

Reprint
as at 29 June 2009

**Summary Proceedings Amendment
Act (No 2) 1998**

Public Act 1998 No 77
Date of assent 30 June 1998

Contents

	Page
Title	3
1 Short Title and commencement	3
2 New sections substituted	3
3 New sections substituted	4
4 Issue of summons or warrant to arrest defendant	4
5 Issue of summons or warrant for attendance of witness	4
6 Summary procedure for minor offences	4
7 Withdrawal of warrant	4
8 Mode of service of summons on defendant	4
9 Order for taking evidence of defence witness at distance	5
10 Order for taking evidence of person about to leave country	5
11 Place of hearing of information	5

Note

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

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

12	Power to adjourn	5
13	New sections substituted <i>[Repealed]</i>	5
14	New sections substituted <i>[Repealed]</i>	5
15	Effect on bond of attendance or non-attendance of person bailed by constable <i>[Repealed]</i>	5
16	Certification of non-performance of condition of bail bond <i>[Repealed]</i>	5
17	Defendant's right to elect trial by jury where offence punishable by more than 3 months' imprisonment	5
18	Criminal Records	6
19	District Court Judge or Justice or Community Magistrate may grant rehearing	6
20	Power of the Court to amend defective sentences	6
21	Action where fine remains unpaid	6
22	Rights of representation and appeal	6
23	Restriction on imprisonment	6
24	Appeals from decisions of Community Magistrates	6
25	Appeal to High Court on question of law	7
26	Right of appeal against decisions relating to bail <i>[Repealed]</i>	7
27	Proceedings under Part 5 <i>[Repealed]</i>	7
28	Issue of summons to or warrant to arrest defendant <i>[Repealed]</i>	7
29	Issue of warrant where defendant who has been summoned does not attend <i>[Repealed]</i>	7
30	Application of provisions of Part 2 <i>[Repealed]</i>	7
31	Defendant may plead guilty before or during preliminary hearing <i>[Repealed]</i>	7
32	Place of preliminary hearing <i>[Repealed]</i>	7
33	Depositions of witnesses <i>[Repealed]</i>	8
34	Statement of defendant who is unrepresented <i>[Repealed]</i>	8
35	Witnesses on behalf of defendant to be examined if defendant wishes <i>[Repealed]</i>	8
36	If evidence sufficient defendant may be committed for trial or sentence <i>[Repealed]</i>	8
37	Release on bail of defendant committed for trial or sentence <i>[Repealed]</i>	8
38	Power to take statement of person dangerously ill <i>[Repealed]</i>	8
39	Evidence of statement made by person dangerously ill <i>[Repealed]</i>	8

40	Provision for person in custody to be present at taking of statement <i>[Repealed]</i>	9
41	Notice to witnesses to attend at High Court <i>[Repealed]</i>	9
42	When deposition or written statement may be read in evidence <i>[Repealed]</i>	9
43	Witness about to leave New Zealand may be arrested <i>[Repealed]</i>	9
44	Part 7 amended	9
45	No action against District Court Judge, Justice, or Community Magistrate unless act in excess of jurisdiction or without jurisdiction	9
46	No action against District Court Judge, Justice, or Community Magistrate to be brought in District Court	9
47	Onus of proof	10
48	Plaintiff may be ordered to give security for costs	10
49	Indemnity to Justice or Community Magistrate	10
50	Search warrants	10
51	Who may take affidavit	10
52	Contempt of Court	10
53	Payment and recovery of fees	10
54	Schedule 2 amended	10
55	New Schedule 2A inserted	10
	Schedule	10
	New Schedule 2A of Summary Proceedings Act 1957	

An Act to amend the Summary Proceedings Act 1957

BE IT ENACTED by the Parliament of New Zealand as follows:

1 Short Title and commencement

- (1) This Act may be cited as the Summary Proceedings Amendment Act (No 2) 1998, and is part of the Summary Proceedings Act 1957 (“the principal Act”).
- (2) This Act comes into force on the date on which this Act receives the Royal assent.

2 New sections substituted

- (1) This subsection substituted ss 4 and 5 of the principal Act.

- (2) The following enactments are consequentially repealed:
- (a) So much of the Schedule of the Summary Proceedings Amendment Act 1976 as relates to section 5 of the principal Act:
 - (b) Section 4 of the Summary Proceedings Amendment Act 1980:
 - (c) Section 2 of the Summary Proceedings Amendment Act (No 4) 1985

3 New sections substituted

- (1) This subsection substituted s 9 and inserted ss 9A to 9G of the principal Act.
- (2) Section 3 of the Summary Proceedings Amendment Act 1987 is consequentially repealed.

4 Issue of summons or warrant to arrest defendant

- (1) This subsection amended s 19(1)(a) of the principal Act.
- (2) Section 19(1)(b) of the principal Act was amended—
 - (a) This paragraph amended s 19(1)(b) of the principal Act.
 - (b) This paragraph amended s 19(1)(b)(i) of the principal Act.

5 Issue of summons or warrant for attendance of witness

This section amended s 20(1) of the principal Act.

6 Summary procedure for minor offences

- (1) This subsection amended s 20A(1) of the principal Act.
- (2) This subsection amended s 20A(7) of the principal Act.
- (3) This subsection substituted s 20A(8) of the principal Act.
- (4) Section 3(6) of the Summary Proceedings Amendment Act 1976 is consequentially repealed.

7 Withdrawal of warrant

This section amended s 23 of the principal Act.

8 Mode of service of summons on defendant

This section amended s 24(1) of the principal Act.

- 9 Order for taking evidence of defence witness at distance**
This section amended s 31(2) of the principal Act.
- 10 Order for taking evidence of person about to leave country**
This section amended s 32(2) of the principal Act.
- 11 Place of hearing of information**
This section amended s 34 of the principal Act.
- 12 Power to adjourn**
This section amended s 45(2) of the principal Act.
- 13 New sections substituted**
[Repealed]
Sections 13 to 16 were repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). *See* section 75 of that Act as to the savings provisions.
- 14 New sections substituted**
[Repealed]
Sections 13 to 16 were repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). *See* section 75 of that Act as to the savings provisions.
- 15 Effect on bond of attendance or non-attendance of person bailed by constable**
[Repealed]
Sections 13 to 16 were repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). *See* section 75 of that Act as to the savings provisions.
- 16 Certification of non-performance of condition of bail bond**
[Repealed]
Sections 13 to 16 were repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). *See* section 75 of that Act as to the savings provisions.
- 17 Defendant's right to elect trial by jury where offence punishable by more than 3 months' imprisonment**
This section amended s 66(6) of the principal Act.

18 Criminal Records

This section amended s 71 of the principal Act.

19 District Court Judge or Justice or Community Magistrate may grant rehearing

Section 75 of the principal Act was amended—

- (a) This paragraph amended s 75(1) and (3) of the principal Act.
- (b) This paragraph amended the proviso to s 75(1) of the principal Act.

20 Power of the Court to amend defective sentences

This section amended s 77(1) of the principal Act.

21 Action where fine remains unpaid

- (1) This subsection amended s 88(1) of the principal Act.
- (2) This subsection substituted s 88(2)(a) of the principal Act.
- (3) This subsection amended s 88(2)(b) to (e) of the principal Act.
- (4) This subsection amended s 88(3) of the principal Act.
- (5) This subsection inserted s 88(3AAA) of the principal Act.
- (6) This subsection amended s 88(3A) of the principal Act.
- (7) This subsection amended s 88(8) and (9) of the principal Act.

22 Rights of representation and appeal

- (1) This subsection substituted s 89 of the principal Act.
- (2) Section 15 of the Summary Proceedings Amendment Act 1993 is consequentially repealed.

23 Restriction on imprisonment

Section 106E of the principal Act (as substituted by section 20(1) of the Summary Proceedings Amendment Act 1993) was amended—

- (a) This paragraph amended s 106E(1) of the principal Act.
- (b) This paragraph amended s 106E(5) of the principal Act.

24 Appeals from decisions of Community Magistrates

This section inserted s 114A of the principal Act.

25 Appeal to High Court on question of law

This section inserted s 114B of the principal Act.

26 Right of appeal against decisions relating to bail

[Repealed]

Section 26 was repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). See section 75 of that Act as to the savings provisions.

27 Proceedings under Part 5

[Repealed]

Section 27: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

28 Issue of summons to or warrant to arrest defendant

[Repealed]

Section 28: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

29 Issue of warrant where defendant who has been summoned does not attend

[Repealed]

Section 29: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

30 Application of provisions of Part 2

[Repealed]

Sections 30 and 31 were repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). See section 75 of that Act as to the savings provisions.

31 Defendant may plead guilty before or during preliminary hearing

[Repealed]

Sections 30 and 31 were repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). See section 75 of that Act as to the savings provisions.

32 Place of preliminary hearing

[Repealed]

Section 32: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

33 Depositions of witnesses*[Repealed]*

Section 33: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

34 Statement of defendant who is unrepresented*[Repealed]*

Section 34: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

35 Witnesses on behalf of defendant to be examined if defendant wishes*[Repealed]*

Section 35: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

36 If evidence sufficient defendant may be committed for trial or sentence*[Repealed]*

Section 36: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).

37 Release on bail of defendant committed for trial or sentence*[Repealed]*

Section 37 was repealed, as from 1 January 2001, by section 74(2) Bail Act 2000 (2000 No 38). See section 75 of that Act as to the savings provisions.

38 Power to take statement of person dangerously ill*[Repealed]*

Sections 38 and 39 were repealed as from 1 January 2001, by section 4(2) Summary Proceedings Amendment Act 2000 (2000 No 82).

39 Evidence of statement made by person dangerously ill*[Repealed]*

Sections 38 and 39 were repealed as from 1 January 2001, by section 4(2) Summary Proceedings Amendment Act 2000 (2000 No 82).

- 40 Provision for person in custody to be present at taking of statement**
[Repealed]
Section 40: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).
- 41 Notice to witnesses to attend at High Court**
[Repealed]
Section 41: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).
- 42 When deposition or written statement may be read in evidence**
[Repealed]
Section 42: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).
- 43 Witness about to leave New Zealand may be arrested**
[Repealed]
Section 43: repealed, on 29 June 2009, by section 17 of the Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41).
- 44 Part 7 amended**
This section substituted the heading of Part 7 of the principal Act.
- 45 No action against District Court Judge, Justice, or Community Magistrate unless act in excess of jurisdiction or without jurisdiction**
Section 193 of the principal Act was amended—
(a) This paragraph amended s 193(1) of the principal Act.
(b) This paragraph amended s 193(2) of the principal Act.
(c) This paragraph amended s 193(2) of the principal Act.
- 46 No action against District Court Judge, Justice, or Community Magistrate to be brought in District Court**
This section amended s 194 of the principal Act.

- 47 Onus of proof**
This section amended s 195 of the principal Act.
- 48 Plaintiff may be ordered to give security for costs**
This section amended s 196 of the principal Act.
- 49 Indemnity to Justice or Community Magistrate**
This section amended s 197 of the principal Act.
- 50 Search warrants**
Section 198 of the principal Act was amended—
(a) This paragraph amended s 198(1) of the principal Act.
(b) This paragraph amended s 198(6) of the principal Act.
- 51 Who may take affidavit**
This section amended s 202 of the principal Act.
- 52 Contempt of Court**
This section amended s 206 of the principal Act.
- 53 Payment and recovery of fees**
This s 207(2) of the principal Act.
- 54 Schedule 2 amended**
This section amended Schedule 2 of the principal Act.
- 55 New Schedule 2A inserted**
This section and the Schedule to this Act inserted Schedule 2A of the principal Act.

Schedule
New Schedule 2A of Summary
Proceedings Act 1957

Section 55

Contents

- 1 General
 - 2 About this eprint
 - 3 List of amendments incorporated in this eprint (most recent first)
-

Notes

1 *General*

This is an eprint of the Summary Proceedings Amendment Act (No 2) 1998. It incorporates all the amendments to the Act as at 29 June 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007. Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the Principal enactment, in chronological order.

2 *About this eprint*

This eprint has not been officialised. For more information about officialisation, please see “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 *List of amendments incorporated in this eprint (most recent first)*

Summary Proceedings Amendment Act (No 2) 2008 (2008 No 41): section 17
