

Version
as at 12 April 2022



Justices of the Peace Act 1957

Public Act 1957 No 89
Date of assent 24 October 1957
Commencement see section 1(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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An Act to consolidate and amend certain enactments of the Parliament of New Zealand relating to the appointment of Justices of the Peace

Title: amended, on 1 January 1987, pursuant to section 29(2) of the Constitution Act 1986 (1986 No 114).

1 Short Title and commencement

- (1) This Act may be cited as the Justices of the Peace Act 1957.
- (2) This Act shall come into force on 1 April 1958.

2 Interpretation

In this Act, unless the context otherwise requires,—

judicial power or function means a power or function involving—

- (a) discharging or purporting to discharge (or failing, refusing, or purporting to refuse, to discharge) responsibilities of a judicial nature vested in Justices; or
- (b) issuing, or failing or refusing to issue, a warrant

Justice means a person who is a Justice of the Peace for New Zealand—

- (a) by virtue of being appointed a Justice of the Peace for New Zealand under section 3(1); or
- (b) by virtue of being a District Court Judge, a Judge of the Maori Land Court, the chairperson of a regional council, or the mayor of a territorial authority

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

Secretary means the Secretary for Justice

working day means a day of the week other than—

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day; and
- (b) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- (c) a day in the period commencing on 20 December in any year and ending with 15 January in the following year.

Section 2: replaced, on 15 April 2007, by section 4 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

Section 2 **working day**: replaced, on 1 January 2014, by section 8 of the Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19).

Section 2 **working day** paragraph (a): replaced, on 12 April 2022, by wehenga 7 o Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/section 7 of the Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14).

2A Act binds the Crown

This Act binds the Crown.

Section 2A: inserted, on 15 April 2007, by section 4 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

3 Appointment of Justices of the Peace

- (1) The Governor-General may, by Warrant under his or her hand, appoint any person to be a Justice of the Peace for New Zealand.
- (2) A person may not be appointed as a Justice unless he or she has completed training, approved by the Secretary, in the exercise and performance of the powers and functions of a Justice.
- (3) The Secretary—
 - (a) must publish in the *Gazette* notice of every appointment under subsection (1); and
 - (b) may publish in the *Gazette* a list of the names of Justices holding office (by virtue of appointment under subsection (1)) on a day stated in the notice.
- (4) Publication in the *Gazette* of a notice of appointment or list of names is evidence of the appointment as a Justice of every person whose name appears in the notice or list.

Section 3: replaced, on 15 April 2007, by section 4 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

3A Appointed Justices continue in office

Every Justice appointed under section 3(1) continues in office until he or she—

- (a) dies; or

- (b) retires or resigns, by notice in writing to the Secretary; or
- (c) ceases to be a Justice by the operation of section 5B(1) or 8(1)(b).

Section 3A: inserted, on 15 April 2007, by section 4 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

3B Justices to undertake training before exercising judicial power or function

- (1) A Justice (other than a District Court Judge or a Judge of the Maori Land Court) must not exercise or perform any judicial power or function unless he or she has completed training in the exercise and performance of judicial powers and functions to the satisfaction of the Chief District Court Judge.
- (2) Subsection (1) does not apply to a Justice appointed before the commencement of the Justices of the Peace Amendment Act 2007.

Section 3B: inserted, on 15 April 2007, by section 4 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

3C Use of designation “JP (retired)”

- (1) On or after retiring or resigning as a Justice, a former Justice appointed under section 3(1) may apply to the Secretary in writing for authority to use the designation “JP (retired)”.
- (2) The Secretary must publish in the *Gazette* a notice authorising the former Justice to use the designation “JP (retired)”, unless satisfied that the former Justice—
 - (a) had served as a Justice for less than 10 years; or
 - (b) before retiring or resigning as a Justice, without reasonable excuse,—
 - (i) had abandoned the performance of the functions of a Justice; or
 - (ii) had from time to time failed or refused to perform the functions of a Justice; or
 - (c) retired or resigned while suspended from office; or
 - (d) retired or resigned to avoid being removed or suspended from office, or otherwise disciplined.
- (2A) Despite subsection (2)(a), the Secretary may, by notice in the *Gazette*, authorise a former Justice who retired or resigned before, on, or after the commencement of this subsection to use the designation “JP (retired)” if the Secretary thinks it appropriate in the circumstances.
- (3) No former Justice may use the designation “JP (retired)” unless the Secretary has published in the *Gazette* a notice authorising him or her to do so.
- (4) No person may use the designation “JP (retired)” or a similar designation unless he or she is a former Justice.
- (5) Subsection (1) applies to former Justices (appointed under section 3(1)) who retired or resigned before the commencement of the Justices of the Peace Amendment Act 2007.

Section 3C: inserted, on 15 April 2007, by section 4 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

Section 3C(2A): inserted, on 8 September 2018, by section 64 of the Statutes Amendment Act 2018 (2018 No 27).

4 Functions and powers of Justices

The functions and powers of Justices shall be—

- (a) to take oaths and declarations under the provisions of the Oaths and Declarations Act 1957 or any other enactment:
- (b) to carry out such functions and exercise such powers as are conferred on Justices by the Criminal Procedure Act 2011 or by any other enactment.

Section 4(b): amended, on 1 July 2013, by section 4 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

4A Application of sections 4B to 4F

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

Section 4A: inserted, on 1 July 2013, by section 5 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

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

Section 4B: inserted, on 1 July 2013, by section 5 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

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 the District Court.

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

Section 4C: inserted, on 1 July 2013, by section 5 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

Section 4C: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

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

Section 4D: inserted, on 1 July 2013, by section 5 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

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

Section 4E: inserted, on 1 July 2013, by section 5 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

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

Section 4F: inserted, on 1 July 2013, by section 5 of the Justices of the Peace Amendment Act 2011 (2011 No 91).

5 Removal or suspension of Justice from office

- (1) The Governor-General may, on the recommendation of the Minister, by notice in the *Gazette*, remove a Justice from office, or suspend a Justice from office for a period, stated in the notice, of not more than 65 working days—
- (a) for misconduct; or
 - (b) if the Justice—
 - (i) is unable to perform his or her functions as a Justice; or
 - (ii) has neglected or refused to perform his or her functions as a Justice; or
 - (iii) has, while a Justice, been convicted of an offence punishable by imprisonment; or
 - (iv) has, while a Justice, been adjudged bankrupt; or
 - (v) has failed or refused to comply with a requirement under section 5D(1); or
 - (c) in the case of a removal, if the Justice has purported to exercise or perform a power or function of a Justice, knowing that he or she was suspended from office.
- (2) Subsection (1) does not apply to a person who is a Justice by virtue of being a District Court Judge or a Judge of the Maori Land Court.

Section 5: replaced, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

5A Minister to consult Chief District Court Judge before recommending removal or suspension of Justice exercising or performing judicial powers or functions

- (1) The Minister must not recommend the removal or suspension from office of a Justice who exercises or performs judicial powers or functions unless—
 - (a) he or she has consulted the Chief District Court Judge about the Justice's proposed removal or suspension from office; and
 - (b) the Chief District Court Judge has recommended to the Minister the Justice's removal or suspension (as the case may be) from office.
- (2) The Chief District Court Judge must not recommend a Justice's removal or suspension from office, unless—
 - (a) the Chief District Court Judge has earlier reached a preliminary view that grounds may exist for recommending disciplinary action against the Justice, and has given the Justice written notice—
 - (i) stating that grounds may exist for recommending disciplinary action; and
 - (ii) stating the grounds on which the Chief District Court Judge reached that preliminary view; and
 - (iii) stating that the Justice may, within 20 working days of receiving the notice, respond to the Chief District Court Judge in writing in respect of the matters contained in the notice; and
 - (b) either the Chief District Court Judge—
 - (i) has received and considered a written response from the Justice in respect of the matters contained in the notice; or
 - (ii) has not, within 20 working days of the Justice receiving the notice, received from the Justice a written response in respect of the matters contained in the notice.

Section 5A: inserted, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

5B Effect of removal

- (1) A person removed from the office of Justice ceases to be a Justice on the day after the date of the publication of the notice under section 5(1) removing him or her from that office.
- (2) If a person to whom subsection (1) applies is or becomes a chairperson of a regional council or a mayor of a territorial authority, that person—
 - (a) on ceasing to be a Justice, is no longer a Justice by virtue of being a chairperson or mayor; and
 - (b) does not become a Justice again if later elected or appointed (or re-elected or reappointed) chairperson of a regional council or mayor of a territorial authority.

- (3) Subsections (1) and (2) override section 41(4) of the Local Government Act 2002.

Section 5B: inserted, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

5C Effect of suspension

- (1) The suspension of a Justice begins on the day after the date of the publication of the notice under section 5(1) suspending him or her from office.
- (2) While a Justice is suspended,—
- (a) every enactment other than this Act applies as if he or she is not a Justice; and
 - (b) he or she must not purport to exercise or perform any of the powers or functions of a Justice.
- (3) Subsection (2) continues to apply to a suspended Justice even if, during his or her suspension, he or she is elected or appointed (or re-elected or reappointed) chairperson of a regional council or mayor of a territorial authority.
- (4) Subsections (2) and (3) override section 41(4) of the Local Government Act 2002.

Section 5C: inserted, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

5D Other action in respect of Justices

- (1) The Governor-General may, on the recommendation of the Minister, direct the Minister to take in respect of a Justice (other than a person who is a Justice by virtue of being a District Court Judge or a Judge of the Maori Land Court) 1 or more of the following actions:
- (a) give the Justice an official written rebuke:
 - (b) by written notice to the Justice, require the Justice to apologise to a person or people stated in the notice, in writing, for behaviour stated in the notice:
 - (c) by written notice to the Justice, require the Justice to undertake training (or further training), provided by a provider stated in the notice, in an aspect of the performance of the Justice's functions as a Justice stated in the notice:
 - (d) by written notice to the Justice, require the Justice to receive counselling (or further counselling), provided by a provider stated in the notice, of a kind stated in the notice.
- (2) The Minister must not recommend the giving of a direction under subsection (1) in respect of a Justice unless the Minister is satisfied that the Justice—
- (a) has, since appointment as a Justice, behaved in a way that is inappropriate or undesirable for a Justice (otherwise than in relation to the exercise or performance of judicial powers or functions); or

- (b) has performed a function of a Justice while suspended from office; or
 - (c) has neglected his or her functions as a Justice.
- (3) The Minister may take 2 or more of the actions stated in subsection (1) by means of a single notice.

Section 5D: inserted, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

5E Justices to be given particulars and opportunity to respond

- (1) In this section, **disciplinary action**, in relation to a Justice, means the giving of a direction under section 5D(1) in respect of the Justice.
- (2) The Minister must not recommend disciplinary action against a Justice, unless—
- (a) the Minister has earlier reached a preliminary view that grounds may exist for recommending disciplinary action against the Justice; and
 - (b) the Minister is satisfied that the Secretary has given the Justice written notice—
 - (i) stating that grounds may exist for recommending disciplinary action; and
 - (ii) stating the grounds on which the Minister reached his or her preliminary view; and
 - (iii) stating that the Justice may, within 20 working days of receiving the notice, respond to the Secretary in writing in respect of the matters contained in the notice; and
 - (c) either—
 - (i) the Secretary has received from the Justice a written response in respect of the matters contained in the notice, and the Minister has considered the response and any written comments on it from the Secretary; or
 - (ii) the Minister is satisfied that the Secretary has not, within 20 working days of the Justice receiving the notice, received from the Justice a written response in respect of the matters contained in the notice.

Section 5E: inserted, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

5F Registrars and Official Assignees to notify convictions and bankruptcies

For the purposes of section 5,—

- (a) a Registrar of the High Court or the District Court must notify the Secretary whenever a person whom the Registrar knows to be a Justice is convicted of an offence punishable by imprisonment:

- (b) an Official Assignee (within the meaning of the Insolvency Act 1967) must notify the Secretary whenever a person whom the Official Assignee knows to be a Justice is adjudged bankrupt.

Section 5F: inserted, on 15 April 2007, by section 5 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

Section 5F(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

6 Attendance of Justices at court

- (1) Every Registrar of the District Court must keep and maintain a list of Justices (excluding any person who is a Justice by virtue of being a District Court Judge or a Judge of the Maori Land Court) who reside within 20 kilometres of the courthouse and are not exempted from attendance under section 7.
- (2) When the attendance of Justices is required at any such court, the Registrar shall summon as many Justices as he thinks necessary to attend:
provided that no Justice whose name is not on the list may be so summoned without his consent.

Compare: 1927 No 37 ss 9, 11; 1952 No 44 s 15

Section 6(1): replaced, on 15 April 2007, by section 6 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

Section 6(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

7 Justices exempt from attendance

- (1) The following persons who are Justices shall be exempt from attendance at the District Court, namely:
- (a) any Justice who has notified the Registrar in writing that he has attained the age of 70 years and does not wish to attend:
 - (b) any member of the House of Representatives:
 - (c) any barrister or solicitor or medical practitioner in the actual practice of his profession:
 - (d) any employee of the Crown.
- (2) In subsection (1), **medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

Compare: 1927 No 37 s 10

Section 7(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 7(1)(a): amended, on 15 April 2007, by section 7 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

Section 7(2): inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

8 Failure to attend

- (1) If a Justice fails to attend the District Court on 2 successive occasions when summoned under section 6(2),—
 - (a) the Registrar concerned must notify the Secretary of the second failure; and
 - (b) unless within 20 working days after the date of the second failure the Justice (or some other person on the Justice's behalf) satisfies the Minister that the Justice had reasonable cause for the failures, the Justice ceases to be a Justice on a date fixed for the purpose by the Minister and notified in the *Gazette*.
- (2) Section 5B(2) applies, with any necessary modifications, to a person who ceases to be a Justice by the operation of subsection (1)(b).
- (3) In this section, **fail** includes refuse.

Section 8: replaced, on 15 April 2007, by section 8 of the Justices of the Peace Amendment Act 2007 (2007 No 14).

Section 8(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

9 Legality of acts done by person ceased to be a Justice

The legality of anything done by any person while he is a Justice shall not be affected by his ceasing to be a Justice; but anything done by any person after he has ceased to be a Justice in purported exercise of any of the powers or duties of a Justice shall be void.

10 Repeals

Amendment(s) incorporated in the Act(s).

Notes

1 *General*

This is a consolidation of the Justices of the Peace Act 1957 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*

Te Ture mō te Hararei Tūmatanui o te Kāhui o Matariki 2022/Te Kāhui o Matariki Public Holiday Act 2022 (2022 No 14): wehenga 7/section 7

Statutes Amendment Act 2018 (2018 No 27): Part 20

District Court Act 2016 (2016 No 49): section 261

Holidays (Full Recognition of Waitangi Day and ANZAC Day) Amendment Act 2013 (2013 No 19): section 8

Justices of the Peace Amendment Act 2011 (2011 No 91)

Justices of the Peace Amendment Act 2007 (2007 No 14)

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)

Constitution Act 1986 (1986 No 114): section 29(2)