



History and role



Photo by: Victoria Birkinshaw

History

Role and structure

Te Kōti Matua o Aotearoa

The High Court was established in December 1841 and was known until 1980 as the Supreme Court. Its establishment followed the arrival in New Zealand of the first Chief Justice, William Martin, and it heard its first case in January 1842.

The court had the functions of the English common law and equity superior courts, and it had jurisdiction in criminal trials, testamentary disputes, questions of lunacy and admiralty matters. The court also exercised general supervision over lower courts and tribunals and was the court of appeal for the magistrates courts.

The court comprised the Chief Justice and a number of "puisne" judges. The number of judges increased according to the workload. The qualification for appointment was seven years' practice as a barrister or advocate of the United Kingdom, or as a barrister or solicitor of the Supreme Court of New Zealand.

British influence on the court was strong throughout the nineteenth century. By the early 20th century, the courts were being redefined to better suit the particular needs of New Zealand. The Judicature Act 1908 defined the Supreme Court's role, no longer by reference to British courts. Instead it would have "all judicial jurisdiction which may be necessary to administer the laws of New Zealand."

During the early 1970s there was a rise in the number of criminal jury trials and a substantial increase in the administrative law cases coming to the court both in its appellate and supervisory jurisdiction. The High Court appellate jurisdiction rose too as a result of the greater jurisdiction of the district courts. As the workload rose, so too did the number of judges.

In 1980, the Supreme Court was renamed as the High Court in order to free the name 'Supreme Court' for a final Court of Appeal. The magistrates' courts were renamed as district courts and were given some of the jurisdiction that had previously exercised by the Supreme Court (High Court).

More than a century and a half since the first Chief Justice of New Zealand was appointed, the High Court remains the superior court of general jurisdiction in New Zealand. It has principal responsibility for maintenance of legality through its supervisory and administrative law jurisdiction. It hears the more serious criminal and civil cases and it exercises significant supervisory and appellate jurisdiction over lower courts and tribunals.

Supervisory role

Supervisory role

Jurisdiction

The judges

Administration

The Judicature Act 1908 divides the courts of New Zealand into 'inferior courts' and 'superior courts'. An inferior court is defined in s2 as 'any court of the judicature within New Zealand with inferior jurisdiction to the High Court'.

Decisions of the High Court are binding on all lower courts until overruled by the Court of Appeal or Supreme Court. Because of its position in the judicial structure, the High Court is the court to which application is made for authoritative declarations of law.

The Court of Appeal is the third tier of this overall structure. It supervises, through appeal, the judgments of the High Court and ensures consistency in application of the law in the High Court.

To the existing general supervisory/appeal jurisdiction of the High Court, there are four exceptions:

- Appeals from jury trials in the district courts go directly to the Court of Appeal.
- Appeals from the Employment Court on questions of law are taken directly to the Court of Appeal.
- Appeals from the Courts Martial Appeals Court go directly to the Court of Appeal.
- Appeals from the Māori Appellate Court go directly to the Court of Appeal.

The High Court has the particular responsibility of ensuring the legality of the conduct of all sections of the community including inferior courts and tribunals and the protection of legal rights and immunities. Although there is a wide range of statutes providing for appeals to the High Court from such courts and tribunals, through judicial review, the High Court secures the legality of all public sector conduct including that of

inferior courts.

The obligation to supervise by judicial review is exercised both under common law inherent powers and under the Judicature Amendment Act 1972. The power to supervise is central to the maintenance of law through judicial process. The High Court has no power, however, to supervise Parliament. The High Court cannot invalidate Acts of Parliament.

Jurisdiction

The jurisdiction of the High Court is largely conferred or systematised by statutes. In addition, however, the High Court has inherent common law jurisdiction. No other court within the New Zealand legal system has a non-statutory substantive jurisdiction. The existence of such inherent jurisdiction means there is never a vacuum in obtaining vindication of right according to law.

The court has all the jurisdiction which it had on the introduction of the Judicature Act 1908 and all judicial jurisdiction which may be necessary to administer the laws of New Zealand. The court therefore has both the statutory jurisdiction and inherent jurisdiction which is necessary for it to undertake its supervisory function.

The judges

Following the establishment of the Supreme Court, the position of Chief High Court Judge was established. The Chief High Court Judge is 'responsible to the Chief Justice for ensuring the orderly and prompt conduct of the High Court's business'.

Associate judges have a specialist civil jurisdiction and undertake a range of companies and insolvency work. They have extensive jurisdiction in interlocutory matters including summary judgment applications, and they have jurisdiction to assess damages. Associate judges were formerly known as masters of the High Court and appointed for fixed terms. From 20 May 2004, masters were renamed associate judges and secured permanent tenure.

Temporary and acting judges of the High Court can be appointed where the Chief Justice and the Chief High Court Judge consider it is necessary. The High Court uses acting judges and temporary judges very sparingly, where there is a temporary shortfall in the judicial workforce.

Administration

The High Court is a single national court which sits in a number of courthouses in different parts of the country. Judges are permanently located in Wellington, Auckland and Christchurch. High Court judges from the three main centres go on circuit to other locations as needed. The work of the court is organised nationally by the Chief High Court Judge to ensure a match between judicial resources and work.

Bibliography

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- *Report of the Royal Commission on the Courts*, 1978
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