisdiction or without jurisdiction.

- “(2) The Justice must be indemnified by the Crown to the full amount of the judgment if he or she produces a certificate signed by a Judge of the High Court stating that, in the Judge’s opinion,—
- “(a) the Justice acted in good faith under the belief that he or she had in fact jurisdiction; and
 - “(b) in all the circumstances the Justice ought fairly and reasonably to be excused.
- “(3) Subsections (4) and (5) apply if a Justice settles a claim against him or her by paying or agreeing to pay an agreed amount of damages or costs before proceedings are commenced, or before or during trial of the proceeding.
- “(4) The Justice must be indemnified by the Crown to the full amount paid or agreed to be paid if he or she produces a certificate signed by a Judge of the High Court stating that, in the Judge’s opinion,—
- “(a) the Justice acted in good faith under the belief that he or she had in fact jurisdiction; and
 - “(b) in all the circumstances the Justice ought fairly and reasonably to be excused; and
 - “(c) the amount paid or agreed to be paid was fair and reasonable.
- “(5) If the High Court Judge is not satisfied of the matter in subsection (4)(c), the Judge may issue the certificate in respect of any lesser sum that in the Judge’s opinion is adequate to settle the plaintiff’s claim, and in that case the Justice must be indemnified by the Crown to the amount specified in the certificate.
- “(6) Application for a certificate under any of subsections (2), (4), or (5) may be made by a Justice at any time to a Judge in Chambers, and the Judge has power to grant the certificate after considering all evidence that is given before him or her either orally or in the form of affidavits.
- “(7) A copy of the application must be served by the Justice on the Attorney-General, who is entitled to appear and oppose it.
“Compare: 1957 No 87 s 197”.
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Notes

1 *General*

This is a reprint of the Justices of the Peace 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)*

Justices of the Peace Amendment Act 2011 Commencement Order 2013
(SR 2013/167)
