



2005/05

**CODE OF CIVIL PROCEDURE OF THE HIGH COURT  
AMENDMENT 2005**

Sir F. Goodwin, KBE

Queen's Representative

**ORDER IN EXECUTIVE COUNCIL**

At Avarua, Rarotonga this     th     day of                     July                     2005

**Present:**

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

**PURSUANT** to Section 102 of the Judicature Act 1980-81 as substituted by Section 2 of the Judicature Amendment Act 1981 and with the concurrence of the Rules Committee, His Excellency the Queen's Representative, acting by and with the advice and consent of the Executive Council hereby makes the following amendments to the Code of Civil Procedure of the High Court 1981.

**ANALYSIS**

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| 1. Title and commencement   | 5. Advertising fee for application filed in the Land Division of the High Court |
| 2. Reference to High Court Fees, Costs and Allowances Regulations | 6. Duplicate of lost document   |
| 3. Searches   |   |
| 4. No fees payable on filing confession or defence                |   |

**RULES**

1. Title and commencement - (1) These Rules may be cited as the Code of Civil Procedure of the High Court Amendment 2005 and shall be read together with and deemed part of the Code of Civil Procedure of the High Court 1981 (hereinafter referred to as "the Code").

(2) These Rules shall come into force on the 1st day of August 2005.

Price \$1.50

2. Reference to High Court Fees, Costs and Allowances - The Code is hereby amended by deleting all reference to the term "High Court Fees, Costs and Allowances 1981" throughout the Code and substituting with the term "High Court Fees, Costs and Allowances 2005".

3. Searches – The Code is hereby amended by repealing Rule 23 and substituting a new Rule 23:

"23. Searches – (1) Subject to any special provisions of any Act or rule, any person shall, on payment of the prescribed fee, have the right to search, inspect, and copy any document on any file in any action, proceeding or matter that has been determined but not before such determination.

(2) Nothing in this rule shall be construed to prevent any party to any action, proceeding or matter from searching, inspecting and copying any Court books or documents relating to that action, proceeding or matter.

(3) Subject to the foregoing and subject to any special provisions of any Act or rule, no person shall be entitled to search, inspect or copy any Court book or any document on any such file without leave of the Registrar. Any person aggrieved by the refusal of the Registrar to grant leave may apply to a Judge, who may in his discretion grant or refuse leave.

(4) For the purpose of this rule, "document" includes –

- (a) The record of oral evidence given at any hearing other than any notes made personally by the Judge or Justice or Justices of the Peace;
- (b) All exhibits produced in evidence;
- (c) The record made of the reasons given by the Judge or Justice or Justices of the Peace for his or her or their judgment other than any notes made personally by the Judge or Justice or Justices of the Peace.

(5) Every search shall be entered in the search book, signed by the applicant who shall pay the prescribed fee.

4. No fees payable on filing confession or defence – The Code is hereby amended by repealing altogether Rule 108.

5. Advertising fee for applications filed in the Land Division of the High Court – The Code is hereby amended by amending Rule 318A as inserted by the Code of Civil Procedure of the High Court Amendment 1998 by deleting the amount "\$10.00" wherever it appears and substituting thereof by the amount of "\$15.00".

6. Duplicate of lost document – The Code is hereby amended by repealing Rule 322 and substituting a new Rule 322:

"322 Duplicate or copy of lost document – In the event of any summons, warrant, order, or other document issued by or registered with the Court being lost or destroyed a duplicate or copy thereof may from time to time be issued

and treated as original upon proof, by affidavit or otherwise, to the satisfaction of the Registrar of the loss or destruction of the document.”

G. Harmon  
**Clerk of Executive Council**

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These Rules are administered by the Ministry of Justice

**BY AUTHORITY:**  
Government of the Cook Islands – 2005