



Family Courts Amendment Rules (No 2) 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 21st day of January 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 16A of the Family Courts Act 1980, 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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**Family Courts Amendment Rules
(No 2) 2014**

2014/4

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Rules

- 1 Title**
These rules are the Family Courts Amendment Rules (No 2) 2014.
- 2 Commencement**
These rules come into force on 31 March 2014.
- 3 Principal rules**
These rules amend the Family Courts Rules 2002 (the **principal rules**).

Part 1

Amendments to Parts 1 to 5

Amendments to Part 1

4 Rule 4 amended (Overview of these rules)

- (1) In rule 4(1), replace “6 Parts and 9 schedules” with “7 Parts and 10 schedules”.
- (2) After rule 4(6), insert:
“(6A) Part 5A sets out rules applying to proceedings under the Care of Children Act 2004 (other than proceedings under subpart 2 of Part 2 of that Act (which relates to international child abduction)).”
- (3) In rule 4(8), replace “9” with “10”.

5 Rule 5 amended (Application of these rules)

- (1) Replace rule 5(3) with:
“(3) However, the application of the general rules to any proceedings is modified,—
“(a) in the case of proceedings under the Acts referred to in rule 6(1), by any rules in Part 5 that apply to those proceedings; and
“(b) in the case of proceedings to which Part 5A applies, by the rules in Part 5A.”
- (2) In rule 5(4), replace “rule 6” with “rule 6(1)” in each place.

6 Rule 6 amended (Special rules for proceedings under certain family law Acts)

- (1) In rule 6(e), replace “Care of Children Act 2004” with “subpart 4 of Part 2 of the Care of Children Act 2004”.
- (2) In rule 6, insert as subclause (2):
“(2) Part 5A sets out special rules prescribing the procedure in Family Courts that apply to applications made under the Care of Children Act 2004 (other than applications under subpart 4 of Part 2 of that Act (which relates to international child abduction)).”

7 Rule 10 amended (References to prescribed forms)

- (1) In rule 10(1), replace “9” with “10”.

- (2) Replace rule 10(2) with:
“(2) For requirements to use forms, *see* rules 62 and 62A, and the special rules in Parts 5 and 5A.”

Amendments to Part 2

- 8 Rule 18 amended (Overview of this Part)**
In rule 18(1), after “procedure in Family Courts”, insert “in all proceedings other than those to which Part 5A applies”.
- 9 Rule 21 amended (Special rules relating to affidavits)**
In rule 21(f), delete “or the Care of Children Act 2004”.
- 10 Rule 24 amended (Applications that may be made without notice)**
In rule 24(2)(a)(i), replace “or the Care of Children Act 2004” with “or subpart 4 of Part 2 of the Care of Children Act 2004”.
- 11 Rule 25 amended (Two or more applications may be made together)**
Replace rule 25(1)(b) with:
“(b) the Family Proceedings Act 1980 and the Property (Relationships) Act 1976; or”.
- 12 Rule 37 amended (Special rules relating to service)**
In rule 37(d), delete “, Care of Children Act 2004”.
- 13 Rule 52 amended (Conferences)**
Revoke rule 52(1)(b).

Amendments to Part 3

- 14 Rule 61 amended (Overview of this Part)**
Replace rule 61(3) with:
“(3) The application of this Part to any proceedings is modified by any rules in Part 5 or Part 5A that apply to the proceedings.”
- 15 Rule 62 amended (Forms)**
Replace rule 62(1) to (3) with:

- “(1) The forms to be used in proceedings in a court are those set out in Schedule 1, unless—
- “(a) a rule in Part 5 requires or permits, in proceedings under a particular family law Act, the use of a particular form set out in Schedules 2 to 9; or
 - “(b) a rule in Part 5A requires or permits, in proceedings to which that Part applies, the use of a particular form set out in Schedule 10; or
 - “(c) a rule in Part 5A requires or permits the use of an approved form (*see* rules 62A and 416E).”

16 New rule 62A inserted (Approved forms for use in proceedings to which Part 5A applies)

After rule 62, insert:

“62A Approved forms for use in proceedings to which Part 5A applies

- “(1) The chief executive of the Ministry of Justice may approve forms that are to be used by applicants and parties in proceedings to which Part 5A applies (which are proceedings under the Care of Children Act 2004, other than proceedings under subpart 4 of Part 2 of that Act).
- “(2) The following rules apply to a document that is an approved form:
- “(a) rule 64 (about size of paper):
 - “(b) rule 69 (about fastening and numbering of pages):
 - “(c) rule 70 (about legibility):
 - “(d) rule 71 (about signatures).
- “(3) Every form approved by the chief executive of the Ministry of Justice under this rule—
- “(a) must be published on the Ministry of Justice website; and
 - “(b) must be available to be downloaded, free of charge, from that Internet site; and
 - “(c) if the form corresponds to a form in Schedule 1, must identify the form to which it corresponds; and
 - “(d) must include a front page, or require the attachment of a front page on an approved form.”

17 Rule 63 amended (Documents to which rules 64 to 69 apply)

In rule 63(b), after “(but not an exhibit to an affidavit)”, insert “, other than an affidavit made in proceedings to which Part 5A applies”.

18 Rule 72 amended (Front page)

Replace rule 72(4) with:

- “(4) The following documents do not need a front page:
- “(a) a document tendered in evidence, a certificate, or a report:
 - “(b) an information sheet (for example, form G 7, form CYPF 4, and form PPPR 14):
 - “(c) form DV 6 (information for Police if application made for protection order):
 - “(d) an approved form filed in Care of Children Act 2004 proceedings under Part 5A.”

19 Rule 73 amended (Heading)

- (1) In rule 73(1), delete “(other than a document specified in subclause (4))”.
- (2) In rule 73(1)(a), replace “9” with “10”.
- (3) Revoke rule 73(4).

20 Rule 80 amended (Party need not have lawyer)

After rule 80(1), insert:

- “(1A) A lawyer may act for any party to proceedings under any Act, but in proceedings to which Part 5A applies, a lawyer may act only as provided in section 7A of the Care of Children Act 2004.”

21 Rule 83 amended (Lawyer filing documents on behalf of party)

In rule 83, insert as subclause (2):

- “(2) To avoid doubt, in proceedings to which Part 5A applies, a lawyer may file a document on behalf of a party only if permitted by section 7A of the Care of Children Act 2004 to act for the party.”

22 Rule 87 amended (Change of representation)

(1) In rule 87(1), replace “A party must file” with “Except in proceedings to which Part 5A applies, a party must file”.

(2) After rule 87(1), insert:

“(1A) In proceedings to which Part 5A applies, if a lawyer starts to act for a party, or ceases to act for a party, solely as a result of the operation of section 7A of the Care of Children Act 2004, the lawyer must notify the Registrar of the change by notice in writing.”

23 Rule 88 amended (Court may declare that lawyer no longer acting for party)

After rule 88(1)(b), insert:

“(ba) in the case of proceedings to which Part 5A applies, the lawyer ceases, in accordance with section 7A of the Care of Children Act 2004, to act for the party; or”.

24 Rule 101 amended (Documents to be served)

In rule 101(1)(a), after “under rule 32(2)(c)”, insert “or Part 5A”.

25 Rule 116 amended (Address for service on party or other person)

Replace rule 116(1)(a) with:

“(a) if the party is the applicant, the address of the party stated on the front page required by rule 72; or”.

*Amendments to Part 5***26 Rule 239 amended (Overview of this Part)**

In rule 239(3)(e), replace “and Care of Children Act 2004” with “subpart 4 of Part 2 of the Care of Children Act 2004 (which relates to international child abduction)”.

27 Cross-heading above rule 333 amended

In the cross-heading above rule 333, replace “*Care of Children Act 2004*” with “*subpart 4 of Part 2 of Care of Children Act 2004*”.

28 Rule 333 replaced (Interpretation)

Replace rule 333 with:

“333 Interpretation

In rules 334 to 376, unless the context otherwise requires,—

“**Acts** means the Family Proceedings Act 1980 and subpart 4 of Part 2 of the Care of Children Act 2004

“**Care of Children Act** means subpart 4 of Part 2 of the Care of Children Act 2004

“**Family Proceedings Act** means the Family Proceedings Act 1980.”

29 Rule 335 amended (Applications without notice)

Revoke rule 335(1)(b), (d), and (e).

30 Rules 336A to 336C revoked

Revoke rules 336A to 336C.

31 Rules 341 to 343 revoked

Revoke rules 341 to 343.

32 Rules 349 to 350A revoked

Revoke rules 349 to 350A.

33 Rule 351 replaced (Restrictions on fixing date and time for hearing)

Replace rule 351 with:

“351 Restrictions on fixing date and time for hearing

If an application is made under either of the Acts (other than under section 32 or 37 of the Family Proceedings Act), then,—

“(a) unless a Judge in a particular case orders otherwise, no date and time may be fixed by the Registrar for the hearing of the application before the time for filing a notice of defence, as specified in rule 41, has expired; and

“(b) all parties must give the Registrar, without delay, all available information affecting any estimated length of the hearing.”

- 34 Rule 352 amended (Fixing date and time for hearing: notice of defence filed)**
Revoke rule 352(5) and (6).
- 35 Rule 353 replaced (Fixing date and time for hearing: no notice of defence filed)**
Replace rule 353 with:
- “353 Fixing date and time for hearing: no notice of defence filed**
If no respondent has filed a notice of defence to an application made under either of the Acts (other than an application made under section 32 or 37 of the Family Proceedings Act),—
- “(a) the date and time for the hearing of the application must be fixed by the Registrar; and
 - “(b) the Registrar must give notice of the date and time fixed for the hearing of the application—
 - “(i) to the applicant; and
 - “(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.”
- 36 Rule 362A revoked (Costs of contravention of parenting order)**
Revoke rule 362A.
- 37 Rule 388 amended (Interpretation)**
In rule 388, definition of **affidavit of assets and liabilities**, replace “rule 398(1) or (2)” with “rule 398”.
- 38 Rules 397 to 401 replaced**
Replace rules 397 to 401 with:
- “397 Meaning of party A and party B in rules 398 to 404**
“(1) In rules 398 to 404,—
- “**party A** means a party to proceedings who is required, by these rules or by a direction of a Judge, to file an affidavit of assets and liabilities
 - “**party B** means the other party to the proceedings.

- “(2) By way of explanation,—
- “(a) if an applicant is required to file an affidavit of assets and liabilities, in relation to that affidavit the applicant is party A and the respondent is party B; and
 - “(b) if the respondent is required to file an affidavit of assets and liabilities, in relation to that affidavit the respondent is party A and the applicant is party B; and
 - “(c) therefore, each party in proceedings may be both party A and party B, but in relation to different affidavits of assets and liabilities.

“398 Affidavit of assets and liabilities to be filed and served

- “(1) An applicant who applies for an order under section 25(1)(a) of the Act must file with the application—
- “(a) an affidavit of assets and liabilities in form P(R) 1; or
 - “(b) an application for a direction as to the time within which he or she must file an affidavit of assets and liabilities, along with an explanation of why the affidavit is not being filed with the application.
- “(2) The respondent in proceedings for an order under section 25(1)(a) of the Act must, within 20 working days after receiving service of the applicant’s affidavit of assets and liabilities, file—
- “(a) an affidavit of assets and liabilities in form P(R) 1; or
 - “(b) an application for a direction as to the time within which he or she must file an affidavit of assets and liabilities, in which case the application must include an explanation of why the affidavit is not filed within the prescribed time.
- “(3) A Judge may, on his or her own initiative or on an interlocutory application for the purpose, require a party to any proceedings (not being proceedings under section 25(1)(a) of the Act) to file, within the time specified by the Judge, an affidavit of assets and liabilities in form P(R) 1.
- “(4) Party A must serve on party B a copy of any affidavit of assets and liabilities filed in accordance with this rule or a direction of a Judge.

“399 Failure by applicant to file affidavit of assets and liabilities

If party A is the applicant in the proceedings, and he or she fails to file an affidavit of assets and liabilities as required by these rules or a direction of a Judge, a Judge may order that the application be—

“(a) dismissed; or

“(b) stayed until the affidavit is filed and served as required.

“400 Filing inadequate affidavit of assets and liabilities

“(1) In this rule, an **inadequate affidavit of assets and liabilities** is an affidavit of assets and liabilities provided by party A that party B believes on reasonable grounds—

“(a) is incomplete; or

“(b) fails to accurately set out the nature and value of the property of party A.

“(2) If party A fails to file an affidavit of assets and liabilities as required by these rules or a direction of a Judge, or if party B considers that party A has filed an inadequate affidavit of assets and liabilities, party B may apply to the court, either without notice or on notice, for—

“(a) an order requiring party A to attend at a time and place stated in the order for examination by the court as to any or all of the matters required to be disclosed in an affidavit of assets and liabilities; or

“(b) an order, under section 38(1) of the Act, for an inquiry into the nature and value of the property of party A that is or may be in issue in the proceedings.

“(3) On an application for an order under subclause (2)(a), a Judge or Registrar may make an order for the attendance and examination by the court of party A and for the production of any books or documents relating to party A’s property.

“(4) An order under subclause (3) must—

“(a) be in form P(R) 3; and

“(b) be served personally on party A.

“(5) In exercising the court’s power under section 40 of the Act to make an order as to costs, a Judge must take into account a failure by any party to file an affidavit of assets and liabilities or, as the case requires, the filing of an inadequate affidavit of assets and liabilities.

“401 Failure to attend for examination or to comply with directions

- “(1) If party A fails to attend for examination at the time and place appointed, a Judge may issue a warrant in form P(R) 4 to arrest party A and bring him or her before the court as soon as possible.
- “(2) Subclause (3) applies if party A—
- “(a) fails to comply with an order made under rule 400(3); or
- “(b) on attending, or being brought before, the court for examination, wilfully and without lawful excuse disobeys a direction given to him or her by the Judge in relation to that examination (including a direction to answer questions).
- “(3) Party A may continue in the proceedings (whether as applicant or respondent) only if Judge orders that party A be allowed to continue, and the Judge may make that order on such terms as the Judge thinks fit.
- “(4) Nothing in subclause (3) limits section 112 of the District Courts Act 1947 (which relates to committal for contempt).”

39 Rule 402 amended (Power to summon witness)

- (1) In rule 402(1), replace “the respondent” with “party A” in each place.
- (2) In rule 402(1)(b), replace “the respondent’s” with “party A’s”.
- (3) In rule 402(2), replace “the respondent’s” with “party A’s”.

40 Rule 403 amended (Execution of warrants)

- (1) In rule 403(2), replace “the respondent” with “party A”.
- (2) In rule 403(3), delete “respondent or other”.

41 Rule 404 amended (Conduct of examination)

- (1) In rule 404(2), replace “A respondent” with “A party A”.
- (2) In rule 404(2) and (3), replace “the respondent” with “party A” in each place.
- (3) In rule 404(2)(b), replace “the respondent’s” with “party A’s”.

Part 2
New Part 5A inserted

42 New Part 5A inserted

After rule 416, insert:

“Part 5A

**“Special rules for certain proceedings
under Care of Children Act 2004**

“416A Application of Part

- “(1) This Part applies to proceedings under the Care of Children Act 2004, other than proceedings under subpart 4 of Part 2 of that Act (which are proceedings relating to international child abduction and are dealt with under the general rules and any applicable rules in Part 5).
- “(2) The rules in Parts 1, 3, 4, and 6 of these rules apply to proceedings under the Care of Children Act 2004 in the same way as they apply to other proceedings, but a rule in Part 2 applies only if, and to the extent that, this Part provides.

“416B Interpretation

In this Part, unless the context otherwise requires,—

“**Act** means the Care of Children Act 2004 (excluding subpart 4 of Part 2)

“**approved form** means a form approved by the Secretary for Justice under rule 62A for use by applicants and parties in proceedings under the Act

“**complex case** has the meaning given in rule 416T

“**conference** means any 1 of the following conferences held during proceedings under the Act:

“(a) an issues conference (*see* rule 416X):

“(b) a settlement conference (*see* rule 416Y):

“(c) a directions conference (*see* rules 416Z and 416ZA):

“(d) a pre-hearing conference (*see* rule 416ZB):

“(e) a case management conference (*see* rule 416ZC)

“**FDR** means family dispute resolution as defined in the Family Dispute Resolution Act 2013 (and referred to in sections 46E and 46F of the Act)

“**hearing** means any of the following hearings held during proceedings under the Act:

“(a) a defended hearing (*see* rule 416ZF):

“(b) a submissions-only hearing (*see* rule 416ZG):

“(c) a formal proof hearing (*see* rule 416ZH):

“(d) any other form of hearing as directed by a Judge

“**notice of response** means a notice in an approved form that serves the function of a notice of defence, a notice of intention to appear, or an appearance (as required) and that is filed and served by a respondent or other person under rule 416K

“**prescribed form** means a form used or issued by the court or a Registrar and prescribed in Schedule 1 or 10

“**track** means any 1 of the following procedural tracks described in this Part:

“(a) the standard track (*see* rule 416S):

“(b) the without notice track (*see* rule 416U):

“(c) the simple track (*see* rule 416V).

“*Overview*

“**416C Overview of proceedings**

“(1) A person may commence proceedings under the Act by filing an application in court, either on notice (*see* rule 416G) or without notice (*see* rule 416H).

“(2) A respondent who is served with the application and with any orders made (in the case of a without notice application) may respond in various ways, but usually by way of a notice of response (*see* rules 416K and 416L).

“(3) Proceedings are dealt with on the following tracks, in accordance with rules 416P to 416V:

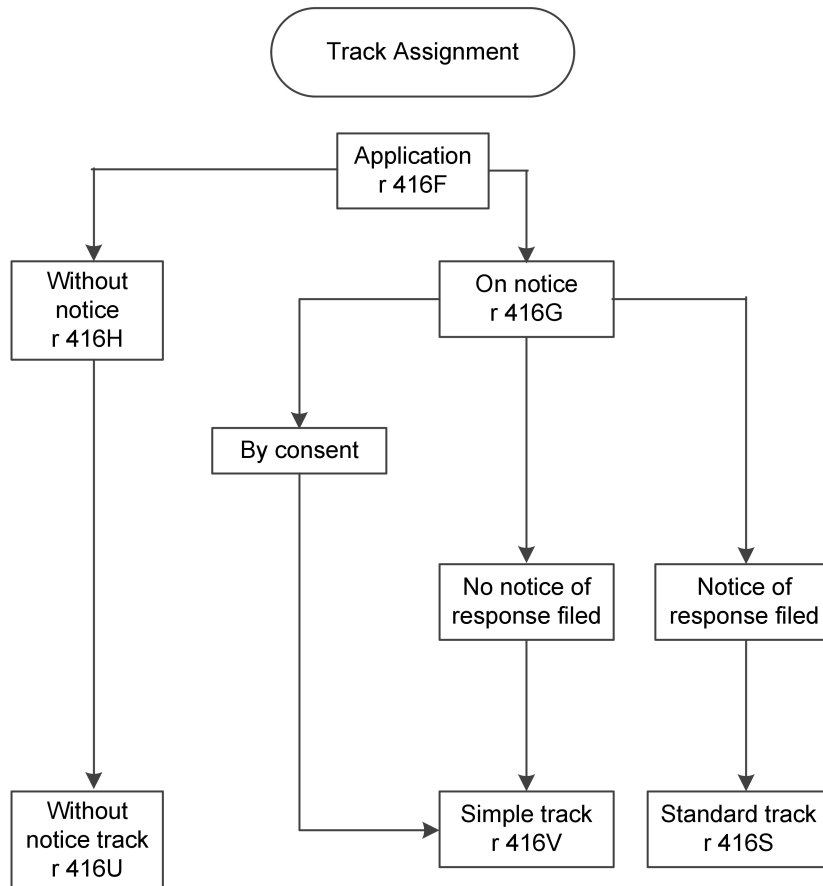
“(a) standard track—for all proceedings other than those on the simple track or the without notice track (*see* rule 416S):

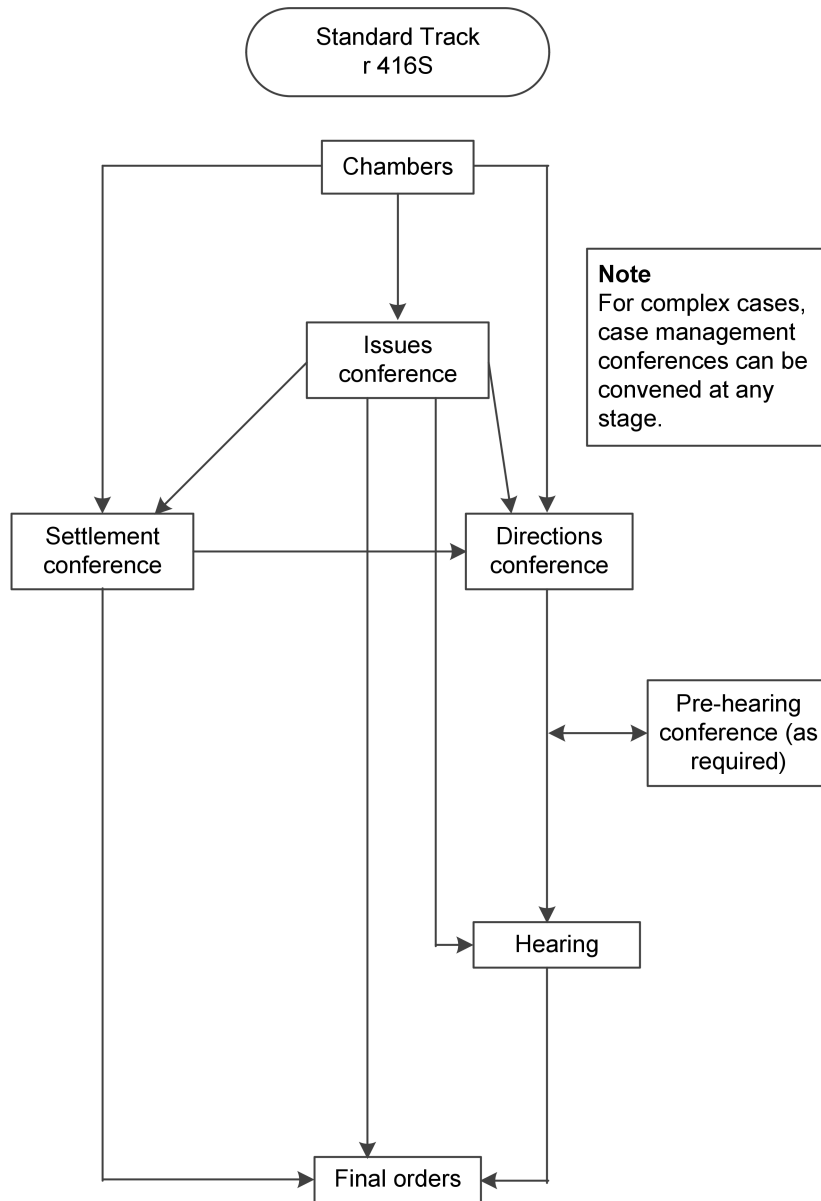
“(b) without notice track—for all proceedings commenced by an application made without notice (*see* rule 416U) or directed by a Judge to proceed as if the proceedings were commenced by an application made without notice (*see* section 7A(4) of the Act):

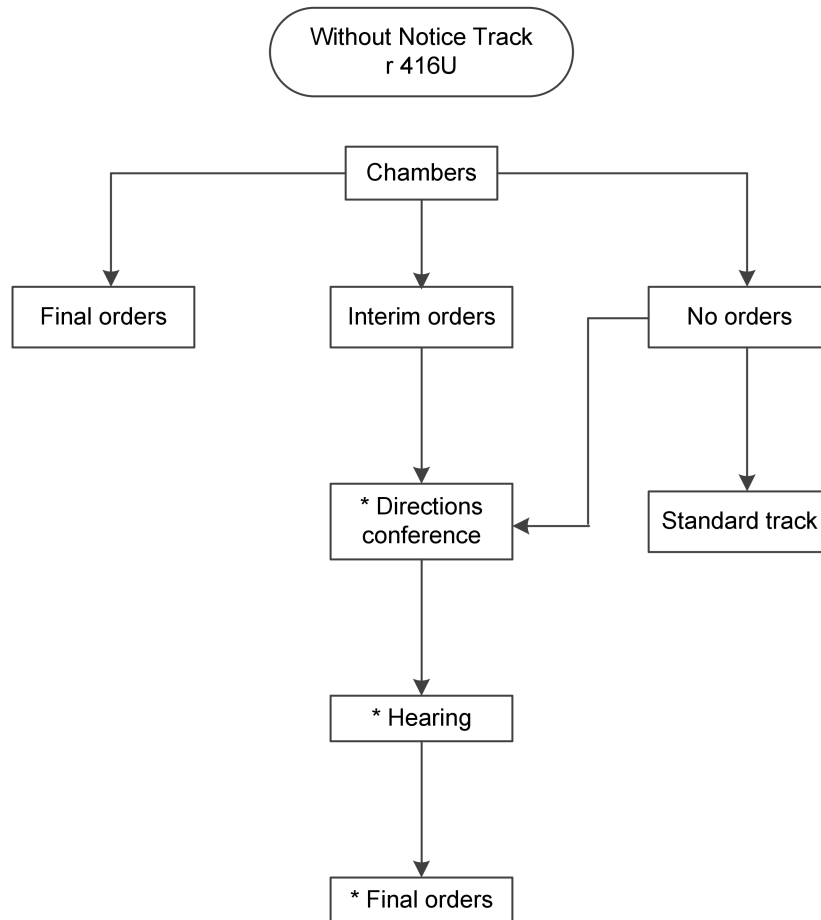
-
- “(c) simple track—for uncontested proceedings (ie, for proceedings commenced by an application for a consent order and proceedings in which no notice of response is filed) (*see* rule 416V).
- “(4) There are 5 kinds of conferences, none of which are mandatory. No more than 1 of each should normally be convened in the course of proceedings, except case management conferences (which are only available for complex cases).
- “(5) All 5 kinds of conferences are available on the standard track, but on the without notice track, only a directions conference may be held, and on the simple track, only an issues conference may be held.
- “(6) Any kind of hearing is available on the standard track and the without notice track. Defended hearings and submissions-only hearings are not available on the simple track.
- “(7) This rule is by way of explanation only. If any other rule in this Part is inconsistent with this rule, the other rule prevails.

“416D Flowcharts of proceedings

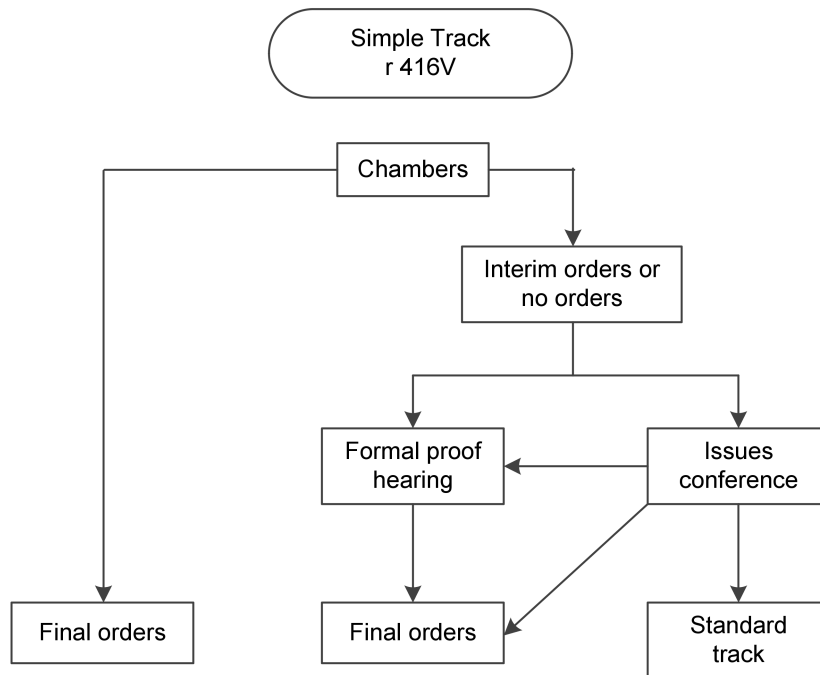
“(1) The way the tracks work is set out, in a simplified form and without reference to possible interlocutory matters, in the following flowcharts:







* Dealt with on an urgent basis



“(2) The flowcharts in this rule are by way of explanation only. If any other rule in this Part is inconsistent with these flowcharts, the other rule prevails.

“416E Forms

- “(1) In proceedings to which this Part applies, the court and Registrars must use the forms set out in Schedule 10, but applicants, parties, and other persons must use approved forms (which are available on the Ministry of Justice website), if available.
- “(2) If a rule in any other part of these rules requires a person (not being the court or a Registrar) to use a particular prescribed form in Schedule 1 (for instance, form G 1 or form G 8), then, if there is an approved form that corresponds to that form, the person must use the corresponding approved form.
- “(3) If there is no suitable approved form for a particular purpose, the parties may devise an appropriate form, using other approved forms as guides (and noting the requirements of rule 62A(2)).

- “(4) A Registrar may refuse to accept for filing any document that does not comply with this rule and any other rule in Part 2 that relates to the requirements of documents to be filed.

“Applications

“416F Commencing proceedings

- “(1) To commence proceedings under the Act, a person must file an application on an approved form in court.
- “(2) There are 2 kinds of applications, namely,—
- “(a) applications on notice, which include applications for consent orders; and
 - “(b) applications without notice.
- “(3) Under section 7A of the Act, the extent to which a lawyer can act for a party is affected by whether an application is made with or without notice.
- “(4) Every application must be accompanied by—
- “(a) an affidavit in support, on an approved form, that sets out all the evidence that the applicant will rely on (*see* rule 416Q); and
 - “(b) an information sheet on an approved form (but if multiple applications are being filed by the applicant, only 1 information sheet is required); and
 - “(c) any other document required by the Act, these rules, or the application form to accompany the application.
- “(5) The following rules apply in relation to applications:
- “(a) rule 26 (about documents relating to earlier proceedings):
 - “(b) rule 28 (about the proper court in which to file proceedings):
 - “(c) rule 29 (which says that rules 75 and 76, which are about how to file documents generally, apply to applications):
 - “(d) rule 30 (about applications filed or accepted for filing in the wrong court):
 - “(e) rule 31 (about applications presented for filing but incomplete or otherwise not in order):
 - “(f) rule 49 (which applies various rules in Part 3 to affidavits).

- “(6) An application under section 72(2) or 73(2) of the Act seeking a warrant directing that a child be delivered to the applicant, or to some other person or authority named in the warrant on behalf of the applicant, must be accompanied by a written statement indicating what arrangements are being made for the delivery of the child to the applicant after execution of the warrant.
- “(7) An applicant who applies under section 77 of the Act for the issue of a warrant and orders to prevent the removal of a child from New Zealand and who wishes to have the child’s details listed in the New Zealand Customs Service computer system must file with the application a request for a border alert in the form approved by the Secretary for Justice.

“416G Applications to be made on notice unless application can be made without notice

- “(1) An application must be made on notice unless it is permitted by rule 416H to be made without notice.
- “(2) When an application is made on notice, there must also be filed the same number of copies of the documents filed as there are persons on whom the documents are required or intended to be served.

“416H When application without notice can be made

An application without notice may be made only if—

- “(a) the Act specifically permits it; or
- “(b) the court is satisfied that the delay caused by making the application on notice would or might entail serious injury or undue hardship or risk to the personal safety of the applicant or any child of the applicant’s family, or both; or
- “(c) the application affects the applicant only, is in respect of a routine matter, or is about a matter that does not affect the interests of any other person; or
- “(d) every person in respect of whom the order is sought has either died or cannot be found; or
- “(e) the application is made under 1 of the following:
- “(i) section 76 of the Act (authority to use faxed copy of warrant):

- “(ii) section 77 of the Act (preventing removal of child from New Zealand):
- “(iii) section 143(5) of the Act (order dispensing with security for appeal costs).

“After application filed

“416I What happens with applications filed on notice

- “(1) After an application made on notice is accepted for filing, the Registrar must complete a notice to respondent (referred to in paragraph (c)) and must issue for service (that is, in general terms, make ready and complete for delivery) the following documents:
 - “(a) the application form:
 - “(b) the affidavit or affidavits in support filed with the application:
 - “(c) the information sheet:
 - “(d) a notice to respondent (which indicates that the application has been made and how, in general terms, it may be responded to or defended) in form COC 2:
 - “(e) any other document required, by the Act or these rules, to be issued for service.
- “(2) The Registrar must either arrange for the service of the documents referred to in subclause (1), or make them available for service, on each person who will be a party to, or is interested in, or is likely to be affected by, the proceedings, unless a Registrar or Judge directs otherwise on an interlocutory application for the purpose.
- “(3) The documents must be served as provided in rule 35(1), and rule 35(2) applies.
- “(4) A Judge may, on his or her own initiative or on an interlocutory application for the purpose, order that a copy of an affidavit issued for service under subclause (1)(b)—
 - “(a) not be served on any or all of the persons required or intended to be served with the application; or
 - “(b) not be served on any or all of those persons for the time being.

“416J What happens with applications filed without notice

- “(1) As soon as practicable after an application without notice is accepted for filing, it must be referred to a Judge for consideration on the papers in Chambers.
- “(2) Following that consideration, the Judge may make whatever directions he or she thinks fit and must, in relation to each order sought, do 1 of the following:
- “(a) make an interim order, in which case he or she must direct the application to proceed to a hearing in accordance with rule 416U:
 - “(b) make a final order, but only if the application was made under rule 416H(c), (d) or (e):
 - “(c) decline to make an order, in which case the Judge must,—
 - “(i) if the issues in dispute are urgent, direct that the application proceed to a hearing in accordance with rule 416U; or
 - “(ii) direct that the application be dealt with as if it had been made on notice and that the proceedings be dealt with on the standard track.
- “(3) Then the Registrar must, without delay,—
- “(a) make a copy of any order made available to the applicant; and
 - “(b) arrange for service (under rule 101) of any order made on every person against whom it is made; and
 - “(c) arrange for service of the application and other documents on the respondent, by doing the things required by rule 416I(1), (2), and (3) as if the application had been made on notice; and rule 416I(4) applies; and
 - “(d) if the application has been directed to proceed to a hearing, do the things required by rule 416U.

“416K Notice of response by respondent who opposes application

- “(1) A person who is served with an application (whether the application is made on notice or without notice), and who opposes all or any part of it, may file in court a notice of response and must (unless the Registrar arranges to do this) serve a copy of the notice of response on every other party to the proceedings.

- “(2) Every notice of response must—
- “(a) be on an approved form; and
 - “(b) be accompanied by a supporting affidavit, on an approved form, that sets out all the evidence on which the respondent will rely (*see* rule 416Q).
- “(3) The notice of response must be filed and served—
- “(a) within 21 days after the person is served with the application or within any shorter time directed by a Judge or Registrar; or
 - “(b) if the person resides outside New Zealand, unless the court orders otherwise, within—
 - “(i) 30 days if the person is served within the Commonwealth of Australia; or
 - “(ii) 50 days if the person is served outside New Zealand or the Commonwealth of Australia; or
 - “(c) if the person is the subject of an order for substituted service (*see* rule 126), within the time that the Judge or Registrar must fix on an interlocutory application that the applicant must make for the purpose.
- “(4) The following rules apply, with all necessary modifications (such as treating the references to a notice of defence as references to a notice of response), in relation to a person who is served with an application:
- “(a) rule 39 (which is about a person who is served with an application giving an address for service):
 - “(b) rule 42 (which describes how, when a person who has been served with an application has failed to file a notice of response within the required time, the person can nonetheless be heard at a hearing).

“416L Notice by respondent wishing to protest jurisdiction

Rule 43 applies, with all necessary modifications, to a respondent wishing to object to the jurisdiction of the court to hear and determine the proceedings.

“416M Notice by respondent wishing to be heard or reserve rights

Rules 44 and 45 (but not rule 46) apply, with all necessary modifications, to a respondent who does not oppose an appli-

cation but who wishes to be heard or to reserve his or her rights by filing and serving an appearance.

“416N Party requiring more information

Rule 47 applies, with all necessary modifications, to any party to an application who wishes to get more information or an admission from another person.

“416O Witness summons and witness expenses

Rule 50 (about when a party wishes to summon a witness) and rule 51 (about payment of witnesses who attend court) apply to proceedings under the Act.

“Proceedings generally

“416P Proceedings dealt with on tracks

- “(1) All proceedings must be dealt with on the appropriate track, in order to assist the proceedings to progress through to resolution in an orderly and efficient manner.
- “(2) Whichever track proceedings are on, and whatever stage they are at, except as otherwise specifically provided in the Act or this Part, a Judge may (without limitation) do any of the following:
- “(a) make orders by consent:
 - “(b) appoint, in accordance with section 7 of the Act, a lawyer to represent the child or children:
 - “(c) appoint, under section 130 of the Act, a lawyer to assist the court:
 - “(d) seek a report referred to in section 132(2) of the Act by requesting, or directing the Registrar to request, a copy of an application for guardianship or for a parenting order (other than an interim parenting order) to be supplied to the chief executive of the department responsible for the administration of the Children, Young Persons, and Their Families Act 1989:
 - “(e) request, or direct the Registrar to request, under section 133 of the Act, the preparation of a cultural report, medical report, psychiatric report, or psychological report:

- “(f) give approval under section 133(10) of the Act for the preparation and presentation of a second opinion:
- “(g) direct the parties to attend FDR (but only in accordance with section 46F of the Act):
- “(h) refer the parties to counselling services (but only in accordance with section 46G of the Act):
- “(i) direct the parties to attend a parenting information programme (but only in accordance with section 46O of the Act):
- “(j) change the track on which the proceedings are being dealt with.

“416Q Restriction on further evidence being filed

A party may not, after filing an initial affidavit in support (whether with an application or with a notice of response), file a further affidavit of evidence except—

- “(a) as directed by a Judge; or
- “(b) with the leave of a Judge; or
- “(c) where the party is seeking, under rule 47 (as applied by rule 416N), further evidence or an admission.

“416R What happens when FDR is ordered

- “(1) If the parties to proceedings under the Act are ordered under section 46F of the Act to attend FDR, no further steps may be taken in the proceedings, except with the leave of a Judge, until the court receives the form required by section 13(1) of the Family Dispute Resolution Act 2013.
- “(2) After the court receives that form, a Judge must review the application on the papers in Chambers in light of the outcome of FDR and make whatever orders or directions he or she thinks fit, including (if necessary) identifying which type of conference or hearing is to follow.

“Tracks

“416S Standard track

- “(1) Proceedings must be dealt with on the standard track if—
 - “(a) a notice of response to an application filed on notice is filed and served within the required time; or

- “(b) a Judge directs that the proceedings be dealt with on the standard track.
- “(2) When proceedings are dealt with on the standard track, as soon as practicable after a notice of response is filed and served, the application and notice must be referred to a Judge for consideration on the papers in Chambers.
- “(3) Following that consideration, the Judge may make whatever orders and directions he or she thinks fit and must, unless the parties are directed to FDR, do 1 of the following:
- “(a) direct that an issues conference be convened (*see* rule 416X), unless paragraph (b) or (c) applies:
- “(b) direct that a settlement conference be convened (*see* rule 416Y), but only if it appears that issues in dispute are likely, without an issues conference, to be able to be settled by way of a settlement conference:
- “(c) direct that the application proceed to a hearing (*see* rules 416ZD to 416ZH), but only if it appears that the issues in dispute will only be able to be resolved by way of a hearing.
- “(4) If no notice of response is filed and served within the time required by rule 416K(3), the application must be dealt with on the simple track.
- “(5) At the end of an issues conference held for proceedings on the standard track, unless the Judge directs the parties to attend FDR, the judge must—
- “(a) identify the issues in dispute; and
- “(b) direct—
- “(i) that a settlement conference be convened; or
- “(ii) that the application proceed to a hearing.

“**416T Complex case on standard track**

- “(1) A Judge may classify as a **complex case** any proceedings that are being dealt with on the standard track, but only if the Judge is satisfied that the proceedings require a greater degree of judicial oversight than is ordinarily provided in proceedings under the Act.

- “(2) The kind of features that indicate that particular proceedings require a greater degree of judicial oversight than is ordinarily provided include the following:
- “(a) allegations of serious abuse or violence:
 - “(b) that the personalities or behaviour of the parties, or any of the parties, indicate that there may be a serious risk to the physical or psychological safety or well-being of any child involved in the case:
 - “(c) novel or difficult legal, technical, or evidential issues.
- “(3) If a case is classified as a complex case,—
- “(a) the Judge who so classified the proceedings must personally (wherever practicable) take over all subsequent steps in the proceedings, unless or until the Judge decides that it is no longer a complex case; and
 - “(b) case management conferences may be convened at any time in connection with the proceedings.

“416U Without notice track

- “(1) When proceedings are dealt with on the without notice track, the first steps (which occur before the respondent has been served with notice of the application) are as described in rule 416J.
- “(2) If a Judge directs that the application proceed to a hearing, a directions conference must be convened before the hearing (*see* rules 416W, 416Z, and 416ZA).
- “(3) On an application made without notice, if it appears to a Judge that the issues in dispute are urgent,—
- “(a) the application must proceed on a faster time frame than applies to proceedings on the standard track; and
 - “(b) wherever possible, a directions conference must be convened within 3 weeks after the date on which the Judge directs the application to proceed to a hearing.
- “(4) In no case may a directions conference be held on the without notice track before the expiry of the period within which a notice of response may be filed.
- “(5) The only conference that can be held for proceedings on the without notice track is a directions conference.

“416V Simple track

- “(1) Proceedings to be dealt with on the simple track are—
- “(a) proceedings commenced by an application for a consent order; and
 - “(b) proceedings commenced by an application on notice in which no respondent has filed a notice of response within the time required for the filing of that notice.
- “(2) When proceedings are dealt with on the simple track, a Judge must consider the application on the papers in Chambers.
- “(3) That consideration must take place,—
- “(a) if the application was made by consent, within 2 weeks after it was filed (where reasonably practicable); and
 - “(b) in any other case, as soon as practicable.
- “(4) Following that consideration, the Judge must, if possible, dispose of the proceedings by making all necessary final orders.
- “(5) If it is not possible to dispose of the proceedings at that time, the Judge may make any directions and interim orders he or she considers appropriate, and must (whether or not any interim orders are made) do at least 1 of the following:
- “(a) direct the parties to attend an issues conference:
 - “(b) direct that the application proceed to a formal proof hearing:
 - “(c) direct any party to provide further written information or evidence, in which case, on receipt of the information or evidence, a Judge (not necessarily the same Judge who originally considered the application) must again consider the matter on the papers; and subclause (4) and this subclause then apply.
- “(6) The only conference that can be held for proceedings on the simple track is an issues conference.
- “(7) At the end of an issues conference held for proceedings on the simple track, the Judge must—
- “(a) direct that the application proceed to a formal proof hearing; or
 - “(b) direct that the matter be dealt with on the standard track.

*“Conferences generally***“416W General rules about conferences**

- “(1) In proceedings under the Act, rules 174 to 176 (about conferences) do not apply except as specifically identified in this Part, and every conference must be 1 of the following kinds:
- “(a) an issues conference (*see* rule 416X):
 - “(b) a settlement conference (*see* rule 416Y):
 - “(c) a directions conference (*see* rules 416Z and 416ZA):
 - “(d) a pre-hearing conference (*see* rule 416ZB):
 - “(e) a case management conference (*see* rule 416ZC).
- “(2) When a Judge directs that a conference be held, the Judge may give the direction on such terms as the Judge thinks fit, and rule 175B(1) and (2) (about a Registrar giving notice of a conference) applies as if the conference were a judicial conference.
- “(3) Parties must attend a conference if directed to do so by a Judge and, if permitted under section 7A of the Act, parties’ lawyers may also attend.
- “(4) Every conference under this Part must be presided over by a Judge.
- “(5) The presiding Judge may do any of the relevant things listed in rule 175D(2) at any conference under this Part, other than at a settlement conference (except as provided in rule 416Y(5)).
- “(6) A conference may be held by way of teleconference, video conference, or any other electronic means, as directed by a Judge or Registrar.
- “(7) As soon as practicable after every conference, the Registrar must provide the parties with a record of all orders made and directions given by the Judge at the conference.
- “(8) Rule 176 (about non-compliance with orders made and directions given at a conference) applies to every conference held under this Part as if it were a judicial conference.

*“Specific kinds of conferences***“416X Issues conference**

The purpose of an issues conference is to enable a Judge, having seen and spoken with the parties to an application, to make any orders or give any directions the Judge thinks fit, and to

do the things referred to in rule 416S(5) or 416V(7) (as applicable).

“416Y Settlement conference

- “(1) Under section 46Q of the Act, the purpose of a settlement conference is to enable a Judge to—
- “(a) ascertain whether any or all of the issues in dispute between the parties can be settled; and
 - “(b) settle those issues.
- “(2) Rules 178 to 180 do not apply to a settlement conference under this Part, except that—
- “(a) rule 178(3) and (4) applies; and
 - “(b) rule 179(3) applies.
- “(3) A Judge may, on request by a party, permit any person to attend a settlement conference as a support person for that party, and the Judge must agree to such a request unless he or she considers there is a good reason why the named support person should not be permitted to be present.
- “(4) At the conclusion of a settlement conference the Judge may make any direction that he or she thinks fit and must do 1 or more of the following:
- “(a) make a consent order (under section 46Q(3) of the Act) settling some or all of the issues in dispute:
 - “(b) direct that the application proceed to a hearing, but only if—
 - “(i) the Judge is satisfied that all the issues in dispute between the parties cannot be settled at the settlement conference; and
 - “(ii) the Judge has indicated to the persons attending the conference that he or she has formed that view:
 - “(c) if section 46F of the Act applies, direct the parties to attend FDR.
- “(5) If the Judge directs, under subclause (4)(b), that the application proceed to a hearing,—
- “(a) the Judge may do any of the relevant things referred to in rule 175D(2), and may also do anything referred to in rule 416Z(2); and

- “(b) if the Judge directs also that a directions conference be held, the directions conference must be convened, if reasonably practicable, within 4 weeks after the settlement conference.
- “(6) A Judge who presides over a settlement conference may also preside over any hearing that follows it, whether or not the parties consent.

“416Z Directions conference

- “(1) The purpose of a directions conference is to enable a Judge to make the orders and give the directions that are necessary to ensure that the hearing takes place as early as possible and will enable the determination of the issues in dispute between the parties.
- “(2) At the conclusion of a directions conference, unless subclause (3) applies, the Judge—
 - “(a) must—
 - “(i) settle the issues to be determined at the hearing; and
 - “(ii) identify any witnesses who are required for cross-examination; and
 - “(iii) approve a timetable for filing and serving any further evidence; and
 - “(b) may require the applicant to prepare and file an agreed bundle of documents (which must be paginated) and direct that the costs of preparing that bundle be shared equally between the parties.
- “(3) If no respondent (being a person who has been served with the application and required to attend the conference) has filed a notice of response within the required time,—
 - “(a) the Judge may treat the conference as a hearing and may determine the application at that time; and
 - “(b) if a respondent attends the conference, rule 42 (which sets out when a respondent may be heard) applies as if the conference were a hearing.
- “(4) If it appears that some or all of the issues in dispute can be determined by way of a submissions-only hearing, the Judge must direct that a submissions-only hearing be held (*see* rule 416ZG).

“(5) If the proceedings are on the without notice track, the period between the directions conference and any subsequent hearing must, where reasonably practicable, be not more than 3 weeks.

“416ZA Memoranda filed in advance of directions conference

“(1) Not later than 5 working days before the date of a directions conference (or within any other period specified by a Registrar),—

“(a) the parties must file a joint memorandum, in the approved form, that addresses the matters in subclause (2); or

“(b) if a joint memorandum cannot be agreed, each party must file, and serve on the other parties, a separate memorandum, in the approved form, that addresses the matters in subclause (2).

“(2) The matters referred to in subclause (1) are as follows:

“(a) the issues (if any) that have been settled between the parties:

“(b) the issues in dispute to be determined at the hearing:

“(c) a chronology of relevant events:

“(d) a list of affidavits filed by the party or parties and that the party or parties intend to rely on:

“(e) whether the party or parties wish the court to request, under section 133 of the Act, the preparation of a cultural, medical, psychiatric, or psychological report:

“(f) whether the party or parties wish to obtain the approval of the court under section 133(10) of the Act for a second opinion on a report requested by the court under that section:

“(g) the evidence proposed to be tendered at the hearing, including the identification and availability of any witness:

“(h) a proposed timetable for filing and serving evidence:

“(i) which (if any) orders made or directions given in the proceedings—

“(i) have been complied with; or

“(ii) have not been complied with, and the reasons for non-compliance.

“416ZB Pre-hearing conference

- “(1) After a directions conference, a Judge may, if he or she considers it necessary, direct that a pre-hearing conference be convened.
- “(2) The purpose of a pre-hearing conference is to enable a Judge to review a proceeding that is set down for hearing and to make any orders or give any directions that the Judge considers necessary to ensure that the proceeding will be ready to be determined at the hearing.

“416ZC Case management conference

- “(1) Case management conferences may only be convened for complex cases, and only for the purpose of allowing closer judicial management of the case.
- “(2) A case management conference may be convened at any time, either by a Judge on his or her own initiative or on application by a party.

*“Hearings***“416ZD What happens when Judge directs that application proceed to hearing**

- “(1) When a Judge directs that an application proceed to a hearing, the Judge must at the same time specify what kind of hearing must be held.
- “(2) Section 7A(4)(b)(iii) of the Act provides that a lawyer may act for any party to a proceeding commenced by an application made on notice if a Judge has directed that the application proceed to a hearing.

“416ZE Hearings generally

- “(1) As soon as practicable after a Judge directs that an application proceed to a hearing, the Registrar must (unless the Judge directs otherwise) fix a date and time for the hearing.
- “(2) When the Registrar fixes the date and time for a hearing, he or she must give notice of the date, time, and place of the hearing to the parties as soon as practicable.
- “(3) The following rules in Part 2 apply, with any necessary modifications, to all hearings held in proceedings under the Act:

- “(a) rule 48 (about evidence at hearings being given by affidavit):
- “(b) rule 49 (which applies certain rules in Part 3 that relate to affidavits):
- “(c) rules 50 and 51 (about witnesses):
- “(d) rule 53 (about moving from court to Chambers):
- “(e) rule 54 (about ascertaining wishes and views of child or young person):
- “(f) rule 55 (about the procedure if parties do not appear):
- “(g) rule 56 (about when a judgment can be set aside):
- “(h) rule 57 (about the procedure if all parties appear):
- “(i) rule 58 (about what happens at the end of a hearing):
- “(j) rule 59 (about rehearings):
- “(k) rule 60 (about appeals to the High Court).

“416ZF Defended hearings

- “(1) Subclause (2) applies to all defended hearings unless—
 - “(a) the hearing is for a complex case and the Judge considers that the times should be varied; or
 - “(b) the Judge considers that the times should be varied for any other good reason consistent with the purpose of these rules.
- “(2) The total time allowed for a hearing must not exceed the total time calculated in accordance with this subclause and subclause (3):

	Action	Time limit (minutes)
(a)	Examination of parties and witnesses	10 per person examined
(b)	Cross-examination of witnesses by—	
	(i) each party	40 per person cross-examined
	(ii) lawyer for the child	30 per person cross-examined
(c)	Re-examination of parties and witnesses	5 per person re-examined
(d)	Submissions on the law by—	

- | | |
|---------------------------|----|
| (i) each party | 10 |
| (ii) lawyer for the child | 10 |

“(3) The Judge must determine an amount of time to be allocated for all remaining aspects of the hearing (including, for example, dealing with non-party witnesses).

“416ZG Submissions-only hearings

“(1) A Judge may direct that a hearing be a submissions-only hearing if he or she is satisfied that some or all of the issues in dispute can be determined by a hearing conducted in accordance with subclause (2).

“(2) At a submissions-only hearing,—

“(a) the matters must be decided on the basis only of submissions (written or oral) by the parties, any lawyer for the child, and any lawyer appointed to assist the court; and

“(b) no witnesses may be called; and

“(c) no cross-examination of the parties may be conducted (and therefore nothing in rule 169 applies).

“(3) If, at the end of a submissions-only hearing, all the matters in dispute have not been determined, the Judge may do any of the relevant things referred to in rule 175D(2) and may also do anything referred to in rule 416Z(2).

“416ZH Formal proof hearings

At a formal proof hearing, no witnesses may be called, but the party or parties must prove to the satisfaction of the Judge that making the order sought would be consistent with section 4 of the Act.

“Miscellaneous

“416ZI Request to speak on child’s cultural background

A party to proceedings under the Act who asks the court (under section 136(1) of the Act) to hear a person speak on a child’s cultural background, or on any aspect of it that may be relevant

to a matter in issue in the proceedings, must make that request in writing.

“Compare: Rule 350A

“416ZJ Costs of contravention of parenting order

A party to a parenting order (**party A**) who applies under section 71 of the 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, in the affidavit required to be filed with the application under rule 416F, details of those costs.”

Part 3
Other amendments and transitional provisions

43 New rule 431C inserted (Information requested for purpose of enforcing cost contribution orders)

After rule 431B, insert:

“431C Information requested for purpose of enforcing cost contribution orders

- “(1) This rule applies to cost contribution orders, being orders that require the reimbursement to the Crown of a prescribed proportion of certain fees and expenses and that are made under any of the following provisions:
- “(a) section 135A of the Care of Children Act 2004;
 - “(b) section 162C of the Family Proceedings Act 1980;
 - “(c) section 226C of the Child Support Act 1991.
- “(2) The chief executive of the Ministry of Justice may request the Registrar of a Family Court, or the Registrars of all Family Courts, to provide to the chief executive, in a specified manner, the information required to enable the chief executive to enforce a cost contribution order made against any person.
- “(3) A Registrar of a Family Court to whom a request under sub-clause (2) is made must respond to the request by providing the information in the specified manner.”

44 Schedule 6 amended

- (1) In the Schedule 6 heading, replace “**and Care of Children Act 2004**” with “**and subpart 4 of Part 2 of Care of Children Act 2004**”.
- (2) In Schedule 6, revoke forms FP 1 to FP 6, FP 32, and FP 35A to FP 36B.
- (3) In Schedule 6, in the form FP 16 heading, replace “or Care of Children Act 2004” with “or subpart 4 of Part 2 of Care of Children Act 2004”.
- (4) In Schedule 6, in the form FP 17 heading, replace “or Care of Children Act 2004” with “or subpart 4 of Part 2 of Care of Children Act 2004”.
- (5) In Schedule 6, form FP 17, paragraph 2 headed “**Jurisdiction of court**”, replace “*or of the Care of Children Act 2004 or of both*” with “*or subpart 4 of Part 2 of the Care of Children Act 2004 or of both*”.
- (6) In Schedule 6, in the form FP 33 heading, replace “*Sections 77 and 118*” with “*Section 118*”.

45 Schedule 8 amended

In Schedule 8, replace form P(R) 1 with the form P(R)1 set out in Schedule 1 of these rules.

46 New Schedule 10 inserted

After Schedule 9, insert the Schedule 10 set out in Schedule 2 of these rules.

*Transitional provision***47 Proceedings commenced before these rules come into force**

- (1) In this rule, **existing proceeding** means a proceeding—
 - (a) that was commenced by an application under the Care of Children Act 2004 (other than an application under subpart 4 of Part 2 of that Act, which relates to international child abduction); and
 - (b) in which the application was filed before the commencement of these rules; and

- (c) in which the application has not been finally disposed of.
- (2) As soon as practicable after the date on which these rules come into force, the Registrar of every Family Court must allocate each existing proceeding to an appropriate track, in accordance with Part 5A of the principal rules (as inserted by these rules), and to an appropriate stage of that track.
- (3) The proceeding must, from the time of that allocation, be dealt with in accordance with Part 5A of the principal rules, subject to—
- (a) section 165 of the Care of Children Act 2004; and
- (b) any direction or order of a Judge.
- (4) To avoid doubt, nothing in these rules affects any proceedings under subpart 4 of Part 2 of the Care of Children Act 2004 (which relates to international child abduction), whether those proceedings were commenced before or after these rules come into force.

Schedule 1

r 45

Amendment to Schedule 8

Form P(R) 1

r 398

Affidavit of assets and liabilities

Property (Relationships) Act 1976

(Front page—Form G 1)

I, [*full name, address, occupation*], swear/affirm* that—

- 1 My assets and liabilities are as described in paragraphs 4 to 9.
- 2 I am aware that making a false statement in this affidavit could result in any order of the court being set aside and criminal proceedings being brought against me.

*Select one.

Assets

- 3 I have no interest in any assets other than the assets described in paragraph 4.

Form P(R) 1—*continued*

- 4 My assets are as follows:
- (a) **Family home or homestead**
 - Location:
 - LINZ title reference:
 - All names on title:
 - My legal and beneficial interest in the property:
 - Value at end of marriage, civil union, or de facto relationship:
 - Value at date of affidavit:
 - (b) **Land and buildings**
 - Location:
 - LINZ title reference:
 - All names on title:
 - My legal and beneficial interest in the property:
 - Value at end of marriage, civil union, or de facto relationship:
 - Value at date of affidavit:
 - [If you claim this as your separate property, explain why]*
 - (c) **Household chattels**
 - Location:
 - Share owned by me:
 - Value at end of marriage, civil union, or de facto relationship:
 - Value at date of affidavit:
 - Chattels claimed as separate property: *[list chattels and explain why you claim them as separate property]*
 - (d) **Superannuation**
 - Name of owner of scheme or schemes:
 - Policy name and/or number:
 - Proportion of value claimed as separate property:
 - How proportion was calculated:
 - Value at start of marriage, civil union, or de facto relationship:

Form P(R) 1—*continued*

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

(e) **KiwiSaver**

Name of owner of scheme or schemes:

Policy name and/or number:

Proportion of value claimed as separate property:

How proportion was calculated:

Value at start of marriage, civil union, or de facto relationship:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

(f) **Money in bank accounts**

Bank:

Name of account:

Account No:

Nobody else has an interest in this account/Another person has or other persons have an interest in this account*

*Select one.

Share of this account owned by me:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

[If this account is claimed as your separate property, explain why]

(g) **Cash in excess of \$300**

Location:

Currency held in:

Amount:

Nobody else has an interest in this cash/Another person has or other persons have an interest in this cash*

*Select one.

Share of this cash owned by me:

Form P(R) 1—*continued*

[If this cash is claimed as your separate property, explain why]

(h) **Details of any money owed to me**

Name and address of borrower:

Amount borrowed:

Balance outstanding at end of marriage, civil union, or de facto relationship:

Balance outstanding at date of affidavit:

Nobody else has an interest in this amount/Another person has or other persons have an interest in this amount*

*Select one.

Share of this amount owed to me:

[If this amount is claimed as your separate property, explain why]

(i) **Government stock, debentures, or bonds**

Name of investment:

Type of investment:

Size of holding:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

Name of any other account holder (if applicable):

Value of my interest at date of affidavit:

Value of my interest at end of marriage, civil union, or de facto relationship:

[If this investment is claimed as your separate property, explain why]

(j) **Company shares, debentures, or bonds**

Name of investment:

Type of investment:

Size of holding:

Current value:

Name of any other account holder (if applicable):

Form P(R) 1—*continued*

Value of my interest at end of marriage, civil union, or de facto relationship:

Value of my interest at date of affidavit:

[If this investment is claimed as your separate property, explain why]

(k) **Plant and machinery**

Description:

Share owned by me:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

[If this is claimed as your separate property, explain why]

(l) **Livestock**

Description:

Share owned by me:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

[If livestock is claimed as your separate property, explain why]

(m) **Interest in business, partnership, stock-in-trade, or venture**

Name of business/partnership/venture:

Nature of the business and principal sources of income for the venture and for me: *[briefly describe]*

I am a *[specify whether you are a sole trader, partner, or shareholder]*.

Extent of my interest in the business: *[specify interest if a partner or shareholder]*.

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

Date at which next annual financial statements for the business, partnership, or venture will be available:

Form P(R) 1—*continued*

[If this interest is claimed as your separate property, explain why]

(n) **Motor vehicles**

Description:

Registered owner:

Share owned by me:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

[If motor vehicle is claimed as your separate property, explain why]

(o) **Life insurance policy**

Owner of policy:

Life assured:

Insurance company:

Policy number:

Share owned by me:

Value at start of marriage, civil union, or de facto relationship:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

Proportion of value claimed as relationship property and proportion of value claimed as separate property:

How proportion was calculated:

(p) **Insurance claims outstanding for events that occurred during relationship**

Owner of policy:

Item/property insured:

Insurance company:

Policy number:

Amount of claim:

Date and amount of payment of claim:

Share owned by me:

Form P(R) 1—*continued*

Proportion of value claimed as relationship property
and proportion of value claimed as separate property:

How proportion was calculated:

- (q) **Claims for compensation or damages outstanding
for events that occurred during relationship**

Description:

Amount of claim:

Date and amount of payment of claim:

Share owned by me:

Proportion of value claimed as relationship property
and proportion of value claimed as separate property:

How proportion was calculated:

- (r) **Interest in estate**

Description (including whether the interest is a legal or
beneficial interest):

My share:

Value at end of marriage, civil union, or de facto rela-
tionship:

Value at date of affidavit:

[If claimed as your separate property, explain why]

- (s) **Interest in trust**

Description (including whether the interest is a legal or
beneficial interest):

My share:

Value at end of marriage, civil union, or de facto rela-
tionship:

Value at date of affidavit:

[If claimed as your separate property, explain why]

- (t) **Accumulated benefits due to me as an employee or
customer**

Description:

Value at end of marriage, civil union, or de facto rela-
tionship:

Value at date of affidavit:

[If claimed as your separate property, explain why]

Form P(R) 1—*continued*(u) **Tax refund due to me at end of relationship**

Amount due:

Date and amount paid or credited:

(v) **Any other property or asset not specified above that is, or could be, the subject of an order in the proceedings**

Description:

Share owned by me:

Value at end of marriage, civil union, or de facto relationship:

Value at date of affidavit:

[If claimed as your separate property, explain why]

- 5 Valuations of items described in paragraph 4(a), (b), (c), (d), (k), (l), and (n) are attached and marked A, B, C, D, E, F, and G respectively.
- 6 The proof of deposits or holdings of items in paragraph 4(e), (f), (h), (i), and (j) are attached and marked H, I, J, K, and L respectively.
- 7 The most recent annual financial statements for the items described in paragraph 4(m) are attached and marked M.
- 8 Copies of the trust deeds for items in paragraph 4(s) are attached and marked N.

Liabilities

9 My liabilities are as follows:

(a) **Mortgages secured over family home**

Mortgagee:

Mortgagor:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(b) **Mortgages secured over any other land or buildings**

Property:

Mortgagee:

Mortgagor:

Form P(R) 1—*continued*

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(c) **Bank overdrafts or term loans**

Account in the name of:

Bank:

Account No:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(d) **Loans secured over chattels, plant, machinery, or livestock**

Property:

Name of borrower:

Lender:

Account No:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(e) **Hire purchase loans**

Goods:

Name of borrower:

Lender:

Account No:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(f) **Credit card debt**

Name of account:

Bank:

Account No:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

Form P(R) 1—*continued***(g) Other loans**

Lender:

Borrower:

Reference number (if any):

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(h) Money owed to Inland Revenue Department

Type of tax owed:

Person liable:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(i) Unsecured debts

Lender:

Evidence of debt (if any):

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

(j) Any other liabilities not falling within any of the preceding paragraphs

Nature of liability:

Evidence of liability (if any):

To whom owing:

Amount owing at end of marriage, civil union, or de facto relationship:

Amount owing at date of affidavit:

10 Statements verifying balances are attached and marked [*insert numbers for each attachment*].

Income

11 Since the end of my marriage, civil union, or de facto relationship, I have not earned or received any income other than as

Form P(R) 1—*continued*

set out below from an asset described in paragraph 4 or from other sources:

Source:

Amount:

Capital payments

12 Since the end of my marriage, civil union, or de facto relationship, I have made the following capital payments to an asset described in paragraph 4:

Asset:

Amount paid:

Assets disposed of

13 Since the end of my marriage, civil union, or de facto relationship, I have not sold or otherwise disposed of (or agreed to sell or dispose of) any asset in which I had an interest at the date on which my marriage, civil union, or de facto relationship ended, other than the following:

Asset:

Date:

Amount received or to be received:

Disposition of amount:

Assets acquired

14 Since the end of my marriage, civil union, or de facto relationship, I have not acquired or agreed to acquire any assets using relationship property, other than the following:

Asset:

Mode of acquisition:

Amount paid or to be paid:

Value at date of affidavit:

Signature of deponent:

Form P(R) 1—*continued*

Sworn/Affirmed* at [*place, date*]

*Select one.

Before me: [*name, signature*]

(a solicitor of the High Court/Registrar/Justice of the Peace*)

*Select one.

Schedule 2 r 46
New Schedule 10 inserted
Schedule 10 rr 62(2), 416E
Forms for proceedings under Care of
Children Act 2004
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Form COC 1 rr 416E, 416I
 Notice to respondent of application under Care
 of Children Act 2004
 (General heading—Form G 2)

To [*name of respondent*]

An application (*see* the attached copy) has been filed in this court by [*full name*]. The order or orders sought by the applicant are specified in the application.

Notice of response

- 1 If you wish to respond to the application, you must, within 21 days after the date on which you receive this notice,—
 - (a) file a notice of response in this office of the court; and
 - (b) serve a copy of the notice of response on the other party (or parties) to the proceedings. That copy may be sent to the address for service given by the applicant (or other parties).

Schedule 10—*continued*
Form COC 1—*continued*

- 2 The notice of response must be on an approved form. Approved forms are available on the Ministry of Justice website (*see below*).
- 3 If you do not file and serve a notice of response within that time,—
- (a) the case may proceed without further notice to you and a Judge may make orders deciding the application; or
 - (b) you may not be able to oppose the application. On the day of a conference or hearing of the application, should you appear, the Judge may—
 - (i) allow you to participate only on such terms as the Judge thinks fit; or
 - (ii) decline to allow you to take part.
- 4 The Judge may also make an order against you for costs properly incurred as a consequence of your failure to file and serve a notice of response within the time allowed.
- 5 A lawyer may prepare a notice of response for you but cannot file the notice in court. You or someone else on your behalf must do this. If you want a lawyer to help you but think you cannot afford one, you can find information about what assistance may be available on the Ministry of Justice website (*see below*), or by contacting a lawyer, the Ministry of Justice call centre (*see below*), or an office of the Family Court.

Address for service

If you do not wish to oppose the application but you do wish to know what is happening, you must—

- (a) advise this office of the court in writing of an address in New Zealand (not a Post Office box) to which documents may be sent; and
- (b) provide a copy of the notice to the other party or parties to the proceedings. That copy may be sent to the address for service given by the applicant.

Schedule 10—*continued*
Form COC 1—*continued***Liability as witness**

Even if you take no action, the court may summon you as a witness to help it deal with the application.

Copies of orders

You will get a copy of any orders made by the court. Orders are normally in force from the time they are made. However, even if you do not receive a copy of an order you will still be required to obey it.

Advice

If you need help, consult a lawyer, check the Ministry of Justice website, call the Ministry of Justice call centre, or contact an office of the Family Court immediately.

Ministry of Justice website: <http://www.justice.govt.nz>

Ministry of Justice call centre: 0800 268 787

Date:

Signature:
(Registrar)

Schedule 10—*continued*

Form COC 2

rr 416E, 416I

Notice to respondent residing outside New
Zealand of application under Care of Children
Act 2004

(General heading—Form G 2)

To [*name of respondent*]

An application (*see* the attached copy) has been filed in this court by [*full name*]. The order or orders sought by the applicant are described in the application.

Jurisdiction of court

The court may make an order if [*set out bases for jurisdiction in respect of each order sought, following closely the relevant provisions of the Care of Children Act 2004*].

Notice of response

- 1 If you wish to respond to the application or be heard on it, you must, either directly or through a lawyer in the place where you are, send authority to a lawyer in New Zealand instructing him or her to act for you.
- 2 If you wish to oppose the application, you must, within [*number*] days after the date on which you received this notice,—
 - (a) file a notice of response in this office of the court; and
 - (b) serve a copy of the notice of response on the other party (or parties) to the proceedings. That copy may be delivered to the address for service given by the applicant (or other parties).
- 3 The notice of response must be on an approved form. Approved forms are available from the Ministry of Justice's website (*see* below).
- 4 If you do not file and serve a notice of response within the required time,—
 - (a) the case may proceed without further notice to you and a judge may make orders deciding the application; or

Schedule 10—*continued*
Form COC 2—*continued*

- (b) you may not be able to oppose the application. On the day of a conference or hearing of the application, should you appear, the Judge may—
 - (i) allow you to participate only on such terms as the Judge thinks fit; or
 - (ii) decline to allow you to take part and make orders deciding the application without hearing from you.
- 5 The Judge may also make an order against you for costs properly incurred as a consequence of your failure to file and serve a notice of response within the time allowed.
- 6 A lawyer may prepare a notice of response for you but cannot file the notice in court. You or someone else on your behalf must do this. If you want a lawyer to help you but think you cannot afford one, you can find information about what assistance may be available on the Ministry of Justice website (*see* below), or by contacting a lawyer or an office of the Family Court.

Address for service

If you do not wish to oppose the application but you do want to know what is happening, you must—

- (a) advise this office of the court in writing of an address in New Zealand (not a Post Office box) to which documents may be sent; and
- (b) provide a copy of the notice to the other party or parties to the proceedings. That copy may be sent to the address for service given by the applicant.

Copies of orders

You will get a copy of any orders made by the court. Orders are normally in force from the time they are made. However, even if you do not receive a copy of an order you will still be required to obey it.

Schedule 10—*continued*
Form COC 2—*continued***Advice**

If you need help, consult a lawyer immediately in the place where you are and check the Ministry of Justice website. If you intend to employ a lawyer in New Zealand, you should ask about your eligibility for legal aid in this country.

Ministry of Justice website: <http://www.justice.govt.nz>

Date:

Signature:
(Registrar)

Schedule 10—*continued*

Form COC 3

r 416E

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 of person])

- 1 I am satisfied, on the application of [full name, address, occupation], that the applicant, in respect of [full name], a child aged [specify] years,—
 - *has the role of providing day-to-day care for the child
 - *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 the child.
 - *Omit if inapplicable.
- 2 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.
- 3 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.
- 4 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.
- 5 You must also comply with any other applicable requirements of section 75(2) of the Care of Children Act 2004.

Date:

Signature:
(Judge)

Schedule 10—*continued*
Form COC 3—*continued*

Notes

Arrest of person resisting execution of warrant

Under section 79 of the Care of Children Act 2004, it is an offence to—

- knowingly resist or obstruct a person executing this warrant; or
- knowingly fail or refuse to afford immediate entrance to premises to a person executing this warrant.

The offence is punishable by a fine not exceeding \$2,500 or imprisonment for a term not exceeding 3 months.

Under section 315 of the Crimes Act 1961, a constable (and anyone he or she calls to assist) may arrest and take into custody any person whom he or she has good cause to suspect has committed an offence punishable by imprisonment.

Use of 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.

Schedule 10—*continued*Form COC 4 r 416E
Warrant to take child to prevent removal from
New Zealand
Section 77, Care of Children Act 2004

(General heading—Form G 2)

To every constable (*or* social worker)

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

Select the statement that applies.

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

*Select one.

or

prevent an order made in the [*court*] at [*place, date*]/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.

*Select one.

- 2 The child is said to be in the care of [*full name, address*].
- 3 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.

*Omit this phrase if it does not apply.

- 4 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.

Schedule 10—*continued*
Form COC 4—*continued*

Date:

Signature:

Judge/Registrar (not being a constable)*

*Select one.

Notes

Arrest of person resisting execution of warrant

Under section 79 of the Care of Children Act 2004, it is an offence to—

- knowingly resist or obstruct a person executing this warrant;
or
- knowingly fail or refuse to afford immediate entrance to premises to a person executing this warrant.

The offence is punishable by a fine not exceeding \$2,500 or imprisonment for a term not exceeding 3 months.

Under section 315 of the Crimes Act 1961, a constable (and anyone he or she calls to assist) may arrest and take into custody any person whom he or she has good cause to suspect has committed an offence punishable by imprisonment.

Use of 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.

Schedule 10—*continued*

Form COC 5

r 416E

Parenting order(s)

Sections 40(3), 48, 55, and 70, Care of Children Act 2004

(General heading—Form G 2)

On application made to it, the court orders that—

- (a) the following person has/people have* the role of providing day-to-day care of the child(ren) listed below, during the times stated:

*Select one.

Full name of child and date of birth	Full name of person	Times when person has role of providing day-to-day care
[state]	[state]	[specify]

- (b) the following person has/people have* contact with the child(ren) listed below, during the times and in the ways stated:

*Select one.

Full name of child and date of birth	Full name of person	Times, location, and nature of contact
[state]	[state]	[specify, eg, face-to-face contact, letters, telephone, email, supervised by a person other than an approved provider]

Effect of parenting order

The role of providing day-to-day care for a child continues until the child turns 16.

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 court order and the following conditions (if any). [*State any conditions imposed under section 48(5) of the Care of Children Act 2004, including which party and child(ren) the conditions affect.*]

Schedule 10—*continued*
Form COC 5—*continued*

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 the aim of reaching agreement) when making guardianship decisions for a child.

***Monitoring and review**

This order is subject to the following monitoring and review requirements: [*specify details of any monitoring or review requirements relating to this order, including 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*].

See also the information sheet accompanying this order.

*Omit this paragraph if it does not apply.

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. Leave (permission) of the court is required if the application is substantially similar to previous proceedings and the order was made less than two years ago.

Consequences of non-compliance

You must comply with the conditions of this parenting order. If you do not, 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 the reasonable costs incurred by the other party because of your contravention. The court may admonish you, or vary the order, for example, by reducing the amount of time you have with the child. The court takes non-compliance very seriously.

It is also an offence, without reasonable excuse and with the intention of preventing compliance with a parenting order, to contravene

Schedule 10—*continued*
Form COC 5—*continued*

a parenting order. The penalty for this offence is imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,500.

*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, bond, warrant) that are more likely to be considered because of the parties' previous behaviour in relation to the order*].

*Omit this paragraph if it does not apply.

***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 if the following circumstances apply: [*specify circumstances that may result in forfeiture of the bond*].

*Omit this section if it does not apply.

Date:

Signature:
(Registrar)

Note

This order may include terms of an agreement between parents or guardians of a child relating to any 1 or more of the following:

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

Schedule 10—*continued*
Form COC 5—*continued*

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

General information to accompany parenting orders (as required by section 55(1) of the Care of Children Act 2004)

See above information about—

- the effect of a parenting order; and
- the processes for the monitoring and review of the order; and
- the means by which the order can be varied or discharged; and
- the consequences that may follow if the order is not complied with.

Schedule 10—*continued*

Form COC 6

r 416E

Interim parenting order(s)

*Sections 40(3), 48, 55, and 70, Care of Children Act 2004;
Section 28B, Domestic Violence Act 1995*

(General heading—Form G 2)

On application made to it, the court orders that—

- (a) the following person has/people have* the role of providing day-to-day care of the child(ren) listed below, during the times stated:

*Select one.

Full name of child and date of birth	Full name of person	Times when person has role of providing day-to-day care
[state]	[state]	[specify]

- (b) the following person has/people have* contact with the child(ren) listed below, during the times and in the ways stated:

*Select one.

Full name of child and date of birth	Full name of person	Times, location, and nature of contact
[state]	[state]	[specify, eg, face-to-face contact, letters, telephone, email, supervised by a person other than an approved provider]

Effect of interim parenting order

The role of providing day-to-day care for a child continues until the child turns 16.

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 court order and the following conditions (if any). [*State any conditions imposed under section 48(5) of the Care of Children Act 2004, including which party and child(ren) the conditions affect.*]

Schedule 10—*continued*
Form COC 6—*continued*

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 the aim of reaching agreement) when making guardianship decisions for a child.

Duration of interim parenting order

Select the statement that applies

This order continues in effect until [*state specific date or specific event*] or until it is replaced by another interim order or final order, as the case may be.

or

The court has directed that this order is to become a final parenting order on [*date*] unless, before that date,—

- you notify the court that you wish to be heard; or
- if a lawyer has been appointed to represent the child/children*, that lawyer has notified the court that he or she wishes to be heard.

*Select one.

If a parent has neither the role of providing day-to-day care nor contact

If, under this order, a parent of a child 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 further interim order or a final order should replace this order.

Select the statement that applies

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

or

I will advise you of that date, time, and place of the hearing as soon as practicable.

Schedule 10—*continued*
Form COC 6—*continued***Application to vary or discharge**

If the order was made on an application without notice to you, you may make an application to the court to vary or discharge this order.

***Monitoring and review**

This order is subject to the following monitoring and review requirements: [*specify details of any monitoring or review requirements relating to this order, including 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*].

See also the information sheet accompanying this order.

*Omit this paragraph if it does not apply.

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

You must comply with the conditions of this parenting order. If you do not, 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 the reasonable costs incurred by the other party because of your contravention. The court may admonish you, or vary the order, for example, by reducing the amount of time you have with the child. The court takes non-compliance very seriously.

It is also an offence, without reasonable excuse and with the intention of preventing compliance with a parenting order, to 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.

*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

Schedule 10—*continued*
Form COC 6—*continued*

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

*Omit this paragraph if it does not apply.

***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*].

*Omit this section if it does not apply.

Date:

Signature:
(Registrar)

Note

This order may include terms of an agreement between parents or guardians of a child relating to 1 or more of the following:

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

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

Schedule 10—*continued*

Form COC 6—*continued*

General information to accompany parenting orders (as required by section 55(1)(b) of the Care of Children Act 2004)

See above information about—

- the effect of a parenting order; and
- the processes for the monitoring and review of the order; and
- the means by which the order can be varied or discharged; and
- the consequences that may follow if the order is not complied with.

Schedule 10—*continued*

Form COC 7

r 416E

Bond to ensure compliance with parenting order

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*].

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.

Date:

Signature:

(Judge)

Important notes for person required to pay bond*Consequences of contravening parenting order*

- 1 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—
 - (a) the reason the bond was imposed; and
 - (b) the extent to which the conditions of the bond have been met or breached; and

Schedule 10—*continued*
Form COC 7—*continued*

- (c) any explanation given for the breach of the bond conditions; and
 - (d) all other matters the court considers relevant.
- 2 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 from you or may be forfeited from this bond.

Refunds

Any money that 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.

Rebecca Kitteridge,
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 31 March 2014, amend the Family Court Rules 2002 (the **principal rules**). The amendments reflect amendments to be made by the Care of Children Amendment Act (No 2) 2013 (the **Act**) and other legislation resulting from the Family Court Proceedings Reform Bill.

The main change is the insertion of a *new Part 5A* (*new rules 416A to 416ZJ*) into the principal rules. The new Part sets out a distinct procedure for most proceedings under the Care of Children Act 2004, including applications relating to parenting and guardianship. It does not apply to proceedings relating to international child abduction (under subpart 4 of Part 2 of the Care of Children Act 2004); these proceedings will continue to be dealt with under the general rules in Part 2, and any applicable rules in Part 5, of the principal rules.

Proceedings to which *new Part 5A* applies will be dealt with on one of 3 tracks: the standard track, the without notice track, or the simple track. Each track has a specific set of elements (such as conferences and hearings) that are permitted or required for proceedings on that track. The time frames for certain steps in proceedings are specified. The rules in Part 2 of the principal rules only apply to proceedings to which *new Part 5A* applies if they are specifically applied by *new Part 5A*. The rules in Parts 1, 3, 4, and 6 apply in the normal way, except that the rules relating to judicial conferences are disappplied. This is because *new Part 5A* has separate rules about the various conferences that can take place under that Part.

The forms to be issued by the court in proceedings to which *new Part 5A* applies are prescribed in *new Schedule 10*. Forms to be used by parties are not prescribed. Instead, they will be approved by the chief executive of the Ministry of Justice and be made available on the Ministry of Justice website. Use of these approved forms is mandatory.

As well as the main change, these rules—

- revoke the rules in Part 5 of the principal rules relating to counselling and mediation in proceedings under the Family Proceedings Act 1980;
- amend the rules in Part 5 of the principal rules that relate to proceedings under the Property (Relationships) Act 1976, and replace form P(R) 1 (the affidavit of assets and liabilities);
- make consequential amendments.

**Family Courts Amendment Rules
(No 2) 2014**

2014/4

Issued under the authority of the Legislation Act 2012.
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These rules are administered by the Ministry of Justice.
