



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p>	<p>2. Power to clear Court and forbid report of proceedings</p> <p>3. Power to clear Court and forbid report of preliminary hearing</p> <p>4. Consequential repeals</p>
---	---

1982, No. 158

An Act to amend the Summary Proceedings Act 1957

[17 December 1982]

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 Summary Proceedings Amendment Act (No. 3) 1982, and shall be read together with and deemed part of the Summary Proceedings Act 1957 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1983.

2. Power to clear Court and forbid report of proceedings—The principal Act is hereby amended by repealing section 35 (as amended by section 5 (1) of the Summary Proceedings Amendment Act 1976 and section 24 of the Summary Proceedings Amendment Act 1980), and substituting the following section:

“35. (1) Subject to the provisions of subsections (2) to (4) of this section and of any other enactment, every sitting of the Court hearing any charge shall be open to the public.

“(2) Where the Court is of opinion that the interests of justice, or of public morality, or of the reputation of any victim of any alleged sexual offence or offence of extortion, or of the security or defence of New Zealand so require, and in no other case, it may make any one or more of the following orders:

“(a) An order forbidding publication of any report or account of the whole or any part of—

“(i) The evidence adduced; or

“(ii) The submissions made:

“(b) An order forbidding the publication of the name of any witness or witnesses, or any name or particulars likely to lead to his or their identification:

“(c) An order excluding all or any persons other than the informant, the defendant, any barrister or solicitor engaged in the proceedings, and any officer of the Court from the whole or any part of the proceedings:

“Provided that the power conferred by paragraph (c) of this subsection shall not, except where the interests of security or defence so require, be exercised so as to exclude any barrister or solicitor or any accredited news media reporter.

“(3) Any order made under paragraph (a) or paragraph (b) of subsection (2) of this section—

“(a) May be made for a limited period or permanently; and

“(b) If it is made for a limited period, may be renewed for a further period or periods by the Court; and

“(c) If it is made permanently, may be reviewed by the Court at any time.

“(4) Notwithstanding that an order is made under subsection (2) (c) of this section, the announcement of the decision of the Court and the passing of sentence shall in every case take place in public:

“Provided that, if the Court is satisfied that exceptional circumstances so require, it may decline to state in public all or any of the facts, reasons, or other considerations which it has taken into account in reaching its decision or in determining the sentence passed by it on any defendant.

“(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who commits a breach of any order made under subsection (2) (a) or (b) of this section or evades or attempts to evade any such order.

“(6) The breach of any order made under subsection (2) (c) of this section, or any evasion or attempted evasion of it, may be dealt with as contempt of Court.

“(7) Nothing in this section limits the powers of the Court under section 46 of the Criminal Justice Act 1954 to prohibit the publication of any name.”

3. Power to clear Court and forbid report of preliminary hearing—The principal Act is hereby amended by repealing section 156 (as amended by section 20 of the Summary Proceedings Amendment Act 1973, by section 5 (2) of the Summary Proceedings Amendment Act 1976, and by section 24 of the Summary Proceedings Amendment Act 1980), and substituting the following section:

“156. (1) The room or building in which any preliminary hearing takes place shall not be deemed to be an open Court.

“(2) Where the Court is of opinion that the interests of justice, or of public morality, or of the reputation of any victim of any alleged sexual offence or offence of extortion, or of the security or defence of New Zealand so require, and in no other case, it may make any one or more of the following orders:

“(a) An order forbidding publication of any report or account of the whole or any part of—

“(i) The evidence adduced; or

“(ii) The submissions made:

“(b) An order forbidding the publication of the name of any witness or witnesses, or any name or particulars likely to lead to his or their identification:

“(c) An order excluding all or any persons other than the informant, the defendant, any barrister or solicitor engaged in the proceedings, and any officer of the Court from the whole or any part of the proceedings:

“Provided that the power conferred by paragraph (c) of this subsection shall not, except where the interests of security or defence so require, be exercised so as to exclude any barrister or solicitor or any accredited news media reporter.

“(3) Any order made under paragraph (a) or paragraph (b) of subsection (2) of this section—

“(a) May be made for a limited period or permanently; and

“(b) If it is made for a limited period, may be renewed for a further period or periods by the Court; and

“(c) If it is made permanently, may be reviewed by the Court at any time.

“(4) Notwithstanding that an order is made under subsection (2) (c) of this section, the announcement of the decision of the Court—

“(a) To discharge the defendant; or

“(b) To commit the defendant for trial or sentence; or

“(c) In any case where the defendant pleads guilty, to sentence the defendant,—

shall in every case take place in public:

“Provided that, if the Court is satisfied that exceptional circumstances so require, it may decline to state in public all or any of the facts, reasons, or other considerations which it has taken into account in reaching its decision or in determining the sentence passed by it on any defendant.

“(5) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who commits a breach of any order made under subsection (2) (a) or (b) of this section or evades or attempts to evade any such order.

“(6) The breach of any order made under subsection (2) (c) of this section, or any evasion or attempted evasion of it, may be dealt with as contempt of Court.

“(7) Nothing in this section limits the powers of the Court under section 46 of the Criminal Justice Act 1954 to prohibit the publication of any name.”

4. Consequential repeals—The following enactments are hereby consequentially repealed, namely,—

(a) Section 20 of the Summary Proceedings Amendment Act 1973:

(b) Section 5 of the Summary Proceedings Amendment Act 1976:

(c) So much of the Schedule to the Summary Proceedings Amendment Act 1980 as relates to sections 35 (5) and 156 (4) of the principal Act.