



**THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES  
RULES 1989, AMENDMENT NO. 1**

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CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 26th day of April 1995

Present:

THE RIGHT HON. J. B. BOLGER PRESIDING IN COUNCIL

PURSUANT to section 448 of the Children, Young Persons, and Their Families Act 1989, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following rules.

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RULES

**1. Title and commencement**—(1) These rules may be cited as the Children, Young Persons, and Their Families Rules 1989, Amendment No. 1, and shall be read together with and deemed part of the Children, Young Persons, and Their Families Rules 1989\* (hereinafter referred to as the principal rules).

(2) These rules shall come into force on the 28th day after the date of their notification in the *Gazette*.

**2. Interpretation**—Rule 3 (1) of the principal rules is hereby amended by revoking the definition of the term “District Courts Rules”, and substituting the following definition:

“ ‘District Courts Rules’ means the District Courts Rules 1992\*.”.

**3. New heading and rules inserted**—The principal rules are hereby amended by inserting, after Part VIII, the following heading and Part:

“PART VIIIA

“*EX PARTE* RESTRAINING ORDERS

“55A. ***Ex parte* restraining orders**—(1) An order may be made on an *ex parte* application under section 87 of the Act if the Court is satisfied—

“(a) That the delay that would be caused by proceeding on notice would or might entail serious injury or undue hardship; or

“(b) That the delay that would be caused by proceeding on notice would or might entail risk to the personal safety of the child or young person who is the subject of the proceedings or any person with whom that child or young person is residing.

“(2) Any person against whom an order has been made *ex parte* under subclause (1) may at any time apply for the discharge or variation of the order.

“(3) Where, pursuant to subclause (1), an order has been made *ex parte*, then, unless the order is sooner discharged, the order shall cease to have effect at the close of the assigned date (as defined in rule 55B (5)) unless the Court, on that date, confirms the order (whether with or without variation).

“55B. **Procedure applying to *ex parte* restraining orders**—(1) Where, pursuant to rule 55A (1), a restraining order is made on an *ex parte* application, the Court shall assign a date (which shall be as soon as reasonably practicable after the making of the order) for a hearing on whether or not the order should be confirmed.

“(2) The copy of the restraining order required by rule 45 to be served on the person whose conduct is restrained by the order shall notify that person that unless he or she attends on the assigned date to show cause why the order should not be confirmed, the Court may confirm the order.

“(3) At the hearing referred to in subclause (1), the Court may—

“(a) Discharge the restraining order; or

“(b) Confirm the restraining order; or

“(c) Confirm the restraining order but vary the conduct restrained by the order; or

“(d) Adjourn the hearing to another time and place; or

“(e) Where, despite reasonable efforts to do so, the order has not been served on the person whose conduct is restrained by the order, enlarge the date and time for the hearing.

“(4) Where, pursuant to paragraph (d) of subclause (3), the Court adjourns a hearing to another day, the Court shall, at the adjourned hearing, exercise one, and only one, of the powers conferred on it by any of paragraphs (a) to (c) of that subclause.

“(5) In this rule, the term ‘assigned date’ means—

“(a) The date assigned by the Court pursuant to subclause (1); or

“(b) Any date to which the hearing is adjourned pursuant to subclause (3) (d); or  
“(c) Any date to which the date for the hearing is enlarged pursuant to subclause (3) (e),—  
whichever is the later.”

**4. Mode of giving evidence**—Rule 58 (1) (a) of the principal rules is hereby amended by omitting the expression “Rule 198”, and substituting the expression “Rule 378”.

**5. Powers of Judge or Registrar not suspended by examination of witnesses out of Court**—Rule 60 of the principal rules is hereby amended by omitting the expression “rule 198”, and substituting the expression “rule 378”.

**6. New Second Schedule substituted**—The principal rules are hereby amended by revoking the Second Schedule, and substituting the Second Schedule set out in the Schedule to these rules.

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SCHEDULE

Rule 6

NEW SECOND SCHEDULE TO PRINCIPAL RULES

“SECOND SCHEDULE

Rule 5 (4)

PROVISIONS OF THE DISTRICT COURTS RULES THAT DO NOT APPLY TO  
PROCEEDINGS UNDER THE ACT

Rules 5, 6, 11, 12, 30–32, 45–51, 69, 74, 83–90 (in respect of minors as parties to proceedings under the Act), 103, 112, 113, 126, 127, 130, 131–133, 135, 136, 151–167, 208, 210, 214, 219, 228, 230, 236, 239, 251–253, 255–257, 261–263, 266–272, 315, 332, 426–430, 437, 439–461, 469–472, 496 (3), 577–585, 610, and 631–648.”

MARIE SHROFF,  
Clerk of the Executive Council.

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EXPLANATORY NOTE

*This note is not part of the rules, but is intended to indicate their general effect.*

These rules amend the Children, Young Persons, and Their Families Rules 1989. The amendments—

- (a) Provide for the making of a restraining order under section 87 of the Children, Young Persons, and Their Families Act 1989 on an *ex parte* application; and
- (b) Update references in the rules to the District Courts Rules 1992.

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 28 April 1995.  
These rules are administered in the Department of Social Welfare.