



# Summary Proceedings Amendment Act 2000

Public Act 2000 No 82  
Date of assent 14 November 2000  
Commencement see section 2

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## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the Summary Proceedings Amendment Act 2000.
- (2) In this Act, the Summary Proceedings Act 1957 is called “the principal Act”.

### 2 Commencement

This Act comes into force on 1 January 2001.

### 3 New sections 175 and 176 substituted

The principal Act is amended by repealing sections 175 and 176, and substituting the following sections:

#### “175 Power to take statement of person dangerously ill

- “(1) A District Court Judge, Registrar, Justice, or Community Magistrate may take a statement of a person on the oath or *affirmation of the person if the District Court Judge, Registrar, Justice, or Community Magistrate is satisfied that,—*
  - “(a) in the opinion of a registered medical practitioner, the person is dangerously ill; and

- “(b) the person is able and willing to give material information relating to an indictable offence or relating to a person accused of an indictable offence.
- “(2) A statement under this section may be taken in writing or by an electronic recording (for example, an audio recording or a video recording).
- “(3) A District Court Judge, Registrar, Justice, or Community Magistrate who takes a statement under this section must prepare, sign, and attach to the statement a certificate as to—
- “(a) whether he or she is satisfied that the statement was taken in accordance with this section; and
  - “(b) the day on which the statement was taken; and
  - “(c) the place where the statement was taken; and
  - “(d) any person (other than the dangerously ill person and the District Court Judge, Registrar, Justice, or Community Magistrate) present at any time while the statement was taken.
- “(4) A District Court Judge, Registrar, Justice, or Community Magistrate who takes a statement under this section must,—
- “(a) if it relates to an indictable offence for which an accused person is already committed for trial, send it and the attached certificate to the Registrar of the Court in the place to which the accused person has been committed for trial; or
  - “(b) if it does not relate to an indictable offence for which an accused person is already committed for trial, send it and the attached certificate to the Registrar of the District Court nearest to the place where it was taken.
- “(5) A Registrar of a District Court to whom a statement under subsection (4)(b) is sent must—
- “(a) keep it and file it of record; and
  - “(b) forward it to a District Court in which—
    - “(i) a person to whom it relates is charged with an indictable offence; or
    - “(ii) a person is charged with an offence to which it relates.

**“176 Evidence of statement made by person dangerously ill**

“(1) If each condition set out in subsection (2) is satisfied, a statement taken under section 175 may without further proof be given in evidence either—

“(a) for or against the defendant at the preliminary hearing of—

“(i) an information for an offence to which the statement relates (whether or not the defendant had been charged with that offence at the time the statement was taken); or

“(ii) an information charging any person to whom the statement relates; or

“(b) for or against the accused person on the trial of—

“(i) a person for an offence to which the statement relates (whether or not the accused had been charged with that offence at the time the statement was taken); or

“(ii) a person to whom the statement relates.

“(2) The conditions are—

“(a) that it is proved by such evidence as the District Court or, as the case may be, the High Court considers sufficient (whether legally admissible or not)—

“(i) that the person who made the statement is dead; or

“(ii) that there is no reasonable possibility that the person who made the statement will ever be able to travel or give evidence:

“(b) that the statement purports to be signed by the District Court Judge, Registrar, Justice, or Community Magistrate before whom the statement purports to be taken:

“(c) that it is proved to the satisfaction of the District Court or, as the case may be, the High Court—

“(i) that reasonable notice of the intention to take the statement was served upon the party other than the party on whose behalf the statement is proposed to be given; and

“(ii) that that other party or that other party’s counsel or solicitor had, or might have had if that other party or counsel or solicitor had chosen to be present, full opportunity of cross-examining the person who made the statement.”

**4 Consequential amendment and repeals**

- (1) Section 33 of the principal Act is amended by omitting the word “read” wherever it appears, and substituting in each case the word “given”.
- (2) The following enactments are repealed:
  - (a) section 7 of the Summary Proceedings Amendment Act 1964:
  - (b) section 15 of the Summary Proceedings Amendment Act 1980:
  - (c) section 26 of the Summary Proceedings Amendment Act 1993:
  - (d) sections 38 and 39 of the Summary Proceedings Amendment Act (No 2) 1998.

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**Legislative history**

9 November 2000	Divided from the Statutes Amendment Bill (No 7) as reported from the Justice and Electoral Committee (Bill 334–A2), third reading
14 November 2000	Royal assent

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This Act is administered in the Ministry of Justice and the Department for Courts.

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