



# Property (Relationships) Rules 2001

Silvia Cartwright, Governor-General

## Order in Council

At Wellington this 10th day of December 2001

Present:

The Right Hon Helen Clark presiding in Council

Pursuant to section 53 of the Property (Relationships) Act 1976, 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

These rules are the Property (Relationships) Rules 2001.

### *Preliminary provisions*

### 2 Commencement

These rules come into force on 1 February 2002.

### 3 Interpretation

(1) In these rules, unless the context otherwise requires,—

**Act** means the Property (Relationships) Act 1976

**affidavit of assets and liabilities** means an affidavit required to be filed and served under rule 14(1) or (2)

**applicant**—

- (a) means a person who commences proceedings for an order or declaration under the Act; and
- (b) in proceedings under the Act of the kind referred to in section 10D(1) of the Act (that is, proceedings commenced while both spouses or de facto partners were alive, if 1 or both of them die), includes the personal representative of a deceased spouse or de facto partner who commenced the proceedings

**Court** means a Family Court

**Judge** means a Judge of the Court

**option A** means the option set out in section 61(2) of the Act (that is, to elect to make an application under the Act for a division of the relationship property)

**option B** means the option set out in section 61(3) of the Act (that is,—

- (a) to elect not to make an application under the Act for a division of the relationship property; and
- (b) if the surviving spouse or de facto partner is a beneficiary under the will of the deceased spouse or de facto partner, to receive that property; and

- (c) if the surviving spouse or de facto partner is entitled to a beneficial interest on the intestacy or partial intestacy of the deceased spouse or de facto partner, to receive that interest)

**Registrar** means the Registrar of the Court; and includes a Deputy Registrar of the Court

**respondent—**

- (a) means a person referred to in rule 6(1)(c)(i) (that is, in relation to proceedings for an order or declaration under the Act, a person intended to be served with notice of the application for the order or declaration); and
- (b) in proceedings under the Act commenced, after the death of 1 spouse or de facto partner, by the surviving spouse or de facto partner, includes the personal representative of the deceased spouse or de facto partner; and
- (c) in proceedings under the Act of the kind referred to in section 10D(1) of the Act (that is, proceedings commenced while both spouses or de facto partners were alive, if 1 or both of them die) includes the personal representative of a deceased spouse or de facto partner on whom notice of the application concerned was served

**without notice**, in relation to an application made under the Act, includes an application that the Act provides may be made *ex parte*

**working day** has the meaning given to it in rule 3(1) of the District Courts Rules 1992.

- (2) A reference in these rules to a numbered form is a reference to that numbered form as set out in the Schedule.
- (3) Terms used and not defined in these rules but defined in the Act have, in these rules, the meaning given to them by the Act.

Compare: SR 1988/46 r 2

#### **4 Application of District Courts Rules 1992**

- (1) Except as provided in subclause (3), these rules apply in addition to any relevant rules in the District Courts Rules 1992.
- (2) If, in proceedings under the Act, a question arises as to the application of these rules, or a situation arises for which no provision is made under either these rules or the District

Courts Rules 1992, the Court must dispose of the case in the way that the Judge thinks best calculated to promote the ends of justice.

- (3) The following rules of the District Courts Rules 1992 do not apply to proceedings under the Act:
- (a) rule 112 (proceeding commenced by filing statement of claim):
  - (b) rules 126 and 127 (filing of notice of proceeding):
  - (c) rules 135 and 136 (filing and service of statement of defence):
  - (d) rules 151 to 167 (summary judgment procedure):
  - (e) rules 439 to 451 (procedure in special cases), except for rule 447 (joinder of claims and consolidation):
  - (f) rules 452 to 461 (originating applications).

Compare: SR 1988/46 r 2A

### *Commencement of proceedings*

#### **5 Proceedings to be commenced by originating application**

- (1) Proceedings under the Act must be commenced by filing an originating application in the Court, in accordance with rule 7.
- (2) The application must,—
- (a) if made on notice, be in form P(R) 2; and
  - (b) if made without notice, be in form P(R) 3.

Compare: SR 1988/46 r 2B

#### **6 Contents of application**

- (1) Every application commencing proceedings under the Act must specify—
- (a) the order or declaration applied for; and
  - (b) sufficient particulars to show the grounds on which the applicant claims to be entitled to the order or declaration; and
  - (c) if made on notice,—
    - (i) the names and addresses of the persons intended to be served (in these rules referred to as **respondents**); and
    - (ii) the applicant's address for service.
- (2) Every application commencing proceedings under the Act must be accompanied by an information sheet in form P(R) 4.

Compare: SR 1988/46 r 2C

## 7 Filing of application

Unless an enactment requires otherwise, an application commencing proceedings under the Act may be filed—

- (a) in the Court nearest to the place where the respondent or 1 of the respondents resides or carries on business; or
- (b) in the Court nearest to the place where the subject matter of the proceeding arose wholly or in part; or
- (c) if no respondent is named in the application, in the Court nearest to the place where the applicant or 1 of the applicants resides or carries on business.

Compare: SR 1988/46 r 2D

## 8 Affidavit in support

- (1) Unless a Judge or Registrar directs otherwise, an application commencing proceedings under the Act must be accompanied by an affidavit sufficient to inform the Court of the facts relied on by the applicant in support of the application.
- (2) The affidavit must include information about any of the following matters that are relevant in a particular case:
  - (a) when the marriage or de facto relationship began;
  - (b) the parties and their property;
  - (c) children of the marriage or de facto relationship;
  - (d) proposed arrangements for the division of property;
  - (e) if the application is one that relates to the estate of a deceased spouse or de facto partner,—
    - (i) whether the deceased died testate or intestate; and
    - (ii) whether the survivor of the deceased spouse or de facto partner has chosen option A or option B;
  - (f) matters in issue between the parties.
- (3) The affidavit may have annexed to it a copy of any document relied on by the applicant in support of the application (for example, if the survivor has chosen option A, a copy of the notice required to be lodged by section 65(2)(c) of the Act).
- (4) Unless a Judge or a Registrar directs otherwise, a respondent must, within 20 working days of service on the respondent of the application commencing proceedings under the Act, file an affidavit sufficient to inform the Court of the facts relied on by the respondent.
- (5) The affidavit filed by the respondent—

- (a) must include information about any of the matters listed in subclause (2)(a) to (f) that are relevant in a particular case; and
- (b) may have annexed to it a copy of any document relied on by the respondent.

## **9 Front page**

Every document filed by a party (other than a document tendered in evidence or a certificate or a report) must have a front page in form P(R) 1.

## **10 Date of hearing**

On the filing of the application, the Registrar must—

- (a) fix a date and time for the hearing of the application; and
- (b) if the application is filed by post, send to the applicant a notice of the date and time fixed for the hearing of the application.

Compare: SR 1988/46 r 2E

## **11 Respondent's address for service**

The first document filed by a respondent must state an address for service, in accordance with the District Courts Rules 1992.

Compare: SR 1988/46 r 2F

## **12 Applications without notice**

- (1) An order may be made on an application without notice if the Act or these rules authorise that, or the Judge to whom the application is made is satisfied—
  - (a) that the delay that would be caused by proceeding on notice would or might entail irreparable injury; or
  - (b) that the application affects the party moving only, or is in respect of a matter of routine, or is of so unimportant a nature that the interests of any other party to the proceeding cannot be affected by the application; or
  - (c) that the party in respect of whom the order is sought cannot be found.
- (2) If an order has been made, under this rule, on an application without notice, against a party or person, the party or person may at any time move to rescind the order.

Compare: SR 1988/46 r 2G

*Disclosure***13 Applications under Act to which rules 14 and 15 apply**

- (1) Rules 14 and 15 apply to the following applications:
  - (a) an application made on or after 1 February 2002 for an order under section 25(1)(a) of the Act; and
  - (b) an application made on or after 1 February 2002 for any other order or declaration under the Act, but only if a Judge orders that rules 14 and 15 apply to the application.
- (2) An order under subclause (1)(b) may be made on the Judge's own initiative or on an application for the purpose.

Compare: SR 1988/46 r 3(1)

**14 Affidavit disclosing assets and liabilities**

- (1) If this rule applies to an application, the applicant must, within 20 working days of filing the application or any longer time that a Judge may allow on an application for the purpose,—
  - (a) file an affidavit of assets and liabilities in form P(R) 5 in the office of the Court in which the application was filed; and
  - (b) effect personal service of a copy of the affidavit on the respondent to the application.
- (2) The respondent to an application to which this rule applies must, within 20 working days of service on the respondent of the copy of the affidavit referred to in subclause (1)(b) or any shorter or longer time that a Judge may specify on an application for the purpose,—
  - (a) file an affidavit of assets and liabilities in form P(R) 5 in the office of the Court in which the applicant's affidavit was filed under subclause (1)(a); and
  - (b) serve a copy of the affidavit on the applicant.
- (3) If the respondent to an application to which this rule applies has not, at the time the respondent files an affidavit of assets and liabilities, already filed an address for service, that affidavit must state an address for service, in accordance with rule 11.

Compare: SR 1988/46 r 4

**15 Insufficient affidavit of assets and liabilities**

- (1) Subclause (2) applies to a party to an application to which this rule applies (**party A**) if—
  - (a) the other party to the application (**party B**) files an affidavit of assets and liabilities, purporting to set out the property of party B that is or may be in issue in the proceedings; but
  - (b) party A believes on reasonable grounds that the affidavit does not accurately set out the nature and value of the property of party B that is or may be in issue in the proceedings.
- (2) Party A may apply to the Court, either without notice or on notice, for—
  - (a) an order requiring party B to file a sufficient affidavit of assets and liabilities; or
  - (b) an order, under section 38(1) of the Act, for an inquiry into the nature and value of the property of party B that is or may be in issue in the proceedings.

Compare: SR 1988/46 r 5

**16 Failure to file affidavit of assets and liabilities or sufficient affidavit of assets and liabilities**

- (1) Subclause (2) applies to an applicant if a respondent who is required under these rules to file an affidavit of assets and liabilities—
  - (a) fails to file an affidavit of assets and liabilities; or
  - (b) fails to file a sufficient affidavit of assets and liabilities.
- (2) The applicant may apply, either without notice or on notice, to the Court for—
  - (a) an order requiring the respondent to attend at a time and place stated in the order for examination by the Court as to any or all of the matters required to be disclosed in an affidavit of assets and liabilities; or
  - (b) an order, under section 38(1) of the Act, for an inquiry into the nature and value of the property of the respondent that is or may be in issue in the proceedings.
- (3) On an application made under subclause (2)(a) in the circumstances referred to in subclause (1)(a), a Judge may make an order for the attendance and examination by the Court of the respondent and for the production of any books or documents relating to the respondent's property.



- (4) An order under subclause (3) must be in form P(R) 6, and must be served personally on the respondent.
- (5) If the respondent fails to attend for examination at the time and place appointed, a Judge may issue a warrant in form P(R) 7 to arrest the respondent and bring the respondent before the Court as soon as possible.
- (6) If the applicant fails to file an affidavit of assets and liabilities or, as the case requires, a sufficient affidavit of assets and liabilities, a Judge may order that the application be—
  - (a) dismissed; or
  - (b) stayed until the order is complied with.
- (7) In exercising the Court's power under section 40 of the Act to make an order as to costs, a Judge must take into account a failure by the applicant or a respondent to file an affidavit of assets and liabilities or, as the case requires, a sufficient affidavit of assets and liabilities.

Compare: SR 1988/46 r 6

## **17 Failure to attend for examination or to comply with directions in relation to examination**

- (1) A Judge may order that a respondent be allowed to defend the application only on terms that the Judge thinks fit if—
  - (a) the respondent fails to comply with an order made under rule 16(3); or
  - (b) the respondent, on attending or being brought before the Court for examination under rule 16, wilfully and without lawful excuse disobeys a direction given to the respondent by the Judge in relation to that examination (including a direction to answer questions).
- (2) Nothing in subclause (1) limits section 112 of the District Courts Act 1947 (which relates to committal for contempt).

Compare: SR 1988/46 r 7

## **18 Power to summon witnesses**

- (1) A Judge may issue a summons in form P(R) 8, requiring a person (other than the respondent) to appear before the Court as a witness at the time and place appointed in the summons, if the Judge believes, in relation to an examination to be held under rule 16, that the person—

- (a) has possession of a book, paper, or document relating to the affairs or property of the respondent; or
  - (b) is capable of giving information concerning the respondent's property, or liabilities, or both.
- (2) A person summoned in that way may be required to produce a book, paper, or document relating to the respondent's affairs or property.
  - (3) A person who is required by a summons issued under subclause (1) to travel more than 20 kilometres to attend the examination is not bound to attend unless expenses in accordance with the scale prescribed by regulations made under the Summary Proceedings Act 1957 are tendered to that person.
  - (4) On the failure of a person to appear before the Court in answer to a summons under subclause (1), a Judge may issue a warrant in form P(R) 9 to arrest the person and bring the person before the Court as soon as possible.

Compare: SR 1988/46 r 8

## **19 Execution of warrants**

- (1) A person to whom a warrant under rule 16(5) or rule 18(4) is issued may execute it immediately, but need not do so if the person believes that the person to be arrested could not, within 72 hours after the arrest, be brought before the Court.
- (2) A warrant under rule 16(5) or rule 18(4) ceases to have effect if a sufficient affidavit of assets and liabilities is filed by the respondent.
- (3) Every respondent or other person apprehended under a warrant under rule 16(5) or rule 18(4) is bailable as of right.

Compare: SR 1988/46 r 9

## **20 Conduct of examination**

- (1) An examination under rule 16 must be made orally on oath before the Court.
- (2) A respondent who is brought before a Court under rule 16—
  - (a) must appear personally; but
  - (b) may be represented by a lawyer who may examine the respondent and be heard on the matter of the respondent's property.
- (3) A witness may be cross-examined by the respondent or his or her lawyer.

- (4) An examination under rule 16 may from time to time be adjourned by the Judge to a time and place then appointed.
- (5) On an examination under rule 16, the following sections apply, so far as applicable and with all necessary modifications, as if the examination were the hearing of a charge:
  - (a) section 46 of the Summary Proceedings Act 1957; and
  - (b) sections 28 to 31 of the Bail Act 2000.

Compare: SR 1988/46 r 10

### *Conference*

#### **21 Judge may call conference**

- (1) For the purpose of ensuring that an application or intended application under the Act may be determined as inexpensively, simply, and speedily as is consistent with justice, a Judge may direct the holding of a conference of—
  - (a) parties or intended parties; or
  - (b) the lawyers representing the parties or intended parties.
- (2) A direction under subclause (1) may be made—
  - (a) at any time; and
  - (b) on an application for the purpose by a party or intended party (either in person or by a lawyer), or on the Judge's own initiative; and
  - (c) on any terms the Judge thinks fit.
- (3) The Judge must preside over the conference, and may adjourn it from time to time and from place to place.
- (4) If the conference is held under a direction under subclause (1)(a), a lawyer representing a party or intended party may attend either—
  - (a) instead of the party or intended party; or
  - (b) with the party or intended party.
- (5) If the conference is held under a direction under subclause (1)(b), a party or intended party who is not represented by a lawyer may attend the conference of lawyers.

Compare: SR 1988/46 r 11

#### **22 Orders and directions**

- (1) At a conference directed to be held under rule 21(1), the Judge presiding may make any orders and give any directions that appear to the Judge best adapted to resolve the application

under the Act as inexpensively, simply, and speedily as is consistent with justice.

- (2) At a conference of that kind, the Judge may—
- (a) settle the issues to be determined:
  - (b) direct that a person be joined as a party to the application, or that the name of a party be joined or struck out:
  - (c) direct which parties must be served:
  - (d) direct by whom and within what time any affidavit or other document must be filed:
  - (e) require a party to make admissions in respect of questions of fact, and, if the party refuses or fails to make an admission in respect of a question of that kind, require the party to bear the costs of proving that question at the hearing, unless the Judge hearing the application directs otherwise:
  - (f) make an order or issue a warrant or summons authorised by any of rules 13 to 18:
  - (g) reduce, extend, or fix a time for the filing of a document or the doing of another thing:
  - (h) require further or better particulars of any facts or other circumstances connected with the application:
  - (i) require a party to make discovery or to produce documents or permit a party to administer interrogatories:
  - (j) appoint a person under section 38(1) of the Act to make an inquiry into the matters of fact in issue between the parties:
  - (k) fix a time and place for the hearing of the proceedings:
  - (l) give any consequential directions that may be necessary.
- (3) Subclause (2) does not limit subclause (1).

Compare: SR 1988/46 r 12

### **23 Non-compliance with order or direction**

If a party fails to comply with an order made or direction given under rule 22, the following provisions apply:

- (a) if the party failing to comply with the order or direction is the applicant in the proceedings, the Judge may order that the proceedings be—
  - (i) dismissed; or
  - (ii) stayed until the order is complied with; and

- (b) if the party failing to comply with the order or direction is the respondent, the Judge may order that the respondent be allowed to defend the application only on terms that the Judge thinks fit; and
- (c) the failure may be taken into account by the Judge in exercising the Court's power under section 40 of the Act to make an order as to costs.

Compare: SR 1988/46 r 13

### *Revocation*

#### **24 Revocation**

The Matrimonial Property Rules 1988 (SR 1988/46) are revoked.

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## **Schedule Forms**

- P(R) 1—Front page of documents
- P(R) 2—Application on notice
- P(R) 3—Application without notice
- P(R) 4—Information sheet to accompany application
- P(R) 5—Affidavit of assets and liabilities
- P(R) 6—Order to attend for examination
- P(R) 7—Warrant to arrest respondent for examination
- P(R) 8—Summons to witness to attend examination
- P(R) 9—Warrant to arrest witness for attendance at examination

r 9

Form P(R) 1  
Front page of documents

In the Family Court  
at *[place]*

No .....

*[full name, address, and occupation of applicant]*

Applicant

*[full name, address, and occupation of respondent]*

Respondent

*[Set out full description of document (including, if it is an application, whether the application is made on notice or without notice), its date, and, if it is an affidavit or affirmation, the name of the deponent and in whose support it is filed.]*

This document is filed by *[name, address for service, and, if filed by lawyers, the name and telephone number of the acting lawyer]*.

Form P(R) 2

r 5(2)(a)

Application on notice

Property (Relationships) Act 1976

(Front page—Form P(R) 1)

I, [full name of applicant], apply for [state precisely the nature of the order(s) or declaration(s) sought].

This application is made on the grounds that [specify grounds on which application is made, following the wording of the Act as closely as may be, and referring to any authority relied on].

.....  
Signature of applicant

.....  
Date

To the Registrar  
Family Court  
[place]

and

To [set out the names and addresses of the persons intended to be served with the application]

**\*Date of hearing**

I appoint [date] at [time] at the Family Court at [place] for the hearing of this application.

.....  
Registrar

.....  
Date

\*To be completed by the Registrar.



r 5(2)(b)

Form P(R) 3  
Application without notice  
*Property (Relationships) Act 1976*

(Front page—Form P(R) 1)

I, *[full name of applicant]*, apply for *[state precisely the nature of the order(s) or declaration(s) sought]*.

This application is made without notice because *[state reason(s) why the application is made without notice]*.

This application is made on the grounds that *[specify grounds on which application is made, following the wording of the Act as closely as may be, and referring to any authority relied on]*.

.....  
Signature of applicant

.....  
Date

**To the Registrar**  
Family Court  
*[place]*

**\*Date of hearing**

I appoint *[date]* at *[time]* at the Family Court at *[place]* for the hearing of this application.

.....  
Registrar

.....  
Date

\*To be completed by the Registrar.

Form P(R) 4

r 6(2)

Information sheet to accompany application

In the Family Court No .....
at [place]

This information sheet accompanies applications for the following order(s) or declaration(s):

- 1 ..... 4 .....
2 ..... 5 .....
3 ..... 6 .....

by [applicant's full name] [occupation] [age in years at date of application]

Gender: .....
Cultural or ethnic identity: .....

Interpreter required: .....
If yes, specify language: .....

- \*Home address: .....
\*Work address: .....
\*Contact telephone numbers(s): ..... \*home ..... \*work
\*Country of residence: .....

\*The applicant may delete these items from the copies to be served.

Full name of other party (or other applicant [in the case of a joint application]):

[full name] [relationship, if any, to applicant or other applicant] [occupation] [age in years at date of application]

Gender: .....
Cultural or ethnic identity: .....

Interpreter required: .....
If yes, specify language: .....

- Home address: .....
Work address: .....
Contact telephone numbers(s): ..... home ..... work
Country of residence: .....

Form P(R) 4—continued

Date of marriage or date by which de facto relationship had begun: [date]

Place of marriage: [place]

Children affected by the application: [if none, write "none" on line 1]

Full name of each child	Age at application	Date of birth	Name of person with whom each child is living at the time of application, and the relationship (if any) of that person to the child
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

The accompanying applications are filed by [full name] whose address for service is at [address].

Previous applications: [give the file number of any previous applications between the parties, and the Courts where they were filed].

For Court use:

Date stamp:

Form P(R) 5  
Affidavit of assets and liabilities  
*Property (Relationships) Act 1976*

r 14

(Front page—Form P(R) 1)

I, *[full name]* of *[address]*, *[occupation]*, make oath and say:

- 1 My assets and liabilities are described in paragraphs 3 to 6.
- 2 The assets described in paragraph 3 include—
  - (a) all property owned by me either in my sole name or jointly or in common with any other person or persons:
  - (b) any interest to which I am beneficially entitled in any property:
  - (c) all property owned by me whether it is in New Zealand or elsewhere:
  - (d) all property owned by me whether I consider it to be relationship property or separate property:
  - (e) all property owned by me irrespective of the time at which or the manner in which it was acquired.

*Assets*

- 3 My assets are as follows:
  - (a) Family home or homestead:  
Location:  
Share owned:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:
  - (b) Land and buildings:  
Location:  
Share owned:  
Claimed as relationship property or separate property:  
Value at end of marriage (*or* at end of de facto relationship):

Form P(R) 5—*continued*

Value at date of affidavit:

- (c) Household chattels:  
Location:  
Share owned:  
Identify those claimed as relationship property and those claimed as separate property:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:
- (d) Superannuation:  
Name of scheme or schemes:  
Proportion of value claimed as relationship property and proportion of value claimed as separate property:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:
- (e) Money in any bank:  
Bank:  
Account No:  
Share owned:  
Claimed as relationship property or separate property:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:
- (f) Money not in bank or invested:  
Location:  
Share owned:  
Claimed as relationship property or separate property:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:
- (g) Money lent or in hands of any person:  
Name and address:  
Share owned:  
Claimed as relationship property or separate property:

Form P(R) 5—*continued*

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (h) Government stock, debentures, or bonds:

Details:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (i) Company shares, debentures, or bonds:

Details:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (j) Plant and machinery:

Description:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (k) Livestock:

Description:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (l) Interest in business, partnership, stock-in-trade, or venture of any kind:

Description:

Share owned:

Claimed as relationship property or separate property:

Form P(R) 5—*continued*

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (m) Motor vehicles:

Description:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (n) Life insurance policy:

Life assured:

Name and number:

Share owned:

Proportion of value claimed as relationship property and proportion of value claimed as separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (o) Property insurance:

Name and number:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (p) Compensation or damages:

Description:

Share owned:

Claimed as relationship property or separate property:

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (q) Debt or mortgage owed to me:

Description:

Share owed to me:

Claimed as relationship property or separate property:

Form P(R) 5—*continued*

Value at end of marriage (*or* at end of de facto relationship):

Value at date of affidavit:

- (r) Interest in trust or estate:  
Description (including whether the interest is a legal or beneficial interest):  
Share:  
Claimed as relationship property or separate property:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:
- (s) Any other property or asset not specified above that is, or could be, the subject of an order in the proceedings:  
Description:  
Share owned:  
Claimed as relationship property or separate property:  
Value at end of marriage (*or* at end of de facto relationship):  
Value at date of affidavit:

- 4 Valuations of items described in paragraphs (a), (b), (c), and (d) of paragraph 3 are attached marked “A”, “B”, “C”, and “D” respectively.

*Liabilities*

- 5 My liabilities are as follows:
- (a) Mortgages secured over family home:  
Mortgagee:  
Amount owing:
- (b) Mortgages secured over any other land or buildings:  
Property:  
Mortgagee:  
Amount owing:
- (c) Bank overdrafts or term loans:  
Bank:  
Amount owing:



Form P(R) 5—*continued*

- (d) Loans secured over chattels, plant, machinery, or livestock:  
Property:  
Lender:  
Amount owing:
- (e) Hire purchase loans:  
Goods:  
Lender:  
Amount owing:
- (f) Other loans:  
Lender:  
Amount owing:
- (g) Unsecured debts:  
Lender:  
Amount owing:
- (h) Any other liabilities not falling within any of the preceding paragraphs:  
Nature of liability:  
Amount owing:  
To whom owing:

*Income*

- 6 Since the end of the marriage (*or* end of the de facto relationship) I have earned or received, from an asset described in paragraph 3 or from other sources, the following income:  
Source:  
Amount:

*Capital payments*

- 7 Since the end of the marriage (*or* end of the de facto relationship) I have made the following capital payments to an asset described in paragraph 3:  
Asset:  
Amount paid:

Form P(R) 5—*continued**Assets disposed of*

- 8 The assets that, since the end of the marriage (*or* end of the de facto relationship), I have sold or otherwise disposed of, or have agreed to sell or otherwise dispose of, are as follows:  
Asset:  
Date:  
Amount received or to be received:  
Disposition of amount:

*Assets acquired*

- 9 The assets that, since the end of the marriage (*or* end of the de facto relationship), I have acquired or agreed to acquire are as follows:  
Asset:  
Mode of acquisition:  
Amount paid or to be paid:  
Value at date of affidavit:

Sworn at [*place*] on [*date*], before me—

A solicitor of the High Court of New Zealand

**Note***End of marriage or de facto relationship*

As to when a marriage or de facto relationship ends for the purposes of the Property (Relationships) Act 1976, *see* sections 2A(2) and 2D(4) of that Act.

r 16(4)

Form P(R) 6  
Order to attend for examination  
*Property (Relationships) Act 1976*

(Front page—Form P(R) 1)

**To the respondent**

\*You have failed to file an affidavit of assets and liabilities as required by rule 14(2) of the Property (Relationships) Rules 2001.

\*You have failed to file a sufficient affidavit of assets and liabilities as required by rule 14(2) of the Property (Relationships) Rules 2001.

You are ordered to attend for examination by the Family Court as to any or all of the matters required to be disclosed in an affidavit of assets and liabilities under the Property (Relationships) Rules 2001.

You are ordered to appear at [time] on [date] at the Family Court at [place].

If you file a sufficient affidavit of assets and liabilities before the above date, you need not appear for examination.

\*You are ordered to bring to the examination any books or documents relating to your property.

\*Delete if inapplicable.

.....  
Registrar

.....  
Date

**Notes**

*Office hours*

The office of the Family Court is open from ..... to ..... on Mondays to Fridays inclusive, except on Court holidays.

*Representation by a lawyer*

You may, if you wish, be represented at the examination by a lawyer.

*Failure to appear*

If you fail to appear in answer to this order, a warrant may be issued for your arrest.

Form P(R) 6—*continued**Advice*

If you need help, consult a lawyer or contact a Family Court office immediately.

r 16(5)

Form P(R) 7

Warrant to arrest respondent for examination

*Property (Relationships) Act 1976*

(Front page—Form P(R) 1)

To every constable

An order was made on [date] requiring the respondent, [full name], to appear on [date] at the Family Court at [place] to be examined as to any or all of the matters required to be disclosed in an affidavit of assets and liabilities under the Property (Relationships) Rules 2001.

\*The examination was adjourned to [date].

\*Delete if inapplicable.

The order could not be served (or The respondent did not appear). I direct you to arrest the respondent and bring the respondent before a Family Court as soon as possible.

If you believe the respondent cannot be brought before a Family Court within 72 hours after the arrest of the respondent, you need not execute the warrant immediately.

This warrant ceases to have effect if a sufficient affidavit of assets and liabilities is filed by the respondent.

.....  
Judge

.....  
Date

Form P(R) 8  
Summons to witness to attend examination  
*Property (Relationships) Act 1976*

r 18(1)

(Front page—Form P(R) 1)

To .....  
.....  
.....

[Full name] has been ordered to attend for examination as to any or all of the matters required to be disclosed in an affidavit of assets and liabilities under the Property (Relationships) Rules 2001.

I believe—

\*that you have possession of books, papers, or documents relating to the affairs or property of the respondent.

\*that you are capable of giving information concerning the respondent’s property or the respondent’s liabilities.

You are summoned to appear as a witness at the examination at [time] on [date] at the Family Court at [place].

\*You are required to bring with you and produce [set out details of the book, paper, or document].

\*Delete if inapplicable.

.....  
Registrar  
.....  
Date

**Notes**

*Travelling expenses*

If you are required to travel more than 20 kilometres to attend the examination, you are entitled to a sum for expenses.

*Failure to appear*

If you fail to appear in answer to this order, a warrant may be issued for your arrest.

*Advice*

If you need help, consult a lawyer or contact a Family Court office immediately.

r 18(4)

## Form P(R) 9

## Warrant to arrest witness for attendance at examination

*Property (Relationships) Act 1976*

(Front page—Form P(R) 1)

**To every constable**

[*Full name*], of [*address*], [*occupation*], was summoned to appear on [*date*] at [*place*] as a witness at an examination of the respondent as to any or all of the matters required to be disclosed in an affidavit of assets and liabilities under the Property (Relationships) Rules 2001.

The witness failed to appear.

I am satisfied—

- (a) that the summons was duly served on the witness; and
- (b) that the witness was not required to travel more than 20 kilometres to attend the examination (*or* that expenses in accordance with the prescribed scale were tendered to the witness).

I direct you to arrest the witness, [*full name*], and bring him or her before a Family Court as soon as possible.

If you believe that the witness cannot be brought before the Family Court within 72 hours after the arrest of the witness, you need not execute the warrant immediately.

This warrant ceases to have effect if a sufficient affidavit of assets and liabilities is filed by the respondent.

.....  
Judge

.....  
Date

Marie Shroff,  
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 February 2002, prescribe procedures for proceedings in Family Courts under the Property (Relationships) Act 1976 – that is, the Matrimonial Property Act 1976 as renamed on 1 February 2002 by the Property (Relationships) Amendment Act 2001. As well as renaming the Act and making certain other amendments to it, that Amendment Act—

- amends the Act so that it applies to the division of the property of married couples when 1 of them dies; and
- extends the property division regime in the Act so that it applies to the division of the relationship property of couples who have lived together in a de facto relationship, when they separate or 1 of them dies.

These rules revoke the Matrimonial Property Rules 1988 (SR 1988/46), and replace them with new rules that take into account changes made to the Act when most of that Amendment Act comes into force, on 1 February 2002.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 13 December 2001.

These rules are administered in the Ministry of Justice.

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