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1979, No. 125

An Act to amend the District Courts Act 1947

[14 December 1979]

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

1. Short Title and commencement—(1) This Act may be cited as the District Courts Amendment Act 1979, and shall be read together with and deemed part of the Act heretofore known as the Magistrates' Courts Act 1947 (hereinafter referred to as the principal Act).

(2) This section and section 5 of this Act shall come into force on the date on which this Act receives the Governor-General's assent.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of April 1980.

2. Altering Short Title of principal Act and amending Acts—(1) The principal Act may hereafter be cited as the District Courts Act 1947.

(2) The Short Title of the principal Act and the Short Titles of the Acts specified in the First Schedule to this Act are hereby consequentially amended, in each case, by omitting the word "Magistrates'", and substituting the word "District".

(3) Every reference in any enactment to any of the said Acts is hereby consequentially amended by omitting the word "Magistrates'", and substituting the word "District".

3. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by omitting the definition of the terms "Court" and "Magistrate's Court", and substituting the following definitions:

"'Court' or 'District Court' means a Court constituted under this Act:

"'Judge' means a District Court Judge appointed under this Act; and includes the Chief District Court Judge:".

(2) The said section 2 (1) is hereby further amended by omitting the definition of the term "Magistrate".

4. Courts constituted—The principal Act is hereby amended by omitting from Part I the subheading "*Magistrates' Courts*", and by repealing section 3, and substituting the following subheading and section:

"District Courts

"3. (1) There shall continue to be within New Zealand Courts of record, possessing civil and criminal jurisdiction, henceforth to be called District Courts.

"(2) Each Court shall have a seal, which shall be kept by the Registrar."

5. Number of Magistrates increased—(1) Section 5 of the principal Act is hereby amended by omitting from subsection (2) (as substituted by section 3 (1) of the Magistrates' Courts Amendment Act 1974 and amended by section 2 of the Magistrates' Courts Amendment Act 1977) the expression "65", and substituting the expression "68".

(2) The Magistrates' Courts Amendment Act 1977 is hereby consequentially repealed.

(3) This section shall expire with the 31st day of March 1980.

6. Appointment and qualifications—(1) The principal Act is hereby amended by omitting from Part I the subheading "*Magistrates*", and by repealing section 5, and substituting the following subheading and section:

"District Court Judges

"5. (1) The Governor-General may from time to time, by warrant under his hand, appoint fit and proper persons to be District Court Judges to exercise civil and criminal jurisdiction within New Zealand.

"(2) Subject to sections 10 and 10A of this Act, the number of Judges shall not at any time exceed 68.

"(3) No person shall be appointed a Judge unless—

"(a) He has held a practising certificate as a barrister or solicitor for at least 7 years; or

"(b) He has been continuously employed as an officer of the Department of Justice for a period of at least 10 years, and during that period has been employed for not less than 7 years as the Clerk or Registrar of a Court, and is a barrister or solicitor who has been qualified for admission, or admitted, as such for not less than 7 years.

"(4) The office of Judge may be held in conjunction with any other office that, in the opinion of the Governor-General, is not incompatible with judicial office.

"(5) No Judge shall practise as a barrister or solicitor."

(2) Section 3 of the District Courts Amendment Act 1974 is hereby consequentially repealed.

7. Chief District Court Judge—The principal Act is hereby amended by inserting, after section 5 (as substituted by section 6 of this Act), the following section:

“5A. (1) The Governor-General shall from time to time, by warrant under his hand, appoint a Chief District Court Judge.

“(2) Subject to subsection (3) of this section, the Chief District Court Judge shall hold that office so long as he holds office as a Judge.

“(3) With the prior approval of the Governor-General, the Chief District Court Judge may resign that office without resigning his office as a Judge.

“(4) Whenever by reason of illness, absence from New Zealand, or any other cause the Chief District Court Judge is prevented from exercising the duties of his office, the Governor-General may, by writing under his hand, appoint one of the other Judges to act as Chief District Court Judge until the Chief District Court Judge resumes his duties, and during that period to execute the duties of that office and to exercise all powers that may be lawfully exercised by the District Court Judge.”

7A. Salaries and allowances of Judges—Section 6 of the principal Act (as substituted by section 2 of the District Courts Amendment Act 1978) is hereby amended by omitting from subsection (1) the words “every Magistrate”, and substituting the words “the Chief District Court Judge, and to the other Judges,”.

8. Certain functions to be assumed by Chief District Court Judge—(1) Section 9 of the principal Act is hereby amended—

(a) By omitting from subsection (1) the words “Minister of Justice”, and substituting the words “Chief District Court Judge”:

(b) By repealing subsection (2).

(2) Section 10A of the principal Act (as inserted by section 4 of the District Courts Amendment Act 1974) is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) During the term of the Warrant, the person so appointed may act as a District Court Judge during such period or periods only and in such place or places only as the Chief District Court Judge may fix.”

(3) Section 22 (1) of the principal Act is hereby amended by omitting from the proviso the words “Minister of Justice”, and substituting the words “Chief District Court Judge”.

9. Extending general civil jurisdiction of District Courts—

(1) The principal Act is hereby amended—

- (a) By omitting from section 29 (as amended by section 2 (a) of the District Courts Amendment Act 1971) the expression “\$3,000” in both places where it occurs, and substituting in each case the expression “\$12,000”:
- (b) By omitting from paragraph (b) of section 30 (as amended by section 2 (b) of the District Courts Amendment Act 1971) the expression “\$3,000”, and substituting the expression “\$12,000”:
- (c) By omitting from section 33 (as amended by section 2 (c) of the District Courts Amendment Act 1971) the expression “\$3,000” in every place where it occurs, and substituting in each case the expression “\$12,000”:
- (d) By omitting from section 34 (as amended by section 2 (d) of the District Courts Amendment Act 1971) the expression “\$3,000” in every place where it occurs, and substituting in each case the expression “\$12,000”:
- (e) By omitting from section 36 (as amended by section 2 (e) of the District Courts Amendment Act 1971) the expression “\$3,000” in every place where it occurs, and substituting the expression “\$12,000”:
- (f) By omitting from section 111 (as amended by section 2 (f) of the District Courts Amendment Act 1971) the expression “\$3,000”, and substituting the expression “\$12,000”.

(2) Section 2 of the District Courts Amendment Act 1971 is hereby consequentially repealed.

10. Extending jurisdiction in actions for recovery of land—(1) Section 31 (1) of the principal Act (as amended by section 3 of the District Courts Amendment Act 1971) is hereby amended—

- (a) By omitting the expression “\$2,000”, and substituting the expression “\$6,000”:

- (b) By omitting the expression “\$25,000”, and substituting the expression “\$50,000”.
- (2) Section 3 of the District Courts Amendment Act 1971 is hereby consequentially repealed.

11. Transfer to High Court of proceedings within jurisdiction—(1) Section 43 of the principal Act (as amended by section 4 of the District Courts Amendment Act 1971) is hereby amended by omitting from subsection (1), and also from subsection (2), the expression “\$600”, and substituting in each case the expression “\$3,000”.

(2) Section 4 of the District Courts Amendment Act 1971 is hereby consequentially repealed.

12. Transfer of proceedings from High Court to District Court—The principal Act is hereby amended by repealing section 46, and substituting the following section:

“46. If, where proceedings have been commenced in the High Court,—

“(a) An agreement is made under the provisions of section 37 of this Act that a District Court shall have jurisdiction; or

“(b) The subject-matter of the proceedings is within the jurisdiction of District Courts,—
the High Court or a Judge of that Court may, on the application of any party to the proceedings, order that the proceedings be transferred to a District Court.”

13. Amount of wages, etc., for which minor may sue—(1) Section 50 (1) of the principal Act (as amended by section 5 of the District Courts Amendment Act 1971) is hereby amended by omitting the expression “\$3,000”, and substituting the expression “\$12,000”.

(2) Section 5 of the District Courts Amendment Act 1971 is hereby consequentially repealed.

14. Equity and good conscience—(1) Section 59 of the principal Act (as amended by section 6 of the District Courts Amendment Act 1971) is hereby amended by omitting the expression “\$200”, and substituting the expression “\$500”.

(2) Section 6 of the District Courts Amendment Act 1971 is hereby consequentially repealed.

15. Right of appeal—(1) Section 71 of the principal Act (as amended by section 8 (1) of the District Courts Amendment Act 1971) is hereby amended by omitting from paragraph (a), and also from paragraph (b), the expression “\$200”, and substituting in each case the expression “\$500”.

(2) Section 8 (1) of the District Courts Amendment Act 1971 is hereby consequentially repealed.

16. Extending jurisdiction under other Acts—(1) The enactments specified in the first column of the Second Schedule to this Act are hereby amended in the manner indicated in the second column of that Schedule.

(2) The following enactments are hereby consequentially repealed:

(a) The Property Law Amendment Act 1961:

(b) Sections 17 and 18 of the Shipping and Seamen Amendment Act 1968.

17. Prescribed documents to be sealed—Section 116 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Every document of a prescribed class issuing out of a Court shall be sealed with the seal of the Court.”

18. References to Magistrates’ Courts, etc., deemed references to District Courts—(1) Every reference to a Magistrate’s Court in the principal Act or any other enactment specified in the First Schedule to this Act shall be deemed for all purposes to be a reference to a Court, and every such reference to a Magistrate or a Stipendiary Magistrate shall be deemed for all purposes to be a reference to a Judge.

(2) Every reference to a Magistrate’s Court in any enactment (other than one to which subsection (1) of this section applies) passed before the date of the commencement of this section or in any document executed before that date, shall be deemed for all purposes to be a reference to a District Court, and every such reference to a Magistrate or a Stipendiary Magistrate shall be deemed for all purposes to be a reference to a District Court Judge.

19. Transitional provisions—(1) Every city, borough, or other place appointed by the Governor-General pursuant to section 4 of the principal Act before the commencement of

this section as a city, borough, or other place in which Magistrates' Courts may be held for the exercise of civil jurisdiction or criminal jurisdiction shall, if the appointment was subsisting immediately before the commencement of this section, be deemed for all purposes to have been so appointed as cities, boroughs, or other places in which District Courts may be held for the exercise of the same jurisdiction.

(2) Every person who, immediately before the commencement of this section, was holding office as a Magistrate pursuant to section 5 of the principal Act shall be deemed for all purposes to have been appointed to be a District Court Judge, and his commission shall be construed accordingly.

(3) Every person who, immediately before the commencement of this section, was holding office as an acting Magistrate pursuant to section 10 or section 10A of the principal Act shall be deemed for all purposes to have been appointed to be an acting District Court Judge, and his commission shall be construed accordingly.

(4) The person who, immediately before the commencement of this section, was holding office as a Magistrate pursuant to section 11 of the principal Act shall be deemed for all purposes to have been appointed as a District Court Judge to exercise civil and criminal jurisdiction in the Chatham Islands, and his commission shall be construed accordingly.

(5) Every person who, immediately before the commencement of this section, was holding office as a Registrar or Deputy Registrar or an officer of a Magistrate's Court shall be deemed for all purposes to have been appointed to be a Registrar or Deputy Registrar or an officer of a District Court.

(6) Any form that was printed, before the commencement of this section, in the form prescribed by or under, and for the purposes of, the principal Act or the Summary Proceedings Act 1957 or any other enactment may be used for such purposes after the commencement of this section, and it shall not be necessary, merely because of any of the provisions of this Act, to alter any printed material in any such form.

20. Repeal—The District Courts Abolition Act 1925 is hereby repealed.

SCHEDULES

FIRST SCHEDULE

Sections 2 (2), 18 (1)

ENACTMENTS AMENDED BY ALTERING SHORT TITLES

- 1950, No. 25—The Magistrates' Courts Amendment Act 1950.
- 1955, No. 13—The Magistrates' Courts Amendment Act 1955.
- 1960, No. 112—The Magistrates' Courts Amendment Act 1960.
- 1963, No. 100—The Magistrates' Courts Amendment Act 1963.
- 1964, No. 99—The Magistrates' Courts Amendment Act 1964.
- 1966, No. 69—The Magistrates' Courts Amendment Act 1966.
- 1967, No. 42—The Magistrates' Courts Amendment Act 1967.
- 1971, No. 56—The Magistrates' Courts Amendment Act 1971.
- 1974, No. 20—The Magistrates' Courts Amendment Act 1974.
- 1975, No. 87—The Magistrates' Courts Amendment Act 1975.
- 1978, No. 72—The Magistrates' Courts Amendment Act 1978.

SECOND SCHEDULE

Section 16 (1)

ENACTMENTS AMENDED BY EXTENDING JURISDICTION OF DISTRICT COURTS

Act Amended	Amendment
<p>1952, No. 49—The Shipping and Seamen Act 1952 (Reprinted 1965, Vol. 3, p. 1631)</p>	<p>By omitting from subsection (1) (b), and also from subsection (2), of section 358 (as amended by section 17 of the Shipping and Seamen Amendment Act 1968) the words "two thousand dollars", and substituting in each case the expression "\$12,000".</p> <p>By omitting from section 359 (3) (as amended by section 7 (1) of the Decimal Currency Act 1964) the words "two hundred dollars", and substituting the expression "\$500".</p> <p>By omitting from section 366 (as amended by section 18 of the Shipping and Seamen Amendment Act 1968) the words "two thousand dollars", and substituting the expression "\$12,000".</p>

SECOND SCHEDULE—*continued*ENACTMENTS AMENDED BY EXTENDING JURISDICTION OF DISTRICT COURTS—*continued*

Act Amended	Amendment
1952, No. 51—The Property Law Act 1952 (Reprinted 1970, Vol. 3, p. 2287)	By omitting from section 143 (as amended by section 2 of the Property Law Amendment Act 1961 and section 7 of the Decimal Currency Act 1964) the words “four thousand dollars”, and substituting the expression “\$16,000”.
1967, No. 54—The Insolvency Act 1967	By omitting from section 152 (6) (a) (as amended by section 3 of the Property Law Amendment Act 1961) the words “ten thousand dollars”, and substituting the expression “\$40,000”.
1969, No. 41—The Minors’ Contracts Act 1969	By omitting from section 89 (8) the words “two thousand dollars”, and substituting the expression “\$12,000”.
1970, No. 129—The Illegal Contracts Act 1970	By omitting from section 14 (1) (b) the expression “\$2,000”, and substituting the expression “\$12,000”.
1971, No. 147—The Hire Purchase Act 1971	By omitting from section 9 (1) (b) the expression “\$2,000”, and substituting the expression “\$12,000”.
1977, No. 54—The Contractual Mistakes Act 1977	By omitting from section 47 (b) the expression “\$3,000”, and substituting the expression “\$12,000”.
1979, No. 11—The Contractual Remedies Act 1979	By omitting from section 9 (1) (b) the expression “\$3,000”, and substituting the expression “\$12,000”.
	By omitting from section 12 (1) (b) the expression “\$3,000”, and substituting the expression “\$12,000”.

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This Act is administered in the Department of Justice.

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