

Serial Number **1953/121**



**THE SUPREME COURT AMENDMENT RULES 1953**

C. W. M. NORRIE, Governor-General

**ORDER IN COUNCIL**

At the Government House at Wellington, this 30th day of September 1953

Present:

**HIS EXCELLENCY THE GOVERNOR-GENERAL 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 five of the other members of the Rules Committee constituted under the Judicature Amendment Act 1930 (two of those other members being Judges of the Supreme Court), hereby makes the following rules.

**RULES**

1. (1) These rules may be cited as the Supreme Court Amendment Rules 1953, 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 fourteenth day after the date of their notification in the *Gazette*.

2. The Code is hereby amended by inserting, after rule 475, the following rule:

“475A. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a writ of mandamus.”

3. (1) Rule 419 of the Code (as substituted by rule 6 of the Supreme Court Amendment Rules 1951\*) is hereby amended by revoking paragraphs (a), (b), and (f) of subclause (1), and substituting the following paragraphs:

“(a) The Administration Act 1952, section 4, but only where the estate in New Zealand is sworn at a sum not exceeding £5,000:

“(b) The Administration Act 1952, sections 6, 25 (1), and 65:”.

\* Statutory Regulations 1951, Serial number 1951/75, page 281.

(2) Table D in the Third Schedule to the Code (as set out in the Schedule to the Supreme Court Amendment Rules (No. 2) 1952\*) is hereby amended by omitting the words "section 43 of the Administration Act 1908", and substituting the words "section 50 of the Administration Act 1952".

4. Rule 581 of the Code (as substituted by rule 3 of the Supreme Court Amendment Rules (No. 2) 1952\*) is hereby amended by adding the following proviso:

"Provided that the fee for sealing probate or letters of administration, or resealing pursuant to section 50 of the Administration Act 1952, shall be taken on behalf of the proper officer by the Commissioner of Inland Revenue, who shall account to the Secretary for Justice for all such fees so received."

T. J. SHERRARD,  
Clerk of the Executive Council.

\* Statutory Regulations 1952, Serial number 1952/123, page 523.

#### EXPLANATORY NOTE

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

Rule 2 of these rules provides that no action or proceeding will lie against a person acting in obedience to a writ of mandamus issued by the Court.

Rule 3 substitutes references to sections of the Administration Act 1952 for the existing references in the Code of Civil Procedure to the equivalent sections of the Administration Act 1908 and section 74 of the Trustee Act 1908 (which were repealed by the 1952 Act).

Rule 4 provides that sealing fees on probates and letters of administration (instead of being paid at Supreme Court offices) are to be paid to the Commissioner of Inland Revenue, who will account for them to the Secretary for Justice. These fees are calculated on the net value of the estates concerned, as determined by the Inland Revenue Department.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 1 October 1953.

These regulations are administered in the Department of Justice.