

New Zealand

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ANALYSIS

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| <p>Title.</p> <p>1. Short Title.</p> <p>2. General right of appeal to Supreme Court.</p> | <p>3. Amending provisions as to security on appeal.</p> <p>4. Justices may state case for opinion of Supreme Court.</p> <p>5. Appeal on point of law may be removed into Court of Appeal.</p> |
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1946, No. 13

Title. AN ACT to amend the Justices of the Peace Act, 1927.
[26th September, 1946

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

Short Title. 1. This Act may be cited as the Justices of the Peace Amendment Act, 1946, and shall be read together with and deemed part of the Justices of the Peace Act, 1927 (hereinafter referred to as the principal Act).

See Reprint of Statutes, Vol. II, p. 351

General right of appeal to Supreme Court.

2. (1) Section three hundred and fifteen of the principal Act is hereby amended by omitting from subsection one the words "the fine or sum of money ordered to be paid exceeds five pounds exclusive of costs, or the term of imprisonment adjudged exceeds one month exclusive of any further period of imprisonment adjudged for non-payment of costs",

and substituting the words “ any defendant is convicted, or any sum of money is ordered to be paid otherwise than as costs on the dismissal of an information or complaint ”.

(2) The said section three hundred and fifteen is hereby further amended by inserting, after subsection one, the following new subsection:—

“(1A) In the case of a conviction, the appeal may be against the conviction and the sentence passed on the conviction or against the conviction only or against the sentence only; and in the case of an order for the payment of money the appeal may be against the order or only against the amount of the sum ordered to be paid.”

(3) Form No. 52 in the First Schedule to the principal Act is hereby amended by omitting the second paragraph, and substituting the following paragraph and footnote:—

“I, C. D., the person so convicted [*or against whom the said order was made*], hereby appeal to the next sittings of the Supreme Court, to be held at _____, against the said—

*conviction and sentence.

*conviction.

*sentence.

*order.

*amount so ordered to be paid.

“ * Delete the lines that do not apply.”

(4) Section twenty-two of the Motor-vehicles Act, 1924, is hereby consequentially amended by omitting from subsection four the words “ exceeding five pounds, exclusive of costs ”.

See Reprint
of Statutes,
Vol. VIII,
p. 811

3. (1) Section three hundred and five of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:—

Amending
provisions as
to security on
appeal.

“(1) The appellant, at the time of making application, and before a case is stated and delivered to him by the Justice, shall in every case enter into a recognizance before that Justice or some other Justice, in such sum as the Justice thinks fit, conditioned to prosecute the appeal with diligence and to pay such costs as may be awarded by the Supreme Court, or shall instead of that recognizance deposit in the hands of the Clerk of the Magistrates’ Court such sum as the Justice thinks fit on like condition:

“ Provided that—

“(a) Every such recognizance shall be without surety unless the Justice in any case, at the request of the respondent, requires a surety or two or more sureties:

“(b) The sum to be fixed as aforesaid in any case shall be the sum (not exceeding twenty-five pounds) estimated by the Justice to be the amount of the costs likely to be awarded in respect of the appeal in the event of its being dismissed.”

(2) Section three hundred and seventeen of the principal Act is hereby amended by adding the following proviso:—

“ Provided that where the appeal is only against the sentence or only against the amount of the sum ordered to be paid the recognizance shall be without surety.”

Justices may
state case
for opinion of
Supreme Court.

4. On the hearing by a Justice of any information or complaint which he has power to determine summarily, the Justice may state a case for the opinion of the Supreme Court on any question of law arising in the matter.

Appeal on
point of law
may be
removed into
Court of
Appeal.

Cf. Judicature
Act, 1908,
ss. 64 and 65;
see Reprint
of Statutes,
Vol. II, p. 79

5. (1) The Supreme Court may order the removal into the Court of Appeal of any case transmitted to the Supreme Court under section three hundred and three of the principal Act or of any case stated under section four of this Act; and on removal the Court of Appeal shall have the same power to adjudicate on the proceedings as the Supreme Court had.

(2) On the removal of any case to the Court of Appeal under this section, the decision of the Court of Appeal shall be final as regards the tribunals of New Zealand; and the same judgment shall be entered in the Supreme Court, and the same execution and other consequences and proceedings shall follow thereon, as if the decision had been given in the Supreme Court:

Provided that the Court of Appeal may give leave to either party to appeal to the Privy Council.