



## ANALYSIS

Title	
1 Short Title	3. Contempt of Court
2. New sections inserted	4. Discretion to allow certain actions to be tried by Judge alone
56A. Failure of witness to attend	5. Salaries of Judges
56B. Refusal of witness to give evidence	

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1960, No. 109

**An Act to amend the Judicature Act 1908**

[25 October 1960]

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

**1. Short Title**—This Act may be cited as the Judicature Amendment Act 1960, and shall be read together with and deemed part of the Judicature Act 1908\* (hereinafter referred to as the principal Act).

**2. New sections inserted**—The principal Act is hereby amended by inserting, after section 56, the following heading and sections:

*“Witnesses*

**“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 Supreme 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.

\*1957 Reprint, Vol. 6, p. 699

Amendments: 1958, No. 40; 1959, No. 20

Act, 196  
No. 109 s. “(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 fifty pounds.

“56B. Refusal of witness to give evidence—(1) If any witness in any civil proceeding in the Supreme 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 the questions put to him, as the case may be, he be detained in custody for any period not exceeding seven 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.”

3. Contempt of Court—The principal Act is hereby further amended by inserting, after section 56B (as inserted by section 2 of this Act), the following heading and section:

*“Contempt of Court*

“56c. (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 three months, or sentence him to pay a fine not exceeding one hundred pounds 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 three 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.”

**4. Discretion to allow certain actions to be tried by Judge alone**—Section 2 of the Judicature Amendment Act (No. 2) 1955 is hereby amended by adding the following subsection:

“(5) Notwithstanding anything to the contrary in the foregoing provisions of this section, in any case where notice is delivered and served as aforesaid requiring any action to be tried before a jury, if it appears to a Judge before the trial—

“(a) That the trial of the action or any issue therein will involve mainly the consideration of difficult questions of law; or

“(b) That the trial of the action 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 action or issue, as the case may be, be tried before a Judge alone.”

**5. Salaries of Judges**—(1) There shall be paid to the Judges of the Court of Appeal and to the Judges of the Supreme Court out of the Consolidated Fund, without further appropriation than this Act, salaries at the following rates:

(a) To the Chief Justice of New Zealand, at the rate of four thousand five hundred pounds a year:

(b) To the President of the Court of Appeal, at the rate of four thousand two hundred and fifty pounds a year:

- (c) To each of the other Judges of the Court of Appeal or of the Supreme Court, at the rate of four thousand pounds a year.
- (2) Section 7 of the Judicature Amendment Act 1957 is hereby repealed.
- (3) This section shall be deemed to have come into force on the first day of April, nineteen hundred and sixty.
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