

CONSTITUTION AMENDMENT BILL

EXPLANATORY NOTE

General Policy Statement

Introduction

This Bill, which amends the Constitution Act 1986 and 15 other Acts, aims to enhance public confidence in the judiciary by making the processes for judicial appointments, removals, and immunity more consistent and clear, without compromising judicial independence.

The provisions governing judicial office are contained in a number of different statutes and are inconsistent and uncertain in many aspects, because they have developed by piecemeal reforms. The provisions also lack transparency because they are not widely known among the public. The Bill will amend the judicial legislation in three main areas; judicial appointments, judicial removals, and judicial immunity to create uniformity in the provisions for judicial office. These changes also necessitate technical amendments to the provisions for judicial resignations and the protection of judicial remuneration.

The legislative changes to some aspects of judicial office are, in many instances, accompanied by administrative processes that have been developed to give practical effect to the Bill's objective of bringing clarity, consistency and transparency to the overall framework in respect of judicial office.

Appointment to judicial office

The Government has decided that the Attorney-General is to be the Minister responsible for making recommendations to the Governor-General in respect of persons who are to be appointed to judicial office. The Attorney-General carries the principal responsibility in Government for the relationship of the Executive with the Judiciary, and is required to act in the public interest to uphold the law, regardless of political considerations. It is therefore necessary for the Bill to delete the references to the Minister of Justice as the recommending Minister in respect of Environment Judges and Community Magistrates. The only exceptions will be the recommendations for the office of Chief Justice of New Zealand and Judges of the Maori Land Court. Formal advice for the appointment of Chief Justice will continue to be tendered by the Prime Minister, because of the constitutional significance of the office, as head of the Judiciary, and the Administrator of the Government in some circumstances. Appointments in respect of the Maori Land Court will continue to be recommended by the Minister of Maori Affairs.

Accompanying this change, a formal consultation process has been developed to ensure the Attorney-General receives appropriate advice in the consideration of potential candidates for judicial office. The administrative procedure for appointments has also been formalised, and is based on key principles, such as; advertising for expressions of interest in judicial office, and the establishment of clear and publicly identified criteria against which potential appointees will be assessed. The Attorney-General's Judicial Appointments Unit has been set up to provide administrative assistance throughout the appointments process, and to respond to public enquiries about judicial appointments.

Removal from judicial office

The Bill makes the grounds for removal of all Judges from office consistent with those set out in the Constitution Act 1986 in respect of High Court Judges; namely misbehaviour and incapacity.

The Bill will also clarify that Judges can only be removed from office by way of the Sovereign or the Governor-General acting on an address of the House of Representatives on the motion of the Attorney-General. This process reflects the constitutional role of the Attorney-General and the role of the House of Representatives in representing the people of New Zealand.

The judicial removal process, and the judicial complaints process that has been developed for complaints about Judges personally, will be publicised to explain the constitutional context within which the judiciary operates, how the complaints procedure operates, and how a Judge can be removed from the bench if the circumstances warrant it.

Judicial immunity and indemnity

The Bill provides that all Judges are to have the same immunity from suit that Judges of the High Court and Court of Appeal presently have at common law. Judicial immunity is the protection accorded to members of the judiciary whereby they cannot be sued in their private capacity for civil actions taken against them in their role as Judges. This immunity helps to achieve finality in litigation, by not creating alternatives to existing appeal rights and review mechanisms, and promotes judicial independence by ensuring that Judges can exercise their judicial function without fear of attracting adverse personal consequences. It also prevents high quality potential appointees from being deterred from judicial office by the possibility of becoming the subject of personal actions from unsuccessful litigants.

Since the jurisdiction of District Court Judges has increased in recent years, and now overlaps significantly with that of High Court Judges, it is appropriate for all Judges to have the same immunity from civil suit. Justices of the Peace and Community Magistrates do not have comprehensive immunity, because their jurisdiction is narrower than that of Judges, however, they are indemnified by the Crown for civil liability they incur in the performance of their judicial duties. The Bill extends this indemnity to coroners, who have similar jurisdiction and require similar protection from personal liability.

Clause by Clause Analysis

Clause 1 relates to the Short Title and commencement of the Bill. *Clause 1 (1)* provides that the Bill may be cited as the Constitution Amendment Act, and is part of the Constitution Act 1986 ("the principal Act"). *Clause 1 (2)* provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

PART 1

AMENDMENTS TO CONSTITUTION ACT 1986

Clause 2 repeals Part IV of the principal Act, and substitutes a *new Part 4*, comprising *new sections 22A, 23, 24, and 24A*.

New section 22A defines the term “Judge”. In *new Part 4*, unless the context otherwise requires, “Judge” means—

- (a) The Chief Justice of New Zealand
- (b) The President of the Court of Appeal
- (c) Any other Judge of the Court of Appeal
- (d) Any other Judge of the High Court
- (e) The Chief District Court Judge
- (f) The Principal Family Court Judge
- (g) The Principal Youth Court Judge
- (h) The Principal Environment Judge
- (i) Any other District Court Judge (including a Family Court Judge, a Youth Court Judge, an Environment Judge, and an alternate Environment Judge)
- (j) The Chief Judge of the Employment Court
- (k) Any other Judge of the Employment Court
- (l) The Chief Judge of the Maori Land Court
- (m) The Deputy Chief Judge of the Maori Land Court
- (n) Any other Judge of the Maori Land Court
- (o) Any Master of the High Court.

New section 23 (1) provides that a Judge must not be removed from office except by the Sovereign or the Governor-General, acting on an address of the House of Representatives on the motion of the Attorney-General. *New section 23 (2)* provides that an address may be moved only on the grounds of the Judge’s misbehaviour or the Judge’s incapacity to discharge the functions of the Judge’s office.

New section 24 provides that a Judge’s salary must not be reduced while the Judge holds office.

New section 24A provides that the Judges referred to in *paragraphs (e) to (o)* of *new section 22A* have all the immunities of a Judge of the High Court.

PART 2

AMENDMENTS TO OTHER ACTS

Amendments to Judicature Act 1908

Clause 3 amends the 15 other Acts specified in *Schedule 1*. In general terms, the amendments are for the following purposes:

- To remove from 6 of the 15 other Acts separate provision for protections like those in *new sections 23, 24, and 24A* of the Constitution Act 1986. The 6 Acts are amended so that they contain instead just references to the single set of Constitution Act protections, which are intended to help to secure the independent constitutional position of the Judiciary (for examples of the references, see *new section 6A* of the Judicature Act 1908, *new section 6 (2)* of the District Courts Act 1947, and *new section 252A* of the Resource Management Act 1991)
- To omit references to District Court Judges from Part VII of the Summary Proceedings Act 1957, and provide that the indemnity in that Part of that Act for Justices and Community Magistrates: (1) Extends to civil liability for omissions, and (2) Is available as well to coroners, though District Court Judges acting as coroners are to have all the immunities of a Judge of the High Court

(see the amendments to the Summary Proceedings Act 1957 and to the Coroners Act 1988)

- To provide that certain other officers and bodies who currently have “the same immunities and privileges as are possessed by a District Court Judge” do not have (as will District Court Judges) “all the immunities of a Judge of the High Court”, but instead have only the same immunity and indemnity that a Justice or Community Magistrate is to have under Part VII of the Summary Proceedings Act 1957 (see, for example, *new section 52 (5)* of the Survey Act 1986, *new section 16 (4)* of the Environment Act 1986, and *new section 206 (2A)* of the Resource Management Act 1991)
 - To provide that the process for removing Community Magistrates from office is the same as that in *new section 23 (1)* of the Constitution Act 1986, but that the only grounds for removing Community Magistrates will continue to be: neglect of duty, inability, disability affecting performance of duty, bankruptcy, or misconduct (see *new subsections (2) and (2A)* of section 11F of the District Courts Act 1947)
 - To provide that the removal from office of an Environment Judge or alternate Environment Judge operates to cancel the Judge’s appointment as a District Court Judge, and that there is no change in Environment Commissioners’ and Deputy Environment Commissioners’ current position in relation to resignation, removal, and protection from legal proceedings (see *new sections 275A, 258 (2), 258A, and 261* of the Resource Management Act 1991)
 - To remove from certain of the Acts references to the Minister of Justice recommending judicial appointments, in certain cases after consulting with others (see, for example, *new section 11A (1)* of the District Courts Act 1947, and the repeal of section 11A (3) of that Act, as well as *new section 250 (1)* of the Resource Management Act 1991)
 - To provide that judicial appointments made by the Governor-General are made by warrant (or, in certain more urgent or temporary cases, by writing) signed by the Governor-General (see, for example, the amendments to: the Armed Forces Discipline Act 1971, the Family Courts Act 1980, the Disputes Tribunals Act 1988, and the Children, Young Persons, and Their Families Act 1989)
 - To provide that certain judicial resignations are to be addressed to the Attorney-General rather than (as now) to the Minister of Justice (see, for example, *new section 26E (2)* of the Judicature Act 1908, *new section 11F (3)* of the District Courts Act 1947, and *new section 257* of the Resource Management Act 1991).
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Rt Hon Sir Douglas Graham

CONSTITUTION AMENDMENT

ANALYSIS

Title	24A. Certain Judges to have immunities of High Court Judges	
1. Short Title and commencement		
PART 1		
AMENDMENTS TO CONSTITUTION ACT 1986		
2. New Part 4 substituted		
PART 4		
THE JUDICIARY		
22A. Meaning of 'Judge'		
23. Protection of Judges against removal from office		
24. Salaries of Judges not to be reduced		
	PART 2	
	AMENDMENTS TO OTHER ACTS	
	3. Amendments to other Acts	
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A BILL INTITULED

An Act to amend the Constitution Act 1986 and certain other enactments to reform, unify, and make more consistent, the law relating to—

- 5 **(a) Appointment to, and removal from, judicial office:**
 (b) Immunity from civil suit, and indemnity for civil liability, for conduct in judicial office

BE IT ENACTED by the Parliament of New Zealand as follows:

- 10 **1. Short Title and commencement—**(1) This Act may be cited as the Constitution Amendment Act 1999, and is part of the Constitution Act 1986* ("the principal Act").

(2) This Act comes into force on the day after the date on which it receives the Royal assent.

*1986, No. 114
Amendment: 1987, No. 134

PART 1

AMENDMENTS TO CONSTITUTION ACT 1986

2. New Part 4 substituted—The principal Act is amended by repealing Part IV, and substituting the following Part:

“PART 4

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“THE JUDICIARY

“22A. **Meaning of ‘Judge’**—In this Part, unless the context otherwise requires, ‘Judge’ means—

“(a) The Chief Justice of New Zealand:

“(b) The President of the Court of Appeal:

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“(c) Any other Judge of the Court of Appeal:

“(d) Any other Judge of the High Court:

“(e) The Chief District Court Judge:

“(f) The Principal Family Court Judge:

“(g) The Principal Youth Court Judge:

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“(h) The Principal Environment Judge:

“(i) Any other District Court Judge (including a Family Court Judge, a Youth Court Judge, an Environment Judge, and an alternate Environment Judge):

“(j) The Chief Judge of the Employment Court:

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“(k) Any other Judge of the Employment Court:

“(l) The Chief Judge of the Maori Land Court:

“(m) The Deputy Chief Judge of the Maori Land Court:

“(n) Any other Judge of the Maori Land Court:

“(o) Any Master of the High Court.

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“23. **Protection of Judges against removal from office**—(1) A Judge must not be removed from office except by the Sovereign or the Governor-General, acting on an address of the House of Representatives on the motion of the Attorney-General.

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“(2) An address may be moved only on the grounds of—

“(a) The Judge’s misbehaviour; or

“(b) The Judge’s incapacity to discharge the functions of the Judge’s office.

Cf. 1908, No. 89, ss. 7, 8, 9

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“24. **Salaries of Judges not to be reduced**—A Judge’s salary must not be reduced while the Judge holds office.

Cf. 1908, No. 89, s. 10

“24A. **Certain Judges to have immunities of High Court Judges**—The Judges referred to in paragraphs (e) to (o) of section 22A have all the immunities of a Judge of the High Court.”

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PART 2

AMENDMENTS TO OTHER ACTS

3. Amendments to other Acts—The Acts specified in the **Schedule** are amended in the manner indicated in that schedule.

Section 3

SCHEDULE

AMENDMENTS TO OTHER ACTS

Enactment	Amendment
<p>1908, No. 89—The Judicature Act 1908 (R.S. Vol. 22, p. 107)</p>	<p>By inserting in section 4 (2), after the words “Governor-General”, the words “by warrant signed by the Governor-General and”.</p> <p>By inserting, after section 6, the following section:</p> <p>“6A. Removal from office—A Judge must not be removed from office except in accordance with section 23 of the Constitution Act 1986.”</p> <p>By inserting in section 9A, after subsection (1), the following subsection:</p> <p>“(1A) Section 24 of the Constitution Act 1986 (salaries of Judges not to be reduced) applies to the salary of a Judge.”</p> <p>By inserting in section 11 (1), after the words “the Governor-General may” where they first appear, the words “, by warrant signed by the Governor-General”.</p> <p>By adding to section 11 (1) the words “in the warrant of appointment”.</p> <p>By inserting in section 11A (1), after the words “the Governor-General may” where they first appear, the words “, by warrant signed by the Governor-General”.</p> <p>By adding to section 11A (1) the words “in the warrant of appointment”.</p> <p>By omitting from section 26C (1) the words “under the Governor-General’s hand”, and substituting the words “signed by the Governor-General”.</p> <p>By repealing subsections (1) and (2) of section 26E, and substituting the following subsections:</p> <p>“(1) A Master must not be removed from office except in accordance with section 23 of the Constitution Act 1986.</p> <p>“(2) A Master may resign that office by notice in writing addressed to the Attorney-General.”</p> <p>By repealing section 26F (2), and substituting the following subsection:</p> <p>“(2) Section 24 of the Constitution Act 1986 (salaries of Judges not to be</p>

SCHEDULE—*continued*
 AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
1908, No. 89—The Judicature Act 1908 (R.S. Vol. 22, p. 107)— <i>continued</i>	<p>reduced) applies to the salary of a Master.”</p> <p>By inserting in section 26H (1), after the words “this section,”, the words “by warrant signed by the Governor-General.”.</p> <p>By repealing section 26Q, and substituting the following section:</p> <p>“26Q. Masters to have protections, privileges, and immunities of a Judge—(1) A Master has, while the Master acts, or purports to act, in good faith as a Master, all the protections and privileges of a Judge.</p> <p>“(2) Section 24A of the Constitution Act 1986 applies to a Master.”</p> <p>By inserting in section 57 (2), after the words “the Governor-General” where they appear in paragraphs (b) and (c), the words “, by warrant signed by the Governor-General,”.</p>
1941, No. 12—The Soil Conservation and Rivers Control Act 1941 (R.S. Vol. 36, p. 783)	<p>By adding to section 33A the following subsection:</p> <p>“(5) Despite subsection (4), the Tribunal has, in relation to any such inquiry, and any decision on any such matter, only the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957 in respect of the performance of his or her judicial duties.”</p>
1947, No. 16—The District Courts Act 1947 (R.S. Vol. 28, p. 57)	<p>By omitting from section 5 (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By omitting from section 5A (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By omitting from section 5A (4) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p>

SCHEDULE—*continued*
 AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
<p>1947, No. 16—The District Courts Act 1947 (R.S. Vol. 28, p. 57)—<i>con- tinued</i></p>	<p>By inserting, after section 5A, the following section: “5B. Judges to have immunities of High Court Judges—Section 24A of the Constitution Act 1986 applies to a Judge (including a Family Court Judge, a Youth Court Judge, an Environment Judge, and an alternate Environment Judge).”</p> <p>By repealing section 6 (2), and substituting the following subsection: “(2) Section 24 of the Constitution Act 1986 (salaries of Judges not to be reduced) applies to the salary of a Judge.”</p> <p>By repealing section 7 (1), and substituting the following subsection: “(1) A Judge must not be removed from office except in accordance with section 23 of the Constitution Act 1986.”</p> <p>By omitting from section 10 (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By omitting from section 10A (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By omitting from section 11 (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By repealing section 11A (1), and substituting the following subsection: “(1) The Governor-General may from time to time, by warrant signed by the Governor-General, appoint as a Community Magistrate any person qualified for appointment as a Community Magistrate.”</p> <p>By repealing section 11A (3).</p> <p>By repealing section 11D (1), and substituting the following subsection:</p>

SCHEDULE—*continued*

AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
<p>1947, No. 16—The District Courts Act 1947 (R.S. Vol. 28, p. 57)—<i>continued</i></p>	<p>“(1) The Governor-General may from time to time, by warrant signed by the Governor-General, appoint a Chief Community Magistrate.”</p> <p>By omitting from section 11D (6) the words “under his or her hand”, and substituting the words “signed by the Governor-General”.</p> <p>By repealing section 11F (2), and substituting the following subsections:</p> <p>“(2) A Community Magistrate must not be removed from office except by the Sovereign or the Governor-General, acting on an address of the House of Representatives on the motion of the Attorney-General.</p> <p>“(2A) An address may be moved only on the grounds of the Community Magistrate’s neglect of duty, inability, disability affecting performance of duty, bankruptcy, or misconduct.”</p> <p>By omitting from section 11F (3) the words “Minister of Justice”, and substituting the words “Attorney-General”.</p> <p>By inserting, after section 11F, the following section:</p> <p>“11FA. Protection of Community Magistrates—Part VII of the Summary Proceedings Act 1957 applies in respect of the performance of a Community Magistrate’s judicial duties.”</p>
<p>1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)</p>	<p>By repealing section 119.</p> <p>By repealing the heading to Part VII, and substituting the heading “PROTECTION OF JUSTICES AND COMMUNITY MAGISTRATES”.</p> <p>By repealing sections 193 to 196, and substituting the following sections:</p> <p>“193. No action against Justice or Community Magistrate unless conduct in excess of jurisdiction or without jurisdiction—(1) No action lies against a Justice or a Community Magistrate in respect of anything the Justice or</p>

SCHEDULE—*continued*AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
<p>1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)—<i>continued</i></p>	<p>Community Magistrate does, or omits to do, in the performance of his or her judicial duties, unless the Justice or Community Magistrate does something, or omits to do something, in excess of jurisdiction or without jurisdiction.</p> <p>“(2) If a conviction or order is entered or made by 1 or more Justices or 1 or more Community Magistrates and a warrant of distress or of commitment is granted on it in good faith by some other Justice or Community Magistrate, no action lies against the Justice or Community Magistrate who granted the warrant because of—</p> <p>“(a) Any defect in the conviction or order; or</p> <p>“(b) Any lack of jurisdiction in the Justice or Justices or Community Magistrate or Community Magistrates who entered or made it.</p> <p>Cf. 1927, No. 37, ss. 341, 344, 345, 348</p> <p>“193A. Actions to which sections 194 to 196 apply—Sections 194 to 196 apply to an action against a Justice or a Community Magistrate by a person claiming to have been injured by something the Justice or Community Magistrate did, or omitted to do, in excess of jurisdiction or without jurisdiction.</p> <p>“194. Actions against Justice or Community Magistrate to be brought in High Court—An action to which this section applies must be brought in the High Court.</p> <p>Cf. 1927, No. 37, s. 353</p> <p>“195. Onus of proof—In an action to which this section applies, the onus of proving the excess or want of jurisdiction lies on the person alleging it.</p> <p>Cf. 1927, No. 37, s. 365</p>

SCHEDULE—*continued*

AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
<p>1957, No. 87—The Summary Proceedings Act 1957 (R.S. Vol. 9, p. 583)—<i>continued</i></p>	<p>“196. Plaintiff may be ordered to give security for costs—(1) In an action to which this section applies, the High Court or a Judge of that Court may, on an application for the purpose by the Justice or Community Magistrate, order the plaintiff to give security for the costs of the action.</p> <p>“(2) An application may be made at any time before the day fixed for the trial of the action.</p> <p>“(3) Any security ordered for the costs of the action must be—</p> <p>“(a) To the satisfaction of the Registrar of the High Court; and</p> <p>“(b) In a sum not exceeding \$500.</p> <p>“(4) If the plaintiff is ordered to give security, the High Court or a Judge of that Court may also direct that the action is stayed until the plaintiff gives the security ordered.”</p>
<p>1971, No. 53—The Armed Forces Discipline Act 1971 (R.S. Vol. 23, p. 33)</p>	<p>Cf. 1927, No. 37, ss. 357, 359</p> <p>By repealing section 196A.</p> <p>By omitting from section 197 (1) the words “any act done”, and substituting the words “anything done or omitted to be done”.</p>
<p>1980, No. 161—The Family Courts Act 1980 (R.S. Vol. 28, p. 537)</p>	<p>By inserting in section 203 (1), after the word “Warrant”, the words “signed by the Governor-General”.</p> <p>By inserting in section 203A (1), after the word “Warrant”, the words “signed by the Governor-General”.</p> <p>By omitting from section 5 (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By omitting from section 6 (1) the words “under his hand”, and substituting the words “signed by the Governor-General”.</p> <p>By omitting from section 7 the words “under his hand” where they appear in</p>

SCHEDULE—*continued*AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
1980, No. 161—The Family Courts Act 1980 (R.S. Vol. 28, p. 537)— <i>continued</i>	subsections (1) and (2), and substituting in each case the words “signed by the Governor-General”.
1986, No. 123—The Survey Act 1986	By adding to section 52 the following subsection: “(5) Despite subsection (4), the Board has, in relation to any hearing under section 50, and any decision or order made on any such hearing, only the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957 in respect of the performance of his or her judicial duties.”
1986, No. 127—The Environment Act 1986 (R.S. Vol. 36, p. 223)	By adding to section 16 the following subsection: “(4) Despite subsection (3), the Commissioner has, in relation to any such inquiry, and any report on the results of the inquiry, only the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957 in respect of the performance of his or her judicial duties.”
1988, No. 110—The Disputes Tribunals Act 1988	By omitting from section 6A (1) the words “under his or her hand”, and substituting the words “signed by the Governor-General”. By omitting from section 6B (1) the words “under his or her hand”, and substituting the words “signed by the Governor-General”. By omitting from section 7 (1) the words “under the Governor-General’s hand”, and substituting the words “signed by the Governor-General”.
1988, No. 111—The Coroners Act 1988	By inserting in section 32, after the word “warrant” where it appears in subsections (1) and (2), the words “signed by the Governor-General”. By inserting, after section 35, the following section:

SCHEDULE—*continued*
 AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
1988, No. 111—The Coroners Act 1988— <i>continued</i>	<p>“35A. Protection of coroners—</p> <p>(1) Despite section 35 (1), a coroner who is not a District Court Judge has, in relation to the exercise of jurisdiction under this Act, only the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957 in respect of the performance of his or her judicial duties.</p> <p>“(2) Without limiting the generality of section 35 (1), section 24A of the Constitution Act 1986 (certain Judges to have immunities of High Court Judges) applies to a coroner who is a District Court Judge exercising jurisdiction under this Act.”</p>
1989, No. 24—The Children, Young Persons, and Their Families Act 1989	By inserting in section 434 (1), after the word “warrant”, the words “signed by the Governor-General”.
1991, No. 22—The Employment Contracts Act 1991	<p>By adding to section 113 (1) the words “by warrant signed by the Governor-General”.</p> <p>By repealing subsections (3) to (5) of section 113, and substituting the following subsection:</p> <p>“(3) A Judge must not be removed from office except in accordance with section 23 of the Constitution Act 1986.”</p> <p>By inserting, after section 114, the following section:</p> <p>“114A. Judges to have immunities of High Court Judges—Section 24A of the Constitution Act 1986 applies to a Judge.”</p> <p>By repealing section 115 (3), and substituting the following subsection:</p> <p>“(3) Section 24 of the Constitution Act 1986 (salaries of Judges not to be reduced) applies to the salary of a Judge.”</p> <p>By inserting in section 116 (1), after the words “from time to time,”, the words “by warrant signed by the Governor-General,”.</p>

SCHEDULE—*continued*AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
<p>1991, No. 22—The Employment Contracts Act 1991—<i>continued</i></p> <p>1991, No. 69—The Resource Management Act 1991 (R.S. Vol. 32, p. 131)</p>	<p>By omitting from section 116 (1) the word “commission”, and substituting the words “warrant of appointment”.</p> <p>By inserting in section 206, after subsection (2), the following subsection: “(2A) Despite subsection (2), every special tribunal has, in relation to the exercise of its functions and powers under this Act, only the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957 in respect of the performance of his or her judicial duties.”</p> <p>By repealing section 250 (1), and substituting the following subsection: “(1) The Governor-General may from time to time, by warrant signed by the Governor-General, appoint a person as an Environment Judge or alternate Environment Judge.”</p> <p>By omitting from section 250 (2) the words “under this Act”.</p> <p>By inserting, after section 250, the following section: “250A. Salary of Environment Judges and alternate Environment Judges—Section 24 of the Constitution Act 1986 (salaries of Judges not to be reduced) applies to the salary of an Environment Judge and to the salary of an alternate Environment Judge.”</p> <p>By repealing section 251 (1), and substituting the following subsection: “(1) The Governor-General may from time to time, by warrant signed by the Governor-General, appoint an Environment Judge as the Principal Environment Judge.”</p> <p>By inserting, after section 252, the following section: “252A. Environment Judges and alternate Environment Judges to have immunities of High Court Judges—Section 24A of the Constitution</p>

SCHEDULE—*continued*

AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
<p>1991, No. 69—The Resource Management Act 1991 (R.S. Vol. 32, p. 131)—<i>continued</i></p>	<p>Act 1986 applies to an Environment Judge and to an alternate Environment Judge.”</p> <p>By inserting in section 254 (1), after the words “Maori Affairs,”, the words “by warrant signed by the Governor-General,”.</p> <p>By repealing sections 257 and 258, and substituting the following sections:</p> <p>“257. Resignation of Environment Judges or alternate Environment Judges—An Environment Judge or alternate Environment Judge may resign that office by giving written notice to the Attorney-General.</p> <p>“257A. Resignation of Environment Commissioners or Deputy Environment Commissioners—An Environment Commissioner or Deputy Environment Commissioner may resign that office by giving written notice to the Minister of Justice.</p> <p>“258. Removal of Environment Judges or alternate Environment Judges—(1) An Environment Judge or alternate Environment Judge must not be removed from office except in accordance with section 23 of the Constitution Act 1986.</p> <p>“(2) The removal of a District Court Judge from office as an Environment Judge or an alternate Environment Judge operates to cancel the Judge’s appointment as a District Court Judge.</p> <p>“258A. Removal of Environment Commissioners or Deputy Environment Commissioners—(1) The Governor-General may, if he or she thinks fit, remove an Environment Commissioner or Deputy Environment Commissioner from office.</p> <p>“(2) An Environment Commissioner or Deputy Environment Commissioner may</p>

SCHEDULE—*continued*AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
1991, No. 69—The Resource Management Act 1991 (R.S. Vol. 32, p. 131)— <i>continued</i>	<p>be removed from office only on the grounds of—</p> <p>“(a) The Commissioner’s or Deputy Commissioner’s misbehaviour; or</p> <p>“(b) The Commissioner’s or Deputy Commissioner’s incapacity to perform the functions of his or her office.”</p>
1993, No. 4—Te Ture Whenua Maori Act 1993	<p>By repealing section 261, and substituting the following section:</p> <p>“261. Protection from legal proceedings—No action lies against an Environment Commissioner or Deputy Environment Commissioner for anything he or she says or does, or omits to say or do, while acting in good faith in the performance of his or her duties as Environment Commissioner or Deputy Environment Commissioner.”</p> <p>By inserting in section 7 (1), after the word “warrant”, the words “signed by the Governor-General”.</p> <p>By inserting in section 8 (1), after the word “warrant”, the words “signed by the Governor-General”.</p> <p>By inserting in section 9 (1), after the word “warrant”, the words “signed by the Governor-General”.</p> <p>By adding to section 9 (1) the words “in the warrant of appointment”.</p> <p>By inserting in section 10 (1), after the word “warrant”, the words “signed by the Governor-General”.</p> <p>By adding to section 10 (1) the words “in the warrant of appointment”.</p> <p>By repealing section 12 (1), and substituting the following subsection:</p> <p>“(1) A Judge must not be removed from office except in accordance with section 23 of the Constitution Act 1986.”</p> <p>By inserting, after section 12, the following section:</p>

SCHEDULE—*continued*

AMENDMENTS TO OTHER ACTS—*continued*

Enactment	Amendment
1993, No. 4—Te Ture Whenua Maori Act 1993— <i>continued</i>	<p>“12A. Judges to have immunities of High Court Judges—Section 24A of the Constitution Act 1986 applies to a Judge.”</p> <p>By repealing section 13 (2), and substituting the following subsection: “(2) Section 24 of the Constitution Act 1986 (salaries of Judges not to be reduced) applies to the salary of a Judge.”</p>
1996, No. 30—The Hazardous Substances and New Organisms Act 1996	<p>By inserting in section 61, after subsection (4), the following subsection: “(4A) Despite subsection (4), the members of the Authority have, in relation to any such consideration and any decision on any matter, only the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957 in respect of the performance of his or her judicial duties.”</p>