

[AS REPORTED FROM THE JUSTICE AND LAW REFORM
COMMITTEE]

House of Representatives, 10 June 1992.

Words struck out are shown with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

Hon. D. A. M. Graham

DISTRICT COURTS AMENDMENT (NO. 4)

ANALYSIS

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| Title | 2. General jurisdiction in respect of proceedings |
| 1. Short Title and commencement | 3. Equity jurisdiction |
| | 4. Ancillary powers of Judge |

A BILL INTITULED

An Act to amend the District Courts Act 1947

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

5 **1. Short Title and commencement**—(1) This Act may be cited as the District Courts Amendment Act (No. 4) 1992, and shall be read together with and deemed part of the District Courts Act 1947* (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of July 1992.

10 **2. General jurisdiction in respect of proceedings**—The principal Act is hereby amended by repealing section 29 (as substituted by section 6 (1) of the District Courts Amendment Act 1991) and the heading above section 29, and substituting the following section:

15 “29. (1) The Courts shall have jurisdiction to hear and determine any proceeding where the debt, demand, or

*R.S. Vol. 5 p. 1

Amendments: 1980, No. 83; 1981, No. 21; 1982, No. 5; 1982, No. 130; 1983, No. 49; 1985, No. 137; 1986, No. 84; 1987, No. 26; 1988, No. 183; 1989, No. 107; 1991, No. 61; 1991, No. 107; 1992, No. 17

No. 155—2

Price Code: J

damages, or the value of the chattels claimed, is not more than \$200,000, whether on balance of account or otherwise:

“Provided that the Courts shall not, except as in this Act provided, have jurisdiction to hear and determine—

“(a) Any proceeding for the recovery of land; or 5

“(b) Any proceeding in which the title to any franchise is in question.

“(2) The Courts shall have jurisdiction to hear and determine any proceeding where the debt or demand claimed consists of a balance not exceeding \$200,000, after a set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, being a set-off admitted by the plaintiff in the particulars of the plaintiff’s claim or demand.” 10

3. Equity jurisdiction—The principal Act is hereby amended by repealing section 34, and substituting the following section: 15

“34. (1) Subject to the provisions of this Act, the Courts shall have—

“(a) The same equitable jurisdiction as the High Court to hear and determine any proceeding (other than a proceeding in which the amount claimed or the value of the property claimed or in issue is more than \$200,000); 20

“(b) Jurisdiction to hear and determine any proceeding for the dissolution or winding up of any partnership (whether or not the existence of the partnership is in dispute), where the whole assets of the partnership do not exceed in amount or value the sum of \$200,000. 25

“(2) Where jurisdiction in respect of any proceeding or class of proceeding is, by virtue of any provision of any Act (not being section 16 of the Judicature Act 1908) that relates expressly to that proceeding or class of proceeding, exercisable by the High Court or any other court (not being a District Court), District Courts shall not by virtue of **subsection (1) (a) of this section or section 29 (1) of this Act** have the equitable jurisdiction of the High Court in respect of that proceeding or class of proceeding. 30 35

“(3) No proceeding for the dissolution or winding up of a partnership or order thereon shall prevent any creditor from petitioning for an adjudication of bankruptcy against any member or members thereof.” 40

4. Ancillary powers of Judge—The principal Act is hereby amended by repealing section 42 (as substituted by section 11 (1) of the District Courts Amendment Act 1991), and substituting the following section:

- 5 “42. (1) A Judge shall have jurisdiction in any proceeding pending to make any order or to exercise any authority or jurisdiction which, if it related to a proceeding pending in the High Court, might be made or exercised by a Judge of the High Court in Chambers.
- 10 “(2) Notwithstanding subsection (1) of this section, an interlocutory injunction restraining a party to a proceeding (whether domiciled, resident or present in New Zealand) from removing from New Zealand, or otherwise dealing with, assets in New Zealand is the only interlocutory injunction in the
- 15 nature of a Mareva injunction that a Judge may grant.

Struck Out

“(3) Nothing in this Act authorises a Judge to make an Anton Piller order.”

New

- 20 “(3) Without limiting the power to make an order for the detention, custody, or preservation of any property, it is hereby declared that nothing in this Act authorises a Judge to make an Anton Piller order.”

5. Jurisdiction exclusive of interest awarded—The principal Act is hereby amended by inserting, after section 42, the following section:

- 25 “42A. Where a Court has power to award interest under section 62B of this Act, the Court may exercise that power notwithstanding that the inclusion of the interest in the sum for
- 30 which judgment is given will cause that sum to exceed a monetary amount that, under this Act, applies in relation to the Court’s jurisdiction in respect of that proceeding.”