



Family Courts Amendment Rules 2004

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 26th day of May 2004

Present:

Her Excellency the Governor-General in Council

Pursuant to section 16A of the Family Courts Act 1980, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following rules.

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Rules

1 Title

- (1) These rules are the Family Courts Amendment Rules 2004.
- (2) In these rules, the Family Courts Rules 2002¹ are called “the principal rules”.

¹ SR 2002/261

2 Commencement

These rules come into force on 1 July 2004.

3 New rule 130 substituted

The principal rules are amended by revoking rule 130, and substituting the following rule:

“130 District Courts Rules 1992 apply

“(1) Rules 242 to 246 of the District Courts Rules 1992 (which relate to service on party out of New Zealand) apply, so far as applicable and with all necessary modifications, to proceedings in a Court under the following Acts:

“(a) Adoption Act 1955:

“(b) Births, Deaths, and Marriages Registration Act 1995:

“(c) Children, Young Persons, and Their Families Act 1989:

“(d) Domestic Actions Act 1975:

“(e) Domestic Violence Act 1995:

“(f) Family Protection Act 1955:

“(g) Law Reform (Testamentary Promises) Act 1949:

“(h) Marriage Act 1955:

“(i) Property (Relationships) Act 1976.

“(2) Rules 242 to 245 of the District Courts Rules 1992 apply, so far as applicable and with all necessary modifications, to proceedings in a Court under the following Acts:

“(a) Child Support Act 1991:

“(b) Protection of Personal and Property Rights Act 1988.

“(3) Rule 246 the District Courts Rules 1992 applies, so far as applicable and with all necessary modifications, to proceedings in a Court under the following Acts:

“(a) Guardianship Act 1968:

“(b) Family Proceedings Act 1980.”

4 Change of Judge after judicial or settlement conference

(1) The heading to rule 180 of the principal rules is amended by omitting the words “or settlement”.

(2) Rule 180(1) of the principal rules is amended by omitting the words “or settlement”.

5 Proof of service of certain applications

Rule 357(2)(e) of the principal rules is amended by omitting the words “or Judge”.

6 Fee for proceedings under Adoption Act 1955

Rule 420 of the principal rules is revoked.

7 Schedule 3 amended (forms CS 28 and CS 31)

- (1) Form CS 28 in Schedule 3 of the principal rules is amended by omitting from clauses 1, 3, and 4 the word “declaration”, and substituting in each case the word “affidavit”.
- (2) Form CS 31 in Schedule 3 of the principal rules is amended by omitting the words “*Delete if inapplicable.”

8 Schedule 6 amended (forms FP 2, FP 18, FP 22, and FP 27)

- (1) Form FP 2 in Schedule 6 of the principal rules is amended by omitting from the second main bullet point under the section headed “**Information**” the words “do so,”, and substituting the words “resume or continue the marriage,”.
- (2) Form FP 18 in Schedule 6 of the principal rules is amended by omitting from clauses 1, 3, and 4 the word “declaration”, and substituting in each case the word “affidavit”.
- (3) Form FP 22 in Schedule 6 of the principal rules is amended by omitting from the section headed “**Note**” the words “[*chief executive of the Department for Courts*]”, and substituting the words “Secretary for Justice”.
- (4) Form FP 27 in Schedule 6 of the principal rules is amended by omitting from paragraph (a) in the section headed “**Note**” the words “Department for Courts”, and substituting the words “Ministry of Justice”.

9 Schedule 9 amended (forms PPPR 5 and PPPR 6)

- (1) Form PPPR 5 in Schedule 9 of the principal rules is amended—
 - (a) by omitting the expression “\$1,000”, and substituting the expression “\$2,000”; and
 - (b) by omitting the expression “\$10,000”, and substituting the expression “\$20,000”.
- (2) Form PPPR 6 in Schedule 9 of the principal rules is amended—
 - (a) by omitting the expression “\$1,000”, and substituting the expression “\$2,000”; and

- (b) by omitting the expression “\$10,000”, and substituting the expression “\$20,000”.

Diane Morcom,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 1 July 2004, amend the Family Courts Rules 2002 (“the principal rules”).

Rule 3 replaces rule 130 of the principal rules with a new rule, which applies certain provisions of the District Courts Rules 1992 relating to service on a party outside New Zealand to proceedings in a Family Court. *New rule 130* ensures the only District Courts rule that applies to proceedings under the Guardianship Act 1968 or Family Proceedings Act 1980 is rule 246 (service in Convention countries). This is the position that existed before the principal rules came into force.

Rule 4 amends rule 180 of the principal rules, which provides that a Judge who has presided over a judicial or settlement conference cannot preside at the hearing of the proceedings. This rule is amended so that it applies only in relation to judicial conferences.

Rule 5 amends rule 357(2)(e) of the principal rules, which relates to proof of service of certain applications, to delete an unnecessary word.

Rule 6 revokes rule 420 of the principal rules, which provides that a fee of \$100 is payable for an application for an adoption order.

Rule 7 amends forms CS 28 (affidavit of financial means and their sources) and CS 31 (charging order) in Schedule 3 of the principal rules to correct minor drafting errors.

Rule 8 amends forms FP 2 (notice to respondent of reference to counselling), FP 18 (affidavit of financial means and their sources), FP 22 (provisional order for confirmation overseas), and FP 27 (order confirming provisional order for maintenance) in Schedule 6 of the principal rules to correct minor technical and drafting errors.

Rule 9 amends forms PPPR 5 (application for order to administer property of applicant) and PPPR 6 (application for order to administer property) in Schedule 9 of the principal rules to reflect an amendment made in 1997 to section 11(2) of the Protection of Personal and Property Rights Act 1988.

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These rules are administered in the Ministry of Justice.
