

## **Family Courts Amendment Rules 2005**

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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**1 Title**

(1) These rules are the Family Courts Amendment Rules 2005.

(2) In these rules, the Family Courts Rules 2002<sup>1</sup> are called “the principal rules”.

**2 Commencement**

These rules come into force on 1 July 2005.

**3 Special rules for proceedings under certain family law Acts**

Rule 6(e) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**4 Powers of Registrars under rules**

Rule 12(2)(a) of the principal rules is amended by omitting the words “penal institution”, and substituting the word “prison”.

**5 Special rules relating to affidavits**

Rule 21(f) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**6 Applications that may be made without notice**

Rule 24(2)(a)(i) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**7 Two or more applications may be made together**

Rule 25(1)(b) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**8 Documents relating to earlier proceedings**

Rule 26(3) of the principal rules is amended by adding, after the expression “Guardianship Act 1968”, the words “or under the Care of Children Act 2004”.

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<sup>1</sup> SR 2002/261

**9 Special rules relating to service**

Rule 37 of the principal rules is amended by revoking paragraphs (b) to (f), and substituting the following paragraphs:

- “(b) Child Support Act 1991 (see, for example, rule 266):
- “(c) Children, Young Persons, and Their Families Act 1989 (see, for example, rules 280, 281, and 284):
- “(d) Family Proceedings Act 1980, Care of Children Act 2004 (see, for example, rule 342 -- restriction on service of application for separation order):
- “(e) Family Protection Act 1955, Law Reform (Testamentary Promises) Act 1949 (see, for example, rule 382 – order for directions as to service or for representation):
- “(f) Property (Relationships) Act 1976 (see, for example, rule 394 – who must be given notice of applications under Act):
- “(g) Protection of Personal and Property Rights Act 1988 (see, for example, rule 411 – who must be served with copy of applications under Act, and rule 412 – service on persons other than parties).”

**10 Ascertaining wishes of child or young person**

- (1) Rule 54 of the principal rules is amended by inserting in the heading, after the word “wishes”, the words “or views”.
- (2) Rule 54(a) and (b) of the principal rules is amended by inserting, after the word “wishes” in both places where it occurs, the words “or views”.

**11 Party need not have lawyer**

Rule 80(2) of the principal rules is amended by revoking paragraph (d), and substituting the following paragraph:

- “(d) section 7 of the Care of Children Act 2004.”.

**12 Persons who may start, take part in, or defend proceedings only through representatives or managers**

Rule 89(4) of the principal rules is amended by revoking paragraph (e), and substituting the following paragraph:

- “(e) section 31(2)(e) of the Care of Children Act 2004.”.

**13 Certain documents must not be served on certain non-working days**  
Rule 104(e) of the principal rules is amended by revoking subparagraph (ii), and substituting the following subparagraph:  
“(ii) under section 77, or under sections 77 and 118, of the Care of Children Act 2004); or”.

**14 Certain documents to be served by personal service**  
Rule 105(1)(a) of the principal rules is amended by revoking subparagraph (iii), and substituting the following subparagraph:  
“(iii) Care of Children Act 2004.”.

**15 New rule 111 substituted**  
The principal rules are amended by revoking rule 111, and substituting the following rule:  
**“111 Personal service on prisoner**  
If the person to be served is a prisoner, personal service must be effected by delivering the document to be served to the manager or other officer apparently in charge of the prison in which the person is detained.”  
Compare: SR 1992/109 r 222

**16 District Courts Rules 1992 apply**  
(1) Rule 130(3) of the principal rules is amended by inserting, after the expression “Rule 246”, the word “of”.  
(2) Rule 130(3) of the principal rules is amended by revoking paragraph (a), and substituting the following paragraph:  
“(a) Care of Children Act 2004.”.

**17 Service of judgments**  
Rule 206(2) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**18 Applications that may be made without notice**

Rule 220(2)(a)(ii) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**19 Overview of this Part**

Rule 239(3)(e) of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**20 Heading above rule 333 amended**

The heading above rule 333 of the principal rules is amended by omitting the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

**21 Interpretation**

Rule 333 of the principal rules is amended by revoking the definitions of Acts and Guardianship Act, and substituting, in their appropriate alphabetical order, the following definitions:

“**Acts** means the Family Proceedings Act and the Care of Children Act

“**Care of Children Act** means the Care of Children Act 2004”.

**22 Forms**

Rule 334 of the principal rules is amended by adding, as sub-clause (2), the following subclause:

“(2) Form F 15A in Schedule 6 must be used for an application to the Court for a declaration of paternity under section 10(2) of the Status of Children Act 1969.”

**23 Applications without notice**

Rule 335(1) of the principal rules is amended by revoking paragraphs (a) to (d), and substituting the following paragraphs:

“(a) section 76 of the Care of Children Act (authority to use faxed copy of warrant);

“(b) section 77 of the Care of Children Act (preventing removal of child from New Zealand);

- “(c) section 76 of the Care of Children Act as applied by section 119 of that Act (enforcing order under section 105(2) of that Act for return of child);
- “(d) section 143(5) of the Care of Children Act (order dispensing with security for appeal);”.

**24 New rules 336A to 336C inserted**

The principal rules are amended by inserting, after rule 336, the following rules:

**“336A Applications for warrants and delivery of child**

- “(1) This rule applies to every application under section 72(2) or section 73(2) of the Care of Children Act seeking a warrant directing that a child be delivered—
  - “(a) to the applicant; or
  - “(b) to some other person or authority named in the warrant on behalf of the applicant.
- “(2) An application to which this rule applies must be accompanied by a written statement indicating what arrangements are being made for the child to be delivered to the applicant after execution of the warrant.

**“336B Notice of intention to appear in relation to interim parenting order**

- “(1) This rule applies to a parent who is a party to an interim parenting order made under section 48(1) of the Care of Children Act, if—
  - “(a) the interim order was made on an application without notice; and
  - “(b) the parent has, under that order, neither the role of providing day-to-day care for, nor contact with, the child; and
  - “(c) the parent wishes to be heard on whether a final order should be substituted for the interim order.
- “(2) A parent to whom this rule applies must—
  - “(a) use form FP 36B in Schedule 6 to give notice of his or her intention to appear in relation to the interim parenting order; and
  - “(b) file with the form an affidavit that sets out—

- “(i) sufficient particulars to indicate the reasons for giving notice; and
- “(ii) sufficient information to inform the Court of the facts being relied on.

**“336C Notice of intention to appear in relation to other interim orders**

- “(1) This rule applies to a person who is a party to an interim order made under section 53(2) or section 54(1) of the Care of Children Act (which relate to certain proceedings under the Family Proceedings Act or under the Domestic Violence Act 1995), if—
  - “(a) the interim order was made on an application without notice; and
  - “(b) the person has, under that order, neither the role of providing day-to-day care for, nor contact with, the child; and
  - “(c) the person wishes to be heard on whether a final order should be substituted for the interim order.
- “(2) A person to whom this rule applies must—
  - “(a) use form FP 36B in Schedule 6 to give notice of his or her intention to appear in relation to the interim order; and
  - “(b) file with the form an affidavit that sets out—
    - “(i) sufficient particulars to indicate the reasons for giving notice; and
    - “(ii) sufficient information to inform the Court of the facts being relied on.”

**25 New rule 350A inserted**

The principal rules are amended by inserting, after rule 350, the following rule:

**“350A Request to speak on child’s cultural background**

A party to proceedings under the Care of Children Act who asks the Court (under section 136(1) of that Act) to hear a person speak on a child’s cultural background, or any aspects of it that may be relevant to a matter in issue in the proceedings, must make that request in writing.”

**26 Restrictions on fixing date and time for hearing**

Rule 351(a) of the principal rules is amended by revoking subparagraph (ii), and substituting the following subparagraphs:

- “(ii) before the time for filing a notice of defence, as specified in rule 41, has expired; or
- “(iii) where notice must be given under section 138 of the Care of Children Act, before the expiry of the period specified in the notice; and”.

**27 Fixing date and time for hearing: notice of defence filed**

Rule 352 of the principal rules is amended by adding the following subclauses:

- “(5) The Registrar must give a person to whom section 138(1) of the Care of Children Act applies reasonable prior notice in writing of the date and time of the hearing and the period within which the person must advise the Court whether he or she intends to attend the hearing.
- “(6) The Registrar must, before the hearing referred to in subclause (5), give each party to the proceedings—
  - “(a) details of all persons (if any) who have advised the Registrar, after receiving the notice referred to in subclause (5), that they intend to attend the hearing; and
  - “(b) a reasonable opportunity to object to those persons attending.”

**28 Fixing date and time for hearing: no notice of defence filed**

- (1) Rule 353(b) of the principal rules is amended by revoking subparagraph (ii), and substituting the following subparagraph:
- “(ii) to the respondent if he or she has filed an address for service, or has been served with the documents issued for service in relation to the application; and”.
- (2) Rule 353 of the principal rules is amended by adding the following paragraphs:
- “(c) the Registrar must give a person to whom section 138(1) of the Care of Children Act applies reasonable prior notice in writing of the date and time of the hearing and the period within which the person must advise the Court whether he or she intends to attend the hearing; and

“(d) the Registrar must, before the hearing referred to in paragraph (c), give each party to the proceedings—  
“(i) details of all persons (if any) who have advised the Registrar, after the notice referred to in paragraph (c), that they intend to attend the hearing; and  
“(ii) a reasonable opportunity to object to those persons attending.”

**29 New rule 362A inserted**

The principal rules are amended by inserting, after rule 362, the following rule:

**“362A Costs of contravention of parenting order**

A party to a parenting order (party A) who applies under section 71 of the Care of Children Act for an order requiring another party to the parenting order (party B) to pay the costs incurred by party A because of party B’s contravention of the parenting order must include with that application an affidavit setting out details of those costs.”

**30 Procedure on arrest of respondent other than in respect of an offence**

Rule 369(6) of the principal rules is amended by omitting the words “Superintendent of the penal institution”, and substituting the words “manager of the prison”.

**31 Schedule 1 amended (form G 7)**

(1) Form G 7 in Schedule 1 of the principal rules is amended by—  
(a) reversing the order of the consecutive items “Age (in years at date of application)” and “Date of birth”; and  
(b) omitting from the item “Age (in years at date of application)” the words “(in years at date of application)”.

(2) Form G 7 in Schedule 1 of the principal rules is amended by inserting, after the item “\*Country of residence”, the following item:

“

Relationship of applicant to any children affected by the application [*if none, write "none" on line 1*]: (for example, parent, guardian, spouse or partner of a parent, family member (specify), donor)

| Full name of child | Relationship of applicant to child |
|--------------------|------------------------------------|
| .....              | .....                              |
| .....              | .....                              |
| .....              | .....                              |

(3) Form G 7 in Schedule 1 of the principal rules is amended by inserting, after the item "Country of residence", the following item:

"

Relationship of respondent to any children affected by the application [*if none, write "none" on line 1*]: (for example, parent, guardian, spouse or partner of a parent, family member (specify), donor)

| Full name of child | Relationship of respondent to child |
|--------------------|-------------------------------------|
| .....              | .....                               |
| .....              | .....                               |
| .....              | .....                               |

(4) Form G 7 in Schedule 1 of the principal rules is amended by omitting from the table in item "Children affected by the application" the column headed "Age at application".

**32 Schedule 2 amended (forms A 4, A 5, A 6, and A 9)**

(1) Form A 4 in Schedule 2 of the principal rules is amended by omitting the word "presence" in both places where it occurs, and substituting in each case the word "presence".

(2) Form A 5 in Schedule 2 of the principal rules is amended by omitting the word "presence" in both places where it occurs, and substituting in each case the word "presence".

(3) Form A 6 in Schedule 2 of the principal rules is amended—  
 (a) by omitting from paragraph (a) the words "are entitled to the custody of", and substituting the words "have the role of providing day-to-day care for"; and

(b) by omitting the words “lose the custody of”, and substituting the words “lose the role of providing day-to-day care for”.

(4) Form A 9 in Schedule 2 of the principal rules is amended by omitting the word “interim”, and substituting the word “interim”.

**33 Schedule 5 amended (forms DV 14 and DV 15)**

(1) Form DV 14 in Schedule 5 of the principal rules is amended by omitting from condition 1(b)(v)(B) the words “custody of, or access to,”, and substituting the words “the role of providing day-to-day care for, or access to, or contact with, or custody of, ”.

(2) Form DV 15 in Schedule 5 of the principal rules is amended by omitting from condition 1(b)(v)(B) the words “custody of, or access to, ”, and substituting the words “the role of providing day-to-day care for, or access to, or contact with, or custody of, ”.

**34 Schedule 6 list of forms and its title amended**

Schedule 6 of the principal rules is amended by revoking the list headed “Forms for proceedings under Family Proceedings Act 1980 and Guardianship Act 1968”, and the title to that list, and substituting the heading and list in Schedule 1.

**35 Schedule 6 amended by substitution of forms**

Schedule 6 of the principal rules is amended—

(a) by revoking form FP 1, and substituting the form FP 1 set out in Schedule 2; and

(b) by revoking form FP 4, and substituting the form FP 4 set out in Schedule 2; and

(c) by revoking form FP 32, and substituting the form FP 32 set out in Schedule 2; and

(d) by revoking form FP 33, and substituting the form FP 33 set out in Schedule 2; and

(e) by revoking form FP 36, and substituting the form FP 36 set out in Schedule 2.

**36 Schedule 6 amended by insertion of forms**

Schedule 6 of the principal rules is amended by inserting, in their appropriate numerical order, the forms FP 15A, FP 35A, FP 36A, FP 36B, FP 49A, and FP 49B set out in Schedule 3.

**37 Amendments to other forms in Schedule 6 (forms FP 2, FP 6, FP 10 to FP 14, FP 16, FP 17, FP 29, FP 31)**

- (1) Form FP 2 in Schedule 6 of the principal rules is amended—
  - (a) by omitting the words “custody of a child”, and substituting the words “role of providing day-to-day care for a child” ; and
  - (b) by omitting from the section headed “Information” the words “custody of the”, in both places where they occur, and substituting in each case the words “role of providing day-to-day care for the”.
- (2) Form FP 6 in Schedule 6 of the principal rules is amended—
  - (a) by adding, to the title of the form, the words “*Section 69(1)(a), Care of Children Act 2004*” ; and
  - (b) by inserting in the first paragraph, after the expression “*Family Proceedings Act 1980*”, the words “*(including as applied by section 66(b) of the Care of Children Act 2004)*”.
- (3) Form FP 10 in Schedule 6 of the principal rules is amended by omitting the word “custody”, in both places where it occurs, and substituting in each case the words “day-to-day care”.
- (4) Form FP 11 in Schedule 6 of the principal rules is amended—
  - (a) by omitting the word “custody” in both places where it occurs, and substituting in each case the words “day-to-day care” ; and
  - (b) by omitting the word “Custody:”, and substituting the words “Day-to-day care:”.
- (5) Form FP 12 in Schedule 6 of the principal rules is amended—
  - (a) by omitting the word “custody”, and substituting the words “day-to-day care” ; and
  - (b) by omitting the word “Custody:”, and substituting the words “Day-to-day care:”.
- (6) Form FP 13 in Schedule 6 of the principal rules is amended—

- (a) by omitting from paragraph 3 the word “part”, and substituting the word “apart” ; and
- (b) by omitting the word “custody” in both places where it occurs, and substituting in each case the words “day-to-day care” ; and
- (c) by omitting the word “Custody:”, and substituting the words “Day-to-day care:”.

(7) Form FP 14 in Schedule 6 of the principal rules is amended—

- (a) by omitting the word “custody”, and substituting the words “day-to-day care” ; and
- (b) by omitting the word “Custody:”, and substituting the words “Day-to-day care:”.

(8) Form FP 16 in Schedule 6 of the principal rules is amended by omitting from the title of the form the expression “Guardianship Act 1968”, and substituting the expression “Care of Children Act 2004”.

(9) Form FP 17 in Schedule 6 of the principal rules is amended—

- (a) by omitting from the title of the form the expression “*Guardianship Act 1968*”, and substituting the expression “*Care of Children Act 2004*” ; and
- (b) by omitting from the section headed “Jurisdiction of Court” the expression “Guardianship Act 1968”, and substituting the expression “*Care of Children Act 2004*”.

(10) Form FP 29 in Schedule 6 of the principal rules is amended—

- (a) by omitting the words “Superintendent of [*name of penal institution*]”, and substituting the words “Manager of [*name of prison*]” ; and
- (b) by omitting the words “penal institution”, and substituting the word “prison” ; and
- (c) by omitting the word “Superintendent,”, and substituting the word “Manager,.”.

(11) Form FP 31 in Schedule 6 of the principal rules is amended by omitting the words “Superintendent of [*name of penal institution*]”, and substituting the words “Manager of [*name of prison*]”.

**38 Schedule 9 amended**

Forms PPPR 6 in Schedule 9 of the principal rules is amended by omitting from paragraph 7 the word “*repect*”, and substituting the word “*respect*”.

**Schedule 1**

r 34

**New list of forms and its title substituted  
in Schedule 6 of principal rules**

Forms for proceedings under Family Proceedings Act 1980 and Care of Children Act 2004

- FP 1 Request for counselling
- FP 2 Notice to respondent of reference to counselling
- FP 3 Request (and application without notice) to dispense with reference to counselling
- FP 4 Report of counsellor
- FP 5 Notice to respondent of resumption of proceedings
- FP 6 Summons to party to attend counselling or mediation conference
- FP 7 Application for separation order
- FP 8 Application for declaration as to validity of marriage or civil union
- FP 9 Application for order declaring marriage or civil union to be void ab initio
- FP 10 Application for declaration of presumption of death and order dissolving marriage or civil union
- FP 11 Application by one party for order dissolving marriage or civil union
- FP 12 Affidavit to accompany application by one party for order dissolving marriage or civil union
- FP 13 Joint application for order dissolving marriage or civil union
- FP 14 Affidavit to accompany joint application for order dissolving marriage or civil union
- FP 15 Application for paternity order
- FP 15A Application for declaration of paternity
- FP 16 Notice to respondent of application under Family Proceedings Act 1980 or Care of Children Act 2004

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|        |   |
|--------|---|
| FP 17  | Notice to respondent residing outside New Zealand of application under Family Proceedings Act 1980 or Care of Children Act 2004 |
| FP 18  | Affidavit of financial means and their sources  |
| FP 19  | Request for appearance  |
| FP 20  | Request for hearing   |
| FP 21  | Notice of registration of order from commonwealth or designated country   |
| FP 22  | Provisional order for confirmation overseas   |
| FP 23  | Summons for hearing of proceedings for confirmation of overseas maintenance order   |
| FP 24  | Warrant to arrest respondent for hearing of proceedings for confirmation of maintenance order                                   |
| FP 25  | Summons for hearing of overseas maintenance application   |
| FP 26  | Warrant to arrest respondent for hearing of application for maintenance made by applicant residing overseas                     |
| FP 27  | Order confirming provisional order for maintenance  |
| FP 28  | Maintenance order (child in convention country)   |
| FP 29  | Warrant of commitment on adjournment where respondent remanded in custody or does not immediately enter into bond               |
| FP 30  | Bail bond   |
| FP 31  | Warrant of deliverance on execution of bail bond  |
| FP 32  | Warrant to enforce role of providing day-to-day care for, or order for contact with, child                                      |
| FP 33  | Warrant to take child to prevent removal from New Zealand   |
| FP 34  | Separation order  |
| FP 35  | Maintenance order (spouse or civil union partner, former spouse or civil union partner)   |
| FP 35A | Application for parenting order   |
| FP 36  | Parenting order(s)  |
| FP 36A | Bond to ensure compliance with parenting order  |
| FP 36B | Notice of intention to appear in relation to interim parenting order or other interim order                                     |
| FP 37  | Paternity order (and maintenance order)   |
| FP 38  | Order dissolving marriage or civil union  |

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|        |  |
|--------|--|
| FP 39  | Order declaring that other party to marriage or civil union is presumed to be dead and that marriage or civil union is dissolved |
| FP 40  | Order declaring marriage or civil union to be void   |
| FP 41  | Application without notice for issue of warrant for arrest of respondent   |
| FP 42  | Request for issue of warrant of distress   |
| FP 43  | Warrant of distress  |
| FP 44  | Summons to attend examination as to means and default  |
| FP 45  | Warrant to arrest respondent for examination as to means and default   |
| FP 46  | Summons to witness to attend examination   |
| FP 47  | Warrant to arrest witness for attendance at examination of respondent  |
| FP 48  | Warrant to arrest respondent for attendance at contempt proceedings  |
| FP 49  | Warrant for arrest of absconding respondent  |
| FP 49A | Warrant to prevent concealment of whereabouts of child   |
| FP 49B | Warrant to enforce order for return of child   |
| FP 50  | Attachment order   |
| FP 51  | Charging order   |
| FP 52  | Receiving order  |

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**Schedule 2**  
**New forms substituted in Schedule 6 of**  
**principal rules**

r 35

“Form FP 1

r 334

“Request for counselling

“

Form FP 1—*continued*

*Section 9, Family Proceedings Act 1980  
Section 65 and 66, Care of Children Act 2004*

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

Tick applicable type of request

This request relates to—

\*a marriage  
\*a civil union  
\*a de facto relationship

between—

[full name]

[full residential address]

Contact telephone numbers: ..... [home] ..... [work]

and

[full name]

[full residential address]

Contact telephone numbers: ..... [home] ..... [work]

I (or We) request you to arrange counselling in respect of my (or our)

\*marriage \*or civil union \*or defacto relationship.

*or*

This request relates to a dispute with another party to—

\*a parenting order of [date] at [place] in [Court]

\*an agreement between parents or guardians of a child about a child's day-to-day care, or a child's upbringing, or about contact with a child  
[full name of other party]

[full residential address of other party]

Contact telephone numbers: ..... [home] ..... [work]

Child:

[full name of child], aged [specify age in years]

I request you to arrange counselling in respect of a dispute arising from another party to—

\*the order; or

\*the agreement

contravening or appearing to contravene it.

Form FP 1—*continued*

[*full name of applicant*]

[*full residential address of applicant*]

Contact telephone numbers: ..... [*home*] ..... [*work*]

*or*

This request relates to exercise of guardianship between 2 or more guardians of a child.

[*full name of other guardian*]

[*full residential address of other guardian*]

Contact telephone numbers: ..... [*home*] ..... [*work*]

Child:

[*full name of child*], aged [*specify age in years*]

I request you to arrange counselling in respect of a dispute arising from 2 or more guardians of the child being unable to agree on a matter concerning the exercise of our guardianship.

[*full name of applicant*]

[*full residential address of applicant*]

Contact telephone numbers: ..... [*home*] ..... [*work*]

Complete the following for all requests:

[*tick if applicable*]

A protection order under the Domestic Violence Act 1995 applies to me and to another person who is the subject of this request.

\*Delete if inapplicable.

.....  
Signature(s)

.....  
Date

“Form FP 4  
“Report of counsellor

r 334

“

Form FP 4—*continued*

*Section 11(2), Family Proceedings Act 1980*  
*Section 66, Care of Children Act 2004*

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

I, [name of counsellor], report that—  
[name of first party]  
and [name of second party]  
\*and [name of other party]  
\*and [name of additional parties, if necessary]  
were referred to me for counselling on [date].

I met the following parties—

(a) separately—  
[name of first party] on [date]  
[name of second party] on [date]  
\*[name of other party] on [date]  
\*and [name of additional parties and date, if necessary]:

(b) together—  
[list names of parties and date or dates on which they attended joint or multi-party counselling sessions].

Other people who attended counselling:

[Give name, full residential address, and contact telephone numbers (home and work) of persons (other than the parties listed above) who attended counselling as a result of this referral.]

The following people did not attend counselling:

[List names of parties who did not attend counselling despite this referral.]  
[Complete A or B below, as appropriate.]

\*A (If the referral was made in relation to a marriage, civil union, or de facto relationship.)

The first party (or the second party or both parties) wish (or do not wish) to---

- resume or continue the marriage, civil union, or partnership; or
- resolve the question of maintenance; or
- resolve the question of the role of providing day-to-day care for the child.

**Form FP 4—continued**

[Note: Complete this section only if the parties do not wish to resume or continue the marriage or civil union or de facto relationship or resolve the question of maintenance or resolve the question of the role of providing day-to-day care for the child.]

\*In respect of matters in issue,—

the parties reached the following understandings:

1 .....

2 .....

3 .....

*or*

\*the parties reached no understandings.

\*B (If the referral was made in relation to a dispute about a parenting order or agreement, or about the exercise of guardianship.)

\*the parties have resolved the dispute

*or*

\*the parties have not resolved the dispute.

\*Delete if inapplicable.

.....  
Signature of counsellor

.....  
Date

“Form FP 32

r 334

“Warrant to enforce role of providing day-to-day  
care for, or order for contact with, child

“

Form FP 32—*continued*

Warrant to enforce role of providing day-to-day care for, or  
order for contact with, child

*Sections 72 and 73, Care of Children Act 2004*

(General heading—Form G 2)

**To** every constable (or social worker) (or [full name])

I am satisfied on the application of [full name], of [address], [occupation], that  
he (or she)—

\*has the role of providing day-to-day care for

\*is entitled under a parenting order or other order specified in section 73(1) of  
the Care of Children Act 2004 to have direct contact with

[full name], a child aged [specify] years.

I direct you to take the child (using reasonable force if necessary) and to  
deliver the child to [full name of applicant or of other person or authority to  
whom child is to be delivered on behalf of applicant], and to report to this  
Court when you have done so.

For the purpose of executing this warrant, you are authorised by section 75(1)  
of the Care of Children Act 2004 to enter and search any building, aircraft,  
ship, vehicle, premises, or place, with or without assistance, and by force if  
necessary.

You are required to have this warrant with you when executing it and to  
produce it on initial entry and, if requested, at any later time.

You must also comply with any other applicable requirements of section 75(2)  
of the Care of Children Act 2004.

\*Delete if inapplicable.

.....  
Judge

.....  
Date

**Form FP 32—continued****Notes***Arrest of person resisting execution of warrant*

Under section 79 of the Care of Children Act 2004, you commit an offence for which you may be sentenced to imprisonment if you knowingly resist or obstruct a person executing this warrant, or knowingly fall or refuse to afford a person of that kind immediate entrance to (all or a part of) any premises.

Under section 315(2) of the Crimes Act 1961, a constable (and persons the constable calls to his or her assistance) may arrest and take into custody without a warrant a person whom the constable finds committing, or has good cause to suspect of having committed, an offence punishable by imprisonment.

*Use of a faxed copy of warrant*

If use of a faxed copy of this warrant is authorised by an authority to prevent delay in execution of the warrant, the authority must, under section 76 of the Care of Children Act 2004, write and sign a note on the front of the warrant stating

- (a) the fact that a faxed copy of the warrant may be used for the purposes of executing the warrant; and
- (b) the date and time at which the authorisation expires, which must be the close of the third day after the day on which the authorisation is granted.

**“Form FP 33**

r 334

**“Warrant to take child to prevent removal from  
New Zealand**

“

Form FP 33—*continued*

## Warrant to take child to prevent removal from New Zealand

*Sections 77 and 118, Care of Children Act 2004*

(General heading—Form G 2)

To every constable (*or* social worker)

I have reason to believe that [full name], a child aged [specify] years, is about to be taken out of New Zealand with intent to, or in circumstances where the taking of the child would be likely to,—

\* defeat the claim of [full name], of [address], [occupation], who has applied for (*or* is about to apply for) the role of providing day-to-day care for, or an order for contact with, the child; or

\* prevent an order made in the [Court] at [place] on [date] (*or* registered under section 81 of the Care of Children Act 2004) about the role of providing day-to-day care for, or about contact with, the child, from being complied with.

The child is said to be in the care of [full name] of [address].

(\*There being no High Court Judge or District Court Judge or Family Court Judge available,) I direct you to take the child (using reasonable force if necessary) and place the child in the care of some suitable person pending the order or further order of the Court having jurisdiction in the case.

When you have executed this warrant in accordance with the direction, you must advise this Court immediately of the name and address of the person with whom you have placed the child.

\*Delete if inapplicable.

.....  
Judge*(or Registrar (not being a  
constable))*  
.....

Date

**Form FP 33—continued****Notes***Arrest of person resisting execution of warrant*

Under section 79 of the Care of Children Act 2004, you commit an offence for which you may be sentenced to imprisonment if you knowingly resist or obstruct a person executing this warrant, or knowingly fail or refuse to afford a person of that kind immediate entrance to (all or a part of) any premises.

Under section 315(2) of the Crimes Act 1961, a constable (and persons the constable calls to his or her assistance) may arrest and take into custody without a warrant a person whom the constable finds committing, or has good cause to suspect of having committed, an offence punishable by imprisonment.

*Use of a faxed copy of warrant*

If use of a faxed copy of this warrant is authorised by an authority to prevent delay in execution of the warrant, the authority must, under section 76 of the Care of Children Act 2004, write and sign a note on the front of the warrant stating—

- (a) the fact that a faxed copy of the warrant may be used for the purposes of executing the warrant; and
- (b) the date and time at which the authorisation expires, which must be the close of the third day after the day on which the authorisation is granted.

“Form FP 36  
“Parenting order(s)”

r 334

“

Form FP 36—*continued*

*Sections 40(3), 48, and 55, Care of Children Act 2004*

(General heading—Form G 2)

On application made to it, the Court orders that—

(a) the following person(s), during the times stated has (or have) the role of providing day-to-day care for [full name of child(ren)] born on [date of birth of child(ren)] until the child reaches (or children reach) the age of 16 years [or until an earlier specified date or event as the case may be]:

- (i) [full name of person] [times during which person has the role of providing day-to-day care];
- \*(ii) [full name of person] [times during which person has the role of providing day-to-day care].

While exercising the role of providing day-to-day care for a child, you have exclusive responsibility for the child's day-to-day living arrangements, subject to any conditions stated below and to any Court order. [State any conditions imposed under section 48(5), including which party and child(ren) the conditions affect, and any bond imposed, as detailed below in the **Bond** section of this order.]

If you are a guardian, unless your role or another guardian's role is modified by a Court order, you must act jointly (eg, consulting whenever practicable with an aim of reaching agreement) when making guardianship decisions for a child.

(b) the following person(s) has (or have) contact with [full name of child(ren)] born on [date(s) of birth of child(ren)] during the following times and in the following ways:

- (i) [full name of person] [set out times and nature of contact, eg, face-to-face contact, letters, telephone, email, supervised by a person other than an approved provider];
- (ii) [full name of person] [set out times and nature of contact, eg, face-to-face contact, letters, telephone, email, supervised by a person other than an approved provider];
- (iii) [full name of person] [set out times, location, and nature of contact, eg, supervised by an approved provider or person approved by the Court].

Form FP 36—*continued***\*Interim order**

This order is an interim order.

- 1 \*If the parents are parties to the interim order and each has either the role of providing day-to-day care for, or contact, with the child:

This interim order ceases to have effect 1 year after the day on which this order is made, that is, on [date and year], and you must take all reasonable steps to obtain a final order as soon as practicable.

- 2 \*If the parents are parties to the interim order and under the order one of them has neither the role of providing day-to-day care for, nor contact with, the child:

There must be a hearing within 3 months on whether a final order should be substituted for the interim order.

\*I appoint [date within 3 months] at [time] at the Family Court at [place] for this hearing

\*(or) I will advise you of the date, time, and place of the hearing as soon as practicable.

*or*

- 3 \*If 2 applies and the order was made on an application without notice to you:

\*Because this interim order was made without notice to you, you may make an application to the Court to vary or discharge this order.

\*If you notify the Court using form FP 36B that you wish to be heard on whether a final order is made, the Registrar must assign a hearing date that is—

- (a) as soon as practicable; and
- (b) unless there are special circumstances, within 42 days after your notice is received by the Court.

**\*Monitoring and review**

This order is subject to the following monitoring and review requirements:

[Include precise details of the effect of the order (for example, of the obligations it creates), any dates or processes by which the order is to be reviewed or monitored, and any requirements for parties to report back to the Court on progress, and how the order can be varied or discharged].

Form FP 36—*continued*

See also the information sheet accompanying this order.

**Variation or discharge of this order**

Any person affected by this order or a person acting for a child who is the subject of this order may apply to the Court to vary or discharge this order.

**Consequences of non-compliance**

If you do not comply with this order there are a number of things that may happen, such as requiring you to attend counselling, or enter a bond (see also the information sheet accompanying this order). The Court takes non-compliance very seriously.

\*Because of the history of your case the following actions are likely to be taken in the event of one or other of the parties to the order not complying:

*[Specify any particular actions (eg, summonses, variation of order, counselling, bond, warrant) that are more likely to be considered because of the parties' previous behaviour in relation to the order].*

**\*Bond**

This order requires *[full name of person required to enter into the bond]* to enter into a bond for the purpose of *[state purpose of the bond]*.

*[Full name of person required to enter into the bond]* is required to deposit the sum of \$*[specify]* with the Family Court at *[place]* by *[date for payment of bond]*.

The bond may be forfeited to the Crown if *[full name of person required to enter into the bond]* does not meet the purpose of the bond or in the following circumstances:

*[Specify circumstances that may result in forfeiture of the bond.]*

\*Delete if inapplicable.

.....

Registrar

.....

Date

Form FP 36—*continued***Note**

This order may include terms of an agreement between parents or guardians of a child, relating to—

- (a) the role of providing day-to-day care for the child; or
- (b) contact with the child; or
- (c) the upbringing of the child; or
- (d) any combination of (a) to (c).

See section 40 of the Care of Children Act 2004 for the circumstances in which agreement tenus may be included.

**General information to accompany parenting orders (as required by section 55(1)(b) of the Care of Children Act 2004—***Obligations created by a parenting order*

This parenting order requires you to conform with its conditions.

If you do not do so, another party may apply to the Court to enforce the order. The Family Court may choose from a variety of tools to remedy the non-compliance. For example, you may be required to pay a bond to ensure you do not contravene the parenting order again, or to meet reasonable costs incurred by another party because of your contravention. The Court might admonish you, or vary the order, for example, by reducing the amount of time you have with the child.

You or another party to the order or a person acting for a child who is the subject of this order may apply to the Court asking for the order to be varied or discharged.

If you and another party or parties to the order are unable to agree about how to exercise guardianship or you are in a dispute arising from one of you contravening, or appearing to contravene, the order, you may request the Court to arrange counselling to assist you in resolving the dispute.

It is also an offence to, without reasonable excuse and with the intention of preventing compliance with a parenting order, contravene a parenting order. The penalty for this offence is imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,500.

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**Schedule 3**

r 36

**New forms substituted in Schedule 6 of principal rules**

“Form FP 15A

r 334

“Application for declaration of paternity

“

Form FP 15A—*continued*

*Family Proceedings Act 1980*  
*Section 10(5)(a), Status of Children Act 1969*  
(Front page—Form G 1)

I, [full name], apply in relation to [full name of child or alleged child], [date of birth], for—

- \*a declaration of paternity
- \*a declaration of non-paternity.

\*Delete whichever is inapplicable.

I am—

[tick whichever applies]

- the mother of the child and I allege that [full name] of [address, if known] is the father of the child;
- a person who alleges that the relationship of father and child exists between me and [full name] of [address, if known];
- a person who wishes to have it determined whether the relationship of father and child exists between the child or alleged child and [full name] of [address, if known] and I have a proper interest in the result [specify the nature of the interest].

.....  
Signature of applicant

.....  
Date

**Note**

*Information sheet*

A completed information sheet (form G 7) must accompany this application.

“Form FP 35A  
“Application for parenting order

r 334

“

Form FP 35A—*continued*

## *Sections 48 and 49, Care of Children Act 2004*

(Front page—Form G 1)

I/We, [full name(s)], apply (\*without notice) for a parenting order in respect of the following child(ren):

I/We meet the **eligible person** definition in section 47 of the Care of Children Act 2004 (the Act). (See Notes at the end of this form for a checklist to determine whether or not you are an eligible person.)

\*The child(ren) is/are the subject of an interim parenting order of [date] at [place] in [Court].

I/We propose that the order provide for me/us to have the role of providing day-to-day care for, and/or contact with, the child(ren) in accordance with the following arrangements: [specify arrangements for each child separately]

Name of child:

**Proposed day-to-day care and contact:** [specify the proposed times for (each of) you to have the role of providing day-to-day care for, and/or contact with, the child(ren)]:

\*Name of child:

*\*Proposed day-to-day care and contact: [specify the proposed times for (each of) you to have the role of providing day-to-day care for, and/or contact with, the child(ren)]:*

Form FP 35A—*continued***Statement required by section 49 of the Act**

I/We \*do/do not consider that the order should provide for persons other than myself/ourselves to have the role of providing day-to-day care for, and/or contact with, the child(ren):

\*Name of other person(s) and relationship to child(ren) or applicant(s):

.....

.....

\*Proposed day-to-day care and contact: [specify how you propose that the other person(s) will have the role of providing day-to-day care for, and/or contact with, the child(ren), including proposed times]

.....

\*At this stage, I/we do not intend these arrangements to remain in place for more than 12 months.

\*[If this application is based on an agreement about arrangements for the day-to-day care for, or contact with, the child(ren), attach a copy of that agreement.]

\*[If this application is made without notice, set out the reasons why it is made without notice]:

.....

.....

\*Delete if inapplicable.

.....  
Signature of applicant(s)

.....  
Date

To the Registrar  
Family Court  
at [place]

\*and

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

\*Delete if inapplicable.

Form FP 35A—*continued*

*[The Registrar must complete the following appointment for hearing if an appearance is necessary or required.]*

**Date of hearing**

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

.....  
Registrar

.....  
Date

**Notes***Information sheet*

A completed information sheet (form G 7) must accompany this application.

*Further information*

If there is not enough space on the form to describe your proposed arrangements, continue your application on a separate piece of paper and **attach** it to the form.

*Contact with parent*

Section 52 of the Act requires the Court to consider whether and how a parenting order should provide for contact between a child and parent if the order does not give that parent the role of providing day-to-day care for the child.

*Checklist for being an **eligible person** as defined in section 47 of the Act*

To be an **eligible person** to make this application, either A or B must apply to you.

A You are an eligible person because, in relation to the child(ren) named above, you are—

- a parent of the child(ren); or
- a guardian, but not a parent, of the child(ren); or
- a spouse or partner of a parent of the child(ren); or
- a member of the child(ren)'s family, whanau, or other culturally recognised family group AND you have been granted leave to apply by the Court; or

Form FP 35A—*continued*

- not in one of the categories above, but you have been granted leave to apply by the Court.

*or*

B You are an **eligible person** because—

- a a parent (called **P**) of the child(ren) named above—
  - has died; or
  - has been refused contact with the child(ren) by a Court; or
  - is entitled to have contact with the child(ren), but is making no attempt to have contact.

**and**

b you are—

- P's parent; or
- P's sibling; or
- a sibling of the child(ren).

“Form FP 36A

r 334

“Bond to ensure compliance with parenting  
order

“

Form FP 36A—*continued**Section 70, Care of Children Act 2004*

(General Heading—Form G 2)

The Court orders that [full name of person required to pay bond] pay a bond as an assurance that he or she will not again contravene the parenting order dated [date].

[Full name of person required to pay bond] is required to deposit the sum of \$[specify] with the Family Court at [place] by [date for payment of bond] and in the following way (or ways) [describe method of payment, eg, cheque or cash, etc].

This bond may be forfeited to the Crown if [full name of person required to pay bond] breaches the following conditions of the parenting order:

[Specify conditions the breach of which may lead to some or all of the money being forfeited.]

After [date], the deposited bond money will no longer be required, and will be refunded subject to any direction of the Court under section 70(4) of the Act.

.....  
Judge.....  
Date**Important notes for the person required to pay bond***Consequences of contravening parenting order*

A If you contravene the parenting order again by breaching the conditions specified above, the Court may direct that some or all of the bond is forfeited to the Crown. The Court will take into account—

- the reason the bond was imposed; and
- the extent to which the conditions of the bond have been met or breached; and
- any explanation given for the breach of the bond conditions; and
- all other matters the Court considers relevant.

**Form FP 36A—*continued***

B If you have contravened a parenting order the Court may order you to pay all or part of the costs of another party to the parenting order, if the Court is satisfied that—

- (a) you contravened the parenting order and had no reasonable excuse for doing so; and
- (b) the contravention caused the other party to incur the costs; and
- (c) the costs the other party incurred were reasonable in the circumstances.

Any such payment may be required by you or may be forfeited from this bond.

*Refunds*

Any money which is not forfeited by a direction of the Court will be refunded to you on the earlier of the following dates:

- (a) the date on which the parenting order comes to have effect;
- (b) the date specified above your signature on this bond.

**“Form FP 36B**

r 334

**“Notice of intention to appear in relation to  
interim parenting order or other interim order**

“

**Form FP 36B—*continued******Section 57(4), Care of Children Act 2004*****(General heading—Form G 2)**

I, [full name], of [address], [occupation], state that—

- (a) I am a party to an interim parenting order made on [date], without notice to me, on the application of another party; and
- (b) under that interim order, I have neither the role of providing day-to-day care for, nor contact with, the child(ren) named in that order.

I give notice that I wish to be heard on whether a final order should be substituted for that interim order.

**Affidavit in support**

[Note: *You must file an affidavit containing sufficient particulars to indicate the reasons for giving notice, and sufficient information to inform the Court of the facts relied on in support of the application.*]

I rely on the content of the affidavit dated [date] filed in support of this notice.

.....  
Signature

.....  
Date

This notice is filed by [full name], whose address for service is [address].

**Date of hearing**

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

.....  
Registrar

.....  
Date

“Form FP 49A  
“Warrant to prevent concealment of whereabouts  
of child

“

Form FP 49A—*continued**Section 117, Care of Children Act 2004*  
(General heading—Form G 2)

**To** every constable (or social worker).

I am satisfied on the application made on oath of [full name], of [address], [occupation], that with regard to [full name], a child aged [specify] years,—

- (a) an application under section 103 of the Care of Children Act 2004 (which relates to a child abducted to New Zealand) has been made to, and received by, the Authority; and
- (b) there are reasonable grounds for believing that a person will attempt to conceal the whereabouts of the child with intent to, or in circumstances where the concealment would be likely to, defeat the claim of the applicant.

The child is said to be in the care of [full name] of [address].

(\*There being no District Court Judge or Family Court Judge available,) I direct you to take possession of the child and place the child in the care of some suitable person pending the order or further order of the Court having jurisdiction in the case.

For the purpose of executing this warrant, you are authorised by section 75(1) of the Care of Children Act 2004 to enter and search any building, aircraft, ship, vehicle, premises, or place, with or without assistance, and by force if necessary.

You are required to have this warrant with you when executing it and to produce it on initial entry and, if requested, at any later time.

You must also comply with any other applicable requirements of section 75(2) of the Care of Children Act 2004.

When you have executed this warrant in accordance with the direction, you must advise this Court immediately of the name and address of the person with whom you have placed the child.

\*Delete if inapplicable.

Form FP 49A—*continued*

.....  
Judge  
(or Registrar of a District  
Court (not being a  
constable))

.....  
Date

**Notes***Arrest of person resisting execution of warrant*

Under section 79 of the Care of Children Act 2004, you commit an offence for which you may be sentenced to imprisonment if you knowingly resist or obstruct a person executing this warrant, or knowingly fail or refuse to afford a person of that kind immediate entrance to (all or a part of) any premises. Under section 315(2) of the Crimes Act 1961, a constable (and persons the constable calls to his or her assistance) may arrest and take into custody without a warrant a person whom the constable finds committing or has good cause to suspect of having committed an offence punishable by imprisonment.

*Use of a faxed copy of warrant*

If use of a faxed copy of this warrant is authorised by an authority to prevent delay in execution of the warrant, the authority must, under section 76 of the Care of Children Act 2004, write and sign a note on the front of the warrant stating—

- (a) the fact that a faxed copy of the warrant may be used for the purpose of executing the warrant; and
- (b) the date and time at which the authorisation expires, which must be the close of the third day after the day on which the authorisation is granted.

## “Form FP 49B

r 334

## “Warrant to enforce order for return of child”

“

Form FP 49B—*continued**Section 119, Care of Children Act 2004*

(General heading—Form G 2)

**To** every constable (or social worker).

(\*On the application of [full name], of [address], [occupation].) I authorise you to take possession of [full name], a child aged [specify] years, and to deliver him (or her) to [full name], of [address], for the purpose of returning the child in accordance with an order made in the [Court] at [place] on [date] under section 105(2) of the Care of Children Act 2004 (which relates to the return of a child abducted to New Zealand).

The child is said to be in the care of [full name] of [address].

For the purpose of executing this warrant, you are authorised by section 75(1) of the Care of Children Act 2004 to enter and search any building, aircraft, ship, vehicle, premises, or place, with or without assistance, and by force if necessary.

You are required to have this warrant with you when executing it and to produce it on initial entry and, if requested, at any later time.

You must also comply with any other applicable requirements of section 75(2) of the Care of Children Act 2004.

\*Delete if inapplicable.

.....

Judge

.....

Date

Form FP 49B—*continued***Notes***Arrest of person resisting execution of warrant*

Under section 79 of the Care of Children Act 2004, you commit an offence for which you may be sentenced to imprisonment if you knowingly resist or obstruct a person executing this warrant, or knowingly fail or refuse to afford a person of that kind immediate entrance to (all or a part of) any premises.

Under section 315(2) of the Crimes Act 1961, a constable (and persons the constable calls to his or her assistance) may arrest and take into custody without a warrant a person whom the constable finds committing, or has good cause to suspect of having committed, an offence punishable by imprisonment.

*Use of a faxed copy of warrant*

If use of a faxed copy of this warrant is authorised by an authority to prevent delay in execution of the warrant, the authority must, under section 76 of the Care of Children Act 2004, write and sign a note on the front of the warrant stating—

- (a) the fact that a faxed copy of the warrant may be used for the purpose of executing the warrant; and
- (b) the date and time at which the authorisation expires, which must be the close of the third day after the day on which the authorisation is granted.

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 2005, amend the Family Courts Rules 2002 (“the principal rules”). Most of the amendments are to align the principal rules with the Care of Children Act 2004. Amendments for this purpose include—

- replacing references to the Guardianship Act 1968 and its provisions with references to provisions of the Care of Children Act 2004;
- replacing references to “custody of a child” with references to “the role of providing day-to-day care for a child”;
- replacing references to “access to” a child with references to “contact with” a child;

- providing new forms where required by the Care of Children Act 2004, for example, new form *FP 35A*: “Application for parenting order”.

Other amendments make changes to terminology used in the principal rules in accordance with the Corrections Act 2004. In particular, references to “penal institutions” and their “Superintendents” are replaced with references to “prisons” and their “managers”.

There are also amendments correcting typographical errors, and to improve the format of some of the forms in the principal rules.

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