

Reprint
as at 1 November 2009

**District Courts Amendment Rules
2006**

(SR 2006/97)

District Courts Amendment Rules 2006: revoked, on 1 November 2009,
pursuant to rule 17.1 of the District Courts Rules 2009 (SR 2009/257).

Preamble

At Wellington this 10th day of April 2006

Pursuant to section 122 of the District Courts Act 1947, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Chief District Court Judge and 2 other members of the Rules Committee established under section 51B of the Judicature Act 1908 (of whom at least 1 was a District Court Judge) makes the following rules.

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

These rules are administered in the Ministry of Justice.

Speaking in Maori

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- 1 Title**
These rules are the District Courts Amendment Rules 2006.
 - 2 Commencement**
These rules come into force on 1 June 2006.
 - 3 Principal rules amended**
These rules amend the District Courts Rules 1992.
 - 4 Interpretation**
Rule 3 is amended by revoking subclause (4) and substituting the following subclause:

- “(4) In a judgment, order, direction, or other document forming part of a proceeding or of an interlocutory application, unless the context otherwise requires,—
“**month** means a calendar month
“**working day** has the same meaning as in subclause (1) or as in rule 461ZN.”

5 New heading and rules 68A and 68B inserted

The following heading and rules are inserted after rule 68:

“Speaking in Maori

“68A Speaking in Maori

- “(1) This rule applies to a person entitled under section 4(1) of the Maori Language Act 1987 to speak Maori in a proceeding or at the hearing of an interlocutory application.
- “(2) If a person to whom this rule applies wishes to speak Maori in a proceeding or at the hearing of an interlocutory application, that person, or, if the person is a witness, the party intending to call that person, must file and serve on every other party to the proceeding a notice of his or her intention to speak Maori.
- “(3) The notice must state that the person intends to speak Maori at—
- “(a) all conferences and hearings; or
 - “(b) all conferences and hearings held after a specified conference or hearing; or
 - “(c) a specified conference or hearing.
- “(4) The notice must be in form 3A.
- “(5) The notice must be filed and served—
- “(a) if the person intends to speak Maori at all conferences and hearings, not less than 10 working days before the first conference or hearing; or
 - “(b) if the person intends to speak Maori at conferences and hearings held after a particular conference or hearing, not less than 10 working days before the first conference or hearing at which the person intends to speak Maori; or
 - “(c) if the person intends to speak Maori at a particular conference or hearing, not less than 10 working days before the conference or hearing.

“68B Failure to give notice

A failure to comply with rule 68A does not prevent a person speaking Maori at a conference or hearing, but—

- “(a) the Court may adjourn the conference or hearing to enable the Registrar to arrange for a person who holds a certificate of competency under section 15(2)(a) or (c) of the Maori Language Act 1987 or some other person competent to interpret Maori to be available at the adjourned conference or hearing:
- “(b) the Court may treat the failure to comply as a relevant consideration in an award of costs.”

6 New form 3A inserted in Schedule 1 of principal rules

Schedule 1 of the principal rules is amended by inserting the form set out in Schedule 1 of these rules after form 3.

7 New rule 266 substituted

Rule 266 is revoked and the following rule substituted:

“266 Notice of opposition to application

- “(1) A respondent who intends to oppose an application must file and serve on every other party a notice of opposition to the application within the earlier of—
 - “(a) 10 working days after being served with the application; or
 - “(b) 3 working days before the date for the hearing.
- “(2) The notice of opposition must be in form 22.
- “(3) The notice of opposition must—
 - “(a) state the respondent’s intention to oppose the application and the grounds of opposition; and
 - “(b) contain a reference to any particular provision of an enactment or principle of law or judicial decision on which the respondent relies.”

8 Rule 267 revoked

Rule 267 is revoked.

9 New rule 281A inserted

The following rule is inserted after rule 281:

“281A Synopsis of argument

- “(1) This rule applies to a defended interlocutory application unless or to the extent that the Court directs otherwise.
- “(2) The applicant must file and serve a synopsis of argument (**synopsis**) on every other party,—
 - “(a) if the respondent has filed a notice of opposition under rule 266(1)(a), at least 3 working days before the hearing of the interlocutory application; or
 - “(b) if the respondent has filed a notice of opposition under rule 266(1)(b), at least 2 working days before the hearing of the interlocutory application.
- “(3) The applicant’s synopsis must—
 - “(a) identify the general nature of the case:
 - “(b) include a chronology of the material facts:
 - “(c) outline the applicant’s principal submissions:
 - “(d) be accompanied by or have annexed to it—
 - “(i) an indexed and paginated set of relevant documents; and
 - “(ii) a list of authorities.
- “(4) The material required to be included in the applicant’s synopsis under subclause (3)(a), (b), and (c) must not exceed 10 pages.
- “(5) The respondent must, at least 1 working day before the hearing, file and serve a synopsis on every other party.
- “(6) The respondent’s synopsis must—
 - “(a) identify any material facts that are not referred to in the applicant’s synopsis:
 - “(b) state any facts that are disputed:
 - “(c) outline the respondent’s principal submissions:
 - “(d) be accompanied by or have annexed to it—
 - “(i) an indexed and paginated set of any relevant documents not referred to in the applicant’s synopsis; and
 - “(ii) a list of any authorities not included in the applicant’s synopsis.
- “(7) The material required to be included in the respondent’s synopsis under subclause (6)(a), (b), and (c) must not exceed 10 pages.”

10 New rule 283 substituted

Rule 283 is revoked and the following rule substituted:

“283 Failure to appear

- “(1) If a party is neither present nor represented at the hearing of an application, the Court may—
- “(a) determine the application in the party’s absence in any manner that appears just; or
 - “(b) adjourn the application; or
 - “(c) strike out the application.
- “(2) If an order determining an application is made in the absence of a party, the Court may, if it thinks it just to do so, recall the order at any time before a formal record of it has been drawn up and sealed.
- “(3) The Court may, in any manner that the Court thinks just, reinstate an application that has been struck out for non-appearance.
- “(4) The Court may make a determination referred to in subclause (2) or subclause (3) on its own initiative or on the application of a party.
- “(5) Notice of an application under subclause (4) must be filed and served,—
- “(a) if it is made by a party who was present or represented at the hearing, within 5 working days after the hearing;
 - “(b) if it is made by a party who was neither present nor represented, within 5 working days after receipt by the party of notice of the decision given at the hearing.”

11 New rule 510 substituted

Rule 510 is revoked and the following rule substituted:

“510 Affidavit in language other than English

- “(1) An affidavit in a language other than English (**non-English-language affidavit**) may be filed in a proceeding.
- “(2) The non-English-language affidavit must be accompanied by an affidavit by an interpreter to which is exhibited—
- “(a) a copy of the non-English-language affidavit; and
 - “(b) the interpreter’s translation of the non-English language affidavit.”

12 Form 5 amended

The headings above clauses 8, 9, and 12 and clauses 8 to 13 of form 5 in Schedule 1 of the principal rules are revoked.

13 New Schedule 2 substituted

Schedule 2 of the principal rules is revoked and the schedule set out in Schedule 2 of these rules substituted.

14 Transitional provision relating to costs

- (1) Costs in a proceeding commenced after the coming into force of these rules must be determined in accordance with the principal rules as amended by these rules.
- (2) Costs in a proceeding commenced before the coming into force of these rules must be determined,—
 - (a) in the case of a step in the proceeding taken before the coming into force of these rules, in accordance with the principal rules as in force immediately before the coming into force of these rules;
 - (b) in the case of a step in the proceeding taken after the coming into force of these rules, in accordance with the principal rules as amended by these rules.
- (3) For the purposes of subclause (2), a step in a proceeding described in column 1 of Schedule 3 of these rules is taken on the date appearing opposite that step in column 2 of that schedule.

Schedule 1

r 6

**New form 3A inserted in Schedule 1 of
principal rules**

“Form 3A

r 68A(4)

“Notice of intention to speak Maori”

(General heading as in form 1)

“

Form 3A—continued

Take notice that, [**full name*] of [*address*] intends to speak Maori at—

†all conferences and hearings relating to the above proceeding

†all conferences and hearings relating to the above proceeding held after
[*specify particular conference or hearing after which the person wishes to
speak Maori*]

†the conference/†hearing relating to the above proceeding to be held at
[*specify details of the particular conference or hearing at which the
person wishes to speak Maori*].

*Insert name of party, counsel, or witness intending to speak Maori.

†Delete if inapplicable.

Dated at this day of 20

.....
Signature of person intending to speak
Maori or party (or solicitor)

Form 3A—*continued*

To the Registrar of the District Court at [*place*]

and

To [*names of parties to be served*]

Notes

- 1 The Maori Language Act 1987 entitles certain persons to speak Maori in legal proceedings. They include the parties to the proceedings, witnesses, counsel and, with the leave of the Court, other persons.
 - 2 If a person intends to speak Maori at all conferences and hearings relating to a proceeding or application, the person, or if the person is a witness, the party intending to call the person as a witness, must, at least 10 working days before the first conference or hearing, file this notice in the office of the Court and serve a copy of the notice on every other party to the proceeding or application.
 - 3 If a person intends to speak Maori at all conferences and hearings after a particular conference or hearing, the person, or if the person is a witness, the party intending to call the person as a witness, must, at least 10 working days before the first conference or hearing at which the person intends to speak Maori, file this notice in the office of the Court and serve a copy of the notice on every other party to the proceeding or application.
 - 4 If a person intends to speak Maori at a particular conference or hearing, the person, or if the person is a witness, the party intending to call the person as a witness, must, at least 10 working days before the conference or hearing, file this notice in the office of the Court and serve a copy of the notice on every other party to the proceeding or application.
 - 5 Failure to give notice of intention to speak Maori does not prevent a person speaking Maori at a conference or hearing, but the Court may—
 - (a) adjourn the conference or hearing to enable the Registrar to arrange for an interpreter to be available at the adjourned conference or hearing; and
 - (b) treat the failure to give notice as a relevant consideration in an award of costs.
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Schedule 2

r 13

New Schedule 2 substituted in principal rules**Schedule 2**

r 47A

Appropriate daily recovery rates

(Note: The following are the appropriate daily recovery rates for the categories of proceedings referred to in rule 47.)

Category of proceedings referred to in rule 47	Appropriate daily recovery rate
Category 1 proceedings	\$860 per day
Category 2 proceedings	\$1,280 per day
Category 3 proceedings	\$1,900 per day

Schedule 3

r 14

Dates on which steps taken for purposes of rule 14(3)

Step in proceeding	Date on which step taken
1 A step that requires the filing of a document or a number of documents	The date on which the document or the first of the documents is filed
2 Appearance in Court or in Chambers for each day or part of a day	The date of the actual appearance
3 Production of documents for inspection	The date on which the list of those documents is filed

Step in proceeding	Date on which step taken
4 Inspection of documents	The date on which the list of those documents is filed
5 Preparation for hearing	The first day of the hearing or, if the hearing does not eventuate, the date set down for hearing

Morcom,
Clerk of the Executive Council.

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 - 3 List of amendments incorporated in this eprint (most recent first)
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Notes**1 General**

This is an eprint of the District Courts Amendment Rules 2006. It incorporates all the amendments to the rules as at 1 November 2009. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 About this eprint

This eprint has not been officialised. For more information about officialisation, please *see* “Making online legislation official” under “Status of legislation on this site” in the About section of this website.

3 List of amendments incorporated in this eprint (most recent first)

District Courts Rules 2009 (SR 2009/257): rule 17.1
