

Reprint  
as at 1 July 2019



## Care of Children (Appointment of Additional Guardian by Parents) (Forms) Rules 2005 (SR 2005/97)

Rules name: amended, on 1 November 2009, by rule 4(1)(a) of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

Silvia Cartwright, Governor-General

### Order in Council

At Wellington this 18th day of April 2005

Present:

Her Excellency the Governor-General in Council

Pursuant to sections 23 and 146(4)(b) of the Care of Children Act 2004, 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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#### Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.  
Note 4 at the end of this reprint provides a list of the amendments incorporated.

**These rules are administered by the Ministry of Justice.**

**Schedule** 4  
**Forms****Rules****1 Title**

These rules are the Care of Children (Appointment of Additional Guardian by Parents) (Forms) Rules 2005.

Rule 1: amended, on 1 November 2009, by rule 4(2) of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

**2 Commencement**

These rules come into force on 1 July 2005.

**3 Interpretation**

In these rules, **Act** means the Care of Children Act 2004.

**4 Form that must be used for appointments**

Every appointment of an additional guardian under section 23 of the Act must be in form 1 of the Schedule.

Rule 4: amended, on 1 November 2009, by rule 5 of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

**5 Submission of required documents for approval**

- (1) The parents, parent, or parent and guardian making the appointment must submit the required documents to a Family Court for approval by the Registrar under section 25 of the Act.
- (2) The required documents, once completed,—
  - (a) must be submitted all together; but
  - (b) may be submitted to any Family Court.
- (3) The required documents are—
  - (a) an appointment of an additional guardian under section 23 of the Act; and
  - (b) the associated statutory declarations specified in section 24 of the Act (as required by section 23(5)(a) of the Act, and which may be in a form approved for the purpose by the Secretary for Justice); and
  - (c) the proposed additional guardian's criminal record (as required by section 23(5)(b) of the Act, and which must be obtained from the Ministry of Justice).

**6 Registrar's approval**

Notice of a Registrar's approval given in accordance with section 25 of the Act may be issued in form 2 of the Schedule.

Rule 6: added, on 1 November 2009, by rule 6 of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

Schedule Forms

rr 4, 6

Schedule heading: substituted, on 1 November 2009, by rule 7 of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

Form 1

Appointment of eligible spouse or partner of parent as additional guardian

r 4

Section 23, Care of Children Act 2004

1 Appointment of additional guardian of child

(1) Appointment

[Full name] is appointed as an additional guardian of the child [full name] on approval of this form and the other required documents by the Registrar of a Family Court.

(2) Child who is subject of appointment

Full name: .....

Address: .....

Date of birth: .....

Age: .....

Gender: .....

(3) Proposed additional guardian

Full name: .....

Address: .....

Occupation: .....

Date of birth: .....

Age: .....

Gender: .....

Children from current and past relationships

Table with 4 columns: Full name of each child, Date of birth, Age, Gender. Includes three rows of dotted lines for data entry.

2 Person(s) making appointment

(1) Authority to make appointment

As required by section 21 of the Care of Children Act 2004 (the Act), the appointment is made by *[tick one]*—

- [full name]* and *[full name]*, the child’s parents, both of whom are guardians of the child; *or*
- [full name]* and *[full name]*, the mother and the father of the child (if the mother is sole guardian of the child just because of section 17(2) or (3) of the Act); *or*
- [full name]*, a parent of the child as his or her sole guardian (either because the other parent of the child is dead, or because of the application of Part 2 of the Status of Children Act 1969); *or*
- [full name]* and *[full name]*, the surviving parent and a testamentary guardian of the child (if, before dying, the other parent of the child appointed the testamentary guardian under section 26(1) of the Act).

(2) *Parent or testamentary guardian making appointment*

Full name: .....

Address: .....

Occupation: .....

Date of birth: .....

Age: .....

Gender: .....

Children from current and past relationships

Full name of each child	Date of birth	Age	Gender
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

\* (3) *Parent or testamentary guardian making appointment*

Full name: .....

Address: .....

Occupation: .....

Date of birth: .....

Age: .....

Gender: .....

Children from current and past relationships

Full name of each child	Date of birth	Age	Gender
.....	.....	.....	.....
.....	.....	.....	.....

.....  
\*Delete if inapplicable.

### 3 Requirements of section 22 of Act

- (1) Under section 22(1) of the Act, the appointment **cannot** be made unless **all** of the following statements apply [*tick those that apply*]. The child who is the subject of the appointment—
- does not have a testamentary guardian appointed by the Court under section 26(3) of the Act; *and*
  - does not have a guardian (either sole or additional) appointed by the Court under section 27 of the Act; *and*
  - is not, and has not been, involved in proceedings under Part 2 of the Oranga Tamariki Act 1989; *and*
  - is not, and has not been, an applicant for, or the subject of, a protection order under the Family Violence Act 2018.
- (2) Under section 22(2) of the Act, the appointment **cannot** be made unless **all** of the following statements apply [*tick those that apply*]. A parent authorised by section 21 of the Act to make the appointment—
- has not already appointed an additional guardian for the child under section 23 of the Act; *and*
  - has not been deprived of his or her guardianship by an order under section 29 of the Act; *and*
  - is not, and has not been, involved in proceedings concerning a child under the Act, a former Act corresponding to the Act, or Part 2 of the Oranga Tamariki Act 1989; *and*
  - is not, and has not been, a respondent or associated respondent in proceedings under the Family Violence Act 2018.
- (3) As required by section 22(3) of the Act, either [*tick one*]—
- the child; *or*
  - [*full name*], a parent of the child;—
- is either [*tick one*]—
- a New Zealand citizen; *or*
  - a person who is ordinarily resident in New Zealand.

### 4 Proposed additional guardian: eligibility requirements

Under section 23(2) of the Act, the appointment **cannot** be made unless **all** of the following statements apply [*tick those that apply*]. The proposed additional guardian—

- is or has been the spouse, civil union partner, or de facto partner of the parent who is making the appointment; *and*

- is not a parent of the child, but shares responsibility for the child's day-to-day care, and has done so for not less than 1 year; *and*
- is not, and has never been, involved in proceedings concerning a child under the Act, a former Act corresponding to the Act, or Part 2 of the Oranga Tamariki Act 1989; *and*
- is not, and has never been, either a respondent or an associated respondent in proceedings under the Family Violence Act 2018; *and*
- has never been convicted of an offence involving harm to a child, including (without limitation)—
  - an offence involving violence (that is, physical abuse or sexual abuse), ill-treatment, abuse, neglect, or deprivation in relation to a child; *or*
  - an offence against the Films, Videos, and Publications Classification Act 1993 involving a child pornography publication (as defined in section 23(3) of the Act).

## 5 Agreements to appointment

### (1) *Proposed additional guardian*

I, [full name], at [place] on [date], agree, in accordance with section 23(4) of the Act, to my appointment as an additional guardian of [name of child].

.....  
Signature

### (2) *Parent making appointment*

I, [full name], at [place] on [date], agree, in accordance with section 23(4) of the Act, to the appointment of [proposed additional guardian's full name] as an additional guardian of [name of child].

.....  
Signature

### (3) *\*Other parent, or testamentary guardian, making an appointment*

I, [full name], at [place] on [date], agree, in accordance with section 23(4) of the Act, to the appointment of [proposed additional guardian's full name] as an additional guardian of [name of child].

.....  
Signature

**6 Registrar's approval (official use only)**

I, [full name], Registrar of the Family Court at [place], in accordance with section 25 of the Act, \*approved (\*or declined to approve) this appointment on [date].

\*Delete if inapplicable.

.....  
Registrar's signature

.....  
Registrar's name

**Notes***Purpose of form*

This form must be used for appointment of an eligible spouse or partner of a parent of a child as an additional guardian of the child under section 23 of the Care of Children Act 2004 (the Act). The additional guardian's appointment takes effect only when the Registrar of a Family Court approves this form and the other required documents.

A person who is not an eligible spouse or partner of a parent cannot be appointed under section 23 of the Act, but may instead apply to a Family Court to be appointed an additional guardian under section 27 of the Act.

*Guardian's role*

A guardian's role is an important one, involving responsibility for promoting a child's welfare and best interests. When his or her appointment under section 23 of the Act takes effect, an additional guardian usually has (jointly with the other guardian or guardians of the child, and under sections 15 and 16 of the Act) responsibilities for the child including—

- having the role of providing day-to-day care for the child; and
- contributing to the child's intellectual, emotional, physical, social, cultural, and other personal development; and
- determining for or with the child, or helping the child to determine, important matters affecting the child including the child's name and any changes to it, his or her place of residence, medical treatment, education, culture, language, and religious denomination and practice.

An appointment of an additional guardian under section 23 of the Act ends when—

- the child turns 18 years, marries or enters into a civil union, or lives with another person as a de facto partner; or
- it is earlier revoked by order of a Family Court.



*Completion, submission, and approval of required documents*

This form is to be completed by—

- the person(s) authorised by section 21 of the Act to make the appointment (for example, the child’s parents); and
- the proposed additional guardian.

Persons who are unsure about what it means to complete, sign, and submit this form or about the effect of appointing or being appointed as an additional guardian should seek legal advice before completing, signing, or submitting this form.

When submitted for approval under section 25 of the Act, this form must be accompanied by [*tick both*]—

- the associated statutory declarations specified in section 24 of the Act (as required by section 23(5)(a) of the Act), which may be in a form approved for the purpose by the Secretary for Justice and available from the local Family Court or from—
  - <http://www.justice.govt.nz/family>; and
- the proposed additional guardian’s criminal record (as required by section 23(5)(b) of the Act), which must be obtained from the Privacy Unit, Ministry of Justice, National Office, PO Box 180, Wellington, or by using an application form available from—
  - <http://www.justice.govt.nz>.

Those documents, once completed,—

- must be submitted for approval all together; but
- may be submitted to any Family Court.

Information submitted as part of this form will be used by the Registrar of the relevant Family Court, the Ministry of Justice, or both, for generating a record of the request, making inquiries related to approval, and for processing the appointment.

Schedule form 1 heading: substituted, on 1 November 2009, by rule 8 of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

Schedule form 1: amended, on 1 July 2018, by section 259(2) of the Family Violence Act 2018 (2018 No 46).

Schedule form 1: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

## Form 2

Notice of Registrar's approval of appointment of eligible spouse or partner of  
parent as additional guardian

r 6

*Section 25, Care of Children Act 2004*

- 1 On *[date]*, the Registrar of the Family Court at *[place]* approved—
  - (a) an appointment of an additional guardian made under section 23 of the Care of Children Act 2004 by *[full name of each person who made the appointment]* appointing *[full name]* an additional guardian of *[full name and date of birth of child who is the subject of the appointment]*; and
  - (b) the statutory declarations of *[full name of each person]* referred to in section 23(5)(a) of the Care of Children Act 2004.
- 2 The appointment of *[full name]* as an additional guardian of *[full name and date of birth of child who is the subject of the appointment]* is effective from *[date]*.

Date:

Signature:

(Registrar)

Schedule form 2: added, on 1 November 2009, by rule 9 of the Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291).

Diane Morcom,  
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 21 April 2005.

## **Reprints notes**

### **1     *General***

This is a reprint of the Care of Children (Appointment of Additional Guardian by Parents) (Forms) Rules 2005 that incorporates all the amendments to those rules as at the date of the last amendment to them.

### **2     *Legal status***

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

### **3     *Editorial and format changes***

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

### **4     *Amendments incorporated in this reprint***

Family Violence Act 2018 (2018 No 46): section 259(2)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149

Care of Children (Appointment of Additional Guardian by Parents) (Form) Amendment Rules 2009 (SR 2009/291)