

1971/254



THE SUPREME COURT AMENDMENT RULES 1971

ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government Buildings at Wellington this 6th day of December 1971

Present:

THE HON. B. E. TALBOYS PRESIDING IN COUNCIL

PURSUANT to the Judicature Act 1908, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least two of the other members of the Rules Committee constituted under the Judicature Amendment Act 1930, as amended by section 2 of the Judicature Amendment Act (No. 2) 1968 (of whom at least one was a Judge of the Supreme Court), hereby makes the following rules.

RULES

1. Title and commencement—(1) These rules may be cited as the Supreme Court Amendment Rules 1971, and shall be read together with and deemed part of the Code of Civil Procedure set out in the Second Schedule to the Judicature Act 1908 (hereinafter referred to as the Code).

(2) These rules shall come into force on the 14th day after the date of their notification in the *Gazette*.

2. Certificate on *ex parte* notice of motion—Rule 403 of the Code (as substituted by rule 3 of the Supreme Court Amendment Rules (No. 2) 1954*) is hereby amended by adding, as subclause (2), the following subclause:

“(2) A solicitor or counsel may give a certificate under this rule notwithstanding that—

“(a) In the case of any notice of motion he has taken an affidavit in support of the motion or any other affidavit relevant to the motion; or

“(b) In the case of a notice of motion for grant of probate in common form, he is one of the subscribing witnesses to the will or is named in the will as an executor or is an executor according to the tenor of the will; or

“(c) In the case of a notice of motion for grant of letters of administration with the will annexed in common form, he is one of the subscribing witnesses to the will.”

3. Cases on appeal to be set down by Registrar—(1) The Code is hereby amended by revoking rule 532 (as amended by rule 2 (1) of the Supreme Court Amendment Rules (No. 2) 1954*), and substituting the following rule:

“532. Cases on appeal from inferior Courts shall be left with the Registrar, who shall make an entry on a Ready List and allocate a fixture for the hearing of such appeal in accordance with rule 582A.”

(2) The First Schedule to the Supreme Court Amendment Rules (No. 2) 1954 is hereby amended by revoking so much thereof as relates to rule 532 of the Code.

4. Ready lists—The Code is hereby amended by inserting in Part IX, before rule 583 and the heading above that rule, the following heading and rule:

“Ready Lists

“582A. (1) For each class of business other than—

- “(a) Proceedings which the Code requires to be set down by praecipe; and
- “(b) Petitions under the Matrimonial Proceedings Act 1963; and
- “(c) Appeals under the Summary Proceedings Act 1957; and
- “(d) Applications to a Judge in Chambers or applications to the Court which are to be dealt with by a Judge in Chambers for Court—

the Registrar shall cause to be kept a Ready List in accordance with this rule.

“(2) When a case to which this rule applies is ready for hearing, all parties shall join in certifying in writing to the Registrar—

- “(a) That the case is, in all respects, ready for hearing;
- “(b) The time required for hearing;
- “(c) The dates on which, or between which, a fixture is not sought;
- “(d) The length of the notice desired between the notification of the fixture and the date of hearing.

“(3) The Registrar shall forthwith enter such case on the Ready List appropriate to that class of case.

“(4) If all parties will not join in giving a certificate under subclause (2) of this rule, then the party or parties that consider the case ready for hearing shall lodge the certificate with the Registrar and that certificate shall be endorsed with a request to the Registrar that he enter the case on the Ready List notwithstanding the failure of the other parties to join in giving the certificate. The Registrar having given those other parties an opportunity to be heard shall exercise his discretion whether or not to enter the case on the Ready List.

“(5) The Registrar shall make fixtures for hearing of cases (according to the estimated length of hearing and the time of the Court available) in the order in which they appear on the appropriate Ready List and the Registrar shall not make a fixture for any case which is not on a Ready List.

“(6) In a case of special urgency the Registrar may make a fixture for the hearing of a case in priority to its appropriate place on the Ready List.

“(7) It shall be the duty of all parties to notify the Registrar immediately whenever, for any reason, a hearing for which a fixture has been made cannot proceed. If an adjournment of the hearing is sought, all parties shall appear on or before the day fixed for the hearing before a Judge who may make such order, including an order for removal of the case from the Ready List, as he deems fit.”

P. J. BROOKS,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the rules, but is intended to indicate their general effect.

Rule 2 amends rule 403 of the Code of Civil Procedure so that a solicitor or counsel shall not be precluded by certain circumstances from certifying an *ex parte* notice of motion correct.

Rules 3 and 4 make provision for the entry of certain classes of business in Ready Lists when they are ready for hearing.

Issued under the authority of the Regulations Act 1936.
Date of notification in *Gazette*: 9 December 1971.
These rules are administered in the Department of Justice.