



ANALYSIS

Title
1. Short Title

2. Procedure where certain documents seized
from solicitors' offices

1985, No. 55

An Act to amend the Summary Proceedings Act 1957

[13 March 1985]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Summary Proceedings Amendment Act (No. 2) 1985, and shall be read together with and deemed part of the Summary Proceedings Act 1957 (hereinafter referred to as the principal Act).

2. Procedure where certain documents seized from solicitors' offices—The principal Act is hereby amended by inserting, after section 198, the following section:

“198A. (1) This section applies to books of account and accounting records kept by a solicitor in relation to—

“(a) Any trust account money, being money that is subject to section 89 of the Law Practitioners Act 1982; or

“(b) Any solicitors' nominee company operated by a solicitor with the consent of the relevant District Law Society as a nominee in respect of securities and documents of title held for clients.

“(2) Where, on the execution of any warrant issued under section 198 of this Act, any document to which this section applies is seized, the following provisions shall apply:

“(a) The member of the Police who is executing the warrant shall, before leaving the premises on which the warrant is executed, prepare an inventory of all such documents so seized:

- “(b) If any solicitor having possession of the documents is present at the time of the execution of the warrant, the member of the Police shall show the inventory of documents to the solicitor, and invite him to check the accuracy of the inventory:
- “(c) If, in any case to which paragraph (b) of this subsection applies, the solicitor wishes to dispute the seizure of any document listed on the inventory on the ground that the seizure of that document is outside the authority of the search warrant,—
- “(i) The solicitor shall mark the inventory in such a manner as to indicate his objection to the seizure of that document; and
- “(ii) The member of the Police shall, in the presence of the solicitor, place each document to which such objection is made in an envelope or package, seal the envelope or package, and deliver it as soon as practicable to a District Court Judge, together with a brief statement of the facts of the case:
- “(d) Notwithstanding anything in paragraph (c) of this subsection, before removing any document from the premises, the member of the Police shall, on request by the solicitor, give the solicitor a reasonable opportunity to make a copy of the document:
- “(e) If no solicitor having possession of the documents is present at the time of the execution of the warrant, the member of the Police shall leave the inventory or a copy of it at the place at which the documents are seized, together with the address of the Police station to which any objection to the seizure of the documents should be sent under paragraph (f) of this subsection:
- “(f) If, in any case to which paragraph (e) of this subsection applies, the solicitor wishes to dispute the seizure of any document listed on the inventory on the ground that the seizure of that document is outside the authority of the search warrant,—
- “(i) The solicitor shall, within 7 days after the date of the seizure of that document or within such further time as a District Court Judge may allow, notify the officer in charge of the Police station specified under paragraph (e) of this subsection, in writing, of his objection; and

“(ii) That officer in charge shall cause each document to which such objection is made to be delivered as soon as practicable to a District Court Judge, together with a brief statement of the facts of the case:

“(g) Where any document is placed before a District Court Judge under paragraph (c) (ii) or paragraph (f) (ii) of this subsection, the Judge shall, after giving the parties a reasonable opportunity to be heard, determine whether or not the seizure of the document was within the authority of the search warrant:

“(h) If the Judge determines that the seizure of the document was within the authority of the search warrant, he shall direct that the document be returned to the Police; and if he determines that the seizure of the document was outside the authority of the search warrant, he shall direct that the document be returned to the solicitor, and any copy of the document or record of its contents made by the Police be surrendered to the solicitor or destroyed forthwith:

“(i) If the Judge determines that the seizure of the document was within the authority of the search warrant but that it contains any information to which the Police should not have access, he may make such order as he considers appropriate, whether for the excision or concealment of that information, or the extraction or copying of the information to which the Police are entitled to have access, or otherwise:

“(j) Notwithstanding any other enactment or rule of law to the contrary, no copy of any document or record of the contents of any document that is ordered to be surrendered or destroyed under paragraph (h) of this subsection, and no evidence of any information to which the Police have been denied access by order of a District Court Judge made under paragraph (i) of this subsection, shall be admissible in any proceedings:

“(k) Notwithstanding anything in paragraphs (e) to (h) of this subsection, while any document to which this section applies remains in the possession of the Police, any solicitor who, at the time of the seizure of the document, had possession of the document shall,

on request at any reasonable time, be given a reasonable opportunity to make a copy of the document.

“(3) Except as provided in paragraph (j) of subsection (2) of this section, nothing in that subsection shall limit or affect the admissibility of any evidence, or the discretion of any Court to admit or refuse to admit any evidence, in any proceedings.”

This Act is administered in the Department of Justice.
