



CODE OF CIVIL PROCEDURE AMENDMENT RULES 2007

Sir F. Goodwin, K.B.E.

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 15th day of February 2007

Present:

**HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE
IN EXECUTIVE COUNCIL**

PURSUANT to Section 102 of the Judicature Act 1980-81 and with the concurrence of the Rules Committee, the Queen's Representative, acting by and with the advice and consent of the Executive Council, makes the following rules:

ANALYSIS

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|------------------------|-------------------------------|
| 1. Title | 3. Negotiating for settlement |
| 2. Address for service | |

RULES

1. Title – These rules may be cited as the Code of Civil Procedure Amendment Rules 2007 and shall be read together with and deemed part of the Code of Civil Procedure of the High Court 1981 (herein referred to as “the Code”).

2. Address for service – The Code is amended by inserting after rule 23, the following rule –

“23A. Address for service - (1) Notwithstanding any other provision in these rules, every statement of claim, originating, interlocutory or other application and every statement of defence or counterclaim, shall in the manner prescribed by subclause (2), state thereon the address for service of the party filing that document

and the Registrar shall not accept that document for filing unless it states thereon an address for service in accordance with this rule.

(2) In this rule and in any other rule requiring an address for service, "address for service" means, unless the Court orders otherwise in respect of a particular action or proceeding, a physical address (not being a post office box number) on Rarotonga for the service of documents on a party to the action or proceeding, or a party's solicitor or agent, such address to be described with sufficient detail to enable any person serving documents on that address, to readily locate the address."

3. Negotiating for settlement - The Code is amended by inserting after rule 126, the following rules:

"126A. Judge may assist in negotiating for settlement - (1) A Judge may at any time before the trial commences, convene a conference in Chambers of the parties for the purpose of negotiating for a settlement of the proceeding or issue and may assist in such negotiation, but that Judge shall not preside at the trial of the proceeding unless -

- (a) all parties taking part in the conference consent; and
- (b) the Judge is satisfied that there are no circumstances that would make it inappropriate for him or her to do so.

(2) A Judge may at any time during the trial with the consent of the parties, convene a conference in Chambers of the parties for the purpose of negotiating for a settlement of the proceeding or of any issue; and the Judge shall arrange for another Judge or, with the consent of the parties, an appropriately qualified Justice of the Peace to assist in such negotiations.

126B. Justice of the Peace may assist in negotiating for settlement - (1) A Justice of the Peace may at any time before the trial commences, convene a conference in Chambers of the parties for the purpose of negotiating for a settlement of the proceeding or issue and may assist in such negotiation, but that Justice of the Peace shall not preside at the trial of the proceeding unless -

- (a) all parties taking part in the conference consent; and
- (b) the Justice of the Peace is satisfied that there are no circumstances that would make it inappropriate for him or her to do so.

(2) A Justice of the Peace may at any time during the trial with the consent of the parties, convene a conference in Chambers of the parties for the purpose of negotiating for a settlement of the proceeding or of any issue; and the Justice of the Peace shall arrange for another appropriately qualified Justice of the Peace consented to in either event by the parties, to assist in such negotiations.

126C. Arbitration by consent - (1) The parties to a proceeding may agree to arbitration of their dispute or any part of it under the Arbitration Act 1908 at any time during the course of the proceeding.

(2) If the parties so agree, the Court shall on such terms as may be appropriate, stay the proceedings or stay that part of the proceedings which is subject to the agreement to arbitrate, and refer the parties to arbitration.

(3) Subclause (2) shall not apply if the Court finds that the agreement referred to in subclause (1) has no effect, or is inoperative or is incapable of being performed.”

Grover L. Harmon
Clerk of the Executive Council

These rules are administered by the Ministry of Justice

BY AUTHORITY:
Cook Islands Government - 2007