

Hon. Mr. Mason

JUSTICES OF THE PEACE AMENDMENT

ANALYSIS

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A BILL INTITULED

AN ACT to amend the Justices of the Peace Act, 1927. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Justices of the Peace Amendment Act, 1948, and shall be read together with and deemed part of the Justices of the Peace Act, 1927 (hereinafter referred to as the principal Act). Short Title. See Reprint of Statutes, Vol. II, p. 351

Amending provisions as to summary trial of indictable offences.

2. (1) Section one hundred and eighty-seven of the principal Act is hereby amended by inserting, after subsection one, the following new subsection:—

“ (1A) The provisions of Part II of this Act shall, except where inconsistent with the provisions of this Part of this Act, apply to all proceedings for the summary trial of indictable offences under this Part of this Act.” 5

(2) Section one hundred and eighty-eight of the principal Act is hereby amended as follows:— 10

(a) By omitting the words “ having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case,”:

(b) By adding the following proviso:— 15

“ Provided that the Magistrate may, at any time during the hearing, decline to deal summarily with the offence and may endorse on the information a certificate to that effect, and thereupon the Magistrate shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable under this section on summary conviction.”: 20

(c) By adding the following new subsection as subsection (2) thereof:— 25

“ (2) Before proceeding to deal summarily under this section with an indictable offence which is punishable on summary conviction by imprisonment for a term exceeding three months, the Magistrate shall give to the person charged the right to claim to be tried by a jury, and for this purpose the provisions of section one hundred and twenty-four of this Act shall, with the necessary modifications, apply.” 30 35

(3) Section two hundred and thirty-eight of the principal Act is hereby amended as follows:—

(a) By omitting from subsection one the words “ having regard to the character and antecedents of the person charged, the nature of the offence, and all the circumstances of the case, and if the person charged with the offence, when informed by the Court of his right to be tried by a jury, consents to be dealt with summarily ”: 40 45

(b) By adding to subsection one the following proviso:—

5 “ Provided that the Justices may, at any time during the hearing, decline to deal summarily with the offence and may endorse on the information a certificate to that effect, and thereupon the Justices shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable under this section on summary conviction.”:

(c) By repealing subsection two, and substituting the following new section:—

15 “ (2) Before proceeding to deal summarily under this section with any offence, the Justices shall give to the person charged the right to be tried by a jury, and for this purpose the provisions of section one hundred and twenty-four of this Act shall, with the necessary modifications, apply.”

20 (4) Sections one hundred and eighty-nine, two hundred and four, two hundred and thirty-nine, two hundred and forty, two hundred and forty-nine, two hundred and fifty-eight, and two hundred and fifty-nine of the principal Act are hereby repealed.

Repeals.

25 (5) Section three hundred and seventy-eight of the principal Act is hereby amended by repealing the proviso to subsection one.

30 (6) The Third Schedule to the principal Act is hereby amended by omitting from the note thereto the words “ whether dealt with summarily or not ”, and substituting the words “ prosecuted under Part IV of this Act.”

35 **3.** Section two of the Police Offences Amendment Act, 1935, is hereby amended as follows:—

Section 2 of the Police Offences Amendment Act, 1935, consequentially amended. 1935, No. 29 See Reprint of Statutes, Vol. II, p. 469

(a) By repealing subsections three and four, and substituting the following subsections:—

40 “ (3) Where in respect of an offence against this section an information is laid in the Form No. 4 in the First Schedule to the Justices of the Peace Act, 1927 (as for a matter determinable summarily), the matter shall be dealt with summarily, but the Justices may, at any time during the hearing, decline to deal summarily with the offence

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and may endorse on the information a certificate to that effect, and thereupon the Justices shall deal with the case in all respects as if the accused were charged with an indictable offence and not with an offence punishable under this section on summary conviction. 5

“(4) Where in respect of an offence against this section an information is laid in the Form No. 31 in the First Schedule to the Justices of the Peace Act, 1927, the matter shall be dealt with on indictment.”: 10

(b) By omitting from paragraph (b) of subsection five the words “of an indictable offence in accordance with the last preceding subsection”: 15

(c) By repealing paragraph (c) of subsection five:

(d) By omitting from subsection six the words “paragraph (c)”, and substituting the words “paragraph (b)”. 20

4. Section fifty-eight of the principal Act is hereby amended by adding the following new subsection as subsection two thereof:—

“(2) Any such summons may require the person to whom it is issued to bring with him and produce at the hearing such books, deeds, papers, and writings as may be mentioned in the summons.” 25

5. Section seventy-two of the principal Act is hereby amended by adding the following new subsections:— 30

“(7) Subject to the provisions of the next two succeeding subsections where any person charged with the commission of an offence appears before Justices to answer the charge the Justices may amend the information relating to the offence at any time during the hearing. 35

“(8) The power conferred on Justices by the last preceding subsection shall include power to amend an information by substituting one offence for another, or by substituting a summary offence for an indictable offence, or by substituting an indictable offence for a summary offence. 40

See Reprint
of Statutes,
Vol. II, p. 481

Summons to
witness may
require him
to bring
documents.

Information
may be
amended.

“ (9) The Justices may, at the request of the person charged, if they are of the opinion that he would be embarrassed in his defence by reason of an amendment proposed to be made under this section, adjourn the hearing of the case to some future day and in the meantime remand him or admit him to bail in manner provided by this Act.”

6. (1) Section eighty-seven of the principal Act is hereby amended by adding the words “ or, at the discretion of such Justices, conditioned for his appearance at every time and place to which during the course of the proceedings the hearing may be from time to time adjourned.”

Power to allow continuing bail on adjournment (in case of summary proceedings) or on remand (in case of indictable offence).

(2) Section one hundred and forty-nine of the principal Act is hereby amended by inserting in subsection one, after the words “ such examination ”, the words “ or, at the discretion of the Justice, conditioned for his appearance at every time and place to which during the course of the proceedings the examination may be from time to time deferred.”

Cf. Criminal Justice Administration Act, 1914

(4 & 5 Geo. 5, c. 58) s. 19 (U.K.)

(3) The form numbered one in the First Schedule to the principal Act is hereby consequentially amended by inserting in the paragraph numbered one, after the words “ at ”, the words “ (or to appear personally at every time and place to which during the course of the proceedings against the said principal party the hearing may be from time to time adjourned) ”.

7. Section one hundred and twenty-two of the principal Act is hereby amended by adding the following proviso:—

Amending provisions as to rehearings.

“ Provided that if any such Justice has since the date of the hearing ceased to hold office as such or has died or left New Zealand, or for any other reason it is impracticable that he shall be present to hear the application for rehearing, any Magistrate may grant a rehearing as aforesaid.”

8. (1) Section three hundred and sixty-nine of the principal Act is hereby amended as follows:—

Extending powers of Registrar of Magistrate's Court as to taking of recognizances and affidavits.

(a) By omitting the words “ recognizance to prosecute, recognizance to prosecute and give evidence, recognizance to give evidence ”, and substituting the word “ recognizance ”:

(b) By omitting the words “ of the service of any summons ”.

(2) The principal Act is hereby consequentially amended in the manner indicated in the Schedule hereto.

Authorizing Registrar and Deputy Registrar of Supreme Court or of Magistrate's Court to take statutory declarations.

9. Section three hundred and one of the principal Act is hereby amended by inserting, after the word "*Gazette*", the words "or any Registrar or Deputy Registrar of the Supreme Court, or the Registrar or the Deputy Registrar of any Magistrate's Court".

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Regulations as to interpreters' and witnesses' expenses.

10. (1) The Governor-General may from time to time, by Order in Council, make regulations prescribing the fees, travelling allowances and expenses payable to interpreters and to persons giving evidence in any proceedings under the principal Act.

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(2) All regulations heretofore made prescribing the fees, travelling allowances and expenses payable to interpreters and to persons giving evidence in any proceedings under the principal Act are hereby declared to have been lawfully made.

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Amending provisions as to payment of witnesses.

11. (1) Section eighty-four of the principal Act is hereby amended by repealing subsection one, and substituting the following subsection:--

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"(1) The Justices hearing any such information may order the party at whose instance any witness has been summoned to pay to that witness such sum as the Justices think fit for his expenses or loss of time for each day of attendance to give evidence, and for travelling allowances and expenses, not exceeding the fees in that behalf from time to time prescribed by regulations made under this Act."

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(2) Section three hundred and nineteen of the principal Act is hereby amended by adding to subsection two the words "according to the scale of such allowances for the time being prescribed by regulations made under this Act".

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SCHEDULE Schedule.
Section 8 (2)
**AMENDMENTS CONSEQUENTIAL ON EXTENSION OF POWERS OF REGISTRARS OF
MAGISTRATE'S COURTS AS TO TAKING OF RECOGNIZANCES**

Number of Section or Schedule affected.	Nature of Amendment.
Section 17	By inserting in subsection (2), after the words "any Justice", the words "or before the Registrar of any Magistrate's Court".
Section 25	By inserting, after the words "the Justice", the words "or the Registrar of the Magistrate's Court".
Section 123	By inserting in subsection (1), after the words "some other Justice or Justices," the words "or before the Registrar of any Magistrate's Court,"; by omitting the words "taking the recognizance", and substituting the words "granting the rehearing".
Section 162	By inserting in subsection (2), after the words "any Justice", the words "or before the Registrar of any Magistrate's Court".
Section 288	By inserting, after the words "any Justice", the words "or before the Registrar of a Magistrate's Court".
Section 289	By inserting, after the words "the Justice", the words "or the Registrar of the Magistrate's Court".
Section 305 as amended by subsection (1) of section 3 of the Justices of the Peace Amendment Act, 1946 (1946, No. 13)	By inserting, after the words "some other Justice", the words "or before a Registrar of any Magistrate's Court"; by inserting, after the words "sum as the Justice", the words "stating a case".
Section 318	By inserting, after the words "any other Justice", the words "or by the Registrar of any Magistrate's Court".
Section 331	By inserting, before the words "taking a recognizance", the words "or the Registrar of the Magistrate's Court"; by inserting, before the words "shall certify", the words "or the Registrar taking the recognizance".
Section 332	By inserting in subsection (1), after the words "any Justice", the words "or before the Registrar of any Magistrate's Court".
First Schedule ..	By adding to the form numbered (1), after the words "Justice of the Peace", the words "or Registrar of the Magistrate's Court at ()"; by adding to the form numbered (48), after the words "Justice of the Peace", the words "or Registrar of the Magistrate's Court at ()"; by adding to the form numbered (52), after the words "Justice of the Peace", the words "or Registrar of the Magistrate's Court at ()".