

[AS REPORTED FROM THE JUSTICE AND LAW REFORM  
COMMITTEE]

*House of Representatives, 25 June 1991.*

**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 single rule, or with single rule before first line and after last line.**

*Hon. D. A. M. Graham*

## COURTS AMENDMENT

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A BILL INTITULED

**An Act—**

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**(a) To establish a Criminal Appeal Division in the Court of Appeal; and**

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**(b) To abolish the Administrative Division of the High Court; and**

**(c) To increase the jurisdiction of District Courts to try indictable offences; and**

**(d) To remove the requirement of leave for certain appeals to the Court of Appeal against conviction or sentence; and**

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**(e) To increase the general civil jurisdiction of District Courts; and**

**(f) To give Family Courts jurisdiction concurrent with the High Court in proceedings under the Law Reform (Testamentary Promises) Act 1949 and the Family Protection Act 1955; and**

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**(g) To give Family Courts jurisdiction in certain wardship proceedings; and**

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- (h) To give the Registrars of District Courts powers to transfer proceedings to another Court, and to adjourn proceedings, in certain cases; and
- (i) To make other miscellaneous and consequential amendments relating to the Courts

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BE IT ENACTED by the Parliament of New Zealand as follows:

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**1. Short Title and commencement**—(1) This Act may be cited as the Courts Amendment Act 1990.

10 (2) Sections 5, 6, 7 (2), 9 (5), 11, 12, 15, 16, and 23 of this Act, and the Third Schedule to this Act, shall come into force on the 1st day of April 1991.

15 (3) Subsections (1) to (4) of section 9, sections 10, 13, and 14, and sections 27 to 45 of this Act, and the Second Schedule to this Act, shall come into force on the 1st day of July 1991.

(4) Except as provided in subsections (2) and (3) of this section, this Act shall come into force on the 28th day after the day on which it receives the Royal assent.

*New*

20 **1. Short Title**—This Act may be cited as the Courts Amendment Act 1991.

PART I

AMENDMENTS TO JUDICATURE ACT 1908

25 **2. Part to be read with Judicature Act 1908**—(1) This Part of this Act shall be read together with and deemed part of the Judicature Act 1908\* (hereinafter in this Part referred to as the principal Act).

*New*

30 (2) Except as provided in section 5 (5) of this Act, this Part of this Act and the First Schedule to this Act shall come into force on the 15th day of August 1991.

**3. Powers of High Court may be exercised by one or more Judges**—Section 19 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Subsection (1) of this section shall be read subject to the provisions of any enactment that provides for the appointment of persons other than Judges to sit (*as members of or assessors with the Court*) with the Court or as members of the Court in respect of any specified proceedings or class of proceedings.”

**4. Abolition of Administrative Division of High Court**—(1) The Administrative Division of the High Court is hereby abolished.

(2) Sections 25 to 26B of the principal Act (as substituted by section 2 of the Judicature Amendment Act 1968) are hereby repealed.

(3) The Judicature Amendment Act 1968 is hereby consequentially repealed.

(4) The enactments specified in the first column of the **First Schedule** to this Act are hereby amended in the manner indicated in the second column of that Schedule.

*New*

(5) Every reference to the Administrative Division of the High Court in any enactment passed before the date of the commencement of this section (other than an enactment specified in the first column of the **First Schedule** to this Act) or in any document executed before that date shall be deemed to be a reference to the High Court.

**4A. Appointment of Masters**—(1) Section 26c (2) of the principal Act (as inserted by section 5 of the Judicature Amendment Act 1986 and amended by section 3 of the Judicature Amendment Act (No. 2) 1988) is hereby amended by omitting the expression “4”, and substituting the expression “6”.

(2) Section 3 of the Judicature Amendment Act (No. 2) 1988 is hereby consequentially repealed.

**4B. Temporary Masters**—Section 26H of the principal Act (as inserted by section 5 of the Judicature Amendment Act 1986) is hereby amended by repealing subsection (1), and substituting the following subsection:

*New*

5 “(1) The Governor-General may, subject to this section, appoint any person (including a former Master) to act as a Master for such period as is specified in the warrant of appointment.”

*Struck Out*

10 **5. Composition of Court of Appeal**—(1) The principal Act is hereby amended by repealing section 58<sup>A</sup> (as inserted by section 9 (1) of the Judicature Amendment Act 1979), and substituting the following section:

“58A. (1) Subject to **subsection (2)** of this section, for the purposes of any proceedings, the Court of Appeal shall comprise at least 3 Judges of the Court of Appeal.

15 “(2) Any Judge of the High Court who has been nominated by the Chief Justice under **section 68A (2) (c)** of this Act may, with the concurrence of the Chief Justice, sit and act as a member of the Court of Appeal for the purposes of any criminal or civil proceedings if requested to do so by the President of the Court.

20 “(3) Every Judge of the High Court who is acting as a member of the Court of Appeal under **subsection (2)** of this section shall, while so acting, be deemed to be a Judge of the Court of Appeal.

25 “(4) The provisions of section 58 (7) of this Act, with any necessary modifications, shall apply to every case where a Judge of the High Court sits in the Court of Appeal under **subsection (2)** of this section.”

(2) Section 9 (1) of the Judicature Amendment Act 1979 is hereby consequentially repealed.

*New*

30 **5. New sections substituted**—(1) The principal Act is hereby amended by repealing section 58<sup>A</sup> (as inserted by section 9 (1) of the Judicature Amendment Act 1979), and substituting the following sections:

## New

“58A. **Composition of Court of Appeal**—Subject to **section 58B** of this Act, for the purpose of any proceedings, the Court of Appeal shall comprise at least 3 Judges of the Court of Appeal.

“58B. **Composition of Court of Appeal for purposes of criminal appeals**—(1) For the purposes of any appeal to the Court of Appeal against conviction or sentence entered or imposed under the Crimes Act 1961 (except section 406 of that Act), the Court of Appeal shall comprise—

“(a) At least 3 Judges of the Court of Appeal; or 10

“(b) At least 2 Judges of the Court of Appeal and one of the following, namely,—

“(i) The Chief Justice; or

“(ii) A Judge of the High Court who is for the time being acting as a Judge of the Court of Appeal pursuant to section 58 of this Act; or 15

“(iii) One of the Judges of the High Court nominated by the Chief Justice pursuant to **subsection (3)** of this section; or

“(c) At least 1 Judge of the Court of Appeal and 2 of the following, namely,— 20

“(i) The Chief Justice:

“(ii) A Judge of the High Court who is for the time being acting as a Judge of the Court of Appeal pursuant to section 58 of this Act: 25

“(iii) A Judge of the High Court nominated by the Chief Justice pursuant to **subsection (3)** of this section.

“(2) The provisions of section 58 (7) of this Act, with any necessary modifications, shall apply to every case where a Judge of the High Court sits in the Court of Appeal for the purposes of any appeal referred to in **subsection (1)** of this section. 30

“(3) Except where the work of the High Court renders it impracticable for the Chief Justice to do so, the Chief Justice shall from time to time, after consulting the President of the Court of Appeal, nominate the Judges of the High Court who may comprise members of the Court of Appeal for the purposes of any appeal or appeals to which **subsection (1)** of this section relates. 35

“(4) Every nomination under **subsection (3)** of this section shall be made either in respect of a specified case or specified cases, 40

*New*

or in respect of every case to be heard by the Court of Appeal during a specified period not exceeding 3 months.”

5 (2) Section 59 of the principal Act (as inserted by section 3 of the Judicature Amendment Act 1957) is hereby amended by omitting from subsection (1) (as amended by section 9 (2) of the Judicature Amendment Act 1979) the words “Subject to section 58A of this Act,”, and substituting the words “Subject to **sections 58A and 58B** of this Act,”.

10 (3) Section 60A of the principal Act (as inserted by section 7 of the Judicature Amendment Act 1977) is hereby amended by omitting from subsection (4) (as amended by section 9 (3) of the Judicature Amendment Act 1979) the words “sections 58A and”, and substituting the words “**sections 58A, 58B, and**”.

15 (4) Section 9 of the Judicature Amendment Act 1979 is hereby consequentially repealed.

(5) This section shall come into force on the 1st day of October 1991.

*Struck Out*

20 **6. New sections (relating to Criminal Appeal Division of Court of Appeal) inserted**—The principal Act is hereby amended by inserting, after section 68, the following heading and sections:

*“Criminal Appeal Division of the Court*

25 **“68A. Criminal Appeal Division of the Court of Appeal**—(1) There shall be in the Court of Appeal a Criminal Appeal Division.

“(2) The Criminal Appeal Division shall consist of—

“(a) The Chief Justice; and

30 “(b) A Judge of the Court of Appeal nominated from time to time by the President of that Court; and

“(c) Two Judges of the High Court nominated by the Chief Justice in accordance with **subsections (3) and (4)** of this section.

35 “(3) The Chief Justice shall from time to time, after consulting the President of the Court of Appeal, nominate 2 Judges of the High Court to sit in the Criminal Appeal Division.

*Struck Out*

“(4) Every nomination under **subsection (3)** of this section shall be made either in respect of a specified case or specified cases, or in respect of every case to be heard by the Criminal Appeal Division during a specified period.

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“**68B. Jurisdiction of Criminal Appeal Division—**  
 (1) Subject to **subsection (2)** of this section, and to **section 68D** of this Act, the Criminal Appeal Division shall hear and determine all criminal appeals.

“(2) With leave of the Court of Appeal, any criminal appeal may be heard and determined by the Court otherwise than in the Criminal Appeal Division.

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“(3) For the purposes of this section, ‘criminal appeal’ means any application or appeal relating to or arising out of any criminal proceeding that is to be made to and determined by the Court of Appeal pursuant to any enactment; and includes—

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“(a) Any appeal against conviction or sentence on indictment; and

“(b) Any criminal proceeding that may be removed to the Court of Appeal pursuant to any enactment.

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“**68C. Sittings of Criminal Appeal Division—**(1) Subject to section 393 of the Crimes Act 1961, and to **subsection (3)** of this section, for the purposes of any criminal appeal the Criminal Appeal Division shall comprise either—

“(a) The Chief Justice, the Judge of the Court of Appeal nominated under **paragraph (b)** of **subsection (2)** of **section 68A** of this Act, and one of the Judges of the High Court nominated under **paragraph (c)** of that subsection; or

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“(b) The Judge of the Court of Appeal nominated under **paragraph (b)** of **subsection (2)** of **section 68A** of this Act, and both of the Judges of the High Court nominated under **paragraph (c)** of that subsection.

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“(2) At every sitting of the Criminal Appeal Division at which the Chief Justice is present, the Chief Justice shall preside. In the absence of the Chief Justice, the member of the Division who is a Judge of the Court of Appeal shall preside.

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“(3) No Judge shall sit as a member of the Criminal Appeal Division on the hearing of, nor determine any application in proceedings incidental or preliminary to,—

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*Struck Out*

“(a) Any appeal against conviction or sentence entered or imposed by the Judge; or

“(b) Any appeal from a judgment or order of the Judge.

5 “68D. **Transfer of criminal appeal from Division to Court**—(1) In any criminal appeal before the Criminal Appeal Division, the presiding Judge may refer the criminal appeal, or any matter arising in the proceedings, to the Court of Appeal.

“(2) On any such reference, the Court of Appeal may—

10 “(a) Determine the appeal or matter; or

“(b) Refer the appeal or matter back to the Criminal Appeal Division with such directions as it thinks fit.

15 “68E. **Judgment of Division**—(1) The judgment of the Criminal Appeal Division shall be in accordance with the opinion of the majority of the Judges present.

“(2) Any 2 members of the Criminal Appeal Division shall have power to act as the Division for the purpose of delivering any judgment of the Division.

20 “(3) Subject to **section 68F** of this Act, the judgment of the Criminal Appeal Division on any criminal appeal shall be deemed for all purposes to be the judgment of the Court of Appeal.

25 “68F. **Judgment of Division final without leave**—The judgment of the Criminal Appeal Division shall be final on any criminal appeal unless leave is given by the Court of Appeal to appeal to that Court against that judgment.

30 “68G. **Certain other provisions applied to Division**—The provisions of section 58 (7), subsections (1) and (4) of section 60, section 60A (3), and section 61 of this Act, so far as they are applicable and with any necessary modifications, shall apply to the Criminal Appeal Division and the members of the Division in the same manner as they apply to the Court of Appeal and the Judges of that Court.”

*New*

35 **6A. Procedure**—Section 9 of the Judicature Amendment Act 1972 (as substituted by section 13 (1) of the Judicature

*New*

Amendment Act 1977) is hereby amended by inserting, after subsection (4), the following subsection:

“(4A) For the purposes of subsection (4) of this section, 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.”

**7. Transitional provisions**—Nothing in **section 4** of this Act shall affect any proceedings instituted or commenced in the High Court before the date of the commencement of that section; and all such proceedings may be continued and completed in all respects as if that section had not been enacted.

*Struck Out*

(2) Nothing in **section 6** of this Act shall affect any appeal, or application for leave to appeal, to the Court of Appeal filed before the date of commencement of that section; and all such appeals and applications may be continued and completed in all respects as if that section had not been enacted.

## PART II

## AMENDMENTS TO DISTRICT COURTS ACT 1947

**8. Part to be read with District Courts Act 1947**—(1) This Part of this Act shall be read together with and deemed part of the District Courts Act 1947\* (hereinafter in this Part referred to as the principal Act).

*New*

(2) Except as provided in **sections 9 (7), 12A (2), 12B (3), 12C (2), 12D (2), 12E (2), 12F (3), 12G (3), 13 (3), 13A (2), 13B (2), 13C (2), 13D (2), 14 (3),**

\*R.S. Vol. 5, p. 1

Amendments: 1981, No. 21; 1982, No. 5; 1982, No. 130; 1983, No. 49; 1985, No. 14; 1985, No. 84; 1985, No. 137; 1986, No. 84; 1987, No. 26; 1988, No. 183; 1989, No. 107

*New*

**15A (2), 15B (3), and 15D (2)** of this Act, this Part of this Act and the **Third Schedule** to this Act shall come into force on the 1st day of October 1991.

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**9. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by omitting from the definition of the term “action” the word “plaint”, and substituting the words “a notice of proceeding”.

10 (2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “Court” (as substituted by section 3 (1) of the District Courts Amendment Act 1979), the following definition:

15 “‘Interlocutory application’ means any application in the course of proceedings:”.

(3) Section 2 (1) of the principal Act is hereby further amended by omitting from the definition of the term “matter” the word “plaint”, and substituting the words “a notice of proceeding”.

20 (4) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “proceedings”, and substituting the following definition:

25 “‘Proceeding’ means any application to the Court for the exercise of the civil jurisdiction of the Court; but does not include an interlocutory application.”.

(5) Section 2 (1) of the principal Act is hereby further amended by adding the following definition:

30 “‘Trial Judge’ means a Judge appointed under section 28B of this Act to exercise the criminal jurisdiction of the Courts under Part IIA of this Act.”.

*New*

**9. Interpretation**—(1) Section 2 (1) of the principal Act is hereby amended by repealing the definition of the term “action”.

## New

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “Court” (as substituted by section 3 (1) of the District Courts Amendment Act 1979), the following definitions:

“ ‘High Court Rules’ means the rules from time to time set out in the Second Schedule to the Judicature Act 1908:

“ ‘Interlocutory application’—

“(a) Means any application to the Court in any proceeding or intended proceeding for an order or a direction relating to a matter of procedure or for some relief ancillary to that claimed in a pleading; and

“(b) Includes—

“(i) An application for a new trial; and

“(ii) An application to review an order made, or a direction given, on any interlocutory application.”

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “matter”.

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

“ ‘Party’ means any person who is a plaintiff or defendant in any proceeding; and includes any person added to the proceeding.”

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

“ ‘Proceeding’ means any application to the Court for the exercise of the civil jurisdiction of the Court other than an interlocutory application.”

(6) Section 2 (1) of the principal Act is hereby further amended by adding the following definition:

“ ‘Trial Judge’ means a Judge appointed under section 28B of this Act to exercise the criminal jurisdiction of the Courts under Part IIA of this Act.”

(7) **Subsections (1) to (5)** of this section shall come into force on the 1st day of July 1992.

*New*

**9A. Record of proceedings to be kept by Registrar—**  
 Section 13 (1) of the principal Act is hereby amended by adding the words “by the Secretary for Justice”.

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*Struck Out*

**10. Extending general civil jurisdiction of District Courts—**The principal Act is hereby amended—

- 10 (a) By omitting from section 29 (as amended by section 2 (1) (a) of the District Courts Amendment Act 1989) the expression “\$50,000” in both places where it occurs, and substituting in each case the expression “\$200,000”:
  - 15 (b) By omitting from paragraph (b) of section 30 (as amended by section 2 (1) (b) of the District Courts Amendment Act 1989) the expression “\$50,000”, and substituting the expression “\$200,000”:
  - 20 (c) By omitting from section 33 (as amended by section 2 (1) (c) of the District Courts Amendment Act 1989) the expression “\$50,000” wherever it occurs, and substituting in each case the expression “\$200,000”:
  - (d) By omitting from section 34 (as amended by section 2 (1) (d) of the District Courts Amendment Act 1989) the expression “\$50,000” wherever it occurs, and substituting in each case the expression “\$200,000”:
  - 25 (e) By omitting from section 36 (as amended by section 2 (1) (e) of the District Courts Amendment Act 1989) the expression “\$50,000” wherever it occurs, and substituting in each case the expression “\$200,000”:
  - 30 (f) By omitting from section 111 (as amended by section 2 (1) (f) of the District Courts Amendment Act 1989) the expression “\$50,000”, and substituting the expression “\$200,000”.
- (2) Section 2 of the District Courts Amendment Act 1989 is hereby consequentially repealed.

35 **11. Extent of jurisdiction under Part IIA of principal Act—**The principal Act is hereby amended by repealing section 28A (as inserted by section 9 of the District Courts Amendment Act 1980), and substituting the following section:

“28A. (1) 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 trial Judge 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: 5

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

“(c) Any offence for which the accused elects under section 66 of that Act to be tried by a jury: 10

“(d) The indictable offences referred to in **Part I of Schedule Ia** to this Act:

“(e) The indictable offences referred to in **Part II of Schedule Ia** to this Act where the proceedings are transferred to the Court under **section 168B** of the Summary Proceedings Act 1957. 15

“(2) Notwithstanding anything in **subsection (1)(d)** of this section, a Court shall not have jurisdiction under this Part of this Act to try a person charged with an offence against any of sections 109, 113, 115, 116, and 117 of the Crimes Act 1961 if the charge relates to proceedings that were held in the High Court.” 20

**12. Maximum sentences**—The principal Act is hereby amended by repealing section 28F (as inserted by section 9 of the District Courts Amendment Act 1980), and substituting the following section: 25

“28F. (1) This subsection applies to any case where—

“(a) A person is found guilty on indictment in a District Court; or

“(b) A person who has been committed to a District Court for trial, or whose trial has been transferred to a District Court by order made under section 168B (2) of the Summary Proceedings Act 1957, pleads guilty— 30

“(i) Under section 321 of the Crimes Act 1961, at any time before the commencement of the trial; or 35

“(ii) Under section 356 of that Act, either when called upon to plead or subsequently during the trial.

“(2) In any case to which **subsection (1)** of this section applies, the Court may sentence the person to imprisonment or a fine or both, not exceeding,— 40

“(a) In the case of imprisonment, the maximum term prescribed by law; or

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

“(3) This subsection applies to any case where—

5 “(a) A person pleads guilty under section 153A or section 168 of the Summary Proceedings Act 1957, before or during the preliminary hearing, to—

“(i) Any indictable offence triable summarily described in section 6 (2) of that Act; or

10 “(ii) Any indictable offence triable summarily described in the First Schedule to that Act; or

“(iii) Any offence for which the accused elects trial by jury under section 66 of that Act; *and* or

*New*

15 “(iv) Any indictable offence referred to in **Part I** of **Schedule 1A** to this Act; and

“(b) The Court accepts jurisdiction.

20 “(4) In any case to which **subsection (3)** of this section applies, 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.”

*New*

25 **12A. New sections substituted**—(1) The principal Act is hereby amended by repealing sections 29 and 30 and the heading above section 29, and substituting the following heading and sections:

*“Claims Founded on Contract or Tort*

30 **“29. General jurisdiction in respect of claims founded on contract or tort**—(1) The Courts shall have jurisdiction to hear and determine any claim founded on contract or on tort where the debt, demand, or damage, or the value of the chattels, claimed is not more than \$200,000 whether on balance of account or otherwise:

35 “Provided that the Courts shall not, except as in this Act provided, have jurisdiction to hear and determine—

“(a) Any proceeding for the recovery of land; or

## New

“(b) Any proceeding in which the title to any franchise is in question.

“(2) The Courts shall have jurisdiction to hear and determine any proceeding where the debt or demand claimed consists of a balance not exceeding \$200,000, after a set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, being a set-off admitted by the plaintiff in the particulars of the plaintiff’s claim or demand.

“**30. Money recoverable by statute**—(1) The Courts shall have jurisdiction to hear and determine any proceeding for the recovery of any penalty, expenses, contribution, or other like demand which is recoverable by virtue of any enactment for the time being in force, if—

“(a) It is not expressly provided by that or any other enactment that the demand shall be recoverable only in some other Court; and

“(b) The amount claimed in the proceeding does not exceed the sum of \$200,000.

“(2) For the purposes of this section the expression ‘penalty’ shall not include a fine to which any person is liable on conviction on indictment or on summary conviction.”

(2) This section shall come into force on the 1st day of July 1992.

**12B. Extending jurisdiction in actions for recovery of land**—(1) Section 31 (1) of the principal Act (as amended by section 3 (1) of the District Courts Amendment Act 1989) is hereby amended—

(a) By omitting the word “action”, and substituting the word “proceeding”; and

(b) By omitting the words “\$25,000 a year or (if no such rent is payable) where the value of the land in question does not exceed \$200,000”, and substituting the words “\$62,500 a year or where the value of the land in question does not exceed \$500,000”.

(2) Section 3 of the District Courts Amendment Act 1989 is hereby consequentially repealed.

(3) This section shall come into force on the 1st day of July 1992.



*New*

5 **12c. Jurisdiction as to building societies**—(1) Section 33 of the principal Act (as amended by section 2 (1) (c) of the District Courts Amendment Act 1989) is hereby amended by omitting the expression “\$50,000” wherever it occurs, and substituting in each case the expression “\$200,000”.

(2) This section shall come into force on the 1st day of July 1992.

10 **12d. Equity jurisdiction**—(1) Section 34 of the principal Act (as amended by section 2 (1) (d) of the District Courts Amendment Act 1989) is hereby amended by omitting the expression “\$50,000” wherever it occurs, and substituting in each case the expression “\$200,000”.

15 (2) This section shall come into force on the 1st day of July 1992.

**12e. Abandonment of part of claim to give Court jurisdiction**—(1) The principal Act is hereby amended by repealing section 36 (as amended by section 2 (1) (e) of the District Courts Amendment Act 1989), and substituting the following section:

20 “36. (1) Where a plaintiff has a cause of action for more than \$200,000 in respect of which the Court would have had jurisdiction had the amount been not more than \$200,000, the plaintiff may abandon the excess, and thereupon the Court shall have jurisdiction to hear and determine the proceeding.

25 “(2) Where any proceeding, in which the plaintiff has abandoned part of the plaintiff’s claim under this section, is heard in a Court, the plaintiff shall not recover an amount exceeding \$200,000 together with costs thereon, and the judgment of the Court in the proceeding shall be in full discharge of all demands in respect of the cause of action, and entry of the judgment shall be made accordingly.”

30 (2) This section shall come into force on the 1st day of July 1992.

35 **12f. New sections substituted**—(1) The principal Act is hereby amended by repealing sections 42 and 43 and the heading above section 43, and substituting the following sections and heading:

*New*

“42. **Ancillary powers of Judge**—A Judge shall have jurisdiction in any proceeding pending to make any order or to exercise any authority or jurisdiction which, if it related to a proceeding pending in the High Court, might be made or exercised by a Judge of the High Court in Chambers. 5

*“Transfer of Proceeding*

“43. **Transfer to High Court of proceeding within jurisdiction**—(1) Where there is commenced in a Court any proceeding in which the amount of the claim or the value of the property or relief claimed or in issue exceeds \$50,000, the defendant in the proceeding may, within such time as may be prescribed or at any time thereafter by leave of the Judge, give notice that the defendant objects to the proceeding being tried in the Court, and, where notice is so given, the Judge shall order that the proceeding be transferred to the High Court. 10 15

“(2) Where there is commenced in a Court any proceeding in which the amount of the claim or the value of the property or relief claimed or in issue does not exceed \$50,000, the defendant may, within such time as may be prescribed or at any time thereafter by leave of the Judge, give notice that the defendant objects to the proceeding being tried in the Court, and, where notice is so given, the Judge may order that the proceeding be transferred to the High Court if, in the opinion of the Judge, some important question of law or fact is likely to arise or a question of title to any hereditament is likely to arise otherwise than incidentally. 20 25

“(3) Any order for the transfer of a proceeding to the High Court made pursuant to the foregoing provisions of this section may be made subject to such conditions as the Judge thinks fit requiring that the defendant give security for the costs of the proceedings in the High Court. 30

“(4) The foregoing provisions of this section shall, with the necessary modifications, apply to a counterclaim as if it were a proceeding and as if the defendant in the counterclaim were the defendant in the proceeding. On the transfer of a claim where there is a counterclaim, or of a counterclaim, all proceedings in the proceeding, including both the claim and the counterclaim, shall be transferred. 35

“(5) The provisions of this section do not apply to any proceeding for the recovery of land except where the Judge 40

*New*

certifies that in the Judge's opinion an important question of law is likely to arise or a question of title to any hereditament is likely to arise otherwise than incidentally.

5       “(6) Notwithstanding the foregoing provisions of this section, the High Court or a Judge thereof on the application of any party to the proceeding may order the removal into the High Court, by order for certiorari or otherwise, of any proceeding  
10       thereof thinks it desirable that the proceeding should be heard and determined in the High Court. Any such removal shall be on such terms as to payment of costs, giving security, or otherwise as the High Court or a Judge thereof thinks fit to impose.”

15       (2) Section 4 of the District Courts Amendment Act 1989 is hereby consequentially repealed.

(3) This section shall come into force on the 1st day of July 1992.

20       **12c. New sections substituted**—(1) The principal Act is hereby amended by repealing sections 46 to 48, and substituting the following sections:

“**46. Transfer of proceeding from High Court to District Court**—(1) If, where a proceeding has been commenced in the High Court,—

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

30       “(b) The subject-matter of the proceeding 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 proceeding, order that the proceeding be transferred to a District Court.

35       “(2) Where the subject-matter of a proceeding that has been commenced in the High Court is within the jurisdiction of District Courts, the High Court or a Judge of that Court may, of its or the Judge's own motion, order that the proceeding be transferred to a District Court unless, in the opinion of the High Court or the Judge, some important question of law or fact is likely to arise in the proceeding.

*New*

**“47. Procedure on transfer of proceeding from High Court to District Court—**(1) Where any proceeding is ordered to be transferred under the provisions of **section 46** of this Act from the High Court to a District Court, the proper officer of the High Court shall, on the sealing of the order, send to the Registrar of the District Court a copy of the order, the document by which the proceeding was commenced or a copy thereof, all pleadings, affidavits, and other documents filed in the High Court relating to the proceeding and such other documents (if any) as the High Court or a Judge may direct.

“(2) On the documents aforesaid being so sent, the proceeding shall be transferred to the said District Court, and, subject to the District Courts rules, all further proceedings therein shall be heard as if the proceeding had been originally commenced in that District Court, and the District Court shall have jurisdiction to deal therewith, notwithstanding any enactment to the contrary:

“Provided that the transfer shall not affect any right of appeal in the High Court or to the Court of Appeal from the order directing the transfer, or the right to enforce in the High Court any judgment signed, or order made, in that Court before the transfer.

**“48. Costs in cases transferred or removed—**Where a proceeding or counterclaim is ordered to be transferred or removed—

“(a) From the High Court to a District Court; or

“(b) From a District Court to the High Court; or

“(c) From one District Court to another District Court— the costs of the whole proceedings both before and after the transfer shall, subject to any order made by the Court which ordered the transfer, be in the discretion of the Court to which the proceeding or counterclaim is transferred, and that Court shall have power to make orders with respect thereto:

“Provided that, as regards so much of the proceedings in any proceeding transferred from the High Court to the District Court as take place in the High Court before the transfer,—

“(d) The costs thereof shall be subject to the provisions of the High Court Rules; and

“(e) The powers of a Judge to make an order allowing costs on the High Court scale shall, subject to any order of

*New*

the High Court or of the Judge by whom the transfer was ordered be exercisable by the District Court Judge.”

5 (2) Section 12 of the District Courts Amendment Act 1979 is hereby consequentially repealed.

(3) This section shall come into force on the 1st day of July 1992.

**13. Amount of wages, etc., for which minor may sue—**

10 (1) Section 50 (1) of the principal Act (as amended by section 5 of the District Courts Amendment Act 1989) is hereby amended by omitting the expression “\$50,000”, and substituting the expression “\$200,000”.

*New*

15 (1A) Section 50 (2) of the principal Act is hereby amended by omitting the words “the action”, and substituting the words “the proceeding”.

(2) Section 5 of the District Courts Amendment Act 1989 is hereby consequentially repealed.

20

*New*

(3) This section shall come into force on the 1st day of July 1992.

**13A. Interpretation—**(1) Section 71 of the principal Act (as substituted by section 4 (1) of the District Courts Amendment Act 1983) is hereby amended by repealing the definition of the term “interlocutory order”, and substituting the following definition:

“ ‘Interlocutory order’, in relation to a District Court,—

30 “(a) Means a decision or order made by the Court in relation to an interlocutory application; but

“(b) Does not include—

“(i) A judgment or order dismissing an application for a new trial; or

*New*

“(ii) A judgment granting summary judgment under any provision of the rules.”

(2) This section shall come into force on the 1st day of July 1992.

5

**13B. Interpleader**—(1) Section 111 of the principal Act (as amended by section 2 (1) (f) of the District Courts Amendment Act 1989) is hereby amended by omitting the expression “\$50,000”, and substituting the expression “\$200,000”.

(2) This section shall come into force on the 1st day of July 1992.

10

**13C. Proof of service of documents by officer or constable**—(1) Section 116A (1) of the principal Act (as inserted by section 2 of the District Courts Amendment Act 1955) is hereby amended by omitting the words “or, if the service was effected by registered letter in accordance with the rules, by an officer of the Court who knows of the service”.

15

(2) This section shall come into force on the 1st day of July 1992.

**13D. Subtenant to give notice of proceeding to subtenant’s immediate landlord**—(1) The principal Act is hereby amended by repealing section 117, and substituting the following section.

20

“117. Every subtenant to whom there is delivered notice of any proceeding taken under this Act for the recovery of any land demised to or held by the subtenant, or to whose knowledge it comes, shall forthwith give notice thereof to the subtenant’s immediate landlord, and if the subtenant fails to do so the subtenant shall be liable to forfeit to the subtenant’s immediate landlord an amount equal to not more than 3 years’ improved or rackrent of the land, to be recovered by a proceeding taken in any District Court or other Court having jurisdiction in respect of claims for such an amount.”

25

30

(2) This section shall come into force on the 1st day of July 1992.

35

**13E. District Courts Rules**—(1) Section 122 (3) (a) of the principal Act is hereby amended by inserting, after the word “prescribing”, the words “the manner and”.

*New*

(2) Section 122 (3) of the principal Act is hereby further amended by inserting, after paragraph (a), the following paragraph:

5 “(aa) Applying, with or without modifications, provisions of the High Court Rules:”.

(3) Section 122 (3) of the principal Act is hereby amended by repealing paragraphs (e) and (f), and substituting the following paragraphs:

10 “(e) Providing for the custody of the records of the Court, and for the receipt of and accounts for all money paid into or out of Court:

15 “(f) Authorising the Registrar to hear and determine any proceedings taken under this Act (other than proceedings in respect of which a Court has jurisdiction under any of the provisions of sections 29 to 34 of this Act), and any proceedings (including proceedings in respect of which a Court has jurisdiction under any of the provisions of sections 29 to 34 of this Act) in which the defendant fails to appear at the hearing or admits the claim:”.

**14. Extending jurisdiction under other Acts**—(1) The enactments specified in the **Second** Schedule to this Act are hereby amended in the manner indicated in that Schedule.

25 (2) Section 10 of, and the Schedule to, the District Courts Amendment Act 1989 are hereby consequentially repealed.

*New*

(3) This section and the **Second** Schedule to this Act shall come into force on the 1st day of July 1992.

30 **15. New Schedule IA inserted**—The principal Act is hereby amended by inserting, before the **Second** Schedule, the **Schedule IA** set out in the **Third** Schedule to this Act.

*New*

**15A. Consequential amendments**—(1) The principal Act is hereby further amended in the manner indicated in the **Fourth Schedule** to this Act.

(2) This section shall come into force on the 1st day of July 1992. 5

**15B. Amendments to Crown Proceedings Act 1950**—

(1) Section 16 (1) of the Crown Proceedings Act 1950 is hereby amended by omitting the words “or by sending it by post in a registered letter addressed to the Solicitor-General at his said office”. 10

(2) Section 16 (3) of the Crown Proceedings Act 1950 is hereby repealed.

(3) This section shall come into force on the 1st day of July 1992. 15

**15c. Amendment to Family Courts Act 1980**—Section 12 of the Family Courts Act 1980 is hereby amended by omitting the words “by way of originating application”.

**15d. Repeal**—(1) Section 2 of the District Courts Amendment Act 1989 is hereby consequentially repealed. 20

(2) This section shall come into force on the 1st day of July 1992.

**16. Transitional provision**—Notwithstanding anything in paragraph (d) or paragraph (e) of section 28A (1) of the principal Act (as substituted by section 11 of this Act), a Court shall not have jurisdiction under Part IIA of the principal Act to try any person for any offence referred to in Part I or Part II of Schedule IA to that Act if that person was committed for trial for that offence before the date of commencement of section 11 of this Act. 25

## PART III

30

## AMENDMENTS TO SUMMARY PROCEEDINGS ACT 1957

**17. Part to be read with Summary Proceedings Act 1957**—(1) This Part of this Act shall be read together with and



deemed part of the Summary Proceedings Act 1957\* (hereinafter in this Part referred to as the principal Act).

*New*

5 (2) Except as provided in sections 21A (2) and 23 (4) of this Act, this Part of this Act shall come into force on the 15th day of August 1991.

\*R.S. Vol. 9, p. 583  
Amendments: 1982, No. 47; 1982, No. 131; 1985, No. 51; 1985, No. 55; 1985, No. 99; 1985, No. 162; 1985, No. 191; 1986, No. 73; 1986, No. 76; 1987, No. 165; 1987, No. 172; 1989, No. 21; 1989, No. 105

**18. Place of hearing of information**—The principal Act is hereby amended by repealing section 34, and substituting the following section:

10 “34. (1) Unless an order is made under the succeeding provisions of this section or under section 4A of the District Courts Act 1947, or unless there is a statutory provision to the contrary, every charge shall be heard and determined in the Court in the office of which the information is filed.

15 “(2) Any District Court Judge or Justice may order that a charge shall be heard and determined by some other Court.

“(3) The Registrar may, with the consent of each party, order that a charge be heard in some other Court.

20 “(4) When an order is made under subsection (2) or subsection (3) of this section, the Registrar shall forward the information to the Registrar of the Court to which it is ordered to be transferred.”

**19. Registrar may adjourn in certain cases**—The principal Act is hereby amended by inserting, after section 45, the following section:

25 “45A. (1) A Registrar may, upon application, adjourn the hearing of any charge to a time and place then appointed if—

“(a) The defendant is not in custody at the time of the application; and

30 “(b) The application is made before the commencement of the hearing.

*Struck Out*

“(2) Where an adjournment is granted under subsection (1) of this section, the present conditions of bail (if any) shall, subject

*Struck Out*

to section 50A of this Act, continue to the adjourned date of hearing.

*New*

“(2) Where an adjournment is granted under subsection (1) of this section,— 5

“(a) The present conditions of bail (if any) shall, subject to section 50A of this Act, continue to the adjourned date of hearing; and

“(b) Any order made under section 140 of the Criminal Justice Act 1985 in relation to the defendant or any other person connected with the proceedings and having effect only for a limited period that would expire before the adjourned date of hearing shall continue to have effect until the close of the adjourned date of hearing. 10 15

“(3) Whenever the Registrar grants an adjournment under this section, the Registrar shall notify each party in writing.”

**20. Dealing with defendant on adjournment**—Section 46 of the principal Act (as substituted by section 2 of the Summary Proceedings Amendment Act (No. 2) 1987) is hereby amended by inserting in subsection (1), after the words “any hearing is adjourned”, the words “under section 45 of this Act”. 20

**21. Registrar may adjourn in certain cases**—The principal Act is hereby amended by inserting, after section 152, the following section: 25

“152A. (1) A Registrar may, upon application and with the consent of each party, adjourn the preliminary hearing of any information to a time and place then appointed if— 30

“(a) The defendant is not in custody at the time of the application; and

“(b) The application is made before the commencement of the preliminary hearing; and

“(c) It is necessary or desirable to do so for any reasonable cause. 35

*Struck Out*

5 “(2) Where an adjournment is granted under subsection (1) of this section, the present conditions of bail (if any) shall, subject to section 50A of this Act, continue to the adjourned date of hearing.

*New*

10 “(2) Where an adjournment is granted under subsection (1) of this section,—

“(a) The present conditions of bail (if any) shall, subject to section 50A of this Act, continue to the adjourned date of hearing; and

15 “(b) Any order made under section 140 of the Criminal Justice Act 1985 in relation to the defendant or any other person connected with the proceedings and having effect only for a limited period that would expire before the adjourned date of hearing shall continue to have effect until the close of the adjourned date of hearing.

20 “(3) Whenever the Registrar grants an adjournment under this section, the Registrar shall notify each party in writing.”

*New*

25 **21A. Defendant may plead guilty before or during preliminary hearing**—(1) Section 153A of the principal Act (as inserted by section 15 (1) of the Summary Proceedings Amendment Act 1976) is hereby amended by inserting in subsection (6) (a) (as enacted by section 10 of the Summary Proceedings Amendment Act 1980), after the words “by a jury”, the words “or where the offence is an indictable offence referred to in Part I of Schedule 1A to the District Courts Act 1947”.

30 (2) This section shall come into force on the 1st day of October 1991.

35 **22. Place of preliminary hearing**—(1) The principal Act is hereby amended by repealing section 155, and substituting the following section:

“155. (1) Unless an order is made under the succeeding provisions of this section or under section 4A of the District Courts Act 1947, or unless there is a statutory provision to the contrary, the preliminary hearing of an information shall take place in the Court in the office of which it is filed. 5

“(2) Any District Court Judge or Justice may order that the preliminary hearing of an information shall take place in some other Court.

“(3) The Registrar may, with the consent of each party, order that the preliminary hearing of an information shall take place in some other Court. 10

“(4) When an order is made under subsection (2) or subsection (3) of this section, the Registrar shall—

“(a) Forward the information to the Registrar of the Court to which it is ordered to be transferred; and 15

“(b) Notify each party in writing.”

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

**23. New sections substituted**—(1) The principal Act is hereby amended by repealing section 168A (as substituted by section 2 (1) of the Summary Proceedings Amendment Act (No. 3) 1985), and substituting the following *(section) sections*: 20

“168A. **Court to which defendant to be committed**—  
(1) Subject to subsection (2) of this section, the Court to which a defendant shall be committed for trial under section 168 or section 172 of this Act shall be as follows: 25

“(a) In respect of any offence that a District Court has jurisdiction to try by virtue of any of paragraphs (a) to (d) of section 28A (1) of the District Courts Act 1947, the District Court exercising that jurisdiction nearest to the committing Court: 30

“(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.

“(2) The Court to which a defendant shall be committed for trial under section 168 or section 172 of this Act shall be the High Court nearest to the committing Court in the following circumstances: 35

“(a) Where the defendant has been charged with some other person or persons in respect of offences arising from the same incident or series of incidents and in respect of at least one of which charges the 40

committal must by virtue of **subsection (1) (b)** of this section be to the High Court; or

5 “(b) Where the defendant has been charged with offences arising from the same incident or series of incidents and in respect of at least one of which charges the committal must by virtue of **subsection (1) (b)** of this section be to the High Court.

10 “(3) Notwithstanding that a defendant has been committed to the High Court for trial pursuant to **subsection (2)** of this section, a Judge of the High Court may direct that any indictment that may be tried in a District Court under section 28A of the District Courts Act 1947 be tried in that Court.

“(4) Nothing in this section shall affect the provisions of section 28J of the District Courts Act 1947.

15 “(168B) **168AA. High Court Judge to determine Court of trial in certain cases**—(1) This section applies to every case in which a defendant is committed to the High Court for trial for any offence referred to in Part II of **Schedule 1A** to the District Courts Act 1947.

20 “(2) In each case to which this section applies, a Judge of the High Court shall determine on the papers whether it is more appropriate for the trial to be held in a District Court; and, if the Judge determines that the trial would be more appropriately held in a District Court, the Judge shall, by order, 25 transfer the case to the District Court exercising jurisdiction under Part IIA of the District Courts Act 1947 nearest to the committing Court. No party to the proceedings shall be entitled to be heard by, or to make submissions to, the Judge under this subsection.

30 “(3) In determining the appropriate Court under **subsection (2)** of this section in any case, the Judge shall have regard to the following matters:

“(a) The gravity of the offence charged:

35 “(b) The complexity of the issues likely to arise in the proceedings:

“(c) The desirability of the prompt disposal of trials:

“(d) The interests of justice generally.

40 “(4) Nothing in this section shall apply to proceedings transferred to the High Court by order made under section 28J of the District Courts Act 1947.

*New*

“168AB. **Notice of transfer of case to District Court—**  
 (1) Where an order transferring a case to a District Court is  
 made under **section 168AA** of this Act, a Registrar of the High  
 Court shall give or cause to be given— 5  
 “(a) To the defendant’s counsel or solicitor, or to the  
 defendant if the defendant is not represented,—  
 “(i) A copy of the order; and  
 “(ii) A written notice informing the defendant of 10  
 the date and time at which the defendant must  
 report to the District Court to which the case has  
 been transferred and, where the defendant has been  
 released on bail, making the necessary variations in  
 the conditions of bail; and  
 “(b) To each surety of that defendant under any surety 15  
 bond—  
 “(i) A copy of the order; and  
 “(ii) A copy of the written notice given to the  
 defendant under **paragraph (a) (ii)** of this subsection.  
 “(2) Where **subsection (1)** of this section is complied with in 20  
 relation to a defendant and to each surety of that defendant  
 under any such surety bond, the terms of that surety bond shall  
 be deemed to be varied accordingly.”

(2) Section 28J of the District Courts Act 1947 (as inserted by  
 section 9 of the District Courts Amendment Act 1980) is hereby 25  
 amended by inserting in subsection (1), after the words “to a  
 District Court for trial,” the words “or where proceedings have  
 been transferred to a District Court for trial by order made  
 under (~~section 168B~~) **section 168AA** of that Act,”.

(3) The Summary Proceedings Amendment Act (No. 3) 1985 30  
 is hereby repealed.

*New*

(4) This section shall come into force on the 1st day of  
 October 1991.

PART IV

AMENDMENTS TO CRIMES ACT 1961

5 **24. Part to be read with Crimes Act 1961**—(1) This Part of this Act shall be read together with and deemed part of the Crimes Act 1961\* (hereinafter in this Part referred to as the principal Act).

*New*

(2) This section shall come into force on the 15th day of August 1991.

\*R.S. Vol. 1, p. 635  
Amendments: 1979, No. 5; 1979, No. 127; 1980, No. 63; 1980, No. 85; 1982, No. 46; 1982, No. 157; 1985, No. 171; 1985, No. 82; 1985, No. 121; 1985, No. 160; 1986, No. 4; 1986, No. 71; 1986, No. 75; 1986, No. 82; 1987, No. 1; 1987, No. 167; 1988, No. 114; 1989, No. 22; 1989, No. 103

10 **25. Right of appeal against conviction or sentence**—  
Section 383 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

*Struck Out*

15 “(1) Any person convicted on indictment may appeal to the Court of Appeal—  
“*(a)* Against conviction on any ground of appeal that involves a question of law alone, or a question of fact alone, or a question of mixed law and fact, or on any other  
20 ground; and  
“*(b)* Against sentence, unless the sentence is one fixed by law.”

*New*

25 “(1) Any person convicted on indictment may appeal to the Court of Appeal against—  
“*(a)* The conviction; or  
“*(b)* The sentence passed on the conviction (unless the sentence is one fixed by law); or  
“*(c)* Both.”

*Struck Out*

**26. Transitional provision**—Nothing in **section 25** of this Act shall apply in respect of any case where notice of appeal or application for leave to appeal has been filed before the date of the commencement of that section.

5

## PART V

CONCURRENT JURISDICTION UNDER LAW REFORM  
(TESTAMENTARY PROMISES) ACT 1949 AND FAMILY PROTECTION  
ACT 1955

*Law Reform (Testamentary Promises) Act 1949*

10

**27. Sections to be read with Law Reform (Testamentary Promises) Act 1949**—(1) This section and the next **3 succeeding sections** shall be read together with and deemed part of the Law Reform (Testamentary Promises) Act 1949\* (in those sections referred to as the principal Act).

15

*New*

(2) This section and the next **3 succeeding sections** shall come into force on the 1st day of July 1992.

\*R.S. Vol. 3, p. 199

**28. Interpretation**—The principal Act is hereby amended by repealing section 2, and substituting the following section:

20

“2. In this Act, unless the context otherwise requires,—

“‘Court’ means a Court having jurisdiction in the proceedings by virtue of **section 5** of this Act:

“‘Promise’ includes any statement or representation of fact or intention.”

25

**29. Courts to have concurrent jurisdiction**—The principal Act is hereby amended by repealing section 5, and substituting the following section:

“5. (1) Subject to the succeeding provisions of this section, the High Court and a Family Court shall each have jurisdiction in respect of proceedings under this Act.

30

“(2) A Family Court shall not have jurisdiction in respect of any application under this Act if, at the date of the filing of the application, proceedings relating to the same matter have already been commenced in the High Court.

35



5 “(3) If a Family Court Judge is of the opinion that any proceedings under this Act, or any question in any such proceedings, would be more appropriately dealt with in the High Court, the Judge may, upon application by any party to the proceedings or without any such application, refer the proceedings or the question to the High Court.

10 “(4) The High Court, upon application by any party to any proceedings pending under this Act in a Family Court, shall order that the proceedings be removed into the High Court unless it is satisfied that the proceedings would be more appropriately dealt with in a Family Court. Where the proceedings are so removed, they shall be continued in the High Court as if they had been properly and duly commenced in that Court.”

15 *Struck Out*

“(5) All proceedings in the High Court shall be commenced in accordance with Part IV of the High Court Rules.

“(6) All proceedings in a Family Court shall be commenced in accordance with section 12 of the Family Courts Act 1980”.

20 (2) Section 5 of the Law Reform (Testamentary Promises) Act 1949 is hereby repealed.

**30. Right of appeal**—The principal Act is hereby amended by inserting, after **section 5** (as substituted by **section 29** of this Act), the following section:

25 “5A. (1) Where a Family Court or a District Court has made or has refused to make an order in any proceedings under this Act, or has otherwise finally determined or has dismissed any proceedings under this Act, a party to the proceedings or any other person prejudicially affected may, within 28 days after  
30 the making of the order or decision or within such further time as the Court may allow in accordance with section 73 (1) of the District Courts Act 1947, appeal to the High Court in accordance with the provisions of Part V of that Act (except subsections (1), (3), and (5) of section 71A), and those provisions  
35 shall apply with any necessary modifications.

“ (2) The Court appealed from may, on the ex parte application of the appellant, order that security under section 73 (2) of the District Courts Act 1947 shall not be required to be given under that section.

40 “ (3) The provisions of the Judicature Act 1908 relating to appeals to the Court of Appeal against decisions of the High

Court shall apply with respect to any order or decision of the High Court under this section.

“(4) Subject to the rules governing appeals to Her Majesty in Council against a decision of the Court of Appeal or of the High Court, such an appeal may be made in proceedings under this Act to Her Majesty in Council. 5

“(5) The High Court or (as the case may be) the Court of Appeal may, in its discretion, rehear the whole or any part of the evidence, or may receive further evidence, if it thinks that the interests of justice so require.” 10

*Family Protection Act 1955*

**31. Sections to be read with Family Protection Act 1955**—(1) This section and the next 3 succeeding sections shall be read together with and deemed part of the Family Protection Act 1955\* (in those sections referred to as the principal Act). 15

*New*

(2) This section and the next 3 succeeding sections shall come into force on the 1st day of July 1992.

\*R.S. Vol. 2, p. 449

**32. Interpretation**—Section 2 of the principal Act is hereby amended by repealing the definition of the term “Court”, and substituting the following definition: 20

“‘Court’ means a Court having jurisdiction in the proceedings by virtue of **section 3A** of this Act.”

**33. Courts to have concurrent jurisdiction**—The principal Act is hereby amended by inserting, after section 3, the following section: 25

“3A. (1) Subject to the succeeding provisions of this section, the High Court and a Family Court shall each have jurisdiction in respect of proceedings under this Act.

“(2) A Family Court shall not have jurisdiction in respect of any application under this Act if, at the date of the filing of the application, proceedings relating to the same matter have already been commenced in the High Court. 30

“(3) Notwithstanding anything in **subsection (1)** of this section, if a Family Court Judge is of the opinion that any proceedings under this Act, or any question in any such proceedings, would be more appropriately dealt with in the High Court, the Judge may, upon application by any party to the proceedings or 35

without any such application, refer the proceedings or the question to the High Court.

5 “(4) The High Court, upon application by any party to any proceedings pending under this Act in a Family Court, shall order that the proceedings be removed into the High Court unless it is satisfied that the proceedings would be more appropriately dealt with in a Family Court. Where the proceedings are so removed, they shall be continued in the High Court as if they had been properly and duly commenced  
10 in that Court.”

*Struck Out*

“~~(5) All proceedings in the High Court shall be commenced in accordance with Part IV of the High Court Rules.~~

15 “~~(6) All proceedings in a Family Court shall be commenced in accordance with section 12 of the Family Courts Act 1980.~~”

**34. Right of appeal**—The principal Act is hereby amended by repealing section 15, and substituting the following section:

20 “15. (1) Where a Family Court or a District Court has made or has refused to make an order in any proceedings under this Act, or has otherwise finally determined or has dismissed any proceedings under this Act, a party to the proceedings or any other person prejudicially affected may, within 28 days after the making of the order or decision or within such further time  
25 as the Court may allow in accordance with section 73 (1) of the District Courts Act 1947, appeal to the High Court in accordance with the provisions of Part V of that Act (except subsections (1), (3), and (5) of section 71A), and those provisions shall apply with any necessary modifications.

30 “(2) The Court appealed from may, on the ex parte application of the appellant, order that security under section 73 (2) of the District Courts Act 1947 shall not be required to be given under that section.

35 “(3) The provisions of the Judicature Act 1908 relating to appeals to the Court of Appeal against decisions of the High Court shall apply with respect to any order or decision of the High Court under this section.

40 “(4) Subject to the rules governing appeals to Her Majesty in Council against a decision of the Court of Appeal or of the High Court, such an appeal may be made in proceedings under this Act to Her Majesty in Council.

“(5) The High Court or (as the case may be) the Court of Appeal may, in its discretion, rehear the whole or any part of the evidence, or may receive further evidence, if it thinks that the interests of justice so require.”

*Family Courts*

5

**35. Sections to be read with Family Courts Act 1980—**

(1) This section and the next **succeeding section** shall be read together with and deemed part of the Family Courts Act 1980\* (in that section referred to as the principal Act).

*New*

10

(2) This section and the next **succeeding section** shall come into force on the 1st day of July 1992.

\*1980, No. 161

**36. Jurisdiction—**(1) Section 11 (1) of the principal Act is hereby amended by inserting, after paragraph (ga) (as inserted by section 449 of the Children, Young Persons, and Their Families Act 1989), the following paragraphs:

15

“(gb) The Law Reform (Testamentary Promises) Act 1949:  
“(gc) The Family Protection Act 1955.”

*New*

(2) Section 11 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

20

“(1A) A Family Court shall have jurisdiction to hear and determine any proceedings brought, pursuant to section 57 (4) of the Matrimonial Property Act 1976, under the Matrimonial Property Act 1963.”

25

PART VI

GUARDIANSHIP OF FAMILY COURTS

**37. Part to be read with Guardianship Act 1968—**

(1) This Part of this Act shall be read together with and deemed part of the Guardianship Act 1968\* (hereinafter in this Part referred to as the principal Act).

30

\*R.S. Vol. 9, p. 147

Amendments: 1982, No. 4; 1983, No. 76; 1985, No. 19; 1988, No. 187

## New

(2) This Part of this Act shall come into force on the 1st day of July 1992.

5       **38. Jurisdiction of Courts**—Section 4 of the principal Act (as substituted by section 3 of the Guardianship Amendment Act 1980) is hereby amended by inserting in subsection (1), after the expression “9,”, the expression “9A (4),”.

10       **39. New sections inserted**—The principal Act is hereby amended by inserting, after section 9 (as amended by section 4 of the Guardianship Amendment Act 1980), the following section:

15       “9A. **Guardianship of Family Courts**—(1) A Family Court may, upon application made in the course of any proceedings relating to the custody of, or access to, a child, order that the child be placed under the guardianship of the Court, and may appoint any person to be the agent of the Court either generally or for any particular purpose.

      “(2) An application for an order under **subsection (1)** of this section may be made—

20       “(a) By a parent, guardian, or near relative of the child; or

      “(b) By the Director-General; or

      “(c) By the child, who may apply without guardian *ad litem* or next friend; or

      “(d) With the leave of the Court, by any other person.

25       “(3) An order may be made under **subsection (1)** of this section only where the Court is satisfied, having regard to the difficulty of the issues raised in the proceedings relating to custody or access or to the duration of those proceedings, that there is no other practicable means of protecting the child’s welfare.

30       “(4) Notwithstanding anything in **subsection (1)** of this section, the High Court, upon application by any party to proceedings for an order under that subsection, shall order that the proceedings be removed into the High Court unless it is satisfied that the proceedings would be more appropriately dealt with in a Family Court. Where the proceedings are so removed, they shall be continued in the High Court as if they had been properly and duly commenced in that Court.

35       “(5) An order made under **subsection (1)** of this section shall relate to the guardianship of the child generally; and a Family

Court shall have no jurisdiction under this section to make an order limited to a particular purpose.

“(6) Subject to **subsections (5), (9), and (10)** of this section, between the making of the application for an order under **subsection (1)** of this section and its disposal, and (if an order is made) while the order is in force, the Family Court shall have the same rights and powers in respect of the person and property of the child as a guardian has, but subject to the terms of any custody order made by the Court. 5

“(7) Neither the making of an application for an order under **subsection (1)** of this section, nor the order itself, shall affect the jurisdiction of the Family Court to make any order relating to the custody of, or access to, the child. 10

“(8) While an order under **subsection (1)** of this section remains in force in respect of any child, the rights of the Court in respect of the guardianship of the child shall supersede the rights of any other person. 15

“(9) If the child is of or over the age of 18 years, the Court shall not direct the child to live with any person unless the circumstances are exceptional. 20

“(10) If the child, while under the guardianship of the Court, marries without the Court’s consent, the Court shall not have power to commit the child or his or her spouse for contempt of Court for so marrying.

“**9B. Provision for review of order**—(1) In any order under **section 9A (1)** of this Act, the Court may specify a date, being not later than 12 months after the date of the order, by which an application shall be made to the Court for a review of the order, in which case the Court shall also specify the person or persons who is or are to be responsible for applying for such a review. 25 30

“(2) If the Court makes no provision for review, the order shall expire with the close of the period of 12 months commencing with the date of the order.

“(3) If the Court makes provision for review, the application for review shall be made within the period of 12 months prescribed in **subsection (2)** of this section, and the order shall continue in force, notwithstanding the expiry of that period, until the application has been heard and determined. If for any reason an application for review is not made within that period, the order shall expire with the close of that period. 35 40

“(4) On any such application for review, the Court shall not make any order that would extend the effect of the original order beyond the date on which it would otherwise expire

unless the Court is satisfied, having regard to **section 9A (3)** of this Act, that the order remains the only practicable means of protecting the child's welfare.

5 “(5) On any subsequent application for review, the provisions of **subsections (1) to (4)** of this section shall apply with all necessary modifications.

10 “9c. **Cessation of guardianship**—A child who has been placed under the guardianship of a Family Court shall cease to be under such guardianship when the order expires and is not renewed, or when the Court so orders, or when the child attains the age of 20 years or sooner marries, whichever first occurs.”

*Struck Out*

PART VII

15 COMPOSITION OF HIGH COURT ON CERTAIN APPEALS

*Family Courts*

20 **40. Sections to be read with Family Courts Act 1980**—This section and the next 2 succeeding sections shall be read together with and deemed part of the Family Courts Act 1980\* (in those sections referred to as the principal Act).

\*1980, No. 161

**41. Application of District Courts Act 1947**—Section 16 of the principal Act is hereby amended by adding the following subsection:

25 “(4) Where an appeal is made to the High Court against a final decision of a Family Court, and where a Family Court states a case for the opinion of the High Court in accordance with section 13 of this Act, the powers of the High Court in the matter shall be exercised by 2 or more Judges of that Court.”

30 **42. Transitional provision**—Nothing in **section 41** of this Act shall affect any case stated for the opinion of the High Court, or any appeal to that Court, filed before the date of the commencement of that section; and all such cases stated and appeals may be continued and completed in all respects as if that section had not been enacted.

35 *Town and Country Planning*

**43. Sections to be read with Town and Country Planning Act 1977**—This section and the next 2 succeeding sections shall be read together with and deemed part of the

*Struck Out*

Town and Country Planning Act 1977\* (in those sections referred to as the principal Act).

\*1977, No. 121

Amendments: 1987, No. 69; 1988, No. 44; 1988, No. 214

**44. Composition of High Court on question stated by, or appeal from, Planning Tribunal**—(1) Section 161 of the principal Act (as substituted by section 32 (1) of the Town and Country Planning Amendment Act 1983) is hereby amended by repealing subsection (4), and substituting the following subsection: 5

“(4) Every such case shall be determined by at least 2 Judges of the High Court.” 10

(2) Section 162 of the principal Act (as so substituted) is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) Every appeal under this section shall be heard and determined by at least 2 Judges of the High Court.” 15

**45. Transitional provision**—Nothing in section 44 of this Act shall affect any case stated for the opinion of the High Court, or any appeal to that Court, filed before the date of the commencement of that section; and all such cases stated and appeals may be continued and completed in all respects as if that section had not been enacted. 20



SCHEDULES

FIRST SCHEDULE

Section 4 (4)

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT

| Enactment  | Amendment  |
|--|--|
| 1937, No. 27—The Petroleum Act 1937 (R.S. Vol. 7, p. 647)                    | <p>By omitting from section 27 (3) the words “Every such appeal shall be heard and determined by the Administrative Division of that Court.”</p> <p>By inserting in section 27, after subsection (4), the following subsection:<br/>“(4A) The decision of the High Court on any such appeal shall be final.”</p>   |
| 1948, No. 50—The Land Valuation Proceedings Act 1948 (R.S. Vol. 17, p. 241)  | <p>By omitting from the definition of the term “additional member” in section 2 the words “the Administrative Division of”.</p> <p>By omitting from the definition of the term “Court” in section 2 the words “the Administrative Division of”.</p> <p>By omitting from the heading to Part I the words “THE ADMINISTRATIVE DIVISION OF”.</p> <p>By omitting from the next succeeding subheading the words “<i>Administrative Division of</i>”.</p> <p>By omitting from section 3 (1) the words “the Administrative Division of”.</p> <p>By omitting from section 3 the word “Division” where it secondly and thirdly occurs, and substituting in each case the word “Court”.</p> <p>By omitting from section 13 the words “Administrative Division” in both places where they occur, and substituting in each case the words “High Court”.</p> <p>By omitting from section 28 (4) the words “the Administrative Division of”.</p> |
| 1948, No. 64—The Land Act 1948 (R.S. Vol. 23, p. 559)                        | <p>By repealing section 18 (1) (b).</p> <p>By omitting from section 87A (3) (as inserted by section 11 of the Land Amendment Act 1965), the words “the Administrative Division of”.</p> <p>By omitting from section 133 (2) the words “the Administrative Division of” wherever they appear.</p>   |
| 1949, No. 22—The Co-operative Dairy Companies Act 1949 (R.S. Vol. 1, p. 553) | <p>By omitting from section 18A (2) (as inserted by section 9 of the Co-operative Dairy Companies Amendment Act 1978) the words “the Administrative Division of”.</p>  |

FIRST SCHEDULE—*continued*AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment  |
|--|--|
| 1949, No. 22—The Co-operative Dairy Companies Act 1949 (R.S. Vol. 1, p. 553)— <i>continued</i> | By omitting from section 19(2) (as substituted by section 10(1) of the Co-operative Dairy Companies Amendment Act 1978) the words “the Administrative Division of”.  |
| 1950, No. 44—The Dietitians Act 1950 (Reprinted 1976, Vol. 4, p. 3423)                         | By omitting from section 26(3) (as substituted by section 12 of the Dietitians Amendment Act 1979) the words “the Administrative Division of”.<br>By adding to section 26 (as amended by section 12 of the Dietitians Amendment Act 1979) the following subsection:<br>“(8) The decision of the High Court on any such appeal shall be final.”<br><br><i>New</i> |
| 1951, No. 19—The Valuation of Land Act 1951 (R.S. Vol. 21, p. 851)                             | By omitting from section 35(a) the words “the Administrative Division of”.<br>By omitting from subsections (1) and (2) of section 36 the words “the Administrative Division of” in both places where they occur.   |
| 1954, No. 54—The War Pensions Act 1954 (R.S. Vol. 15, p. 725)                                  | By repealing section 85A(2) (as inserted by section 4 of the War Pensions Amendment Act 1968).<br>By inserting in section 85A(9) (as so inserted), after the word “Court”, the words “or High Court”.  |
| 1963, No. 70—The Fishing Industry Board Act 1963 (Reprinted 1976, Vol. 5, p. 3847)             | By omitting from section 35A(2) (as inserted by section 14 of the Fishing Industry Board Amendment Act 1975) the words “the Administrative Division of”.<br>By adding to section 35A (as so inserted) the following subsection:<br>“(12) The decision of the High Court on any such appeal shall be final.”  |
| 1964, No. 136—The Social Security Act 1964 (R.S. Vol. 13, p. 403)                              | By repealing section 12Q(2) (as inserted by section 4 of the Social Security Amendment Act 1973).  |

FIRST SCHEDULE—*continued*

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment  |
|--|--|
| 1966, No. 19—The Customs Act 1966 (R.S. Vol. 2, p. 57) | <p>By omitting from section 91(1) (as substituted by section 11 of the Customs Amendment Act 1986) the words “the Administrative Division of”.</p> <p>By omitting from section 92(1) (as so substituted) the words “the Administrative Division of”.</p> <p>By omitting from section 92(1) (as so substituted) the word “Division” where it secondly occurs, and substituting the word “Court”.</p> <p>By omitting from subsections (2), (3), (4), and (12) of section 92 (as so substituted) the words “Administrative Division” wherever they occur, and substituting in each case the words “High Court”.</p>   |
|  | <i>New</i>   |
|  | <p>By omitting from section 118<sub>H</sub>(1) (as inserted by section 12 of the Customs Amendment Act 1986) the words “the Administrative Division of”.</p> <p>By repealing section 118<sub>I</sub> (as inserted by section 12 of the Customs Amendment Act 1986), and substituting the following section:</p> <p>“118<sub>I</sub>. <b>Appeal against decision of High Court on question of law</b>—If any party to any proceedings before the High Court under section 118<sub>H</sub> of this Act is dissatisfied with any decision of the Court in the proceedings as being erroneous in point of law, that party may, with the leave of that Court, appeal to the Court of Appeal by way of case stated for the opinion of the Court on a question of law only, and the provisions of section 92(2) to (14) of this Act shall, with any necessary modifications, apply accordingly:</p> <p>“Provided that, if the High Court refuses to grant leave to appeal to the Court of Appeal, the Court of Appeal may grant special leave to appeal.”</p> |

FIRST SCHEDULE—*continued*AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment  |
|--|--|
|  | <i>New</i>   |
| 1966, No. 19—The Customs Act 1966 (R.S. Vol. 2, p. 57)— <i>continued</i> | By omitting from section 140A(1) (as inserted by section 8 of the Customs Amendment Act 1981) the words “the Administrative Division of”.  |
| 1967, No. 51—The Animal Remedies Act 1967 (R.S. Vol. 21, p. 11)          | By omitting from section 34(2) (as substituted by section 8(1) of the Animal Remedies Amendment Act 1969) the words “the Administrative Division of”.<br>By adding to section 34 (as so substituted) the following subsection:<br>“(12) The decision of the High Court on any such appeal shall be final”.   |
| 1968, No. 46—The Medical Practitioners Act 1968 (R.S. Vol. 7, p. 535)    | By repealing the definition of the term “High Court” in section 2.<br>By adding to section 23, as subsection (2), the following subsection:<br>“(2) The decision of the High Court on any such appeal shall be final.”   |
| 1970, No. 143—The Pharmacy Act 1970 (R.S. Vol. 21, p. 691)               | By repealing subsection (2) of section 40, and substituting the following subsection:<br>“(2) The decision of the High Court on any such appeal shall be final.”   |
| 1971, No. 25—The Mining Act 1971 (R.S. Vol. 17, p. 355)                  | By repealing subsection (2) of section 119, and substituting the following subsection:<br>“(2) The decision of the High Court on any such appeal shall be final.”<br>By inserting in section 238(1), after the word “under”, the words “section 25, section 106, and section 111.”.<br>By inserting in section 238(1), after the expression “120,”, the words “section 124, section 185, section 237, and section 237A”.<br>By adding to section 238 the following subsection: |

FIRST SCHEDULE—*continued*

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment   |
|--|---|
| 1971, No. 25—The Mining Act 1971 (R.S. Vol. 17, p. 355)— <i>continued</i>                  | “(4) The decision of the High Court in any such appeal shall be final.”<br>By repealing section 239.  |
| 1971, No. 51—The Stamp and Cheque Duties Act 1971 (R.S. Vol. 23, p. 771)                   | By omitting from section 42 (8) the words “the Administrative Division of”.   |
| 1972, No. 3 (Local)—The Wellington Regional Water Board Act 1972                           | By repealing subsection (2) of section 39, and substituting the following subsection:<br>“(2) The decision of the High Court on any such appeal shall be final.”  |
| 1972, No. 31—The Clean Air Act 1972 (R.S. Vol. 24, p. 127)                                 | By omitting from subsection (1), and also from subsection (2), of section 35 the words “the Administrative Division of”.<br>By omitting from subsection (1), and also from subsection (5), of section 38 the words “Administrative Division”, and substituting in each case the words “High Court”. |
| 1974, No. 48—The Private Investigators and Security Guards Act 1974 (R.S. Vol. 24, p. 633) | By repealing section 64 (6).  |
| 1974, No. 66—The Local Government Act 1974 (R.S. Vol. 20, p. 1)                            | By repealing subsection (2) of section 37ZE (as substituted by section 8 of the Local Government Amendment Act (No. 2) 1989), and substituting the following subsection:<br>“(2) The decision of the High Court on any such appeal shall be final.”   |
| 1975, No. 127—The Motor Vehicle Dealers Act 1975 (R.S. Vol. 5, p. 749)                     | By repealing section 130 (4).   |
| 1976, No. 9—The Real Estate Agents Act 1976  | By repealing section 112 (4).   |
| 1976, No. 61—The Optometrists and Dispensing Opticians Act 1976                            | By omitting from the heading to Part V the words “ADMINISTRATIVE DIVISION OF”.<br>By repealing section 46 (2).<br>By adding to section 47 the following subsection:<br>“(3) The decision of the High Court on any such appeal shall be final.”  |

FIRST SCHEDULE—*continued*AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment  |
|--|--|
| 1976, No. 69—The Plumbers, Gasfitters, and Drainlayers Act 1976  | <p>By omitting from the heading to Part VII the words “ADMINISTRATIVE DIVISION OF”.</p> <p>By repealing section 58 (2).</p> <p>By adding to section 59 the following subsection:<br/>“(3) The decision of the Court in any such appeal shall be final.”</p>  |
| 1977, No. 49—The Human Rights Commission Act 1977 (R.S. Vol. 18, p. 227)   | <p>By repealing sections 42 (7) and 63 (2).</p> <p>By omitting from section 66 (1) the words “the Administrative Division of”.</p> <p>By omitting from section 66 (1) (b) the word “Division” in both places where it occurs, and substituting in each case the word “Court”.</p> <p>By omitting from section 66 (3) the words “Administrative Division”, and substituting the words “High Court”.</p> |
| 1977, No. 53—The Nurses Act 1977   | <p>By repealing section 49 (3).</p> <p>By adding to section 50 the following subsection:<br/>“(5) The decision of the High Court on any such appeal shall be final.”</p>   |
| 1977, No. 61—The Citizenship Act 1977  | <p>By repealing section 19 (5).</p> <p>By adding to section 19 the following subsection:<br/>“(9) The determination of the High Court on any such application shall be final.”</p>   |
| <i>New</i>   |  |
| <p>1977, No. 84—The Gaming and Lotteries Act 1977</p> <p>1977, No. 112—The Contraception, Sterilisation, and Abortion Act 1977</p> | <p>By repealing section 65 (4).</p> <p>By repealing section 26 (2).</p> <p>By repealing subsection (7) of section 26, and substituting the following subsection:<br/>“(7) The Secretary shall send the signed case to the proper office of the High Court, and shall make a copy available to the appellant.”</p> <p>By repealing section 28 (2).</p>  |

FIRST SCHEDULE—*continued*

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment   |
|--|---|
|  | <i>New</i>  |
| 1977, No. 121—The Town and Country Planning Act 1977 (R.S. Vol. 16, p. 521)<br>1979, No. 21—The Coal Mines Act 1979                      | By repealing sections 161 (4) and 162 (2).<br><br>By repealing section 77 (2).  |
| 1979, No. 26—The Pesticides Act 1979<br>1979, No. 27—The Toxic Substances Act 1979<br>1979, No. 139—The Electrical Registration Act 1979 | By repealing section 70 (4).<br>By repealing section 67 (4).<br>By repealing section 44 (2).<br>By adding to section 44 the following subsection:<br>“(5) The decision of the High Court in any such appeal shall be final.”  |
| 1980, No. 58—The Passports Act 1980<br>1981, No. 5—The Psychologists Act 1981  | By repealing section 9 (3).<br>By repealing section 35 (2).<br>By adding to section 35 the following subsection:<br>“(7) The decision of the High Court on any such appeal shall be final.”   |
| 1981, No. 118—The Medicines Act 1981<br>1981, No. 125—The Wine Makers Act 1981   | By repealing section 89 (4).<br>By repealing section 24.  |
| 1982, No. 27—The Gas Act 1982  | By omitting from section 27 (3) the words “the Administrative Division of”.<br>By omitting from section 28 (1) the words “the Administrative Division of”.  |
| 1982, No. 32—The Chiropractors Act 1982  | By repealing section 35 (2).<br>By adding to section 35 the following subsection:<br>“(7) The decision of the Court on any such appeal shall be final.”   |
| 1982, No. 181—The Accident Compensation Act 1982   | By repealing section 111 (3).<br>By omitting from section 112 (1) the words “the Administrative Division of”.<br>By omitting from section 112 (1) the word “Division”, and substituting the word “Court”.<br>By omitting from section 112 the words “Administrative Division” wherever they |

FIRST SCHEDULE—*continued*AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment   |
|--|---|
| 1982, No. 181—The Accident Compensation Act 1982— <i>continued</i> | occur, and substituting in every case the words “High Court”.   |
| 1983, No. 14—The Fisheries Act 1983                                | By repealing section 49 (3).  |
| 1983, No. 36—The Air Services Licensing Act 1983                   | By omitting from section 33 (1) the words “the Administrative Division of”.   |
| 1983, No. 130—The Films Act 1983                                   | By repealing sections 36 (2) and 37 (2).  |
| 1986, No. 5—The Commerce Act 1986                                  | <p>By repealing section 75 (2).</p> <p>By adding to section 75 (1) the following paragraph:</p> <p style="padding-left: 2em;">“(e) Appeals against determinations of the Commission.”</p> <p>By omitting from section 77 the words “the Administrative Division of” wherever they occur.</p> <p>By omitting from section 77 the word “Division”, wherever it occurs, and substituting in each case the word “Court”.</p> <p>By omitting from section 78 the words “the Administrative Division of” in both places where they occur.</p> |
|  | <i>New</i>  |
|  | <p>By omitting from section 91 (1) the words “the Administrative Division of”.</p> <p>By omitting from section 97 (1) the words “the Administrative Division of”.</p> <p>By omitting from section 118 (1) the words “the Administrative Division of”.</p> <p>By repealing section 118 (3).</p>  |
| 1986, No. 123—The Survey Act 1986                                  | <p>By repealing section 53 (2).</p> <p>By adding to section 53 the following subsection:</p> <p style="padding-left: 2em;">“(7) The decision of the High Court on any such appeal shall be final.”</p>  |



FIRST SCHEDULE—*continued*

AMENDMENTS CONSEQUENTIAL UPON ABOLITION OF ADMINISTRATIVE  
DIVISION OF HIGH COURT—*continued*

| Enactment  | Amendment   |
|--|---|
| <i>Struck Out</i>                                |   |
| 1987, No. 74—The Immigration Act 1987            | By repealing sections 115 (5) and 117 (3).<br>By adding to section 117 the following subsection:<br>“(6) The decision of the High Court on any such appeal shall be final.”   |
| <i>New</i>                                       |   |
| 1987, No. 74—The Immigration Act 1987            | By repealing sections 21 (6) and 81 (4).<br>By repealing sections 115 (5) and 117 (3).<br>By adding to section 117 the following subsection:<br>“(6) The decision of the High Court on any such appeal shall be final.” |
| 1987, No. 85—The Video Recordings Act 1987       | By repealing sections 40 (2) and 41 (3).  |
| 1988, No. 150—The Dental Act 1988                | By repealing section 64 (2).<br>By omitting from section 64 (7) the words “the Administrative Division of” in both places where they occur.   |
| 1989, No. 10—The Superannuation Schemes Act 1989 | By repealing section 23 (4).<br>By adding to section 23 the following subsection:<br>“(11) The decision of the High Court on any such appeal shall be final.”   |
|  | By repealing section 63 (6).<br>By adding to section 63 the following subsection:<br>“(11) The decision of the High Court on any such appeal shall be final.”   |
| 1989, No. 25—The Broadcasting Act 1989           | By repealing section 18 (2).<br>By omitting from section 18 (3) the words “the Administrative Division of”.   |
| 1989, No. 63—The Sale of Liquor Act 1989         | By repealing sections 112 (2) and 149.  |
| 1989, No. 80—The Education Act 1989              | By repealing section 126 (2).<br>By omitting from section 126 (7) the words “the Administrative Division of” in both places where they occur.   |

## SECOND SCHEDULE

## Section 14

## ENACTMENTS AMENDED BY EXTENDING JURISDICTION OF DISTRICT COURTS

| Act Amended   | Amendment  |
|---|--|
| 1952, No. 51—The Property Law Act 1952 (R.S. Vol 22, p. 773)      | By omitting from section 143 (2) (as amended by section 10 of the District Courts Amendment Act 1989) the expression "\$60,000", and substituting the expression "\$200,000".<br>By omitting from section 152 (6) (a) (as so amended) the expression "\$150,000", and substituting the expression "\$200,000". |
| 1967, No. 54—The Insolvency Act 1967 (R.S. Vol. 18, p. 289)       | By omitting from section 89 (8) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".  |
| 1969, No. 41—The Minors' Contracts Act 1969 (R.S. Vol. 3, p. 639) | By omitting from section 14 (1) (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".  |
| 1970, No. 129—The Illegal Contracts Act 1970                      | By omitting from section 9 (1) (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".   |
| 1971, No. 147—The Hire Purchase Act 1971                          | By omitting from section 47 (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".  |
| 1977, No. 54—The Contractual Mistakes Act 1977                    | By omitting from section 9 (1) (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".   |
| 1979, No. 11—The Contractual Remedies Act 1979                    | By omitting from section 12 (1) (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".  |
| 1981, No. 27—The Credit Contracts Act 1981                        | By omitting from section 45 (1) (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".  |
| 1982, No. 132—The Contracts (Privity) Act 1982                    | By omitting from section 10 (1) (b) (as so amended) the expression "\$50,000", and substituting the expression "\$200,000".  |
| 1986, No. 121—The Fair Trading Act 1986                           | By omitting from section 43 (3) the expression "\$50,000" wherever it occurs, and substituting in each case the expression "\$200,000".  |
| 1987, No. 116—The Telecommunications Act 1987                     | By omitting from section 20D (2) (as enacted by the Telecommunications Amendment Act 1988 and as amended by section 10 of the District Courts Amendment Act 1989) the expression "\$50,000", and substituting the expression "\$200,000".  |

Section 15

THIRD SCHEDULE

NEW SCHEDULE 1A INSERTED IN DISTRICT COURTS ACT 1947

Section 28A

SCHEDULE 1A

PART I

| Section of<br>Crimes Act 1961   |    |    | Offence   |
|---|----|----|---|
| <i>Part V—Crimes Against Public Order</i>   |    |    |   |
| 80  | .. | .. | Oath to commit offence  |
| 82  | .. | .. | Seditious conspiracy  |
| 83  | .. | .. | Seditious statements  |
| 84  | .. | .. | Publication of seditious documents                            |
| 85  | .. | .. | Use of apparatus for making seditious documents or statements |
| 90  | .. | .. | Riotous damage  |
| <i>Part VI—Crimes Affecting the Administration of Law and Justice</i>             |    |    |   |
| 104   | .. | .. | Corruption and bribery of law enforcement officer             |
| 105   | .. | .. | Corruption and bribery of official                            |
| 105A  | .. | .. | Corrupt use of official information                           |
| 109   | .. | .. | Perjury   |
| 113   | .. | .. | Fabricating evidence  |
| 115   | .. | .. | Conspiring to bring false accusation                          |
| 116   | .. | .. | Conspiring to defeat justice                                  |
| 117   | .. | .. | Corrupting juries and witnesses                               |
| <i>(Part VIII) Part VII—Crimes against Religion, Morality, and Public Welfare</i> |    |    |   |
| 123   | .. | .. | Blasphemous libel   |
| 142   | .. | .. | Anal intercourse  |
| 142A  | .. | .. | Compelling indecent act with animal                           |
| 143   | .. | .. | Bestiality  |
| <i>Part VIII—Crimes Against the Person</i>  |    |    |   |
| 197   | .. | .. | Disabling   |
| 204   | .. | .. | Impeding rescue   |
| <i>Part IX—Crimes Against Reputation</i>  |    |    |   |
| 215   | .. | .. | Criminal libel  |
| <i>New</i>  |    |    |   |
| 216   | .. | .. | Criminal slander  |
| <i>Part X—Crimes Against Rights of Property</i>                                   |    |    |   |
| 235 (1) (b)   | .. | .. | Aggravated robbery  |
| 236   | .. | .. | Compelling execution of documents by force                    |

THIRD SCHEDULE—*continued*NEW SCHEDULE IA INSERTED IN DISTRICT COURTS ACT 1947—*continued*SCHEDULE IA—*continued*PART I—*continued*

| Section of<br>Crimes Act 1961                                  | Offence             |
|--|---------------------|
| <i>Part X—Crimes Against Rights of Property—<br/>continued</i> |                     |
| 240A .. ..   | Aggravated burglary |
| 294 .. ..  | Arson               |
| 298 (1) .. ..  | Wilful damage       |

## PART II

*Part A. Offences Against the Crimes Act 1961*

| Section of Act  | Offence   |
|---|---|
| <i>Part VII—Crimes Against Religion, Morality, and<br/>Public Welfare</i> |   |
| 128 .. ..   | Sexual violation  |
| 129 .. ..   | Attempt to commit sexual violation                        |
| 129A .. ..  | Inducing sexual connection by coercion                    |
| 132 (1) .. ..   | Sexual intercourse with girl under 12                     |
| <i>Part VIII—Crimes Against the Person</i>                                |   |
| 188 .. ..   | Wounding with intent                                      |
| 191 .. ..   | Aggravated wounding or injury                             |
| 198 .. ..   | Discharging firearm or doing dangerous act<br>with intent |
| 198A (1) .. ..  | Using firearm against law enforcement officer             |
| 199 .. ..   | Acid throwing   |
| 200 (1) .. ..   | Poisoning with intent                                     |
| 201 .. ..   | Infecting with disease                                    |
| 203 (1) .. ..   | Endangering transport                                     |
| 208 .. ..   | Abduction of woman or girl                                |
| 209 .. ..   | Kidnapping  |
| <i>Part X—Crimes Against Rights of Property</i>                           |   |
| 235 (1) (a) and (c) .. ..   | Aggravated robbery  |

*Part B. Offences Against the Misuse of Drugs Act 1975*

| Section of Act | Offence  |
|----------------|--|
| 6 .. ..        | Dealing with controlled drugs, but only where<br>the charge relates to a class B controlled drug |

THIRD SCHEDULE—*continued*

NEW SCHEDULE 1A INSERTED IN DISTRICT COURTS ACT 1947—*continued*

SCHEDULE 1A—*continued*

PART II—*continued*

*Part C. Offences Against the Securities Act 1978*

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| Section of Act | Offence   |
|----------------|---|
| 58             | .. .. Mis-statement in advertisement or registered prospectus |

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## New

| Section 15A  |       | FOURTH SCHEDULE  |  |
|--|-------|--|--|
|  |       | AMENDMENTS OF PRINCIPAL ACT  |  |
| Section of Principal Act Amended   |       | Amendment  |  |
| Section 38   | .. .. | By omitting the word “actions”, and substituting the word “proceedings”.   |  |
| Section 45   | .. .. | By repealing subsection (1), and substituting the following subsection:<br>“(1) Where, in any proceeding commenced in a Court, any counterclaim or set-off and counterclaim which involves matter beyond the jurisdiction of a Court has been filed by any defendant, any party to the proceeding may, within such time as may be prescribed by the High Court Rules, apply to the High Court or a Judge thereof for an order that the whole proceedings, or the proceedings on the counterclaim or set-off and counterclaim, be transferred to the High Court.” |  |
| Section 49   | .. .. | By omitting the word “action” in both places where it occurs, and substituting in each case the word “proceeding”.   |  |
| Section 52   | .. .. | By omitting the word “action” wherever it occurs, and substituting in each case the word “proceeding”.   |  |
| Section 62B (as inserted by section 4 (1) of the District Courts Amendment Act (No. 2) 1982) |       | By omitting the words “an ordinary action”, and substituting the words “a proceeding”.   |  |
| Section 67   | .. .. | By repealing this section, and substituting the following section:<br>“67. <b>Proceeding in High Court on judgment or order of District Court</b> —A proceeding may be brought in the High Court on a judgment or order of a District Court, but no costs shall be allowed in such proceeding to the plaintiff unless the Judge of the High Court certifies that the proceeding was necessary and proper for the enforcement of the judgment of the District Court against the person or property of the defendant.”   |  |

*New*

FOURTH SCHEDULE—*continued*  
 AMENDMENTS OF PRINCIPAL ACT—*continued*

| Section of Principal Act Amended | Amendment   |
|----------------------------------|---|
| Section 68 .. ..                 | By omitting from subsection (1) the words “action or”.<br>By omitting from subsection (4) the word “action”, and substituting the word “proceeding”.  |
| Section 101 .. ..                | By omitting the word “action” in both places where it occurs, and substituting in each case the word “proceeding”.  |
| Section 102 .. ..                | By omitting from subsection (1) the words “proceedings in the action”, and substituting the word “proceeding”.<br>By omitting from subsection (1) the words “his action”, and substituting the words “the plaintiff’s proceeding”.<br>By omitting from subsection (2) the word “action” wherever it occurs, and substituting in each case the word “proceeding”.<br>By repealing subsection (3), and substituting the following subsection:<br>“(3) Every such bond as aforesaid shall be made to the landlord at the cost of the tenant or occupier and shall be approved of in writing by a Judge; and if the bond so taken is forfeited, or if on the trial of the proceeding for securing the trial of which the bond was given the Judge by whom it is tried does not endorse upon the record in Court that the condition of the bond has been fulfilled, the party to whom the bond has been so made may bring a proceeding and recover thereon; and the Court where the last-mentioned proceeding is brought may by order give such relief to the parties upon the bond as may be agreeable to justice, and the order shall have the nature and effect of a defeasance to the bond.” |
| Section 106 .. ..                | By omitting the words “an action”, and substituting the words “a proceeding”.   |

## New

| Section of Principal Act Amended              |       | Amendment  |
|---|-------|--|
| FOURTH SCHEDULE— <i>continued</i>             |       |  |
| AMENDMENTS OF PRINCIPAL ACT— <i>continued</i> |       |  |
| Section 106— <i>continued</i>                 |       | By omitting from the proviso the word “action”, and substituting the word “proceeding”.  |
| Section 107                                   | .. .. | By omitting the word “action” wherever it occurs, and substituting in each case the word “proceeding”.   |
| Section 108                                   | .. .. | By omitting from subsection (3) the word “action”, and substituting the word “proceeding”.   |
| Section 109                                   | .. .. | By omitting from subsection (1) the word “action” in the second place where it occurs, and substituting the words “a proceeding”.  |
|   |       | By repealing subsection (4), and substituting the following subsection:<br>“(4) A Judge before whom a defendant is brought under the authority of any writ issued as aforesaid may, with the consent in writing of the defendant, summarily hear and finally adjudicate upon the claim of the plaintiff, or may fix the time for the hearing of the claim by the Court or order that the proceeding be set down for hearing and fix the time thereof.” |
| Section 118                                   | .. .. | By omitting the word “action”, and substituting the word “proceeding”.   |