

Reprint  
as at 1 July 2013



**Criminal Procedure (Mentally  
Impaired Persons) Amendment  
Act 2011**

Public Act 2011 No 87  
Date of assent 17 October 2011  
Commencement see section 2

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This Act is administered by the Ministry of Justice.**

**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Criminal Procedure (Mentally Impaired Persons) Amendment Act 2011.

**2 Commencement**

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

Section 2: this Act brought into force, on 1 July 2013, by the Criminal Procedure (Mentally Impaired Persons) Amendment Act 2011 Commencement Order 2013 (SR 2013/163).

**3 Principal Act amended**

This Act amends the Criminal Procedure (Mentally Impaired Persons) Act 2003.

**4 Amendments to principal Act**

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

**5 Application of amendments made by section 4**

The amendments made by section 4 apply in relation to a proceeding for an offence that was commenced before section 4 came into force in accordance with the provisions of sections 397 and 399 to 401 of the Criminal Procedure Act 2011.

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## **Schedule**

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### **Amendments to principal Act**

#### **Section 4(1)**

Definition of **acquittal on account of insanity**: repeal.

#### **Section 8**

Subsection (2): omit “hearing or”.

Subsection (3)(b): repeal and substitute:

“(b) the charge is dismissed.”

#### **Sections 10 to 12**

Repeal and substitute:

##### **“10 Inquiry before trial into defendant’s involvement in the offence**

“(1) This section applies if the question whether the defendant is unfit to stand trial arises before the trial.

“(2) The court must ascertain whether the court is satisfied of the matter specified in section 9.

“(3) For the purposes of subsection (2), the court may consider—  
“(a) any formal statements that have been filed under section 85 of the Criminal Procedure Act 2011:

“(b) any oral evidence that has been taken in accordance with an order made under section 92 of the Criminal Procedure Act 2011:

“(c) any other evidence that is submitted by the prosecutor or defendant.

##### **“11 Inquiry during Judge-alone trial into defendant’s involvement**

“(1) This section applies if the question whether the defendant is unfit to stand trial is to be determined during a Judge-alone trial.

“(2) The court must ascertain whether it is satisfied of the matter specified in section 9.

“(3) For the purposes of subsection (2), the court may (whether on the application of a party or on the court’s own initiative) do either or both of the following:

**Sections 10 to 12—continued**

- “(a) consider any evidence presented at the trial:
- “(b) hear any new evidence.

**“12 Inquiry during jury trial into defendant’s involvement**

- “(1) This section applies if the question whether the defendant is unfit to stand trial is to be determined during a jury trial.
- “(2) The court must ascertain whether it is satisfied of the matter specified in section 9.
- “(3) For the purposes of subsection (2), the court may do 1 or more of the following:
  - “(a) consider any formal statements that have been filed under section 85 of the Criminal Procedure Act 2011:
  - “(b) consider any oral evidence that has been taken in accordance with an order made under section 92 of the Criminal Procedure Act 2011:
  - “(c) consider any evidence presented at the trial:
  - “(d) hear any new evidence at any stage before the commencement of the closing addresses.”

**Section 13**

Subsection (2): omit “discharge the defendant” and substitute “dismiss the charge against the defendant under section 147 of the Criminal Procedure Act 2011”.

Subsection (3): repeal.

**Section 14(4)**

Omit “commence or continue the hearing or trial, or commit the defendant for trial, as the case may require” and substitute “continue the proceedings”.

**Section 16(2)(b)**

Omit “the Crimes Act 1961 or the Summary Proceedings Act 1957” and substitute “Part 6 of the Criminal Procedure Act 2011”.

**Section 17**

Subsection (1): omit “direct that the appellant be discharged” and substitute “dismiss the charge against the appellant”.

Subsection (2): repeal.

Subsection (3): omit “appellant has been discharged” and substitute “charge against the appellant has been dismissed”.

**Section 19(2)**

Omit “the Crimes Act 1961 and the Summary Proceedings Act 1957” and substitute “Part 6 of the Criminal Procedure Act 2011”.

**Section 20**

Subsection (1): omit “hearing or”.

Subsection (2): omit “hearing or”.

**Section 21**

Subsection (1)(b): omit “the Crimes Act 1961 or the Summary Proceedings Act 1957” and substitute “Part 6 of the Criminal Procedure Act 2011”.

Subsection (2)(a): omit “information” and substitute “charge”.

Subsection (2)(a): omit “or hearing”.

Subsection (2)(c): omit “or a rehearing”.

Subsection (4): omit “or hearing”.

**Section 22(3)**

Omit “or, as the case may be, the District Court Judge who presided over the court whose decision is appealed against”.

**Section 29(2)**

Omit “the Crimes Act 1961 or the Summary Proceedings Act 1957” and substitute “Part 6 of the Criminal Procedure Act 2011”.

**Section 38(5)(b)**

Omit “section 142 of the Criminal Justice Act 1985” and substitute “sections 171 to 175 of the Criminal Procedure Act 2011”.

**Section 42(3)(a)**

Repeal and substitute:

- “(a) any hearing or the trial in respect of a charge against the person:”.
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## **Notes**

### **1 *General***

This is a reprint of the Criminal Procedure (Mentally Impaired Persons) Amendment Act 2011. The reprint incorporates all the amendments to the Act as at 1 July 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

### **2 *Status of reprints***

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

### **3 *How reprints are prepared***

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and

provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)



- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5 *List of amendments incorporated in this reprint  
(most recent first)***

Criminal Procedure (Mentally Impaired Persons) Amendment Act 2011  
Commencement Order 2013 (SR 2013/163)

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