

46. Service of a writ of summons in an action to recover land, may, in case of vacant possession, when it cannot otherwise be effected, be made by posting a copy of the writ upon the door of the dwelling-house, or other conspicuous part of the property.

47. When a defendant is beyond the limits of the colony, if he have an attorney or agent authorized to transact his affairs generally, and to defend actions on his behalf, the writ may, by leave of the Court or a Judge, be served upon such attorney or agent, subject to such terms as the Court or a Judge may think right to impose.

SERVICE OUT OF THE COLONY.

48. The writ of service may be served out of the colony by leave of a Judge—

- (1.) When any act for which damages are claimed was done within the colony
- (2.) When the contract which is sought to be enforced or rescinded, dissolved, annulled, or otherwise affected in any action, or for the breach whereof damages or other relief are or is demanded in the action, was made or entered into, or was to be wholly or in part performed within the colony.
- (3.) Whenever there has been a breach within the colony of any contract, wherever made.
- (4.) Whenever it is sought to compel or restrain the performance of any act within the colony
- (5.) Whenever the subject matter of the action is land, stock, or other property situated within the colony, or any act, deed, will, or thing affecting such land, stock, or property.

49. Upon any application to serve a writ of summons under subsection 2 or subsection 3 of the last preceding rule, the Judge, in exercising his discretion as to granting leave to serve such writ, shall have regard to the amount or value of the property in dispute or sought to be recovered, and to the existence in the place of residence of the defendant, of a Court having jurisdiction in the matter in question, and to the comparative cost and convenience of proceeding in New Zealand, or in the place of such defendant's residence, and, in the above-mentioned cases, no such leave is to be granted without an affidavit stating the particulars necessary for enabling the Judge to exercise his discretion in manner aforesaid, and all such particulars (if any) as he may require to be shown.

50. Every application for an order for leave to serve a writ out of the colony, shall be supported by evidence, by affidavit or otherwise, showing in what place or country such defendant is or probably may be found, and whether such defendant is a British subject or not, and the grounds on which the application is made.

51. Any order giving leave to effect such service shall fix the time within and the place at which the defendant is to file his statement of defence, and the sittings of the Court at which the action is to be heard.

SERVICE GENERALLY.

52. In all cases where the defendant does not speak the English language the plaintiff shall serve a translation of the writ and statement of claim upon the defendant, together with the writ itself.

53. In any case not provided for by these rules service shall be effected in such manner as the Court or a Judge shall direct.

CHAPTER II.

PARTIES TO AN ACTION

54. All persons may be joined as plaintiffs, in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given for such one or more of the plaintiffs as may be found entitled to relief, for such relief as he or they may be entitled to, without any amendment. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person or persons who shall not be found entitled to relief, unless the Court, in disposing of the costs of the action, shall otherwise direct.

55. When an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff or plaintiffs, the Court or a Judge may at any time, if satisfied that it has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs upon such terms as may seem just.

56. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative. And judgment may be given against such one or more of the defendants as may be found to be liable according to their respective liabilities, without any amendment.

57. It shall not be necessary that every defendant to any action shall be interested as to all the relief thereby prayed for, or as to every cause of action included therein, but the Court or a Judge may make such order as may appear just, to prevent any defendant from being embarrassed, or put to expense, by being required to attend any proceedings in such action in which he may have no interest.

58. The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally liable on any one contract, including parties to bills of exchange and promissory notes.

59. When in any action, whether founded upon contract or otherwise, the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants to the intent, that in such action the question as to which (if any) of the defendants is liable, and to what extent, may be determined as between all parties to the action.

60. Trustees, executors, and administrators may sue, and be sued, on behalf of, or as representing the property or estate of which they are trustees or representatives, without joining any of the parties beneficially interested in the trust or estate, and shall be considered as representing such parties in the action; but the Court or Judge may, at any stage of the proceedings, order any of such parties to be made parties to the action, either in addition to, or in lieu of, the previously existing parties thereto.