



## **Family Courts Amendment Rules (No 2) 2008**

Rt Hon Dame Sian Elias, Administrator of the Government

### **Order in Council**

At Wellington this 15th day of September 2008

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 16A of the Family Courts Act 1980, Her Excellency the Administrator of the Government, 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 Family Courts Amendment Rules (No 2) 2008.
- 2 Commencement**  
These rules come into force on 26 September 2008.
- 3 Principal rules amended**  
These rules amend the Family Courts Rules 2002.
- 4 Schedule 9 amended**  
Schedule 9 is amended by adding forms PPPR 23, PPPR 24, and PPPR 25 set out in the Schedule to these rules.

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## Schedule

r 4

### New forms PPPR 23, PPPR 24, and PPPR 25 added to Schedule 9

#### Form PPPR 23

r 406

#### Application by attorney for directions

*Section 101, Protection of Personal and Property Rights Act 1988*

(Front page—Form PPPR 1)

I, [*full name, address, occupation of attorney*], apply for directions relating to the exercise of my powers under an enduring power of attorney.

I say—

- 1 *For this paragraph select the statement that applies.*

#### *Statement A*

On [*date*] [*name of donor*] granted to me an enduring power of attorney to act in relation to his/her\* personal care and welfare.

\*Select one.

Form PPPR 23—*continued**Statement B*

On [date] [name of donor] granted to me an enduring power of attorney to act in relation to his/her\* property.

\*Select one.

*Statement C*

On [date] [name of donor] granted to me an enduring power of attorney to act in relation to his/her\* personal care and welfare and his/her\* property.

\*Select one.

- 2 *For this paragraph select the statements that apply.*

*Statement A*

The enduring power of attorney authorises me to act in relation to the personal care and welfare of [name of donor] generally.

*Statement B*

The enduring power of attorney authorises me to act in relation to the personal care and welfare of [name of donor] regarding the following specific matters: [state matters].

*Statement C*

The enduring power of attorney authorises me to act generally in relation to all of the property of [name of donor].

*Statement D*

The enduring power of attorney authorises me to act generally in relation to the following property of [name of donor]: [describe property].

*Statement E*

The enduring power of attorney authorises me to do the following specific things in relation to the property of [name of donor]: [specify things].

- 3 *For this paragraph select the statement that applies.*

*Statement A*

The enduring power of attorney is not subject to any conditions or restrictions.

Form PPPR 23—*continued**Statement B*

The enduring power of attorney is subject to the following conditions and restrictions: *[specify]*.

- 4 *Include this paragraph if the attorney is—*
- *acting in respect of a significant matter relating to the donor's personal care and welfare; or*
  - *authorised to act in relation to the donor's property only if the donor becomes mentally incapable.*

*For this paragraph select the statement that applies.*

*Statement A*

A relevant health practitioner has certified that *[name of donor]* is mentally incapable and a copy of that certificate is attached.

*Statement B*

The Court has determined that *[name of donor]* is mentally incapable and a copy of the Court order is attached.

- 5 *Include this paragraph if the enduring power of attorney is in relation to the donor's personal care and welfare and the attorney is acting in respect of a matter other than a significant matter:*

I have reasonable grounds to believe that *[name of donor]* is mentally incapable. Those grounds are: *[specify]*.

- 6 I seek directions relating to the exercise of my powers in respect of *[state the directions sought and sufficient information to inform the Court of the need for those directions]*.

Date:

Signature of applicant:

## Notes

**Advice**

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

Form PPPR 23—*continued***Office hours**

The office of the Family Court is open from 8.30 am to 5 pm on Mondays to Fridays inclusive.

**Information sheet**

A duly completed information sheet (in form PPPR 14) must accompany this application.

**Meaning of the term relevant health practitioner**

The term **relevant health practitioner** means a person who is, or is deemed to be, registered with a registration authority appointed by or under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession, or a medical practitioner registered by a competent overseas authority,—

- (a) whose scope of practice includes the assessment of a person's mental capacity; or
- (b) whose scope of practice—
  - (i) includes the assessment of a person's mental capacity; and
  - (ii) is specified in the enduring power of attorney.

**Copy of enduring power of attorney**

When filing this application you must lodge in the office of the Court, unless the Registrar otherwise directs, a copy of the enduring power of attorney.

## Form PPPR 24

r 406

Application for exercise of Court's jurisdiction  
in respect of enduring power of attorney  
*Sections 102 and 102A, Protection of Personal and Property  
Rights Act 1988*

## (Front page—Form PPPR 1)

I, *[full name, address, occupation]*, apply for the exercise of the Court's jurisdiction in respect of *[state matter in respect of which the Court's jurisdiction is sought]*.

I say—

- 1 *For this paragraph select the statement that applies.*

*Statement A*

On *[date]* I/*[name of donor]*\* granted to *[name of attorney]* an enduring power of attorney to act in relation to my/his/her\* personal care and welfare.

\*Select one.

*Statement B*

On *[date]* I/*[name of donor]*\* granted to *[name of attorney]* an enduring power of attorney to act in relation to my/his/her\* property.

\*Select one.

*Statement C*

On *[date]* I/*[name of donor]*\* granted to *[name of attorney]* an enduring power of attorney to act in relation to my/his/her\* personal care and welfare and my/his/her\* property.

\*Select one.

- 2 *For this paragraph select the statements that apply.*

*Statement A*

The enduring power of attorney authorises *[name of attorney]* to act in relation to my/the donor's\* personal care and welfare generally.

\*Select one.

Form PPPR 24—*continued**Statement B*

The enduring power of attorney authorises [*name of attorney*] to act in relation to my/the donor's\* personal care and welfare regarding the following specific matters: [*state matters*].

\*Select one.

*Statement C*

The enduring power of attorney authorises [*name of attorney*] to act generally in relation to all of my/the donor's\* property.

\*Select one.

*Statement D*

The enduring power of attorney authorises [*name of attorney*] to act generally in relation to the following of my/the donor's\* property: [*describe property*].

\*Select one.

*Statement E*

The enduring power of attorney authorises [*name of attorney*] to do the following specific things in relation to my/the donor's\* property: [*specify things*].

\*Select one.

- 3 *For this paragraph select the statement that applies.*

*Statement A*

The enduring power of attorney is not subject to any conditions or restrictions.

*Statement B*

The enduring power of attorney is subject to the following conditions and restrictions: [*specify*].

- 4 *For this paragraph select the statement that applies.*

*Statement A*

I apply to the Court to determine whether the instrument executed by me/[*name of donor*]\* is an enduring power of attorney.

\*Select one.

Form PPPR 24—*continued**Statement B*

I apply to the Court to determine whether or not [*name of donor*] is mentally incapable.

*Statement C*

I apply to the Court for the following order/direction\* in respect of the enduring power of attorney: [*state order sought from Court and reasons*].

\*Select one.

- 5 *Include this paragraph if an application is being made to the Court for an order or direction in respect of an enduring power of attorney, and select the statement that applies.*

*Statement A*

[*Name of attorney*] believes on the following reasonable grounds that [*name of donor*] is mentally incapable: [*state grounds*].

*Statement B*

A relevant health practitioner has certified that [*name of donor*] is mentally incapable and a copy of that certificate is attached.

*Statement C*

The Court has determined that [*name of donor*] is mentally incapable and a copy of the Court order is attached.

- 6 I am:
- \*the donor of the enduring power of attorney
  - \*a relative of the donor
  - \*an attorney of the donor (not being the attorney acting under the enduring power of attorney)
  - \*a social worker
  - \*a medical practitioner
  - \*a trustee corporation
  - \*the principal manager of [*name of place*] providing hospital care/rest home care/residential disability care\* to the donor
  - \*a welfare guardian appointed for the donor



Form PPPR 24—*continued*

\*a person authorised by a body or organisation contracted by the Government to provide elder abuse and neglect prevention services

\*a person granted leave by the Court to make this application.

\*Select one.

Date:

Signature of applicant:

## Notes

**Advice**

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

**Office hours**

The office of the Family Court is open from 8.30 am to 5 pm on Mondays to Fridays inclusive.

**Information sheet**

A duly completed information sheet (in form PPPR 14) must accompany this application.

**Meaning of the term relative**

The term **relative**, in relation to any person, means—

- (a) the spouse, civil union partner, or de facto partner of that person; and
- (b) a parent or grandparent of that person, or of the spouse or other person referred to in paragraph (a); and
- (c) a child or grandchild of that person, or of the spouse or other person referred to in paragraph (a); and
- (d) a brother or sister of that person, or of the spouse or other person referred to in paragraph (a), whether of full-blood or of half-blood; and

Form PPPR 24—*continued*

- (e) an aunt or uncle of that person, or of the spouse or other person referred to in paragraph (a); and
- (f) a nephew or niece of that person, or of the spouse or other person referred to in paragraph (a).

**Meaning of the term relevant health practitioner**

The term **relevant health practitioner** means a person who is, or is deemed to be, registered with a registration authority appointed by or under the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession, or a medical practitioner registered by a competent overseas authority,—

- (a) whose scope of practice includes the assessment of a person's mental capacity; or
- (b) whose scope of practice—
  - (i) includes the assessment of a person's mental capacity; and
  - (ii) is specified in the enduring power of attorney.

**Copy of enduring power of attorney**

When filing this application you must, if possible, lodge in the office of the Court a copy of the enduring power of attorney.

## Form PPPR 25

r 406

Application for review of attorney's decision  
*Section 103, Protection of Personal and Property Rights  
Act 1988*

## (Front page—Form PPPR 1)

I, [full name, address, occupation], apply for a review of the following decision made by [full name of attorney] acting under an enduring power of attorney granted by me/[name of donor]\*: [state decision sought to be reviewed].

\*Select one.

I say—

1 *For this paragraph select the statement that applies.*

*Statement A*

On [date] I/[name of donor]\* granted to [name of attorney] an enduring power of attorney to act in relation to my/his/her\* personal care and welfare.

\*Select one.

*Statement B*

On [date] I/[name of donor]\* granted to [name of attorney] an enduring power of attorney to act in relation to my/his/her\* property.

\*Select one.

*Statement C*

On [date] I/[name of donor]\* granted to [name of attorney] an enduring power of attorney to act in relation to my/his/her\* personal care and welfare and my/his/her\* property.

\*Select one.

2 *For this paragraph select the statements that apply.*

*Statement A*

The enduring power of attorney authorises [name of attorney] to act in relation to my/the donor's\* personal care and welfare generally.

\*Select one.

Form PPPR 25—*continued**Statement B*

The enduring power of attorney authorises [*name of attorney*] to act in relation to my/the donor's\* personal care and welfare regarding the following specific matters: [*state matters*].

\*Select one.

*Statement C*

The enduring power of attorney authorises [*name of attorney*] to act generally in relation to all of my/the donor's\* property.

\*Select one.

*Statement D*

The enduring power of attorney authorises [*name of attorney*] to act generally in relation to the following of my/the donor's\* property: [*describe property*].

\*Select one.

*Statement E*

The enduring power of attorney authorises [*name of attorney*] to do the following specific things in relation to my/the donor's\* property: [*specify things*].

\*Select one.

- 3 *For this paragraph select the statement that applies.*

*Statement A*

The enduring power of attorney is not subject to any conditions or restrictions.

*Statement B*

The enduring power of attorney is subject to the following conditions and restrictions: [*specify*].

- 4 At a time when I/the donor\* was mentally incapable [*full name of attorney*] made the following decision/decisions\*: [*state decision(s)*].

\*Select one.

Form PPPR 25—*continued*

5 This decision needs/These decisions\* need review because:  
[*state reasons*].

\*Select one.

6 I am—

\*the donor of the enduring power of attorney

\*a relative of the donor

\*an attorney of the donor (not being the attorney acting under  
the enduring power of attorney)

\*a social worker

\*a medical practitioner

\*a trustee corporation

\*the principal manager of [*name of place*] providing hospital  
care/rest-home care/residential disability care\* to the donor

\*a welfare guardian appointed for the donor

\*a person authorised by a body or organisation contracted by  
the Government to provide elder abuse and neglect prevention  
services

\*a person granted leave by the Court to make this application.

\*Select one.

Date:

Signature of applicant:

### Notes

#### **Advice**

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

#### **Office hours**

The office of the Family Court is open from 8.30 am to 5 pm on  
Mondays to Fridays inclusive.

Form PPPR 25—*continued***Information sheet**

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**Meaning of the term relative**

The term **relative**, in relation to any person, means—

- (a) the spouse, civil union partner, or de facto partner of that person; and
- (b) a parent or grandparent of that person, or of the spouse or other person referred to in paragraph (a); and
- (c) a child or grandchild of that person, or of the spouse or other person referred to in paragraph (a); and
- (d) a brother or sister of that person, or of the spouse or other person referred to in paragraph (a), whether of full-blood or of half-blood; and
- (e) an aunt or uncle of that person, or of the spouse or other person referred to in paragraph (a); and
- (f) a nephew or niece of that person, or of the spouse or other person referred to in paragraph (a).

**Copy of enduring power of attorney**

When filing this application you must, if possible, lodge in the office of the Court a copy of the enduring power of attorney.

Rebecca Kitteridge,  
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 26 September 2008, add 3 forms to Schedule 9 of the Family Courts Rules 2002.

These forms are to be used when making the following applications to the Family Court under Part 9 of the Protection of Personal and Property Rights Act 1988:

- an application by an attorney seeking directions in relation to the exercise of his or her powers:
- an application for the exercise of the Court's jurisdiction in respect of an enduring power of attorney:
- an application to review an attorney's decision.

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

Date of notification in *Gazette*: 18 September 2008.

These rules are administered by the Ministry of Justice.

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