



Family Courts Amendment Rules (No 3) 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 24th day of March 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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Rules

1 Title

These rules are the Family Courts Amendment Rules (No 3) 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**).

4 Rule 416H amended (When application without notice can be made)

In rule 416H(b), delete “the court is satisfied that”.

5 New rule 416HA inserted (Certificate of lawyer to be included in applications without notice)

After rule 416H (as inserted by the Family Courts Amendment Rules (No 2) 2014), insert:

“416HA Certificate of lawyer to be included in applications without notice

“(1) An application without notice must include a certificate signed by the party’s lawyer certifying—

“(a) that the lawyer has advised the applicant that every affidavit filed with the application must fully and frankly disclose all relevant circumstances, whether or not they are advantageous to the applicant or any other person; and

“(b) that the lawyer has made reasonable enquiries of the applicant in order to establish whether the relevant circumstances have been disclosed; and

“(c) that, to the best of the lawyer’s knowledge, every affidavit filed with the application discloses all relevant circumstances; and

“(d) that the lawyer—

- “(i) is satisfied that the application and every affidavit filed with it complies with the requirements of the Act and these rules; and
- “(ii) is satisfied on reasonable grounds that the order or orders sought fall within the grounds on which an order can be made.
- “(2) A certificate given by a lawyer under subclause (1)—
- “(a) must be signed by the lawyer personally in his or her own name; and
- “(b) may be given by the lawyer who has taken the affidavit in support or any other affidavit relevant to the application.
- “(3) The lawyer is responsible to the court in respect of the matter referred to in subclause (1)(d)(ii).”

Michael Webster,
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 new Part 5A of the Family Courts Rules 2002 (the **principal rules**), which is about proceedings under the Care of Children Act 2004. The new Part 5A is inserted by the Family Courts Amendment Rules (No 2) 2014 and also comes into force on 31 March 2014.

Rule 4 makes a minor amendment to rule 416H, which sets out when an application without notice can be made. Since an applicant cannot know whether the court is satisfied of a matter before the application is made, the words “the court is satisfied that” are deleted.

Rule 5 inserts a new rule requiring a lawyer’s certificate to accompany applications made without notice. The new rule is modelled on rule 308 of the principal rules, which relates to proceedings under the Domestic Violence Act 1995. It requires a lawyer to certify various things relating to affidavits, and also to certify that the lawyer is satis-

fied on reasonable grounds that the order or orders sought fall within the grounds on which an order can be made.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 27 March 2014.
These rules are administered by the Ministry of Justice.
