



ANALYSIS

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1974, No. 20

An Act to amend the Magistrates' Courts Act 1947

[29 June 1974]

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 Magistrates' Courts Amendment Act 1974, and shall be read together with and deemed part of the Magistrates' Courts Act 1947 (hereinafter referred to as the principal Act).

2. Sittings of Court at other places—(1) The principal Act is hereby amended by inserting, after section 4, the following section:

"4A. (1) Where any civil or criminal proceedings are pending in any Court the party issuing the proceedings may, or if the proceedings are to be defended, or if a Magistrate has directed either generally or specifically that the attendance of a party is required, then any party may, apply to the Court for the proceedings to be heard at any other convenient place. A further application may, from time to time, be made for the hearing to be continued or completed in any other place.

“(2) If a Magistrate is satisfied that in all the circumstances as between the parties the proceedings could be more conveniently or fairly heard or continued to be heard at some place, other than in a Court appointed under this Act, and that suitable accommodation for a hearing at such place is available the Magistrate shall, unless for special reasons relating to the particular proceedings he directs otherwise, make an order, upon such terms and conditions as he thinks fit, that the proceedings be heard or be continued to be heard at a sitting of the Court held at that other place and may at that time, or at any subsequent time, fix a date and time for any such hearing.

“(3) With the consent of all parties an order under this provision may be made by the Registrar.

“(4) At all times any such proceedings shall be heard and determined as proceedings of the Court and at the conclusion of any such hearing the papers shall be returned and the result and any necessary minutes recorded in the books of the Court.

“(5) This section shall have effect notwithstanding the provisions of section 4 of this Act, but nothing in this section shall limit the power of the Court to transfer proceedings to another Court.”

(2) The Summary Proceedings Act 1957 is hereby consequentially amended by inserting in subsection (1) of section 34, and also in subsection (1) of section 155, after the word “orders”, the words “or an order is made under section 4A of the Magistrates’ Courts Act 1947”.

3. Appointment of Magistrates—(1) Section 5 of the principal Act (as amended by section 2 (1) of the Magistrates’ Courts Amendment Act 1970) is hereby further amended by repealing subsection (2), and substituting the following subsection:

“(2) The number of Magistrates shall not at any time exceed 60:

“Provided that nothing in this subsection shall affect the powers conferred by sections 10 and 10A of this Act.”

(2) Section 2 of the Magistrates’ Courts Amendment Act 1970 is hereby consequentially repealed.

4. Retired Magistrates—The principal Act is hereby amended by inserting, after section 10, the following section:

“10A. (1) Any person who has retired from office as a

Magistrate on attaining the age of 68 years, or who has sooner resigned, may be appointed from time to time as an acting Magistrate by the Governor-General by Warrant under his hand.

“(2) Notwithstanding the provisions of section 27 of the Child Welfare Act 1925, any person so appointed may at the same time or at any subsequent time during the term of his appointment be appointed generally to exercise the jurisdiction of Children’s Courts and any such appointment shall take effect during any period when and in any place where pursuant to subsection (4) of this section he is entitled to act as a Magistrate.

“(3) Each such appointment shall be for a term not exceeding 2 years or, if the person has attained the age of 72 years, not exceeding 12 months.

“(4) During the term of the Warrant the person so appointed may act as a Magistrate during such period or periods only and in such place or places only as the Secretary for Justice may fix upon a certificate from a Magistrate (other than a Magistrate appointed under this section) that the services of an acting Magistrate are temporarily required at that place or those places for the convenient and expeditious dispatch of the business of a Magistrate’s Court.

“(5) Every acting Magistrate so appointed shall, during the period when he acts as a Magistrate, but not otherwise, be paid a salary at the rate for the time being prescribed for Magistrates under section 6 of this Act and during that period he shall have all the jurisdiction, powers, protections, privileges, and immunities of a Magistrate.”

5. Right to appeal against interlocutory orders—The principal Act is hereby amended by inserting in Part V, after section 71, the following section:

“71A. Any party to any proceedings in a Magistrate’s Court may, with the leave of the Court, appeal to the Supreme Court against any decision or order made by the Magistrate’s Court in the course of the proceedings as if the decision or order were a final determination of that Court, and the provisions of the first and second provisos to section 71 and of sections 72 to 78 of this Act shall apply accordingly with such modifications as are necessary.”