

1963/170



## THE SUPREME COURT AMENDMENT RULES (NO. 2) 1963

BERNARD FERGUSSON, Governor-General

### ORDER IN COUNCIL

At the Government Buildings at Wellington this 23rd day of September  
1963

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., 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 four of the other members of the Rules Committee constituted under the Judicature Amendment Act 1930 (of whom at least one was a Judge of the Supreme Court), hereby makes the following rules.

### RULES

1. (1) These rules may be cited as the Supreme Court Amendment Rules (No. 2) 1963, 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 revoking rule 201, and substituting the following rule:

“201. **May be sworn on Sunday**—An affidavit may be sworn on any day, including Sunday.”

3. (1) Rule 426H of the Code (as inserted by rule 3 of the Supreme Court Amendment Rules (No. 2) 1954\*) is hereby amended by omitting from paragraph (a) of subclause (1) the words “but only where the estate in New Zealand is sworn at a sum not exceeding £5,000”:

(2) Rule 426H of the Code (as so inserted) is hereby further amended by inserting, after subclause (1), the following subclause:

“(1A) The said Registrars shall also have the jurisdiction and powers of a Judge sitting in Chambers in respect of any unopposed application for leave to swear that any person is dead with the view of obtaining a grant of administration of that person’s estate in New Zealand under section 4 of the Administration Act 1952.”

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

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#### EXPLANATORY NOTE

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

These rules make three amendments to the Code of Civil Procedure.

Rule 2 substitutes a new rule 201. This new rule enables an affidavit to be sworn on a Sunday.

Rule 3: Under rule 426H of the Code the Registrars at Auckland, Wellington, Christchurch, and Dunedin at present have the jurisdiction and powers of a Judge sitting in Chambers to grant administration of the estate of a deceased person where the estate in New Zealand is sworn at a sum not exceeding £5,000.

The amendment made by subclause (1) of this rule removes the limit of £5,000.

Rule 426H is further amended by subclause (2) of this rule to give those Registrars the power to grant applications for leave to swear death where the application is unopposed.

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Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 26 September 1963.

These regulations are administered in the Department of Justice.