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Judicature Act 1908

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This Act is administered by the Ministry of Justice.

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Rules of the Court of Appeal
[Repealed]

91

An Act to consolidate certain enactments of the Parliament of New Zealand relating to the High Court and the Court of Appeal, and to certain rules and provisions of law in judicial matters generally

Title: amended, on 1 January 1987, pursuant to section 29(2) of the Constitution Act 1986 (1986 No 114).

Title: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

1 Short Title, etc

- (1) The Short Title of this Act is the Judicature Act 1908.
- (2) This Act is a consolidation of the enactments mentioned in Schedule 1.
- (3) Without affecting the specific saving provisions of this Act, it is hereby declared as follows:
 - (a) all Proclamations, Orders in Council, districts, offices, appointments, commissions, patents, scales of fees, rules, regulations, orders, registers, records, instruments, and generally all acts of authority which originated under any of the enactments mentioned in Schedule 1 or any enactment thereby repealed, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated:
 - (b) all actions, matters, and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.
- (4) This Act is divided into Parts, as follows:

Part 1—The High Court. (Sections 3 to 56.)

Part 1A—Special provisions applying to certain proceedings in the High Court and the Federal Court of Australia. (Sections 56D to 56S.)

Part 2—The Court of Appeal. (Sections 57 to 75.)

Part 3—Rules and provisions of law in judicial matters generally. (Sections 76 to 101.)

Section 1(4): amended, on 1 July 1990, pursuant to section 3 of the Judicature Amendment Act 1990 (1990 No 44).

Section 1(4): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

2 Interpretation

In this Act, unless the context otherwise requires,—

Associate Judge means an Associate Judge of the High Court

Chief High Court Judge—

- (a) means the person holding that office under section 4A; and
- (b) includes a Judge of the High Court acting in place of the Chief High Court Judge under section 4A(5)

civil proceedings means any proceedings in the court, other than criminal proceedings

court means the High Court of New Zealand

Court of Appeal Rules means rules which are made under section 51C and which regulate the practice and procedure of the Court of Appeal (including the practice and procedure on civil appeals from any court or person to the Court of Appeal); and includes the Court of Appeal (Civil) Rules 2005

defendant means a person served or intended to be served with any application to the court for the exercise of its civil or criminal jurisdiction

existing means existing on the coming into operation of this Act

High Court Rules means the High Court Rules 2016

inferior court means any court of judicature within New Zealand of inferior jurisdiction to the High Court

interlocutory application—

- (a) means any application to the court in any civil proceedings or criminal proceedings or intended civil proceedings or intended criminal proceedings for an order or a direction relating to a matter of procedure or, in the case of civil proceedings, for some relief ancillary to that claimed in a pleading; and
- (b) includes an application for a new trial; and
- (c) includes an application to review an order made, or a direction given, on any application to which paragraph (a) or paragraph (b) applies

Judge means a Judge of the High Court

judgment includes decree

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

plaintiff means a person who makes an application (other than an interlocutory application) to the court for the exercise of its civil or criminal jurisdiction

Supreme Court means the Supreme Court of New Zealand established by section 6 of the Supreme Court Act 2003.

Section 2: replaced, on 1 January 1986, by section 2(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 2 **Associate Judge**: inserted, on 20 May 2004, pursuant to section 6(3) of the Judicature Amendment Act 2004 (2004 No 45).

Section 2 **Chief High Court Judge**: inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 2 **Court of Appeal Rules**: amended, on 1 May 2005, pursuant to rule 55 of the Court of Appeal (Civil) Rules 2005 (SR 2005/69).

Section 2 **Master**: repealed, on 20 May 2004, pursuant to section 6(3) of the Judicature Amendment Act 2004 (2004 No 45).

Section 2 **medical practitioner**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2 **Supreme Court**: inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Part 1 The High Court

Part 1 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Constitution of the court

3 Supreme Court reconstituted as High Court

- (1) There shall continue to be in and for New Zealand a court of record, for the administration of justice throughout New Zealand, henceforth to be called the High Court of New Zealand.
- (2) The High Court is hereby declared to be the same court as that established by this Act, and called, before the commencement of section 2 of the Judicature Amendment Act 1979, the Supreme Court.

Section 3: replaced, on 1 April 1980, by section 2 of the Judicature Amendment Act 1979 (1979 No 124).

4 The Judges of the High Court

- (1) The High Court consists of—
 - (a) a Judge called the Chief Justice of New Zealand; and
 - (b) the other Judges, up to a maximum of 55, who are from time to time appointed.
- (1A) For the purposes of subsection (1)(b),—
 - (a) a Judge who is acting on a full-time basis counts as 1;
 - (b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1:

- (c) the aggregate number (for example, 54.5) must not exceed the maximum number of Judges that is for the time being permitted.
- (1B) Subsection (1) is subject to subsections (1C) and (1D) and the other provisions of this Act.
- (1C) An additional Judge or additional Judges may be appointed whenever the Governor-General thinks it necessary because of the absence or anticipated absence of any of the Judges on leave preliminary to retirement.
- (1D) Every appointment made under subsection (1C) must be a permanent appointment from the time when it is made, and must fill the vacancy next occurring in the office of Judge, not being a vacancy filled by an earlier appointment under subsection (1C).
- (2) The Judges of the High Court shall be appointed by the Governor-General in the name and on behalf of Her Majesty.
- (2A) A Judge must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief High Court Judge is satisfied that the employment or other office is compatible with judicial office.
- (3) As between the Judges of the High Court who are not Judges of the Supreme Court or Court of Appeal,—
- (a) the Chief High Court Judge has seniority over the other Judges:
- (b) the other Judges have seniority among themselves according to the dates of their appointments as Judges of the High Court:
- (c) 2 or more of the other Judges appointed as Judges of the High Court on the same date,—
- (i) have seniority according to the precedence assigned to them by the Governor-General on appointment; or
- (ii) if no precedence is assigned to them, according to the order in which they take the Judicial Oath.
- (3A) Permanent Judges have seniority over temporary Judges.
- (3B) Subsection (3A) overrides subsection (3).
- (4) The jurisdiction of the High Court shall not be affected by any vacancy in the number of the Judges of that court.

Section 4: replaced, on 26 September 1957, by section 4(1) of the Judicature Amendment Act 1957 (1957 No 9).

Section 4 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 4(1): replaced, on 20 May 2004, by section 3(1) of the Judicature Amendment Act 2004 (2004 No 45).

Section 4(1A): inserted, on 20 May 2004, by section 3(1) of the Judicature Amendment Act 2004 (2004 No 45).

Section 4(1B): inserted, on 20 May 2004, by section 3(1) of the Judicature Amendment Act 2004 (2004 No 45).

Section 4(1C): inserted, on 20 May 2004, by section 3(1) of the Judicature Amendment Act 2004 (2004 No 45).

Section 4(1D): inserted, on 20 May 2004, by section 3(1) of the Judicature Amendment Act 2004 (2004 No 45).

Section 4(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 4(2A): inserted, on 20 May 2004, by section 3(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 4(3): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 4(3A): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 4(3B): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 4(4): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

4A Chief High Court Judge

- (1) The Governor-General must by warrant appoint a Judge of the High Court who is not a Judge of the Supreme Court or the Court of Appeal to be the Chief High Court Judge.
- (2) The Chief High Court Judge holds that office until the earliest of the following:
 - (a) ceasing to hold office as a Judge of the High Court;
 - (b) being appointed a Judge of the Supreme Court or the Court of Appeal;
 - (c) resigning the office of Chief High Court Judge without resigning office as a Judge of the High Court.
- (3) The Chief High Court Judge cannot resign the office of Chief High Court Judge without resigning office as a Judge of the High Court, except with the prior approval of the Governor-General.
- (4) The Judge of the High Court who is next senior after the Chief High Court Judge may act in place of the Chief High Court Judge if,—
 - (a) because of illness or absence from New Zealand, or for any other reason, the Chief High Court Judge is unable to exercise the duties of that office;
or
 - (b) the office of Chief High Court Judge is vacant.
- (5) While acting in place of the Chief High Court Judge, the next senior Judge—
 - (a) may perform the functions and duties of the Chief High Court Judge;
and
 - (b) may for that purpose exercise all the powers of the Chief High Court Judge.
- (6) The fact that the next senior Judge exercises any of the powers of the Chief High Court Judge is conclusive proof of his or her authority to do so.

Section 4A: inserted, on 1 January 2004, by section 43 of the Supreme Court Act 2003 (2003 No 53).

4B Functions of Chief High Court Judge

- (1) The Chief High Court Judge is responsible to the Chief Justice for ensuring the orderly and prompt conduct of the High Court's business.
- (2) The Chief High Court Judge may make all the arrangements that are necessary for the sittings of the court and the conduct of its business.

Section 4B: inserted, on 1 January 2004, by section 43 of the Supreme Court Act 2003 (2003 No 53).

Section 4B(2): inserted, on 1 February 2009, by section 5 of the Judicature (High Court Rules) Amendment Act 2008 (2008 No 90).

4C Judges of High Court act on full-time basis but may be authorised to act part-time

- (1) A person acts as a Judge of the High Court on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- (2) The Attorney-General may, in accordance with subsection (4), authorise a Judge appointed under section 4 or section 4A to act on a part-time basis for any specified period.
- (3) To avoid doubt, an authorisation under subsection (2) may take effect as from a Judge's appointment or at any other time, and may be made more than once in respect of the same Judge.
- (4) The Attorney-General may authorise a Judge to act on a part-time basis only—
 - (a) on the request of the Judge; and
 - (b) with the concurrence of the Chief High Court Judge.
- (5) In considering whether to concur under subsection (4), the Chief High Court Judge must have regard to the ability of the court to discharge its obligations in an orderly and expeditious way.
- (6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- (7) The basis on which a Judge acts must not be altered during the term of the Judge's appointment without the Judge's consent, but consent under this subsection is not necessary if the alteration is required by subsection (6).
- (8) An authorisation may not be granted under subsection (2) for any person appointed as a Judge of the Court of Appeal or Supreme Court.

Section 4C: inserted, on 20 May 2004, by section 4 of the Judicature Amendment Act 2004 (2004 No 45).

5 Senior Judge to act as Chief Justice in certain circumstances

[Repealed]

Section 5: repealed, on 1 January 2004, by section 48(2) of the Supreme Court Act 2003 (2003 No 53).

6 Judges to be barristers or solicitors

No person shall be appointed a Judge unless he has held a practising certificate as a barrister or solicitor for at least 7 years.

Section 6: replaced, on 13 December 1979, by section 4 of the Judicature Amendment Act 1979 (1979 No 124).

7 Commissions of Judges to continue during good behaviour

[Repealed]

Section 7: repealed, on 1 January 1987, by section 27 of the Constitution Act 1986 (1986 No 114).

8 Judges may be removed or suspended on address of both Houses of Assembly to the Queen

[Repealed]

Section 8: repealed, on 1 January 1987, by section 27 of the Constitution Act 1986 (1986 No 114).

9 Governor may suspend Judge when Parliament not sitting

[Repealed]

Section 9: repealed, on 1 January 1987, by section 27 of the Constitution Act 1986 (1986 No 114).

9A Salaries and allowances of Judges

(1) There shall be paid to the Chief Justice, to the other Judges of the Supreme Court, to the President of the Court of Appeal, to the other Judges of the Court of Appeal, and to the other Judges, out of public money, without further appropriation than this section,—

- (a) salaries at such rates as the Remuneration Authority from time to time determines; and
- (b) such allowances as are from time to time determined by the Remuneration Authority; and
- (ba) a higher duties allowance payable and calculated in accordance with subsection (1A); and
- (c) such additional allowances, being travelling allowances or other incidental or minor allowances, as may be determined from time to time by the Governor-General.

(1A) The higher duties allowance under subsection (1)(ba) is—

- (a) payable only to a Judge who—
 - (i) is or was not a Judge of the Court of Appeal holding office under section 57(2) (in this subsection called a **permanent Judge**); but
 - (ii) is or was under sections 58A to 58C or section 58F serving as a member of a criminal or civil division, or as a member of the full court, of the Court of Appeal; and

- (b) payable only in respect of periods of the Judge's service as a member of the division or full court; and
- (c) calculated at a rate expressed per day of service as a member of the division or full court in accordance with the following formula:

$$(a - b) \times c/d$$

where—

- a is the applicable yearly rate of salary determined by the Remuneration Authority to be payable to a permanent Judge
 - b is the applicable yearly rate of salary determined by the Remuneration Authority to be payable to a Judge who is not a permanent Judge
 - c is 0.0383561 (the standard payroll factor, which represents the proportion of an annual salary that is paid per fortnight)
 - d is 10 (the number of working days per fortnight).
- (2) Subject to the Remuneration Authority Act 1977, any determination made under subsection (1), and any provision of any such determination, may be made so as to come into force on a date to be specified in that behalf in the determination, being the date of the making of the determination or any other date, whether before or after the date of the making of the determination or the date of the commencement of this section.
 - (3) Every such determination, and every provision of any such determination, in respect of which no date is specified as aforesaid shall come into force on the date of the making of the determination.
 - (4) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro rata proportion of the salary and allowances for a full-time equivalent position.
 - (5) For the purpose of section 24 of the Constitution Act 1986, neither the cessation of the payment of a higher duties allowance payable and calculated under subsections (1)(ba) and (1A), nor the payment of salary and allowances on a pro rata basis under subsection (4), is a reduction of salary.

Section 9A: inserted, on 1 April 1985, by section 2 of the Judicature Amendment Act (No 3) 1985 (1985 No 136).

Section 9A(1): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 9A(1): amended, on 1 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Section 9A(1)(a): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 9A(1)(b): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 9A(1)(ba): inserted, on 23 March 2010, by section 4(1) of the Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7).

Section 9A(1A): inserted, on 23 March 2010, by section 4(2) of the Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7).

Section 9A(4): inserted, on 20 May 2004, by section 5 of the Judicature Amendment Act 2004 (2004 No 45).

Section 9A(5): inserted, on 20 May 2004, by section 5 of the Judicature Amendment Act 2004 (2004 No 45).

Section 9A(5): amended, on 23 March 2010, by section 4(3) of the Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7).

10 Salaries of Judges not to be diminished

[Repealed]

Section 10: repealed, on 1 January 1987, by section 27 of the Constitution Act 1986 (1986 No 114).

11 Temporary Judges

- (1) Subject to section 11B, at any time during the illness or absence of any Judge, or for any other temporary purpose, the Governor-General may, in the name and on behalf of Her Majesty, appoint any person (including a former Judge) to be a Judge for such term, not exceeding 12 months, as the Governor-General may specify.
- (2) Any person appointed a Judge under this section may be reappointed, but no Judge shall hold office under this section for more than 2 years in the aggregate.
- (3) Every person appointed a Judge under this section shall, during the term of his appointment, be paid the salary and allowances payable by law to a Judge other than the Chief Justice, the other Judges of the Supreme Court, the President of the Court of Appeal, the other Judges of the Court of Appeal, or the Chief High Court Judge.

Section 11: replaced, on 14 October 1981, by section 2(1) of the Judicature Amendment Act 1981 (1981 No 40).

Section 11(3): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

11A Former Judges

- (1) Subject to section 11B, the Governor-General may, in the name and on behalf of Her Majesty, appoint any former Judge to be an acting Judge for such term not exceeding 2 years or, if the former Judge has attained the age of 72 years, not exceeding 1 year, as the Governor-General may specify.
- (2) During the term of his appointment, the former Judge may act as a Judge during such period or periods only and in such place or places only as the Chief High Court Judge may determine.
- (3) Every former Judge appointed under this section shall, during each period when he acts as a Judge, but not otherwise, be paid a salary at the rate for the time being payable by law to a Judge other than the Chief Justice or the President of the Court of Appeal or a Judge of the Court of Appeal, and must also be

paid the higher duties allowance payable and calculated under section 9A(1)(ba) and (1A) and such travelling allowances or other incidental or minor allowances as may be fixed from time to time by the Governor-General.

- (4) Every former Judge appointed under this section shall, during each period when he acts as a Judge, have all the jurisdiction, powers, protections, privileges, and immunities of a Judge.

Section 11A: inserted, on 14 October 1981, by section 2(1) of the Judicature Amendment Act 1981 (1981 No 40).

Section 11A(2): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 11A(3): amended, on 23 March 2010, by section 4(4) of the Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7).

Section 11A(3): amended, on 1 April 1985, by section 3 of the Judicature Amendment Act (No 3) 1985 (1985 No 136).

11B Certificate by Chief Justice and Chief High Court Judge

No appointment may be made under section 11 or section 11A except on a certificate signed by the Chief Justice and the Chief High Court Judge to the effect that, in their opinion, it is necessary for the due conduct of the court's business that 1 or more temporary Judges, or (as the case may require) 1 or more acting Judges, be appointed.

Section 11B: replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

12 Superannuation allowance of Judges

[Repealed]

Section 12: repealed, on 28 October 1955, by section 18(1) of the Superannuation Amendment Act 1955 (1955 No 107).

13 Age of retirement

Every Judge, other than a former Judge appointed under section 11 or section 11A or a person who is deemed by section 58(10) to be a Judge, shall retire from office on attaining the age of 70 years.

Section 13: replaced, on 14 October 1981, by section 3(1) of the Judicature Amendment Act 1981 (1981 No 40).

Section 13: amended, on 6 March 2007, by section 4 of the Judicature Amendment Act 2007 (2007 No 3).

14 Rights on retirement before attaining retiring age

If the Chief Justice or the President of the Court of Appeal resigns from office before attaining the age of 70 years and is, at the time of his or her resignation and but for the fact of his or her resignation, entitled to a period of leave of absence, he or she shall continue to receive the salary, privileges, and allowances of his or her former office until the expiration of that period or until he or she attains the age of 70 years or until he or she dies, whichever is the sooner,

and his or her rights and obligations under the Government Superannuation Fund Act 1956 and all the rights which his or her surviving wife, husband, civil union partner, or de facto partner may have under that Act shall be the same as they would have been if he or she had been in office while his or her salary, privileges, and allowances so continued.

Section 14: replaced, on 25 October 1963, by section 3 of the Judicature Amendment Act 1963 (1963 No 133).

Section 14: amended, on 6 March 2007, by section 5 of the Judicature Amendment Act 2007 (2007 No 3).

Section 14: amended, on 26 April 2005, by section 7 of the Relationships (Statutory References) Act 2005 (2005 No 3).

Section 14: amended, on 1 November 1976, pursuant to section 3(3) of the Government Superannuation Fund Amendment Act 1976 (1976 No 30).

15 How superannuation allowances of the existing Judges to be computed

[Repealed]

Section 15: repealed, on 28 October 1955, by section 18(1) of the Superannuation Amendment Act 1955 (1955 No 107).

Jurisdiction of the court

16 General jurisdiction

The court shall continue to have all the jurisdiction which it had on the coming into operation of this Act and all judicial jurisdiction which may be necessary to administer the laws of New Zealand.

Compare: 1882 No 29 s 16

16A Power to award damages as well as, or in substitution for, injunction or specific performance

Where the court has jurisdiction to entertain an application for an injunction or specific performance, it may award damages in addition to, or in substitution for, an injunction or specific performance.

Compare: Chancery Amendment Act 1858, 21 and 22 Vict, c 27 (UK); Supreme Court Act 1981 s 50 (UK)

Section 16A: inserted, on 1 January 1989, by section 2 of the Judicature Amendment Act 1988 (1988 No 117).

17 Jurisdiction as to mentally disordered persons, etc

The court shall also have within New Zealand all the jurisdiction and control over the persons and estates of mentally disordered persons, and persons of unsound mind, and over the managers of such persons and estates respectively, as the Lord Chancellor of England, or any Judge or Judges of Her Majesty's High Court of Justice or of Her Majesty's Court of Appeal, so far as the same may

be applicable to the circumstances of New Zealand, has or have in England under the Sign-manual of Her Majesty or otherwise.

Compare: 1882 No 29 s 17

Section 17 heading: amended, on 1 April 1970, pursuant to section 129(4) of the Mental Health Act 1969 (1969 No 16).

Section 17 heading: amended, on 1 January 1970, by section 36(1)(a) of the Guardianship Act 1968 (1968 No 63).

Section 17: amended, on 1 January 1987, pursuant to section 5(2) of the Constitution Act 1986 (1986 No 114).

Section 17: amended, on 1 April 1970, pursuant to section 129(4) of the Mental Health Act 1969 (1969 No 16).

Section 17: amended, on 1 April 1970, pursuant to section 129(7) of the Mental Health Act 1969 (1969 No 16).

Section 17: amended, on 1 January 1970, by section 36(1)(a) of the Guardianship Act 1968 (1968 No 63).

Section 17: amended, on 1 January 1970, by section 36(1)(b) of the Guardianship Act 1968 (1968 No 63).

17A Jurisdiction as to liquidation of associations

- (1) In this section, **association** includes any partnership, company, or other body corporate, or unincorporated body of persons other than—
 - (a) a company or an overseas company, as defined in section 2 of the Companies Act 1993; or
 - (b) *[Repealed]*
 - (c) a body corporate that may be put into liquidation in accordance with the provisions of any Act under which it is constituted.
- (2) The court has jurisdiction to appoint a named person or an Official Assignee for a named district as the liquidator of an association.
- (3) An application for the appointment of a liquidator may be made by the association or a director or member or creditor or the Registrar of Companies.
- (4) The court may appoint a liquidator if it is satisfied that—
 - (a) the association is dissolved or has ceased to carry on business or is carrying on business solely for the purpose of terminating its affairs; or
 - (b) the association is unable to pay its debts; or
 - (c) it is just and equitable that the association be put into liquidation.

Section 17A: inserted, on 1 July 1994, by section 2 of the Judicature Amendment Act 1993 (1993 No 117).

Section 17A(1)(b): repealed, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

17B Application of Companies Act 1993

Part 16 of the Companies Act 1993 (except sections 241(1) to (4) and 268) shall apply, with such modifications as may be necessary, in relation to the liquidation of an association and as if references to—

- (a) a company registered under that Act included a reference to an association:
- (b) a director included references to any person occupying the position of director by whatever name called:
- (c) shareholders or persons entitled to surplus assets under the constitution of a company and the Companies Act 1993 were references to such persons as the court may determine to be justly entitled to any surplus assets after the satisfaction of the claims of all the creditors.

Section 17B: inserted, on 1 July 1994, by section 2 of the Judicature Amendment Act 1993 (1993 No 117).

17C Meaning of inability to pay debts

For the purposes of section 17A, an association is **unable to pay its debts**—

- (a) if—
 - (i) a creditor who is owed an amount exceeding \$100 by the association has served on the association a demand for payment of that amount by leaving it at the principal office of the association in New Zealand, or delivering it to the secretary or a director or manager or principal officer of the association; and
 - (ii) the association has for 3 weeks after the demand was served on it failed to pay the amount due or secure the payment of it or compound for it to the satisfaction of the creditor; or
- (b) if—
 - (i) an action or proceeding has been commenced against a member of the association for the payment of an amount owing by the association or that member in his or her capacity as a member; and
 - (ii) notice in writing of the action or proceeding has been served on the association by leaving it at its principal place of business in New Zealand or by delivering it to the secretary or a director, or principal officer of the association or serving it on the association in such manner as the court may approve or direct; and
 - (iii) the association has not, within 10 days after the notice was served on it, paid or secured the debt, or compounded for it or had the action or proceeding stayed or indemnified the member for the amount of any judgment that may be entered against him or her and any costs, damages, and expenses that may be incurred by him or her in the action or proceeding; or

- (c) if execution or other process issued on a judgment, decree, or order obtained in a court in favour of a creditor against the association, or a member of the association in his or her capacity as a member, or a person authorised to be sued on behalf of the association, is returned unsatisfied; or
- (d) if it is proved to the satisfaction of the High Court that the association is unable to pay its debts, and in determining whether an association is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the association.

Section 17C: inserted, on 1 July 1994, by section 2 of the Judicature Amendment Act 1993 (1993 No 117).

17D Power of liquidator to enforce liabilities

The liquidator may, by notice in writing, require any person who is liable to pay or contribute to the payment of—

- (a) any debt or liability of the association; or
- (b) any sum for the adjustment of the rights of the members among themselves; or
- (c) the costs and expenses of the liquidation—

to pay or contribute accordingly and every such person is liable to pay or contribute the amount due in respect of that liability.

Section 17D: inserted, on 1 July 1994, by section 2 of the Judicature Amendment Act 1993 (1993 No 117).

17E Actions stayed on liquidation

Where the court appoints a liquidator of an association, no action or proceeding shall be commenced or continued against any person referred to in section 17D in respect of any debt of the association, except with the leave of the court, and subject to such terms as the court may impose.

Section 17E: inserted, on 1 July 1994, by section 2 of the Judicature Amendment Act 1993 (1993 No 117).

18 No jurisdiction in cases of felonies or misdemeanours committed prior to 14 January 1840

The court shall not have jurisdiction to try any felony or misdemeanour committed before 14 January 1840.

Compare: 1882 No 29 s 18

19 Powers of the court may be exercised by 1 or more Judges

- (1) Each Judge or any 2 or more Judges may in any part of New Zealand exercise all the powers of the court, except such powers as may by any statute be required to be exercised by the full court or by any specified number of Judges.

- (2) Subsection (1) shall be read subject to the provisions of any enactment that provides for the appointment of persons other than Judges to sit with the court or as members of the court in respect of any specified proceedings or class of proceedings.

Compare: 1882 No 29 s 19

Section 19(2): inserted, on 15 August 1991, by section 2 of the Judicature Amendment Act 1991 (1991 No 60).

19A Certain civil proceedings may be tried by jury

- (1) This section applies to civil proceedings in which the only relief claimed is payment of a debt or pecuniary damages or the recovery of chattels.
- (2) If the debt or damages or the value of the chattels claimed in any civil proceedings to which this section applies exceeds \$3,000, either party may have the civil proceedings tried before a Judge and a jury on giving notice to the court and to the other party, within the time and in the manner prescribed by the High Court Rules, that he requires the civil proceedings to be tried before a jury.
- (3) Notwithstanding anything in subsection (2), in any case where, after notice has been given pursuant to that subsection but before the trial has commenced, the debt or damages or the value of the chattels claimed is reduced to \$3,000 or less, the civil proceedings shall be tried before a Judge without a jury.
- (4) If, in any civil proceedings to which this section applies, the defendant sets up a counterclaim, then, unless pursuant to this section the civil proceedings and the counterclaim are both to be tried before a Judge without a jury, the following provisions shall apply:
- (a) on the application of either party made with the consent in writing of the other party, both the civil proceedings and counterclaim shall be tried before a Judge without a jury, or before a Judge with a jury, whichever is specified in the application:
- (b) if no such application is made, the civil proceedings and the counterclaim shall, subject to any direction of the court or a Judge under section 19B, be tried in accordance with the foregoing provisions of this section: provided that if the court or a Judge orders that the civil proceedings and the counterclaim be tried together, they shall be tried before a Judge with a jury.
- (5) Notwithstanding anything to the contrary in the foregoing provisions of this section, in any case where notice is given as aforesaid requiring any civil proceedings to be tried before a jury, if it appears to a Judge before the trial—
- (a) that the trial of the civil proceedings or any issue therein will involve mainly the consideration of difficult questions of law; or
- (b) that the trial of the civil proceedings or any issue therein will require any prolonged examination of documents or accounts, or any investigation in which difficult questions in relation to scientific, technical, business, or

professional matters are likely to arise, being an examination or investigation which cannot conveniently be made with a jury,—

the Judge may, on the application of either party, order that the civil proceedings or issue be tried before a Judge without a jury.

- (6) Nothing in this section shall apply in respect of any civil proceedings to be heard by the court in its admiralty jurisdiction.

Section 19A: inserted, on 7 October 1977, by section 9(1) of the Judicature Amendment Act 1977 (1977 No 32).

Section 19A heading: amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19A(1): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19A(2): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19A(2): amended, on 1 April 1980, by section 6 of the Judicature Amendment Act 1979 (1979 No 124).

Section 19A(3): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19A(3): amended, on 1 April 1980, by section 6 of the Judicature Amendment Act 1979 (1979 No 124).

Section 19A(4): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19A(5): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19A(6): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

19B All other civil proceedings to be tried before Judge alone, unless court otherwise orders

- (1) Except as provided in section 19A of this Act, civil proceedings shall be tried before a Judge alone.
- (2) Notwithstanding subsection (1), if it appears to the court at the trial, or to a Judge before the trial, that the civil proceedings or any issue therein can be tried more conveniently before a Judge with a jury the court or Judge may order that the civil proceedings or issue be so tried.

Section 19B: inserted, on 7 October 1977, by section 9(1) of the Judicature Amendment Act 1977 (1977 No 32).

Section 19B heading: amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19B(1): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 19B(2): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

19C Questions of foreign law to be decided by Judge

- (1) Where, for the purpose of disposing of any civil proceedings or any criminal proceedings which are being tried by a Judge of the High Court with a jury, it is necessary to ascertain the law of any other country which is applicable to the facts of the case, any question as to the effect of the evidence given with respect to that law shall, instead of being submitted to the jury, be decided by the Judge alone.
- (2) This section has effect notwithstanding anything in section 19A or section 19B.
Section 19C: inserted, on 1 January 1986, by section 3 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

20 Governor in Council may divide New Zealand into districts

[Repealed]

Section 20: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

21 Actions and proceedings to be taken in the district prescribed by the Code of Civil Procedure

[Repealed]

Section 21: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

22 How applications to be made when Judge absent or unable to act

[Repealed]

Section 22: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

23 Governor-General may appoint special sittings

The Governor-General in Council may from time to time appoint special sittings of the court for the despatch of civil and criminal business, to be held at such time and place or places, and before such Judge or Judges, as he thinks fit.

Compare: 1882 No 29 s 24

23A Offices of the High Court

- (1) The Governor-General may from time to time, by notice in the *Gazette*, declare an office or offices of the court to be established at such place or places as may be specified in the notice, as from such date, in the case of each office, as may be so specified.
- (1A) *[Repealed]*
- (2) *[Repealed]*
- (3) Where any office of the court is abolished, the Minister of the Crown who is responsible for the Ministry of Justice may direct that all documents, books, and records in that office shall be delivered to some other office of the court (in

this section referred to as the **substituted office**). From the time of their delivery to the Registrar of the substituted office, those documents, books, and records shall be deemed to be in the lawful custody of that Registrar.

- (4) Where any office of the court is abolished, the following provisions shall apply:
- (a) any act or thing that could have been done under any enactment or rule by the Registrar of that office may be done by the Registrar of the substituted office:
 - (b) any step in any proceedings that would, but for the abolition of that office, have been taken there under any enactment or rule may be taken at the substituted office:
 - (c) any act or thing required or authorised by any enactment or rule to be done by any person at that office, whether in respect of any proceedings or in respect of any transaction recorded or document filed there, may be done at the substituted office:
 - (d) any address for service, being an address conforming to the requirements of the rules of court, that has been given by any party to any proceedings in respect of which the records are delivered to the substituted office shall continue to be the address for service of that party for the purposes of those proceedings, notwithstanding that because of its distance from the substituted office it may cease to conform to those requirements:
provided that where, because of its distance from the substituted office, the address does not conform to the requirements of the rules, the party shall give a new address for service conforming to those requirements when he first files in the substituted office any document in the proceedings:
 - (e) if in respect of any proceedings, or of any transaction, document, record, or other matter, any question arises as to the application of any provision of this section or as to the proper procedure to be followed, the court or a Judge may determine the question and make such order thereon as the court or Judge thinks fit.

Section 23A: inserted, on 16 October 1952, by section 2(1) of the Judicature Amendment Act 1952 (1952 No 24).

Section 23A heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 23A(1): amended, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

Section 23A(1A): repealed, on 1 May 2002, by section 192(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 23A(2): repealed, on 1 May 2002, by section 192(1) of the Personal Property Securities Act 1999 (1999 No 126).

Section 23A(3): amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Section 23A(3): amended, on 1 July 1995, by section 10(1) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 23A(3): amended, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

24 Registrar may act for Judge in certain cases

[Repealed]

Section 24: repealed, on 27 November 1947, by section 28(7) of the Statutes Amendment Act 1947 (1947 No 60).

Commercial list

Heading: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

24A Establishment of commercial list

- (1) The Governor-General may from time to time by notice in the *Gazette* declare a commercial list to be established at any office of the High Court as from a date to be specified in the notice.
- (2) The first commercial list shall be established at the office of the High Court at Auckland for a period to be specified in the notice (which period shall not be less than 4 years).
- (3) The Governor-General may, on or before the expiration of the period specified under subsection (2), either—
 - (a) extend that period by notice in the *Gazette*; or
 - (b) declare by notice in the *Gazette* that the commercial list at the office of the High Court at Auckland shall continue indefinitely.
- (4) Where the Governor-General exercises the power given by subsection (3)(a), the Governor-General may, on or before the expiration of the extended period, declare by notice in the *Gazette* that the commercial list established at the office of the High Court at Auckland shall continue indefinitely.
- (5) Where the commercial list established at the office of the High Court at Auckland ceases to be established upon the expiration of the period specified under subsection (2) or the extended period specified under subsection (3)(a), the commercial list shall be deemed to continue for the purpose of completing any proceeding entered on the commercial list at the expiration of that period.

Section 24A: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

24B Proceedings eligible for commercial list

- (1) The classes of proceedings eligible for entry on a commercial list are as follows:
 - (a) any proceedings arising out of or otherwise relating to:

- (i) the ordinary transactions of persons engaged in commerce or trade or of shippers:
 - (ii) the carriage of goods for the purpose of trade or commerce:
 - (iii) the construction of commercial, shipping, or transport documents:
 - (iv) the export or import of merchandise:
 - (v) insurance, banking, finance, guarantee, commercial agency, or commercial usages:
 - (vi) disputes arising out of intellectual property rights between parties engaged in commerce:
 - (b) applications to the court under the Arbitration Act 1996:
 - (c) appeals against determinations of the Commerce Commission:
 - (d) proceedings under any of the provisions of sections 80, 81, 82, and 89 of the Commerce Act 1986:
 - (e) cases stated by the Financial Markets Authority, and civil proceedings under the Financial Markets Conduct Act 2013:
 - (f) the following proceedings in relation to companies registered under the Companies Act 1993:
 - (i) applications for directions by liquidators and receivers:
 - (ii) defended applications under section 174 of the Companies Act 1993:
 - (iii) disputes relating to takeovers:
 - (iv) disputes between shareholders or classes of shareholders of companies (other than companies having not more than 25 shareholders):
 - (g) proceedings of a commercial nature required or permitted to be entered on a commercial list by or under any Act or by or under the High Court Rules or any rules made under section 51C of this Act.
- (2) Where any appeal belonging to the class of appeals described in subsection (1)(c) is entered on a commercial list,—
- (a) that appeal shall, notwithstanding section 75(2) of the Commerce Act 1986, be heard and determined by the court; and
 - (b) any lay member appointed pursuant to section 77 of the Commerce Act 1986 shall, for the purpose of the hearing and determination of that appeal by the court, be deemed to be a lay member of the court; and
 - (c) section 77 and sections 91 to 97 of the Commerce Act 1986 shall, subject to section 24E, apply with all necessary modifications to that appeal.
- (3) Rules made under section 51C shall make provision for—

- (a) the manner in which proceedings eligible for entry on a commercial list are to be entered on a commercial list;
- (b) orders for the removal of proceedings entered on a commercial list;
- (c) the procedure governing the determination of proceedings entered on a commercial list.

Section 24B: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

Section 24B(1)(b): amended, on 1 July 1997, pursuant to section 20 of the Arbitration Act 1996 (1996 No 99).

Section 24B(1)(e): amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 24B(1)(e): amended, on 1 May 2011, by section 82 of the Financial Markets Authority Act 2011 (2011 No 5).

Section 24B(1)(f): replaced, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 24B(2): replaced, on 10 July 1987, by section 2 of the Judicature Amendment Act (No 2) 1987 (1987 No 147).

24C Commercial list Judges

- (1) A commercial list established under section 24A is supervised by a Judge nominated from time to time by the Chief Justice after consulting the Chief High Court Judge.
 - (1A) The Chief High Court Judge can be nominated under subsection (1).
 - (2) After consulting the Chief High Court Judge, the Chief Justice may nominate 1 or more Judges to help the Judge nominated under subsection (1) and to supervise the list when that Judge is absent from duty.
 - (3) Every interlocutory application in any proceeding entered on a commercial list shall be determined by a Judge nominated under subsection (1) or subsection (2).
 - (4) Where—
 - (a) any dispute has arisen concerning the construction, status, or application of a contract or document; and
 - (b) the dispute could be determined in a proceeding eligible for entry on a commercial list; and
 - (c) no proceeding has been commenced in respect of the dispute,—any party to the dispute may apply to a Judge nominated under subsection (1) or subsection (2) for the determination of the questions involved in the dispute.

Section 24C: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

Section 24C(1): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 24C(1A): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 24C(2): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

24D Directions for speedy determination of real questions in proceedings on commercial list

The court may from time to time give such directions as the court thinks fit (whether or not inconsistent with the High Court Rules or any rules made under section 51C) for the speedy and inexpensive determination of the real questions between the parties to proceedings entered on a commercial list.

Section 24D: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

24E Agreement not to appeal

The parties to any proceedings entered on a commercial list may agree that the decision of the court shall be final.

Section 24E: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

24F Proceedings not to be tried by jury

Notwithstanding anything in section 19A, no proceeding entered on a commercial list shall be tried before a jury.

Section 24F: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

24G Restriction of right of appeal from interlocutory decisions

- (1) No appeal shall lie from an interlocutory decision of the High Court in respect of any proceeding entered on a commercial list unless leave to appeal to the Court of Appeal is given by the High Court on application made within 7 days of the decision being given or within such further time as the High Court may allow.
- (2) If the High Court refuses leave to appeal from any such interlocutory decision, the Court of Appeal may grant that leave on application made to the Court of Appeal within 21 days of the refusal of leave by the High Court.

Section 24G: inserted, on 6 November 1986, by section 4 of the Judicature Amendment Act 1986 (1986 No 93).

Administrative Division of the court

[Repealed]

Heading: repealed, on 15 August 1991, pursuant to section 3(2) of the Judicature Amendment Act 1991 (1991 No 60).

25 Administrative Division of the High Court

[Repealed]

Section 25: repealed, on 15 August 1991, by section 3(2) of the Judicature Amendment Act 1991 (1991 No 60).

26 Jurisdiction of Administrative Division

[Repealed]

Section 26: repealed, on 15 August 1991, by section 3(2) of the Judicature Amendment Act 1991 (1991 No 60).

26A Lay members or assessors in certain cases

[Repealed]

Section 26A: repealed, on 15 August 1991, by section 3(2) of the Judicature Amendment Act 1991 (1991 No 60).

26B Rules relating to Administrative Division

[Repealed]

Section 26B: repealed, on 15 August 1991, by section 3(2) of the Judicature Amendment Act 1991 (1991 No 60).

Associate Judges of the High Court

Heading: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26C Appointment of Associate Judges

- (1) The Governor-General may from time to time, by warrant, appoint fit and proper persons to be Associate Judges of the High Court.
- (2) The maximum number of Associate Judges is 9.
- (3) For the purposes of subsection (2),—
 - (a) an Associate Judge who is acting on a full-time basis counts as 1:
 - (b) an Associate Judge who is acting on a part-time basis counts as an appropriate fraction of 1:
 - (c) the aggregate number (for example, 5.5) must not exceed the maximum number of Associate Judges that is for the time being permitted.
- (4) A person must not be appointed as an Associate Judge unless he or she has held a practising certificate as a barrister or solicitor for at least 7 years.
- (5) An Associate Judge must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief High Court Judge is satisfied that the employment or other office is compatible with judicial office.
- (6) An Associate Judge holds office until, in accordance with section 26E, he or she retires or resigns or is removed from office.
- (7) Subsection (6) applies to—
 - (a) every Associate Judge appointed after the commencement of this section; and

- (b) every person deemed by section 6(1) of the Judicature Amendment Act 2004 to have been appointed as an Associate Judge at the commencement of this section (despite any provision to the contrary in any enactment or warrant of appointment).

Section 26C: replaced, on 20 May 2004, by section 7 of the Judicature Amendment Act 2004 (2004 No 45).

Section 26C(2): amended, on 23 March 2010, by section 6 of the Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7).

26D Associate Judges act on full-time basis but may be authorised to act part-time

- (1) A person acts as an Associate Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- (2) The Attorney-General may, in accordance with subsection (4), authorise an Associate Judge appointed under section 26C to act on a part-time basis for a specified period.
- (3) To avoid doubt, an authorisation under subsection (2) may take effect as from an Associate Judge's appointment or at any other time, and may be made more than once in respect of the same Associate Judge.
- (4) The Attorney-General may authorise an Associate Judge to act on a part-time basis only—
 - (a) on the request of the Associate Judge; and
 - (b) with the concurrence of the Chief High Court Judge.
- (5) In considering whether to concur under subsection (4), the Chief High Court Judge must have regard to the ability of the court to discharge its obligations in an orderly and expeditious way.
- (6) An Associate Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- (7) The basis on which an Associate Judge acts must not be altered during the term of the Associate Judge's appointment without the Associate Judge's consent, but consent under this subsection is not necessary if the alteration is required by subsection (6).

Section 26D: replaced, on 20 May 2004, by section 7 of the Judicature Amendment Act 2004 (2004 No 45).

26E Vacation of office

- (1) The Governor-General may, if the Governor-General thinks fit, remove an Associate Judge for inability or misbehaviour.
- (2) An Associate Judge may resign the office of Associate Judge by notice in writing addressed to the Attorney-General.
- (3) Subject to section 26H, every Associate Judge shall retire from office on attaining the age of 70 years.

Section 26E: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26E(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26E(2): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26E(2): amended, on 20 May 2004, by section 8 of the Judicature Amendment Act 2004 (2004 No 45).

Section 26E(3): amended, on 6 March 2007, by section 6 of the Judicature Amendment Act 2007 (2007 No 3).

Section 26E(3): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26F Salaries and allowances of Associate Judges

- (1) Subject to subsection (5), there shall be paid to every Associate Judge, out of public money, without further appropriation than this section,—
 - (a) a salary at such rate as the Remuneration Authority from time to time determines; and
 - (b) such allowances as are from time to time determined by the Remuneration Authority; and
 - (c) such additional allowances, being travelling allowances or other incidental or minor allowances, as may be determined from time to time by the Governor-General.
- (2) Subject to subsection (5), the salary of an Associate Judge shall not be diminished during the continuance of the Associate Judge's appointment.
- (3) Subject to the Remuneration Authority Act 1977, any determination made under subsection (1), and any provision of any such determination, may be made so as to come into force on a date to be specified in that behalf in the determination, being the date of the making of the determination or any other date, whether before or after the date of the making of the determination or the date of the commencement of this section.
- (4) Every such determination, and every provision of any such determination, in respect of which no date is specified as aforesaid shall come into force on the date of the making of the determination.
- (5) The salary and allowances payable for a period during which an Associate Judge acts on a part-time basis must be calculated and paid as a pro rata proportion of the salary and allowances for a full-time equivalent position.
- (6) For the purpose of subsection (2), the payment of salary and allowances on a pro rata basis under subsection (5) is not a diminution of salary.

Section 26F: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26F heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26F(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26F(1): amended, on 1 July 1989, by section 86(1) of the Public Finance Act 1989 (1989 No 44).

Section 26F(1)(a): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 26F(1)(b): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 26F(2): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26F(3): amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

Section 26F(5): replaced, on 20 May 2004, by section 9 of the Judicature Amendment Act 2004 (2004 No 45).

Section 26F(6): inserted, on 20 May 2004, by section 9 of the Judicature Amendment Act 2004 (2004 No 45).

26G Superannuation or retiring allowances of Associate Judges

For the purpose of providing a superannuation fund or retiring allowance for persons appointed as Associate Judges, sums by way of subsidy or contribution may from time to time be paid under Part 5B of the Government Superannuation Fund Act 1956 or to any retirement scheme (within the meaning of section 6(1) of the Financial Markets Conduct Act 2013) in accordance with a determination of the Remuneration Authority.

Section 26G: replaced, on 4 June 1998, by section 2 of the Judicature Amendment Act 1998 (1998 No 52).

Section 26G heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26G: amended, on 1 December 2014, by section 150 of the Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70).

Section 26G: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26G: amended, on 1 April 2003, by section 4(1) of the Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54).

26H Temporary Associate Judges

- (1) The Governor-General may, subject to this section, appoint any person (including a former Associate Judge) to act as an Associate Judge for such period as is specified in the warrant of appointment.
- (2) The period so specified shall not exceed 12 months; but any person appointed under this section may from time to time be reappointed.
- (3) No person shall be appointed as an Associate Judge under this section unless that person is eligible for appointment as an Associate Judge pursuant to section 26C, save that, subject to subsection (4) of this section, a person otherwise qualified who has attained the age of 70 years (including an Associate Judge

who has retired after attaining that age) may be appointed as an Associate Judge under this section.

- (4) No person shall be appointed or reappointed as an Associate Judge under this section who has attained the age of 72 years.
- (5) Subject to section 26F(5), every person appointed as an Associate Judge under this section shall, during the term of that Associate Judge's appointment, be paid the salary and allowances payable by law to an Associate Judge.
- (6) No appointment may be made under this section otherwise than on a certificate signed by the Chief Justice to the effect that, in the opinion of the Chief Justice, it is necessary for the due conduct of the business of the court that a temporary Associate Judge be appointed.
- (7) The Chief Justice must not sign the certificate without first consulting the Chief High Court Judge.

Section 26H: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26H heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(1): replaced, on 15 August 1991, by section 5 of the Judicature Amendment Act 1991 (1991 No 60).

Section 26H(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(2): amended, on 20 May 2004, by section 10 of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(3): amended, on 6 March 2007, by section 7 of the Judicature Amendment Act 2007 (2007 No 3).

Section 26H(3): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(4): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(5): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(6): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26H(7): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

26I Associate Judge may exercise certain powers of the court

- (1) An Associate Judge shall have and may exercise all the jurisdiction and powers of the court in relation to the following matters:
 - (a) any application for summary judgment:
 - (b) *[Repealed]*
 - (c) any proceedings under which relief is claimed solely under any of the provisions of sections 140, 143, 144, 145, 145A, and 148 of the Land Transfer Act 1952 (which provisions relate to caveats):

- (d) the assessment of damages where liability has been determined, or the trial of proceedings in which only the amount of the debt or damages is disputed:
 - (e) the entry of any judgment by consent, or the making of any other order by consent:
 - (ea) the making of any order (other than an arrest order or an order relating to an arrest order) that may be made under rules of court against a judgment debtor who has been ordered to attend court for examination:
 - (eb) the making, variation, suspension, or discharge of attachment orders under rules of court:
 - (f) any other matter in respect of which jurisdiction is conferred on an Associate Judge by or under any Act.
- (2) An Associate Judge shall have and may exercise all the jurisdiction and powers which are vested in the court or a Judge by the following enactments:
- (a) article 11 of Schedule 1 of the Arbitration Act 1996:
 - (b) *[Repealed]*
 - (c) *[Repealed]*
 - (d) *[Repealed]*
 - (e) sections 123, 154, 165 to 168, 173, 179, 232 to 234, 236 to 238, Part 15A, Part 16, and section 329 of the Companies Act 1993:
 - (f) rules 39, 41, 71, 87 to 89, 91, 94, 95, 96, 111, 125(3), 136, 137, 141 to 143, 190, and 191 of the Companies (Winding Up) Rules 1956, as continued in force by section 42(7) of the Companies Amendment Act 1993:
 - (g) section 42(2) of the Corporations (Investigation and Management) Act 1989:
 - (h) section 26, Part 10, section 119, and Part 15 of the Insolvency Act 1967:
 - (ha) the Insolvency Act 2006 (except sections 150, 166(3), 180, and 236(2)):
 - (hb) any regulations or rules made under the Insolvency Act 2006:
 - (i) rules 41 and 43 of the Insolvency Rules 1970:
 - (j) any regulations relating to liquidations made under the Companies Act 1993:
 - (k) sections 118, 128, 131, 167, 168, 170, 179, 181, 182, and 186 of the Personal Property Securities Act 1999:
 - (l) the Model Law on Cross-Border Insolvency as set out in Schedule 1 of the Insolvency (Cross-border) Act 2006.
- (3) An Associate Judge shall have and may exercise all the jurisdiction and powers of the court to deal with costs and other matters incidental to the matters over

which an Associate Judge has jurisdiction pursuant to subsection (1) or subsection (2).

- (4) Rules made under section 51C or rules made under any other Act in the manner provided in that section may contain such provisions as may be necessary—
- (a) to enable the proper exercise by Associate Judges of the jurisdiction and powers conferred by this section; and
 - (b) to regulate the practice and procedure of the court on appeals against the exercise by Associate Judges of the jurisdiction and powers so conferred.
- (5) *[Repealed]*

Section 26I: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26I heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(1)(b): repealed, on 25 February 2012, by section 4(a) of the Judicature Amendment Act 2012 (2012 No 11).

Section 26I(1)(c): amended, on 17 May 2005, by section 3 of the Judicature Amendment Act 2005 (2005 No 57).

Section 26I(1)(ea): inserted, on 1 February 2009, by section 6 of the Judicature (High Court Rules) Amendment Act 2008 (2008 No 90).

Section 26I(1)(eb): inserted, on 1 February 2009, by section 6 of the Judicature (High Court Rules) Amendment Act 2008 (2008 No 90).

Section 26I(1)(f): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(2): replaced, on 1 July 1994, by section 2 of the Judicature Amendment Act 1994 (1994 No 42).

Section 26I(2): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(2)(a): replaced, on 1 July 1997, by section 17 of the Arbitration Act 1996 (1996 No 99).

Section 26I(2)(b): repealed, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 26I(2)(c): repealed, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 26I(2)(d): repealed, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 26I(2)(e): replaced, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 26I(2)(e): amended, on 25 February 2012, by section 4(b) of the Judicature Amendment Act 2012 (2012 No 11).

Section 26I(2)(ha): inserted, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 26I(2)(hb): inserted, on 3 December 2007, by section 445 of the Insolvency Act 2006 (2006 No 55).

Section 26I(2)(j): amended, on 5 December 2013, by section 14 of the Companies Amendment Act 2013 (2013 No 111).

Section 26I(2)(k): inserted, on 15 December 2005, by section 3 of the Judicature Amendment Act (No 2) 2005 (2005 No 107).

Section 26I(2)(l): inserted, on 24 July 2008, by section 13 of the Insolvency (Cross-border) Act 2006 (2006 No 57).

Section 26I(3): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(4)(a): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(4)(b): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26I(5): repealed, on 4 June 1998, by section 3 of the Judicature Amendment Act 1998 (1998 No 52).

26IA Ancillary powers of Associate Judge

- (1) Subject to subsection (2), an Associate Judge shall have, in all proceedings (including proceedings on an interlocutory application) properly before the Associate Judge, jurisdiction to make any order or to exercise any authority or jurisdiction that might be made or exercised by a Judge of the High Court.
- (2) Nothing in subsection (1) confers on an Associate Judge any jurisdiction or power of a kind described in subsection (3) or subsection (4) of section 26J.

Section 26IA: inserted, on 1 July 1994, by section 3 of the Judicature Amendment Act 1994 (1994 No 42).

Section 26IA heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26IA(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26IA(2): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26IB Judge or Associate Judge may, by video link, preside at hearing of specified matters

- (1) A Judge or Associate Judge may, by video link, preside at the hearing of any matter—
 - (a) over which an Associate Judge has jurisdiction under section 26I; and
 - (b) that is specified in rules made under section 51C for the purposes of this section.
- (2) A hearing conducted under the authority of subsection (1)—
 - (a) has effect as if the Judge or Associate Judge were physically present;
 - (b) does not affect the privileges and immunities of the Judge or Associate Judge or of any witnesses, counsel, or parties appearing at the hearing.
- (3) Rules made under section 51C may—

- (a) specify a class or classes of matters in respect of which hearings authorised by subsection (1) may be conducted:
- (b) regulate the manner in which hearings authorised by subsection (1) are conducted.

Section 26IB: inserted, on 1 September 2006, by section 7 of the Judicature Amendment Act 2006 (2006 No 16).

26J Power to make rules conferring specified jurisdiction and powers of Judge in chambers on Associate Judges

- (1) Notwithstanding anything contained in any other provision of this Act or of any other Act but subject to the provisions of this section, rules made under section 51C or rules made under any other Act in the manner provided in that section may confer on Associate Judges, subject to such limitations and restrictions as may be specified in the rules, such of the jurisdiction and powers of a Judge sitting in chambers, conferred by this Act or any other Act, as may be specified in the rules.
- (2) Any such rules may contain such other provisions as may be necessary—
 - (a) to enable the proper exercise by Associate Judges of the jurisdiction and powers so conferred; and
 - (b) to regulate the practice and procedure of the court on any application to the court under section 26P(1) to review the exercise by an Associate Judge of the jurisdiction and powers so conferred.
- (3) Nothing in subsection (1) or subsection (2) authorises the making of any rule which confers on Associate Judges any jurisdiction or power in respect of any of the following matters:
 - (a) any criminal proceeding, other than an uncontested application for bail or an application for the setting aside of a witness summons:
 - (b) any application for a writ of habeas corpus:
 - (c) any proceedings for the issue or renewal of a writ of sequestration:
 - (d) any proceedings under or by virtue of the Care of Children Act 2004:
 - (e) any action *in rem* under or by virtue of the Admiralty Act 1973:
 - (f) any application to review, or any appeal against, the exercise, or the refusal to exercise, by any Registrar or Deputy Registrar, of any jurisdiction or power conferred on any Registrar or Deputy Registrar by or under this Act or any other Act.
- (4) Nothing in subsection (1) or subsection (2) authorises the making of any rule which confers on Associate Judges any jurisdiction or power—
 - (a) to grant an Anton Piller order, or an injunction (whether interlocutory or otherwise):
 - (b) to grant any relief on an application for review under section 4(1) of the Judicature Amendment Act 1972:

- (c) to grant any relief in any proceedings for a writ or order of or in the nature of mandamus, prohibition, or certiorari, or for a declaration or injunction:
- (d) to grant any application to remove any person from public office:
- (e) to try the right of any person to hold any public office.

Section 26J: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26J heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26J(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26J(2)(a): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26J(2)(b): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26J(3): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26J(3)(a): amended, on 1 February 2001, by section 128 of the Legal Services Act 2000 (2000 No 42).

Section 26J(3)(d): amended, on 1 July 2005, by section 151 of the Care of Children Act 2004 (2004 No 90).

Section 26J(4): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26K Power of Associate Judge to deal with witnesses and to punish for contempt

Sections 56A, 56B, and 56C shall apply in respect of any proceedings before an Associate Judge, and an Associate Judge shall have and may exercise all the jurisdiction and powers which, pursuant to those sections, are vested in the court or a Judge.

Section 26K: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26K heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26K: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26L Associate Judge to have no power to make order for committal, attachment, or arrest

Except as provided by section 26K, an Associate Judge shall have no jurisdiction or power to make an order for the committal, attachment, or arrest of any person.

Section 26L: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26L heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26L: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26M Associate Judge may act as referee

An Associate Judge may act as a referee under the High Court Rules in respect of any proceedings or any question arising in the course of any proceedings.

Section 26M: replaced, on 1 July 1997, by section 17 of the Arbitration Act 1996 (1996 No 99).

Section 26M heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26M: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26N Transfer of proceedings from Associate Judge to Judge

- (1) In any proceedings before an Associate Judge, an Associate Judge may, on the application of any party to the proceedings, or of the Associate Judge's own motion, refer the proceedings or any matter arising therein to a Judge if the Associate Judge is satisfied that because of the complexity of the proceedings or of that matter, or of any question in issue in the proceedings, it is expedient that the proceedings or that matter be referred to a Judge.
- (2) Where any proceedings are to be dealt with or are being dealt with by an Associate Judge, a Judge may, at any time before the conclusion of those proceedings, on application made on notice by any party to the proceedings, order that the proceedings or any part thereof be transferred to a Judge if that Judge is satisfied that it is desirable that the proceedings or that part thereof be dealt with by a Judge.
- (3) Upon the reference of any proceedings, or any matter arising therein, to a Judge under subsection (1), or the transfer of any proceedings or any part thereof to a Judge under subsection (2), the Judge may—
 - (a) dispose of the proceedings; or
 - (b) refer the proceedings or the matter back to the Associate Judge with such directions as the Judge thinks fit.

Section 26N: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26N heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26N(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26N(2): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26N(3)(b): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26O Power of Associate Judge to adjourn proceedings

An Associate Judge shall have power to order the adjournment of any proceedings, notwithstanding that an Associate Judge would not otherwise have jurisdiction in respect of those proceedings.

Section 26O: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26O heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26O: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26P Review of, or appeals against, decisions of Associate Judges

(1) Any party to any proceedings who is affected by any order or decision made by an Associate Judge in chambers may apply to the court to review that order or decision and, where a party so applies in accordance with the High Court Rules, the court—

- (a) must review the order or decision in accordance with the High Court Rules; and
- (b) may make such order as may be just.

(1AA) The determination of the High Court on a review under subsection (1) is final, unless the High Court gives leave (or the High Court refuses leave, but the Court of Appeal gives special leave) to appeal from it to the Court of Appeal.

(1A) Rules under section 51C may—

- (a) specify the nature and extent of reviews or classes of review under subsection (1):
- (b) regulate the procedure for hearing applications or classes of application under subsection (1):
- (c) regulate the procedure for hearing applications or classes of application for leave under subsection (1AA).

(2) Any party to any proceedings may appeal to the Court of Appeal against any order or decision of an Associate Judge in those proceedings (other than an order or decision made in chambers).

(3) Section 66 shall apply to any appeal under subsection (2).

Section 26P: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26P heading: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26P(1): replaced, on 1 January 2000, by section 4 of the Judicature Amendment Act 1998 (1998 No 52).

Section 26P(1): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Section 26P(1AA): inserted, on 19 December 2002, by section 3 of the Judicature Amendment Act 2002 (2002 No 68).

Section 26P(1A): replaced, on 19 December 2002, by section 3 of the Judicature Amendment Act 2002 (2002 No 68).

Section 26P(2): amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

26Q Immunity of Associate Judges

Every Associate Judge has the same immunities as a Judge of the High Court.

Section 26Q: replaced, on 20 May 2004, by section 11 of the Judicature Amendment Act 2004 (2004 No 45).

26R Jurisdiction of Judge not affected

Nothing in this Act or in any rules made under section 51C or in any rules made under any other Act in the manner provided in that section shall prevent the exercise by any Judge of any jurisdiction or power conferred on an Associate Judge by this Act or by any such rules.

Section 26R: inserted, on 6 November 1986, by section 5 of the Judicature Amendment Act 1986 (1986 No 93).

Section 26R: amended, on 20 May 2004, by section 6(2) of the Judicature Amendment Act 2004 (2004 No 45).

Officers

27 Appointment of officers

There may from time to time be appointed under the State Sector Act 1988 such Registrars, Deputy Registrars, and other officers as may be required for the conduct of the business of the court.

Section 27: replaced, on 22 May 1997, by section 2 of the Judicature Amendment Act 1997 (1997 No 10).

Registrars

28 Powers of Registrars

- (1) In order that the court may be enabled to exercise the jurisdiction conferred upon it by this Act, every Registrar and Deputy Registrar shall have all the powers and perform all the duties in respect of the court (except such powers and duties as any other officer may be specially appointed to exercise and perform) which Registrars and Deputy Registrars have hitherto performed or which by any rule or statute they may be required to perform.
- (2) Each Deputy Registrar has the same powers and privileges, performs the same duties, and is subject to the same provisions and penalties under this Act and under any other Act as if he or she were the Registrar for the time being, whether or not those powers, privileges, duties, provisions, or penalties are conferred, imposed, or enacted under this Act or that other Act.

- (3) Subsection (2) is subject to any provision to the contrary in any other enactment.

Compare: 1882 No 29 s 36

Section 28(2): inserted, on 15 December 2005, by section 4 of the Judicature Amendment Act (No 2) 2005 (2005 No 107).

Section 28(3): inserted, on 15 December 2005, by section 4 of the Judicature Amendment Act (No 2) 2005 (2005 No 107).

Sheriffs

29 Sheriffs and Deputy Sheriffs

- (1) Every Registrar of the High Court for the time being shall be a Sheriff for New Zealand.
- (2) There may be appointed under the State Sector Act 1988 in respect of any office of the court 1 or more Deputy Sheriffs.
- (3) Every Deputy Sheriff shall, in the absence of the Sheriff or when acting for the Sheriff, have the powers and privileges, duties and responsibilities of the Sheriff under this Act or any other enactment.

Section 29: replaced, on 1 April 1973, by section 20(1) of the Judicature Amendment Act 1972 (1972 No 130).

Section 29(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 29(2): amended, on 1 April 1988, pursuant to section 90(a) of the State Sector Act 1988 (1988 No 20).

30 Sheriff's oath

[Repealed]

Section 30: repealed, on 1 April 1973, by section 20(1) of the Judicature Amendment Act 1972 (1972 No 130).

31 Sureties may withdraw

[Repealed]

Section 31: repealed, on 1 April 1973, by section 20(1) of the Judicature Amendment Act 1972 (1972 No 130).

32 Duties, etc, of Sheriffs

Every Sheriff shall have such powers and privileges, duties and responsibilities, as a Sheriff by law has or is liable to in England as a ministerial officer of one of Her Majesty's Courts at Westminster.

Compare: 1883 No 5 s 9

Section 32: amended, on 1 January 1987, pursuant to section 5(2) of the Constitution Act 1986 (1986 No 114).

33 Sheriff to act as Queen's bailiff

In addition to his powers and privileges, duties and responsibilities, as a ministerial officer, each Sheriff shall also have and exercise the powers and duties of the Queen's bailiff.

Compare: 1883 No 5 s 10

Section 33 heading: amended, on 1 January 1987, pursuant to section 5(2) of the Constitution Act 1986 (1986 No 114).

Section 33: amended, on 1 January 1987, pursuant to section 5(2) of the Constitution Act 1986 (1986 No 114).

Section 33: amended, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

34 Sheriff not to act as barrister or solicitor

No Sheriff shall be in any way concerned in any action in any court in New Zealand either as a barrister, solicitor, or agent.

Compare: 1883 No 5 s 11

35 Service of process when Sheriff disqualified

Where any process issues which the Sheriff ought not by law to execute, the High Court shall authorise some fit person to execute the same; and in every such case the cause of such special proceeding shall be entered upon the records of the court.

Compare: 1883 No 5 s 12

Section 35: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

36 Persons arrested by Sheriffs may be committed to prison at once

Where any Sheriff, Sheriff's officer, bailiff, or other person employed under the Sheriff, has arrested any person under or by virtue of any writ or process whatsoever, he may forthwith thereafter convey such person, or cause him to be conveyed, to such prison as he ought to be sent to by virtue of the writ or process against him.

Compare: 1883 No 5 s 13

Poundage and fees

37 Calculation of Sheriff's poundage

[Repealed]

Section 37: repealed, on 11 October 1978, by section 4(1) of the Judicature Amendment Act 1978 (1978 No 55).

38 Appointment of, and oath taken by, appraiser

[Repealed]

Section 38: repealed, on 11 October 1978, by section 4(1) of the Judicature Amendment Act 1978 (1978 No 55).

39 Goods defined

[Repealed]

Section 39: repealed, on 11 October 1978, by section 4(1) of the Judicature Amendment Act 1978 (1978 No 55).

40 Sheriffs' and poundage fees

[Repealed]

Section 40: repealed, on 1 January 1969, by section 3(4) of the Judicature Amendment Act (No 2) 1968 (1968 No 59).

41 Fee in special cases

[Repealed]

Section 41: repealed, on 1 January 1969, by section 3(4) of the Judicature Amendment Act (No 2) 1968 (1968 No 59).

42 Fees to be paid into Crown Bank Account

All fees taken by a Sheriff under this Act must be paid immediately into a Crown Bank Account.

Section 42: replaced, on 25 January 2005, by section 37(1) of the Public Finance Amendment Act 2004 (2004 No 113).

Deputy Sheriffs and Acting Sheriffs

[Repealed]

Heading: repealed, on 1 April 1973, pursuant to section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

43 Where Sheriff not present at sitting of court, duties of Sheriff may be performed by any person appointed by the court or Judge

[Repealed]

Section 43: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

44 Provision in cases of vacancy in office of Sheriff

[Repealed]

Section 44: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

45 Governor may appoint Deputy Sheriffs

[Repealed]

Section 45: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

46 When Deputies to act

[Repealed]

Section 46: repealed, on 1 April 1973, by section 18(2) of the Judicature Amendment Act 1972 (1972 No 130).

Commissioners to administer oaths

47 Commissioners to take affidavits, etc, out of New Zealand

- (1) Any Judge of the High Court, by a commission to be issued under the seal of the court, may from time to time appoint any person to be and act as a Commissioner of the High Court in any country or place beyond the jurisdiction of the High Court, for the purpose of administering and taking any oath, affidavit, or affirmation, whether—
 - (a) in any civil or criminal proceedings commenced or pending in the High Court; or
 - (b) in any action, cause, proceeding, matter, or thing commenced or pending in any court of concurrent jurisdiction in New Zealand or in any inferior court; or
 - (c) in any proceedings or in any matter or thing within the cognisance or jurisdiction of the High Court or of any court of concurrent jurisdiction in New Zealand or of any inferior court.
- (2) Every such appointment shall be gazetted.

Section 47: replaced, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

48 Affidavits, etc, so taken to be of like effect as if taken in New Zealand

Every oath, affidavit, or affirmation taken or made before any such Commissioner as aforesaid shall within New Zealand be of the like effect in all respects as if the same had been administered, made, or taken by or before any court or persons having authority to administer or take the same in New Zealand.

Compare: 1875 No 82 s 3

49 Commission may be revoked

- (1) Any commission issued as aforesaid may be revoked by any Judge of the court for any cause which such Judge deems sufficient; but no such revocation shall affect or prejudice any act, matter, or thing done by any Commissioner by virtue of his commission prior to a notification of such revocation having been given or sent to him.
- (2) Every revocation of any such appointment shall be gazetted, and the notice published in the *Gazette* shall state the date when notice of revocation was given or sent to the Commissioner affected thereby.

Compare: 1875 No 82 ss 5, 6

*Practice and procedure of the court***50 Seal of the court**

- (1) The court shall have in the custody of each Registrar a seal of the court, for the sealing of all writs and other instruments or documents issued by such Registrar and requiring to be sealed.

- (2) *[Repealed]*

Compare: 1882 No 29 ss 37, 38

Section 50(2): repealed, on 1 May 1981, by section 4 of the Judicature Amendment Act 1980 (1980 No 88).

51 High Court Rules

- (1) Subject to subsections (2) to (4) and to sections 51A to 56C, the practice and procedure of the court in all civil proceedings shall be regulated by the High Court Rules.
- (2) The High Court Rules shall be subject to any other rules which are made pursuant to section 51C and which prescribe the procedure applicable in respect of any class of civil proceedings or in respect of the practice or procedure of the Court of Appeal.
- (3) Where any provision of the High Court Rules or of any rules made under section 51C restricts or excludes the application of the High Court Rules or any provisions of the High Court Rules, the provision that effects the restriction or exclusion shall have effect according to its tenor.
- (4) If in any civil proceedings any question arises as to the application of any provision of the High Court Rules or of any rules made under section 51C, the court may, either on the application of any party or of its own motion, determine the question and give such directions as it thinks fit.

Section 51: replaced, on 1 January 1986, by section 4 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

51A Publication of High Court Rules under Legislation Act 2012*[Repealed]*

Section 51A: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

51B Rules Committee*[Repealed]*

Section 51B: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

51C Power to make rules*[Repealed]*

Section 51C: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

51D Rules of court under other Acts to be made in manner provided by this Act

[Repealed]

Section 51D: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

51E Power to prescribe procedure on applications to High Court, Court of Appeal, or Supreme Court

[Repealed]

Section 51E: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

51F Power to make rules conferring specified jurisdiction and powers of Judge on Registrars or Deputy Registrars

[Repealed]

Section 51F: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

51G Jurisdiction of court to award costs in all cases

- (1) Where any Act confers jurisdiction on the High Court or a Judge thereof in regard to any civil proceedings or any criminal proceedings or any appeal, without expressly conferring jurisdiction to award or otherwise deal with the costs of the proceedings or appeal, jurisdiction to award and deal with those costs and to make and enforce orders relating thereto shall be deemed to be also conferred on the court or Judge.
- (2) Such costs shall be in the discretion of the court or Judge, and may, if the court or Judge thinks fit, be ordered to be charged upon or paid out of any fund or estate before the court.

Section 51G: inserted, on 1 January 1986, by section 4 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

52 Power of Judge to hold or adjourn sitting

- (1) A Judge may hold any sitting of the court at any time and place the Judge thinks fit.
- (2) A Judge may adjourn a sitting of the court to a time and place the Judge thinks fit.
- (3) If a Judge is not present at the time appointed for a sitting of the court, the Registrar may adjourn the sitting to a time that is convenient.

Section 52: replaced, on 1 February 2009, by section 7 of the Judicature (High Court Rules) Amendment Act 2008 (2008 No 90).

53 Fees to be paid into Crown Bank Account

All fees received under this Act must be paid into a Crown Bank Account.

Section 53: replaced, on 9 October 2001, by section 3 of the Judicature Amendment Act 2001 (2001 No 83).

54 Service of process on Sundays void

- (1) Subject to any rule of court, no person shall serve or execute, or cause to be served or executed, on Sunday any statement of claim, application, writ, process, warrant, order, or judgment of the High Court or Court of Appeal (except in cases of crime or of breach of the peace), and such service or execution shall be void to all intents and purposes whatsoever.
- (2) Nothing in subsection (1) shall apply to—
 - (a) the service of any writ *in rem* or warrant of arrest in respect of any proceedings heard or to be heard in the High Court in its admiralty jurisdiction; or
 - (b) the service of any subpoena or interlocutory injunction.
- (3) Nothing in this section shall be construed to annul, repeal, or in any way affect the common law, or the provisions of any statute or rule of practice or procedure, now or hereafter in force, authorising the service of any statement of claim, application, writ, process, or warrant, in cases other than those excepted in subsection (1).

Section 54: replaced, on 1 January 1986, by section 4 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

54A Verdict of three-fourths

[Repealed]

Section 54A: repealed, on 29 June 2009, by section 19(3) of the Juries Amendment Act 2008 (2008 No 40).

54B Discharge of juror or jury

Nothing in this Act affects the powers of a court or Judge to discharge a juror or jury for a civil case under section 22 of the Juries Act 1981.

Section 54B: replaced, on 25 December 2008, by section 16(2) of the Juries Amendment Act 2008 (2008 No 40).

Miscellaneous rules of law and of practice

Habeas corpus

[Repealed]

Heading: repealed, on 26 May 2001, by section 22(1) of the Habeas Corpus Act 2001 (2001 No 31).

54C Procedure in respect of habeas corpus

[Repealed]

Section 54C: repealed, on 26 May 2001, by section 22(1) of the Habeas Corpus Act 2001 (2001 No 31).

Absconding debtors

55 Power under certain circumstances to arrest defendant about to quit New Zealand

- (1) A person shall not be arrested upon mesne process in any civil proceedings in the High Court.
- (2) Where in any civil proceedings in the High Court in which, if brought before 1 October 1874 (being the date of the coming into operation of the Imprisonment for Debt Abolition Act 1874), the defendant would have been liable to arrest, the plaintiff proves at any time before final judgment, by evidence on oath to the satisfaction of a Judge of the court, that the plaintiff has good cause of action against the defendant to the amount of \$100 or upwards, and that there is probable cause for believing that the defendant is about to quit New Zealand unless he is apprehended, and that the absence of the defendant from New Zealand will materially prejudice the plaintiff in the prosecution of those proceedings, such Judge may, in the prescribed manner, order such defendant to be arrested and imprisoned for a period not exceeding 6 months, unless and until he has sooner given the prescribed security, not exceeding the amount claimed in those proceedings, that he will not go out of New Zealand without the leave of the High Court.
- (3) Where the civil proceedings are for a penalty, or sum in the nature of a penalty, other than a penalty in respect of any contract, it shall not be necessary to prove that the absence of the defendant from New Zealand will materially prejudice the plaintiff in the prosecution of those proceedings; and the security given (instead of being that the defendant will not go out of New Zealand) shall be to the effect that any sum recovered against the defendant in those proceedings will be paid or that the defendant shall be rendered to prison.
- (4) All the powers conferred by this section upon a Judge may be exercised by the Registrar of the court:

provided that such powers shall be exercised by the said Registrar only in the absence of the Judge from the place where the office of the court is situate at which the application for such order as aforesaid is made.

Compare: 1874 No 14 s 15; 1875 No 39 s 2

Section 55(1): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 55(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 55(2): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 55(2): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 55(3): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

*Foreign creditors***56 Memorials of judgments obtained out of New Zealand may be registered**

- (1) Any person in whose favour any judgment, decree, rule, or order, whereby any sum of money is made payable, has been obtained in any court of any of Her Majesty's dominions may cause a memorial of the same containing the particulars hereinafter mentioned, and authenticated by the seal of the court wherein such judgment, decree, rule, or order was obtained, to be filed in the office of the High Court; and such memorial being so filed shall thenceforth be a record of such judgment, decree, rule, or order, and execution may issue thereon as hereinafter provided.
- (2) Every seal purporting to be the seal of any such court shall be deemed and taken to be the seal of such court until the contrary is proved, and the proof that any such seal is not the seal of such court shall lie upon the party denying or objecting to the same.
- (3) Every such memorial shall be signed by the party in whose favour such judgment, decree, rule, or order was obtained, or his attorney or solicitor, and shall contain the following particulars, that is to say: the names and additions of the parties, the form or nature of the action or other proceeding, and, when commenced, the date of the signing or entering-up of the judgment, or of passing the decree, or of making the rule or order, and the amount recovered, or the decree pronounced, or rule or order made, and, if there was a trial, the date of such trial and amount of verdict given.
- (4) The court or any Judge thereof, on the application of the person in whose favour such judgment, decree, rule, or order was obtained, or his solicitor, may grant a rule or issue a summons calling upon the person against whom such judgment, decree, rule, or order was obtained to show cause, within such time after personal or such other service of the rule or summons as such court or Judge directs, why execution should not issue upon such judgment, decree, rule, or order, and such rule or summons shall give notice that in default of appearance execution may issue accordingly; and if the person served with such rule or summons does not appear, or does not show sufficient cause against such rule or summons, such court or Judge, on due proof of such service as aforesaid, may make the rule absolute, or make an order for issuing execution as upon a judgment, decree, rule, or order of the court, subject to such terms and conditions (if any) as such court or Judge thinks fit.
- (5) All such proceedings may be had or taken for the revival of such judgment, decree, rule, or order, or the enforcement thereof by and against persons not parties to such judgment, decree, rule, or order as may be had for the like purposes upon any judgment, decree, rule, or order of the court.

Compare: 1882 No 29 ss 27, 28, 29

Section 56(1): amended, on 1 January 1987, pursuant to section 5(2) of the Constitution Act 1986 (1986 No 114).

Section 56(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Witnesses

Heading: inserted, on 25 October 1960, by section 2 of the Judicature Amendment Act 1960 (1960 No 109).

56A Failure of witness to attend

- (1) If any witness who is compellable to attend to give evidence at the hearing of any civil proceeding in the High Court and who has been duly summoned fails to attend at the time and place appointed, the court may issue a warrant to arrest him and bring him before the court, and may adjourn the hearing.
- (2) The court may impose on any such witness who fails without just excuse (the proof of which excuse shall be on him) to attend as aforesaid a fine not exceeding \$500.
- (3) No witness shall be compellable to attend at the hearing of any civil proceeding in the High Court unless at the time of the service of the order of subpoena, or at some other reasonable time before the hearing, a sum in respect of his allowances and travelling expenses in accordance with the scale prescribed for the time being by regulations made under the Criminal Procedure Act 2011 is tendered or paid to him.

Section 56A: inserted, on 25 October 1960, by section 2 of the Judicature Amendment Act 1960 (1960 No 109).

Section 56A(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 56A(2): amended, on 1 March 1978, by section 4(1) of the Judicature Amendment Act 1977 (1977 No 32).

Section 56A(3): inserted, on 29 September 1961, by section 10 of the Judicature Amendment Act 1961 (1961 No 11).

Section 56A(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 56A(3): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 56A(3): amended, on 1 March 1978, by section 4(2) of the Judicature Amendment Act 1977 (1977 No 32).

56B Refusal of witness to give evidence

- (1) If any witness in any civil proceeding in the High Court, without offering any just excuse, refuses to give evidence when required, or refuses to produce any document which he has been required to produce, or refuses to be sworn, or having been sworn refuses to answer such questions concerning that proceeding as are put to him, the court may order that, unless he sooner consents to give evidence or to produce the document or to be sworn or to answer these questions put to him, as the case may be, he be detained in custody for any period not exceeding 7 days, and may issue a warrant for his arrest and detention in accordance with the order.

- (2) If the person so detained, on being brought up again at the hearing, again refuses to give evidence or to produce the document or to be sworn or, having been sworn, to answer the questions put to him, the court, if it thinks fit, may again direct that the witness be detained in custody for the like period, and so again from time to time until he consents to give evidence or to produce the document or to be sworn or to answer as aforesaid.
- (3) Nothing in this section shall limit or affect any power or authority of the court to punish any witness for contempt of court in any case to which this section does not apply.

Section 56B: inserted, on 25 October 1960, by section 2 of the Judicature Amendment Act 1960 (1960 No 109).

Section 56B(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

56BB Witnesses entitled to expenses

[Repealed]

Section 56BB: repealed, on 14 October 1981, by section 5(2)(a) of the Judicature Amendment Act 1981 (1981 No 40).

Contempt of court

Heading: inserted, on 25 October 1960, by section 3 of the Judicature Amendment Act 1960 (1960 No 109).

56C Contempt of court

- (1) If any person—
- (a) assaults, threatens, intimidates, or wilfully insults a Judge, or any Registrar, or any officer of the court, or any juror, or any witness, during his sitting or attendance in court, or in going to or returning from the court; or
 - (b) wilfully interrupts or obstructs the proceedings of the court or otherwise misbehaves in court; or
 - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of the hearing of any proceedings—
- any constable or officer of the court, with or without the assistance of any other person, may, by order of the Judge, take the offender into custody and detain him until the rising of the court.
- (2) In any such case as aforesaid, the Judge, if he thinks fit, may sentence the offender to imprisonment for any period not exceeding 3 months, or sentence him to pay a fine not exceeding \$1,000 for every such offence; and in default of payment of any such fine may direct that the offender be imprisoned for any period not exceeding 3 months, unless the fine is sooner paid.

- (3) Nothing in this section shall limit or affect any power or authority of the court to punish any person for contempt of court in any case to which this section does not apply.

Section 56C: inserted, on 25 October 1960, by section 3 of the Judicature Amendment Act 1960 (1960 No 109).

Section 56C(2): amended, on 16 December 1983, by section 3 of the Judicature Amendment Act 1983 (1983 No 103).

Immigration matters

Heading: inserted, on 1 April 1999, by section 63 of the Immigration Amendment Act 1999 (1999 No 16).

56CA Judicial review of decisions under Immigration Act 1987

[Repealed]

Section 56CA: repealed, at 2 am on 29 November 2010, by section 406(1) of the Immigration Act 2009 (2009 No 51).

Part 1A

Special provisions applying to certain proceedings in the High Court and the Federal Court of Australia

Part 1A: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56D Interpretation

In this Part, unless the context otherwise requires,—

Australian proceeding means a proceeding in which a matter for determination arises under—

- (a) any of sections 46A, 155A, or 155B of the Trade Practices Act 1974 of the Parliament of the Commonwealth of Australia; or
- (b) a provision of Part 6 or Part 12 of the Trade Practices Act 1974 of the Parliament of the Commonwealth of Australia in so far as it relates to any of sections 46A, 155A, or 155B of that Act,—

whether or not any other matter arises for determination; and includes an interlocutory proceeding related to such a proceeding and an application for the issue of execution or enforcement of a judgment or order or injunction given or made or granted in such a proceeding

Federal Court means the Federal Court of Australia

New Zealand proceeding means a proceeding in which a matter for determination arises under—

- (a) any of sections 36A, 98H, or 99A of the Commerce Act 1986; or
- (b) a provision of Part 6 or Part 7 of the Commerce Act 1986 in so far as it relates to any of sections 36A, 98H, or 99A of that Act,—

whether or not any other matter arises for determination; and includes an interlocutory proceeding related to such a proceeding and an application for the issue of execution or enforcement of a judgment or order or injunction given or made or granted in such a proceeding.

Section 56D: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56DB Trans-Tasman Proceedings Act 2010 does not affect this Part

This Part is not limited or affected by the Trans-Tasman Proceedings Act 2010.

Section 56DB: inserted, on 11 October 2013, by section 10(1) of the Trans-Tasman Proceedings Act 2010 (2010 No 108).

56DC Courts (Remote Participation) Act 2010 does not apply to remote appearances under this Part

Nothing in the Courts (Remote Participation) Act 2010 applies to any appearance by video link or telephone conference in accordance with this Part.

Compare: 2010 No 108 s 36

Section 56DC: inserted, on 11 October 2013, by section 10(1) of the Trans-Tasman Proceedings Act 2010 (2010 No 108).

56E High Court may order New Zealand proceedings to be heard in Australia

- (1) The High Court may, if it is satisfied that a New Zealand proceeding could more conveniently or fairly be tried or heard by the High Court in Australia or that the evidence in a New Zealand proceeding could more conveniently be given in Australia, as the case may be, order that the proceeding be tried or heard in Australia, or that the evidence be taken in Australia, and may sit in Australia for that purpose.
- (2) The order shall specify—
 - (a) the place in Australia where the proceeding will be tried or heard or the evidence taken, as the case may be;
 - (b) the date or dates of the trial or hearing or on which the evidence will be taken, as the case may be;
 - (c) such other matters relating to the trial or the hearing or the taking of the evidence, as the case may be, as the court thinks fit.
- (3) Without limiting the powers of the High Court in relation to the proceeding, the High Court may give judgment in, or make any determination for the purposes of, a New Zealand proceeding in Australia.

Section 56E: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56F Australian counsel entitled to practise in High Court

A person who is entitled to practise as a barrister, or solicitor, or both, in the Federal Court is entitled to practise as a barrister, or solicitor, or both, in relation to—

- (a) a New Zealand proceeding before the High Court sitting in Australia:
- (b) the examination, cross-examination, or re-examination of a witness in Australia whose evidence is being taken by video link or telephone conference in a New Zealand proceeding before the High Court in New Zealand:
- (c) the making of submissions by video link or telephone conference to the High Court in New Zealand in a New Zealand proceeding.

Section 56F: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56G High Court may set aside subpoena issued in New Zealand proceeding

- (1) The High Court may set aside an order of subpoena issued by the High Court requiring the attendance of a person in Australia to testify or to produce documents to the High Court for the purposes of a New Zealand proceeding.
- (2) An application under subsection (1) shall be made by the person served with the order of subpoena and may be made *ex parte*.
- (3) Without limiting the grounds on which the order of subpoena may be set aside, the High Court may set the order aside on any of the following grounds:
 - (a) that the witness does not have, and could not reasonably be expected to obtain, the necessary travel documents:
 - (b) that the witness is liable to be detained for the purpose of serving a sentence:
 - (c) that the witness is liable to prosecution for an offence:
 - (d) that the witness is liable to the imposition of a penalty in civil proceedings, not being proceedings for a pecuniary penalty under section 80 or section 83 of the Commerce Act 1986:
 - (e) that the evidence of the witness could be obtained without significantly greater expense by other means:
 - (f) that compliance with the order of subpoena would cause hardship or serious inconvenience to the witness:
 - (g) in the case of an order of subpoena that requires a witness to produce documents, whether or not it also requires the witness to testify, that the court is satisfied that the documents should not be taken out of Australia and that evidence of the contents of the documents can be given by other means.
- (4) Every application to set aside an order of subpoena under subsection (1) shall be made by affidavit.

- (5) The affidavit shall—
- (a) be sworn by the applicant; and
 - (b) set out the facts on which the applicant relies; and
 - (c) be filed in the office of the court that issued the order of subpoena.
- (6) The Registrar of the court shall cause a copy of the affidavit to be served on the solicitor on the record for the party to the proceedings who obtained the order of subpoena, or if there is no solicitor on the record, on that party.

Section 56G: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56H Injunctions and orders in New Zealand proceedings

Notwithstanding any rule of law, the High Court may, in a New Zealand proceeding, make an order or grant an injunction that the court is empowered to make or grant that requires a person to do an act, or refrain from engaging in conduct, in Australia.

Section 56H: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56I Issue of subpoenas in New Zealand proceedings

- (1) An order of subpoena may, with the leave of a Judge, be obtained in a New Zealand proceeding requiring a person in Australia to testify, or produce documents or things, or both, to the High Court at a sitting of that court in New Zealand or in Australia.
- (2) An order of subpoena issued for the purposes of a New Zealand proceeding that requires a witness in Australia to produce documents or things, but does not require the witness to testify, must permit the witness to comply with the order of subpoena by producing the documents or things to a specified registry of the Federal Court.

Section 56I: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56J Powers of Federal Court of Australia

- (1) The Federal Court of Australia may exercise all the powers of that court—
 - (a) at a sitting of that court in New Zealand held for the purposes of an Australian proceeding;
 - (b) at a sitting of that court in Australia held for the purposes of an Australian proceeding at which the evidence of a witness in New Zealand is taken by video link or telephone conference or at which submissions are made in New Zealand by a barrister, or solicitor, or both or a party to the proceedings by video link or telephone conference.
- (2) Without limiting subsection (1), the Federal Court of Australia Act 1976 and the rules of court made under that Act that are applicable in relation to Austral-

ian proceedings generally shall apply to the practice and procedure of the Federal Court at any sitting of that court of the kind referred to in that subsection.

- (3) Without limiting subsection (1), the Federal Court may, at any such sitting of the court in New Zealand or in Australia, by order—
 - (a) direct that the hearing or any part of the hearing be held in private:
 - (b) require any person to leave the court:
 - (c) prohibit or restrict the publication of evidence or the name of any party or any witness.
- (4) Nothing in subsection (1) or subsection (2) applies in relation to—
 - (a) the power of the court to punish any person for contempt; or
 - (b) the prosecution of any person for an offence committed as a witness; or
 - (c) the enforcement or execution of any judgment, order, injunction, writ, or declaration given, made, or granted by the court.
- (5) An order made under subsection (3) may be enforced by a Judge of the High Court who, for that purpose, shall have and may exercise the powers, including the power to punish for contempt, that would be available to enforce the order if it had been made by that Judge.

Section 56J: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56K Issue of subpoenas in Australian proceedings

- (1) An order of subpoena that is issued by the Federal Court with the leave of a Judge of that court requiring the attendance of a person in New Zealand to testify or to produce documents for the purposes of an Australian proceeding may be served on that person in New Zealand by leaving a sealed copy of the subpoena with that person personally together with a statement setting out the rights and obligations of that person, including information as to the manner in which application may be made to that court to have the subpoena set aside.
- (2) A person who has been served with an order of subpoena under subsection (1) is not compellable to comply with the order unless, at the time of service of the order or at some other reasonable time before the hearing, allowances and travelling expenses or vouchers sufficient to enable that person to comply with the order are tendered or paid to that person.

Section 56K: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56L Failure of witness to comply with subpoena issued in Australian proceeding

- (1) The court may, on receiving a certificate under the seal of the Federal Court stating that a person named in the certificate has failed to comply with an order of subpoena requiring that person to attend as a witness for the purposes of an

- Australian proceeding, issue a warrant requiring any constable to arrest that person and bring that person before the court.
- (2) The court may, on the appearance of that person before the court, impose a fine not exceeding \$1,000 unless the court is satisfied, the onus of proof of which shall lie with that person, that the failure to comply with the order of subpoena should be excused.
- (3) In determining whether the failure to comply with the order of subpoena should be excused, the High Court may have regard to—
- (a) any matters that were not brought to the attention of the Federal Court, if the High Court is satisfied that—
- (i) the Federal Court would have been likely to have set aside the order of subpoena if those matters had been brought to the attention of that court; and
- (ii) the failure to bring those matters to the attention of the Federal Court was not due to any fault on the part of the person alleged to have failed to comply with the order of subpoena or was due to an omission by that person that should be excused; and
- (b) any matters to which the High Court would have regard if the order of subpoena had been issued by the High Court.
- (4) For the purposes of this section, but subject to subsection (3), a certificate under the seal of the Federal Court stating—
- (a) that the order of subpoena was issued by that court;
- (b) that the witness failed to comply with the order of subpoena;
- (c) in relation to any application made to that court to have the order of subpoena set aside, the decision of that court or any orders or findings of fact made by that court—
- shall be conclusive evidence of the matters stated in it.
- (5) Subject to subsection (3), no findings of fact made by the Federal Court on an application to that court to have the order of subpoena set aside may be challenged by any person alleged to have failed to comply with the order unless the court was deliberately misled in making those findings of fact.

Section 56L: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56M Federal Court of Australia may administer oaths in New Zealand

- (1) The Federal Court may—
- (a) at any sitting of that court in New Zealand held for the purposes of an Australian proceeding; or
- (b) for the purposes of obtaining the testimony of a person in New Zealand by video link or telephone conference at a sitting of that court in Australia—

administer an oath or affirmation in accordance with the practice and procedure of that court.

- (2) Evidence given by a person on oath or affirmation administered by the Federal Court under subsection (1), for the purposes of section 108 of the Crimes Act 1961 (which relates to perjury), be deemed to have been given as evidence in a judicial proceeding on oath.

Section 56M: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56N Orders made by Federal Court of Australia not subject to review

No application for review under Part 1 of the Judicature Amendment Act 1972 and no application for an order of mandamus or prohibition or certiorari or for a declaration or injunction may be brought in respect of any judgment or order or determination of the Federal Court made or given at a sitting of that court in New Zealand in an Australian proceeding.

Section 56N: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56O Contempt of Federal Court of Australia

- (1) Every person commits an offence who, at any sitting of the Federal Court in New Zealand,—
- (a) assaults, threatens, intimidates, or wilfully insults—
 - (i) a Judge of that court; or
 - (ii) a registrar or officer of that court; or
 - (iii) a person appearing as a barrister, or solicitor, or both, before that court; or
 - (iv) a witness in proceedings before that court; or
 - (b) wilfully interrupts or obstructs the proceedings; or
 - (c) wilfully and without lawful excuse disobeys any order or direction of the court in the course of the proceedings.
- (2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$1,000.

Section 56O: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

Section 56O(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

56P Arrangements to facilitate sittings

- (1) The Chief Justice of New Zealand may make arrangements with the Chief Justice of the Federal Court for the purposes of giving effect to this Part.
- (2) Without limiting subsection (1) arrangements may be made—

- (a) to enable the High Court to sit in Australia in New Zealand proceedings in the courtrooms of the Federal Court or in other places in Australia:
- (b) to enable the Federal Court to sit in New Zealand in the courtrooms of the High Court or in other places in New Zealand:
- (c) to enable evidence to be given and the submissions of counsel to be made in New Zealand proceedings or in Australian proceedings by video link or telephone conference:
- (d) for the provision of registry facilities and court staff.

Section 56P: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56Q Privileges and immunities of Judges, counsel, and witnesses in Australian proceedings

- (1) A Judge of the Federal Court sitting as a Judge of that court in New Zealand in an Australian proceeding has all the protections, privileges, and immunities of a Judge of the High Court.
- (2) Every witness who gives evidence in an Australian proceeding—
 - (a) at a sitting in New Zealand of the Federal Court; or
 - (b) by video link or telephone conference at a sitting in Australia of the Federal Court—
 has all the privileges and immunities of a witness in the High Court.
- (3) A person appearing as a barrister, or solicitor, or both, in an Australian proceeding—
 - (a) at a sitting in New Zealand of the Federal Court; or
 - (b) by video link or telephone conference at a sitting in Australia of the Federal Court—
 has all the privileges and immunities of counsel in the High Court.
- (4) A person appearing as a party in an Australian proceeding—
 - (a) at a sitting in New Zealand of the Federal Court; or
 - (b) by video link or telephone conference at a sitting in Australia of the Federal Court—
 has all the privileges and immunities of a party in a proceeding in the High Court.

Section 56Q: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

Section 56Q(4): inserted, on 11 October 2013, by section 10(1) of the Trans-Tasman Proceedings Act 2010 (2010 No 108).

56R High Court may take evidence at request of Federal Court

- (1) The High Court may, at the request of the Federal Court, take evidence in New Zealand for the Federal Court for the purposes of an Australian proceeding and

may, by order, make any provision it considers appropriate for the purpose of taking that evidence.

- (2) An order may require a specified person to take such steps the High Court considers appropriate for taking the evidence.
- (3) Without limiting subsections (2) and (3), an order may, in particular, make provision—
 - (a) for the examination of witnesses, either orally or in writing; or
 - (b) for the production of documents or things; or
 - (c) for the inspection, photographing, preservation, custody, or detention of any property; or
 - (d) for taking samples of property and carrying out experiments on or with property.
- (4) The High Court may make an order requiring a person to give evidence either orally or by tendering a written document otherwise than on oath or affirmation if the Federal Court requests it to do so.
- (5) A person who has been served with an order made under this section is not compellable to comply with the order unless, at the time of service of the order or at some other reasonable time before that person is required to comply with the order, allowances and travelling expenses or vouchers sufficient to enable that person to comply with the order are tendered or paid to that person.
- (6) A person is not compellable to give evidence pursuant to an order under this section that he or she is not compellable to give in the Australian proceeding to which the request relates.

Section 56R: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

56S Power to make rules for purposes of this Part

- (1) Rules may be made under section 51C, for or in relation to, Australian proceedings and New Zealand proceedings.
- (2) Without limiting subsection (1), rules may be made that make provision for, or in relation to,—
 - (a) the giving of evidence and the making of submissions in New Zealand proceedings by video link or telephone conference;
 - (b) receiving, for the purposes of the Evidence Amendment Act 1990, facsimiles as evidence of documents or things;
 - (c) the issuing of subpoenas for service in Australia for the purposes of New Zealand proceedings and the service of those subpoenas;
 - (d) the payment of witnesses required to comply with orders of subpoena served in Australia for the purposes of New Zealand proceedings of amounts in respect of expenses and loss of income occasioned by compliance with those orders;

- (e) the lodging of documents or things with the Federal Court in compliance with orders of subpoena issued in New Zealand proceedings that require only the production of documents or things by witnesses:
- (f) the transmission of documents or things lodged with the High Court in Australian proceedings in compliance with orders of subpoena issued by the Federal Court or certified copies of such documents to the Federal Court:
- (g) the hearing of applications for orders under section 56G:
- (h) sittings of the High Court in Australia:
- (i) giving effect to arrangements made under section 56P:
- (j) the form of certification of judgments, orders, and injunctions in New Zealand proceedings:
- (k) the taking of evidence under section 56R:
- (l) such other matters as are contemplated by or necessary for giving effect to this Part.

Section 56S: inserted, on 1 July 1990, by section 3 of the Judicature Amendment Act 1990 (1990 No 44).

Part 2

The Court of Appeal

Constitution of the court

57 Constitution of Court of Appeal

- (1) There shall continue to be in and for New Zealand a court of record called, as heretofore, the Court of Appeal of New Zealand:
provided and it is hereby declared that the Court of Appeal heretofore and now held and henceforth to be held is and shall be deemed and taken to be the same court.
- (2) Subject to this Part, the Court of Appeal comprises—
 - (a) a Judge of the High Court appointed by the Governor-General as a Judge of the Court of Appeal and as President of that court:
 - (b) not fewer than 5 nor more than 9 other Judges of the High Court appointed by the Governor-General as Judges of the Court of Appeal.
- (3) Any Judge may be appointed to be a Judge of the Court of Appeal either at the time of his appointment as a Judge of the High Court or at any time thereafter.
- (4) Every Judge of the Court of Appeal shall continue to be a Judge of the High Court, and may from time to time sit as or exercise any of the powers of a Judge of the High Court.

- (5) Every Judge of the Court of Appeal shall hold office as a Judge of that court so long as he holds office as a Judge of the High Court:
provided that, with the prior approval of the Governor-General, any Judge of the Court of Appeal may resign his office as a Judge of that court without resigning his office as a Judge of the High Court.
- (6) The Judges of the Court of Appeal have seniority over all the Judges of the High Court (including any additional Judge of the Court of Appeal) except the Chief Justice and the other Judges of the Supreme Court.
- (6A) The President of the Court of Appeal has seniority over the other Judges of the Court of Appeal.
- (6B) Other Judges of the Court of Appeal appointed on different dates have seniority among themselves according to those dates.
- (6C) Other Judges of the Court of Appeal appointed on the same date have seniority among themselves according to their seniority as Judges of the High Court.
- (6D) A Judge of the Court of Appeal who resigns office as a Judge of that court without resigning office as a Judge of the High Court then has, as a Judge of the High Court, the seniority that he or she would have had if he or she had not been appointed as a Judge of the Court of Appeal.
- (7) While any vacancy exists in the office of President of the Court of Appeal, or during any absence from New Zealand of the President, or while by reason of illness or any other cause he is prevented from exercising the duties of his office, the senior Judge of the Court of Appeal shall have authority to act as President of the Court of Appeal and to execute the duties of that office and to exercise all powers that may be lawfully exercised by the President.
- (8) The jurisdiction of the Court of Appeal shall not be affected by any vacancy in the number of the Judges of that court.

Compare: 1882 No 30 ss 3, 4, 5, 6

Section 57 heading: amended, on 1 January 1958, by section 2 of the Judicature Amendment Act 1957 (1957 No 9).

Section 57(2): replaced, on 1 January 2004, by section 44 of the Supreme Court Act 2003 (2003 No 53).

Section 57(2)(b): amended, on 23 March 2010, by section 7 of the Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7).

Section 57(3): replaced, on 1 January 1958, by section 2(1) of the Judicature Amendment Act 1957 (1957 No 9).

Section 57(3): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 57(4): replaced, on 1 January 1958, by section 2(1) of the Judicature Amendment Act 1957 (1957 No 9).

Section 57(4): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 57(5): inserted, on 1 January 1958, by section 2(1) of the Judicature Amendment Act 1957 (1957 No 9).

Section 57(5): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 57(5) proviso: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 57(6): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 57(6A): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 57(6B): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 57(6C): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 57(6D): inserted, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 57(7): inserted, on 1 January 1958, by section 2(1) of the Judicature Amendment Act 1957 (1957 No 9).

Section 57(7): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 57(8): inserted, on 1 January 1958, by section 2(1) of the Judicature Amendment Act 1957 (1957 No 9).

57A Judges of Court of Appeal act on full-time basis but may be authorised to act part-time

- (1) A person acts as a Judge of the Court of Appeal on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- (2) The Attorney-General may, in accordance with subsection (4), authorise a Judge to act on a part-time basis for any specified period.
- (3) To avoid doubt, an authorisation under subsection (2) may take effect as from a Judge's appointment or at any other time, and may be made more than once in respect of the same Judge.
- (4) The Attorney-General may authorise a Judge to act on a part-time basis only—
 - (a) on the request of the Judge; and
 - (b) with the concurrence of the President of the Court of Appeal.
- (5) In considering whether to concur under subsection (4), the President of the Court of Appeal must have regard to the ability of the court to discharge its obligations in an orderly and expeditious way.
- (6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- (7) The basis on which a Judge acts must not be altered during the term of the Judge's appointment without the Judge's consent, but consent under this subsection is not necessary if the alteration is required by subsection (6).
- (8) This section applies only to Judges who are appointed as Judges of the Court of Appeal.

Section 57A: inserted, on 20 May 2004, by section 12 of the Judicature Amendment Act 2004 (2004 No 45).

58 Court of Appeal to sit in divisions

- (1) Except as provided in sections 58D and 61A, for the purposes of any proceedings in the Court of Appeal, the court sits in divisions comprising 3 Judges.
- (2) *[Repealed]*
- (3) There are—
 - (a) 1 or more divisions of the Court of Appeal for the purposes of criminal proceedings; and
 - (b) 1 or more divisions of the Court of Appeal for the purposes of civil proceedings.
- (4) Each division of the Court of Appeal may exercise all the powers of the Court of Appeal.
- (5) A division of the court may exercise any powers of the court even though 1 or more divisions of the court or a full court is exercising any powers of the court at the same time.
- (6) If the majority of the members of a division of the court considers it desirable to do so, the division may—
 - (a) refer any proceeding; or
 - (b) state any case; or
 - (c) reserve any question—

for the consideration of a full court of the Court of Appeal, and in that case a full court has the power to hear and determine the proceeding, case, or question.

Section 58: replaced, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 58(1): amended, on 7 August 2006, by section 5(1) of the Judicature Amendment Act 2006 (2006 No 16).

Section 58(2): repealed, on 7 August 2006, by section 5(2) of the Judicature Amendment Act 2006 (2006 No 16).

58A Composition of criminal appeals division or divisions

- (1) For the purposes of any criminal proceeding that is heard by a division, the Court of Appeal comprises—
 - (a) 3 Judges of the Court of Appeal holding office under section 57(2); or
 - (b) 2 Judges of the Court of Appeal holding office under section 57(2) and 1 Judge of the High Court nominated by the Chief Justice under subsection (2); or

- (c) 1 Judge of the Court of Appeal holding office under section 57(2) and 2 Judges of the High Court nominated by the Chief Justice under subsection (2).
- (2) Except where the work of the High Court renders it impracticable for the Chief Justice to do so, the Chief Justice must from time to time, after consulting the President of the Court of Appeal and the Chief High Court Judge, nominate the Judges of the High Court who may comprise members of the Court of Appeal for the purposes of any proceeding or proceedings to which subsection (1) relates.
- (3) Every nomination under subsection (2) must be made either—
- (a) in respect of a specified case or specified cases; or
 - (b) in respect of every case to be heard by the Court of Appeal during a specified period not exceeding 3 months.
- (4) For the purposes of this section, **criminal proceeding** means an appeal or application to the Court of Appeal under Part 6 of the Criminal Procedure Act 2011.

Section 58A: replaced, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 58A(2): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 58A(4): replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

58B Composition of civil appeals division or divisions

- (1) For the purposes of any civil proceeding that is heard by a division of the court, the Court of Appeal comprises—
- (a) 3 Judges of the Court of Appeal holding office under section 57(2); or
 - (b) 2 Judges of the Court of Appeal holding office under section 57(2) and 1 Judge of the High Court nominated by the Chief Justice under subsection (2); or
 - (c) 1 Judge of the Court of Appeal holding office under section 57(2) and 2 Judges of the High Court nominated by the Chief Justice under subsection (2).
- (2) Except where the work of the High Court renders it impracticable for the Chief Justice to do so, the Chief Justice must from time to time, after consulting the President of the Court of Appeal and the Chief High Court Judge, nominate the Judges of the High Court who may comprise members of the Court of Appeal for the purposes of any proceeding or proceedings to which subsection (1) relates.
- (3) Every nomination under subsection (2) must be made either—
- (a) in respect of a specified case or specified cases; or

- (b) in respect of every case to be heard by the Court of Appeal during a specified period not exceeding 3 months.
- (4) For the purposes of this section, the term **civil proceeding** means—
 - (a) any appeal to the Court of Appeal against any judgment or order given or made in a proceeding other than a criminal proceeding:
 - (b) any application relating to an appeal of the kind mentioned in paragraph (a):
 - (c) any application for leave to bring an appeal of the kind mentioned in paragraph (a):
 - (d) any proceeding transferred to the Court of Appeal under section 64.

Section 58B: replaced, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 58B(2): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

58C Assignment of Judges to divisions

- (1) Judges are assigned to act as members of a criminal or civil division of the Court of Appeal in accordance with a procedure adopted from time to time by Judges of the Court of Appeal holding office under section 57(2).
- (2) The President of the Court of Appeal must publish in the *Gazette* any procedure adopted under subsection (1).
- (3) A Judge of the High Court who is eligible to act as a Judge of a division of the Court of Appeal because of a nomination made under section 58A(2) or section 58B(2) may not be assigned to a division without the concurrence of the Chief Justice and the Chief High Court Judge.

Section 58C: inserted, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 58C(3): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

58D Court of Appeal to sit as full court in certain cases

- (1) Subject to subsection (3), a full court consists of 5 Judges.
- (2) Subject to section 58F, a full court is constituted only by Judges of the Court of Appeal holding office under section 57(2).
- (3) Where, pending the determination of any proceeding, 1 or more of the members of a full court before whom the proceeding is being heard or was heard—
 - (a) dies; or
 - (b) becomes seriously ill; or
 - (c) is otherwise unavailable for any reason,—

it is not necessary for that proceeding to be reheard, and the remaining members may continue to act as a full court for the purposes of this section with

power to determine the proceeding or any incidental matter (including the question of costs) that may arise in the course of that proceeding.

- (4) The Court of Appeal must sit as a full court to hear and determine—
- (a) cases that are considered, in accordance with the procedure adopted under section 58E, to be of sufficient significance to warrant the consideration of a full court;
 - (b) any proceeding, case, or question referred under section 58(6) for hearing and determination by a full court;
 - (c) any appeal from a decision of the Court Martial Appeal Court under section 10 of the Court Martial Appeals Act 1953.

Section 58D: inserted, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 58D(1): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 58D(4)(c): amended, on 1 July 2009, by section 87 of the Court Martial Act 2007 (2007 No 101).

58E Cases of sufficient significance for full court

- (1) The question whether a case is of sufficient significance to warrant the consideration of a full court must be determined in accordance with the procedure which those Judges of the Court of Appeal holding office under section 57(2) from time to time adopt.
- (2) The President of the Court of Appeal must publish in the *Gazette* any procedure adopted by the Judges of the Court of Appeal under subsection (1).

Section 58E: inserted, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

58F High Court Judges sitting on full court

- (1) Whenever the President of the Court of Appeal certifies in writing that due to—
 - (a) the illness or absence on leave of any of the Judges holding office under section 57(2); or
 - (b) the need for the expertise of a specific Judge of the High Court in a particular case; or
 - (c) any other exceptional circumstances,—

it is necessary for a specified Judge who has been assigned to a division of the court under section 58C to sit as a member of the full court, that Judge may sit as a member of the full court.

- (2) No more than 1 Judge of the High Court may sit as a member of the full court at any one time.

Section 58F: inserted, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

58G Authority of High Court Judges

- (1) The fact that a Judge of the High Court acts as a Judge of the Court of Appeal is conclusive evidence of the Judge's authority to do so, and no judgment or determination given or made by the Court of Appeal while the Judge so acts may be questioned on the ground that the occasion for the Judge so acting had not arisen or had ceased to exist.
- (2) A Judge of the High Court who has acted as a Judge of the Court of Appeal may attend sittings of the Court of Appeal for the purpose of giving any judgment or passing sentence in or otherwise completing any proceeding in relation to any case that has been heard by the Judge while he or she so acted.

Section 58G: inserted, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

59 Judgment of Court of Appeal

- (1) The judgment of the court must be in accordance with the opinion of a majority of the Judges hearing the proceeding concerned.
- (2) If the Judges present are equally divided in opinion, the judgment or order appealed from or under review is taken to be affirmed.
- (3) The delivery of the judgment of the Court of Appeal may be effected in any manner provided by rules made under section 51C.

Section 59: replaced, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 59(1): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 59(3): inserted, on 7 August 2006, by section 6 of the Judicature Amendment Act 2006 (2006 No 16).

60 Sittings of Court of Appeal

- (1) The Court of Appeal may from time to time appoint ordinary or special sittings of the court, and may from time to time make rules, not inconsistent with the rules of practice and procedure of the Court of Appeal for the time being in force under this Act or with the laws of New Zealand, in respect of the places and times for holding sittings of the court, the order of disposing of business, and any other necessary matters.
- (2) If present at a sitting of the Court of Appeal, the President presides.
- (3) If the President of the Court of Appeal is absent from a sitting of the court, the senior Judge of the court present presides.
- (4) The court has power from time to time to adjourn any sitting until such time and to such place as it thinks fit.

Section 60: replaced, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

Section 60(2): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 60(3): replaced, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

60A Court of Appeal may sit in divisions

[Repealed]

Section 60A: repealed, on 1 August 1998, by section 5 of the Judicature Amendment Act 1998 (1998 No 52).

61 Adjournment in cases of absence of some of the Judges

Where, by reason of the absence of all or any 1 or more of the Judges of the Court of Appeal at the time appointed for the sitting of the court or any adjournment thereof, it is necessary to adjourn the sitting of the court to a future day, any 1 or more of the Judges at the time appointed for such sitting, or at the time of any adjournment thereof, or the Registrar of the said court in case none of the Judges thereof are present, may adjourn or further adjourn such sitting to such future day and hour as such Judge or Judges or such Registrar think fit.

Compare: 1882 No 30 s 10

61A Incidental orders and directions may be made and given by 1 Judge

- (1) In any civil appeal or in any civil proceeding before the Court of Appeal, any Judge of that court, sitting in chambers, may make such incidental orders and give such incidental directions as he thinks fit, not being an order or a direction that determines the appeal or disposes of any question or issue that is before the court in the appeal or proceeding.
- (2) Every order or direction made or given by a Judge of the Court of Appeal under subsection (1) may be discharged or varied by any Judges of that court who together have jurisdiction, in accordance with section 58A or section 58B or section 58D, as the case may be, to hear and determine the proceeding.
- (3) Any Judge of the Court of Appeal may review a decision of the Registrar made within the civil jurisdiction of the court under a power conferred on the Registrar by any rule of court, and may confirm, modify, or revoke that decision as he thinks fit.
- (4) The provisions of this section shall apply notwithstanding anything in section 58.
- (5) This section shall have effect from a date to be appointed by the Governor-General by Order in Council.

Section 61A: inserted, on 7 October 1977 (with effect on 31 January 1978), by section 8 of the Judicature Amendment Act 1977 (1977 No 32).

Section 61A(1): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 61A(2): amended, on 1 August 1998, by section 7(a) of the Judicature Amendment Act 1998 (1998 No 52).

Section 61A(4): amended, on 1 August 1998, by section 7(b) of the Judicature Amendment Act 1998 (1998 No 52).

62 Power to remit proceedings to the High Court

The Court of Appeal shall have power to remit any proceedings in any cause pending before it to the High Court or a single Judge thereof.

Compare: 1882 No 30 s 11

Section 62 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 62: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

63 Judgments of Court of Appeal may be enforced by the High Court

All judgments, decrees, and orders of the Court of Appeal may be enforced by the High Court as if they had been given or made by that court.

Compare: 1882 No 30 s 12

Section 63 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 63: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Civil jurisdiction

Removal of proceedings from the High Court

Heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

64 Transfer of civil proceedings from High Court to Court of Appeal

- (1) If the circumstances of a civil proceeding pending before the High Court are exceptional, the High Court may order that the proceeding be transferred to the Court of Appeal.
- (2) Without limiting the generality of subsection (1), the circumstances of a proceeding may be exceptional if—
 - (a) a party to the proceeding intends to submit that a relevant decision of the Court of Appeal should be overruled by the Court of Appeal:
 - (b) the proceeding raises 1 or more issues of considerable public importance that need to be determined urgently, and those issues are unlikely to be determined urgently if the proceeding is heard and determined by both the High Court and the Court of Appeal:
 - (c) the proceeding does not raise any question of fact or any significant question of fact, but does raise 1 or more questions of law that are the subject of conflicting decisions of the High Court.
- (3) In deciding whether to transfer a proceeding under subsection (1), a Judge must have regard to the following matters:
 - (a) the primary purpose of the Court of Appeal as an appellate court:

- (b) the desirability of obtaining a determination at first instance and a review of that determination on appeal:
 - (c) whether a full court of the High Court could effectively determine the question in issue:
 - (d) whether the proceeding raises any question of fact or any significant question of fact:
 - (e) whether the parties have agreed to the transfer of the proceeding to the Court of Appeal:
 - (f) any other matter that the Judge considers that he or she should have regard to in the public interest.
- (4) The fact that the parties to a proceeding agree to the transfer of the proceeding to the Court of Appeal is not in itself a sufficient ground for an order transferring the proceeding.
- (5) If the High Court transfers a proceeding under subsection (1), the Court of Appeal has the jurisdiction of the High Court to hear and determine the proceeding.

Section 64: replaced, on 4 June 1998, by section 8 of the Judicature Amendment Act 1998 (1998 No 52).

65 Decision of Court of Appeal final as regards tribunals of New Zealand

[Repealed]

Section 65: repealed, on 10 April 2006, by section 8 of the Judicature Amendment Act 2006 (2006 No 16).

Appeals from decisions of the High Court

Heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

66 Court may hear appeals from judgments and orders of the High Court

The Court of Appeal shall have jurisdiction and power to hear and determine appeals from any judgment, decree, or order save as hereinafter mentioned, of the High Court, subject to the provisions of this Act and to such rules and orders for regulating the terms and conditions on which such appeals shall be allowed as may be made pursuant to this Act.

Compare: 1882 No 30 s 15

Section 66: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Appeals from inferior courts

67 Appeals against decisions of High Court on appeal

- (1) The decision of the High Court on appeal from an inferior court is final, unless a party, on application, obtains leave to appeal against that decision—

- (a) to the Court of Appeal; or
 - (b) directly to the Supreme Court (in exceptional circumstances as provided for in section 14 of the Supreme Court Act 2003).
- (2) An application under subsection (1) for leave to appeal to the Court of Appeal must be made to the High Court or, if the High Court refuses leave, to the Court of Appeal.
 - (3) An application under subsection (1) for leave to appeal directly to the Supreme Court must be made to the Supreme Court.
 - (4) If leave to appeal referred to in subsection (1)(a) is obtained, the decision of the Court of Appeal on appeal from the High Court is final unless a party, on application, obtains leave to appeal against that decision to the Supreme Court.
 - (5) Subsections (1), (3), and (4) are subject to the Supreme Court Act 2003.

Section 67: replaced, on 10 April 2006, by section 9 of the Judicature Amendment Act 2006 (2006 No 16).

68 Direct appeal from decision of inferior courts

[Repealed]

Section 68: repealed, on 10 April 2006, by section 10 of the Judicature Amendment Act 2006 (2006 No 16).

Criminal jurisdiction

Trial at bar

69 Trial at bar

- (1) Where a bill of indictment has been found in the High Court, or any inquisition has been found, or any criminal information been granted against any person for any crime, if it appears to the High Court on affidavit on the part of the accused or of the prosecutor that the case is one of extraordinary importance or difficulty, and that it is desirable that it should be tried before the Judges at bar, the High Court may grant a rule nisi, and, if no sufficient cause is shown, may make the same absolute for the removal of such indictment, inquisition, or information, and the proceedings thereon, into the Court of Appeal, and for the trial of the same at bar at the next or other sitting of such Court of Appeal, and may direct that a special or common jury, as the High Court thinks fit, be summoned from such jury district as the court directs to serve upon such trial; and such proceedings, as nearly as may be, shall thereupon be had as upon a trial at bar in England.
- (2) The Court of Appeal shall have the same jurisdiction, authority, and power in respect thereof as the Queen's Bench Division of the High Court of Justice has in England in respect of a trial at bar.

Compare: 1882 No 30 s 18

Section 69(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 69(1): amended, on 1 April 1973, by section 18(2) of the Judicial Amendment Act 1972 (1972 No 130).

Section 69(2): amended, on 1 January 1987, pursuant to section 5(2) of the Constitution Act 1986 (1986 No 114).

Appeals from convictions

[Repealed]

Heading: repealed, on 1 April 1958, pursuant to section 214(1) of the Summary Proceedings Act 1957 (1957 No 87).

70 Appeal from judgment of Supreme Court on conviction

[Repealed]

Section 70: repealed, on 1 April 1958, by section 214(1) of the Summary Proceedings Act 1957 (1957 No 87).

Miscellaneous

71 Rules of practice

[Repealed]

Section 71: repealed, on 1 January 1986, by section 6 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

72 Appointment of officers

There may from time to time be appointed under the State Sector Act 1988 such Registrars, Deputy Registrars, and other officers as may be required for the conduct of the business of the Court of Appeal.

Section 72: replaced, on 22 May 1997, by section 3 of the Judicature Amendment Act 1997 (1997 No 10).

73 Powers and duties of officers

All such Registrars and other officers shall have in respect of the Court of Appeal such powers and duties as are prescribed by rules made under this Act.

Compare: 1882 No 30 s 27

74 Court seal

The Court of Appeal shall have in the custody of the Registrar a seal for the sealing of writs, orders, decrees, office copies, certificates, reports, and other instruments issued by such Registrar and requiring to be sealed.

Compare: 1882 No 30 s 28

75 Power to fix fees

[Repealed]

Section 75: repealed, on 1 January 1931, by section 4 of the Judicature Amendment Act 1930 (1930 No 14).

Part 3

Rules and provisions of law in judicial matters generally

Removal of technical defects

[Repealed]

Heading: repealed, on 1 January 1910, pursuant to section 15(1) of the Inferior Courts Procedure Act 1909 (1909 No 13).

76 Power to courts to amend mistakes and supply omissions in warrants, orders, etc

[Repealed]

Section 76: repealed, on 1 January 1910, by section 15(1) of the Inferior Courts Procedure Act 1909 (1909 No 13).

Limitation of actions

[Repealed]

Heading: repealed, on 1 January 1952, pursuant to section 35(2) of the Limitation Act 1950 (1950 No 65).

77 Limitation of actions for merchants' accounts

[Repealed]

Section 77: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

78 Limitation not barred by claims subsequently arising

[Repealed]

Section 78: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

79 Absence beyond seas or imprisonment of a creditor not to be a disability

[Repealed]

Section 79: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

80 Period of limitation to run as to joint debtors in New Zealand, though some are beyond seas

[Repealed]

Section 80: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

81 Judgment recovered against joint debtors in New Zealand to be no bar to proceeding against others beyond seas after their return

[Repealed]

Section 81: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

82 Part payment by one contractor, etc, not to prevent bar in favour of another contractor, etc

[Repealed]

Section 82: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

*Sureties***83 Consideration for guarantee need not appear by writing**

[Repealed]

Section 83: repealed, on 19 October 1956, by section 3(2) of the Contracts Enforcement Act 1956 (1956 No 23).

84 A surety who discharges the liability to be entitled to assignment of all securities held by the creditor

Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, pays or satisfies such debt or performs such duty shall be entitled to have assigned to him, or a trustee for him, every judgment, specialty, or other security held by the creditor in respect of such debt or duty, whether such judgment, specialty, or other security is or is not deemed at law to be satisfied by the payment of the debt or performance of the duty.

Compare: 1880 No 12 s 81

85 Rights of surety in such case

- (1) Every such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and if need be, and upon a proper indemnity, to use the name of the creditor in any civil proceedings in order to obtain from the principal debtor or any co-surety, co-contractor, or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person paying or satisfying such debt or performing such duty.
- (2) Such payment, satisfaction, or performance made by such surety shall not be pleadable in bar of any such action or other proceeding by him.

Compare: 1880 No 12 s 82

Section 85(1): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

86 Rights of co-sureties, etc, as between themselves

A co-surety, co-contractor, or co-debtor shall not be entitled to recover from any other co-surety, co-contractor, or co-debtor by the means aforesaid more than the just proportion to which, as between those parties themselves, such last-mentioned person is justly liable.

Compare: 1880 No 12 s 83

Interest on money

87 Interest on debts and damages

- (1) In any proceedings in the High Court, the Court of Appeal, or the Supreme Court for the recovery of any debt or damages, the court may, if it thinks fit, order that there shall be included in the sum for which judgment is given interest at such rate, not exceeding the prescribed rate, as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment: provided that nothing in this subsection shall—
 - (a) authorise the giving of interest upon interest; or
 - (b) apply in relation to any debt upon which interest is payable as of right, whether by virtue of any agreement, enactment, or rule of law, or otherwise; or
 - (c) affect the damages recoverable for the dishonour of a bill of exchange.
- (2) In any proceedings in the High Court, the Court of Appeal, or the Supreme Court for the recovery of any debt upon which interest is payable as of right, and in respect of which the rate of interest is not agreed upon, prescribed, or ascertained under any agreement, enactment, or rule of law or otherwise, there shall be included in the sum for which judgment is given interest at such rate, not exceeding the prescribed rate, as the court thinks fit for the period between the date as from which the interest became payable and the date of the judgment.
- (3) In this section the term **the prescribed rate** means the rate of 7.5% per annum, or such other rate as may from time to time be prescribed for the purposes of this section by the Governor-General by Order in Council.

Compare: Law Reform (Miscellaneous Provisions) Act 1934 (24 & 25 Geo V ch 41) s 3 (UK)

Section 87: replaced, on 16 October 1952, by section 3 of the Judicature Amendment Act 1952 (1952 No 24).

Section 87 heading: amended, on 21 October 1974, by section 7 of the Judicature Amendment Act 1974 (1974 No 57).

Section 87(1): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 87(1): amended, on 13 January 1983, by section 4(2) of the District Courts Amendment Act (No 2) 1982 (1982 No 130).

Section 87(1): amended, on 21 October 1974, by section 7(1) of the Judicature Amendment Act 1974 (1974 No 57).

Section 87(2): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 87(2): amended, on 13 January 1983, by section 4(2) of the District Courts Amendment Act (No 2) 1982 (1982 No 130).

Section 87(2): amended, on 21 October 1974, by section 7(1) of the Judicature Amendment Act 1974 (1974 No 57).

Section 87(3): inserted, on 21 October 1974, by section 7(2) of the Judicature Amendment Act 1974 (1974 No 57).

Section 87(3): 5.0% per year prescribed as the rate for the purposes of section 87, on 1 July 2011, by clause 4 of the Judicature (Prescribed Rate of Interest) Order 2011 (SR 2011/177).

Lost instruments

88 Actions on lost instruments

In case of any action founded on any negotiable instrument, the court may order that the loss of such instrument shall not be taken advantage of, provided an indemnity is given to the satisfaction of the court or a Registrar thereof against the claims of any other person upon such negotiable instrument.

Compare: 1856 No 3 s 17

Continued exercise of powers by judicial officers

Heading: inserted, on 1 November 1999, by section 2 of the Judicature Amendment Act (No 2) 1999 (1999 No 87).

88A Judicial officers to continue in office to complete proceedings

- (1) A judicial officer whose term of office has expired or who has retired may continue in office for the purpose of determining, or giving judgment in, proceedings that the judicial officer has heard either alone or with others.
- (2) A judicial officer must not continue in office under subsection (1) for longer than a month without the consent of the Minister of Justice.
- (3) The fact that a judicial officer continues in office does not affect the power to appoint another person to that office.
- (4) A judicial officer who continues in office is entitled to be paid the remuneration and allowances to which the officer would have been entitled if the term of office had not expired or the officer had not retired.
- (5) In this section, **judicial officer** means a person who has in New Zealand authority under an enactment to hear, receive, and examine evidence.

Compare: 1924 No 11 s 25A; 1973 No 46 s 2; 1994 No 22 s 3

Section 88A: inserted, on 1 November 1999, by section 2 of the Judicature Amendment Act (No 2) 1999 (1999 No 87).

Miscellaneous provisions and rules of law

88B Restriction on institution of vexatious actions

- (1) If, on an application made by the Attorney-General under this section, the High Court is satisfied that any person has persistently and without any reasonable ground instituted vexatious legal proceedings, whether in the High Court or in any inferior court, and whether against the same person or against different persons, the court may, after hearing that person or giving him an opportunity of being heard, order that no civil proceeding or no civil proceeding against any particular person or persons shall without the leave of the High Court or a

Judge thereof be instituted by him in any court and that any civil proceeding instituted by him in any court before the making of the order shall not be continued by him without such leave.

- (2) Leave may be granted subject to such conditions (if any) as the court or Judge thinks fit and shall not be granted unless the court or Judge is satisfied that the proceeding is not an abuse of the process of the court and that there is prima facie ground for the proceeding.
- (3) No appeal shall lie from an order granting or refusing such leave.

Section 88B: inserted, as section 71A, on 22 October 1965, by section 3 of the Judicature Amendment Act 1965 (1965 No 62).

Section 88B section number: replaced, on 15 December 2005, by section 5(1) of the Judicature Amendment Act (No 2) 2005 (2005 No 107).

Section 88B(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

89 Administration suits

[Repealed]

Section 89: repealed, on 1 January 1953, by section 79(1) of the Administration Act 1952 (1952 No 56).

90 Stipulations not of the essence of contracts

Stipulations in contracts as to time or otherwise which would not, before 13 September 1882 (the date of the coming into force of the Law Amendment Act 1882), have been deemed to be or to have become the essence of such contracts in a court of equity shall receive in all courts the same construction and effect as they would have theretofore received in equity.

Compare: 1882 No 31 s 8

Section 90: amended, on 1 January 1986, by section 7 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

91 Damages by collision at sea

[Repealed]

Section 91: repealed, on 1 May 1913, by section 10 of the Shipping and Seamen Amendment Act 1912 (1912 No 53).

92 Discharge of debt by acceptance of part in satisfaction

An acknowledgement in writing by a creditor, or by any person authorised by him in writing in that behalf, of the receipt of a part of his debt in satisfaction of the whole debt shall operate as a discharge of the debt, any rule of law notwithstanding.

Compare: 1904 No 12 s 2

93 Provisions of 9 Geo IV, c 14, ss 1 and 8, extended to acknowledgments by agents

[Repealed]

Section 93: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

94 Judgment against one of several persons jointly liable not a bar to action against others

A judgment against 1 or more of several persons jointly liable shall not operate as a bar or defence to civil proceedings against any of such persons against whom judgment has not been recovered, except to the extent to which the judgment has been satisfied, any rule of law notwithstanding.

Compare: 1904 No 12 s 3

Section 94: amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

94A Recovery of payments made under mistake of law

- (1) Subject to the provisions of this section, where relief in respect of any payment that has been made under mistake is sought in any court, whether in civil proceedings or by way of defence, set off, counterclaim, or otherwise, and that relief could be granted if the mistake was wholly one of fact, that relief shall not be denied by reason only that the mistake is one of law whether or not it is in any degree also one of fact.
- (2) Nothing in this section shall enable relief to be given in respect of any payment made at a time when the law requires or allows, or is commonly understood to require or allow, the payment to be made or enforced, by reason only that the law is subsequently changed or shown not to have been as it was commonly understood to be at the time of the payment.

Section 94A: inserted, on 28 September 1958, by section 2 of the Judicature Amendment Act 1958 (1958 No 40).

Section 94A(1): amended, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

94B Payments made under mistake of law or fact not always recoverable

Relief, whether under section 94A or in equity or otherwise, in respect of any payment made under mistake, whether of law or of fact, shall be denied wholly or in part if the person from whom relief is sought received the payment in good faith and has so altered his position in reliance on the validity of the payment that in the opinion of the court, having regard to all possible implications in respect of other persons, it is inequitable to grant relief, or to grant relief in full, as the case may be.

Section 94B: inserted, on 28 September 1958, by section 2 of the Judicature Amendment Act 1958 (1958 No 40).

95 Limitation of time within which wills may be impeached

[Repealed]

Section 95: repealed, on 1 January 1952, by section 35(2) of the Limitation Act 1950 (1950 No 65).

96 Jurisdiction as to costs in administration suits

[Repealed]

Section 96: repealed, on 1 January 1953, by section 79(1) of the Administration Act 1952 (1952 No 56).

97 Court empowered to grant special relief in cases of encroachment

[Repealed]

Section 97: repealed, on 18 September 1950, by section 3(2) of the Property Law Amendment Act 1950 (1950 No 27).

98 Custody and education of infants

[Repealed]

Section 98: repealed, on 1 January 1970, by section 35(1) of the Guardianship Act 1968 (1968 No 63).

98A Proceedings in lieu of writs

- (1) Where, immediately before the commencement of the Judicature Amendment Act (No 2) 1985,—
- (a) the court had jurisdiction to grant any relief or remedy or do any other thing by way of writ, whether of prohibition, mandamus, certiorari, or any other description; or
 - (b) in any proceedings in the court for any relief or remedy any writ might have issued out of the court for the purpose of the commencement or conduct of the proceedings, or otherwise in relation to the proceedings, whether the writ might have issued pursuant to any rule or order of the court or of course,—
- then, after the commencement of that Act,—
- (c) the court shall continue to have jurisdiction to grant that relief or remedy or to do that thing; but
 - (d) the court shall not issue any such writ; and
 - (e) the court shall grant that relief or remedy or do that thing by way of judgment or order under this Act and the High Court Rules; and
 - (f) proceedings for that relief or remedy or for the doing of that thing shall be in accordance with this Act and the High Court Rules.
- (2) Subject to the High Court Rules, this section does not apply to—
- (a) the writ of habeas corpus; or
 - (b) any writ of execution for the enforcement of a judgment or order of the court; or

- (c) any writ in aid of any such writ of execution.

Section 98A: inserted, on 1 January 1986, by section 8(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

99 In cases of conflict rules of equity to prevail

Generally in all matters in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter the rules of equity shall prevail.

Compare: 1882 No 31 s 11

99A Costs where intervener or counsel assisting court appears

- (1) Where the Attorney-General or the Solicitor-General or any other person appears in any civil proceedings or in any proceedings on any appeal and argues any question of law or of fact arising in the proceedings, the court may, subject to the provisions of any other Act, make such order as it thinks just—
- (a) as to the payment by any party to the proceedings of the costs incurred by the Attorney-General or the Solicitor-General in so doing; or
 - (b) as to the payment by any party to the proceedings or out of public funds of the costs incurred by any other person in so doing; or
 - (c) as to the payment by the Attorney-General or the Solicitor-General or that other person of any costs incurred by any of those parties by reason of his so doing.
- (2) Where the court makes an order pursuant to subsection (1)(b), the Registrar of the court shall forward a copy of the order to the chief executive of the Ministry of Justice who shall make the payment out of money appropriated by Parliament for the purpose.

Section 99A: replaced, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 99A(2): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

99B Technical advisers

- (1) The Court of Appeal or the Supreme Court may appoint a suitably qualified person (a **technical adviser**) to assist it by giving advice in an appeal in a proceeding involving a question arising from evidence relating to scientific, technical, or economic matters, or from other expert evidence, if the court is of the opinion that, in considering the evidence, it is desirable to have expert assistance.
- (2) The technical adviser must give the advice in such manner as the court may direct during the course of the proceeding on any question referred to the technical adviser.
- (3) Advice given by a technical adviser—
- (a) is information provided to the court; and

(b) may be given such weight as the court thinks fit.

(4) *[Repealed]*

Section 99B: inserted, on 31 August 1999, by section 3 of the Judicature (Rules Committee and Technical Advisers) Amendment Act 1999 (1999 No 88).

Section 99B(1): amended, on 1 January 2004, by section 45(1) of the Supreme Court Act 2003 (2003 No 53).

Section 99B(1): amended, on 1 January 2004, by section 48(1) of the Supreme Court Act 2003 (2003 No 53).

Section 99B(4): repealed, on 1 January 2004, by section 45(2) of the Supreme Court Act 2003 (2003 No 53).

99C Appointment and other matters

- (1) A technical adviser may be appointed by the Court of Appeal on its own initiative or on the application of a party to the proceeding.
- (2) A technical adviser may be removed from office by the Court of Appeal for disability affecting performance of duty, neglect of duty, bankruptcy, or misconduct proved to the satisfaction of the court.
- (3) A technical adviser may resign office by notice in writing to the Court of Appeal.
- (4) The remuneration of a technical adviser must—
 - (a) be fixed by the Court of Appeal; and
 - (b) include a daily fee for any day on which the technical adviser is required to assist the court.
- (5) Civil or criminal proceedings may not be commenced against a technical adviser in relation to advice given to the Court of Appeal in good faith under section 99B.

Section 99C: inserted, on 31 August 1999, by section 3 of the Judicature (Rules Committee and Technical Advisers) Amendment Act 1999 (1999 No 88).

99D Procedure and rules relating to technical advisers

[Repealed]

Section 99D: repealed, on 18 October 2016, by section 182(1) of the Senior Courts Act 2016 (2016 No 48).

100 Independent medical examination

- (1) Where the physical or mental condition of a person who is a party to any civil proceedings is relevant to any matter in question in those proceedings, the High Court may order that that person submit himself to examination at a time and place specified in the order by 1 or more medical practitioners named in the order.
- (2) A person required by an order under subsection (1) to submit to examination may have a medical practitioner chosen by that person attend that person's examination.

- (3) The court may order that the party seeking the order pay to the person to be examined a reasonable sum to meet that person's travelling and other expenses of and incidental to the examination, including the expenses of having a medical practitioner chosen by that person attend that person's examination.
- (4) Where an order is made under subsection (1), the person required by that order to submit to examination shall do all things reasonably requested, and answer all questions reasonably asked of that person, by the medical practitioner for the purposes of the examination.
- (5) If a person ordered under subsection (1) to submit to examination fails, without reasonable excuse, to comply with the order, or in any way obstructs the examination, the court may, on terms, stay the proceedings or strike out the pleading of that person.
- (6) This section applies to the Crown and every department of the public service.
- (7) Nothing in this section affects the provisions of the Workers' Compensation Act 1956.

Section 100: replaced, on 1 January 1986, by section 9 of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

100A Regulations

- (1) Notwithstanding anything in sections 51 and 51C, the Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:
 - (a) prescribing the matters in respect of which fees are payable under this Act:
 - (b) prescribing scales of fees for the purposes of this Act and for the purposes of any proceedings before the High Court or the Court of Appeal, whether under this Act or any other enactment:
 - (c) prescribing the fees, travelling allowances, and expenses payable to interpreters and to persons giving evidence in proceedings to which this Act applies:
 - (d) in order to promote access to justice, empowering Registrars or Deputy Registrars of the High Court and the Court of Appeal to waive, reduce, or postpone the payment of a fee required in connection with a proceeding or an intended proceeding, or to refund, in whole or in part, such a fee that has already been paid, if satisfied on the basis of criteria specified under paragraph (da) that—
 - (i) the person otherwise responsible for payment of the fee is unable to pay or absorb the fee in whole or in part; or
 - (ii) unless 1 or more of those powers are exercised in respect of a proceeding that concerns a matter of genuine public interest, the proceeding is unlikely to be commenced or continued:

- (da) prescribing, for the purposes of the exercise of a power under paragraph (d), the criteria—
 - (i) for assessing a person's ability to pay a fee; and
 - (ii) for identifying proceedings that concern matters of genuine public interest:
 - (db) empowering Registrars or Deputy Registrars of the High Court and the Court of Appeal to postpone the payment of a fee pending the determination of—
 - (i) an application for the exercise of a power specified in paragraph (d); or
 - (ii) an application for review under section 100B:
 - (dc) making provision in relation to the postponement, under the regulations, of the payment of any fee, which provision may (without limitation) include provision—
 - (i) for the recovery of the fee after the expiry of the period of postponement; and
 - (ii) for restrictions to apply (after the expiry of the period of postponement and so long as the fee remains unpaid) on the steps that may be taken in the proceedings in respect of which the fee is payable:
 - (dd) providing for the manner in which an application for the exercise of a power specified in paragraph (d) or paragraph (db) is to be made, including, without limitation, requiring such an application to be in a form approved for the purpose by the chief executive of the Ministry of Justice:
 - (e) altering or revoking any rules relating to fees contained in the High Court Rules or the Court of Appeal Rules or any other rules of court.
- (2) No fee is payable for an application for the exercise of a power specified in subsection (1)(d) or (db).

Section 100A: replaced, on 1 January 1986, by section 11(1) of the Judicature Amendment Act (No 2) 1985 (1985 No 112).

Section 100A(1)(d): replaced, on 9 October 2001, by section 4(1) of the Judicature Amendment Act 2001 (2001 No 83).

Section 100A(1)(da): inserted, on 9 October 2001, by section 4(1) of the Judicature Amendment Act 2001 (2001 No 83).

Section 100A(1)(db): inserted, on 9 October 2001, by section 4(1) of the Judicature Amendment Act 2001 (2001 No 83).

Section 100A(1)(dc): inserted, on 9 October 2001, by section 4(1) of the Judicature Amendment Act 2001 (2001 No 83).

Section 100A(1)(dd): inserted, on 9 October 2001, by section 4(1) of the Judicature Amendment Act 2001 (2001 No 83).

Section 100A(1)(dd): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

Section 100A(2): inserted, on 9 October 2001, by section 4(2) of the Judicature Amendment Act 2001 (2001 No 83).

100B Reviews of decisions of Registrars concerning fees

- (1) Any person who is aggrieved by any decision of a Registrar or Deputy Registrar under regulations made under section 100A(d) may apply for a review,—
 - (a) in the case of a decision by the Registrar or a Deputy Registrar of the Court of Appeal, to a Judge of that court;
 - (b) in the case of a decision by a Registrar or Deputy Registrar of the High Court, to a Judge or an Associate Judge of that court.
- (2) An application under subsection (1) may be made within 20 working days after the date on which the applicant is notified of the decision of the Registrar or Deputy Registrar, or within any further time that the Judge or Associate Judge allows on application made for that purpose either before or after the expiration of those 20 working days.
- (3) Applications under this section may be made on an informal basis.
- (4) Reviews under this section are—
 - (a) conducted by way of rehearing of the matter in respect of which the Registrar or Deputy Registrar made the decision; and
 - (b) dealt with on the papers, unless the Judge or Associate Judge directs otherwise.
- (5) On dealing with an application for a review of a decision of a Registrar or Deputy Registrar, the Judge or Associate Judge may confirm, modify, or reverse the decision of the Registrar or the Deputy Registrar.
- (6) No fee is payable for an application under this section.

Compare: 1991 No 71 s 16

Section 100B: inserted, on 9 October 2001, by section 5 of the Judicature Amendment Act 2001 (2001 No 83).

Section 100B(1)(b): amended, on 20 May 2004, pursuant to section 6(3) of the Judicature Amendment Act 2004 (2004 No 45).

Section 100B(2): amended, on 20 May 2004, pursuant to section 6(3) of the Judicature Amendment Act 2004 (2004 No 45).

Section 100B(4)(b): amended, on 20 May 2004, pursuant to section 6(3) of the Judicature Amendment Act 2004 (2004 No 45).

Section 100B(5): amended, on 20 May 2004, pursuant to section 6(3) of the Judicature Amendment Act 2004 (2004 No 45).

101 Words imputing unchastity to women actionable without special damage

[Repealed]

Section 101: repealed, on 29 September 1954, by section 23(1) of the Defamation Act 1954 (1954 No 46).

Schedule 1 Enactments consolidated

s 1(2)

Accidents Compensation Act 1901 (1901 No 4)

Administration Act Amendment Act 1904 (1904 No 15)

Section 2.

Commissioners of the Supreme Court Act 1875 (1875 No 82)

Court of Appeal Act 1882 (1882 No 30)

Courts of Justice (Technical Defects Removal) Act 1892 (1892 No 10)

Imprisonment for Debt Abolition Act 1874 (1874 No 14)

Section 15.

Imprisonment for Debt Abolition Act Amendment Act 1875 (1875 No 39)

Law Amendment Act 1856 (1856 No 3)

Law Amendment Act 1882 (1882 No 31)

Except section 13.

Law Amendment Act 1904 (1904 No 12)

Except sections 4, 8, and 10.

Mercantile Law Act 1880 (1880 No 12)

Sections 4, 41, 45–51, and 81–83.

Sheriffs Act 1883 (1883 No 5)

Slander of Women Act 1898 (1898 No 16)

Statute Law Amendment Act 1906 (1906 No 58)

Section 11.

Supreme Court Act 1882 (1882 No 29)

Except sections 33 and 34.

Supreme Court Judges Act 1903 (1903 No 9)

Supreme Court Practice and Procedure Acts Amendment Act 1893 (1893 No 16)

Supreme Court Practice and Procedure Acts Amendment Act 1907 (1907 No 23)

Supreme Court Practice and Procedure Amendment Act 1884 (1884 No 23)

Except section 4.

Schedule 2
High Court Rules

[Repealed]

Schedule 2: repealed, on 18 October 2016, pursuant to sections 147 and 154 of the Senior Courts Act 2016 (2016 No 48).

Schedule 3
Rules of the Court of Appeal
[Repealed]

s 72

Schedule 3: repealed, on 21 October 1974, by section 4(2)(a) of the Judicature Amendment Act 1974 (1974 No 57).

Judicature Amendment Act 1910

Public Act	1910 No 27
Date of assent	21 November 1910
Commencement	21 November 1910

1 Short Title

This Act may be cited as the Judicature Amendment Act 1910, and shall form part of and be read together with the Judicature Act 1908.

3 Execution of instruments by order of the High Court

- (1) Where any person neglects or refuses to comply with a judgment or order of the High Court or Court of Appeal directing him to execute any conveyance, contract, or other document, or to indorse any negotiable instrument, the High Court may, on such terms and conditions (if any) as may be just, order that such conveyance, contract, or other document shall be executed or that such negotiable instrument shall be indorsed by such person as the High Court may nominate for that purpose; and in such case the conveyance, contract, document, or instrument so executed or indorsed shall operate and be for all purposes available as if it had been executed or indorsed by the person originally directed to execute or indorse it.
- (2) This section shall not affect any action or other proceeding already commenced in any court, or invalidate anything heretofore lawfully done, or validate anything already declared to be invalid in any proceedings heretofore taken in any court.

Section 3 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 3(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

4 Court or Judge to have discretion in cases coming within paragraphs (c) and (d) of section 3 of the Imprisonment for Debt Limitation Act 1908

In any case coming within the exceptions specified in paragraphs (c) and (d) of section 3 of the Imprisonment for Debt Limitation Act 1908, or within either of those exceptions, any court or Judge making the order for payment, or having jurisdiction in the action or proceeding in which the order for payment is made, may inquire into the case, and (subject to the provisos contained in the said section 3) may grant or refuse, either absolutely or upon terms, any application for a writ of attachment, or other process or order of arrest or imprisonment, and any application to stay the operation of any such writ, process, or order, or for discharge from arrest or imprisonment thereunder.

Judicature Amendment Act 1952

Public Act	1952 No 24
Date of assent	16 October 1952
Commencement	16 October 1952

1 Short Title

This Act may be cited as the Judicature Amendment Act 1952, and shall be read together with and deemed part of the Judicature Act 1908 (hereinafter referred to as “the principal Act”).

2 Offices of the High Court

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Every office of the court heretofore established shall be deemed to have been lawfully established.

Section 2 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Judicature Amendment Act 1972

Public Act	1972 No 130
Date of assent	20 October 1972
Commencement	20 October 1972

1 Short Title

This Act may be cited as the Judicature Amendment Act 1972, and shall be read together with and deemed part of the Judicature Act 1908 (hereinafter referred to as “the principal Act”).

Part 1

Single procedure for the judicial review of the exercise of or failure to exercise a statutory power

2 Relation to Part 1 of principal Act and commencement of this Part

- (1) This Part shall be deemed part of Part 1 of the principal Act.
- (2) This Part shall come into force on 1 January 1973.

3 Interpretation

In this Part, unless the context otherwise requires,—

application for review means an application under subsection (1) of section 4

decision includes a determination or order

licence includes any permit, warrant, authorisation, registration, certificate, approval, or similar form of authority required by law

person includes a corporation sole, and also a body of persons whether incorporated or not; and, in relation to the exercise, refusal to exercise, or proposed or purported exercise by any person of a statutory power of decision, includes a District Court, the Compensation Court, the Maori Land Court, and the Maori Appellate Court

statutory power means a power or right conferred by or under any Act or by or under the constitution or other instrument of incorporation, rules, or bylaws of any body corporate—

- (a) to make any regulation, rule, bylaw, or order, or to give any notice or direction having force as subordinate legislation; or
- (b) to exercise a statutory power of decision; or
- (c) to require any person to do or refrain from doing any act or thing that, but for such requirement, he would not be required by law to do or refrain from doing; or

- (d) to do any act or thing that would, but for such power or right, be a breach of the legal rights of any person; or
- (e) to make any investigation or inquiry into the rights, powers, privileges, immunities, duties, or liabilities of any person

statutory power of decision means a power or right conferred by or under any Act, or by or under the constitution or other instrument of incorporation, rules, or bylaws of any body corporate, to make a decision deciding or prescribing or affecting—

- (a) the rights, powers, privileges, immunities, duties, or liabilities of any person; or
- (b) the eligibility of any person to receive, or to continue to receive, a benefit or licence, whether he is legally entitled to it or not.

Section 3 **person**: amended, on 1 August 1987, by section 341 of the Labour Relations Act 1987 (1987 No 77).

Section 3 **person**: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 3 **statutory power**: amended, on 7 October 1977, by section 10(1) of the Judicature Amendment Act 1977 (1977 No 32).

Section 3 **statutory power** paragraph (d): amended, on 7 October 1977, by section 10(2) of the Judicature Amendment Act 1977 (1977 No 32).

Section 3 **statutory power** paragraph (e): inserted, on 7 October 1977, by section 10(2) of the Judicature Amendment Act 1977 (1977 No 32).

Section 3 **statutory power of decision**: amended, on 7 October 1977, by section 10(3) of the Judicature Amendment Act 1977 (1977 No 32).

3A Jurisdiction of Employment Court

This Part is subject to the provisions of the Employment Relations Act 2000 relating to the jurisdiction of the Employment Court and High Court in respect of applications for review or proceedings for a writ or order of, or in the nature of, mandamus, prohibition, certiorari, or for a declaration or injunction against any body constituted by, or any person acting pursuant to, the Employment Relations Act 2000.

Section 3A: replaced, on 2 October 2000, by section 240 of the Employment Relations Act 2000 (2000 No 24).

Section 3A: amended, on 1 December 2004, by section 72 of the Employment Relations Amendment Act (No 2) 2004 (2004 No 86).

4 Application for review

- (1) On an application which may be called an application for review, the High Court may, notwithstanding any right of appeal possessed by the applicant in relation to the subject matter of the application, by order grant, in relation to the exercise, refusal to exercise, or proposed or purported exercise by any person of a statutory power, any relief that the applicant would be entitled to, in any 1 or more of the proceedings for a writ or order of or in the nature of man-

- damus, prohibition, or certiorari or for a declaration or injunction, against that person in any such proceedings.
- (2) Where on an application for review the applicant is entitled to an order declaring that a decision made in the exercise of a statutory power of decision is unauthorised or otherwise invalid, the court may, instead of making such a declaration, set aside the decision.
- (2A) Notwithstanding any rule of law to the contrary, it shall not be a bar to the grant of relief in proceedings for a writ or an order of or in the nature of certiorari or prohibition, or to the grant of relief on an application for review, that the person who has exercised, or is proposing to exercise, a statutory power was not under a duty to act judicially; but this subsection shall not be construed to enlarge or modify the grounds on which the court may treat an applicant as being entitled to an order of or in the nature of certiorari or prohibition under the foregoing provisions of this section.
- (3) Where in any of the proceedings referred to in subsection (1) the court had, before the commencement of this Part, a discretion to refuse to grant relief on any grounds, it shall have the like discretion, on like grounds, to refuse to grant any relief on an application for review.
- (4) Subsection (3) shall not apply to the discretion of the court, before the commencement of this Part, to refuse to grant relief in any of the said proceedings on the ground that the relief should have been sought in any other of the said proceedings.
- (5) Without limiting the generality of the foregoing provisions of this section, on an application for review in relation to the exercise, refusal to exercise, or purported exercise of a statutory power of decision the court if it is satisfied that the applicant is entitled to relief under subsection (1), may, in addition to or instead of granting any other relief under the foregoing provisions of this section, direct any person whose act or omission is the subject matter of the application to reconsider and determine, either generally or in respect of any specified matters, the whole or any part of any matter to which the application relates. In giving any such direction the court shall—
- (a) advise the person of its reasons for so doing; and
 - (b) give to him such directions as it thinks just as to the reconsideration or otherwise of the whole or any part of the matter that is referred back for reconsideration.
- (5A) If the court gives a direction under subsection (5) it may make any order that it could make by way of interim order under section 8, and that section shall apply accordingly, so far as it is applicable and with all necessary modifications.
- (5B) Where any matter is referred back to any person under subsection (5), that person shall have jurisdiction to reconsider and determine the matter in accord-

ance with the court's direction notwithstanding anything in any other enactment.

- (5C) Where any matter is referred back to any person under subsection (5), the act or omission that is to be reconsidered shall, subject to any interim order made by the court under subsection (5A), continue to have effect according to its tenor unless and until it is revoked or amended by that person.
- (6) In reconsidering any matter referred back to him under subsection (5) the person to whom it is so referred shall have regard to the court's reasons for giving the direction and to the court's directions.

Section 4(1): amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 4(1): amended, on 7 October 1977, by section 13(2)(a) of the Judicature Amendment Act 1977 (1977 No 32).

Section 4(2A): inserted, on 7 October 1977, by section 11(1) of the Judicature Amendment Act 1977 (1977 No 32).

Section 4(5): amended, on 7 October 1977, by section 11(2) of the Judicature Amendment Act 1977 (1977 No 32).

Section 4(5A): inserted, on 7 October 1977, by section 11(3) of the Judicature Amendment Act 1977 (1977 No 32).

Section 4(5B): inserted, on 7 October 1977, by section 11(3) of the Judicature Amendment Act 1977 (1977 No 32).

Section 4(5C): inserted, on 7 October 1977, by section 11(3) of the Judicature Amendment Act 1977 (1977 No 32).

5 Defects in form, or technical irregularities

On an application for review in relation to a statutory power of decision, where the sole ground of relief established is a defect in form or a technical irregularity, if the court finds that no substantial wrong or miscarriage of justice has occurred, it may refuse relief and, where the decision has already been made, may make an order validating the decision, notwithstanding the defect or irregularity, to have effect from such time and on such terms as the court thinks fit.

6 Disposal of proceedings for mandamus, prohibition, or certiorari

Where proceedings are commenced for a writ or order of or in the nature of mandamus, prohibition, or certiorari, in relation to the exercise, refusal to exercise, or proposed or purported exercise of a statutory power, the proceedings shall be treated and disposed of as if they were an application for review.

7 Disposal of proceedings for declaration or injunction

Where proceedings are commenced for a declaration or injunction, or both, whether with or without a claim for other relief, and the exercise, refusal to exercise, or proposed or purported exercise of a statutory power is an issue in the proceedings, the court on the application of any party to the proceedings may, if it considers it appropriate, direct that the proceedings be treated and disposed of, so far as they relate to that issue, as if they were an application for review.

8 Interim orders

- (1) Subject to subsection (2), at any time before the final determination of an application for review, and on the application of any party, the court may, if in its opinion it is necessary to do so for the purpose of preserving the position of the applicant, make an interim order for all or any of the following purposes:
 - (a) prohibiting any respondent to the application for review from taking any further action that is or would be consequential on the exercise of the statutory power:
 - (b) prohibiting or staying any proceedings, civil or criminal, in connection with any matter to which the application for review relates:
 - (c) declaring any licence that has been revoked or suspended in the exercise of the statutory power, or that will expire by effluxion of time before the final determination of the application for review, to continue and, where necessary, to be deemed to have continued in force.
- (2) Where the Crown is the respondent (or one of the respondents) to the application for review the court shall not have power to make any order against the Crown under paragraph (a) or paragraph (b); but, instead, in any such case the court may, by interim order,—
 - (a) declare that the Crown ought not to take any further action that is or would be consequential on the exercise of the statutory power:
 - (b) declare that the Crown ought not to institute or continue with any proceedings, civil or criminal, in connection with any matter to which the application for review relates.
- (3) Any order under subsection (1) or subsection (2) may be made subject to such terms and conditions as the court thinks fit, and may be expressed to continue in force until the application for review is finally determined or until such other date, or the happening of such other event, as the court may specify.

Section 8: replaced, on 7 October 1977, by section 12 of the Judicature Amendment Act 1977 (1977 No 32).

9 Procedure

- (1) An application for review shall be made by motion accompanied by a statement of claim.
- (2) The statement of claim shall—
 - (a) state the facts on which the applicant bases his claim to relief:
 - (b) state the grounds on which the applicant seeks relief:
 - (c) state the relief sought.
- (3) It shall not be necessary for the statement of claim to specify the proceedings referred to in section 4(1) in which the claim would have been made before the commencement of this Part.

- (4) The person whose act or omission is the subject matter of the application for review, and, subject to any direction given by a Judge under section 10, every party to the proceedings (if any) in which any decision to which the application relates was made, shall be cited as a respondent.
- (4A) For the purposes of subsection (4), where the act or omission is that of a Judge, Registrar, or presiding officer of any court or tribunal,—
- (a) that court or tribunal, and not that Judge, Registrar, or presiding officer, shall be cited as a respondent; but
- (b) that Judge, Registrar, or presiding officer may file, on behalf of that court or tribunal, a statement of defence to the statement of claim.
- (5) For the purposes of subsection (4), where the act or omission is that of any 2 or more persons acting together under a collective title, they shall be cited by their collective title.
- (6) Subject to any direction given by a Judge under section 10, every respondent to the application for review shall file a statement of his defence to the statement of claim.
- (7) Subject to this Part, the procedure in respect of any application for review shall be in accordance with rules of court.

Section 9: replaced, on 7 October 1977, by section 13(1) of the Judicature Amendment Act 1977 (1977 No 32).

Section 9(4A): inserted, on 15 August 1991, by section 7 of the Judicature Amendment Act 1991 (1991 No 60).

10 Powers of Judge to call conference and give directions

- (1) For the purpose of ensuring that any application or intended application for review may be determined in a convenient and expeditious manner, and that all matters in dispute may be effectively and completely determined, a Judge may at any time, either on the application of any party or intended party or without any such application, and on such terms as he thinks fit, direct the holding of a conference of parties or intended parties or their counsel presided over by a Judge.
- (2) At any such conference the Judge presiding may—
- (a) settle the issues to be determined:
- (b) direct what persons shall be cited, or need not be cited, as respondents to the application for review, or direct that the name of any party be added or struck out:
- (c) direct what parties shall be served:
- (d) direct by whom and within what time any statement of defence shall be filed:
- (e) require any party to make admissions in respect of questions of fact; and, if that party refuses to make an admission in respect of any such ques-

tion, that party shall be liable to bear the costs of proving that question, unless the Judge by whom the application for review is finally determined is satisfied that the party's refusal was reasonable in all the circumstances, and accordingly orders otherwise in respect of those costs:

- (f) fix a time by which any affidavits or other documents shall be filed:
 - (g) fix a time and place for the hearing of the application for review:
 - (h) require further or better particulars of any facts, or of the grounds for relief, or of the relief sought, or of the grounds of defence, or of any other circumstances connected with the application for review:
 - (i) require any party to make discovery of documents, or permit any party to administer interrogatories:
 - (j) in the case of an application for review of a decision made in the exercise of a statutory power of decision, determine whether the whole or any part of the record of the proceedings in which the decision was made should be filed in court, and give such directions as he thinks fit as to its filing:
 - (k) exercise any powers of direction or appointment vested in the court or a Judge by its rules of court in respect of originating applications:
 - (l) give such consequential directions as may be necessary.
- (3) Notwithstanding any of the foregoing provisions of this section, a Judge may, at any time before the hearing of an application for review has been commenced, exercise any of the powers specified in subsection (2) without holding a conference under subsection (1).

Section 10: replaced, on 7 October 1977, by section 14 of the Judicature Amendment Act 1977 (1977 No 32).

11 Appeals

Any party to an application for review who is dissatisfied with any final or interlocutory order in respect of the application may appeal to the Court of Appeal; and section 66 of the principal Act shall apply to any such appeal.

13 This Part to bind the Crown

Subject to section 14, this Part shall bind the Crown.

14 Application of Crown Proceedings Act 1950

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) In its application to the Crown, this Part shall be read subject to the Crown Proceedings Act 1950, as amended by subsection (1).

16 References in enactments

Subject to sections 14 and 15, every reference to any enactment (other than this Act), or in any regulation, to any of the proceedings referred to in subsection

(1) of section 4 shall hereafter, unless the context otherwise requires, be read as including a reference to an application for review.

Part 2

Miscellaneous amendments

20 Sheriffs and Deputy Sheriffs

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Every person who at the commencement of this section holds office as Deputy Sheriff shall continue to hold that office as if he had been appointed pursuant to section 29 of the principal Act (as substituted by this section).
- (3) This section shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

Section 20: brought into force, on 1 April 1973, by the Judicature Amendment Act Commencement Order 1973 (SR 1973/36).

Judicature Amendment Act 1997

Public Act	1997 No 10
Date of assent	22 May 1997
Commencement	see section 1(2)

1 Short Title

- (1) This Act may be cited as the Judicature Amendment Act 1997, and is part of the Judicature Act 1908 (“the principal Act”).
- (2) This Act comes into force on the date on which it receives the Royal assent.

4 Validations

- (1) All persons who have, in the period beginning on 1 April 1988 and ending with the commencement of this Act, been appointed under the State Sector Act 1988 as Registrars, Deputy Registrars, ushers, Clerks, criers, or other officers of the High Court or the Court of Appeal are deemed to be, and to have always been, validly appointed to their respective offices.
- (2) Where any person is deemed, by subsection (1), to have been validly appointed as an officer of the High Court, any action taken by that person, in his or her capacity as an officer of the High Court, in the period beginning on 1 April 1988 and ending with the commencement of this Act, is deemed to be, and to have always been, as valid as it would have been if that person had been validly appointed to the office in accordance with section 27 of the principal Act (in the form in which that section stood at the time of that person’s appointment).
- (3) Where any person is deemed, by subsection (1), to have been validly appointed as an officer of the Court of Appeal, any action taken by that person in his or her capacity as an officer of the Court of Appeal, in the period beginning on 1 April 1988 and ending with the commencement of this Act, is deemed to be, and to have always been, as valid as it would have been if that person had been validly appointed to the office in accordance with section 72 of the principal Act (in the form in which that section stood at the time of that person’s appointment).

High Court Amendment (Wills Act 2007) Rules 2007 (SR 2007/313)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 15th day of October 2007

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

Rules

1 Title

These rules are the High Court Amendment (Wills Act 2007) Rules 2007.

2 Commencement

These rules come into force on 1 November 2007.

4 Wills to which these rules apply

- (1) These rules apply to the wills of persons who die on or after 1 November 2007.
- (2) These rules do not apply to the wills of persons who die before 1 November 2007, except rule 6, which does apply to the wills of persons who die before 1 November 2007.
- (3) The High Court Rules set out in Schedule 2 of the Judicature Act 1908 before their amendment by these rules, except for the amendment in rule 6, apply to the wills of persons who die before 1 November 2007.

Diane Morcom,
Clerk of the Executive Council.

Date of notification in *Gazette*: 18 October 2007.

Judicature (High Court Rules) Amendment Act 2008

Public Act	2008 No 90
Date of assent	25 September 2008
Commencement	see section 2

1 Title

This Act is the Judicature (High Court Rules) Amendment Act 2008.

2 Commencement

- (1) This Act comes into force on 1 February 2009.
- (2) Despite subsection (1), subparts 15 and 16 of Part 5 of the High Court Rules (as substituted by section 8) come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.

3 Principal Act amended

This Act amends the Judicature Act 1908.

4 Purpose

The purpose of this Act is to—

- (a) re-enact the High Court Rules in a more accessible form;
- (b) repeal provisions for district rules;
- (c) provide for the electronic filing of court documents;
- (d) enable judgment creditors to attach salaries, wages, and benefits of judgment debtors.

Part 1

Amendments to principal Act

8 New Schedule 2 substituted

- (1) *Amendment(s) incorporated in the Act(s).*
- (2) Despite subsection (1), Part 15 and forms 83 to 88 of the High Court Rules (which relate to constituency election petitions) as in force immediately before the commencement of this section continue in force until they are revoked by rules made under section 51C.

Part 2

Transitional provisions and consequential amendments

9 Transitional provisions

- (1) Subsections (2) to (5) of this section apply to a proceeding that is commenced before the commencement of section 8 and that has not been completed by that date (a **pending proceeding**).
- (2) A pending proceeding must be continued, completed, and enforced under the High Court Rules set out in Schedule 2 as substituted by section 8.
- (3) Subsection (2) is subject to subsection (4).
- (4) If,—
 - (a) on the commencement of section 8, time is running on the period within which the High Court Rules require or permit a step to be taken in a pending proceeding; and
 - (b) the period prescribed by the High Court Rules in respect of that step, as in force immediately before that commencement, differs from that prescribed on that commencement,—then the period required or permitted for that step is the longer period.
- (5) Subsection (4) does not apply to any order made by a Judge.
- (6) If judgment has been sealed in a proceeding commenced before the commencement of section 8, any enforcement process permitted by the new High Court Rules as substituted by that section may be issued, but any execution or enforcement process that has been issued but not completed before that commencement must be completed as if section 8 had not been enacted.
- (7) In this section,—

Judge includes an Associate Judge

judgment includes a decree or order of the court

proceeding means any application to the court, however commenced, for the exercise of the civil jurisdiction of the court.

High Court Amendment Rules 2009

(SR 2009/75)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 6th day of April 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

Rules

1 Title

These rules are the High Court Amendment Rules 2009.

2 Commencement

These rules come into force on 15 May 2009.

9 Transitional provision

Rule 20.8, as in force immediately before the commencement of these rules, continues to apply to appeals filed before the commencement of these rules.

Michael Webster,
for Clerk of the Executive Council.

Date of notification in *Gazette*: 9 April 2009.

**High Court (Access to Court Documents) Amendment
Rules 2009**
(SR 2009/133)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 11th day of May 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

Rules

1 Title

These rules are the High Court (Access to Court Documents) Amendment Rules 2009.

2 Commencement

These rules come into force on 12 June 2009.

7 Transitional provision

Any application or appeal under subpart 2 of Part 3 of the High Court Rules (as in force immediately before the commencement of these rules) that is not disposed of on the commencement of these rules must be dealt with as if rule 4 of these rules had not been made.

Michael Webster,
for Clerk of the Executive Council.

Date of notification in *Gazette*: 14 May 2009.

Judicature (Judicial Matters) Amendment Act 2010

Public Act	2010 No 7
Date of assent	22 March 2010
Commencement	see section 2

1 Title

This Act is the Judicature (Judicial Matters) Amendment Act 2010.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Higher duties allowance for High Court Judges serving on Court of Appeal

5 Allowances paid previously

- (1) This section applies to higher duties allowances paid out of public money before the commencement of this section to Judges who, for the periods in respect of which the allowances were paid,—
 - (a) were not Judges of the Court of Appeal holding office under section 57(2) of the Judicature Act 1908; but
 - (b) were under sections 58A to 58C or section 58F of that Act serving as a member of a criminal or civil division, or as a member of the Full Court, of the Court of Appeal.
- (2) Those allowances must be taken to be, and to always have been, as authorised and valid as allowances calculated, appropriated, and paid in accordance with sections 9A, 11, and 11A of the Judicature Act 1908 (as those sections are amended by section 4 of this Act).

High Court Amendment Rules 2010 (SR 2010/88)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 19th day of April 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee established under section 51B of the Judicature Act 1908 (of whom at least 1 was a Judge of the High Court), makes the following rules.

Rules

1 Title

These rules are the High Court Amendment Rules 2010.

2 Commencement

These rules come into force on 24 May 2010.

5 Transitional provision

- (1) Costs in a proceeding commenced after the coming into force of these rules must be determined in accordance with the High Court Rules as amended by these rules.
- (2) Costs in a proceeding commenced before the coming into force of these rules must be determined,—
 - (a) in the case of a step in the proceeding taken before the coming into force of these rules, in accordance with the High Court Rules as in force immediately before the coming into force of these rules;
 - (b) in the case of a step in the proceeding taken after the coming into force of these rules, in accordance with the High Court Rules as amended by these rules.

- (3) For the purposes of subclause (2), a step in a proceeding described in the first column of Schedule 2 of these rules is taken on the date appearing opposite that step in the second column of that schedule.

Schedule 2
Dates on which steps taken for purposes of rule 5(3)

r 5

Step in proceeding	Date on which step taken
1 A step that requires the filing of a document or a number of documents	The date on which the document or the first of the documents is filed
2 Appearance in court or in chambers for each day or part of a day	The date of the actual appearance
3 Production of documents for inspection	The date on which the affidavit listing those documents is filed
4 Inspection of documents	The date on which the affidavit listing those documents is filed
5 Preparation for hearing	The first day of the hearing or, if the hearing does not eventuate, the hearing date allocated

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 22 April 2010.

High Court Amendment Rules (No 2) 2010 (SR 2010/394)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 1st day of November 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 51C of the Judicature Act 1908, His Excellency the Governor-General, acting on the advice and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee (of whom at least 1 was a Judge of the High Court), makes the following rules.

Rules

1 Title

These rules are the High Court Amendment Rules (No 2) 2010.

2 Commencement

- (1) These rules (other than Part 5 and Part 6) come into force on 1 January 2011.
- (2) Part 5 comes into force on the date when the Unit Titles Act 2010 comes into force.
- (3) Part 6 comes into force on 2 December 2010.

3 Principal rules amended

These rules amend the High Court Rules set out in Schedule 2 of the Judicature Act 1908.

Part 2

Constituency election petitions

14 Revocation of constituency election petition rules

Part 15 and forms 83 to 88 of the High Court Rules (relating to constituency election petitions), which continued in force under section 8(2) of the Judicature (High Court Rules) Amendment Act 2008 despite the enactment of the

Constituency Election Petition Rules 2008 superseding those provisions, are revoked as from 1 February 2009.

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 4 November 2010.

Reprints notes

1 *General*

This is a reprint of the Judicature Act 1908 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Senior Courts Act 2016 (2016 No 48): sections 147, 154 and 182(1)

Te Ture mō Te Reo Māori 2016/Māori Language Act 2016 (2016 No 17): section 50

Companies Amendment Act 2013 (2013 No 111): section 14

Financial Markets (Repeals and Amendments) Act 2013 (2013 No 70): section 150

Marriage (Definition of Marriage) Amendment Act 2013 (2013 No 20): section 9

Judicature Amendment Act 2012 (2012 No 11)

Criminal Procedure Act 2011 (2011 No 81): section 413

Student Loan Scheme Act 2011 (2011 No 62): section 223

Judicature (Prescribed Rate of Interest) Order 2011 (SR 2011/177): clause 4

Financial Markets Authority Act 2011 (2011 No 5): section 82

Trans-Tasman Proceedings Act 2010 (2010 No 108): section 10(1)

Judicature (Judicial Matters) Amendment Act 2010 (2010 No 7)

Accident Compensation Amendment Act 2010 (2010 No 1): section 5(1)(b)

Immigration Act 2009 (2009 No 51): section 406(1)

Judicature (High Court Rules) Amendment Act 2008 (2008 No 90)

Juries Amendment Act 2008 (2008 No 40): sections 16(2), 19(3)

Court Martial Act 2007 (2007 No 101): section 87

Judicature Amendment Act 2007 (2007 No 3)

Insolvency (Cross-border) Act 2006 (2006 No 57): section 13

Insolvency Act 2006 (2006 No 55): section 445

Judicature Amendment Act 2006 (2006 No 16)

Judicature Amendment Act (No 2) 2005 (2005 No 107)

Judicature Amendment Act 2005 (2005 No 57)
Court of Appeal (Civil) Rules 2005 (SR 2005/69): rule 55
Relationships (Statutory References) Act 2005 (2005 No 3): section 7
Public Finance Amendment Act 2004 (2004 No 113): section 37(1)
Care of Children Act 2004 (2004 No 90): section 151
Employment Relations Amendment Act (No 2) 2004 (2004 No 86): section 72
Judicature Amendment Act 2004 (2004 No 45)
Supreme Court Act 2003 (2003 No 53) sections 43–45, 48(1), (2)
Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)
State Sector Amendment Act 2003 (2003 No 41): section 14
Judicature Amendment Act 2002 (2002 No 68)
Remuneration Authority (Members of Parliament) Amendment Act 2002 (2002 No 54): section 4(1)
Judicature Amendment Act 2001 (2001 No 83)
Habeas Corpus Act 2001 (2001 No 31): section 22(1)
Legal Services Act 2000 (2000 No 42): section 128
Employment Relations Act 2000 (2000 No 24): section 240
Personal Property Securities Act 1999 (1999 No 126): section 192(1)
Judicature (Rules Committee and Technical Advisers) Amendment Act 1999 (1999 No 88): sections 2, 3
Judicature Amendment Act (No 2) 1999 (1999 No 87)
Immigration Amendment Act 1999 (1999 No 16): section 63
Judicature Amendment Act 1998 (1998 No 52)
Judicature Amendment Act 1997 (1997 No 10)
Arbitration Act 1996 (1996 No 99): sections 17, 20
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(1)
Judicature Amendment Act 1994 (1994 No 42)
Judicature Amendment Act 1993 (1993 No 117)
Judicature Amendment Act 1991 (1991 No 60)
Judicature Amendment Act 1990 (1990 No 44)
Public Finance Act 1989 (1989 No 44): section 86(1)
Judicature Amendment Act 1988 (1988 No 117)
State Sector Act 1988 (1988 No 20): section 90(a)
Judicature Amendment Act (No 2) 1987 (1987 No 147)
Labour Relations Act 1987 (1987 No 77): section 341
Constitution Act 1986 (1986 No 114): sections 5(2), 27, 29(2)
Judicature Amendment Act 1986 (1986 No 93)
Judicature Amendment Act (No 3) 1985 (1985 No 136)
Judicature Amendment Act (No 2) 1985 (1985 No 112)
Judicature Amendment Act 1983 (1983 No 103)
District Courts Amendment Act (No 2) 1982 (1982 No 130): section 4(2)
Judicature Amendment Act 1981 (1981 No 40)
Judicature Amendment Act 1980 (1980 No 88)

District Courts Amendment Act 1979 (1979 No 125): section 18(2)
Judicature Amendment Act 1979 (1979 No 124)
Judicature Amendment Act 1978 (1978 No 55)
Judicature Amendment Act 1977 (1977 No 32)
Government Superannuation Fund Amendment Act 1976 (1976 No 30): section 3(3)
Judicature Amendment Act 1974 (1974 No 57)
Judicature Amendment Act Commencement Order 1973 (SR 1973/36)
Judicature Amendment Act 1972 (1972 No 130)
Mental Health Act 1969 (1969 No 16): section 129(4), (7)
Guardianship Act 1968 (1968 No 63): sections 35(1), 36(1)
Judicature Amendment Act (No 2) 1968 (1968 No 59)
Judicature Amendment Act 1965 (1965 No 62)
Judicature Amendment Act 1963 (1963 No 133)
Judicature Amendment Act 1961 (1961 No 11)
Judicature Amendment Act 1960 (1960 No 109)
Judicature Amendment Act 1958 (1958 No 40)
Summary Proceedings Act 1957 (1957 No 87): section 214(1)
Judicature Amendment Act 1957 (1957 No 9)
Contracts Enforcement Act 1956 (1956 No 23): section 3(2)
Superannuation Amendment Act 1955 (1955 No 107): section 18(1)
Defamation Act 1954 (1954 No 46): section 23(1)
Administration Act 1952 (1952 No 56): section 79(1)
Judicature Amendment Act 1952 (1952 No 24)
Limitation Act 1950 (1950 No 65): section 35(2)
Property Law Amendment Act 1950 (1950 No 27): section 3(2)
Statutes Amendment Act 1947 (1947 No 60): section 28(7)
Judicature Amendment Act 1930 (1930 No 14)
Shipping and Seamen Amendment Act 1912 (1912 No 53): section 10
Inferior Courts Procedure Act 1909 (1909 No 13): section 15(1)