



## ANALYSIS

- Title  
1. Short Title  
2. New heading and sections (relating to search warrants) inserted in Part X

*Search Warrants*

- 445A. Person executing warrant to produce evidence of authority and identity  
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1996, No. 112

**An Act to amend the Children, Young Persons, and Their Families Act 1989**  
[2 September 1996]

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

**1. Short Title**—This Act may be cited as the Children, Young Persons, and Their Families Amendment Act 1996, and shall be read together with and deemed part of the Children, Young Persons, and Their Families Act 1989 (hereinafter referred to as the principal Act).

**2. New heading and sections (relating to search warrants) inserted in Part X**—(1) The principal Act is hereby amended by inserting in Part X, after section 445, the following heading and sections:

*“Search Warrants*

**“445A. Person executing warrant to produce evidence of authority and identity**—Every Social Worker, member of the Police, or other person executing any warrant issued under section 39 or section 40 or section 122 or section 157 (2) or section 205 (2) (b) or section 386 of this Act—

“(a) Shall have that warrant with him or her; and

- “(b) Shall produce it on initial entry and, if requested, at any subsequent time; and
- “(c) Shall identify himself or herself to any person in or on the dwellinghouse, building, aircraft, ship, carriage, vehicle, premises, or place who questions his or her right to enter or search the same or to take possession of the child or young person; and
- “(d) If he or she is a member of the Police who is not in uniform, shall produce evidence that he or she is a member of the Police; and
- “(e) If he or she is a Social Worker, shall produce evidence that he or she is a Social Worker; and
- “(f) If he or she is a person (not being a Social Worker) authorised by the warrant to take possession of the child or young person, shall produce evidence that he or she is the person so authorised.

Cf. 1968, No. 63, s. 19 (5); 1983, No. 76, s. 2

**“445B. Authority to use facsimile copy of warrant—**

(1) In this section, the term ‘facsimile copy’, in relation to a warrant, means a copy of the warrant that is produced by a facsimile machine, computer, or other electronic device when the warrant is sent by facsimile transmission.

“(2) Subject to subsection (3) of this section, where a warrant is issued under section 39 or section 40 or section 122 or section 157 (2) or section 205 (2) (b) or section 386 of this Act, any District Court Judge, Justice, or Registrar (not being a member of the Police) may,—

- “(a) At the time of issuing the warrant, on the application of the person applying for the warrant; or
- “(b) At any subsequent time, on the *ex parte* application of—
  - “(i) The person who applied for the warrant; or
  - “(ii) Any person who is authorised to execute the warrant,—

authorise the use of a facsimile copy of the warrant for the purpose of executing the warrant.

“(3) No authorisation may be granted under subsection (2) of this section in relation to a warrant unless the District Court Judge, Justice, or Registrar is satisfied, having regard to the circumstances of the case, that any delay in executing the warrant that may be caused if a facsimile copy is not able to be used for that purpose would or might unduly prejudice the purpose for which the warrant was issued.

“(4) Where a District Court Judge, Justice, or Registrar grants an authorisation under subsection (2) of this section in relation to a warrant, the Judge, Justice, or Registrar, as the case may be, shall endorse on the face of the warrant—

“(a) The fact that a facsimile copy of the warrant may be used for the purpose of executing the warrant; and

“(b) The date and time at which the authorisation expires, which shall be the close of the third day after the day on which the authorisation is granted,—

and shall sign that endorsement.

“(5) A facsimile copy of a warrant in respect of which an authorisation granted under this section is in force shall be treated, for all purposes, as if it were the warrant, and the provisions of this Act (including, without limitation, sections 445A and 445C and section 446 (1) (a) and (b) of this Act) shall apply accordingly with all necessary modifications.

“(6) Without limiting any other enactment or rule of law, it is hereby declared that section 39 of the Police Act 1958 (which relates to the protection of members of the Police for acts pursuant to process) applies in relation to a facsimile copy of a warrant in respect of which an authorisation granted under this section is in force as if that facsimile copy were the warrant.

“445C. **Issue and execution of warrants**—Any warrant issued under any provision of this Act may be issued or executed at any hour of the day or night and may be issued or executed on a Sunday as on any other day.

Cf. 1974, No. 72, s. 101”

(2) The principal Act is hereby consequentially amended by repealing sections 41, 124, and 386 (2).

(3) Section 157 (3) of the principal Act is hereby consequentially amended by omitting the expression “Sections 123 and 124”, and substituting the expression “Section 123”.

(4) Section 205 (4) of the principal Act is hereby consequentially amended by omitting the expression “Sections 123 and 124”, and substituting the expression “Section 123”.