



ANALYSIS

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1980, No. 88

An Act to amend the Judicature Act 1908

[24 December 1980]

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 Judicature Amendment Act 1980, and shall be read together with and deemed part of the Judicature Act 1908 (hereinafter referred to as the principal Act).

(2) Sections 2 and 3 of this Act shall come into force on the 1st day of January 1981.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the 1st day of May 1981.

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

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

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

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

4. Registrars’ seals abolished—Section 50 (2) of the principal Act is hereby repealed.

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

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

Cf. 1908, No. 90, s. 152

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

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

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

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

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

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

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

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

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

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

Cf. 1908, No. 90, ss. 153, 154; 1961, No. 43, s. 374; 1979, No. 127, s. 3

This Act is administered in the Department of Justice.
