

**Reprint
as at 1 January 2018**

District Courts Amendment Act 2002

Public Act 2002 No 63
Date of assent 18 December 2002

District Courts Amendment Act 2002: repealed, on 1 January 2018, pursuant to section 240 of the District Court Act 2016 (2016 No 49).

Contents

		Page
1	Title	2
2	Commencement	2
3	New Part 5 substituted	2
Part V Appeals		
	71 Interpretation	2
	72 General right of appeal	2
	73 Agreements that decision would be binding	2
	74 Security for appeal	3
	75 Appeals to be by way of rehearing	3
	76 Powers of High Court on appeal	3
	77 Repayment of judgment sum and interest	4
	78 Enforcement proceedings	4
	79 Right of appeal in respect of contempt of Court	4
4	Consequential amendments	4
5	Transitional	4

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this eprint. See the notes at the end of this eprint for further details.

This Act is administered by the Ministry of Justice.

Schedule
Consequential amendments

5

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the District Courts Amendment Act 2002.
- (2) In this Act, the District Courts Act 1947 is called “the principal Act”.

2 Commencement

This Act comes into force on a date appointed by the Governor-General by Order in Council.

3 New Part 5 substituted

The principal Act is amended by repealing Part 5, and substituting the following Part:

Part V
Appeals

71 Interpretation

In this Part,—

decision includes a judgment and an interim or final order (other than an order under section 112)

make includes give.

72 General right of appeal

- (1) This subsection applies to every decision made by a District Court other than a decision of a kind in respect of which an enactment other than this Act—
 - (a) expressly confers a right of appeal; or
 - (b) provides expressly that there is no right of appeal.
- (2) A party to proceedings in a District Court may appeal to the High Court against the whole or any part of any decision to which subsection (1) applies made by the District Court in or in relation to the proceedings.

73 Agreements that decision would be binding

- (1) An appeal may not be brought under section 72 if, before the decision was made, all parties to the proceedings agreed in writing that it would be binding on them.
- (2) Subsection (1) overrides section 72.

74 Security for appeal

- (1) Unless granted legal aid under the Legal Services Act 2000, an appellant under section 72 may be required by the High Court Rules to give the Registrar of the High Court security for costs.
- (2) If any security required is not given within the time required by the High Court Rules, the appellant's appeal must be treated as having been abandoned.

75 Appeals to be by way of rehearing

All appeals under section 72 must be by way of rehearing.

76 Powers of High Court on appeal

- (1) Having heard an appeal under section 72, the High Court may—
 - (a) make any decision or decisions it thinks should have been made;
 - (b) direct the District Court in which the decision appealed against was made—
 - (i) to rehear the proceedings concerned; or
 - (ii) to consider or determine (whether for the first time or again) any matters the High Court directs; or
 - (iii) to enter judgment for any party to the proceedings concerned the High Court directs;
 - (c) make any further or other orders it thinks fit (including any orders as to costs).
- (2) The High Court must state its reasons for giving a direction under subsection (1)(b).
- (3) The High Court may give the District Court any direction it thinks fit relating to—
 - (a) rehearing any proceedings directed to be reheard; or
 - (b) considering or determining any matter directed to be considered or determined.
- (4) The High Court may act under subsection (1) in respect of a whole decision, even if the appeal is against only part of it.
- (5) Even if an interlocutory decision made in the proceedings concerned has not been appealed against, the High Court—
 - (a) may act under subsection (1); and
 - (b) may set the interlocutory decision aside; and
 - (c) if it sets the interlocutory decision aside, may make in its place any interlocutory decision or decisions the District Court could have made.

- (6) The powers given by this section may be exercised in favour of any respondent or party to the proceedings concerned, even if the respondent or party did not appeal against the decision concerned.

77 Repayment of judgment sum and interest

- (1) This subsection applies if—
- (a) a party to proceedings in a District Court (**party A**) has, in accordance with any judgment or order of the Court, paid an amount to another party to the proceedings (**party B**); and
 - (b) on appeal under section 72, the effect of the High Court's determination is that some or all of the amount did not need to be paid.
- (2) If subsection (1) applies, the High Court—
- (a) may order party B to repay to party A some or all of the amount paid by party A; and
 - (b) may also order party B to pay to party A interest at a rate not greater than the prescribed rate (within the meaning of section 87(3) of the Judicature Act 1908) on the sum ordered to be repaid.

78 Enforcement proceedings

For the purposes of enforcement proceedings, a judgment or order of the High Court under paragraph (a) or paragraph (c) of section 76(1), or section 77(2), must be treated as if it were a judgment or order of the District Court in which the decision appealed against was made.

79 Right of appeal in respect of contempt of Court

- (1) This subsection applies to any order under section 112 other than an order to the effect only that a person be taken into custody and detained until the rising of the Court.
- (2) A person against whom an order to which subsection (1) applies has been made may appeal to the High Court against it.
- (3) Sections 116 to 144 of the Summary Proceedings Act 1957 apply to the appeal (as far as they are applicable, and with all necessary modifications) as if the person were a defendant who had been convicted on an information and sentenced.

4 Consequential amendments

The enactments specified in the Schedule are amended in the manner indicated in that schedule.

5 Transitional

An appeal, under any enactment, commenced before the commencement of section 3 must be determined as if sections 3 and 4 had not been enacted.

Schedule Consequential amendments

s 4

Accident Insurance Act 1998 (1998 No 114)

[Repealed]

The item relating to section 165 Accident Insurance Act 1998 was repealed, as from 24 November 2003, by section 4(4) Injury Prevention, Rehabilitation, and Compensation Amendment Act 2003 (2003 No 29).

Admiralty Act 1973 (1973 No 119)

Repeal section 13(1) and substitute:

- (1) A party to proceedings in a District Court in its admiralty jurisdiction may appeal to the High Court against any decision of the District Court.
- (1A) The High Court Rules and sections 73 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

Animal Products Act 1999 (1999 No 93)

Repeal subsections (1) and (2) of section 154 and substitute:

- (1AA) This subsection applies to a decision of a District Court, on an application under section 147, to—
 - (a) make or refuse to make a compliance order; or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.
- (2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

Animal Welfare Act 1999 (1999 No 142)

Repeal subsections (1) and (2) of section 153 and substitute:

- (1AA) This subsection applies to a decision of a District Court, on an application under section 143, to—
 - (a) make or refuse to make an enforcement order; or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.

- (1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.
- (2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

Child Support Act 1991 (1991 No 142)

Repeal subsections (1) to (3) of section 120 and substitute:

- (1) A party to the proceeding may appeal to the High Court against an order or declaration of a Family Court made under this Act.
- (1A) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.
- (2) On the ex parte application of the appellant, the Family Court may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (2A) Subsection (2) overrides subsection (1A).
- (3) The Commissioner may appeal to the High Court, on a question of law, against an order or declaration of a Family Court made under this Act in relation to any of the matters specified in sections 100 to 103 of this Act.
- (3A) The High Court Rules and sections 75 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (3) as if it were an appeal under section 72 of that Act.

Children, Young Persons, and Their Families Act 1989 (1989 No 24)

Repeal sections 341 and 342 and substitute:

341 Rights of appeal against decisions of Family Courts

- (1) This subsection applies to a decision of a Family Court, in proceedings under this Act, to—
 - (a) make or refuse to make an order (other than an interlocutory or interim order); or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (2) A party to proceedings in which there is made a decision to which subsection (1) applies, a child or young person to whom the proceedings relate, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.
- (3) A party to proceedings under this Act in a Family Court in which an interlocutory or interim order is made, a child or young person to whom the proceedings

relate, or any other person prejudicially affected by the order, may, with the leave of the Family Court, appeal to the High Court against the order.

- (4) An appeal under this section may be from the whole or part of the decision or order concerned.

Omit from section 343 the expression “section 341” and substitute the expression “section 341(2)”.

Omit from section 345(1) the expression “section 341” and substitute the expression “section 341(2)”.

Repeal section 346 and substitute:

346 Procedure on appeal

- (1) The High Court Rules and sections 74 to 77 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under section 341 as if it were an appeal under section 72 of that Act.
- (2) On the ex parte application of the appellant, the Family Court may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (3) Sections 156, 157, and 166 to 169, with all necessary modifications, apply to the hearing in the High Court of an appeal under section 341.
- (4) Subsections (2) and (3) and sections 207O and 207U override subsection (1).

Repeal sections 348(1) and 349.

Civil Aviation Act 1990 (1990 No 98)

Repeal section 69(2) and substitute:

- (2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

Domestic Violence Act 1995 (1995 No 86)

Repeal subsections (1) to (3) of section 91 and substitute:

- (1AA) This subsection applies to a decision of a Court, in proceedings under this Act, to—
- (a) make or refuse to make an order; or
- (b) dismiss the proceedings; or
- (c) otherwise finally determine the proceedings.
- (1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

- (2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.
- (3) On the ex parte application of the appellant, the Court appealed from may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (3A) Subsection (3) overrides subsection (2).

Electricity Act 1992 (1992 No 122)

Repeal subsections (1) and (2) of section 14 and substitute:

- (1) A party to proceedings in a District Court on an application under section 13(3) may appeal to the High Court against any decision of the District Court.
- (1A) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.
- (2) On the ex parte application of the appellant, the District Court may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (2A) Subsection (2) overrides subsection (1A).

Family Courts Act 1980 (1980 No 161)

Add to section 16:

- (4) Nothing in sections 73 to 79 of the District Courts Act 1947 applies to Family Courts, Family Court Judges, or the business of Family Courts, except to the extent that some enactment other than that Act provides.

Family Proceedings Act 1980 (1980 No 94)

Repeal subsections (1) and (2) of section 174 and substitute:

- (1AA) This subsection applies to a decision of a Family Court or District Court, in proceedings under this Act (other than criminal proceedings or proceedings under section 130), to—
 - (a) make or refuse to make an order; or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (1) A party to proceedings in which there is made a decision to which subsection (1A) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.
- (1A) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

(2) On the ex parte application of the appellant, the District Court may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.

(2A) Subsection (2) overrides subsection (1A).

Insert in section 174, after subsection (3):

(3A) Subsection (3) overrides subsection (1).

Insert in section 174, after subsection (4):

(4A) Subsection (4) overrides subsection (1A).

Family Protection Act 1955 (1955 No 88)

Repeal subsections (1) and (2) of section 15 and substitute:

(1AA) This subsection applies to a decision of a Family Court or District Court, in proceedings under this Act, to—

- (a) make or refuse to make an order; or
- (b) dismiss the proceedings; or
- (c) otherwise finally determine the proceedings.

(1) A party to proceedings in which there is made a decision to which subsection (1A) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

(1A) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

(2) On the ex parte application of the appellant, the Family Court or District Court (as the case requires) may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.

(2A) Subsection (2) overrides subsection (1A).

Gas Act 1992 (1992 No 124)

Repeal subsections (1) and (2) of section 15 and substitute:

(1) A party to proceedings under this Act on an application under section 14(3) may appeal to the High Court against any decision of the District Court.

(1A) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.

(2) On the ex parte application of the appellant, the District Court may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.

(2A) Subsection (2) overrides subsection (1A).

Guardianship Act 1968 (1968 No 63)

Repeal sections 31 and 31A and substitute:

31 Appeals to High Court

- (1) This subsection applies to a decision of a Family Court or District Court, in proceedings under this Act (other than criminal proceedings or proceedings under section 13 or section 14), to—
 - (a) make or refuse to make an order (other than a interlocutory or interim order); or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (2) A party to proceedings in which there is made a decision to which subsection (1) applies may appeal to the High Court against the decision.
- (3) A party to proceedings under this Act in a Family Court or District Court (other than criminal proceedings or proceedings under section 13 or section 14) in which an interlocutory or interim order is made may, with the leave of the Family Court or District Court (as the case requires), appeal to the High Court against the order.
- (4) Every application to a District Court under this section for leave to appeal under subsection (3) must be filed, in the manner prescribed under the District Courts Act 1947, within 21 days after the date on which the order appealed against is sealed.
- (5) On granting leave under this section, the District Court may give any directions it thinks fit as to the time by which any document relating to the appeal must be filed or served.
- (6) The High Court Rules and sections 73 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under this section as if it were an appeal under section 72 of that Act.
- (7) On the ex parte application of the appellant, the Family Court or District Court (as the case may be) may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (8) Subsection (7) overrides subsection (6).

31A Effect of High Court's order or decision

Except as provided in section 31B(1)(b), an order or decision of the High Court on an appeal under section 31 is final.

Harassment Act 1997 (1997 No 92)

Repeal subsections (1) to (3) of section 34 and substitute:

- (1AA) This subsection applies to a decision of a Family Court or District Court, in proceedings under this Act (including, without limitation, proceedings under section 40), to—
- (a) make or refuse to make an order; or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (1) A party to proceedings in which there is made a decision to which subsection (1AA) applies may appeal to the High Court against the decision.
- (2) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.
- (3) On the ex parte application of the appellant, the Family Court or District Court (as the case requires) may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (3A) Subsection (3) overrides subsection (2).

Housing Restructuring Act 1992 (1992 No 76)

Omit from section 63(1)(a)(iii) the words “rules made under it”, and substitute the words “the High Court Rules”.

Injury Prevention, Rehabilitation, and Compensation Act 2001 (2001 No 49)

[Repealed]

The item relating to section 162 Injury Prevention, Rehabilitation, and Compensation Act 2001 was repealed, as from 24 November 2003, by section 4(4) Injury Prevention, Rehabilitation, and Compensation Amendment Act 2003 (2002 No 29).

Insolvency Act 1967 (1967 No 54)

Repeal section 89(8) and substitute:

- (8) If a proof is for a sum of not more than \$200,000, an application under any of subsections (4) to (6) may be made to a District Court; and in that case—
- (a) the High Court Rules and sections 71 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if the application were an action commenced pursuant to that Act and the amount of the proof in dispute were the amount of a claim;
 - (b) the provisions of the District Courts Act 1947 as to transfers of proceedings to the High Court apply as if the application were an action commenced pursuant to that Act and the amount of the proof in dispute were the amount of a claim;
 - (c) with the leave of the High Court, any party may appeal to the Court of Appeal from a decision of the High Court under this subsection.

Law Reform (Testamentary Promises) Act 1949 (1949 No 33)

Repeal subsections (1) to (3) of section 5A and substitute:

- (1AA) This subsection applies to a decision of a Family Court or District Court, in proceedings under this Act, to—
- (a) make or refuse to make an order; or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (1) A party to proceedings in which there is made a decision to which subsection (1AA) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.
- (1A) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) as if it were an appeal under section 72 of that Act.
- (1B) On the ex parte application of the appellant, the Family Court or District Court (as the case requires) may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (1C) Subsection (1B) overrides subsection (1A).

Maritime Transport Act 1994 (1994 No 104)

Repeal section 116(2) and substitute:

- (2) If the sum in dispute exceeds \$5,000, any party to the dispute may appeal to the High Court against the District Court's decision.
- (3) The High Court Rules and sections 73 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (2) as if it were an appeal under section 72 of that Act.

Property (Relationships) Act 1976 (1976 No 166)

Repeal sections 39 and 39A and substitute:

39 Right of appeal to High Court

- (1) This subsection applies to a decision of a Family Court or District Court, in proceedings under this Act, to—
- (a) make or refuse to make an order; or
 - (b) dismiss the proceedings; or
 - (c) otherwise finally determine the proceedings.
- (2) A party to proceedings in which there is made a decision to which subsection (1) applies, or any other person prejudicially affected by the decision, may appeal to the High Court against the decision.

- (3) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (2) as if it were an appeal under section 72 of that Act.
- (4) On the ex parte application of the appellant, the Family Court or District Court (as the case requires) may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (5) Subsection (4) overrides subsection (3).
- (6) If the appeal relates to proceedings commenced after the death of 1 of the spouses or de facto partners, this section is modified by section 93.

Omit from section 93 the expression “39(1)” and substitute the expression “39(2)”.

Protection of Personal and Property Rights Act 1988 (1988 No 4)

Repeal sections 83 and 83A and substitute:

83 Right of appeal to High Court

- (1) If, on an application for the exercise of the Court’s jurisdiction under this Act, the Court makes or refuses to make an order, or dismisses or otherwise finally determines the proceedings, a party to the proceedings or the person in respect of whom the application was made may appeal to the High Court against the order or other decision of the Court.
- (2) If the Court makes an interlocutory or interim order, a party to the proceedings or the person in respect of whom the application was made may, with the leave of the Court, appeal to the High Court against the order.
- (3) The High Court Rules and sections 74 to 78 of the District Courts Act 1947, with all necessary modifications, apply to an appeal under subsection (1) or subsection (2) as if it were an appeal under section 72 of that Act.
- (4) On the ex parte application of the appellant, the Court may order that the appellant must not be required under section 74(1) of the District Courts Act 1947 to give the Registrar of the High Court security for costs.
- (5) Subsection (4) overrides subsection (3).

83A High Court’s decision final

[Repealed]

The item relating to section 39 Protection of Personal and Property Rights Act 1988 was substituted, as from 24 November 2003, by section 3 District Courts Amendment Act 2003 (2003 No 70).

The item relating to section 83A Protection of Personal and Property Rights Act 1988 was omitted, as from 1 January 2004, by section 48(1) Supreme Court Act 2003 (2003 No 53). See sections 50 to 55 of that Act for the transitional and savings provisions.

Eprint notes**1 *General***

This is an eprint of the District Courts Amendment Act 2002 that incorporates all the amendments to that Act as at the date of the last amendment to it.

2 *About this eprint*

This eprint is not an official version of the legislation under section 18 of the Legislation Act 2012.

3 *Amendments incorporated in this eprint*

District Court Act 2016 (2016 No 49): section 240