



# District Courts Amendment Act 2004

Public Act 2004 No 42  
Date of assent 19 May 2004  
Commencement see section 2

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## The Parliament of New Zealand enacts as follows:

### 1 Title

- (1) This Act is the District Courts Amendment Act 2004.
- (2) In this Act, the District Courts Act 1947 is called “the principal Act”.

### 2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

### 3 Appointment and qualifications

- (1) Section 5 of the principal Act is amended by repealing subsection (2), and substituting the following subsections:
  - “(2) The maximum number of Judges is 140.
  - “(2A) For the purposes of subsection (2),—
    - “(a) a Judge who is acting on a full-time basis counts as 1:
    - “(b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1:

“(c) the aggregate number (for example, 139.5) must not exceed the maximum number of Judges that is for the time being permitted.

“(2B) Subsection (2) is subject to sections 10 and 10A.”

(2) Section 5 of the District Courts Act 1947 is amended by repealing subsection (4), and substituting the following subsection:

“(4) A Judge must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief District Court Judge is satisfied that the employment or other office is compatible with judicial office.”

(3) Section 180 of the Sentencing Act 2002 is consequentially repealed.

#### **4 New section 5AA inserted**

The principal Act is amended by inserting, after section 5, the following section:

##### **“5AA Judges act on full-time basis but may be authorised to act part-time**

“(1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.

“(2) The Attorney-General may, in accordance with subsection (4), authorise a Judge appointed under section 5 or section 5A to act on a part-time basis for any specified period.

“(3) To avoid doubt, an authorisation under subsection (2) may take effect as from a Judge’s appointment or at any other time, and may be given more than once in respect of the same Judge.

“(4) The Attorney-General may authorise a Judge to act on a part-time basis only—

“(a) on the request of the Judge; and

“(b) with the concurrence of the Chief District Court Judge (after consultation with the Principal Environment Judge if the request is from an Environment Judge).

“(5) In considering whether to concur under subsection (4)(b), the Chief District Court Judge must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way.

- “(6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- “(7) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by subsection (6).
- “(8) This section applies to persons who hold office as District Court Judges regardless of whether they act as District Court Judges, as Environment Judges, or in any other judicial office.”

## **5 Salaries and allowances**

- (1) Section 6 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) There must be paid to the Chief District Court Judge, to the Principal Environment Judge, to the Principal Family Court Judge, to the Principal Youth Court Judge, and to the other Judges, out of public money, without further appropriation than this section,—
- “(a) salaries at the rates from time to time determined by the Remuneration Authority; and
  - “(b) the allowances from time to time determined by the Remuneration Authority; and
  - “(c) the additional allowances, being travelling allowances or incidental or minor allowances, from time to time determined by the Governor-General.”
- (2) Section 6 of the principal Act is amended by inserting, after subsection (2), the following subsections:
- “(2A) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position.
- “(2B) If a principal Judge ceases to hold the position of principal Judge but continues to hold office as a Judge, the salary and allowances of the Judge may be reduced by the amount of any salary or allowances that the person received solely because of being the principal Judge.
- “(2C) For the purpose of subsection (2), the payment of salary and allowances on a pro-rata basis under subsection (2A) or the

payment of reduced salary and allowances under subsection (2B) is not a diminution of salary.”

**6 New section 11H inserted**

The principal Act is amended by inserting, after section 11G, the following section:

**“11H Retired Community Magistrates**

“(1) Any person who has retired from office as a Community Magistrate on attaining the age of 68 years, or who has sooner resigned, may be appointed as an acting Community Magistrate by the Governor-General on the advice of the Minister of Justice.

“(2) Each acting Community Magistrate must be appointed for a stated term that—

“(a) is not more than the time until the Community Magistrate will reach the age of 73 years:

“(b) in any case, is not more than 24 months.

“(3) During the term of the warrant, the person appointed may act as a Community Magistrate only during the period or periods that the Chief District Court Judge may direct after consultation with—

“(a) the Chief Community Magistrate; or

“(b) if the office of Chief Community Magistrate is vacant, any other Community Magistrate that the Chief District Court Judge thinks fit.

“(4) An acting Community Magistrate must, in respect of any period during which he or she acts as a Community Magistrate, but not otherwise, be paid remuneration and allowances at the rate for the time being prescribed for Community Magistrates under section 11G.

“(5) While an acting Community Magistrate appointed under this section acts as a Community Magistrate, but not otherwise, he or she has all the jurisdiction, powers, protections, privileges, and immunities of a Community Magistrate.”

**7 New section 119 substituted**

The principal Act is amended by repealing section 119, and substituting the following section:

**“119 Immunity of Judges**

Every District Court Judge has, at all times, the same immunities as a Judge of the High Court.”

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**Legislative history**

12 May 2004	Divided from Judicial Matters Bill (Bill 71–2) as Bill 71–3E
13 May 2004	Third reading
19 May 2004	Royal assent

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This Act is administered in the Ministry of Justice.

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