

Judicial Matters Bill

Government Bill

As reported from the Justice and Electoral Committee

Commentary

Recommendation

The Justice and Electoral Committee has examined the Judicial Matters Bill and recommends by majority that it be passed with the amendments shown.

Introduction

The purpose of the Judicial Matters Bill is to maintain and enhance public confidence in the impartiality and integrity of the judiciary by addressing key issues relating to the independence, quality and resourcing of the judiciary.

Consideration process

We received and considered several reports from the Ministry of Justice including information on the background to the bill and statistics and analysis on key issues. This included responses to concerns raised by submitters and issues raised by committee members. These reports are listed in Appendix B.

This commentary outlines the main issues considered and focuses on the main amendments recommended to the bill. It does not cover minor or technical amendments.

Purpose clause

We recommend amendments to the introductory paragraph of clause 3 to clarify that the purpose of the bill is to enhance public confidence in, and to protect the impartiality and integrity of, the judicial system.

Definitions of Head of Bench and Judge

We recommend that the definitions of “Head of Bench” and “Judge” in clause 4 be amended to reflect the enactment of the Supreme Court Act 2003. The amendment to “Head of Bench” clarifies that the Head of Bench for the High Court is the Chief High Court Judge, and the Head of Bench for the Supreme Court is the Chief Justice. The amendment to “Judge” includes reference to the Judges of the Supreme Court.

Judicial Conduct Commissioner

The bill creates a new office called the Judicial Conduct Commissioner who will be the first port of call for all complaints about Judges and who will oversee the complaints process. We recommend amendments to clauses 10, 11, 13, 14 and 15 to clarify the role and powers of the Commissioner.

The Commissioner is not required to seek comments from the Judge concerned

We recommend an amendment to clause 14(2) to specify that when conducting the preliminary examination of a complaint the Commissioner has the discretion to seek comments from the Judge who is the subject of the complaint. In line with this amendment we recommend the insertion of new clause 13(1A) to provide that the Commissioner may send a copy of the complaint to the Judge. These amendments recognise that it would be inappropriate to stipulate that the Commissioner must seek the Judge’s response to a complaint, as in some cases, such as where there is a complaint of a frivolous, vexatious or trivial nature or a complaint is not in good faith, it may be readily apparent that the complaint must be dismissed. In such circumstances an extensive examination would be unnecessary.

The Commissioner must notify the Judge of the complaint

In addition to the above amendment we recommend an amendment to clause 13(1) to provide that the Commissioner must notify the Judge of the complaint. Further, new clause 13(1A) provides that the Commissioner may forward a copy of the complaint to the Judge. These amendments are necessary given that we have removed the requirement for the Commissioner to seek comments from the Judge.

Judge's right to request and receive a copy of any complaint

We also recommend the insertion of new clause 13(1B) to provide for the Judge, who is the subject of the complaint, to be given the right to request and receive a copy of any complaint. For reasons of natural justice it is important to ensure that, once notified of a complaint, the Judge has the ability to access that complaint if he or she wishes.

Dealing with multiple complaints

We recommend the insertion of new clause 10(3A) to provide that when dealing with a group of complaints that appears to relate to one matter, the Commissioner may deal with them together as if they were one complaint. This is to prevent the perception of harassment should a large number of complaints of the same nature be received about one Judge, given the Commissioner's obligation to notify the Judge of each complaint. The Commissioner may take into account how closely related the complaints are before deciding to treat them as one complaint.

We also recommend the insertion of new clause 11(4) to clarify that the Commissioner may initiate a new complaint if, after having dismissed a complaint or referred it to the Head of Bench, he or she becomes aware that there has been a number of complaints that together may raise a question of removal. Clause 11(3) already provides for the Commissioner to initiate a complaint on his or her own motion. The proposed amendment extends this provision.

Criteria on which the Commissioner must dismiss complaints

We recommend amendments to clause 15, which lists the grounds on which the Commissioner must dismiss complaints when they fail to meet the required standards.

We recommend the deletion of clause 15(1)(b). This clause provides that the Commissioner must dismiss a complaint if that complaint does not warrant consideration of removal of the Judge from office. This provision was included in error and would probably make clause 16 inoperative, as it would require the dismissal of any complaint that did not justify consideration of removal of a Judge. The intention is that if a complaint is not dismissed on any of the other grounds listed in clause 15, and yet does not justify inquiry by a Judicial Conduct Panel, it must be referred to the Head of Bench.

We also recommend an amendment to clause 15(1)(g) for clarification purposes. The intent of clause 15(1)(g) is to specify that complaints must not be about judicial decisions. The amendment makes it explicit that the Commissioner must dismiss a complaint if he or she is of the opinion that the complaint is about a judicial decision or other judicial function that is or was subject to a right of appeal or right to apply for judicial review.

We also recommend the insertion of new clause 15(1)(j) to allow the Commissioner to dismiss complaints if the subject matter of the complaint has previously been considered and there are no grounds for taking further steps. This amendment allows the Commissioner to dismiss repeated complaints that do not disclose new information.

In line with these amendments we recommend the deletion of clause 31, which provides for a complaint to be dismissed by a Judicial Conduct Panel on any of the grounds under clause 15 or if the complaint cannot be substantiated. This clause is unnecessary and may lead to confusion about the status of a complaint that has been dismissed by the Judicial Conduct Panel.

Maintaining access to personal information

Clause 18(3), which concerns the application of information privacy principle 6¹, is intended to ensure that access to personal information would still be available to almost the same extent it would have been but for an investigation by the Commissioner. We recommend an amendment to clause 18(3) to clarify that personal information relating to an investigation being conducted by the Commissioner may not be accessed, excepting personal information contained in documents that came into existence before the commencement of the Commissioner's investigation. The amendment is necessary as

¹ Privacy principle 6 relates to access to personal information, as defined in section 6 of the Privacy Act 1993.

clause 18(3) as introduced provides for access to any “information” in existence before the investigation, which could be open to interpretation.

Judicial Conduct Panel

The bill as introduced provides for the Attorney-General, on the recommendation of the Commissioner, to appoint a Judicial Conduct Panel of 3 persons to inquire into a complaint that has been the subject of a recommendation by the Commissioner.

We recommend amendments to clauses 20 and 23, and other consequential amendments, to clarify the purpose and functions of the Panel. We also recommend amendments to clauses 26, 27, and 30 to rectify terminology and clarify the right to appeal against certain Panel decisions.

Amendments concerning the Panel’s ability to recommend the removal of a Judge, and the process for a removal, are discussed in the section on “Removal of a Judge” on page 7 of this report.

Purpose of Panel

We recommend an amendment to clause 20(1), and consequential amendments to clauses 14, 22, 23, 26, 27, and 29 to 33 to clarify that the purpose of appointing a Judicial Conduct Panel is to inquire into and report on a matter of conduct, not to resolve a complaint. The Panel’s investigation would be for the purpose of considering whether a recommendation should be made that a Judge should be removed from office.

Functions of Panel

We recommend clause 23 be amended to enable the Panel to extend its inquiry beyond the matter referred to it, if other matters arise during the course of an investigation. This is necessary to allow the Panel the discretion to decide whether it is reasonable in the circumstances to extend its inquiry.

We also recommend the deletion of clause 23(3) as it duplicates clause 32, which sets out the Panel’s requirement to provide a report to the Attorney-General at the conclusion of its inquiry.

Panel may consider multiple complaints together

Further to our recommendation that the bill be amended to outline how the Commissioner may deal with multiple complaints, we recommend an amendment to clause 17(1) to clarify that where a range of matters about one Judge is complained of together (by one person or a number of people), these may together be the subject of a Panel inquiry. The amendment, which provides that the Panel may inquire into any matter or matters concerning the alleged conduct of a Judge, also allows that the Panel may conclude that a number of matters together may justify consideration for removal.

‘Special counsel’ to present allegation to Panel

We recommend the term “independent counsel” in clauses 26 and 27 be replaced with the term “special counsel”. This is to avoid potential confusion or uncertainty in using the term “independent counsel” and to clarify the role of this counsel. The amendments provide that a special counsel is appointed and instructed by the Attorney-General to present the allegation to the Panel. The amendments further clarify that the role of special counsel is to act impartially and in the public interest. Special counsel will not represent the original complainant or the Judge concerned.

Restrictions on publication

We recommend an amendment to clause 29(6) to specify that the maximum fine for the offence of publishing proceedings of a Panel against an order of the Panel be \$3,000 for an individual and \$10,000 for a body corporate. This is to provide sufficient deterrent to the publishing of material that may be harmful to a Judge’s reputation, as a fine of \$3,000 may not deter some media outlets from committing this offence on the calculation they could still make a profit from sales.

Appeals to Court of Appeal on certain Panel decisions

We recommend the insertion of new clause 30(1)(aa) to provide for a right of appeal against a decision by the Panel to decline to hold a hearing in private. This is to correct an oversight in the bill. While the default position in the bill is that all hearings before the Panel should be held in public, clause 28(2) provides that the Panel has the discretion to decide to hold a hearing, or a part of a hearing, in private. Any person may, under clause 30(1)(a), appeal against a

decision of the Panel to hold a hearing, or part of a hearing, in private. The amendment recognises that it is appropriate that the same right of appeal should exist if the Panel declines a request to have the hearing in private.

Removal of a Judge

While the removal of a Judge from office has never been necessary in New Zealand, the bill seeks to establish the inquiry process to be adopted prior to the removal of a Judge. The majority of us recommend amendments to clause 33 to clarify this process.

Attorney-General can remove a Judge on receipt of Panel's report

The majority of us recommend an amendment to clause 33(2) to clarify that a Judge may not be removed unless a Panel has reported that it thinks consideration of removal is justified. To ensure consistency with clause 32, clause 33(1) is also amended by inserting the words "consideration of" before "the removal of a Judge is justified".

The ACT, National, and United Future members are opposed to clause 33. They are concerned that this clause has constitutional implications. Section 23 of the Constitution Act 1986 prescribes that a Judge of the High Court may be removed from office only by the Sovereign or Governor-General, acting on an address from the House of Representatives. The address may be moved on the grounds of that Judge's misbehaviour or incapacity to discharge the functions of judicial office. The bill changes this position by prescribing that a member of Parliament would only be able to move a motion for the removal of a Judge if a Judicial Conduct Panel has reported to the Attorney-General that it considers consideration of removal was justified. They believe this would act as a constraint on Parliament's powers and on the individual right of any member of Parliament to move such an address.

Sanctions short of removal not included

The majority of us recommend no extension to the options open to a Panel in its report to the Attorney-General, under clause 32. We consider it is appropriate that the Panel's report to the Attorney-General at the conclusion of its inquiry sets out the Panel's findings

of fact, its opinion as to whether the complaint justifies consideration of removal of the Judge and the reasons for the Panel's conclusion.

The majority of us are of the view that providing for statutory powers of discipline short of removal from office would be an intrusion on judicial independence and that this would be difficult to implement in practice, as any such powers would need to be enforced.

Extension to judicial immunity retained

We recommend no change to the provisions contained in clauses 65 to 71 and clauses 40, 45, and 59, which provide for District Court Judges, Environment Court Judges, Masters of the High Court (to be called Associate Judges of the High Court), Courts Martial Appeal Court Judges and Maori Land Court Judges to have the same immunities as a Judge of the High Court.

Some submitters were opposed to a broadening of judicial immunity, arguing it would be inappropriate and that immunity from civil suit would limit judicial accountability. However, we are of the view that the amendments are appropriate and necessary. Immunity from civil suit is recognised as an important protection for judicial independence and impartiality. The need for immunity from civil suit for all Judges is evinced in that many complaints about Judges are in fact complaints about the outcome of a judicial decision as opposed to the conduct of a Judge. Appendix C shows a tally of complaints received by the Ministry of Justice and Crown Law Office in recent years. Appendix D shows the number of complaints about Judges in the different courts and, where available, the proportion of these directed at a Judge's decision rather than conduct.

In addition, judicial accountability would not be limited in an unacceptable manner. A person aggrieved by a Judge's action would still have recourse to other options such as appeal to a higher court, judicial review, the formal judicial complaints process, compensation from the Crown where there is a miscarriage of justice, and criminal prosecution of a Judge for corruption.

Number of Judges increased

We recommend amendments to clauses 41 and 51 to provide for the number of District Court Judges to be increased from 123 to 140, and for the number of High Court Judges to be increased from 37 to

55. At present Judge numbers are at their maximum in the High Court and the District Court, and temporary Judges have been appointed to accommodate the need for more Judges. The amendments are necessary as it is important that the courts are properly resourced, to prevent delays and barriers to access to justice. The intention is that the cap on Judge numbers be set and maintained at a level that allows for some future increases in appointments in response to the changing needs of the courts. The need to increase the number of High Court Judges is also necessary as the Supreme Court Act 2003 included a consequential amendment to the number of High Court Judges that needs to be taken into account.

Affirmative resolution procedures deleted

We recommend that the affirmative resolution procedure for increasing Judge numbers be removed from clause 42. The affirmative resolution procedure involves an Order in Council that must then be confirmed by resolution of the House of Representatives. The committee notes that affirmative resolution procedures are currently being reviewed by the Regulations Review Committee. It is clear that this procedure should be used with caution and requires justification when invoked.

National members consider that the affirmative resolution procedure lessens the role of the legislature and therefore should only be used where it is clearly justified, such as a need to address pressing public health and safety concerns. National members do not consider that responding to workload impact on the judiciary as a result of legislative or policy reforms is sufficient justification for invoking these procedures.

Temporary Masters of the High Court

The majority of us recommend no amendment to clause 58, which amends section 26H(2) of the Judicature Act 1908 to extend from 3 months to up to 12 months the length of time temporary Masters (Associate Judges) may be appointed. This amendment is for administrative ease and to limit the need to renew temporary appointments.

The ACT member does not support the continuation of the appointment of temporary Masters or Associate Judges on the grounds that temporary judicial positions encourage judicial favour of the source

conferring the appointment, and may compromise the independence and impartiality of the Judge.

Part-time work

The majority of us recommend amendments to clauses 42, 47, 52, 55, 60 and 73 to clarify that part-time work may be available at any time following or upon appointment to the judiciary, and to make it explicit that provisions for part-time work do not apply to temporary and acting Judges.

The National member is strongly opposed to the provisions for part-time Judges.

Acting or temporary Judges

The majority of us believe that existing legislation is sufficiently flexible for the Head of Bench to assign acting Judges as required.

No limit for number of part-time Judges

The ACT, United Future, and Green members support an amendment defining a limit for the number of part-time Judges on the grounds that not having a cap on numbers of part-time Judges could allow “panel packing”, whereby the selection of particular Judges for a significant case could be made for a political purpose. The majority of us do not support such an amendment.

Part-time Judges and other work

We recommend no change to the provisions in the bill to provide for part-time Judges to undertake other work. The bill makes explicit that other employment or unpaid office is not to be undertaken unless it is compatible with judicial office. The responsibility for this question is placed with the Head of Bench rather than the Governor-General. The intent is to address the needs of Judges who require part-time work for a certain time, rather than to facilitate a career of part-time work combined with other roles.

Though the bill does not specifically prescribe the form of the other work we are satisfied that this should be for the Head of Bench to determine. For example, it may be appropriate for a Judge to be able to work part-time while he or she is undertaking academic study, but not appropriate for a person undertaking part-time work as a Judge to continue to act as a barrister or solicitor. We note that it is unlikely that a Head of Bench would find a Judge continuing in legal practice

compatible with judicial office. The District Courts Act 1947 and Te Ture Whenua Maori Act 1993 contain specific restrictions on Judges of those courts acting as barristers and solicitors. Those provisions cover the majority of our Judges.

Guidance on Commissioner and Panel processes

We recommend a flowchart be inserted in the bill (new Schedule 1AA) to aid understanding of the Commissioner and Panel processes. We also recommend the insertion of new clause 2A, to refer to the diagram contained in the Schedule and to clarify that this diagram is to be used as guidance only.

Judicial appointments not addressed in the bill

The bill does not provide for a fundamental change in the process for judicial appointments. The Attorney-General remains responsible for recommending all judicial appointments except the appointment of the Chief Justice (which remains the responsibility of the Prime Minister), and Maori Land Court Judges (which remains the responsibility of the Minister for Maori Affairs). For consistency, the bill provides that the Attorney-General will also be responsible for recommending the appointment of Environment Court Judges and Environment Commissioners.

We note that the Associate Minister of Justice and Attorney-General is releasing a public discussion document to canvas views on the introduction of an independent body with a role in judicial appointments.

The United Future, National, and Green members consider that the bill should provide for a more transparent judicial appointments process. Significantly, concerns regarding the judicial appointments process were raised by submitters during our consideration of both this bill and the Supreme Court Bill.

United Future minority view

The United Future member is supportive of the bill's provisions (as amended) relating to the provision of a Judicial Conduct Commissioner and Judicial Conduct Panel, the increase in the number of Judges and provisions for temporary and part-time Judges. The United Future member is also pleased that the select committee has removed the affirmative resolution provisions relating to future increases in the number of Judges.

Whilst the bill remains completely silent on the manner in which Heads of Bench are to handle complaints referred to them by the Commissioner, United Future considers that the importance of the need for the separation of powers between the executive, the legislature and the judiciary and for judicial independence (even within the judiciary) provide strong inhibitions to the provision of legislative direction to the judiciary in this matter. Furthermore, United Future considers that the prospect of Heads of Bench being subject to judicial review in regard to their actions (or inactions) in disciplinary matters is one that also counts against providing any statutory duties on Heads of Bench when it comes to judicial discipline.

However, the United Future member considers that this places a strong obligation on Heads of Bench and Judges generally to be, and be seen to be, transparent and accountable for their actions when it comes to matters of discipline and that more could be done to achieve this. The United Future member considers that the judiciary, like every other public institution, is dependent on maintaining the confidence of the public to operate relatively unfettered by statutory restrictions. At a time when the actions of Judges are coming under increased scrutiny, the United Future member considers that maintaining public credibility is vital. The United Future member considers that this is often more about perception than reality and therefore steps such as no longer formally tabling an annual report in Parliament, whether or not the information can be sourced elsewhere, count against this perception and are an unwelcome development.

In this regard the United Future member was favourably impressed with the New South Wales Judicial Commission and believes that, while this bill is probably enough of a step for now, there may be a need to consider adopting a similar model if a public perception develops that the judiciary, left to its own devices, is not sufficiently responsive to public criticism and concern at the activities and actions of Judges that fall short of the standard warranting consideration of removal.

Having said that, United Future is opposing this bill because it has failed to address the issue of a Judicial Appointments Commission. The United Future member considers that a statutory commission needs to have a role at both ends of the process—the appointment of Judges and the consideration of their removal—and that a valuable opportunity to do that is being lost.

The United Future member notes that a number of other Commonwealth nations, including Canada, Britain, the Caribbean countries and African nations have or are moving towards Judicial Appointments Commissions in order to provide greater transparency in the judicial appointments processes. The United Future member considers that the need for such a development in New Zealand has become even more important with the advent of the Supreme Court which has led, for the first time, to almost all judicial appointments being under the control of the Attorney-General, and that the creation of a Conduct Commissioner without, at the same time, addressing an Appointment Commission is a serious mistake.

ACT minority view

The ACT member opposes this bill because it removes Parliament's right to remove a Judge on any member's motion. This right has never been exercised in New Zealand, but the bill replaces it with a veto for the Attorney-General.

ACT would like to have been able to support the proposed investigatory procedure, so that the Parliamentary debate on a removal motion is well informed. But as drafted it allows the Attorney-General to block the removal of a Judge and Parliament loses what could be a vital initiative. This bill also creates the potential for packing the courts with part-time Judges. ACT suggestions of limits on the numbers of such part-timers were rejected. They would have limited the scope for a "panel pack" from a large pool of Judges.

The bill could also allow the new Judicial Conduct Panel – appointed by the Attorney-General – to suppress reporting about a Judge. The Panel can subpoena anyone, and demand documents – for example a reporter's notes. If the Conduct Panel thinks the reporting would be against the public interest, it can then permanently suppress all publication. ACT opposes this threat to free speech.

National minority view

National is opposed to the bill. The key reasons for that are:

First, the primary focus in the bill is a more formal structure for the removal of Judges. The New Zealand Parliament has never removed a Judge and there is an already established pathway for the removal of Judges. That is by address (by any member) to the House. The procedure would be a simple motion. The closest New Zealand got

to the removal of a Judge was in 1913 and involved Justice Edwards. He was a member of the Supreme Court and became the resident Judge in Auckland in 1903. By 1913 his courtroom behaviour had become intolerable to the legal profession. Newspapers carried reports of his attacks on counsel.

A cartoon in the *New Zealand Observer* suggested that the Judge was biased towards the female respondent in a 1913 divorce trial.

Following a resolution of the Auckland District Law Society, recording that the administration of justice had been imperiled and that public confidence in the Supreme Court had been shaken by the Judge, he was transferred to Wellington and never sat in Auckland again.

By 1919 it appeared likely that a further effort would be made to seek his removal from office. In the result he resigned in 1921 on full pension with £1,000 compensation.

Legislation should be remedial in nature – it should seek to deal with a ‘mischief’. The short point is that there is no current ‘mischief’ relating to judicial conducts justifying removal from office.

Although the select committee received advice that it would be within the scope of the bill to provide a range of sanctions falling short of removal from office – such as censure, public apology or required counselling – we regret that the majority did not agree to provide for sanctions falling short of removal. The bill does not propose to alter the test of misbehaviour or incapacity. It fails to deal with conduct that falls short of those standards.

Secondly, the bill does not deal with the appointment of Judges. If there are problems in the legal system they are more about the appointment (and issues of transparency of process) than the removal of Judges.

Thirdly, we should be very cautious about the appointment of part-time Judges. There has been a significant increase in judicial numbers in recent years whilst issues of further resourcing and improved case management have not been sufficiently addressed. Judging is a full-time business and those who seek and secure appointment accept that reality.

Consideration might be given to unpaid leave for Judges within the judicial management process.

Appendix A

Committee process

The Judicial Matters Bill was referred to the committee on 4 September 2003. The closing date for submissions was 21 November 2003. We received and considered 15 submissions from interested groups and individuals, of which we heard 11. Hearing of evidence took 6 hours and 29 minutes and consideration took 8 hours and 50 minutes.

We received advice from the Ministry of Justice.

Committee membership

Tim Barnett, Chairperson (Labour)

Stephen Franks, Deputy Chairperson (ACT)

Judith Collins (National)

Lianne Dalziel (Labour)

Russell Fairbrother (Labour)

Darren Hughes (Labour)

Dail Jones (New Zealand First)

Moana Mackey (Labour)

Murray Smith (United Future)

Nandor Tanczos (Green)

Richard Worth (National)

Appendix B

Ministry of Justice documents:

Initial briefing paper, 29 September 2003

Judicial Complaints Process

Referral Questionnaire for Judicial Matters Bill

Response to the Justice and Electoral Committee Initial Information Request, 5 February 2004

Response to the Justice and Electoral Committee Second Information Request, 20 February 2004

Departmental Report Part Two, 15 March 2004

Response to the Justice and Electoral Committee Third Information Request, 15 March 2004

Departmental Report Part One, 17 March 2004

Additional Recommendations: Part One, 24 March 2004

Response to the Justice and Electoral Committee Fourth Information Request, 24 March 2004

Memorandum providing further advice on committee requests of 24 March

Memorandum providing further advice on committee requests of 7 April

Appendix C

Number of complaints received by the Ministry of Justice and Crown Law Office since 1998 ²

Year	Ministry of Justice	Crown Law Office
1998	26	<i>No figures available</i>
1999	14	1
2000	17	17
2001	25	30
2002	15	19

² The majority of these complaints are to the Attorney-General or the Minister of Justice. The numbers recorded are based on manual searches of paper files. It is not clear how many of these complaints have also been made to the Head of Bench, but it is likely that some complainants subsequently wrote to the Head of Bench or have done so before writing to a Minister or to the Ministry of Justice or the Crown Law Office.

Appendix D

Number of complaints about Judges in each court ³

Court	1999	2000	2001	2002
Court of Appeal	0	0	4(2) ⁴	0
High Court ⁵	4(1)	19(12)	24(14)	11(5)
Employment Court		2(2)	1(1)	0
District Court	24(13)	23(15)	39(13)	36(19)
Maori Land Court		2	4(4)	5(1)
Environment Court			3(3)	3(3)
Family Court		9	20(9)	15(5)
Youth Court		0	0	0
Total	28	55	95	70

³ The Reports of the New Zealand Judiciary for 1999 and 2000 include figures for the Court of Appeal, High Court and District Court. All other figures were obtained from the Heads of Bench. Figures provided by the Chief Justice differ slightly.

⁴ The figures in brackets are the number of those complaints that were about a Judge's decision and not about conduct.

⁵ Figures provided by the Chief Justice provide slightly different totals for complaints against High Court Judges (including Court of Appeal Judges). These are: 22 complaints in 2001 (14 of which challenged a judicial decision) and 13 complaints in 2002 (5 of which challenged a judicial decision).

Key to symbols used in reprinted bill

As reported from a select committee

Struck out (majority)

Subject to this Act,

Text struck out by a majority

New (majority)

Subject to this Act,

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

Hon Margaret Wilson

Judicial Matters Bill

Government Bill

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13	Commissioner must acknowledge complaint and deal with it promptly	Judicial immunity, number of Judges, principal Judges, part-time Judges, and other matters relating to judicial officers	
14	Commissioner must conduct preliminary examination	<i>Amendments to Children, Young Persons, and Their Families Act 1989</i>	
15	Commissioner must dismiss complaints that fail to meet required threshold	36	New section 434 substituted 434 Principal Youth Court Judge
16	Commissioner's power to refer complaints to Head of Bench	37	Section 434(2) not to apply to existing Principal Youth Court Judge
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20	Appointment of Judicial Conduct Panel	<i>Amendment to Courts Martial Appeals Act 1953</i>	
21	Membership of Panel	40	Constitution of Courts Martial Appeal Court
22	Panel must be dissolved if member unable to continue	<i>Amendments to Districts Courts Act 1947</i>	
		41	Appointment and qualifications

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42	New section 5AA inserted 5AA Judges act on full-time basis but may be authorised to act part-time		<i>Amendments to Resource Management Act 1991</i>
43	Salaries and allowances	61	Appointment of Environment Judges and alternate Environment Judges
44	New section 11H inserted 11H Retired Community Magistrates	62	Principal Environment Judge
45	New section 119 substituted 119 Immunity of Judges	63	Appointment of Environment Commissioner or Deputy Environment Commissioner
	<i>Amendments to Employment Relations Act 2000</i>	64	Resignation
46	Appointment of Judges	65	Protection from legal proceedings
47	New section 200A inserted 200A Judges act on full-time basis but may be authorised to act part-time		<i>Amendments to Summary Proceedings Act 1957</i>
48	Salaries and allowances of Judges	66	New heading to Part VII substituted
	<i>Amendments to Family Courts Act 1980</i>	67	No action against District Court Judge or Justice or Community Magistrate unless act in excess of jurisdiction or without jurisdiction
49	New section 6 substituted 6 Principal Family Court Judge	68	No action against District Court Judge or Justice or Community Magistrate to be brought in District Court
50	Section 6(2) not to apply to existing Principal Family Court Judge	69	Onus of proof
	<i>Amendments to Judicature Act 1908</i>	70	Plaintiff may be ordered to give security for costs
51	The Judges of the High Court	71	Section 196A repealed
52	New section 4C inserted 4C Judges of High Court act on full-time basis but may be authorised to act part-time		<i>Amendment to Te Ture Whenua Maori Act 1993</i>
53	Salaries and allowances of Judges	72	Appointment of Judges
54	Masters become Associate Judges	73	New section 7A inserted 7A Judges act on full-time basis but may be authorised to act part-time
55	New sections 26C and 26D substituted 26C Appointment of Associate Judges 26D Associate Judges act on full-time basis but may be authorised to act part-time	74	New section 12A inserted 12A Judges to have immunities of High Court Judges
56	Vacation of office	75	Salaries and allowances of Judges
57	Salaries and allowances of Associate Judges		Schedule 1AA
58	Temporary Associate Judges		Overview of process for Judicial Conduct Commissioner and Judicial Conduct Panel
59	New section 26Q substituted 26Q Immunity of Associate Judges		Schedule 1
60	New section 57A inserted 57A Judges of Court of Appeal act on full-time basis but may be authorised to act part-time		Provisions relating to Judicial Conduct Commissioner and members of Judicial Conduct Panel
			Schedule 2
			Amendments consequential upon change of title of Master of the High Court

The Parliament of New Zealand enacts as follows:

- 1 Title**
 This Act is the Judicial Matters Act **2003**.
- 2 Commencement**
- (1) **Part 1 and <Schedule 1> <Schedules 1AA and 1>** come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions and different purposes. 5
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent. 10

Part 1
Judicial Conduct Commissioner and Judicial
Conduct Panel

Subpart 1—Preliminary provisions

New (majority)

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| 2A | Overview of process | 15 |
| (1) | A diagrammatic overview of the process established by this Part is set out in Schedule 1AA . | |
| (2) | The diagram is intended as a guide only. | |

- 3 Purpose** 20
- The purpose of this Part is to *<enhance the public confidence in the integrity of the judicial system>* <enhance public confidence in, and to protect the impartiality and integrity of, the judicial system> by—
- (a) providing a robust investigation process to *<inform decisions>* <enable informed decisions to be made> about the removal of Judges from office: 25
- (b) establishing an office for the receipt and assessment of complaints about the conduct of Judges:
- (c) providing a fair process that recognises and protects the requirements of judicial independence and natural justice. 30

4 Interpretation

In this Act, unless the context otherwise requires,—

Struck out (majority)

Commissioner means a Judicial Conduct Commissioner appointed under **section 6**

complaint or complaint about a Judge—

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- (a) means a complaint under **section 10** about the conduct of a Judge; and
- (b) includes—
- (i) a *complaint referred* *referral made* under **section 11(2)** by the Attorney-General; and
- (ii) a complaint initiated under **section 11(3)** by the Commissioner

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Head of Bench means,—**New (majority)**

(aa) in relation to the Supreme Court, the Chief Justice:

- (a) in relation to the Court of Appeal, the President of the Court of Appeal: 15
- (b) in relation to the High Court, the Chief *Justice* *High Court Judge*):
- (c) in relation to the Employment Court, the Chief Judge of the Employment Court: 20
- (d) in relation to the Courts Martial Appeal Court, the Chief Justice:
- (e) in relation to a District Court, the Chief District Court Judge:
- (f) in relation to the Environment Court, the Principal Environment Judge: 25
- (g) in relation to the Maori Land Court, the Chief Judge of the Maori Land Court

Judge—

- (a) means—

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New (majority)

(ia) a Judge of the Supreme Court; or

(i) a Judge of the Court of Appeal; or

(ii) a Judge or an Associate Judge of the High Court; or

(iii) a Judge of the Employment Court; or

(iv) a Judge of the Courts Martial Appeal Court; or

(v) a District Court Judge; or

(vi) a Judge of the Environment Court; or

(vii) a Judge of the Maori Land Court; and

(b) includes a person who holds office as a temporary Judge, temporary Associate Judge, or acting Judge of any of those courts; but

(c) does not include a retired Judge or a former Judge

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New (majority)

Judicial Conduct Commissioner or **Commissioner** means a Judicial Conduct Commissioner appointed under **section 6**

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Judicial Conduct Panel or **Panel** means a Judicial Conduct Panel appointed under **section 20(1)**.

5 This Part binds the Crown

This Part binds the Crown.

Subpart 2—Judicial Conduct Commissioner

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Provisions relating to Commissioner

6 Judicial Conduct Commissioner

(1) An office called the Judicial Conduct Commissioner is established.

(2) The Commissioner is appointed by the Governor-General on the recommendation of the House of Representatives.

(3) Before a recommendation may be made under **subsection (2)**, the Attorney-General must consult the Chief Justice about the proposed appointment and must advise the House of Representatives that the Chief Justice has been consulted.

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- (4) A person is not to be regarded as being employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government Superannuation Fund Act 1956 solely because of his or her appointment as the Commissioner.

Compare: <1988 No 2 s 4;> Judicial Officers Act 1986 s 5 (NSW)

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7 Functions and powers

- (1) The functions of the Commissioner are—

(a) to receive complaints about Judges and to deal with the complaints in the manner required by this Act:

(b) to conduct preliminary examinations of complaints: 10

(c) in appropriate cases, to recommend that a Judicial Conduct Panel be appointed to inquire into <a complaint> <any matter or matters concerning the conduct of a Judge>.

- (2) It is not a function of the Commissioner to challenge or call into question the legality or correctness of any instruction, direction, order, judgment, or other decision given or made by a Judge in relation to any legal proceedings. 15

- (3) The Commissioner has all the powers necessary for carrying out his or her functions. 20

Compare: Judicial Officers Act 1986 s 14 (NSW)

8 Duty to act independently

The Commissioner must act independently in carrying out his or her functions.

9 Other provisions relating to Commissioner

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Part 1 of Schedule 1 applies in relation to the Commissioner.

Complaints about Judges

10 **<Scope of Commissioner's jurisdiction:> Which complaints must be dealt with**

- (1) The Commissioner must receive and deal with every complaint made under this section about the conduct of a Judge regardless of whether the subject matter of the complaint arises in the exercise of the Judge's judicial duties or otherwise. 30

- (2) The Commissioner must receive and deal with a complaint even though the subject matter of the complaint constitutes or 35

may constitute a criminal offence (whether or not dealt with, or being dealt with, by a court).

- (3) The Commissioner must deal with a complaint by—
- (a) taking the steps set out in **section 13**; and
 - (b) conducting a preliminary examination under **section 14**; and
 - (c) taking any other appropriate steps set out in **sections 15 to 18**.

New (majority)

- (3A) If different persons make separate complaints about the same matter, the Commissioner may deal with those complaints together under **sections 13 to 18**.

Struck out (majority)

- (4) The Commissioner must treat as a complaint—
- (a) any matter referred under **section 11(2)** by the Attorney-General;
 - (b) any matter initiated under **section 11(3)** by the Commissioner.

- (5) This section is subject to **section 34**.
Compare: Judicial Officers Act 1986 s 15 (NSW)

11 Who may complain

- (1) Any person may make a complaint under **section 10** about the conduct of a Judge. 20
- (2) The Attorney-General may refer to the Commissioner any matter *<relating to>* *<or matters concerning>* the conduct of a Judge.
- (3) The Commissioner may, on his or her own initiative, *<consider>* *<treat as a complaint>* any matter *<relating to>* *<or matters concerning>* the conduct of a Judge. 25

New (majority)

- (4) The power conferred by **subsection (3)** includes (without limitation) the power to treat as a single complaint under **sections 13**

New (majority)

to 18 different complaints about, or a series of matters concerning the conduct of, the same Judge even if the Commissioner has previously dealt with any of those complaints or matters.

Compare: Judicial Officers Act 1986 ss 15, 16 (NSW)

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12 How to complain

- (1) A complaint about a Judge must be made to the Commissioner and—
- (a) be in writing; and
 - (b) identify the Judge who is the subject of the complaint; 10
and
 - (c) identify the complainant; and
 - (d) state the subject matter of the complaint.
- (2) The Commissioner may require a complainant to complete a statutory declaration setting out the matters in **subsection (1)(b) to (d)**. 15
- (3) The Commissioner must give reasonable assistance to any person who wishes to make a complaint to assist that person to meet the requirements of this section.
- (4) **Subsections (1) to (3)** do not apply to a complaint initiated by the Commissioner. 20

Compare: Judicial Officers Act 1986 s 17 (NSW)

13 Commissioner must acknowledge complaint and deal with it promptly**Struck out (majority)**

- (1) The Commissioner must, without delay, send an acknowledgement of a complaint to the complainant (if any) and give a copy of the complaint to the Judge who is the subject of the complaint. 25

New (majority)

- (1) Without delay after receiving a complaint, the Commissioner must—
- (a) send a written acknowledgement to the complainant (if any); and
 - (b) send to the Judge who is the subject of the complaint a written notification of the complaint. 5
- (1A) The Commissioner may send a copy of the complaint to the Judge.
- (1B) The Judge is entitled to request and receive a copy of the complaint. 10
- (2) The Commissioner must deal with a complaint as soon as practicable after receiving it.
- (3) **Subsections (1) <and (2)> <, (1A), and (2)>** are subject to **subsections (4) and (5)**.
- (4) If the Commissioner is satisfied, following consultation with the relevant Head of Bench, that *<giving a copy of the complaint to the Judge>* *<notifying the Judge of the complaint>* under **subsection (1) <or sending the Judge a copy of it under subsection (1A)>** could prejudice any court proceedings, the Commissioner may defer that step. 15
20
- (5) If the Commissioner is satisfied, following consultation with the relevant Head of Bench, that the matter being or to be *<considered>* *<dealt with>* by the Commissioner is being dealt with by a court or that for any other reason the Commissioner should defer *<consideration of>* *<dealing with>* the complaint, the Commissioner may defer *<its consideration>* *<dealing with it>*. 25
- 14 Commissioner must conduct preliminary examination**
- (1) The Commissioner must conduct a preliminary examination of each complaint and form an opinion as to whether— 30
- (a) the subject matter of the complaint, if substantiated, could warrant consideration of the removal of the Judge from office; or
 - (b) there are any grounds for dismissing the complaint under **section 15(1)**. 35

- (2) In the course of the preliminary examination, the Commissioner ~~must~~ may seek the Judge's response to the complaint.
- (3) In conducting a preliminary examination, the Commissioner must act in accordance with the principles of natural justice. 5
- (4) For the purpose of a preliminary examination, the Commissioner may—
- (a) ~~initiate~~ make any inquiries into the complaint that he or she thinks appropriate;
 - (b) obtain any court documents (including, for example, the transcript of a hearing) that are relevant to an inquiry under **paragraph (a)**: 10
 - (c) consult the Head of Bench.
- (5) Having completed the preliminary examination and formed the opinion required by **subsection (1)**, the Commissioner must take 1 of the following steps: 15
- (a) dismiss the complaint (**section 15**); or
 - (b) refer the complaint to the Head of Bench (**section 16**); or
 - (c) recommend that the Attorney-General ~~refer the complaint to~~ appoint a Judicial Conduct Panel to inquire into any matter or matters concerning the conduct of a Judge (**section 17**). 20

Compare: Judicial Officers Act 1986 s 18 (NSW)

15 Commissioner must dismiss complaints that fail to meet required threshold 25

- (1) The Commissioner must dismiss the complaint if he or she is of the opinion that—
- (a) the complaint is not within the Commissioner's jurisdiction; or

Struck out (majority)

- (b) the complaint does not warrant consideration of removal of the Judge from office; or 30

- (c) the complaint has no bearing on judicial functions or judicial duties; or
- (d) the requirements of **sections 11 and 12** have not been met; or 35

- (e) the complaint is frivolous, vexatious, or not in good faith; or
- (f) the subject matter of the complaint is trivial; or

Struck out (majority)

- (g) the complaint relates to the exercise of a judicial or other function that is or was subject to appeal or review rights; or 5

New (majority)

- (g) the complaint is about a judicial decision or other judicial function that is or was subject to a right of appeal or right to apply for judicial review; or
- (h) the person who is the subject of the complaint is no longer a Judge; or 10
- (i) the subject matter of the complaint was considered before the commencement of this section by the Head of Bench or the Judicial Complaints Lay Observer; or

New (majority)

- (j) he or she has previously considered the subject matter of the complaint, and there are no grounds to justify taking any steps under **section 16 or section 17**. 15

- (2) If the Commissioner dismisses a complaint under this section, he or she must give the complainant and the Judge who is the subject of the complaint written notification stating— 20
 - (a) that the complaint has been dismissed; and
 - (b) the grounds on which that decision was made.

Compare: Judicial Officers Act 1986 s 20 (NSW)

16 Commissioner’s power to refer complaints to Head of Bench 25

- (1) The Commissioner must refer a complaint to the Head of Bench unless the Commissioner—
 - (a) dismisses the complaint; or
 - (b) recommends that a Judicial Conduct Panel be appointed *<to inquire into the complaint>*. 30

- (2) If the Commissioner refers a complaint to the Head of Bench, the Commissioner must advise the complainant and the Judge who is the subject of the complaint of that action.

Compare: Judicial Officers Act 1986 s 21 (NSW)

17 Commissioner's power to recommend that Attorney-General appoint Judicial Conduct Panel 5

- (1) The Commissioner may recommend to the Attorney-General that he or she appoint a Judicial Conduct Panel to inquire into <a complaint> <any matter or matters concerning the alleged conduct of a Judge> if the Commissioner is of the opinion that— 10

(a) an inquiry into the <complaint> <alleged conduct> is necessary or justified; and

(b) <the conduct complained of, if substantiated,> <if established, the conduct> may warrant consideration of removal of the Judge. 15

- (2) The Commissioner must give reasons with his or her recommendation under **subsection (1)**.

- (3) The Commissioner must give the complainant and the Judge who is the subject of the complaint written notification of any action taken under **subsection (1)**. 20

Compare: Judicial Officers Act 1986 s 22 (NSW)

18 Commissioner's duty of confidentiality

- (1) The Commissioner and every person employed in the office of the Commissioner— 25

(a) must keep confidential all matters that come to their knowledge in the performance of their functions; and

(b) must not communicate any of those matters to any person except for the purpose of carrying out their functions under or giving effect to this Act. 30

- (2) The Commissioner and every person employed in the office of the Commissioner—

(a) are officers of a department for the purposes of sections 78 and 78A of the Crimes Act 1961 and section 20A of the Summary Offences Act 1981: 35

(a) are officials for the purposes of sections 105 and 105A of the Crimes Act 1961.

- (3) Nothing in information privacy principle 6, *as defined in section 6 of the Privacy Act 1993*, *(which relates to access to personal information and is defined in section 6 of the Privacy Act 1993)* applies in respect of any information held by the office of the Commissioner that relates to any investigation conducted by the Commissioner under this Act, other than *information* *any document (as defined in section 2(1) of that Act)* that came into existence before the commencement of that investigation. 5

Compare: 1988 No 2 s 32 10

19 Commissioner must make files available to Attorney-General and *independent* *special* counsel

- (1) If the Commissioner recommends that a Judicial Conduct Panel be appointed *to inquire into a complaint*,— 15
- (a) the Attorney-General is entitled to request the *relevant* files kept by the Commissioner *on the complaint*; and
- (b) the Commissioner must, on the Attorney-General's request, make the files available to the Attorney-General. 20
- (2) If a Judicial Conduct Panel is appointed *to inquire into a complaint*,—
- (a) the *independent counsel who has been instructed to prosecute the complaint and the counsel representing the Judge who is the subject of the complaint* *special counsel appointed under section 27 and the counsel representing the Judge to whom the Panel's inquiry relates* are each entitled to request the *relevant* files kept by the Commissioner *on the complaint*; and 25
- (b) the Commissioner must, on the request of either counsel, make the files available to that counsel. 30

Subpart 3—Judicial Conduct Panel

20 Appointment of Judicial Conduct Panel

- (1) The Attorney-General may, at any time, appoint a Judicial Conduct Panel to inquire into, and report on, *a complaint about* *any matter or matters concerning the conduct of* a Judge that *has* *have* been the subject of a recommendation by the Commissioner under **section 17**. 35

- (2) Before appointing a Panel, the Attorney-General must consult the Chief Justice about the proposed membership of the Panel, but the Attorney-General need not consult the Chief Justice about whether a Panel should be appointed.

New (majority)

- (3) However, if any matter to be inquired into and reported on concerns the conduct of the Chief Justice, **subsection (2)** applies as if the references in that subsection to the Chief Justice were references to the next most senior available Judge of the Supreme Court.

Compare: Judicial Officers Act 1986 s 22 (NSW)

21 Membership of Panel

- (1) A Judicial Conduct Panel consists of the following persons appointed by the Attorney-General:
- (a) 2 members, being—
- (i) Judges; or
- (ii) a Judge and a retired Judge; or
- (iii) a member who is a Judge or a retired Judge, and a member who is a barrister or solicitor who has held a practising certificate as such for not less than 7 years; and
- (b) a lay member (not being a Judge, a retired Judge, or a barrister or solicitor).
- (2) The Panel is chaired by—
- (a) the member who is a retired Judge; or
- (b) if there is no retired Judge on the Panel, the member who is the senior Judge (if there are 2 Judges on the Panel) or the member who is a Judge (if there is only 1 Judge on the Panel).
- (3) The appointment of a Judge as a member of a Panel or service by a Judge as a member of a Panel does not affect his or her tenure of judicial office, rank, title, status, precedence, salary, annual or other allowances, or other rights or privileges as a Judge (including matters relating to superannuation), and, for all purposes, service by a Judge as a member of the Panel must be taken to be service as a Judge.

Compare: Judicial Officers Act 1986 s 22 (NSW)

- 22 Panel must be dissolved if member unable to continue**
- If a member of a Judicial Conduct Panel is for any reason unable to continue as a member *<while a complaint is before the Panel>*,—
- (a) the chairperson must dissolve the Panel and notify the Attorney-General of the dissolution; and
 - (b) the Attorney-General must, under **section 20(1)**, appoint a new Panel *<to conduct a fresh inquiry into the complaint>*.

- 23 Functions of Panel**
- (1) A Judicial Conduct Panel must inquire into, and report on, the matter or matters of judicial conduct referred to it by the Attorney-General on the recommendation of the Commissioner.
 - (2) The Panel must conduct a hearing into the matter or matters referred to it by the Attorney-General.

Struck out (majority)

- (3) In dealing with an allegation about judicial conduct, the Panel must form an opinion as to—
 - (a) whether the allegation is substantiated; and
 - (b) whether the conduct complained of justifies consideration of removal of the Judge from office.

New (majority)

- (3) The Panel may also inquire into, and report on, any other matters concerning the conduct of the Judge that arise in the course of its dealing with the referral from the Attorney-General.
- (4) The Panel must give the Attorney-General a report in accordance with **section 32**.

Compare: Judicial Officers Act 1986 s<s> 14<. 31> (NSW)

- 24 Other provisions relating to administration and meetings of Panel**
- Part 2 of Schedule 1** applies in relation to Judicial Conduct Panel.

25 Power of Panel to conduct hearings and inquiries

- (1) For the purpose of performing its functions and duties, a Judicial Conduct Panel has and may exercise the same powers as are conferred on Commissions of Inquiry by sections 4 and 4B to 8 of the Commissions of Inquiry Act 1908. 5
- (2) Sections 4 and 4B to 9 of the Commissions of Inquiry Act 1908 apply to all persons involved in any capacity in any hearing or inquiry under this section as if it were an inquiry conducted by a Commission under that Act.
- (3) The Panel must act in accordance with the principles of natural justice. 10

Compare: Judicial Officers Act 1986 s 23 (NSW)

26 Representation at hearing

- (1) The Judge who is the subject of *<a complaint>* *<an inquiry by a Judicial Conduct Panel>* is entitled to appear and be heard at the hearing *<of the complaint>* and to be represented by counsel. 15
- (2) The Judge's reasonable costs of representation in respect of *<any complaint heard by the Panel>* *<the inquiry>* must be met by the office of the Commissioner. 20
- (3) The *<independent>* *<special>* counsel *<appointed under section 27>* is entitled to appear and be heard at the hearing *<of the complaint>*.
- (4) With the consent of the Panel, any other person may appear at the hearing *<of the complaint>* and may be represented by counsel. 25

Compare: Judicial Officers Act 1986 s 24 (NSW)

27 *<Independent>* *<Special>* counsel**Struck out (majority)**

- (1) A complaint about a Judge must be presented at the hearing by independent counsel appointed and instructed by the Attorney-General. 30

New (majority)

- (1) The Attorney-General must appoint and instruct a person to act as special counsel in an inquiry by a Judicial Conduct Panel.
- (2) ~~⟨The independent counsel must present the case to the Judicial Conduct Panel, including making⟩~~⟨At the hearing, the special counsel must present the allegations about the conduct of the Judge concerned, and may make⟩ submissions on questions of procedure or applicable law that are raised during the proceedings. 5
- (3) The ~~⟨independent⟩~~ ~~⟨special⟩~~ counsel must perform his or her duties impartially and in accordance with the public interest. 10

28 Hearing to be in public

- (1) Every hearing of a Judicial Conduct Panel must be held in public.
- (2) Despite **subsection (1)**,— 15
 - (a) if the Panel is of the opinion that it is proper to do so, having regard to the interest of any person (including, without limitation, the privacy of the complainant) and to the public interest, the panel may order that a hearing or part of a hearing be held in private: 20
 - (b) the Panel may, in any case, deliberate in private as to its recommendation or as to any question arising in the course of a hearing.

Compare: Judicial Officers Act 1986 s 24 (NSW)

29 Restrictions on publication

- (1) If a Judicial Conduct Panel is of the opinion that it is proper to do so, having regard to the interest of any person (including, without limitation, the privacy of the complainant) and to the public interest, the Panel may make any 1 or more of the following orders: 25
 - (a) an order prohibiting the publication of any report or account of any part of the proceedings before the Panel, whether held in public or in private: 30
 - (b) an order prohibiting the publication of the whole or any part of any books, papers, or documents produced at any hearing: 35

- (c) an order prohibiting the publication of the name or any particulars of the affairs of the Judge *<complained of>* *<concerned>* or any other person.
- (2) An order made under **subsection (1)** continues in force—
- (a) until the time specified in the order; or 5
- (b) if no time is specified in the order, until revoked under **subsection (3) or section 30.**
- (3) Any person may, at any time, apply to a Panel for an order revoking, in whole or in part, an order made by it under **subsection (1)**, and the Panel may grant or refuse the application as the Panel thinks fit. 10
- (4) If a person is unable to apply to the Panel for an order under **subsection (3)** because the Panel has ceased to function, the person may apply to the Court of Appeal for an order revoking, in whole or in part, an order made by the Panel under **subsection (1).** 15
- (5) A person commits an offence if he or she acts in contravention of any order made under this section by a Panel.

Struck out (majority)

- (6) A person who commits an offence against **subsection (5)** is liable on summary conviction to a fine not exceeding \$3,000. 20

New (majority)

- (6) A person who commits an offence against **subsection (5)** is liable on summary conviction,—
- (a) in the case of an individual, to a fine not exceeding \$3,000;
- (b) in the case of a body corporate, to a fine not exceeding \$10,000. 25

Compare: 1993 No 82 s 107

30 Appeal to Court of Appeal

- (1) Any person may appeal to the Court of Appeal against—
- (a) any order made under **section 28(2)(a)** by a Judicial Conduct Panel to hold a hearing or part of a hearing in private: 30

New (majority)

- | | |
|---|----|
| (aa) the refusal of a Panel to make any order under section 28(2)(a) : | |
| (b) any order made under section 29(1) or (3) by a Panel: | |
| (c) the refusal of a Panel to make any order under section 29(1) or (3) . | 5 |
| (2) An application made under section 29(4) for the revocation, in whole or in part, of an order made by a Panel under section 29(1) must be— | |
| (a) made as if it were an appeal against an order made under section 29(1) ; and | 10 |
| (b) treated as an appeal under subsection (1) . | |
| (3) The appeal must be— | |
| (a) by way of rehearing; and | |
| (b) made within the time, in the form, and in the manner prescribed by rules of Court made under section 51C of the Judicature Act 1908. | 15 |
| (4) For the purposes of the appeal, the Court of Appeal has all the powers of a Panel and may make any orders it thinks fit. | |
| (5) However, the Court must not make an order revoking, in whole or in part, an order made under section 29(1) if the Panel was functioning at the time the appeal was lodged and the appellant could have applied to the Panel for an order to the same effect under section 29(3) . | 20 |

Struck out (majority)

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|--|----|
| 31 When Panel may dismiss complaint | |
| The Judicial Conduct Panel may dismiss a complaint if the Panel is of the opinion that— | 25 |
| (a) the complaint should be dismissed on any of the grounds under section 15 ; or | |
| (b) the complaint cannot be substantiated. | |
| Compare: Judicial Officers Act 1986 s 26 (NSW) | 30 |
| | |

32 Report by Panel

- (1) A Judicial Conduct Panel must provide a report to the Attorney-General at the conclusion of its inquiry *<into any complaint that has been referred to it>*.
- (2) The report must set out—
- (a) the Panel's findings of fact; and
 - (b) the Panel's opinion as to whether *<the complaint justifies>* consideration of removal of the Judge *<is justified>*; and
 - (c) the reasons for the Panel's conclusion.

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Compare: Judicial Officers Act 1986 s 29 (NSW)

33 Attorney-General has discretion to initiate removal of Judge on receipt of report

- (1) If a Judicial Conduct Panel concludes that *<consideration of>* the removal of a Judge is justified, the Attorney-General must determine, at his or her absolute discretion, whether to take steps to initiate the removal of that Judge from office.

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Struck out (majority)

- (2) A Judge must not be removed from office on the ground of a finding made by a Judicial Conduct Panel unless the Panel has reported to the Attorney-General that it is of the opinion that the complaint is substantiated and justifies consideration of removal of the Judge.

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New (majority)

- (2) A Judge must not be removed from office unless a Judicial Conduct Panel has reported to the Attorney-General that it is of the opinion that consideration of the removal of the Judge is justified.

25

- (3) **Subsection (2)** is subject to **section 34**.

34 Attorney-General's power to take steps independently of this Act if Judge convicted of serious offence

- (1) This section applies if a Judge is convicted of a criminal offence punishable by imprisonment for 2 or more years.
- (2) If this section applies,—

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- (a) the Attorney-General may, but is not required to, refer the matter to the Commissioner under **section 11(2)**;
- (b) the Attorney-General may take steps independently of this Act to initiate the removal of the Judge from office.
- (3) If this section applies and the Attorney-General takes steps independently of this Act to initiate the removal of the Judge from office, the provisions of **sections 6 to 33** cease to apply in relation to the matter. 5
- (4) The Commissioner and a Judicial Conduct Panel have jurisdiction under this Act in relation to a matter to which this section applies only if the Attorney-General refers the matter to the Commissioner under **section 11(2)**. 10

35 Official Information Act 1982 amended

- (1) Section 2(1) of the Official Information Act 1982 is amended by adding to the definition of **official information** the following paragraph: 15
 - “(l) does not include any evidence, submissions, or other information given or made to—
 - “(i) the Judicial Conduct Commissioner, or a Judicial Conduct Panel, in relation to *<complaint>* *<any matter>* under **Part 1** of the Judicial Matters Act **2003**; or 20
 - “(ii) the Judicial Complaints Lay Observer”.
- (2) Section 2(6) of the Official Information Act 1982 is amended by adding the word “; or” and also by adding the following paragraphs: 25
 - “(f) the Judicial Conduct Commissioner or a Judicial Conduct Panel under **Part 1** of the Judicial Matters Act **2003**; or
 - “(g) the Judicial Complaints Lay Observer.” 30

Part 2
**Judicial immunity, number of Judges, principal
Judges, part-time Judges, and other matters relating
to judicial officers**

*Amendments to Children, Young Persons, and Their
Families Act 1989* 5

36 New section 434 substituted

The Children, Young Persons, and Their Families Act 1989 is amended by repealing section 434, and substituting the following section: 10

“434 Principal Youth Court Judge

“(1) The Governor-General must, on the advice of the Attorney-General, appoint a Principal Youth Court Judge.

“(2) The appointment must be for a period of 8 years, and the person is not eligible for reappointment as Principal Youth Court Judge. 15

“(3) A person’s appointment as Principal Youth Court Judge ceases if he or she ceases to hold office as a District Court Judge.

“(4) With the prior approval of the Governor-General, the Principal Youth Court Judge may resign that office but continue in office as a District Court Judge. 20

“(5) To avoid doubt, a person does not cease to hold office as a District Court Judge solely because the term of the person’s appointment as Principal Youth Court Judge has come to an end. 25

“(6) Despite **subsection (2)**, the Principal Youth Court Judge continues in office until his or her successor comes into office.

“(7) The Principal Youth Court Judge is responsible for ensuring the orderly and expeditious discharge of the business of the Court in consultation with the Chief District Court Judge.” 30

37 Section 434(2) not to apply to existing Principal Youth Court Judge

Nothing in **section 434(2)** of the Children, Young Persons, and Their Families Act 1989, as substituted by **section 36**, applies to the person who, immediately before this Act came into force, held office as the Principal Youth Court Judge. 35

38 New section 435A inserted

The Children, Young Persons, and Their Families Act 1989 is amended by inserting, after section 435, the following section:

“435A Stationing of Judges and sittings of Courts

- “(1) Each Youth Court Judge must be stationed in the town, and must sit in the Court, that may from time to time be determined by the Principal Youth Court Judge. 5
- “(2) Despite **subsection (1)**, the fact that a Youth Court Judge sits in any particular Court is conclusive evidence of the Judge’s authority to do so, and no exercise of any jurisdiction or power by a Youth Court Judge may be questioned on the ground that the Judge was not stationed in the town or authorised to sit in the Court where he or she exercised the jurisdiction or power. 10
- “(3) Sittings of a Youth Court for the dispatch of its business must be held on the days and times that may be appointed by the Judge exercising the jurisdiction of the Court at the place at which the sittings are held. 15
- “(4) However, the days appointed for regular sittings of a Youth Court are subject to the approval of the Principal Youth Court Judge. 20
- “(5) In exercising his or her powers under this section, the Principal Youth Court Judge must consult with the Chief District Court Judge.
- “(6) This section is subject to section 9 of the District Courts Act 1947.” 25

Amendment to Coroners Act 1988

39 Powers of coroners

Section 35 of the Coroners Act 1988 is amended by inserting, after subsection (1), the following subsection:

- “(1A) Despite subsection (1), a coroner who is not a District Court Judge has, in relation to the exercise of jurisdiction under this Act, the same protection that a Justice or a Community Magistrate has under Part VII of the Summary Proceedings Act 1957.” 30

*Amendment to Courts Martial Appeals Act 1953***40 Constitution of Courts Martial Appeal Court**

Section 3 of the Courts Martial Appeals Act 1953 is amended by adding the following subsection:

- “(4) Every person appointed under subsection (1)(b) has all the immunities of a Judge of the High Court for the purposes of carrying out his or her tasks and functions as a Judge of the Courts Martial Appeal Court.” 5

*Amendments to Districts Courts Act 1947***41 Appointment and qualifications** 10

- (1) Section 5 of the District Courts Act 1947 is amended by repealing subsection (2), and substituting the following subsections:

Struck out (majority)

- “(2) The number of Judges must not at any time exceed—
 “(a) 135; or
 “(b) any greater number that may be prescribed by an Order in Council made in accordance with **sections 5AB and 5AC.**” 15

New (majority)

- “(2) The maximum number of Judges is 140.”

- “(2A) For the purposes of **subsection (2)**,—
 “(a) a Judge who is acting on a full-time basis counts as 1: 20
 “(b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1:
 “(c) the aggregate number (for example, <134.5> <139.5>) must not exceed the maximum number of Judges that is for the time being permitted. 25

- “(2B) **Subsection (2)** is subject to sections 10 and 10A.”

- (2) Section 5 of the District Courts Act 1947 is amended by repealing subsection (4), and substituting the following subsection:

- “(4) A Judge must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief 30

District Court Judge is satisfied that the employment or other office is compatible with judicial office.”

- (3) Section 180 of the Sentencing Act 2002 is consequentially repealed.

Struck out (majority)

42	New sections 5AA to 5AC inserted	5
	The District Courts Act 1947 is amended by inserting, after section 5, the following sections:	
	“5AA Judges appointed on full-time basis but may be authorised to act part-time	
	“(1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.	10
	“(2) The Attorney-General may from time to time, in accordance with subsection (3), authorise a Judge to act on a part-time basis for any specified period.	
	“(3) The Attorney-General may authorise a Judge to act on a part-time basis only—	15
	“(a) on the request of the Judge; and	
	“(b) with the concurrence of the Chief District Court Judge (after consultation with the Principal Environment Judge if the request is from an Environment Judge).	20
	“(4) In considering whether to concur under subsection (3)(b), the Chief District Court Judge must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way.	
	“(5) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.	25
	“(6) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by subsection (5).	30
	“(7) This section applies to persons who hold office as District Court Judges regardless of whether they act as District Court Judges, as Environment Judges, or in any other judicial office.	

Struck out (majority)**“5AB Amendment of maximum number of Judges by Order in Council**

“(1) The Governor-General may, for the purposes of **section 5(2)**, by Order in Council, prescribe a maximum number of Judges that is—

5

“(a) greater than the number set out in **section 5(2)**; and

“(b) greater than the number prescribed in any and every Order in Council previously made under this section.

“(2) An Order in Council made under **subsection (1)** does not come into force except in accordance with a commencement order made under **section 5AC**.

10

“(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to any Order in Council made under **subsection (1)**.

“5AC Procedure for bringing Order in Council made under section 5AB into force

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“(1) The Governor-General may, by Order in Council, make a commencement order bringing any Order in Council made under **section 5AB(1)** into force.

“(2) However, the commencement order may be made only after the Order in Council made under **section 5AB(1)** has been approved by resolution of the House of Representatives.

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“(3) An Order in Council made under **section 5AB(1)** lapses if—

“(a) a motion to approve the Order in Council is defeated; or

“(b) no motion to approve the Order in Council is agreed to within 42 sitting days after the date on which the Order in Council is made.”

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New (majority)**42 New section 5AA inserted**

The District Courts Act 1947 is amended by inserting, after section 5, the following section:

“5AA Judges act on full-time basis but may be authorised to act part-time

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“(1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.

New (majority)

- “(2) The Attorney-General may, in accordance with **subsection (3)**, authorise a Judge appointed under section 5 or section 5A to act on a part-time basis for any specified period.
- “(3) To avoid doubt, an authorisation under **subsection (2)** may take effect as from a Judge’s appointment or at any other time, and may be given more than once in respect of the same Judge. 5
- “(4) The Attorney-General may authorise a Judge to act on a part-time basis only—
- “(a) on the request of the Judge; and
- “(b) with the concurrence of the Chief District Court Judge (after consultation with the Principal Environment Judge if the request is from an Environment Judge). 10
- “(5) In considering whether to concur under **subsection (4)(b)**, the Chief District Court Judge must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way. 15
- “(6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- “(7) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (6)**. 20
- “(8) This section applies to persons who hold office as District Court Judges regardless of whether they act as District Court Judges, as Environment Judges, or in any other judicial office.” 25

43 Salaries and allowances

- (1) Section 6 of the District Courts Act 1947 is amended by repealing subsection (1), and substituting the following subsection: 30
- “(1) There must be paid to the Chief District Court Judge, to the Principal Environment Judge, to the Principal Family Court Judge, to the Principal Youth Court Judge, and to the other Judges, out of public money, without further appropriation than this section,— 35

- “(a) salaries at the rates from time to time determined by the Remuneration Authority; and
- “(b) the allowances from time to time determined by the Remuneration Authority; and
- “(c) the additional allowances, being travelling allowances or incidental or minor allowances, from time to time determined by the Governor-General.” 5
- (2) Section 6 of the District Courts Act 1947 is amended by inserting, after subsection (2), the following subsections:
- “(2A) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position. 10
- “(2B) If a principal Judge ceases to hold the position of principal Judge but continues to hold office as a Judge, the salary and allowances of the Judge may be reduced by the amount of any salary or allowances that the person received solely because of being the principal Judge. 15
- “(2C) For the purpose of **subsection (2)**, the payment of salary and allowances on a pro-rata basis under **subsection (2A)** or the payment of reduced salary and allowances under **subsection (2B)** is not a diminution of salary.” 20
- 44 New section 11H inserted**
- The District Courts Act 1947 is amended by inserting, after section 11G, the following section: 25
- “11H Retired Community Magistrates**
- “(1) Any person who has retired from office as a Community Magistrate on attaining the age of 68 years, or who has sooner resigned, may be appointed as an acting Community Magistrate by the Governor-General on the advice of the Minister of Justice. 30
- “(2) Each acting Community Magistrate must be appointed for a stated term that—
- “(a) is not more than the time until the Community Magistrate will reach the age of 73 years: 35
- “(b) in any case, is not more than 24 months.
- “(3) During the term of the warrant, the person appointed may act as a Community Magistrate only during the period or periods

that the Chief District Court Judge may direct after consultation with—

“(a) the Chief Community Magistrate; or

“(b) if the office of Chief Community Magistrate is vacant, any other Community Magistrate that the Chief District Court Judge thinks fit. 5

“(4) An acting Community Magistrate must, in respect of any period during which he or she acts as a Community Magistrate, but not otherwise, be paid remuneration and allowances at the rate for the time being prescribed for Community Magistrates under section 11G. 10

“(5) While an acting Community Magistrate appointed under this section acts as a Community Magistrate, but not otherwise, he or she has all the jurisdiction, powers, protections, privileges, and immunities of a Community Magistrate.” 15

45 New section 119 substituted

The District Courts Act 1947 is amended by repealing section 119, and substituting the following section:

“119 Immunity of Judges

Every District Court Judge has, at all times, the same immunities as a Judge of the High Court.” 20

Amendments to Employment Relations Act 2000

46 Appointment of Judges

Section 200 of the Employment Relations Act 2000 is amended by adding the following subsection: 25

“(4) A Judge of the Court must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief Judge is satisfied that the employment or other office is compatible with judicial office.”

47 New section 200A inserted 30

The Employment Relations Act 2000 is amended by inserting, after section 200, the following section:

“200A Judges <appointed> <act> on full-time basis but may be authorised to act part-time

“(1) A person acts as a Judge of the Court on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis. 35

“(2) The Attorney-General may *<from time to time>*, in accordance with **subsection (3)**, authorise a Judge *<appointed under section 200>* to act on a part-time basis for any specified period.

New (majority)

“(2A) To avoid doubt, an authorisation under **subsection (2)** may take effect as from a Judge’s appointment or at any other time, and may be given more than once in respect of the same Judge. 5

“(3) The Attorney-General may authorise a Judge to act on a part-time basis only—
 “(a) on the request of the Judge; and
 “(b) with the concurrence of the Chief Judge. 10

“(4) In considering whether to concur under **subsection (3)**, the Chief Judge must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way.

“(5) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period. 15

“(6) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (5)**. 20

“(7) If any question arises as to the number of Judges of the Court,—
 “(a) a Judge who is acting on a full-time basis counts as 1;
 “(b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1.” 25

48 Salaries and allowances of Judges

Section 206 of the Employment Relations Act 2000 is amended by inserting, after subsection (3), the following subsections:

“(3A) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position. 30

“(3B) For the purpose of subsection (3), the payment of salary and allowances on a pro-rata basis under **subsection (3A)** is not a reduction of salary.” 35

*Amendments to Family Courts Act 1980***49 New section 6 substituted**

The Family Courts Act 1980 is amended by repealing section 6, and substituting the following section:

“6 Principal Family Court Judge

5

“(1) The Governor-General must, on the advice of the Attorney-General, appoint a Principal Family Court Judge.

“(2) The appointment must be for a period of 8 years, and the person is not eligible for reappointment.

“(3) A person’s appointment as Principal Family Court Judge ceases if he or she ceases to hold office as a District Court Judge. 10

“(4) With the prior approval of the Governor-General, the Principal Family Court Judge may resign that office but continue in office as a District Court Judge. 15

“(5) To avoid doubt, a person does not cease to hold office as a District Court Judge solely because the term of the person’s appointment as Principal Family Court Judge has come to an end.

“(6) Despite **subsection (2)**, the Principal Family Court Judge continues in office until his or her successor comes into office. 20

“(7) The Principal Family Court Judge is responsible for ensuring the orderly and expeditious discharge of the business of the Court in consultation with the Chief District Court Judge.”

50 Section 6(2) not to apply to existing Principal Family Court Judge

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Nothing in section 6(2) of the Family Courts Act 1980, as substituted by **section 49**, applies to the person who, immediately before this Act came into force, held office as the Principal Family Court Judge. 30

*Amendments to Judicature Act 1908***51 The Judges of the High Court**

(1) Section 4 of the Judicature Act 1908 is amended by repealing subsection (1), and substituting the following subsections:

Struck out (majority)

- “(1) The High Court consists of—
- “(a) 1 Judge who must be called the Chief Justice of New Zealand; and
 - “(b) a number of Judges not exceeding 45, or any greater number that may be prescribed by an Order in Council made in accordance with **sections 4B and 4C**.

New (majority)

- “(1) The High Court consists of—
- “(a) a Judge called the Chief Justice of New Zealand; and
 - “(b) the other Judges, up to a maximum of 55, who are from time to time appointed.
- “(1A) For the purposes of **subsection (1)(b)**,—
- “(a) a Judge who is acting on a full-time basis counts as 1;
 - “(b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1;
 - “(c) the aggregate number (for example, <44.5> <54.5>) must not exceed the maximum number of Judges that is for the time being permitted.
- “(1B) **Subsection (1)** is subject to **subsections (1C) and (1D)** and the other provisions of this Act
- “(1C) An additional Judge or additional Judges may be appointed whenever the Governor-General thinks it necessary because of the absence or anticipated absence of any of the Judges on leave preliminary to retirement.
- “(1D) Every appointment made under **subsection (1C)** must be a permanent appointment from the time when it is made, and must fill the vacancy next occurring in the office of Judge, not being a vacancy filled by an earlier appointment under **subsection (1C)**.”
- (2) Section 4 of the Judicature Act 1908 is amended by inserting, after subsection (2), the following subsection:
- “(2A) A Judge must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief <Justice> <High Court Judge> is satisfied that the employment or other office is compatible with judicial office.”

- (3) Section 181 of the Sentencing Act 2002 is consequentially repealed.

Struck out (majority)

52 New sections 4A to 4C inserted

The Judicature Act 1908 is amended by inserting, after section 4, the following sections:

“4A Judges of High Court appointed on full-time basis but may be authorised to act part-time

- “(1) A person acts as a Judge of the High Court on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis. 5
- “(2) The Attorney-General may from time to time, in accordance with **subsection (3)**, authorise a Judge to act on a part-time basis for any specified period. 10
- “(3) The Attorney-General may authorise a Judge to act on a part-time basis only— 15
- “(a) on the request of the Judge; and
- “(b) with the concurrence of the Chief Justice.
- ““(4) In considering whether to concur under **subsection (3)**, the Chief Justice must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way. 20
- ““(5) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- ““(6) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (5)**. 25
- ““(7) This section does not apply to Judges who are appointed as Judges of the Court of Appeal, but **section 57A** applies to those Judges. 30

“4B Amendment of maximum number of Judges by Order in Council

- ““(1) The Governor-General may, for the purposes of **section 4(1)(b)**, by Order in Council, prescribe a maximum number of Judges that is— 35
- “(a) greater than the number set out in **section 4(1)(b)**; and

Struck out (majority)

- “(b) greater than the number prescribed in any and every Order in Council previously made under this section.
- “(2) An Order in Council made under **subsection (1)** does not come into force except in accordance with a commencement order made under **section 4C**. 5
- “(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to any Order in Council made under **subsection (1)**.
- “4C **Procedure for bringing Order in Council made under section 4B into force**
- “(1) The Governor-General may, by Order in Council, make a commencement order bringing any Order in Council made under **section 4B(1)** into force. 10
- “(2) However, the commencement order may be made only after the Order in Council made under **section 4B(1)** has been approved by resolution of the House of Representatives. 15
- “(3) An Order in Council made under **section 4B(1)** lapses if—
- “(a) a motion to approve the Order in Council is defeated; or
- “(b) no motion to approve the Order in Council is agreed to within 42 sitting days after the date on which the Order in Council is made.” 20

New (majority)

- 52 New section 4C inserted**
- The Judicature Act 1908 is amended by inserting, after section 4B, the following section:
- “4C **Judges of High Court act on full-time basis but may be authorised to act part-time** 25
- “(1) A person acts as a Judge of the High Court on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
- “(2) The Attorney-General may, in accordance with **subsection (4)**, authorise a Judge appointed under section 4 or section 4A to act on a part-time basis for any specified period. 30
- “(3) To avoid doubt, an authorisation under **subsection (2)** may be made to take effect as from a Judge’s appointment or at any

New (majority)

other time, and may be made more than once in respect of the same Judge.

- “(4) The Attorney-General may authorise a Judge to act on a part-time basis only—
- “(a) on the request of the Judge; and
- “(b) with the concurrence of the Chief High Court Judge. 5
- “(5) In considering whether to concur under **subsection (4)**, the Chief High Court Judge must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way.
- “(6) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period. 10
- “(7) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (6)**. 15
- “(8) An authorisation may not be granted under **subsection (2)** for any person appointed as a Judge of the Court of Appeal or Supreme Court.”

53 Salaries and allowances of Judges 20

Section 9A of the Judicature Act 1908 is amended by adding the following subsections:

- “(4) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position. 25
- “(5) For the purpose of section 24 of the Constitution Act 1986, the payment of salary and allowances on a pro-rata basis under **subsection (4)** is not a reduction of salary.”

54 Masters become Associate Judges 30

- (1) Every person who, immediately before the commencement of this section, held office as a Master of the High Court becomes an Associate Judge of the High Court and is deemed to have been appointed as an Associate Judge under **section 26C**.

- (2) The Acts specified in **Schedule 2** are consequentially amended in the manner set out in that schedule.
- (3) All references to a Master of the High Court in any Act, regulation, order, or other enactment or in any agreement, deed, instrument, application, notice, or other document must, unless the context otherwise requires, be read as references to an Associate Judge of the High Court. 5
- 55 New sections 26C and 26D substituted**
The Judicature Act 1908 is amended by repealing sections 26C and 26D, and substituting the following sections: 10
- “26C Appointment of Associate Judges**
- “(1) The Governor-General may from time to time, by warrant, appoint fit and proper persons to be Associate Judges of the High Court.
- “(2) The ~~maximum~~ number of Associate Judges ~~must not at any time exceed~~ is 6. 15
- “(3) For the purposes of **subsection (2)**,—
- “(a) an Associate Judge who is acting on a full-time basis counts as 1:
- “(b) an Associate Judge who is acting on a part-time basis counts as an appropriate fraction of 1: 20
- “(c) the aggregate number (for example, 5.5) must not exceed the maximum number of Associate Judges that is for the time being permitted.
- “(4) A person must not be appointed as an Associate Judge unless he or she has held a practising certificate as a barrister or solicitor for at least 7 years. 25
- “(5) An Associate Judge must not undertake any other paid employment or hold any other office (whether paid or not) unless the Chief ~~Justice~~ High Court Judge is satisfied that the employment or other office is compatible with judicial office. 30
- “(6) An Associate Judge holds office until, in accordance with section 26E, he or she retires or resigns or is removed from office. 35
- “(7) **Subsection (6)** applies to—
- “(a) every Associate Judge appointed after the commencement of this section; and

“(b) every person deemed by **section 54(1)** of the Judicial Matters Act **2002** to hold office as an Associate Judge at the commencement of this section (despite any provision to the contrary in any enactment or warrant of appointment).”

5

“**26D Associate Judges <appointed> <act> on full-time basis but may be authorised to act part-time**

“(1) A person acts as an Associate Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.

10

“(2) The Attorney-General may, in accordance with **subsection (3)**, authorise an Associate Judge <appointed under **section 26C**> to act on a part-time basis for a specified period.

New (majority)

“(2A) To avoid doubt, an authorisation under **subsection (2)** may be made to take effect as from an Associate Judge’s appointment or at any other time, and may be made more than once in respect of the same Associate Judge.

15

“(3) The Attorney-General may authorise an Associate Judge to act on a part-time basis only—

“(a) on the request of the Associate Judge; and

20

“(b) with the concurrence of the Chief <Justice> <High Court Judge>.

“(4) In considering whether to concur under **subsection (3)**, the Chief <Justice> <High Court Judge> must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way.

25

“(5) An Associate Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.

“(6) The basis on which an Associate Judge acts must not be altered during the term of the Associate Judge’s appointment without the Associate Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (5)**.”

30

- 56 Vacation of office**
Section 26E(2) of the Judicature Act 1908 is amended by omitting the words “Minister of Justice”, and substituting the words “Attorney-General”.
- 57 Salaries and allowances of Associate Judges** 5
Section 26F of the Judicature Act 1908 is amended by repealing subsection (5), and substituting the following subsections:
“(5) The salary and allowances payable for a period during which an Associate Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position. 10
“(6) For the purpose of subsection (2), the payment of salary and allowances on a pro-rata basis under **subsection (5)** is not a diminution of salary.”
- 58 Temporary Associate Judges** 15
Section 26H(2) of the Judicature Act 1908 is amended by omitting the expression “3”, and substituting the expression “12”.
- 59 New section 26Q substituted** 20
The Judicature Act 1908 is amended by repealing section 26Q, and substituting the following section:
“**26Q Immunity of Associate Judges**
Every Associate Judge has the same immunities as a Judge of the High Court.”
- 60 New section 57A inserted** 25
The Judicature Act 1908 is amended by inserting, after section 57, the following section:
“**57A Judges of Court of Appeal *<appointed>* *<act>* on full-time basis but may be authorised to act part-time** 30
“(1) A person acts as a Judge of the Court of Appeal on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
“(2) The Attorney-General may *<from time to time>*, in accordance with **subsection (3)**, authorise a Judge to act on a part-time basis for any specified period. 35

New (majority)

- “(2A) To avoid doubt, an authorisation under **subsection (2)** may be made to take effect as from a Judge’s appointment or at any other time, and may be made more than once in respect of the same Judge.
- “(3) The Attorney-General may authorise a Judge to act on a part-time basis only— 5
 “(a) on the request of the Judge; and
 “(b) with the concurrence of the President of the Court of Appeal.
- “(4) In considering whether to concur under **subsection (3)**, the President of the Court of Appeal must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way. 10
- “(5) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period. 15
- “(6) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (5)**. 20
- “(7) This section applies only to Judges who are appointed as Judges of the Court of Appeal.”

Amendments to Resource Management Act 1991

- 61 Appointment of Environment Judges and alternate Environment Judges** 25
- (1) Section 250(1) of the Resource Management Act 1991 is amended by omitting the words “Minister of Justice”, and substituting the word “Attorney-General”.
- (2) Section 250 of the Resource Management Act 1991 is amended by adding the following subsection: 30
- “(4) For the purposes of subsection (3)(a),—
 “(a) an Environment Judge who is acting on a full-time basis counts as 1:
 “(b) an Environment Judge who is acting on a part-time basis counts as an appropriate fraction of 1: 35

- “(c) the aggregate number (for example, 7.5) must not exceed the maximum number of Environment Judges that is for the time being permitted.”
- 62 Principal Environment Judge** 5
Section 251(1) of the Resource Management Act 1991 is amended by omitting the words “Minister of Justice”, and substituting the word “Attorney-General”.
- 63 Appointment of Environment Commissioner or Deputy Environment Commissioner** 10
Section 254(1) of the Resource Management Act 1991 is amended by omitting the words “Minister of Justice”, and substituting the words “Attorney-General”.
- 64 Resignation** 15
Section 257 of the Resource Management Act 1991 is amended by omitting the words “Minister of Justice”, and substituting the words “Attorney-General”.
- 65 Protection from legal proceedings** 20
Section 261 of the Resource Management Act 1991 is amended by adding, as subsection (2), the following subsection:
“(2) In addition, a member of the Environment Court who is a District Court Judge also has the immunities conferred by **section 119** of the District Courts Act 1947 (which confers on District Court Judges, at all times, the same immunities as a Judge of the High Court).” 25
- Amendments to Summary Proceedings Act 1957*
- 66 New heading to Part VII substituted** 30
The Summary Proceedings Act 1957 is amended by repealing the heading to Part VII, and substituting the following heading: “**Protection of Justices and Community Magistrates**”
- 67 No action against District Court Judge or Justice or Community Magistrate unless act in excess of jurisdiction or without jurisdiction**

- (1) The heading to section 193 of the Summary Proceedings Act 1957 is amended by omitting the words “**District Court Judge or**”.
- (2) Section 193(1) of the Summary Proceedings Act 1957 is amended by omitting the words “District Court Judge or”. 5
- (3) Section 193(2) of the Summary Proceedings Act 1957 is amended—
- (a) by omitting the words “by a District Court Judge or”:
- (b) by omitting in each place where they occur the words “District Court Judge or”. 10
- 68 No action against District Court Judge or Justice or Community Magistrate to be brought in District Court**
- (1) The heading to section 194 of the Summary Proceedings Act 1957 is amended by omitting the words “**District Court Judge or**”. 15
- (2) Section 194 of the Summary Proceedings Act 1957 is amended by omitting the words “District Court Judge or” in both places where they occur.
- 69 Onus of proof**
- Section 195 of the Summary Proceedings Act 1957 is amended by omitting the words “District Court Judge or” in both places where they occur. 20
- 70 Plaintiff may be ordered to give security for costs**
- Section 196 of the Summary Proceedings Act 1957 is amended by omitting the words “District Court Judge or” in each place where they occur. 25
- 71 Section 196A repealed**
- Section 196A of the Summary Proceedings Act 1957 is repealed.
- Amendment to Te Ture Whenua Maori Act 1993* 30
- 72 Appointment of Judges**
- (1) Section 7 of Te Ture Whenua Maori Act 1993 is amended by inserting, after subsection (2), the following subsection:
- “(2AA) For the purposes of **subsection (2)**,—
- “(a) a Judge who is acting on a full-time basis counts as 1: 35

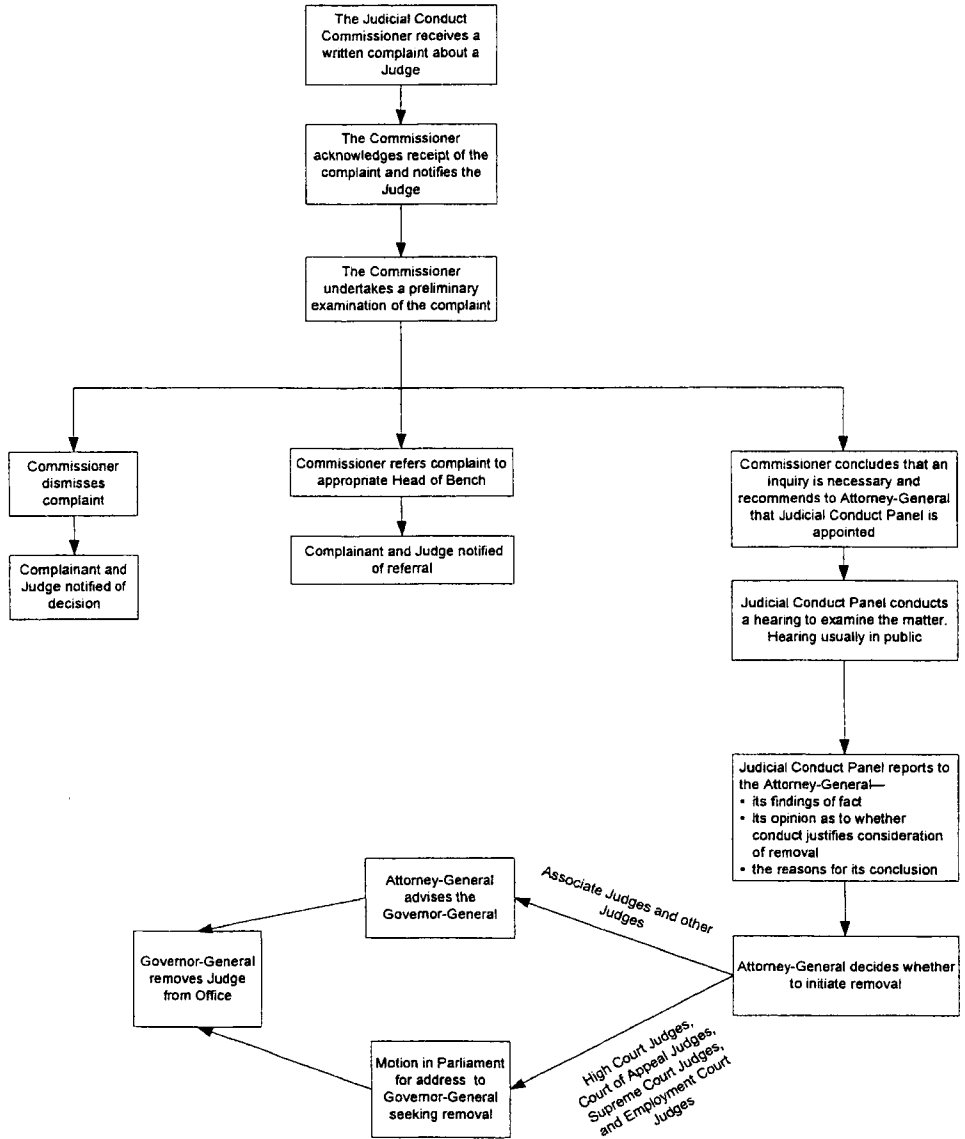
- “(b) a Judge who is acting on a part-time basis counts as an appropriate fraction of 1:
“(c) the aggregate number (for example, 7.5) must not exceed the maximum number of Judges that is for the time being permitted.” 5
- (2) Section 7 of Te Ture Whenua Maori Act 1993 is amended by repealing subsection (6), and substituting the following subsection:
“(6) A Judge must not undertake any other paid employment or any other office (whether paid or not) unless the Chief Judge is satisfied that the employment or other office is compatible with judicial office.” 10
- 73 New section 7A inserted**
Te Ture Whenua Maori Act 1993 is amended by inserting, after section 7, the following section: 15
- 7A Judges *<appointed>* *<act>* on full-time basis but may be authorised to act part-time**
- “(1) A person acts as a Judge on a full-time basis unless he or she is authorised by the Attorney-General to act on a part-time basis.
“(2) The Attorney-General may *<from time to time>*, in accordance with **subsection (3)**, authorise a Judge *<section 7 or section 8>* to act on a part-time basis for any specified period. 20
- New (majority)**
- “(2A) To avoid doubt, an authorisation under **subsection (2)** may be made to take effect as from a Judge’s appointment or at any other time, and may be made more than once in respect of the same Judge. 25
- “(3) The Attorney-General may authorise a Judge to act on a part-time basis only—
“(a) on the request of the Judge; and
“(b) with the concurrence of the Chief Judge. 30
- “(4) In considering whether to concur under **subsection (3)**, the Chief Judge must have regard to the ability of the Court to discharge its obligations in an orderly and expeditious way.

- “(5) A Judge who is authorised to act on a part-time basis must resume acting on a full-time basis at the end of the authorised part-time period.
- “(6) The basis on which a Judge acts must not be altered during the term of the Judge’s appointment without the Judge’s consent, but consent under this subsection is not necessary if the alteration is required by **subsection (5)**.” 5
- 74 New section 12A inserted**
Te Ture Whenua Maori Act 1993 is amended by inserting, after section 12, the following section: 10
- “12A Judges to have immunities of High Court Judges**
The Judges have all the immunities of a Judge of the High Court.”
- 75 Salaries and allowances of Judges**
Section 13 of Te Ture Whenua Maori Act 1993 is amended by inserting, after subsection (2), the following subsections: 15
- “(2A) The salary and allowances payable for a period during which a Judge acts on a part-time basis must be calculated and paid as a pro-rata proportion of the salary and allowances for a full-time equivalent position. 20
- “(2B) For the purpose of subsection (2), the payment of salary and allowances on a pro-rata basis under **subsection (2A)** is not a diminution of salary.”
-

New (majority)

s 2A

Schedule 1AA Overview of process for Judicial Conduct Commissioner and Judicial Conduct Panel



Schedule 1 ss 9, 24
Provisions relating to Judicial Conduct
Commissioner and members of Judicial Conduct
Panel

Part 1	5
Judicial Conduct Commissioner	
1 Term of office of Commissioner	
(1) A person holds office as the Judicial Conduct Commissioner for a term (which must be not less than 2 years and not more than 5 years) that the Governor-General, on the recommendation of the House of Representatives, specifies in the person's appointment.	10
(2) A person may be reappointed as the Commissioner.	
(3) The Commissioner, unless he or she sooner vacates office by death, resignation, removal, or failure to be confirmed in office, continues to hold office, even though the term for which he or she was appointed may have expired, until 1 of the following occurs:	15
(a) the Commissioner is reappointed; or	
(b) a successor is appointed.	20
(4) The Commissioner may resign the office at any time by written notice given to the Governor-General.	
(5) A notice of resignation under subclause (3) must state the date on which the resignation takes effect.	
2 Filling of vacancy	25
(1) If a vacancy occurs in the office of Commissioner, the vacancy must be filled by the appointment of a successor by the Governor-General on the recommendation of the House of Representatives.	
(2) Subclause (3) applies if—	30
(a) a vacancy occurs while Parliament is not in session, or exists at the close of a session; and	
(b) the House of Representatives has not recommended an appointment to fill the vacancy.	
(3) When this subclause applies, the vacancy may, at any time before the commencement of the next ensuing session of Parliament, be filled by the appointment of a successor by the Governor-General in Council.	35

Part 1—*continued*

- (4) An appointment made under **subclause (3)** lapses and the office again becomes vacant unless, before the end of the 24th sitting day of the House of Representatives following the date of the appointment, the House confirms the appointment.
- 3 Removal of Commissioner** 5
- The Governor-General, on an address from the House of Representatives, may remove the Commissioner from office for—
- (a) incapacity; or
- (b) misconduct. 10
- 4 Commissioner protected**
- (1) This clause applies to the Commissioner and to every person engaged or employed in connection with the work of the Commissioner.
- (2) No proceedings, civil or criminal, lie against any person to whom this section applies for anything he or she may do or report or say in the course of the exercise or intended exercise of his or her duties under this Act, unless it is shown that he or she acted in bad faith. 15
- (3) No person to whom this section applies is required to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his or her knowledge in the exercise of his or her functions. 20
- (4) Nothing in **subclause (2)** or **subclause (3)** applies in respect of proceedings for— 25
- (a) an offence against section 78 or section 78A(1) or section 105 or section 105A or section 105B of the Crimes Act 1961 or against section 20A of the Summary Offences Act 1981; or
- (b) the offence of attempting or conspiring to commit an offence against section 78 or section 78A(1) or section 105 or section 105A or section 105B of the Crimes Act 1961 or against section 20A of the Summary Offences Act 1981. 30
- (5) Anything said or any information supplied or any document or thing produced by any person in the course of any inquiry by, or proceedings before, the Commissioner under this Act is 35

Part 1—*continued*

privileged in the same manner as if the inquiry or proceedings were proceedings in a Court.

- (6) For the purposes of clause 3 of Part II of the First Schedule of the Defamation Act 1992, any report made by the Commissioner under this Act is deemed to be an official report made by a person holding an inquiry under the authority of the Parliament of New Zealand. 5
- 5 Salary and allowances**
- (1) The Commissioner must be paid the remuneration and allowances that the Remuneration Authority determines. 10
- (2) The Commissioner is entitled to receive from the funds of the Commissioner's office the actual and reasonable costs for travelling and other expenses that relate to the performance of his or her duties and responsibilities as the Commissioner.
- 6 Staff and administrative support** 15
- The Commissioner has the staff and administrative support that is provided by the chief executive of the agency, organisation, or department within which the Commissioner is located.
- 7 Delegations**
- (1) The Commissioner may by writing, either generally or specifically, delegate any of his or her functions or powers to— 20
- (a) a specified person; or
- (b) a person of a specified class; or
- (c) the holder for the time being of a specified office or appointment; or 25
- (d) the holders for the time being of offices or appointments of a specified class.
- (2) The Commissioner must not delegate—
- (a) the power of delegation in **subsection (1)**; or
- (b) the power in **section 14** to conduct a preliminary examination; or 30
- (c) the power in **section 15** to dismiss a complaint; or
- (d) the power in **section 16** to refer a complaint to the Head of Bench; or
- (e) the power in **section 17** to recommend that the Attorney-General appoint a Judicial Conduct Panel. 35

Part 1—*continued*

- (3) A person to whom any functions or powers are delegated under **subclause (1)** may carry out those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on the person directly by this Act and not by delegation. 5
- (4) **Subclause (3)** is subject to any direction given or condition imposed by the Commissioner.
- (5) A person who appears to act under a delegation under **subclause (1)** is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation. 10
- (6) A delegation under **subclause (1)**—
- (a) is revocable at will, but the revocation does not take effect until it is communicated to the delegate; and
 - (b) continues in force according to its terms until it is revoked; and 15
 - (c) does not prevent the Commissioner from performing the functions or exercising the power; and
 - (d) does not affect the responsibility of the Commissioner for the actions of any delegate acting under delegation.
- (7) A person purporting to act under a delegation under this clause must, when reasonably requested to do so, produce evidence of his or her authority to act. 20
- 8 Funds of Commissioner**
- The funds of the Commissioner's office consist of—
- (a) money appropriated by Parliament for the purposes of the Commissioner and paid to the administering department for the purposes of the Commissioner's office; 25
 - (b) other money lawfully received by the Commissioner for the purposes of the Commissioner's office.
- 9 Annual report** 30
- (1) The Commissioner must in each year give the Attorney-General a report on the exercise of the functions under this Act.
 - (2) The Attorney-General must lay a copy of the report before the House of Representatives as soon as practicable after it is given to the Attorney-General. 35

Part 1—*continued*

- 10 Contents of annual report**
- (1) The annual report of the Commissioner must include, among other things,—
- (a) the number and types of complaints received during the year; and 5
 - (b) the outcomes of complaints or other references to the Commissioner (including matters initiated by the Commissioner and matters referred by the Attorney-General); and
 - (c) the number of complaints still outstanding. 10
- (2) A report by the Commissioner under this section must not identify any person against whom a complaint has been made under this Act, unless the person has been the subject of a public hearing under this Act, has been the subject of a report by the Judicial Conduct Panel to the Attorney-General or has been convicted of an offence connected with the complaint. 15

Part 2
Judicial Conduct Panel

Administrative provisions

- 11 Members protected** 20
Clause 4, with the necessary modifications, applies in relation to a member of a Judicial Conduct Panel.
- 12 Salary and allowances**
- (1) The members of a Judicial Conduct Panel (other than a Judge) must be paid the remuneration and allowances that the Remuneration Authority determines. 25
- (2) The members of the Panel (other than a Judge) are entitled to receive from the department referred to in **clause 13** the actual and reasonable costs for travelling and other expenses that relate to the performance of their duties and responsibilities. 30
- (3) The Remuneration Authority may (without limitation)—
- (a) make a general determination under this clause or make a separate determination for each Judicial Conduct Panel that is appointed: 30
 - (b) determine that any remuneration or allowances are payable on a per diem basis. 35

Part 2—*continued*

- 13 Staff and administrative support**
A Judicial Conduct Panel has the staff and administrative support that is provided by the chief executive of the department within which the Commissioner is located.
- Procedure for meetings of Panel* 5
- 14 General procedure**
The procedure for the calling of meetings of a Judicial Conduct Panel and for the conduct of business at those meetings is, subject to this Act, determined by the Panel.
- 15 Quorum** 10
All 3 members of a Judicial Conduct Panel must be present at a meeting of the Panel.
- 16 Chairperson presides**
The Chairperson presides at a meeting of a Judicial Conduct Panel and has a deliberative vote only. 15
- 17 Decisions**
A decision supported by a majority of the votes cast at a meeting of a Judicial Conduct Panel is the decision of the Panel.
- 18 Minutes** 20
A Judicial Conduct Panel must cause full and accurate minutes to be kept of the proceedings of each meeting of the Panel.
- 19 First meeting** 25
The Chairperson may call the first meeting of a Judicial Conduct Panel held in relation to a *<complaint>* *<matter>* in any manner that the Chairperson thinks fit.
-

Schedule 2 s 54(2)
**Amendments consequential upon change of title of
 Master of the High Court**

Courts Security Act 1999 (1999 No 115)	
Omit from the paragraph (n) of the definition of Judge in section 2 the word “Master” and substitute the words “Associate Judge”.	5
Government Superannuation Fund Act 1956 (1956 No 47)	
Omit from the heading to Part 5B the word “ Masters ” and substitute the words “ Associate Judges ”.	
Insert in section 81X, before the definition of Judge :	10
“ Associate Judge means an Associate Judge of the High Court appointed or deemed to have been appointed under section 26C of the Judicature Act 1908”.	
Repeal the definition of Master in section 81X.	
Omit from section 81XA the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”.	15
Omit from the heading to section 81Y the word “ Masters ” and substitute the words “ Associate Judges ”.	
Omit from section 81Y the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”.	20
Omit from the heading to section 81Z the word “ Masters ” and substitute the words “ Associate Judges ”.	
Omit from section 81Z the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”.	
Omit from the heading to section 81ZA the word “ Masters ” and substitute the words “ Associate Judges ”.	25
Omit from section 81ZA the words “any Master” wherever they appear and substitute in each case the words “any Associate Judge”.	
Omit from section 81ZA the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”.	30
Omit from section 81ZA the words “that Master” wherever they appear and substitute in each case the words “that Associate Judge”.	
Omit from section 81ZA the words “that Master’s” wherever they appear and substitute in each case the words “that Associate Judge’s”.	35
Omit from section 81ZA the words “a Master’s” and substitute the words “an Associate Judge’s”.	
Omit from the heading to section 81ZB the word “ Masters ” and substitute the words “ Associate Judges ”.	

Government Superannuation Fund Act 1956 (1956 No 47)—
continued

Omit from section 81ZB the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”. Omit from the heading to section 81ZC the word “**Master**” and substitute the words “**Associate Judges**”.

Omit from section 81ZC the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”. 5
Omit from section 81ZC the words “any Master” and substitute the words “any Associate Judge”.

Omit from section 81ZC the words “that Master’s” and substitute the words “that Associate Judge’s”.

Omit from section 81ZC the words “that Master” in both places where they appear and substitute in each case the words “that Associate Judge”. 10

Judicature Act 1908 (1908 No 89)

Omit from the heading above section 26C the word “*Masters*” and substitute the words “*Associate Judges*”. 15

Omit from section 26E(1) the words “a Master” and substitute the words “an Associate Judge”.

Omit from section 26E(2) the words “A Master” and substitute the words “An Associate Judge”.

Omit from section 26E(2) the words “office of Master” and substitute the words “office of Associate Judge”. 20

Omit from section 26E(3) the words “every Master” and substitute the words “every Associate Judge”.

Omit from the heading to section 26F the word “**Masters**” and substitute the words “**Associate Judges**”. 25

Omit from section 26F(1) the words “every Master” and substitute the words “every Associate Judge”.

Omit from section 26F(2) the words “a Master” and substitute the words “an Associate Judge”.

Omit from section 26F(2) the words “the Master’s” and substitute the words “the Associate Judge’s”. 30

Omit from the heading to section 26G the word “**Masters**” and substitute the words “**Associate Judges**”.

Omit from section 26G the word “Masters” and substitute the words “Associate Judges”. 35

Omit from the heading to section 26H the word “**Masters**” and substitute the words “**Associate Judges**”.

Judicature Act 1908 (1908 No 89)—continued

- Omit from section 26H the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”.
- Omit from section 26H(1) the words “former Master” and substitute the words “former Associate Judge”.
- Omit from section 26H(5) the words “that Master’s” and substitute the words “that Associate Judge’s”. 5
- Omit from section 26H(6) the words “temporary Master” and substitute the words “temporary Associate Judge”.
- Omit from the heading to section 26I the word “**Master**” and substitute the words “**Associate Judge**”. 10
- Omit from section 26I the words “A Master” wherever they appear and substitute in each case the words “An Associate Judge”.
- Omit from section 26I the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”.
- Omit from section 26I(4)(a) and (b) the word “Masters” and substitute in each case the words “Associate Judges”. 15
- Omit from the heading to section 26IA the word “**Master**” and substitute the words “**Associate Judge**”.
- Omit from section 26IA the words “a Master” in both places where it appears and substitute in each case the words “an Associate Judge”. 20
- Omit from section 26IA(1) the words “the Master” and substitute the words “the Associate Judge”.
- Omit from the heading to section 26J the word “**Masters**” and substitute the words “**Associate Judges**”. 25
- Omit from section 26J the words “on Masters” wherever they appear and substitute in each case the words “on Associate Judges”.
- Omit from section 26J(2) the words “a Master” and substitute the words “an Associate Judge”.
- Omit from the heading to section 26K the word “**Master**” and substitute the words “**Associate Judge**”. 30
- Omit from section 26K the words “a Master” in both places where they appear and substitute in each case the words “an Associate Judge”.
- Omit from the heading to section 26L the word “**Master**” and substitute the words “**Associate Judge**”. 35
- Omit from section 26L the words “a Master” and substitute the words “an Associate Judge”.
- Omit from the heading to section 26M the word “**Master**” and substitute the words “**Associate Judge**”. 40

Judicature Act 1908 (1908 No 89)—continued

Omit from section 26M the words “A Master” and substitute the words “An Associate Judge”.

Omit from the heading to section 26N the word “**Master**” and substitute the words “**Associate Judge**”.

Omit from section 26N the words “a Master” wherever they appear and substitute in each case the words “an Associate Judge”. 5

Omit from section 26N(1) the words “the Master’s” and substitute the words “the Associate Judge’s”.

Omit from section 26N(1) and (3)(b) the words “the Master” and substitute in each case the words “the Associate Judge”. 10

Omit from the heading to section 26O the word “**Master**” and substitute the words “**Associate Judge**”.

Omit from section 26O the words “A Master” and substitute the words “An Associate Judge”.

Omit from section 26O the words “a Master” and substitute the words “an Associate Judge”. 15

Omit from the heading to section 26P the word “**Masters**” and substitute the words “**Associate Judges**”.

Omit from section 26P(1) and (2) the words “a Master” and substitute in each case the words “an Associate Judge”. 20

Omit from section 26R the words “a Master” and substitute the words “an Associate Judge”.

Legislative history

14 August 2003

Introduction (Bill 71–1)

4 September 2003

First reading and referral to the Justice and Electoral Committee