

**Reprint
as at 1 July 2009**



Supreme Court Act 2003

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Commencement see section 2

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Justice.

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**Imperial legislation ceasing to have effect as part of
law of New Zealand**

1 Title

This Act is the Supreme Court Act 2003.

Part 1**Supreme Court of New Zealand***Preliminary matters***2 Commencement**

This Act comes into force on 1 January 2004.

3 Purpose

(1) The purpose of this Act is—

- (a) to establish within New Zealand a new court of final appeal comprising New Zealand judges—
 - (i) to recognise that New Zealand is an independent nation with its own history and traditions; and
 - (ii) to enable important legal matters, including legal matters relating to the Treaty of Waitangi, to be resolved with an understanding of New Zealand conditions, history, and traditions; and
 - (iii) to improve access to justice; and
- (b) to provide for the court's jurisdiction and related matters; and
- (c) to end appeals to the Judicial Committee of the Privy Council from decisions of New Zealand courts; and
- (d) to make related amendments to certain enactments relating to courts or judicial proceedings.

(2) Nothing in this Act affects New Zealand's continuing commitment to the rule of law and the sovereignty of Parliament.

4 Interpretation

In this Act, unless the context otherwise requires,—

acting Judge means an acting Judge of the Supreme Court appointed under section 23(1)

Chief Justice means the Chief Justice of New Zealand appointed under section 4(1) of the Judicature Act 1908

civil proceeding—

- (a) means any proceeding that is not a criminal proceeding; and
- (b) includes a proceeding under the Bail Act 2000

decision means a judgment, decree, order, direction, or determination

District Court includes—

- (a) a Family Court and a Youth Court; and
- (b) a District Court sitting in its admiralty jurisdiction

High Court includes the High Court sitting in its admiralty jurisdiction, or sitting as a permanent Prize Court under the jurisdiction conferred by section 8 of the Admiralty Act 1973

interlocutory application—

- (a) means an application in a proceeding or intended proceeding for—
 - (i) an order or a direction relating to a matter of procedure; or
 - (ii) in the case of a civil proceeding, for some relief ancillary to the relief claimed in the pleading; and
- (b) includes an application for a new trial; and
- (c) includes an application to review a decision made on an interlocutory application

New Zealand court means—

- (a) the Supreme Court, the Court of Appeal, the High Court, or a District Court; or
- (b) any of the following specialist courts: the Court Martial of New Zealand established under section 8 of the Court Martial Act 2007, the Court Martial Appeal Court constituted by the Court Martial Appeals Act 1953, the Employment Court, the Environment Court, the Maori Appellate Court, and the Maori Land Court

permanent Judge means a Judge of the Supreme Court who is not an acting Judge

Privy Council means the Judicial Committee of the Privy Council

Registrar means the Registrar of the Supreme Court appointed under section 36(1)

Supreme Court and the **Court** mean the Supreme Court of New Zealand established by section 6

working day means a day that is not—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, or Waitangi Day; or
- (b) the day observed as anniversary day in Wellington; or
- (c) a day in the period commencing on 25 December in one year and ending with 15 January in the next year.

Section 4 **New Zealand court** paragraph (b): amended, on 1 July 2009, by section 87 of the Court Martial Act 2007 (2007 No 101).

5 **Act binds the Crown**

This Act binds the Crown.

Establishment and jurisdiction of Supreme Court

6 **Supreme Court established**

This section establishes as the court of final appeal for New Zealand a court of record called the Supreme Court of New Zealand.

Compare: 1908 No 89 s 57(1)

7 **Appeals against decisions of Court of Appeal in civil proceedings**

The Supreme Court can hear and determine an appeal by a party to a civil proceeding in the Court of Appeal against any decision made in the proceeding, unless—

- (a) an enactment other than this Act makes provision to the effect that there is no right of appeal against the decision; or
- (b) the decision is a refusal to give leave or special leave to appeal to the Court of Appeal.

8 Appeals against decisions of High Court in civil proceedings

The Supreme Court can hear and determine an appeal by a party to a civil proceeding in the High Court against any decision made in the proceeding, unless—

- (a) an enactment other than this Act makes provision to the effect that there is no right of appeal against the decision; or
- (b) the decision is a refusal to give leave or special leave to appeal to the High Court or the Court of Appeal; or
- (c) the decision was made on an interlocutory application.

9 Appeals against decisions of other courts in civil proceedings

The Supreme Court can hear and determine an appeal against a decision made in a civil proceeding in a New Zealand court other than the Court of Appeal or the High Court to the extent only that an enactment other than this Act provides for the bringing of an appeal to the Supreme Court against the decision.

10 Appeals against decisions in criminal proceedings

The Supreme Court can hear and determine appeals authorised by—

- (a) Part 13 or section 406A of the Crimes Act 1961; or
- (b) section 144A of the Summary Proceedings Act 1957; or
- (c) section 10 or 10A of the Court Martial Appeals Act 1953.

Section 10(c): substituted, on 1 July 2009, by section 35 of the Court Martial Appeals Amendment Act 2007 (2007 No 99).

11 Procedural requirements

Sections 7 to 10 are subject to—

- (a) the provisions of this Act; and
- (b) all applicable rules, orders, and directions for regulating the terms and conditions on which appeals may be allowed, made or given under this Act or the Judicature Act 1908.

Compare: 1908 No 89 s 66

*Leave to appeal to Court***12 Appeals to be by leave**

- (1) Appeals to the Supreme Court can be heard only with the Court's leave.
- (2) References in enactments other than this Act to the leave of the Supreme Court must be read subject to sections 13 and 14.

13 Criteria for leave to appeal

- (1) The Supreme Court must not give leave to appeal to it unless it is satisfied that it is necessary in the interests of justice for the Court to hear and determine the proposed appeal.
- (2) It is necessary in the interests of justice for the Supreme Court to hear and determine a proposed appeal if—
 - (a) the appeal involves a matter of general or public importance; or
 - (b) a substantial miscarriage of justice may have occurred, or may occur unless the appeal is heard; or
 - (c) the appeal involves a matter of general commercial significance.
- (3) For the purposes of subsection (2), a significant issue relating to the Treaty of Waitangi is a matter of general or public importance.
- (4) The Supreme Court must not give leave to appeal to it against an order made by the Court of Appeal on an interlocutory application unless satisfied that it is necessary in the interests of justice for the Supreme Court to hear and determine the proposed appeal before the proceeding concerned is concluded.
- (5) Subsection (2) does not limit the generality of subsection (1); and subsection (3) does not limit the generality of subsection (2)(a).

14 No direct appeal from court other than Court of Appeal unless exceptional circumstances established

The Supreme Court must not give leave to appeal directly to it against a decision made, a conviction entered, or a sentence imposed, in a proceeding in a New Zealand court other than the Court of Appeal unless (in addition to being satisfied that it is necessary in the interests of justice for the Court to hear

and determine the proposed appeal) it is satisfied that there are exceptional circumstances that justify taking the proposed appeal directly to the Supreme Court.

15 Applications for leave

- (1) The parties to an application for leave to appeal to the Supreme Court may make written submissions to the Court, and may include in the submissions—
 - (a) additional relevant written material; and
 - (b) responses to submissions made by any other party.
- (2) Neither the parties nor their representatives have a right to appear before the Court on the application; but the Court may if it thinks fit—
 - (a) authorise the parties, their representatives, or both to appear;
 - (b) exclude from any authority to appear a party who is an appellant in custody.
- (3) In determining the application, the Court must consider—
 - (a) the written submissions before it; and
 - (b) if an oral hearing was held, the matters raised at the hearing.
- (4) The Court may consider the written submissions in any manner it thinks fit.

Compare: 1961 No 43 s 392B

16 Court to state reasons for refusal to give leave

- (1) The Supreme Court must state its reasons for refusing to give leave to appeal to it.
- (2) The reasons may be stated briefly, and may be stated in general terms only.

Constitution of Court

17 Constitution of Court

- (1) The Supreme Court comprises—
 - (a) the Chief Justice; and
 - (b) not fewer than 4 nor more than 5 other Judges, appointed by the Governor-General as Judges of the Supreme Court.

- (2) The Supreme Court's jurisdiction is not affected by a vacancy in the number of its Judges.

Compare: 1908 No 89 s 4

18 Chief Justice, and seniority of Judges

- (1) The Chief Justice is the head of the New Zealand judiciary, and has seniority over the other Judges of the Supreme Court.
- (2) Other Judges of the Supreme Court appointed on different dates have seniority among themselves according to those dates.
- (3) Other Judges of the Supreme Court appointed on the same date have seniority among themselves as follows:
- (a) Judges who have been Judges of the Court of Appeal are senior to Judges who have not been Judges of the Court of Appeal:
 - (b) Judges who have been Judges of the Court of Appeal have among themselves the seniority they would have if still Judges of the Court of Appeal:
 - (c) Judges who have not been Judges of the Court of Appeal but have previously been Judges of the High Court have seniority among themselves according to their seniority as Judges of the High Court:
 - (d) Judges who have not previously been Judges of the High Court but have previously held other judicial office in New Zealand are senior to Judges who have not previously held judicial office in New Zealand.
- (4) Judges of the Supreme Court are senior to the Judges of the Court of Appeal, and to the Judges of the High Court who are not Judges of the Supreme Court.
- (5) This section applies only to permanent Judges.

Compare: 1908 No 89 s 57(6)

19 Acting Chief Justice

- (1) While the office of Chief Justice is vacant, or the Chief Justice is outside New Zealand, the senior Judge of the Supreme Court is authorised to act as Chief Justice.
- (2) If because of illness or a reason other than absence from New Zealand the Chief Justice is unable to perform the duties of that

office, the Governor-General may authorise the senior Judge of the Supreme Court to act as Chief Justice until the Chief Justice resumes those duties.

- (3) While authorised to act as Chief Justice, the senior Judge of the Supreme Court can perform the duties of the Chief Justice, and exercise any power of the Chief Justice.
- (4) The fact that the senior Judge of the Supreme Court performs a duty of the Chief Justice or exercises a power of the Chief Justice is conclusive proof of his or her authority to do so. No action of the Judge, and no decision of the Court, may be questioned on the ground that the occasion for the Judge to perform the duty or exercise the power had not arisen or had ceased.
- (5) This section does not affect clause 12 of the Letters Patent constituting the Office of Governor-General of New Zealand 1983 (SR 1983/225).

Compare: 1908 No 89 s 5

20 Judges to be Judges of High Court

- (1) No person can be appointed as a Judge of the Supreme Court under section 17(1)(b) unless he or she—
 - (a) was a Judge of the High Court (whether sitting in the High Court or the Court of Appeal) immediately before being appointed as a Judge of the Supreme Court; or
 - (b) is appointed as a Judge of the High Court when appointed as a Judge of the Supreme Court.
- (2) Every permanent Judge of the Supreme Court—
 - (a) continues to be a Judge of the High Court; and
 - (b) may as a Judge of the Supreme Court exercise any of the powers of a Judge of the High Court.

Compare: 1908 No 89 s 57(4)

21 Judges of other courts vacate office on appointment

- (1) A Judge of a New Zealand court other than the High Court vacates office as a Judge of that court when appointed as a Judge of the Supreme Court.
- (2) A Judge of the Supreme Court who has vacated office as a Judge of a New Zealand court under subsection (1) may never-

theless continue in office to determine, give judgment in, or otherwise complete, a proceeding heard by the Judge (either alone or with others) when he or she sat in that court.

Compare: 1908 No 89 s 88A

22 Term of office of Judges

A Judge of the Supreme Court holds office until he or she ceases to hold office as a permanent Judge of the High Court.

23 Acting Judges

- (1) The Governor-General may appoint as acting Judges of the Supreme Court retired Judges of the Supreme Court or the Court of Appeal who have not reached the age of 75 years.
- (2) Each acting Judge must be appointed for a stated term that—
 - (a) is not more than the time until the Judge will reach the age of 75 years;
 - (b) in any case, is not more than 24 months.
- (3) During the term of his or her appointment, an acting Judge may act as a Judge of the Supreme Court to the extent only that the Chief Justice authorises under subsection (4).
- (4) The Chief Justice may authorise an acting Judge to act as a member of the Supreme Court—
 - (a) to hear and determine any proceedings within a stated period; or
 - (b) to hear and determine stated proceedings.
- (5) The Chief Justice may authorise an acting Judge to act as a member of the Supreme Court only if satisfied that—
 - (a) there is a vacancy in the Supreme Court; or
 - (b) a Judge of the Supreme Court is for any reason unavailable to hear proceedings or particular proceedings.
- (6) An acting Judge is authorised when the Chief Justice gives the Attorney-General a certificate, signed by the Chief Justice and at least 2 other permanent Judges of the Supreme Court, to the effect that in their opinion it is necessary for the proper conduct of the Court's business for the acting Judge to be authorised to act as a member of the Supreme Court—
 - (a) to hear and determine proceedings within the period concerned; or

- (b) to hear and determine the proceedings concerned.
- (7) An acting Judge has the jurisdiction, powers, protections, privileges, and immunities of a Judge of the Supreme Court and the High Court, but only in relation to acting as a member of the Supreme Court, under the authority of subsection (4), in the hearing and determination of a proceeding.
- (8) While acting as a member of the Supreme Court, under the authority of subsection (4), in the hearing and determination of a proceeding, but not otherwise, an acting Judge must be paid—
- (a) a salary at the rate for the time being payable to a Judge of the Supreme Court other than the Chief Justice; and
- (b) any applicable allowances, being travelling allowances or other incidental or minor allowances, determined by the Governor-General for acting Judges.
- (9) The fact that an acting Judge acts as a member of the Supreme Court is conclusive proof of the Judge's authority to do so. No action of the Judge, and no decision of the Court, may be questioned on the ground that the occasion for the Judge to act as a member of the Court had not arisen or had ceased.
- (10) An acting Judge may resign office by written notice to the Attorney-General.

Compare: 1908 No 89 ss 11A, 11B

Powers and judgment of Court

24 Appeals to proceed by rehearing

Appeals to the Supreme Court proceed by way of rehearing.

25 General powers

- (1) On an appeal in a proceeding that has been heard in a New Zealand court, the Supreme Court—
- (a) can make any order, or grant any relief, that could have been made or granted by that court; and
- (b) even if the proceeding has not been heard in the Court of Appeal, has all the powers the Court of Appeal would have if hearing the appeal.

- (2) In any proceeding, the Supreme Court can make any ancillary or interlocutory orders (including any orders as to costs) it thinks fit.

26 Power to remit proceedings

The Supreme Court can also remit a proceeding that began in a New Zealand court to any New Zealand court that has jurisdiction to deal with it.

Compare: 1908 No 89 s 62

27 Exercise of powers of Court

- (1) For the purposes of the hearing and determination of a proceeding, the Supreme Court comprises 5 Judges of the Court.
- (2) Any 2 or more permanent Judges of the Supreme Court can act as the Court—
- (a) to decide whether an oral hearing of an application for leave to appeal to the Court should be held, or the application should be determined just on the basis of written submissions:
- (b) to determine an application for leave to appeal to the Court.
- (3) The delivery of the judgment of the Supreme Court may be effected in any manner, and by any number of Judges, provided by rules made under section 51C of the Judicature Act 1908.
- (4) Subsection (1) is subject to sections 28(1) and 30(1).

Compare: 1908 No 89 s 58(2)

28 Interlocutory orders and directions may be made and given by one Judge

- (1) In a proceeding before the Supreme Court, any permanent Judge of the Court may make any interlocutory orders and give any interlocutory directions the Judge thinks fit (other than an order or direction that determines the proceeding or disposes of a question or issue that is before the Court in the proceeding).
- (2) Any permanent Judge of the Supreme Court may review a decision of the Registrar made within the civil jurisdiction of the Court under a power conferred on the Registrar by a rule of

Court, and may confirm, modify, or revoke that decision as the Judge thinks fit.

- (3) The Judges of the Supreme Court who together have jurisdiction to hear and determine a proceeding may—
 - (a) discharge or vary an order or direction made or given under subsection (1); or
 - (b) confirm, modify, or revoke a decision confirmed or modified under subsection (2).

29 Presiding Judge

- (1) The Chief Justice presides over the Supreme Court.
- (2) If the Chief Justice is absent, or the office of Chief Justice is vacant, the most senior available Judge of the Supreme Court presides over the Court.
- (3) The fact that a Judge of the Supreme Court other than the Chief Justice presides over the Court is conclusive proof of the Judge's authority to do so. No action of the Judge, and no judgment or decision of the Court, may be questioned on the ground that the occasion for the Judge to preside over the Court had not arisen or had ceased.

30 Procedure if Judges absent

- (1) Where, because of the death or unavailability of 1 or 2 of the Judges of the Supreme Court who are about to begin or have begun hearing a proceeding, only 3 or 4 of those Judges remain available to determine it,—
 - (a) the remaining Judges must decide whether the proceeding must be adjourned or reheard, or may continue; and
 - (b) if the remaining Judges decide that the proceeding may continue,—
 - (i) they may act as the Supreme Court in relation to the proceeding, and can determine it and any interlocutory matters (including the question of costs); and
 - (ii) the reference in section 31(1) to a majority of the Judges hearing the proceeding must be read as a reference to a majority of those remaining Judges.

- (2) If at the time appointed for a sitting of the Supreme Court 1 or more Judges are absent, the Judge or Judges present may adjourn or further adjourn the sitting to some other time.
- (3) If at the time appointed for a sitting of the Supreme Court all the Judges are absent, the Registrar must adjourn or further adjourn the sitting to some other time.

Compare: 1908 No 89 ss 58D(3), 61

31 Judgment of Court

- (1) The judgment of the Supreme Court must be in accordance with the opinion of a majority of the Judges hearing the proceeding concerned.
- (2) If the Judges are equally divided in opinion, the decision appealed from or under review is taken to be affirmed.

Compare: 1908 No 89 s 59

32 Decisions of Court may be enforced by High Court

A judgment, decree, or order of the Supreme Court may be enforced by the High Court as if it had been given or made by the High Court.

Compare: 1908 No 89 s 63

Administrative provisions

33 Salaries and allowances of Judges

- (1) There must be paid out of public money to the Judges of the Supreme Court other than the Chief Justice, without further appropriation than this section,—
 - (a) salaries at a rate determined by the Remuneration Authority; and
 - (b) any applicable allowances determined by the Remuneration Authority; and
 - (c) any applicable additional allowances, being travelling allowances or other incidental or minor allowances, determined from time to time by the Governor-General.
- (2) A determination under subsection (1), or a provision of a determination under subsection (1), may be stated to come into force on—
 - (a) the date on which the determination is made; or

- (b) any other date, whether before or after the date on which the determination is made.
- (3) If no date is stated for a determination or a provision of a determination, it comes into force on the date on which the determination is made.
- (4) Subsection (2) is subject to the Remuneration Authority Act 1977.
- (5) This section does not apply to acting Judges.
Compare: 1908 No 89 s 9A

34 Fees to be paid into Crown Bank Account

All fees received under this Act must be paid into a Crown Bank Account.

Compare: 1908 No 89 s 53

Section 34: amended, on 25 January 2005, pursuant to section 65R(3) of the Public Finance Act 1989 (1989 No 44).

35 Contempt of Court

- (1) A person commits an offence who—
 - (a) assaults, threatens, intimidates, or wilfully insults a Judge of the Supreme Court, the Registrar of the Court, a Deputy Registrar or officer of the Court, or a witness, during his or her sitting or attendance in Court, or in going to or returning from the Court; or
 - (b) wilfully interrupts or obstructs the proceedings of the Supreme Court, or misbehaves in the Court; or
 - (c) wilfully and without lawful excuse disobeys an order or direction of the Supreme Court in the course of the hearing of a proceeding.
- (2) A constable or officer of the Supreme Court, with or without the assistance of any other person, may, by order of a Judge of the Court, take into custody and detain until the rising of the Court a person who commits an offence against subsection (1).
- (3) The Supreme Court may sentence a person who commits an offence against subsection (1) to imprisonment for a period not exceeding 5 days, or to pay a fine not exceeding \$5,000, or both, for every offence.

(4) The Supreme Court has the same power and authority as the High Court to punish any person for contempt of Court in any case to which subsection (1) does not apply.

(5) Nothing in subsections (1) to (3) limits or affects the power and authority referred to in subsection (4).

Compare: 1908 No 89 s 56C

Section 35(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

36 Appointment of officers

(1) A Registrar of the Supreme Court must be appointed under the State Sector Act 1988.

(2) There may also be appointed under that Act Deputy Registrars of the Supreme Court, and any other officers required for the conduct of the Court's business.

Compare: 1908 No 89 ss 27, 72

37 Powers and duties of officers

The Registrar, Deputy Registrars, and other officers of the Supreme Court have the powers and duties prescribed by rules made under section 51C of the Judicature Act 1908.

Compare: 1908 No 89 ss 28, 73

38 Seal

(1) The Supreme Court has a seal for sealing writs and other instruments or documents issued by the Registrar that must be sealed.

(2) The Registrar has custody of the seal.

Compare: 1908 No 89 s 50

39 Regulations

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

(a) prescribing the matters for which fees are payable under this Act:

(b) prescribing scales of fees for the purposes of this Act and for the purposes of proceedings before the Supreme Court:

- (c) prescribing the fees, travelling allowances, and expenses payable to interpreters and to people giving evidence in proceedings before the Supreme Court:
- (d) in order to promote access to justice, empowering the Registrar or a Deputy Registrar of the Supreme Court to waive, reduce, or postpone the payment of a fee required in connection with a proceeding or intended proceeding, or to refund, in whole or in part, such a fee that has already been paid, if satisfied on the basis of criteria prescribed under paragraph (e) that—
 - (i) the person otherwise responsible for payment of the fee is unable to pay or absorb the fee in whole or in part; or
 - (ii) unless 1 or more of those powers are exercised in respect of a proceeding that concerns a matter of genuine public interest, the proceeding is unlikely to be commenced or continued:
- (e) prescribing, for the purposes of the exercise of a power under paragraph (d), the criteria—
 - (i) for assessing a person's ability to pay a fee; and
 - (ii) for identifying proceedings that concern matters of genuine public interest:
- (f) empowering the Registrar or a Deputy Registrar of the Supreme Court to postpone the payment of a fee pending the determination of—
 - (i) an application for the exercise of a power specified in paragraph (d); or
 - (ii) an application for review under section 40:
- (g) providing for the postponement under the regulations of the payment of a fee, including (without limitation) providing—
 - (i) for the recovery of the fee after the expiry of the period of postponement; and
 - (ii) for restrictions to apply (after the expiry of the period of postponement and for so long as the fee remains unpaid) on the steps that may be taken in the proceeding in respect of which the fee is payable:

- (h) providing for the manner in which an application for the exercise of a power specified in paragraph (d) or paragraph (f) is to be made, including (without limitation) requiring the application to be in a form approved for the purpose by the chief executive of the Ministry of Justice.
- (2) No fee is payable for an application for the exercise of a power specified in paragraph (d) or paragraph (f) of subsection (1).
Compare: 1908 No 89 s 100A
Section 39(1)(h): amended, on 1 January 2004, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

40 Reviews of decisions of Registrars about fees

- (1) A person aggrieved by a decision of the Registrar or a Deputy Registrar under regulations under section 39(1)(d) may apply to a Judge of the Supreme Court for a review of the decision.
- (2) An application must be made within—
 - (a) 20 working days after the date on which the applicant is notified of the decision; or
 - (b) any further time the Judge allows on application made for that purpose before or after the expiration of that period.
- (3) The application may be made informally.
- (4) The review—
 - (a) must be conducted by rehearing;
 - (b) may be dealt with on the papers, unless the Judge decides otherwise.
- (5) The Judge may confirm, modify, or reverse the decision.
- (6) No fee is payable for an application under this section.
Compare: 1908 No 89 s 100B

41 Technical advisers

Sections 99B to 99D of the Judicature Act 1908 (which relate to the appointment of technical advisers to give advice in appeals in proceedings involving questions arising from expert evidence) apply to the Supreme Court and proceedings in the Supreme Court as if references in those sections to the Court of Appeal were references to the Supreme Court.

Ending of appeals to Her Majesty in Council

42 Ending of appeals to Her Majesty in Council

- (1) No appeal to Her Majesty in Council lies or may be brought from or in respect of any civil or criminal decision of a New Zealand court made after 31 December 2003—
- (a) whether by leave or special leave of any court or of Her Majesty in Council, or otherwise; and
 - (b) whether by virtue of any Act of Parliament of the United Kingdom or of New Zealand, or the Royal prerogative, or otherwise.
- (2) Subsection (1) is subject to section 50.

Part 2

Amendments, repeals, transitional provisions, and savings

Substantive amendments to Judicature Act 1908

43 New sections 4A and 4B of Judicature Act 1908 inserted

Amendment(s) incorporated in the Act(s).

44 Constitution of the Court

Amendment(s) incorporated in the Act(s).

45 Technical advisers

Amendment(s) incorporated in the Act(s).

*Substantive amendment to Te Ture Whenua
Maori Act 1993*

46 New sections 58A and 58B inserted

Amendment(s) incorporated in the Act(s).

Other substantive amendments

47 Other substantive amendments

The enactments specified in Part 1 of Schedule 1 are amended in the manner indicated in that schedule.

*Consequential amendments and repeals***48 Consequential amendments and repeals**

- (1) The enactments specified in Part 2 of Schedule 1 or Part 1 of Schedule 3 are amended in the manner indicated in that schedule.
- (2) The enactments specified in Schedule 2 are repealed.
- (3) *Amendment(s) incorporated in the regulations.*
- (4) *Amendment(s) incorporated in the order(s).*
- (5) This section has effect as if, at the close of 31 December 2003, section 12 of the Judicature Amendment Act 1979 had ceased to apply to the Statutes Amendment Act 1947, the Law Practitioners (Victoria Reciprocity) Order 1937, and the enactments specified in Schedule 3.

49 Imperial enactments ceasing to have effect in New Zealand

On 1 January 2004, the following Imperial enactments cease to have effect as part of the law of New Zealand:

- (a) the Imperial enactments listed in Part 1 of Schedule 4:
- (b) the Imperial subordinate legislation listed in Part 2 of Schedule 4.

*Transitional and savings***50 Privy Council may still determine appeals in certain existing proceedings**

- (1) The Privy Council may hear and determine, or continue to hear and determine,—
 - (a) an appeal against a final judgment of the Court of Appeal made before 1 January 2004, or made after 31 December 2003 in a proceeding whose hearing was completed before 1 January 2004, where—
 - (i) the matter in dispute on the appeal amounts to or is of the value of \$5,000 or upwards; or
 - (ii) the appeal involves, directly or indirectly, some claim or question to or respecting property or some civil right amounting to or of the value of \$5,000 or upwards; or

- (b) an appeal arising out of a successful application to a New Zealand court (whether made before, on, or after 1 January 2004) for leave to appeal to the Privy Council against a decision of the Court of Appeal—
 - (i) made before 1 January 2004; or
 - (ii) made after 31 December 2003 in a proceeding whose hearing was completed before 1 January 2004; or
 - (c) an appeal arising out of a successful application to the Privy Council (whether made before, on, or after 1 January 2004) for special leave to appeal to it against a decision of the Court of Appeal—
 - (i) made before 1 January 2004; or
 - (ii) made after 31 December 2003 in a proceeding whose hearing was completed before 1 January 2004.
- (2) Subsection (1) does not apply to an appeal if—
- (a) the Privy Council has not begun hearing the appeal; and
 - (b) all parties agree in writing that an application should be made to the Supreme Court for leave to appeal to the Supreme Court against the decision concerned.

51 Limitation on right to appeal to Supreme Court in certain existing proceedings

- (1) This subsection applies to a decision if—
- (a) it was made by any New Zealand court before 1 January 2004; or
 - (b) it was made by the Court of Appeal after 31 December 2003 in a proceeding whose hearing was completed before 1 January 2004.
- (2) There is no right to appeal to the Supreme Court against a decision to which subsection (1) applies if—
- (a) the Privy Council has already heard or begun hearing an appeal against it; or
 - (b) a New Zealand court has declined to give leave to appeal to the Privy Council against it and the Privy Council has not later given special leave to appeal against it; or

- (c) the Privy Council has declined to give special leave to appeal against it; or
 - (d) all the parties to the proceeding in which it was made have not agreed in writing that an application should be made to the Supreme Court for leave to appeal to the Supreme Court against it.
- (3) Subsection (2) overrides sections 7 to 10.

52 Transitional effect of sections 42 and 49

- (1) The following applications must be determined as if sections 42 and 49 had not been enacted:
- (a) all applications to a New Zealand court (whether made before, on, or after 1 January 2004) for leave to appeal to the Privy Council against—
 - (i) a decision of a New Zealand court made before 1 January 2004; or
 - (ii) a decision of the Court of Appeal delivered after 31 December 2003 in a proceeding whose hearing was completed before 1 January 2004:
 - (b) all applications to the Privy Council (whether made before, on, or after 1 January 2004) for special leave to appeal to it against—
 - (i) a decision of a New Zealand court made before 1 January 2004; or
 - (ii) a decision of the Court of Appeal delivered after 31 December 2003 in a proceeding whose hearing was completed before 1 January 2004.
- (2) All appeals that, by virtue of section 50(1), the Privy Council may hear and determine, or continue to hear and determine, must be heard and determined as if—
- (a) sections 42 and 49 had not been enacted; and
 - (b) the reference in section 112(1) of the Credit Contracts and Consumer Finance Act 2003 to the Supreme Court included a reference to the Privy Council.

53 Transitional arrangements for leave applications

- (1) In subsection (2), **leave application** means an application to the Supreme Court for leave to appeal to the Supreme Court.

- (2) Until the commencement of the first rules made under section 51C of the Judicature Act 1908 (or under that section and section 409 of the Crimes Act 1961) containing provisions regulating the making of leave applications,—
 - (a) the rules for the time being in force under that section (or those sections), with all necessary modifications, apply to leave applications as if they were applications for leave to appeal to the Court of Appeal against a decision of the High Court; but
 - (b) the Chief Justice may issue practice directions—
 - (i) modifying the application of those rules to leave applications; or
 - (ii) providing for any matter (relating to leave applications) that those rules do not provide for.
- (3) Until the appointment of the first Registrar of the Supreme Court, the Registrar and every Deputy Registrar or officer of the Court of Appeal is also the Registrar or a Deputy Registrar or officer of the Supreme Court.
- (4) Until the establishment of the first Supreme Court Registry, the Court of Appeal Registry is also the Supreme Court Registry.

54 No new rights of appeal against decisions made before 1 January 2004

- (1) A person does not have a right to appeal to a particular New Zealand court or the Privy Council on any grounds against a decision made before 1 January 2004 unless, when the decision was made, the person had the right to appeal against the decision to that court on those grounds.
- (2) Subsection (1) does not limit or affect the right of any person to appeal to a New Zealand court on any grounds against a decision made—
 - (a) on or after 1 January 2004; but
 - (b) on appeal against a decision—
 - (i) made before 1 January 2004; or
 - (ii) made at any time on appeal against a decision made before 1 January 2004.

55 Hearings not to begin before 1 July 2004

- (1) The Supreme Court cannot begin hearing appeals until after 30 June 2004.
 - (2) Before 1 July 2004, the Supreme Court can take any steps preliminary to hearing appeals, including considering and determining applications for leave to appeal to it, and interlocutory matters.
-

Schedule 1
Amendments

ss 47, 48(1)

Part 1

Substantive amendments

Child Support Act 1991 (1991 No 142)

Amendment(s) incorporated in the Act(s).

**Children, Young Persons, and Their Families Act 1989 (1989
No 24)**

Amendment(s) incorporated in the Act(s).

Courts Martial Appeals Act 1953 (1953 No 100)

Amendment(s) incorporated in the Act(s).

Crimes Act 1961 (1961 No 43)

Amendment(s) incorporated in the Act(s).

Family Proceedings Act 1980 (1980 No 94)

Amendment(s) incorporated in the Act(s).

Guardianship Act 1968 (1968 No 63)

Amendment(s) incorporated in the Act(s).

Harassment Act 1997 (1997 No 92)

Amendment(s) incorporated in the Act(s).

Human Rights Act 1993 (1993 No 82)

Amendment(s) incorporated in the Act(s).

Summary Proceedings Act 1957 (1957 No 87)

Amendment(s) incorporated in the Act(s).

Part 2
Consequential amendments

Animal Products Act 1999 (1999 No 93)

Amendment(s) incorporated in the Act(s).

Bail Act 2000 (2000 No 38)

Amendment(s) incorporated in the Act(s).

Commerce Act 1986 (1986 No 5)

Amendment(s) incorporated in the Act(s).

Courts Security Act 1999 (1999 No 115)

Amendment(s) incorporated in the Act(s).

Credit Contracts and Consumer Finance Act 2003 (2003 No 52)

Amendment(s) incorporated in the Act(s).

Crimes Act 1961 (1961 No 43)

Amendment(s) incorporated in the Act(s).

Crown Proceedings Act 1950 (1950 No 54)

Amendment(s) incorporated in the Act(s).

Declaratory Judgments Act 1908 (1908 No 220)

Amendment(s) incorporated in the Act(s).

District Courts Amendment Act 2002 (2002 No 63)

Amendment(s) incorporated in the Act(s).

Domestic Violence Act 1995 (1995 No 86)

Amendment(s) incorporated in the Act(s).

Electoral Act 1993 (1993 No 87)

Amendment(s) incorporated in the Act(s).

Part 2—*continued*

Electronic Transactions Act 2002 (2002 No 35)

Amendment(s) incorporated in the Act(s).

Employment Relations Act 2000 (2000 No 24)

Amendment(s) incorporated in the Act(s).

Evidence Act 1908 (1908 No 56)

Amendment(s) incorporated in the Act(s).

Habeas Corpus Act 2001 (2001 No 31)

Amendment(s) incorporated in the Act(s).

Human Rights Act 1993 (1993 No 82)

Amendment(s) incorporated in the Act(s).

Imperial Laws Application Act 1988 (1988 No 112)

Amendment(s) incorporated in the Act(s).

Judicature Act 1908 (1908 No 89)

Amendment(s) incorporated in the Act(s).

Legal Services Act 2000 (2000 No 42)

Amendment(s) incorporated in the Act(s).

Maori Language Act 1987 (1987 No 176)

Amendment(s) incorporated in the Act(s).

Oaths and Declarations Act 1957 (1957 No 88)

Amendment(s) incorporated in the Act(s).

Privacy Act 1993 (1993 No 28)

Amendment(s) incorporated in the Act(s).

Part 2—*continued***Property (Relationships) Act 1976 (1976 No 166)***Amendment(s) incorporated in the Act(s).***Protection of Personal and Property Rights Act 1988 (1988 No 4)***Amendment(s) incorporated in the Act(s).***Remuneration Authority Act 1977 (1977 No 110)***Amendment(s) incorporated in the Act(s).***Resource Management Act 1991 (1991 No 69)***Amendment(s) incorporated in the Act(s).***Sentencing Act 2002 (2002 No 9)***Amendment(s) incorporated in the Act(s).***Statutes Amendment Act 1947 (1947 No 60)***Amendment(s) incorporated in the Act(s).***Terrorism Suppression Act 2002 (2002 No 34)***Amendment(s) incorporated in the Act(s).*

Schedule 2
Consequential repeals

s 48(2)

Admiralty Act 1973 (1973 No 119)

Amendment(s) incorporated in the Act(s).

Animal Welfare Act 1999 (1999 No 142)

Amendment(s) incorporated in the Act(s).

**Children, Young Persons, and Their Families Act 1989 (1989
No 24)**

Amendment(s) incorporated in the Act(s).

Dairy Industry Restructuring Act 2001 (2001 No 51)

Amendment(s) incorporated in the Act(s).

Family Protection Act 1955 (1955 No 88)

Amendment(s) incorporated in the Act(s).

Harassment Act 1997 (1997 No 92)

Amendment(s) incorporated in the Act(s).

Judicature Act 1908 (1908 No 89)

Amendment(s) incorporated in the Act(s).

Judicature Amendment Act 1957 (1957 No 9)

Amendment(s) incorporated in the Act(s).

Judicature Amendment Act 1985 (1985 No 136)

Amendment(s) incorporated in the Act(s).

Law Reform (Testamentary Promises) Act 1949 (1949 No 33)

Amendment(s) incorporated in the Act(s).

Telecommunications Act 2001 (2001 No 103)

Amendment(s) incorporated in the Act(s).

Te Ture Whenua Maori Act 1993 (1993 No 4)

Amendment(s) incorporated in the Act(s).

Schedule 3
Provisions containing references to
former Supreme Court

s 48(1), (3)

Part 1
Acts

Auckland Baptist Tabernacle Act 1948 (1948 No 4 (P))

Amendment(s) incorporated in the Act(s).

**Church of Jesus Christ of Latter-Day Saints Trust Board
Empowering Act 1957 (1957 No 1 (P))**

Amendment(s) incorporated in the Act(s).

John Duncan McGruer Estate Act 1945 (1945 No 4 (P))

Amendment(s) incorporated in the Act(s).

R O Bradley Estate Act 1972 (1972 No 3 (P))

Amendment(s) incorporated in the Act(s).

Wanganui Orphanage Trust Extension Act 1960 (1960 No 1 (P))

Amendment(s) incorporated in the Act(s).

Wellington Waterworks Act 1871 (1871 No 3 (P))

Amendment(s) incorporated in the Act(s).

Part 2
Subordinate legislation

Adoption Regulations 1959 (SR 1959/109)

Amendment(s) incorporated in the regulations.

Animal Remedies Regulations 1980 (SR 1980/145)

Amendment(s) incorporated in the regulations.

Courts-Martial Appeal Rules 1954 (SR 1954/215)

Amendment(s) incorporated in the rules.

Part 2—*continued***Gaming and Lotteries (Licensed Promoters) Regulations 1978
(SR 1978/144)**

Amendment(s) incorporated in the regulations.

Incorporated Societies Regulations 1979 (SR 1979/93)

Amendment(s) incorporated in the regulations.

Joint Family Homes Regulations 1965 (SR 1965/65)

Amendment(s) incorporated in the regulations.

Licensed Interpreters Regulations 1958 (SR 1958/22)

Amendment(s) incorporated in the regulations.

Patents Regulations 1954 (SR 1954/211)

Amendment(s) incorporated in the regulations.

Periodic Detention Order 1966 (SR 1966/182)

Amendment(s) incorporated in the order(s).

Periodic Detention Order 1967 (SR 1967/31)

Amendment(s) incorporated in the order(s).

Periodic Detention Order 1968 (SR 1968/112)

Amendment(s) incorporated in the order(s).

Periodic Detention Order 1971 (SR 1971/253)

Amendment(s) incorporated in the order(s).

Periodic Detention Order 1972 (SR 1972/41)

Amendment(s) incorporated in the order(s).

Periodic Detention Order (No 2) 1972 (SR 1972/89)

Amendment(s) incorporated in the order(s).

Part 2—*continued*

Periodic Detention Order (No 3) 1972 (SR 1972/99)

Amendment(s) incorporated in the order(s).

Periodic Detention Order (No 4) 1972 (SR 1972/144)

Amendment(s) incorporated in the order(s).

Periodic Detention Order 1973 (SR 1973/60)

Amendment(s) incorporated in the order(s).

Periodic Detention Order (No 3) 1973 (SR 1973/190)

Amendment(s) incorporated in the order(s).

Periodic Detention Order (No 4) 1973 (SR 1973/204)

Amendment(s) incorporated in the order(s).

Periodic Detention Order (No 2) 1974 (SR 1974/66)

Amendment(s) incorporated in the order(s).

Periodic Detention Order (No 4) 1974 (SR 1974/239)

Amendment(s) incorporated in the order(s).

Real Estate Agents Regulations 1977 (SR 1977/248)

Amendment(s) incorporated in the regulations.

Trust Estates Audit Regulations 1958 (SR 1958/71)

Amendment(s) incorporated in the regulations.

Schedule 4

s 49(1)

**Imperial legislation ceasing to have effect
as part of law of New Zealand****Part 1****Imperial Acts****Appellate Jurisdiction Act 1876 (39 and 40 Vict, No c 59)**

The final paragraph of section 6.

Appellate Jurisdiction Act 1887 (50 and 51 Vict, No c 70)

Sections 3 and 5.

Appellate Jurisdiction Act 1908 (8 Edw 7, No c 51)

Sections 1, 3(1), 4, 5, and 7.

Court of Chancery Act 1851 (14 and 15 Vict, No c 83)

Section 16 (as amended by section 1 of the Statute Law Revision Act 1875 (38 and 39 Vict, c 66)).

Judicial Committee Act 1833 (3 and 4 Will 4, No c 41)

Section 1 (as amended by section 1 of the Statute Law Revision Act 1874 (37 and 38 Vict, c 35) and section 1 of the Statute Law Revision (No 2) Act 1888 (51 and 52 Vict, c 57)), section 3, section 5 (as amended by section 16 of the Court of Chancery Act 1851 (14 and 15 Vict, c 83)), sections 6 to 9, 11 to 13, 15 to 21, 23, and 24, and section 28 (as amended by section 6 of the Judicial Committee Act 1843 (6 and 7 Vict, c 38)).

Judicial Committee Act 1844 (7 and 8 Vict, No c 69)

Sections 1 and 8.

Judicial Committee Act 1881 (44 and 45 Vict, No c 3)**Judicial Committee Act 1915 (5 and 6 Geo 5, No c 92)**

Part 1—*continued*

Judicial Committee Amendment Act 1895 (58 and 59 Vict, No c 44)

as amended by section 3 of the Appellate Jurisdiction Act 1913 (3 and 4 Geo 5, c 21) and section 13 of the Administration of Justice Act 1928 (UK).

Naval Prize Act 1864 (27 and 28 Vict No c 25)

Sections 4 to 6, 9, and 13.

Privy Council Registrar Act 1853 (16 and 17 Vict, No c 85)

Part 2

Imperial subordinate legislation

1909 No 1228—Order in Council making continuing Order directing that all Appeals to His Majesty in Council shall be referred to the Judicial Committee (SR & O and SI Rev 1948, Vol XI, p 205).

1910 No 70 (L3)—The New Zealand (Appeals to the Privy Council) Order 1910 (SR & O and SI Rev 1948, Vol XI, p 409; SR 1973/181).

1972 No 1994—The New Zealand (Appeals to the Privy Council) (Amendment) Order 1972 (SI 1972/1994; SR 1973/181).

1982 No 1676—The Judicial Committee (General Appellate Jurisdiction) Rules Order 1982 (SI 1982/1676).

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 *General***

This is a reprint of the Supreme Court Act 2003. The reprint incorporates all the amendments to the Act as at 1 July 2009, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that have yet to come into force or that contain relevant transitional or savings provisions are also included, after the principal enactment, in chronological order.

2 *Status of reprints*

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 *How reprints are prepared*

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, *see*

<http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)

- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Policing Act 2008 (2008 No 72): section 116(a)(ii)

Court Martial Act 2007 (2007 No 101): section 87

Court Martial Appeals Amendment Act 2007 (2007 No 99): section 35

State Sector Amendment Act 2003 (2003 No 41): section 14(2)

Public Finance Act 1989 (1989 No 44): section 65R(3)
