

Justices of the Peace Act 1957

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Contents

	Page
Title	1
1 Short Title and commencement	2
2 Interpretation	2
2A Act binds the Crown	2
3 Appointment of Justices of the Peace	3
3A Appointed Justices continue in office	3
3B Justices to undertake training before exercising judicial power or function	3
3C Use of designation JP (retired)	4
4 Functions and powers of Justices	4
5 Removal or suspension of Justice from office	5
5A Minister to consult Chief District Court Judge before recommending removal or suspension of Justice exercising or performing judicial powers or functions	6
5B Effect of removal	7
5C Effect of suspension	7
5D Other action in respect of Justices	7
5E Justices to be given particulars and opportunity to respond	8
5F Registrars and Official Assignees to notify convictions and bankruptcies	9
6 Attendance of Justices at Court	10
7 Justices exempt from attendance	10
8 Failure to attend	11
9 Legality of acts done by person ceased to be a Justice	11
10 Repeals	11

An Act to consolidate and amend certain enactments of the General Assembly relating to the appointment of Justices of the Peace

Note

This Act is administered in the Ministry of Justice.

1 Short Title and commencement

- (1) This Act may be cited as the Justices of the Peace Act 1957.
- (2) This Act shall come into force on the 1st day of April 1958.

2 Interpretation

In this Act, unless the context otherwise requires,—

judicial power or function means a power or function involving—

- (a) discharging or purporting to discharge (or failing, refusing, or purporting to refuse, to discharge) responsibilities of a judicial nature vested in Justices; or
- (b) issuing, or failing or refusing to issue, a warrant

Justice means a person who is a Justice of the Peace for New Zealand—

- (a) by virtue of being appointed a Justice of the Peace for New Zealand under section 3(1); or
- (b) by virtue of being a District Court Judge, a Judge of the Maori Land Court, the chairperson of a regional council, or the mayor of a territorial authority

Minister means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act

Secretary means the Secretary for Justice

working day means a day that—

- (a) is not Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, Labour Day, or the Sovereign's birthday; and
- (b) does not fall in a period commencing on 20 December in one year and ending with 15 January in the next year.

Section 2 was substituted, as from 15 April 2007, by section 4 Justices of the Peace Amendment Act 2007 (2007 No 14).

2A Act binds the Crown

This Act binds the Crown.

Section 2A was inserted, as from 15 April 2007, by section 4 Justices of the Peace Amendment Act 2007 (2007 No 14).

3 Appointment of Justices of the Peace

- (1) The Governor-General may, by Warrant under his or her hand, appoint any person to be a Justice of the Peace for New Zealand.
- (2) A person may not be appointed as a Justice unless he or she has completed training, approved by the Secretary, in the exercise and performance of the powers and functions of a Justice.
- (3) The Secretary—
 - (a) must publish in the *Gazette* notice of every appointment under subsection (1); and
 - (b) may publish in the *Gazette* a list of the names of Justices holding office (by virtue of appointment under subsection (1)) on a day stated in the notice.
- (4) Publication in the *Gazette* of a notice of appointment or list of names is evidence of the appointment as a Justice of every person whose name appears in the notice or list.

Section 3 was substituted, as from 15 April 2007, by section 4 Justices of the Peace Amendment Act 2007 (2007 No 14).

3A Appointed Justices continue in office

Every Justice appointed under section 3(1) continues in office until he or she—

- (a) dies; or
- (b) retires or resigns, by notice in writing to the Secretary; or
- (c) ceases to be a Justice by the operation of section 5B(1) or 8(1)(b).

Sections 3A to 3C were inserted, as from 15 April 2007, by section 4 Justices of the Peace Amendment Act 2007 (2007 No 14).

3B Justices to undertake training before exercising judicial power or function

- (1) A Justice (other than a District Court Judge or a Judge of the Maori Land Court) must not exercise or perform any judicial power or function unless he or she has completed training in the exercise and performance of judicial powers and functions to the satisfaction of the Chief District Court Judge.

- (2) Subsection (1) does not apply to a Justice appointed before the commencement of the Justices of the Peace Amendment Act 2007.

Sections 3A to 3C were inserted, as from 15 April 2007, by section 4 Justices of the Peace Amendment Act 2007 (2007 No 14).

3C Use of designation JP (retired)

- (1) On or after retiring or resigning as a Justice, a former Justice appointed under section 3(1) may apply to the Secretary in writing for authority to use the designation **JP (retired)**.
- (2) The Secretary must publish in the *Gazette* a notice authorising the former Justice to use the designation **JP (retired)**, unless satisfied that the former Justice—
- (a) had served as a Justice for less than 10 years; or
 - (b) before retiring or resigning as a Justice, without reasonable excuse,—
 - (i) had abandoned the performance of the functions of a Justice; or
 - (ii) had from time to time failed or refused to perform the functions of a Justice; or
 - (c) retired or resigned while suspended from office; or
 - (d) retired or resigned to avoid being removed or suspended from office, or otherwise disciplined.
- (3) No former Justice may use the designation **JP (retired)** unless the Secretary has published in the *Gazette* a notice authorising him or her to do so.
- (4) No person may use the designation **JP (retired)** or a similar designation unless he or she is a former Justice.
- (5) Subsection (1) applies to former Justices (appointed under section 3(1)) who retired or resigned before the commencement of the Justices of the Peace Amendment Act 2007.

Sections 3A to 3C were inserted, as from 15 April 2007, by section 4 Justices of the Peace Amendment Act 2007 (2007 No 14).

4 Functions and powers of Justices

The functions and powers of Justices shall be—

- (a) To take oaths and declarations under the provisions of the Oaths and Declarations Act 1957 or any other enactment:
- (b) To carry out such functions and exercise such powers as are conferred on Justices by the Summary Proceedings Act 1957 or by any other enactment.

5 Removal or suspension of Justice from office

- (1) The Governor-General may, on the recommendation of the Minister, by notice in the *Gazette*, remove a Justice from office, or suspend a Justice from office for a period, stated in the notice, of not more than 65 working days—
 - (a) for misconduct; or
 - (b) if the Justice—
 - (i) is unable to perform his or her functions as a Justice; or
 - (ii) has neglected or refused to perform his or her functions as a Justice; or
 - (iii) has, while a Justice, been convicted of an offence punishable by imprisonment; or
 - (iv) has, while a Justice, been adjudged bankrupt; or
 - (v) has failed or refused to comply with a requirement under section 5D(1); or
 - (c) in the case of a removal, if the Justice has purported to exercise or perform a power or function of a Justice, knowing that he or she was suspended from office.
- (2) Subsection (1) does not apply to a person who is a Justice by virtue of being a District Court Judge or a Judge of the Maori Land Court.

The words “Supreme Court” have been changed to “High Court” pursuant to section 12 Judicature Amendment Act 1979 (1979 No 124).

The words “District Court” have been substituted for the words “Magistrate’s Court” pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Section 5 was substituted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

5A Minister to consult Chief District Court Judge before recommending removal or suspension of Justice exercising or performing judicial powers or functions

- (1) The Minister must not recommend the removal or suspension from office of a Justice who exercises or performs judicial powers or functions unless—
 - (a) he or she has consulted the Chief District Court Judge about the Justice's proposed removal or suspension from office; and
 - (b) the Chief District Court Judge has recommended to the Minister the Justice's removal or suspension (as the case may be) from office.
- (2) The Chief District Court Judge must not recommend a Justice's removal or suspension from office, unless—
 - (a) the Chief District Court Judge has earlier reached a preliminary view that grounds may exist for recommending disciplinary action against the Justice, and has given the Justice written notice—
 - (i) stating that grounds may exist for recommending disciplinary action; and
 - (ii) stating the grounds on which the Chief District Court Judge reached that preliminary view; and
 - (iii) stating that the Justice may, within 20 working days of receiving the notice, respond to the Chief District Court Judge in writing in respect of the matters contained in the notice; and
 - (b) either the Chief District Court Judge—
 - (i) has received and considered a written response from the Justice in respect of the matters contained in the notice; or
 - (ii) has not, within 20 working days of the Justice receiving the notice, received from the Justice a written response in respect of the matters contained in the notice.

Sections 5A to 5F were inserted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

5B Effect of removal

- (1) A person removed from the office of Justice ceases to be a Justice on the day after the date of the publication of the notice under section 5(1) removing him or her from that office.
- (2) If a person to whom subsection (1) applies is or becomes a chairperson of a regional council or a mayor of a territorial authority, that person—
 - (a) on ceasing to be a Justice, is no longer a Justice by virtue of being a chairperson or mayor; and
 - (b) does not become a Justice again if later elected or appointed (or re-elected or reappointed) chairperson of a regional council or mayor of a territorial authority.
- (3) Subsections (1) and (2) override section 41(4) of the Local Government Act 2002.

Sections 5A to 5F were inserted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

5C Effect of suspension

- (1) The suspension of a Justice begins on the day after the date of the publication of the notice under section 5(1) suspending him or her from office.
- (2) While a Justice is suspended,—
 - (a) every enactment other than this Act applies as if he or she is not a Justice; and
 - (b) he or she must not purport to exercise or perform any of the powers or functions of a Justice.
- (3) Subsection (2) continues to apply to a suspended Justice even if, during his or her suspension, he or she is elected or appointed (or re-elected or reappointed) chairperson of a regional council or mayor of a territorial authority.
- (4) Subsections (2) and (3) override section 41(4) of the Local Government Act 2002.

Sections 5A to 5F were inserted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

5D Other action in respect of Justices

- (1) The Governor-General may, on the recommendation of the Minister, direct the Minister to take in respect of a Justice (other than a person who is a Justice by virtue of being a

District Court Judge or a Judge of the Maori Land Court) one or more of the following actions:

- (a) give the Justice an official written rebuke;
 - (b) by written notice to the Justice, require the Justice to apologise to a person or people stated in the notice, in writing, for behaviour stated in the notice;
 - (c) by written notice to the Justice, require the Justice to undertake training (or further training), provided by a provider stated in the notice, in an aspect of the performance of the Justice's functions as a Justice stated in the notice;
 - (d) by written notice to the Justice, require the Justice to receive counselling (or further counselling), provided by a provider stated in the notice, of a kind stated in the notice.
- (2) The Minister must not recommend the giving of a direction under subsection (1) in respect of a Justice unless the Minister is satisfied that the Justice—
- (a) has, since appointment as a Justice, behaved in a way that is inappropriate or undesirable for a Justice (otherwise than in relation to the exercise or performance of judicial powers or functions); or
 - (b) has performed a function of a Justice while suspended from office; or
 - (c) has neglected his or her functions as a Justice.
- (3) The Minister may take 2 or more of the actions stated in subsection (1) by means of a single notice.

Sections 5A to 5F were inserted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

5E Justices to be given particulars and opportunity to respond

- (1) In this section, **disciplinary action**, in relation to a Justice, means the giving of a direction under section 5D(1) in respect of the Justice.
- (2) The Minister must not recommend disciplinary action against a Justice, unless—

- (a) the Minister has earlier reached a preliminary view that grounds may exist for recommending disciplinary action against the Justice; and
- (b) the Minister is satisfied that the Secretary has given the Justice written notice—
 - (i) stating that grounds may exist for recommending disciplinary action; and
 - (ii) stating the grounds on which the Minister reached his or her preliminary view; and
 - (iii) stating that the Justice may, within 20 working days of receiving the notice, respond to the Secretary in writing in respect of the matters contained in the notice; and
- (c) either—
 - (i) the Secretary has received from the Justice a written response in respect of the matters contained in the notice, and the Minister has considered the response and any written comments on it from the Secretary; or
 - (ii) the Minister is satisfied that the Secretary has not, within 20 working days of the Justice receiving the notice, received from the Justice a written response in respect of the matters contained in the notice.

Sections 5A to 5F were inserted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

5F Registrars and Official Assignees to notify convictions and bankruptcies

For the purposes of section 5,—

- (a) a Registrar of the High Court or a District Court must notify the Secretary whenever a person whom the Registrar knows to be a Justice is convicted of an offence punishable by imprisonment:
- (b) an Official Assignee (within the meaning of the Insolvency Act 1967) must notify the Secretary whenever a person whom the Official Assignee knows to be a Justice is adjudged bankrupt.

Sections 5A to 5F were inserted, as from 15 April 2007, by section 5 Justices of the Peace Amendment Act 2007 (2007 No 14).

6 Attendance of Justices at Court

- (1) The Registrar of every District Court must keep and maintain a list of Justices (excluding any person who is a Justice by virtue of being a District Court Judge or a Judge of the Maori Land Court) who reside within 20 kilometres of the courthouse and are not exempted from attendance under section 7.
- (2) When the attendance of Justices is required at any such Court, the Registrar shall summon as many Justices as he thinks necessary to attend:

Provided that no Justice whose name is not on the list may be so summoned without his consent.

Compare: 1927 No 37 ss 9, 11; 1952 No 44 s 15

The words “District Court” have been substituted for the words “Magistrate’s Court” pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsection (1) was substituted, as from 15 April 2007, by section 6 Justices of the Peace Amendment Act 2007 (2007 No 14).

7 Justices exempt from attendance

- (1) The following persons who are Justices shall be exempt from attendance at a District Court, namely:
- (a) Any Justice who has notified the Registrar in writing that he has attained the age of 70 years and does not wish to attend:
 - (b) Any member of the House of Representatives:
 - (c) Any barrister or solicitor or medical practitioner in the actual practice of his profession:
 - (d) Any employee of the Crown.
- (2) In subsection (1), **medical practitioner** means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine.

Compare: 1927 No 37 s 10

The words “District Court” have been substituted for the words “Magistrate’s Court” pursuant to section 18 District Courts Amendment Act 1979 (1979 No 125).

Subsection (1)(a) was amended, as from 15 April 2007, by section 7 Justices of the Peace Amendment Act 2007 (2007 No 14) by substituting “70” for “72”.

Subsection (2) was inserted, as from 18 September 2004, by section 175(1) Health Practitioners Competence Assurance Act 2003 (2003 No 48). See sections 178 to 227 of that Act as to the transitional provisions.

8 Failure to attend

- (1) If a Justice fails to attend a District Court on 2 successive occasions when summoned under section 6(2),—
 - (a) the Registrar concerned must notify the Secretary of the second failure; and
 - (b) unless within 20 working days after the date of the second failure the Justice (or some other person on the Justice's behalf) satisfies the Minister that the Justice had reasonable cause for the failures, the Justice ceases to be a Justice on a date fixed for the purpose by the Minister and notified in the *Gazette*.
- (2) Section 5B(2) applies, with any necessary modifications, to a person who ceases to be a Justice by the operation of subsection (1)(b).
- (3) In this section, **fail** includes refuse.

Section 8 was substituted, as from 15 April 2007, by section 8 Justices of the Peace Amendment Act 2007 (2007 No 14).

9 Legality of acts done by person ceased to be a Justice

The legality of anything done by any person while he is a Justice shall not be affected by his ceasing to be a Justice; but anything done by any person after he has ceased to be a Justice in purported exercise of any of the powers or duties of a Justice shall be void.

10 Repeals

The following enactments are hereby repealed, namely:

- (a) Division I of the Justices of the Peace Act 1927;
- (b) Section 15 of the Justices of the Peace Amendment Act 1952.