

**Reprint  
as at 7 October 2011**



**Copyright Amendment Act 2011**

Public Act    2011 No 72  
Date of assent    15 September 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 Economic Development.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Copyright Amendment Act 2011.

**2 Commencement**

- (1) Sections 3, 5, 7 to 9, 11, 13, and 14 come into force on the day after the date on which this Act receives the Royal assent.
- (2) The rest of this Act comes into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions and different purposes.

Section 2(2): sections 4, 6, 10, and 12 brought into force, on 7 October 2011, by the Copyright Amendment Act 2011 Commencement Order 2011 (SR 2011/339).

**3 Principal Act amended**

This Act amends the Copyright Act 1994.

**4 Interpretation**

Section 2(1) is amended by inserting the following definitions in their appropriate alphabetical order:

“**chief executive**,—

- “(a) for the purposes of Part 6A, means the chief executive of the Ministry; and
- “(b) for the purposes of Part 7, has the meaning set out in section 135

“**document**, for the purposes of Part 6A and sections 144A and 144C to 144E, means—

- “(a) any material, whether or not it is signed or otherwise authenticated, that bears symbols (including words and figures), images, or sounds, or from which symbols, images, or sounds can be derived, and includes—
  - “(i) a label, marking, or other writing that identifies or describes a thing of which it forms part, or to which it is attached:
  - “(ii) a book, map, plan, graph, or drawing:
  - “(iii) a photograph, film, or negative; and
- “(b) information electronically recorded or stored, and information derived from that information

“**Ministry** means the department of State that, with the authority of the Prime Minister, is responsible for the administration of the Act”.

## 5 New sections 87 to 87B substituted

- (1) Section 87 is repealed and the following sections are substituted:

### “87 Free public playing or showing of communication work

- “(1) The free public playing or showing of a communication work (other than a communication work to which section 87A applies) does not infringe any copyright in—
- “(a) the communication work; or
  - “(b) any sound recording or film included in the communication work.
- “(2) For the purposes of this section, the public playing or showing of a communication work is not free if—
- “(a) the audience has paid for admission to—
    - “(i) the place where the communication work is played or shown (which in this section is called the **venue**); or
    - “(ii) any place of which the venue is a part; or
  - “(b) goods or services are supplied at the venue or a place of which it forms part at prices that—
    - “(i) are substantially attributable to the facilities afforded for hearing or seeing the communication work; or

- “(ii) exceed those usually charged there and that are partly attributable to those facilities; or
  - “(c) the venue is a hotel, motel, camping ground, or any other place that admits persons for a fee for purposes of temporary accommodation, and the audience is made up of persons residing at that hotel, motel, camping ground, or other place.
- “(3) For the purposes of subsection (2)(a), the following persons must not be treated as having paid for admission to the venue:
- “(a) a person admitted as a resident or an inmate of a place (other than a hotel, motel, camping ground, or any other place to which subsection (2)(c) applies):
  - “(b) a person admitted as a member of a club or society where the payment is only for membership of the club or society and the provision of facilities for hearing or seeing communication works is only incidental to the main purposes of the club or society.

**“87A Free public playing or showing of communication work that is simultaneous with reception**

- “(1) This section applies to the playing or showing of a communication work that—
- “(a) is made for reception in the area in which it is played or shown; and
  - “(b) is not a communication work for which a subscription fee must be paid in order to receive it; and
  - “(c) is played or shown simultaneously upon reception of the communication work.
- “(2) The free public playing or showing of a communication work to which this section applies does not infringe any copyright in—
- “(a) the communication work; or
  - “(b) any sound recording or film that is played or shown in public by reception of the communication work.
- “(3) For the purposes of this section, the public playing or showing of a communication work is not free if—
- “(a) the audience has paid for admission to the place where the communication work is played or shown (which in

- this section is called the **venue**), including any place of which the venue is a part; or
- “(b) goods or services are supplied at the venue or a place of which it forms part at prices that—
    - “(i) are substantially attributable to the facilities afforded for hearing or seeing the communication work; or
    - “(ii) exceed those usually charged there and that are partly attributable to those facilities.
- “(4) For the purposes of subsection (3)(a), the following persons must not be treated as having paid for admission to the venue:
- “(a) a person admitted as a resident or an inmate of a place (including a person residing in a hotel, motel, camping ground, or any other place that admits persons for a fee for the purpose of temporary accommodation):
  - “(b) a person admitted as a member of a club or society where the payment is only for membership of the club or society and the provision of facilities for hearing or seeing communication works is only incidental to the main purposes of the club or society.

**“87B Assessment of damages for infringement of copyright in sound recording or film**

Where the making of a communication work is an infringement of copyright, the fact that the work was heard or seen in public by the reception of the communication work must be taken into account in assessing the damages for the infringement.”

- (2) Section 48 of the Copyright (New Technologies) Amendment Act 2008 is consequentially repealed.

**6 New Part 6A inserted**

The following Part is inserted after section 134:

**“Part 6A**  
**“Enforcement officers**

*“Appointment and functions of enforcement  
officers*

**“134A Chief executive may appoint enforcement officers**

The chief executive may appoint enforcement officers, on a permanent or temporary basis, to perform the functions set out in section 134C and exercise the powers conferred on an enforcement officer by this Act.

**“134B Authority to act as enforcement officer**

- “(1) The chief executive must issue a warrant of appointment to every person appointed as an enforcement officer.
- “(2) A warrant of appointment must—
- “(a) be in the prescribed form; and
  - “(b) bear the photograph and signature of the holder; and
  - “(c) contain a statement of the power conferred by section 134D; and
  - “(d) contain any other prescribed particulars.
- “(3) A warrant of appointment is, in the absence of evidence to the contrary, sufficient proof that the holder of the warrant may exercise the powers conferred on an enforcement officer.
- “(4) A person who ceases to be an enforcement officer must return the person’s warrant of appointment.
- “(5) A person who fails to comply with subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.

**“134C Functions of enforcement officer**

An enforcement officer must, to the extent that is reasonably practicable, promote compliance with this Act by carrying out the following functions:

- “(a) gathering information relating to offences under this Act;
- “(b) investigating offences under this Act;
- “(c) reporting to the chief executive on any matters relating to the enforcement officer’s functions.



*“Enforcement officer’s power of entry and  
examination without warrant*

**“134D Enforcement officer’s power of entry and examination  
without warrant**

“(1) For the purpose of carrying out his or her functions, an enforcement officer may enter and examine any place (**place A**) where goods are being offered for sale, exposed for sale, or publicly displayed if—

“(a) place A is in a public place and the entry is made when place A is open to the public; or

“(b) place A is a place of business and the entry is made—  
“(i) when it is open for carrying on business; and  
“(ii) only to those parts of it that are open to the public; or

“(c) the occupier of place A consents to the entry and examination after the enforcement officer has informed the occupier—

“(i) of the purpose of the entry and examination; and

“(ii) that the occupier may refuse to give consent to the entry and examination; and

“(iii) that the occupier may revoke his or her consent at any time; and

“(iv) that any thing seized during the examination may be used in evidence in proceedings.

“(2) In subsection (1),—

“**place A**—

“(a) includes (without limitation)—

“(i) a structure or tent, whether fully or partly erected; and

“(ii) a stand or stall; and

“(iii) a vehicle; and

“(iv) a caravan, trailer, or other conveyance; but

“(b) does not include a private dwellinghouse

“**public place** means any place that is open to or being used by the public, with or without payment by the public of a charge.

“(3) For the purposes of this section, any person who appears to be under 14 years of age may not be treated as the occupier.

**“134E What enforcement officer and person assisting may do when exercising power of entry and examination without warrant**

- “(1) The power of entry and examination conferred by section 134D authorises an enforcement officer to do any of the following:
- “(a) examine the place and all things, including any document:
  - “(b) seize any thing that he or she has reasonable grounds to believe is evidence of, or of significant relevance to the investigation of, an offence under this Act:
  - “(c) bring and use in or on the place equipment for the purposes of carrying out the examination:
  - “(d) take photographs or sound or video recordings of the place, and of any thing found in that place, if the enforcement officer has reasonable grounds to believe that the photographs or sound or video recordings may be relevant in any proceedings (including future proceedings) related to the entry and examination:
  - “(e) take any person to the place to assist him or her with the examination.
- “(2) A person who assists an enforcement officer exercising the power of entry and examination may, under the direction of the enforcement officer,—
- “(a) exercise any of the powers described in subsection (1)(a), (c), and (d); and
  - “(b) seize any thing that the enforcement officer determines may lawfully be seized.
- “(3) If an enforcement officer enters and examines a place under section 134D(1)(c) and the occupier revokes his or her consent, the officer and any person assisting the enforcement officer must immediately stop the examination and leave the place.
- “(4) Subsection (3) is subject to subsection (5).
- “(5) The enforcement officer may, before leaving the place, seize any thing already identified by him or her before the revocation of consent as a thing that he or she has reasonable grounds to believe is evidence of, or of significant relevance to the investigation of, an offence under this Act.

- “(6) If a member of the police assists an enforcement officer, nothing in this section prevents that member of the police from exercising any power ordinarily exercisable by him or her.
- “(7) Sections 134P to 134S contain further provisions that apply to an enforcement officer’s power of entry and examination.

*“Entry and search under search warrant*

**“134F Enforcement officer or member of police may apply for search warrant**

- “(1) An enforcement officer or a member of the police may apply for a search warrant to search a place or thing.
- “(2) Any District Court Judge, Justice of the Peace, Community Magistrate, or any Registrar of a District Court (not being a member of the police) (the **issuing officer**) may, on an application by an enforcement officer or a member of the police, issue a search warrant to search a place or thing if the issuing officer is satisfied that there are reasonable grounds for believing that—
  - “(a) an offence under this Act has been, or is being, committed at the place or involving the thing; or
  - “(b) there is at, in, on, over, or under the place or thing, any thing that is—
    - “(i) evidence of an offence under this Act; or
    - “(ii) intended to be used for the purpose of committing an offence under this Act.
- “(3) Sections 134G to 134S apply in respect of every search warrant applied for and issued under this section.

**“134G Application for search warrant**

- “(1) An application for a search warrant must contain, in reasonable detail, the following particulars:
  - “(a) the name of the applicant:
  - “(b) the provision of this Act authorising the making of the application:
  - “(c) the grounds on which the application is made:
  - “(d) the address or other description of the place or thing proposed to be searched:

- “(e) a description of the item or items believed to be at, in, on, over, or under the place or thing that are sought by the applicant:
  - “(f) the period for which the warrant is sought:
  - “(g) if the applicant wants to be able to execute the warrant on more than 1 occasion, the grounds on which execution on more than 1 occasion is believed to be necessary.
- “(2) The issuing officer may require the applicant to supply further information concerning the grounds on which the search warrant is sought.
- “(3) The applicant must disclose in the application—
- “(a) details of any other application for a search warrant that the applicant knows to have been made within the previous 3 months in respect of the place or thing proposed to be searched:
  - “(b) the result of that application or those applications.
- “(4) The applicant must, before making an application for a search warrant, make reasonable inquiries within the agency in which the applicant is employed or engaged for the purpose of complying with subsection (3).
- “(5) The issuing officer may authorise the search warrant to be executed on more than 1 occasion during the period in which the warrant is in force if he or she is satisfied that this is required for the purposes for which the warrant is being issued.

**“134H Mode of application for search warrant**

- “(1) Unless subsection (3) applies, an application for a search warrant—
- “(a) must be in writing; and
  - “(b) must be in the prescribed form (if any); and
  - “(c) may be transmitted to the issuing officer electronically.
- “(2) The applicant must appear in person before the issuing officer, unless subsection (3) applies.
- “(3) An issuing officer may allow an application for a search warrant to be made verbally (for example, by telephone call) and excuse the applicant from making a personal appearance if the issuing officer is satisfied that—

- “(a) the delay that would be caused by requiring an applicant to appear in person would compromise the effectiveness of the search; and
  - “(b) the question of whether the warrant should be issued can properly be determined on the basis of a verbal communication (including the information described in paragraph (c)); and
  - “(c) the information required by section 134G(1) to (3) has been supplied to the issuing officer.
- “(4) An issuing officer who allows an application for a search warrant to be made verbally must record the grounds for the application as soon as practicable.

**“134I Form and content of search warrant**

- “(1) Every search warrant issued must be in the prescribed form.
- “(2) Every search warrant issued must be directed generally to every enforcement officer and every member of the police.
- “(3) A search warrant—
- “(a) may be executed by any of the persons to whom it is directed:
  - “(b) may be subject to any conditions specified in the warrant that the issuing officer considers reasonable:
  - “(c) may be executed only once, unless execution on more than 1 occasion is authorised.
- “(4) Every search warrant must contain, in reasonable detail, the following particulars:
- “(a) the name of the issuing officer and the date of issue:
  - “(b) the provision of this Act authorising the issue of the warrant:
  - “(c) that the person executing the warrant may use any assistance that is reasonable in the circumstances:
  - “(d) that the person executing the warrant may use any force that is reasonable in the circumstances to enter or break open or access any place being searched, or any area within that place, or any thing being searched or thing found:
  - “(e) the address or description of the place or thing that may be searched:
  - “(f) a description of what may be seized:

- “(g) the period during which the warrant may be executed, being—
  - “(i) a period specified by the issuing officer not exceeding 14 days from the date of issue; or
  - “(ii) if the issuing officer is satisfied that a period of longer than 14 days is necessary for execution, a period specified by the issuing officer not exceeding 30 days from the date of issue:
- “(h) any conditions specified by the issuing officer under subsection (3)(b):
- “(i) if the warrant may be executed on more than 1 occasion, the number of times that the warrant may be executed.

#### “134J Transmission of search warrant

If it is not possible for the person charged with executing the warrant to have it in his or her possession at the time of execution, 1 of the following documents (which is deemed for all purposes to constitute the warrant) may be executed:

- “(a) a facsimile or other electronic copy of a warrant issued by the issuing officer:
- “(b) a copy of the text of a warrant, made at the direction of the issuing officer, and endorsed to that effect by the person who made the copy.

#### “134K Retention of documents

- “(1) A copy of every written application for a search warrant or, in the case of a verbal application, the written record of the application made by the issuing officer, must be retained at the District Court at which, or the District Court that is closest to the place at which, the application was made, until,—
  - “(a) in a case where a search warrant is issued, the completion of any proceedings in respect of which the search warrant may be in issue; and
  - “(b) in any other case, the expiry of 2 years after the documents were first retained by the District Court.
- “(2) An applicant to whom a search warrant is issued must retain the warrant, a copy of the application (if made in written form), and all documents tendered by the applicant in support of the application until,—

- “(a) in the case of a warrant that is executed, the completion of any proceedings in respect of which the validity of the warrant may be in issue; and
- “(b) in any other case, the destruction or transfer of the warrant and other documents is required by the Public Records Act 2005 or any other enactment or rule of law.

**“134L When search warrant is executed**

A search warrant is executed when the person executing the warrant—

- “(a) has seized all the items specified in the warrant; or
- “(b) leaves the place or thing being searched and does not return within 4 hours.

**“134M Powers of entry and search under warrant**

- “(1) Every search warrant authorises the person executing it to do any of the following:
  - “(a) to enter and search the place or thing that the person is authorised to enter and search, and any item or items found in that place, at any time that is reasonable in the circumstances:
  - “(b) to request any person to assist with the entry and search (including, without limitation, a member of a hapū or an iwi if the place to be entered is of cultural or spiritual significance to that hapū or iwi):
  - “(c) to use any force that is reasonable for the purposes of the entry and search:
  - “(d) to seize any thing authorised to be seized:
  - “(e) to bring and use in or on the place or thing searched any equipment, to use any equipment found on the place or thing, and to extract any electricity from the place or thing to operate the equipment that it is reasonable to use in the circumstances, for the purposes of carrying out the entry and search:
  - “(f) to copy any document, or part of a document, that may lawfully be seized:
  - “(g) to take photographs or sound or video recordings of the place or thing searched, and of any thing found in that

place, if the person exercising the power has reasonable grounds to believe that the photographs or sound or video recordings may be relevant in any proceedings related to the entry and search.

- “(2) The person executing the warrant may, in a manner and for the duration that is reasonable for the purposes of carrying out the search,—
- “(a) secure the place or thing searched, any area within that place or thing, or any thing found within that place or thing; and
  - “(b) exclude any person from the place or thing searched, or from any area within the place or thing, or give any other reasonable direction to such a person, if the person carrying out the search has reasonable grounds to believe that the person will obstruct or hinder the exercise of the power.
- “(3) The powers conferred by this section are subject to any conditions imposed under section 134I(3)(b).
- “(4) Section 198B of the Summary Proceedings Act 1957 applies with all necessary modifications as if for each reference to a constable there were substituted a reference to the person authorised to execute the search warrant.

**“134N Powers of persons called to assist**

- “(1) Every person called on to assist a person executing a warrant is subject to the control of the person executing the warrant.
- “(2) Every person called on to assist a person executing a warrant may do any of the following:
- “(a) enter the place or thing to be searched:
  - “(b) while in the company and under the direction of the person executing the warrant, use reasonable force in respect of any property for the purposes of carrying out the entry and search:
  - “(c) search areas within the place or thing that the person executing the warrant determines may lawfully be searched:
  - “(d) seize any thing that the person executing the warrant determines may lawfully be seized:



- “(e) take photographs and sound and video recordings of the place or thing and things found in the place or thing if the person executing the warrant determines that those things may lawfully be done:
  - “(f) bring in or on to the place or thing and use any equipment, make use of any equipment found on the place or thing, or extract electricity from the place or thing for the purposes of operating the equipment that the person executing the warrant determines may lawfully be used:
  - “(g) copy any document, or part of a document, that the person executing the warrant determines may lawfully be copied.
- “(3) If a member of the police is assisting another person executing the warrant, that member of the police may exercise any power ordinarily exercisable by him or her.
- “(4) The person executing the warrant must—
- “(a) accompany any assistant on the first occasion when the assistant enters the place or thing to be searched; and
  - “(b) provide such other supervision of any assistant as is reasonable in the circumstances.

*“General provisions that apply to powers of entry and search and entry and examination*

**“1340 Application of sections 134P to 134S**

- “(1) Sections 134P to 134S apply in respect of every search warrant issued under this Act.
- “(2) Sections 134P(1) and 134Q to 134S apply in respect of the power of entry and examination conferred by section 134D.
- “(3) In sections 134P to 134S—
- “(a) **power of entry and search** means the power of entry and search under a search warrant issued under this Act; and
  - “(b) **power of entry and examination** means the power of entry and examination under section 134D.

**“134P Powers and duties of person exercising power of entry and search or power of entry and examination**

- “(1) A person exercising a power of entry and search or a power of entry and examination must,—
- “(a) before initial entry into or onto the place or thing to be searched or examined,—
    - “(i) announce his or her intention to enter and search or to enter and examine the place or thing under a statutory power; and
    - “(ii) identify himself or herself; and
  - “(b) before or on initial entry into or onto the place or thing to be searched or examined,—
    - “(i) give the occupier of the place or thing a copy of the search warrant or, in the case of an examination, a copy of section 134D, (the **authority**) that authorises him or her to conduct the entry and search or entry and examination; and
    - “(ii) produce to the occupier of the place or thing evidence of his or her identity (which may include details of a unique identifier instead of a name).
- “(2) The person exercising a power of entry and search is not required to comply with subsection (1) if he or she believes on reasonable grounds that—
- “(a) no person is lawfully present in or on the place or thing to be searched; or
  - “(b) compliance with subsection (1) would—
    - “(i) endanger the safety of any person; or
    - “(ii) prejudice the successful exercise of the power of entry and search; or
    - “(iii) prejudice ongoing investigations under this Act.
- “(3) The person exercising a power of entry and search may use reasonable force in order to effect entry into or onto the place or thing if—
- “(a) subsection (2) applies; or
  - “(b) following a request, the person present refuses entry or does not allow entry within a reasonable time.
- “(4) If the occupier is not present at any time during the exercise of a power of entry and search, the person carrying out the search must,—

- “(a) on completion of the search, leave a copy of the authority referred to in subsection (1)(b)(i) and the notice referred to in subsection (5) in a prominent position at the place or on the thing; or
  - “(b) if this is not reasonably practicable, provide the copy of the authority referred to in subsection (1)(b)(i) and the notice referred to in subsection (5) to the occupier no later than 7 days after the execution of the warrant.
- “(5) The notice required by subsection (4) is a written notice containing the following particulars:
- “(a) the date and time of the commencement and completion of the search:
  - “(b) the name or unique identifier of the person who had overall responsibility for that search:
  - “(c) the address of the office to which inquiries should be made:
  - “(d) if nothing is seized, the fact that nothing was seized:
  - “(e) if any thing was seized, the fact that seizure occurred and, if an inventory is not provided at the same time under section 134Q, that an inventory of the things seized will be provided to the occupier or person in charge of the place or thing no later than 7 days after the seizure.
- “(6) For the purposes of this section and section 134Q, any person who appears to be under 14 years of age may not be treated as the occupier.
- “(7) Subsections (4) and (5) are subject to sections 134R and 134S.

**“134Q Inventory of things seized**

- “(1) A person who exercises a power of entry and search or a power of entry and examination must, at the time he or she seizes any thing, or as soon as practicable after the seizure of any thing, and in any case not later than 7 days after that seizure, provide to the occupier, and to every other person whom the person who carried out the search or examination has reason to believe is the owner of the thing that was seized,—
- “(a) written notice specifying what was seized; and
  - “(b) a copy of the authority referred to in section 134P(1)(b)(i).

- “(2) A written notice referred to in subsection (1)(a)—
- “(a) must contain information about the extent to which a person from whom a thing was seized or the owner of the thing has a right—
    - “(i) to have access to the thing; and
    - “(ii) to have access to any document relating to the application for a search warrant or the exercise of the power of entry and examination that led to the seizure; and
  - “(b) must contain information about the right to bring a claim that any privileged or confidential information has been seized; but
  - “(c) need not be provided to the occupier if the person who carries out the search or examination is satisfied that none of the things seized are owned by the occupier.
- “(3) If the occupier is not present at the time of seizure, the written notice referred to in subsection (1)(a) and a copy of the authority referred to in section 134P(1)(b)(i) may be provided to the occupier by leaving the notice in a prominent position at the place or on the thing.
- “(4) A person who exercises a power of entry and search or a power of entry and examination must make reasonable inquiries for the purposes of complying with subsections (1) and (2).
- “(5) Subsection (1) is subject to subsections (2) and (3).
- “(6) This section is subject to sections 134R and 134S.

**“134R Compliance with certain provisions may be deferred in certain circumstances**

- “(1) A person exercising a power of entry and search or a power of entry and examination may apply to a District Court Judge for an order postponing the obligation to comply with section 134P(4) or (5) (in the case of a power of entry and search) or 134Q on the grounds that compliance would—
- “(a) endanger the safety of any person; or
  - “(b) prejudice ongoing investigations under this Act or exercises of the power of entry and search or the power of entry and examination on subsequent occasions.
- “(2) An application may be made under subsection (1),—

- “(a) in the case of a search warrant, at the time of the initial application or until the expiry of 7 days after the warrant is finally executed; and
  - “(b) in the case of the power of entry and examination, until the expiry of 7 days after the power of entry and examination is exercised.
- “(3) On an application under subsection (1), the District Court Judge may make an order postponing for a specified period not exceeding 12 months the obligation to comply with section 134P(4) or (5) or 134Q, if the Judge is satisfied on either ground set out in subsection (1).

**“134S Further extension to, or dispensation from, obligation to comply with certain provisions**

- “(1) A person who has obtained an order under section 134R(3) may, before the expiry of that order, apply to a District Court Judge for a further order for postponement of, or dispensation from, the obligation to comply with section 134P(4) or (5) or 134Q on the grounds set out in section 134R(1).
- “(2) An application for a further postponement may only be made on 1 occasion.
- “(3) On an application under subsection (1), the District Court Judge may postpone for a further specified period not exceeding 12 months, or order a permanent dispensation from, the obligation to comply with section 134P(4) or (5) or 134Q, if the Judge is satisfied on either ground set out in section 134R(1).
- “(4) A District Court Judge may not grant, under subsection (3), any postponement of, or dispensation from, an obligation in respect of any thing that has been seized, unless the thing seized is a copy of any information taken or made.

*“Provisions relating to things seized*

**“134T Period things seized may be retained**

- “(1) A thing seized under this Act may be retained by the Commissioner of Police or by the chief executive while it is required for the purposes of investigating or prosecuting an offence under this Act.

- “(2) Subsection (1) is subject to—
- “(a) any order of the court under section 134U; and
  - “(b) section 134W.
- “(3) If a thing seized is no longer required for the purposes of investigating or prosecuting an offence under this Act, the Commissioner of Police or chief executive must return it to the person he or she believes is entitled to it.
- “(4) The Commissioner of Police or chief executive may apply to the court for an order for directions as to the disposal of the thing if—
- “(a) the person who is entitled to it cannot be found; or
  - “(b) the Commissioner of Police or chief executive is in doubt about who is entitled to it.
- “(5) On an application under subsection (4), the court may make such order concerning the disposal of the thing that it thinks appropriate in the circumstances.

**“134U Application for order to return things seized**

- “(1) A person who claims to be entitled to a thing seized may apply to the court for an order that the thing be delivered to him or her.
- “(2) On an application under subsection (1), the court may make an order for delivery of the thing to the applicant if it is satisfied—
- “(a) that the applicant is the person entitled to it; and
  - “(b) that it would be contrary to the interests of justice for the thing to be retained, having regard to—
    - “(i) the gravity of the alleged offence in respect of which the thing is being retained; and
    - “(ii) any loss or damage to the applicant caused, or likely to be caused, by retention of the thing; and
    - “(iii) the likely evidential value of the thing, having regard to any other evidence held by the Commissioner of Police or the chief executive, as the case may be; and
    - “(iv) whether the evidential value of the thing can be adequately preserved by means other than its retention.

**“134V Disposal of things seized**

- “(1) In any proceedings for an offence relating to a thing seized, the court may, either at the trial or on an application, order—
- “(a) that the thing be delivered to the person who appears to the court to be entitled to it; or
  - “(b) that the thing be destroyed or otherwise disposed of in the manner that the court thinks appropriate; or
  - “(c) if a person is convicted of an offence to which the thing relates,—
    - “(i) that the thing be forfeited to the copyright owner; or
    - “(ii) that the thing be destroyed or otherwise disposed of as the court directs at the expense of the convicted person.
- “(2) In considering what order, if any, should be made under subsection (1)(c)(ii), the court must consider the need to ensure that no infringing goods are disposed of in a manner that would adversely affect the copyright owner.
- “(3) If the court makes an order under subsection (1)(c), it may order that the convicted person pay any reasonable costs incurred by the Commissioner of Police or chief executive in retaining the thing for the purpose of the proceedings.
- “(4) If no order for delivery, forfeiture, destruction, or other disposal is made in respect of a thing seized and retained for the purpose of proceedings, it must, on completion of the proceedings, be returned by the Commissioner of Police or chief executive to the person entitled to it.
- “(5) The Commissioner of Police or chief executive may apply to the court for an order for directions as to the disposal of the thing if—
- “(a) the person who is entitled to it cannot be found; or
  - “(b) the Commissioner of Police or chief executive is in doubt about who is entitled to it.
- “(6) On an application under subsection (5), the court may make any order concerning the disposal of the thing that it thinks appropriate in the circumstances.

**“134W Disposal of perishable things**

If, in the opinion of the Commissioner of Police or chief executive, a thing seized may rot, spoil, deteriorate, or otherwise perish, he or she may dispose of it in the way and at the price (if any) or the cost he or she may determine.

*“Other powers of enforcement officers***“134X Enforcement officer may apply for production order**

- “(1) If an enforcement officer believes on reasonable grounds that a person has in his or her possession, custody, or control, 1 or more documents that are evidence of, or may be of significant relevance to the investigation of, an offence against any of sections 131, 198, or 226C, the enforcement officer may apply to a District Court Judge for an order requiring the person to produce the documents for inspection by an enforcement officer.
- “(2) An application by an enforcement officer for an order under subsection (1) must—
- “(a) be in writing; and
  - “(b) be in the prescribed form (if any); and
  - “(c) be made on oath; and
  - “(d) set out, in reasonable detail, the grounds for the application; and
  - “(e) provide details of the documents in respect of which the order is sought.

**“134Y Judge may order documents to be produced**

- “(1) If an application is made under section 134X and the District Court Judge is satisfied that there are reasonable grounds to believe that the person in respect of whom the order is sought has in that person’s possession, custody, or control, 1 or more documents that are evidence of, or may be of significant relevance to the investigation of, an offence against any of sections 131, 198, or 226C, the District Court Judge may order the person to produce those documents for inspection by an enforcement officer.
- “(2) An order under subsection (1)—
- “(a) must be in the prescribed form (if any); and
  - “(b) must specify—



- “(i) when the documents are to be produced for inspection; and
- “(ii) the place where the documents are to be produced for inspection; and
- “(iii) the enforcement officer to whom the documents are to be produced for inspection; and
- “(c) may be subject to any further terms and conditions the District Court Judge thinks fit.

**“134Z Powers of enforcement officer to whom documents produced**

An enforcement officer to whom any document is produced for inspection under an order under section 134Y may do 1 or more of the following:

- “(a) inspect the document:
- “(b) take extracts from the document:
- “(c) make copies of the document.

**“134ZA Offence of failing to comply with order to produce documents**

- “(1) No person may, without reasonable excuse, fail to comply with an order under section 134Y.
- “(2) Every person who breaches subsection (1) commits an offence and is liable on summary conviction,—
  - “(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or a fine not exceeding \$10,000; and
  - “(b) in the case of a body corporate, to a fine not exceeding \$50,000.

*“Powers of police*

**“134ZB Powers of police**

Every member of the police has all, and may exercise any, of the powers of an enforcement officer under this Part.

*“Miscellaneous***“134ZC Privilege against self-incrimination**

- “(1) An order under section 134Y does not affect the privilege against self-incrimination that an individual may have under section 60 of the Evidence Act 2006.
- “(2) Any assertion of a privilege against self-incrimination must be based on section 60 of the Evidence Act 2006.
- “(3) If any individual refuses to produce a document on the ground that it is a privileged communication under section 60 of the Evidence Act 2006, an enforcement officer or a member of the police may apply to a District Court Judge for an order determining whether the claim of privilege is valid; and, in respect of any such application, the individual must offer sufficient evidence to enable the District Court Judge to assess whether self-incrimination would be reasonably likely if the individual produced the document.
- “(4) To avoid doubt, nothing in this section affects the application of section 65 of the Evidence Act 2006 (which relates to waiver of privilege) in respect of the privilege against self-incrimination that a person may have under section 60 of that Act.
- “(5) Section 63 of the Evidence Act 2006 does not apply to an order made under section 134Y.

**“134ZD Other privileges**

- “(1) If, in a criminal proceeding, a person could assert a privilege under section 54 or 56 of the Evidence Act 2006 in respect of a communication or information, that person has the same privilege for the purposes of an examination under section 134D, a search warrant issued under section 134F, and an order made under section 134Y.
- “(2) Subsection (3) applies to documents that are books of account or accounting records referred to in section 55(1) of the Evidence Act 2006.
- “(3) The application, by subsection (1), of section 54 of the Evidence Act 2006 (which relates to the privilege for communications with legal advisers) does not prevent, limit, or affect—

- “(a) the issue or execution of a search warrant under section 134F; or
  - “(b) the making of an order under section 134Y; or
  - “(c) the admissibility, in a criminal proceeding under this Act, of any evidence that relates to the contents of a document to which this subsection applies obtained as a result of a search warrant issued under section 134F or an order made under section 134Y.
- “(4) A person who has a privilege under this section has the right—
- “(a) to prevent the examination under section 134D, or the search under a warrant issued under section 134F, or to refuse production under an order made under section 134Y of any communication or information to which the privilege would apply if it were sought to be disclosed in a criminal proceeding; and
  - “(b) to require the return of any such communication or information if it is seized by a person exercising the power of examination under section 134D or search under a warrant issued under section 134F pending determination of the claim to privilege.
- “(5) If a person asserts a claim to privilege under this section in respect of any communication or information, an enforcement officer or a member of the police may apply to a District Court Judge for an order determining whether or not the claim to privilege is valid; and, for the purpose of determining any such application, the District Court Judge may require the communication or information to be produced to him or her.
- “(6) A District Court Judge may, on the application of an enforcement officer or a member of the police, disallow a privilege claimed under this section if the Judge is satisfied that the claim to privilege would, under section 67(1) of the Evidence Act 2006, be disallowed in a proceeding.
- “(7) Section 65 of the Evidence Act 2006 (which relates to waiver of privilege) applies in respect of any privilege under this section.

**“134ZE Disclosure of information**

- “(1) The chief executive (or any employee of the Ministry authorised in that behalf), the chief executive of the New Zealand

Customs Service (or any employee of the New Zealand Customs Service authorised in that behalf), and the Commissioner of Police (or any member of the police authorised in that behalf) may disclose information to each other, on request, for the purpose of investigating and prosecuting offences under this Act.

- “(2) Information obtained under subsection (1) must not be disclosed except—
- “(a) to the persons authorised under that subsection; or
  - “(b) for the purpose of any proceedings that have been commenced or that are reasonably in contemplation and that are connected with a matter in relation to which those persons perform their duties.
- “(3) No obligation as to secrecy or other restriction on the disclosure of information imposed by any enactment or otherwise prevents a disclosure under this section.

**“134ZF No liability if functions performed or powers exercised in good faith**

- “(1) This section applies to—
- “(a) an enforcement officer;
  - “(b) a person who assists an enforcement officer or a member of the police under this Part;
  - “(c) a member of the police who exercises any power of an enforcement officer under this Part.
- “(2) No person to whom this section applies is liable for any act done or omitted to be done by the person in the performance or intended performance of his or her functions or the exercise or intended exercise of his or her powers under this Act if the person acted—
- “(a) in good faith; and
  - “(b) in a reasonable manner; and
  - “(c) in the reasonably held belief that the prerequisites for the performance of any function or the exercise of any power had been satisfied.”

**7 Definitions**

Section 135 is amended by inserting the following definitions in their appropriate alphabetical order:

“**accepted notice** means a notice given under section 136(1) that has been accepted by the chief executive under section 136(3)

“**Customs** means the New Zealand Customs Service”.

**8 Notice may be given to chief executive**

Section 136 is amended by repealing subsection (4).

**9 New sections 136A to 136D inserted**

The following sections are inserted after section 136:

**“136A Chief executive may suspend accepted notice**

- “(1) The chief executive may suspend an accepted notice if the chief executive is satisfied that—
- “(a) the information held in respect of the accepted notice is not correct or is no longer current; or
  - “(b) there has been a failure to comply with a requirement concerning the giving of security or indemnity or both; or
  - “(c) there has been a failure to comply with an obligation under an indemnity given for an amount in respect of the accepted notice.
- “(2) Before suspending an accepted notice, the chief executive must—
- “(a) give written advice of the chief executive’s intention to suspend the accepted notice to—
    - “(i) the person who gave the notice under section 136; or
    - “(ii) if the chief executive has received notification of an assignment or transmission of the copyright to which the notice relates, the person notified as the current owner of the copyright; and
  - “(b) include in or with the advice a statement of the chief executive’s reasons; and
  - “(c) give the person to whom the advice is given not less than 20 working days to respond; and
  - “(d) consider any response made by that person to the chief executive within the time allowed.
- “(3) The written advice under subsection (2) may be given—

- “(a) by delivering it to that person; or
- “(b) by posting it to the most recent address for that person that has been notified to the chief executive.

**“136B Notice of suspension**

- “(1) If the chief executive decides to suspend an accepted notice, the chief executive must give written notice of the suspension to the person referred to in section 136A(2)(a).
- “(2) The notice of suspension may be given—
  - “(a) by delivering it to that person; or
  - “(b) by posting it to the most recent address for that person that has been notified to the chief executive.

**“136C Chief executive may reinstate accepted notice**

The chief executive may reinstate an accepted notice suspended under section 136A if the chief executive is satisfied that the grounds for the suspension no longer apply.

**“136D Duration of accepted notice**

- “(1) An accepted notice remains in force for the period specified in the notice unless—
  - “(a) it is revoked by the claimant by notice in writing; or
  - “(b) the court orders, in proceedings under section 141(1), that the notice be discharged.
- “(2) However, an accepted notice is not in force during the period of any suspension under section 136A.”

**10 New heading and sections 144 to 144I inserted**

The following heading and sections are inserted after section 143:

*“Enforcement powers of Customs officers*

**“144 Customs officer may seize goods in control of Customs**

- “(1) A Customs officer may seize any imported goods that are in the control of the Customs if the officer has reasonable cause to believe that they are evidence of, or of significant relevance to the investigation of, an offence against section 131(1)(b), 198(1)(b), or 226C(1).

“(2) The provisions of sections 134T to 134W apply with all necessary modifications in respect of any imported goods seized under this section and in applying those provisions every reference to the chief executive must be read as a reference to the chief executive of the New Zealand Customs Service.

**“144A Chief executive may require person to produce documents concerning goods in control of Customs**

“(1) If a Customs officer believes on reasonable grounds that goods in the control of the Customs have been imported in breach of this Act, the chief executive may, by notice in writing, require any person whom the Customs officer believes to have imported the goods, or any person whom the Customs officer believes to have acted as agent of that person, to produce to a Customs officer for inspection any specified document or class of documents in the person’s possession or control that the Customs officer considers relevant to determining whether the goods should be seized under section 144 or released.

“(2) A notice under this section requiring a person to produce any document must—

- “(a) be in the prescribed form; and
- “(b) specify the Customs officer to whom the person must produce the document; and
- “(c) specify a reasonable time and place at which the document must be produced; and
- “(d) be served on the person by—
  - “(i) delivering it to him or her in person; or
  - “(ii) posting it to the person’s address or delivering it to a box at a document exchange that the person is using at the time; or
  - “(iii) sending it by fax machine to a telephone number used by the person for the transmission of documents by fax; or
  - “(iv) if the person is a registered user of a Customs computerised entry processing system, by transmitting it by electronic means to the person in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that person.

- “(3) A Customs officer to whom a document is produced for inspection may do 1 or more of the following:
- “(a) inspect the document;
  - “(b) take extracts from the document;
  - “(c) make copies of the document.

“**144B Chief executive may require person to appear and answer questions concerning goods in control of Customs**

- “(1) If a Customs officer believes on reasonable grounds that goods in the control of the Customs have been imported in breach of this Act, the chief executive may, by notice in writing, require any person whom the Customs officer believes to have imported the goods, or any person whom the Customs officer believes to have acted as agent of that person, to appear before a Customs officer and to answer questions that the Customs officer considers relevant to determining whether the goods should be seized under section 144 or released.
- “(2) A notice under this section requiring a person to appear before a Customs officer and to answer questions must—
- “(a) be in the prescribed form; and
  - “(b) specify the Customs officer before whom the person must appear; and
  - “(c) specify a reasonable time and place at which the person must appear; and
  - “(d) be served on the person by—
    - “(i) delivering it to him or her in person; or
    - “(ii) posting it to the person’s address or delivering it to a box at a document exchange that the person is using at the time; or
    - “(iii) sending it by fax machine to a telephone number used by the person for the transmission of documents by fax; or
    - “(iv) if the person is a registered user of a Customs computerised entry processing system, by transmitting it by electronic means to the person in accordance with the normal procedure of operation of the relevant Customs computerised entry processing system in relation to that person.



**“144C Customs officer may apply for production order**

- “(1) If a Customs officer believes on reasonable grounds that a person has in his or her possession, custody, or control, 1 or more documents that are evidence of, or may be of significant relevance to the investigation of, an offence against section 131, 198, or 226C in respect of imported goods, the Customs officer may apply to a District Court Judge for an order requiring the person to produce the documents for inspection by a Customs officer.
- “(2) An application by a Customs officer for an order under subsection (1) must—
- “(a) be in writing; and
  - “(b) be in the prescribed form (if any); and
  - “(c) be made on oath; and
  - “(d) set out, in reasonable detail, the grounds for the application; and
  - “(e) provide details of the documents in respect of which the order is sought.

**“144D Judge may order documents to be produced**

- “(1) If an application is made under section 144C and the District Court Judge is satisfied that there are reasonable grounds to believe that the person in respect of whom the order is sought has in that person’s possession, custody, or control, 1 or more documents that are evidence of, or may be of significant relevance to the investigation of, an offence against section 131, 198, or 226C in respect of imported goods, the District Court Judge may order the person to produce those documents for inspection by a Customs officer.
- “(2) An order under subsection (1)—
- “(a) must be in the prescribed form (if any); and
  - “(b) must specify—
    - “(i) when the documents are to be produced for inspection; and
    - “(ii) the place where the documents are to be produced for inspection; and
    - “(iii) the Customs officer to whom the documents are to be produced for inspection; and

“(c) may be subject to any further terms and conditions the District Court Judge thinks fit.

**“144E Powers of Customs officer to whom documents produced**

A Customs officer to whom any document is produced for inspection under an order under section 144D may do 1 or more of the following:

- “(a) inspect the document:
- “(b) take extracts from the document:
- “(c) make copies of the document.

**“144F Issue of search warrants to Customs officers**

- “(1) A Customs officer may apply for a search warrant to search a place or thing.
- “(2) Any District Court Judge, Justice of the Peace, Community Magistrate, or Registrar of a District Court (the **issuing officer**) may, on an application by a Customs officer, issue a warrant if the issuing officer is satisfied that there are reasonable grounds for believing that there is in, on, over, or under the place or thing any thing that is evidence of, or of significant relevance to the investigation of, an offence against section 131, 198, or 226C in respect of imported goods.
- “(3) Sections 134G to 134S apply with all necessary modifications in respect of every search warrant applied for and issued under this section.
- “(4) Sections 134T to 134W apply with all necessary modifications in respect of any thing seized under a search warrant issued under this section, and in applying those provisions every reference to the chief executive must be read as a reference to the chief executive of the New Zealand Customs Service.

**“144G Privilege against self-incrimination**

- “(1) A notice under section 144A or 144B, or an order under section 144D, does not affect the privilege against self-incrimination that an individual may have under section 60 of the Evidence Act 2006.
- “(2) Any assertion of a privilege against self-incrimination must be based on section 60 of the Evidence Act 2006.

- “(3) If any individual refuses to produce any information or document or to answer any question on the ground that it is a privileged communication under section 60 of the Evidence Act 2006, a Customs officer or a member of the police may apply to a District Court Judge for an order determining whether the claim of privilege is valid; and, in respect of any such application, the individual must offer sufficient evidence to enable the District Court Judge to assess whether self-incrimination would be reasonably likely if the individual produced the information or the document or answered the question.
- “(4) To avoid doubt, nothing in this section affects the application of section 65 of the Evidence Act 2006 (which relates to waiver of privilege) in respect of the privilege against self-incrimination that a person may have under section 60 of that Act.
- “(5) Section 63 of the Evidence Act 2006 does not apply to an order under section 144D.

**“144H Other privileges**

- “(1) If, in a criminal proceeding, a person could assert a privilege under section 54 or 56 of the Evidence Act 2006 in respect of a communication or information, that person has the same privilege for the purposes of a notice issued under section 144A or 144B, an order made under section 144D, and a search warrant issued under section 144F.
- “(2) Subsection (3) applies to documents that are books of account or accounting records referred to in section 55(1) of the Evidence Act 2006.
- “(3) The application, by subsection (1), of section 54 of the Evidence Act 2006 (which relates to the privilege for communications with legal advisers) does not prevent, limit, or affect—
  - “(a) the issue of a notice under section 144A in respect of a document to which this subsection applies or the obligation to comply with such a notice; or
  - “(b) the making of an order under section 144D in respect of a document to which this subsection applies or the obligation to comply with such an order; or
  - “(c) the issue of a search warrant under section 144F in respect of a document to which this subsection applies; or

- “(d) the admissibility, in a criminal proceeding under this Act, of any evidence that relates to the contents of a document to which this subsection applies obtained under a notice issued under section 144A, an order made under section 144D, or a search warrant issued under section 144F.
- “(4) A person who has a privilege under this section has the right—
- “(a) to refuse to disclose a communication or information to which the privilege would apply if it were sought to be disclosed in a criminal proceeding; and
- “(b) to prevent the search of any such communication or information; and
- “(c) to require the return of any such communication or information if it is seized by a person exercising a power of search pending determination of the claim to privilege.
- “(5) If a person asserts a claim to privilege under this section in respect of any communication or information, a Customs officer or a member of the police may apply to a District Court Judge for an order determining whether the claim to privilege is valid; and, for the purpose of determining any such application, the District Court Judge may require the communication or information to be produced to him or her.
- “(6) A District Court Judge may, on the application of a Customs officer or a member of the police, disallow a privilege claimed under this section if the Judge is satisfied that the claim to privilege would, under section 67(1) of the Evidence Act 2006, be disallowed in a proceeding.
- “(7) Section 65 of the Evidence Act 2006 (which relates to waiver of privilege) applies in respect of any privilege under this section.

“**144I Offences**

- “(1) No person may, without reasonable excuse, refuse or fail to comply with a notice given under section 144A.
- “(2) No person who is required by a notice given under section 144B to appear before a Customs officer and to answer questions may, without reasonable excuse,—

- “(a) refuse or fail to appear before the Customs officer in accordance with the notice; or
  - “(b) refuse to answer any question.
- “(3) No person may, without reasonable excuse, refuse or fail to comply with an order made under section 144D.
- “(4) Every person who breaches any of subsections (1) to (3) commits an offence and is liable on summary conviction,—
- “(a) in the case of an individual, to imprisonment for a term not exceeding 6 months or to a fine not exceeding \$10,000; and
  - “(b) in the case of a body corporate, to a fine not exceeding \$50,000.”

**11 New heading inserted above section 145**

The following heading is inserted above section 145:

*“Miscellaneous matters”.*

**12 Protection of persons acting under authority of Act**

- (1) Section 146 is amended by inserting “nor any person who assists a Customs officer” after “chief executive nor any Customs officer”.
- (2) Section 146 is amended by inserting “or any person who assists a Customs officer” after “chief executive or any Customs officer”.

**13 New sections 188 to 188B substituted**

- (1) Section 188 is repealed and the following sections are substituted:

**“188 Free public playing or showing of communication work**

- “(1) The free public playing or showing of a communication work (other than a communication work to which section 188A applies) does not infringe a right under this Part in relation to a performance or recording included in—
  - “(a) the communication work; or
  - “(b) any sound recording or film that is played or shown in public by reception of the communication work.
- “(2) For the purposes of this section, the public playing or showing of a communication work is not free if—

- “(a) the audience has paid for admission to—
    - “(i) the place where the communication work is played or shown (which in this section is called the **venue**); or
    - “(ii) any place of which the venue is a part; or
  - “(b) goods or services are supplied at the venue or a place of which it forms part at prices that—
    - “(i) are substantially attributable to the facilities afforded for hearing or seeing the communication work; or
    - “(ii) exceed those usually charged there and that are partly attributable to those facilities; or
  - “(c) the venue is a hotel, motel, camping ground, or any other place that admits persons for a fee for the purposes of temporary accommodation, and the audience is made up of persons residing at that hotel, motel, camping ground, or other place.
- “(3) For the purposes of subsection (2)(a), the following persons must not be treated as having paid for admission to the venue:
- “(a) a person admitted as a resident or an inmate of a place (other than a hotel, motel, camping ground, or any other place to which subsection (2)(c) applies):
  - “(b) a person admitted as a member of a club or society where the payment is only for membership of the club or society and the provision of facilities for hearing or seeing communication works is only incidental to the main purposes of the club or society.

**“188A Free public playing or showing of communication work that is simultaneous with reception**

- “(1) This section applies to the playing or showing of a communication work that—
- “(a) is made for reception in the area in which it is played or shown; and
  - “(b) is not a communication work for which a subscription fee must be paid in order to receive it; and
  - “(c) is played or shown simultaneously upon reception of the communication work.

- “(2) The free public playing or showing of a communication work to which this section applies does not infringe a right under this Part in relation to a performance or recording included in—
- “(a) the communication work; or
  - “(b) any sound recording or film that is played or shown in public by reception of the communication work.
- “(3) For the purposes of this section, the public playing or showing of a communication work is not free if—
- “(a) the audience has paid for admission to the place where the communication work is played or shown (which in this section is called the **venue**), including any place of which the venue is a part; or
  - “(b) goods or services are supplied at the venue or a place of which it forms part at prices that—
    - “(i) are substantially attributable to the facilities afforded for hearing or seeing the communication work; or
    - “(ii) exceed those usually charged there and that are partly attributable to those facilities.
- “(4) For the purposes of subsection (3)(a), the following persons must not be treated as having paid for admission to the venue:
- “(a) a person admitted as a resident or an inmate of a place (including a person residing in a hotel, motel, camping ground, or any other place that admits persons for a fee) for the purpose of temporary accommodation;
  - “(b) a person admitted as a member of a club or society where the payment is only for membership of the club or society and the provision of facilities for hearing or seeing communication works is only incidental to the main purposes of the club or society.

**“188B Assessment of damages for infringement of rights under this Part in relation to performance or recording**

Where the making of a communication work is an infringement of rights under this Part in relation to a performance or recording, the fact that the work was heard or seen in public by the reception of the communication work must be taken into account in assessing the damages for the infringement.”

- (2) Section 85 of the Copyright (New Technologies) Amendment Act 2008 is consequentially repealed.

#### **14 Regulations**

Section 234 is amended by repealing paragraph (m) and substituting the following paragraph:

- “(m) prescribing forms for the purposes of this Act; and those regulations may require—
- “(i) the inclusion in, or attachment to, forms of specified information or documents:
  - “(ii) forms to be signed by specified persons:”.
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## Contents

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## Notes

### **1** *General*

This is a reprint of the Copyright Amendment Act 2011. The reprint incorporates all the amendments to the Act as at 7 October 2011, 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)*

Copyright Amendment Act 2011 Commencement Order 2011 (SR 2011/339)

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