

1970/250

THE SUPREME COURT AMENDMENT RULES 1970

—
 ARTHUR PORRITT, Governor-General

ORDER IN COUNCIL

At the Government House at Wellington this 7th day of December 1970

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to the Judicature Act 1908 and the Crown Proceedings Act 1950, 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.

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R U L E S

1. Title and commencement—(1) These rules may be cited as the Supreme Court Amendment Rules 1970, 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. Jury notices—(1) The Code is hereby amended by revoking rule 254 (as substituted by rule 9 (1) of the Supreme Court Amendment Rules 1963*), and substituting the following rule:

“254. (1) Where either party to an action to which section 2 of the Judicature Amendment Act (No. 2) 1955 applies requires the action to be tried before a Judge and a jury he shall, subject to subclause (2) of this rule, give notice to that effect to the Court and to the other party—

“(a) If he signs the praecipe entering the action for trial, in that praecipe:

“(b) If he does not sign that praecipe and the other party has entered that action for trial before a Judge alone, in the form No. 19 in the First Schedule hereto within 4 days from the day when he receives notice that the action has been so entered for trial:

“(c) If he is an applicant under rule 250B, at the foot of his notice of motion under that rule:

“(d) If he is served with a notice of motion under rule 250B which does not contain a notice requiring the action to be tried before a Judge and a jury, in the form No. 19 in the First Schedule hereto before the hearing of the motion and in any event within 4 days from the day when he is served with the notice of motion.

“(2) Notice pursuant to subclause (1) of this rule shall be given by a party on the first occasion on which he is obliged under paragraphs (a) to (d) of that subclause to give it.

“(3) Subject to subsection (5) of section 2 of the Judicature Amendment Act (No. 2) 1955 (as amended by section 4 of the Judicature Amendment Act 1960 and by section 8 of the Judicature Amendment Act 1961), where a party to an action has given a notice in accordance with the foregoing provisions of this rule no party to that action shall enter it for trial before a Judge alone.”

(2) Rule 9 of the Supreme Court Amendment Rules 1963 is hereby consequentially revoked.

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.

These rules amend the Code of Civil Procedure by substituting a new rule 254 which prescribes the procedure for giving a notice requiring an action to be heard before a jury. Where application is made to a Judge under rule 250B for an order directing that an action be tried the necessary notice must now be given in the application or, in the case of a party other than the applicant, before the hearing of the application and in any event within 4 days from the service of the application.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 10 December 1970.

These rules are administered in the Department of Justice.