



Family Courts Amendment Rules (No 5) 2014

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 30th day of June 2014

Present:

His Excellency the Governor-General in Council

Pursuant to section 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 5) 2014.
- 2 Commencement**
 - (1) Rules 17 to 20 come into force on 1 August 2014.
 - (2) The rest of these rules come into force on 1 October 2014.
- 3 Principal rules**

These rules amend the Family Courts Rules 2002 (the **principal rules**).
- 4 Rule 20 amended (Documents to be filed to make application)**

In rule 20(1)(b), after “(in Schedule 4)”, insert “or in form DV 4A (in Schedule 5)”.
- 5 Rule 51 amended (Witness entitled to expenses)**

In rule 51(3), replace “sections 42 and” with “section 51O, 51P, or”.
- 6 Rule 62 amended (Forms)**

Replace rule 62(1)(c) with:

“(c) the use of an approved form—

“(i) is required or permitted by a rule in Part 5A (*see* rules 62A and 416E); or

“(ii) is required by rule 305(a) (*see* rule 62AB).”
- 7 New rule 62AB inserted (Approved forms for use in proceedings under Domestic Violence Act 1995)**

After rule 62A, insert:

“62AB Approved forms for use in proceedings under Domestic Violence Act 1995

“(1) The Secretary for Justice may approve forms that are required by rule 305(a) to be used by service providers in proceedings under the Domestic Violence Act 1995.

- “(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 Secretary for 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.”

8 Rule 72 amended (Front page)

In rule 72(4)(b), after “form CYPF 4,”, insert “form DV 4A,”.

9 Rule 304 amended (Interpretation)

- (1) In rule 304(1), insert in their appropriate alphabetical order:
- “**approved form** means a form approved by the Secretary for Justice under rule 62AB for use by service providers in proceedings under the Act
 - “**prescribed form** means a form used or issued by the court or a Registrar and prescribed in Schedule 5”.
- (2) In rule 304(1), replace the definition of **objector** with:
- “**objector** means a respondent or an associated respondent who notifies the court under section 51E(2)(b) of the Act that he or she objects to a direction to—
 - “(a) undertake an assessment; and
 - “(b) attend a non-violence programme”.

10 Rule 305 replaced (Forms)

Replace rule 305 with:

“305 Forms

- “(1) In proceedings to which the Act applies,—
- “(a) approved forms must be used by service providers when—
 - “(i) giving notice to the Registrar under any of sections 51I to 51N of the Act:

- “(ii) providing a report to the Registrar under section 51R of the Act; and
 - “(b) prescribed forms must be used by the court, a Registrar, and any other persons.
- “(2) The information sheet to be filed with every application under the Act must be in form DV 4A (and if an application under this Act is filed with 1 or more applications under any other Act or Acts, only 1 information sheet in form DV 4A is required).”

11 Rule 307 amended (Certain applications by respondent or associate respondent to be on notice)

Replace rule 307(1)(b) with:

- “(b) an application under section 46(1) or (2) of the Act (which relates to the variation of a protection order).”.

12 Rule 319 amended (Notice of objection to direction to attend programme)

- (1) Replace the heading to rule 319 with “**Notice of objection to direction to undertake assessment and attend non-violence programme**”.
- (2) In rule 319(1), replace “section 36(2)(b)” with “section 51E(2)(b)”.
- (3) In rule 319(3), replace “section 36(2)(b)” with “section 51E(2)(b)”.

13 Rule 320 amended (How notice of objection to be dealt with)

- (1) In rule 320(1), replace “section 37” with “section 51F”.
- (2) Replace rule 320(3) to (5) with:
- “(3) If the objector does not wish to be heard, then, subject to sub-clause (1),—
 - “(a) the objector may make written submissions in respect of the objection; and
 - “(b) the objection may be dealt with on the papers.
- “(4) If the objector does wish to be heard,—
 - “(a) the Registrar must assign a hearing date in accordance with section 51E(3)(a) of the Act; and

“(b) the objector may appear at the hearing and be heard in person or by his or her lawyer.”

14 Rule 321 replaced (Notice of result of objection)

Replace rule 321 with:

“321 Notice of result of objection

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

- “(a) arrange for the decision to be drawn up in form DV 25 (notice of result of objection to direction to undertake assessment and attend non-violence programme); and
- “(b) arrange for a copy of the decision to be served on each of the parties.”

15 Rule 322 revoked (Request by provider for variation of programme)

Revoke rule 322.

16 Rule 323 replaced (Witness summons calling respondent or associated respondent before court)

Replace rule 323 with:

“323 Witness summons calling respondent or associated respondent before court

- “(1) If a Registrar under section 51O of the Act, or a Judge under section 51P of the Act, calls a respondent or an associated respondent to appear before the court, the summons must be in form DV 13.
- “(2) Rule 321 applies, so far as applicable and with all modifications, to a decision of the court made under section 51Q(1) of the Act to confirm, vary, or discharge a direction.”

17 Rule 427 amended (Access to documents and court files during first access period)

- (1) After rule 427(2)(b), insert:

“(ba) a lawyer appointed to represent a child or young person in the proceedings:

“(bb) a lawyer appointed to assist the court in the proceedings:”.

- (2) Revoke rule 427(2)(c)(i) and (ii).

18 Rule 429 amended (Application for permission to access documents or court files)

- (1) In rule 429(2), replace “Judge” with “Registrar”.

- (2) Replace rule 429(3) and (4) with:

“(3) On receipt of an application made under subclause (2), the Registrar may,—

“(a) if the Registrar considers that the applicant has a genuine and proper interest,—

“(i) make an order permitting the applicant access to the document or court file; or

“(ii) direct that the application be treated as an interlocutory application on notice; or

“(b) if the Registrar is in doubt as to whether to make an order or direction under paragraph (a), refer the application to a Judge; or

“(c) if the Registrar considers that the applicant does not have a genuine and proper interest, decline the application.

“(4) When an application is referred to a Judge under subclause (3)(b), the Judge may,—

“(a) if the Judge considers that the applicant has a genuine and proper interest,—

“(i) make an order permitting the applicant access to the document or court file; or

“(ii) direct that the application be treated as an interlocutory application on notice; or

“(b) if the Judge considers that the applicant does not have a genuine and proper interest, decline the application.

“(5) When making an order or direction under subclause (3)(a), a Registrar may decide to make that order or direction subject to such terms and conditions as the Registrar thinks fit.

“(6) When making an order or direction under subclause (4)(a), a Judge may decide to make that order or direction subject to such terms and conditions as the Judge thinks fit.”

19 New rule 429A inserted (Review of Registrars' decisions under rule 429)

After rule 429, insert:

“429A Review of Registrars' decisions under rule 429

- “(1) A Registrar must refer to a Judge a decision that the Registrar has made under rule 429(3) or (5) if a person—
- “(a) disputes that decision; and
 - “(b) asks the Registrar to refer the decision to a Judge.
- “(2) The Judge may confirm, vary, or rescind the Registrar's decision.”

20 Rule 430 amended (Rules 426 to 429 are subject to other provisions)

- (1) In the heading to rule 430, replace “429” with “429A”.
- (2) In rule 430, replace “429” with “429A”.

21 Schedule 5, form DV 3 amended

- (1) This rule amends form DV 3 in Schedule 5.
- (2) In the heading “*Request for provision of programme”, after “of”, insert “safety”.
- (3) Replace the paragraph under the heading “*Request for provision of programme” with:

“I request the Registrar to authorise the provision of a safety programme to the following person(s): [full name(s)]. (See ‘Notes’ below.)”
- (4) In the heading “*Certificate of lawyer”, after “lawyer”, insert “for application made without notice”.
- (5) Above the heading “*Date of hearing”, insert:

“*Certificate of lawyer for application for protection order

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

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

“Date:

“Signature:

“(Lawyer for applicant)

*Delete if inapplicable.

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

“*Safety programmes*

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

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

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

“*What must be filed with this application*

“The following must be filed with this application:

“(a) affidavit in support (form DV 4):

“(b) information sheet (form DV 4A). You may request that your residential address be kept confidential (*see* rule 311 of the Family Courts Rules 2002).

“You must also file an information for Police (form DV 6) if you are applying for a protection order. It informs the Police about what, if any, access the respondent and associated respondent have to firearms and other weapons.”

22 Schedule 5 amended

In Schedule 5, after form DV 4, insert the form DV 4A set out in the Schedule of these rules.

23 Schedule 5, form DV 13 amended

- (1) This rule amends form DV 13 in Schedule 5.
- (2) Under the heading “***Summons to appear before court***”, replace “the court directed you to attend a programme” with “the court directed you to undertake an assessment and attend a non-violence programme”.

- (3) Replace “The programme provider of that programme—” and the paragraphs (a) and (b) following that text with:
“The service provider to whom you have been referred has notified the Registrar that you have failed to comply with that direction [*set out nature of non-compliance*].”

24 Schedule 5, form DV 14 amended

- (1) This rule amends form DV 14 in Schedule 5.
- (2) In paragraph 1(b)(v)(D), after “1989”, insert “; or”.
- (3) After paragraph 1(b)(v)(D), insert:
“(E) that is necessary for the purposes of attending a settlement conference convened under section 46Q of the Care of Children Act 2004.”
- (4) Replace the heading to paragraph 4 with “***Attendance at assessment and non-violence programme***”.
- (5) In paragraph 4, replace the text and footnote under the paragraph heading with:
“The court directs [*full name of respondent*] to undertake an assessment and attend a non-violence programme.
“The Registrar of the court will arrange for the respondent to be referred to a service provider, and the respondent must meet with the service provider so that the service provider may—
“(a) undertake an assessment of the respondent; and
“(b) determine whether there is an appropriate non-violence programme for the respondent to attend.
“If there is an appropriate non-violence programme for the respondent to attend, the service provider of that programme will settle in writing with the respondent—
“(a) the number of programme sessions the respondent must attend; and
“(b) the place, date, and time of the first programme session, and all subsequent programme sessions, that the respondent must attend; and
“(c) any other terms of attendance.

*Delete if inapplicable.

- (6) Under the heading “**Important information for respondent (or associated respondent)**”, replace the heading “**Objection to direction to attend programme**” and the text under that heading with:
- “***Objection to direction to attend assessment and non-violence programme**
- “The court has directed you to undertake an assessment and attend a non-violence programme.
- “You have 10 working days after you have been served with this order to notify the Family Court at [place] if you object to that direction.
- “If you do not make an objection within that period, and then fail without reasonable excuse to comply with the direction, you may be prosecuted. (See **Consequences of failing to comply with direction** below.)
- *Delete if inapplicable.
- (7) Under the heading “**Important information for respondent (or associated respondent)**”, above the heading “**Modification or discharge of this order**”, insert:
- “***Notification of safety concerns for protected persons**
- “If, following an assessment, or at any time during your attendance at a non-violence programme, a service provider has concerns about the safety of a protected person, the service provider must without delay notify the Registrar of the court about those concerns.
- *Delete if inapplicable.
- (8) Under the heading “**Important information for respondent (or associated respondent)**”, under the heading “**Modification or discharge of this order**”, revoke paragraph (c).
- (9) Under the heading “**Important information for respondent (or associated respondent)**”, under the heading “**Modification or discharge of this order**”, after paragraph (d), insert:
- “You or the applicant may apply to the Family Court for a variation or discharge of a direction to undertake an assessment and attend a non-violence programme, or for such a direction to be made.”

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

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

*Delete if inapplicable.

25 Schedule 5, form DV 15 amended

- (1) This rule amends form DV 15 in Schedule 5.
- (2) In paragraph 1(b)(v)(D), after “1989”, insert “; or”.
- (3) After paragraph 1(b)(v)(D), insert:
 “(E) that is necessary for the purposes of attending a settlement conference convened under section 46Q of the Care of Children Act 2004.”
- (4) Replace the heading to paragraph 4 with “***Attendance at assessment and non-violence programme**”.
- (5) In paragraph 4, replace the text and footnote under the paragraph heading with:
 “The court directs [*full name of respondent*] to undertake an assessment and attend a non-violence programme.
 “The Registrar of the court will arrange for the respondent to be referred to a service provider, and the respondent must meet with the service provider so that the service provider may—
 “(a) undertake an assessment of the respondent; and
 “(b) determine whether there is an appropriate non-violence programme for the respondent to attend.

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

- “(a) the number of programme sessions the respondent must attend; and
- “(b) the place, date, and time of the first programme session, and all subsequent programme sessions, that the respondent must attend; and
- “(c) any other terms of attendance.

*Delete if inapplicable.

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

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

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

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

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

*Delete if inapplicable.

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

“*Notification of safety concerns for protected persons

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

*Delete if inapplicable.

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

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

*Delete if inapplicable.

26 Schedule 5, form DV 24 amended

- (1) This rule amends form DV 24 in Schedule 5.
- (2) Replace the form heading with:
“Form DV 24 r 319(1)
“Objection to direction to undertake assessment
and attend non-violence programme
- (3) In the authorisation, replace “*Section 36*” with “*Section 51E(2)(b)*”.
- (4) Replace “attend a programme” with “undertake an assessment and attend a non-violence programme”.

27 Schedule 5, form DV 25 amended

- (1) This rule amends form DV 25 in Schedule 5.
- (2) Replace the form heading with:

“Form DV 25 r 321(1)
“Notice of result of objection to direction to
undertake assessment and attend non-violence
programme
- (3) In the authorisation, replace “*Section 37*” with “*Section 51F(1)*”.
- (4) Replace “that the objector attend a programme” with “to the direction that the objector undertake an assessment and attend a non-violence programme”.
- (5) Under the heading “**Consequences of failure to comply with direction**”, replace “attend a programme” with “undertake an assessment and attend a non-violence programme”.

28 Schedule 5, form DV 26 revoked
Revoke form DV 26 in Schedule 5.

Schedule

r 22

Schedule 5 amended

Form DV 4A

rr 20(1)(b), 305

Information sheet to accompany applications
under the Domestic Violence Act 1995
(including application made without notice)

In the Family Court at [*place*]

No: FAM—

This information sheet accompanies applications for the following
order(s): [*list orders*]

Applicant's full name:

*Home address:

*Work address:

*Email address:

*Contact telephone No: [*home, work, mobile*]

*Preferred method of contact:

*Emergency contact: [*if applying for a protection order, give contact
details of another person who can be contacted in an emergency*]

Date of birth:

Age:

Gender:

Occupation:

Ethnic origin (select from the following list):

- New Zealand European
- Māori
- Samoan
- Cook Island Māori
- Tongan
- Niuean
- Chinese
- Indian
- Other: [*specify*]

*Country of residence:

Interpreter required: Yes/No

Form DV 4A—*continued*Language: [*specify*]

*The applicant may omit these items from copies to be served.

Full name of other party (or other applicant (in the case of a joint application)):

Relationship to applicant:

Home address:

Work address:

Contact phone No: [*home, work, mobile*]

Date of birth:

Age:

Gender:

Occupation:

Ethnic origin (select from the following list):

- New Zealand European
- Māori
- Samoan
- Cook Island Māori
- Tongan
- Niuean
- Chinese
- Indian
- Other: [*specify*]

Country of residence:

Interpreter required: Yes/No

Language: [*specify*]

Date of marriage or civil union:

Place of marriage or civil union:

Date by which de facto relationship had begun:

Children affected by the application:

Full name of each child	Age	Date of birth	M/F	Ethnic origin*	Name of person with whom each child is living at time of application and relationship (if any) of that person to child	Relationship of applicant to child	Relationship of respondent to child
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Form DV 4A—*continued*

*Select ethnic origin from the following list:

- 1 New Zealand European
- 2 Māori
- 3 Samoan
- 4 Cook Island Māori
- 5 Tongan
- 6 Niuean
- 7 Chinese
- 8 Indian
- 9 Other: *[specify]*

Previous applications: *[give file number of any previous applications between the parties, and the court where they were filed]*

Existing orders between the parties: *[give details of any existing order between the parties, including the date the order was made, the court that made the order, and the court file number]*

Existing orders relating to any child: *[give details of any existing order relating to any child affected by the application, including the date the order was made, the court that made the order, and the court file number]*

Previous attendance at a safety programme: *[if you have previously attended a safety programme provided by a service provider and wish to attend a further programme with that provider, give the name of that service provider]*

Date stamp:

The accompanying applications are filed by:

Address for service:

Martin Bell,
for 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 amend the Family Court Rules 2002 to—

- reflect the changes made to the Domestic Violence Act 1995 by the Domestic Violence Amendment Act 2013 (which will come fully into force on 1 October 2014):
- entitle a lawyer who is appointed to represent a child or young person in proceedings or who is appointed to assist the court in proceedings to have access to documents or court files during the proceedings and for a subsequent period of 6 years:
- provide that an application for permission to access documents or court files is determined, at least initially, by a Registrar.

The amendments reflecting the changes to the Domestic Violence Act 1995 (in *rules 4 to 16 and 21 to 28*) come into force on 1 October 2014. The other amendments (in *rules 17 to 20*) come into force on 1 August 2014.

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