

1970/251



THE SUPREME COURT AMENDMENT RULES (NO. 2) 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, 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 2 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 1 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 (No. 2) 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 1st day of January 1971.

2. Amendments related to the Insolvency Rules 1970—(1) Rule 394 of the Code (as substituted by rule 3 of the Supreme Court Amendment Rules (No. 2) 1954*) is hereby amended by revoking subclause (2), and substituting the following subclause:

“(2) Subject to the provisions of rule 426H, this Part of these rules shall not apply to proceedings under the Matrimonial Proceedings Act 1963 or the Companies Act 1955, except so far as any provision of this Part is applied by rules of Court made under either of those Acts.”

(2) Rule 398 of the Code (as substituted by rule 3 of the Supreme Court Amendment Rules (No. 2) 1954*) is hereby amended by inserting in subclause (1), after the expression “and 487”, the words “and by rule 44 of the Insolvency Rules 1970”.

3. Amendments related to the Administration Act 1969—(1) Rule 426H of the Code (as inserted by rule 3 of the Supreme Court Amendment Rules (No. 2) 1954* and amended by rule 3 of the Supreme

Court Amendment Rules (No. 2) 1963*) is hereby amended by revoking paragraphs (a) and (b) of subclause (1), and substituting the following paragraphs:

“(a) Sections 5 to 9 of the Administration Act 1969, but only in relation to the granting of administration (as defined in section 2 (1) of that Act) of the estates of deceased persons who leave estate in New Zealand:

“(b) Section 15 of the Administration Act 1969, section 35 (4) of the Trustee Act 1956, and section 154 (3) of the Insolvency Act 1967:”.

(2) Rule 426H of the Code (as so inserted and amended) is hereby amended by omitting from subclause (1A) the words “section 4 of the Administration Act 1952”, and substituting the words “sections 5 to 9 of the Administration Act 1969”.

(3) Rule 447 of the Code (as amended by rule 3 of the Supreme Court Amendment Rules (No. 3) 1951†) is hereby amended by omitting the words “of five pounds per centum per annum”, and substituting the words “for the time being prescribed by or under section 39 of the Administration Act 1969”.

(4) Subclause (1) of rule 3 of the Supreme Court Amendment Rules (No. 2) 1963 is hereby revoked.

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

*S.R. 1963/170
†S.R. 1951/261

EXPLANATORY NOTE

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

These rules make amendments to the Code of Civil Procedure which are consequential on the coming into force of the Insolvency Act 1967 and the Administration Act 1969 on 1 January 1971.

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.