

*Amending the Code of Civil Procedure under the Judicature Act, 1908.*

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 18th day of March, 1936.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to section three of the Judicature Amendment Act, 1930, His Excellency the Governor-General, with the advice and consent of the Executive Council and with the concurrence of the Right Honourable the Chief Justice and all of the other members of the Rules Committee constituted under the Judicature Amendment Act, 1930 (four of such other members being Judges of the Supreme Court), doth hereby make the following rules amending the Code of Civil Procedure set forth in the Second Schedule to the Judicature Act, 1908.

R U L E S .

1. These rules may be cited as the Supreme Court (Miscellaneous) Amendment Rules, 1936, and shall come into force on the day following the publication hereof in the *Gazette*.

2. The code of Civil Procedure set forth in the Second Schedule to the Judicature Act, 1908, is hereby amended as follows:—

(a) The Code is amended by inserting therein following Rule 132 thereof the following additional rule:—

“132A. The time within which the plaintiff shall file his statement of defence to the counterclaim shall be seven, ten, or fourteen days after service of the counterclaim on the plaintiff, according as the plaintiff resides not more than twenty miles, more than twenty but not more than one hundred miles, or more than one hundred miles from the office of the Court in which such statement of defence is to be filed.”

(b) Rule 148 is amended by revoking the words “costs of the original statement,” and substituting the following words: “costs of and occasioned by the original statement.”

(c) Rule 188 is hereby revoked, and the following rule substituted in lieu thereof:—

“188. Affidavits or affirmations may be sworn or made outside New Zealand in Great Britain or any other State of the British Commonwealth of Nations, or in any dependency, colony, protectorate, or mandated territory of any such State before any Judge, Court, Notary Public, or person lawfully authorized to administer oaths in such country.

“188A. Affidavits or affirmations may be sworn or made in any country outside the places specified in Rule 188 before any British Minister or Consular Officer exercising his functions in that country.

“188B. Judicial notice shall be taken of the seal or signature, as the case may be, of any Judge, Court, Notary Public, person authorized to administer oaths, or British Minister or Consular Officer, attached, appended, or subscribed to any affidavit or affirmation taken or made under the two last preceding rules.

“188c. (1) Affidavits or affirmations may in any country outside the places specified in Rule 188—

“(a) Where there is no British Minister or Consular Officer conveniently available, or

“(b) Where by the law of the country a British Minister or Consular Officer is not allowed to administer an oath—

be sworn or made before any person lawfully authorized to administer oaths in such country.

“(2) A statement in an affidavit or affirmation so sworn or made to the effect that no British Minister or Consular Officer is conveniently available, or that by the law of the foreign country a British Minister or Consular Officer is not allowed to administer an oath, shall be sufficient evidence of the fact so stated.

“188d. Judicial notice may be taken of the seal or signature of any person before whom an affidavit or affirmation is sworn or made under Rule 188c, and (if in the jurat or any part of the affidavit or affirmation it is so stated) of the fact that such person is lawfully authorized to administer oaths in such country.