

[AS REPORTED FROM THE JUSTICE AND LAW REFORM
COMMITTEE]

House of Representatives, 11 July 1989.

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

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 10 October 1989.

Words struck out are shown in italics within double bold round brackets, words inserted are shown in roman underlined with a double rule.

[Clauses 187 to 192 of this Bill were formerly clauses 187 to 192 of the Law Reform (Miscellaneous Provisions) Bill: 122-2]

Hon. W. P. Jeffries

SUMMARY PROCEEDINGS AMENDMENT (NO. 2)

ANALYSIS

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An Act to amend the Summary Proceedings Act 1957

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

15 **1. Short Title and commencement**—(1) This Act may be cited as the Summary Proceedings Amendment Act (No. 2) 1989, and shall be read together with and deemed part of the Summary Proceedings Act 1957 (hereinafter referred to as the principal Act).

No. 122—3zv

Price
incl. GST \$2.20

(2) This Act shall come into force on the 1st day of January 1990.

187. On committal, documents to be sent to Court where trial to be held—Section 182 of the principal Act (as substituted by section 20 (1) of the Summary Proceedings Amendment Act 1976) is hereby amended by inserting in subsection (1), after the words “section 173A of this Act,”, the words “any videotape of the complainant’s evidence shown at the preliminary hearing in accordance with section 185CA of this Act,”.

188. Every party entitled to copy of depositions or summary of facts—Section 183 of the principal Act (as substituted by section 20 (1) of the Summary Proceedings Amendment Act 1976) is hereby amended by adding the following subsection:

“(3) Where the evidence of the complainant is to be given by way of videotape in accordance with section 185CA of this Act, the defendant shall not be entitled to a copy of the videotape, but shall be entitled to view the videotape within the Court precincts in the presence of an officer of the Court.”

189. Two sections (relating to preliminary hearings in cases of sexual nature) substituted—(1) The principal Act is hereby amended by repealing sections 185A and 185B (as inserted by section 4 of the Summary Proceedings Amendment Act (No. 4) 1985), and substituting the following sections:

“185A. **Application**—Except as provided in section 185B of this Act, this Part of this Act applies to preliminary hearings of any of the following offences:

“(a) Any offence against any of the provisions of sections 128 to 142A of the Crimes Act 1961:

“(b) Any other offence against the person of a sexual nature:

“(c) Being a party to the commission of any offence referred to in paragraph (a) or paragraph (b) of this section:

“(d) Conspiring with any person to commit any such offence.

“185B. **Certain hearings to be conducted by Judge**—Every Court conducting a preliminary hearing of any of the following offences shall be presided over by a District Court Judge:

“(a) Sexual violation:

“(b) Attempted sexual violation:

“(c) Assault with intent to commit sexual violation:

“(d) An offence against section 129A of the Crimes Act 1961 (inducing sexual connection by coercion);

“(e) An offence against section 142A of that Act (compelling indecent act with animal);

5 “(f) Being a party to the commission of any offence referred to in paragraphs (a) to (e) of this section:

“(g) Conspiring with any person to commit any such offence.”

(2) The heading to Part VA of the principal Act (as inserted by 10 section 4 of the Summary Proceedings Amendment Act (No. 4) 1985) is hereby amended by omitting the words “CASES INVOLVING SEXUAL VIOLATION”, and substituting the words “CASES OF SEXUAL NATURE”.

(3) Section 185c of the principal Act (as inserted by section 4 15 of the Summary Proceedings Amendment Act (No. 4) 1985 is hereby amended by omitting from subsection (3) (b) the expression “paragraph (h)”, and substituting the expression “paragraph (i)”.

New

20 (4) Section 185c of the principal Act (as so inserted) is hereby further amended—

(a) By omitting from subsection (1) (a) the word “Judge”, and substituting the word “Court”:

25 (b) By omitting from subsection (1) (b) the words “Judge orders, either of the Judge’s”, and substituting the words “Court orders, either of its”:

(c) By inserting in paragraph (a) of subsection (2), and also in paragraph (j) of that subsection, and also in subsection (3), after the word “Judge” in each case, 30 the words “or Justices”:

(d) By omitting from subsection (4) the word “Judge” in both places where it occurs, and substituting in each case the word “Court”.

190. Child complainant’s evidence may be given by
35 **videotape**—The principal Act is hereby amended by inserting, after section 185c (as inserted by section 4 of the Summary Proceedings Amendment Act (No. 4) 1985), the following section:

40 “185CA. (1) Notwithstanding anything in Part V or section 185c of this Act, where in any preliminary hearing to which this

Part of this Act applies the complainant is under the age of ~~((14))~~ 17 years, the evidence of the complainant may be given in the form of a videotape if the Court is satisfied that the videotape has been made, and is identified, in the prescribed manner and form.

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“(2) While the videotape is being shown, only those persons specified in section 185c(2) of this Act, and any witness involved in and testifying about the making of the videotape, may be present in the courtroom.

“(3) No report or account of any matters shown in the videotape may be published; and every person who publishes any such report or account commits an offence and is liable on summary conviction to a fine not exceeding \$1,000.”

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191. Other powers of Court preserved—Section 185E of the principal Act (as inserted by section 4 of the Summary Proceedings Amendment Act (No. 4) 1985) is hereby amended by inserting, after the words “or section 185D”, the words “or section 185CA”.

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192. Transitional provision—Section 189 of this Act shall not apply in respect of any preliminary hearing that has commenced before the ~~((commencement of this Act))~~ 1st day of January 1990; and in respect of any such hearing, sections 185A and 185B of the principal Act (as originally enacted) shall continue to apply as if section 189 of this Act had not been enacted.

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