

Reprint
as at 1 November 2009

District Courts Amendment Rules
(No 2) 2007

(SR 2007/383)

District Courts Amendment Rules (No 2) 2007: 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 December 2007

Pursuant to section 122 of the District Courts Act 1947, His 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 by the Ministry of Justice.

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	Schedule	3
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1 Title
 These rules are the District Courts Amendment Rules (No 2) 2007.

2 Commencement
 These rules come into force on 1 March 2008.

3 Principal rules amended
 These rules amend the District Courts Rules 1992.

4 Forms
 Rule 7 is amended by adding “, and such information may be added as is required for identification or other official purposes”.

5 Bailiff to execute warrants, etc
 Rule 574 is amended by revoking subclause (1) and substituting the following subclause:
 “(1) The bailiff must—
 “(a) keep and maintain, in an appropriate form, a record of all warrants, writs, and other processes that the bailiff has received for execution or service; and
 “(b) include in the record the date that each process was received.”

6 Schedule 1 amended
 Schedule 1 is amended by revoking forms 60 and 75 and substituting the forms 60 and 75 set out in the Schedule of these rules.

7 Schedule 2A amended

The item relating to 10.3 of Schedule 2A is amended by inserting “(with or without judgment debtor present)” after “hearing”.

**Schedule
Schedule 1 amended**

r 6

**“Form 60
“Order for community work**

r 584(8)

“

No:

In the District Court

at *[place]*

Between *[name of judgment creditor]* of *[address]*

and *[name of judgment debtor]* of *[address]*

You, *[judgment debtor’s full name]*, *[judgment debtor’s current occupation]*
owe a judgment debt of \$*[total amount covered by this order]* to the judgment
creditor, *[full name of judgment creditor]*.

You have not paid this amount.

The Court is satisfied that—

- (a) you are able to pay the judgment debt but refuse to do so; and
- (b) all other methods of enforcing the judgment have been considered or tried
and are inappropriate or unsuccessful.

Because of this, on *[date of order]*, a District Court Judge ordered you to do
[hours of community work] hours of community work for contempt of court.

*You must report to a probation officer in the probation area in which you
reside as soon as practicable, and not later than 72 hours, after *[date of order]*.

*The start of your sentence is deferred until *[sentence start date]*. You must
report to a probation officer in the probation area in which you reside on that
date.

*Delete whichever is inapplicable.

*The probation officer may allow you to complete up to 20% of your sentence
as training in basic work and living skills.

*Delete if inapplicable.

**If you pay \$*[total amount owing]* to the judgment creditor or the Court
before or during your community work sentence, you are no longer
required to report for community work. (If you pay the judgment creditor,
you must notify the Court.)**

Form 60—continued

Date:

.....

District Court Judge/Registrar

Order served on judgment debtor at [time] am/pm* on [date].

*Delete whichever is inapplicable.

.....

Bailiff/Registrar/Court Officer

I, the judgment debtor, have received a copy of this order.

Date:

.....

Judgment debtor

Department of Corrections advised of order on [date].

Important information

Community work conditions

- 1 You **must** comply with the following community work conditions:
 - (a) you must report to a probation officer whenever you are directed to do so during your sentence:
 - (b) you must work as directed by a probation officer until you have completed your sentence:
 - (c) if you move to a new residential address, you must advise a probation officer within 72 hours:
 - (d) if the probation officer is not satisfied with the quality of your work, he or she can refuse to count these hours towards your sentence. This means that you could be required to complete further hours of up to 10% of your total sentence:
 - (e) a probation officer may remit up to 10% of your sentence if he or she is satisfied with your compliance with your sentence.

Form 60—*continued*

Your sentence

- 2 The following conditions apply to your sentence:
- (a) you may have to work a maximum of 10 hours in 1 day and a maximum of 40 hours in 1 week;
 - (b) if you are sentenced to 100 hours or less of community work, you must serve your sentence within 6 months of its start date;
 - (c) if you are sentenced to more than 100 hours of community work, you must serve at least 100 hours in every 6-month period from your sentence's start date until all the hours in it are served;
 - *(d) if you fail, without reasonable excuse, to complete training in basic work and living skills, the hours that you spent undertaking that training will not be counted towards your sentence.

*Delete if inapplicable.

Warning: *If you do not comply with these conditions without reasonable excuse, you could be arrested and prosecuted. You could be liable to imprisonment for a term not exceeding 3 months or be liable to a fine not exceeding \$1,000.*

Variation or cancellation of sentence

- 3 Your sentence can be varied or cancelled by the Court following an application from you or a probation officer under section 68 of the Sentencing Act 2002.

“Form 75
“Attachment order”

r 621

“

Form 75—*continued*

No:

In the District Court

at [*place*]Between [*name of judgment creditor*]and [*name of judgment debtor*]**To** [*full name of employer*][*full address of employer*]The Court is satisfied that you are the employer of the judgment debtor, [*full name*] of [*address*].The judgment debtor owes \$[*total amount covered by the attachment order*] to the judgment creditor, [*full name of judgment creditor*]. The judgment debtor has not paid this amount.

After examining the judgment debtor's means, the Court has imposed this attachment order on the debtor's salary or wages. This means that, as the employer, you must make the following deductions from the judgment debtor's salary or wages to recover the amount owed to the judgment creditor:

Weekly amount	Number of weeks	Plus final weekly amount	Total
[<i>specify</i>]	[<i>specify</i>]	[<i>specify</i>]	[<i>specify</i>]

- 1 The specified weekly amount becomes due on each [*specify day of the week*]. You must deduct all specified weekly amounts that have become due since the date of the last deduction from each amount of salary or wages that becomes payable to the judgment debtor.
- 2 You must make the first deduction from the next amount of salary or wages.
- 3 You must continue to make deductions until [*date*],* or until the \$[*total amount covered by the attachment order*] is paid in full,* or until you are advised by the District Court that this attachment order has been varied, suspended, or cancelled.*

*Delete whichever is inapplicable.

Form 75—*continued*

- 4 All deductions must be paid by the 20th day of the following month to the judgment creditor by payment to the following bank account: [*name and branch of bank to which judgment creditor wishes payments to be made, plus bank account name and number*].
- 5 However, if the deduction of the specified weekly amount and any deductions of a kind described in paragraph 6 have the combined effect of reducing the judgment debtor's net earnings below the protected earnings rate of \$[*specify protected earnings rate*] per week, you must reduce the amount of the deduction under this order to leave the debtor with the protected earnings rate or, if necessary, cancel the deduction.
- 6 The deductions referred to in paragraph 5 are deductions made—
 - (a) under an attachment order under another Act;
 - (b) under a deduction notice under the Family Proceedings Act 1980;
 - (c) from a benefit under section 86 of the Social Security Act 1964.

Please note that if you have to reduce or cancel the amount of any weekly deductions—

you may need to make more weekly deductions than the number stated above

and

the amount of the final weekly deduction may be different from the amount stated above.

Date:

.....

District Court Judge/Registrar

Form 75—*continued*

- ~~NOTES TO EMPLOYERS~~
- 1 In this attachment order—
 - (a) the term **salary or wages** includes—
 - (i) a retiring allowance, pension, or other payment of a similar nature:
 - (ii) a bonus or incentive payment:
 - (iii) a payment of commission:
 - (iv) a payment in consideration of work performed under a contract for services:
 - (v) all payments of weekly compensation made under the Injury Prevention, Rehabilitation, and Compensation Act 2001 by the Accident Compensation Corporation:
 - (vi) a benefit within the meaning of the Social Security Act 1964; and
 - (b) the term **employer** includes a person or organisation making the payments referred to above.
 - 2 While this order is in force, you must make deductions from all salary or wages due to the judgment debtor, whether or not they are due under an employment contract entered into before or after this order was made.
 - 3 This attachment order has priority over any deduction created by the judgment debtor whether before or after the date of this order. For example, deductions under this order from the judgment debtor's salary or wages must be made before or instead of deductions for insurance premiums or loan repayments.
 - 4 Only the following have priority over this attachment order:
 - (a) attachment orders and deduction notices under the Family Proceedings Act 1980:
 - (b) attachment orders under the Summary Proceedings Act 1957:
 - (c) deduction notices under the Child Support Act 1991:
 - (d) deduction notices under section 157 of the Tax Administration Act 1994 that relate to student loan debts:
 - (e) in the case of an attachment order against a benefit, any adjustment or deduction to that benefit under section 86 of the Social Security Act 1964.

Form 75—*continued*

Please notify the Court immediately if—

you have to reduce or cancel a deduction

or

the judgment debtor leaves or is dismissed from your employment
(notification is required within 7 days).

- 5 You cannot charge a fee for administering this order.
- 6 If you do not make the required deductions and pay them to the judgment creditor, these amounts become a debt due by you to the judgment creditor. The judgment creditor could take court action against you to recover this debt.
- 7 It is an offence under sections 84J and 84K of the District Courts Act 1947 to—
 - (a) fail to comply with this order without reasonable excuse:
 - (b) dismiss the judgment debtor or alter the judgment debtor's position in your business or undertaking to the judgment debtor's prejudice by reason of your receiving this order.
- 8 If you do not understand your obligations under this order, you should consult a lawyer or the Registrar of the Court immediately.

Rebecca Kitteridge,
for Clerk of the Executive Council.

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Notes**1 General**

This is an eprint of the District Courts Amendment Rules (No 2) 2007. 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
