

**Reprint**  
**as at 1 November 2009**

**District Courts Amendment Rules  
(No 2) 2001**

(SR 2001/381)

District Courts Amendment Rules (No 2) 2001: revoked, on 1 November 2009,  
pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

Pursuant to section 122 of the District Courts Act 1947, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Chief District Court Judge and at least 2 other members of the Rules Committee (of whom at least 1 was a District Court Judge), makes the following rules.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**These rules are administered in the Ministry of Justice and the Department for Courts.**

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**1 Title**

- (1) These rules are the District Courts Amendment Rules (No 2) 2001.
- (2) In these rules, the District Courts Rules 1992<sup>1</sup> are called “the principal rules”.

**2 Commencement**

These rules come into force on 1 February 2002.

**3 Search of Court records generally**

Rule 69(4)(i) of the principal rules is amended by omitting the expression “Matrimonial Property Act 1976”, and substituting the expression “Property (Relationships) Act 1976”.

**4 When allowed without leave**

Rule 242 of the principal rules (which relates to service out of New Zealand) is amended by omitting from paragraph (h) the words “Matrimonial Property Act 1963 or the Matrimonial Property Act 1976”, and substituting the expression “Property (Relationships) Act 1976”.

**5 Application of this Part to proceedings under certain Acts**

Rule 440(1) of the principal rules is amended by revoking paragraph (c).

**6 New rule 440A inserted**

The District Courts Rules are amended by inserting, after rule 440, the following rule:

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<sup>1</sup> SR 1992/109

**“440A Application of rule 447 to proceedings under Property (Relationships) Act 1976**

Rule 447 (which relates to joinder of claims and consolidation) applies to proceedings under the Property (Relationships) Act 1976, but no other rule in this Part applies to proceedings under that Act.”

**7 Directions as to service**

Rule 444(3) of the principal rules is amended by omitting the words “, the Law Reform (Testamentary Promises) Act 1949, or the Matrimonial Property Act 1963, the information required by subclause (2) shall include”, and substituting the words “or the Law Reform (Testamentary Promises) Act 1949, the information required by subclause (2) includes”.

**8 Joinder of claims and consolidation**

Rule 447 of the principal rules is amended by revoking subclause (2), and substituting the following subclauses:

“(2) A surviving spouse or de facto partner (the **survivor**) may include a claim under the Property (Relationships) Act 1976 against the estate of the deceased spouse or de facto partner in any proceeding against that estate under—

“(a) the Family Protection Act 1955; or

“(b) the Law Reform (Testamentary Promises) Act 1949; or

“(c) both of those Acts.

“(2A) For the purposes of subclause (2),—

“(a) the survivor need not also claim under either or both of the Acts referred to in subclause (2)(a) and (b); but

“(b) if the survivor does claim under either or both of those Acts, his or her claim under the Property (Relationships) Act 1976 need not be made in the alternative.”

**9 New rule 449 substituted**

The principal rules are amended by revoking rule 449, and substituting the following rule:

**“449 Time for serving claimant’s affidavit in proceedings under Family Protection Act 1955**

A claimant against the estate of a deceased person under the Family Protection Act 1955 must, at the time of serving his or her statement of claim, serve his or her own affidavit in support of his or her statement of claim.

“Compare: High Court Rules r 456”.

Marie Shroff,  
Clerk of the Executive Council.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

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## **Notes**

### **1 General**

This is an eprint of the District Courts Amendment Rules (No 2) 2001. It incorporates all the amendments to the rules as at 1 November 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

### **2 About this eprint**

This eprint has not been officialised. For more information about officialisation, please *see* “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

### **3 List of amendments incorporated in this eprint (most recent first)**

District Courts Rules 2009 (SR 2009/257): rule 17.1

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