

Family Proceedings Amendment Rules 2002

Pursuant to section 188 of the Family Proceedings Act 1980 and to section 32 of the Guardianship Act 1968, 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 Proceedings Amendment Rules 2002.
- (2) In these rules, the Family Proceedings Rules 1981¹ are called “the principal rules”.

2 Commencement

These rules come into force on 21 October 2002.

3 Application of rules

- (1) Rule 2(1)(b) of the principal rules is amended by omitting the words “a Family Court or”.
- (2) Rule 2(2) of the principal rules is amended by inserting, after paragraph (a), the following paragraph:

“

“(aa) proceedings under the Acts to which the Family Courts Rules 2002 apply, namely—

 - “(i) proceedings in the Family Courts; and
 - “(ii) proceedings in a District Court acting under section 15 of the Family Courts Act 1980; or”.

4 Interpretation

- (1) Rule 3(1) of the principal rules is amended by revoking the definition of **Court**, and substituting the following definition:

“**Court**—

 - “(a) means a District Court of civil jurisdiction exercising jurisdiction under the Acts or either of the Acts; and
 - “(b) in relation to any act, jurisdiction, or discretion which may under these rules be done or exercised by the Registrar, includes the Registrar”.
- (2) Rule 3(1) of the principal rules is amended by revoking the definition of **Judge**, and substituting the following definition:

¹ SR 1981/261

“**Judge** means a District Court Judge exercising jurisdiction under the Acts or either of the Acts”

5 Rule 9 revoked

Rule 9 of the principal rules is revoked.

6 Headings

Rule 13 of the principal rules is amended by revoking subclause (4), and substituting the following subclause:

“(4) Subclauses (1) and (2) do not apply in respect of an application to which rule 18 applies.”

7 Form of applications

Rule 14(3) of the principal rules is amended by revoking paragraph (d), and substituting the following paragraph:

“

“(d) each separate application must be clearly identified in the document by appropriate headings.”

8 Applications on notice

(1) Rule 15(1) of the principal rules is amended by revoking paragraph (b), and substituting the following paragraph:

“

“(b) must be filed together with a number of copies that the Registrar directs (which number must not exceed the number of persons intended to be served) of—

“(i) the application; and

“(ii) where rule 18 applies, the information sheet accompanying that application.”

(2) Rule 15(2) of the principal rules is revoked.

(3) Rule 15(3) of the principal rules is amended by omitting the words “other than an application specified in subclause (2) of this rule”.

(4) Rule 15(3A) and (4) of the principal rules are revoked.

(5) Rule 15(5) of the principal rules is amended—

(a) by omitting the words “subclause (2)(b) to (g) or”; and

(b) by revoking paragraph (ba).

9 Ex parte applications

- (1) Rule 16(1) of the principal rules is amended by revoking paragraph (a)(i).
- (2) Rule 16(3) of the principal rules is revoked.
- (3) Rule 16(4) of the principal rules is amended by omitting the word “other”.

10 Information sheet to accompany certain applications

Rule 18(1) of the principal rules is amended—

- (a) by revoking paragraphs (a) and (b)(ii); and
- (b) by omitting from paragraph (b)(iii) the words—
 - (i) “in paragraph (a) of this subclause or”; and
 - (ii) “or subparagraph (ii) of this paragraph”.

11 Rule 19 revoked

Rule 19 of the principal rules is revoked.

12 Filing of applications

Rule 20(2) to (4) of the principal rules are revoked.

13 Rules 23 to 25 revoked

Rules 23 to 25 of the principal rules are revoked.

14 Failure to file and serve notice of defence within prescribed time

Rule 27B(1)(b) of the principal rules is amended by omitting the words “subject to rule 27E of these rules,”.

15 Rules 27C to 27E revoked

Rules 27C to 27E of the principal rules are revoked.

16 Rules 29 and 30 revoked

Rules 29 and 30 of the principal rules are revoked.

17 Restrictions on setting application down for hearing

Rule 32(a)(i) of the principal rules is revoked.

- 18 Rules 32C to 32E revoked**
Rules 32C to 32E of the principal rules are revoked.
- 19 Transfer of proceedings to High Court**
Rule 38 of the principal rules is amended by omitting the words “or under section 14 of the Family Courts Act 1980”.
- 20 Service generally**
Rule 39(3) of the principal rules is revoked.
- 21 Rules 44 and 44A revoked**
Rules 44 and 44A of the principal rules are revoked.
- 22 Service of orders**
Rule 45(1) of the principal rules is amended by omitting the words “Subject to rule 58(1) of these rules, the”, and substituting the word “The”.
- 23 Rule 54 revoked**
Rule 54 of the principal rules is revoked.
- 24 Part 10 revoked**
Part 10 of the principal rules is revoked.
- 25 Rule 76 revoked**
Rule 76 of the principal rules is revoked.
- 26 Schedule 1 amended**
- (1) Schedule 1 of the principal rules is amended by revoking forms F.P. 1 to F.P. 4, F.P. 8 to F.P. 14, F.P. 15A and F.P. 15B, F.P. 18, F.P. 22A and F.P. 22B, F.P. 26, and F.P. 54 to F.P. 61.
 - (2) Schedule 1 of the principal rules is amended by omitting from form F.P. 16—
 - (a) the heading “* *Request for an appearance or request for a hearing*”; and
 - (b) the 7 paragraphs immediately after that heading; and
 - (c) the words (which appear in the paragraph immediately after the heading *Address for service*) “[* or appear be-

- fore the Family Court at the hearing of the application]”;
and
- (d) the note “* *Include only where an order dissolving a marriage is applied for*”.
- (3) Schedule 1 of the principal rules is amended by omitting from form F.P. 17—
- (a) the heading “* *Request for an appearance or request for a hearing*” ; and
- (b) the 6 paragraphs immediately after that heading; and
- (c) the words (which appear in the paragraph immediately after the heading *Address for service*) “[* or appear before the Family Court at the hearing of the application]” ; and
- (d) the note “* *Include only where an order dissolving a marriage is applied for*”.
- (4) Schedule 1 of the principal rules is amended by omitting from form F.P. 23 the following words: “No request has been made for a mediation conference *OR* The request made for a mediation conference has been disposed of”.
- (5) Schedule 1 of the principal rules is amended by omitting from form F.P. 24 the words
- “for—
- “*An order dissolving the marriage
- “*A declaration whether, according to the law of New Zealand, the marriage is valid or has been validly dissolved
- “*An order declaring the marriage to be void *ab initio*
- “*An order declaring that the respondent is presumed to be dead and that the marriage is dissolved,”
- and substituting the words “for the following orders: ”.
- (6) Schedule 1 of the principal rules is amended by omitting from form F.P. 24 the words “[or [*If the application is for an order dissolving the marriage*] a request for an appearance]”.
- (7) Schedule 1 of the principal rules is amended by omitting from form F.P. 25 the following words:
- “[*Insert if the application is not for an order dissolving the marriage.*]
- “If you do not file at least one of the following documents the case may proceed without your being heard:
- “

- “•• a notice of defence, on or before..... [Date]
- “•• a request for an appearance, on or before[Date]
- “•• a request for a hearing, on or before[Date].

“[Insert if the application is for an order dissolving the marriage.]”

(8) Schedule 1 of the principal rules is amended by omitting from form F.P. 27 the expression “, 44(4), 48(2)(a)”.

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 21 October 2002, amend the Family Proceedings Rules 1981 to—

- make it clear that those rules do not apply to proceedings to which the Family Courts Rules 2002 apply; and
 - remove provisions that relate solely to the jurisdiction of Family Courts under—
 - the Family Proceedings Act 1980; or
- o the Guardianship Act 1968 (including the Guardianship Amendment Act 1991).

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