



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Appointment of places for holding of Courts</p> <p>3. Sittings of Court at other places</p> <p>4. Number of Judges increased</p> <p>5. Chief District Court Judge</p> <p>6. Retired Judges may act</p> <p>7. Jurisdiction of Judge in Chatham Islands</p> <p>8. Place of sittings</p> <p>9. New Part inserted in principal Act</p> <p style="text-align: center;">PART IIA</p> <p style="text-align: center;">CRIMINAL JURISDICTION IN RESPECT OF INDICTABLE OFFENCES</p> <p>28A. Extent of jurisdiction</p> <p>28B. Appointment of trial Judges</p> <p>28C. Trial Judge not to act in certain cases</p>	<p>28D. Constitution and procedure of Court</p> <p>28E. Powers of Court</p> <p>28F. Maximum sentences</p> <p>28G. Judge may decline to sentence</p> <p>28H. Appeal against sentence</p> <p>28I. Enforcement of penalties</p> <p>28J. Transfer of proceedings</p> <p>10. Warrant of distress</p> <p>11. Protection of bailiff selling goods under execution without notice of claim by third parties</p> <p>12. Irregularity in execution of warrant can only be sued for as special damage</p> <p>13. Irregularity in executing warrants</p> <p>14. Absconding debtors may be held to bail</p> <p>15. Successful plaintiff entitled to execution, successful defendant entitled to compensation</p> <p>16. Maximum fines increased</p> <p style="text-align: center;">Schedule</p>
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1980, No. 83

An Act to amend the District Courts Act 1947

[13 January 1981]

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

1. Short Title and commencement—(1) This Act may be cited as the District Courts Amendment Act 1980, and shall be read together with and deemed part of the District Courts Act 1947 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of May 1981.

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

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

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

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

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

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

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

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

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

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

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

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

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

“PART IIA

“CRIMINAL JURISDICTION IN RESPECT OF INDICTABLE OFFENCES

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

- “(a) The indictable offences referred to in section 6 (2) of the Summary Proceedings Act 1957:
- “(b) The indictable offences described in the enactments referred to in the First Schedule to that Act:
- “(c) Any offence for which the accused elects under section 66 of that Act to be tried by a jury.

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

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

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

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

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

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

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

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

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

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

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

“28F. **Maximum sentences**—(1) Where any person—

“(a) Is found guilty on indictment in a District Court; or

“(b) Having been committed to a District Court for trial, pleads guilty under section 321 or section 356 of the Crimes Act 1961,—

the Court may sentence him to imprisonment or a fine or both, not exceeding—

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

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

“(2) Where the accused person pleads guilty under section 153A or section 168 of the Summary Proceedings Act 1957 in respect of an offence to which section 28A of this Act applies and the Court accepts jurisdiction, 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.

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

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

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

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

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

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

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

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

- (a) By omitting the words “one hundred dollars”, and substituting the expression “\$300”;
- (b) By omitting the words “three hundred dollars”, and substituting the expression “\$1,000”.

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

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

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

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

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

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

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

SCHEDULE

Section 16

MAXIMUM FINES INCREASED

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

This Act is administered in the Department of Justice.
