



## **Domestic Violence Amendment Rules 2014**

Jerry Mateparae, Governor-General

### **Order in Council**

At Wellington this 30th day of June 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 126 of the Domestic Violence Act 1995, His 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 Domestic Violence Amendment Rules 2014.

### 2 Commencement

These rules come into force on 1 October 2014.

### 3 Principal rules

These rules amend the Domestic Violence Rules 1996 (the **principal rules**).

### 4 Rule 3 amended (Interpretation)

- (1) In rule 3(1), revoke the definition of **form FP 7**.
- (2) In rule 3(1), insert in its appropriate alphabetical order:
 

“**form DV 4A** means the form so numbered in Schedule 5 of the Family Courts Rules 2002”.
- (3) In rule 3(1), replace the definition of **objector** with:
 

“**objector**, in relation to a direction to undertake an assessment and attend a non-violence programme, means a person who notifies the court under section 51E(2)(b) of the Act that he or she objects to the direction”.

- (4) In rule 3(2)(d), replace “form FP 7” with “form DV 4A”.
- 5 Rule 14 amended (Applications without notice)**  
Replace rule 14(2)(b) with:  
“(b) an application under section 46(1) or (2) of the Act (which relate to the variation of a protection order):”.
- 6 Rule 67 amended (Amendment before service)**  
In rule 67(2), replace “section 36” with “section 51E”.
- 7 Part 10 heading amended**  
In the Part 10 heading, after “at”, insert “non-violence”.
- 8 Rule 83 amended (Notice of objection)**  
(1) Replace the heading to rule 83 with “**Notice of objection to direction to undertake assessment and attend non-violence programme**”.  
(2) In rule 83(1), replace “section 36” with “section 51E(2)(b)”.
- 9 Rule 84 amended (How notice of objection to be dealt with)**  
(1) In rule 84(1), replace “section 37” with “section 51F”.  
(2) Replace rule 84(3) to (5) with:  
“(3) If the objector does not wish to be heard, then, subject to sub-clause (1),—  
“(a) the objector may make written submissions in respect of the objection; and  
“(b) the objection may be dealt with on the papers.  
“(4) If the objector does wish to be heard,—  
“(a) the Registrar must assign a hearing date in accordance with section 51E(3)(a) of the Act; and  
“(b) the objector may appear at the hearing and be heard in person or by his or her lawyer.”
- 10 Rule 85 replaced (Notice of result of objection)**  
Replace rule 85 with:

**“85 Notice of result of objection**

As soon as practicable after a decision is made on an objection under section 51F(1) of the Act confirming, varying, or discharging a direction, a Registrar must—

- “(a) arrange for the decision to be drawn up in form DV 27 (notice of result of objection to direction to undertake assessment and attend non-violence programme); and
- “(b) arrange for a copy of the decision to be served on each of the parties.”

**11 Rule 86 revoked (Request by provider for variation of programme)**

Revoke rule 86.

**12 Rule 87 amended (Decision of court under section 42)**

- (1) In the heading to rule 87, replace “**section 42**” with “**section 51Q**”.
- (2) In rule 87, replace “section 42” with “section 51Q(1)”.

**13 Rule 88 replaced (Summons to attend before court)**

Replace rule 88 with:

**“88 Witness summons calling respondent or associated respondent before court**

If a Registrar under section 51O of the Act, or a Judge under section 51P of the Act, calls a respondent or an associated respondent to appear before the court, the summons must be in form DV 15.”

**14 Rule 99 amended (Witness entitled to expenses)**

In rule 99(3), replace “section 42 or section” with “section 51O, 51P, or”.

**15 Schedule 1, form DV 2 amended**

- (1) This rule amends form DV 2 of Schedule 1.
- (2) In the heading “**\*Request for provision of programme**”, after “of”, insert “**safety**”.
- (3) Under the heading “**\*Request for provision of programme**”, replace the text with:

“I request the Registrar to authorise the provision of a safety programme to the following person(s): [full name(s)]. (See ‘Notes’ below.)”

- (4) In the heading “\*Certificate of lawyer”, after “lawyer”, insert “for application made without notice”.

- (5) Above the heading “\*Date of hearing”, insert:

**“\*Certificate of lawyer for application for protection order**

“[Note: Complete if applying for a protection order.]

“I certify that I have advised the applicant that, if the court makes a protection order, the applicant may request the Registrar to authorise the provision of a safety programme to the applicant and to any other person protected by the order, including a child of the applicant’s family.

“Date:

“Signature:

“(Lawyer for applicant)”.

- (6) Under the heading “Notes”, replace the headings “**Information sheet**”, “**Affidavit in support**”, and “**Notice to Police**” and the text under each of those headings with:

**“Safety programmes**

“If, on your application, the court makes either a temporary or a final protection order, you may request the Registrar of the court to arrange for you to attend a safety programme.

“You may also request the Registrar to arrange for the children of your family, or any other person for whose benefit the court directs that the protection order applies, to attend a safety programme.

“A request to attend a safety programme may be made at any time while the protection order remains in force.

**“What must be filed with this application**

“The following must be filed with this application:

- “(a) affidavit in support (form DV 3); and  
“(b) information sheet (form DV 4A). An applicant may request that his or her residential address be kept confidential (see rule 22 of the Domestic Violence Rules 1996).

“You must also file an information for Police (form DV 5) if you are applying for a protection order. It informs the Police about what access, if any, the respondent and associated respondent have to firearms and other weapons.”

**16 Schedule 1, form DV 15 amended**

- (1) This rule amends form DV 15 of Schedule 1.
- (2) Replace “the court directed you to attend a programme” with “the court directed you to undertake an assessment and attend a non-violence programme”.
- (3) Replace “The programme provider of that programme—” and the paragraphs (a) and (b) under that text with:

“The service provider to whom you have been referred has notified the Registrar that you have failed to comply with that direction [*set out nature of non-compliance*].”

**17 Schedule 1, form DV 16 amended**

- (1) This rule amends form DV 16 of Schedule 1.
- (2) In paragraph 2(e)(iv), after “1989”, insert “; or”.
- (3) After paragraph 2(e)(iv), insert:

“(v) as is necessary for the purposes of attending a settlement conference convened under section 46Q of the Care of Children Act 2004.”
- (4) Replace the heading “\*(d) Attendance at programme” with:

“\*(d) Attendance at assessment and non-violence programme”.
- (5) Under the heading “\*(d) Attendance at programme”, replace all the text and paragraphs with:

“The court directs [*full name of respondent*] to undertake an assessment and attend a non-violence programme.  
“The Registrar of the court will arrange for the respondent to be referred to a service provider, and the respondent must meet with the service provider so that the service provider may—  
“(a) undertake an assessment of the respondent; and  
“(b) determine whether there is an appropriate non-violence programme for the respondent to attend.

“If there is an appropriate non-violence programme for the respondent to attend, the service provider of that programme will settle in writing with the respondent—

“(a) the number of programme sessions that the respondent must attend; and

“(b) the place, date, and time of the first programme session, and all subsequent programme sessions, that the respondent must attend; and

“(c) any other terms of attendance.”

- (6) Under the heading “Important information for respondent/associated respondent”, replace the heading “**Objection to direction to attend a programme**” and the text under that heading with:

“**\*Objection to direction to attend assessment and non-violence programme**

“The court has directed you to undertake an assessment and attend a non-violence programme.

“You have 10 working days after you have been served with this order to notify the Family Court at [place] if you object to that direction.

“If you do not make an objection within that period and then fail without reasonable excuse to comply with the direction, you may be prosecuted. (See **Consequences of failing to comply with direction** below.)”

- (7) Under the heading “Important information for respondent/associated respondent”, above the heading “**Modification or discharge of this order**”, insert:

“**\*Notification of safety concerns for protected persons**

“If following an assessment or at any time during your attendance at a non-violence programme a service provider has concerns about the safety of a protected person, the service provider must without delay notify the Registrar of the court about those concerns.”

- (8) Under the heading “Important information for respondent/associated respondent”, under the heading “**Modification or discharge of this order**”, revoke paragraph (c).

- (9) Under the heading “Important information for respondent/associated respondent”, under the heading “**Modification or discharge of this order**”, after paragraph (d), insert:  
“You or the applicant may apply to the Family Court for a variation or discharge of a direction to undertake an assessment and attend a non-violence programme, or for such a direction to be made.”
- (10) Under the heading “Important information for respondent/associated respondent”, under the heading “**Consequences of a breach of this order**”, replace “2 years’ imprisonment” with “3 years’ imprisonment”.
- (11) Under the heading “Important information for respondent/associated respondent”, replace the heading “**Consequences of failing to comply with direction**” and the text under that heading with:  
“**\*Consequences of failing to comply with direction**  
“You commit an offence if, without reasonable excuse, you fail on any occasion to comply with a direction to undertake an assessment and attend a non-violence programme.  
“The maximum penalty for this offence is 6 months’ imprisonment or a fine not exceeding \$5,000.”
- (12) Under the heading “Important information for protected persons”, replace the heading “**Attendance at a programme**” and the text under that heading with:  
“**Attendance at safety programme**  
“If you have requested a referral to a safety programme, you will be contacted by a service provider in the near future.  
“If you wish to request a referral for yourself or for 1 or more children of your family or for any other persons protected by the protection order, you may do so by contacting the Registrar.”
- (13) Under the heading “Important information for protected persons”, under the heading “**Modification or discharge of this order**”, revoke paragraph (c).
- (14) Under the heading “Important information for protected persons”, under the heading “**Modification or discharge of this order**”, after paragraph (d), insert:



“If you are the applicant, then either you or the respondent may apply to a Family Court at any time for the variation or discharge of a direction that the respondent undertake an assessment and attend a non-violence programme, or for such a direction to be made.”

- (15) Under the heading “Important information for protected persons”, under the heading “**Consequences of a breach of this order**”, replace “2 years’ imprisonment” with “3 years’ imprisonment”.
- (16) Under the heading “Important information for protected persons”, replace the heading “**Consequences of failing to comply with direction**” and the text under that heading with:  
**“\*Consequences of failing to comply with direction**  
 “The respondent or associated respondent commits an offence if, without reasonable excuse, he or she fails on any occasion to comply with a direction to undertake an assessment and attend a non-violence programme.  
 “The maximum penalty for this offence is 6 months’ imprisonment or a fine not exceeding \$5,000.”

## **18 Schedule 1, form DV 17 amended**

- (1) This rule amends form DV 17 of Schedule 1.
- (2) In paragraph 2(e)(iv), after “1989”, insert “; or”.
- (3) After paragraph 2(e)(iv), insert:  
 “(v) as is necessary for the purposes of attending a settlement conference convened under section 46Q of the Care of Children Act 2004.”
- (4) Replace the heading “**\*(d) Attendance at programme**” with:  
**“\*(d) Attendance at assessment and non-violence programme”**.
- (5) Under the heading “**\*(d) Attendance at programme**”, replace all the text and paragraphs with:  
 “The court directs [*full name of respondent*] to undertake an assessment and attend a non-violence programme.  
 “The Registrar of the court will arrange for the respondent to be referred to a service provider, and the respondent must meet with the service provider so that the service provider may—  
 “(a) undertake an assessment of the respondent; and

- “(b) determine whether there is an appropriate non-violence programme for the respondent to attend.  
“If there is an appropriate non-violence programme for the respondent to attend, the service provider of that programme will settle in writing with the respondent—
- “(a) the number of programme sessions that the respondent must attend; and
- “(b) the place, date, and time of the first programme session, and all subsequent programme sessions, that the respondent must attend; and
- “(c) any other terms of attendance.”
- (6) Under the heading “Important information for respondent/associated respondent”, replace the heading “**Objection to direction to attend a programme**” and the text under that heading with:
- “**\*Objection to direction to attend assessment and non-violence programme**
- “The court has directed you to undertake an assessment and attend a non-violence programme.
- “You have 10 working days after you have been served with this order to notify the Family Court at [place] if you object to that direction.
- “If you do not make an objection within that period and then fail without reasonable excuse to comply with the direction, you may be prosecuted. (See **Consequences of failing to comply with direction** below.)”
- (7) Under the heading “Important information for respondent/associated respondent”, above the heading “**Modification or discharge of this order**”, insert the following heading and paragraph:
- “**\*Notification of safety concerns for protected persons**
- “If following an assessment or at any time during your attendance at a non-violent programme a service provider has concerns about the safety of a protected person, the service provider must without delay notify the Registrar of the court about those concerns.”

- (8) Under the heading “Important information for respondent/associated respondent”, under the heading “**Modification or discharge of this order**”, revoke paragraph (c).
- (9) Under the heading “Important information for respondent/associated respondent”, under the heading “**Modification or discharge of this order**”, after paragraph (d), insert:  
“You or the applicant may apply to the Family Court for a variation or discharge of a direction to undertake an assessment and attend a non-violence programme, or for such a direction to be made.”
- (10) Under the heading “Important information for respondent/associated respondent”, under the heading “**Consequences of a breach of this order**”, replace “2 years’ imprisonment” with “3 years’ imprisonment”.
- (11) Under the heading “Important information for respondent/associated respondent”, replace the heading “**Consequences of failing to comply with direction**” and the text under that heading with:  
“**\*Consequences of failing to comply with direction**  
“You commit an offence if, without reasonable excuse, you fail on any occasion to comply with a direction to undertake an assessment and attend a non-violence programme.  
“The maximum penalty for this offence is 6 months’ imprisonment or a fine not exceeding \$5,000.”
- (12) Under the heading “Important information for protected persons”, replace the heading “**Attendance at a programme**” and the text under that heading with:  
“**Attendance at safety programme**  
“If you have requested a referral to a safety programme, you will be contacted by a service provider in the near future.  
“If you wish to request a referral for yourself or for 1 or more children of your family or for any other persons protected by the protection order, you may do so by contacting the Registrar.”
- (13) Under the heading “Important information for protected persons”, under the heading “**Modification or discharge of this order**”, revoke paragraph (c).

- (14) Under the heading “Important information for protected persons”, under the heading “**Modification or discharge of this order**”, after paragraph (d), insert:  
 “If you are the applicant, then either you or the respondent may apply to a Family Court at any time for the variation or discharge of a direction that the respondent undertake an assessment and attend a non-violence programme, or for such a direction to be made.”
- (15) Under the heading “Important information for protected persons”, under the heading “**Consequences of a breach of this order**”, replace “2 years’ imprisonment” with “3 years’ imprisonment”.
- (16) Under the heading “Important information for protected persons”, replace the heading “**Consequences of failing to comply with direction**” and the text under that heading with:  
 “**\*Consequences of failing to comply with direction**  
 “The respondent or associated respondent commits an offence if, without reasonable excuse, he or she fails on any occasion to comply with a direction to undertake an assessment and attend a non-violence programme.  
 “The maximum penalty for this offence is 6 months’ imprisonment or a fine not exceeding \$5,000.”

#### **19 Schedule 1, form DV 26 amended**

- (1) This rule amends form DV 26 of Schedule 1.
- (2) Replace the form heading with:  
 “Form DV 26 r 83(1)  
 “Objection to direction to undertake assessment  
 and attend non-violence programme
- (3) In the authorisation, replace “*Section 36*” with “*Section 51E(2)*”.
- (4) Replace “attend a programme” with “undertake an assessment and attend a non-violence programme”.

#### **20 Schedule 1, form DV 27 amended**

- (1) This rule amends form DV 27 of Schedule 1.
- (2) Replace the form heading with:

## “Form DV 27

r 85

“Notice of result of objection to undertake assessment and attend non-violence programme

- (3) Replace the form heading with “**Notice of result of objection to direction to undertake assessment and attend non-violence programme**”.
- (4) In the authorisation, replace “*Section 37*” with “*Section 51F(1)*”.
- (5) Replace “that the objector attend a programme” with “to the direction that the objector undertake an assessment and attend a non-violence programme”.
- (6) Under the heading “**Consequences of failure to comply with direction**”, replace “attend a programme” with “undertake an assessment and attend a non-violence programme”.

**21 Schedule 1, form DV 28 revoked**  
Revoke form DV 28 of Schedule 1.

Martin Bell,  
for Clerk of the Executive Council.

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### 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 October 2014, amend the Domestic Violence Rules 1996 to reflect the changes made to the Domestic Violence Act 1995 by the Domestic Violence Amendment Act 2013 (which will come fully into force on 1 October 2014).

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Issued under the authority of the Legislation Act 2012.  
Date of notification in *Gazette*: 3 July 2014.  
These rules are administered by the Ministry of Justice.

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