



New Zealand Legislation Policing Act 2008

40 District Court Judge may determine title to certain property

- (1)
This section applies to property if—
- (a)
it is in the possession of a Police employee; and
- (b)
it is not property distrained under the warrant of a judicial officer; and
- (c)
there is doubt whether a person claiming it, or which of 2 or more persons claiming it, is entitled to its possession.

(2)
If this section applies to property, a District Court Judge, on the application of any Police employee, or of a claimant to it,—

**(a)
may make an order for its delivery to any person appearing to the District Court Judge to be its owner, or entitled to its possession; or**

**(b)
if the owner or person entitled to possession cannot be found, may make any order with respect to its possession the Judge thinks fit.**

(3)
An application under this section must be made by originating application to the District Court in its civil jurisdiction.

(4)
If, after the making of an order under subsection (2) in relation to any property, an action is commenced against a Police employee or the Crown for the recovery of the property or its value, evidence of the order, and the delivery of the property in accordance with the order,—

(a)
may be given and must be received by the court concerned; and

(b)
if given, is a complete defence to the action.

(5)
However, no such order or delivery affects the right of any persons entitled by law to possession of the property to recover the property.

Compare: 1958 No 109 s 58

Section 40(3): amended, on 1 March 2017, by [section 261](#) of the District Court Act 2016 (2016 No 49).

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.

Part 4A Cost recovery

Part 4A: inserted, on 8 November 2016, by **section 4** of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).

79A Purpose of this Part

The purpose of this Part is to enable the Police to recover its costs in respect of the provision of certain policing services.

Section 79A: inserted, on 8 November 2016, by **section 4** of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).

79B Policing services that may be subject to cost recovery

(1)

The Minister may recommend a regulation under section 102A only if the Minister is satisfied that the policing service in question is a demand service.

(2)

For the purposes of this section, **demand service**—

(a)

means a service that—

(i)

constitutes policing; and

(ii)

is provided only on the request of an individual or organisation; and

(iii)

is provided to the individual or organisation requesting it and is of direct benefit to that individual or organisation (even though provision of the service may also be of indirect benefit to the public as a whole);

but

(b)

does not include—

(i)

the response of the Police to calls for service relating to potential offending;

(ii)

the conduct of criminal investigations;

(iii)

the prosecution of criminal offences.

(3)

Without limiting the generality of subsection (2), an example of a demand service is the provision of vetting services by the Police.





Section 79B: inserted, on 8 November 2016, by [section 4](#) of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).





79C Criteria for cost recovery

The Minister may recommend a regulation under [section 102A\(a\)](#) only if the Minister is satisfied that the fee or charge in question is consistent with the following criteria:

- (a) subject to the provisions of [section 79E](#), the fee or charge recovers no more than the actual and reasonable costs (including both direct and indirect costs) of the service to which the fee or charge relates; and
- (b) the fee or charge for the service or class of services to which the fee or charge relates is generally obtained from the users or beneficiaries of the service or class of services at a level commensurate, as far as practicable, with their use of the service; and
- (c) the costs of the service to which the fee or charge relates are efficiently incurred; that is, the service delivers the maximum benefit at the minimum cost; and
- (d) the relationship between the costs of the service to which the fee or charge relates and the nature and duration of the service is clear.

Section 79C: inserted, on 8 November 2016, by [section 4](#) of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).

79D Consultation

(1) The Minister may recommend a regulation under [section 102A\(a\)](#) only if the Minister is satisfied that the Commissioner has done everything reasonable on his or her part to consult the persons or organisations (or representatives of those organisations) that appear to the Commissioner to be affected or likely to be affected by the fee or charge.

(2) The process for consultation must, to the extent practicable in the circumstances, include—

- (a) the giving of appropriate notice of the intention to make the regulation and of the contents of the proposed regulation; and
- (b) a reasonable opportunity for interested persons to make submissions; and
- (c) the adequate and appropriate consideration of those submissions.

(3) A failure to comply with this section does not affect the validity of any regulations made under [section 102A](#).

Section 79D: inserted, on 8 November 2016, by [section 4](#) of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).

79E Methods of cost recovery

(1) Regulations for the recovery of costs may provide for the following:

- (a) fixed fees or charges:
- (b) fees or charges based on a scale or formula or at a rate determined on an hourly or other unit basis:





(c) the recovery by way of a fee or charge of estimated actual and reasonable costs expended in or associated with the performance of a policing service:

(d) fees or charges based on costs incurred from charges by third parties:

(e) any combination of the above.

(2) Without limiting the way in which a fee or charge may be set, a fee or charge may be set at a level or in a way that—

(a) is determined by calculations that involve an averaging of costs or potential costs:

(b) takes into account costs or potential costs of services that are not to be provided directly to the person who pays the fee or charge but that are an indirect or potential cost arising from the delivery of the service in question to a class of persons or all persons who use the service:

(c) takes into account indirect costs, which include the costs and potential costs of support, maintenance, and development associated with provision of the service.

Compare: 2009 No 51 s 393(6)

Section 79E: inserted, on 8 November 2016, by section 4 of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).

79F Payment of fee or charge

(1) A fee or charge prescribed by regulations made under this Act is payable at the time prescribed in respect of a particular service, whether that time is before, during, or after completion of the relevant service.

(2) All fees and charges prescribed by regulations made under this Act and received by the Police or any other government agency must be paid into a Departmental Bank Account.

Compare: 2009 No 51 s 393(7), (10)

Section 79F: inserted, on 8 November 2016, by section 4 of the Policing (Cost Recovery) Amendment Act 2016 (2016 No 81).

88 Powers of arrest and detention

(1) Subsection (2) applies to any offence in respect of which the filing of a charging document requires the consent of the Attorney-General under section 87(3).

(2) If any person is alleged to have committed an offence to which this subsection applies,—

(a) the person may be arrested without warrant within or outside New Zealand; or

(b) a warrant for the person's arrest may be issued in New Zealand and executed within or outside New Zealand,— and the person may be detained in custody within or outside New Zealand or, if the person is in, or has been taken to, New Zealand, remanded in custody or on bail, even though the consent of the Attorney-General has not





been obtained to the filing of a charging document in respect of that offence; but no further proceedings may be taken until that consent has been obtained.

(3)

The provisions of the [Crimes Act 1961](#) relating to arrest apply in respect of the arrest of a person referred to in subsection (2) for an act or omission to which [section 87](#) applies, in all respects as if the act or omission had occurred in New Zealand.

(4)

Any person arrested outside New Zealand may be detained in custody outside New Zealand for as long as is reasonably necessary to enable the person to be taken to New Zealand.

Compare: 2004 No 17 s 6

Section 88(1): amended, on 1 July 2013, by [section 413](#) of the Criminal Procedure Act 2011 (2011 No 81).

Section 88(2): amended, on 1 July 2013, by [section 413](#) of the Criminal Procedure Act 2011 (2011 No 81).

International policing: United Nations operations

91 Interpretation and application

(1)

In this section and [sections 92 to 95](#), unless the context otherwise requires,—

act or omission means an act or omission done or omitted to be done outside New Zealand

crime means an act or omission that if it occurred in New Zealand would be a criminal offence under any New Zealand enactment

employee means a Police employee who is an employee for the purposes of United Nations activity.

(2)

For the purposes of this section, a Police employee is deemed to be an employee for the purposes of a United Nations activity from the time he or she leaves New Zealand to undertake duties with the United Nations until he or she returns to New Zealand or earlier ceases to be an employee.

Compare: 1964 No 1 ss 2, 3

93 Arrest and detention of offender

(1)

The provisions of the [Crimes Act 1961](#) relating to arrest apply in respect of the arrest of an employee who is suspected of committing a crime.

(2)

An employee arrested under this section may be detained and held in custody until the employee can be dealt with according to law.

Compare: 1964 No 1 s 5

Part 3 Police specialist crime investigator

4

A Police employee warranted as a Police specialist crime investigator has the following powers:

(a)

the powers of a constable to apply for a warrant under any enactment:

(b)

the powers of a constable to execute any warrant, order, or other process of any court or of any Judge, Community Magistrate, or Justice:





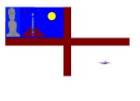
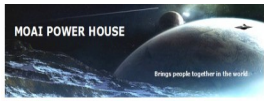
(c) the powers of a constable to execute any unexecuted process for the arrest of any person without having the process in his or her possession:

(d) where authorised by a constable to arrest a person for an offence, the powers of a constable to arrest that person:

(e) the powers of a constable under sections 32 and 33 of this Act:

(ea) the powers of a constable under section 11 of the Search and Surveillance Act 2012:





(f)
the powers of a constable to search a person in the lawful custody of the Police:

(g)
the powers of a constable to transport, or accompany during transport, a person in the lawful custody of the Police to or from any destination.

Schedule 1 clause 4(e): amended, on 1 October 2012, by [section 336\(5\)](#) of the Search and Surveillance Act 2012 (2012 No 24).

Schedule 1 clause 4(ea): inserted, on 1 October 2012, by [section 336\(6\)](#) of the Search and Surveillance Act 2012 (2012 No 24).

5
The power in clause 4(b) does not include the power to stop a vehicle under [section 121](#) of the Search and Surveillance Act 2012.

Schedule 1 clause 5: amended, on 1 October 2012, by [section 336\(7\)](#) of the Search and Surveillance Act 2012 (2012 No 24).

6
For the purpose of clause 4(d), whatever state of mind is necessary in order for the arrest to be lawfully made, it is sufficient if the constable who authorises the arrest to be made has that state of mind.

7
The power in clause 4(g) includes the custody, control, and supervision of the detainee during the transport and any custody, control, and supervision while the detainee is at any place to or from which the detainee is transported (other than a prison or police station) that is incidental to the transport.

Criminal Justice Act 1985 (1985 No 120)

[Section 138\(2\)\(c\)](#): omit “member of the Police” and substitute “Police employee”.

[Section 141](#): omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

International Crimes and International Criminal Court Act 2000 (2000 No 26)

[Section 29\(3\)\(c\)](#): omit “member of the police” and substitute “Police employee”.

[Section 53\(b\)](#): omit “member of the police” in each place it appears and substitute in each case “Police employee”.

[Section 53\(c\)](#): omit “police officer” and substitute “Police employee”.

[Section 77\(3\)](#): omit “section 57A of the Police Act 1958” and substitute “section 37 of the Policing Act 2008”.

[Section 97\(2\)\(b\)\(i\)](#): omit “member of the police” and substitute “Police employee”.

[Section 141\(1\)\(a\)](#): omit “member of the police” and substitute “Police employee”.

[Section 144\(4\)\(a\)](#): omit “member of the police” and substitute “Police employee”.

[Section 146\(a\)](#): omit “member of the police” and substitute “Police employee”.

[Section 153\(1\)](#): omit “member of the police” in each place it appears and substitute in each case “Police employee”.

Lawyers and Conveyancers Act 2006 (2006 No 1)

[Section 150\(g\)](#): omit “member of the New Zealand Police or” and substitute “Police employee or member of”.

[Section 188\(2\)\(e\)](#): omit “member of the New Zealand Police or” and substitute “Police employee or member of”.

Maritime Crimes Act 1999 (1999 No 56)





Section 12(4)(b): omit “member of the police” and substitute “Police employee”.

Proceeds of Crime Act 1991 (1991 No 120)

Section 69: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

Section 70: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

Heading to section 71: omit “police officers” and substitute “Police employees”.

Section 71: omit “member of the Police” in each place it appears and substitute in each case “Police employee”.

Real Estate Agents Act 1976 (1976 No 9)

Section 91(5): omit “member of the Police” and substitute “Police employee”.

