

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 16 October 1974.

Words inserted by the Committee are shown with double rule before first line and after last line.

Hon. Dr Finlay

JUDICATURE AMENDMENT

ANALYSIS

Title	4. Power to make rules
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2. Judges of the Supreme Court	6. Appointment of additional Judge of Court of Appeal
3. Certain actions not to be tried by jury	7. Interest on debts and damages

A BILL INTITULED

An Act to amend the Judicature Act 1908

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

1. Short Title—This Act may be cited as the Judicature Amendment Act 1974, and shall be read together with and deemed part of the Judicature Act 1908* (hereinafter referred to as the principal Act).

2. Judges of the Supreme Court—(1) Section 4 of the principal Act (as inserted by section 4 (1) of the Judicature Amendment Act 1957 and amended by section 17 (1) of the Judicature Amendment Act 1972) is hereby further amended by omitting from subsection (1) the expression “17”, and substituting the expression “19”.

*1957 Reprint, Vol. 6, p. 699

Amendments: 1958, No. 40; 1960, No. 109; 1961, No. 11; 1963, No. 133; 1965, No. 62; 1966, No. 67; 1968, No. 18; 1968, No. 59; 1969, No. 86; 1970, No. 72; 1972, No. 130; 1973, No. 8; 1973, No. 69

(2) Subsection (1) of section 17 of the Judicature Amendment Act 1972 is hereby consequentially repealed.

3. Certain actions not to be tried by jury—Section 2 of the Judicature Amendment Act (No. 2) 1955 (as amended by section 4 of the Judicature Amendment Act 1960) is hereby further amended by adding the following subsection: 5

“(6) Nothing in this section shall apply in respect of any action to be heard by the Court in its admiralty jurisdiction, or when sitting as a Prize Court.”

4. Power to make rules—(1) The Judicature Amendment Act 1930 is hereby amended by repealing section 3, and substituting the following section: 10

“(1) The Governor-General in Council, with the concurrence of the Chief Justice and any 2 or more of the other members of the Rules Committee, of whom at least 1 shall be a Judge, may, for the purposes of facilitating the expeditious, inexpensive, and just dispatch of the business of the Court, or of otherwise assisting in the due administration of justice, from time to time— 15

“(a) Repeal the Code of Civil Procedure set forth in the Second Schedule to the principal Act, and substitute a new code: 20

“(b) Alter or revoke any of the rules contained in the said Code or in any substituted code:

“(c) Add to the said Code or any substituted code any further rules touching the practice and procedure of the Supreme Court in all or any of the causes and matters within its jurisdiction: 25

“(d) Alter or revoke any of the rules contained in the Court of Appeal Rules 1955: 30

“(e) Make any additional rules touching the practice and procedure of the Court of Appeal:

“(f) Alter or revoke any other rules of the Supreme Court or the Court of Appeal that are now or may hereafter be in force. 35

“(2) In this Act the power to make rules of procedure includes the power to fix scales of costs.”

(2) The following enactments are hereby consequentially repealed:

(a) The Third Schedule to the principal Act: 40

(b) Subsection (4) of section 2 and subsection (2) of section 3 of the Judicature Amendment Act (No. 2) 1968.

5. Service of process on Sundays—Section 54 of the principal Act is hereby amended by adding to subsection (1) the following proviso:

5 “Provided that nothing in this subsection shall apply to the service of any writ in rem or warrant of arrest in respect of any action heard or to be heard by the Supreme Court in its admiralty jurisdiction, or when sitting as a Prize Court.”

6. Appointment of additional Judge of Court of Appeal—

10 (1) Section 58 of the principal Act (as substituted by section 3 of the Judicature Amendment Act 1957) is hereby amended by omitting from subsection (1A) (as inserted by section 2 of the Judicature Amendment Act 1973) the expression “12”, and substituting the expression “6”.

15 (2) Section 58 of the principal Act (as so substituted) is hereby further amended by inserting, after the said subsection (1A), the following subsection:

20 “(1B) The power conferred by subsection (1A) of this section shall be exercised only on a certificate signed by the Chief Justice and the President of the Court of Appeal to the effect that, in their opinion, it is necessary for the due conduct of the business of the Court that one or more additional Judges should be temporarily appointed.”

7. Interest on debts and damages—(1) Section 87 of the principal Act is hereby amended by omitting from sub-
25 sections (1) and (2) the words “five per cent per annum”, in each place where they appear, and substituting in each case the words “the prescribed rate”.

(2) Section 87 of the principal Act is hereby further amended by adding the following subsection:

30 “(3) In this section the term ‘the prescribed rate’ means the rate of $7\frac{1}{2}$ percent per annum, or such other rate as may from time to time be prescribed for the purposes of this section by the Governor-General by Order in Council.”

New

35 **8. Judges may be paid allowances**—Section 3 of the Judicature Amendment Act 1970 is hereby amended by inserting in subsection (1), after the word “salaries”, the words “and allowances”.