

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Criminal Procedure Amendment Act 2013.

2 Commencement

This Act comes into force on 1 July 2013.

3 Principal Act

This Act amends the Criminal Procedure Act 2011 (the principal Act).

4 Section 5 amended (Interpretation)

In section 5, insert in its appropriate alphabetical order:

“imprisonable offence means,—

“(a) in the case of an individual, an offence punishable by imprisonment for life or by a term of imprisonment:

“(b) in the case of a body corporate, an offence that would be punishable by imprisonment for life or by a term of imprisonment if the offence were committed by an individual”.

5 Section 16 amended (Charging documents)

Replace section 16(2)(e) with:

“(e) except if the prosecution is a private prosecution brought by an individual,—

“(i) the name of the prosecuting organisation; and

“(ii) the particulars of an appropriate contact person in relation to the prosecution; and”.

6 Section 31 amended (Charging document must be filed promptly)

In section 31(2), delete “and in any event not less than 5 working days before the date on which the defendant is required by the summons to appear”.

7 Section 82 amended (Requirements for formal statements)

After section 82(4), insert:

“(5) A formal written statement that satisfies the requirements of section 162 of the Summary Proceedings Act 1957 may be treated as a formal statement that satisfies the requirements of this section.”

8 Section 138 replaced (Trial of different charges together)

Replace section 138 with:

“138 Trial of different charges together

“(1) The prosecutor may—

“(a) notify the court before which a proceeding is being conducted proposing that—

“(i) 2 or more charges be heard together; or

“(ii) the charges against 1 defendant be heard with charges against 1 or more other defendants:

“(b) amend a notification given under paragraph (a).

“(2) Despite subsection (1), if the prosecutor seeks to give or amend a notification involving a charge in respect of which the proceeding has been adjourned after the entry of a not guilty plea, the prosecutor must seek the leave of the court.

“(3) Charges must be heard together in accordance with any notification given under subsection (1)(a) or amended under subsection (1)(b) unless the court—

“(a) does not grant leave where the prosecutor seeks leave under subsection (2); or

“(b) makes an order under subsection (4).

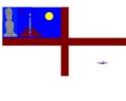
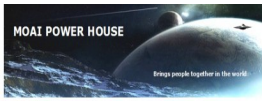
“(4) If the court before which the proceeding is being conducted thinks it is in the interests of justice to do so, it may, on its own motion or on the application of a defendant, order that 1 or more charges against the defendant be heard separately.

“(5) An order under subsection (4) may be made either before or during the trial, and,—

“(a) if it is made during the course of a Judge-alone trial, the court must adjourn the trial of the charges in respect of which the trial is not to proceed; and

“(b) if it is made during the course of a jury trial, the jury must be discharged from giving a verdict on the charges on which the trial is not to proceed.”





<https://www.legislation.govt.nz/act/public/2013/0025/latest/whole.html?fbclid=IwAR3Q8NwfZJmOuhEZtRC3Z3mnk49--ugBYDBalmmFn9maX2OiTbLkZcG0rWE>

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Who may conduct proceedings against defendant

(1)

Subject to subsections (2) and (3), only the following persons may conduct proceedings against a defendant:

(a)

the person who commenced the proceeding:

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14 Commencement of criminal proceedings

(1)

A criminal proceeding in respect of an offence is commenced by filing a charging document in the office of the District Court that is—

(a)

nearest to where the offence is alleged to have been committed; or

(b)

nearest to where the person filing the charging document believes the defendant can be found.

(2)

Despite subsection (1),—

(a)

if all the parties to the proposed proceeding agree, the charging document may be filed in another office of the District Court; and

(b)

if 2 or more charging documents are to be filed in respect of the same defendant, they may all be filed in an office of the District Court in which any 1 of them could be filed.

(3)

A failure to file a charging document in the correct office of the District Court in accordance with this section does not invalidate any proceeding.

Compare: 1957 No 87 ss 12, 18

Section 14(1): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(2)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(2)(b): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 14(3): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

15Any person may commence proceeding

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Compare: 1957 No 87 s 13

16Charging documents

(1)





The charging document must contain 1 charge only.

(2)

The charging document must include—

(a)

particulars of the defendant; and

(b)

particulars of the person commencing the proceeding; and

(c)

a statement by the person commencing the proceeding that he or she has good cause to suspect that the defendant has committed the offence specified in the charge; and

(d)

particulars of the charge that satisfy the requirements of section 17; and

(e)

except if the prosecution is a private prosecution brought by an individual,—

(i)

the name of the prosecuting organisation; and

(ii)

the particulars of an appropriate contact person in relation to the prosecution; and

(f)

any other information required by rules of court.

Compare: 1957 No 87 ss 15, 17; 1961 No 43 ss 329(3)–(5), 331, 336(1)

Section 16(2)(e): replaced, on 1 July 2013, by section 5 of the Criminal Procedure Amendment Act 2013 (2013 No 25).

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43 Execution of court processes

(1)

Every constable must obey and execute all lawful criminal court processes.

(2)

A court process directed to one constable may be executed by another constable and his or her assistants.

(3)

A constable has the same rights, powers, and authorities for and in the execution of a court process directed to another constable as if the process had been originally directed to him or her expressly by name.

(4)

A constable may arrest a person for whose arrest an unexecuted court process has been issued even if the constable does not have the process in his or her possession.

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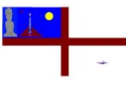
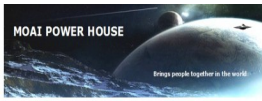
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Matters of Trust

APPOINTMENT AND REMOVAL OF TRUSTEES

- BENEFICIARY RIGHTS
- CAPACITY
- CHARITABLE TRUSTS
- CORPORATE TRUSTEES
- COSTS

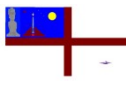
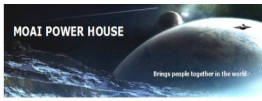




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CONTRACTING WITH TRUSTEES, TRUSTEE ACT, TRUSTEES

Trustee liability

POSTED BY VICKIAMMUNDSEN · APRIL 23, 2015 · 2 COMMENTS

FILED UNDER TRUSTEE LIABILITY

I write a lot about trustee liability. The reason for that is simple – there is lots to write about. Being a trustee is a risky business, and sadly many trustees are not sufficiently aware of the risks of trusteeship.

For trustees or advisers who want to be better informed I have written a book in a simple Question and Answer format that guides trustees through appointment, retirement and all the pitfalls in between with practical examples drawn from real situations.

<https://mattersoftrust.co.nz/2015/04/23/trustee-liability/>

[fbclid=IwAR1GdiEZcwa6p6Qi64ztg_3RlpUaAPOTeHnOIGOt3XWy2dM7VFb0vZa3YH0](https://mattersoftrust.co.nz/2015/04/23/trustee-liability/?fbclid=IwAR1GdiEZcwa6p6Qi64ztg_3RlpUaAPOTeHnOIGOt3XWy2dM7VFb0vZa3YH0)

Limiting rights of indemnity

Some corporate trustees act under terms that provide the company has no right of indemnity from the trust. The reasoning being that if there is no right of indemnity, the trust's assets are protected from any liability incurred by the trustee company. While the company might be subject to liquidation proceedings, the trust's assets are protected. Whether it is possible at law to waive or otherwise negate indemnity from a trust is not clear. Further, as some trusts trade in circumstances where trading partners are unaware of the existence of a trust, or of the negation of any rights of indemnity, such practices have come to the attention of the Law Commission, which is reviewing the use of corporate trustees as part of the on going review of the law of trusts. See <https://www.lawcom.govt.nz/home/welcome-law-commission>

