



ANALYSIS

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1994, No. 45

An Act to amend the Matrimonial Property Act 1976

[1 July 1994]

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

1. Short Title—This Act may be cited as the Matrimonial Property Amendment Act 1994, and shall be read together with and deemed part of the Matrimonial Property Act 1976 (hereinafter referred to as the principal Act).

2. Courts to have concurrent jurisdiction—Section 22 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) The High Court, upon application by any party to proceedings pending under this Act in a Family Court, may order the proceedings to be removed into the High Court if it is satisfied that the proceedings would be more appropriately dealt with in the High Court. Where the proceedings have been so removed they shall be continued in the High Court as if they had been properly and duly commenced in that Court.”

3. Regard for interests of children—Section 26 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) If in the opinion of the Court there are special circumstances which render it necessary or expedient that any minor or dependent children of the marriage be represented in any proceedings under this Act, the Court may appoint a solicitor or counsel to represent such children.

“(3) Fees for professional services provided by any solicitor or counsel appointed under subsection (2) of this section, and reasonable expenses incurred,—

“(a) May be determined in accordance with regulations made under this Act; and

“(b) Shall be paid by such party or parties to the proceedings as the Court shall order or, if the Court so decides, shall be paid out of the Departmental Bank Account from money appropriated by Parliament for the purpose.

“(4) Any amount of any fees and expenses ordered to be paid by any party under subsection (3) (b) of this section shall, if paid by the Crown, be a debt due to the Crown by that party and, in default of payment of the amount, payment thereof may be enforced, by order of a District Court or the High Court as the case may require, in the same manner as a judgment of that Court.”

4. Inquiries, and settlement of schemes—Section 38 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection:

“(4) Fees payable to any person (other than the Registrar) appointed under subsection (1) or subsection (3) of this section, and reasonable expenses incurred,—

“(a) May be determined in accordance with regulations made under this Act; and

“(b) Shall be paid out of the Departmental Bank Account from money appropriated by Parliament for the purpose:

“Provided that, if the Court thinks proper, it may order any party to refund to the Crown such amount as the Court specifies in respect of those fees and expenses, and that amount shall be a debt due to the Crown by that party and, in default of payment of the amount, payment thereof may be enforced, by order of a District Court or the High Court as the case may require, in the same manner as a judgment of that Court.”

5. Rules of Court and regulations—Section 53 of the principal Act is hereby amended by inserting, after subsection (2), the following subsection:

“(2A) The Governor-General may from time to time, by Order in Council, make regulations—

“(a) Making provision for determining the amount of fees and expenses, including minimum and maximum amounts, payable in respect of professional services

provided by solicitors or counsel appointed under subsection (2) of section 26 of this Act, which fees and expenses may differ according to the complexity of the proceedings and the time spent, and according to whether or not professional services are to be provided in a specified number of proceedings during a specified period:

- “(b) Making provision for determining the amount of fees and expenses payable to any person (other than the Registrar) appointed under subsection (1) or subsection (3) of section 38 of this Act:
- “(c) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.”

This Act is administered in the Department of Justice.
