

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]

House of Representatives, 3 December 1980.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr McLay

COURTS AMENDMENT

ANALYSIS

- | | |
|---|--|
| <p>Title</p> <p>1. Short Title and commencement</p> <p style="text-align: center;">PART I</p> <p style="text-align: center;">AMENDMENTS OF DISTRICT COURTS
ACT 1947</p> <p>2. Part to be read with District Courts
Act 1947</p> <p>3. Appointment of places for holding
of Courts</p> <p>4. Sittings of Court at other places</p> <p>5. Number of Judges increased</p> <p>6. Chief District Court Judge</p> <p>7. Retired Judges may act</p> <p>8. Jurisdiction of Judge in Chatham
Islands</p> <p>9. Place of sittings</p> <p>10. New Part inserted in principal Act</p> <p style="text-align: center;">PART IIA</p> <p style="text-align: center;">CRIMINAL JURISDICTION IN RESPECT
OF INDICTABLE OFFENCES</p> <p>28A. Extent of jurisdiction</p> <p>28B. Appointment of trial
Judges</p> <p>28C. Trial Judge not to act in
certain cases</p> <p>28D. Constitution of Court</p> <p>28E. Powers of Court</p> <p>28F. Maximum sentences</p> <p>28G. Judge may decline to sen-
tence</p> <p>28H. Appeal against sentence</p> <p>28I. Enforcement of penalties</p> <p>28J. Transfer of proceedings</p> <p>11. Warrant of distress</p> | <p>12. Protection of bailiff selling goods
under execution without notice of
claim by third parties</p> <p>13. Irregularity in execution of warrant
can only be sued for as special
damage</p> <p>14. Irregularity in executing warrants</p> <p>15. Absconding debtors may be held
to bail</p> <p>16. Successful plaintiff entitled to exe-
cution, successful defendant en-
titled to compensation</p> <p>17. Maximum fines increased</p> <p style="text-align: center;">PART II</p> <p style="text-align: center;">AMENDMENTS OF SUMMARY
PROCEEDINGS ACT 1957</p> <p>18. Part to be read with Summary Pro-
ceedings Act 1957</p> <p>19. Title of principal Act amended</p> <p>20. Interpretation</p> <p>21. Summary criminal jurisdiction of
Court</p> <p>22. Maximum fine on summary convic-
tion for indictable offences in-
creased</p> <p>23. Other jurisdictions and powers not
affected</p> <p>24. Issue of summons or warrant for
attendance of witness</p> <p>25. Defendant's right to elect trial by
jury</p> <p>26. Non-payment of fine, etc.</p> <p>27. Defendant may plead guilty before
or during preliminary hearing</p> <p>28. If evidence sufficient defendant may
be committed for trial or sentence</p> <p>29. Court to which defendant to be
committed</p> |
|---|--|

No. 97—2

Price 85c

30. Release on bail of defendant committed for trial or for sentence
31. Stay of proceedings
32. Power to take statement of person dangerously ill
33. Deposition of witness taken after defendant committed for trial
34. Notices to witnesses to attend at Court
35. On committal, depositions to be sent to Court
36. Every party entitled to copy of depositions or summary of facts
37. Witness about to leave New Zealand may be arrested
38. No action against District Court Judge or Justice unless act in excess of jurisdiction or without jurisdiction
39. Plaintiff may be ordered to give security for costs
40. Money to be payable in first instance to Registrar and by him as required by law
41. Maximum fines increased
42. Amendments of First Schedule

PART III

AMENDMENTS OF CRIMES ACT 1961

43. Part to be read with Crimes Act 1961
44. Interpretation
45. Meaning of "convicted on indictment"
46. Arrest of absconder
47. Persons committed for trial may plead guilty before trial
48. Changing venue or sitting
49. Trial in substituted Court
50. Presenting indictment
51. Bench warrant
52. Failure of witness to attend
53. Evidence of former trial
54. Correction of erroneous sentence
55. Stay of proceedings
56. Right of appeal in certain cases
57. Right of appeal against sentence or conviction for contempt of Court
58. Duties of Registrar with respect to notices of appeal, etc.
59. Power to forbid report of proceedings, etc.
60. Granting of bail to appellant, and custody pending appeal
61. Intermediate effects of appeal
62. Contempt of Court
63. Prerogative of mercy
64. Rules of Court
65. Consequential amendments
66. Forms

PART IV

AMENDMENTS OF CRIMINAL JUSTICE ACT 1954

67. Part to be read with Criminal Justice Act 1954
68. Interpretation
69. Sentence for original offence on breach of probation
70. Court to consider report of probation officer before passing sentence of corrective training
71. Preventive detention
72. Released offender to be on probation
73. Person found under disability
74. When plea of not guilty may be substituted for plea of guilty
75. Appeal against acquittal on account of insanity
76. Sentence not invalidated by mistake in age of offender
77. Discretion of Court as to punishment
78. Court may order confiscation of motor vehicles
79. Disposal of confiscated motor vehicles
80. Variation or cancellation of sentence of periodic detention
81. Court empowered to substitute sentence in place of periodic detention
82. Court empowered to substitute sentence in place of community service

PART V

AMENDMENT OF CHILDREN AND YOUNG PERSONS ACT 1974

83. Part to be read with Children and Young Persons Act 1974
84. Appeal by child or young person

PART VI

AMENDMENTS OF JUDICATURE ACT 1908

85. Part to be read with Judicature Act 1908
86. Age of retirement
87. Number of Judges of Administrative Division increased
88. Registrars' seals abolished
89. New sections (relating to verdict and discharge of jury in civil cases) inserted
 - 54A. Verdict of three-fourths
 - 54B. Discharge of jury, etc.
 - 54C. Court may order another trial at same sittings

Schedules

A BILL INTITULED

An Act to make provision for jury trials in certain District Courts, and to amend certain enactments relating to the administration of justice

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

- 5 **1. Short Title and commencement**—(1) This Act may be cited as the Courts Amendment Act 1980.
 (2) This Act shall come into force on the 1st day of May 1981.

PART I

10 Part of this Act shall be read together with and deemed part of the District Courts Act 1947* (in this Part referred to as the principal Act).

AMENDMENTS OF DISTRICT COURTS ACT 1947

2. Part to be read with District Courts Act 1947—This

15 **3. Appointment of places for holding of Courts**—(1) Section 4 (2) of the principal Act is hereby amended by omitting the words “criminal jurisdiction”, and substituting the words “summary criminal jurisdiction under the Summary Proceedings Act 1957”.

20 (2) Section 4 of the principal Act is hereby further amended by inserting, after subsection (2), the following subsection:

25 “(2A) The Governor-General may from time to time appoint cities, boroughs, or other places in which Courts may be held for the exercise of criminal jurisdiction in respect of indictable offences under Part IIA of this Act.”

30 **4. Sittings of Court at other places**—Section 4A of the principal Act (as inserted by section 2 (1) of the District Courts Amendment Act 1974) is hereby amended by inserting in subsection (1), before the words “criminal proceedings”, the word “summary”.

35 **5. Number of Judges increased**—Section 5 of the principal Act (as substituted by section 6 (1) of the District Courts Amendment Act 1979) is hereby amended by omitting from subsection (2) the expression “68”, and substituting the expression “75”.

*1957 Reprint, Vol. 8, p. 647

Amendments: 1960, No. 112; 1963, No. 100; 1964, No. 99; 1966, No. 69; 1967, No. 42; 1971, No. 56; 1974, No. 20; 1975, No. 87; 1977, No. 160; 1978, No. 72; 1979, No. 125

6. Chief District Court Judge—Section 5A of the principal Act (as inserted by section 7 of the District Courts Amendment Act 1979) is hereby amended by inserting in subsection (4), after the words “exercised by the”, the word “Chief”.

7. Retired Judges may act—Section 10A of the principal Act (as inserted by section 4 of the District Courts Amendment Act 1974) is hereby amended by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding section 28B of this Act, any person so appointed may, at the same time or at any subsequent time during the term of his appointment, be appointed to exercise the criminal jurisdiction of the Courts under Part IIA of this Act; and any such appointment shall take effect during any period when, and in any place where, that person is entitled under subsection (4) of this section to act as a Judge.”

8. Jurisdiction of Judge in Chatham Islands—Section 11 (1) of the principal Act is hereby amended by inserting, after the words “criminal and civil jurisdiction”, the words “, other than the jurisdiction conferred by Part IIA of this Act,”.

9. Place of sittings—(1) Section 21 (3) of the principal Act is hereby amended by inserting, before the words “criminal business”, the word “summary”.

(2) Section 21 of the principal Act is hereby further amended by adding the following subsection:

“(4) Sittings for the conduct of trials on indictment may be held in a courthouse in any city, borough, or place appointed for the purpose under section 4 (2A) of this Act.”

10. New Part inserted in principal Act—The principal Act is hereby amended by inserting, before Part III, the following Part:

“PART IIA

“CRIMINAL JURISDICTION IN RESPECT OF INDICTABLE OFFENCES

“28A. **Extent of jurisdiction**—A Court that is sitting at a city, borough, or place appointed under section 4 (2A) of this Act and is presided over by a Judge (in this Part of this Act termed a trial Judge) appointed under section 28B of this Act shall have jurisdiction under this Part of this Act in respect of the following offences:

“(a) The indictable offences referred to in section 6 (2) of the Summary Proceedings Act 1957:

“(b) The indictable offences described in the enactments referred to in the first Schedule to that Act:

5 “(c) Any offence for which the accused elects under section 66 of that Act to be tried by a jury.

“28B. **Appointment of trial Judges**—(1) The Governor-General shall from time to time, by warrant under his hand, appoint sufficient trial Judges to exercise the criminal jurisdiction of the Courts under this Part of this Act.

10 “(2) Except as provided in section 28C of this Act, nothing in this Part of this Act shall limit or affect the power of a trial Judge to exercise any of the other jurisdictions of the Courts or the powers of a Judge.

15 “28C. **Trial Judge not to act in certain cases**—No trial Judge shall conduct the trial of any person under this Part of this Act in respect of any indictable offence if—

20 “(a) He conducted the preliminary hearing and committed the accused for trial in respect of that offence under the Summary Proceedings Act 1957; or

“(b) He has taken any evidence in respect of that offence under section 174 or section 175 or section 178 of that Act.

Struck Out

25 “28D. **Constitution of Court**—Every trial upon indictment under this Part of this Act shall be held before a trial Judge and a jury of 12 persons; and, except as modified by this Act, the Crimes Act 1961 and the Juries Act 1980 shall apply accordingly.

New

30 “28D. **Constitution and procedure of Court**—(1) Every trial upon indictment under this Part of this Act shall be held before a trial Judge and a jury of 12 persons.

35 “(2) The provisions of the Juries Act 1908, so far as they are applicable and with the necessary modifications, shall apply to every such trial.

40 “(3) Where any person is committed to a District Court for trial, the provisions of Parts XII and XIII of the Crimes Act 1961, so far as they are applicable and with the necessary modifications, shall apply until the matter is finally disposed of.”

“28E. **Powers of Court**—(1) Any Court exercising jurisdiction under this Part of this Act may summons witnesses; and sections 20 and 26 to 29 of the Summary Proceedings Act 1957, with any necessary modifications, shall apply.

“(2) Any Court exercising jurisdiction under this Part of this Act may adjourn any trial and grant the accused person bail; and sections 47 to 50, 54, 57, and 58 of the Summary Proceedings Act 1957, with any necessary modifications, shall apply. 5

New

“(3) Any Court exercising jurisdiction under this Part of this Act may grant leave to the defendant to withdraw a plea of guilty at any time before he has been sentenced or otherwise dealt with. 10

Struck Out

“28F. **Maximum sentences**—(1) Where any person is found guilty on indictment in a District Court, the Court may sentence him to imprisonment or a fine or both, not exceeding— 15

“(a) In the case of imprisonment, the maximum term prescribed by law: 20

“(b) In the case of a fine, the maximum amount prescribed by law or, if no maximum is so prescribed, \$10,000.

“(2) Where the accused person—

“(a) Pleads guilty on the presentment of the indictment in a District Court; or 25

“(b) Having been committed to a District Court for trial, pleads guilty under section 321 of the Crimes Act 1961; or

“(c) Pleads guilty under section 153A or section 168 of the Summary Proceedings Act 1957 in respect of an offence to which section 28A of this Act applies and the Court accepts jurisdiction,— 30

any Judge may sentence the person to imprisonment or a fine or both, not exceeding the maximum term or amount prescribed by section 7 of the Summary Proceedings Act 1957. 35

“28G. **Judge may decline to sentence**—Notwithstanding section 28F of this Act, in any case to which that section would otherwise apply, the Judge may decline to sentence the offender under that section and instead commit him to the High Court for sentence; and sections 169 to 171 of the Summary Proceedings Act 1957, with any necessary modifications, shall apply.

“28H. **Appeal against sentence**—The person sentenced, and the prosecutor with the consent of the Solicitor-General given under section 115A (2) of the Summary Proceedings Act 1957, may appeal against any sentence imposed under section 28F (2) of this Act; and Part IV of the Summary Proceedings Act 1957, with any necessary modifications, shall apply.

“28I. **Enforcement of penalties**—Where a Court exercising jurisdiction under this Part of this Act adjudges or orders any sum of money to be paid by a conviction or an order, whether as a fine or for costs or otherwise, the sum may be recovered under Part III of the Summary Proceedings Act 1957; and that Part, with any necessary modifications, shall apply.

“28J. **Transfer of proceedings**—(1) Where any person is committed under section 168A of the Summary Proceedings Act 1957 to a District Court for trial, the accused person or the prosecutor may, either before or after an indictment is presented, apply to a Judge of the High Court for an order directing that the person be tried in the High Court.

“(2) If it appears to the Judge, after giving the accused person and the prosecutor reasonable opportunity to be heard on the matter, that the accused person should be tried in the High Court, he may order that the proceedings be transferred to the High Court for the trial of the accused person at the place specified in the order.

“(3) Notwithstanding subsections (1) and (2) of this section, if a Judge of the High Court is satisfied that an indictment pending in a District Court in any city, borough, or other place is ready for trial and that it may be more expeditiously dealt with at a sitting of the High Court at that city, borough, or place, he may *(of his own motion)*, with the consent of the accused person and the prosecutor, order that the proceedings be transferred to the High Court for the trial of the accused person at the place specified in the order.

“(4) Where an order is made under this section, sections 322 to 326 of the Crimes Act 1961, with any necessary modifications, shall apply as if the District Court were the Court of committal and the High Court were the substituted Court.”

11. Warrant of distress—Section 85 (a) of the principal Act (as substituted by section 4 of the District Courts Amendment Act 1967) is hereby amended— 5

(a) By omitting the words “one hundred dollars”, and substituting the expression “\$300”:

(b) By omitting the words “three hundred dollars”, and substituting the expression “\$1,000”. 10

12. Protection of bailiff selling goods under execution without notice of claim by third parties—Section 90 (3) of the principal Act is hereby amended by omitting the words “provisions of sections eighty and eighty-one of the Bankruptcy Act 1908”, and substituting the words “section 50 of the Insolvency Act 1967”. 15

13. Irregularity in execution of warrant can only be sued for as special damage—Section 100 (2) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression “\$0.50”, and substituting the expression “\$5”. 20

14. Irregularity in executing warrants—Section 106 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression “\$4”, and substituting the expression “\$30”. 25

15. Absconding debtors may be held to bail—Section 109 of the principal Act (as substituted by section 11 (1) of the District Courts Amendment Act 1971) is hereby amended by omitting from subsection (1) the expression “\$500”, and substituting the expression “\$2,000”. 30

16. Successful plaintiff entitled to execution, successful defendant entitled to compensation—(1) Section 110 (b) of the principal Act (as amended by section 11 (2) of the District Courts Amendment Act 1971) is hereby amended by omitting the expression “\$500”, and substituting the expression “\$2,000”. 35

(2) Section 11 (2) of the District Courts Amendment Act 1971 is hereby consequentially repealed.

17. Maximum fines increased—The provisions of the principal Act specified in the first column of the First
 5 Schedule to this Act (as amended by section 7 of the Decimal
 Currency Act 1964) are hereby amended in the manner indicated in the second column of that Schedule.

PART II

AMENDMENTS OF SUMMARY PROCEEDINGS ACT 1957

10 **18. Part to be read with Summary Proceedings Act 1957**—
 This Part of this Act shall be read together with and deemed part of the Summary Proceedings Act 1957* (in this Part referred to as the principal Act).

15 **19. Title of principal Act amended**—The Title of the
 principal Act is hereby amended by inserting, before the words “criminal proceedings”, the word “summary”.

20. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “adjudged”, the following definition:
 20 “‘Committal for trial’ means committal to the High Court or a District Court under section 168A of this Act.”.

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term
 25 “Court”, the following definition:

“‘Court nearest to the committing Court’ or any similar expression, includes, in relation to a District Court, any such Court presided over by a trial Judge sitting at the same place as the
 30 committing Court.”.

(3) Section 2 (1) of the principal Act is hereby further amended by adding the following definition:
 35 “‘Trial Judge’, in relation to a District Court, means a Judge who holds a warrant under section 28B of the District Courts Act 1947 to conduct trials on indictment.”

*Reprinted 1975, Vol. 4, p. 3107
 Amendments: 1976, No. 169; 1978, No. 68; 1979, No. 125

21. Summary criminal jurisdiction of Court—The principal Act is hereby amended by repealing section 4, and substituting the following section:

“4. The summary criminal jurisdiction of a District Court shall be exercised by a District Court Judge or by 1 or more Justices in accordance with this Act.” 5

22. Maximum fine on summary conviction for indictable offences increased—(1) Section 7 of the principal Act (as amended by section 2 (1) of the Summary Proceedings Amendment Act 1969) is hereby amended by omitting the words “not exceeding \$1,000”, and substituting the words “not exceeding \$4,000”. 10

(2) Section 2 (1) of the Summary Proceedings Amendment Act 1969 is hereby consequentially repealed.

23. Other jurisdictions and powers not affected—Section 8 (1) of the principal Act is hereby amended by repealing paragraph (c), and substituting the following paragraph: 15

“(c) The jurisdiction and powers of the High Court or a District Court in relation to any indictable offence or in relation to any offence in respect of which the accused elects to be tried by a jury or in relation to an offence that a District Court declines to deal with summarily under Part II of this Act:” 20

24. Issue of summons or warrant for attendance of witness—Section 20 (3) of the principal Act is hereby amended by omitting the expression “10 miles”, and substituting the expression “15 kilometres”. 25

25. Defendant’s right to elect trial by jury—(1) Section 66 (2) of the principal Act (as substituted by section 10 of the Summary Proceedings Amendment Act 1973 and amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “in the High Court”. 30

(2) Section 66 (6) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “to the High Court”. 35

26. Non-payment of fine, etc.—Section 89 of the principal Act (as substituted by section 12 of the Summary Proceedings Amendment Act 1973) is hereby amended by omitting from subsection (6) the expression “10 miles”, and substituting the expression “15 kilometres”. 40

27. **Defendant may plead guilty before or during preliminary hearing**—Section 153A of the principal Act (as inserted by section 15 (1) of the Summary Proceedings Amendment Act 1976) is hereby amended by repealing sub-
 5 section (6), and substituting the following subsections:

“(6) If the defendant pleads guilty, then, subject to section 66 (6) of this Act and section 39D of the Criminal Justice Act 1954, the Court shall—

10 “(a) Where the offence is an indictable one triable summarily or where the defendant elected under section 66 of this Act to be tried by a jury, record the plea and adjourn the proceedings for the sentencing of the defendant in accordance with section 28F of the District Courts Act 1947, and
 15 section 47 of *(that)* this Act shall apply on every such adjournment; or

“(b) In any other case, commit the defendant to the High Court for sentence.

20 “(6A) Where the proceedings are adjourned under sub-section (6) (a) of this section, then, notwithstanding section 319 of the Crimes Act 1961, but subject to section 318 of that Act and section 47 of the Criminal Justice Act 1954, the defendant shall be granted bail only if the Court so directs; and, where he is granted bail, the provisions of Part II of
 25 this Act relating to bail shall apply.”

28. **If evidence sufficient defendant may be committed for trial or sentence**—(1) Section 168 (1) (a) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the
 30 words “If you now plead guilty, you will be committed to the High Court for sentence”.

(2) Section 168 (1) of the principal Act is hereby further amended by inserting, after paragraph (a), the following paragraph:

35 “(aa) Except where the Court is presided over by a trial Judge who would himself impose sentence, the Court shall also tell the accused which Court he will be committed to for sentence if he pleads guilty.”

40 (3) Section 168 (1) of the principal Act is hereby further amended by repealing paragraph (b), and substituting the following paragraph:

“(b) If the defendant pleads guilty, then, subject to subsections (6) and (6A) of section 66 of this Act, the Court shall—

“(i) Where the offence is an indictable one triable summarily or where the defendant elected under section 66 of this Act to be tried by a jury, record the plea and adjourn the proceedings for the sentencing of the defendant in accordance with section 28F of the District Courts Act 1947, and section 47 of (that) this Act shall apply on every such adjournment; or

“(ii) In any other case, commit the defendant to the High Court for sentence.”

(4) Section 168 (1) (c) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “to the High Court”.

(5) Section 168 of the principal Act is hereby further amended by inserting, after subsection (1), the following subsection:

“(1A) Where the proceedings are adjourned under subsection (1) (a) of this section, then, notwithstanding section 319 of the Crimes Act 1961, but subject to section 318 of that Act and section 47 of the Criminal Justice Act 1954, the defendant shall be granted bail only if the Court so directs; and, where he is granted bail, the provisions of Part II of this Act relating to bail shall apply accordingly.”

29. Court to which defendant to be committed—The principal Act is hereby amended by renumbering section 168A (as inserted by section 12 (1) of the Crimes Amendment Act 1973) and section 168B (as inserted by section 2 of the Summary Proceedings Amendment Act 1979) as sections 168B and 168C respectively, and by inserting, before those sections, the following section:

“168A. The Court to which a defendant shall be committed for trial under section 168 or section 172 of this Act shall be—

“(a) In respect of any offence that a District Court has jurisdiction to try by virtue of section 28A of the District Courts Act 1947, the District Court exercising that jurisdiction nearest to the committing Court; or

“(b) In respect of any other offence, the High Court at the place where sittings of that Court are held nearest to the committing Court.”

30. Release on bail of defendant committed for trial or
5 **for sentence**—(1) Section 171 (1) of the principal Act (as amended by section 6 (1) of the Summary Proceedings Act 1964 and section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “High Court, at the place specified in the bond, on such date during
10 the sittings of the High”, and substituting the words “Court specified in the bond, at the place so specified, on such date during the sittings of that”.

(2) Section 171 (1A) of the principal Act (as inserted by section 3 (2) of the Summary Proceedings Amendment
15 Act 1964) is hereby amended by adding the words “or District Court, as the case may be”.

31. Stay of proceedings—Section 173 of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “to the
20 High Court”.

32. Power to take statement of person dangerously ill—Section 175 (3) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the word “High”.

25 **33. Deposition of witness taken after defendant committed for trial**—Section 178 (4) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the word “High”.

34. Notices to witnesses to attend at Court—(1) Section
30 181 (1) of the principal Act (as substituted by section 23 (1) of the Summary Proceedings Amendment Act 1973) is hereby amended by inserting, after the word “Court”, the words “or District Court, as the case may be,”.

(2) Section 181 (2) of the principal Act is hereby
35 amended by adding the words “or District Court, as the case may be”.

(3) Section 181 (4) of the principal Act is hereby amended by inserting, after the word “Court”, the words “or District Court, as the case may be,”.

35. On committal, depositions to be sent to Court—
 (1) Section 182 of the principal Act (as substituted by section 20 (1) of the Summary Proceedings Amendment Act 1976) is hereby amended by omitting from subsection (1) (as amended by section 12 of the Judicature Amendment Act 1979) the word “High” in both places where it occurs. 5

(2) Section 182 of the principal Act (as so substituted) is hereby further amended by inserting in subsection (2), after the words “this Act,” the words “or pursuant to section 28G of the District Courts Act 1947 following a plea 10 of guilty under the said section 153A,”.

36. Every party entitled to copy of depositions or summary of facts—Section 183 of the principal Act (as substituted by section 20 (1) of the Summary Proceedings Amendment Act 1976) is hereby amended by repealing subsection (1), 15 and substituting the following subsection:

“(1) Every party to the preliminary hearing shall be entitled to a copy of any depositions to which section 182 (1) of this Act applies, without fee.”

37. Witness about to leave New Zealand may be arrested— 20
 Section 185 of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by inserting, after the words “High Court”, the words “or District Court, as the case may be”.

38. No action against District Court Judge or Justice unless act in excess of jurisdiction or without jurisdiction— 25
 Section 193 (2) of the principal Act is hereby amended by omitting the words “or a warrant issued under section 87 of this Act”.

39. Plaintiff may be ordered to give security for costs— 30
 Section 196 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression “\$100”, and substituting the expression “\$500”.

40. Money to be payable in first instance to Registrar and by him as required by law— 35
 Section 208 (3) of the principal Act is hereby amended by omitting the words “or section 105”.

41. Maximum fines increased—The provisions of the principal Act specified in the Second Schedule to this Act (as amended by section 7 of the Decimal Currency Act 1964) are hereby amended in the manner indicated in the 5 second column of that Schedule.

42. Amendments of First Schedule—(1) Part I of the First Schedule to the principal Act is hereby amended—

(a) By omitting the item relating to section 132 of the Crimes Act 1961, and substituting the following
10 item:

“132. (2)—Attempted sexual intercourse with girl under twelve”:

(b) By omitting from the first column the expression “208,”:

15 (c) By omitting the item relating to section 236 of the Crimes Act 1961:

(d) By omitting from the first column the expression “238”, and substituting the expression “238 (3)”:

20 (e) By omitting the item relating to section 294 of the Crimes Act 1961:

(f) By omitting from the first column the expression “298” and substituting the expression “298 (2), (3), (4)”:

25 (g) By omitting the item relating to sections 301 and 302 of the Crimes Act 1961, and substituting the following item:

“302.—Attempting to wreck”.

(2) Part II of the First Schedule to the principal Act (as amended by section 28 (3) of the Misuse of Drugs Act 1975) is hereby amended by omitting the item relating to that Act, and substituting the following item:

<p>30 “The Misuse of 35 Drugs Act 1975</p>	<p>6. Dealing with controlled drugs, but only where the charge relates to a Class C controlled drug.</p> <p>9. Cultivation of prohibited plants.</p> <p>10. Aiding offences against corresponding law of another country, but only in a case to which subsection (2) (b) applies.</p> <p>40 11. Theft, etc., of controlled drugs.</p> <p>12. Use of premises or vehicle.”</p>
--	---

PART III

AMENDMENTS OF CRIMES ACT 1961

43. Part to be read with Crimes Act 1961—This Part of this Act shall be read together with and deemed part of the Crimes Act 1961* (in this Part referred to as the principal Act). 5

44. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term “Is liable”, the following definition:

“‘Judge’, in relation to a District Court, or ‘District Court Judge’ means a Judge who holds a warrant under section 28B of the District Courts Act 1947 to conduct trials on indictment; and in section 399 of this Act includes any other District Court Judge.”. 10 15

(2) Section 2 (1) of the principal Act is hereby further amended by omitting the definition of the term “Registrar”, and substituting the following definition:

“‘Registrar’ means any Registrar of the High Court or of a District Court, as the case may require; and includes any Deputy Registrar.”. 20

45. Meaning of “convicted on indictment”—(1) Section 3 (a) of the principal Act is hereby amended by inserting, after the word “indictment”, the words “in the High Court”. 25

(2) Section 3 (b) of the principal Act is hereby amended by inserting, after the word “indictment”, the words “in the High Court or in a District Court”.

46. Arrest of absconder—Section 320 of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended— 30

(a) By omitting the words “High Court, any Judge”, and substituting the words “High Court or a District Court, a Judge or District Court Judge (as the case may require)”: 35

(b) By inserting, after the words “a Judge”, the words “or a District Court Judge (as the case may require)”.

47. Persons committed for trial may plead guilty before trial—(1) Section 321 (1) of the principal Act (as amended by section 18 (2) of the District Courts Amendment Act 1979 and by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “by a District Court to the High Court”.

(2) Section 321 (2) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the word “High”.

48. Changing venue or sitting—(1) Section 322 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) Where any person is committed for any crime to appear at any sitting of the High Court or of a District Court (hereinafter referred to as the Court of committal), and it appears to a Judge or a District Court Judge (as the case may require) that it is expedient for the ends of justice that the person should be tried for that crime—

“(a) Where the High Court is the Court of committal, at some place or at some sitting other than the place or sitting for trial to which he was committed, or at which he would in the ordinary course of law be tried; or

“(b) Where a District Court is the Court of committal, at some District Court or at some sitting of the Court of committal other than the Court or sitting to which he was committed, or at which he would in the ordinary course of law be tried,—

the Judge, either of his own motion, or on application made by or on behalf of the prosecutor or the person charged, may by order, either before or after an indictment is presented, direct that the person shall be tried at such place and sitting of the Court, or (as the case may require) by such Court and at such sitting of that Court, (hereinafter referred to as the substituted Court), as he thinks fit.”

(2) Section 322 of the principal Act is hereby further amended by adding the following subsection:

“(8) Where any person is committed to the High Court for trial (otherwise than pursuant to an order for the transfer of the proceedings made under section 28J of the District Courts Act 1947), and before he is given in charge to the jury a Judge of that Court is satisfied that every charge that

is contained or that might lawfully be contained in the indictment discloses an offence within the jurisdiction of a District Court presided over by a Judge, he may make an order under this section directing that the person be tried at such sitting of a District Court (hereinafter referred to as the substituted Court) as he thinks fit; and the provisions of this section and of sections 323 to 327 of this Act shall apply accordingly.” 5

(3) Section 322 (8) of the principal Act (as added by subsection (2) of this section) shall not apply where the accused person was committed for trial before the 1st day of May 1981. 10

49. Trial in substituted Court—Section 326 (2) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “of the High Court”. 15

50. Presenting indictment—Section 345 (1) of the principal Act (as substituted by section 3 of the Crimes Amendment Act 1963 and amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by inserting, after the words “the High Court”, the words “or in a District Court (as the case may require)”. 20

51. Bench warrant—Section 350 (2) of the principal Act is hereby amended by omitting the words “in session”, and substituting the word “sitting”. 25

52. Failure of witness to attend—Section 351 (2) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression “\$100”, and substituting the expression “\$500”.

53. Evidence of former trial—(1) Section 360 (1) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “in the High Court”, and substituting the words “on indictment in the High Court or in a District Court”. 30

(2) Section 360 (2) of the principal Act is hereby amended by inserting, after the word “conviction”, the words “following a summary hearing”. 35

54. Correction of erroneous sentence—Section 372 (4) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “by the High Court”, and substituting the words
5 “under section 380 of this Act”.

New

54A. Discharge of jury—(1) The principal Act is hereby amended by repealing section 374, and substituting the following section:

10 “374. (1) Subject to the provisions of this section, the Court may in its discretion, in the case of any emergency or casualty rendering it, in the opinion of the Court, highly expedient for the ends of justice to do so, discharge the jury without their giving a verdict.

15 “(2) Without limiting subsection (1) of this section, where a jury has remained in deliberation for such period as the Judge thinks reasonable, being not less than 4 hours, and does not agree on the verdict to be given, the Judge may discharge the jury without their giving a verdict.

20 “(3) If, at any time before the verdict of the jury is taken, any juror becomes in the opinion of the Court incapable of continuing to perform his or her duty, or it becomes known to the Court that the juror is disqualified or that the juror’s spouse or a member of the juror’s family or a member of the
25 family of the juror’s spouse is ill or has died, the Court may in its discretion—

“*(a)* Discharge the jury without their giving a verdict; or

“*(b)* Proceed with the remaining jurors and take their verdict.

30 “(4) Notwithstanding subsection (3) (b) of this section, the Court shall not proceed with less than 11 jurors unless the prosecutor and the accused consent.

35 “(5) Where under subsection (3) (b) of this section the Court proceeds with less than 12 jurors, their verdict shall have the same effect as the verdict of the whole number.

“*(6)* Where the Court discharges a jury under this section, it shall either direct that a new jury be empanelled during the sitting of the Court, or postpone the trial on such terms as justice requires.

40 “*(7)* If the presiding Judge becomes incapable of trying the case or directing that the jury be discharged, the Registrar shall discharge the jury.”

New

“(8) No Court may review the exercise of any discretion under this section.”

(2) The following enactments are hereby repealed:

(a) Sections 152 to 154 of the Juries Act 1908:

(b) Section 3 of the Crimes Amendment Act (No. 2) 1979.

5

55. Stay of proceedings—Section 378 of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting the words “to the High Court”.

10

56. Right of appeal in certain cases—Section 379A of the principal Act (as inserted by section 8 (1) of the Crimes Amendment Act 1966 and amended by section 12 of the Judicature Amendment Act 1979) is hereby amended—

(a) By omitting from subsection (1) (a) the words “the refusal of a Judge of the High Court”, and substituting the words “a refusal”:

15

(b) By omitting from subsection (1) (b), and also from subsection (1) (c), the words “the refusal of the High Court”, and substituting in each case the words “a refusal”:

20

(c) By omitting from subsection (1) (d) the words “the refusal of the High Court or a Judge thereof”, and substituting the words “a refusal”:

(d) By omitting from subsection (2) (b) the words “the refusal of the High Court”, and substituting the words “a refusal”:

25

(e) By omitting from subsection (3), and also from subsection (4), the words “High Court or the Judge thereof”, and substituting in each case the words “Court or Judge”.

30

57. Right of appeal against sentence or conviction for contempt of Court—Section 384 of the principal Act is hereby amended by adding the following subsection:

“(3) Where any person is found guilty in a District Court of a criminal contempt of that Court, being a contempt committed in the face of the Court during any proceedings on indictment, and the District Court imposes any sentence in respect of that contempt, that person may appeal to the Court of Appeal against the sentence as if he had been

35

40

convicted on indictment, and the provisions of this Part of this Act shall apply accordingly as if the finding were a conviction:

5 "Provided that no appeal shall lie against any order of the Court, or of any District Court Judge, that any person shall be detained in custody until the rising of the Court."

58. Duties of Registrar with respect to notices of appeal, etc.—Section 392 (3) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby
10 amended by omitting the word "High".

59. Power to forbid report of proceedings, etc.—Section 396 of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by
15 omitting the words "High Court", and substituting the words "Court below".

60. Granting of bail to appellant, and custody pending appeal—Section 397 of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby
20 amended by omitting from subsection (2), and also from subsection (3), the words "High Court", and substituting in each case the words "Court below".

61. Intermediate effects of appeal—Section 399 (6) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by inserting,
25 after the words "Judge of the High Court", the words "or a District Court Judge (as the case may require)".

62. Contempt of Court—Section 401 (2) of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended by omitting the expression
30 "\$200", and substituting the expression "\$1,000".

63. Prerogative of mercy—Section 406 (a) of the principal Act (as amended by section 18 (2) of the District Courts Amendment Act 1979) is hereby amended by inserting, after
35 the words "District Court", the words "acting in its summary jurisdiction or under section 28F (2) of the District Courts Act 1947".

64. Rules of Court—(1) Section 409 (1) of the principal Act is hereby amended by inserting, after the words “this Act”, the words “in the High Court and in District Courts”.

(2) Section 409 (2) of the principal Act is hereby amended—

(a) By omitting the words “in New Zealand”, and substituting the words “of the High Court”:

(b) By adding the words “, and shall be followed by all District Courts in proceedings on indictment”.

65. Consequential amendments—Section 411 (3) of the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by inserting, after the words “High Court”, the words “or in a District Court (as the case may require)”.

66. Forms—(1) Form 3 in the Second Schedule to the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended—

(a) By omitting from the heading the word “High”:

(b) By inserting in the body of the form, after the words “the High Court” where they first occur, the words “[or to a District Court at]”:

(c) By omitting from the body of the form the words “the High Court” where they secondly occur, and substituting the words “that Court”.

(2) Form 4 in the Second Schedule to the principal Act (as amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by inserting, after the words “High Court”, the words “[or District Court]”.

(3) Form 5 in the Second Schedule to the principal Act is hereby amended by omitting the words “of the District of” in both places where they occur, and substituting in each case the word “at”.

PART IV

AMENDMENTS OF CRIMINAL JUSTICE ACT 1954

67. Part to be read with Criminal Justice Act 1954—This Part of this Act shall be read together with and deemed part of the Criminal Justice Act 1954* (in this Part referred to as the principal Act).

*R.S. Vol. 1, p. 835

68. Interpretation—Section 2 (1) of the principal Act is hereby amended by adding the following definition:

5 “‘Trial Judge’, in relation to a District Court, means a Judge who holds a warrant under section 28B of the District Courts Act 1947 to conduct trials on indictment.”

69. Sentence for original offence on breach of probation—

(1) Section 11 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

10 “(3) Every application under this section shall be made—
“(a) To the High Court, if the offender was released on probation—

15 “(i) By the Court of Appeal on appeal from the High Court; or

“‘(ii) By the High Court otherwise than on appeal from a District Court; or

20 “‘(iii) By the High Court on appeal from the District Court and the High Court, on so releasing the offender, directed that any application under this section should be made to that Court; or

“(b) To a District Court presided over by a trial Judge, if the offender was released on probation—

25 “(i) By the Court of Appeal on appeal from such a District Court; or

“‘(ii) By a District Court Judge (*upon conviction*) following a finding of guilty on indictment; or

“(c) To a District Court presided over by any Judge, in any other case,—

30 and where the application is dealt with by a Judge other than the one who released the offender on probation, the Judge shall, before sentencing the offender, make such inquiries as to the circumstances of the case as he considers reasonable, and may if he thinks fit hear such evidence as is relevant to
35 the case.”

(2) Section 2 (1) of the Criminal Justice Amendment Act 1961 is hereby consequentially repealed.

70. Court to consider report of probation officer before passing sentence of corrective training—Section 14D of the
40 principal Act (as inserted by section 4 of the Criminal Justice Amendment Act 1975) is hereby amended by repealing subsections (3) and (4), and substituting the following subsections:

“(3) Every application under subsection (2) of this section shall be made—

“(a) To the High Court, if the sentence was passed by that Court; or

“(b) To a District Court presided over by a trial Judge, if the sentence was passed by a District Court *(upon conviction)* following a finding of guilty on indictment; or

“(c) To a District Court presided over by any Judge, if the sentence was passed by a District Court upon summary conviction.

“(4) If any such application is filed in a Court registry at a distance from the corrective training institution where the offender is detained, a Judge of that Court may order that the application be dealt with by a Judge at a place nearer to the institution.”

71. Preventive detention—Section 24 (3) of the principal Act (as substituted by section 5 (1) of the Criminal Justice Amendment Act 1967) is hereby amended by inserting, after the words “Summary Proceedings Act 1957”, the words “or (as the case may require) section 28G of the District Courts Act 1947”.

72. Released offender to be on probation—Section 35 (3B) of the principal Act (as inserted by section 8 (1) of the Criminal Justice Amendment Act 1967 and amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by inserting, after the words “High Court,”, the words “or a District Court acting under section 28F (1) of the District Courts Act 1947,”.

73. Person found under disability—Section 39c of the principal Act (as inserted by section 2 of the Criminal Justice Amendment Act 1969) is hereby amended by inserting in subsection (1) (as inserted by section 19 of the Criminal Justice Amendment Act 1980), after the words “High Court”, the words “or a District Court Judge”.

74. When plea of not guilty may be substituted for plea of guilty—(1) Section 39D of the principal Act (as inserted by section 2 of the Criminal Justice Amendment Act 1969 and amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting from subsection (1) the words “to the High Court” where they secondly occur.

(2) Section 39D of the principal Act (as so inserted) is hereby further amended by inserting, after subsection (2), the following subsection:

- 5 “(2A) If—
 “(a) Before or during the preliminary hearing before a District Court of any information, the defendant pleads guilty under section 153A of the Summary Proceedings Act 1957; or
 10 “(b) At the close of such a hearing before such a Court, the defendant pleads guilty under section 168 of that Act,—
 and the Court to which he is remanded for sentence has reason to believe that he may have been insane at the time of the commission of the alleged offence, the Court may direct
 15 that a plea of not guilty be recorded instead of a plea of guilty, and commit him for trial as if no plea of guilty had been made.”

75. Appeal against acquittal on account of insanity—

20 Section 39F of the principal Act (as inserted by section 2 of the Criminal Justice Amendment Act 1969 and amended by section 12 of the Judicature Amendment Act 1979) is hereby amended by omitting from the proviso to subsection (6) the words “in the High Court”.

76. Sentence not invalidated by mistake in age of offender—

25 Section 43 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection.

- “ (3) Every application under subsection (2) of this section shall be made—
 30 “(a) To the High Court, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from the High Court; or
 “(ii) By the High Court otherwise than on appeal from a District Court; or
 35 “(b) To a District Court presided over by a trial Judge, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from such a District Court; or
 “(ii) By a District Court Judge (*upon conviction*) following a finding of guilty on indictment; or
 40 “(c) To a District Court presided over by any Judge, in any other case.”

77. Discretion of Court as to punishment—(1) Section 44 (2) of the principal Act is hereby amended by repealing paragraph (b) of the proviso, and substituting the following paragraph:

“(b) Where no maximum fine is prescribed by the enactment, no person shall, except as provided by section 28F of the District Courts Act 1947, be sentenced by a District Court to pay a fine exceeding \$4,000 if the Court is presided over by a Judge, or \$400 if the Court is presided over by a Justice.”

(2) Section 44 (3) of the principal Act is hereby amended by repealing the proviso, and substituting the following proviso:

“Provided that, where the conviction is by a District Court, the fine shall not, except as provided by section 28F of the District Courts Act 1947, exceed \$4,000 if the Court is presided over by a Judge, or \$400 if it is presided over by any Justice.”

(3) Section 2 (2) of the Summary Proceedings Amendment Act 1969 is hereby repealed.

78. Court may order confiscation of motor vehicles—Section 44B of the principal Act (as inserted by section 3 (1) of the Criminal Justice Amendment Act (No. 2) 1976) is hereby amended—

- (a) By inserting in subsection (5), before the words “a bailiff”, the words “the Sheriff or”:
- (b) By inserting in subsection (6), after the word “authorising”, the words “the Sheriff or”:
- (c) By inserting in subsection (7), before the word “bailiff” in both places where it occurs, the words “Sheriff or”:
- (d) By inserting in subsection (8), after the words “or where”, the words “the Sheriff or”:
- (e) By inserting in subsection (10), before the words “any bailiff”, the words “the Sheriff or”:
- (f) By inserting in subsection (11), after the words “seized by”, the words “the Sheriff or”:
- (g) By inserting in that subsection, after the words “custody of that”, the words “Sheriff or”.

79. Disposal of confiscated motor vehicles—Section 44E of the principal Act (as inserted by section 3 (1) of the Criminal Justice Amendment Act (No. 2) 1976) is hereby amended by inserting in subsection (4), after the words “the provisions of”, the words “rule 487 of the Code of Civil Procedure or (as the case may require)”.

80. Variation or cancellation of sentence of periodic detention—Section 19 of the Criminal Justice Amendment Act 1962 is hereby amended by repealing subsection (2), and substituting the following subsection:

- 5 “(2) Every application under this section shall be made—
 “(a) To the High Court, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from the High Court; or
 “(ii) By the High Court otherwise than on
 10 appeal from a District Court; or
 “(b) To a District Court presided over by a trial Judge, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from such a District Court; or
 15 “(ii) By a District Court Judge (*upon conviction*) following a finding of guilty on indictment; or
 “(c) To a District Court presided over by any Judge, in any other case.”

81. Court empowered to substitute sentence in place of periodic detention—Section 22B of the Criminal Justice Amendment Act 1962 (as substituted by section 7 of the Criminal Justice Amendment Act 1970) is hereby amended by repealing paragraphs (a) and (b) of subsection (1), and substituting the following paragraphs:

- 25 “(a) The High Court, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from the High Court; or
 “(ii) By the High Court otherwise than on appeal from a District Court; or
 30 “(b) A District Court presided over by a trial Judge, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from such a District Court; or
 “(ii) By a District Court Judge (*upon conviction*) following a finding of guilty on indictment; or
 35 “(c) A District Court presided over by any Judge, in any other case.”

82. Court empowered to substitute sentence in place of community service—The Criminal Justice Amendment Act 1980 is hereby amended by repealing section 14, and substituting the following section:

“**14A. Jurisdiction of Court**—Every application under section 10 or section 13 of this Act shall be made—

- “(a) To the High Court, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from the High Court; or
 “(ii) By the High Court otherwise than on appeal from a District Court; or 5
- “(b) To a District Court presided over by a trial Judge, if the sentence was passed—
 “(i) By the Court of Appeal on appeal from such a District Court; or
 “(ii) By a District Court Judge (*upon conviction*) following a finding of guilty on indictment; or 10
- “(c) A District Court presided over by any Judge, in any other case.”

PART V

AMENDMENT OF CHILDREN AND YOUNG PERSONS ACT 1974 15

83. Part to be read with Children and Young Persons Act 1974—This Part of this Act shall be read together with and deemed part of the Children and Young Persons Act 1974* (in this Part referred to as the principal Act).

84. Appeal by child or young person—Section 53 (1) of the principal Act (as amended by section 18 (2) of the District Courts Amendment Act 1979) is hereby amended by inserting, after the words “District Court”, the words “in its summary jurisdiction”.

*1974, No. 72
 Amendment: 1977, No. 126

PART VI

25

AMENDMENTS OF JUDICATURE ACT 1908

85. Part to be read with Judicature Act 1908—This Part of this Act shall be read together with and deemed part of the Judicature Act 1908* (in this Part of this Act referred to as the principal Act). 30

86. Age of retirement—(1) Section 13 (1) of the principal Act is hereby amended by omitting the expression “seventy-two”, and substituting the expression “68”.

*1957 Reprint, Vol. 6, p. 699
 Amendments: 1958, No. 40; 1960, No. 109; 1961, No. 11; 1963, No. 133; 1965, No. 62; 1966, No. 67; 1968, No. 18; 1968, No. 59; 1969, No. 86; 1970, No. 72; 1972, No. 130; 1973, No. 8; 1973, No. 69; 1974, No. 57; 1976, No. 134; 1977, No. 32; 1978, No. 55; 1979, No. 124

(2) Section 14 of the principal Act (as inserted by section 3 of the Judicature Amendment Act 1963) is hereby amended by omitting the expression "seventy-two" in both places where it occurs, and substituting in each case the expression
5 "68".

(3) Notwithstanding subsection (1) or subsection (2) of this section, any Judge who is in office at the commencement of this section may, at his option, continue in office until he attains the age of 72.

10 **87. Number of Judges of Administrative Division increased**—Section 25 (2) of the principal Act (as substituted by section 2 of the Judicature Amendment Act 1968) is hereby amended by omitting the word "four", and substituting the expression "6".

15 **88. Registrars' seals abolished**—Section 50 (2) of the principal Act is hereby repealed.

89. New sections (relating to verdict and discharge of jury in civil cases) inserted—The principal Act is hereby amended by inserting, after section 54, the following sections:

20 "54A. **Verdict of three-fourths**—If three-fourths at least of any jury trying any civil case shall, after the jury has retired to consider its verdict for a period of at least (3) 4 hours, intimate to the Judge presiding that the jury has considered its verdict, and that there is no probability of such jury being
25 unanimous, the verdict of three-fourths shall have the same effect as the verdict of the whole number.

Cf. 1908, No. 90, s. 152

Struck Out

30 "54B. **Discharge of jury, etc.**—(1) Subject to the provisions of this section, in any civil case the Court may in its discretion, in the case of any emergency or casualty rendering it, in the opinion of the Court, highly expedient for the ends of justice to do so, discharge the jury without their giving a
35 verdict, and direct that a new jury be empanelled during the sitting of the Court, or postpone the trial on such terms as justice requires.

"(2) If the presiding Judge becomes incapable of trying the case or directing that the jury be discharged, the Registrar shall discharge the jury.

40 "(3) If, at any time before the verdict of the jury is taken in any civil case, any juror becomes in the opinion of the Court incapable of continuing to perform his or her duty,

Struck Out

or it becomes known to the Court that the juror is disqualified or that the juror's spouse or a member of the juror's family or a member of the family of the juror's spouse is ill or has died, the Court may, in its discretion, discharge the jury and direct that a new jury be empanelled during the sitting of the Court, or postpone the trial, or proceed with the remaining jurors and take their verdict: 5

"Provided that the Court shall not proceed with less than 11 jurors unless each party consents.

"(4) It shall not be lawful for any Court to review the exercise of any discretion under this section. 10

"(5) Where pursuant to this section the Court proceeds with less than 12 jurors, their verdict shall have the same effect as the verdict of the whole number.

Cf. 1908, No. 90, s. 153; 1961, No. 43, s. 374; 1979, No. 127, s. 3 15

"54c. **Court may order another trial at same sittings**—If, at the time of discharging any jury under section 54B of this Act, the Court thinks fit so to order, another trial may forthwith, or at some other time during the same or some future sittings, be commenced and proceeded with as if such first-mentioned trial had not been commenced." 20

Cf. 1908, No. 90, s. 154

New

"54B. (1) Subject to the provisions of this section, the Court may in its discretion, in the case of any emergency or casualty rendering it, in the opinion of the Court, highly expedient for the ends of justice to do so, discharge the jury without their giving a verdict. 25

"(2) Without limiting subsection (1) of this section, where a jury has remained in deliberation for such period as the Judge thinks reasonable, being not less than 4 hours and does not agree on the verdict to be given, the Judge may discharge the jury without their giving a verdict. 30

"(3) If, at any time before the verdict of the jury is taken, any juror becomes in the opinion of the Court incapable of continuing to perform his or her duty, or it becomes known to the Court that the juror is disqualified or that the juror's spouse or a member of the juror's family or a member of the family of the juror's spouse is ill or has died, the Court may in its discretion— 35 40

New

- “ (a) Discharge the jury without their giving a verdict; or
 “ (b) Proceed with the remaining jurors and take their verdict; or
 5 “ (4) Notwithstanding subsection (3) (b) of this section, the Court shall not proceed with less than 11 jurors unless all the parties consent.
 “ (5) Where under subsection (3) (b) of this section the
 10 Court proceeds with less than 12 jurors, their verdict shall have the same effect as the verdict of the whole number.
 “ (6) Where the Court discharges a jury under this section, it shall either direct that a new jury be empanelled during the sitting of the Court, or postpone the trial on such terms as justice requires.
 15 “ (7) If the presiding Judge becomes incapable of trying the case or directing that the jury be discharged, the Registrar shall discharge the jury.
 “ (8) No Court may review the exercise of any discretion under this section.”

SCHEDULES

FIRST SCHEDULE

Section 17

MAXIMUM FINES INCREASED

Enactment	Amendment
Section 18	By omitting the expression “\$40”, and substituting the expression “\$300”.
Section 19 (3)	By omitting the expression “\$40”, and substituting the expression “\$300”.
Section 20 (2)	By omitting the expression “\$20”, and substituting the expression “\$150”.
Section 54 (1)	By omitting the expression “\$40”, and substituting the expression “\$300”.
Section 87	By omitting the expression “\$40”, and substituting the expression “\$300”.
Section 112	By omitting the expression “\$20”, and substituting the expression “\$150”.
Section 116A (as inserted by section 2 of the District Courts Amendment Act 1955)	By omitting the expression “\$400”, and substituting the expression “\$2,000”.
Section 121 (1)	By omitting the expression “\$10”, and substituting the expression “\$75”.

SECOND SCHEDULE

Section 41

MAXIMUM FINES INCREASED

Enactment	Amendment
Section 7 (as amended by section 2 (1) of the Summary Proceedings Amendment Act 1969)	By omitting the expression "\$1,000", and substituting the expression "\$4,000".
Section 20 (5)	By omitting the expression "\$40", and substituting the expression "\$300".
Section 29 (2)	By omitting the expression "\$400", and substituting the expression "\$2,000".
Section 89 (as substituted by section 12 of the Summary Proceedings Amendment Act 1973)	By omitting from subsection (12) the expression "\$200", and substituting the expression "\$500".
Section 156 (4)	By omitting the expression "\$100", and substituting the expression "\$500".
Section 181 (5)	By omitting the expression "\$400", and substituting the expression "\$2,000".
Section 192 (8)	By omitting the expression "\$20", and substituting the expression "\$150".
Section 192 (9)	By omitting the expression "\$40", and substituting the expression "\$300".
Section 203 (3)	By omitting the expression "\$20", and substituting the expression "\$150".
Section 206	By omitting the expression "\$20", and substituting the expression "\$150".
Section 35 (5)	By omitting the expression "\$100", and substituting the expression "\$500".