

**Reprint
as at 4 February 2013**



District Courts Rules 2009
(SR 2009/257)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 31st day of August 2009

Present:

His Excellency the Governor-General in Council

Pursuant to section 122 of the District Courts Act 1947, section 11 of the Admiralty Act 1973, section 16 of the Arbitration Act 1996, section 42 of the Harassment Act 1997, section 81 of the Construction Contracts Act 2002, and section 213 of the Local Government Act 2002, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and (in relation to jurisdiction conferred by the District Courts Act 1947, the Admiralty Act 1973, or the Construction Contracts Act 2002) with the concurrence of the Chief District Court Judge and at least 2 members of the Rules Committee established under section 51B of the Judicature Act 1908

Note

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

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

These rules are administered by the Ministry of Justice.

(of whom at least 1 was a District Court Judge), makes the following rules.

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Rules

1.1 Title

These rules are the District Courts Rules 2009.

1.2 Commencement

These rules come into force on 1 November 2009.

Part 1

Preliminary provisions

1.3 Objective

1.3.1 The objective of these rules is to secure the just, speedy, and inexpensive determination of any proceeding or interlocutory application.

1.3.2 The objective of these rules includes, so far as is practicable,—

- (a) ensuring that all parties are treated equally; and
- (b) saving expense; and
- (c) dealing with the case in ways that are proportionate to—
 - (i) the importance of the case; and
 - (ii) the complexity of the issues; and
 - (iii) the amount of money involved; and
 - (iv) the financial position of each party; and
- (d) ensuring that the case is dealt with speedily and fairly; and

- (e) allotting to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases.

Compare: Civil Procedure Rules 2002 r 1.2 (Vanuatu)

1.4 Courts to give effect to objective

The courts must give effect to the objective of these rules when they—

- (a) do any act under these rules; or
- (b) interpret these rules.

Compare: SR 1992/109 r 4; Civil Procedure Rules 2002 r 1.3 (Vanuatu)

1.5 Application of rules

1.5.1 These rules apply to—

- (a) civil proceedings taken in a District Court under the District Courts Act 1947; and
- (b) unless otherwise provided in these rules or any other enactment, other civil proceedings taken in a District Court or before a Judge.

1.5.2 These rules do not apply to proceedings to which the Family Courts Rules 2002 apply, namely—

- (a) proceedings in Family Courts; or
- (b) proceedings in District Courts acting under—
 - (i) section 151 of the Children, Young Persons, and Their Families Act 1989; or
 - (ii) section 15 of the Family Courts Act 1980.

1.5.3 Nothing in this rule prevents the parties in a civil proceeding from applying to the court or a Registrar for an order under rule 1.7 directing the parties to settle their dispute by mediation or other alternative dispute resolution.

Compare: SR 1992/109 r 2(1), (1A)

1.6 Application of High Court Rules

1.6.1 These rules apply specified High Court Rules (for example, by listing them in the style “HCR 5.36—authority to file documents”) and the intention is that each High Court Rule applied by these rules applies with the modifications (if any) indicated in these rules and with the other modifications necessary for District Courts.

1.6.2 In general, modifications are necessary because—

- (a) there are jurisdictional differences between District Courts and the High Court;
- (b) District Courts have offices and the High Court has registries;
- (c) a proceeding (other than one in admiralty or defamation, or to enforce an arbitral award) will be started by filing a notice of claim, and subsequently the proceeding will follow the procedure for responses, information capsules, and notices of pursuit of claim unless a court grants leave for the parties to follow the High Court procedure for statements of claim or originating applications;
- (d) new forms called information capsules are to be exchanged by the parties;
- (e) judicial settlement conferences and judicial directions conferences are provided for under these rules rather than case management conferences.

1.6.3 In applying a High Court Rule that uses a term or expression that is defined in these rules (for example, **court**), the term or expression has the meaning given by these rules unless these rules otherwise provide or the context otherwise requires.

1.6.4 In applying a High Court Rule that refers to another provision of or to a form prescribed by those rules, that other provision or form also applies for the purposes of these rules unless these rules otherwise provide or the context otherwise requires.

1.6.5 For example, in High Court Rules applied by rule 3.44 of these rules (service generally),—

- (a) a reference to a statement of claim will have to be read as a reference to a notice of claim if the proceeding is or has been pursued under rules 2.10 to 2.17 ;
- (b) a reference to a statement of defence will have to be read as a reference to a response if the proceeding is or has been pursued under those rules.

1.7 Mediation or other alternative dispute resolution

1.7.1 The parties in a proceeding may apply at any time to the court or a Registrar for an order directing the parties to attempt to

settle their dispute by an agreed form of mediation or other alternative dispute resolution specified in the order.

1.7.2 The court or Registrar may make the order only by consent of the parties.

1.7.3 The fact that the parties are actively pursuing settlement may be taken into account by the court or Registrar in considering an application by 1 or more of the parties for an extension of time under rule 1.18.

Compare: SR 1992/109 r 433(8); HCR 7.79(5)

1.8 Interpretation

In these rules, unless the context otherwise requires,—

Act means, except in Parts 7 to 11, the District Courts Act 1947

address for service, in relation to a party, means the address of a place in New Zealand at which a document may be left for that party, or to which it may be sent by post to that party, under these rules

allocate, in relation to a mode of trial, means to decide to proceed by way of that mode of trial

chattels includes all things that are not land

civil proceedings, in relation to the Crown, has the same meaning as in section 2(1) of the Crown Proceedings Act 1950

court—

- (a) means a District Court; and
- (b) includes a District Court Judge

court holiday means a day that is a holiday under rule 1.19

Crown has the same meaning as in section 2(2) of the Crown Proceedings Act 1950

defendant means a person served or intended to be served with a proceeding (other than a third or subsequent party served with a proceeding under these rules)

document means—

- (a) any material, whether or not it is signed or otherwise authenticated, that bears symbols (including words and

figures), images, or sounds or from which symbols, images, or sounds can be derived, and includes—

- (i) a label, marking, or other writing that identifies or describes a thing of which it forms part, or to which it is attached;
- (ii) a book, map, plan, graph, or drawing;
- (iii) a photograph, film, or negative; and
- (b) information electronically recorded or stored, and information derived from that information

enforce, in relation to a judgment, means enforce or execute the judgment under Part 6 of the Act

file, in relation to a document, means to lodge the document in the form required by these rules in the proper court (as determined under rule 3.1), together with the filing fee (if any) that is payable

full trial means a full trial allocated at a judicial directions conference under rule 2.48.2

HCF means High Court form (as prescribed by the High Court Rules)

HCR means High Court rule

High Court Rules means the rules from time to time set out in Schedule 2 of the Judicature Act 1908 (as amended from time to time)

incapacitated person has the same meaning as in HCR 4.29

information capsule means,—

- (a) in relation to a plaintiff, the plaintiff's information capsule under rule 2.14;
- (b) in relation to a defendant, the defendant's information capsule under rule 2.15

interlocutory application means an application for an interlocutory order

interlocutory order—

- (a) means an order or a direction of the court that—
 - (i) is made or given for the purposes of a proceeding or an intended proceeding; and
 - (ii) concerns a matter of procedure or grants some relief ancillary to that claimed in a pleading; and
- (b) includes—

- (i) an order for a new trial; and
- (ii) an order striking out the whole or part of a pleading; and
- (iii) an order varying or rescinding an interlocutory order

land includes any estate, right, title, or interest in land

lawyer has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006

litigation guardian has the same meaning as in HCR 4.29

Māori means a person of the Māori race of New Zealand; and includes any descendant of that person

minor has the same meaning as in HCR 4.29

nearer or **nearest**, in relation to any place, means nearer or nearest by the most practicable route

notice of claim means a plaintiff's notice of claim filed under rule 2.10

notice of pursuit of claim means a notice of pursuit of claim filed under rule 2.17.2(d)

opposite party means, in relation to any party, any other party whose interests are opposed to those of that party

plaintiff means the person by whom or on whose behalf a proceeding is brought

pleading includes a notice of claim, a statement of claim, a response, a statement of defence, a reply, and a counterclaim

proceeding—

- (a) means any application to the court for the exercise of the civil jurisdiction of the court other than an interlocutory application; and
- (b) includes any step taken under rules 2.10 to 2.17

proper court, in relation to a proceeding, means the court determined under rule 3.1 for the purposes of the proceeding

Registrar includes a Deputy Registrar

response includes a defendant's response under rule 2.12, a third party's response under rule 2.22, and a defendant's response under rule 2.32 to a cross-claim

sale order means a writ of sale

short trial means a short trial allocated under rule 2.40.2

simplified trial means a simplified trial allocated at a judicial directions conference under rule 2.48.2

solicitor has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006

will say statement, in relation to a witness, means a statement that records the gist of what the plaintiff or defendant (as the case may be) believes the witness will say

working day means any day of the week other than—

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, and Waitangi Day; and
- (b) a day in the period commencing with 25 December in any year and ending with 15 January in the following year.

Compare: SR 1992/109 r 3(1)

1.9 Further provisions about interpretation

1.9.1 A word or an expression used in a rule or form in these rules and not defined in these rules but defined in an enactment dealing with the subject matter of that rule or form, unless the context otherwise requires, has the meaning given to it by that enactment.

1.9.2 In these rules, unless the context otherwise requires, a reference to a proceeding for the recovery of land or chattels is treated as including a proceeding against the Crown for an order declaring that the plaintiff is entitled as against the Crown to, or to the possession of, the land or chattels.

1.9.3 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 rule 1.8.

1.9.4 In these rules, a reference to the time fixed, ordered, or allowed for taking any action is subject to any order made under rule 1.18.

Compare: SR 1992/109 r 3(2)–(4)

Rule 1.9.4: inserted, on 14 June 2012, by rule 4 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

1.10 Non-compliance with rules

1.10.1 The fact that these rules have not been fully complied with at any stage of a proceeding does not of itself invalidate—

- (a) the proceeding; or
- (b) any step taken in the proceeding; or
- (c) any document, judgment, or order in the proceeding.

1.10.2 In the case of non-compliance described in rule 1.10.1,—

- (a) the court may set aside entirely the steps or proceeding, or do 1 or more of the following:
 - (i) set aside in part the steps or proceeding;
 - (ii) set aside, wholly or in part, any step in the proceeding;
 - (iii) set aside, wholly or in part, any document, judgment, or order in the steps or proceeding;
 - (iv) allow the steps or proceeding to be amended; and
- (b) whether or not the court acts under paragraph (a), the court may make any other order (for example, as to costs, or adjourning the proceeding) that it thinks fit in the interests of justice.

1.10.3 The court must not set aside entirely the steps taken or proceeding just because they were not taken or started in the way or by the kind of process required by these rules.

1.10.4 The court must not act under rule 1.10.2(a) on an interlocutory application made by a party unless—

- (a) the application has been made within a reasonable time of the non-compliance concerned; and
- (b) the party has not taken any fresh step after becoming aware of the non-compliance.

1.10.5 Rule 1.10.4 does not prevent the court from making an order on its own initiative (whether or not the party has made an interlocutory application for the purpose).

Compare: SR 1992/109 r 5; SR 2002/261 r 17

1.11 Directions in case of doubt

1.11.1 If any party or intended party to a proceeding is in doubt regarding a matter to which this rule applies, that party or intended party may apply without notice to the court for directions.

- 1.11.2 This rule applies to any doubt a party has as to—
- (a) the joinder of any person as a party; or
 - (b) the proper court in which to take any step in the proceeding; or
 - (c) any other matter of procedure under these rules.
- 1.11.3 Any step taken in accordance with the directions given on any application under rule 1.11.1 is treated as having been properly taken.
- Compare: SR 1992/109 r 8

1.12 Questions concerning application of these rules

- 1.12.1 A party in a proceeding may apply to the court for an order determining, and directions relating to, any question that arises as to the application of these rules.
- 1.12.2 The court may determine the question and give any directions that it thinks fit in the interests of justice.
- 1.12.3 Regardless of whether a party makes an application under rule 1.12.1, the court may, on its own initiative, determine any question as to the application of these rules and give any directions that it thinks fit in the interests of justice.
- Compare: SR 1992/109 r 2(2); HCR 1.4(4)

1.13 Cases not provided for

- 1.13.1 If any case arises for which no form of procedure is prescribed by any Act, rule, or regulation or by these rules, the court must dispose of the case as nearly as may be practicable in accordance with the provisions of the rules affecting any similar case or in accordance with the provisions of the High Court Rules.
- 1.13.2 If there are no relevant High Court Rules, the court must dispose of the case in the manner that the court thinks best calculated to promote the objective of these rules.
- Compare: SR 1992/109 r 9

1.14 Amendment of defects and errors

- 1.14.1 The court or a Registrar may, before, at, or after the trial of any proceeding, amend any defects and errors in the pleadings or procedure in the proceeding, whether or not there is any-

thing in writing to amend, and whether or not the defect or error is that of the party (if any) applying to amend.

1.14.2 The court may, at any stage of a proceeding, make, either on its own initiative or on the application of a party to the proceeding, any amendments to any pleading or the procedure in the proceeding that are necessary for determining the real controversy between the parties.

1.14.3 Amendments made under rule 1.14.1 or 1.14.2 may be made with or without costs and on terms that the court thinks fit in the interests of justice.

Compare: SR 1992/109 r 11

1.15 Correction of accidental slip or omission

1.15.1 A judgment or order that contains a clerical mistake or an error arising from any accidental slip or omission, whether the mistake, error, slip, or omission was made by an officer of the court or not, or a judgment or order that is so drawn up as not to express what was actually decided and intended, may be corrected by the court or (if the judgment or order was made by a Registrar) by the Registrar.

1.15.2 The correction may be made by the court or the Registrar, as the case may be, on its or his or her own initiative or on an interlocutory application made for that purpose.

Compare: SR 1992/109 r 12

Time

1.16 Calculating periods of time

1.16.1 A period of time fixed by the rules or by a judgment, order, or direction or by a document in a proceeding must be calculated in accordance with this rule and rule 1.17.

1.16.2 When a time of 1 day or a longer time is to be reckoned by reference to a given day or event, the given day or the day of the given event must not be counted.

1.16.3 Nothing in this rule or in rules 1.17 and 1.18 affects the reckoning of a period of time fixed by the Limitation Act 2010 or any other statute or the application of the Interpretation Act 1999 in relation to the Limitation Act 2010 or any other statute.

Compare: SR 1992/109 r 13; HCR 1.17

Rule 1.16.3: amended, on 1 January 2011, by rule 4 of the District Courts (Limitation Act 2010) Amendment Rules 2010 (SR 2010/395).

1.17 When time expires on day when court office is closed

When the time for doing any act at an office of the court expires on a day on which that office is closed, so that that act cannot be done on that day, the act is in time if done on the next day on which that office is open.

Compare: SR 1992/109 r 15; HCR 1.18

1.18 Extending and shortening time

1.18.1 The court may, in its discretion, extend or shorten the time allowed by these rules, or fixed by any order, for doing any act or taking any proceeding or any step in a proceeding, on such terms (if any) as the court thinks fit in the interests of justice.

1.18.2 The court may order an extension of time although the application for the extension is not made until after the expiration of the time allowed or fixed.

1.18.2A To avoid doubt, a proceeding does not come to an end just because the time allowed by rule 2.10, 2.14, 2.17, 2.39A, 2.47, or 3.40 or any other rule for taking any action in that proceeding expires, if that time is later extended under rule 1.18.2.

1.18.3 The court or a Registrar may order an extension of time on application made by written notice instead of by interlocutory application, if the parties consent.

Compare: SR 1992/109 r 6; HCR 1.19

Rule 1.18.2A: inserted, on 14 June 2012, by rule 5 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Offices, holidays, and office hours

1.19 Court holidays

1.19.1 Holidays must be observed in the court and in the offices of the court on the following days:

- (a) the days in the period beginning on Good Friday and ending with the close of the Monday following Easter:
- (b) the days in the period beginning 25 December in any year and ending with the close of 2 January in the following year:
- (c) Saturdays and Sundays:

- (d) the Sovereign's birthday:
- (e) Anzac Day:
- (f) Labour Day:
- (g) Waitangi Day:
- (h) the day observed as the anniversary of the province in which the court is situated:
- (i) in each place where an office of the court is situated, any day which in that place is—
 - (i) a public holiday; or
 - (ii) a proclaimed holiday:
- (j) any days on which any office of the court is closed by an order under rule 1.21.

1.19.2 This rule is subject to the Holidays Act 2003.

Compare: SR 1992/109 r 17

1.20 Sittings on court holidays

1.20.1 The court may sit on a court holiday if a Judge considers it desirable to do so in order to dispose of business.

1.20.2 Despite rule 1.20.1, the court may sit on a Sunday, Christmas Day, New Year's Day, or Good Friday only if a Judge is of the view that the business to be disposed of is extremely urgent.

1.20.3 If the court sits on a court holiday, it may,—

- (a) authorise the receipt or issue of any document complying with these rules:
- (b) authorise the service of any document received or issued under paragraph (a).

Compare: SR 1992/109 r 18; HCR 3.3

1.21 Closing or opening by special order

1.21.1 The Minister of the Crown who is responsible for the Ministry of Justice may by general or special order direct that any office may be closed on any day specified in the order.

1.21.2 Despite rule 1.19, any office of the court may from time to time be closed or opened by special order of a Judge.

1.21.3 If an order to close an office is made under rule 1.21.2, the Registrar must ensure that the order is advertised immediately in the manner directed by a Judge.

Compare: SR 1992/109 r 19

1.22 Office hours

- 1.22.1 The office of the court must be open from 9 am to 5 pm on every day that is not a court holiday.
- 1.22.2 The Minister of the Crown who is responsible for the Ministry of Justice may from time to time authorise the closing of the office of any court for 1 hour.
- 1.22.3 If the Registrar is Registrar of 2 or more courts, or in any other special circumstances, the offices of those courts must be open on the days and at the times from time to time determined by the Minister of the Crown who is responsible for the Ministry of Justice.
- 1.22.4 A notice of the office hours must be posted in some convenient place accessible to the public.
Compare: SR 1992/109 r 20

*Postal provision***1.23 Filing by post**

- 1.23.1 Documents to be filed may be posted together with the applicable fee to the Registrar at the proper office of the court.
- 1.23.2 A posted document is filed when the Registrar receives it with the applicable fee.
- 1.23.3 The Registrar must notify the applicant of the hearing date (if any) allocated for the application.
- 1.23.4 If the application is made without notice and does not require an appearance, the Registrar must notify the applicant of the result of the application.
Compare: SR 1992/109 r 37; HCR 7.21

*Forms and documents***1.24 General requirements**

- 1.24.1 The forms set out in Schedule 1 must be used in relevant proceedings under these rules. The forms specific to District Courts are set out fully in the schedule, and High Court forms incorporated by reference in these rules are referred to in the table at the beginning of the schedule.
- 1.24.2 Despite anything in this Part, reformatted versions of forms 2 to 6CCA may be provided by the chief executive of the Min-

istry of Justice for general use and be received for filing. For example, such versions may use different type sizes or fonts, or reposition information or notes.

1.24.3 The High Court forms incorporated in these rules need to be modified to suit District Courts.

1.24.4 A document that does not comply with these rules may be received for filing only by leave of the court or a Registrar.

1.24.5 The cost of an application under rule 1.24.4 must be borne by the party making it, and may not be claimed as costs against another party under Part 4.

1.24.6 Despite rule 1.24.4, a document presented for filing by a party who is not represented by a solicitor may be received and corrected by a Registrar, with the consent of that party.

1.24.7 A document required by these rules for which no form is specified (either in these rules or in a High Court Rule applied for the purpose of these rules) must—

- (a) comply with the applicable provisions in rules 1.25 to 1.38, and with the High Court Rules applied by rule 3.37 of these rules; and
- (b) conform as closely as possible to the general style of forms in Schedule 1.

1.24.8 A document required by these rules for which a form is specified (either in these rules or in a High Court Rule applied for the purpose of these rules) must, in addition, have a cover sheet that complies with rules 1.29 to 1.32.

Compare: SR 1992/109 r 21

Rule 1.24.8: inserted, on 14 June 2012, by rule 6 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

1.25 Form of documents

All documents filed in a proceeding must—

- (a) be legible; and
- (b) be typewritten, printed, produced in permanent form by photocopying, or be in neat handwriting; and
- (c) show the number of the proceedings (if any); and
- (d) have a cover sheet and be numbered in accordance with rule 1.29; and
- (e) be divided into consecutively numbered paragraphs, with each paragraph dealing with a separate topic; and

- (f) show the address for service of the party's lawyer or, if the party is not represented by a lawyer, the party's address for service.

1.26 Paper

Each sheet of paper must be of international size A4.

Compare: SR 1992/109 r 22

1.27 Margin

1.27.1 A margin of at least one-quarter of the width of the paper must be left on the left-hand side of each page.

1.27.2 However, if the reverse side of a page is used, a margin of at least one-quarter of the width of the paper must be left on the right-hand side of that page.

Compare: SR 1992/109 r 23

1.28 Signature to be original

If a document is required to be signed,—

- (a) the signature must be an original signature; and
- (b) immediately below the original signature, the name of the signatory must be—
 - (i) legibly typed, printed, or stamped; or
 - (ii) legibly written in the style of printed matter.

Compare: SR 1992/109 r 25

1.29 Cover sheet, numbering, and fastening of document

1.29.1 The first sheet of a document is the cover sheet, showing the matters specified in rules 1.30 and 1.31.

1.29.2 The cover sheet is not numbered, even if the heading is continued on another sheet under rule 1.31.2.

1.29.3 Each page after the cover sheet must be numbered consecutively, starting with the number 1.

1.29.4 All sheets of a document must be securely fastened together.

Compare: SR 1992/109 r 28

1.30 Description of document

1.30.1 Each document must show on its cover sheet, immediately below the heading, a description of the document adequate to show its precise nature.

1.30.2 The description must include—

- (a) words indicating the party by whom or on whose behalf the document is filed; and
- (b) the words “application without notice” in the case of an application so made.

Compare: SR 1992/109 r 29

1.31 Format of cover sheet

1.31.1 The cover sheet of an originating document and of a notice of interlocutory application must—

- (a) include only—
 - (i) the heading; and
 - (ii) the description of the document; and
 - (iii) if applicable, the next event date; and
 - (iv) if applicable, the name of the Judge to whom the proceeding has been assigned; and
 - (v) the information required by rule 1.32; and
- (b) leave ample space between the description of the document and the subscription for the inclusion of a minute.

1.31.2 The heading may, where necessary, be continued on another sheet.

1.31.3 In rule 1.31.1(a)(iii), **next event date** means, if allocated, the date and nature of a hearing or conference that is to be held next after the date on which the document is filed.

Compare: SR 1992/109 r 29A; HCR 5.10

1.32 Information at foot of cover sheet

1.32.1 The following information must appear at the foot of the cover sheet of a document for filing:

- (a) the name of the solicitor or firm of solicitors (if any) presenting it for filing and the name of any agent by whom the document is filed; and
- (b) if the document is presented for filing by or on behalf of a solicitor or firm of solicitors,—

- (i) the name and telephone number of the principal or employee dealing with the proceeding; and
- (ii) the address of any post office box or document exchange box number used by the solicitor or firm; and
- (iii) any fax number used by the solicitor or firm; and
- (iv) any email address used by the solicitor or firm.

1.32.2 The fact that the name of a solicitor or firm of solicitors is subscribed on a document is prima facie evidence that the document was filed by that solicitor or firm of solicitors.

1.32.3 A related requirement to include a memorandum at the end of the first document filed by a party is in HCR 5.44 (as applied by rule 3.37.9).

Compare: SR 1992/109 r 35

1.33 Heading on statement of claim and counterclaim

1.33.1 The heading of a statement of claim, and of any counterclaim intended to be served on any person other than the plaintiff, must show—

- (a) the number of the proceeding;
- (b) the office of the court in which it is filed;
- (c) if the statement of claim or counterclaim seeks relief in reliance on jurisdiction conferred by an Act, the title of that Act;
- (d) if the relief sought in the statement of claim or counterclaim relates to the validity or interpretation of an instrument, the name of the maker of, or the names of the parties to, the instrument and its date;
- (e) the full name and the place of residence and occupation of every plaintiff and defendant, so far as they are known to the party presenting the document for filing.

1.33.2 The form to be used for the purposes of rule 1.33.1 is form 1 or an appropriately modified HCF G 1.

1.33.3 Rules 1.33.1 and 1.33.2 do not apply if form 2 or 2CC is being used.

Compare: SR 1992/109 r 30

1.34 Heading of judgment and certain orders

The heading of a judgment and of an order (that is required to be registered under any enactment) must be the same as the heading on the notice of claim or other document by which the proceeding was started.

Compare: SR 1992/109 r 31

1.35 Heading of other documents

1.35.1 The heading of a document (other than a document by which a proceeding is started or a document to which rule 1.34 applies) is to be abbreviated as follows:

- (a) first or Christian names of persons must be denoted by initials only, unless full names are necessary to distinguish between persons having the same initials:
- (b) if 2 or more persons are joined in the same interest, the name of the first named only of such persons must be set out, followed by the words “and another” or “and others” (as the case may be):
- (c) places of residence and descriptions of persons (unless necessary to distinguish 2 or more persons required to be named and bearing the same name) and indications of the interest in which a person is a party must be omitted:
- (d) the names of corporations must be set out in full, but it is not necessary to state the fact of incorporation or refer to the registered office or make any other addition.

1.35.2 However, a fuller title may be used on a change of parties or if any party considers that a person has in a previous document been wrongly named or described, or for other sufficient reason.

Compare: SR 1992/109 r 32

1.36 Numbers

Numbers must be expressed in figures and not in words.

Compare: SR 1992/109 r 34

1.37 Documents that must be sealed

The following documents must be sealed with the seal of the court before being issued by that court:

- (a) final orders:
- (b) documents requiring certification for use in proceedings before another court or Tribunal:
- (c) orders made on interlocutory applications that are sealed under HCR 7.47 (as applied by rule 3.52.29).

Compare: SR 1992/109 r 36

1.38 Rules about authority to file and sign documents

The High Court Rules about authority to file and sign documents as listed in rule 3.37 of these rules apply as well.

Part 2

General procedure for civil claims where no other procedure provided

Subpart 1—Preliminary provisions

2.1 Application of this Part

- 2.1.1 This Part applies to civil claims in District Courts, unless a different procedure applies by virtue of another Part of these rules or another enactment.
- 2.1.2 This Part applies to proceedings covered by any of the following Parts only to the extent provided in that following Part:
 - (a) Part 6 (proceedings that are required to be started by filing an originating application):
 - (b) Part 7 (proceedings under the Harassment Act 1997):
 - (c) Part 8 (proceedings under subpart 6 of Part 8 of the Local Government Act 2002):
 - (d) Part 9 (proceedings under the Construction Contracts Act 2002):
 - (e) Part 10 (proceedings in admiralty):
 - (f) Part 11 (entry of award as judgment under article 35 of Schedule 1 of Arbitration Act 1996).

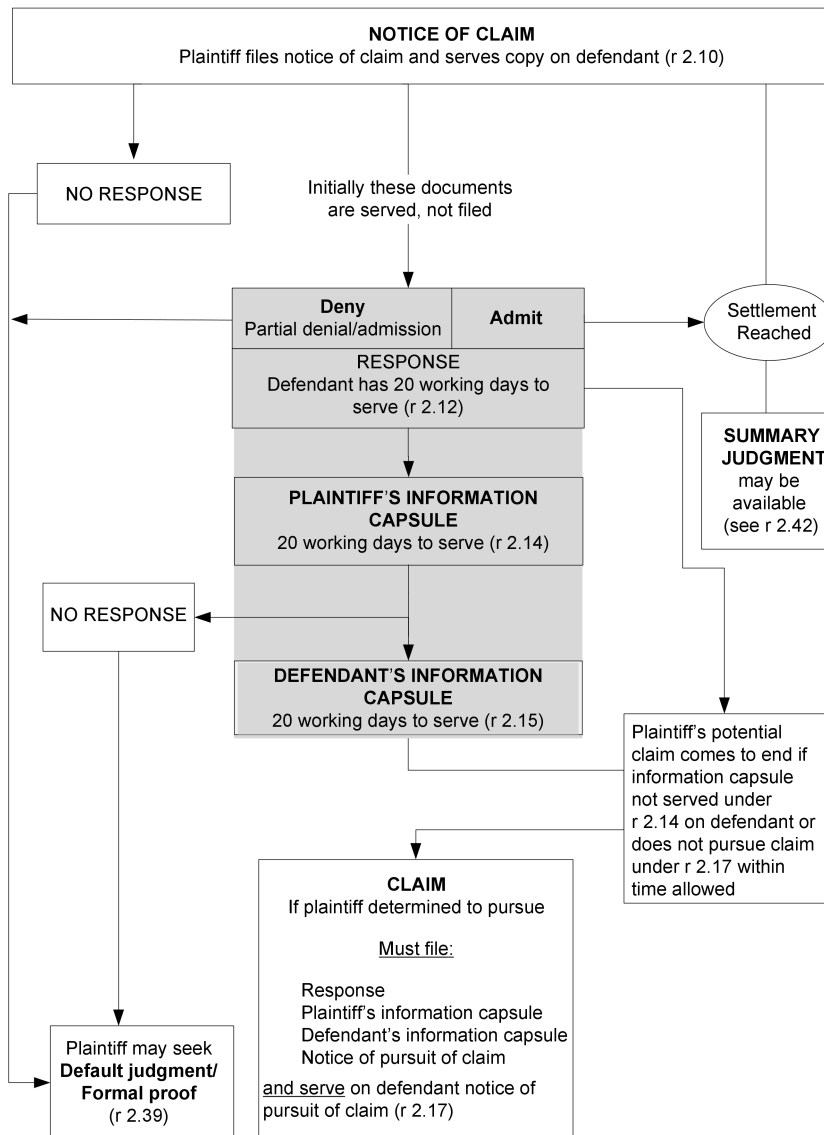
Subpart 2—How to start court proceeding

Overview

2.2 Overview of notice of claim procedure

The following diagram is a guide to the notice of claim procedure:

Notice of claim procedure



Rule 2.2 diagram: replaced, on 14 June 2012, by rule 7 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

*General provisions about notice of claim
procedure and alternative procedure*

2.3 How to start claim, and procedure that applies

2.3.1 A plaintiff starts the following by filing a statement of claim under rule 2.9:

- (a) a proceeding in admiralty:
- (b) a proceeding in defamation:
- (c) an action to enforce an arbitral award.

2.3.2 A plaintiff starts any other proceeding under this Part by filing a notice of claim under rule 2.10.

2.3.3 The notice of claim procedure in rules 2.10 to 2.17 (which includes serving a response, exchanging information capsules, and completing the filing requirements in order to pursue the claim) applies to all proceedings started under rule 2.10 unless the court otherwise orders under rule 2.7 or these rules otherwise provide.

2.3.4 When starting a proceeding under rule 2.10, a plaintiff may apply under rule 2.7 for leave to file a statement of claim or originating application, and then to proceed under that rule instead of under the notice of claim procedure in rules 2.10 to 2.17. A defendant may apply under rule 2.12.2 for an order requiring the plaintiff to file a statement of claim or originating application.

2.3.5 Rules 3.44.21 to 3.44.30 enable notices of claim to be served overseas in accordance with the relevant High Court Rules.

2.3.6 Rules 2.12.6 and 3.38.1 enable a defendant to object to the court's jurisdiction in accordance with HCR 5.49.

2.3.7 Rule 2.50 enables the court to strike out pleadings or to stay or dismiss proceedings, and to grant indemnity costs in certain circumstances when a plaintiff fails to pursue a claim.

2.3.8 Part 3 sets out or lists rules about particular aspects of proceedings (such as the transfer of proceedings, translations, search of court records, authority to file and sign documents, parties, incapacitated persons, and interlocutory proceedings), which rules apply generally unless the context otherwise requires.

Rule 2.3.3: amended, on 14 June 2012, by rule 8 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.4 Rules about service of documents

For rules about service of documents, see rules 2.38 and 3.40 to 3.44.

2.5 Who must sign document under this Part

A document that is to be filed or served under this Part (for example, a notice of claim, response, notice of pursuit of claim, or reply) must be signed by—

- (a) the individual taking the action; or
- (b) if a body corporate is taking the action, an officer authorised to sign on behalf of the body corporate or a duly authorised agent of the body corporate; or
- (c) if a partnership or trust is taking the action, a person signing according to the Partnership Act 1908 or the Trustee Act 1956, or a duly authorised agent of the partnership or trust; or
- (d) if a charitable trust is taking the action, a person who is authorised to sign on behalf of the charitable trust; or
- (e) if an unincorporated body is taking the action, a person who is authorised to sign on behalf of the unincorporated body; or
- (f) in any case, a solicitor who is authorised to sign by, or on behalf of, the party taking the action.

2.6 Undisputed facts treated as being admitted

A fact stated in a notice of claim that is not disputed in the defendant's response is treated as being admitted for the purpose of proof.

Compare: SR 1992/109 r 136(3); HCR 5.48(3)

Alternative procedure

2.7 Court's discretion to grant leave to file statement of claim or originating application

- 2.7.1 A plaintiff may, by an interlocutory application made when filing the plaintiff's notice of claim under rule 2.10, apply to the court for an order under rule 2.7.5 granting the plaintiff leave—

- (a) to file a statement of claim and continue under this rule; or
 - (b) to file an originating application and continue under this rule.
 - 2.7.2 If the plaintiff makes an application under rule 2.7.1, the proceeding must not be served until the court has determined the application.
 - 2.7.3 An application under rule 2.7.1 may in the first instance be made without notice, but the court may require notice to be given in accordance with the court's directions.
 - 2.7.4 In deciding whether to make an order under rule 2.7.5,—
 - (a) the court must have regard to the objective set out in rule 1.3; and
 - (b) for the purpose of this rule, that objective includes having regard to the following matters:
 - (i) the amount of money involved;
 - (ii) the importance of the case;
 - (iii) the degree of difficulty or complexity to which the issues in the proceedings give rise;
 - (iv) the urgency of the matter;
 - (v) the financial position of each party;
 - (vi) any other matters the court considers relevant.
 - 2.7.5 The court may make an order accordingly and the proceeding continues subject to any directions in the order.
- 2.8 Procedure following granting of leave under rule 2.7**
- 2.8.1 If leave is granted under rule 2.7 to proceed by way of a statement of claim, the following rules apply instead of rules 2.12 to 2.37:
 - (a) HCR 4.4 to 4.22 (third, fourth, and subsequent parties and claims between defendants):
 - (b) HCR 5.17 to 5.35, and 7.77 (pleadings, notice of proceeding, statement of claim, and amendment of pleading), subject to rule 2.48.6:
 - (c) HCR 5.47 to 5.52 (statement of defence and appearance):
 - (d) HCR 5.53 to 5.61 (counterclaims):
 - (e) HCR 5.62 and 5.63 (reply).

- 2.8.2 If leave is granted under rule 2.7 to proceed by way of an originating application,—
- (a) the originating application must be filed in the proper court, as determined under rule 3.1; and
 - (b) HCR 19.8 to 19.11, 19.13, and 19.14 apply and the application is to be disposed of in accordance with those rules.
- 2.8.3 The rules applying under rule 2.8.1 or 2.8.2 are subject to any directions stated in the relevant order granting leave.
- 2.8.4 An order under rule 2.7 may contain any ancillary directions to enable the proceeding to be dealt with under subpart 3 (rules 2.39 to 2.54), including (without limitation) directions—
- (a) as to service of documents:
 - (b) requiring a judicial settlement conference to be convened on a specified date:
 - (c) requiring the parties to exchange will say statements:
 - (d) requiring the parties to exchange the documents supporting their case.
- 2.8.5 If an application is made under rule 2.7.1, the following provisions apply until the application is determined by the court:
- (a) the application of rules 2.12 to 2.17 is suspended:
 - (b) time stops running under those rules.
- 2.8.6 The plaintiff may proceed to judgment under rule 2.39 if the defendant fails, within the time allowed, to file a statement of defence to the plaintiff's statement of claim.
- 2.8.7 Rules 2.38 and 3.40 to 3.44 indicate or set out rules that apply to the service of documents.

Admiralty, arbitral awards, and defamation

2.9 How to start proceedings relating to admiralty, arbitral awards, or defamation

- 2.9.1 A plaintiff starts a proceeding in defamation or admiralty by filing a statement of claim, but prior leave is not required under rule 2.7.
- 2.9.2 A proceeding for the entry of an arbitral award as a judgment is taken in the manner set out in Part 11, but prior leave is not required under rule 2.7 if enforcement action is started by filing a statement of claim.

- 2.9.3 Rules 2.8.1 and 2.8.6 apply with the necessary modifications to every proceeding referred to in rule 2.9.1 and to every statement of claim to enforce an arbitral award, and the court may give any directions under rules 2.8.3 and 2.8.4 that it could give in any case where leave is required.
- 2.9.4 Further rules about proceedings in admiralty are set out in Part 10.

Notice of claim procedure

2.10 Plaintiff to file and serve notice of claim

- 2.10.1 A plaintiff starts a proceeding (other than a proceeding in admiralty or defamation, or to enforce an arbitral award) by filing a notice of claim in form 2.
- 2.10.2 A plaintiff starts a proceeding against 2 or more defendants by filing a single notice of claim in form 2 that names each defendant.
- 2.10.3 The plaintiff must, as soon as practicable after filing the notice of claim, serve a copy of the notice of claim on each defendant.
- 2.10.4 The proceeding comes to an end if the plaintiff does not serve the notice of claim within 12 months after the date on which the notice of claim is filed or within the further time allowed by the court under rule 2.10.6.
- 2.10.5 The plaintiff may, before or after the expiration of the period referred to in rule 2.10.4, apply to the court or a Registrar for an order extending that period in respect of any person who has not been served.
- 2.10.6 On application under rule 2.10.5, the court or Registrar, if satisfied that reasonable efforts have been made to serve the notice of claim, or for other good reason, may extend the period of service by 6 months starting on the date on which the order is made and so on from time to time while the proceeding is pending.
- 2.10.7 A proceeding that comes to an end under this rule is treated as having been discontinued by the plaintiff.

Compare: SR 1992/109 rr 112, 133, 134

2.11 Contents of notice of claim

A notice of claim must—

- (a) state the plaintiff's name and address for service; and
- (b) state the defendant's name and address; and
- (c) give a succinct description of the facts justifying the plaintiff's claim; and
- (d) contain a signed statement verifying the truth of these facts; and
- (e) state the relief or remedy the plaintiff seeks; and
- (f) state whether or not the plaintiff seeks an award of interest; and
- (g) contain the other matters (if any) indicated by form 2.

Defendant to respond

2.12 Defendant to serve response on plaintiff within 20 working days, and opportunity to apply for rule 2.7 order

2.12.1 A defendant who wishes to respond to a notice of claim must complete and serve a response on the plaintiff within 20 working days after the date on which the plaintiff's notice of claim is served on the defendant.

2.12.2 A defendant may, by an interlocutory application, apply to the court for an order requiring the plaintiff—

- (a) to file a statement of claim and continue under rule 2.7; or
- (b) to file an originating application and continue under rule 2.7.

2.12.3 An application under rule 2.12.2 must—

- (a) be made before, and within the time allowed for, serving the response; and
- (b) be served together with the response.

2.12.4 Rules 2.7.4 and 2.7.5 apply with the necessary modifications to applications under rule 2.12.2.

2.12.5 The plaintiff may proceed to judgment under rule 2.39 if the defendant fails to comply with rule 2.12.1.

2.12.6 A defendant who wishes to object to the claim on the ground that a District Court does not have jurisdiction to hear and determine the claim may, within the time allowed for serving a response in form 3 and instead of serving a response in that

form, file and serve an appearance in form HCF G 7 stating the defendant's objection and grounds for it in accordance with HCR 5.49 (as applied by rule 3.38.1).

2.12.7 Rules 2.27 and 2.28 provide for the making of counterclaims.

Rule 2.12 heading: amended, on 14 June 2012, by rule 9(1) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.12.1: amended, on 14 June 2012, by rule 9(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.13 Contents of response

2.13.1 In a defendant's response, which must be in form 3, the defendant must—

- (a) admit the claim and immediately pay or comply with the requested relief or remedy; or
- (b) admit the claim but offer an alternative remedy to that requested in the notice of claim; or
- (c) deny the claim; or
- (d) partially admit and partially deny the claim.

2.13.2 A response must also indicate whether the defendant intends to make any counterclaims against the plaintiff. If the defendant does intend to counterclaim, a copy of the filed form 2CC must be attached to the defendant's response when the response is served.

2.13.3 A response that denies or partially denies the claim must also—

- (a) succinctly state the defendant's version of the facts (for example, if the defendant denies the claim or part of a claim, or does not know about an event or fact stated in the notice of claim or could not reasonably have found out about it, the defendant must say so and explain why); and
- (b) succinctly state any facts the defendant intends to rely on at the trial that are not stated in the notice of claim; and
- (c) contain a signed statement verifying the truth of those facts; and
- (d) state an address for service.

2.13.4 A response must contain the other matters (if any) indicated by form 3.

Plaintiff to serve information capsule

2.14 Plaintiff to serve information capsule on defendant within 20 working days

2.14.1 A plaintiff who wishes to pursue a claim after being served with the defendant's response must complete an information capsule and serve it on the defendant within 20 working days after the date on which the defendant's response is served on the plaintiff.

2.14.2 The purpose of a plaintiff's information capsule is to—

- (a) inform the defendant of the essential nature of the plaintiff's case; and
- (b) disclose to the defendant the information on which the plaintiff intends to rely, as at the time of service of the capsule.

2.14.3 In a plaintiff's information capsule, which must be in form 4, the plaintiff must—

- (a) rebut the defences raised by identifying and addressing the essential facts in dispute; and
- (b) explain why any offer (other than an offer expressly stated to be without prejudice except as to costs) made by the defendant has been rejected (for example, by stating why the offer is considered unsatisfactory); and
- (c) list the witnesses the plaintiff intends to call during the trial; and
- (d) include or attach will say statements for each witness; and
- (e) list or describe sufficiently the essential documents supporting the plaintiff's claim; and
- (f) to the best of the plaintiff's knowledge and belief, verify the contents on oath or by affirmation.

2.14.3A The plaintiff must, as soon as practicable and at the plaintiff's cost, give the defendant a copy of each essential document listed or described in the plaintiff's information capsule that is requested by the defendant.

2.14.3B A defendant may apply for, and the court may make, an interlocutory order requiring a plaintiff to comply with rule 2.14.3A.

2.14.4 The plaintiff's proceeding comes to an end if the plaintiff does not serve the plaintiff's information capsule on the defendant within the 20-day period specified in rule 2.14.1.

2.14.5 The plaintiff may start the claim again, subject to any relevant limitation period, only by starting afresh under rule 2.10.

2.14.6 A proceeding that comes to an end under this rule is treated as having been discontinued by the plaintiff.

Rule 2.14 heading: amended, on 14 June 2012, by rule 10(1) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.14.1: amended, on 14 June 2012, by rule 10(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.14.3A: inserted, on 14 June 2012, by rule 10(3) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.14.3B: inserted, on 14 June 2012, by rule 10(3) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.14.4: amended, on 14 June 2012, by rule 10(4) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Defendant to serve information capsule

2.15 Defendant to serve information capsule on plaintiff within 20 working days

2.15.1 A defendant who, after being served with the plaintiff's information capsule, still wishes to contest the plaintiff's claim must complete an information capsule and serve it on the plaintiff within 20 working days after the date on which the plaintiff's information capsule is served on the defendant.

2.15.2 The purpose of a defendant's information capsule is to—

- (a) inform the plaintiff of the essential nature of the defendant's case; and
- (b) disclose to the plaintiff the information on which the defendant intends to rely, as at the time of service of the defendant's information capsule.

2.15.3 In a defendant's information capsule, which must be in form 5, the defendant must—

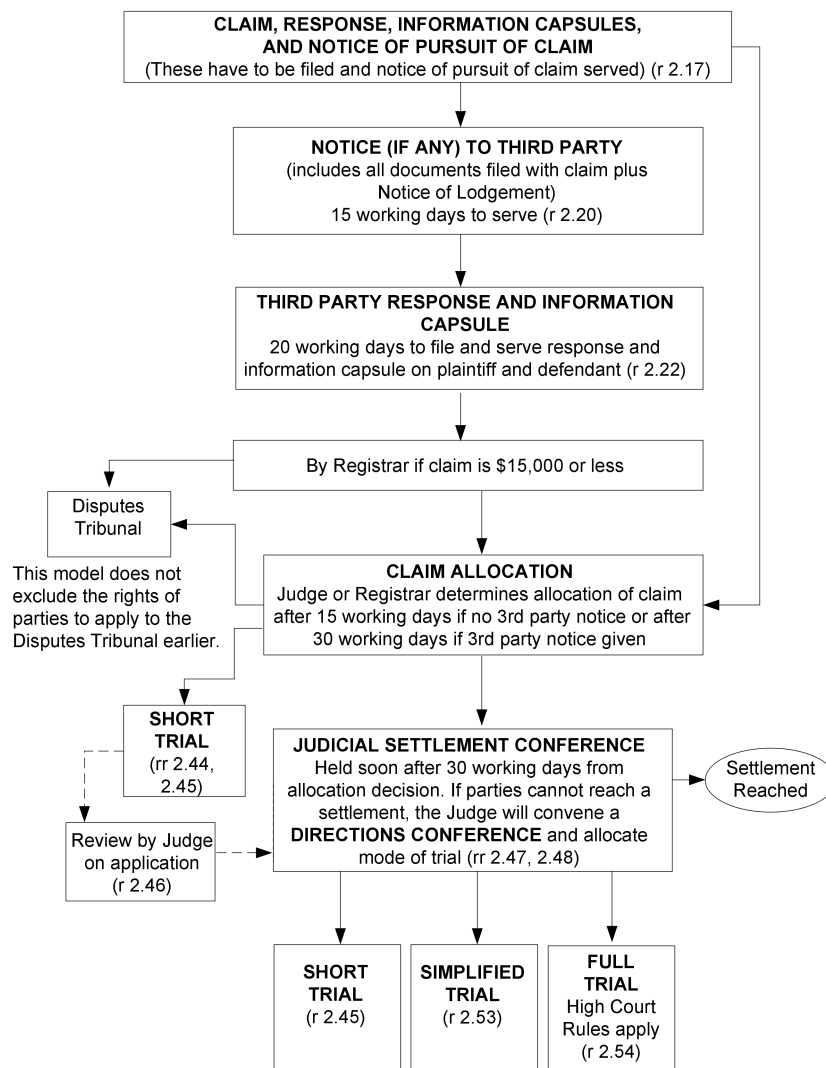
- (a) identify and address the facts in dispute that the defendant believes are the essential facts, and respond to the plaintiff's rebuttal; and
- (b) describe any offer made to and rejected by the plaintiff; and

- (c) explain why any offer (other than an offer expressly stated to be without prejudice except as to costs) made by the plaintiff has been rejected (for example, by stating why the offer is considered unsatisfactory); and
 - (d) list the witnesses the defendant intends to call during the trial; and
 - (e) include or attach will say statements for each witness; and
 - (f) list or describe sufficiently the essential documents supporting the defendant's case; and
 - (g) to the best of the defendant's knowledge and belief, verify the contents on oath or by affirmation.
- 2.15.3A The defendant must, as soon as practicable and at the defendant's cost, give the plaintiff a copy of each essential document listed or described in the defendant's information capsule that is requested by the plaintiff.
- 2.15.3B A plaintiff may apply for, and the court may make, an interlocutory order requiring a defendant to comply with rule 2.15.3A.
- 2.15.4 The plaintiff may proceed to judgment under rule 2.39 if the defendant fails to comply with rule 2.15.1.
- Rule 2.15 heading: amended, on 14 June 2012, by rule 11(1) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).
- Rule 2.15.1: amended, on 14 June 2012, by rule 11(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).
- Rule 2.15.3A: inserted, on 14 June 2012, by rule 11(3) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).
- Rule 2.15.3B: inserted, on 14 June 2012, by rule 11(3) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Completion of filing and subsequent procedure

2.16 Overview diagram

The following diagram is a guide to the procedure that applies under the rest of this Part:

Procedure on and after filing Response and Information Capsules

Rule 2.16 diagram: replaced, on 14 June 2012, by rule 12 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.17 Plaintiff may pursue claim after exchange of information capsules or discontinue

- 2.17.1 A plaintiff who settles a proceeding under rules 2.10 to 2.15 must, as soon as practicable after settlement, file a notice of discontinuance in form HCF G 24 (and, for this purpose, paragraph 2 of the notice need only state that the proceeding has been settled).
- 2.17.2 If a proceeding is not settled under rules 2.10 to 2.15, the plaintiff may pursue it before the court only by taking all of the following steps:
- (a) the plaintiff must serve on each defendant a notice of pursuit of claim in form 6 (without completing the affidavit section) and, as soon as practicable after service of each form 6, file each completed form 6; and
 - (b) the plaintiff must, when filing under paragraph (a), also file a single copy of the following documents in the proceeding:
 - (i) each form 3 (response by defendant) that has been served on the plaintiff; and
 - (ii) each form 4 (plaintiff's information capsule) that has been served on each defendant; and
 - (iii) each form 5 (defendant's information capsule) that has been served on the plaintiff.
- 2.17.3 The date of proof of service of form 6 determines when the court has to make decisions as to the mode of trial under rule 2.40.
- 2.17.4 The proceeding comes to an end if the plaintiff does not pursue the claim under rule 2.17.2 within 90 working days after the date on which the defendant's information capsule is served on the plaintiff.
- 2.17.5 The plaintiff may start the claim again, subject to any relevant limitation period, only by starting afresh under rule 2.10.
- 2.17.6 A proceeding that comes to an end under this rule is treated as having been discontinued by the plaintiff.

*Third and subsequent party notices***2.18 Grounds for joining other parties**

2.18.1 A defendant in a proceeding may claim against a person who is not a party to the proceeding (the **third party**) on the ground that the defendant is entitled to a contribution, indemnity, or other relief or remedy.

2.18.2 The third party becomes a party to the proceeding with the same rights and obligations in the proceeding as if the defendant had started the proceeding against the third party.

Compare: SR 1992/109 r 77(1), (3)

2.19 Requirements of third party notice

A third party notice, which must be in form 7, must—

- (a) be signed by the defendant; and
- (b) inform the third party of—
 - (i) the claim by the plaintiff against the defendant; and
 - (ii) the fact that service of the notice makes the third party a party to the proceedings; and
 - (iii) the claim by the defendant against the third party; and
 - (iv) the steps that the third party is required to take if the third party wishes to dispute either claim; and
 - (v) the consequences that will follow if the third party fails to dispute either claim.

Compare: SR 1992/109 r 177

2.20 Filing and service of third party notice

2.20.1 A defendant who claims against a third party must,—

- (a) within 15 working days after service of the plaintiff's notice of pursuit of claim or within any further time that the court allows by leave, file the third party notice together with the defendant's notice of claim against the third party; and
- (b) serve those documents on the plaintiff immediately after filing; and
- (c) serve those documents on the third party within 15 working days after the date of filing.

2.20.2 Rule 2.11 applies with the necessary modifications to a notice of claim filed under 2.20.1.

2.20.3 When serving documents under rule 2.20.1(c), the defendant must also serve on the third party—

- (a) a copy of the plaintiff's notice of claim against the defendant; and
- (b) a copy of the defendant's response to the plaintiff's notice of claim; and
- (c) a copy of the defendant's and plaintiff's information capsules; and
- (d) a copy of the plaintiff's notice of pursuit of claim; and
- (e) a list of any other documents that, up till that time, have been served by the plaintiff on the defendant or by the defendant on the plaintiff.

Compare: SR 1992/109 rr 178, 179

2.21 Restrictions on entering judgment and allocation of hearing date

2.21.1 If a defendant meets the defendant's obligations to the plaintiff under rule 2.20.1, then, until the expiry of the time within which the third party may file a response under rule 2.22, the plaintiff may not, without leave of the court,—

- (a) enter judgment in the proceeding; or
- (b) apply for the allocation of a hearing date for the proceeding.

2.21.2 The plaintiff may apply to the court for leave to do either of the things mentioned in rule 2.21.1(a) or (b) before the third party response time expires.

2.21.3 The plaintiff must give notice of an application for leave to the defendant and (if the third party has been served) to the third party.

Compare: SR 1992/109 r 180

2.22 Third party responses to be served within 20 working days

2.22.1 A third party must file, and serve on each plaintiff and defendant, a response to the third party notice within 20 working days after the date on which the defendant's third party notice is served on the third party.

2.22.1A A third party must file and serve with the third party's response an information capsule in form 5 that complies with rule 2.15.3.

2.22.2 Rules 2.5, 2.6, and 2.13 apply with the necessary modifications to a third party response.

Compare: SR 1992/109 r 181

Rule 2.22 heading: amended, on 14 June 2012, by rule 13(1) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.22.1: amended, on 14 June 2012, by rule 13(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.22.1A: inserted, on 14 June 2012, by rule 13(3) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.23 Service of application for leave

If an application to the court for leave to issue a third party notice is required, it must be served on the other parties to the proceeding.

Compare: SR 1992/109 r 182; HCR 4.15

2.24 Setting aside notice

2.24.1 If a third party notice has been issued and served without prior leave of the court, the third party, plaintiff, or any other party served with the notice may apply to the court to set aside the notice.

2.24.2 If a third party notice has been served by leave of the court, the third party may apply to the court to set aside the notice.

2.24.3 On the hearing of the application, the court may—

- (a) set aside the third party notice and dismiss the defendant's notice of claim against the third party either on the merits or without prejudice to the right of the defendant to pursue the claim against the third party by an independent proceeding; or
- (b) give any other directions relating to the third party notice that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 183

2.25 Default in filing response

2.25.1 If the third party does not file a response within the time allowed, the third party—

- (a) is treated as admitting the validity of, and is bound by, any judgment given in the proceeding, whether by consent, default, or otherwise; and
- (b) is bound by any decision in the proceeding on any question specified in the defendant's notice of claim.

2.25.2 When contribution or indemnity or any relief or remedy is claimed against the third party in the defendant's notice of claim, the third party is treated as admitting liability in respect of the contribution, indemnity, relief, or remedy.

2.25.3 Rules 2.25.1 and 2.25.2 do not apply in the case of third party proceedings against the Crown unless the court so orders on an application served on the Crown not less than 7 working days before the day for the hearing of those matters specified in the application.

Compare: SR 1992/109 r 184

2.26 Application of rules to fourth, etc, party notices

Rules 2.18 to 2.25 apply with the necessary modifications to fourth and subsequent party notices.

Compare: SR 1992/109 r 185

Counterclaims

2.27 Counterclaim against plaintiff only

2.27.1 A defendant who wishes to counterclaim against the plaintiff only starts the counterclaim under rule 2.27.2. or 2.27.4.

2.27.2 A defendant who counterclaims under the notice of claim procedure in rules 2.10 to 2.17 (as modified by rule 2.27.3) must—

- (a) file a notice of counterclaim in form 2CC within 20 working days after the date on which the plaintiff's notice of claim is served on the defendant; and
- (b) serve form 2CC at the same time as the defendant's response to the notice of claim is served by attaching form 2CC to the response.

2.27.3 Rules 2.12 to 2.17 apply with the necessary modifications to counterclaims under rule 2.27.2, including the following modifications:

- (a) a plaintiff who is served with form 2CC must serve a response in form 3CC within 20 working days after the

date on which form 2CC is served (*see* rules 2.12 and 2.13):

- (b) the defendant must serve an information capsule in form 4CC within 20 working days after the date on which form 3CC is served (*see* rule 2.14):
- (c) the plaintiff must serve an information capsule in form 5CC within 20 working days after the date on which form 4CC is served (*see* rule 2.15):
- (d) the defendant pursues the counterclaim by serving form 6CC (without completing the affidavit section) and, within 90 working days after the date on which form 5CC is served, filing the completed form 6CC together with copies of forms 3CC, 4CC, and 5CC (*see* rule 2.17).

2.27.4 If the High Court Rules referred to in rule 2.8.1(d) apply, a defendant counterclaims against the plaintiff only by filing and serving a statement of counterclaim in accordance with those rules.

2.27.5 The plaintiff rebuts the defendant's counterclaims under rule 2.27.4 by filing and serving a statement of defence in accordance with the High Court Rules referred to in rule 2.8.1(d), and those High Court Rules apply instead of the modified rules 2.12 to 2.17.

Compare: SR 1992/109 rr 168, 170–172

Rule 2.27.2(a): amended, on 14 June 2012, by rule 14(1) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.27.3(a): amended, on 14 June 2012, by rule 14(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.27.3(b): amended, on 14 June 2012, by rule 14(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.27.3(c): amended, on 14 June 2012, by rule 14(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.28 Counterclaim against plaintiff and another person

2.28.1 A defendant who wishes to counterclaim against the plaintiff along with any other person (whether a party to the proceeding or not) for any relief relating to or connected with the original subject matter of the proceeding must, within the time allowed by rule 2.27, start the counterclaim in accordance with rule 2.27.

2.28.2 The other person against whom the counterclaim is made is called a counterclaim defendant.

2.28.3 Rule 2.27 applies with the necessary modifications to counterclaims under this rule.

Compare: SR 1992/109 r 173(1)–(5)

2.29 Further provisions about counterclaims, including High Court Rules applied

2.29.1 The court may at any time order that a counterclaim be struck out, on any terms it thinks appropriate, if it appears that—

- (a) by reason of the counterclaim a plaintiff is likely to be unduly delayed in obtaining the plaintiff's relief; or
- (b) the hearing (if a hearing is necessary) is to be held at a place where it could not be held if a counterclaim defendant had been made defendant to an independent proceeding instituted against the counterclaim defendant by the defendant in respect of the subject matter of the counterclaim; or
- (c) the relief in the counterclaim is not related to or connected with the original subject matter of the proceeding.

2.29.2 Rules 2.27, 2.28, 2.29.1, and 2.29.3 and 2.29.4 apply to a counterclaim by a counterclaim defendant in the same way as if the counterclaim defendant were a defendant in a separate proceeding brought by the defendant. For this purpose, **defendant** includes the counterclaim defendant and **plaintiff** includes the defendant who has joined the counterclaim defendant.

2.29.3 HCR 5.58—place of trial of counterclaim.

2.29.4 HCR 5.59—status of counterclaim if proceeding stayed.

2.29.5 HCR 5.61—restriction when the Crown involved (as applied by rule 3.39).

Compare: SR 1992/109 rr 169, 173(6)–176

Claims between defendants

2.30 Right to give notice

2.30.1 This rule applies if, in a proceeding, a defendant (**defendant A**) claims against another defendant (**defendant B**) in circum-

stances where, had defendant B not been a defendant, defendant A would be entitled to issue and serve a third party notice on defendant B.

- 2.30.2 When this rule applies, defendant A may, not later than 30 working days before the hearing date for the proceeding, file and serve on defendant B and on the plaintiff a notice in form 8 to that effect.

Compare: SR 1992/109 rr 186, 189

2.31 Notice of claim to be filed and served

- 2.31.1 A defendant who files a notice under rule 2.30 must file and serve with that notice a notice of claim against the other defendant.

- 2.31.2 Rule 2.11 applies with the necessary modifications to a notice of claim under rule 2.31.1.

Compare: SR 1992/109 r 187

2.32 Response

- 2.32.1 A defendant who is served with a notice under rule 2.30 (**defendant B**) must file a response to the claim made by the defendant who served the notice (**defendant A**) only if defendant B wishes to raise an affirmative defence to defendant A's claim.

- 2.32.2 Rules 2.5, 2.6, and 2.13 apply with the necessary modifications to a response under rule 2.32.1.

Compare: SR 1992/109 r 188

2.33 Effect of omission to give notice

The omission of a defendant to give a notice under rule 2.30 does not prevent the court from giving any judgment or granting any relief in favour of that defendant that might have been given or granted had that rule not been made.

Compare: SR 1992/109 r 190

2.34 Application of rules relating to third and subsequent party notices

2.34.1 A defendant who wishes to dispute a claim notified under rule 2.30 must, within 15 working days after the date on which the notice of claim is served on the defendant,—

- (a) file a response to the claim; and
- (b) serve a copy of the response on—
 - (i) the other defendant who made the claim; and
 - (ii) the plaintiff; and
 - (iii) the other parties who have filed an address for service.

2.34.2 Rules 2.18 to 2.25 (except rule 2.22.1) apply with the necessary modifications to claims under rules 2.30 to 2.33.

Compare: SR 1992/109 r 191

Reply

2.35 Right to file and serve reply

2.35.1 If a response pleads any affirmative defence or contains any positive allegation affecting any other party, the plaintiff or that other party may, within 15 working days after the date on which that response is served on the plaintiff or other party, file and serve a reply on the party serving the response.

2.35.2 It is not necessary to file and serve a reply under rule 2.35.1 unless the court so orders.

Compare: SR 1992/109 r 192

2.36 Contents of reply

A reply, which must be in form 9, must be limited to answering the affirmative defence or positive allegation, but otherwise must comply with the rules as to responses so far as they are applicable.

Compare: SR 1992/109 r 193

2.37 Affirmative defence or positive allegation treated as being admitted unless denied

An affirmative defence or positive allegation in a response that is not denied is treated as being admitted for the purpose of proof.

Compare: SR 1992/109 r 194; HCR 5.63(2)

*Service of documents***2.38 High Court Rules and other rules that apply**

2.38.1 The rules set out or listed in rules 3.40 to 3.44 apply to the service of documents (other than originating applications) under this Part.

2.38.2 The documents concerned include (without limitation)—

- (a) a plaintiff's notice of claim:
- (b) a defendant's response:
- (c) a plaintiff's information capsule:
- (d) a defendant's information capsule:
- (e) a plaintiff's notice of pursuit of claim:
- (f) third or subsequent party notices:
- (g) a counterclaim against a plaintiff only or against a plaintiff and another person:
- (h) claims between defendants:
- (i) a reply to a response:
- (j) a statement of claim, notice of proceeding, and statement of defence under rules 2.7 to 2.9.

Compare: SR 1992/109 rr 214–249

Amendment of pleadings

Heading: inserted, on 14 June 2012, by rule 15 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.38A Filing of amended notice of claim or counterclaim before response served

2.38A.1 A pleading that is proceeding under rules 2.10 to 2.17 may be amended only in accordance with this rule.

2.38A.2 A plaintiff who has filed and served a notice of claim, but has not been served with a response within the time allowed, may within 10 working days after the last day on which the

response was allowed to be served, or later with the leave of the court, file an amended notice of claim and serve a copy of it on every other party.

2.38A.3 A defendant who has filed and served a notice of counterclaim, but has not been served with a response within the time allowed, may within 10 working days after the last day on which the response was allowed to be served, or later with the leave of the court, file an amended notice of counterclaim and serve a copy of it on every other party.

2.38A.4 If a response has been served, a party may, at any time before a trial date is allocated, file an amended pleading and serve a copy of it on every other party.

2.38A.5 A party who files an amended pleading after the response has been served must, contemporaneously with filing, serve an appropriately updated information capsule on every other party.

2.38A.6 In any case, once a trial date has been allocated, any party may at any time before trial file an amended pleading only—

- (a) with the leave of the court; or
- (b) with the consent of all other parties to the proceeding.

2.38A.7 If a claim or counterclaim is amended,—

- (a) the defendant or plaintiff, as the case may be, may serve a response and that response must be served within 10 working days after the date on which the amendment is filed; and
- (b) rules 2.12 to 2.17, 2.27, and 2.28 apply with the necessary modifications.

2.38A.8 An amended pleading may introduce, as an alternative or otherwise,—

- (a) a fresh cause of action, which is not statute-barred; or
- (b) a fresh ground of defence.

2.38A.9 An amended pleading may introduce a fresh cause of action whether or not that cause of action has arisen since the filing of the notice of claim.

Rule 2.38A: inserted, on 14 June 2012, by rule 15 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.38B Filing of amended pleading in other cases

2.38B.1 In any case not provided for in rule 2.38A, a party in a proceeding may at any time before trial file an amended pleading and serve a copy of it on every other party.

2.38B.2 HCR 7.77(2) to (8) (filing of amended pleading) apply to the amended pleading.

Rule 2.38B: inserted, on 14 June 2012, by rule 15 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Subpart 3—How proceedings dealt with
Judgment by default or on formal proof

2.39 Application for judgment in case of default, discontinuance, admission of facts, or lack of defence

2.39.1 A plaintiff who is pursuing a claim under rules 2.10 to 2.17 may apply immediately for judgment if—

- (a) the defendant does not, within the time allowed,—
 - (i) serve on the plaintiff the defendant's form 3 (response by defendant); or
 - (ii) serve on the plaintiff the defendant's form 5 (defendant's information capsule); or
- (b) the defendant's form 3 contains an admission of the facts stated in the plaintiff's form 2 (notice of claim); or
- (c) the defendant's form 3 does not disclose any defence to the plaintiff's claim in form 2.

2.39.2 A defendant who is pursuing a counterclaim under rule 2.27 or 2.28 may apply immediately for judgment if—

- (a) the plaintiff does not, within the time allowed,—
 - (i) serve on the defendant the plaintiff's form 3CC (response by plaintiff (for counterclaim)); or
 - (ii) serve on the defendant the plaintiff's form 5CC (plaintiff's information capsule (for counterclaim)); or
- (b) the plaintiff's form 3CC contains an admission of the facts stated in the defendant's form 2CC (notice of counterclaim); or
- (c) the plaintiff's form 3CC does not disclose any defence to the defendant's counterclaim in form 2CC.

- 2.39.3 A plaintiff who files a statement of claim in accordance with these rules may apply immediately for judgment if the defendant does not, within the time allowed, file a statement of defence to the plaintiff's statement of claim.
- 2.39.4 When rule 2.39.1 applies,—
- (a) the plaintiff's proceeding comes to an end if the plaintiff does not file the plaintiff's form 6A (application for judgment) within the time allowed; and
 - (b) rules 2.17.5 (starting claim again) and 2.17.6 (treated as discontinuance) apply as if the proceeding had come to an end under rule 2.17.
- 2.39.5 When rule 2.39.2 applies,—
- (a) a defendant's counterclaim comes to an end if the defendant does not file the defendant's form 6CCA (application for judgment (for counterclaim)) within the time allowed; and
 - (b) rules 2.17.5 (starting claim again) and 2.17.6 (treated as discontinuance) apply as if the proceeding had come to an end under rule 2.17.
- 2.39.6 A defendant may apply immediately for judgment for costs if the plaintiff's claim is, or is treated as having been, discontinued.
- 2.39.7 A plaintiff in a counterclaim may apply immediately for judgment for costs if the defendant's counterclaim is, or is treated as having been, discontinued.
- 2.39.8 Part 12 contains the procedure for obtaining judgment under this rule.

Rule 2.39: replaced, on 14 June 2012, by rule 16 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.39A Applications using forms 6A and 6CCA

A person applies for judgment under rule 2.39 by filing an application together with any other required documents within the time allowed, as specified in the relevant one of the following paragraphs:

Rule 2.39.1(a)(i): defendant has not served form 3

- (a) form 6A must be filed within the period starting on the 21st working day and ending with the close of the 90th

working day after the date on which the plaintiff's form 2 was served on the defendant:

Rule 2.39.1(a)(ii): defendant has not served form 5

- (b) form 6A must be filed within the period starting on the 21st working day and ending with the close of the 90th working day after the date on which the plaintiff's form 4 was served on the defendant:

Rule 2.39.1(b): defendant admits facts stated in plaintiff's form 2

- (c) form 6A and a copy of the defendant's form 3 must be filed within the period starting on the first working day after the date on which the defendant's form 3 was served on the plaintiff and ending with the close of the 90th working day after the date on which the plaintiff's form 2 was served on the defendant:

Rule 2.39.1(c): defendant's form 3 does not disclose any defence to plaintiff's form 2

- (d) form 6A and a copy of the defendant's form 3 must be filed within the period starting on the first working day after the date on which the defendant's form 3 was served on the plaintiff and ending with the close of the 90th working day after the date on which the plaintiff's form 2 was served on the defendant:

Rule 2.39.2(a)(i): plaintiff has not served form 3CC

- (e) form 6CCA must be filed within the period starting on the 21st working day and ending with the close of the 90th working day after the date on which the defendant's form 2CC was served on the plaintiff:

Rule 2.39.2(a)(ii): plaintiff has not served form 5CC

- (f) form 6CCA, a copy of the plaintiff's form 3CC, and a copy of the defendant's form 4CC must be filed within the period starting on the 21st working day and ending with the close of the 90th working day after the date on which the defendant's form 4CC was served on the plaintiff:

Rule 2.39.2(b): plaintiff admits facts stated in defendant's form 2CC

- (g) form 6CCA and a copy of the plaintiff's form 3CC must be filed within the period starting on the first working day after the date on which the plaintiff's form 3CC was served on the defendant and ending with the close of the 90th working day after the date on which the defendant's form 2CC was served on the plaintiff:

Rule 2.39.2(c): plaintiff's form 3CC does not disclose any defence to defendant's form 2CC

- (h) form 6CCA and a copy of the plaintiff's form 3CC must be filed within the period starting on the first working day after the date on which the plaintiff's form 3CC was served on the defendant and ending with the close of the 90th working day after the date on which the defendant's form 2CC was served on the plaintiff:

Rule 2.39.6: plaintiff's claim discontinued

- (i) form 6A and a copy of the defendant's forms 3 and 5 (if served) must be filed within the period starting on the 21st working day and ending with the close of the 90th working day after the date on which the defendant's form 3 or 5 (as the case may be) was served on the plaintiff:

Rule 2.39.7: defendant's counterclaim discontinued

- (j) form 6CCA and a copy of the plaintiff's form 3CC and 5CC (if served) must be filed within the period starting on the 21st working day and ending with the close of the 90th working day after the date on which the plaintiff's form 3CC or 5CC (as the case may be) was served on the plaintiff.

Rule 2.39A: inserted, on 14 June 2012, by rule 16 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Start of trial allocation procedure

2.40 Court or Registrar to decide whether to allocate short trial

2.40.1 The modes of trial available in a proceeding are—

- (a) the short trial:

- (b) the simplified trial:
- (c) the full trial.

2.40.2 The court or a Registrar must first either allocate a short trial or decide not to allocate a short trial; and rules 2.44 to 2.46 apply if a short trial is allocated.

2.40.3 A decision under rule 2.40.2 must be made as soon as practicable after the expiry of 15 working days after the date on which the court receives proof of service of the notice of proceeding or notice of pursuit of claim, unless a third or subsequent party notice is filed within that 15-day period or a counterclaim is filed in accordance with rule 2.27 or 2.28.

2.40.4 If a third or subsequent party notice has been filed within that 15-day period, a decision under rule 2.40.2 must be made as soon as practicable after the expiry of 30 working days after the date by which the third or subsequent party notice is required to be filed.

2.40.5 If a counterclaim has been filed in accordance with rule 2.27 or 2.28, a decision under rule 2.40.2 must be made as soon as practicable after the expiry of 15 working days after the date on which the court receives proof of service of the notice of pursuit of counterclaim or the statement of counterclaim or notice of proceeding (if any) in respect of the counterclaim.

2.40.6 If the court or Registrar decides not to allocate a short trial,—

- (a) a judicial settlement conference must be held by a Judge under rule 2.47:
- (b) if the parties do not settle the proceedings at the judicial settlement conference stage, rule 2.48 provides that the judicial settlement conference becomes a judicial directions conference, and at that conference a simplified trial or full trial is allocated.

2.40.7 A simplified trial or full trial proceeds on the date set for the trial unless summary judgment is given in the proceedings before the trial starts.

2.40.8 A judicial settlement conference must be held as soon as practicable after the period ending 30 working days after the date of the relevant decision not to allocate a short trial.

Compare: SR 1992/109 rr 425–430

2.41 Criteria for deciding appropriate mode of trial

In deciding the appropriate mode of trial, the court or a Registrar may have regard to the following:

- (a) the number of parties:
- (b) the complexity of the issues:
- (c) the amount at stake:
- (d) proportionality:
- (e) the nature of the action:
- (f) party requests:
- (g) any other matter the court or Registrar considers relevant.

Availability of summary judgment

2.42 Summary judgment procedure generally

2.42.1 An application for summary judgment must be made by an interlocutory application.

2.42.2 The summary judgment procedure under these rules is available—

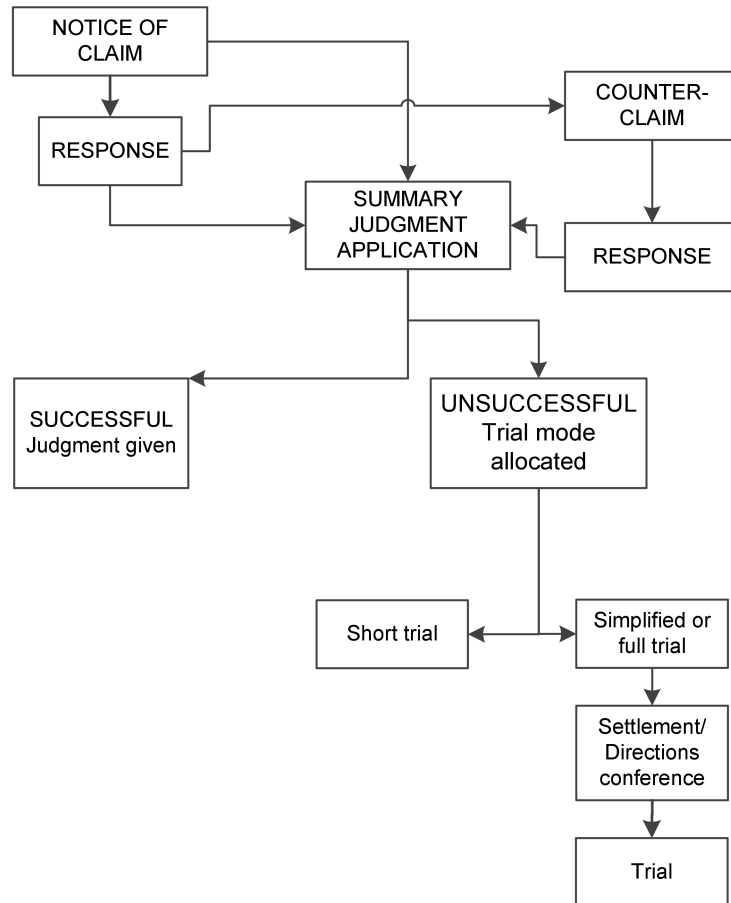
- (a) to enforce an agreed settlement arranged under rule 1.7 (mediation or other alternative dispute resolution) or 2.47 (judicial settlement conference) that is not completed as agreed:
- (b) to recover a debt under section 23 or 24 of the Construction Contracts Act 2002:
- (c) in any other proceedings commenced under these rules other than a proceeding under Part 14 (appeals).

2.42.3 In a case proceeding under rule 2.8, summary judgment is available in accordance with the relevant High Court Rules (with any modifications indicated in these rules).

2.42.4 The High Court Rules listed in rule 2.43A apply to other aspects of applications for summary judgment under these rules.

2.42.5 The summary judgment procedure is not available in proceedings under Part 14 (appeals).

2.42.6 The following diagram is a guide to the summary judgment procedure:



Rule 2.42: replaced, on 14 June 2012, by rule 17 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.43 Procedural requirements relating to summary judgment applications

- 2.43.1 A party may file an application for summary judgment,—
- (a) in a proceeding described in rule 2.42.2(a) (to enforce an agreed settlement), within 20 working days after the date on which the notice of claim or notice of counter-claim is filed, or later with the leave of the court:

- (b) in a proceeding described in rule 2.42.2(b) (to recover a debt under section 23 or 24 of the Construction Contracts Act 2002), within 20 working days after the date on which the notice of claim or notice of counterclaim is filed, or later with the leave of the court;
- (c) in any other proceeding started under these rules in which a response is required to be served, within 20 working days after the date by which the response is required to be served on the plaintiff or counterclaimant (as the case may be), or later with the leave of the court.

2.43.2 The following provisions apply on and from the time of filing the application for summary judgment until the application is determined by the court:

- (a) the application of rules 2.14 to 2.17 is suspended;
- (b) time stops running under those rules.

2.43.3 The supporting affidavit must, in addition to meeting the requirements of HCR 12.4 (as applied by rule 2.43A of these rules), include all the information that the party would otherwise be required to provide in an information capsule if the operation of rules 2.14 to 2.17 had not been suspended.

2.43.4 The notice of opposition required by HCR 12.9 (as so applied) must be filed and served within 15 working days after the date of service of the application for summary judgment.

2.43.5 The affidavit in answer required by HCR 12.9 (as so applied) must, in addition to meeting the requirements of HCR 12.9, include all the information that the party would otherwise be required to provide in an information capsule if the operation of rules 2.14 to 2.17 had not been suspended.

2.43.6 The affidavit in reply required by HCR 12.11 (as so applied) must be filed and served within 10 working days after the date of service of the notice of opposition.

2.43.7 If the court dismisses an application for summary judgment to which rule 2.43.1 applies, the court must, when giving reasons for that dismissal, allocate—

- (a) a short trial; or
- (b) a simplified trial; or
- (c) a full trial.

2.43.8 If the court allocates a simplified trial or full trial,—

- (a) the court must convene a judicial directions conference as soon as practicable and rules 2.48.3 to 2.48.7 apply;
- (b) the court may also convene a judicial settlement conference, and in that case rule 2.47 applies.

Rule 2.43: replaced, on 14 June 2012, by rule 17 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.43A Particular rules about summary judgment

2.43A.1 HCR 12.2—judgment where there is no defence or where no cause of action can succeed.

2.43A.2 HCR 12.3—summary judgment on liability.

2.43A.3 HCR 12.4—interlocutory application for summary judgment. However, in a case following the procedure under rules 2.12 to 2.17 of these rules, rule 2.43.1 provides when an application may be made.

2.43A.4 HCR 12.5—service out of New Zealand.

2.43A.5 HCR 12.6—requirements as to notice of proceeding.

2.43A.6 HCR 12.7—time for service.

2.43A.7 HCR 12.8—postponement of hearing.

2.43A.8 HCR 12.9—notice of opposition and affidavit in answer. The notice must be served within the period allowed by rule 2.43.4 of these rules.

2.43A.9 A defendant who has filed both a notice of opposition and an affidavit in answer must, at the same time, file a response in form 3 in the registry of the court in which the notice of opposition and the affidavit were filed.

2.43A.10 HCR 12.11—affidavits in reply. The affidavit in reply must be served within the period allowed by rule 2.43.6 of these rules.

2.43A.11 HCR 12.12—disposal of application.

2.43A.12 HCR 12.13—time for filing statement of defence on dismissal of plaintiff's application.

2.43A.13 HCR 12.14—setting aside judgment.

2.43A.14 HCR 12.15—discontinuance.

2.43A.15 HCR 12.16—application to counterclaims and claims against third parties. However, HCR 12.1 does not apply.

Rule 2.43A: inserted, on 14 June 2012, by rule 17 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Short trial

2.44 Purpose of short trial

2.44.1 The short trial is intended for claims where the court or a Registrar considers that 1 or more of the following apply:

- (a) the case can come to a hearing quickly;
- (b) the issues are relatively uncomplicated or a modest amount is at stake;
- (c) the trial time is not likely to exceed a day.

2.44.2 The court or Registrar must set a date for trial, and any interlocutory steps must occur not later than 15 working days before the date for trial and are confined to—

- (a) exchanging further or revised will say statements;
- (b) exchanging further documents on which a party intends to rely;
- (c) the examination of witnesses under rule 3.24.

2.44.3 However, the court or Registrar may, for good reason consistent with the objective of these rules, allow interlocutory steps that would not otherwise comply with this rule.

2.44.4 The power in rule 2.44.3 includes power to apply High Court Rules relating to interlocutory matters listed in subpart 3 of Part 3.

2.44.5 The High Court Rules referred to in rule 2.44.4 apply to proceedings allocated a short trial only to the extent that they are specifically applied by the court or Registrar.

2.45 Features of short trial

2.45.1 The features of the short trial procedure are as follows:

Steps	Requirements
1 Interlocutory steps	The only pre-hearing steps allowed are those described in rule 2.44.2.
2 Statements of evidence	The only evidential statements allowed to be produced are the will say statements.
3 Oral evidence	Oral evidence is allowed.
4 Production of bundles of documents for trial	No bundles are required.
5 Judicial settlement conference	This conference is not required.

2.45.2 The total time for the presentation of a party's case must not exceed the total time calculated as follows:

Item	Time limit (minutes)
1 Examination of witnesses	40 per witness
2 Cross-examination of witnesses	20 per witness
3 Re-examination of witnesses	10 per witness
4 Submissions for a party	30 per party

2.45.3 However, the court may, for good reason consistent with the objective of these rules, extend the total time available to a party.

2.46 Review of decision to allocate short trial

2.46.1 A party may apply for a review of a decision to allocate a short trial.

2.46.1A However, a party has no right to apply for a review of a decision under rule 2.43.7(a) to allocate a short trial (where an application for summary judgment has been dismissed).

2.46.2 An application for review must be in form 10 and be filed within 15 working days after the date of allocation.

2.46.3 The court may decide the application on the papers or decide it after hearing submissions.

2.46.4 The court may—

- (a) confirm the decision under review; or
- (b) revoke the decision and order that a judicial settlement conference be convened under rule 2.47.

Rule 2.46.1A: inserted, on 14 June 2012, by rule 18 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Conferences for simplified trial and full trial, and interlocutory matters

2.47 Judicial settlement conference

2.47.1 The purpose of a judicial settlement conference is to give the parties to the proceeding an opportunity to negotiate a settlement of the claim or any issue.

2.47.2 A judicial settlement conference must be convened by a Judge and held in chambers.

2.47.3 A Judge who convenes a judicial settlement conference may assist the parties in their negotiations, but that Judge must not preside at the trial (if any) unless—

- (a) all parties taking part in the conference consent; or
- (b) the only matter for resolution at the hearing is a question of law.

2.47.4 A proceeding is treated as having been discontinued 30 working days after the date on which the Judge endorses the proceeding as having been settled, unless one of the following applies:

- (a) the parties, by notice to the Judge given before the close of that 30-day period, may consent to an extension of that period, and in that case the Judge must direct accordingly and the discontinuance takes effect on the close of that extended period;
- (b) in any other case, the Judge may, in the interests of justice, direct that the proceeding be discontinued with effect on and from some other date stated by the Judge.

Compare: SR 1992/109 rr 437, 438

2.48 Judicial directions conference

2.48.1 If the Judge assisting the parties at a judicial settlement conference is satisfied that the parties are unable to settle the claim or issue,—

- (a) the Judge must, as soon as practicable, indicate that he or she has formed that view; and
- (b) when that indication has been given, the conference becomes a judicial directions conference.

2.48.2 At a judicial directions conference of the parties, the Judge must allocate a short trial, simplified trial, or full trial for the proceeding.

2.48.3 The other matters to be dealt with by the Judge at a judicial directions conference include—

- (a) identifying and, wherever practicable, disposing of interlocutory applications and interlocutory matters that are outstanding at the time;
- (b) on the application of a party, directing that details about any settlement offer that is no longer relevant be removed from an information capsule;
- (c) assessing whether more formal pleadings are required and giving directions concerning the pleadings;

- (d) giving directions as to how evidence is to be adduced and documentary exhibits produced;
- (e) assessing the likely duration of the trial;
- (f) setting a date for the trial.

2.48.4 The High Court Rules relating to interlocutory and other matters listed in subpart 3 of Part 3 apply, subject to rule 2.49,—

- (a) to proceedings allocated a full trial; and
- (b) in any other case, only to the extent (if any) expressly provided in these rules or ordered by the Judge.

2.48.5 The High Court Rules listed in rule 3.49 (case management conferences) apply to a judicial directions conference.

2.48.6 In a proceeding to which rule 2.8 applies, HCR 5.21 and 7.77 apply if a judicial directions conference is held for a proceeding and apply only from the start of the conference. The reference to HCR 1.9 in HCR 7.77(9) is to be read as a reference to rule 1.14 of these rules.

2.48.7 In a proceeding to which rule 2.17 applies,—

- (a) HCR 5.21 and 7.77 (as modified by rule 2.48.6) also apply if a judicial directions conference is held for a proceeding and apply only from the start of the conference;
- (b) other High Court Rules about pleadings (including HCR 5.17 to 5.20 and 5.22 to 5.35) apply only if and to the extent directed by the Judge under rule 2.48.3(c).

Compare: HCR 7.2–7.4

Rule 2.48.2: amended, on 14 June 2012, by rule 19 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

2.49 Interlocutory applications

2.49.1 This rule applies to all interlocutory applications under the Act.

2.49.2 An intending plaintiff may apply for discovery of particular documents under rule 3.59.2 by making an interlocutory application before starting a proceeding.

2.49.3 A party may apply for any of the following in a proceeding by making an interlocutory application after the proceeding starts:

Nature of application	Rule(s)
1 Mediation or alternative dispute resolution	1.7

Nature of application	Rule(s)
2 Objection to jurisdiction	2.12.6 and 3.38.1
3 <i>[Revoked]</i>	
4 Leave extending time under rule 2.49.5 for making interlocutory application	2.49
5 Striking out pleading, staying or dismissing proceeding, or applying for indemnity costs	2.50
6 Directions as to service	3.34.12 and 3.44
7 Leave to serve document out of New Zealand	3.44.22
8 Injunction or interlocutory injunction	3.52.1 and 3.53.1
9 Any other interlocutory order, or relief, not covered by rule 2.49.4	2.49

2.49.3A In a proceeding following the procedure under rules 2.10 to 2.17, a party may make an application for summary judgment at any time allowed by rule 2.43.

2.49.4 A party may apply for any of the following in a proceeding by making an interlocutory application at or after the start of the judicial directions conference for that proceeding:

Nature of application	Rule(s)
1 <i>[Revoked]</i>	
2 Pre-trial disclosure for a simplified trial	2.51.3
3 Interrogatories	3.63
4 Discovery, except for discovery of particular documents before proceeding starts	3.58 to 3.62 and 3.65
5 Inspection or testing of property	3.66
6 Any other interlocutory relief or order provided for in rules 3.46 to 3.78, except an application for an injunction or interlocutory injunction	3.46 to 3.78

2.49.5 If a judicial directions conference is convened for a proceeding, interlocutory applications in the proceeding must be made within 30 working days beginning on the day after the conference starts or within any further time that the Judge may allow by leave.

2.49.6 A Judge may, for good reason consistent with the objective of these rules, grant leave allowing an extension of the 30-day period in rule 2.49.5.

2.49.7 An interlocutory application for summary judgment must be dealt with in open court.

2.49.8 An interlocutory application other than an application for summary judgment must be dealt with in open court unless—

- (a) it is not in the public interest that the matter be dealt with in open court; or
- (b) a Judge considers there are other reasons why the matter should not be dealt with in open court.

Rule 2.49.2: amended, on 14 June 2012, by rule 20(1) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.49.3 table item 3: revoked, on 14 June 2012, by rule 20(2) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.49.3A: inserted, on 14 June 2012, by rule 20(3) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.49.4 table item 1: revoked, on 14 June 2012, by rule 20(4) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 2.49.4 table item 3: amended, on 1 February 2012, by rule 4(1) of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

Rule 2.49.4 table item 4: amended, on 1 February 2012, by rule 4(2) of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

2.50 Striking out pleadings, staying or dismissing proceedings, and costs for want of prosecution

2.50.1 The court may order that the whole or any part of a pleading be struck out if the pleading—

- (a) discloses no reasonable cause of action, defence, or case appropriate to the nature of the pleading; or
- (b) is likely to cause prejudice, embarrassment, or delay in the proceeding; or
- (c) is otherwise an abuse of the process of the court.

2.50.2 An order under rule 2.50.1 may be made at any stage of the proceeding, and may be subject to any terms that the court considers appropriate.

2.50.3 The court may order that a proceeding be stayed or dismissed generally or in relation to any claim for relief if the court considers that—

- (a) no reasonable cause of action is disclosed; or
- (b) the proceeding is frivolous or vexatious; or
- (c) the proceeding is an abuse of the process of the court.

2.50.4 A defendant may apply for indemnity costs under rule 4.6.4(f) if—

- (a) the defendant has served the defendant's response in accordance with rules 2.12 and 2.13 but the plaintiff has not served the plaintiff's information capsule within the 30-working-day period stated in rule 2.14.1; or
- (b) the defendant has served the defendant's information capsule in accordance with rule 2.15 but the plaintiff has not pursued the plaintiff's claim under rule 2.17 within the 90-working-day period stated in rule 2.17.4.

Compare: SR 1992/109 rr 209, 481

Simplified trial disclosure

2.51 Pre-trial disclosure and interlocutory applications for simplified trial

2.51.1 A party must disclose the documents the party intends to rely on at a simplified trial.

2.51.2 At least 15 working days before the trial, a party must—

- (a) give a copy of the documents to each other party; and
- (b) serve the party's affidavits of evidence in chief on each other party.

2.51.3 A party may, by an interlocutory application, apply for an order that another party disclose particular documents.

2.51.4 A Judge may order that the documents be disclosed if the Judge is satisfied that—

- (a) the documents are relevant to the issues between the parties; or
- (b) disclosure is necessary to decide the matter fairly; or
- (c) for any other reason the documents should be disclosed.

2.51.5 A party to a simplified trial may, by an interlocutory application, apply for summary judgment under rule 2.42 or 2.43.

2.51.6 The only interlocutory applications that may be made in a proceeding for which a simplified trial is allocated are—

- (a) an application of a kind listed in rule 2.49.3;
- (b) an application for summary judgment;
- (c) any other kind of interlocutory application allowed by the Judge in the interests of justice.

Compare: Civil Procedure Rules 2002 r 8.28 (Vanuatu)

2.52 Witnesses at simplified trial

2.52.1 A witness need appear at a simplified trial only if—

- (a) a party has served a notice to cross-examine the witness in form 11 and filed it before the trial starts; or
- (b) the Judge so requests.

2.52.2 Each party is limited to 1 expert witness per specialist discipline unless the court allows more witnesses by leave.

*Simplified trial***2.53 Features of simplified trial**

2.53.1 The features of the simplified trial are as follows:

Steps	Requirements
1 Pre-trial disclosure (documents and affidavits of evidence in chief)	This is to be in accordance with rule 2.51.
2 Witnesses	As allowed under rule 2.52.

2.53.2 The total time for the presentation of a party's case must not exceed the total time calculated as follows:

Description of proceeding	Time limit (minutes)
1 Cross-examination of witnesses	50 per witness
2 Re-examination of witnesses	10 per witness
3 Submissions for a party	30 per party

2.53.3 However, the court may, for good reason consistent with the objective of these rules, extend the total time available to a party.

*Full trial***2.54 Full trial follows High Court procedure**

For proceedings allocated a full trial,—

- (a) the High Court Rules listed in subpart 3 of Part 3 apply, subject to rule 2.49 (interlocutory applications);
- (b) the procedure for disposing of proceedings is set out in Part 12.

Part 3

Rules about particular aspects of proceedings

Subpart 1—General rules about determining proper court, transferred proceedings, translations, and other matters

Proper court

3.1 How to determine proper court

Documents that are required by these rules to be filed must be filed in the court—

- (a) either—
 - (i) nearest to the residence or principal place of business of the defendant; or
 - (ii) if the defendant is neither resident nor has a principal place of business in New Zealand, selected by the plaintiff; or
- (b) nearest to the place where the actions that led to the claim happened; or
- (c) nearest to the place where the property that is the subject of the claim is located; or
- (d) determined by a court or Registrar on the court's or Registrar's own initiative or on application.

Compare: SR 1992/109 r 113; Civil Procedure Rules 2002 r 2.4 (Vanuatu)

Transfer from District Court to High Court

3.2 Transfer under section 43 of Act

- 3.2.1 A notice under section 43(1) of the Act may be in form 12, and must be filed by the defendant not later than 5 working days after service of the notice of pursuit of claim or notice of proceeding on the defendant, including the day of service.
- 3.2.2 A notice under section 43(2) of the Act may be in form 13, and must be filed by the defendant not later than 5 working days after service of the notice of pursuit of claim or notice of proceeding on the defendant, including the day of service.
- 3.2.3 An order transferring a proceeding may be in form 14.

Compare: SR 1992/109 r 252

3.3 Papers to be forwarded to High Court

On the making of an order transferring a proceeding from a District Court to the High Court, the Registrar must forward all papers in the proceeding to the Registrar of the High Court whose registry is named in the order.

Compare: SR 1992/109 r 253

*Proceedings transferred from High Court***3.4 Transfer under section 46 of Act**

3.4.1 This rule applies to proceedings transferred to the court by the High Court under section 46 of the Act.

3.4.2 A Judge—

- (a) must convene a judicial directions conference and proceed under rule 2.48:
- (b) in addition to the matters provided in rule 2.48.3, may do either or both of the following:
 - (i) decide to convene a judicial settlement conference:
 - (ii) despite rule 2.48.2, allocate a short trial, simplified trial, or full trial.

3.4.3 Existing summary judgment applications included in proceedings transferred to the court are stayed until determined by the court.

3.4.4 These rules apply accordingly, subject to any actions taken by the Judge under rule 3.4.2, as if the proceedings had started in a District Court.

Compare: SR 1992/109 r 254

*Use of Māori language, translations, and sign language***3.5 Speaking in Māori**

3.5.1 This rule applies to a person entitled under section 4(1) of the Maori Language Act 1987 to speak Māori in a proceeding or at the hearing of an interlocutory application.

3.5.2 If a person to whom this rule applies wishes to speak Māori 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 Māori.

3.5.3 The notice must state that the person intends to speak Māori 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.

3.5.4 The notice must be in form HCF G 12.

3.5.5 The notice must be filed and served,—

- (a) if the person intends to speak Māori at all conferences and hearings, not less than 15 working days before the first conference or hearing; or
- (b) if the person intends to speak Māori at conferences and hearings held after a particular conference or hearing, not less than 15 working days before the first conference or hearing at which the person intends to speak Māori; or
- (c) if the person intends to speak Māori at a particular conference or hearing, not less than 15 working days before the conference or hearing.

Compare: SR 1992/109 r 68A

3.6 Translation of documents into te reo Māori

3.6.1 A person upon whom in any proceeding a document is served is entitled to receive a translation of the document into the Māori language if he or she—

- (a) applies, orally or in writing, to the Registrar in the place where the proceeding is pending, within 15 working days after the date of service, for a translation into the Māori language of the document; and
- (b) states a postal address for the service of the translation (if an address for service has not already be given); and
- (c) satisfies the Registrar that he or she is unable to read the document but could read it if it were translated into the Māori language.

3.6.2 The Registrar must require that translation to be prepared by the party or person on whose behalf the document was served.

- 3.6.3 The translation must be certified correct by a person holding an endorsed certificate of competency under section 18 of the Maori Language Act 1987.
- 3.6.4 The translation may be served—
- (a) personally; or
 - (b) at the address for service (if any) of the person entitled to the translation; or
 - (c) by sending it by registered post addressed to that person at the stated postal address.
- 3.6.5 When the translation is sent by registered post, it is treated as having been served when it would be delivered or available for delivery at its address in the ordinary course of registered post.
- 3.6.6 The costs of preparing, certifying, and serving the translation are in the discretion of the court as costs in the proceeding.
- 3.6.7 Unless the court otherwise orders,—
- (a) the document is treated as not having been served until the translation is served in accordance with rule 3.6.4; and
 - (b) the proceeding in which the document is issued must be stayed as far as the person entitled to the translation is concerned until the translation is so served; and
 - (c) every subsequent document served on the person in the proceeding and every enforcement process or other process issued against the person to enforce any judgment entered or order made in the proceeding must, unless the person is at the time represented by a solicitor, be accompanied by a translation into the Māori language complying with this rule.

Compare: SR 1992/109 rr 65–67

3.7 Failure to give notice

A failure to comply with rule 3.5 does not prevent a person speaking Māori 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 Māori, 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.

Compare: SR 1992/109 r 68B

3.8 Translation may be ordered by court

3.8.1 The court may at any time order that a translation into the Māori language, complying with rules 3.6.2 to 3.6.7, of any document served, before or after the making of the order, upon a Māori person concerned in a proceeding be served on that person, whether or not the person has applied for it under rule 3.6.1.

3.8.2 An order may be made subject to such terms and conditions as the court thinks fit in the interests of justice.

3.8.3 The court may, on ordering a translation under this rule, grant an adjournment of the proceeding if it thinks fit in the interests of justice.

Compare: SR 1992/109 r 68

3.9 Affidavit in language other than English

3.9.1 An affidavit in a language other than English (**non-English-language affidavit**) may be filed in a proceeding.

3.9.2 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.

Compare: HCR 1.15

3.10 Sign language

3.10.1 Any person permitted by the New Zealand Sign Language Act 2006 to use New Zealand Sign Language in a proceeding or at the hearing of any interlocutory application or at a conference must give the court and all other parties 15 working days' notice of that person's intention to do so.

3.10.2 A Judge may at any time, on application by or on behalf of a party, make any order that he or she thinks fit in the interests of justice relating to—

- (a) providing, with the Registrar's assistance, a competent interpreter, and ensuring that the interpreter is available; and
- (b) the interpretation of the sign language into English or Māori and the interpretation of English or Māori words used in court into sign language; and
- (c) the costs of and incidental to any interpretation ordered; and
- (d) the method of making and recording the sign language communication.

3.10.3 A failure to give notice as required by rule 3.10.1 does not prevent any permitted person using New Zealand Sign Language, however—

- (a) the failure is a relevant consideration in an award of costs; and
- (b) the Judge may adjourn the conference or hearing or trial to enable the Registrar to arrange for a competent interpreter to be available at the adjourned conference or hearing or trial.

3.10.4 In this rule, **competent interpreter** means an interpreter who meets the standards of competency specified in regulations made under the New Zealand Sign Language Act 2006; and in the absence of such regulations means a person who the Judge is satisfied is competent to translate from English or Māori (as the case requires) into New Zealand Sign Language and from New Zealand sign language into English or Māori (as the case requires).

Compare: HCR 1.16

Access to court documents

3.11 Interpretation

In this rule and rules 3.12 to 3.22, unless the context otherwise requires,—

access means to search, inspect, or copy under the supervision of an officer of the court

court file means a collection of documents in the custody or control of the court that relate to a proceeding (including any interlocutory application associated with the proceeding)

document—

- (a) means any written material in the custody or control of the court that relates to a proceeding (including any interlocutory application associated with the proceeding), whether or not kept on a court file; and
- (b) includes documentary exhibits, video recordings, records in electronic form, films, photographs, and images in electronic form; but
- (c) excludes—
 - (i) notes made by or for a Judge for his or her personal use; and
 - (ii) any material that relates to the administration of the court

formal court record means any of the following kept in an office of the court:

- (a) a register or index;
- (b) any published list that gives notice of a hearing;
- (c) a document that—
 - (i) may be accessed under an enactment other than these rules; or
 - (ii) constitutes notice of its contents to the public;
- (d) a judgment, order, or minute of the court, including any record of the reasons given by the Judge.

Compare: HCR 3.5

3.12 Application

3.12.1 Rules 3.11 and 3.13 to 3.22 apply to documents while they are in the custody or control of the court and until they are transferred to Archives New Zealand.

3.12.2 These rules do not require any person to prepare a document that is not in existence at the time the document is sought.

3.12.3 Nothing in rules 3.11 or 3.13 to 3.22 applies to documents to which the Family Courts Rules 2002 apply.

Compare: HCR 3.6

3.13 General right of access to formal court record

Subject to rule 3.18, every person has the right to access the formal court record kept in an office of the court.

Compare: HCR 3.7(1)

3.14 Right of parties to access court file or documents

3.14.1 The parties to a proceeding, and their counsel, may (whether during or after the completion of the proceeding), under the supervision of an officer of the court,—

- (a) search and inspect the court file or any document relating to the proceeding, without payment of a fee; and
- (b) copy any part or parts of the court file or any document relating to the proceeding on payment of any prescribed fee.

3.14.2 Despite rule 3.14.1, a record of court proceedings in electronic form may be copied only with the permission of the court.

3.14.3 Despite rule 3.14.1, a Judge may direct that the court file or any document relating to the proceeding not be accessed by the parties or their counsel without the permission of the court.

Compare: HCR 3.8

3.15 Access to documents during substantive hearing stage

3.15.1 This rule applies during the hearing of a proceeding (other than the hearing of an interlocutory application) and until—

- (a) the close of the 20th working day after the court has given the final judgment on the proceeding; or
- (b) the discontinuance of the proceeding before the final judgment is given.

3.15.2 During the period to which this rule applies, any person may access any of the following documents relating to the proceeding:

- (a) any pleading, reference, notice, or application filed in the court;
- (b) affidavits, depositions, or other written statements admitted into evidence for the purposes of the hearing;
- (c) documents admitted into evidence for the purposes of the hearing;

- (d) if any evidence given orally at the hearing has been transcribed, a transcript of that evidence.

3.15.3 Despite rule 3.15.2, a Judge may, on his or her initiative or on request, direct that any document, or part of a document, relating to the proceeding not be accessed without the permission of a Judge.

3.15.4 A request for access to a document under this rule is made informally to the Registrar by letter that—

- (a) identifies the requested document; and
- (b) gives the reasons for the request.

3.15.5 The following provisions apply when a request for access to a document is made under rule 3.15.4:

- (a) the Registrar must promptly give the parties or their counsel a copy of the request;
- (b) a party who wishes to object must, before the relevant deadline (within the meaning of rule 3.16), give written notice of the objection to the Registrar, to the person who made the request, and to the other parties or their counsel;
- (c) on receipt of an objection, the Registrar must promptly refer the objection and the request to the Judge for determination;
- (d) unless the document is subject to a restriction stated in rule 3.15.3 or 3.18, the Registrar must promptly give the person who made the request access to the document—
 - (i) if the Registrar receives no objection before the expiry of the relevant deadline (within the meaning of rule 3.16); or
 - (ii) if the parties or their counsel earlier agree that the person be given access to the document;
- (e) every request that relates to a document that is subject to a restriction under rule 3.15.3 or 3.18 is taken to be a request for the permission of a Judge, and must be promptly referred to the Judge by the Registrar.

3.15.6 The Judge may determine an objection referred to the Judge under rule 3.15.5(c) or a request for permission under rule 3.15.3 or 3.15.5(e) in any manner the Judge considers just.

3.15.7 For the purposes of rule 3.15.2(b) and (c), **admitted into evidence** does not include evidence admitted provisionally.

Compare: HCR 3.9

3.16 Meaning of relevant deadline in rule 3.15

3.16.1 For the purpose of rule 3.15, where a party or counsel receives a copy of a request given to the party or counsel under that rule, **relevant deadline** means whichever of the following times is applicable:

- (a) if the copy of the request is received on a day on which the hearing is proceeding, 3 pm on the first working day after the date on which the copy is received;
- (b) if the copy of the request is received on any other day, 3 pm on the third working day after the date on which the copy is received.

3.16.2 For the purposes of rule 3.16.1, a person is deemed to receive a request—

- (a) on the day on which it is emailed, faxed, or handed to the person;
- (b) on the day after the date on which it is posted to the person.

3.16.3 This rule overrides HCR rule 6.6 (as applied by rule 3.44.7).

Compare: HCR 3.10

3.17 Access to court files, documents, and formal court record in other cases

If a person is not eligible to access a document, court file, or any part of the formal court record under any of rules 3.13 to 3.15, the person may access the document, court file, or any part of the formal court record with the permission of the court, given on an application made under rule 3.19.

Compare: HCR 3.11

3.18 Restrictions on access

3.18.1 Any right or permission conferred or given by these rules to access a document, court file, or any part of the formal court record is subject to—

- (a) any enactment, court order, or direction limiting or prohibiting access or publication; and

- (b) the payment of any prescribed fees for access.

3.18.2 A person may not access a document, court file, judgment, or order that relates to a proceeding brought under an enactment specified in rule 3.18.3 unless—

- (a) the person is a party to that proceeding; or
- (b) the court permits the person to do so.

3.18.3 The enactments are as follows:

- (a) Adoption Act 1955:
- (b) Alcoholism and Drug Addiction Act 1966:
- (c) Arbitration Act 1996:
- (d) Care of Children Act 2004:
- (e) Child Support Act 1991:
- (f) Civil Union Act 2004:
- (g) Domestic Violence Act 1995:
- (h) Family Proceedings Act 1980:
- (i) Family Protection Act 1955:
- (j) Harassment Act 1997:
- (k) Intellectual Disability (Compulsory Care and Rehabilitation) Act 2003:
- (l) Marriage Act 1955:
- (m) Mental Health (Compulsory Assessment and Treatment) Act 1992:
- (n) Property (Relationships) Act 1976:
- (o) Protection of Personal and Property Rights Act 1988:
- (p) any former provisions corresponding to provisions of any of the Acts mentioned in paragraphs (a) to (o).

3.18.4 A person may search, inspect, or copy a document, court file, judgment, or order of a District Court relating to an application under HCR 9.60 (which relates to the service of New Zealand subpoenas in Australia) only with the leave of a Judge.

Compare: HCR 3.12

3.19 Applications for permission to access documents, court file, or formal court record other than at hearing stage

3.19.1 This rule applies whenever the permission of the court is necessary under these rules and is sought to access a document, court file, or any part of the formal court record, except where access may be sought under rule 3.15.

- 3.19.2 An application under this rule is made informally to the Registrar by a letter that—
- (a) identifies the document, court file, or part of the formal court record that the applicant seeks to access; and
 - (b) gives the reasons for the application.
- 3.19.3 The application is heard and determined by a Judge or, if a Judge directs the Registrar to do so, by the Registrar.
- 3.19.4 On receipt of an application made in accordance with rule 3.19.2, the Judge or Registrar may direct that the person file an interlocutory application or originating application.
- 3.19.5 The applicant must give notice of the application to any person who is, in the opinion of the Judge or Registrar, adversely affected by the application.
- 3.19.6 The Judge or Registrar may dispense with the giving of notice under rule 3.19.5 if it would be impracticable to require notice to be given.
- 3.19.7 The Judge or Registrar may deal with an application on the papers, at an oral hearing, or in any other manner the Judge or Registrar considers just.
- Compare: HCR 3.13

3.20 Decisions on applications under rule 3.19

- 3.20.1 The Judge or Registrar may refuse an application made under rule 3.19 or grant it in whole or in part without conditions or subject to any conditions that the Judge or Registrar thinks appropriate.
- 3.20.2 A Judge may permit access to a series of files for the purposes of research.
- Compare: HCR 3.14

3.21 Review of decisions by Registrar

- 3.21.1 Any decision by a Registrar under rule 3.20 is subject to review by a Judge on the application of the applicant or any person affected.
- 3.21.2 HCR 2.11 (as applied by rule 3.48.6) applies as if the reference in that rule to a party were a reference to the applicant or any person affected.
- Compare: HCR 3.15

3.22 Matters to be taken into account

In determining an application under rule 3.19, or a request for permission under rule 3.15, or the determination of an objection under that rule, the Judge or Registrar must consider the nature of, and the reasons for, the application or request and take into account each of the following matters that is relevant to the application, request, or objection:

- (a) the orderly and fair administration of justice:
- (b) the protection of confidentiality, privacy interests (including those of children and other vulnerable members of the community), and any privilege held by, or available to, any person:
- (c) the principle of open justice, namely, encouraging fair and accurate reporting of, and comment on, court hearings and decisions:
- (d) the freedom to seek, receive, and impart information:
- (e) whether a document to which the application or request relates is subject to any restriction under rule 3.18:
- (f) any other matter that the Judge or Registrar thinks just.

Compare: HCR 3.16

Hearings in chambers

3.23 Publication about hearing in chambers

Particulars of the hearing in chambers of any proceeding or interlocutory application or of the decision or both (including the reasons for the decision) may be published unless a Judge or Registrar, exercising jurisdiction in chambers, otherwise directs.

Compare: SR 1992/109 r 74; HCR 7.35

Evidence by deposition

3.24 Order for examination of witness

3.24.1 On the application of a party in a proceeding allocated a trial, the court may make orders on any terms that it thinks fit for the examination of any person on oath before a Judge or Registrar at a time and place (other than that appointed or to be appointed for the hearing of the proceeding) appointed by the court.

3.24.2 The application must be made by way of notice.

3.24.3 Immediately on receiving the order for examination, the Registrar must—

- (a) appoint a time and place for the examination; and
- (b) notify the applicant of the time and place appointed; and
- (c) give notice in form 15 to all interested parties of the intention to hold the examination and of the appointed time and place.

3.24.4 At any time after receiving an order for examination under this rule, the Registrar may issue a witness summons under rule 12.2.

Compare: SR 1992/109 r 378(1)–(3)

3.25 Examination of witnesses

3.25.1 The examination of the witnesses must take place in court or in the Registrar's office, except that the Registrar may, if he or she thinks fit, examine any witness at any other place; and the parties may attend the examination with or without counsel or a solicitor.

3.25.2 The Registrar may administer an oath to each witness, who may be examined, cross-examined, and re-examined as at the trial of a proceeding.

3.25.3 However, if a witness who attends at an examination under this rule is represented at that examination by a solicitor, the Registrar may, if the parties to the proceeding agree, allow the witness to give evidence by affidavit instead of, or in addition to, being examined on oath by the Registrar.

3.25.4 In any case, the witness may be cross-examined and re-examined on the facts deposed to in the affidavit or on any other matter on which the witness could have been cross-examined or re-examined at the trial of the proceeding.

3.25.5 The deposition must be taken down in writing by or in the presence of the Registrar.

3.25.6 The time limits in rule 2.45.2 for the examination, cross-examination, and re-examination of witnesses apply under this rule as if the proceeding were a short trial.

Compare: SR 1992/109 r 378(4)–(8)

3.26 Objection to question

3.26.1 The Registrar does not have power to decide on the admissibility of any evidence.

3.26.2 If a party objects to any evidence,—

- (a) the Registrar must take down the question and the answer, or admit the document, and make a note of the objection on the deposition:
- (b) the court may, on application by a party, decide the validity of the objection.

3.26.3 If the witness objects to any question put to the witness before the Registrar,—

- (a) the Registrar must make a note of the question and the objection on the deposition:
- (b) the court may, on application by the witness, decide the validity of the objection.

Compare: SR 1992/109 r 379

3.27 Refusal to attend and be sworn

3.27.1 This rule applies if a witness refuses to—

- (a) attend; or
- (b) be sworn; or
- (c) answer any lawful question; or
- (d) produce any document.

3.27.2 The Registrar must make and sign a certificate of refusal and file it in the court.

3.27.3 The party requiring the attendance of the witness may apply to a Judge for an order directing the witness to do 1 or more of the following:

- (a) attend:
- (b) be sworn:
- (c) answer any question:
- (d) produce any document.

3.27.4 The Judge may make any order the Judge thinks fit.

3.27.5 When the examination of each witness has been concluded, the Registrar must read the deposition to the witness, and they must both sign each page. If the witness refuses to sign the deposition, the Registrar must make a note of the refusal on the

deposition, and the deposition may be tendered in evidence, even though it is not signed by the witness.

- 3.27.6 Forms 16 and 17 must be attached to the depositions, and those documents together with any exhibits suitably marked and the certificate of costs in accordance with rule 3.28 must be sent to the office of the court at which the trial of the proceeding is to take place.

Compare: SR 1992/109 r 380

3.28 Costs

- 3.28.1 The costs of the examination, together with the allowances for solicitors and witnesses in accordance with Schedules 2 and 3, must be certified by the Registrar in form 18.

- 3.28.2 However, the costs and allowances are in all cases in the discretion of the court.

Compare: SR 1992/109 r 381

3.29 Failure to appear

- 3.29.1 This rule applies if, at the time appointed or at any adjournment, the party applying to take evidence fails to appear or fails to proceed with the examination.

- 3.29.2 The Registrar must—

- (a) strike out the application; and
- (b) immediately send to the court of hearing a certificate in form 19 together with the documents referred to in rule 3.27.6; and
- (c) if the opposite party appears, forward a certificate of costs in accordance with rule 3.28.

Compare: SR 1992/109 r 382

3.30 Deposition as evidence

- 3.30.1 Evidence given in accordance with these rules before any Registrar may be tendered in the proceeding in respect of which the examination took place as if the evidence were given in the course of the hearing of that proceeding, and the signature of the Registrar to the deposition must be judicially noticed without any proof of it.

- 3.30.2 On the application of the opposite party and on being satisfied that the party securing an order for examination is not proceeding with due diligence to implement the order, the court may rescind the order and make any other order that it thinks fit in the interests of justice.
- 3.30.3 If, in the opinion of the court, the credibility of a witness whose evidence has been taken at a distance is likely to be of decisive importance, the court may decline to accept the deposition and require the party tendering it to call the witness to give oral evidence at the hearing.

Compare: SR 1992/109 r 383

Subpart 2—Rules about lawyers’ duties,
funds in court, parties, incapacitated persons,
interpleader, service, etc

Lawyers’ duties

3.31 Lawyers’ duties

HCR 1.20—lawyers’ duties.

Compare: SR 1992/109 r 39

Funds in court

3.32 Investment of funds in court

- 3.32.1 HCR 3.17—application for order.
- 3.32.2 HCR 3.18—powers of court in relation to application.
- 3.32.3 HCR 3.19—disposal of securities and income.
- 3.32.4 Neither the Registrar nor the Crown is liable for any loss either of capital or of income in respect of any investment made under and in accordance with an order under rule 3.32.2.

Compare: SR 1992/109 r 73

Parties

3.33 Parties generally

- 3.33.1 HCR 4.1—limit on parties.
- 3.33.2 HCR 4.2—plaintiffs.
- 3.33.3 HCR 4.3—defendants.
- 3.33.4 HCR 4.23—trustees, executors, and administrators.

- 3.33.5 HCR 4.24—persons having same interest.
- 3.33.6 HCR 4.25—partners.
- 3.33.7 HCR 4.26—person trading as firm.
- 3.33.8 HCR 4.27—representation by other persons.
- 3.33.9 HCR 4.28—relators.

Compare: SR 1992/109 rr 75–83, 101

3.34 Incapacitated persons and litigation guardians

- 3.34.1 HCR 4.29—incapacitated person, litigation guardian, and minor defined.
- 3.34.2 HCR 4.30—incapacitated person must be represented by litigation guardian.
- 3.34.3 HCR 4.31—minor must be represented by litigation guardian.
- 3.34.4 HCR 4.32—minor may apply to conduct proceeding without litigation guardian.
- 3.34.5 HCR 4.33—application of rules 4.34 to 4.46 to minors.
- 3.34.6 HCR 4.34—court may set aside step in proceeding.
- 3.34.7 HCR 4.35—appointment of litigation guardian.
- 3.34.8 HCR 4.36—application to be served on person for whom litigation guardian is to be appointed.
- 3.34.9 HCR 4.37—notification of appointment.
- 3.34.10 HCR 4.38—powers of litigation guardian.
- 3.34.11 HCR 4.39—heading on documents when incapacitated person is represented.
- 3.34.12 HCR 4.40—service of documents.
- 3.34.13 HCR 4.41—representation to be disregarded in making award of costs.
- 3.34.14 HCR 4.42—award of costs enforceable against incapacitated person or litigation guardian.
- 3.34.15 HCR 4.43—liability of former litigation guardian for costs subsequently awarded against incapacitated person.
- 3.34.16 HCR 4.44—compliance with liability order.
- 3.34.17 HCR 4.45—litigation guardian may be reimbursed for costs out of property of incapacitated person.

3.34.18 HCR 4.46—retirement, removal, or death of litigation guardian.

3.34.19 HCR 4.47—procedure where person ceases to be incapacitated person.

3.34.20 HCR 4.48—procedure when minor attains full age.

Compare: SR 1992/109 rr 84–98

3.35 Change of parties and adjusting parties

3.35.1 HCR 4.49—proceeding not to come to end. This rule applies subject to section 52 of the District Courts Act 1947.

3.35.2 HCR 4.50—procedure on death, bankruptcy, and devolution.

3.35.3 HCR 4.51—devolution when proceeding pending.

3.35.4 HCR 4.52—new parties order.

3.35.5 HCR 4.53—discharge or variation of new parties order.

3.35.6 HCR 4.54—change of name.

3.35.7 HCR 4.55—parties wrongly joined.

3.35.8 HCR 4.56—striking out and adding parties.

Compare: SR 1992/109 rr 102–111

Interpleader

3.36 Interpleader before judgment

3.36.1 For the purposes of rules 3.36.2 to 3.36.8, unless the context otherwise requires,—

applicant means a person entitled under section 111 of the Act to apply to the court for relief by way of interpleader (which relief is provided for by rule 3.36.7)

claimant means a person claiming against an applicant in terms of section 111 of the Act

execution creditor means a person who has issued an enforcement process under Part 15

execution debtor means a person against whose property an enforcement process has been issued under Part 15.

3.36.2 HCR 4.58—right to interplead. Subclause (1) applies as if it referred to an application under section 111 of the Act. Subclause (2) applies as if it referred to any enforcement process under Part 15 of these rules to recover personal prop-

erty (rather than to a sale order or possession order within the meaning of the High Court Rules).

3.36.3 HCR 4.59—form of application.

3.36.4 HCR 4.60—affidavit in support.

3.36.5 HCR 4.61—time for applying.

3.36.6 HCR 4.62—claimants to file affidavits.

3.36.7 HCR 4.63—powers of court.

3.36.8 HCR 4.64—costs of applicant.

Compare: SR 1992/109 rr 195–202

Filing and signing documents

3.37 Authority to file and sign documents

3.37.1 HCR 5.36—authority to file documents.

3.37.2 HCR 5.37—solicitor’s warranty as to authorisation to file documents.

3.37.3 HCR 5.38—solicitor on record.

3.37.4 HCR 5.39—authority to sign documents.

3.37.5 HCR 5.40—change of representation or address for service.

3.37.6 HCR 5.41—withdrawal of solicitor who has ceased to act for party.

3.37.7 HCR 5.42—address for service of party whose solicitor has ceased to act.

3.37.8 HCR 5.43—solicitors to inform clients of orders or directions.

3.37.9 HCR 5.44—memorandum at end of first document filed by party. First documents filed under rule 2.17 are taken to comply with this rule so long as they are in the form set out in Schedule 1 or authorised under rule 1.24.2.

Compare: SR 1992/109 rr 38, 40–44B

Appearances

3.38 Appearance

3.38.1 HCR 5.49—appearance and objection to jurisdiction.

3.38.2 HCR 5.50—appearance for ancillary purposes.

3.38.3 HCR 5.51—appearance for reserving rights.

3.38.4 HCR 5.52—forms.

Compare: SR 1992/109 rr 139–142

Set-off and counterclaim against Crown

3.39 Restriction on right of set-off or counterclaim

HCR 5.61—restriction when the Crown involved.

Compare: SR 1992/109 r 169

Service of documents

3.40 Prompt service required

3.40.1 A statement of claim and notice of proceeding must be served—

- (a) as soon as practicable after they are filed; and
- (b) if directions as to service are sought, as soon as practicable after any directions have been given.

3.40.2 Unless the document is served within 12 months starting on the date on which the document is filed or within any further time allowed by the court, the proceeding is treated as having been discontinued by the plaintiff against any defendant or other person directed to be served who has not been served.

3.40.3 Rules 3.40.1 and 3.40.2 do not apply to notices of claim under rule 2.10 or notices of pursuit of claim under rule 2.17.

Compare: SR 1992/109 r 133

3.41 Extension of time for service

3.41.1 The plaintiff may, before or after the expiration of the period referred to in rule 3.40, apply to the court or a Registrar for an order extending that period in respect of any person (who is a defendant or other person directed to be served) who has not been served.

3.41.2 On an application under rule 3.41.1, the court or the Registrar, if satisfied that reasonable efforts have been made to effect service on that defendant or person, or for other good reason, may extend the period of service by 6 months starting on the date on which the order is made and so on from time to time while the proceeding is pending.

Compare: SR 1992/109 r 134

3.42 Methods of service

3.42.1 Any of the following methods may be used for serving a document that is required by these rules to be served:

- (a) personal service;
- (b) service at an address for service given in accordance with these rules;
- (c) service at an address directed by the court or a Registrar as the address for service for the party or person;
- (d) if the solicitor for the party or person has, under rule 1.32, specified a post office box address, document exchange box number, fax number, or email address,—
 - (i) by posting the document to that post office box address; or
 - (ii) by leaving the document at a document exchange for direction to that document exchange box number; or
 - (iii) by transmitting the document electronically to that fax number or email address.

3.42.2 In any case not provided for by these rules, service must be effected by the method and at the place the court or Registrar directs.

3.42.3 This rule does not apply if an Act, a rule, or a form set out in Schedule 1 requires or specifies a special and exclusive method of service.

Compare: SR 1992/109 r 214

3.43 Substituted service

If reasonable efforts have been made to serve a document by a method allowed or required under these rules, and either the document has come to the knowledge of the person to be served or it cannot be promptly served, the court or a Registrar may—

- (a) direct—
 - (i) that instead of service, specified steps be taken that are likely to bring the document to the notice of the person to be served; and
 - (ii) that the document be treated as served on the happening of a specified event, or on the expiry of a specified time:

- (b) when steps have been taken for the purpose of bringing, or which have a tendency to bring, the document to the notice of the person on whom it is required to be served, direct that the document be treated as served on that person on a specified date:
- (c) subject to any conditions that the court thinks just to impose, dispense with service of a document on a person and give to the party by whom the document is required to be served leave to proceed as if the document had been served.

Compare: SR 1992/109 r 239

3.44 Service generally

- 3.44.1 HCR 5.70—service generally.
- 3.44.2 HCR 5.71—personal service required.
- 3.44.3 HCR 6.2—service of copies.
- 3.44.4 Notices—rules 3.42 and 3.43 of these rules, and HCR 6.2, 6.4 to 6.7, and 6.9 to 6.20 apply to any notice that by these rules, or by any order made under these rules, is required to be given to any person, whether or not that person is a party or the notice is required to be filed in the court.
- 3.44.5 HCR 6.4—personal service on spouses or partners.
- 3.44.6 HCR 6.5—service at address for service.
- 3.44.7 HCR 6.6—service by means of post office box, document exchange, fax, or email. The reference in HCR 6.6 to HCR 6.1 is to be read as a reference to rule 3.42 of these rules.
- 3.44.8 HCR 6.7—service under agreement.
- 3.44.9 HCR 6.9—notices to be given by Registrar.
- 3.44.10 HCR 6.10—proof of service. *See also* rule 12.33 of these rules.
- 3.44.11 HCR 6.11—personal service.
- 3.44.12 HCR 6.12—personal service on New Zealand corporations.
- 3.44.13 HCR 6.13—personal service in New Zealand on foreign corporations.
- 3.44.14 HCR 6.14—personal service on unincorporated societies.
- 3.44.15 HCR 6.15—personal service on partnership or apparent partnership.

- 3.44.16 HCR 6.16—personal service on attorney or agent of absentee.
- 3.44.17 HCR 6.17—service on representatives.
- 3.44.18 HCR 6.18—service on solicitor.
- 3.44.19 HCR 6.19—service of statement of claim on certain days void.
- 3.44.20 HCR 6.20—failure to give address for service.
- 3.44.21 HCR 6.27—when (service out of New Zealand) allowed without leave.
- 3.44.22 HCR 6.28—when (service out of New Zealand) allowed with leave.
- 3.44.23 HCR 6.29—court’s discretion whether to assume jurisdiction.
- 3.44.24 HCR 6.30—service of other documents outside New Zealand.
- 3.44.25 HCR 6.31—notice to defendant served outside New Zealand.
- 3.44.26 HCR 6.32—service outside New Zealand.
- 3.44.27 HCR 6.33—service through official channels.
- 3.44.28 HCR 6.34—service in convention countries.
- 3.44.29 HCR 6.35—time for filing defence.
- 3.44.30 HCR 15.11—overseas service cases.

Compare: SR 1992/109 rr 131, 132, 215–219, 223–227, 231–236, 241–244, 246, 247

Rule 3.44.30: replaced, on 4 February 2013, by rule 4 of the District Courts (Case Management) Amendment Rules 2012 (SR 2012/406).

Recovery of specific property subject to security

3.45 Recovery of specific property

HCR 7.78—recovery of specific property subject to lien or other security.

Compare: SR 1992/109 r 203

Subpart 3—Rules about interlocutory
applications, interrogatories, discovery,
inspection, receivers, accounts and inquiries,
affidavits, etc

Application

3.46 Application of this subpart

- 3.46.1 The High Court Rules and other rules listed or set out in this subpart apply in relation to cases for which a full trial is allocated, but do not apply in relation to other cases unless these rules otherwise provide.
- 3.46.2 The provisions about affidavits in rules 3.70, 3.71, and 12.5 apply generally for the purposes of these rules.
- 3.46.3 However, rules 3.46.1 and 3.46.2 are subject to rule 2.49 (interlocutory applications).

Memorandums of consent

3.47 Consent instead of leave of court

- 3.47.1 When the leave of the court is required in any matter of procedure, and all parties and persons who are affected consent to the grant of leave, a party may file a memorandum signed by all those parties and persons evidencing that consent and its terms and conditions.
- 3.47.2 The Registrar must either—
- (a) make and seal an order in terms of the memorandum; or
 - (b) refer the memorandum to the court, in which case the memorandum must be treated as an interlocutory application for the leave.

Compare: SR 1992/109 r 10

*Registrars' jurisdiction and powers under this
subpart*

3.48 Powers of Registrars

- 3.48.1 HCR 2.5—Registrars' jurisdiction and powers relating to interlocutory applications. Disregard the exclusion of Deputy Registrars.
- 3.48.2 HCR 2.7—limits on jurisdiction. Disregard the reference to HCR 2.6.

- 3.48.3 HCR 2.8—powers ancillary to jurisdiction. Disregard the reference to HCR 2.6.
- 3.48.4 HCR 2.9—jurisdiction in other registries. Disregard the reference to HCR 2.6.
- 3.48.5 HCR 2.10—form of order. Disregard the reference to HCR 2.6.
- 3.48.6 HCR 2.11—review of Registrar’s decision. Disregard subclause (3).
Compare: SR 1992/109 rr 293–298

Conferences and directions

3.49 Case management conferences

- 3.49.1 HCR 7.2—case management conferences generally.
- 3.49.2 HCR 7.3 and Schedule 5—first case management conferences.
- 3.49.3 HCR 7.4—further case management conferences.
- 3.49.4 HCR 7.5—issues conferences.
- 3.49.5 HCR 7.8—pre-trial conferences.
- 3.49.6 HCR 7.9—cancellation of conference.
- 3.49.7 HCR 7.10—limitation of right of appeal.

Rule 3.49: replaced, on 4 February 2013, by rule 5 of the District Courts (Case Management) Amendment Rules 2012 (SR 2012/406).

3.50 Directions as to conduct of proceeding

[Revoked]

Rule 3.50: revoked, on 4 February 2013, by rule 6 of the District Courts (Case Management) Amendment Rules 2012 (SR 2012/406).

Hearing, setting down, and counsel assisting

3.51 Allocation of hearing dates and close of pleadings dates, and counsel assisting

- 3.51.1 HCR 7.6—allocation of key dates.
- 3.51.2 HCR 7.7—steps after close of pleadings date restricted. The reference to HCR 1.9 in subclause (2)(c) is to be read as a reference to rule 1.14 of these rules.
- 3.51.3 HCR 7.11—timetable and monitoring obligations.
- 3.51.4 HCR 7.12—lists of proceedings.

3.51.5 HCR 7.13—Registrar’s functions in relation to hearing dates.

Rule 3.51: replaced, on 4 February 2013, by rule 7 of the District Courts (Case Management) Amendment Rules 2012 (SR 2012/406).

Interlocutory applications and orders

3.52 Interlocutory applications and interlocutory orders

3.52.1 HCR 7.19—contents, form, and filing of interlocutory application.

3.52.2 HCR 7.20—affidavits to be filed with application.

3.52.3 HCR 7.21—filing by post.

3.52.4 HCR 7.22—service of application and supporting affidavit.

3.52.5 HCR 7.23—application without notice.

3.52.6 HCR 7.24—notice of opposition to application.

3.52.7 HCR 7.25—affidavit to be filed with notice of opposition.

3.52.8 HCR 7.26—affidavit in reply.

3.52.9 HCR 7.27—evidence normally given by affidavit.

3.52.10 HCR 7.28—cross-examination of maker of affidavit.

3.52.11 HCR 7.29—rules governing affidavits.

3.52.12 HCR 7.30—statement of belief in affidavits.

3.52.13 HCR 7.31—when admissions binding.

3.52.14 HCR 7.32—previous affidavits and agreed statements of fact.

3.52.15 HCR 7.33—allocation of hearing date.

3.52.16 HCR 7.34(2)—mode of hearing. HCR 7.34(2) applies subject to rule 2.49.8 of these rules.

3.52.17 Rule 3.23 applies to the publication of particulars about hearings in chambers instead of HCR 7.35.

3.52.18 HCR 7.36—application for summary judgment to be heard in open court.

3.52.19 HCR 7.37—no hearing required if respondents consent or do not oppose.

3.52.20 HCR 7.38—respondent who consents, or who does not oppose, need not attend hearing.

3.52.21 HCR 7.39—synopsis of argument.

3.52.22 HCR 7.40—failure to attend.

- 3.52.23 HCR 7.41—certain applications may be made orally at hearing.
- 3.52.24 HCR 7.42—adjournment.
- 3.52.25 HCR 7.43—making of interlocutory orders. The reference to HCR 1.6 is to be read as a reference to rule 1.13 of these rules.
- 3.52.26 HCR 7.44—power to grant interlocutory order or interlocutory relief.
- 3.52.27 HCR 7.45—interlocutory orders may be made subject to conditions.
- 3.52.28 HCR 7.46—determination of application without notice.
- 3.52.29 HCR 7.47—drawing up and sealing interlocutory order.
- 3.52.30 HCR 7.48—enforcement of interlocutory order.
- 3.52.31 HCR 7.49—order may be varied or rescinded if shown to be wrong.
- 3.52.32 HCR 7.50—order relating to management of proceeding may be varied if circumstances change. Disregard references to Associate Judges and the Court of Appeal.
- 3.52.33 HCR 7.51—order may be rescinded if fraudulently or improperly obtained.
- 3.52.34 HCR 7.52—limitation as to second interlocutory application.

Compare: SR 1992/109 rr 255–257, 259–292

*Interim relief, preservation of property,
receivers, interim payments*

3.53 Interim relief

- 3.53.1 HCR 7.53—application for injunction.
- 3.53.2 HCR 7.54—undertaking as to damages.
- 3.53.3 An interlocutory injunction to which section 42(2) of the Act applies (restraining a party to a proceeding from removing from New Zealand, or otherwise dealing with, assets in New Zealand) must be in form 19A (freezing order).
- 3.53.4 For the purposes of rule 3.53.3,—
- (a) an application for a freezing order must be made by interlocutory application under rule 3.52:

- (b) HCR 32.2(3) and (5), 32.6(3)–(5), 32.7, 32.8, 32.9, and 32.10 apply with the necessary modifications.

Compare: SR 1992/109 r 258

Rule 3.53.3: inserted, on 14 June 2012, by rule 21 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Rule 3.53.4: inserted, on 14 June 2012, by rule 21 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

3.54 Interim preservation, etc, of property

- 3.54.1 HCR 7.55—preservation of property.
3.54.2 HCR 7.56—sale of perishable property before hearing.
3.54.3 HCR 7.57—order to transfer part of property to person with interest in property.
3.54.4 HCR 7.58—interim payment of income to person with interest in income.

Compare: SR 1992/109 rr 349–354

3.55 Receivers

- 3.55.1 HCR 7.59—application.
3.55.2 HCR 7.60—address for service.
3.55.3 HCR 7.61—receiver must give security.
3.55.4 HCR 7.62—remuneration of receiver.
3.55.5 HCR 7.63—accounts of receiver.
3.55.6 HCR 7.64—examination of accounts.
3.55.7 HCR 7.65—default by receiver.
3.55.8 HCR 7.66—powers of receiver.
3.55.9 HCR 7.67—account on death of receiver.

Compare: SR 1992/109 r 355(b)

3.56 Interim payments

- 3.56.1 HCR 7.68—interpretation.
3.56.2 HCR 7.69—application for interim payment.
3.56.3 HCR 7.70—order for interim payment in respect of damages.
3.56.4 HCR 7.71—order for interim payment in respect of sums other than damages.
3.56.5 HCR 7.72—method of payment.
3.56.6 HCR 7.73—directions on interim payment application.

- 3.56.7 HCR 7.74—non-disclosure of interim payment.
- 3.56.8 HCR 7.75—adjustment on final judgment or order or on discontinuance.
- 3.56.9 HCR 7.76—counterclaims and other proceedings.
Compare: SR 1992/109 rr 355A–355J

Arbitration

- 3.57 Arbitration by consent**
HCR 7.80—arbitration by consent.
Compare: SR 1992/109 r 385A

Discovery and inspection

Heading: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.58 Discovery orders

- 3.58.1 HCR 8.1—interpretation. For the purposes of applying subpart 1 of Part 8 of the High Court Rules to a claim that proceeds under rule 2.17 of these rules, **pleading** means a notice of claim or counterclaim, a response to a claim or counterclaim, a reply, a third party notice, or a subsequent party notice.
- 3.58.2 HCR 8.2—co-operation.
- 3.58.3 HCR 8.3—preservation of documents.
- 3.58.4 HCR 8.4—initial disclosure.
- 3.58.5 HCR 8.5(1) and (2)—discovery orders to be made at case management conferences. The reference to a case management conference is to be read as a reference to a judicial directions conference.
- 3.58.6 HCR 8.6—two kinds of discovery order.
- 3.58.7 HCR 8.7—standard discovery.
- 3.58.8 HCR 8.8—tailored discovery.
- 3.58.9 HCR 8.9—presumption as to tailored discovery. Disregard paragraphs (b), (d), and (e).
- 3.58.10 HCR 8.10—obligation of a party ordered to make tailored discovery.

- 3.58.11 HCR 8.11—preparation for first case management conference. The reference to a case management conference is to be read as a reference to a judicial directions conference.
- 3.58.12 HCR 8.12—orders that may be made. The reference to a case management conference is to be read as a reference to a judicial directions conference.
- 3.58.13 HCR 8.13—solicitor’s discovery obligations.
- 3.58.14 HCR 8.14—extent of search.
- 3.58.15 HCR 8.15—affidavit of documents.
- 3.58.16 HCR 8.16—schedule appended to affidavit of documents.
- 3.58.17 HCR 8.17—variation of discovery order.
- 3.58.18 HCR 8.18—continuing obligations.
- 3.58.19 HCR Schedule 9—discovery checklist and listing and exchange protocol. In the definition of **document** in Part 3 of Schedule 9, the reference to HCR 1.3 is to be read as a reference to rule 1.8 of these rules.

Rule 3.58: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.59 Orders for particular discovery

- 3.59.1 HCR 8.19—order for particular discovery against party after proceeding commenced.
- 3.59.2 HCR 8.20—order for particular discovery before proceeding commenced.
- 3.59.3 HCR 8.21—order for particular discovery against non-party after proceeding commenced.
- 3.59.4 HCR 8.22—costs of discovery.

Rule 3.59: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

Discovery *[Revoked]*

Heading: revoked, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.60 Discovery: affidavits of documents, privilege, public interest

- 3.60.1 HCR 8.23—incorrect affidavit of documents to be amended.

- 3.60.2 HCR 8.24—who may swear affidavit of documents.
- 3.60.3 HCR 8.25—challenge to privilege or confidentiality claim.
- 3.60.4 HCR 8.26—Crown documents and public interest.

Rule 3.60: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.61 Discovery: inspection, copying, contempt

- 3.61.1 HCR 8.27—inspection of documents.
- 3.61.2 HCR 8.28—privilege and confidentiality.
- 3.61.3 HCR 8.29—order facilitating inspection.
- 3.61.4 HCR 8.30—use of documents.
- 3.61.5 HCR 8.33—contempt of court.

Rule 3.61: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

Evidence

Heading: inserted, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.62 Evidentiary provisions related to discovery and inspection

- 3.62.1 HCR 8.31—effect of failure to include document.
- 3.62.2 HCR 8.32—notice to produce documents or things.

Rule 3.62: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

Interrogatories

Heading: inserted, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.63 Interrogatories

- 3.63.1 HCR 8.34—interrogatories by notice.
- 3.63.2 HCR 8.35—duties of party served.
- 3.63.3 HCR 8.36—limitation of interrogatories by notice.
- 3.63.4 HCR 8.37—multiple parties.
- 3.63.5 HCR 8.38—order to answer.
- 3.63.6 HCR 8.39—contents of statement.
- 3.63.7 HCR 8.40—objection to answer.

- 3.63.8 HCR 8.41—who may swear affidavit verifying statement in answer to interrogatories.
- 3.63.9 HCR 8.42—insufficient answer.
- 3.63.10 HCR 8.43—incorrect answer to be amended.
- 3.63.11 HCR 8.44—answers as evidence.
- 3.63.12 HCR 8.45—public interest.
- 3.64.13 HCR 8.46—defamation proceedings.

Rule 3.63: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

Admission of facts

Heading: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.64 Admission of facts

- 3.64.1 HCR 8.47—notice to admit facts.
- 3.64.2 HCR 8.48—judgment on admission of facts.

Rule 3.64: replaced, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

Evidence

Heading: inserted, on 1 February 2012, by rule 5 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

3.65 Briefs, oral evidence directions, and chronologies

- 3.65.1 HCR 9.1—objective and scope. Disregard the reference in subclause (2) to the common bundle.
- 3.65.2 HCR 9.2—exchange of documents and index.
- 3.65.3 HCR 9.7—requirements in relation to briefs.
- 3.65.4 HCR 9.8—supplementary briefs.
- 3.65.5 HCR 9.9—exchange of chronology of facts intended to be relied upon at trial or hearing. In applying this rule,—
 - (a) the period in subclause (1) is replaced by a period of 15 working days after the date of the judicial directions conference;
 - (b) disregard references to the common bundle.
- 3.65.6 HCR 9.10—oral evidence directions.
- 3.65.7 HCR 9.11—compliance with Evidence Act 2006.

- 3.65.8 HCR 9.12—evidence-in-chief at trial.
- 3.65.9 HCR 9.13—briefs not given in evidence.
- 3.65.10 HCR 9.14—privilege and admissibility not affected by briefs.
- 3.65.11 HCR 9.15—cross-examination duties.
- 3.65.12 HCR 9.16—plaintiff’s synopsis of opening.

Rule 3.65: replaced, on 4 February 2013, by rule 8 of the District Courts (Case Management) Amendment Rules 2012 (SR 2012/406).

3.66 Inspection and testing of property

- 3.66.1 HCR 9.34—order for inspection, etc.
- 3.66.2 HCR 9.35—notice of application.

Compare: SR 1992/109 rr 340, 341

3.67 Court-appointed experts

- 3.67.1 HCR 9.36—appointment of court expert.
- 3.67.2 HCR 9.37—submission of question to court expert.
- 3.67.3 HCR 9.38—report of court expert.
- 3.67.4 HCR 9.39—experiments and tests.
- 3.67.5 HCR 9.40—cross-examination of court expert.
- 3.67.6 HCR 9.41—remuneration of court expert.
- 3.67.7 HCR 9.42—calling of expert witnesses.

Compare: SR 1992/109 rr 342–348

3.68 Expert evidence generally

- 3.68.1 HCR 9.43 and Schedule 4—expert witness to comply with code of conduct.
- 3.68.2 HCR 9.44—court may direct conference of expert witnesses.
- 3.68.3 HCR 9.45—status of joint witness statement by expert witnesses.
- 3.68.4 HCR 9.46—evidence of expert witnesses at trial.

3.69 Preserving evidence

- 3.69.1 HCR 9.47—right to preserve evidence.
- 3.69.2 HCR 9.48—procedures in which the Crown may have interest.

3.69.3 HCR 9.49—examination of witness. The court may make orders under rules 3.24 to 3.30 of these rules instead of under HCR 9.17 to 9.19.

3.69.4 HCR 9.50—subsequent admissibility.

Affidavits

3.70 Form and content of affidavits

3.70.1 HCR 9.76—form and contents of affidavits.

3.70.2 HCR 9.77—exhibits to affidavits.

3.70.3 HCR 9.78—interlineation, alteration, or erasure in affidavit.

3.70.4 HCR 9.79—irregularity in form of affidavit.

3.70.5 HCR 9.80—service copies of affidavits.

3.70.6 HCR 9.81—affidavit may be sworn on Sunday.

3.70.7 HCR 9.82—affidavits made on behalf of corporation.

3.70.8 HCR 9.83—affidavit by 2 or more persons.

3.70.9 HCR 9.84—affidavit by blind or illiterate person.

3.70.10 HCR 9.85—authority to take affidavits in New Zealand.

3.70.11 HCR 9.86—authority to take affidavits in places outside New Zealand.

3.70.12 HCR 9.87—meaning of authenticated deposition.

3.70.13 HCR 9.88—admissibility of authenticated deposition.

3.70.14 HCR 9.89—application of other rules.

3.70.15 Rules about the procedure for giving evidence by affidavit are in rule 12.5 of these rules.

Compare: SR 1992/109 rr 508–521A

3.71 Swearing or making of affidavits

An affidavit or an affirmation may be read and used in a proceeding only if the affidavit or affirmation is sworn or made—

- (a) in accordance with the Oaths and Declarations Act 1957; and
- (b) before a person authorised to administer oaths and affirmations—
 - (i) under the Oaths and Declarations Act 1957; or
 - (ii) under section 56 of the District Courts Act 1947;or

(iii) under HCR 9.86.

Compare: SR 1992/109 r 518

Consolidations

3.72 Consolidation of proceedings

3.72.1 HCR 10.12—when order may be made.

3.72.2 HCR 10.13—application of rule 10.12.

Compare: SR 1992/109 rr 384, 385

Separate decision of questions

3.73 Separate decisions

3.73.1 HCR 10.14—definition of question.

3.73.2 HCR 10.15—orders for decision.

3.73.3 HCR 10.17—agreed result.

3.73.4 HCR 10.18—record, etc, of decision.

3.73.5 HCR 10.19—disposal of proceeding if proceeding substantially affected by decision of question.

3.73.6 HCR 10.20—form and contents of case.

3.73.7 HCR 10.21—insufficient case or disputed facts or documents.

Compare: SR 1992/109 rr 417–424

3.74 Removal into High Court

3.74.1 If the court makes an order under rule 3.73.2 for the decision of a question of law, it may further order that the question be removed into the High Court.

3.74.2 The court must direct which documents, or classes of documents, relating to the proceeding are to be forwarded to the High Court.

Compare: SR 1992/109 r 419

Accounts and inquiries

3.75 Accounts and inquiries

3.75.1 HCR 16.1—interpretation.

3.75.2 HCR 16.2—orders for accounts and inquiries.

3.75.3 HCR 16.3—directions.

- 3.75.4 HCR 16.4—summary order for accounts.
- 3.75.5 HCR 16.5—mutual accounts.
- 3.75.6 HCR 16.6—account-taker.
- 3.75.7 HCR 16.7—directions as to evidence.
- 3.75.8 HCR 16.8—remuneration of accountant.
- 3.75.9 HCR 16.9—form and verification of account.
- 3.75.10 HCR 16.10—filing and service of account.
- 3.75.11 HCR 16.11—notice of receipt that is not admitted.
- 3.75.12 HCR 16.12—notice of error.
- 3.75.13 HCR 16.13—admission of items.
- 3.75.14 HCR 16.14—appointment and notice for taking accounts.
- 3.75.15 HCR 16.15—parties to attend account hearing.
- 3.75.16 HCR 16.16—adjournment of account hearing.
- 3.75.17 HCR 16.17—power of summary decision.
- 3.75.18 HCR 16.18—examination of accounting party.
- 3.75.19 HCR 16.19—production of documents.
- 3.75.20 HCR 16.20—interest on debts of deceased person.
- 3.75.21 HCR 16.22—accounting and estimates.
- 3.75.22 HCR 16.23—directions for inquiries.

Compare: SR 1992/109 rr 386–406

3.76 General provisions affecting accounts and inquiries

- 3.76.1 HCR 16.24—powers of persons taking accounts or making inquiries.
- 3.76.2 HCR 16.25—duty of persons summoned to attend.
- 3.76.3 HCR 16.26—time for proving claims.
- 3.76.4 HCR 16.27—statement of claim to be filed. A notice of claim is to be filed instead of a statement of claim.
- 3.76.5 HCR 16.28—failure to claim within time.
- 3.76.6 HCR 16.29—result to be certified.
- 3.76.7 HCR 16.30—party may ask for court’s decision.
- 3.76.8 HCR 16.31—certificate when approved to be signed by Judge.
- 3.76.9 HCR 16.32—effect of certificate when filed.

3.76.10 HCR 16.33—distribution before all persons entitled are ascertained.

3.76.11 HCR 16.34—payment of share carried over to separate trust account.

Compare: SR 1992/109 rr 407–416

Section 62 or 62A reports

3.77 Report under section 62 or 62A of Act

3.77.1 A report under section 62 or 62A of the Act—

- (a) must be in writing; and
- (b) must be filed in the office of the court; and
- (c) is open to inspection by the parties.

3.77.2 The Registrar must, on the filing of the report, give notice of the report to all parties.

3.77.3 When the report has been filed,—

- (a) if the further consideration of the proceeding has been adjourned to a particular day, any party may—
 - (i) apply on that day to a Judge to adopt the report; or
 - (ii) give not less than 3 working days' notice of the party's intention to make an application on that day to vary the report or to remit the report or any part of the report for further inquiry or report:
- (b) if the further consideration has not been adjourned to a particular day, any party may, on not less than 3 working days' notice, apply to a Judge to—
 - (i) adopt or vary the report; or
 - (ii) remit the report or any part of the report for further inquiry and report.

Compare: SR1992/109 r 412

Abandonment of excess

3.78 Abandonment of excess if more than \$200,000 found due on taking of accounts

3.78.1 This rule applies if, on taking an account, it appears that a plaintiff is entitled to a larger amount than \$200,000, and the plaintiff has not by the plaintiff's notice of claim or statement of claim abandoned the excess over \$200,000.

3.78.2 The plaintiff may, if the defendant does not agree to extend the jurisdiction of the court under section 37 of the Act, by leave of the court abandon the excess over \$200,000, and judgment may be entered accordingly.

Compare: SR 1992/109 r 413

Part 4

Costs

4.1 Costs at discretion of court

4.1.1 All matters are at the discretion of the court if they relate to costs—

- (a) of a proceeding; or
- (b) incidental to a proceeding; or
- (c) of a step in a proceeding.

4.1.2 Rules 4.2 to 4.10 are subject to rule 4.1.1.

4.1.3 The provisions of any Act override rules 4.1.1 and 4.1.2.

Compare: SR 1992/109 r 45

4.2 Principles applying to determination of costs

The following general principles apply to the determination of costs:

- (a) the party who fails with respect to a proceeding or an interlocutory application should pay costs to the party who succeeds:
- (b) an award of costs should reflect the complexity and significance of the proceeding:
- (c) costs should be assessed by applying the appropriate daily recovery rate to the time considered reasonable for each step reasonably required in relation to the proceeding or interlocutory application:
- (d) an appropriate daily recovery rate should normally be two-thirds of the daily rate considered reasonable in relation to the proceeding or interlocutory application:
- (e) what is an appropriate daily recovery rate and what is a reasonable time should not depend on the skill or experience of the solicitor or counsel involved or on the time actually spent by the solicitor or counsel involved

or on the costs actually incurred by the party claiming costs:

- (f) an award of costs should not exceed the costs incurred by the party claiming costs:
- (g) so far as possible the determination of costs should be predictable and expeditious.

Compare: SR 1992/109 r 46

4.3 Categorisation of proceedings

- 4.3.1 For the purposes of rule 4.2(b), proceedings must be classified as falling within 1 of the following categories:

Category 1 proceedings	Proceedings of a straightforward nature able to be conducted by counsel considered junior.
Category 2 proceedings	Proceedings of average complexity requiring counsel of skill and experience considered average.
Category 3 proceedings	Proceedings that because of their complexity or significance require counsel to have special skill and experience.

- 4.3.2 The court may at any time determine in advance a proceeding's category, which applies to all subsequent determinations of costs in the proceeding, unless there are special reasons to the contrary.
- 4.3.3 Each step specified in item 19 of Schedule 3 must be treated as having been taken in a category 2 proceeding.
- 4.3.4 Unless the court otherwise directs, rule 4.3.3 applies to a proceeding even if the court has, under rule 4.3.2, determined the category of the proceeding.

Compare: SR 1992/109 r 47

4.4 Appropriate daily recovery rates

For the purposes of rule 4.2(c), the appropriate daily recovery rates for the categories of proceedings referred to in rule 4.3—

- (a) are the rates specified in Schedule 2; and
- (b) must be applied to those categories.

Compare: SR 1992/109 47A

4.5 Determination of reasonable time

- 4.5.1 For the purposes of rule 4.2(c), a reasonable time for a step in a proceeding is—

- (a) the time specified for it in Schedule 3; or
- (b) a time determined by analogy with that schedule, if Schedule 3 does not apply; or
- (c) the time assessed as likely to be required for the particular step, if no analogy can usefully be made.

4.5.2 A determination of what is a reasonable time for a step in a proceeding under rule 4.5.1 must be made by reference—

- (a) to band A, if a comparatively small amount of time for the particular step is considered reasonable; or
- (b) to band B, if a normal amount of time for the particular step is considered reasonable; or
- (c) to band C, if a comparatively large amount of time is considered reasonable.

Compare: SR 1992/109 r 47B

4.6 Increased costs and indemnity costs

4.6.1 Despite rules 4.2 to 4.5, the court may make an order—

- (a) increasing costs otherwise payable under those rules (**increased costs**); or
- (b) that the costs payable are the actual costs, disbursements, and witness expenses reasonably incurred by a party (**indemnity costs**).

4.6.2 The court may make the order at any stage of a proceeding in relation to any step in the proceeding.

4.6.3 The court may order a party to pay increased costs if—

- (a) the nature of the proceeding or the step in the proceeding is such that the time required by the party claiming costs would substantially exceed the time allocated under band C; or
- (b) the party opposing costs has contributed unnecessarily to the time or expense of the proceeding or step in the proceeding by—
 - (i) failing to comply with these rules or a direction of the court; or
 - (ii) taking or pursuing an unnecessary step or an argument that lacks merit; or
 - (iii) failing, without reasonable justification, to admit facts, evidence, or documents or accept a legal argument; or

- (iv) failing, without reasonable justification, to comply with an order for discovery, notice for further particulars, notice for interrogatories, or other similar requirement under these rules; or
 - (v) failing, without reasonable justification, to accept an offer of settlement whether in the form of an offer under rule 4.10 or some other offer to settle or dispose of the proceeding; or
 - (c) the proceeding is of general importance to persons other than just the parties and it was reasonably necessary for the party claiming costs to bring the proceeding or participate in the proceeding in the interests of those affected; or
 - (d) some other reason exists that justifies the court making an order for increased costs despite the principle that the determination of costs should be predictable and expeditious.
- 4.6.4 The court may order a party to pay indemnity costs if—
- (a) the party has acted vexatiously, frivolously, improperly, or unnecessarily in commencing, continuing, or defending a proceeding or a step in a proceeding; or
 - (b) the party has ignored or disobeyed an order or direction of the court or breached an undertaking given to the court or another party to the proceeding; or
 - (c) costs are payable from a fund, the party claiming costs is a necessary party to the proceeding affecting the fund, and the party claiming costs has acted reasonably in the proceeding; or
 - (d) the person in whose favour the order of costs is made was not a party to the proceeding and has acted reasonably in relation to the proceeding; or
 - (e) the party claiming costs is entitled to indemnity costs under a contract or deed; or
 - (f) the party claiming costs is a defendant and—
 - (i) the defendant served the defendant's response in accordance with rules 2.12 and 2.13 but the plaintiff did not serve the plaintiff's information capsule within the 30-day period stated in rule 2.14.1; or

- (ii) the defendant served the defendant's information capsule in accordance with rule 2.15 but the plaintiff did not pursue the plaintiff's claim under rule 2.17 within the 90-day period stated in rule 2.17.4; or
- (g) some other reason exists that justifies the court making an order for indemnity costs despite the principle that the determination of costs should be predictable and expeditious.

Compare: SR 1992/109 r 47C

Rule 4.6.3(b)(iv): amended, on 1 February 2012, by rule 6 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

4.7 Refusal of, or reduction in, costs

Despite rules 4.2 to 4.5, the court may refuse to make an order for costs or may reduce the costs otherwise payable under those rules if—

- (a) the nature of the proceeding or the step in a proceeding is such that the time required by the party claiming costs would be substantially less than the time allocated under band A; or
- (b) the property or interests at stake in the proceeding were of exceptionally low value; or
- (c) the issues at stake were of little significance; or
- (d) although the party claiming costs has succeeded overall, that party has failed in relation to a cause of action or issue that significantly increased the costs of the party opposing costs; or
- (e) the party claiming costs has contributed unnecessarily to the time or expense of the proceeding or step in the proceeding by—
 - (i) failing to comply with these rules or a direction of the court; or
 - (ii) taking or pursuing an unnecessary step or an argument that lacks merit; or
 - (iii) failing, without reasonable justification, to admit facts, evidence, or documents or accept a legal argument; or

- (iv) failing, without reasonable justification, to comply with an order for discovery, notice for further particulars, notice for interrogatories, or other similar requirement under these rules; or
- (v) failing, without reasonable justification, to accept an offer of settlement, whether in the form of an offer under rule 4.10 or some other offer to settle or dispose of the proceeding; or
- (f) some other reason exists that justifies the court refusing costs or reducing costs despite the principle that the determination of costs should be predictable and expeditious.

Compare: SR 1992/109 r 47D

Rule 4.7(e)(iv): amended, on 1 February 2012, by rule 7 of the District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347).

4.8 Costs in interlocutory applications

4.8.1 Costs on an opposed interlocutory application, unless there are special reasons to the contrary,—

- (a) must be fixed in accordance with these rules when the application is determined; and
- (b) become payable when they are fixed.

4.8.2 Despite rule 4.8.1, the court may reverse, discharge, or vary an order for costs on an interlocutory application if satisfied subsequently that the original order should not have been made.

4.8.3 This rule does not apply to an application for summary judgment.

Compare: SR 1992/109 r 47E

4.9 Costs may be determined by different Judge

Costs may be determined by a Judge other than the Judge who heard the matter to which the costs relate, if the Judge who heard the matter to which the costs relate is not available conveniently to make the determination.

Compare: SR 1992/109 r 47F

4.10 Written offers without prejudice except as to costs

4.10.1 A party to a proceeding may at any time make to any other party to the proceeding a written offer that—

- (a) is expressly stated to be without prejudice except as to costs; and
- (b) relates to an issue in the proceeding.

4.10.2 The fact that the offer has been made must not be communicated to the court until the question of costs is to be decided.

Compare: SR 1992/109 r 47G

4.11 Effect on costs

4.11.1 The effect (if any) that the making of an offer under rule 4.10 has on the question of costs is at the discretion of the court.

4.11.2 Rules 4.11.3 and 4.11.4—

- (a) are subject to rule 4.11.1; and
- (b) do not limit rule 4.6 or 4.7; and
- (c) apply to an offer made under rule 4.10 by a party to a proceeding (**party A**) to another party to it (**party B**).

4.11.3 Party A is entitled to costs on the steps taken in the proceeding after the offer is made, if party A—

- (a) offers a sum of money to party B that exceeds the amount of a judgment obtained by party B against party A; or
- (b) makes an offer that would have been more beneficial to party B than the judgment obtained by party B against party A.

4.11.4 The offer may be taken into account if party A makes an offer that—

- (a) does not fall within paragraph (a) or (b) of rule 4.11.3; and
- (b) is close to the value or benefit of the judgment obtained by party B.

Compare: SR 1992/109 r 47H

4.12 Disbursements

4.12.1 In this rule, **disbursement**, in relation to a proceeding,—

- (a) means an expense paid or incurred for the purposes of the proceeding that would ordinarily be charged for sep-

arately from professional services in a solicitor's bill of costs; and

- (b) includes—
 - (i) fees of court for the proceeding;
 - (ii) expenses for serving documents for the purposes of the proceeding;
 - (iii) expenses for photocopying documents required by these rules or by a direction of the court;
 - (iv) expenses of conducting a conference by telephone or video link; but
- (c) does not include counsel's fee.

4.12.2 A disbursement may be included in the costs awarded for a proceeding to the extent that the disbursement is—

- (a) of a class that is either—
 - (i) approved by the court for the purposes of the proceeding; or
 - (ii) specified in rule 4.12.1(b); and
- (b) specific to the conduct of the proceeding; and
- (c) necessary for the conduct of the proceeding; and
- (d) reasonable in amount.

4.12.3 A Judge may direct a Registrar to exercise the powers of the court under this rule.

Compare: SR 1992/109 r 47I

4.13 Joint and several liability for costs

The liability of each of 2 or more parties ordered to pay costs is joint and several, unless the court otherwise directs.

Compare: SR 1992/109 r 48

4.14 Defendants defending separately

The court must not allow more than 1 set of costs, unless it appears to the court that there is good reason to do so, if—

- (a) several defendants defended a proceeding separately; and
- (b) it appears to the court that all or some of them could have joined in their defence.

Compare: SR 1992/109 r 49

4.15 Claim and counterclaim both established

The court must award costs as if each party had succeeded in an independent proceeding, unless, in the court's opinion, the justice of the case otherwise requires, if—

- (a) the plaintiff succeeds in his or her proceeding; and
- (b) the defendant succeeds in a counterclaim.

Compare: SR 1992/109 r 50

4.16 Set-off if costs allowed to both parties

If opposite parties are awarded costs against each other, their respective costs must be set off and the lesser sum must be deducted from the greater, unless the court otherwise directs.

Compare: SR 1992/109 r 51

4.17 Solicitor acting in person

A solicitor who is a party to a proceeding and acts in person is entitled to solicitors' costs.

Compare: SR 1992/109 r 52

4.18 Proceeding transferred from High Court

4.18.1 This rule applies if a proceeding has been transferred from the High Court to a District Court and the amount remaining in dispute at the date on which the Registrar receives the documents referred to in section 47 of the Act is less than the amount originally claimed.

4.18.2 The costs incurred after that date must be allowed on the scale and subject to the rules applicable to the costs of a proceeding started in a District Court to recover the amount remaining in dispute.

Compare: SR 1992/109 r 53

4.19 Enforcement of order for costs

An order for the payment of costs may be enforced in the same manner as any other order of a District Court for the payment of money.

Compare: SR 1992/109 r 54

*Security for costs***4.20 Power to make order for security for costs**

4.20.1 This rule applies if the court is satisfied, on the application of a defendant,—

- (a) that a plaintiff—
 - (i) is resident outside New Zealand; or
 - (ii) is a corporation incorporated outside New Zealand; or
 - (iii) is, within the meaning of section 158 of the Companies Act 1955 or section 5 of the Companies Act 1993, as the case may be, a subsidiary of a corporation incorporated outside New Zealand; or
- (b) that there is reason to believe that a plaintiff will be unable to pay the costs of the defendant if the plaintiff is unsuccessful in the plaintiff's proceeding.

4.20.2 This rule does not apply if the matter proceeds in the short trial mode.

4.20.3 When this rule applies, the court may, if it thinks fit in all the circumstances, order the giving of security for costs.

4.20.4 An order under rule 4.20.3—

- (a) must require the plaintiff or plaintiffs against whom the order is made to give security for costs in respect of the sum that the court considers sufficient—
 - (i) by paying that sum into court; or
 - (ii) by giving, to the satisfaction of the Registrar, security for that sum; and
- (b) may stay the proceeding until the sum is paid or the security given, as the case may be.

4.20.5 The court may treat a plaintiff as being resident out of New Zealand even though the plaintiff is temporarily resident in New Zealand.

4.20.6 The court may make an order under rule 4.20.3 even if the defendant has taken a step in the proceeding before applying for security.

4.20.7 References in this rule to a **plaintiff** and **defendant** are references to the person (however described on the record) who,

because of a document filed in the proceeding (for example, a counterclaim), is in the position of plaintiff or defendant.

Compare: SR 1992/109 r 61

4.21 How security to be given

4.21.1 If any officer is empowered to take security from any person for any purpose, the security must be given by the number of sureties and in the form and for the amount that the officer empowered to take security thinks proper.

4.21.2 Any person required to give security may appeal to the court against any decision under rule 4.21.1.

Compare: SR 1992/109 r 62

4.22 Solicitor not to be surety

A party's solicitor may not be accepted as surety for a security that the party is required to give under rule 4.20.3.

Compare: SR 1992/109 r 63

4.23 Surety becoming bankrupt or insolvent

If any surety becomes bankrupt or insolvent or makes a composition with his or her creditors, all further steps in the proceeding by the principal party to the security may be stayed by the court until another surety has been found.

Compare: SR 1992/109 r 64

Part 5
Procedure in special cases

5.1 Application of this Part generally

This Part applies to—

- (a) proceedings in which the relief claimed is wholly within the equitable jurisdiction of the court;
- (b) any proceeding by a person affected by a mortgage or charge (whether legal or equitable) of an interest in land for the purpose of determining—
 - (i) the person's rights or obligations under the mortgage or charge; or

- (ii) the exercise or purported or threatened exercise of any right or power alleged to arise out of the mortgage or charge:
- (c) any other proceeding to which the court directs that this Part applies.

Compare: SR 1992/109 rr 439, 441; HCR 18.1(d)

5.2 Application of this Part to proceedings under Industrial and Provident Societies Act 1908

- 5.2.1 This Part also applies to proceedings in which the relief is claimed solely under the Industrial and Provident Societies Act 1908 but subject to any rules of the relevant society made under that Act.
- 5.2.2 Nothing in this rule prevents a person who is otherwise able to claim relief by filing an originating application under Part 6 from doing so, but in that case nothing in this Part applies to that proceeding.

Compare: SR 1992/109 rr 440, 442

5.3 High Court Rules applied to proceedings under this Part

- 5.3.1 HCR 18.7—application for directions as to service. Disregard HCR 18.7(1)(d) and (4).
- 5.3.2 HCR 18.8—orders giving directions as to service.
- 5.3.3 HCR 18.9—proceeding without service.
- 5.3.4 HCR 18.11—time for serving affidavit in support of appearance.
- 5.3.5 HCR 18.12—statement of defence to be filed.
- 5.3.6 HCR 18.15—evidence generally by agreed statement of facts or affidavit. In applying HCR 9.72 to 9.89, apply rule 3.71 (swearing of affidavits) of these rules instead of HCR 9.73. Disregard HCR 18.15(2)(a).

Compare: 1992/109 rr 444, 445, 448, 450, 451

Part 6

Originating applications

6.1 Application of this Part

6.1.1 An application to the court under any of the following enactments must be filed as an originating application under this Part:

- (a) sections 3, 8, 12, 13, and 20 of the Adoption Act 1955:
- (b) sections 8, 9, 19, and 20 of the Alcoholism and Drug Addiction Act 1966:
- (c) Arbitration Act 1996 (other than a proceeding to enforce an award by way of action—*see* rule 11.3.2):
- (d) section 72A of the Arms Act 1983:
- (e) Auctioneers Act 1928:
- (f) sections 126, 130, 156, 158, 227, 330, and 381 of the Building Act 2004:
- (g) section 62 of the Civil Aviation Act 1990:
- (h) sections 9 and 10 of the Criminal Records (Clean Slate) Act 2004:
- (i) sections 52, 58(1), and 78(1) of the Crown Minerals Act 1991:
- (j) section 23(3) of the Defamation Act 1992:
- (k) sections 95D, 96, 180, and 208 of the Electoral Act 1993:
- (l) Fencing Act 1978:
- (m) section 32 of the Gas Act 1992:
- (n) section 126 of the Health Act 1956:
- (o) section 105 of the Land Transport Act 1998:
- (p) section 12 of the Layby Sales Act 1971:
- (q) section 18(2)(c) of the Marriage Act 1955:
- (r) section 14(4) of the Mental Health (Compulsory Assessment and Treatment) Act 1992:
- (s) sections 9, 12, and 16 of the Minors' Contracts Act 1969:
- (t) Criminal Proceeds (Recovery) Act 2009:
- (u) sections 313 to 318, 332 to 343, and 357 of the Property Law Act 2007:
- (v) Secondhand Dealers and Pawnbrokers Act 2004:
- (w) Sharebrokers Act 1908:
- (x) section 199 of the Summary Proceedings Act 1957:

- (y) section 16 of the Tuberculosis Act 1948:
- (z) sections 140, 210, 211, and 214 of the Unit Titles Act 2010.

- 6.1.2 An application to the court under an enactment that expressly provides for the application to be made by originating application must be filed as an originating application under this Part.
- 6.1.3 A party may apply without notice for permission to start a proceeding by originating application under this Part and the court may, in the interests of justice, permit the proceeding to start in that way. The proposed originating application must be filed with the application for permission.
- 6.1.4 This Part applies to any originating application subject to the Act under which the application is made and any regulations or rules made under that Act.
- 6.1.5 Despite rule 6.1.1(c), a second or subsequent application to the court under the Arbitration Act 1996 concerning the same arbitration, whether brought by the plaintiff or the defendant, must be made by interlocutory application in the same proceeding as the first application.

Compare: SR 1992/109 r 452

Rule 6.1.1(t): substituted, on 1 December 2009, by rule 4 of the District Courts (Criminal Proceeds (Recovery) Act 2009) Amendment Rules 2009 (SR 2009/312).

Rule 6.1.1(z): inserted, on 14 June 2012, by rule 22 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

6.2 Starting proceedings

A proceeding that may be started by originating application is started when the originating application is filed in the proper court, as determined under rule 3.1, or when the court gives permission under rule 6.1.3.

Compare: SR 1992/109 r 453(1)

6.3 High Court Rules applied to proceedings under this Part

- 6.3.1 HCR 19.8—memorandum relating to filing and address for service.
- 6.3.2 HCR 19.9—heading of documents. Form 1 may be used instead of HCF G 1.

- 6.3.3 HCR 19.10—application of rules relating to interlocutory applications.
- 6.3.4 HCR 19.11—directions as to parties and conduct of applications.
- 6.3.5 HCR 19.13—evidence.
- 6.3.6 HCR 19.14—cross-examination of person making affidavit.
Compare: SR 1992/109 rr 453(2)–(4), 454–461

6.4 Directions as to service

HCR 18.8 (orders giving directions as to service) applies as it applies in Part 5 (under rule 5.3.2).

Compare: SR 1992/109 r 456

Part 7

Proceedings under Harassment Act 1997

7.1 Application of Part

This Part applies to proceedings under the Harassment Act 1997.

Compare: SR 1992/109 r 461A(1)

7.2 Interpretation

In this Part, unless the context otherwise requires,—

Act means the Harassment Act 1997

associated respondent means—

- (a) a person against whom a restraining order applies as a result of a direction under section 18 of the Act; or
- (b) a person against whom a direction under section 18 of the Act is sought

interlocutory application does not include a main application; but includes an application that is ancillary to a main application

main application means—

- (a) an application, under section 9 of the Act, for a restraining order;
- (b) an application, under section 22 of the Act, for a variation of a restraining order;

- (c) an application, under section 23 of the Act, for a discharge of a restraining order

protected person means a person for whose protection a restraining order is made.

Compare: SR 1992/109 r 461B

7.3 Construction

This Part must be construed so as to—

- (a) ensure that the object of the Act (as set out in section 6) is attained; and
- (b) secure the just, speedy, simple, and inexpensive determination of proceedings under the Act.

Compare: SR 1992/109 r 461C

7.4 Procedure and practice

7.4.1 This Part prevails over any inconsistent practice in any proceeding under the Act.

7.4.2 When a Judge hears or determines a proceeding under the Act, the Judge may from time to time give directions that are not inconsistent with the Act or this Part and that the Judge thinks proper for regulating the business of the court over which he or she presides.

Compare: SR 1992/109 r 461D

7.5 Application of rules in other Parts

7.5.1 The following rules do not apply to proceedings under the Act:

- (a) the following provisions of these rules:
 - (i) rule 1.4(b) (courts to apply objective):
 - (ii) rule 1.7 (mediation or other alternative dispute resolution):
 - (iii) rule 1.11 (directions in case of doubt):
 - (iv) rule 1.13 (cases not provided for):
 - (v) rules 1.33 to 1.35 (headings on documents):
 - (vi) rules 2.3 to 2.17 (procedure for starting claims under Part 2):
 - (vii) rules 2.40 and 2.41 (allocation of mode of trial):
 - (viii) rules 2.47 and 2.48 (conferences):
 - (ix) rules 3.1 to 3.3 (proper court and transfers):
- (b) the following High Court Rules:

- (i) HCR 4.34 (court may set aside step in proceeding):
- (ii) HCR 4.48 (procedure when minor attains full age):
- (iii) HCR 4.56 (striking out and adding parties):
- (iv) HCR 5.21 to 5.24 (further particulars, notice of proceeding):
- (v) HCR 5.70 and 5.71 (service):
- (vi) HCR 7.7 (admissions and agreements):
- (vii) HCR 7.53 (application for injunction):
- (viii) HCR 8.1 to 8.42 (interrogatories, notice to admit facts, discovery):
- (ix) HCR 9.34 and 9.35 (inspection and testing):
- (x) HCR 10.1 (venue and changing it):
- (xi) HCR 11.6 (form of judgment):
- (xii) HCR 11.11 (judgment to be sealed, dated, and served):
- (xiii) HCR Part 12 (summary judgment).

7.5.2 Unless excluded by rule 7.5.1, the provisions of a rule in another Part apply to proceedings under the Act so far as they are applicable and with the necessary modifications.

7.5.3 The court must apply rule 7.5.2 and the provisions of a rule to which rule 7.5.2 applies in the manner the court thinks best calculated to—

- (a) ensure that the object of the Act (as set out in section 6) is attained; and
- (b) promote the ends of justice.

Compare: SR 1992/109 r 461E

7.6 Cases not provided for

7.6.1 The court may give directions with respect to the procedure and practice to be followed in a particular case if the court is satisfied, in the circumstances of the particular case,—

- (a) that the provisions of the Act, or of these rules, or the practice of the court, do not make adequate provision for procedure or practice; or
- (b) that difficulties have arisen or doubt exists as to the appropriate procedure or practice.

7.6.2 The directions must in the opinion of the court be necessary to—

- (a) ensure that the object of the Act (as set out in section 6) is attained; and
- (b) promote the ends of justice.

Compare: SR 1992/109 r 461F; SR 1996/148 r 6(3)

Forms

7.7 Forms

7.7.1 Any form authorised or directed to be used by this Part may be varied if the circumstances of a particular case require.

7.7.2 Without limiting the generality of rule 7.7.1,—

- (a) if a form authorised or directed to be used by this Part contains or specifies material that is inapplicable in the circumstances of a particular case, that material may be deleted or omitted from the completed form;
- (b) if a form authorised or directed to be used by this Part contains explanatory material intended only for the information of a particular person, that material need not be included in a copy of the form that is required to be served on or given to another person to whom that material is not relevant.

7.7.3 If these rules do not authorise or direct the use of a particular form, the parties or the court may devise an appropriate form, using forms that are authorised or directed to be used by these rules as guides.

Compare: SR 1992/109 r 461G

7.8 Headings

7.8.1 An application, notice, or order must have, on the first page, a general heading (which may be in form 20) that shows—

- (a) the office of the court in which the application or other matter is proceeding; and
- (b) the distinguishing number of the application or other matter; and
- (c) the name of the Act; and

- (d) subject to rules 7.8.2 and 7.14, the full name, address, and occupation of each party, so far as they are known to the party presenting the document for filing.

7.8.2 Unless any form authorised or directed to be used under these rules otherwise requires, and subject to rule 7.14, all other documents that are filed, issued, or served in a proceeding under the Act must have on the first page a general heading that complies with rule 7.8.1, except that, in a case in which it is not necessary to distinguish between 2 or more persons,—

- (a) given names may be indicated by initials only;
- (b) addresses and occupations may be omitted.

Compare: SR 1992/109 r 461H

Main applications

7.9 How to start proceedings

7.9.1 A proceeding under the Act must be started by filing a main application in the proper court, as determined by rule 7.16.

7.9.2 A main application must be made on notice to every person intended to be affected by the order sought by the application.

Compare: SR 1992/109 r 461I; SR 1996/148 r 13

7.10 Form of main application

7.10.1 An application for a restraining order must be in form 21.

7.10.2 An application, under section 22 of the Act, for a variation of a restraining order must be in form 22.

7.10.3 An application, under section 23 of the Act, for a discharge of a restraining order must be in form 22.

Compare: SR 1992/109 r 461J

7.11 Documents accompanying main applications

7.11.1 A main application must be accompanied by—

- (a) a notice of proceeding in form 23, which must be signed by the applicant or the applicant's solicitor or counsel; and
- (b) an affidavit by or on behalf of the applicant, and containing (where applicable) the matters specified in rule 7.12.

7.11.2 A copy of a restraining order that is to be used in support of a main application filed in another court, or a copy of a copy of

the restraining order, must be filed with the main application unless the Registrar otherwise directs.

Compare: SR 1992/109 r 461K

7.12 Supporting affidavits

7.12.1 An affidavit accompanying a main application must set out the matters on which the application is based.

7.12.2 An affidavit accompanying an application for a restraining order must contain sufficient particulars to—

- (a) show the grounds on which the applicant claims to be entitled to the order; and
- (b) inform the court of the facts relied on in support of the application.

7.12.3 An affidavit to which rule 7.12.2 relates must, in particular,—

- (a) indicate the nature and history of the harassment that the applicant alleges the respondent has engaged in, including—
 - (i) an outline of the current situation or most recent incident; and
 - (ii) an outline of the behaviour that forms part of a pattern of behaviour from which protection is needed; and
 - (iii) details of any contact with Police about the behaviour from which protection is needed; and
- (b) show why special conditions are regarded as necessary to protect the applicant from further harassment (if applicable); and
- (c) show why a direction that the restraining order apply against an associated respondent is sought (if applicable), including—
 - (i) details of the way in which the respondent is encouraging or has encouraged the associated respondent's behaviour; and
 - (ii) an outline, similar to that required by paragraph (a), of the nature and history of the harassment that the applicant alleges the associated respondent has engaged in.

7.12.4 If an application is made under section 13 of the Act by a representative, an affidavit containing the matters specified in

rules 7.12.2 and 7.12.3 may be made by any person who has knowledge of the relevant facts.

Compare: SR 1992/109 r 461L

7.13 Number of copies to be filed

There must be filed with every main application the number of copies of the application and the accompanying documents that the Registrar directs is required for service.

Compare: SR 1992/109 r 461M

7.14 Request that residential address be kept confidential

7.14.1 In this rule and in rule 7.15, **applicant** means—

- (a) a person who applies for a restraining order; and
- (b) a protected person who is a party to a proceeding under the Act.

7.14.2 An applicant who wishes that his or her residential address be kept confidential from the other party or parties must file a notice in form 24—

- (a) stating the applicant's residential address; and
- (b) requesting that the address be kept confidential.

7.14.3 On filing the notice in accordance with rule 7.14.2, the applicant is not required to disclose the applicant's residential address in a document that is available to another party (despite any other rule).

7.14.4 To the extent that a document discloses any matter that is to be kept confidential in accordance with this rule or rule 7.15, the document may not be searched, inspected, or copied under rules 3.11 to 3.22 unless the court otherwise directs.

7.14.5 An applicant who changes his or her address from that shown in a notice filed in accordance with rule 7.14.2 may, by notice in form 24, notify that change of address to the Registrar.

7.14.6 Neither this rule nor rule 7.15 affect the obligation to state an address for service in accordance with rule 3.37.9.

Compare: SR 1992/109 r 461N(1)–(3), (5)–(7)

7.15 Request that address of applicant's solicitor be kept confidential

7.15.1 If an applicant's solicitor has instructed another solicitor (the **agent**) to act as the agent of the applicant's solicitor in the proceeding, the applicant may also request in the notice filed under rule 7.14.2 that the name and address of the applicant's solicitor be kept confidential.

7.15.2 When rule 7.15.1 applies,—

- (a) the name of the applicant's solicitor is not required to be disclosed in a document that is available to another party if the name of the agent is disclosed in that document; and
- (b) any rule requiring disclosure of the name of the applicant's solicitor in a document that is available to another party may be complied with by disclosing the name of the agent.

Compare: SR 1992/109 r 461N(4)

7.16 Proper court for filing main application

7.16.1 The **proper court**, for the purposes of rule 7.9, is—

- (a) the court nearest to the place where the applicant or one of the applicants resides; or
- (b) the court nearest to the place specified by the applicant or one of the applicants as his or her address for service; or
- (c) the court nearest to the place where the respondent or an associated respondent resides; or
- (d) with the written consent of every respondent and every associated respondent, any other court.

7.16.2 Written consent given under rule 7.16.1(d) must be filed with the application.

Compare: SR 1992/109 r 461O

7.17 Proceedings started in wrong court

7.17.1 The Registrar may refuse to file a proceeding that, in the Registrar's opinion, is tendered for filing in the wrong court.

7.17.2 If the Registrar refuses to file a proceeding, the applicant may apply to a Judge for a direction that the applicant is entitled to file the proceeding in that court.

7.17.3 If a proceeding is started in the wrong court, a Judge may, on any terms and conditions that the Judge considers appropriate,—

- (a) transfer the proceeding to the court in which it ought to have been started; or
- (b) order that the proceeding continue in the court in which it was started.

7.17.4 No objection may be taken at the hearing or at a subsequent proceeding on the ground that the proceeding was filed in the wrong court.

7.17.5 Rule 7.17.4 does not limit rule 7.17.3.

Compare: SR 1992/109 r 461P

7.18 Procedure on filing main applications

The Registrar must do the following if a main application is filed:

- (a) enter the application in the records of the court; and
- (b) fix a date and time for the hearing of the application, which must be as soon as practicable; and
- (c) inform all parties to the proceeding of the date and time fixed for the hearing; and
- (d) ensure that the respondent and any associated respondent is served with copies of—
 - (i) the application; and
 - (ii) the notice of proceeding; and
 - (iii) the affidavit accompanying the application.

Compare: SR 1992/109 r 461Q

Notice of defence

7.19 Requirement to file and serve notice of defence or address for service

7.19.1 A respondent or an associated respondent who intends to defend a main application must, not less than 5 working days before the date set for the hearing, file in court—

- (a) a notice of defence in form 25; and
- (b) an affidavit setting out sufficient particulars to indicate the grounds on which the defence is based, and suffi-

cient information to inform the court of the facts relied on in support of the defence.

7.19.2 The notice of defence and affidavit required to be filed in court under rule 7.19.1 must be served on the applicant not less than 5 working days before the date set for the hearing.

7.19.3 Rules 7.19.1 and 7.19.2 are subject to any directions given by a Judge in relation to any particular case.

7.19.4 A respondent who does not intend to defend a main application may give an address for service by filing in court a notice of that address and serving a copy on every other party to the proceeding.

Compare: SR 1992/109 r 461R(1), (2), (5)

7.20 Consequences of failure to file and serve notice of defence

7.20.1 If a respondent or an associated respondent fails to comply with rule 7.19.1 or 7.19.2, the court may—

- (a) strike out the defence; or
- (b) allow the respondent or associated respondent to defend the application, or appear at the hearing, only on such terms as the court considers appropriate.

7.20.2 Rule 7.20.1 does not limit any other power the court may exercise if a party fails to comply with these rules.

Compare: SR 1992/109 r 461R(3), (4)

Representatives

7.21 Appointment of representative of certain minors

7.21.1 This rule applies to a minor who—

- (a) is under 16 years of age; or
- (b) is 16 years of age and elects under section 11(2A) of the Act to make an application for a restraining order by a representative.

7.21.2 For the purposes of section 11 of the Act, a representative of a minor to whom this rule applies must be appointed as a litigation guardian of the minor under rule 3.34.7.

7.21.3 Rules 3.34.7, 3.34.8, and 3.34.13 to 3.34.17 apply to the minor and every reference in those rules to an incapacitated person must be read as if it was also a reference to a minor.

Compare: SR 1992/109 r 461S

7.22 Applications against minors

A minor who is aged 17 or over, or who has been married or in a civil union or de facto relationship, who wishes to defend an application against him or her for a restraining order must defend the application on his or her own behalf, without a litigation guardian.

Compare: SR 1992/109 r 461SA

7.23 Appointment of representative of person unable or unwilling to take proceeding

Rules 3.34.13 to 3.34.18 apply to a representative appointed under section 13 of the Act and to the person on whose behalf the representative was appointed as if each reference in those rules—

- (a) to a litigation guardian were a reference to the representative; and
- (b) to an incapacitated person were a reference to the person on whose behalf the representative was appointed.

Compare: SR 1992/109 r 461T

7.24 Effect of minor turning 17, marrying, or entering into civil union

7.24.1 If a minor in relation to whom a representative has been appointed turns 17 years or marries or enters into a civil union before turning 17, all subsequent steps must be taken in the minor's name.

7.24.2 If the minor continues to prosecute or defend the proceeding, he or she is liable for all the costs of the proceeding (including solicitor and client costs) in the same manner as if he or she had started it or had become a party to it at a time when he or she was not a minor.

Compare: SR 1992/109 r 461U

7.25 Effect of ceasing to be unable or unwilling to take proceedings

7.25.1 A party on whose behalf a representative was appointed under section 13 of the Act and who ceases to be a person to whom that section applies must take all subsequent steps in the proceeding in the party's own name.

7.25.2 A party who continues to take steps in the proceeding after he or she ceases to be a person to whom section 13 of the Act applies is liable for all the costs of the proceeding (including solicitor and client costs) in the same manner as if he or she had started it or had become a party to it when he or she was not a person to whom that section applied.

Compare: SR 1992/109 r 461V

Service

7.26 Personal service of applications

7.26.1 A main application and the documents required under the Act or under this Part to accompany the application must be served personally on every person who is required to be served with the application and those documents.

7.26.2 Rule 7.26.1 is subject to rule 7.29.

7.26.3 Service of the application must be made—

- (a) not less than 15 working days before the day of the hearing of the application, if service is effected in New Zealand; or
- (b) not less than 21 working days before the day of the hearing of the application, if service is effected out of New Zealand.

Compare: SR 1992/109 r 461W

7.27 Main applications served by Registrar

7.27.1 The Registrar must serve or cause to be served, without delay, every main application under the Act unless this Part otherwise provides.

7.27.2 Any other document required to be served for the purpose of any proceeding under the Act—

- (a) must be served by the Registrar if a Judge so directs;
- (b) in the absence of a direction under paragraph (a), may be served by the Registrar.

7.27.3 The Registrar may authorise service of a document that he or she is required to serve under this rule to be effected by—

- (a) a bailiff; or
- (b) a constable, if—
 - (i) no bailiff is available to serve the document; or

- (ii) the court or the Registrar considers it appropriate in the circumstances; or
- (c) a solicitor for a party; or
- (d) a solicitor acting as agent for that solicitor; or
- (e) a person employed or engaged by a party or by either solicitor.

Compare: SR 1992/109 r 461X

7.28 Parties may not effect service

Personal service of a document may not be effected by a party to the proceeding, but the party may be present when service is effected.

Compare: SR 1992/109 r 461Y

7.29 Substituted service

If for any sufficient reason service of a document cannot be effected in the manner specified by this Part, the court or a Registrar may give any direction provided for by rule 3.43 (substituted service) or make any order provide for by that rule.

Compare: SR 1992/109 r 461Z

Conferences

7.30 Power of Judge to call conference

7.30.1 For the purpose of ensuring that every application under the Act may be determined in a just, expeditious, and economical manner, a Judge may at any time, either on application by either party or their solicitors or counsel or without an application by any of them, on any terms the Judge thinks fit, direct the holding of a conference of—

- (a) parties; or
- (b) the solicitors or counsel representing the parties.

7.30.2 The Judge must preside over the conference and may adjourn the conference from time to time and from place to place.

7.30.3 The solicitor or counsel representing any party may attend either in the place of the party or with the party, if the conference is held under rule 7.30.1(a).

7.30.4 Any party who is not represented by a solicitor or counsel may attend the conference, if the conference is held under rule 7.30.1(b).

Compare: SR 1992/109 r 461ZC

7.31 Orders and directions

7.31.1 At any conference held under rule 7.30, the Judge presiding may make any orders and give any directions as appear best adapted—

- (a) to ensure that the object of the Act (as set out in section 6) is attained; and
- (b) to secure the just, expeditious, and economical disposal of the application under the Act.

7.31.2 Rule 7.31.1 includes (without limitation) the power to—

- (a) settle the issues to be determined;
- (b) direct by whom and within what time any affidavit or other document must be filed;
- (c) require any party to make admissions in respect of questions of fact, and, if that party refuses or fails to make an admission in respect of any question of fact, require that party (subject to the direction of the Judge hearing the application) to bear the costs of proving that question at the hearing;
- (d) shorten, extend, or fix a time for the filing of any document or the doing of any other thing;
- (e) require further or better particulars of any facts or other circumstances connected with the application;
- (f) fix a time and place for the hearing of the proceeding;
- (g) give any consequential directions that may be necessary.

7.31.3 The court may do the following if a party fails to comply with an order or a direction given or made under this rule:

- (a) if the party failing to comply with the order or direction is the applicant, order the proceeding to be dismissed or stayed until the order is complied with;
- (b) if the party failing to comply with the order or direction is not the applicant, order that the party be allowed to defend or to appear at the hearing only on any terms the court considers appropriate:

- (c) take the failure into account in exercising the court's power to make an order as to costs.

7.31.4 Rule 7.31.3 does not limit any other power the court may exercise where a party fails to comply with an order or direction.

Compare: SR 1992/109 r 461ZD

Amendments

7.32 Amendment before service

7.32.1 The Registrar may, on the written request of the applicant at any time before the service of an application, amend the application filed in the court.

7.32.2 The Registrar may, on the written request of the respondent, or any associated respondent, at any time before service of a notice of defence or a notice of opposition, amend the notice filed in court.

Compare: SR 1992/109 r 461ZE

Transfer of proceeding or hearing

7.33 Transfer of proceeding

A court or Registrar may order that a proceeding in that court be transferred to another court if the court or, as the case requires, the Registrar is satisfied that the proceeding can be more conveniently or fairly dealt with in that other court.

Compare: SR 1992/109 r 461ZF

7.34 Transfer of hearing

A court or Registrar may order that the hearing of an application filed in that court be transferred to another court if the court or, as the case requires, the Registrar is satisfied that the application can be more conveniently or fairly heard in that other court.

Compare: SR 1992/109 r 461ZG

7.35 Transfer with or without application

7.35.1 A court or Registrar may order a transfer under rule 7.33 or rule 7.34—

- (a) on the court's or, as the case requires, the Registrar's own initiative; or

- (b) on the application of a party on not less than 3 working days' notice.

7.35.2 The applicant may ask the court to review a decision of the Registrar to decline an application to transfer a proceeding or hearing, and in that case the court may make any decision on the application that it thinks fit.

7.35.3 If an order is made for transfer of a proceeding or hearing,—

- (a) the order must be endorsed on the application; and
- (b) the Registrar must cause notice of the transfer to be given to all parties.

Compare: SR 1992/109 r 461ZH

7.36 Procedure on transfer of proceeding

7.36.1 If an order is made under rule 7.33 for the transfer of a proceeding,—

- (a) the Registrar of the court in which the order is made must send to the Registrar of the other court all the documents in his or her custody relating to the proceeding; and
- (b) the Registrar of the court to which the proceeding is transferred must enter the proceeding in the records of that court.

7.36.2 On transfer, the proceeding continues as if it had been originally filed in the court to which it has been transferred.

7.36.3 This rule applies with any necessary modifications to the transfer of a proceeding to the High Court under section 43 of the District Courts Act 1947.

Compare: SR 1992/109 r 461ZI

7.37 Procedure on transfer of hearing

7.37.1 If an order is made under rule 7.34 for the transfer of a hearing,—

- (a) the Registrar of the court in which the application is pending must—
 - (i) send to the Registrar of the other court all the documents in his or her custody relating to the proceeding; and
 - (ii) note the records of the court accordingly; and

- (b) the Registrar of the court in which the proceeding is to be heard must make an appropriate entry in the records of the court.

7.37.2 For the purposes of the hearing, the application must be dealt with as if it had been filed in the court of hearing.

7.37.3 When the hearing is concluded,—

- (a) the Registrar of the court of hearing must return all the documents relating to the proceeding, including every order that has been made in that proceeding, to the Registrar of the court from which the documents were sent; and
- (b) the Registrar to whom the documents are returned must record every order made in the proceeding in the records of the court.

Compare: SR 1992/109 r 461ZJ

Form of restraining order

7.38 Form of restraining order

A restraining order must be in form 26.

Compare: SR 1992/109 r 461ZK

Availability of records for criminal proceedings

7.39 Transfer of information to criminal court

7.39.1 In this rule, **harassment offence** means an offence against—

- (a) section 8 of the Act; or
- (b) any other enactment in any case if the offence—
 - (i) is committed by a person against whom a restraining order is in force, or in respect of whom a proceeding on an application for a restraining order is pending, at the time the offence is committed; and
 - (ii) is committed against a person for whose protection the restraining order was made or has been applied for, as the case may be; and
 - (iii) consists of or includes a specified act within the meaning of section 4 of the Act.

7.39.2 This rule applies if, in the course of a criminal proceeding in respect of an harassment offence, there is reason to believe that—

- (a) the defendant in that criminal proceeding is or has been a respondent or an associated respondent to a proceeding (the **civil proceeding**) under the Act for a restraining order; and
- (b) information relating to the civil proceeding may be relevant to the criminal proceeding, including (without limitation) for the purposes of assisting with the preparation of a probation officer's report under section 26 of the Sentencing Act 2002.

7.39.3 When this rule applies, the court dealing with the criminal proceeding, or a Registrar of that court, may request the Registrar of the court in which the civil proceeding was brought to supply either or both of the following:

- (a) information about the current status of the civil proceeding;
- (b) a copy of any order made in the civil proceeding.

7.39.4 A Registrar to whom a request is made under rule 7.39.3 must, without delay, provide to the requesting court or Registrar as much of the information requested as the requested Registrar has available to him or her.

Compare: SR 1992/109 r 461ZL

Interlocutory applications

7.40 Interlocutory applications

The High Court Rules listed in rule 3.52 apply with the necessary modifications to interlocutory applications made in proceedings under the Act.

Compare: SR 1992/109 r 461ZA

7.41 Applications for extending time used as delaying tactic

No order extending time may be made under rule 1.18 if it appears to the court or the Registrar, as the case may be, that the application for the order is made with the principal object of delaying the proceeding to the detriment of the other party.

Compare: SR 1992/109 r 461ZB

Part 8

Proceedings under subpart 6 of Part 8 of Local Government Act 2002

8.1 Application of this Part

This Part applies to proceedings under subpart 6 of Part 8 of the Local Government Act 2002.

8.2 Interpretation

In this Part, unless the context otherwise requires, **Act** means the Local Government Act 2002.

8.3 Application of rules in other Parts

8.3.1 The following rules do not apply to proceedings under subpart 6 of Part 8 of the Act:

- (a) the following provisions of these rules:
 - (i) rule 1.7 (mediation and other alternative dispute resolution):
 - (ii) rules 2.3 to 2.17 (procedure for starting claims under Part 2):
 - (iii) rules 2.40 and 2.41 (allocation of mode of trial):
 - (iv) rules 2.47 and 2.48 (conferences):
 - (v) rule 3.1 (proper court):
- (b) the following High Court Rules:
 - (i) HCR 5.21 (further particulars):
 - (ii) HCR 5.70 and 5.71 (service):
 - (iii) HCR 7.53 (application for injunction):
 - (iv) HCR 8.1 to 8.42 (interrogatories, notice to admit facts, discovery):
 - (v) HCR 9.34 and 9.35 (inspection and testing):
 - (vi) HCR 10.1 (venue and changing it):
 - (vii) HCR 11.6 (form of judgment):
 - (viii) HCR 11.11 (judgments to be sealed, dated, and served):
 - (ix) HCR Part 12 (summary judgment).

8.3.2 Unless excluded by rule 8.3.1, the provisions of a rule in another Part apply to proceedings under subpart 6 of Part 8 of the Act so far as they are applicable and with the necessary modifications.

- 8.3.3 For the purpose of applying a rule in accordance with rule 8.3.2, **pleading** includes an application for a removal order and a notice of objection.

Compare: SR 1992/109 r 461ZO

Removal orders

8.4 Starting proceeding

- 8.4.1 A proceeding is started by filing an application for a removal order under section 215 of the Act in the court that is nearest to the property to which the application relates.

- 8.4.2 The proper heading of an application is form 1.

Compare: SR 1992/109 r 461ZP

8.5 Application for removal order

- 8.5.1 An application for a removal order must be in form 27.

- 8.5.2 The application must state whether the applicant seeks—

- (a) removal or alteration of all or part of the fence, vegetation, or structure;
- (b) a consequential order, including an order that entry be made onto any portion of land adjoining the property to which the application relates;
- (c) directions as to service under clause 2 of Schedule 14 of the Act.

- 8.5.3 An application for the alteration of all or part of the fence, structure, or vegetation—

- (a) must state the nature of that alteration; and
- (b) may have a drawing or plan of the alteration attached to it.

- 8.5.4 An affidavit made by or on behalf of the applicant, setting out the matters on which the application is based, must be filed with every application for a removal order.

- 8.5.5 The affidavit must contain sufficient information to inform the court of—

- (a) the grounds on which the application is based; and
- (b) the facts relied on in support of the application; and
- (c) the reasons for seeking the removal of all or part of a fence, a structure, or vegetation (if applicable); and

- (d) the reasons for seeking the alteration of all or part of a fence, a structure, or vegetation (if applicable); and
- (e) the reasons why entry onto a portion of land adjoining the property is necessary to enforce a removal or alteration (if applicable).

Compare: SR 1992/109 r 461ZQ

8.6 Procedure on applications for removal order

- 8.6.1 The Registrar must fix a date and time for a hearing if an appearance is necessary or required for an application for a removal order, and must inform the applicant accordingly.
- 8.6.2 The Registrar must immediately inform the applicant of the terms of any order made on an application for which no appearance is necessary or required.

Compare: SR 1992/109 r 461ZR

8.7 Removal orders

A removal order must be in form 28.

Compare: SR 1992/109 r 461ZS

8.8 Service of removal order on respondent

- 8.8.1 After a removal order is made, the respondent must, without delay, be served with a copy of—
 - (a) the removal order; and
 - (b) the application for the order; and
 - (c) a copy of each affidavit filed in support of the application.
- 8.8.2 Despite rule 8.8.1, a Judge or Registrar may direct that the removal order is to be served on the respondent without 1 or more of the copies required by rule 8.8.1(b) and (c), but in that case must direct that the respondent be given opportunity to collect the documents not served on the respondent from a specified place.
- 8.8.3 Rule 8.8.1 is subject to any direction given by the court under clause 2 of Schedule 14 of the Act.

Compare: SR 1992/109 r 461ZT

8.9 Service of removal order on other parties

8.9.1 After a removal order is made, all persons (other than the respondent) entitled to object under section 217(1) of the Act must, without delay, be served with a copy of—

- (a) the removal order; and
- (b) a notice in form 29.

8.9.2 A copy of the application for the order and the affidavit or affidavits filed in support of the application need not be served on a person to whom rule 8.9.1 applies, but the Registrar must, on request, make copies of those documents available to that person.

8.9.3 Rule 8.9.1 is subject to any direction given by the court under clause 2 of Schedule 14 of the Act.

Compare: SR 1992/109 r 461ZU

8.10 Mode of service of removal order

8.10.1 A removal order must be served personally unless rule 8.10.2 or 8.10.3 applies.

8.10.2 A removal order may be served on a respondent who is the occupier of the property to which the order relates by leaving a copy of the order in a prominent position at the property.

8.10.3 If for any sufficient reason a removal order cannot be served in the manner specified by this rule, the court or a Registrar may give any direction provided for by rule 3.43 (substituted service) or make any order provided for by that rule.

8.10.4 This rule is subject to any direction given by the court under clause 2 of Schedule 14 of the Act as to the manner in which service is to be effected on a specified party.

8.10.5 This rule does not apply to service of an order that confirms, varies, or discharges the removal order following the making of an objection.

Compare: 1992/109 r 461ZV

*Notices of objection***8.11 Notice of objection**

8.11.1 A notice of objection must be in form 30.

- 8.11.2 A notice of objection must state whether the objector seeks a discharge of the removal order or whether a specified variation of the order would meet the objector's concerns.
- 8.11.3 An affidavit must accompany every notice of objection and must contain sufficient information to inform the court of—
- (a) the facts relied on in support of the objection; and
 - (b) the facts relied on in support of the proposed variation of the order (if applicable).
- 8.11.4 If a party who wishes to object to a removal order fails to file a notice of objection in form 30 accompanied by an affidavit described in rule 8.11.3, the court may—
- (a) strike out the objection; or
 - (b) if an oral hearing is to be held to decide the objection, allow the party wishing to object to appear at the hearing only on any terms that the court considers appropriate.
- 8.11.5 Rule 8.11.4 does not limit any other power the court may exercise where a party fails to comply with these rules.

Compare: 1992/109 r 461ZW

8.12 Manner in which notice of objection to be dealt with

- 8.12.1 The Registrar must, if an oral hearing is to be held under clause 7 of Schedule 14 of the Act, notify every person who has been served with a copy of the removal order that he or she is entitled to—
- (a) appear at the hearing, either in person or by his or her solicitor or counsel; or
 - (b) make submissions in writing in relation to the objection.
- 8.12.2 The Registrar must, if the court has determined to decide an objection made by a person described in clause 3(a)(iii) to (v) of Schedule 14 of the Act without an oral hearing, notify the applicant and every other person entitled to object under section 217(1) of the Act that he or she may make written submissions in relation to the objection.
- 8.12.3 A written submission made in response to a notice given under rule 8.12.1(b) or 8.12.2 must be lodged with the court within 5 working days after the date on which the Registrar notifies the objector under either of those provisions, or within any longer period that the court may specify in the notice.

8.12.4 The Registrar must ensure that a copy of the objection accompanies a notice given under rule 8.12.1 or 8.12.2 if a copy of the objection has not previously been served on the person to whom the notice is given.

8.12.5 A Registrar may exercise the powers of the court under—

- (a) clause 7(3) of Schedule 14 of the Act (to determine if objections by persons other than the respondent or the owner are to be decided with or without an oral hearing); and
- (b) clause 7(4) of Schedule 14 of the Act (to decide whether hearings are to be heard together).

Compare: SR 1992/109 r 461ZX

Interlocutory applications

8.13 Interlocutory applications

The High Court Rules listed in rule 3.52 apply with the necessary modifications to interlocutory applications made in proceedings under subpart 6 of Part 8 of the Act.

Compare: SR 1992/109 r 461ZY

8.14 Applications for extending time used as delaying tactic

No order extending time may be made under rule 1.18 if it appears to the court or the Registrar, as the case may be, that there is no genuine reason or excuse for the application.

Compare: SR 1992/109 r 461ZZ

Entry of land to enforce removal orders

8.15 Notice where land entered to enforce removal order

8.15.1 The notice of entry required to be given under section 221(1)(d) of the Act by an applicant to the relevant owner and occupier,—

- (a) following entry of the property to which the order relates, must be in form 31;
- (b) following entry of a property adjoining the property to which the order relates, must be in form 32.

8.15.2 A notice referred to in rule 8.15.1 may be served—

- (a) on the occupier by leaving the notice in a prominent position on the property that was entered:

- (b) by posting the notice to the owner's address, if the owner is not the occupier.

Compare: SR 1992/109 r 461ZZA

Part 9

Proceedings under Construction Contracts Act 2002

General

9.1 Application of this Part

This Part applies to—

- (a) an application for review; and
- (b) an application for an adjudicator's determination to be enforced.

Compare: SR 1992/109 r 461ZZC

9.2 Interpretation

In this Part, unless the context otherwise requires,—

Act means the Construction Contracts Act 2002

application for an adjudicator's determination to be enforced—

- (a) means an application for an adjudicator's determination to be enforced by entry as a judgment in accordance with subpart 2 of Part 4 of the Act; and
- (b) if the adjudicator has recorded in the adjudicator's determination his or her approval for the issue of a charging order in respect of a construction site, includes an application, under section 76(2)(a) of the Act, for the issue of that charging order

application for review means an application made by an owner who is not a respondent under section 52 of the Act for a review of—

- (a) an adjudicator's determination that the owner is jointly and severally liable with the respondent to make a payment to the claimant; and
- (b) an adjudicator's approval for the issue of a charging order in respect of the construction site

party to the relevant adjudication proceedings—

- (a) means the claimant or the respondent in those proceedings; and
- (b) if the context requires, includes the owner of the construction site who was not a respondent in, but was a party to, those proceedings

Regulations means the Construction Contracts Regulations 2003

relevant adjudication proceedings means the adjudication proceedings that relate to—

- (a) an application for review; or
- (b) an application for an adjudicator's determination to be enforced.

Compare: SR 1992/109 r 461ZZB

9.3 Application of other rules and practice of court

The other Parts of these rules, the District Courts Act 1947, and the general practice of the court (including the procedure and practice in chambers) apply if this Part applies except in so far as they are modified by, or inconsistent with, the Act or this Part.

Compare: SR 1992/109 r 461ZZD

*Review of adjudicator's determination in respect
of owner who is not respondent*

9.4 Form of application for review

An application for review must be made by filing a notice in form 4 of Schedule 1 of the Regulations within the time set out in section 53(2) of the Act.

Compare: SR 1992/109 r 461ZZE

9.5 Where to file application for review

An application for review must be filed in the court nearest to the place at which the relevant adjudication proceedings were held.

Compare: SR 1992/109 r 461ZZF

9.6 Procedure after filing of application for review

9.6.1 After an application for review is filed,—

- (a) the Registrar must—
 - (i) enter the application in the records of the court; and
 - (ii) refer the application to a Judge without delay; and
 - (iii) endorse on the copy of the application to be served by the applicant under paragraph (b) the date and time that has been fixed for the hearing; and
- (b) the applicant must serve a copy of the application that is endorsed with the date and time fixed for the hearing, and of any accompanying documents, on—
 - (i) the respondent; and
 - (ii) any other party to the relevant adjudication proceedings.

9.6.2 It is not necessary to serve a copy of the application for review on the adjudicator whose determination is the subject of the application, unless the court otherwise directs.

Compare: SR 1992/109 r 461ZZG

9.7 Notice of opposition to application for review

9.7.1 If a party to the relevant adjudication proceedings intends to oppose the application for review, that party must, within 15 working days after being served with the application,—

- (a) file in the court a notice of opposition; and
- (b) serve a copy of the notice and of any accompanying documents on—
 - (i) the applicant; and
 - (ii) any other party to the relevant adjudication proceedings.

9.7.2 The notice must state—

- (a) the party's intention to oppose the application; and
- (b) the grounds of opposition.

9.7.3 It is not necessary to serve a copy of the notice on the adjudicator whose determination is the subject of the application, unless the court otherwise directs.

Compare: SR 1992/109 r 461ZZH

9.8 Adjudicator to forward documents relating to adjudication proceedings on request

An adjudicator whose determination is the subject of an application for review must, on the request of the Registrar, forward to the court all documents in his or her custody relating to the determination within 5 working days after receiving the request.

Compare: SR 1992/109 r 461ZZI

*Enforcement of adjudicator's determination***9.9 Application for adjudicator's determination to be enforced**

9.9.1 An application for an adjudicator's determination to be enforced must—

- (a) be in form 33; and
- (b) be accompanied by a copy of the adjudicator's determination that is sought to be enforced.

9.9.2 The application must be filed in the court nearest to the place at which the relevant adjudication proceedings were held.

Compare: SR 1992/109 r 461ZZJ

9.10 Service

Either before or immediately after the filing of an application for an adjudicator's determination to be enforced, the plaintiff must serve a copy of the application and of any accompanying documents on—

- (a) the defendant; and
- (b) any other party to the relevant adjudication proceedings.

Compare: SR 1992/109 r 461ZZK

9.11 Opposition to application for adjudicator's determination to be enforced

9.11.1 A defendant who wishes to oppose the application for an adjudicator's determination to be enforced must, within 15 working days after the date on which a copy of the application is served on the defendant,—

- (a) file an application in the court seeking an order that enforcement of the adjudicator's determination be refused; and
- (b) serve a copy of the application and of any accompanying documents on—
 - (i) the plaintiff; and
 - (ii) any other party to the relevant adjudication proceedings.

9.11.2 The application must be in form 34.

Compare: SR 1992/109 r 461ZZL

Part 9A

Search warrants issued under Financial Markets Authority Act 2011

[Revoked]

Part 9A: revoked, on 1 October 2012, by rule 4 of the District Courts (Financial Markets Authority Form of Search Warrant) Amendment Rules 2012 (SR 2012/234).

9A.1 Form of search warrant

[Revoked]

Rule 9A.1: revoked, on 1 October 2012, by rule 4 of the District Courts (Financial Markets Authority Form of Search Warrant) Amendment Rules 2012 (SR 2012/234).

Part 10

Proceedings in admiralty

10.1 Application of this Part

This Part applies to proceedings in any District Court in its admiralty jurisdiction.

Compare: SR 1992/109 r 461ZZM

10.2 Interpretation

In this Part, unless the context otherwise requires,—

Act means the Admiralty Act 1973

Registrar means the Registrar of a District Court; and includes a Deputy Registrar.

Compare: SR 1992/109 r 461ZZN

10.3 Application of other rules and practice of court

The other Parts of these rules, the District Courts Act 1947, and the general practice of the court (including the procedure and practice in chambers) apply if this Part applies except in so far as they are modified by, or inconsistent with, the Act or this Part.

Compare: SR 1992/109 r 461ZZO

10.4 Preliminary acts to be filed in collision cases

In an action arising out of a collision between ships, unless the court otherwise orders on the application of any intended party to the proceedings,—

- (a) the plaintiff must file a preliminary act when filing the statement of claim and the notice of proceeding;
- (b) the defendant must file a preliminary act when filing the statement of defence.

Compare: SR 1992/109 r 461ZZP(1)

10.5 Meaning of preliminary act

A **preliminary act** is a document containing a statement of the following particulars:

- (a) the names of the ships that came into collision and their ports of registry;
- (b) particulars (referring to the period immediately before the collision) of the person in command, the persons on the bridge, and the persons keeping a lookout on the plaintiff's ship (if the plaintiff is filing a preliminary act) and on the defendant's ship (if the defendant is filing a preliminary act);
- (c) the date and time of the collision;
- (d) the place of the collision;
- (e) the direction and force of the wind;
- (f) the state of the weather, including visibility;
- (g) the state, direction, and force of the tidal or other current;
- (h) the ship's course and speed through the water when the other ship was first seen or immediately before any measures were taken in connection with its presence, whichever was the earlier:

- (i) the lights (if any) carried by the ship:
- (j) the distance and bearing of the other ship if and when its echo was first observed by radar:
- (k) the distance, bearing, and approximate heading of the other ship when first seen:
- (l) the other ship's light or combination of lights (if any) when first seen:
- (m) the other lights or combination of lights (if any) of the other ship that were subsequently seen before the collision, and the time of the sighting:
- (n) the alterations (if any) made to the ship's course and speed after the earlier of the 2 times referred to in paragraph (h) up to the time of the collision, and the times of those alterations, and the measures (if any), other than alterations of course or speed, taken to avoid the collision, and the times of those measures:
- (o) the parts of each ship that first came into contact and the approximate angle between the 2 ships at the moment of contact:
- (p) the sound signals or other signals (if any) given, and the times of those sound signals or other signals:
- (q) the sound signals or other signals (if any) heard or seen from the other ship, and the times of hearing or seeing those sound signals or other signals.

Compare: SR 1992/109 r 461ZZP(2)

10.6 Notice of filing of preliminary act to be served on other parties

A party filing a preliminary act must, within 3 working days of filing, serve notice of the filing on every other party.

Compare: SR 1992/109 r 461ZZP(3)

10.7 Registrar to seal and file preliminary acts

10.7.1 The Registrar must seal every preliminary act and file it in a closed envelope (which must be sealed with the official stamp of the court and show the date of filing), and, unless the court otherwise orders, the envelope must not be opened until a date has been fixed for a hearing and a consent to the opening of the preliminary acts is filed.

10.7.2 The consent must be signed by each of the parties who has filed a preliminary act.

Compare: SR 1992/109 r 461ZZQ

10.8 Failure to lodge preliminary act

10.8.1 This rule applies if, in any proceeding referred to in rule 10.4, a defendant fails within the prescribed period to lodge a preliminary act and the plaintiff has lodged a preliminary act.

10.8.2 When this rule applies, rules 12.23 to 12.35 (judgment by default) apply as if the defendant's failure to lodge a preliminary act within that period were a failure to file and serve a statement of defence within the period fixed by or under these rules for doing those things.

Compare: SR 1992/209 r 461ZZR

10.9 Actions for limitation of liability

10.9.1 If, in any proceeding in the admiralty jurisdiction of the court, a party seeks relief under Part 7 of the Maritime Transport Act 1994, that relief must be sought in the High Court under subpart 4 of HCR Part 25 (HCR 25.25 to 25.28).

10.9.2 The court may—

- (a) proceed to a hearing on liability; or
- (b) stay the proceeding pending the outcome of the proceeding in the High Court; or
- (c) order that the proceeding be transferred to the High Court.

10.9.3 Any order for the transfer of a proceeding to the High Court may be made subject to any conditions that the court thinks fit requiring that the defendant give security for the costs of the proceeding in the High Court.

Compare: SR 1992/209 r 461ZZS

10.10 Inspection of ship or other property

10.10.1 The court may, on the application of any party, make an order for the inspection by a court expert, or by any party or witness, of any ship or other property, whether real or personal, if the inspection is necessary or desirable for the purpose of

obtaining full information or evidence in connection with any issue in the proceeding.

10.10.2 Nothing in rule 10.10.1 limits the court's powers under the District Courts Act 1947 or these rules.

Compare: SR 1992/109 r 461ZZT

Part 11

Entry of award as judgment under article 35 of Schedule 1 of Arbitration Act 1996

11.1 Interpretation

In this Part, unless the context otherwise requires,—

Act means the Arbitration Act 1996

arbitral tribunal has the same meaning as in section 2(1) of the Act

Schedule 1 means Schedule 1 of the Act.

Compare: HCR 26.1

11.2 Entry of judgment where all parties agree

11.2.1 All parties to an award who agree that it may be entered as a judgment may apply to a Registrar by letter signed by all parties or their solicitor or counsel requesting the entry of the award as a judgment.

11.2.2 The Registrar must enter the award as a judgment as soon as practicable—

- (a) if he or she is satisfied that all parties have agreed; and
- (b) if he or she is satisfied with respect to the matters set out in article 35(2) of Schedule 1.

Compare: HCR 26.20

11.3 Entry of judgment in other cases

11.3.1 If rule 11.2 does not apply, a party to an award who wishes to enforce it may—

- (a) enforce it by action; or
- (b) apply to the court for entry of the award as a judgment.

11.3.2 A party electing the method set out in rule 11.3.1(a) starts a proceeding by filing a statement of claim under rule 2.9.

11.3.3 A party electing the method set out in rule 11.3.1(b) must follow the procedure set out in rules 11.4 to 11.9.

Compare: HCR 26.21

11.4 Application for entry of award as judgment

11.4.1 The party to the award must file an originating application in the proper court, as determined in accordance with rule 3.1.

11.4.2 The originating application—

- (a) must be in form 35; and
- (b) must not name the arbitral tribunal as a defendant.

11.4.3 HCR 5.44 applies to the originating application.

Compare: HCR 26.22

11.5 Affidavit to be filed in support

At the same time as the originating application is filed, the plaintiff must file an affidavit proving the matters set out in article 35(2) of Schedule 1.

Compare: HCR 26.23

11.6 Service

11.6.1 The plaintiff must serve copies of both the originating application and the affidavit on the defendant either before or immediately after filing the originating application.

11.6.2 Rule 11.6.1 does not apply if the plaintiff obtains an order under rule 11.7.

Compare: HCR 26.24

11.7 Entry as judgment without notice in exceptional circumstances

11.7.1 In exceptional circumstances, the plaintiff may, on or after the filing of the originating application, file an application without notice for an order that the award be entered as a judgment.

11.7.2 The application must be supported by an affidavit that sets out the exceptional circumstances that justify the order sought.

11.7.3 The court may determine the application without notice and make the order sought if satisfied that the order is required in the interests of justice.

11.7.4 If the court makes the order sought, the court may also direct that the award not be enforced before the order has been served on the defendant and a period specified by the court has expired after that service.

Compare: HCR 26.25

11.8 Entry as judgment if defendant takes no steps

11.8.1 The Registrar must enter the award as a judgment as soon as practicable if—

- (a) the defendant has failed to file and serve an application in accordance with rule 11.9 within the time specified in rule 11.8.2; and
- (b) the plaintiff makes an application for the entry.

11.8.2 The time is whichever of the following applies:

- (a) 15 working days after the plaintiff's application is served on the defendant; or
- (b) a period fixed by the court of less than 15 working days after the order fixing that period is served on the defendant.

11.8.3 An application to the Registrar under rule 11.8.1(b)—

- (a) is made by letter signed by the plaintiff or his or her solicitor or counsel requesting the entry of the award as a judgment; and
- (b) need not be served on the defendant.

11.8.4 An application for an order under rule 11.8.2(b) may be made without notice.

11.8.5 An order under rule 11.8.2(b) does not take effect unless it is served on the defendant together with the documents referred to in rule 11.6.1.

11.8.6 Rule 11.8.5 applies even if the originating application to which the order relates has already been served on the defendant, and in that case the previous service of the application ceases to have effect when the order is made.

Compare: HCR 26.26

11.9 Opposition to entry as judgment

11.9.1 This rule applies if a defendant wishes to oppose the originating application.

- 11.9.2 The plaintiff's application is stayed pending the determination of an application under this rule.
- 11.9.3 The defendant must file and serve an application seeking an order for refusal of recognition and enforcement in terms of article 36 of Schedule 1.
- 11.9.4 The application referred to in rule 11.9.3 must be—
- (a) filed and served within the time specified in rule 11.8.2; and
 - (b) treated as if it were an originating application under Part 6; and
 - (c) disposed of in accordance with Part 6; and
 - (d) determined at the same time as the plaintiff's application to enforce the award by entry as a judgment.
- 11.9.5 To avoid doubt, an application under this rule is concerned with the recognition or enforcement of an award and not with any question of law arising out of the award that may be determined by the High Court or Court of Appeal under clause 5 of Schedule 2 of the Act.
- Compare: HCR 26.27

Part 12

Disposal of proceedings

Evidence at trial

12.1 How evidence to be given

- 12.1.1 HCR 9.51—evidence to be given orally.
- 12.1.2 HCR 9.54—evidence of person in custody.
- 12.1.3 HCR 9.56—affidavit evidence under order of court.
- 12.1.4 HCR 9.57—agreed statement of facts.

Compare: SR 1992/109 rr 495–500

12.2 Witness summons

- 12.2.1 A party to a proceeding must make a request to the Registrar if the party wants a person summoned as a witness to—
- (a) give oral evidence at the trial; or
 - (b) produce at the trial any document in his or her possession or control.

12.2.2 On receiving a request under rule 12.2.1, the Registrar must issue a witness summons in form 36 and a copy of it.

12.2.3 The summons must be served on the witness personally at a reasonable time before the day fixed for the hearing.

12.2.4 The sum payable for allowances and travelling expenses, but not fees, under the Witnesses and Interpreters Fees Regulations 1974 must be paid or tendered to the witness at the time the summons is served.

Compare: SR 1992/109 r 496

12.3 Affidavit evidence by agreement

12.3.1 In any proceeding the parties may file an agreement signed by the parties that the evidence, or any part of the evidence, will be given by affidavit.

12.3.2 Despite any agreement filed under rule 12.3.1, the court may direct that evidence of any disputed fact or issue be given in accordance with HCR 9.51.

Compare: SR 1992/109 r 498

Evidence in trans-Tasman proceedings

12.4 Evidence in trans-Tasman proceedings

12.4.1 HCR 9.58—interpretation.

12.4.2 HCR 9.59(1), (2)—issue of subpoenas for service in Australia. An order for a subpoena may be obtained in the same manner and subject to the same conditions as a witness summons under rule 12.2 of these rules.

12.4.3 HCR 9.61—service of subpoena on witness in Australia.

12.4.4 HCR 9.65—failure to comply with subpoena.

12.4.5 HCR 9.67—evidence and submissions by video link and telephone conference.

12.4.6 Leave to issue a subpoena for service in Australia must be obtained from the High Court (section 154 of the Evidence Act 2006 and HCR 9.60).

Compare: SR 1992/109 rr 500A–500E

*Procedure for giving evidence by affidavit***12.5 Procedure**

12.5.1 HCR 9.68—application.

12.5.2 HCR 9.69—time for filing plaintiff’s affidavits. The reference to HCR 9.55 is to be read as a reference to rule 12.3 of these rules.

12.5.3 HCR 9.70—time for filing defendant’s affidavits.

12.5.4 HCR 9.71—time for filing affidavits in reply.

12.5.5 HCR 9.72—use of affidavits.

12.5.6 HCR 9.74—cross-examination of person who has sworn affidavit.

12.5.7 HCR 9.75—person refusing to make affidavit.

12.5.8 Rules about the form, content, and swearing of affidavits are in rules 3.70 and 3.71 of these rules.

Compare: SR 1992/109 rr 501–507

*Venue, adjournments, and appearances***12.6 Hearing**

12.6.1 HCR 10.1—venue and changing it. Disregard the references to the specified places.

12.6.2 HCR 10.6—when neither party appears.

12.6.3 HCR 10.7—when only plaintiff appears.

12.6.4 HCR 10.8—when only defendant appears.

12.6.5 HCR 10.9—judgment following non-appearance may be set aside.

12.6.6 HCR 10.10—when both parties appear.

Compare: SR 1992/109 rr 483–489

12.7 Adjournment

The hearing of an application may, from time to time, be adjourned on any terms that the court or a Registrar thinks just.

Compare: SR 1992/109 r 284

*General rules about judgments***12.8 Judgment**

12.8.1 HCR 11.1—interpretation.

- 12.8.2 HCR 11.2—types of judgment
- 12.8.3 HCR 11.3—how judgment given.
- 12.8.4 HCR 11.4—time judgment given.
- 12.8.5 HCR 11.5—delivery time of written judgment.
- 12.8.6 HCR 11.6—form of judgment.
- 12.8.7 HCR 11.7—duplicate judgments.
- 12.8.8 HCR 11.9—recalling judgment.
- 12.8.9 HCR 11.11—judgments to be sealed, dated, and served.
- 12.8.10 HCR 11.12—when judgment takes effect.
- 12.8.11 HCR 11.13(1)—steps before judgment sealed.
- 12.8.12 HCR 11.14—Registrar’s role on receipt of judgment.
- 12.8.13 HCR 11.20—conduct of proceeding after judgment.
- 12.8.14 HCR 11.21—applying for dismissal because of inactivity.
- 12.8.15 HCR 11.22—judgment directing sale of property.
- 12.8.16 HCR 11.23—judgment for balance of claim over counter-claim.
- 12.8.17 HCR 11.24—judgment for balance of counterclaim.
- 12.8.18 HCR 11.25—cross judgments.
- 12.8.19 HCR 11.26—judgment if third party defends.
- 12.8.20 HCR 11.28—satisfaction of judgment.

Compare: SR 1992/109 rr 522–533, 540

12.9 Time for doing any act must be stated

A judgment requiring any person to do an act, other than the payment of money or costs, must state the time within which the act must be done.

Compare: SR 1992/109 r 534

12.10 Deed directed to be prepared

- 12.10.1 A judgment directing the preparation and execution of any deed may state which party prepares the deed, at whose expense the deed is to be prepared, and to whom it must be submitted for approval.

12.10.2 If the parties cannot agree on the form of the deed, the court may, on application by any party on notice, settle the deed itself.

Compare: SR 1992/109 r 535

12.11 Certificate of judgment or order

12.11.1 A party to any proceeding who requires a certificate of any judgment or order must state in writing whether it is required for the purposes of section 66 or 69 of the Act, or for evidential purposes.

12.11.2 If a person applying for a certificate of judgment or order is not a party to the proceeding to which the judgment or order relates—

- (a) that person must state in writing, with particulars, the purpose for which it is required, and the capacity in which the person is applying; and
- (b) the Registrar may, if the Registrar thinks fit, grant the application, or refer it to the Judge.

12.11.3 The certificate of judgment or order—

- (a) must be in form 37, signed by the Registrar, and sealed with the seal of the court; and
- (b) must have annexed to it a true copy of the judgment or order endorsed “This is the judgment (*or* order) marked ‘A’ referred to in the annexed certificate given by me and the seal of the court at *[place]* on *[date]*”.

12.11.4 The endorsement must be signed by the Registrar and sealed with the seal of the court.

Compare: SR 1992/109 r 536

12.12 Amount payable exceeds jurisdiction

A certificate issued under section 68 of the Act, in respect of which the amount payable under the judgment exceeds the jurisdiction of the court, must be filed with an affidavit that—

- (a) verifies the amount due under the judgment; and
- (b) states, if necessary, that the excess amount has been abandoned.

Compare: SR 1992/109 r 537

12.13 Further proceedings after issue of certificate

- 12.13.1 If a certificate of judgment or order is issued under rule 12.11 for the purposes of section 66 or 69 of the Act, no further proceedings may be had in the court from which the certificate is issued, unless the party taking out the certificate returns it to the Registrar or satisfies the Registrar that it has not been filed in the High Court or in another District Court.
- 12.13.2 Despite rule 12.13.1, a judgment that has been removed into one District Court may be later removed to any other District Court, including the District Court in which the judgment was first given.
- 12.13.3 This provisions of this rule, rule 12.11, and section 69 of the Act apply for the purposes of any removal under rule 12.13.2.
Compare: SR 1992/109 r 538

12.14 Death, etc, of Judge before judgment

- 12.14.1 If a Judge who has signed a judgment or reasons for judgment dies or retires or becomes otherwise incapable before the judgment is given or the reasons are delivered, any other Judge or the Registrar may give the judgment or deliver those reasons.
- 12.14.2 If rule 12.14.1 does not apply and a Judge dies or retires or otherwise becomes incapable of giving judgment, the proceeding or issue must be reheard.
Compare: SR 1992/109 r 539

Retrial

12.15 Power to order retrial

- 12.15.1 A retrial may be ordered only if, in the opinion of the court, there has been a miscarriage of justice that justifies a retrial.
- 12.15.2 The court may order a retrial on any terms that the court thinks fit.
- 12.15.3 The court may hold that there has been a miscarriage of justice that justifies a retrial if—
- (a) the judgment has been obtained by any unfair or improper practice of the successful party to the prejudice of the opposite party; or

- (b) material evidence has been discovered since the hearing that could not reasonably have been foreseen or known before the trial; or
- (c) any witness has been guilty of such misconduct as to affect the result of the trial.

12.15.4 Rule 12.15.3 does not limit the circumstances in which the court may hold that there has been a miscarriage of justice that justifies a retrial.

12.15.5 If it appears to the court that the miscarriage of justice affects only part of the matter in dispute, the court may give final judgment on the part not affected and direct a retrial on the affected part only.

12.15.6 Despite rule 12.15.5, the court must not direct a retrial on the affected part if—

- (a) the amount of damages awarded in respect of it can be separately ascertained; and
- (b) the plaintiff consents to reduce the whole sum awarded to him or her by that amount.

12.15.7 A retrial may be ordered on any question in a proceeding, whatever the grounds on which a retrial is applied for, without interfering with the decision on any other question.

12.15.8 If there is more than 1 defendant, a retrial may be ordered against any 1 or more of them.

Compare: SR 1992/109 r 493

12.16 Application for retrial

12.16.1 An application for a retrial must be made by interlocutory application filed within 15 working days after the date of delivery of judgment.

12.16.2 The application must state the circumstances alleged to have resulted in a miscarriage of justice. No other circumstances will be considered by the court.

12.16.3 The application does not operate as a stay of proceeding unless the court orders it.

12.16.4 The court must not receive—

- (a) any affidavit of any witness to explain or add to evidence given by the witness at the trial; or

- (b) an affidavit of any facts that might have been given in evidence at the trial.

12.16.5 Despite rule 12.16.4, the court may receive an affidavit from a material witness showing that he or she made a serious mistake in giving his or her testimony.

Compare: SR 1992/109 r 494

Summary judgment procedure
[Revoked]

Heading: revoked, on 14 June 2012, by rule 23 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

12.17 Summary judgment

[Revoked]

Rule 12.17: revoked, on 14 June 2012, by rule 23 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Dismissal

12.18 Dismissal for want of prosecution

HCR 15.2—dismissal for want of prosecution.

Compare: SR 1992/109 r 482

Judgment on admission

12.19 Judgment on admission

12.19.1 HCR 15.15—judgment on admission of facts.

12.19.2 HCR 15.16—admission of cause of action.

12.19.3 HCR 15.17—admission of defence.

Compare: SR 1992/109 rr 475–477

Discontinuance

12.20 Discontinuance

12.20.1 HCR 15.18—interpretation.

12.20.2 HCR 15.19—right to discontinue proceeding.

12.20.3 HCR 15.21—effect of discontinuance.

12.20.4 HCR 15.22—court may set discontinuance aside.

12.20.5 HCR 15.23—costs.

12.20.6 HCR 15.24—restriction on subsequent proceedings.

12.20.7 HCR 15.25—certain remedies not affected. References to the rules concerning third party notices and notices of claims against another defendant are to be read as references to rules 2.18 to 2.26 (third parties) or 2.30 to 2.34 (claims between defendants) of these rules (as the case requires) if the notice has been given under those rules.

Compare: SR 1992/109 rr 478–480E

12.21 Restrictions on right to discontinue proceeding

12.21.1 A plaintiff may discontinue a proceeding only with the leave of the court if a party to the proceeding has given an undertaking to the court.

12.21.2 A plaintiff to whom an interim payment has been made, whether voluntarily or under an order made under rule 3.56.3 or 3.56.4, may discontinue the proceeding only with the written consent of the party who made the payment or with the leave of the court.

12.21.3 A plaintiff may discontinue a proceeding in which there is more than 1 plaintiff only with the consent of every other plaintiff or with the leave of the court. If the plaintiff files a notice of discontinuance under rule 12.20.2, the consent of every other plaintiff must be in writing.

12.21.4 If there is more than 1 defendant in a proceeding, a plaintiff may discontinue a proceeding against a particular defendant only with the consent of every other defendant or with the leave of the court. If the plaintiff files a notice of discontinuance under rule 12.20.2, the consent of every other defendant must be in writing.

Compare: SR 1992/109 r 480

Judgment by default

12.22 Application of rules 12.23 to 12.35 and effect of filing appearance

12.22.1 Rules 12.23 to 12.35 apply to a party who is entitled to proceed to judgment under rule 2.39.

12.22.2 If the defendant has filed an appearance under rule 3.38.2 or 3.38.3, rules 12.23 to 12.35 apply subject to that appearance.

12.22.3 However, if the defendant has filed an appearance under rule 3.38.1, rules 12.23 to 12.35 do not apply.

Compare: SR 1992/109 r 462

12.23 Interpretation

In rules 12.24 to 12.35, unless the context otherwise requires, **time allowed** means—

- (a) the number of days stated in a plaintiff's notice of claim in which the defendant must serve a response or the number of days stated in a plaintiff's information capsule in which the defendant must serve the defendant's information capsule, as the case may be;
- (b) the number of days stated in a plaintiff's notice of proceeding in which the defendant must file a statement of defence.

12.24 Liquidated demand

12.24.1 A plaintiff who claims relief by way of the payment of a liquidated demand in money may, if the defendant has not within the time allowed served a response or information capsule or filed a statement of defence, seek final judgment for—

- (a) any sum not exceeding the sum claimed in the plaintiff's notice of claim or statement of claim; and
- (b) interest (if any) payable as of right, if such interest has been specifically claimed in the notice of claim or statement of claim, calculated up to the date of judgment; and
- (c) costs and disbursements of an amount fixed by the Registrar.

12.24.2 A plaintiff claiming costs and disbursements must—

- (a) set out the amount claimed and how that amount is calculated, together with any submissions in support of the claim, in the form 6A filed by the plaintiff; or
- (b) in any other case, file a memorandum setting out those matters.

12.24.3 Registrars have the jurisdiction and powers of the court under these rules to fix costs and disbursements under rule 12.24.1(c).

Compare: SR 1992/109 r 463

12.25 Land

12.25.1 This rule applies if—

- (a) a plaintiff claims relief by way of the recovery of land; and
- (b) the defendant has not within the time allowed served a response or information capsule or filed a statement of defence, or the defendant's response or information capsule or statement of defence is limited to part only of the land claimed.

12.25.2 When this rule applies, the plaintiff may seal judgment—

- (a) that the person whose title is asserted in the plaintiff's notice of claim or information capsule or statement of claim recover possession of the land claimed or any part to which the defendant's response or information capsule or statement of defence does not apply; and
- (b) for the costs of the proceeding up to the date of sealing judgment.

Compare: SR 1992/109 r 464

12.26 Chattels

12.26.1 This rule applies if—

- (a) a plaintiff claims relief by way of the recovery of chattels; and
- (b) the defendant has not within the time allowed served a response or information capsule or filed a statement of defence, or the defendant's response or information capsule or statement of defence is limited to part only of the chattels claimed.

12.26.2 When this rule applies, the plaintiff may seal judgment—

- (a) that the plaintiff recover possession of the chattels claimed, or any of them to which the defendant's response or information capsule or statement of defence does not apply, or the value of the chattels; and
- (b) for the costs of the proceeding up to the date of sealing judgment.

12.26.3 The plaintiff may have the proceeding tried for the purpose of assessing the value of any chattels if the possession of the chattels was claimed but not recovered.

Compare: SR 1992/109 r 465

12.27 Hire purchase or conditional purchase agreement

12.27.1 If the relief sought is the recovery of goods and money payable under a hire purchase or conditional purchase agreement, the court may—

- (a) enter judgment for possession; and
- (b) reserve leave to the plaintiff to apply on notice for any further relief to which the plaintiff may be entitled.

12.27.2 An application for further relief under this rule may be heard and determined by any Judge, including the Judge who reserved leave.

Compare: SR 1992/109 r 466

12.28 Unliquidated demand

If the relief claimed by the plaintiff is payment of an unliquidated demand in money and the defendant does not within the time allowed serve a response or information capsule or file a statement of defence, the proceeding must be tried for the purpose of assessing damages.

Compare: SR 1992/109 r 467

12.29 Evidence relating to damages

12.29.1 This rule applies at any hearing for assessment of damages under rule 12.26.3 or 12.28.

12.29.2 No defendant may, except by leave of the court, adduce evidence, other than in mitigation of damages.

12.29.3 A plaintiff must, unless the court directs otherwise, give by affidavit—

- (a) evidence of those aspects of the defendant's liability that are required to be shown; and
- (b) evidence of the plaintiff's damages.

Compare: SR 1992/109 r 468

12.30 Other proceedings

12.30.1 In all other proceedings in which a defendant has not within the time allowed served a response or information capsule or filed a statement of defence,—

- (a) the plaintiff may, after giving notice to the defendant, apply for judgment against the defendant for any relief

to which the plaintiff considers the plaintiff is entitled, and judgment may be given for the relief to which the plaintiff may be entitled on the facts set out in the notice of claim; or

- (b) the plaintiff may set the case down for hearing and judgment may be given for the relief to which the plaintiff may be entitled.

12.30.2 The court may, if it thinks fit in the interests of justice, dispense with the requirement to give notice in rule 12.30.1(a).

12.30.3 In any hearing under rule 12.30.1(b), the plaintiff must, unless the court directs otherwise, give by affidavit—

- (a) evidence of the aspects of the defendant's liability that are required to be shown; and
- (b) evidence of the plaintiff's damages.

12.30.4 This rule is subject to rule 12.35.

Compare: SR 1992/109 r 469

12.31 Several causes of action

If the plaintiff's notice of claim or statement of claim contains more than 1 cause of action, the plaintiff may proceed separately under rules 12.24 to 12.35 in respect of any or each cause of action to which no response has been filed.

Compare: SR 1992/109 r 470

12.32 Several defendants

If there are several defendants, the plaintiff may—

- (a) proceed against 1 or more of the defendants under rules 12.24 to 12.35; and
- (b) despite any judgment given under those rules, continue the proceeding against any other defendant against whom the cause of action subsists.

Compare: SR 1992/109 r 471

12.33 Affidavits to be filed

12.33.1 Before judgment can be sealed on an application under rule 2.39.1 (notice of claim procedure), the plaintiff must file form 6A (including the completed affidavit section).

- 12.33.2 Before judgment can be sealed on an application under rule 2.39.4 (statement of claim procedure), the plaintiff must file—
- (a) an affidavit of service of the statement of claim and of the notice of proceeding; and
 - (b) if the statement of claim and notice of proceeding have not been served personally on the defendant or on a solicitor accepting service on the defendant's behalf, an affidavit verifying the statement of claim.
- 12.33.3 An affidavit of service under rule 12.33.2 must be in form HCF G 16 (which applies by virtue of rule 3.44.10).
- 12.33.4 Before judgment can be sealed on an application under rule 2.39.5 (counterclaim procedure), the defendant must file form 6CCA (including the completed affidavit section).
- Compare: SR 1992/109 r 472; HCR 15.4

12.34 Judgment may be set aside or varied

Any judgment obtained by default may be set aside or varied by the court on any terms it thinks fit, if it appears to the court that there has been, or may have been, a miscarriage of justice.

Compare: SR 1992/109 r 473

12.35 Default judgment against the Crown

- 12.35.1 Judgment by default under rules 12.24 to 12.32 cannot be entered against the Crown except by leave of the court.
- 12.35.2 A party seeking default judgment against the Crown must—
- (a) apply for the leave of the court; and
 - (b) serve notice of the application at least 5 working days before the time specified in the notice for hearing the application.
- Compare: SR 1992/109 r 474

12.36 Overseas service cases

HCR 15.14 applies (as provided by rule 3.44.30 of these rules).

Part 13

Appeals to High Court

13.1 Agreement not to appeal

An agreement not to appeal must be in form 38 and must be filed in the court before the trial.

Compare: SR 1992/109 r 541

13.2 Leave to appeal

An application for leave to appeal must be made on notice in form 39.

Compare: SR 1992/109 r 542(1)

Part 14

Appeals to District Courts

14.1 Application of this Part

14.1.1 This Part applies to all appeals to a District Court under any enactment.

14.1.2 This Part applies subject to any express provision in the Act conferring the right of appeal.

Compare: SR 1992/109 r 544

14.2 Interpretation

In this Part,—

appropriate court means the court at which the appeal is, in accordance with rule 14.8, to be filed

appropriate officer means the Registrar, Secretary, clerk, or any other officer responsible for the administration of the office of the decision-maker

decision includes any order made by a decision maker

decision-maker means a tribunal, person, or body of persons—

(a) exercising a power of decision from which there is a right of appeal to the court; and

(b) from whose decision the appeal is brought or sought to be brought.

Compare: SR 1992/109 r 545

14.3 How to bring appeal

An appellant brings an appeal by—

- (a) filing a notice of appeal in the appropriate court; and
- (b) serving a copy of that notice on the appropriate officer of the decision-maker, or, if there is no appropriate officer, on the decision-maker.

Compare: SR 1992/109 r 546

14.4 Judge may call conference and give directions

14.4.1 For the purpose of ensuring that any appeal or intended appeal is determined in a convenient and expeditious manner, and that all matters in dispute are effectively and completely determined, a Judge may hold a conference of parties, intended parties, or counsel presided over by the Judge—

- (a) at any time, and on any terms the Judge thinks fit;
- (b) on the application of any party or intended party or without application.

14.4.2 A Judge presiding at a conference may—

- (a) settle the issues to be determined;
- (b) direct which persons are to be named as the respondents, or direct that the name of any party be added or struck out;
- (c) fix a time for the filing of affidavits or other documents;
- (d) fix a time and place for the hearing of the appeal;
- (e) make an order in accordance with rule 14.14;
- (f) give directions as to the manner in which evidence is to be brought before the court at the hearing of the appeal;
- (g) give any other directions necessary for the proper determination of the appeal.

14.4.3 At any time before the hearing of an appeal has started, a Judge may, for the purposes of rule 14.4.1, exercise any of the powers specified in rule 14.4.2 without holding a conference.

Compare: SR 1992/109 r 546A

14.5 Time for appeal

The notice of appeal must be filed and served in accordance with rule 14.3 within 1 month after the date of the decision.

Compare: SR 1992/109 r 547

14.6 Extension of time for appeal

14.6.1 The court may extend the time allowed for filing and serving a notice of appeal, or for taking any step in relation to an appeal, if the enactment conferring the right of appeal—

- (a) allows the extension; or
- (b) does not limit the time allowed for appeal.

14.6.2 A party seeking an extension must apply by interlocutory application on notice to all other parties who may be affected by the appeal.

14.6.3 An application for extension may be made before or after the expiry of the time allowed for appeal or for taking any step in relation to the appeal.

Compare: SR 1992/109 r 548

14.7 Contents of notice of appeal

14.7.1 The notice of appeal must, unless the court directs otherwise,—

- (a) bear a heading in form 1 that—
 - (i) refers to the enactment under which the appeal is brought; and
 - (ii) refers to the matter as being in the matter of an appeal from a decision of a tribunal or person; and
- (b) specify the decision or the part of the decision appealed from; and
- (c) specify any error of law alleged by the appellant; and
- (d) specify any question of law to be resolved; and
- (e) specify the grounds of the appeal in sufficient detail to give full advice of the issues involved to the court, the other parties, and the decision-maker; and
- (f) specify the relief sought.

14.7.2 The grounds of the appeal may be amended by leave of the court.

14.7.3 The notice of appeal must not name the decision-maker as a respondent.

14.7.4 Nothing in rule 14.7.3 limits or affects rule 14.21.

Compare: SR 1992/109 r 549

14.8 Place for filing notice of appeal

14.8.1 The **appropriate court** for the purposes of this Part is—

- (a) the court nearest to the place where the decision appealed from was made; or
- (b) any other court in which the parties agree that the notice of appeal may be filed.

14.8.2 If it appears to the court or Registrar, on application, that the notice of appeal has been filed in the wrong court, or that any other court would be more convenient to the parties, the court or Registrar may direct that—

- (a) the notice of appeal be filed in another court; or
- (b) the documents relating to the appeal be transferred to another court.

14.8.3 If rule 14.8.1(b) applies, the parties must endorse on, or lodge with the notice of appeal a memorandum of their agreement to the notice of appeal being filed in the court in which it is filed.

Compare: SR 1992/109 r 550

14.9 Service of copies of notice of appeal on other parties

14.9.1 The appellant must, before or immediately after filing and serving the notice of appeal under rule 14.3, serve a copy of the notice of appeal on every other party to the matter in which the decision was made.

14.9.2 If the matter in which the decision was made involved the hearing of a charge against any person under any Act, the person or body prosecuting the charge is, for the purposes of rules 14.9.1 and 14.9.3, a party to that matter.

14.9.3 Every party served with a copy of the notice of appeal under rule 14.9.1 is, for the purposes of rule 14.16, a respondent to the appeal.

Compare: SR 1992/109 r 551

14.10 Power to dispense with service

Despite rule 14.9, the court may dispense with service on a party of a copy of the notice of appeal on any terms the court thinks fit in the interests of justice.

Compare: SR 1992/109 r 552

14.11 Appeal not to operate as stay

An appeal does not stay proceedings on the decision appealed from unless the court or decision-maker orders it.

Compare: SR 1992/109 r 553

14.12 Cross-appeal

14.12.1 A person (other than the appellant) who wishes to contend at the hearing of an appeal that the decision appealed from should be varied or discharged must, at least 30 working days before the day fixed for hearing the appeal, file and serve a notice of cross-appeal.

14.12.2 This Part applies to cross-appeals with the necessary modifications.

Compare: SR 1992/109 r 554

14.13 Documents to be lodged with Registrar

14.13.1 The appropriate officer of the decision-maker must, as soon as possible after being served with the notice of appeal, send to the Registrar at the appropriate court—

- (a) 2 copies of any papers that are lodged with the decision-maker and that relate to the decision appealed from; and
- (b) any exhibits in the custody of the decision-maker; and
- (c) 2 copies of the whole of the decision appealed from.

14.13.2 Rule 14.13.1 applies unless the court otherwise directs.

14.13.3 The appropriate officer must also send to the Registrar 2 copies of any transcribed notes of any evidence given at any hearing before the decision-maker that were made for the purposes of, or under the direction of, the decision-maker.

14.13.4 No further verification is required of the contents of any transcript provided under rule 14.13.3 if the appropriate officer has certified it as correct.

14.13.5 If an enactment provides for the appointment of a person other than a Judge to sit with the court or as a member of the court to hear any specified appeal, the number of copies of documents required by rules 14.13.1(a), 14.13.1(c), and 14.13.3 must be increased to a number sufficient to provide a copy each for the court records, the Judge, and every other person required to hear the appeal.

14.13.6 Rule 14.13.3 does not apply to any notes made personally by the decision-maker or (if the decision-maker is a tribunal) a member of the tribunal.

Compare: SR 1992/109 r 555

14.14 Order for transcript of evidence

14.14.1 The court may, on application by any party, make an order requiring a transcript to be made of the whole of the evidence given at a hearing before the decision-maker.

14.14.2 An application for a transcript must be made within the following periods, unless the court gives leave to make it at some later date:

- (a) in the case of an appellant, no later than 1 month after the date of lodging of the notice of appeal:
- (b) in the case of any other party, no later than 1 month after the date of service of a copy of the notice of appeal on that party.

14.14.3 The court must give notice to the decision-maker before making an order for a transcript.

14.14.4 A decision-maker who wishes to appear and be heard before an order for a transcript is made must file, within 14 days after the date of being served notice under rule 14.14.3, a notice of intention to appear and be heard.

14.14.5 A notice filed under rule 14.14.4 entitles the decision-maker and every party to the appeal to be heard before an order for a transcript is made.

14.14.6 The court may, if it thinks fit, require a report to be made and lodged under rule 14.15 instead of requiring a transcript.

14.14.7 The decision-maker may apply at any time to the court for an order that the parties to the appeal pay for the cost of making the transcript.

14.14.8 The court may make an order for a transcript—

- (a) on any conditions that it thinks fit:
- (b) even if the appeal is abandoned, or dismissed for want of prosecution.

14.14.9 The following provisions apply once the order is made:

- (a) a sealed copy of the order must be served immediately on the decision-maker:

- (b) the decision-maker must certify the correctness of the transcript and send a copy of the transcript to the Registrar at the appropriate court;
- (c) no further verification is required of the contents of the certified transcript.

14.14.10 In rule 14.14.9, **decision-maker** includes an appropriate officer of the decision-maker.

Compare: SR 1992/109 r 556

14.15 Report by decision-maker

14.15.1 The decision-maker must, if the court directs, lodge with the Registrar a report setting out—

- (a) any considerations, other than findings of fact, to which the decision-maker had regard in making the decision but which are not set out in the decision; and
- (b) any material indicating the effect that the decision might have on the general administration of the enactment under which the decision was made; and
- (c) any other matters relevant to the decision or to the general administration of the enactment that should be drawn to the attention of the court.

14.15.2 If a report has been lodged under rule 14.15.1, the court may direct the decision-maker to lodge a further report.

14.15.3 The decision-maker must provide a copy of the report and any further report to every party to the appeal.

14.15.4 Every party to the appeal is entitled to be heard and to tender evidence on any matter referred to in the report.

Compare: SR 1992/109 r 557

14.16 Rights of parties

14.16.1 A respondent to an appeal who wishes to appear and be heard at the hearing of the appeal must, within 15 working days after the date of being served a copy of the notice of appeal, file in the appropriate court a notice of the respondent's intention to appear and be heard. That notice must include an address for service.

14.16.2 The parties to the appeal are—

- (a) the appellant; and

- (b) any respondent who gives a notice of intention to appear and be heard as a respondent.

14.16.3 The parties to the appeal are entitled to—

- (a) be served with every document relating to the appeal that is, from then on, filed or lodged with the Registrar; and
- (b) receive a notice of the date set down for the hearing of the appeal; and
- (c) apply for an order for security for costs of the appeal.

14.16.4 A decision-maker who is entitled to be heard under rule 14.21 must give notice under this rule, after which the decision-maker is entitled to be served with documents and to be given notice as if the decision-maker were a respondent to the appeal.

14.16.5 Either before or immediately after filing a notice under this rule, the person filing the notice must serve a copy of it—

- (a) on every other party to the matter in which the decision was given; and
- (b) in the case of a notice served under rule 14.16.1, on the appropriate officer of the decision-maker or (if the decision-maker is an individual) on the decision-maker.

Compare: SR 1992/109 r 558

Hearing of appeal

14.17 Appeal must be by rehearing

Appeals are by way of rehearing.

Compare: SR 1992/109 r 560(1)

14.18 Powers of court in relation to evidence heard on appeal

14.18.1 The court has full discretionary power to rehear all or any part of evidence taken before the decision-maker.

14.18.2 The court must rehear the evidence of any witness if the court has reason to believe that any note of the evidence of that witness made by direction of the decision-maker is or may be incomplete in any material particular.

14.18.3 The court has full discretionary power to hear and receive further evidence on questions of fact, either by oral evidence or by affidavit.

14.18.4 The court must also have regard to any report lodged by the decision-maker under rule 14.15, including any matters referred to in the report and any evidence tendered on the report, whether or not those matters would otherwise be admissible in evidence.

14.18.5 The court may, in exercising its powers under this rule and rules 14.19 to 14.22, receive as evidence any statement, document, information, or matter that the decision-maker would have been entitled to receive at the hearing at first instance.

Compare: SR 1992/109 r 560(2)–(6)

14.19 Court has powers of decision-maker

In any appeal, the court has all the powers and discretions of the decision-maker—

- (a) to hold the hearing or any part of it in private; and
- (b) to make orders prohibiting the publication of any report or description of the proceedings or any part of them.

Compare: SR 1992/109 r 560(7)

14.20 Counsel assisting court

In any appeal, the Solicitor-General must, at the request of the court, appoint counsel to appear and be heard as counsel assisting the court.

Compare: SR 1992/109 r 560(8)

14.21 Appeals from decision arising from contested application

14.21.1 At the hearing of any appeal from a decision made arising from a contested application, the decision-maker is entitled, after obtaining the leave of the court, to be represented and heard on—

- (a) any issue relating to the procedure followed in the course of reaching the decision appealed from; or
- (b) any issue relating to the decision-maker or, if the decision-maker is a tribunal, members of the tribunal; or
- (c) any matter that the decision-maker has referred to in a report made under rule 14.15.

14.21.2 The decision-maker is not entitled to be represented and heard on any other issue or matter arising in the appeal.

Compare: SR 1992/109 r 560(9)

14.22 Appeals from decision arising from uncontested application

At the hearing of any appeal against a decision made arising from an uncontested application, the decision-maker is entitled to be represented and heard on all matters arising in the appeal.

Compare: SR 1992/109 r 560(10)

14.23 Powers of court hearing appeal

14.23.1 In allowing an appeal, the court may, unless an enactment provides otherwise,—

- (a) set aside or quash the decision appealed from;
- (b) substitute any decision that ought to have been given by the decision-maker;
- (c) make such further or other orders as the case may require.

14.23.2 Despite rule 14.23.1, the court may remit all or part of the matter to which the appeal relates to the decision-maker for further consideration and determination.

14.23.3 In remitting any matter under rule 14.23.2, the court must—

- (a) advise the decision-maker of its reasons for doing so; and
- (b) give the decision-maker any direction that it thinks fit in the interests of justice relating to any rehearing, reconsideration, or determination of all or part of the matter referred to it.

14.23.4 The court or Registrar may, in special circumstances, order that security be given for the costs of the appeal as it thinks just.

14.23.5 The court is not bound to allow the appeal solely on the ground of improper admission or rejection of evidence, unless, in the opinion of the court, it has led to a substantial wrong or miscarriage of justice.

Compare: SR 1992/109 r 561

14.24 Dismissal of appeal

The court may dismiss the appeal—

- (a) if the appellant does not appear at the time appointed for hearing the appeal; or

- (b) on the application of any other party or the decision-maker, if the appellant does not prosecute the appeal with due diligence.

Compare: SR 1992/109 r 562

14.25 Registrar to notify decision of court

On the determination of any appeal, the Registrar must send to the appropriate officer of the decision-maker or (if the decision-maker is an individual) to the decision-maker—

- (a) a memorandum of the court's decision; and
- (b) any application, papers, and exhibits forwarded to the Registrar under rule 14.13 or 14.14.

Compare: SR 1992/109 r 563

Part 15 Enforcement

Enforcement generally

15.1 Payment in reduction of amount

A person liable to pay money under a judgment or order may at any time pay money into court to reduce the amount payable by that person.

Compare: SR 1992/109 r 564

15.2 Sale of personal property

15.2.1 Personal property that is to be sold under a direction in a judgment or order may be sold by public auction or private contract as the Judge directs.

15.2.2 The Registrar must, if the Judge directs, supervise any sale, detention, or preservation of personal property that has been directed to be sold by public auction or to be detained or preserved.

15.2.3 The Registrar must, unless the Judge directs otherwise, ensure that personal property that has been directed to be sold by private contract is sold in accordance with the Judge's directions.

15.2.4 This rule does not apply to enforcement issued under section 79(1)(a) of the Act.

Compare: SR 1992/109 r 565

15.3 Examination of any party

If any difficulty arises in relation to the enforcement of a judgment or order for relief other than the payment of money, the Judge or Registrar may, on the application of an interested party, make an order for the attendance and examination of any party or otherwise as the Judge or Registrar thinks fit in the interests of justice.

Compare: SR 1992/109 r 566

15.4 Application by judgment creditor of partner

15.4.1 An application by a separate judgment creditor of a partner for any order under section 26 of the Partnership Act 1908 must be made to the court on notice.

15.4.2 The notice and any order made on the application must be served on—

- (a) the judgment debtor; and
- (b) the partners of the judgment debtor who are in New Zealand.

Compare: SR 1992/109 r 567(1)

15.5 Application by partner of judgment debtor

15.5.1 An application by a partner of a judgment debtor under section 26 of the Partnership Act 1908 must be made to the court on notice.

15.5.2 The notice must be served on—

- (a) the judgment creditor; and
- (b) the judgment debtor; and
- (c) the partners of the judgment debtor who do not agree with the application and are in New Zealand.

Compare: SR 1992/109 r 567(2)

15.6 Change of parties after judgment

15.6.1 This rule applies if any change has taken place after judgment by death, assignment, or otherwise—

- (a) in the parties entitled to a judgment or order; or
- (b) in the parties liable under a judgment or order.

- 15.6.2 When this rule applies, the party claiming to be entitled to enforce the judgment or order may apply without notice to the court or a Registrar for leave to issue the necessary process.
- 15.6.3 The court or Registrar may,—
- (a) if satisfied that the party applying is entitled to issue the process, make an order to that effect;
 - (b) if not so satisfied, order that any issue or question necessary to determine the rights of the parties be tried and determined in a manner that the court or Registrar thinks fit.
- 15.6.4 Despite anything in rule 3.1, the hearing of any issue or question referred to in rule 15.6.3(b) must be started in the court in which the order was made, unless the court or Registrar otherwise orders.
- 15.6.5 Any order made under rule 15.6.3 must be in form 40 and be served on the persons affected.
- 15.6.6 No process may issue from an order made under rule 15.6.3 until 5 working days have expired after the date of service, unless the court or Registrar gives leave.
- 15.6.7 A party claiming to be entitled, by reason of one and the same change, to enforce more than 1 judgment or order may—
- (a) make 1 application in which all the judgments or orders are specified in a schedule; and
 - (b) set out, in the notice of any order made on the application, only that part of the order affecting the person to be served notice.

Compare: SR 1992/109 r 568

15.7 Change of name, etc, of party after judgment

If the name, address, or occupation of any party to a judgment or order differs from that specified in any application for any process for the enforcement of a judgment or order,—

- (a) the applicant must satisfy the Registrar that the amended name, address, or occupation applies to that party; and
- (b) both names, addresses, or occupations, as the case may require, must be specified in the process applied for.

Compare: SR 1992/109 r 569

15.8 Application to Registrar for suspension of judgment, etc

15.8.1 A person who wishes to apply to the court to suspend or stay any judgment, order, enforcement, or order of committal may apply to the Registrar in the absence of the Judge.

15.8.2 The Registrar may suspend or stay the judgment, order, enforcement, or order of committal until an application can be made to the Judge.

Compare: SR 1992/109 r 570

15.9 Stay of judgment, etc

15.9.1 An order to suspend or stay any judgment, order, enforcement, order of committal, or order for the discharge of a person under the Act must be in form 41.

15.9.2 A warrant must be recalled if—

- (a) an order suspending or staying a judgment, order, or enforcement has been made; and
- (b) enforcement has been issued.

15.9.3 Even if a warrant is recalled, a Judge may—

- (a) order the person named in the warrant to pay the costs of the warrant and any fees or expenses incurred by the bailiff before the recall of the warrant; and
- (b) authorise the bailiff to sell part of the goods seized sufficient to pay for the costs, fees, and expenses referred to in paragraph (a), and the expenses of the sale; and
- (c) give leave to reissue the warrant.

Compare: SR 1992/109 r 571(1), (2)

15.10 Discharge of person under section 98 of Act

15.10.1 This rule applies if an order has been made under section 98 of the Act for the discharge of any person arrested or confined in prison under section 79(2) or (4) of the Act.

15.10.2 The Registrar of the court that made the order must—

- (a) sign a sealed copy of the order; and
- (b) if the person named in the order was arrested by an officer of another court, send the copy to the Registrar of that court.

15.10.3 The Registrar of the court that made the order or, as the case may be, the Registrar of the other court must deliver the

copy of the order by post or otherwise to the prison manager or bailiff who has custody of the person.

15.10.4 The prison manager or bailiff must, on receipt of the copy of the order, promptly discharge the person in custody.

15.10.5 If the terms of a discharge referred to in rule 15.10.1 include liability to rearrest if the terms are not complied with,—

- (a) the party entitled to the benefit of the judgment or order may, if the terms are not complied with, apply to the Judge on notice; and
- (b) the Judge may order the person to be rearrested and imprisoned for that part of the term of imprisonment that remains unserved at the time of that person's discharge.

15.10.6 If an order is made under rule 15.10.5(b), an order must be issued and delivered to the bailiff authorising—

- (a) the bailiff to rearrest the person; and
- (b) the prison manager to receive and detain that person for the remainder of the term of imprisonment or until that person is sooner discharged in due course of law.

Compare: SR 1992/109 r 571(3)

15.11 Enforcement processes

15.11.1 The Registrar of the court must hand every warrant, writ, or other enforcement process to the bailiff of that court or a constable for enforcement or service.

15.11.2 If the warrant, writ, or other process is required to be executed or served by a bailiff of another court, the Registrar of the court that issued the process must send it to the Registrar of the other court.

15.11.3 After the warrant, writ, or other process is received by the Registrar of the other court,—

- (a) the Registrar must endorse on it the time of receipt and immediately deliver it to the bailiff or a constable; and
- (b) the bailiff or constable must certify to the Registrar what he or she has done in enforcing or serving the process; and
- (c) if the bailiff or constable has received any money or fees, the bailiff or constable must, after deducting the

fees allowed to him or her, pay the Registrar the balance; and

- (d) the Registrar must, unless the warrant is retained by the prison manager, immediately return the process to the Registrar of the court that issued it, together with any money paid.

Compare: SR 1992/109 r 572

15.12 Receipt to be attached to warrant

15.12.1 The Registrar must—

- (a) prepare and attach an official receipt to every warrant under which money is payable and that is issued for enforcement to a constable or a person appointed as an acting bailiff under section 15(2) of the Act;
- (b) issue a book of official receipts to the bailiff.

15.12.2 A bailiff must carry his or her book of official receipts when enforcing a warrant under which money is payable.

15.12.3 When money is paid on the warrant, the bailiff, constable, or acting bailiff must promptly complete and sign the receipt and hand it to the defendant or the person paying the money.

15.12.4 If a receipt referred to in rule 15.12.1(a) is not used,—

- (a) the constable or acting bailiff must endorse on it a short statement of what was done under the warrant (for example, “insufficient goods and chattels”, “defendant left district”, “cannot be found”, “withdrawn at request of plaintiff”), date and sign the endorsement, and return the receipt to the Registrar who issued it; and
- (b) the returned receipt must be securely attached to its duplicate in the receipt book.

Compare: SR 1992/109 r 573

15.13 Bailiff to enforce warrants, etc

The bailiff must,—

- (a) on receipt of any warrant, writ, or other process, affix his or her initials and the date in the appropriate column of the proper book as evidence of receipt; and
- (b) keep a record of all processes received by the bailiff for enforcement or service; and
- (c) enforce or serve all processes promptly; and

- (d) make periodic reports, as required by the Registrar, on each warrant or writ issued to the bailiff from his or her own court or from any other court.

Compare: SR 1992/109 r 574

15.14 Return of warrants to other court

A Registrar who receives from another court a warrant, writ, or other process for enforcement or service must—

- (a) return the process to that court at the request of the enforcement creditor or Registrar of that court; or
- (b) if the process was not enforced or served during the time it was in force, return the process within 24 hours after it expires, endorsed with the reason for its non-enforcement or non-service.

Compare: SR 1992/109 r 575

15.15 New order for payment of unsatisfied judgment

15.15.1 If there is an unsatisfied judgment or order,—

- (a) a party entitled to enforce it may apply to the court in which it was given or made for an order that the amount due and unpaid be paid—
 - (i) by instalments; or
 - (ii) if already payable by instalments, by the same or smaller instalments; and
- (b) the court may make an order on the application accordingly.

15.15.2 If it appears to the court that a person liable under a judgment or order for the payment of a sum of money is unable to pay it in 1 sum, the court may, on application by the person liable,—

- (a) order that the unpaid amount be paid by instalments;
- (b) vary any order made under paragraph (a).

15.15.3 If it appears to the court that a person liable under any order for payment by instalments is able to pay the sum ordered to be paid in 1 sum or by larger or earlier instalments than those ordered, the court may, on application by the person entitled to enforce the order,—

- (a) order that the unpaid amount be paid in 1 sum or by larger or earlier instalments; and
- (b) vary any order made under paragraph (a).

15.15.4 All applications under this rule must be made on notice in form 42.

Compare: SR 1992/109 r 576

Examination of judgment debtors

15.16 Financial statements

15.16.1 A notice under section 84A(1) of the Act requiring a judgment debtor to complete a financial statement must be in form 43.

15.16.2 A financial statement required to be completed under section 84A(1) of the Act must be in form 44.

Compare: SR 1992/109 r 577

15.17 Order for examination of judgment debtor

15.17.1 An order under section 84B of the Act for examination of a judgment debtor, or if the judgment debtor is a corporation, an officer of the judgment debtor, must be in form 45.

15.17.2 If 2 or more judgment debtors are liable under the same judgment or order,—

- (a) the judgment creditor may apply for an order for examination in respect of any 1 or more of them; and
- (b) a separate application must be filed in respect of each debtor whom the judgment creditor wishes to be examined; and
- (c) fees must be paid and costs allowed in respect of each application.

15.17.3 A judgment creditor is not required to state in an application for examination of a judgment debtor that is a corporation the name of a particular officer who is to appear at the examination.

Compare: SR 1992/109 r 578

15.18 Examination of judgment debtor in different court

15.18.1 If the judgment debtor neither resides nor carries on business within 35 km of the court in which the application for the order of examination is made, the order may provide for the attendance and examination of the judgment debtor before the

court for the district in which the judgment debtor resides or carries on business.

15.18.2 If the order so provides,—

- (a) the Registrar of the court in which the order is made must send all documents in his or her custody relating to the proceeding to the Registrar of the court where the examination is to take place; and
- (b) the Registrar of the court where the examination is to take place must appoint a date and time for the examination and arrange for service of the notice in accordance with section 84B of the Act; and
- (c) on completion of the examination,—
 - (i) the court where the examination takes place or Registrar of that court may exercise any power under section 84E of the Act; and
 - (ii) all documents relating to the proceeding must be returned to the court in which the order was made, unless, at the examination, an order has been made for the transfer of the proceeding under Part 3.

Compare: SR 1992/109 r 579

15.19 Non-appearance of judgment creditor or witness at examination

15.19.1 If a judgment creditor does not appear at the examination, the court or Registrar may, unless rule 15.19.2 applies,—

- (a) conduct the examination on the application of the judgment debtor; and
- (b) make any order or give any direction under section 84E of the Act.

15.19.2 The court or Registrar may adjourn the examination if it appears to the court or Registrar that the examination cannot fairly proceed owing to the absence through illness, accident, or other reasonable cause of either the judgment creditor or a witness.

15.19.3 An adjournment under rule 15.19.2—

- (a) is subject to the payment of costs and travel expenses as the court or Registrar thinks fit in the interests of justice; and

- (b) must always be to a fixed date.

Compare: SR 1992/109 r 580

15.20 Record of examination

15.20.1 The court or Registrar must make a written record of—

- (a) the date and time of each examination; and
- (b) the terms of anything done by the court or Registrar under section 84E of the Act.

15.20.2 A copy of the record made under rule 15.20.1—

- (a) must, at the conclusion of the examination, be given to every party to the proceeding who is present; and
- (b) must be sent to every party to the proceeding who is not at the examination.

Compare: SR 1992/109 r 581

15.21 Warrant of arrest

A warrant to arrest a judgment debtor issued under section 84C of the Act must be in form 46.

Compare: SR 1992/109 r 582

15.22 Review of Registrar's decision

A person applying under section 84N of the Act for a review of an order or direction made by a Registrar must—

- (a) make the notice of application in form 47; and
- (b) specify in the application the grounds on which it is made in sufficient detail to fully advise the court and other parties of the issues involved.

Compare: SR 1992/109 r 583

Contempt

15.23 Contempt procedures

15.23.1 An application under section 84O(1) of the Act for an order that the judgment debtor do community work must—

- (a) be in form 48; and
- (b) specify the grounds on which it is made in sufficient detail to fully advise the court and other parties of the issues involved; and

- (c) be signed by the judgment creditor or the judgment creditor's solicitor or an agent authorised in writing by the judgment creditor to sign the application.
- 15.23.2 A supporting affidavit under section 84O(2) of the Act—
 - (a) must be in form 49; and
 - (b) must be made by a person who is conversant with the facts required to be stated in the affidavit.
- 15.23.3 An application that is signed by an agent must be filed with an authority in form 50, but no fee is payable for filing the authority.
- 15.23.4 On the filing of the application, the Registrar must fix a date and time for the hearing of the application and notify the applicant of that date and time.
- 15.23.5 The following documents must be served personally on the judgment debtor not less than 15 working days before the date of the hearing:
 - (a) a copy of the application and supporting affidavit; and
 - (b) a summons in form 51 requiring the attendance of the judgment debtor at the hearing of the application.
- 15.23.6 An order for community work issued under section 84O(1) of the Act must be in form 52.
- 15.23.7 A warrant to arrest a judgment debtor issued under section 84O(4) of the Act must be in form 53.

Compare: SR 1992/109 r 584

15.24 Hearing of contempt proceeding if judgment debtor outside court district

- 15.24.1 If the judgment debtor neither resides nor carries on business within 35 km of the court in which the application for an order that the judgment debtor do community work is made, the court or Registrar may direct that the hearing take place before the court for the district in which the judgment debtor resides or carries on business.
- 15.24.2 If a direction is made under rule 15.24.1,—
 - (a) the Registrar of the court in which the summons is issued must send all documents in his or her custody relating to the proceeding to the Registrar of the court where the hearing is to take place; and

- (b) the Registrar of the court where the hearing is to take place must appoint a date and time for the hearing, and arrange for service of the summons and accompanying documentation in accordance with rule 15.23.5; and
- (c) on completion of the hearing,—
 - (i) the court where the hearing takes place may exercise any of the powers of the court that issued the summons; and
 - (ii) all documents relating to the proceeding must be returned to the court that issued the summons unless, at the hearing, an order has been made for the transfer of the proceeding under Part 3.

Compare: SR 1992/109 r 585

Charging orders

15.25 Interpretation

In rules 15.26 to 15.48, unless the context otherwise requires,—

charging order means an order under section 96A of the Act
judgment creditor means a person who has obtained a judgment or order for the payment of money.

15.26 Application for charging order

15.26.1 A judgment creditor may apply without notice to the court or Registrar for a charging order.

15.26.2 The application must—

- (a) be in form 54; and
- (b) be accompanied by an affidavit in form 55; and
- (c) describe the property for which the charging order is sought in sufficient detail so as to identify it.

15.26.3 Section 96A(1A) of the Act specifies which kinds of property may be subject to a charging order.

Compare: SR 1992/109 r 586

15.27 Filing of application for charging order

15.27.1 An application under rule 15.26.1 must be filed in the office of the court in which the judgment was obtained.

- 15.27.2 An application for a charging order must not be filed until 48 hours have expired from the time the judgment was entered, or the order was made, unless a Judge gives leave for immediate enforcement.
- 15.27.3 The Registrar must note on the application and on the charging order the precise time that the application for the charging order was made.
- 15.27.4 The judgment creditor must prepare and file with the application a draft order and a copy for every person the draft order is intended to affect.
- 15.27.5 The Registrar must notify the judgment creditor, as soon as practicable after the application has been heard, of the outcome of the hearing.
- Compare: SR 1992/109 r 587

15.28 Value of property exceeding \$200,000

An application for a charging order may be filed, and a charging order may be made, even if the property to which the application or charging order relates has a value exceeding \$200,000.

Compare: SR 1992/109 r 588

15.29 Charging order where amount involved small

If the amount involved is so small that the making of a charging order is vexatious or worthless, the court or Registrar may—

- (a) refuse the application for a charging order; or
- (b) if the charging order has been made (whether as of right or on application), discharge the charging order.

Compare: SR 1992/109 r 589

15.30 Form of charging order

A charging order must be in form 56, 57, or 58, as appropriate.

Compare: SR 1992/109 r 590

15.31 Application for relief by persons prejudicially affected

- 15.31.1 A person alleging that he or she is prejudicially affected by a charging order may, at any time, apply to the court for relief.

- 15.31.2 The court may—

- (a) vary or discharge the order; or
- (b) cancel the registration or modify the effect of registration of any order affecting land.

15.31.3 The powers of the court under this rule are in addition to its powers under rules 3.48.6 and 12.15.

Compare: SR 1992/109 r 591

15.32 Claim of third person on property charged

15.32.1 If it is alleged that land or other property affected by a charging order belongs to a third person, or that a third person has a claim on it by way of lien, charge, or otherwise,—

- (a) the Registrar must issue a summons in form 59 together with a copy of it; and
- (b) the summons must be served on the third person a reasonable time before the day fixed for the hearing.

15.32.2 If the third person does not appear at the hearing of the matter, the court, on proof of service, may make any order that it thinks fit in the interests of justice.

15.32.3 The third person may, on giving 24 hours' notice of his or her intention to do so, also attend—

- (a) the application to make a final charging order; or
- (b) any application to set aside or vary the charging order.

15.32.4 Despite rule 15.32.3, the Judge may give the third person leave to attend without giving 24 hours' notice.

Compare: SR 1992/109 r 592

15.33 Apportionment when more than 1 charging order

15.33.1 A person against whom more than 1 charging order is made, or who claims to be affected by more than 1 charging order, may apply to the court for an order under rule 15.33.2.

15.33.2 The court may determine how much or what part of the property affected by the charging order is for the separate use of each party who has obtained a charging order.

Compare: SR 1992/109 r 593

15.34 Order final in first instance

If the property sought to be charged is an estate, right, title, or interest in possession, remainder, reversion, or expectancy,

and whether vested or contingent, in any land held by the judgment debtor in that judgment debtor's own name, the charging order is final in the first instance.

Compare: SR 1992/109 r 594

15.35 Registration of charging order under Land Transfer Act 1952

15.35.1 A charging order made under rule 15.34 in respect of land under the Land Transfer Act 1952 must be registered against the certificate of title to the land under that Act.

15.35.2 The charging order—

- (a) must either—
 - (i) contain a description of the land affected sufficient to identify that land; or
 - (ii) refer to a certificate of title or other instrument containing such a description; and
- (b) must have drawn on it, or annexed to it, a plan of the land showing its extent, boundaries, and relative position, unless the land is—
 - (i) the whole of the land comprised in a certificate or certificates of title; or
 - (ii) shown separately on a plan deposited under the provisions of the Land Transfer Act 1952.

15.35.3 The judgment creditor must deposit a duplicate of the charging order with the Registrar-General of Land unless the Registrar-General has dispensed with the production of duplicate instruments in accordance with the Land Transfer Act 1952.

Compare: SR 1992/109 r 595

15.36 Registration of charging order under Deeds Registration Act 1908

15.36.1 A charging order made under rule 15.34 in respect of land that is not under the Land Transfer Act 1952 must be registered with the Registrar-General of Land.

15.36.2 The charging order—

- (a) must contain a description of the land affected, or refer to the Crown grant or other instrument, sufficient to identify that land; and

- (b) must have drawn on it, or annexed to it, a plan of the land showing its extent, boundaries, and relative position.

Compare: SR 1992/109 r 596

15.37 Lodging of charging order under Mining Act 1971

15.37.1 A charging order made under rule 15.34 in respect of a mining privilege within the meaning of the Mining Act 1971 must be registered by lodging it with the Registrar-General of Land.

15.37.2 The charging order—

- (a) must either—
 - (i) contain a description of the land affected sufficient to identify that land; or
 - (ii) refer to a document granting or issuing the mining privilege, or any other instrument by which the mining privilege was acquired, containing such a description; and
- (b) must have drawn on it, or annexed to it, a plan of the land showing its extent, boundaries, and relative position, unless the land affected—
 - (i) comprises the whole of the land to which the mining privilege relates; or
 - (ii) is shown separately on a plan deposited under the Mining Act 1971.

15.37.3 When the charging order is lodged, a copy of it must be deposited with the chief executive of the department responsible for the administration of the Mining Act 1971.

15.37.4 The Registrar-General of Land is not required to inquire whether rule 15.37.3 has been complied with.

Compare: SR 1992/109 r 597

15.38 Sale before registration of charging order

15.38.1 An unregistered charging order has no effect against a purchaser for valuable consideration.

15.38.2 Rule 15.38.1 applies even if—

- (a) the sale order may have been actually delivered for enforcement at the time of purchase; and

- (b) the purchaser may have had actual or constructive notice of the delivery of the sale order for enforcement.

Compare: SR 1992/109 r 598

15.39 Discharge of land or mining privilege from charging order

The land or mining privilege subject to a charging order is discharged from the charging order on registration with the Registrar-General of Land of—

- (a) a memorandum of satisfaction of the judgment in the proceeding in which the charging order has been issued, or other sufficient evidence of satisfaction; or
- (b) an order of the court to the effect that the land or mining privilege is discharged from the charging order; or
- (c) the consent of the person who registered the charging order to the discharge of the land or mining privilege from the charging order.

Compare: SR 1992/109 r 599

15.40 Charging order expires after 2 years

15.40.1 A charging order expires 2 years after the date of the charging order unless, before the expiry of that period,—

- (a) the charging order is extended under rule 15.40.2; or
- (b) the charging order has led to a sale order and a person registers any of the following in relation to the land or mining privilege under that sale order:
 - (i) an instrument of transfer;
 - (ii) a deed of conveyance;
 - (iii) an assignment.

15.40.2 The court or Registrar may, if the court or Registrar thinks fit in the interests of justice, extend the 2-year period in any case by any period the court or Registrar considers necessary.

15.40.3 A charging order that has expired ceases to bind the land or mining privilege affected and is treated as having been discharged.

Compare: SR 1992/109 r 600

15.41 Property other than land that may be charged

Section 96A(1A) of the Act specifies which kinds of property other than land may be subject to a charging order.

Compare: SR 1992/109 r 601

15.42 Interim charging order

15.42.1 A charging order under rule 15.41—

- (a) is a limited charging order until sufficient cause is shown to the contrary; and
- (b) is called an **interim charging order** in this rule and rules 15.43 to 15.46.

15.42.2 An interim charging order must be served on the person it is intended to affect.

15.42.3 If an interim charging order is intended to affect an estate, right, or interest in land held under or because of any trust,—

- (a) that interim charging order may also be registered against the land; or
- (b) a caveat may be entered in respect of the interim charging order.

Compare: SR 1992/109 r 602

15.43 Effect of interim charging order

15.43.1 A person served with an interim charging order must refrain from—

- (a) making, agreeing to, or allowing any conveyance, transfer, assignment, or disposition of any estate, right, or interest, or of any share in a partnership or company, of the judgment debtor; or
- (b) paying over any income, interest, dividends, bonus, profits, or other money due or accruing due to the judgment debtor.

15.43.2 However, rule 15.43.1 does not prevent a person from doing any of those things in accordance with these rules or with the leave of the court or a Registrar.

Compare: SR 1992/109 r 603

15.44 Liability for breach of interim charging order

15.44.1 The court may order a person who breaches rule 15.43 to pay the judgment creditor—

- (a) the amount of money paid, or the value of the property disposed of, in breach of that rule; or
- (b) a sufficient part of the money paid to satisfy the judgment or order that the judgment creditor has obtained in the proceeding.

15.44.2 An order made under rule 15.44.1 may be in addition to, or in place of, any penalty that may be imposed under any other rule.

Compare: SR 1992/109 r 604

15.45 Money may be paid into court

A person served with an interim charging order may pay into court any money to abide the order of the court.

Compare: SR 1992/109 r 605

15.46 Application to make interim charging order final

15.46.1 The judgment creditor may, at any time after obtaining the interim charging order, apply to the court to have the interim charging order made final.

15.46.2 The application must be made on notice and must be in form 60.

15.46.3 The court or a Registrar may make orders and give directions for the disposal of money paid into court under rule 15.45 as the court or Registrar thinks fit in the interests of justice.

Compare: SR 1992/606 r 606

Miscellaneous provisions relating to charging orders

15.47 Costs of charging orders

The judgment creditor may, unless the court or Registrar otherwise directs, recover from the judgment debtor against whom a charging order has been made the fees, costs, and expenses incurred in respect of, and incidental to, the making of the charging order.

Compare: SR 1992/109 r 607

15.48 Removal of final charging order to High Court

15.48.1 A judgment creditor who has obtained a final charging order may apply to the Registrar of the District Court for the removal of that charging order to the High Court in order that the charging order may be enforced in the same way as if it had been issued by the High Court.

15.48.2 On removal of the charging order, the High Court must determine any matter raised relating to the charging order in the same way as if the charging order had been issued by the High Court.

Compare: SR 1992/109 r 608

Distress warrants

15.49 Application for distress warrant

15.49.1 A judgment creditor who wants a distress warrant issued must file an application in form 61.

15.49.2 The application must not be filed until 48 hours after judgment has been given, or the order made, unless the Judge gives leave for immediate enforcement.

15.49.3 The Registrar must note on the application and on the distress warrant the precise time when the application is made to issue the warrant.

Compare: SR 1992/109 r 609

15.50 Order of priority

If more than 1 distress warrant is issued against the same person, the warrants must be executed in the order of the times noted under rule 15.49.3.

Compare: SR 1992/109 r 610

15.51 Issue, duration, and renewal

15.51.1 A distress warrant—

- (a) must be issued by the Registrar in form 62;
- (b) may be addressed to any bailiff or constable by name, by official designation, or by town or district.

15.51.2 An unenforced distress warrant—

- (a) expires 1 year after the date of issue unless it is renewed; and

- (b) may be renewed for 1 year, by leave of the court or Registrar, before the warrant expires; and
- (c) may be renewed more than once.

15.51.3 A note of every renewal must be endorsed on the distress warrant.

15.51.4 A warrant that has been renewed has effect and takes priority according to the time of its original issue.

Compare: SR 1992/109 r 611

15.52 Enforcement against firm

15.52.1 Enforcement in the case of a judgment or order against a firm may issue—

- (a) against any property of the partnership:
- (b) against any person who has admitted in the proceeding that he or she was a partner when the cause of action arose, or who has been found liable as a partner:
- (c) against any person who was individually served with the summons as a partner or a person sought to be made liable if—
 - (i) judgment was entered against the person on a summary judgment application where the person failed to serve a response or to file and serve a statement of defence; or
 - (ii) the person failed to appear at the hearing (if any).

15.52.2 A party who has obtained a judgment or order, and claims to be entitled to issue enforcement against any other person as a partner, may apply to the court for leave to do so, and the following provisions apply:

- (a) the party must give the alleged partner at least 3 working days' notice of the application:
- (b) the notice must be served on the alleged partner personally:
- (c) on the hearing of the application, the court may, if liability is not disputed, give leave to issue enforcement:
- (d) if liability is disputed, the court may order the issue of liability to be heard in any manner it thinks fit and may give all necessary directions for that purpose.

15.52.3 A judgment against a firm must not render liable, release, or otherwise affect any partner who was out of New Zealand

when the summons was issued, unless that partner has been individually served with the summons.

15.52.4 Rule 15.52.3 does not apply to a judgment against the property of the partnership.

Compare: SR 1992/109 r 612

15.53 Concurrent distress warrants

15.53.1 Distress warrants may be issued concurrently for enforcement in 1 or more courts.

15.53.2 The costs of more than 1 distress warrant must not be allowed unless the court or Registrar gives leave.

Compare: SR 1992/109 r 613

15.54 Costs of distress warrants

The costs of distress warrants, whether enforced, unenforced, or unproductive, must be allowed against the enforcement debtor unless—

- (a) the court or Registrar otherwise directs; or
- (b) these rules provide otherwise.

Compare: SR 1992/109 r 614

15.55 Holding over enforcement and withdrawing from possession

15.55.1 At any time before enforcement, the enforcement creditor may, in writing, require the bailiff to return the distress warrant to the court.

15.55.2 If the enforcement creditor requests the bailiff to withdraw from possession,—

- (a) the enforcement creditor is, unless rule 15.55.4 applies, treated as having abandoned the enforcement; and
- (b) the bailiff must mark the warrant as withdrawn by request of the enforcement creditor.

15.55.3 If the request to withdraw is made in consequence of a claim under rule 15.93 to the seized goods, the enforcement is treated as having been abandoned only in respect of the goods claimed.

15.55.4 The bailiff must mark the warrant as suspended by request of the enforcement creditor, if the enforcement creditor—

- (a) requests the bailiff to withdraw from possession; and
- (b) at the same time, authorises the bailiff to re-enter by filing an authority in form 63 signed by the enforcement debtor.

Compare: SR 1992/109 r 615

15.56 Reissue of distress warrant

15.56.1 A distress warrant that has been returned or suspended under rule 15.55 may not be reissued until after the enforcement creditor applies in writing to the Registrar to reissue the warrant.

15.56.2 If application is made to reissue a warrant—

- (a) the Registrar must note on the application and the warrant the date and the precise time of the application; and
- (b) for the purposes of rules 15.49.3 and 15.50, the reissued warrant is treated as having been applied for at the time so noted.

15.56.3 Nothing in this rule—

- (a) prejudices any right of the enforcement creditor to apply for a fresh warrant; or
- (b) authorises the reissue of a warrant that has been withdrawn, has expired, or has been superseded by the issue of a fresh warrant.

Compare: SR 1992/109 r 615

15.57 Possession fees

A possession fee is not payable if an enforcement is paid out at the time of seizure; but a possession fee is payable if the bailiff, out of necessity, has to place a person in possession of the goods even though enforcement is paid out on the same day.

Compare: SR 1992/109 r 616

15.58 Bailiff to make inventory

15.58.1 If goods are seized in enforcement, the bailiff must give the enforcement debtor—

- (a) a sufficient inventory of the goods seized; and
- (b) notice, in form 64, of the time when, and place where, the goods will be sold.

15.58.2 The inventory and notice must—

- (a) be given to the enforcement debtor personally; or
- (b) be sent by post to the enforcement debtor's place of residence; or
- (c) if the enforcement debtor's place of residence is not known, be left at the place where the goods were seized or sent by post addressed to the enforcement debtor at that place.

15.58.3 The inventory must be given or sent at the time, or immediately after, the goods are seized.

15.58.4 The notice must be given or sent at least 24 hours before the time fixed for the sale.

Compare: SR 1992/109 r 617

15.59 Accounts of sale

If goods are sold under an enforcement, the bailiff must, at the request of the enforcement debtor, provide the enforcement debtor with a detailed written account of the sale and the application of the proceeds.

Compare: SR 1992/109 r 618

15.60 Bailiff to furnish statements to Registrar

15.60.1 The bailiff must deliver to the Registrar immediately after seizure an inventory of all cheques, bills of exchange, promissory notes, bonds, and other securities for money seized or taken by the bailiff under a distress warrant.

15.60.2 When returning a warrant after enforcement, the bailiff must also deliver with it—

- (a) a copy of the inventory of the goods signed by the bailiff; and
- (b) if the goods have been sold,—
 - (i) a statement setting out opposite each article the price realised at the sale; and
 - (ii) a balance sheet in respect of the proceeds of the warrant and expenses in form 65.

15.60.3 If, after a diligent search, the bailiff cannot find any goods on which to levy, the bailiff must—

- (a) endorse on the warrant his or her return of insufficient goods and chattels in form 66 and sign the warrant; and
- (b) make a short report setting out the facts, as ascertained by him or her, on which the return is founded; and
- (c) if there are goods protected by a bill of sale, give all available particulars of the bill of sale.

15.60.4 The Registrar must—

- (a) require that the bailiff deliver to the Registrar the various statements, reports, and balance sheets required by these rules, accompanied by vouchers for all disbursements; and
- (b) examine them.

15.60.5 A warrant returned in accordance with rule 15.60.2 or 15.60.3 may not be enforced except under rule 15.61.

Compare: SR 1992/109 r 619(1)–(5)

15.61 Court may order enforcement on returned distress warrant

15.61.1 After a warrant is returned in accordance with rule 15.60, the court may order that the warrant be enforced against any goods referred to or specified in the order, if satisfied that—

- (a) there are reasonable grounds to believe that the enforcement debtor or any person on behalf of the enforcement debtor has control or possession of goods on which distress could have been levied under the warrant; and
- (b) no bankruptcy petition based on the enforcement or on the return has been filed.

15.61.2 If an order is made under rule 15.61.1, the warrant—

- (a) continues in force for the purposes of the order; and
- (b) has the same duration and the same priority in respect of enforcement as it had under these rules when it was originally issued.

15.61.3 Rule 15.61.1 does not apply to any warrant that would have expired under rule 15.51.

Compare: SR 1992/109 r 619(6)

15.62 Application for private sale

15.62.1 At least 48 hours' notice must be given on any application under section 89 of the Act for an order that a sale under a distress warrant may be made other than by public auction.

15.62.2 Notice must be served on the bailiff and on all other parties having an interest in the enforcement.

15.62.3 The court or a Registrar may direct that the costs of any party attending be paid by any other party, or otherwise as the court or Registrar thinks fit in the interests of justice.

Compare: SR 1992/109 r 620

Attachment orders

15.63 Attachment orders

An attachment order made under section 84G of the Act must be in form 67.

Compare: SR 1992/109 r 621

Delivery of chattels

15.64 Warrant for recovery of chattels

15.64.1 A plaintiff who has obtained a judgment or order for the delivery of specific chattels may apply to the Registrar in form 61.

15.64.2 On receiving the application, the Registrar may issue a warrant in form 68 to the bailiff requiring that the bailiff demand and seize the specific chattels (if they can be found) and deliver them to the plaintiff.

Compare: SR 1992/109 r 622

15.65 Warrant of committal

Any application for a warrant of committal to enforce a judgment or order for the delivery of specific chattels must be made and dealt with in accordance with rules 15.70 and 15.71.

Compare: SR 1992/109 r 623

15.66 Distress warrant for value of chattels and for damages, etc

15.66.1 A plaintiff may apply to the court on notice to fix the value of the chattels if the court has not fixed the value at the hearing.

15.66.2 If possession has not been obtained under a warrant issued under rule 15.64, the Registrar may, once the value of the chattels has been fixed, issue a distress warrant, in form 69, to recover—

- (a) the value fixed for the chattels; and
- (b) any costs and damages awarded at the hearing for detention (unless separate enforcement has been issued).

15.66.3 Rule 15.66.2 does not prejudice the right of the plaintiff to obtain enforcement, concurrently or at any earlier or later time, for the plaintiff's costs of suit and any damages awarded to the plaintiff for the detention of the goods.

Compare: SR 1992/109 r 624

15.67 Where possession ordered to be taken until security given

15.67.1 The bailiff must make an inventory and appraisalment of goods that the bailiff has taken possession of under any warrant that—

- (a) directs the bailiff to take possession of the goods until security is given by some party for the safe keeping of the goods, or for the payment of their value in default of safe keeping; but
- (b) does not specify the amount of security.

15.67.2 The amount that the bailiff may receive as a deposit under rule 15.67.3 is—

- (a) the amount of the appraisalment; or
- (b) the amount approved by the Registrar as sufficient security for—
 - (i) the safe keeping of the goods; and
 - (ii) delivering possession of the goods on request.

15.67.3 On receiving the deposit, the bailiff must relinquish possession of the goods on the condition that the goods must be re-delivered to the bailiff on request or held to abide the order of the court.

Compare: SR 1992/109 r 625

Recovery of land

15.68 Issue of warrant

The Registrar may, on receipt of an application made in form 61, issue a warrant for the recovery of land after the expiry of the day on which the defendant is required, by the judgment, to give possession of the land.

Compare: SR 1992/109 r 626

15.69 Form of warrant

15.69.1 A warrant in respect of an order made under section 31(1)(a), (b), or (d) of the Act must be made in form 70.

15.69.2 An amount due under a judgment given in the proceeding for rent, mesne profits, damages, or costs may be recovered under a warrant in form 70 or by distress warrant.

Compare: SR 1992/109 r 627

Warrant of committal

15.70 Judgment or order enforceable by committal

15.70.1 This rule applies to a judgment or order that is—

- (a) enforceable by committal; and
- (b) made for the benefit of one party (the **applicant**) against another party (the **respondent**); and
- (c) in the nature of an injunction.

15.70.2 The Registrar must issue a copy of the judgment or order endorsed with a notice in form 71—

- (a) at the time the judgment or order is drawn up; or
- (b) in any other case, at the request of the applicant.

15.70.3 The endorsed copy of the judgment or order must be served on the respondent in the manner required under rule 3.44.2 (personal service).

Compare: SR 1992/109 r 628(1)

15.71 Application for warrant of committal

15.71.1 If the respondent fails to obey the judgment or order referred to in rule 15.70,—

- (a) the Registrar, at the request of the applicant, must issue a notice in form 72 not less than 2 working days after the date of service of the endorsed copy of the judgment

- or order, unless the Judge gives leave for the notice to be issued sooner; and
- (b) the notice must be served on the respondent in the manner required under rule 3.44.2 (personal service).
- 15.71.2 On the day named in the notice, the Judge may order a warrant of committal to be issued if satisfied that—
- (a) the respondent has failed to obey the judgment or order; and
- (b) if the respondent does not appear, the endorsed copy of the judgment or order and the notice have been served on the respondent.
- 15.71.3 The order for the issue of the warrant must be in form 73, and the warrant, which must be signed by the Registrar, must be in form 74.
- 15.71.4 A copy of the order must be served on the respondent either before or at the time the warrant is executed, unless the Judge otherwise orders.
- Compare: SR 1992/109 r 628(2)–(4)

15.72 Discharge of person in custody

- 15.72.1 A person in custody under a warrant who wishes to apply for discharge must—
- (a) file an affidavit specifying the grounds on which he or she applies for discharge; and
- (b) not less than 24 hours before the application is made, serve on the party (if any) at whose instance the warrant of committal was issued a copy of the affidavit and a notice of his or her intention to make the application.
- 15.72.2 If the order of committal directs that the application for discharge must be made to the Judge, it may be made at any place appointed by the Judge.
- 15.72.3 If the order of committal does not direct that the application must be made to the Judge, it may be made to a Registrar.
- 15.72.4 The order for discharge must be in form 75.
- Compare: SR 1992/109 r 629

15.73 Release on bail pending hearing of application for discharge from custody

15.73.1 A person intending to apply for discharge from custody under rule 15.72.1 may, at the time the affidavit under rule 15.72.1(a) is filed, apply to the Judge to be released on bail pending the hearing of the application for discharge from custody.

15.73.2 An application under rule 15.73.1 must be served on the party (if any) at whose instance the warrant of committal was issued at the same time as the affidavit under rule 15.72.1(a) is served.

15.73.3 The order for release on bail under this rule may be made subject to any conditions that the Judge may impose.

Compare: SR 1992/109 r 630

Garnishee proceedings

15.74 Interpretation

In rules 15.75 to 15.92, unless the context otherwise requires,—

judgment creditor means a person who has obtained a judgment or order for the payment of money

judgment debtor means the person against whom a judgment or order for the payment of money has been made

sub-debtor means a person against whom a garnishee order is made or sought in respect of any debt owing from the sub-debtor to the judgment debtor.

Compare: SR 1992/109 r 631

15.75 Garnishee proceeding

A judgment creditor may take a garnishee proceeding in accordance with rules 15.76 to 15.92 in the court in which that person has judgment.

Compare: SR 1992/109 r 631

15.76 Where debt exceeds \$200,000

A garnishee proceeding may be taken even if the amount of debt owing or accruing from the sub-debtor to the judgment debtor exceeds \$200,000.

Compare: SR 1992/109 r 632

15.77 Starting proceeding

15.77.1 A garnishee proceeding is started by the judgment creditor filing an affidavit in form 76 in the court in which he or she has the judgment or order.

15.77.2 On the filing of the affidavit, the Registrar must issue a garnishee summons to the sub-debtor in form 77 and a notice to the judgment debtor in form 78.

Compare: SR 1992/109 r 633

15.78 Service and effect of service

15.78.1 At least 15 working days before the day of the hearing,—

- (a) the summons must be served on the sub-debtor personally; and
- (b) the notice must be served on the judgment debtor personally.

15.78.2 When it is served on the sub-debtor, the summons binds in the hands of the sub-debtor as much of the debt owing or accruing from the sub-debtor to the judgment creditor as will satisfy—

- (a) the debt due under the judgment or order; and
- (b) the costs entered on the summons.

Compare: SR 1992/109 r 634

15.79 Statement to be filed by sub-debtor in respect of deposit or other accounts

15.79.1 This rule applies if—

- (a) the debt alleged to be due from the sub-debtor comprises a sum that—
 - (i) stands to the credit of the judgment debtor with the sub-debtor; and
 - (ii) is on deposit with the sub-debtor or is held by the sub-debtor in a current or other account (for example, a deposit account); and

- (b) it is a condition of the deposit or account that a deposit book, receipt for money paid, or other like document must be produced before any money is withdrawn.

15.79.2 When this rule applies, the sub-debtor must, as soon as practicable after being served with the summons, and at least 3 working days before the date of hearing,—

- (a) file a statement in form 79 in the court office; and
- (b) serve that statement on the judgment creditor and the judgment debtor.

Compare: SR 1992/109 r 635

15.80 Payment into court by sub-debtor

15.80.1 The sub-debtor may, at any time before the day of the hearing, pay into court—

- (a) the amount admitted to be due from the sub-debtor to the judgment debtor; or
- (b) if the amount admitted is more than sufficient to satisfy the amount due under the judgment or order and the costs entered on the summons, a sum sufficient to satisfy that amount and those costs.

15.80.2 The sub-debtor is treated as having been discharged from the proceeding if—

- (a) the amount admitted to be due from the sub-debtor to the judgment debtor is less than the amount claimed owing under the summons; and
- (b) the judgment creditor files in the court and serves on the judgment debtor and sub-debtor a notice that the judgment creditor accepts the amount.

Compare: SR 1992/109 r 636

15.81 Payment out of court of money paid by sub-debtor

15.81.1 Money paid into court by the sub-debtor may be paid out to the judgment creditor before the day of hearing by the Registrar on production of the written consent of the judgment debtor.

15.81.2 In the absence of the judgment debtor's written consent, the court may, on the day of the hearing, after hearing the judgment creditor and the judgment debtor, if they appear, make

any order in the proceedings, including an order for costs, that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 637

15.82 Garnishee order where sub-debtor does not pay into court or appear

15.82.1 The court may make an order under rule 15.82.2 if—

- (a) the sub-debtor does not, before the day of the hearing, pay into court—
 - (i) the amount admitted to be due from the sub-debtor to the judgment debtor or an amount sufficient to satisfy that part of the judgment or order that is unsatisfied; and
 - (ii) the costs entered on the garnishee summons; and
- (b) the sub-debtor does not, on the day of the hearing, appear and dispute the debt alleged to be due from the sub-debtor to the judgment debtor; and
- (c) the judgment debtor does not appear on the day of the hearing and show cause to the contrary.

15.82.2 If rule 15.82.1 applies, the court may order the sub-debtor to pay the judgment creditor—

- (a) the amount due from the sub-debtor to the judgment debtor or an amount sufficient to satisfy the judgment or order against the judgment debtor; and
- (b) costs.

15.82.3 A garnishee order made under this rule—

- (a) must be entered in the court records;
- (b) may be enforced as a judgment of the court.

Compare: SR 1992/109 r 638

15.83 Order in other cases

15.83.1 A sub-debtor who wishes to dispute liability must, within 5 working days after the service of the summons on the sub-debtor inclusive of the day of service,—

- (a) file, without fee, in the court office a notice in form 80; and
- (b) serve a copy of the notice on the judgment creditor and the judgment debtor.

15.83.2 If notice has been given to the judgment creditor under rule 15.83.1 or the amount paid into court under rule 15.80 is not accepted, the court may, after hearing the judgment creditor, the sub-debtor, and the judgment debtor, or any of them that appear, make an order referred to in rule 15.83.3.

15.83.3 The court may—

- (a) determine the liability of the sub-debtor, and make any order as to the payment to the judgment creditor of any sum found to be due from the sub-debtor to the judgment debtor, and costs, that it thinks fit in the interests of justice; or
- (b) order that any issue necessary for determining the question of the liability of the sub-debtor be tried in a manner that the court thinks fit, and direct which of the persons interested, including any third person referred to in rule 15.84, is to be the plaintiff and which is to be the defendant; or
- (c) order that the judgment creditor be at liberty to sue the sub-debtor for—
 - (i) the amount alleged to be due by the sub-debtor to the judgment debtor, if the amount alleged is less than the judgment debt; or
 - (ii) the amount of the judgment debt with costs of suit, if the amount alleged to be due by the sub-debtor or to the judgment creditor is greater than the judgment debt.

15.83.4 An order for payment made under this rule may be enforced as a judgment of the court.

15.83.5 No order may be made under this rule if the sub-debtor disputes the debt and the debt claimed exceeds \$200,000.

15.83.6 At any time before the hearing, the sub-debtor may apply to the court for an order that—

- (a) the garnishee proceeding be transferred, under Part 3, to a court in which it could have been started if it were a proceeding brought against the sub-debtor by the judgment debtor to recover the debt; or
- (b) the garnishee proceeding be referred to the Registrar of any court for inquiry and report under rules 3.75 and 3.76.

15.83.7 The court may make any order in respect of an application under rule 15.83.6 that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 639

15.84 Where debt stated to belong to third party

15.84.1 If it is suggested in a garnishee proceeding that the debt belongs to or is claimed by a third person, or that a third person has or claims to have a lien or charge on it, the court may order the third person to appear and state the nature and particulars of his or her claim to the debt.

15.84.2 After hearing the third person, if that third person appears, the court may—

- (a) bar the claim of the third person; or
- (b) order an issue to be heard between the third person and the judgment creditor; or
- (c) make any other order, including an order for costs, that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 640

15.85 Garnishee orders in respect of deposit and other accounts

15.85.1 This rule applies if—

- (a) a garnishee order is sought in respect of a sum that—
 - (i) stands to the credit of the judgment debtor with the sub-debtor (for example, a bank or savings bank); and
 - (ii) is on deposit with the sub-debtor or held by the sub-debtor in a current or other account (for example, a deposit account); and
- (b) it is a condition of the deposit or account that a document must be produced before any money is withdrawn.

15.85.2 If it appears to the court that any document must be produced, the court may, by order in form 81, require any person (including the judgment debtor) who has possession or knows the whereabouts of the document to—

- (a) deliver it to the court within 5 working days after the date of service of the order on that person or within any other time that the court specifies in the order; or
- (b) disclose its whereabouts to the court within that time.

- 15.85.3 The judgment creditor may apply without notice for an order under rule 15.85.2.
- 15.85.4 A person against whom an order is made under rule 15.85.2 must, within 5 working days after the date of service of the order,—
- (a) file in court an affidavit in form 82; and
 - (b) serve a copy of the affidavit on the judgment creditor.
- 15.85.5 The Registrar, subject to any directions of the court, must—
- (a) produce to the sub-debtor any document delivered to the court under rule 15.85.2; and
 - (b) retain the document until the garnishee proceeding is disposed of, unless the sub-debtor pays into court the full amount in respect of which an order is sought.

Compare: SR 1992/109 r 641

15.86 Discharge of sub-debtor as against judgment debtor

- 15.86.1 Payment made by or enforcement levied on the sub-debtor under a garnishee proceeding is a valid discharge to the sub-debtor (to the amount paid or levied), as against the judgment debtor, even if the proceeding is later set aside or the judgment or order is reversed.
- 15.86.2 However, rule 15.86.1 does not apply to the payment or enforcement of costs ordered to be paid by the sub-debtor personally.

Compare: SR 1992/109 r 642

15.87 Court may refuse order

- 15.87.1 The court may hear evidence about the circumstances of the judgment debtor.
- 15.87.2 If it appears to the court that the judgment debtor reasonably requires all or part of the money sought to be attached for the maintenance and support of the judgment debtor and his or her family, the court may—
- (a) refuse to make a garnishee order; and
 - (b) make an order as to the disposal of any money paid.

15.87.3 The court may refuse to make a garnishee order if, in its opinion, the amount to be recovered or the debt sought to be attached is too small.

Compare: SR 1992/109 r 643

15.88 Where money due by sub-debtor under judgment or order

15.88.1 This rule applies to any amount due from the sub-debtor to the judgment debtor under a judgment or order obtained by the judgment debtor against the sub-debtor.

15.88.2 The sub-debtor, unless the court otherwise orders, is not liable to pay the judgment creditor the amount due from the sub-debtor to the judgment debtor by any larger instalments than those that the sub-debtor is liable to pay to the judgment debtor under the judgment or order.

15.88.3 The Registrar must enter in the court records relating to the judgment or order a note of—

- (a) the amounts paid or ordered to be paid by the sub-debtor in the garnishee proceeding, other than costs ordered to be paid by the sub-debtor personally;
- (b) any costs that the sub-debtor may, by order of the court, deduct from the amount due from the sub-debtor to the judgment debtor.

Compare: SR 1992/109 r 644

15.89 Money in court

15.89.1 If money is standing to the credit of the judgment debtor in any court, the judgment creditor—

- (a) cannot take a garnishee proceeding in respect of that money; but
- (b) may apply to the court on notice for an order that the money, or the amount of it necessary to satisfy the judgement debt and costs, be paid to the judgment creditor.

15.89.2 On receipt of notice of the application, the Registrar must retain the money in court until the application has been heard.

15.89.3 On the hearing of the application, the court—

- (a) may make any order as to the money in court that it thinks fit in the interests of justice; and
 - (b) must have regard to the matters mentioned in rule 15.87.
- 15.89.4 A note of the order must be made in the court records relating to the money standing to the credit of the judgment debtor.
- Compare: SR 1992/109 r 645

15.90 Debts owing by firm

Rules 15.76 to 15.92 apply to debts owing by or accruing from a firm carrying on business in New Zealand, although 1 or more members of the firm may be resident outside New Zealand.

Compare: SR 1992/109 r 646

15.91 Costs

- 15.91.1 The court may award costs to any sub-debtor attending under rules 15.76 to 15.92, or attending to give evidence under rules 3.24 to 3.30.
- 15.91.2 If, within a reasonable time, the judgment creditor fails to give notice under rule 15.80.2(b), the court may award the sub-debtor the costs incurred by the sub-debtor at the hearing.
- 15.91.3 The court may also award costs to a judgment debtor attending to give evidence in a garnishee proceeding—
- (a) if the proceeding is abandoned by the judgment creditor; or
 - (b) for any other reason that the court thinks sufficient.
- 15.91.4 No fee is payable in respect of any order of the court for the payment out of court of any money paid into court in any garnishee proceeding.
- 15.91.5 Any costs allowed to the judgment creditor that are not ordered to be paid by the sub-debtor personally, unless it is otherwise ordered, are to be retained by the judgment creditor out of money recovered by the judgment creditor in the garnishee proceeding, in priority to the amount due under the judgment or order.

Compare: SR 1992/109 r 647

15.92 Garnishee proceeding against the Crown

In the case of a garnishee proceeding against the Crown as a sub-debtor, rules 15.76 to 15.91 apply with the following modifications:

- (a) rules 15.76 to 15.91 do not apply to any debt that is excepted by the proviso to section 26 of the Crown Proceedings Act 1950;
- (b) the affidavit required under rule 15.77 must be filed, and must give, in addition to the particulars prescribed by form 76, particulars of—
 - (i) the circumstances in which it is alleged that the liability of the Crown has arisen; and
 - (ii) the government department or officer of the Crown concerned;
- (c) the garnishee summons to be served on the sub-debtor under rule 15.78 must be served on the Crown, together with a copy of the affidavit filed in support of the summons, not less than 35 working days before the day of the hearing;
- (d) the time within which the sub-debtor must, under rule 15.83.1, file a notice to dispute the debt claimed is 30 working days;
- (e) rules 15.82.3(b) and 15.83.4 have effect subject to section 24 of the Crown Proceedings Act 1950.

Compare: SR 1992/109 r 648

*Interpleader proceedings relating to
enforcement*

15.93 Notice of claim

15.93.1 Any claim under section 93 of the Act to or in respect of the goods seized in enforcement must—

- (a) be in form 83; and
- (b) be delivered to the bailiff holding the distress warrant or to the person in charge of the goods.

15.93.2 The bailiff must lodge the claim in the court of which he or she is the bailiff.

Compare: SR 1992/109 r 649

15.94 Notice to enforcement creditor

On receipt of the claim, the Registrar must send notice of it to the enforcement creditor in form 84.

Compare: SR 1992/109 r 650

15.95 Appraisement

15.95.1 If the value of any goods claimed is disputed, the Registrar may—

- (a) at the request of the claimant, appoint a person to fix by appraisement the value of the goods; and
- (b) fix the remuneration to be paid for the appraisement.

15.95.2 The claimant must pay into court the remuneration fixed by the Registrar, which must be paid to the appraiser.

15.95.3 The Registrar may revoke the appointment of any appraiser and appoint another person in his or her place.

15.95.4 The remuneration fixed for the appraiser may, if the court so orders, be costs in the interpleader proceeding.

Compare: SR 1992/109 r 651

15.96 Admission of claim

15.96.1 If the enforcement creditor gives notice to the Registrar, in form 85, that the enforcement creditor admits the title of the claimant, or requests that the bailiff withdraw from possession,—

- (a) the Registrar must notify the bailiff immediately; and
- (b) the proceeding is stayed; and
- (c) the enforcement creditor is not liable to the bailiff for any possession fees or expenses incurred after the bailiff was notified by the Registrar.

15.96.2 The Judge may, on application by the bailiff on not less than 1 working day's notice in writing to the enforcement creditor, order the enforcement creditor to pay any fees or expenses for which the enforcement creditor is liable.

Compare: SR 1992/109 r 652

15.97 Order protecting bailiff

15.97.1 If the enforcement creditor gives notice in accordance with rule 15.96.1, the bailiff—

- (a) must withdraw from possession; and
- (b) may apply to the Judge, on not less than 1 working day's notice in writing to the claimant, for an order protecting the bailiff from any action in respect of the seizure and possession of the goods.

15.97.2 On the hearing of the application under rule 15.97.1(b), the Judge may make any order he or she thinks fit in the interests of justice.

Compare: SR 1992/109 r 653

15.98 Starting proceeding

15.98.1 If the enforcement creditor does not give notice in accordance with rule 15.96.1, the Registrar must, at the request of the bailiff,—

- (a) fix a day for the hearing; and
- (b) prepare and issue for service interpleader summonses to the enforcement creditor and the claimant in any of forms 86 to 89 that apply to the case.

15.98.2 Rule 15.98.1 does not apply if the claimant has withdrawn his or her claim.

Compare: SR 1992/109 r 654

15.99 Service

15.99.1 A summons under rule 15.98 must be served in accordance with rules 15.11, 15.13, and 15.14, but service must be effected not less than 7 working days before the day of the hearing.

15.99.2 Despite rule 15.99.1, in the case of a claim under section 93 of the Act, where the claimant has not made a deposit or given security in accordance with that section, the summons may, if the Registrar thinks fit, be served at any time before the day of the hearing.

Compare: SR 1992/109 r 656

15.100 Security for costs where claimant does not reside in New Zealand

15.100.1 If it appears that the claimant does not reside in New Zealand, the enforcement creditor may apply to the Judge on

not less than 1 working day's notice in writing for an order directing the claimant to give security for costs.

15.100.2 A claimant who fails to comply with an order under rule 15.100.1 is not entitled to be heard in support of his or her claim, unless the Judge otherwise orders.

Compare: SR 1992/109 r 657

15.101 Particulars and grounds of claim to be lodged

15.101.1 The claimant must serve on the enforcement creditor and file in the office of the court—

- (a) particulars of any goods alleged to be the claimant's property and of the grounds for his or her claim to the goods; or
- (b) in the case of a claim for rent, particulars stating the amount of rent claimed, and the period and the premises in respect of which the rent is claimed to be due.

15.101.2 The claimant must serve and file the particulars—

- (a) within 3 working days after the service of the summons on the claimant inclusive of the day of service; or
- (b) if the time for service has been shortened, then within such reasonable time before the day of the hearing as the time of service allows.

15.101.3 The claimant must include in the particulars a statement of his or her full name, address, and occupation.

Compare: SR 1992/109 r 658

15.102 Withdrawal or admission

15.102.1 This rule applies if, before the day of the hearing,—

- (a) the claimant serves on the enforcement creditor and files in the office of the court a notice that the claimant withdraws his or her claim; or
- (b) the enforcement creditor serves on the claimant and files in the office of the court an admission of the title of the claimant.

15.102.2 When this rule applies,—

- (a) the goods seized, or the proceeds of the sale, or the money paid into court, as the case may be, must be dealt

with as if the claim had not been made or the enforcement had been withdrawn; and

- (b) the Judge may make any order for costs, fees, charges, and expenses that he or she thinks fit in the interests of justice.

Compare: SR 1992/109 r 659

15.103 Claim for damages by claimant

If, in the interpleader proceeding, a claimant claims damages from the enforcement creditor or from the bailiff in respect of the seizure of the goods, the claimant must state, in the particulars of his or her claim to the goods,—

- (a) the amount claimed for damages; and
- (b) the grounds on which those damages are claimed.

Compare: SR 1992/109 r 660

15.104 Claim for damages by enforcement creditor

If, in the interpleader proceeding, the enforcement creditor claims damages against the bailiff arising out of the enforcement, the enforcement creditor must, within the time limited by rule 15.101.2,—

- (a) give the bailiff a written notice of his or her claim, stating the grounds and amount of the claim; and
- (b) file the notice in the office of the court.

Compare: SR 1992/109 r 661

15.105 Payment into court where damages claimed

If, in the interpleader proceeding, the claimant claims damages from the bailiff or from the enforcement creditor, or the enforcement creditor claims damages from the bailiff,—

- (a) the person from whom damages are claimed may pay money into court to satisfy that claim; and
- (b) the payment must be made in the same manner and has the same effect as if the person claiming damages were the plaintiff in a proceeding and the person from whom damages are claimed were the defendant.

Compare: SR 1992/109 r 662

Writs of arrest

15.106 Application for writ

15.106.1 An application for a writ of arrest and an affidavit in support of it must be in form 90.

15.106.2 The applicant must deposit a sum that the Judge or a Registrar thinks reasonable to cover the costs and expenses of arrest.

15.106.3 The costs and expenses of arrest are costs in the proceeding.

Compare: SR 1992/109 r 663

15.107 Form of writ, and procedure

15.107.1 A writ of arrest must be in form 91, and may be addressed to any bailiff of the court, or to any constable, either by name or official designation.

15.107.2 The bailiff or constable must, on executing the writ, deliver to the defendant a notice, signed by the Judge or Registrar, in form 92.

15.107.3 If the defendant gives bail for his or her attendance at the hearing, it may be by bond in form 93.

15.107.4 In default of bail being given, the warrant of remand may be in form 94.

15.107.5 If the defendant consents to a summary hearing, the consent may be in form 95.

Compare: SR 1992/109 r 664

Proceedings by and against executors and administrators

15.108 Costs where executor sues and fails

If the plaintiff in a proceeding is an executor or administrator and the plaintiff fails, any costs awarded to the defendant must, unless the court otherwise orders, be levied on the goods of the plaintiff.

Compare: SR 1992/109 r 665

15.109 Judgment and enforcement against executor or administrator

- 15.109.1 If the court gives judgment against an executor or administrator sued in his or her capacity as an executor or administrator, the judgment must record that it is given against the defendant in that capacity.
- 15.109.2 Enforcement on the judgment is, subject to this rule, limited to assets of the estate of the deceased in the hands of the executor or administrator.
- 15.109.3 If the executor or administrator satisfies the court that he or she has no assets, or insufficient assets, in his or her hands to satisfy the claim, the court may give judgment that the amount, or as the case may require, the balance of the amount, be levied on the assets of the estate that, from then on, come into the hands of the executor or administrator.
- 15.109.4 If the executor or administrator unnecessarily denies the claim or unsuccessfully alleges that he or she has no assets, then, in addition to the other remedies available, the court may order that the amount awarded for costs be levied against the executor or administrator personally.

Compare: SR 1992/109 r 666

15.110 Assets after judgment

- 15.110.1 If judgment has been given under rule 15.109.3,—
- (a) the plaintiff may apply to the court on notice for an order in respect of the assets in question; and
 - (b) the court may make an order in form 96 if it appears that, since judgment, any assets of the estate have come into the hands of the executor or administrator.
- 15.110.2 A copy of the order must be served on the executor or administrator.

Compare: SR 1992/109 r 667

15.111 Form of distress warrant

A distress warrant against the assets of the estate of a deceased person must be in form 97, and must be issued by a Registrar.

Compare: SR 1992/109 r 668

Part 16

Penal and disciplinary provisions

16.1 Proceedings on complaint of assault or rescue

16.1.1 This rule applies if—

- (a) it is alleged that any person has—
 - (i) assaulted an officer of the court while that officer was carrying out his or her duties; or
 - (ii) rescued or attempted to rescue any goods seized under the process of the court; and
- (b) the alleged offender has not been taken into custody and brought before a Judge.

16.1.2 The Registrar must issue a summons to the alleged offender in form 98.

16.1.3 The summons must be served on the alleged offender personally at least 2 working days before the day of hearing appointed in the summons.

16.1.4 An order made under section 18 or 87 of the Act must be in form 99.

Compare: SR 1992/109 r 669

16.2 Misconduct or neglect of officers

16.2.1 If a complaint is made against an officer of the court under section 19 or 105 of the Act—

- (a) the Registrar must issue a summons in form 100 or 101; and
- (b) the summons must be served on the officer personally at least 15 working days before the day of hearing appointed in the summons.

16.2.2 An order made under section 19 of the Act must be in form 102.

16.2.3 An order made under section 105 of the Act must be in form 103.

Compare: SR 1992/109 r 670

16.3 Witnesses and costs

On the hearing of a summons or a summary hearing under section 18, 19, 87, or 105 of the Act,—

- (a) witnesses may be summoned and their attendance enforced in the same manner as on the hearing of a proceeding; and
- (b) the Judge may make an order as to costs as the Judge thinks fit.

Compare: SR 1992/109 r 671

16.4 Non-attendance, etc, of witness

An order made under section 54 of the Act imposing a fine on a person summoned as a witness, or on a person in court who refuses to be sworn or to give evidence, must be in form 104.

Compare: SR 1992/109 r 672

16.5 Notice before imposing or enforcing fine

16.5.1 In any case to which section 54 of the Act applies, the court may without delay impose the penalty provided in that section.

16.5.2 Before or after imposing a fine on any person under section 54 of the Act, the Judge may direct the Registrar to give notice to that person stating that if the person has any cause to show why the fine should not be or should not have been imposed, he or she may show cause in person, by affidavit, or otherwise, on a day to be named in the notice.

16.5.3 The court, after considering the cause shown, may make any order it thinks fit in the interests of justice.

Compare: SR 1992/109 r 673

16.6 Contempt of court

16.6.1 A warrant committing an offender to prison under section 112 of the Act must be in form 105.

16.6.2 An order imposing a fine on that offender must be in form 106.

Compare: SR 1992/109 r 674

16.7 Enforcement of fine

16.7.1 If a fine is not paid in accordance with the order of a Judge, the Registrar must immediately report the matter to the Judge.

16.7.2 An order of a Judge under section 114 of the Act for the enforcement of a fine under the Summary Proceedings Act 1957 must be in form 107.

Compare: SR 1992/109 r 675

Part 17

Revocation and transitional provisions

17.1 Revocation

The District Courts Rules 1992 (SR 1992/109) are revoked.

17.2 Transitional provisions

17.2.1 This rule applies to all civil proceedings in any court (being proceedings to which the District Courts Rules 1992 applied) commenced before and pending or in progress on the commencement of these rules.

17.2.2 Despite the revocation of the District Courts Rules 1992, civil proceedings to which this rule applies are to be continued, completed, and enforced under those rules as if those rules had not been revoked.

17.2.3 If any question arises as to the continuation, completion, or enforcement of a proceeding under rule 17.2.2, the court may, either on the application of a party to the proceeding or on its own initiative, determine the question and give any directions that it thinks fit in the interests of justice.

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97	Distress warrant against goods of estate of deceased person	540
98	Summons for assaulting officer of court or rescuing goods	542
99	Order imposing a fine for assaulting an officer of the court, or for rescuing goods	543
100	Summons for extortion or misconduct	544
101	Summons for neglect to levy enforcement	546
102	Order for repayment of money extorted, or payment of money levied, and for damages, costs, and fine	547
103	Order awarding damages for neglect to levy enforcement	549
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105	Warrant of committal for contempt of court	552
106	Order for fine for contempt of court	553
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Introduction to forms under these rules

The bulk of the forms prescribed by these rules are set out fully in this schedule and begin with form 1. These rules also incorporate some forms prescribed by the High Court Rules and those forms are listed in the following table. High Court Rules forms will have to be modified in the manner indicated in rule 1.6 to suit District Courts. Generally speaking, High Court Rules forms are incorporated directly where the relevant procedure is the same in District Courts as it is in the High Court.

The following table lists the High Court Rules forms that may have some application under these rules, and the reference points in the High Court Rules and these rules are indicated by the letters “HCR” and “DCR” respectively:

Form No	Name of form
G 1	General heading for documents filed in proceeding (HCR 5.11, 19.9; DCR 1.33.2)
G 2	Notice of proceeding (HCR 5.23; DCR 2.8.1)
G 3	Memorandum (general form) (HCR 5.23; DCR 2.8.1)
G 6	Notice to defendant served overseas (HCR 6.31; DCR 3.44.25)

Form No	Name of form
G 7	Appearance under protest to jurisdiction (HCR 5.52; DCR 2.12.6)
G 8	Appearance for ancillary purpose (HCR 5.52; DCR 2.8.1)
G 9	Appearance reserving rights (HCR 5.52; DCR 2.8.1)
G 10	Memorandum to be attached to first document filed by party (HCR 5.44, 19.8; DCR 2.8.2, 3.37.9)
G 11	Memorandum as to change of representation and/or address for service (HCR 5.40; DCR 3.37.5)
G 12	Notice of intention to speak Māori (HCR 1.11; DCR 3.5.4)
G 13	Notice of proceeding when summary judgment sought by plaintiff (HCR 12.4; DCR 2.42.3, 12.17.3)
G 14	Third party notice (HCR 4.10; DCR 2.8.1)
G 15	Notice to other defendant (HCR 4.21; DCR 2.8.1)
G 16	Affidavit of service (HCR 6.10; DCR 3.44.10, 12.33)
G 18	Request for service abroad (HCR 6.34; DCR 3.44.28)
G 24	Notice of discontinuance (HCR 15.19; DCR 12.20.2)
G 26	Subpoena to give evidence for service in Australia (HCR 9.59; DCR 12.4.2)
G 27	Subpoena for production only for service in Australia (HCR 9.59; DCR 12.4.2)
G 28	Statement of rights and obligations of person served in Australia with subpoena under Evidence Act 2006 (HCR 9.61; DCR 12.4.3)
G 29	Certificate of non-compliance with subpoena for service in Australia (HCR 9.65; DCR 12.4.4)
G 31	Interlocutory application on notice (HCR 7.19, 12.4; DCR 3.52.1)
G 32	Interlocutory application without notice (HCR 7.19, 7.23; DCR 3.52.1, 3.52.5)
G 33	Notice of opposition (HCR 7.24, 12.9; DCR 3.52.6, 12.17.8)
G 34	Interlocutory order (HCR 7.47; DCR 3.52.29)
G 35	Notice to answer interrogatories (HCR 8.1; DCR 3.58.1)
G 36	Notice to admit facts (HCR 8.14; DCR 3.59.1)
G 37	Affidavit of documents (HCR 8.20; DCR 3.60.5)
J 1	Judgment by default in case of liquidated demand (HCR 11.6; DCR 12.8.6)

Form No	Name of form
J 2	Judgment by default in proceeding for recovery of land (HCR 11.6; DCR 12.8.6)
J 3	Judgment on trial by Judge (HCR 11.6; DCR 12.8.6)
J 4	Judgment on trial by jury (HCR 11.6; DCR 12.8.6)

Form 1
General heading for documents filed in
proceeding

r 1.33

In the District Court

[*Name of office*] Office

No: [*number of proceeding*]

Under the [*name of Act under which proceeding is authorised*]

In the matter of [*specify matter to which proceeding relates*]

Between [*full name, place of residence, occupation*]

(plaintiff)

And [*full name, place of residence, occupation*]

(defendant)

Include the following if there is a counterclaim against both the plaintiff and another person.

Between [*full name, place of residence, occupation*]

(defendant)

And [*full name, place of residence, occupation*]

(plaintiff)

And [*full name, place of residence, occupation*]

(counterclaim defendant)

Form 2
Notice of claim
Notes for plaintiff

rr 2.10, 2.11

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

serve personally: to take documents about a claim to the plaintiff or defendant and give the documents to them

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this notice of claim form to make a civil claim in a District Court. A notice of claim tells the defendant and the court what your claim is about.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the plaintiff.

Form 2—*continued*

The person you are making the claim against is the defendant.
For more information about who can sign this form, *see* under Further information for plaintiff.

How to fill in this form

- 1 Remove any notes pages for you, the plaintiff.
- 2 Fill in **all** 5 sections of the form.

What to do when you have completed this form

- 1 File the form at a District Court and pay a fee. Give the court the original copy plus 1 photocopy for each defendant.
- 2 Serve the form on each defendant when the court returns the defendants' copies to you.

See instructions under **How to file and serve forms**. For more information about fees for filing forms, go to: www.justice.govt.nz/civil.

Before you serve this form on the defendant, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Further information for plaintiff

Who can sign this form

You can sign this form if—

- you are making the claim yourself:

or

Form 2—*continued*

- you are authorised to sign on behalf of the plaintiff—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to file and serve forms

Filing form at court

You must file this notice of claim form at a District Court. Give the court the original copy plus 1 photocopy for each defendant. For example, if there are 2 defendants, file the original plus 2 photocopies. The court will return the defendants' copies of the form to you.

You can take or send the form to the Registrar at any one of the following courts, unless the court or Registrar has told you the form must be filed at a different court:

- the court nearest to where the defendant lives or where their business is. If the defendant is not a New Zealand resident and does not have a business in New Zealand, send the form to any District Court in New Zealand;
- the court nearest to the place where the actions that led to the claim happened (for example, this might be in a different town or city from where you live);
- the court nearest to the property the claim is about.

For up-to-date information about the fee for filing a notice of claim and court locations, go to www.justice.govt.nz/civil.

Serving form on the defendant

Serve the form in person. You must serve personally this notice of claim on the defendant. The court will return the defendants' copies of this form to you. You serve the form on the defendant by taking a copy of the form to the defendant and giving it to the defendant.

The form must be brought to the defendant's personal attention (for example, you cannot just put it in their letterbox).

You can get someone else to serve the form for you (for example, your lawyer, a friend, or a member of your whānau).

Form 2—*continued*

Serve separate copies for each defendant. You must serve personally separate copies of the form on each defendant—even if they live at the same address.

Serve the form within 12 months. You must serve this notice of claim on the defendant no more than 12 months after you file it at the District Court. If you do not serve your notice of claim within 12 months, your claim will end.

Serving a form on a defendant who lives overseas. If the defendant lives overseas, you must serve personally this form and form G 6 (notice to defendant served overseas). For more information about serving forms on overseas defendants, and to get a copy of form G 6, go to www.justice.govt.nz/civil, your local District Court, or your lawyer.

What if the defendant sends you their response late, admits facts, or does not disclose defence?

When you serve this form, the defendant has 20 working days to respond by sending you form 3 (response by defendant) (the next form in the process). If the defendant is late sending you their response, you can apply for the court to judge the claim in your favour by filling in form 6A (application for judgment).

You can also apply for judgment in this way if the defendant's form 3 contains an admission of the facts stated in your claim or the defendant's form 3 does not disclose a defence to your claim.

You can get a copy of form 6A from www.justice.govt.nz/civil, your local court, or your lawyer.

Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

Form 2—*continued*

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

serve personally: to take documents about a claim to the plaintiff or defendant and give the documents to them

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed notice of claim form because someone (the plaintiff) wants to make a civil claim against you in a District Court. This notice of claim tells you and the court what the plaintiff's claim is about.

The person making the claim against you is the plaintiff.

You are the defendant.

What to do next if you are the defendant

You must respond to this notice of claim within 20 working days. To respond to the plaintiff, fill in form 3 (response by defendant). You can get a copy of form 3 from www.justice.govt.nz/civil, your local District Court, or your lawyer.

Form 2—*continued***What happens if you do not respond to the plaintiff, admit facts, or do not disclose defence?**

If you do not respond to this notice of claim within 20 working days, the court may decide you have to pay or give the plaintiff what they are claiming in this form (this is called judgment).

The court may also give judgment if you admit the facts stated in the plaintiff's form 2 or your form 3 does not disclose a defence to the plaintiff's claim.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Further information for defendant

How to get legal advice

You may want to employ a lawyer to advise you. If you decide to employ a lawyer, you should do so as soon as possible.

If you cannot afford a lawyer, you may be eligible for legal aid. To find out about legal aid, contact the staff at your local Legal Services Office, Citizens Advice Bureau, or Community Law Centre, or approach a lawyer or legal firm for help.

What happens if you are an overseas resident

If you live outside of New Zealand, you should have received form G 6 (notice to defendant served overseas) as well as this form. Form G 6 sets out your options as an overseas resident.

See www.justice.govt.nz/civil for more information.

Form 2—*continued*

What if you think the District Court is not the proper place to decide on this claim?

You may think the District Court is not the proper court or place to decide on the plaintiff's claim (this is called protest to jurisdiction). For example, you may think the case should be heard by—

- another court (such as the High Court, Family Court, Employment Court, or Environment Court):
- a court in another country:
- a tribunal (such as the Tenancy Tribunal):
- an arbitrator.

If you want to protest the District Court's jurisdiction for this claim, you must file and serve form G 7 (appearance under protest to jurisdiction), instead of serving form 3. You can get a copy of form G 7 from www.justice.govt.nz/civil, your local District Court, or your lawyer.

Filed at: [*name of District Court where you are filing this form*]

File reference number (CIV): [*The court will fill in this information.*]

Date filed:

Section 1: Plaintiff's details

If there is more than 1 plaintiff, write their contact details on a separate sheet of paper. (Use a separate sheet for each plaintiff.) Staple any extra sheets to this page. Write the file reference number on any extra sheets you use.

I am listing [*write the number of plaintiffs*] plaintiffs.

1A Plaintiff's name

Write your full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Form 2—*continued*

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1B Plaintiff's trading name

If the plaintiff in 1A above has a different trading name, write the trading name here.

Trading name:

1C Plaintiff's address for service

If a lawyer is not making this claim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim*.

Street address:

*If a lawyer is making this claim on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

1D Plaintiff's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address:

1E Plaintiff's contact details

Write down your telephone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

1F Do you have a lawyer?

If you have a lawyer who is making this claim on your behalf, write their details here, including the name of their firm.

Form 2—*continued*

Name of plaintiff's lawyer

Name:

Firm:

Contact details of plaintiff's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Defendant's details

If there is more than 1 defendant, write their contact details on a separate sheet of paper. (Use a separate sheet for each defendant.) Staple any extra sheets to this page. Write the file reference number on any extra sheets you use.

I am listing [*write the number of defendants*] defendants.

2A Defendant's name

Write the defendant's full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

2B Defendant's trading name

If the defendant in 2A above has a different trading name, write the trading name here.

Trading name:

Form 2—*continued***2C Defendant's address**

Write down the address of a place in New Zealand where you intend to serve this notice of claim on the defendant.

Note that even if the defendants are at the same address, they each need to be served a copy.

Street address:

2D Defendant's postal address

If the defendant's postal address is different from their address in 2C above, write their postal address here.

Postal address:

2E Defendant's contact details

If you know the defendant's telephone and fax numbers and email address, write them here.

Telephone number:

Other telephone number:

Fax number:

Email address:

2F Does the defendant have a lawyer who is dealing with this claim on their behalf?

If you know the contact details of the lawyer who is dealing with this claim on the defendant's behalf, write them here, including the name of the lawyer's firm.

Name of defendant's lawyer

Name:

Firm:

Contact details of defendant's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Form 2—*continued*

Fax number:

Email address:

Section 3: Your description of the facts of the claim, and any supporting legal references

State concisely the facts of your claim underneath each heading below. The question(s) underneath the headings will help you think about your answers for this part of the form.

Underneath each fact, write down any legal references you are relying on to support your claim (give the Act, section, and case).

3A Connection between the plaintiff and defendant

What is the connection between you and the defendant? (For example, the defendant may have agreed to do something for you, or you and the defendant may have had a traffic accident.)

Legal references, if any (for example, Fair Trading Act 1986, Land Transport Act 1998):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra pages*] extra pages for section 3A.

3B Details of duty the defendant owes the plaintiff

What duty does the defendant owe you? What obligation do they have to you?

(For example, the defendant has a duty to properly complete work on time, or the defendant has a duty to comply with the road rules.)

Was there a contract (an agreement or understanding) between you and the defendant?

What terms from that contract are relevant to your claim?

Legal references (if any):

Form 2—*continued*

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3B.

3C What happened that led to this claim

What did the defendant do (or not do) that led you to make this claim? (Include relevant dates, times, places, and other similar details.)

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3C.

3D Facts showing why the defendant should pay or give what is being claimed

What facts justify what you are asking the defendant to do to settle your claim?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3D.

3E Loss suffered by the plaintiff

What did you lose because of the defendant's actions?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

Form 2—*continued*

I have included [*write the number of extra sheets*] extra sheets of paper for section 3E.

Section 4: What you are asking for from the defendant

4A What are you asking the defendant to give you or to do?

Clearly state what you are asking for from the defendant. For example, this could be—

- money, compensation, or damages:

or

- things you want the defendant to do, or things you want the defendant to stop doing.

If you are asking for money, write the amount.

I want the defendant to [*specify*].

I am asking for the following amount of money from the defendant: \$[*amount*]

4B Are you also claiming interest?

If you are asking for money from the defendant in 4A above, state here whether you are also claiming interest on that money.

Write down the total amount of interest you are claiming.

As well as the money I am asking for in my claim, I am asking the defendant for \$[*amount*] interest.

Show how you have calculated the interest you are claiming.

Write down—

- the amount of money you are claiming interest for:
- the rate of interest each year:
- the period you want the defendant to pay interest for.

Then write down the legal basis for the interest you are claiming. For example, you may have a contract that says how much interest you can charge if the contract is breached.

I calculated this amount of interest as follows: [*specify*]

The legal basis for the interest I am claiming is [*specify*].

Form 2—*continued***4C What costs and expenses are you claiming?**

Write your costs and expenses below.

I claim \$[*amount*] for the filing fee on this claim.

I claim \$[*amount*] for serving this form (estimated).

I claim \$[*amount*] for preparing this form (if prepared by a lawyer).

Total \$[*amount*]

Section 5: Your signature**5A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.**

I believe that the facts I have stated in this notice of claim are true and correct.

Signature of plaintiff:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Notes**More information about claim process**

The claim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the claim process at:

www.justice.govt.nz/civil.

Form 2—*continued*

Why do you have to go through this process?

By going through the claim process, you might be able to settle the claim without going through the court system.

If you go through the claim process and do not settle the claim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 2: replaced, on 14 June 2012, by rule 24(a) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

rr 2.10, 2.11, 2.27, 2.28

Form 2CC
Notice of counterclaim
Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this notice of counterclaim form to make your own independent claim against the plaintiff in the District Court. A notice of counterclaim tells the plaintiff and the court what your counterclaim is about.

Form 2CC—*continued*

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you were the defendant in the original claim. You are still called the defendant.

The person you are making this counterclaim against is the person who was the plaintiff in the original claim. They are still called the plaintiff.

For more information about who can sign this form, *see* under Further information for defendant.

How to fill in this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in **all 5** sections of the form.

For information about what to do when you have completed this form, *see* under Further information for defendant.

Before you serve this form on the plaintiff, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant’s information capsule (for counterclaim), filled in by the defendant

Form 5CC—Plaintiff’s information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Form 2CC—*continued*

Further information for defendant

Who can sign this form

You can sign this form if—

- you are making the counterclaim yourself:
- or*
- you are authorised to sign on behalf of the defendant—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the counterclaim.

Or, you can authorise your lawyer to sign this form on your behalf.

What to do when you have completed this form

When you have completed this form, you must file the form at court and serve a copy on the plaintiff.

You must file this notice of counterclaim no more than 20 working days after you receive form 2 (notice of claim) from the plaintiff. You must also serve this form and form 3 (response by defendant) on the plaintiff within 20 working days.

If you do not file form 2CC and serve both form 2CC and form 3 within 20 working days, your counterclaim will end. You can start a new claim by filling in form 2 (notice of claim) and paying another filing fee.

How to file this form at court

You must file this notice of counterclaim form at the same District Court where the plaintiff filed form 2 (notice of claim), and pay a fee.

Give the court the original copy plus a photocopy (for the plaintiff). The court will return the plaintiff's copy of the form to you.

For up-to-date information about the fee for filing a notice of counterclaim, go to: www.justice.govt.nz/civil.

Form 2CC—*continued*

How to serve this form on the plaintiff

You must serve this form on the plaintiff at the same time as you serve form 3 (response by defendant). You serve the form on the plaintiff by taking or sending a copy to them at their address for service.

What if the plaintiff sends you their response late, admits facts, or does not disclose defence?

When you serve this form, the plaintiff has 20 working days to respond by sending you form 3CC (response by plaintiff (for counterclaim)) (the next form in the process). If the plaintiff is late sending you their response, you can apply for the court to judge the counterclaim in your favour by filling in form 6CCA (application for judgment (for counterclaim)).

You can also apply for judgment in this way if the plaintiff's form 3CC contains an admission of the facts stated in your counterclaim or the plaintiff's form 3CC does not disclose a defence to your counterclaim.

You can get a copy of form 6CCA from www.justice.govt.nz/civil, your local court, or your lawyer.

Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

Form 2CC—*continued*

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed notice of counterclaim form because the defendant in your claim wants to make a counterclaim against you in the District Court. This notice of counterclaim tells you and the court what the defendant's counterclaim is about.

The person making the counterclaim against you is the defendant.

You are the plaintiff.

What to do next if you are the plaintiff

You must respond to this notice of counterclaim within 20 working days. To respond to the defendant, fill in form 3CC (response by plaintiff (for counterclaim)). You can get a copy of form 3CC from www.justice.govt.nz/civil, your local District Court, or your lawyer.

What happens if you do not respond to the defendant, admit facts, or do not disclose defence?

If you do not respond to this notice of counterclaim within 20 working days, the court may decide you have to pay or give the defendant what they are claiming in this form (this is called judgment).

Form 2CC—*continued*

The court may also give judgment if you admit the facts stated in the defendant's form 2CC or your form 3CC does not disclose a defence to the defendant's counterclaim.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 5CC—Plaintiff's information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Further information for plaintiff

What if you think the District Court is not the proper place to decide on this counterclaim?

You may think the District Court is not the proper court or place to decide on the defendant's counterclaim (this is called protest to jurisdiction). For example, you may think the case should be heard by—

- another court (such as the High Court, Family Court, Employment Court, or Environment Court);
- a court in another country;
- a tribunal (such as the Tenancy Tribunal);
- an arbitrator.

If you want to protest the District Court's jurisdiction for this counterclaim, you must file and serve form G 7 (appearance under protest to jurisdiction), instead of serving form 3CC. You can get a copy of

Form 2CC—*continued*

form G 7 from www.justice.govt.nz/civil, your local District Court, or your lawyer.

Filed at: [*copy this information from form 2 (you must file this form at the same District Court where the plaintiff filed form 2)*]

File reference number (CIV): [*copy this information from form 2*]

Date filed:

Section 1: Defendant's details**1A Defendant's name**

Write your full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1B Defendant's trading name

If the defendant in 1A above has a different trading name, write the trading name here.

Trading name:

1C Defendant's address for service

If a lawyer is not making this counterclaim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim.*

Street address:

*If a lawyer is making this counterclaim on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

Form 2CC—*continued*

1D Defendant's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address:

1E Defendant's contact details

Write down your telephone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

1F Do you have a lawyer?

If you have a lawyer who is making this counterclaim on your behalf, write their details here, including the name of their firm.

Name of defendant's lawyer

Name:

Firm:

Contact details of defendant's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Plaintiff's details

Copy the information from form 2 (notice of claim, section 1), which you received from the plaintiff.

Form 2CC—*continued***2A Plaintiff's name**

Write the plaintiff's full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

2B Plaintiff's trading name

If the plaintiff in 2A above has a different trading name, write the trading name here.

Trading name:

2C Plaintiff's address for service

Write down the address of a place in New Zealand where you intend to serve this notice of counterclaim on the plaintiff.

Street address:

2D Plaintiff's postal address

If the plaintiff's postal address is different from their address for service in 2C above, write their postal address here.

Postal address:

2E Plaintiff's contact details

If you know the plaintiff's telephone and fax numbers and email address, write them here.

Telephone number:

Other telephone number:

Fax number:

Email address:

Form 2CC—*continued*

2F Does the plaintiff have a lawyer who is dealing with this counterclaim on their behalf?

If you know the contact details of the lawyer who is dealing with this counterclaim on the plaintiff's behalf, write them here, including the name of their firm.

Name of plaintiff's lawyer

Name:

Firm:

Contact details of plaintiff's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 3: Your description of the facts of the counterclaim, and any supporting legal references

State concisely the facts of your counterclaim underneath each heading below. The question(s) underneath the headings will help you think about your answers for this part of the form.

Underneath each fact, write down any legal references you are relying on to support your counterclaim (give the Act, section, and case).

3A Connection between the defendant and plaintiff

What is the connection between you and the plaintiff?

(For example, the plaintiff may have agreed to do something for you, or you and the plaintiff may have had a traffic accident.)

Legal references, if any (for example, Fair Trading Act 1986, Land Transport Act 1998):

Form 2CC—*continued*

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra pages*] extra pages for section 3A.

3B Details of duty the plaintiff owes the defendant

What duty does the plaintiff owe you? What obligation do they have to you?

(For example, the plaintiff has a duty to properly complete work on time, or the plaintiff has a duty to comply with the road rules.)

Was there a contract (an agreement or understanding) between you and the plaintiff?

What terms from that contract are relevant to your counterclaim?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3B.

3C What happened that led to this counterclaim

What did the plaintiff do (or not do) that led you to make this counterclaim?

(Include relevant dates, times, places, and other similar details.)

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3C.

Form 2CC—*continued*

3D Facts showing why the plaintiff should pay or give what is being claimed

What facts justify what you are asking the plaintiff to do to settle your counterclaim?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3D.

3E Loss suffered by the defendant

What did you lose because of the plaintiff's actions?

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3E.

Section 4: What you are asking for from the plaintiff

4A What are you asking the plaintiff to give you or to do?

Clearly state what you are asking for from the plaintiff. For example, this could be—

- money, compensation, or damages:

or

- things you want the plaintiff to do, or things you want the plaintiff to stop doing.

If you are asking for money, write the amount.

I want the plaintiff to [*specify*].

I am asking for the following amount of money from the plaintiff: \$[*amount*]

Form 2CC—*continued***4B Are you also claiming interest?**

If you are asking for money from the plaintiff in 4A above, state here whether you are also claiming interest on that money.

Write down the total amount of interest you are claiming.

As well as the money I am asking for in my counterclaim, I am asking the plaintiff for \$[*amount*] interest.

Show how you have calculated the interest you are claiming. Write down—

- the amount of money you are claiming interest for:
- the rate of interest each year:
- the period you want the plaintiff to pay interest for.

Then write down the legal basis for the interest you are claiming. For example, you may have a contract that says how much interest you can charge if the contract is breached.

I calculated this amount of interest as follows: [*specify*].

The legal basis for the interest I am claiming is [*specify*].

4C What costs and expenses are you claiming?

Write your costs and expenses below.

I claim \$[*amount*] for the filing fee on this counterclaim.

I claim \$[*amount*] for serving this form (estimated).

I claim \$[*amount*] for preparing this form (if prepared by a lawyer).

Total \$[*amount*]

Section 5: Your signature**5A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.**

I believe that the facts I have stated in this notice of counterclaim are true and correct.

Form 2CC—*continued*

Signature of the defendant:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Notes

More information about counterclaim process

The counterclaim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the earlier notes section.

You can find out more about the counterclaim process at:
www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the counterclaim process, you might be able to settle the counterclaim without going through the court system.

If you go through the counterclaim process and do not settle the counterclaim, the court will then have an accurate record of all the facts of the counterclaim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 2CC: replaced, on 14 June 2012, by rule 24(a) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 3
Response by defendant
Notes for defendant

rr 2.12, 2.13

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim: an independent claim against the person making the original claim

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this response by defendant form to respond to a claim made against you in a District Court. You will have received form 2 (notice of claim) from the plaintiff, outlining their version of the facts about the claim.

This form tells the plaintiff and the court your version of the facts.

Form 3—*continued*

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the defendant.
The person making the claim against you is the plaintiff.
For more information about who can sign this form, *see* under Further information for defendant.

How to fill in this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in **all** 6 sections of the form.

What to do when you have completed this form

When you have completed this response by defendant form, you must serve the form on the plaintiff.

See instructions for how to serve forms under Further information for defendant.

Before you serve this form on the plaintiff, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Further information for defendant

Who can sign this form

You can sign this form if—

- you are responding to the claim yourself:

Form 3—*continued*

or

- you are authorised to sign on behalf of the defendant—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is responding to the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to serve forms

You must serve this form on the plaintiff by taking or sending the completed form to them at their address for service.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

Serve the form within 20 working days. You must serve your response no more than 20 working days after you receive form 2 (notice of claim) from the plaintiff. If you do not serve this response within 20 working days, the court may decide you have to pay or give the plaintiff what they claimed in form 2 (this is called judgment).

What if the plaintiff sends you their response late?

When you serve this form, the plaintiff has 20 working days to respond by sending you form 4 (plaintiff's information capsule) (the next form in the process). If the plaintiff is late sending you their response, their claim will end.

What if you admit the facts stated in the plaintiff's form 2 or disclose no defence?

If you admit the facts stated in the plaintiff's form 2 (notice of claim) under option 1 or option 2 in section 3 of this form or do not disclose a defence to the plaintiff's claim, the plaintiff may apply for judgment under rule 2.39.1 of the District Courts Rules 2009.

Form 3—*continued*

Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim: an independent claim against the person making the original claim

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed response by defendant form because you have made a claim against someone else (the defendant). This form is the defendant's response to your notice of claim. The form tells you the defendant's version of the facts about the claim. The person you are making the claim against is the defendant.

Form 3—*continued*

You are the plaintiff.

What to do next if you are the plaintiff

You must serve an information capsule on the defendant within 20 working days. An information capsule tells the defendant the most important information about your case. It is a summary of the information you intend to rely on for your case.

To respond to the defendant, fill in form 4 (plaintiff's information capsule).

You can get a copy of form 4 from www.justice.govt.nz/civil, your local court, or your lawyer.

What happens if you do not respond to the defendant

If you do not respond to this response by defendant within 20 working days, your claim will end. If this happens, you can start your claim again by filing form 2 and paying another filing fee.

Keep a copy of this form, and any other forms you receive, for your own records.

You must also keep a copy to file at court later in the claim process.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Form 3—*continued*

Section 1: Defendant's details

1A Defendant's name

Write your full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1B Defendant's trading name

If the defendant in 1A above has a different trading name, write the trading name here.

Trading name:

1C Defendant's address for service

If a lawyer is not making this response on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim.*

Street address:

*If a lawyer is making this response on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

1D Defendant's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address:

1E Defendant's contact details

Write down your telephone and fax numbers and an email address if you have one.

Telephone number:

Form 3—*continued*

Other telephone number:

Fax number:

Email address:

1F Do you have a lawyer?

If you have a lawyer who is making this claim on your behalf, write their details here, including the name of their firm.

Name of defendant's lawyer

Name:

Firm:

Contact details of defendant's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Plaintiff's details

Copy the information from form 2 (notice of claim, section 1), which you received from the plaintiff.

2A Plaintiff's name

Write the plaintiff's full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

Form 3—*continued*

2B Plaintiff's trading name

If the plaintiff in 2A above has a different trading name, write the trading name here.

Trading name:

Section 3: Your response to the claim

See form 2 (notice of claim, section 4), where the plaintiff outlined what they are asking for from you.

3A Choose 1 of the following 4 options.

Option 1

You admit the facts stated in the plaintiff's form 2, and agree with the claim in full and will give them the payment or compensation they have asked for.

If you choose option 1, write down the details of the payment or compensation you will give the plaintiff. Then go to section 6: your signature.

I admit the facts stated in the plaintiff's form 2, and agree with the plaintiff's claim in full and will give them the payment or compensation they have asked for.

I will give the plaintiff [*specify*].

Option 2

You admit the facts stated in the plaintiff's form 2, and agree with the plaintiff's claim in full, but want to give them a different payment or compensation.

If you choose option 2, write down the details of the payment or compensation you want to give the plaintiff. Explain why you are offering a different payment or compensation. Then go to section 6: Your signature.

I admit the facts stated in the plaintiff's form 2, and agree with the plaintiff's claim in full, but I want to give them the following payment or compensation.

I will give the plaintiff [*specify*] because [*specify reasons*].

Option 3

You do not agree with the plaintiff's claim.

Form 3—*continued*

If you choose option 3, write down the details of why you do not agree with the plaintiff's claim. Then complete sections 4, 5, and 6.

I do not agree with the plaintiff's claim because [*specify reasons*].

Option 4

You agree with part of the plaintiff's claim and disagree with part of the plaintiff's claim.

If you choose option 4, write down which parts of the plaintiff's claim you agree with and the details of why you do not agree with the rest of the plaintiff's claim. Then complete sections 4, 5, and 6.

I agree with the following parts of the plaintiff's claim:

I disagree with the rest of the plaintiff's claim because [*specify reason(s) and provide legal references (if any)*].

List each reason separately as Reason 1, Reason 2, and so on and provide legal references (if any).

Reason 1

Legal references

Reason 2

Legal references

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3.

Section 4: Your description of the facts of the claim, and any supporting legal arguments

Fill in this section if you chose option 3 or 4 in section 3.

If you chose option 1 or 2, you do not need to fill in this section.

4A What are the facts of the claim from your point of view?

State concisely the facts of the claim from your point of view.

Form 3—*continued*

Make sure you write down any facts that were not listed in the plaintiff's notice of claim if you think you will rely on these facts if the claim goes to court. Refer to form 2 (notice of claim, section 3).

The next section explains how to make counterclaims (your own, independent claims against the plaintiff). Do not list counterclaims here.

The following questions will help you think about your answers for this part of the form:

- what is the connection between you and the plaintiff?
- does the plaintiff owe you a duty to do anything or act in a particular way? If so, why?
- was there a contract (agreement) between you and the defendant? What terms from that contract are relevant to your claim?
- what happened? Why do you disagree with the plaintiff's claim? (Include relevant dates, times, places, and other similar details.)
- are there any facts stated in the notice of claim that you did not know about or could not have reasonably found out about? Why didn't you know these facts?

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B Do you disagree with any facts in the plaintiff's claim?

If you disagree with any part of the plaintiff's notice of claim, state concisely any facts and details that you will rely on in court.

Form 3—*continued*

Note that you must list here **all** the facts you disagree with in the notice of claim. The court will assume you agree with any facts that are not listed here.

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

Section 5: Your counterclaims against the plaintiff

Fill in this section if you chose option 3 or 4 in section 3, but **only** if you have a counterclaim against the plaintiff. If you chose option 1 or 2, you do not need to fill in this section.

5A Do you have any counterclaims to make against the plaintiff?

Counterclaims are your own, independent claims against the plaintiff. To make a counterclaim, you must—

- file form 2CC (notice of counterclaim) against the plaintiff at court;
- attach a copy of form 2CC to this response by defendant form (form 3) before you serve it on the plaintiff.

You must file form 2CC and serve both form 2CC and form 3 (this form) no more than 20 working days after you receive form 2 (notice of claim) from the plaintiff.

You can get a copy of form 2CC from

www.justice.govt.nz/civil, your local court, or your lawyer.

If you are making a counterclaim against the plaintiff, please select the following paragraphs:

- I have filed form 2CC against the plaintiff at court.
- I have attached a copy of form 2CC to this form.

Form 3—*continued*

Section 6: Your signature

6A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

I believe that the facts I have stated in this response by defendant are true and correct.

Signature of defendant:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Notes

More information about claim process

The claim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed near the front of this form.

You can find out more about the claim process at:

www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the claim process, you might be able to settle the claim without going through the court system.

If you go through the claim process and do not settle the claim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

Form 3—*continued*

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 3: replaced, on 14 June 2012, by rule 24(a) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 3CC rr 2.12, 2.13, 2.27, 2.28
Response by plaintiff (for counterclaim)
Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this response by plaintiff (for counterclaim) form to respond to a counterclaim made against you in the District Court. You will have

Form 3CC—*continued*

received form 2CC (notice of counterclaim) from the defendant, outlining their version of the facts about the counterclaim.

This form tells the defendant and the court your version of the facts.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the plaintiff.

The person making the counterclaim against you is the defendant.

For more information about who can sign this form, *see* under Further information for plaintiff.

How to fill in this form

- 1 Remove any notes pages for you, the plaintiff.
- 2 Fill in **all** 5 sections of the form.

What to do when you have completed this form

When you have completed this response by plaintiff (for counterclaim) form, you must serve the form on the defendant.

See instructions for how to serve forms under Further information for plaintiff.

Before you serve this form on the defendant, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 5CC—Plaintiff's information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Form 3CC—*continued*

Further information for plaintiff

Who can sign this form

You can sign this form if—

- you are responding to the counterclaim yourself:
- or*
- you are authorised to sign on behalf of the plaintiff—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is responding to the counterclaim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to serve forms

You must serve this form on the defendant by taking or sending the completed form to them at their address for service.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

Serve the form within 20 working days. You must serve your response no more than 20 working days after you receive form 2CC (notice of counterclaim) from the defendant. If you do not serve this response within 20 working days, the court may decide you have to pay or give the defendant what they claimed in form 2CC (this is called judgment).

What if the defendant sends you their response late?

When you serve this form, the defendant has 20 working days to respond by sending you form 4CC (defendant's information capsule (for counterclaim)) (the next form in the process). If the defendant is late sending you their response, their counterclaim will end.

What if you admit the facts stated in the defendant's form 2CC or disclose no defence?

If you admit the facts stated in the defendant's form 2CC (notice of counterclaim) under option 1 or option 2 in section 3 of this form or do not disclose a defence to the defendant's counterclaim, the defen-

Form 3CC—*continued*

dant may apply for judgment under rule 2.39.2 of the District Courts Rules 2009.

Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

jurisdiction: the court's authority to decide on a claim

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Form 3CC—*continued*

Why you have received this form

You have received this completed response by plaintiff (for counterclaim) form because you have made a counterclaim against the plaintiff. This form is the plaintiff's response to your notice of counterclaim. The form tells you the plaintiff's version of the facts about the counterclaim.

The person you are making the counterclaim against is the plaintiff. You are the defendant.

What to do next if you are the defendant

You must serve an information capsule on the plaintiff within 20 working days. An information capsule tells the plaintiff the most important information about your case. It is a summary of the information you intend to rely on for your case.

To respond to the plaintiff, fill in form 4CC (defendant's information capsule (for counterclaim)). You can get a copy of form 4CC from www.justice.govt.nz/civil, your local court, or your lawyer.

What happens if you do not respond to the plaintiff

If you do not respond to this response by plaintiff (for counterclaim) within 20 working days, your counterclaim will end. You can start a new claim by filling in form 2 (notice of claim) and paying another filing fee.

Keep a copy of this form, and any other forms you receive, for your own records.

You must also keep a copy to file at court later in the claim process.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 3CC—*continued*

Form 5CC—Plaintiff's information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Filed at: *[copy this information from form 2]*

File reference number (CIV): *[copy this information from form 2]*

Section 1: Plaintiff's details**1A Plaintiff's name**

Write your full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1B Plaintiff's trading name

If the plaintiff in 1A above has a different trading name, write the trading name here.

Trading name:

1C Plaintiff's address for service

If a lawyer is not making this response on your behalf, write down an address of a place in New Zealand where you can receive all documents about this counterclaim.*

Street address:

*If a lawyer is making this response on your behalf, do not write down an address for service here as documents will be served at the address written in 1F below.

Form 3CC—*continued*

1D Plaintiff's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address:

1E Plaintiff's contact details

Write down your telephone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

1F Do you have a lawyer?

If you have a lawyer who is making this claim on your behalf, write their details here, including the name of their firm.

Name of plaintiff's lawyer

Name:

Firm:

Contact details of plaintiff's lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Defendant's contact details

Copy the information from form 2CC (notice of counterclaim, section 1), which you received from the defendant.

Form 3CC—*continued***2A Defendant's name**

Write the defendant's full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

2B Defendant's trading name

If the defendant in 2A above has a different trading name, write the trading name here.

Trading name:

Section 3: Your response to the counterclaim

See form 2CC (notice of counterclaim, section 4), where the defendant outlined what they are asking for from you.

3A Choose 1 of the following 4 options.*Option 1*

You admit the facts stated in the defendant's form 2CC, and agree with the counterclaim in full and will give them the payment or compensation they have asked for.

If you choose option 1, write down the details of the payment or compensation you will give the defendant. Then go to section 5: Your signature.

I admit the facts stated in the defendant's form 2CC, and agree with the defendant's counterclaim in full and will give them the payment or compensation they have asked for.

I will give the defendant [*specify*].

Form 3CC—*continued*

Option 2

You admit the facts stated in the defendant's form 2CC, and agree with the defendant's counterclaim in full, but want to give them a different payment or compensation.

If you choose option 2, write down the details of the payment or compensation you want to give the defendant. Explain why you are offering a different payment or compensation. Then go to section 5: your signature.

I admit the facts stated in the defendant's form 2CC, and agree with the defendant's counterclaim in full, but I want to give them the following payment or compensation.

I will give the defendant [*specify*] because [*specify reasons*].

Option 3

You do not agree with the defendant's counterclaim.

If you choose option 3, write down the details of why you do not agree with the defendant's counterclaim. Then complete sections 4 and 5.

I do not agree with the defendant's counterclaim because [*specify reasons*].

Option 4

You agree with part of the defendant's counterclaim and disagree with part of the defendant's counterclaim.

If you choose option 4, write down which parts of the defendant's counterclaim you agree with and explain why you do not agree with the rest of the defendant's counterclaim. Then complete sections 4 and 5.

I agree with the following parts of the defendant's counterclaim:

I disagree with the rest of the defendant's counterclaim because [*list each reason separately, as Reason 1, Reason 2, and so on, and provide legal references (if any)*].

Form 3CC—*continued**Reason 1**Reason 2*

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3A.

Section 4: Your description of the facts of the counterclaim, and any supporting legal arguments

Fill in this section if you chose option 3 or 4 in section 3A.

If you chose option 1 or 2, you do not need to fill in this section.

4A What are the facts of the counterclaim from your point of view?

State concisely the facts of the counterclaim from your point of view.

Make sure you write down any facts that were not listed in the defendant's notice of counterclaim if you think you will rely on these facts if the counterclaim goes to court. Refer to form 2CC (notice of counterclaim, section 3).

The following questions will help you think about your answers for this part of the form:

- what is the connection between you and the defendant?
- does the defendant owe you a duty to do anything or act in a particular way? If so, why?
- was there a contract (agreement) between you and the defendant? What terms from that contract are relevant to your claim?
- what happened? Why do you disagree with the defendant's counterclaim? (Include relevant dates, times, places, and other similar details.)
- are there any facts stated in the notice of counterclaim that you did not know about or could not have reasonably found out about? Why didn't you know these facts?

Form 3CC—*continued*

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B Do you disagree with any facts in the defendant's counterclaim?

If you disagree with any part of the defendant's notice of counterclaim, state concisely any facts and details that you will rely on in court.

Note that you must list here **all** the facts you disagree with in the notice of counterclaim. The court will assume you agree with any facts that are not listed here.

List each fact separately, as Fact 1, Fact 2, and so on.

Fact 1

Fact 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

Section 5: Your signature

5A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

I believe that the facts I have stated in this response by plaintiff (for counterclaim) are true and correct.

Form 3CC—*continued*

Signature of plaintiff:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Notes

More information about counterclaim process

The counterclaim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the earlier notes section.

You can find out more about the counterclaim process at:
www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the counterclaim process, you might be able to settle the counterclaim without going through the court system.

If you go through the counterclaim process and don't settle the counterclaim, the court will then have an accurate record of all the facts of the counterclaim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 3CC: replaced, on 14 June 2012, by rule 24(a) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 4
Plaintiff's information capsule
Notes for plaintiff

r 2.14

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

oath: a solemn declaration that something is true

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this information capsule form to tell the defendant the most important information about your case. It is a summary of the information you intend to rely on for your case.

Form 4—*continued***Who needs to fill in this form**

You (or your lawyer) need to fill in this form if you are the plaintiff.

The person you are making the claim against is the defendant.

Someone else, who is authorised to administer oaths or affirmations, needs to sign this form at the same time as you. An oath is a solemn declaration that something is true.

If there is more than 1 plaintiff, each plaintiff must fill in their own separate information capsule.

For more information about who can sign this form, *see* under Further information for plaintiff.

For more information about who can administer oaths, *see* under Further information for plaintiff.

How to fill in this form

1 Remove any notes pages for you, the plaintiff.

2 Fill in **all** 5 sections of the form.

For information about what to do when you have completed this form, *see* under Further information for plaintiff.

Before you serve this form on the defendant, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

You must also keep a copy to file at court later in the claim process.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Form 4—*continued*

Further information for plaintiff

Who can sign this form

You can sign this form if—

- you are making the claim yourself:

or

- you are authorised to sign on behalf of the plaintiff—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

Who can administer oaths

When you sign this form, you need to get someone to sign the form at the same time as you. This person must be someone authorised to administer oaths or affirmations, that is, any—

- Registrar or Deputy Registrar:
- Justice of the Peace:
- Community Magistrate:
- Notary Public:
- lawyer (other than a lawyer who is involved with this claim).

If you are outside New Zealand, you must use someone authorised by the District Courts Rules 2009 to take affidavits outside New Zealand.

For information about where you can find someone authorised to administer oaths, go to: www.justice.govt.nz/civil.

What to do when you have completed this form

When you have completed your information capsule (this form), you must serve it on the defendant. To do this, take or send the completed form to the defendant's address for service.

You must serve your information capsule no more than 20 working days after you receive form 3 (response by defendant). If you do not do this within 20 working days, your claim will end. If this happens, you can start your claim again by filing form 2 and paying another filing fee.

Form 4—*continued*

Make sure you have removed the notes pages. These pages are for your information before you serve the form on the defendant.

Do not file this form at a court now—that happens later in the claim process. Make sure you keep copies of all forms in the process.

What if the defendant sends you their response late?

When you serve this form, the defendant has 20 working days to respond by sending you form 5 (defendant's information capsule) (the next form in the process). If the defendant is late sending you their response, you can apply for the court to judge the claim in your favour by filling in form 6A (application for judgment).

You can get a copy of form 6A from www.justice.govt.nz/civil, your local court, or your lawyer.

What if the defendant requests essential documents?

The defendant can request a copy of any of the essential documents listed in this information capsule. You are required to give the defendant a copy of any essential document requested as soon as practicable at your own expense. If you fail to give the defendant a copy of any requested document, the defendant can apply to the court for an order enforcing the request.

Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

Form 4—*continued*

oath: a solemn declaration that something is true

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed plaintiff's information capsule to tell you what information the plaintiff intends to rely on for their case. The person making the claim against you is the plaintiff. You are the defendant.

What to do next if you are the defendant

If you disagree with the plaintiff's claim after you receive this information capsule, you must complete your own information capsule, putting your side of the case in writing.

You must respond within 20 working days. To respond to the plaintiff, fill in form 5 (defendant's information capsule). You can get a copy of form 5 from www.justice.govt.nz/civil, your local court, or your lawyer.

What happens if you do not respond to the plaintiff

If you do not respond to this plaintiff's information capsule within 20 working days, the court may decide you have to pay or give the plaintiff what they are claiming (this is called judgment).

Form 4—*continued***What if the plaintiff has sent you this form late?**

If the plaintiff has served this information capsule on you more than 20 working days after you served form 3 (response by defendant), the plaintiff's claim will end. You do not need to fill in form 5.

Keep a copy of this form, and any other forms you receive, for your own records.

What if the plaintiff does not give you essential documents you have requested?

You can request a copy of any of the essential documents listed in this information capsule. The plaintiff is required to give you a copy of any essential document requested as soon as practicable at the plaintiff's own expense. If the plaintiff fails to give you any requested documents, you can apply to the court for an order enforcing the request.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Section 1: Plaintiff's and defendant's details

You are providing this plaintiff's information capsule in response to form 3 (response by defendant), which the defendant served on you on [*date*].

Form 4—*continued*

1A Plaintiff's name

Write your full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1B Plaintiff's trading name

If the plaintiff in 1A above has a different trading name, write the trading name here.

Trading name:

1C Defendant's name

Copy this information from form 3 (response by defendant, section 1).

Write the defendant's full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1D Defendant's trading name

Copy this information from form 3 (response by defendant, section 1).

If the defendant in 1C above has a different trading name, write the trading name here.

Trading name:

Form 4—*continued***1E Have you changed your lawyer?**

If you have changed your lawyer since you filed form 2 (notice of claim), write the new details here, including the name of their firm.

Name of your lawyer

Name:

Firm:

Contact details of your lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Your reply to the defendant**2A What is your reply to the defendant's response in form 3?**

List the main points raised by the defendant, with your reply to each one underneath.

List each reply separately as Reply 1, Reply 2, and so on. *See* form 3 (response by defendant, section 4).

Provide all necessary facts, legal arguments, and details.

Write the date you received form 3.

Date received:

Reply 1

The defendant raised the following point: [*specify*]

My response is [*specify*].

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

Form 4—*continued*

I have included [*write the number of extra sheets*] extra sheets of paper for section 2A.

Section 3: Your response to the defendant's settlement offers

3A Has the defendant offered any settlement of your claim?

List any offers the defendant has made to settle your claim. Underneath each offer, give more details and say why you rejected the offer.

List each settlement offer separately as Settlement offer 1, Settlement offer 2, and so on.

Note: this information is for use in settlement conferences only, not in court hearings.

Settlement offer 1

The defendant made the following settlement offer: [*specify*]

I rejected this settlement offer because [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3A.

Section 4: Evidence that supports your claim

4A What essential documents are you relying on for your claim?

List each essential document supporting your claim (not including the court forms you have filled in). Then describe the documents, giving enough information to show how each document supports your claim.

For each document, write down—

- what the document is:
- the date it was written:
- who signed it:
- the date it was sent or received.

Form 4—*continued*

I am relying on the following documents to support my claim:
List each document separately as Document 1, Document 2,
and so on.

Document 1

Document 2

Continue on a separate sheet of paper if you need to. Write the
file reference number on any extra sheets you use. Staple the
extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets
of paper for section 4A.

4B What witnesses are you relying on for your claim?

*I intend to call the following witness(es) to give evidence to
support my claim:

List the witnesses (including yourself) that you intend to rely
on if your claim goes to court. Write down the basic outline
of what you believe each witness will say.

List each witness separately as Witness 1, Witness 2, and so
on.

Witness 1

Full name:

I believe the witness will say [*specify*].

Continue on a separate sheet of paper if you need to. Write the
file reference number on any extra sheets you use. Staple the
extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets
of paper for section 4B.

or

*I do not intend to call witnesses.

*Select the paragraph that applies.

Form 4—*continued*

Section 5: Verifying declaration and signature

5A Sign the form below and get someone who is authorised to administer oaths to sign the form at the same time as you.

See under Further information for plaintiff for information about who can administer oaths.

To the best of my knowledge, the contents of this information capsule are true and correct.

Signature of plaintiff:

Full name of plaintiff:

Sworn/Affirmed* at:

Date:

*Select one.

Before me: [*name of person administering oath or affirmation*]

Authority of person administering oath or affirmation:

Signature of person administering oath or affirmation:

Note: keep a copy of this form, and any other forms you receive, for your own records.

Notes

More information about claim process

The claim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the claim process at:

www.justice.govt.nz/civil.

Form 4—*continued**Why do you have to go through this process?*

By going through the claim process, you might be able to settle the claim without going through the court system.

If you go through the claim process and do not settle the claim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 4: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 4CC rr 2.14, 2.27, 2.28
Defendant's information capsule (for
counterclaim)

Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

oath: a solemn declaration that something is true

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Form 4CC—*continued***What this form is for**

Use this information capsule form to tell the plaintiff the most important information about your counterclaim. It is a summary of the information you intend to rely on for your case.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the defendant. The person you are making the counterclaim against is the plaintiff. Someone else, who is authorised to administer oaths and affirmations, needs to sign this form at the same time as you. An oath is a solemn declaration that something is true.

For more information about who can sign this form, *see* under Further information for defendant.

For more information about who can administer oaths, *see* under Further information for defendant.

How to fill in this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in **all** 5 sections of the form.

For information about what to do when you have completed this form, *see* under Further information for defendant.

Before you serve this form on the plaintiff, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

You must also keep a copy to file at court later in the counterclaim process.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form. Note that you do not need to fill in Form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—*continued*

Form 5CC—Plaintiff’s information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Further information for defendant

Who can sign this form

You can sign this form if—

- you are making the counterclaim yourself:
- or*
- you are authorised to sign on behalf of the defendant—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the counterclaim.

Or, you can authorise your lawyer to sign this form on your behalf.

Who can administer oaths

When you sign this form, you need to get someone to sign the form at the same time as you (to confirm that your signature is genuine). This person must be someone authorised to administer oaths or affirmations, that is, any—

- Registrar or Deputy Registrar:
- Justice of the Peace:
- Community Magistrate:
- Notary Public:
- lawyer (other than a lawyer who is involved with this claim).

If you are outside New Zealand, you must use someone authorised by the District Courts Rules 2009 to take affidavits outside New Zealand.

For information about where you can find someone authorised to administer oaths, go to: www.justice.govt.nz/civil.

Form 4CC—*continued***What to do when you have completed this form**

When you have completed your information capsule (this form), you must serve it on the plaintiff. To do this, take or send the completed form to the plaintiff's address for service.

You must serve your information capsule no more than 20 working days after you receive form 3CC (response by plaintiff (for counterclaim)). If you do not do this within 20 working days, your counterclaim will end. You can start a new claim by filling in form 2 (notice of claim) and paying another filing fee.

Make sure you have removed the notes pages. These pages are for your information.

Do not file this form at a court now—that happens later in the counterclaim process. Make sure you keep copies of all forms in the process.

What if the plaintiff sends you their response late?

When you serve this form, the plaintiff has 20 working days to respond by sending you form 5CC (plaintiff's information capsule (for counterclaim)) (the next form in the process). If the plaintiff is late sending you their response, you can apply for the court to judge the counterclaim in your favour by filling in form 6CCA (application for judgment (for counterclaim)).

You can get a copy of form 6CCA from www.justice.govt.nz/civil, your local court, or your lawyer.

What if the plaintiff requests essential documents?

The plaintiff can request a copy of any of the essential documents listed in this information capsule. You are required to give the plaintiff a copy of any essential document requested as soon as practicable at your own expense. If you fail to give the plaintiff a copy of any requested document, the plaintiff can apply to the court for an order enforcing the request.

Form 4CC—*continued*

Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

oath: a solemn declaration that something is true

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Form 4CC—*continued***Why you have received this form**

You have received this completed defendant's information capsule (for counterclaim) to tell you what information the defendant intends to rely on for their case.

The person making the counterclaim against you is the defendant.
You are the plaintiff.

What to do next if you are the plaintiff

If you disagree with the defendant's counterclaim after you receive this information capsule, you must complete your own information capsule, putting your side of the case in writing.

You must respond within 20 working days. To respond to the defendant, fill in form 5CC (plaintiff's information capsule (for counterclaim)). You can get a copy of form 5CC from www.justice.govt.nz/civil, your local court, or your lawyer.

What happens if you do not respond to the defendant

If you do not respond to the defendant's information capsule (for counterclaim) within 20 working days, the court may decide you have to pay or give the defendant what they are claiming (this is called judgment).

What if the defendant has sent you this form late?

If the defendant has served this information capsule on you more than 20 working days after you served form 3CC (response by plaintiff (for counterclaim)) on them, the defendant's counterclaim will end. You do not need to fill in form 5CC.

Keep a copy of this form, and any other forms you receive, for your own records.

What if the defendant does not give you essential documents you have requested?

You can request a copy of any of the essential documents listed in this information capsule. The defendant is required to give you a copy of any essential document requested as soon as practicable at the defendant's own expense. If the defendant fails to give you any requested

Form 4CC—*continued*

documents, you can apply to the court for an order enforcing the request.

Other forms in counterclaim process

For more information about the counterclaim process, see the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 5CC—Plaintiff’s information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Section 1: Defendant’s and plaintiff’s details

You are providing this defendant’s information capsule (for counterclaim) in response to form 3CC (response by plaintiff (for counterclaim)), which the plaintiff served on you on [*date*].

1A Defendant’s name

Write your full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

Form 4CC—*continued***1B Defendant's trading name**

If the defendant in 1A above has a different trading name, write the trading name here.

Trading name:

1C Plaintiff's name

Copy this information from form 3CC (response by plaintiff (for counterclaim), section 1).

Write the plaintiff's full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1D Plaintiff's trading name

Copy this information from Form 3CC (response by plaintiff (for counterclaim), section 1).

If the plaintiff in 1C above has a different trading name, write the trading name here.

Trading name:

1E Have you changed your lawyer?

If you have changed your lawyer since you filed form 2CC (notice of counterclaim), write the new details here, including the name of their firm.

Name of your lawyer

Name:

Firm:

Contact details of your lawyer for serving forms

Street address:

PO Box:

Form 4CC—*continued*

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Your reply to the plaintiff

2A What is your reply to the plaintiff's response in form 3CC?

List the main points raised by the plaintiff, with your reply to each one underneath.

List each reply separately as Reply 1, Reply 2, and so on.

See form 3CC (response by plaintiff (for counterclaim), section 4).

Provide all necessary facts, legal arguments, and details.

Give the date you received form 3CC.

Date received:

Reply 1

The plaintiff raised the following point: [*specify*]

My response is [*specify*].

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 2A.

Form 4CC—*continued***Section 3: Your response to the plaintiff's settlement offers****3A Has the plaintiff offered any settlement of your counterclaim?**

List any offers the plaintiff has made to settle your counterclaim. Underneath each offer, give more details and say why you rejected the offer.

List each settlement offer separately as Settlement offer 1, Settlement offer 2, and so on.

Note: this information is for use in settlement conferences only, not in court hearings.

Settlement offer 1

The plaintiff made the following settlement offer: [*specify*]

I rejected this settlement offer because [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3A.

Section 4: Evidence that supports your counterclaim**4A What essential documents are you relying on for your counterclaim?**

List each essential document supporting your counterclaim (not including the court forms you have filled in). Then describe the documents, giving enough information to show how each document supports your counterclaim.

For each document, write down—

- what the document is:
- the date it was written:
- who signed it:
- the date it was sent or received.

I am relying on the following documents to support my counterclaim:

Form 4CC—*continued*

List each document separately as Document 1, Document 2, and so on.

Document 1

Document 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B What witnesses are you relying on for your counterclaim?

*I intend to call the following witness(es) to give evidence to support my counterclaim:

List the witnesses (including yourself) that you intend to rely on if your counterclaim goes to court. Write down the basic outline of what you believe each witness will say.

List each witness separately as Witness 1, Witness 2, and so on.

Witness 1

Full name:

I believe the witness will say [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

or

*I do not intend to call witnesses.

*Select the paragraph that applies.

Form 4CC—*continued***Section 5: Your signature****5A Sign the form below and get someone who is authorised to administer oaths to sign the form at the same time as you.**

See under Further information for defendant for information about who can administer oaths.

To the best of my knowledge, the contents of this information capsule are true and correct.

Signature of defendant:

Full name of defendant:

Sworn/Affirmed* at: [*place*]

Date:

*Select one.

Before me: [*name of person administering oath or affirmation*]

Authority of person administering oath or affirmation:

Signature of person administering oath or affirmation:

Note: keep a copy of this form, and any other forms you receive, for your own records.

Notes**More information about counterclaim process**

The counterclaim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the counterclaim process at:
www.justice.govt.nz/civil.

Form 4CC—*continued*

Why do you have to go through this process?

By going through the counterclaim process, you might be able to settle the counterclaim without going through the court system.

If you go through the counterclaim process and don't settle the counterclaim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 4CC: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 5
Defendant's information capsule
Notes for defendant

r 2.15

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

oath: a solemn declaration that something is true

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this information capsule form to tell the plaintiff the most important information about your case. It is a summary of the information you intend to rely on for your case.

Form 5—*continued*

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the defendant.

The person making the claim against you is the plaintiff.

Someone else, who is authorised to administer oaths or affirmations, needs to sign this form at the same time as you. An oath is a solemn declaration that something is true.

If there is more than 1 defendant, each defendant must fill in their own separate information capsule.

For more information about who can sign this form, *see* under Further information for defendant.

For more information about who can administer oaths, *see* under Further information for defendant.

How to fill in this form

1 Remove any notes pages for you, the defendant.

2 Fill in **all** 6 sections of the form.

For information about what to do when you have completed this form, *see* under Further information for defendant.

Before you serve this form on the plaintiff, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Form 5—*continued*

Further information for defendant

Who can sign this form

You can sign this form if—

- you are responding to the claim yourself:

or

- you are authorised to sign on behalf of the defendant—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is responding to the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

Who can administer oaths

When you sign this form, you need to get someone to sign the form at the same time as you. This person must be someone authorised to administer oaths or affirmations, that is, any—

- Registrar or Deputy Registrar:
- Justice of the Peace:
- Community Magistrate:
- Notary Public:
- lawyer (other than a lawyer who is involved with this claim).

If you are outside New Zealand, you must use someone authorised by the District Courts Rules 2009 to take affidavits outside New Zealand.

For information about where you can find someone authorised to administer oaths or affirmations, go to: www.justice.govt.nz/civil.

What to do when you have completed this form

When you have completed your information capsule (this form), you must serve it on the plaintiff. To do this, take or send the completed form to the plaintiff's address for service. You must serve your the form no more than 20 working days after you receive form 4 (plaintiff's information capsule) from the plaintiff.

Form 5—*continued*

If you do not serve this form within 20 working days, the court may decide you have to pay or give the plaintiff what they claimed in form 2 (notice of claim) (this is called judgment).

Make sure you have removed the notes pages. These pages are for your information before you serve the form on the plaintiff.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

What if the plaintiff sends you their response late?

When you serve this form, the plaintiff has 90 working days to respond by sending you form 6 (notice of pursuit of claim) (the next form in the process). If the plaintiff is late sending you their response, their claim will end.

What if the plaintiff requests essential documents?

The plaintiff can request a copy of any of the essential documents listed in this information capsule. You are required to give the plaintiff a copy of any essential document requested as soon as practicable at your own expense. If you fail to give the plaintiff a copy of any requested document, the plaintiff can apply to the court for an order enforcing the request.

Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment: when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time

Form 5—*continued*

oath: a solemn declaration that something is true

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed defendant's information capsule to tell you what information the defendant intends to rely on for their case.

The person you are making the claim against is the defendant.

You are the plaintiff.

What to do next if you are the plaintiff

You have 2 options for what to do next if you are the plaintiff (*see* options 1 and 2 below). Whichever option you choose, you must respond within 90 working days.

Option 1

You can take the claim to the District Court by filing form 6 (notice of pursuit of claim).

Option 2

You can settle the claim.

For details about these 2 options, *see* under Further information for plaintiff.

Form 5—*continued*

What happens if you do not respond within 90 working days

If you do not respond to this defendant's information capsule by either filing form 6 or settling the claim within 90 working days, your claim will end. If this happens, you can start your claim again by filing form 2 and paying another filing fee.

Keep a copy of this form, and any other forms you receive, for your own records.

You must also keep a copy to file at court later in the claim process.

What if the defendant does not give you essential documents you have requested?

You can request a copy of any of the essential documents listed in this information capsule. The defendant is required to give you a copy of any essential document requested as soon as practicable at the defendant's own expense. If the defendant fails to give you any requested documents, you can apply to the court for an order enforcing the request.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Further information for plaintiff

Details about your options for what to do next

Option 1: Taking the claim to the District Court

If you do not settle the claim, you can take it to the District Court. To take the claim to court, fill in form 6 (notice of pursuit of claim). You can get a copy of form 6 from www.justice.govt.nz/civil, your local court, or your lawyer.

Form 5—*continued**Option 2: Settling the claim*

You can choose to settle your claim against the defendant (agree to a compromise with them) without taking your case to court. As soon as possible after you settle the claim, you must file form G 24 (notice of discontinuance). You can get a copy of form G 24 from www.justice.govt.nz/civil, your local court, or your lawyer.

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Section 1: Defendant's and plaintiff's details

You are providing this defendant's information capsule in response to form 4 (plaintiff's information capsule), which the plaintiff served on you on [*date*].

1A Defendant's name

Write your full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1B Defendant's trading name

If the defendant in 1A above has a different trading name, write the trading name here.

Trading name:

1C Plaintiff's name

Copy this information from form 4 (plaintiff's information capsule, section 1).

Write the plaintiff's full name.

Form 5—*continued*

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1D Plaintiff's trading name

Copy this information from form 4 (plaintiff's information capsule, section 1).

If the plaintiff in 1C above has a different trading name, write the trading name here.

Trading name:

1E Have you changed your lawyer?

If you have changed your lawyer since you served form 3 (response by defendant), write the new details here, including the name of their firm.

Name of your lawyer

Name:

Firm:

Contact details of your lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Form 5—*continued***Section 2: Your description of any additional facts of the claim, and any supporting legal arguments****2A Are there any more facts that you think are essential to this claim that you did not write in form 3?**

Write any additional facts or other details below. You do not need to repeat any facts you already wrote in form 3 (response by defendant).

List each additional fact separately as Additional fact 1, Additional fact 2, and so on.

Underneath each fact, write down any legal arguments you are relying on to support your case and to justify what you are asking the plaintiff to do to settle your claim.

Additional fact 1

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 2A.

Section 3: Your reply to the plaintiff**3A What is your reply to the plaintiff's replies in form 4 (section 2A)?**

Write down your reply to each of the plaintiff's replies from form 4 (plaintiff's information capsule, section 2A).

List each reply separately as Reply 1, Reply 2, and so on.

Write the date you received form 4.

Date received:

Reply 1

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

Form 5—*continued*

I have included [*write the number of extra sheets*] extra sheets of paper for section 3A.

Section 4: Evidence that supports your defence of the plaintiff's claim

4A What essential documents are you relying on for your defence?

List each essential document supporting your defence of the plaintiff's claim (**not** including the court forms you have filled in) separately. Then describe the documents, giving enough information to show how each document supports your defence.

For each document, write down—

- what the document is:
- the date it was written:
- who signed it:
- the date it was sent or received.

I am relying on the following documents to support my defence:

List each document separately as Document 1, Document 2, and so on.

Document 1

Document 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B What witnesses are you relying on for your defence?

*I intend to call the following witness(es) to give evidence to support my defence:

Form 5—*continued*

List the witnesses (including yourself) that you intend to rely on if the plaintiff's claim goes to court. Write down the basic outline of what you believe each witness will say.

List each witness separately as Witness 1, Witness 2, and so on.

Witness 1

Full name:

I believe the witness will say [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

or

*I do not intend to call witnesses.

*Select the paragraph that applies.

Section 5: Your response to the plaintiff's settlement offers**5A Has the plaintiff made any settlement offers?**

List each settlement offer and give the details of why you rejected the offer.

List each settlement offer separately as Settlement offer 1, Settlement offer 2, and so on.

Note: this information is for use in settlement conferences only, not in court hearings.

Settlement offer 1

The plaintiff made the following settlement offer:

I rejected this settlement offer because [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 5A.

Form 5—*continued*

Section 6: Verifying declaration and signature

6A Sign the form below and get someone who is authorised to administer oaths to sign the form at the same time as you.

See Further information for defendant for information about who can administer oaths.

To the best of my knowledge, the contents of this information capsule are true and correct.

Signature of defendant:

Full name of defendant:

Sworn/Affirmed* at:

Date:

*Select one.

Before me: [*name of person administering oath or affirmation*]

Authority of person administering oath or affirmation or affirmation:

Signature of person administering oath or affirmation:

Note: keep a copy of this form, and any other forms you receive, for your own records.

Notes

More information about claim process

The claim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the claim process at:

www.justice.govt.nz/civil.

Form 5—*continued**Why do you have to go through this process?*

By going through the claim process, you might be able to settle the claim without going through the court system.

If you go through the claim process and don't settle the claim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 5: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 5CC rr 2.15, 2.27, 2.28
Plaintiff's information capsule (for
counterclaim)
Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

oath: a solemn declaration that something is true

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Form 5CC—*continued***What this form is for**

Use this information capsule form to tell the defendant the most important information about your defence of their counterclaim. It is a summary of the information you intend to rely on for your case.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the plaintiff. The person making the counterclaim against you is the defendant.

Someone else, who is authorised to administer oaths or affirmations, needs to sign this form at the same time as you. An oath is a solemn declaration that something is true.

For more information about who can sign this form, *see* under Further information for plaintiff.

For more information about who can administer oaths, *see* under Further information for plaintiff.

How to fill in this form

- 1 Remove any notes pages for you, the plaintiff.
- 2 Fill in **all** 6 sections of the form.

For information about what to do when you have completed this form, *see* under Further information for plaintiff.

Before you serve this form on the defendant, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 5CC—*continued*

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Further information for plaintiff

Who can sign this form

You can sign this form if—

- you are responding to the counterclaim yourself:

or

- you are authorised to sign on behalf of the plaintiff—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is responding to the counterclaim.

Or, you can authorise your lawyer to sign this form on your behalf.

Who can administer oaths

When you sign this form, you need to get someone to sign the form at the same time as you. This person must be someone authorised to administer oaths or affirmations, that is, any—

- Registrar or Deputy Registrar:
- Justice of the Peace:
- Community Magistrate:
- Notary Public:
- lawyer (other than a lawyer who is involved with this counterclaim).

If you are outside New Zealand, you must use someone authorised by the District Courts Rules 2009 to take affidavits outside New Zealand.

For information about where you can find someone authorised to administer oaths, go to: www.justice.govt.nz/civil.

What to do when you have completed this form

When you have completed your information capsule (this form), you must serve it on the defendant. To do this, take or send the completed form to the defendant's address for service. You must serve the form

Form 5CC—*continued*

no more than 20 working days after you receive form 4CC (defendant's information capsule (for counterclaim)) from the defendant.

If you do not serve this form within 20 working days, the court may decide you have to pay or give the defendant what they claimed in form 2CC (notice of counterclaim) (this is called judgment).

Make sure you have removed the notes pages. These pages are for your information before you serve the form on the defendant.

Do not file this form at a court. Make sure you keep copies of all forms in the process.

What if the defendant sends you their response late

When you serve this form, the defendant has 90 working days to respond by sending you form 6CC (notice of pursuit of counterclaim) (the next form in the process). If the defendant is late sending you their response, their counterclaim will end.

What if the defendant requests essential documents?

The defendant can request a copy of any of the essential documents listed in this information capsule. You are required to give the defendant a copy of any essential document requested as soon as practicable at your own expense. If you fail to give the defendant a copy of any requested document, the defendant can apply to the court for an order enforcing the request.

Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

Form 5CC—*continued*

information capsule: a record of the plaintiff's or defendant's case, including the information they intend to rely on for their case

judgment (for counterclaim): when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time

oath: a solemn declaration that something is true

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed plaintiff's information capsule (for counterclaim) to tell you what information the plaintiff intends to rely on for their case.

The person you are making the counterclaim against is the plaintiff. You are the defendant.

What to do next if you are the defendant

You have 2 options for what to do next if you are the defendant (*see* options 1 and 2 below). Whichever option you choose, you must respond within 90 working days.

Form 5CC—*continued**Option 1*

You can take the counterclaim to the District Court by filing form 6CC (notice of pursuit of counterclaim).

Option 2

You can settle the claim.

For details about these 2 options, *see* under Further information for defendant.

What happens if you do not respond within 90 working days

If you do not respond to this plaintiff's information capsule (for counterclaim) by either filing form 6CC or settling the counterclaim within 90 working days, your counterclaim will end. You can start a new claim by filling in form 2 (notice of claim) and paying another filing fee.

Keep a copy of this form, and any other forms you receive, for your own records.

You must also keep a copy to file at court later in the counterclaim process.

What if the plaintiff does not give you essential documents you have requested?

You can request a copy of any of the essential documents listed in this information capsule. The plaintiff is required to give you a copy of any essential document requested as soon as practicable at the plaintiff's own expense. If the plaintiff fails to give you any requested documents, you can apply to the court for an order enforcing the request.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 5CC—*continued*

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant’s information capsule (for counterclaim), filled in by the defendant

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Further information for defendant

Details about your options for what to do next

Option 1: Taking the counterclaim to the District Court

If you do not settle the counterclaim, you can take it to the District Court. To take the counterclaim to court, fill in form 6CC (notice of pursuit of counterclaim). You can get a copy of form 6CC from www.justice.govt.nz/civil, your local court, or your lawyer.

Option 2: Settling the claim

You can choose to settle your counterclaim against the plaintiff (agree to a compromise with them) without taking your case to court. As soon as possible after you settle the counterclaim, you must file form G 24 (notice of discontinuance). You can get a copy of form G 24 from www.justice.govt.nz/civil, your local court, or your lawyer.

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Section 1: Plaintiff’s and defendant’s details

You are providing this plaintiff’s information capsule (for counterclaim) in response to form 4CC (defendant’s information capsule (for counterclaim)), which the defendant served on you on [*date*].

1A Plaintiff’s name

Write your full name.

or

Form 5CC—*continued*

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1B Plaintiff's trading name

If the plaintiff in 1A above has a different trading name, write the trading name here.

Trading name:

1C Defendant's name

Copy this information from form 4CC (defendant's information capsule (for counterclaim), section 1).

Write the defendant's full name.

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1D Defendant's trading name

Copy this information from form 4CC (defendant's information capsule (for counterclaim), section 1).

If the defendant in 1C above has a different trading name, write the trading name here.

Trading name:

Form 5CC—*continued*

1E Have you changed your lawyer?

If you have changed your lawyer since you served form 3CC (response by plaintiff (for counterclaim)), write the new details here, including the name of their firm.

Name of your lawyer

Name:

Firm:

Contact details of your lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Your description of any additional facts of the counterclaim, and any supporting legal arguments

2A Are there any more facts that you think are essential to this counterclaim that you did not write in form 3CC?

Write any additional facts or other details below. You do not need to repeat any facts you already wrote in form 3CC (response by plaintiff (for counterclaim)).

List each additional fact separately as Additional fact 1, Additional fact 2, and so on.

Underneath each fact, write down any legal arguments you are relying on to support your case.

Additional fact 1

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 2A.

Form 5CC—*continued***Section 3: Your reply to the defendant****3A What is your reply to the defendant's replies in form 4CC (section 2A)?**

Write down your reply to each of the defendant's replies from form 4CC (defendant's information capsule (for counterclaim), section 2A).

List each reply separately as Reply 1, Reply 2, and so on.

Write the date you received form 4CC.

Date received:

Reply 1

Legal references (if any):

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 3A.

Section 4: Evidence that supports your defence of the defendant's counterclaim**4A What essential documents are you relying on for your defence?**

List each essential document supporting your defence of the defendant's counterclaim (**not** including the court forms you have filled in) separately. Then describe the documents, giving enough information to show how each document supports your defence.

For each document, write down—

- what the document is:
- the date it was written:
- who signed it:
- the date it was sent or received.

I am relying on the following documents to support my defence:

Form 5CC—*continued*

List each document separately as Document 1, Document 2, and so on.

Document 1

Document 2

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4A.

4B What witnesses are you relying on for your defence?

*I intend to call the following witness(es) to give evidence to support my defence:

List the witnesses (including yourself) that you intend to rely on if the defendant's counterclaim goes to court. Write down the basic outline of what you believe each witness will say.

List each witness separately as Witness 1, Witness 2, and so on.

Witness 1

Full name:

I believe the witness will say [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 4B.

or

*I do not intend to call witnesses.

*Select the paragraph that applies.

Form 5CC—*continued***Section 5: Your response to the defendant's settlement offers****5A Has the defendant made any settlement offers?**

List any offers the defendant has made to settle the counterclaim. Underneath each offer, give more details and say why you rejected the offer.

List each settlement offer separately as Settlement offer 1, Settlement offer 2, and so on.

Note: This information is for use in settlement conferences only, not in court hearings.

Settlement offer 1

The defendant made the following settlement offer:

I rejected this settlement offer because [*specify*].

Continue on a separate sheet of paper if you need to. Write the file reference number on any extra sheets you use. Staple the extra sheets to the back of this page.

I have included [*write the number of extra sheets*] extra sheets of paper for section 5A.

Section 6: Your signature**6A Sign the form below and get someone who is authorised to administer oaths to sign the form at the same time as you.**

See Further information for plaintiff for information about who can administer oaths.

To the best of my knowledge, the contents of this information capsule are true and correct.

Signature of plaintiff:

Full name of plaintiff:

Sworn/Affirmed* at: [*place*]

Date:

*Select one.

Form 5CC—*continued*

Before me: [*name of person administering oath or affirmation*]

Authority of person administering oath or affirmation or affirmation:

Signature of person administering oath or affirmation:

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Notes

More information about counterclaim process

The counterclaim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the counterclaim process at:
www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the counterclaim process, you might be able to settle the counterclaim without going through the court system.

If you go through the counterclaim process and don't settle the counterclaim, the court will then have an accurate record of all the facts of the counterclaim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

Schedule 1 form 5CC: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 6
Notice of pursuit of claim
Notes for plaintiff

r 2.17

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this notice of pursuit of claim form to tell the defendant and the court that you will pursue your claim in the District Court.

Pursuing a claim means you plan to continue with your claim through the court system.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the plaintiff.

The person you are making the claim against is the defendant.

For more information about who can sign this form, *see* under Further information for plaintiff.

Form 6—*continued*

What to do with this form

- 1 Remove any notes pages for you, the plaintiff.
- 2 Fill in only the first 2 sections of the form.
- 3 Photocopy the form (1 copy for each defendant), and keep a copy for yourself.
- 4 Serve the form at each defendant's address for service.
- 5 Complete and swear the affidavit in section 3 of your copy of the form.
- 6 File the form (including the completed affidavit) at the same District Court where you filed form 2, and pay the fee.
- 7 File copies of forms 3, 4, and 5 at the same time as you file form 6.

See under Further information for plaintiff for how to serve forms, swear an affidavit, and file forms.

For more information about fees for filing forms, go to:

www.justice.govt.nz/civil.

Before you serve this form on the defendant, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Further information for plaintiff

Who can sign this form

You can sign this form if—

- you are making the claim yourself:

or

Form 6—*continued*

- you are authorised to sign on behalf of the plaintiff—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to serve forms, swear an affidavit, and file forms*Serving a form on a defendant*

You must serve this notice of pursuit of claim on the defendant before you file it at the District Court. To do this—

- complete the first 2 sections of the form:
- make 1 photocopy for each defendant:
- take or send a photocopy to each defendant at their address for service.

Swearing or affirming affidavit

Once you have served this notice of pursuit of claim on the defendant, you must swear or affirm the affidavit in section 3 to say you have served this form on the defendant. An affidavit is a written statement that you have sworn or affirmed is true in front of a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge.

For information about where you can find one of these people, go to: www.justice.govt.nz/civil.

You can swear an affidavit on the Bible, or you can affirm an affidavit by solemn declaration.

It is a criminal offence to knowingly swear or affirm a false affidavit. If you do not swear your affidavit and complete and file this form, the court cannot continue with your claim.

Filing a form at court

To file this form, send or take the original form, including the sworn or affirmed affidavit, to the same District Court where you filed form 2 and pay the required fee.

You must also file a copy of forms 3, 4, and 5 with this form.

Form 6—*continued*

For up-to-date information about the fee for filing a notice of pursuit of claim, go to: www.justice.govt.nz/civil.

What happens if you do not file this form within 90 working days

You must file this notice of pursuit of claim no more than 90 working days after you receive form 5 (defendant's information capsule). If you do not file this form within 90 working days, your claim will end. If this happens, you can start your claim again by filing form 2 and paying another filing fee.

Notes for defendant

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

defendant: the person who a claim is against

file: to take or send documents about a claim to the court Registrar

plaintiff: the person making a claim against someone else

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Form 6—*continued***Why you have received this form**

You have received this completed notice of pursuit of claim form to tell you that the plaintiff will pursue their claim against you in the District Court.

Pursuing a claim means the plaintiff plans to continue with their claim through the court system.

The person making the claim against you is the plaintiff.

You are the defendant.

What happens next if you are the defendant

You do not need to fill in any more forms in this series of forms.

The court will now appoint you a case officer. The court will send you a letter introducing your case officer and outlining the next steps in the process.

What if the plaintiff has sent you this form late?

If the plaintiff has served this notice of pursuit of claim on you more than 90 working days after you served form 5 (defendant's information capsule), the plaintiff's claim will end.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in the claim process

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in Form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Filed at: *[copy this information from form 2]*

File reference number (CIV): *[copy this information from form 2]*

Date filed:

Form 6—*continued*

Section 1: Plaintiff's and defendant's details

What are your details?

If there is more than 1 plaintiff, write the following details on a separate sheet of paper for each plaintiff. Staple any extra sheets to this page. Write the file reference number on any extra sheets you use.

I am listing [*write the number of plaintiffs*] plaintiffs.

1A Plaintiff's name

Write your full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1B Plaintiff's trading name

If the plaintiff in 1A above has a different trading name, write the trading name here.

Trading name:

1C Plaintiff's address for service

If a lawyer is not pursuing this claim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim.*

Street address:

*If a lawyer is pursuing this claim on your behalf, do not write down an address for service here as documents will be served at the address written or referred to in 1F below.

1D Plaintiff's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address:

Form 6—*continued***1E Plaintiff's contact details**

Write down your phone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

1F Have you changed your lawyer?

If you have changed your lawyer since you filed form 4 (plaintiff's information capsule), write the new details here, including the name of their firm.

Name of your lawyer

Name:

Firm:

Contact details of your lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Fax number:

Email address:

What are the defendant's details?

Copy this information from form 5 (defendant's information capsule, section 1). If there is more than 1 defendant, write the following details on a separate sheet of paper for each defendant. Staple any extra sheets to the back of this page. Write the file reference number on any extra sheets you use.

I am listing [*write the number of defendants*] defendants.

1G Defendant's name

Write the defendant's full name.

Form 6—*continued*

or

Write the name of the company, society, or incorporation if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1H Defendant's trading name

If the defendant in 1G above has a different trading name, write the trading name here.

Trading name:

1I Defendant's address for service

Write down the address of a place in New Zealand where you intend to serve this notice of pursuit of claim on the defendant (or defendants, if there is more than 1).

Continue on a separate sheet if there is more than 1 defendant. Even if the defendants are at the same address, they each need to be served a copy.

Street address:

I have included [*write the number of extra sheets*] extra sheets of paper for section 1I.

1J Defendant's postal address

If the defendant's postal address is different from their address for service in 1I above, write their postal address here.

Postal address:

1K Defendant's contact details

If you know the defendant's telephone and fax numbers and email address, write them here.

Telephone number:

Other telephone number:

Fax number:

Form 6—*continued*

Email address:

Section 2: Your signature

The claim has not been settled and I will now pursue this claim against the defendant in court. The court will decide when and where any further steps in the process occur.

I have attached copies of the following documents:

Form 3—Response by defendant

Form 4—Plaintiff's information capsule

Form 5—Defendant's information capsule

2A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

Signature of plaintiff:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Section 3: Affidavit

3A Fill in the affidavit below, then get a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge to swear or affirm that your affidavit is true and sign below.

I, *[full name, occupation]*

of *[address]*

swear an oath/solemnly and sincerely affirm* that to the best of my knowledge and belief—

Form 6—*continued*

- form 2 (notice of claim) was filed at [*name of District Court*] District Court on [*date you filed form 2*];
- form 2 (notice of claim) was served on the defendant on [*date you served form 2*];
- form 5 (defendant's information capsule) was served on the plaintiff on [*date the defendant served form 5*];
- form 6 (notice of pursuit of claim) (this form) was served on the defendant on [*date you served this form*].

*Select one.

Sworn/Affirmed* at: [*place*]

Date:

By: [*plaintiff's name*],

Before me: [*name of person administering oath or affirmation*]

Designation of person administering oath or affirmation: [*for example, Deputy Registrar of the District Court at Christchurch*]

Signature of person administering oath or affirmation:

*Select one.

Notes

More information about claim process

The claim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the claim process at:

www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the claim process, you might be able to settle the claim without going through the court system.

Form 6—*continued*

If you go through the claim process and don't settle the claim, the court will then have an accurate record of all the facts of the claim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

If you are the defendant, you do not need to file any forms at court.

Schedule 1 form 6: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 6CC
Notice of pursuit of counterclaim
Notes for defendant

rr 2.17, 2.27, 2.28

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this notice of pursuit of counterclaim form to tell the plaintiff and the court that you will pursue your counterclaim in the District Court.

Pursuing a counterclaim means you plan to continue with your counterclaim through the court system.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the defendant.

Form 6CC—*continued*

The person you are making the counterclaim against is the plaintiff. For more information about who can sign this form, *see* under Further information for defendant.

What to do with this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in only the first 2 sections of the form.
- 3 Photocopy the form (to serve on the plaintiff), and keep a copy for yourself.
- 4 Serve the form at the plaintiff's address for service.
- 5 Complete and swear the affidavit in section 3 of your copy of the form.
- 6 File the form (including the completed affidavit) at the same District Court where the plaintiff filed form 2, and pay the fee.
- 7 File copies of forms 3CC, 4CC, and 5CC at the same time as you file form 6CC.

See under Further information for defendant for how to serve forms, swear an affidavit, and file forms.

For more information about fees for filing forms, go to:
www.justice.govt.nz/civil.

Before you serve this form on the plaintiff, you must remove the notes pages. These pages are for your information only.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in counterclaim process

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 6CC—*continued*

Form 5CC—Plaintiff’s information capsule (for counterclaim), filled in by the plaintiff

Further information for defendant

Who can sign this form

You can sign this form if—

- you are making the counterclaim yourself:
- or*
- you are authorised to sign on behalf of the defendant—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the counterclaim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to serve forms, swear an affidavit, and file forms

Serving a form on a plaintiff

You must serve this notice of pursuit of counterclaim on the plaintiff before you file it at the District Court. To do this—

- complete the first 2 sections of the form:
- photocopy the form:
- take or send a photocopy to the plaintiff at their address for service.

Swearing or affirming affidavit

Once you have served this notice of pursuit of counterclaim on the plaintiff, you must swear or affirm the affidavit in section 3 to say you have served this form on the plaintiff. An affidavit is a written statement that you have sworn or affirmed is true in front of a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge.

For information about where you can find one of these people, go to: www.justice.govt.nz/civil.

You can swear an affidavit on the Bible, or you can affirm an affidavit by solemn declaration.

It is a criminal offence to knowingly swear or affirm a false affidavit.

Form 6CC—*continued*

If you do not swear your affidavit and complete and file this form, the court cannot continue with your counterclaim.

Filing a form at court

To file this form, send or take the original form, including the sworn or affirmed affidavit, to the same District Court where the plaintiff filed form 2, and pay the required fee.

You must also file a copy of forms 3CC, 4CC, and 5CC with this form.

For up-to-date information about the fee for filing a notice of pursuit of claim, go to: www.justice.govt.nz/civil.

What happens if you do not file this form within 90 working days

You must file this notice of pursuit of counterclaim no more than 90 working days after you receive form 5CC (plaintiff's information capsule (for counterclaim)). If you do not file this form within 90 working days, your counterclaim will end. You can start a new claim by filling in form 2 (notice of claim) and paying another filing fee.

Notes for plaintiff

Definitions of words used in this form

address for service: an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant

affidavit: a written statement given under oath

counterclaim: an independent claim against the person making the original claim

defendant: the person who the original claim is against. The defendant is the person who makes a counterclaim

file: to take or send documents about a claim to the court Registrar

plaintiff: the person who made the original claim. A counterclaim is against the plaintiff

serve: to take or send documents about a claim to the plaintiff's or defendant's address for service

Form 6CC—*continued*

working day: any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen’s birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.

Who to contact if you need help

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Why you have received this form

You have received this completed notice of pursuit of counterclaim form to tell you that the defendant will pursue their counterclaim against you in the District Court.

Pursuing a counterclaim means the defendant plans to continue with their counterclaim through the court system.

The person making the counterclaim against you is the defendant.

You are the plaintiff.

What happens next if you are the plaintiff

You do not need to fill in any more forms in this series of counterclaims forms.

The court will now appoint you a case officer. The court will send you a letter introducing your case officer and outlining the next steps in the process.

What if the defendant has sent you this form late?

If the defendant has served this notice of pursuit of counterclaim on you more than 90 working days after you served form 5CC (plaintiff’s information capsule (for counterclaim)) on them, the defendant’s counterclaim will end.

Keep a copy of this form, and any other forms you receive, for your own records.

Form 6CC—*continued***Other forms in counterclaim process**

For more information about the counterclaim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 5CC—Plaintiff's information capsule (for counterclaim), filled in by the plaintiff

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Date filed:

Section 1: Defendant's and plaintiff's details

What are your details?

1A Defendant's name

Write your full name.

or

Write the name of the company, society, or incorporation, if the defendant is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the defendant is a trust or an estate.

Name:

1B Defendant's trading name

If the defendant in 1A above has a different trading name, write the trading name here.

Trading name:

Form 6CC—*continued*

1C Defendant's address for service

If a lawyer is not pursuing this counterclaim on your behalf, write down an address of a place in New Zealand where you can receive all documents about this claim.*

Street address:

*If a lawyer is pursuing this counterclaim on your behalf, do not write down an address for service here as documents will be served at the address written or referred to in 1F below.

1D Defendant's postal address

If your postal address is different from the address for service you have given in 1C above, write your postal address here.

Postal address:

1E Defendant's contact details

Write down your phone and fax numbers and an email address if you have one.

Telephone number:

Other telephone number:

Fax number:

Email address:

1F Have you changed your lawyer?

If you have changed your lawyer since you filed form 4CC (defendant's information capsule (for counterclaim)), write the new details here, including the name of their firm.

Name of your lawyer

Name:

Firm:

Contact details of your lawyer for serving forms

Street address:

PO Box:

Document exchange box:

Telephone number:

Other telephone number:

Form 6CC—*continued*

Fax number:

Email address:

What are the plaintiff's details?

Copy this information from form 5CC (plaintiff's information capsule (for counterclaim), section 1).

1G Plaintiff's name

Write the plaintiff's full name.

or

Write the name of the company, society, or incorporation if the plaintiff is a company, a society, or an incorporation.

or

Write the names of the trustees or executors if the plaintiff is a trust or an estate.

Name:

1H Plaintiff's trading name

If the plaintiff in 1G above has a different trading name, write the trading name here.

Trading name:

1I Plaintiff's address for service

Write down the address of a place in New Zealand where you intend to serve this notice of pursuit of counterclaim on the plaintiff.

Street address:

1J Plaintiff's postal address

If the plaintiff's postal address is different from their address for service in 1I above, write their postal address here.

Postal address:

Form 6CC—*continued*

1K Plaintiff's contact details

If you know the plaintiff's telephone and fax numbers and email address, write them here.

Telephone number:

Other telephone number:

Fax number:

Email address:

Section 2: Your signature

The counterclaim has not been settled and I will now pursue this counterclaim against the plaintiff in court. The court will decide when and where any further steps in the process occur.

I have attached copies of the following documents:

Form 3CC—Response by plaintiff (for counterclaim):

Form 4CC—Defendant's information capsule (for counterclaim):

Form 5CC—Plaintiff's information capsule (for counterclaim).

2A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

Signature of defendant:

Full name and address:

*Position or office held:

Date:

*This only applies if you are signing on behalf of a registered company, a trust, a society, an incorporation, or an estate.

Note: Keep a copy of this form, and any other forms you receive, for your own records.

Form 6CC—*continued***Section 3: Affidavit****3A Fill in the affidavit below, then get a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge to swear or affirm that your affidavit is true and sign below.**I, *[full name, occupation]*of *[address]*

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 2CC (notice of counterclaim) was filed at *[name of District Court]* District Court on *[date you filed form 2CC]*:
- form 2CC (notice of counterclaim) was served on the plaintiff on *[date you served form 2CC]*:
- form 5CC (plaintiff's information capsule (for counterclaim)) was served on me (the defendant) on *[date the plaintiff served form 5CC]*:
- form 6CC (notice of pursuit of counterclaim) (this form) was served on the plaintiff on *[date you served this form]*.

*Select one.

Sworn/Affirmed* at: *[place]*

Date:

By: *[defendant's name]*Before me: *[name of person administering oath or affirmation]*Designation of person administering oath or affirmation: *[for example, Deputy Registrar of the District Court at Christchurch]*

Signature of person administering oath or affirmation:

*Select one.

Form 6CC—*continued*

Notes

More information about counterclaim process

The counterclaim process involves a series of forms requesting information. Some forms are for the plaintiff to fill in and some are for the defendant. All the forms in the process are listed in the notes section.

You can find out more about the counterclaim process at:
www.justice.govt.nz/civil.

Why do you have to go through this process?

By going through the counterclaim process, you might be able to settle the counterclaim without going through the court system.

If you go through the counterclaim process and don't settle the counterclaim, the court will then have an accurate record of all the facts of the counterclaim from both the plaintiff and the defendant.

It is important that you keep your own copies of all the forms you send or receive.

If you are the plaintiff, you do not need to file any forms at court.

Schedule 1 form 6CC: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 6A

rr 2.39, 2.39A

Application for judgment

Notes for plaintiff (and defendant applying for
costs where claim discontinued)**Definitions of words used in this form****affidavit:** a written statement given under oath**defendant:** the person who a claim is against**disbursements:** an expense paid by the plaintiff, including filing fees, fees for serving forms, and photocopying fees**file:** to take or send documents about a claim to the court Registrar**judgment:** when the court makes a judgment in favour of the plaintiff because the defendant does not return their documents or information in time**plaintiff:** the person making a claim against someone else**serve:** to take or send documents about a claim to the plaintiff's or defendant's address for service (an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant)**uncontested claim:** a claim started by the plaintiff that the defendant does not respond to in time**working day:** any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.**Who to contact if you need help**

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

What this form is for

Use this form to apply for judgment if—

- you want the court to judge your claim in your favour because the defendant has not served form 3 in time:

or

Form 6A—*continued*

- you want the court to judge your claim in your favour because the defendant has not served form 5 in time:

or

- you want the court to judge your claim in your favour because the defendant's form 3 contains an admission of the facts stated in your form 2:

or

- you want the court to judge your claim in your favour because the defendant's form 3 does not disclose any defence to your claim in your form 2:

or

- you are a defendant applying for judgment for costs because the claim against you was, or is treated as having been, discontinued.

For more information about applying for judgment, *see* under Further information for plaintiff.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the plaintiff (or you are the defendant and are applying for costs).

The person you are making the claim against is the defendant (or plaintiff whose claim has been discontinued).

How to fill in this form

1 Remove any notes pages for you, the plaintiff (or the defendant, as the case may be).

2 Fill in **all** 4 sections of the form.

Note: You must swear or affirm one of the affidavits in section 3.

For more information about what to do when you have completed this form, *see* under Further information for plaintiff.

For more information about fees for filing forms, go to:

www.justice.govt.nz/civil.

Keep a copy of this form, and any other forms you receive, for your own records.

Form 6A—*continued***Other forms in claim process**

For more information about the claim process, *see* the notes at the end of this form.

Note that you do not need to fill in form 1 at this stage.

Form 2—Notice of claim, filled in by the plaintiff

Form 3—Response by defendant, filled in by the defendant

Form 4—Plaintiff's information capsule, filled in by the plaintiff

Form 5—Defendant's information capsule, filled in by the defendant

Form 6—Notice of pursuit of claim, filled in by the plaintiff

Further information for plaintiff

Information about applying for judgment

Judgment is a process that deals only with uncontested claims (for example, when a plaintiff starts a claim, but the defendant does not respond in time).

Who can sign this form

You can sign this form if—

- you are making the claim yourself:
- or*
- you are authorised to sign on behalf of the plaintiff (or the defendant, as the case may)—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the claim.

Or, you can authorise your lawyer to sign this form on your behalf.

How to swear or affirm an affidavit

You must swear or affirm one of the affidavits in section 3 of this form. An affidavit is a written statement that you have sworn or affirmed is true in front of a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge.

For information about where you can find one of these people, go to: www.justice.govt.nz/civil.

Form 6A—*continued*

You can swear an affidavit on the Bible, or you can affirm an affidavit by solemn declaration.

It is a criminal offence to knowingly swear or affirm a false affidavit. If you do not swear or affirm your affidavit and complete and file this form, the court cannot continue with your claim.

What to do when you have completed the form

- 1 File the form at the same District Court where form 2 was filed and pay the required fee.
- 2 File copies of forms 3, 4, and 5 (if you have sent/received them) at the same time as you file this form.

How to file a form at court

To file this form, send or take the original form (including the sworn affidavit) to the Registrar at the same District Court where form 2 (notice of claim) was filed and pay the required fee.

You must file a copy of forms 3, 4, and 5 (if you have sent/received them) with this form.

For up-to-date information about the fee for filing an application for judgment, go to: www.justice.govt.nz/civil.

What happens if you do not file this form within applicable period

You must file this application within the applicable period under rule 2.39A. The applicable period is—

- the period starting on the 21st working day and ending with the close of the 90th working day after form 2 (notice of claim) was served on the defendant (if you are applying for judgment because the defendant has not served form 3 on you):

or

- the period starting on the 21st working day and ending with the close of the 90th working day after form 4 (plaintiff's information capsule) was served on the defendant (if you are applying for judgment because the defendant has not served form 5 on you):

Form 6A—*continued**or*

- the period starting on the first working day after the defendant served form 3 (defendant's response) on you and ending with the close of the 90th working day after you served your form 2 on the defendant (if you are applying for judgment because the defendant's response contains an admission of the facts stated in your form 2):

or

- the period starting on the first working day after the defendant served form 3 (defendant's response) on you and ending with the close of the 90th working day after you served your form 2 on the defendant (if you are applying for judgment because the defendant's response does not disclose any defence to your claim in your form 2):

or

- the period starting on the 21st working day and ending with the close of the 90th working day after you served form 3 (defendant's response) or (as the case may be) form 5 (defendant's information capsule) on the plaintiff (if you are applying for judgment for costs because the plaintiff's claim against you has been, or is treated as having been, discontinued).

If you do not file this form within the applicable period, your claim will end. If this happens, you can start your claim again by filing form 2 and paying another filing fee.

Filed at: [*copy this information from form 2*]

File reference number (CIV): [*copy this information from form 2*]

Date filed:

Form 6A—*continued*

Section 1: Plaintiff's (or defendant's) costs and disbursements

1A Memorandum of costs and disbursements

List the lawyer's fees and other expenses (disbursements) you have paid during the claim process in the spaces below. Then add them together and fill in the total amount.

Attach invoices for the amounts you are claiming (for example, attach invoices from your interpreter, a printing shop, or your document server).

I (the plaintiff/defendant*) am now applying for judgment. I am claiming the following costs and disbursements.

Costs (lawyer's fees only): \$[*amount (to be completed by your lawyer)*]

Disbursements (expenses you have paid during the claim process, including filing fees, fees for serving forms, and photocopying fees): \$[*amount*]

Total costs and disbursements: \$[*add the 2 amounts given above*]

*Select one.

1B Reasons for fees and expenses

Where appropriate, give reasons for the fees and expenses you have listed in 1A above. For example, you may have a contract that says you are entitled to full lawyer and client costs, or you may have paid an interpreter to help you with the forms.

[*specify reasons*]

To be completed by the court

*Costs and disbursements approved as in the memorandum.

or

*Costs and disbursements as fixed.

*Select the paragraph that applies.

Form 6A—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Section 2: Your signature

2A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.

Signature of plaintiff/defendant*:

Full name and address:

*Select one.

Section 3: Affidavit**3A Swear the appropriate affidavit**

You must select and complete one of the affidavits below, then get a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge to swear or affirm that your affidavit is true and sign below.

[Select the affidavit that applies.]

Option 1—You have not received form 3 from the defendant

Use this affidavit if it has been more than 20 working days since you served form 2 (notice of claim) on the defendant and you have not received form 3 (response by defendant) from them.

I, *[full name, occupation]*

of *[address]*

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 2 (notice of claim) was filed at *[name of District Court]* District Court on *[date you filed form 2]*:

Form 6A—*continued*

- form 2 (notice of claim) was served on the defendant [defendant's full name] on [date form 2 was served] by [name of person who served form 2] at [place where form 2 was served];
- form 3 (response by defendant) was **not** served on me (the plaintiff) by [date].

*Select one.

Signature of plaintiff:

Sworn/Affirmed* at: [place]

Date:

By: [plaintiff's name]

Before me: [name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Option 2—You have not received form 5 from the defendant

Use this affidavit if it has been more than 20 working days since you served form 4 (plaintiff's information capsule) on the defendant and you have not received form 5 (defendant's information capsule) from them.

I, [full name, occupation]

of [address]

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 3 (response by defendant) was served on me (the plaintiff) on [date form 3 was served];
- form 4 (plaintiff's information capsule) was served on the defendant on [date form 4 was served];
- form 5 (defendant's information capsule) was **not** served on me (the plaintiff) by [date].

*Select one.

Form 6A—*continued*

Signature of plaintiff:

Sworn/Affirmed* at: *[place]*

Date:

By: *[plaintiff's name]*

Before me: *[name of person administering oath or affirmation]*

Designation of person administering oath or affirmation: *[for example, Deputy Registrar of the District Court at Christchurch]*

Signature of person administering oath or affirmation:

*Select one.

Option 3—The defendant has admitted the facts stated in your notice of claim

Use this affidavit if you have received form 3 (defendant's response) and it contains an admission of the facts stated in your form 2 (notice of claim).

I, *[full name, occupation]*

of *[address]*

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 3 (response by defendant) was served on me (the plaintiff) on *[date form 3 was served]*;
- the defendant, in form 3, has admitted the facts stated in my form 2 (notice of claim) and agreed to my claim in full.

Signature of plaintiff:

Sworn/Affirmed* at: *[place]*

Date:

By: *[plaintiff's name]*

Before me: *[name of person administering oath or affirmation]*

Designation of person administering oath or affirmation: *[for example, Deputy Registrar of the District Court at Christchurch]*

Signature of person administering oath or affirmation:

*Select one.

Form 6A—*continued*

Option 4—The defendant's response does not disclose any defence

Use this affidavit if you have received form 3 (defendant's response) and it does not disclose any defence to your claim.

I, [full name, occupation]

of [address]

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 3 (response by defendant) was served on me (the plaintiff) on [date form 3 was served];
- the defendant's form 3 discloses no defence to the claim in my form 2.

Signature of plaintiff:

Sworn/Affirmed* at: [place]

Date:

By: [plaintiff's name]

Before me: [name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Option 5—The plaintiff's claim has been, or is treated as having been, discontinued and you are applying for judgment for costs

Use this affidavit if the plaintiff's claim against you has been, or is treated as having been, discontinued.

I, [full name, occupation]

of [address]

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

*Select one.

- form 3 (response by defendant) was served on the plaintiff on [date form 3 was served];

Form 6A—*continued*

- form 4 (plaintiff's information capsule) was **not** served on me (the defendant) by *[date]**:
- form 5 (defendant's information capsule) was served on the plaintiff on *[date form 5 was served]**:
- form 6 (notice of pursuit of claim) was **not** filed by *[date]**.

*Select only if applicable.

Signature of defendant:

Sworn/Affirmed* at: *[place]*

Date:

By: *[defendant's name]*

Before me: *[name of person administering oath or affirmation]*

Designation of person administering oath or affirmation: *[for example, Deputy Registrar of the District Court at Christchurch]*

Signature of person administering oath or affirmation:

*Select one.

Section 4: Judgment

Fill in the information in the judgment below. If the court agrees with the amounts you are claiming, the court Registrar or Deputy Registrar will sign and date the judgment and seal it.

Filed at: *[copy this information from form 2]*

File reference number (CIV): *[copy this information from form 2]*

Plaintiff's name:

Plaintiff's address:

Plaintiff's occupation:

Defendant's name:

Defendant's address:

Defendant's occupation:

Because the defendant has not served form 3 (response by defendant) on the plaintiff/the defendant has not served form 5 (defendant's information capsule) on the plaintiff/the defendant has admitted the

Form 6A—*continued*

facts stated in the plaintiff's notice of claim and agreed to the plaintiff's claim in full/the defendant's response does not disclose any defence to plaintiff's claim/the plaintiff's claim has been, or is treated as having been, discontinued*, the court makes the following judgment.

*Select appropriate ground.

The defendant/plaintiff* must pay the plaintiff/defendant*:

\$(*write the amount you are claiming from form 2 (section 4A)*)

\$(*subtract any amounts paid since claim filed*)

\$(*write the amount of interest and calculations claimed from form 2 (section 4B)*)

\$(*copy the total costs and disbursements from section 1A of this form*).

Total amount the defendant/plaintiff* must pay the plaintiff/defendant*:

\$(*write the amount*)

*Select one.

To be completed by the court

Date:

Signature: (Registrar/Deputy Registrar*)

*Select one.

Sealed: [*date*]

Schedule 1 form 6A: replaced, on 14 June 2012, by rule 24(a) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 6CCA

rr 2.27, 2.28, 2.39, 2.39A

Application for judgment (for counterclaim)

Notes for defendant (and plaintiff applying for
costs where counterclaim discontinued)**Definitions of words used in this form****affidavit:** a written statement given under oath**counterclaim:** an independent claim against the person making the original claim**defendant:** the person who the original claim is against. The defendant is the person who makes a counterclaim**disbursements:** an expense paid by the plaintiff, including filing fees, fees for serving forms, and photocopying fees**file:** to take or send documents about a claim to the court Registrar**judgment (for counterclaim):** when the court makes a judgment in favour of the defendant because the plaintiff does not return their documents or information in time**plaintiff:** the person who made the original claim. A counterclaim is against the plaintiff**serve:** to take or send documents about a claim to the plaintiff's or defendant's address for service (an address of a place in New Zealand where all documents about a claim can be taken or sent to the plaintiff or defendant)**uncontested counterclaim:** a counterclaim started by the defendant that the plaintiff does not respond to in time**working day:** any normal weekday from Monday to Friday, unless it is one of the following public holidays: Good Friday, Easter Monday, Anzac Day, Labour Day, Queen's birthday, or Waitangi Day. As well as these public holidays, the days from Christmas Day (25 December) to 15 January do not count as working days.**Who to contact if you need help**

If you need help filling in this form, please talk to your lawyer, local Citizens Advice Bureau, or Community Law Centre, or go to: www.justice.govt.nz/civil.

Form 6CCA—*continued*

What this form is for

Use this form to apply for judgment if—

- you want the court to judge your counterclaim in your favour because the plaintiff has not served form 3CC in time:

or

- you want the court to judge your counterclaim in your favour because the plaintiff has not served form 5CC in time:

or

- you want the court to judge your counterclaim in your favour because the plaintiff's form 3CC contains an admission of the facts stated in your form 2CC:

or

- you want the court to judge your counterclaim in your favour because the plaintiff's form 3CC does not disclose any defence to your counterclaim in your form 2CC:

or

- you are a plaintiff applying for judgment for costs because the counterclaim against you was, or is treated as having been, discontinued.

For more information about who can sign this form, *see* under Further information for defendant.

Who needs to fill in this form

You (or your lawyer) need to fill in this form if you are the defendant (or you are the plaintiff and are applying for costs).

The person you are making the counterclaim against is the plaintiff (or defendant whose counterclaim has been discontinued).

How to fill in this form

- 1 Remove any notes pages for you, the defendant.
- 2 Fill in **all** 4 sections of the form.

Note: You must swear or affirm one of the affidavits in section 3.

For more information about what to do when you have completed this form, *see* under Further information for defendant.

For more information about fees for filing forms, go to:

Form 6CCA—*continued*

www.justice.govt.nz/civil.

Keep a copy of this form, and any other forms you receive, for your own records.

Other forms in counterclaim process

Note that you do not need to fill in form 1 at this stage.

Form 2CC—Notice of counterclaim, filled in by the defendant

Form 3CC—Response by plaintiff (for counterclaim), filled in by the plaintiff

Form 4CC—Defendant's information capsule (for counterclaim), filled in by the defendant

Form 5CC—Plaintiff's information capsule (for counterclaim), filled in by the plaintiff

Form 6CC—Notice of pursuit of counterclaim, filled in by the defendant

Further information for defendant

Information about applying for judgment

Judgment (for counterclaim) is a process that deals with uncontested counterclaims (that is, when a defendant starts a counterclaim, but the plaintiff does not respond in time).

Who can sign this form

You can sign this form if—

- you are making the counterclaim yourself:

or

- you are authorised to sign on behalf of the defendant (or the plaintiff, as the case may be)—for example, if a registered company, a Māori incorporation, a partnership, a trust, an estate, an incorporated society, or an unincorporated body is making the counterclaim.

Or, you can authorise your lawyer to sign this form on your behalf.

Form 6CCA—*continued*

How to swear or affirm an affidavit

You must swear one of the affidavits in section 3 of this form. An affidavit is a written statement that you have sworn or affirmed is true in front of a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge.

For information about where you can find one of these people, go to: www.justice.govt.nz/civil.

You can swear an affidavit on the Bible, or you can affirm an affidavit by solemn declaration.

It is a criminal offence to knowingly swear or affirm a false affidavit. If you do not swear or affirm your affidavit and complete and file this form, the court cannot continue with your counterclaim.

What to do when you have completed the form

- 1 File the form at the same District Court where form 2 was filed and pay the required fee.
- 2 File copies of forms 3CC, 4CC, and 5CC (if you have sent or received them) at the same time as you file this form.

How to file a form at court

To file this form, send or take the original form (including the sworn affidavit) to the Registrar at the same District Court where form 2 was filed and pay the required fee.

You must also file copies of forms 3CC, 4CC, and 5CC (if you have sent/received them) with this form.

For up-to-date information about the fee for filing an application for judgment, go to: www.justice.govt.nz/civil.

What happens if you do not file this form within applicable period

You must file this application within the applicable period under rule 2.39A. The applicable period is—

- the period starting on the 21st working day and ending with the close of the 90th working day after form 2CC (notice of counterclaim) was served on the plaintiff (if you are applying

Form 6CCA—*continued*

for judgment because the plaintiff has not served form 3CC on you):

or

- the period starting on the 21st working day and ending with the close of the 90th working day after form 4CC (defendant's information capsule) was served on the plaintiff (if you are applying for judgment because the plaintiff has not served form 5CC on you):

or

- the period starting on the first working day after form 3CC (plaintiff's response) was served on you and ending with the close of the 90th working day after your form 2CC was served on the plaintiff (if you are applying for judgment because the plaintiff's response contains an admission of the facts stated in your form 2CC):

or

- the period starting on the first working day after form 3CC (plaintiff's response) was served on you and ending with the close of the 90th working day after your form 2CC was served on the plaintiff (if you are applying for judgment because the plaintiff's response does not disclose any defence to your counterclaim in your form 2CC):

or

- the period starting on the 21st working day and ending with the close of the 90th working day after you served form 3CC (plaintiff's response) or (as the case may be) form 5CC (plaintiff's information capsule) on the defendant (if you are applying for judgment for costs because the defendant's counterclaim against you has been, or is treated as having been, discontinued).

If you do not file this form within the applicable period, your counterclaim will end. If this happens, you can start your counterclaim again by filing form 2CC and paying another filing fee.

Filed at: [copy this information from form 2]

Form 6CCA—*continued*

File reference number (CIV): [*copy this information from form 2*]

Date filed:

Section 1: Defendant's (or plaintiff's) costs and disbursements

1A Memorandum of costs and disbursements

List the lawyer's fees and other expenses (disbursements) you have paid during the claim process in the spaces below. Then add them together and fill in the total amount.

Attach invoices for the amounts you are claiming (for example, attach invoices from your interpreter, a printing shop, or your document server).

I (the defendant *or* plaintiff) am now applying for judgment. I am claiming the following costs and disbursements:

Costs (lawyer's fees only): \$[*amount (to be completed by your lawyer)*]

Disbursements (expenses you have paid during the claim process, including filing fees, fees for serving forms, and photocopying fees): \$[*amount*]

Total costs and disbursements: \$[*add the 2 amounts given above*]

1B Reasons for fees and expenses

Where appropriate, give reasons for the fees and expenses you have listed in 1A above. For example, you may have a contract that says you are entitled to full lawyer and client costs, or you may have paid an interpreter to help you with the forms.

To be completed by the court

*Costs and disbursements approved as in the memorandum.

or

*Costs and disbursements as fixed.

*Select the paragraph that applies.

Form 6CCA—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Section 2: Your signature

- 2A Sign the form below. Then print or type your name and address underneath your signature, or use an address stamp.**

Signature of defendant/plaintiff*:

Full name and address:

*Select one.

Section 3: Affidavit**3A Swear the appropriate affidavit**

You must fill in one of the affidavits below, then get a Registrar or Deputy Registrar, Justice of the Peace, lawyer, or Judge to swear or affirm that your affidavit is true and sign below.

[Select the affidavit that applies.]

Option 1—You have not received form 3CC from the plaintiff

Use this affidavit if it has been more than 20 working days since you served form 2CC (notice of counterclaim) on the plaintiff and you have not received form 3CC (response by plaintiff (for counterclaim)) from them.

I, *[full name, occupation]*

of *[address]*

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

Form 6CCA—*continued*

- form 2CC (notice of counterclaim) was filed at [*name of District Court*] District Court on [*date you filed form 2CC*]:
- form 2CC (notice of counterclaim) was served on the plaintiff [*plaintiff's full name*] on [*date form 2CC was served*] by [*name of person who served form 2CC*] at [*place where form 2CC was served*]:
- form 3CC (response by plaintiff (for counterclaim)) was **not** served on me (the defendant) by [*date*].

*Select one.

Signature of defendant:

Sworn/Affirmed* at: [*place*]

Date:

By: [*defendant's name*]

Before me: [*name of person administering oath or affirmation*]

Designation of person administering oath or affirmation: [*for example, Deputy Registrar of the District Court at Christchurch*]

Signature of person administering oath or affirmation:

*Select one.

Option 2—You have not received form 5CC from the plaintiff

Use this affidavit if it has been more than 20 working days since you served form 4CC (defendant's information capsule (for counterclaim)) on the plaintiff and you have not received form 5CC (plaintiff's information capsule (for counterclaim)) from them.

I, [*full name, occupation*]

of [*address*]

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 3CC (response by plaintiff (for counterclaim)) was served on me (the defendant) on [*date form 3CC was served*]:

Form 6CCA—*continued*

- form 4CC (defendant's information capsule (for counterclaim)) was served on the plaintiff on [*date form 4CC was served*]:
- form 5CC (plaintiff's information capsule (for counterclaim)) was **not** served on me (the defendant) by [*date*].

*Select one.

Signature of defendant:

Sworn/Affirmed* at: [*place*]

Date:

By: [*defendant's name*]

Before me: [*name of person administering oath or affirmation*]

Designation of person administering oath or affirmation: [*for example, Deputy Registrar of the District Court at Christchurch*]

Signature of person administering oath or affirmation:

*Select one.

Option 3—The plaintiff has admitted the facts stated in your notice of counterclaim

Use this affidavit if you have received form 3CC (plaintiff's response) and it contains an admission of the facts stated in your form 2CC (notice of counterclaim).

I, [*full name, occupation*]

of [*address*]

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 3CC(response by plaintiff) was served on me (the defendant) on [*date form 3CC was served*]:
- the plaintiff, in form 3CC, has admitted the facts stated in my form 2CC (notice of counterclaim) and agreed to my counterclaim in full.

*Select one.

Form 6CCA—*continued*

Signature of defendant:

Sworn/Affirmed* at: *[place]*

Date:

By: *[defendant's name]*

Before me: *[name of person administering oath or affirmation]*

Designation of person administering oath or affirmation: *[for example, Deputy Registrar of the District Court at Christchurch]*

Signature of person administering oath or affirmation:

*Select one.

Option 4—The plaintiff's response does not disclose any defence

Use this affidavit if you have received form 3CC (plaintiff's response) and it does not disclose any defence to your counterclaim in your form 2CC.

I, *[full name, occupation]*

of *[address]*

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

- form 3CC (response by plaintiff) was served on me (the defendant) on *[date form 3CC was served]*;
- the plaintiff's form 3CC discloses no defence to the counterclaim in my form 2CC.

*Select one.

Signature of defendant:

Sworn/Affirmed* at: *[place]*

Date:

By: *[defendant's name]*

Before me: *[name of person administering oath or affirmation]*

Designation of person administering oath or affirmation: *[for example, Deputy Registrar of the District Court at Christchurch]*

Signature of person administering oath or affirmation:

*Select one.

Form 6CCA—*continued*

Option 5—The defendant's counterclaim has been, or is treated as having been, discontinued and you are applying for judgment for costs

Use this affidavit if the defendant's counterclaim against you has been, or is treated as having been, discontinued.

I, [full name, occupation]
of [address]

swear an oath/solemnly and sincerely affirm* that, after inquiry, to the best of my knowledge and belief—

*Select one.

- form 3CC (response by plaintiff) was served on the defendant on [date form 3CC was served];
- form 4CC (defendant's information capsule) was **not** served on me (the plaintiff) by [date]*;
- form 5CC (plaintiff's information capsule) was served on the defendant on [date form 5CC was served]*.
- form 6CCA (application for judgment (for counterclaim)) was **not** filed by [date]*.

*Select only if applicable.

Signature of plaintiff:

Sworn/Affirmed* at: [place]

Date:

By: [name of plaintiff]

Before me: [name of person administering oath or affirmation]

Designation of person administering oath or affirmation: [for example, Deputy Registrar of the District Court at Christchurch]

Signature of person administering oath or affirmation:

*Select one.

Section 4: Judgment

Fill in the information in the judgment below. If the court agrees with the amounts you are claiming, the court Registrar or Deputy Registrar will sign and date the judgment and seal it.

Form 6CCA—*continued*

Filed at: *[copy this information from form 2]*

File reference number (CIV): *[copy this information from form 2]*

Defendant's name:

Defendant's address:

Defendant's occupation:

Plaintiff's name:

Plaintiff's address:

Plaintiff's occupation:

Because the plaintiff has not served form 3CC (response by plaintiff (for counterclaim) on the defendant/the plaintiff has not served form 5CC (plaintiff's information capsule (for counterclaim)) on the defendant/the plaintiff has admitted the facts stated in the defendant's notice of counterclaim and agreed to the counterclaim in full/the plaintiff's response does not disclose any defence to the defendant's notice of counterclaim/the defendant's counterclaim has been, or is treated as having been, discontinued*, the court makes the following judgment.

*Select appropriate ground.

The plaintiff/defendant* must pay the defendant/plaintiff*:

\$_[write the amount you are claiming from form 2CC (section 4A)]

\$_[subtract any amounts paid since counterclaim filed]

\$_[write the amount of interest and calculations claimed from form 2CC (section 4B)]

\$_[copy the total costs and disbursements from section 1A of this form].

Total amount the plaintiff/defendant* must pay the defendant/plaintiff*:

\$_[write the amount]

To be completed by the court

Date:

Signature: (Registrar/Deputy Registrar*)

Sealed: *[date]*

*Select one.

Form 6CCA—*continued*

Schedule 1 form 6CCA: replaced, on 14 June 2012, by rule 24(a) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 7
Third party notice

r 2.19

To [full name, place of residence, occupation]

This document notifies you that—

Claim by plaintiff against defendant

- 1 This proceeding has been brought by the plaintiff against the defendant, in which the plaintiff claims the relief set out in the plaintiff's notice of claim (copy attached), and service of this notice makes you a party to the proceeding. The defendant has/has not* filed a response to the claim.

*Select one.

Omit the following sentence if it does not apply.

A copy of that response is served with this document.

Claim by defendant against you

- 2 The defendant claims relief or a remedy against you in respect of, or arising out of, the plaintiff's claim. That relief or remedy and the grounds on which it is claimed are set out in the defendant's notice of claim (copy attached).

Can I dispute the claims made against the defendant and me?

- 3 Yes. If you want to dispute the plaintiff's claim against the defendant or the defendant's claim against you, you must, within 20 working days after the date on which you are served with this notice,—
- (a) file in the District Court at [place] your response to the plaintiff's claim or the defendant's claim, or both, as the case may be; and
 - (b) serve a copy of that response on the plaintiff and the defendant and on the other parties to the proceeding.

What if I fail to dispute the claims?

- 4 If you do not file a response within the prescribed time,—
- (a) you will be treated as having admitted—
 - (i) the plaintiff's claim against the defendant; and

Form 7—*continued*

- (ii) the defendant's right to the relief or remedy that the defendant claims against you; and
- (iii) the validity of any judgment that may be given in the proceeding, whether by consent, default, or otherwise; and
- (b) you will be bound by any judgment given, which may be enforced against you under the rules of court.

Hearing of proceeding

- 5 The hearing of the proceeding, if a hearing is necessary, will take place at *[place]* at a time to be fixed by the court.

Include the following sentence only if there is a court order.

This notice is issued under an order of the court made on *[date]*.

Date:

Signature:

(defendant/solicitor for defendant or another person authorised by rule 2.5 of the District Courts Rules 2009*)

*Select one.

Schedule 1 form 7: amended, on 14 June 2012, by rule 24(c) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 8

r 2.30.2

Notice to other defendant

To the [*specify which defendant, eg, second, third, etc*] defendant,
[*full name*]

This document notifies you that—

Claim against you

- 1 The [*specify which defendant*] defendant, [*full name*], claims the relief or remedy against you set out in the attached notice of claim. The grounds for claiming the relief or remedy are also set out in the notice of claim.

Your right to dispute claim

- 2 If you dispute the claim, you must, within 15 working days after the date on which you are served with this notice,—
- (a) file in the District Court at [*place*] your response to the claim; and
 - (b) serve a copy of that response on—
 - (i) the claiming defendant, [*full name*]; and
 - (ii) the plaintiff; and
 - (iii) any other party who has filed an address for service.

Date:

Signature:

(defendant/solicitor for defendant/[*another person authorised by rule 2.5 of the District Courts Rules 2009*]*)

*Select one.

Form 9

r 2.36

Reply

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

and

To *[names of parties to be served]*

This document notifies you that—

Affirmative defences/Positive allegations* being answered

*Select one.

- 1 The *[party]* wishes to answer the following affirmative defence(s)/positive allegation(s)* stated in *[specify which party's response this notice is replying to]*:
[set out each defence or allegation being answered. For example, it is asserted that relief in respect of the plaintiff's claim is statute-barred.]

*Select one.

My answers

- 2 The *[party]* answers as follows:
[set out each answer to the defence or allegation specified above. For example, relief in respect of the plaintiff's claim is not statute-barred because ...].

Date:

Signature:

(solicitor for party/party replying/*[another person authorised by rule 2.5 of the District Courts Rules 2009]**)

*Select one.

Schedule 1 form 9: amended, on 1 January 2011, by rule 5(a) of the District Courts (Limitation Act 2010) Amendment Rules 2010 (SR 2010/395).

Schedule 1 form 9: amended, on 1 January 2011, by rule 5(b) of the District Courts (Limitation Act 2010) Amendment Rules 2010 (SR 2010/395).

Form 10

r 2.46.2

Application for review of decision to allocate
short trial

Complete and insert the heading as set out in form 1.

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

To *[name of party to be served]*

This document notifies you that the applicant, *[full name]*, applies for a review of the decision of *[specify whether it is the court or a Registrar]* made on *[date(s)]* at *[place]* to allocate a short trial for this proceeding.

Date:

Signature:

(applicant/solicitor for applicant/*[another person authorised by rule 2.5 of the District Courts Rules 2009]**)

*Select one.

Form 11

r 2.52.1

Notice to cross-examine witness at simplified
trial*Complete and insert the heading as set out in form 1.*

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

To *[name of party to be served]*

This document notifies you that the applicant, *[full name]*, intends to cross-examine *[name of witness]* at the simplified trial to be held on *[date(s)]* at *[place]*.

Date:

Signature:

(applicant/solicitor for applicant/*[another person authorised by rule 2.5 of the District Courts Rules 2009]**)

*Select one.

Form 12

r 3.2.1

Notice requiring proceeding to be transferred
to High Court

Complete and insert the heading as set out in form 1.

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

To [*name*], (plaintiff)

This document notifies you that the defendant, [*name*], objects to this proceeding being heard in a District Court, and applies for an order that the proceeding be transferred to the High Court.

Date:

Signature:

(defendant/solicitor for defendant*)

*Select one.

Form 13

r 3.2.2

Notice of application for proceeding to be
transferred to High Court*Complete and insert the heading as set out in form 1.*

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

To *[full name]*, (plaintiff)

This document notifies you that the defendant, *[full name]*, objects to this proceeding being heard in a District Court and will apply to the District Court at *[place]* on *[date(s)]* for an order that the proceeding be transferred to the High Court on the grounds that an important question of law or fact/question of title to *[description of hereditament]** is likely to arise otherwise than incidentally.

*Select one.

Date:

Signature:

(defendant/solicitor for defendant*)

*Select one.

Form 14

r 3.2.3

Order transferring proceeding to High Court

Complete and insert the heading as set out in form 1.

The court orders that on payment by the defendant of the sum of \$[*amount*] into court/on the defendant entering into a bond in the sum of \$[*amount*] in a form to be settled by the Registrar* as security for the costs of the proceeding in the High Court this proceeding be transferred, under section [*reference*] of the District Courts Act 1947, to the High Court of New Zealand at [*place*].

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 15

r 3.24.3

Notice of time and place for examination

*Complete and insert the heading as set out in form 1.***To** [*name of party*]**This document notifies you that—**

- 1 The defendant/plaintiff* has given notice that the defendant/plaintiff* wants to have the examination of [*name persons to be examined*] taken at [*place, date, time*].

*Select one.

- 2 The defendant/plaintiff* will examine [*name persons to be examined*] and you at [*place, date, time*].

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 16

r 3.27.6

**Evidence of witness/witnesses examined by
deposition**

Complete and insert heading as set out in form 1.

Evidence of the witness/witnesses* was taken at [*place, date, time*],
before the undersigned.

*Select one.

Date:

Signature:

(examiner)

[*Name*] appears for the plaintiff.

[*Name*] appears for the defendant.

Notes

- 1 The deposition(s) should be typewritten on separate sheets, which should be attached securely to this form.
- 2 Commence the evidence of each witness with the words: “This deponent, [*name*], on oath says: ...”.
- 3 Each page must be signed by the witness and the examiner.

Form 17

r 3.27.6

Report of examiner

The attached depositions of [*full name*], written on [*number*] sheets of paper, numbered consecutively from 1 to [*number*], and now fixed together and signed by me were taken and sworn before me in accordance with the District Courts Rules 2009 at [*place, date, time*].

Date:

Signature:

(examiner)

Note

This form should be attached securely to form 16 and the depositions.

Form 18
Certificate of costs

r 3.28

Complete and insert the heading as set out in form 1.

I certify that the following are the costs allowed to the [*name of party(s)*] on the examination of witness(es) at [*place, date, time*].

Plaintiff's costs	Amount (\$)	Defendant's costs	Amount (\$)
Solicitor's fee		Solicitor's fee	
Witness		Witness	
Witness		Witness	
Total		Total	

Date:

Signature:

(examiner)

Form 19

r 3.29.2

Certificate of non-appearance

Complete and insert the heading as set out in form 1.

I certify that the application of the plaintiff/defendant* to take the evidence of [name] was called in court this day, but neither of the parties having appeared, the application was struck out/but the [name of party] only having appeared, the application was struck out*, with costs, as in the attached certificate.

*Select one.

Date:

Signature:

(examiner)

Form 19A
Freezing order

r 3.53

To the respondent [*name*]

- 1 The court has considered the applicant's application for a freezing order, and has heard [*name of applicant or applicant's counsel*] in support.
- 2 The court is satisfied, having regard to all the circumstances disclosed by affidavit evidence filed in support of the application, that there is a danger that judgment in favour of the applicant will be wholly or partly unsatisfied, because the assets listed in paragraph 3 will be removed from New Zealand or otherwise dealt with.
- 3 This freezing order is made in respect of the following assets: [*set out a comprehensive list, with description adequate to identify each asset*].
- 4 Subject to paragraph 5, this order restrains you from removing any of the assets listed in paragraph 3 from New Zealand, or from disposing of, dealing with, or diminishing the value of, those assets.
- 5 This freezing order does not prohibit you from dealing with the assets covered by the order for the purpose of—
 - (a) paying ordinary living expenses; or
 - (b) paying legal expenses related to the freezing order; or
 - (c) disposing of assets, or making payments, in the ordinary course of your business, including business expenses incurred in good faith.
- 6 *Include this paragraph only if the freezing order was made without notice to the respondent*
As the freezing order has been made without notice to you, it will have no effect after [*state the particular date inserted by the court*], unless on that date it is continued or renewed. On that date you or your counsel are entitled to be heard by the court in opposition to the continuation or renewal of the order.
- 7 You may apply to the court by interlocutory application to discharge or vary the order. If you apply, you must give the applicant notice of not less than [*specify period fixed by the court*].

Form 19A—*continued*

8 *Omit this paragraph if no undertaking has been required by the court.*

An undertaking as to damages given by the applicant is attached.

9 *[State any other special terms that the court has ordered.]*

10 This order does not affect anyone outside New Zealand until it is declared enforceable by a court in the relevant country, (in which case it affects a person only to the extent that it has been declared enforceable) unless the person is—

- (a) a person to whom this order is addressed, or an officer of that person, or an agent appointed by power of attorney of that person; or
- (b) a person who—
 - (i) has been given written notice of this order at that person's residence or place of business within New Zealand; and
 - (ii) is able to prevent acts or omissions outside the jurisdiction of this court that constitute, or assist, a breach of this order.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Schedule 1 form 19A: inserted, on 14 June 2012, by rule 24(b) of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Form 20

r 7.8.1

**Heading for applications, notices, and orders
under Harassment Act 1997**

No: [*number of proceeding*]

In the District Court at [*place*]

Under the Harassment Act 1997

[*Full name, *address, occupation*]

(applicant)

[*Full name, *address, occupation*]

(respondent)

*Omit if this does not apply.

Include the following if it applies.

[*Full name, address, occupation*]

(associated respondent)

Note

Rule 7.14 of the District Courts Rules 2009 permits the residential address of an applicant for a restraining order or of a protected person to be omitted from this heading if he or she wants the address to be kept confidential from the other parties.

Form 21

r 7.10

Application for restraining order

*Section 9, Harassment Act 1997**Complete and insert the heading as set out in form 20.*

- 1 *For this paragraph select the statement that applies.*

Statement A

I, [full name], apply for a restraining order against [full name], the respondent.

Statement B

I, [full name], the appointed representative of [full name], the applicant, apply on behalf of the applicant for a restraining order against [full name], the respondent.

- 2 *Include this paragraph if the order is sought for a period of more or less than 1 year.*

The proposed duration of the order sought is a period of [specify period].

- 3 I seek a direction that the restraining order apply against [full name(s)], the associated respondent/associated respondents*.

*Select one.

- 4 *Include this paragraph if you wish to request special conditions.*

I request that the following special conditions be part of the restraining order: [set out in sufficient detail the nature of the special conditions sought].

Affidavit in support

I rely on the content of my/[name of deponent if deponent is not the applicant],* affidavit dated [date] filed in support of this application.

*Select one.

Date:

Signature:

(applicant)

Form 21—*continued*

Date of hearing

The Registrar is to complete the following appointment for hearing.

I appoint [*date, time*] at the District Court at [*place*] for the hearing of this application.

Date:

Signature:

(Registrar)

Notes

Affidavit in support

An affidavit must be filed with this application. The affidavit must contain sufficient particulars to show the grounds on which you claim to be entitled to the order and to inform the court of the facts relied on. In particular, it must state the matters required to be stated by rule 7.12 of the District Courts Rules 2009.

Where the application is made by a representative, the accompanying affidavit or affidavits can be made by anyone with knowledge of the relevant facts.

Other accompanying documents

A notice of proceeding in form 23 must also be filed with this application.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 22

r 7.10

Application for variation or discharge of
restraining order*Section 22, Harassment Act 1997**Complete and insert the heading as set out in form 20.**Select the statement that applies.**Statement A*

I, [full name], apply for an order that the restraining order made in the District Court at [place, date, time] be varied by [specify nature of variation sought by referring to section 22(1) of the Act] on the following grounds: [specify grounds].

Statement B

I, [full name], apply for an order discharging the restraining order made in the District Court at [place, date, time] on the following grounds: [specify grounds].

Affidavit in support

I rely on the content of the affidavit dated [date] (of [name of deponent if deponent is not the applicant])* filed in support of this application.

*Omit this phrase if it does not apply.

Date:

Signature:
(applicant)**Date of hearing**

The Registrar is to complete the following appointment for hearing.

I appoint [date, time] at the District Court at [place] for the hearing of this application.

Form 22—*continued*

Date:

Signature:
(Registrar)

Notes

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 23

r 7.11

Notice of proceeding

*Sections 9, 22, and 23, Harassment Act 1997**Complete and insert the heading as set out in form 20.***To** [full name] (the respondent)

and

***To** [full name] (the associated respondent)

*Omit if it does not apply.

*Select the statement that applies.**Statement A***Notification of application for restraining order**

[Full name] has filed an application for a restraining order against you/the respondent*.

*Select one.

*Statement B***Notification of application for variation of restraining order**

[Full name] has filed an application for variation of the restraining order made in the District Court at [place, date] between [full name], the protected person, and [full name], the respondent, *and [full name], the associated respondent.

*Omit this phrase if it does not apply.

*Statement C***Notification of application for discharge of restraining order**

[Full name] has filed an application for discharge of the restraining order made in the District Court at [place, date] on between [full name], the protected person, and [full name], the respondent, *and [full name], the associated respondent.

*Omit this phrase if it does not apply.

Form 23—*continued*

Statement D

Notification of application for variation or discharge of restraining order by associated respondent

[*Full name*], the associated respondent, has filed an application for variation/discharge* of the restraining order made in the District Court at [*place, date*] between [*full name*], the protected person, and [*full name*], the respondent, and [*full name*], the associated respondent, in so far as the order affects him/her*.

*Select one.

A copy of the application is attached. The nature of the order or orders sought is specified in the application, which also states the date of the hearing.

The applicant's address for service is [*address*].

Date:

Signature:

(applicant/solicitor for applicant*)

*Select one.

Notes

Notice of defence

If you wish to defend the application, you may file a notice of defence in this office of the court at least **5 working days** before the date of the hearing. An affidavit must be filed with the notice of defence. A copy of the notice of defence must be served on the other party. That copy may be delivered to the address for service given by that person.

If you do nothing, the hearing may proceed and the court can make an order in your absence.

Form 23—*continued***Address for service**

If you do not wish to defend the application but you do wish to know what is happening, you should—

- (a) file in this office of the court a notice giving the address of a place in New Zealand at which documents can be left for you; and
- (b) serve a copy of the notice on the other party to the proceeding. That copy may be delivered to the address for service given by that person.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 24

r 7.14.2

Notice of residential address and request for
confidentiality

Complete and insert the heading as set out in form 20.

To the Registrar of the District Court at [place]

1 *For this paragraph select the statement that applies.*

Statement A

I, [full name], am applying for a restraining order against [full name], the respondent.

Statement B

I, [full name], am a party to an application for a variation/discharge* of a restraining order made for my protection.

*Select one.

2 I request that my residential address and telephone numbers be kept confidential from the other party/parties*.

*Select one.

My residential address is [address].

My contact telephone number(s) are: [home, work].

3 I have provided an address for service.

4 *Include this paragraph if your solicitor is using another solicitor as an agent to file the proceedings.*

I also request that the name and address of my solicitor be kept confidential from the other party/parties*.

*Select one.

My solicitor's name and address are: [name, address].

Date:

Signature:
(applicant)

Form 25
Notice of defence

r 7.19

Complete and insert the heading as set out in form 20.

To the Registrar
and

To the applicant/*[applicant and either the respondent or the associate respondent, or both, as the case may be]**

*Select one.

I, *[full name, address, occupation]*, the respondent/associated respondent*, give notice that I intend to defend the application for *[specify]*.

*Select one.

Affidavit in support

I rely on the content of the affidavit dated *[date]* filed in support of this notice.

Date:

Signature:

(respondent)/(associated respondent)*

*Select one.

This notice is filed by *[full name]* whose address for service is *[address]*.

Form 26
Restraining order

r 7.38

Section 16, Harassment Act 1997

Complete and insert the heading as set out in form 20.

- 1 On application, the court makes a restraining order against [*full name*], the respondent.
- 2 *Omit this paragraph if it does not apply.*
The court also directs that the order applies against the following person/persons*: [*full name of each person in respect of whom the court makes a direction under section 18(1) of the Act*].
*Select one.
- 3 This order expires on [*date*] unless earlier extended.

Conditions of order

This order protects [*name*], the protected person. The conditions of the order are as follows:

Standard conditions prohibiting harassment and contact

It is a condition of this order that the respondent, and any associated respondent, must not—

- (a) do, or threaten to do, any specified act (set out below) to the protected person; or
- (b) encourage any person to do any specified act to the protected person, where the act, if done by the respondent or any associated respondent, would be prohibited by this order.

A **specified act** is any 1 of the following acts:

- (a) watching, loitering near, or preventing or hindering access to or from, the protected person's place of residence, business, employment, or any other place that the protected person frequents for any purpose; or
- (b) following, stopping, or accosting the protected person; or
- (c) entering, or interfering with, property in the possession of the protected person; or
- (d) making contact with that person (whether by telephone, correspondence, or in any other way); or

Form 26—*continued*

- (e) giving offensive material to the protected person, or leaving it where it will be found by, given to, or brought to the attention of that person; or
- (f) acting in any other way that—
 - (i) causes the protected person to fear for his or her safety; and
 - (ii) that would cause a reasonable person in that person's particular circumstances to fear for his or her safety.

A **specified act** is regarded as being done to the protected person if—

- (a) it is done to a person with whom the protected person is in a family relationship; and
- (b) the doing of the act is due wholly or partly to the protected person's family relationship with that person.

Special conditions

The court also imposes the following special conditions: [*specify*].

Unless otherwise stated, these special conditions last until the order expires.

Date:

Signature:

(applicant)

Important information for respondent/associated
respondent

Effect of restraining order

This order prohibits you from having contact with the protected person in any of the ways specified above. The order may also contain special conditions relating to contact between you and the protected person. You should read the terms of the order very carefully to find out what contact you may **not** have with the protected person and persons with whom the protected person has a family relationship.

Form 26—*continued*

Duration of restraining order

Unless the order states that this restraining order lasts for a different period, it will remain in force for 1 year starting the day after the date on which it was made.

Modification or discharge of this order

You (or any other party), including the respondent or any associated respondent) can apply to the court at any time—

- (a) for a variation or discharge of any special conditions of this order, or for the imposition of a new special condition:
- (b) for the duration of this order to be varied, if the court is satisfied that an extension is necessary to protect you from further harassment:
- (c) for this order to be discharged.

Consequences of a breach of this order

You commit an offence if, without reasonable excuse, you—

- (a) contravene this order; or
- (b) fail to comply with any condition of this order.

The maximum penalty for this offence is imprisonment for 6 months or a \$5,000 fine. However, in the case of certain repeat offences, the maximum penalty for this offence increases to imprisonment for 2 years.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 26—*continued***Important information for protected person****Effect of restraining order**

The effect of this order is to prohibit the respondent or associated respondent from having contact with you in any of the ways set out in the order. This order may also contain special conditions relating to contact between you and the respondent or associated respondent. The order also prevents the respondent or associated respondent from having contact with anyone with whom you have a family relationship if that contact is due partly or wholly to that relationship.

Duration of restraining order

Unless the order states that this restraining order lasts for a different period, it will remain in force for 1 year from the date on which it was made.

Modification or discharge of this order

You (or any other party, including the respondent or any associated respondent) can apply to the court at any time—

- (a) for a variation or discharge of any special conditions of this order, or for the imposition of a new special condition:
- (b) for the duration of this order to be varied, if the court is satisfied that an extension is necessary to protect you from further harassment:
- (c) for this order to be discharged.

If the respondent or associated respondent makes any of these applications, you will be notified and have an opportunity to dispute the application.

Consequences of a breach of this order

The respondent or associated respondent commits an offence if, without reasonable excuse, they—

- (a) contravene this order; or
- (b) fail to comply with any condition of this order.

The maximum penalty for this offence is imprisonment for 6 months or a \$5,000 fine. However, in the case of certain repeat offences, the

Form 26—*continued*

maximum penalty for this offence increases to imprisonment for 2 years.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 27

r 8.5

Application for removal order

*Section 215, Local Government Act 2002**Complete and insert the heading as set out in form 1.*

I, [full name, occupation], apply for a removal order against [full name, address, occupation (if known)], the respondent.

Property

- 1 The order is sought in respect of the property at [*specify the street address or other locality description in sufficient detail to enable it to be clearly identified*].

Nature of order sought

- 2 The removal/alteration* is sought of the fence/structure/vegetation† located on [*specify the location of the particular fence, structure, or vegetation on the property in sufficient detail to enable it to be clearly identified*].

*Select one.

†Select one or more.

- 3 *Omit this paragraph if it does not apply.*
The following alterations are sought to the fence/structure/vegetation*: [*specify the nature of the alterations sought. Where removal is sought of one part of the fence and alteration of another, specify the proposal in sufficient detail to inform the court. A drawing or diagram may be attached to explain the orders sought*].

*Select one or more.

- 4 *Omit this paragraph if it does not apply.*
The following further orders are sought: [*specify—*
(a) *any order sought that any thing attached to the fence, structure, or vegetation is to be removed as a consequence of the removal or alteration:*
(b) *any other consequential order sought*].

Form 27—continued

Entry onto adjoining land

- 5 *Omit this paragraph if it does not apply.*

A further order is sought authorising entry onto [*identify any adjoining land that would need to be entered to enforce the removal order sought*]

Costs and expenses of complying with order sought

- 6 *Omit this paragraph if it does not apply.*

A direction is sought that the respondent not be required to pay the costs and expenses of complying with the removal order sought.

Note: Section 220 of the Local Government Act 2002 provides that, unless a removal order directs otherwise, the respondent must pay all the costs and expenses of complying with the order.

Service

- 7 The respondent is the owner/occupier*.

*Select one.

- 8 In addition to the respondent, the following persons will be served with a copy of the order:

Select the paragraph(s) that apply.

- (a) the owner of the property, whose name and address is: [*complete where respondent is not owner*].
- (b) the mortgagees of the property, whose names and addresses are: [*complete where the property is subject to a mortgage*].
- (c) the owners of any property adjoining the property to which the application relates, whose names and addresses are: [*names, addresses*].

- 9 *For this paragraph select the statement that applies.*

Statement A

A direction as to service is sought in respect of the following person/persons* likely to be affected by the outcome of the proceeding: [*if known, give names and addresses of persons*]

Form 27—*continued*

concerned and indicate the way in which they are likely to be affected].

*Select one.

Statement B

Apart from the persons listed in paragraph [number], there do not appear to be any persons who are likely to be affected by the outcome of the proceeding.

10 *Omit this paragraph if it does not apply.*

Directions are sought on the manner in which the following persons are to be served: [*specify person concerned and the proposed nature of the direction sought*].

Affidavit in support

I rely on the content of the affidavit/affidavits* dated [date(s)] filed in support of this application.

I wish/do not wish* to be heard in support of this application.

*Select one.

Date:

Signature:

(applicant/person authorised to sign on behalf of applicant*)

*Select one.

Form 28
Removal order

r 8.7

To [full name, address] (respondent)

Reasons for removal order

The court makes this removal order because it is satisfied that—

- 1 The property at [*clearly identify street address or other locality*] is occupied, or regularly used, by persons who have been convicted of/have committed/are committing/are likely to commit* offences.

*Select one.

- 2 For this paragraph select the statement that applies.

Statement A

The fence/structure/vegetation* described below has facilitated or contributed to, is facilitating or contributing to, or is intended to facilitate or contribute to [*select one of the following paragraphs*]:

- (a) the concealment on the property of any unauthorised weapon or any controlled drug or any tainted property or any property that is stolen or obtained by a crime involving dishonesty [*specify reasons why this ground applies*].
- (b) the avoidance of detection or arrest of any person or persons believed or reasonably suspected to have committed any offence or offences [*specify reasons why this ground applies*].
- (c) the commission of any offence or offences by any person or persons on or from the property [*specify reasons why this ground applies*].

Statement B

The fence/structure/vegetation* described below is intended to injure any person [*specify reasons why this ground applies*].

Statement C

The fence/structure/vegetation* described below is such that the court is satisfied that it may reasonably be regarded as intimidating.

*Select one or more.

Form 28—*continued***Action required to be taken**

The court makes the following order/orders* against the respondent:

- 1 The respondent must remove/alter* the fence/structure/vegetation† as follows: *[identify, either in the order itself or by reference to documents attached to the order, the location of any fence, structure, or vegetation to be removed or altered and specify the action required to be taken]*.

*Select one.

†Select one or more.

- 2 The respondent must also remove the following attachments from the fence/structure/vegetation*: *[list attachments (such as video cameras, sensors, barbed wire) to be removed as a consequence of the removal or alteration referred to above]*.

*Select one or more.

- 3 The court also makes the following consequential orders and gives the following directions: *[set out any other consequential orders made, any directions as to service, and any direction relating to the costs of compliance]*.

- 4 *Omit this paragraph if it does not apply.*

If this removal order needs to be enforced, entry may be made onto *[identify portion of land adjoining property to which the order relates]* in accordance with section 221 of the Local Government Act 2002.

Period within which action must be taken

The respondent must comply with this order within *[specify]*. *[The period must be a reasonable period, having regard to the circumstances giving rise to the removal order.]*

Date:

Signature:
(Registrar)

Form 28—*continued*

Important information for respondent

Right to object

You may object to the making of this order. Every other person on whom this order is served may also object. A notice of objection must be in writing and contain certain information. (You can see an example of the form of the notice of objection at any office of the District Court.) It must be lodged with the court and served on the applicant within 15 working days from the date on which the removal order is served on you (or within such further time as the court may allow).

If a notice of objection is lodged, the removal order cannot be enforced until the court has made its decision on the objection.

The court may confirm, vary, or discharge the order. If the order is confirmed or varied, the court will specify the date by which you must comply with the order.

Consequences if notice of objection not filed and order not complied with

If no objection is made to the order and you do not comply with this order within the period specified in the order for compliance, the applicant may enter the property without further notice and may use reasonable force to remove or alter the fence, structure, or vegetation in accordance with the terms of the order.

Any materials salvaged in removing or altering the fence, structure, or vegetation will be sold to recover the applicant's costs. If this does not cover all the costs, the applicant can recover the outstanding costs from you.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 28—*continued*

Schedule 1 form 28: amended, on 1 December 2009, by rule 4 of the District Courts Amendment Rules 2009 (SR 2009/359).

Form 29

r 8.9

Notice of making of removal order

Clause 6, Schedule 14, Local Government Act 2002

Complete and insert the heading as set out in form 1.

To *[names of persons other than respondent who are entitled to be served]*

The court has made a removal order in respect of the property at *[address or other locality description]*. A copy of the order is attached for your information.

You have been served with a copy of this order because you are one of the following:

- the owner of the property:
- the owner of an adjoining property:
- the mortgagee of the property:
- a person who is likely to be affected by the outcome of the proceeding.

Right to object

You may object to the order. A notice of objection must be in writing and contain certain information. (You can see an example of the form of the notice of objection at any office of the District Court.) The objection must be lodged with the court and served on the applicant within 15 working days from the date on which the removal order is served on you (or such further time as the court may allow).

If an objection is lodged, the removal order cannot be enforced until the court has made its decision.

If you object, you can tell the court whether you (or your lawyer) wish to have an oral hearing.

Omit the following paragraph if you are the owner.

The court can decide to deal with your objection without an oral hearing.

Objection decided with oral hearing

If there is to be an oral hearing at which you (or your lawyer) can appear, you will be notified. You can make a written submission to the court instead of appearing at the hearing. A written submission

Form 29—*continued*

must be lodged with the court within 5 working days after you are notified of the hearing or within any longer period specified in the notice.

Objection decided without oral hearing

If there will not be an oral hearing to decide the objection, the Registrar will notify you that you can make a written submission to the court. A written submission must be lodged with the court within 5 working days after you are notified or within any longer period specified in the notice.

Other objections

Certain other people may also be able to object to the order. If so, all the objections may be dealt with together. If those other people do not wish to object, they may nevertheless be given an opportunity to comment on your objection before the court makes its decision.

After considering any objection to a removal order, the court may confirm the order, vary the order, or discharge the order.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Date:

Signature:
(Registrar)

Form 30

r 8.11

Notice of objection to removal order

Clause 7, Schedule 14, Local Government Act 2002

Complete and insert the heading as set out in form 1.

To the Registrar

and

To the applicant/applicant and respondent *[if the objector is not the respondent]**

**Select one.*

- 1 I, *[full name]*, *[specify one of the following:*
- *the respondent*
 - *the owner of the property to which the removal order relates*
 - *a mortgagee of the property to which the removal order relates*
 - *the owner of any property adjoining the property to which the removal order relates*
 - *a person who has been served with the removal order in accordance with a direction given by the court]*,
- object to the removal order made on *[date]* in favour of *[full name]*, the applicant, against me/*[full name of respondent if objection made by person other than respondent]**, the respondent, in respect of *[clearly identify street address or other locality]*.

**Select one.*

- 2 The reasons for my objection are: *[specify]*.
- 3 I rely on the content of the affidavit/affidavits* dated *[date]* filed in support of this objection.
- 4 I request that—
- Omit whichever of the following paragraphs does not apply.*
- (a) the order be discharged:
 - (b) the terms of the order be varied as follows: *[specify variation sought. The supporting affidavit must set out the facts relied on in support of the proposed variation]*.

Form 30—*continued*

5 I wish to appear/do not wish to appear* at a hearing before the court.

*Select one.

Date:

Signature:

(objector)

Date of hearing

The Registrar is to complete the following appointment for hearing if an appearance is required.

I appoint [*date, time*] at the District Court at [*place*] for the hearing of this objection.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Notes

Lodging notice of objection

This notice must be lodged with the court within 15 working days of the date on which the removal order was served on you (or such further time as the court may allow).

Affidavit

This notice must be accompanied by an affidavit that contains sufficient information to inform the court of the facts relied on in support of the objection and, where a variation of the order is sought, the facts relied on in support of the proposed variation.

Form 30—*continued*

Service

You must serve a copy of this notice on the person who applied for the removal order and, if you are not the respondent, on the respondent. Service may be effected at the respondent's address for service.

Omit the following paragraph if it does not apply.

Hearing of objection made by respondent or owner of property

If you lodge a notice of objection, you are entitled to appear before the court either in person or by your lawyer, but you must notify the court if you wish to do so.

Omit the following paragraph if it does not apply

Hearing of objection made by persons other than respondent or owner of property

If you lodge a notice of objection, you may advise the court that you wish to be heard orally either in person or by your lawyer. The court will then decide whether or not to hold an oral hearing and will notify you accordingly.

Notification of outcome

Whether or not there is an oral hearing on your objection, you will be notified of the outcome. After considering all objections to a removal order, the court may confirm the order, vary the order, or discharge the order.

Advice

If you need help, consult a lawyer or contact a District Court office immediately.

Office hours

The office of the District Court is open from 9 am to 5 pm on Mondays to Fridays inclusive.

Form 31

r 8.15

Notice of entry to owner or occupier of property
to which removal order relates*Section 221(1)(d), Local Government Act 2002**Complete and insert the heading as set out in form 1.*

To [full name], the occupier/owner* of the property at [address or other locality description]

This document notifies you that the property at [address or other locality description] that you occupy/own* was entered on [date] to remove/alter* the fence/structure/vegetation† that [full name of respondent] has failed to remove or alter in accordance with the removal order made against [name of respondent], the respondent, by the District Court at [place, date, time], a copy of which is attached.

*Select one.

†Select one or more.

Date:

Signature:
(applicant)

Notes

Costs

Any materials salvaged in removing or altering the fence/structure/vegetation* will be sold to recover the applicant's associated costs. If this does not cover all the costs, the applicant can recover the outstanding amount from the respondent and may register a charge against the property under the Statutory Land Charges Registration Act 1928.

*Select one or more.

Form 32

r 8.15

Notice of entry to owner or occupier of property
adjoining property to which removal order
relates

Section 221(1)(d), Local Government Act 2002

Complete and insert the heading as set out in form 1.

To [full name], the occupier/owner* of the property at [address or other locality description].

This document notifies you that—

- 1 The property at [address or other locality description] that you occupy/own* was entered on [date] for the purpose of enforcing a removal order made in respect of the property at [address or other locality description] adjoining your property.

*Select one.

- 2 A copy of the removal order made against [name of respondent], the respondent, by the District Court at [place, date, time] is attached.
- 3 The removal order authorises entry on your property for the purpose of enforcing the order.
- 4 It was necessary to enter your property because the respondent failed to remove/alter* the fence/structure/vegetation† in accordance with the removal order.

*Select one.

†Select one or more.

Date:

Signature:
(applicant)

Form 33

r 9.9

Application for adjudicator's determination to
be enforced by entry as judgment*Complete and insert the heading as set out in form 1.***To the defendant and [names of other parties]****This document notifies you that—**

- 1 The plaintiff seeks to enforce the determination made by
[name of adjudicator] on [date] by entry as a judgment.
- 2 *Omit this paragraph if it does not apply.*
The plaintiff seeks the issue of a charging order in respect of
a construction site.

This application is made under subpart 2 of Part 4 of the Construction
Contracts Act 2002 and is accompanied by a copy of the adjudicator's
determination.

Date:

Signature:
(plaintiff)

Notes to defendant

Seeking legal advice

You should immediately seek legal advice about this application.

How and when can I oppose this application

If you wish to oppose this application, you must, within 15 working
days after this application is served on you, file in the court and serve
on the plaintiff and all other parties to the relevant adjudication pro-
ceedings an application for an order that this application be refused.

Your application may be made only on the following grounds:

- (a) that the amount payable under the adjudicator's determination
has been paid to the plaintiff;
- (b) that the contract to which the adjudicator's determination re-
lates is not a construction contract to which the Construction
Contracts Act 2002 applies:

Form 33—*continued*

- (c) that a condition imposed by the adjudicator in his or her determination has not been met.

What will happen if I do not file and serve an application for an order that this application be refused

If you do not file and serve an application within that period, the Registrar, at the request of the plaintiff, will proceed to—

- (a) enter the adjudicator's determination as a judgment; and
- (b) if applicable, issue a charging order in respect of the construction site.

Form 34

r 9.11

Application to oppose entry of adjudicator's
determination as judgment*Complete and insert the heading as set out in form 1.***To the plaintiff and [names of other parties to be served]****This document notifies you that—**

- 1 I, *[full name, address, description of defendant]*, intend to oppose the application for an order that the adjudicator's determination be enforced by entry as a judgment.
- 2 I intend to oppose the application on the following ground/grounds*:
Select relevant paragraphs.
 - (a) that the amount payable under the adjudicator's determination has been paid to the plaintiff:
 - (b) that the contract to which the adjudicator's determination relates is not a construction contract to which the Construction Contracts Act 2002 applies:
 - (c) that a condition imposed by the adjudicator in his/her* determination has not been met.

*Select one.

Date:

Signature:

(defendant)

r 9A.1

Form 34A
Search warrant under section 29 of Financial
Markets Authority Act 2011
[Revoked]

Schedule 1 form 34A: revoked, on 1 October 2012, by rule 5 of the District Courts (Financial Markets Authority Form of Search Warrant) Amendment Rules 2012 (SR 2012/234).

r 11.4

Form 35
Application to enter award as judgment
Complete and insert the heading as set out in form 1.

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

and

To *[name(s) of party/parties to be served with this notice]*

This document notifies you that—

- 1 The plaintiff seeks to enforce the award dated *[date]* made by *[arbitral tribunal name(s)]* by entry as a judgment.
- 2 This application is made in reliance on article 35 of Schedule 1 of the Arbitration Act 1996.

Date:

Signature:

(solicitor/counsel* for plaintiff)

*Select one.

Notes to defendant

Seeking legal advice

You should seek legal advice immediately about this application.

Form 35—*continued***How and when can I oppose this application?**

You can oppose this application by—

- (a) filing an application in the court seeking an order that recognition and enforcement be refused in terms of article 36 of Schedule 1 of the Arbitration Act 1996; and
- (b) serving a copy of that application on the plaintiff and on all other parties.

You must do this within whichever of the following periods is shorter:

- (a) 15 working days after the date on which you are served with this application;
- (b) any period fixed by the court of less than 15 working days after you have been served with the order fixing that period.

What will happen if I do not file and serve an application seeking an order that recognition and enforcement be refused?

If you do not file and serve such an application, the Registrar will proceed to enter the award as a judgment.

Form 36
Witness summons

r 12.2

Complete and insert the heading as set out in form 1.

To *[name, place of residence, occupation]*

- 1 You are summoned to attend the District Court at *[place, date, time]* and on each subsequent day until you are discharged from attendance, to give evidence on behalf of the *[party]* in this proceeding.
- 2 *Omit this paragraph if it does not apply.*
You are ordered to bring with you and produce at the same time and place *[details of documents and things to be produced]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Notes

Allowances and travelling expenses

- 1 You are entitled to have paid to you, at the time you are served with this order, or at some other reasonable time before the hearing, a sum in respect of your allowances and travelling expenses.
- 2 The scale of allowances and travelling expenses that applies is prescribed by the Witnesses and Interpreters Fees Regulations 1974.

Failure to attend

- 3 The penalty for failing to attend without just excuse is a fine not exceeding \$300.

Form 37

r 12.11.3

Certificate of judgment/order

Complete and insert the heading as set out in form 1.

I, [full name], Registrar/Deputy Registrar* of the District Court at [place] certify that the document attached to this certificate (issued for the purposes of section 66/69* of the District Courts Act 1947)† is a true copy of the judgment/order* in the above case, and that the amount of \$[amount] as set out below is now due on the judgment/order*.

*Select one.

†Omit the words in parentheses if the certificate is issued for evidential purposes only.

Amount (\$)

Amount of judgment/order*, including costs

Subsequent costs

Costs of this certificate

Amount paid into court

*Select one.

Omit the following paragraph if the certificate is issued for the purposes of section 66 or 69 of the District Courts Act 1947.

This certificate is issued under rule 12.11 of the District Courts Rules 2009 for evidential purposes only.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Sealed: [date]

Form 38

r 13.1

Agreement not to appeal

Complete and insert the heading as set out in form 1.

We, the undersigned, the plaintiff and defendant in this action, agree that the judgment of the court in this case will be final and that no appeal will be taken against that judgment.

Date:

Signatures:

(solicitor for plaintiff)

(solicitor for defendant)

Form 39

r 13.2

Notice of application for leave to appeal

*Complete and insert the heading as set out in form 1.***To** the Registrar of the District Court at *[place]*

and

To *[names of party/parties to be served with this notice]***This document notifies you that** the applicant, *[full name]*, will on *[date]* apply to the court for leave to appeal against *[specify, giving date of nonsuit, final determination, or direction of the court against which leave to appeal is sought]*.

Date:

Signature:

(plaintiff/solicitor for plaintiff/defendant/solicitor for defendant*)

*Select one.

Form 40

r 15.6.5

Order to proceed where change of parties after
judgment

Complete and insert the heading as set out in form 1.

To *[names of parties]*

This court orders that—

- 1 *[Name of party being substituted]* be substituted as plaintiff/defendant* for the original plaintiff/defendant* and that *[name of party being substituted]* be at liberty to issue enforcement against *[name of liable party]* or to take such proceeding as *[name of party being substituted]* would have been entitled to take against *[name of liable party]* for the amount of the unsatisfied judgment and costs in this proceeding.

*Select one.

- 2 *For this paragraph select the statement that applies.*

Statement A

This court also orders that the question as to whether *[name]*, the original plaintiff in this proceeding, is entitled to recover the amount of the judgment obtained against *[name]*, the defendant in this action, and costs, will be heard in a proceeding in which *[name]* will be plaintiff and *[name]* will be defendant.

Statement B

This court also orders that the question as to whether *[name]*, the plaintiff in this proceeding, is entitled to recover the amount of the judgment obtained against *[name]*, the original defendant in this proceeding, and costs, from *[name]* will be heard in a proceeding in which *[name]* will be plaintiff and *[name]* will be defendant.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 41

r 15.9.1

Order suspending judgment, order, enforcement,
or order of committal, or for discharge of debtor

Complete and insert the heading as set out in form 1.

This court orders that—

Select the statement that applies.

Statement A

On the application of *[full name]*, and the court being satisfied that the defendant is unable to pay and discharge the sum recovered against the defendant/the instalments due under the judgment/the instalments due under the order* in this proceeding, the judgment/order/enforcement issued/order of committal made* in this proceeding be suspended for *[period]* on the following terms: *[specify terms]*.

*Select one.

Statement B

The defendant be discharged from custody under the order of committal issued in this proceeding on the following terms: *[state terms, including, if so ordered, liability to rearrest if the terms are not complied with]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 42

r 15.15.4

Application for new order for payment

Complete and insert the heading as set out in form 1.

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

and

To *[name of party to be served]*

This document notifies you that *[name of applicant]* will apply to the District Court at *[place, date, time]* for an order that the amount due and unpaid upon the judgment/order* in this proceeding be paid by instalments of \$*[amount]* for every \$*[amount]*/that the amount due and unpaid under the judgment/order* in this action be paid in 1 sum immediately *[specify time]**.

*Select one.

Complete the following table.

Date of judgment (or order)	How payment ordered	Amount of debt and costs (\$)	Amount remaining due (\$)

Date:

Signature:

(solicitor for party giving notice/party giving notice*)

*Select one.

Form 43

r 15.16.1

Notice to judgment debtor requiring completion
of financial statementIn the District Court at *[place]*No: *[number of proceeding]*Warrant No: *[proceeding]*Between *[full name]* (judgment creditor)And *[full name]* (judgment debtor)**To the judgment debtor****This document notifies you that—**

- 1 On *[date]*, in the District Court at *[place]*, the judgment creditor obtained a judgment/order* in this proceeding for the payment of the sum of \$*[amount]*, including costs.

*Select one.

- 2 The judgment creditor is entitled to enforce payment of this sum by you.
- 3 You are required, under section 84A of the District Courts Act 1947, to complete and return the attached statement about your financial position within 14 days after the date on which this notice is served on you.
- 4 You should send the completed form to *[address]*.

Date:

Signature:

(solicitor for judgment creditor/judgment creditor*)

*Select one.

Notes

Attendance at court

You may be required to attend before the court for oral examination about your income and expenditure, your assets and liabilities, and whether and how you can pay the amount owed to the judgment creditor.

Form 43—*continued*

Payment

If you pay the amount due within 14 days after the date on which this notice is served on you, you need not complete or return the attached statement. You should pay the amount due to the judgment creditor at the address shown in paragraph 4 above or you may instead pay it at any office of the District Court. The office hours of the court are from 9 am to 5 pm Mondays to Fridays inclusive.

Help or information

If you need any help to complete the attached statement, you should consult your lawyer, or a Citizens' Advice Bureau or community law centre, if one is operating in your district, or talk to the staff at the District Court.

Form 44

r 15.16.2

Statement of financial means of judgment debtor

Complete and insert the heading as set out in form 43.

I, [*name, place of residence, occupation*], the judgment debtor, state that—

- 1 My income before tax for the 52 weeks before the date of this statement was as follows:
Specify income for each item—if no income specify “nil”.

Item	Particulars	Amount (\$)
(a)	salary, wages, or other personal earnings from [<i>name and address of employer</i>]	
(b)	superannuation, pension, or benefit from (including any from overseas) [<i>name of payer and benefit number</i>]	
(c)	accident compensation	
(d)	interest and dividends	
(e)	amount received from boarders (including children over 16 years of age)	
(f)	all other sources of income [<i>specify</i>]	
Total income in the 52 weeks		

- 2 My present weekly income (before tax) from all sources is \$[*amount*].

- 3 My expenses for the 52 weeks before the date of this statement were as follows:

Item	Particulars	Amount (\$)
(a)	income tax	
(b)	rent [<i>name and address of landlord</i>]	
(c)	rates	
(d)	mortgage payments [<i>name and address of mortgagee</i>]	
(e)	repairs on home	
(f)	car maintenance, running, and registration	
(g)	food and household supplies	
(h)	insurance and superannuation	
(i)	medical and hospital benefits	
(j)	electricity, gas, and fuel	

Form 44—*continued*

	Item	Particulars	Amount (\$)
	(k)	telephone	
	(l)	clothing	
	(m)	child maintenance, care, and education	
	(n)	maintenance for previous marriage partner	
	(o)	entertainment	
	(p)	fares	
	(q)	hire purchase payments [<i>name of person to whom paid, and amount outstanding</i>]	
	(r)	other expenses [<i>specify</i>]	
		Total expenses in the 52 weeks	
4	My present weekly expenses are \$[<i>amount</i>].		
5	The following people live with me and their expenses are included in the total in paragraph 3 of this statement: [<i>list full names, ages, and relationship of all such members of household</i>].		
6	My assets (both in New Zealand and elsewhere) are as follows:		
	Item	Particulars	Amount (\$)
	(a)	land and buildings [<i>address, capital value</i>]	
	(b)	motor vehicles [<i>make, year, value</i>]	
	(c)	money in bank accounts [<i>specify banks</i>]	
	(d)	money not in bank or invested	
	(e)	money lent or in hands of any person [<i>name, address</i>]	
	(f)	government stock, shares, debentures, or bonds [<i>specify details</i>]	
	(g)	livestock [<i>specify details</i>]	
	(h)	interest in business, stock in trade, or venture of any kind [<i>specify details</i>]	
	(i)	any other property or assets not specified above, including interest in any estate [<i>specify details</i>]	
		Total assets	
7	The property specified in items [<i>specify</i>] of paragraph 6 of this statement is mortgaged or otherwise secured to [<i>full name, address</i>] for the sum of \$[<i>amount</i>].		

Form 44—*continued*

8 My unsecured debts are as follows:

9 I expect to have to meet the following liabilities within the next
6 months:

Nature of liability	Amount (\$)	Name and address of person to whom owed

All the information given in this statement is true and correct.

I am aware that I may have to show in court that the information is
true.

Date:

Signature:

(judgment debtor)

Form 45

r 15.17.1

Order for examination of judgment debtor

Complete and insert the heading as set out in form 43.

To the judgment debtor

On the application of [*name*], the court orders that you/[*if debtor is a company, an officer of the company*]* attend the District Court at the place, date, and time specified below, to be examined as to your income, expenditure, assets, liabilities, and generally as to your means for satisfying the judgment debt.

*Select one.

Complete the following table.

Particulars	Amount (\$)
Amount owing on judgment	
Subsequent court fees and solicitor's costs	
Fees and costs of this examination	
Total amount payable	

Date:

Signature:

(Registrar/Deputy Registrar*)

You are required to attend for the examination at the District Court at [*place, date, time*].

Date:

Signature:

(Registrar/Deputy Registrar* of Court of Examination)

*Select one.

Form 45—*continued*

Notes for judgment debtor

Attendance at court

- 1 You **must** attend at the District Court for an examination at the time and place shown above. You may be represented at the examination by a barrister or solicitor if you wish.

Warrant for arrest

- 2 If you do not attend at that time and place specified, or at any subsequent time and place to which the examination is adjourned, a warrant may be issued for your arrest.

Payment

- 3 If you pay the amount due (which is shown above) before the date of the examination, you need not attend.
- 4 You should pay the amount due to the judgment creditor at the address shown or you may instead pay it at any office of the District Court. The office hours of the court are from 9 am to 5 pm Mondays to Fridays inclusive.

Help or information

- 5 If you need any help or information about the examination, you should consult your solicitor, or a Citizens' Advice Bureau or community law centre, if one is operating in your district, or talk to the staff at the District Court.

Omit the following notes if an application is made by a judgment creditor.

Notes for judgment creditor

Application by judgment debtor

- 1 This order for examination has been made on the application of the judgment debtor.

Form 45—*continued*

Attendance at court

- 2 As judgment creditor, you are entitled to appear at the examination at the time and place shown above and to examine the debtor about his or her means.
- 3 If you do not attend, an order relating to enforcement of the judgment may still be made. The court can stay any proceeding for enforcement or make an order varying an existing order.

Help or information

- 4 If you need any help or information about the examination, you should consult your lawyer, or a Citizens' Advice Bureau or community law centre, if one is operating in your district, or talk to the staff at the District Court.

Form 46

r 15.21

Warrant to arrest judgment debtor for attendance
at examination*Complete and insert the heading as set out in form 43.***To** a bailiff at the District Court at *[place]*/a constable at *[place]**

*Select one.

- 1 The District Court at *[place, date]* made an order for the examination of *[name of judgment debtor]*.

- 2 *For this paragraph select the statement that applies.*

Statement A

Subsequently the order could not be served.

Statement B

Subsequently the judgment debtor did not appear at the examination.

*Statement C*Subsequently the examination was adjourned to the District Court at *[place, date]* and the judgment debtor failed to appear.

- 3 I order, under section 84C of the District Courts Act 1947, that, unless the total amount stated below is sooner paid, you arrest the judgment debtor and bring the judgment debtor before the court as soon as possible to enable the examination to take place.

Complete the following table.

Particulars	Amount (\$)
Amount owing on judgment	
Subsequent court fees and solicitor's costs	
Total amount now payable	

Form 46—*continued*

Date:

Signature:

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

Form 47

r 15.22

Notice of application for review of Registrar's
decision*Complete and insert the heading as set out in form 43.*

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

To *[name of party to be served]*

This document notifies you that—

- 1 *[Name of applicant]* will apply to a District Court Judge at *[place, date, and time to be filled in by Registrar]* for a review of the order/direction* of the Registrar in this proceeding made at the District Court at *[place, date]* relating to *[specify order or direction to be reviewed]*.

*Select one.

- 2 The grounds on which this application is made are as follows:
[specify grounds].

Date:

Signature:

(judgment creditor/solicitor for judgment creditor/judgment debtor/solicitor for judgment debtor*)

*Select one.

This application is filed by *[name]*, whose address for service is *[address]*.

Form 48

r 15.23.1

Application for order that judgment debtor do
community work

Complete and insert the heading as set out in form 43.

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

To the judgment debtor

I, [name], the judgment creditor, apply for an order that [name], the judgment debtor/one of the judgment debtors* do community work on the grounds that the judgment debtor is in contempt of court because—

- (a) the judgment debtor has sufficient means to pay the judgment debt but refuses to do so; and
- (b) all other methods of enforcing the judgment have been considered or tried and are inappropriate or unsuccessful.

*Select one.

Date:

Signature:

(judgment creditor/solicitor for judgment creditor*)

*Select one.

Form 49

r 15.23.2

Affidavit in support of application for order that
judgment do undergo community work*Complete and insert the heading as set out in form 43.*

I, [name of deponent], swear/solemnly and sincerely affirm*—

*Select one.

- 1 On [date], in the District Court at [place], I/name of judgment creditor*, the judgment creditor, obtained a judgment in this proceeding against the judgment debtor for the sum of \$[amount], including costs.

*If affidavit not made by judgment creditor, state name of judgment creditor.

- 2 The debtor is also liable for further costs of \$[amount] resulting from [specify nature of costs].
- 3 The judgment/the sum of \$[amount], part of the judgment,* is still unsatisfied.

*Select one.

- 4 On [date], in the District Court at [place], the judgment debtor was, under section 84B of the District Courts Act 1947, examined as to his or her income, expenditure, assets, and liabilities and generally as to his or her means for satisfying the judgment debt.
- 5 I believe that the judgment debtor has sufficient means to pay the judgment debt but refuses to do so. The grounds for my belief are [specify concisely the reasons for that belief].
- 6 The following methods of enforcing the judgment have been tried [specify methods tried and why unsuccessful].
- 7 The following other methods of enforcing the judgment have been considered [specify other methods considered], but I believe they are inappropriate because [give reasons for belief].
- 8 *Include this paragraph if the judgment creditor does not make the affidavit.*

I am duly authorised by the judgment creditor to make this affidavit on the judgment creditor's behalf.

Form 49—*continued*

Signature of deponent:

Sworn/Affirmed* at [*place, date*]

Before me: [*name, signature*]

(Registrar/Deputy Registrar/solicitor/Justice of the Peace*)

*Select one.

Form 50

r 15.23.3

Agent's authority to sign application

*Complete and insert the heading as set out in form 43.***To** the Registrar of the District Court at [*place*]

I, [*name*], the judgment creditor, authorise [*name, address, occupation*] to sign on my behalf an application under section 84O of the District Courts Act 1947 for an order that the judgment debtor/one of the judgment debtors* do community work for contempt of court.

*Select one.

Date:

Signature:

(judgment creditor)

Form 51

r 15.23.5

Summons to judgment debtor requiring
attendance at hearing of application for
community work

Complete and insert the heading as set out in form 43.

To the judgment debtor

- 1 The judgment creditor has applied for an order that you do community work for contempt of court.
- 2 A copy of that application and a copy of the supporting affidavit, setting out the grounds for the application, are attached to this summons.
- 3 You are summoned to attend at the District Court at the place, date, and time specified below, to show cause why an order requiring you to do community work should not be made.

Date:

Signature:

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

You are required to attend for the hearing at the District Court at
[place, date, time].

Date:

Signature:

(Registrar/Deputy Registrar* of court of hearing)

*Select one.

Notes

Attendance

- 1 You **must** attend at the District Court at the time and place shown above.

Form 51—*continued***Warrant for arrest**

- 2 If you do not attend at that time and place specified, a warrant may be issued for your arrest.

Payment

- 3 If you pay the total amount due before the date of hearing, you need not attend.
- 4 You should pay the amount due to the judgment creditor at the address shown for the judgment creditor or you may instead pay it at any office of the District Court. Court offices are open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

Community work

- 5 The court can make an order that you do community work if it is satisfied beyond reasonable doubt that—
- (a) you have sufficient means to pay the judgment debt but refuse to do so; and
 - (b) all other methods of enforcement have been considered or tried and are inappropriate or unsuccessful.

Examination as to income, etc

- 6 You may be asked questions about your income and expenditure, your assets and liabilities, and generally as to your means for satisfying the judgment debt. You should bring with you any information that may help the court decide if you are able to pay.

Legal aid

- 7 You are also entitled to apply for criminal legal aid if you wish to have legal representation but cannot afford it otherwise. The Registrar can help you to apply.

Help or information

- 8 If you need any help or information, you should consult your lawyer, or a Citizen's Advice Bureau or community law centre,

Form 51—*continued*

if one is operating in your district, or talk to the staff at the District Court.

Form 52

r 15.23.6

Order for community work

*Complete and insert the heading as set out in form 43.***To the judgment debtor****This document notifies you that—**

- 1 On [*date*], in the District Court at [*place*], the judgment creditor obtained a judgment/order* in this proceeding against the judgment debtor for the payment of the sum of \$[*amount*], including costs.
- 2 The total amount outstanding under the judgment/order* is now \$[*amount*], including costs and disbursements.

*Select one.

- 3 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 have been unsuccessful.
- 4 You are ordered to do community work for a term of [*number*] hours for contempt of court.
- 5 The court orders that—
- (a) 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 this order is made;
 - (b) you must report to the probation officer as directed at any time during the sentence for the purpose of monitoring the sentence;
 - (c) you must do the work under the sentence at the place(s) and the time(s) notified to you by the probation officer;
 - (d) the maximum duration that you will be required to do community work at one time is 10 hours, and you will not be required to do community work for more than 40 hours per week.

Form 52—*continued*

Date:

Signature:

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

Notes

- 1 If you pay the full amount of the debt before starting your term of community work, you do not need to start the term.
- 2 If you pay the full amount of the debt during the term of community work, you do not need to continue the term.
- 3 You must make payment to the judgment creditor at the address shown for the judgment creditor or to any office of the District Court. District Court offices are open to the public from 9 am to 5 pm Mondays to Fridays inclusive. If you pay the judgment creditor, you must notify the court.

Form 53

r 15.23.7

Warrant to arrest judgment debtor for attendance
at contempt proceedings*Complete and insert the heading as set out in form 43.***To** a bailiff at the District Court at *[place]*/constable at *[place]**

*Select one.

- 1 On *[date]*, the judgment creditor applied for an order that *[name of judgment debtor]* of *[address]* do community work for contempt of court.

- 2 *For this paragraph select the statement that applies.*

Statement A

Subsequently a copy of the application could not be served.

Statement B

Subsequently the judgment debtor did not appear at the hearing of the application.

- 3 I order, under section 84O(4) of the District Courts Act 1947, that, unless the total amount stated below is sooner paid, you arrest the judgment debtor and bring the judgment debtor before the court as soon as possible to enable the application to be heard.

Complete the following table.

Particulars	Amount (\$)
Amount owing on judgment	
Subsequent court fees and solicitor's costs	
Total amount now payable	

Date:

Signature:

(District Court Judge)

Form 54

r 15.26.2

Application for charging order without notice

In the District Court at *[place]*

No: *[number of proceeding]*

Between *[name]* (judgment creditor)

And *[name]* (judgment debtor)

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

- 1 The judgment creditor/duly authorised agent of the judgment creditor* applies to the District Court at *[place]* for the making of a charging order under section 96A of the District Courts Act 1947.

*Select one.

- 2 The charging order sought is an interim charging order/final charging order* affecting the property of the judgment debtor known as *[specify nature and location of the property]*.

*Select one.

- 3 The order is sought on the grounds set out in the attached affidavit.

Date:

Signature:

This application is filed by *[name]*, whose address for service is at *[address]*.

Application filed: *[date, time, initials]*

Order made: *[date, time, initials]*

Form 55

r 15.26.2

Affidavit in support of application for charging
order*Complete and insert the heading as set out in form 54.*

I, [name, address, occupation], swear/solemnly and sincerely affirm*—

*Select one.

- 1 On [date], in the District Court at [place], the judgment creditor obtained a judgment/order* in this proceeding against the judgment debtor for the payment of the sum of \$[amount], including costs.

*Select one.

- 2 *For this paragraph select the statement that applies.*

Statement A

The judgment/order* is still unsatisfied.

*Select one.

Statement B

The sum of \$[amount], part of the sum adjudged/ordered* to be paid, is still unsatisfied.

*Select one.

- 3 I believe that the judgment debtor is beneficially entitled to the following property:

[specify type of property, including,—

- (a) *in the case of land,—*
 - (i) *the alleged estate, right, title, or interest of the judgment debtor; and*
 - (ii) *the nature, location, and description of the property:*
- (b) *in the case of any right or interest in a partnership, the name and business address of the partnership and the extent of the alleged interest:*
- (c) *in the case of shares, the name of the company, the address of its registered office, and the alleged number and denomination of the shares:*
- (d) *in the case of any estate, right, or interest in any land, or in any money, shares, or other chattels, held under or*

Form 55—*continued*

*by virtue of any trust for the judgment debtor, the name
and address of the trustee or trustees of the trust].*

Signature of deponent:

Sworn/Affirmed* at [*place, date*]

Before me: [*name, signature*]

Registrar/Deputy Registrar/Solicitor/Justice of the Peace*)

*Select one.

Form 56
Charging order on land

r 15.30

Complete and insert the heading as set out in form 54.

On the application of the judgment creditor, this court orders that the estate, right, title, or interest of the [*specify party*] in [*describe land intended to be affected*] stand charged with payment of the amount of \$[*amount*], being the amount, or part of the amount, for which the judgment creditor has obtained a judgment/order* in this proceeding.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Application was made to the Registrar of the court for the making of this order at [*time, date*] by [*name*], agent for the judgment creditor.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 57

r 15.30

Interim charging order

Complete and insert the heading as set out in form 54.

On the application of the judgment creditor, this court orders that, until sufficient cause is shown to the contrary, the interest of the [specify party] in [describe property intended to be affected] stand charged with payment of the amount of \$[amount], being the amount, or part of the amount, for which the judgment creditor has obtained a judgment/order* in this proceeding.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Application was made to the Registrar of the court for the making of this order at [time, date] by [name], agent for the judgment creditor.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 58
Final charging order

r 15.30

Complete and insert the heading as set out in form 54.

On reading the interim charging order made in this proceeding on [date], and the affidavits of [name] filed in this proceeding, and on hearing [name], counsel for the judgment creditor, and [name], counsel for the judgment debtor, this court orders that [*specify property intended to be charged*] stand charged with \$[amount], being the amount, or part of the amount, for which the judgment creditor has obtained a judgment/order* in this proceeding.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 59

r 15.32.1

Summons to persons claiming land or other
property subject to charging order

Complete and insert the heading as set out in form 54.

To *[name, address, occupation]*

- 1 A charging order, a copy of which is attached, was made by this court on *[date]*, in respect of *[describe land or other property affected]*.

**Select one.*

- 2 *For this paragraph select the statement that applies.*

Statement A

It has been alleged that the land/other property* that is the subject of that charging order belongs to you.

**Select one.*

Statement B

It has been alleged that you have a claim by way of lien, charge, or otherwise on the land/other property* that is the subject of that charging order.

**Select one.*

- 3 You are summoned to attend at the District Court at *[place, date, time]*, when you will be ordered to state the nature and particulars of your claim.

Date:

Signature:

(Registrar/Deputy Registrar*)

**Select one.*

Notes

Advice

If you need help, consult a solicitor or the staff of the District Court immediately.

Form 59—*continued*

Office hours

The office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

Form 60

r 15.46.2

Notice of application for final charging order

Complete and insert the heading as set out in form 54.

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

and

To *[name of other party to be served]*

This document notifies you that—

- 1 The judgment creditor/duly authorised agent of the judgment creditor* will apply to the District Court at *[place]*, *[date, time to be filled in by Registrar]* for the making of a final charging order under section 96A of the District Courts Act 1947.

*Select one.

- 2 The charging order sought is a final charging order affecting the property of the judgment debtor known as *[specify nature and location of the property to be the subject of the charging order]*.

Date:

Signature:

(judgment creditor/solicitor for judgment creditor*)

*Select one.

This notice of application is filed by *[name]* whose address for service is *[address]*.

Notes

Advice

If you need help, consult a solicitor or the staff of the District Court immediately.

Office hours

The office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

Form 61

rr 15.49.1, 15.64.1

Application for distress warrant

In the District Court at *[place]*No: *[number of proceeding]*

Warrant No:

Between *[full name]*, judgment creditor (plaintiff)And *[full name]*, judgment debtor (defendant)**To** the Registrar of the District Court at *[place]**For this paragraph select the statement that applies.**Statement A*

I request that the judgment/order* of the District Court at *[place, date]* be enforced by the issue of a warrant of/for* *[specify type of warrant applied for]* against *[name, address]*, the judgment debtor, for the sum of \$*[amount]*, being the unpaid portion (statement attached) of the sum of \$*[amount]* (including costs) that the judgment debtor was adjudged/ordered* to pay to me.

*Select one.

Statement B

I request that the judgment/order* of the District Court at *[place, date]* be enforced by the issue of a warrant of/for* *[specify type of warrant applied for]* against *[name, address]*, the judgment debtor, for the return of the following specific goods ordered to be returned to me *[specify]*.

*Select one.

Statement C

I request that the judgment/order* of the District Court at *[place, date]* be enforced by the issue of a warrant of/for* *[specify type of warrant applied for]* against *[name, address]*, the judgment debtor, for the recovery of *[describe land]*, possession of which was ordered to be given to me on *[date]*, together with the sum of \$*[amount]* for rent or mesne profits/rent and mesne profits/damages* and \$*[amount]* for costs as per the attached statement.

*Select one.

Form 61—*continued*

Statement D

I request that [*specify alternative application*].

Complete the following table.

Particulars	Amount (\$)	Amount (\$)
Amount of judgment or order, including costs	[<i>specify</i>]	
Subsequent costs	[<i>specify</i>]	
Solicitor's fee	[<i>specify</i>]	
Total		[<i>specify</i>]
Amount paid in part satisfaction of above judgment or order		[<i>specify</i>]
Balance still unpaid, for which distress is requested		[<i>specify</i>]

Date:

Signature:

(applicant)

Witness to signature:

Note: Where the application is signed by the solicitor for the judgment creditor it is not necessary for the signature of the applicant to be witnessed.

Application filed: [*date, time, initials*]

Warrant issued: [*date, time, initials*]

Form 62
Distress warrant

r 15.51.1

Complete and insert the heading as set out in form 61.

To a bailiff of the District Court at *[place]*/constable at *[place]**

*Select one.

- 1 The judgment debtor was, on *[date]*, duly adjudged/ordered* by the District Court at *[place]* to pay the sum of \$*[amount]* (including costs and expenses), claimed by the judgment creditor, to the Registrar of the court immediately.

*Select one.

- 2 The judgment debtor has not made payment according to the judgment/order*.

*Select one.

- 3 You are ordered immediately to—

- (a) levy the sum of \$*[amount]* and the further expenses incurred in this proceeding by distress and sale of the goods and chattels of the judgment debtor (except the judgment debtor's necessary tools of trade to a value not exceeding \$500 and the judgment debtor's necessary household furniture and effects, including the wearing apparel of the judgment debtor and the judgment debtor's family to a value not exceeding \$2,000); and
- (b) seize and take away any money, bank notes, bills of exchange, promissory notes, bonds, specialties, or other securities for money of the judgment debtor, or such part as may be sufficient to satisfy this enforcement, and the costs of making and enforcing the same.

- 4 You are ordered to pay the sum levied immediately to the Registrar of this court/Registrar of the court at *[place]** and, immediately on its enforcement, to complete a return relating to this warrant.

*Select one.

Form 62—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Particulars

Amount (\$)

Amount adjudged to be paid

Costs of previous enforcements

Warrant

Total

Note: Where a person is placed in possession of goods seized, the bailiff is entitled to demand and levy the cost of keeping possession according to scale. The goods are not to be sold until after the end of 5 days next following the day on which they were taken, unless they are of a perishable nature or the judgment debtor requests in writing that they be sold.

Application was made to the Registrar of the court for the issue of this warrant at [*time, date*], by [*name*], solicitor for the judgment creditor.

Signature:

(Registrar/Deputy Registrar*)

*Select one.

This warrant was received by me on [*date, time*].

Signature:

(bailiff)

Form 63

r 15.55.4

Request to suspend enforcement and authority
to re-enter*Complete and insert the heading as set out in form 61.***To** the bailiff of the District Court at [*place*]

In accordance with an agreement made between me and the enforcement debtor that you are at liberty to re-enter, I request you to withdraw from the possession of the goods taken in enforcement in this proceeding.

Date:

Signature:

(enforcement creditor)

In consideration of your withdrawing from possession of my goods taken in enforcing this proceeding, I authorise you to re-enter and take possession of the same or any other of my goods and chattels at any time while the enforcement remains unsatisfied.

Date:

Signature:

(enforcement debtor)

Form 64

r 15.58.1

Notice of time when and place where goods will
be sold under distress warrant

Complete and insert the heading as set out in form 61.

To the enforcement debtor

This document notifies you that your goods taken in enforcement in this proceeding will be sold by [*name*] at [*place, date, time*] unless the amount to be levied under the warrant, together with the fees for the enforcement incurred to the time of payment, are paid to me before the time specified.

Date:

Signature:
(bailiff)

Form 65

r 15.60.2

Balance sheet of bailiff after executing warrant
of distress*Complete and insert the heading as set out in form 61.*Return for distress warrant from the bailiff of the District Court at
[place] to the Registrar of the District Court at [place].*Complete the following table.*

Voucher	
Particulars	Amount (\$)
Gross amount seized or received as per inventory attached	
Payments in deduction	
Net amount payable to credit of enforcement creditor	

Date:

Signature:

(bailiff)

I certify that the above charges are correct, that all disbursements are
supported by vouchers, and that the sum of \$[amount] was paid into
court on [date].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 66

r 15.60.3

**Return of insufficient goods and chattels on
distress warrant**

Complete and insert the heading as set out in form 61.

In the District Court at [place]

I, [name, occupation, address], certify that, by virtue of this warrant, I have made diligent search for the goods and chattels of the judgment debtor, and that I can find no sufficient goods and chattels of the judgment debtor on which to levy the sums mentioned in the distress warrant.

State facts on which the above return is made.

Date:

Signature:
(bailiff)

Note

This return is to be endorsed on the appropriate warrant in form 62, 68, 69, or 97.

Form 67

r 15.63

Attachment order

*Complete and insert the heading as set out in form 61.***To** *[employer's name, address]*

- 1 The court is satisfied that you are the employer of *[full name of judgment debtor, address]*, the debtor.
- 2 On *[date]*, in the District Court at *[place]*, judgment was given against the debtor for \$*[amount]*, including costs.
- 3 The debtor has not paid the judgment debt, and after examining the debtor's means, the court has made this attachment order.
- 4 The court orders that while this order remains in force, whenever any salary or wages become payable to the debtor, you must deduct from it the sum of \$*[amount]* for each week.
- 5 However, if in any week the deduction would reduce the net earnings paid to the debtor below the protected earnings rate of \$*[amount]* per week, you must adjust the amount of the deduction so that the debtor receives the protected earnings rate.
- 6 The first deduction is to be made on the payday following the date on which you receive this order. A deduction is to be made on every subsequent payday until *[date]* or until the judgment debt has been paid in full.
- 7 The money deducted is to be paid to *[name, address]* by the 20th day of the month after the month in which the deduction was made.
- 8 You are not required to make deductions for more than the total amount payable shown below.

Particulars	Amount (\$)
Judgment debt	
Subsequent court fees and solicitor's fees	
Fees and costs on application for this order	
Total amount payable	

Form 67—*continued*

Date:

Signature:

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

Notes

- 1 Section 84F of the District Courts Act 1947 defines the term **salary or wages** to include—

- (a) a retiring allowance or pension or other payment of a similar nature;
- (b) a bonus or an incentive payment;
- (c) a payment of commission;
- (d) a payment in consideration of work performed under a contract for services;
- (e) all payments of weekly compensation made under the Injury Prevention, Rehabilitation, and Compensation Act 2001 by the Accident Compensation Corporation;
- (f) a benefit within the meaning of the Social Security Act 1964.

That section defines the term **employer** to include a person or body making payments of a kind referred to in paragraphs (a) to (f) above.

- 2 This attachment order—

- (a) applies whether or not the contract of employment in respect of which the salary or wages are due existed at the date of the order;
- (b) is subject to certain attachment orders and deduction notices made under the Summary Proceedings Act 1957, the Social Security Act 1964, the Family Proceedings Act 1980, the Child Support Act 1991, and the Student Loan Scheme Act 2011;
- (c) prevails over and has priority to any assignment or charge created by the debtor, whether before or after the making of the order.

Form 67—*continued*

- 3 It is an offence to fail without reasonable excuse to comply with this order.
- 4 If you do not make payments as required, you could be sued for the amount owing.
- 5 You must notify the Registrar of the District Court within 7 days if the debtor leaves or is dismissed from your employment.
- 6 It is an offence to dismiss the debtor or alter the debtor's position in your business or undertaking to the debtor's prejudice because of this order.
- 7 If you are forced to reduce the amount of any deduction from the debtor's salary or wages so as to leave the debtor with the protected earnings rate specified in paragraph 5 of the order, you should notify the Registrar of the District Court immediately.

Advice

- 8 If in doubt as to your obligations under this order, you should consult a solicitor or the Registrar at the District Court immediately.

Office hours

- 9 The office hours of the court are from 9 am to 5 pm Mondays to Fridays inclusive.

Schedule 1 form 67: amended, on 1 April 2012, by section 224 of the Student Loan Scheme Act 2011 (2011 No 62).

Form 68

r 15.64.2

Warrant for recovery of specific chattels

Complete and insert the heading as set out in form 1.

To a bailiff of the District Court at *[place]*/constable at *[place]**

*Select one.

- 1 *[Full name]*, the defendant, was on *[date]* adjudged/ordered* by the District Court at *[place]* to return to *[name, address]*, *[specify goods to be returned]* wrongfully detained by the defendant.

*Select one.

- 2 The goods have not been returned according to the judgment/order*.

*Select one.

- 3 You are ordered—

- (a) to demand the goods from the defendant and to seize those goods if they can be found by you, and to deliver them to *[address]*; and
- (b) immediately on enforcing this warrant, to complete a return of what you have done under this warrant.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 69

r 15.66.2

Distress warrant for value of specific chattels

*Complete and insert the heading as set out in form 1.***To** a bailiff of the District Court at *[place]*/constable at *[place]**

*Select one.

- 1 The defendant was on *[date]* adjudged/ordered* by the District Court at *[place]* to return to the plaintiff *[specify chattels to be returned]* wrongfully detained by the defendant† and to pay to the plaintiff the sum of \$*[amount]* for damages for the wrongful detention of such chattels:

*Select one.

†Omit this phrase if it does not apply.

- 2 The chattels have not been returned according to the judgment/order*.

*Select one.

- 3 On *[date]*, a warrant was issued directing the bailiff to seize the chattels, but the bailiff has certified that he or she has demanded the chattels and that the bailiff was unable to find, obtain possession of, or seize the chattels.

- 4 *For this paragraph select the statement that applies.*

Statement A

On the application of the plaintiff, the court has fixed the value of the chattels at \$*[amount]*.

Statement B

The court has fixed the value of the chattels at \$*[amount]*.

- 5 You are ordered to immediately—

- (a) levy the sum of \$*[amount]* (together with the sum of \$*[amount]* in respect of the judgment for damages for wrongful detention of the chattels)† and the further expenses incurred in this proceeding by distress and sale of the goods and chattels of the defendant (except the judgment debtor's necessary tools of trade to a value not exceeding \$500 and the judgment debtor's necessary household furniture and effects, including the wearing apparel of the judgment debtor and the

Form 69—*continued*

judgment debtor's family to a value not exceeding \$2,000); and

†Omit the phrase within brackets if it does not apply.

- (b) seize and take away any money, bank notes, bills of exchange, promissory notes, bonds, specialities, or other securities for money of the defendant, or so much as may be sufficient to satisfy this enforcement, and the costs of making and executing the same.

- 6 You are ordered to pay the sum levied immediately to the Registrar of this court/Registrar of the court at [place]* and, immediately on its enforcement, to complete a return for this warrant.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Complete the following table.

Particulars	Amount (\$)
Assessed value of the chattels	
Damages (if any)	
Costs of previous enforcements	
Warrant	
Total	

Note: Where a person is placed in possession of goods seized, the bailiff is entitled to demand and levy the cost of keeping possession according to scale. The goods are not to be sold until after the end of 5 days next following the day on which they were taken, unless they are of a perishable nature, or the defendant requests it in writing.

Form 69—*continued*

Application was made to the Registrar of the court for the issue of this warrant at [*time, date*] by [*name*], solicitor for the plaintiff.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

This warrant was received by me on [*date, time*].

Signature:

(bailiff)

Form 70

r 15.69.1

Warrant for recovery of land

Complete and insert the heading as set out in form 1.

To a bailiff of the District Court at *[place]*/constable at *[place]**

*Select one.

- 1 On *[date]*, the District Court at *[place]* ordered that *[name]*, the defendant, should immediately/on or before *[date]** give the plaintiff possession of a certain *[specify, eg, house, etc, as in statement of claim]*, situated at *[address]*, and it was adjudged that the plaintiff should recover against the defendant the sum of \$*[amount]* for costs/rent/mesne profits/rent and mesne profits/damages*, and \$*[amount]* for costs, making the total sum of \$*[amount]*.

*Select one.

- 2 The order has not been obeyed.
- 3 You are therefore ordered immediately to enter the premises, by force if necessary, between the hours of 9 am and 4 pm and to give possession of the premises to the plaintiff.
- 4 *Omit this paragraph if only possession of tenement is desired.*
Default has been made in payment according to the judgment. You are therefore ordered to immediately—
- (a) levy the sum of \$*[amount]* and the further expenses incurred in this proceeding by distress and sale of the goods and chattels of the defendant (except the defendant's necessary tools of trade to a value not exceeding \$500 and the defendant's necessary household furniture and effects, including the wearing apparel of the defendant and the defendant's family to a value not exceeding \$2,000); and
- (b) seize and take away any money, bank notes, bills of exchange, promissory notes, bonds, or other securities for money of the defendant, or so much as may be sufficient to satisfy this enforcement, and the costs of making and enforcing this enforcement.
- 5 You are also ordered to pay what you levy immediately to the Registrar of this court/to the Registrar of the court at *[place]**

Form 70—*continued*

and, immediately on its enforcement, to complete a return for this warrant.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Complete the following table.

Particulars	Amount (\$)
Amount adjudged to be paid	
Warrant	
Total	

Note: Where a person is placed in possession of goods seized, the bailiff is entitled to demand and levy the cost of keeping possession of the goods according to scale. The goods are not to be sold until after the end of 5 days next following the day on which they were taken, unless they are of a perishable nature, or the judgment debtor requests it in writing.

Application was made to the Registrar of the court for the issue of this warrant at [time, date] by [name], solicitor for the judgment creditor.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 70—*continued*

This warrant was received by me on [*date, time*].

Signature:
(bailiff)

Form 71

r 15.70.2

Notice as to consequences of disobedience of
order of court

To *[full name]*

This document notifies you that unless you obey the directions contained in this order you will be guilty of contempt of court and will be liable to be committed to prison.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 72

r 15.71.1

Notice to show cause why order of committal
should not be made

Complete and insert the heading as set out in form 1.

To [name] (respondent)

This document notifies you that—

1 *For this paragraph select the statement that applies.*

Statement A

The plaintiff/defendant* will on [date, time] apply to this court for an order for your committal to prison for having disobeyed the order of this court made on [date] enjoining and restraining you from [specify terms of injunction].

*Select one.

Statement B

The plaintiff/defendant* will on [date, time] apply to this court for an order for your committal to prison for not obeying the order made on [date] requiring you to [specify mandatory part of order].

*Select one.

2 You are required to attend this court on the specified day to show cause why an order for your committal should not be made.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 73

r 15.71.3

Order of committal for breach of or neglect to
obey order

Complete and insert the heading as set out in form 1.

- 1 On [date], this court ordered that [specify order].
- 2 On the application of [name of applicant], and on hearing [specify]/on reading the affidavit of [name] showing that a copy of the order endorsed with a notice in form 71 and notice of this application have been severally served on the [persons served]*, and on [specify any evidence given], the court, on consideration of the facts disclosed by the evidence, being of the opinion that [name] has been guilty of a contempt of this court by a breach of/by neglecting to obey* the order by [specify particular matter of contempt]—
 - (a) orders that [name] be committed to the prison at [place] for [period] for that contempt; and
 - (b) orders that a warrant of committal for the arrest of the [name] be issued immediately.

*Select one.

- 3 The court also orders that [name] pays the costs of the [specify] of this application and of the committal, amounting to \$[amount].
- 4 *Include this paragraph if it applies.*

It is further ordered that any application for the release of the [name] from custody be made to the District Court Judge at [place].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 74
Warrant of committal

r 15.71.3

Complete and insert the heading as set out in form 1.

To a bailiff at the District Court at *[place]*/a constable at *[place]**
and

To the superintendent of the prison at *[place]*

*Select one.

- 1 On *[date]*, this court ordered that *[name]* be committed to prison for contempt of this court.
- 2 You, the bailiff/constable*, are therefore ordered to arrest *[name]* and safely convey and deliver him/her* to the superintendent of the prison at *[place]*, and you, the superintendent, to receive *[name]* and keep him/her* safely in the prison for the term of *[specify]* or until the further order of this court.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 75
Order for discharge

r 15.72.4

Complete and insert the heading as set out in form 1.

To the superintendent of the prison at [*place*]

You are ordered to release [*name*] now in your custody under warrant issued out of this court dated [*date*], if he/she* is in your custody under that warrant and no other. This order is your authority for doing so.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 76

r 15.77.1

Affidavit in support of garnishee summons

In the District Court at *[place]*

Between *[full name]* (judgment creditor)

And *[full name]* (judgment debtor)

And *[full name]* (sub-debtor)

I, *[name, address, occupation]*, swear/solemnly and sincerely affirm*
that—

*Select one.

1 On *[date]*, in the District Court at *[place]*, I, *[name]*, the judgment creditor, obtained a judgment in this action against the judgment debtor for the sum of \$*[amount]*, including costs.

2 The judgment/sum of \$*[amount]*, part of the judgment,* is still unsatisfied.

*Select one.

3 I believe that the sub-debtor is/sub-debtors are* indebted to the judgment debtor in the sum of \$*[amount]* or thereabouts.

*Select one.

4 The debt mentioned in paragraph 3 is/is not* in respect of wages.

*Select one.

Omit the following paragraphs if they do not apply.

5 *For this paragraph select the statement that applies.*

Statement A

The debt mentioned in paragraph 3 comprises a sum that stands to the credit of the judgment debtor with the sub-debtor and that is on deposit with the sub-debtor, and it is a condition of the deposit that a *[specify whether deposit book, receipt, etc]* must be produced before any money is withdrawn.

Statement B

The debt mentioned in paragraph 3 comprises a sum that stands to the credit of the judgment debtor with the sub-debtor and that is held by the sub-debtor on a current account/deposit account/*[specify other account]**, and it is a condition of the

Form 76—*continued*

deposit/account* that a [*specify whether deposit book, receipt, etc*] must be produced before any money is withdrawn.

*Select one.

- 6 To the best of my knowledge and belief the [*specify whether deposit book, receipt, etc*] is in the possession of [*specify full name and address in any case where the person is not a party to the proceeding*].
- 7 I do not know the present whereabouts of the [*specify whether deposit book, receipt, etc*].

Signature of deponent:

Sworn/Affirmed* at [*place, date*]

Before me: [*name, signature*]

(Registrar/Deputy Registrar/solicitor/Justice of the Peace*)

*Select one.

Form 77

r 15.77.2

Garnishee summons to sub-debtor

Complete and insert the heading as set out in form 76.

To the sub-debtor

- 1 On [*date*], the judgment creditor obtained judgment/an order* in the District Court at [*place*] against the judgment debtor for payment of the sum of \$[*amount*], including costs, and that judgment/order* remains unsatisfied as to the sum of \$[*amount*].

*Select one.

- 2 The judgment creditor has filed an affidavit stating that you are indebted to the judgment debtor in the sum of \$[*amount*].

- 3 You are summoned to attend at the District Court at [*place, date, time*] to show cause why an order should not be made against you for the payment to the judgment creditor of the amount of the debts owing or accruing from you to the judgment debtor or so much of those debts as will satisfy the debt due under the judgment/order*, and the costs entered on this summons.

*Select one.

- 4 From and after the service of this summons on you, so much of the debts owing or accruing from you to the judgment debtor as will satisfy the debt due under the judgment/order* and the costs entered on this summons is attached to answer the judgment/order*.

*Select one.

- 5 If at any time before the date of hearing of this summons you pay to the Registrar of this court the amount of those debts, or the amount of those debts that will satisfy the debt due under the judgment/order* and the costs entered on this summons, you will incur no further costs.

*Select one.

- 6 If the debt alleged to be due from you to the judgment debtor comprises a sum that stands to the credit of the judgment debtor with you and that is on deposit with you or is held by you in a current or other account (including a deposit account)

Form 77—*continued*

and it is a condition of the deposit or account that a deposit book, receipt, or other like document must be produced before any money is withdrawn, you should, as soon as practicable and at least 3 working days before the date of hearing, file in the court office and serve on the judgment creditor and the judgment debtor a statement—

- (a) showing the sum held to the credit of the judgment debtor:
- (b) giving particulars of the deposit book or other document required to be produced before that sum or any part of it is withdrawn:
- (c) showing (where possible) who is in possession of that deposit book or other document.

Note: Forms will be provided at any office of the court.

- 7 If you dispute the debt alleged to be due from you to the judgment debtor, you should, within 5 working days after you are served with this summons including the day of service, file in the court office and serve on the judgment creditor and the judgment debtor a notice that you dispute the debt claimed.

Note: Forms will be provided at any office of the court. The filing of a notice that you dispute the debt claimed does not relieve you from attendance at the court on the day named in the summons.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Debts due under judgment or order

Complete the following table.

Particulars	Amount (\$)
Amount remaining due under judgment/order*	
Subsequent costs	

Form 77—*continued*

Particulars	Amount (\$)
Costs of summons	
Solicitor's costs	
Total amount for which summons issued	

*Select one.

Notes

- 1 Failure to act in accordance with the directions contained in this summons may add to the costs.
- 2 If this summons was issued for hearing in a court other than the court in which the judgment debtor might have commenced a proceeding against you to recover the debt due by you to him or her, you are entitled to apply to the court where this summons was issued either for the proceeding to be transferred to the court in which the judgment debtor might have taken a proceeding against you or for the proceeding to be referred to the Registrar of that court for inquiry and report.

This summons is issued at the instance of the judgment creditor, whose address for service is [*address*].

Advice

If you are in doubt, consult a solicitor or the staff of the District Court immediately.

Office hours

The office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

A printed form of statement of service or affidavit of service, as set out in form G 16 of the High Court Rules, is to be endorsed on this form.

Form 78

r 15.77.2

Notice to judgment debtor of issue of garnishee
summons*Complete and insert the heading as set out in form 76.***To** [name] (judgment debtor)

This document notifies you that a garnishee summons, a copy of which is attached to this notice, has been issued out of this court, and that if you have any cause to show why the court should not order the sub-debtor to pay the judgment creditor the debt alleged to be due from the sub-debtor to you, or so much of the debt as may be sufficient to satisfy the sum due to the judgment creditor from you, with the costs entered on the garnishee summons, you must attend at this court at the time and place fixed for the hearing of the garnishee summons and show such cause accordingly.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Notes

You are entitled to appear at the hearing of the garnishee summons to give evidence as to your circumstances. If it appears to the court that the whole or part of the money sought to be attached is reasonably required by you for the maintenance and support of you and your family, the court may refuse to make an order attaching the debt and may make such order as to the disposal of any money paid into the court as it thinks fit.

This summons is issued at the instance of the judgment creditor, whose address for service is [address].

Advice

If you are in doubt, consult a solicitor or the staff of the District Court immediately.

Form 78—*continued*

Office hours

The office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

A printed form of statement of service or affidavit of service, as set out in form G 16 of the High Court Rules, is to be endorsed on this form.

Form 79

r 15.79.2

Statement by sub-debtor where money held on
deposit*Complete and insert the heading as set out in form 76.*

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

To [name] (judgment creditor) and [name] (judgment debtor)

The sub-debtor states as follows:

- 1 *For this paragraph select the statement that applies.*

Statement A

The debt alleged to be due by me to the judgment debtor comprises a sum of \$[amount], which stands to the credit of the judgment debtor with me, and which is on deposit with me.

Statement B

The debt alleged to be due by me to the judgment debtor comprises a sum of \$[amount], which stands to the credit of the judgment debtor with me, and which is held by me on a deposit account/current account/[specify other account]*.

*Select one.

- 2 It is a condition of the deposit/account* that a [specify whether deposit book, receipt, etc, and full particulars such as its number, etc] must be produced before that sum or any part of it is withdrawn.

*Select one.

- 3 The [specify whether deposit book, receipt, etc] is/is not* in my possession.

*Select one.

- 4 *Include this paragraph if the deposit book, receipt, or other document is not in the possession of the sub-debtor.*

To the best of my knowledge and belief the [specify whether deposit book, receipt, etc] is in the possession of [specify full particulars, including full name and address of the person the sub-debtor believes to be in possession of the document].

Form 79—*continued*

Date:

Signature:

(sub-debtor/solicitor for sub-debtor*)

*Select one.

Form 80

r 15.83.1

Notice by sub-debtor that sub-debtor disputes
debt claimed

Complete and insert the heading as set out in form 76.

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

and

To [*name*] (judgment creditor) and [*name*] (judgment debtor)

This document notifies you that I, [*name*], the sub-debtor, dispute
the debt claimed to be due from me to the judgment debtor.

Date:

Signature:

(sub-debtor/solicitor for sub-debtor*)

*Select one.

Form 81

r 15.85.2

Order for delivery or disclosure of whereabouts
of deposit book

Complete and insert the heading as set out in form 76.

To *[name, address]*, the judgment debtor/*[other description]**

*Select one.

You are ordered to, within 5 working days from the service of this order,—

- (a) deliver to the Registrar of this court at *[place]* the deposit book/receipt/other document* in respect of the sum of \$*[amount]* that stands to the credit of the judgment debtor and that is on deposit with the sub-debtor/held by the sub-debtor in *[specify account]** if that deposit book/receipt/other document* is in the possession of the judgment debtor/*[name and address of other person]**; or

*Select one.

- (b) file in the court at *[place]* an affidavit as to where that deposit book/receipt/other document* is if it is not in the possession of the judgment debtor/*[name and address of other person]**.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Notes

- 1 Failure to comply with the order within the prescribed time could lead to your imprisonment.
- 2 If a person other than the judgment debtor is in possession of the deposit book/receipt/other document* and has a claim to its possession adverse to that of the judgment creditor, that person

Form 81—*continued*

must give notice of the claim in writing to the Registrar within
5 working days of the summons being served on him or her.

*Select one.

Advice

If you are in doubt, consult a solicitor or the staff of the District Court
immediately.

Office hours

The office of the court is open to the public from 9 am to 5 pm Mon-
days to Fridays inclusive.

Form 82

r 15.85.4

Affidavit as to whereabouts of deposit book

Complete and insert the heading as set out in form 76.

I, *[name, address, occupation]*, swear/solemnly and sincerely affirm*
that—

*Select one.

- 1 The deposit book/receipt/*[other document]** in respect of the sum of \$*[amount]* that stands to the credit of the judgment debtor and that is on deposit with/held by* the sub-debtor in a *[specify account]* is not in my possession.

*Select one.

- 2 *For this paragraph select the statement that applies.*

Statement A

I believe that the deposit book/receipt/*[other document]** is in the possession of *[full name, address]*.

Statement B

I do not know the present whereabouts of the deposit book/receipt/*[other document]**.

*Select one.

Signature:

Sworn/Affirmed* at: *[place, date]*

*Select one.

Before me: *[name, signature]*

(Registrar/Deputy Registrar/solicitor/Justice of the Peace*)

*Select one.

Form 83
Interpleader claim

r 15.93.1

In the District Court at *[place]*No: *[number of proceeding]*Between *[full name]* (enforcement creditor)And *[full name]* (enforcement debtor)And *[full name]* (claimant)**To** the bailiff of the District Court at *[place]*

This document notifies you that I, *[name, address, occupation]*, claim certain goods and chattels/money*, as specified in the schedule attached to this notice, taken under an enforcement process issued by the District Court at *[place]* in this proceeding, and that the grounds of my claim are: *[specify grounds]*.

*Select one.

Date:

Signature:

(claimant/solicitor for claimant*)

*Select one.

Schedule

[List goods and chattels/money being claimed.]

Form 84

r 15.94

Notice of claim to goods taken in enforcement

Complete and insert the heading as set out in form 83.

To [name] (enforcement creditor)

This document notifies you that—

- 1 [Name, address], has claimed [*insert “the goods” or specify which goods this document relates to*] taken in enforcement by a bailiff of the District Court at [place]/by a constable at [place]* under a warrant issued in this proceeding.

*Select one.

- 2 If you give notice to me that you admit the title of [*name of person claiming title*] to the goods, or request me to direct the bailiff/constable* to withdraw from possession, you will not be liable to the bailiff/constable* for any possession fees or expenses incurred after I have notified the bailiff/constable*.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 85

r 15.96.1

Notice by enforcement creditor of admission of
title of claimant**To** the Registrar of the District Court at *[place]*

This document notifies you that I admit the title of *[name of person who claimed title]* to *[insert “the goods” or specify which goods this document relates to]* seized by the bailiff under the distress warrant issued under the judgment in this proceeding, and I desire the proceeding to be stayed in respect of those goods/I request that the bailiff withdraw from possession*.

*Select one.

Date:

Signature:

(enforcement creditor/solicitor for enforcement creditor*)

*Select one.

Received by me, and the bailiff notified.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 86

r 15.98.1

Interpleader summons to enforcement creditor

Complete and insert the heading as set out in form 83.

To [name] (enforcement creditor)

Select the statement that applies.

Statement A

The claimant has made a claim to certain goods taken in enforcement under process issued out of this court at your instance.

Statement B

The claimant has made a claim to the proceeds of sale/value* of certain goods taken in enforcement under process issued out of this court at your instance.

*Select one.

Statement C

The claimant has made a claim to certain rent alleged to be due to the claimant in respect of, and issued out of, the premises on which certain goods were taken in enforcement under process issued out of this court at your instance.

You are summoned to attend at the District Court at [place, date, time] when the claim will be adjudicated and an order made as the court thinks fit in the interests of justice.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

The address for service of the claimant is [address].

Notes

Filing and service of claim

The claimant has been called on to file in the court and to serve on you particulars of his or her claim.

Form 86—*continued*

Advice

If you are in doubt, consult a solicitor or the staff of the District Court immediately.

Office hours

The office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

Form 87

r 15.98.1

Interpleader summons to claimant claiming
goods or rent under an enforcement

Complete and insert the heading as set out in form 83.

To [name] (claimant)

- 1 You are summoned to attend at the District Court at [place, date, time] to support a claim made by you to certain goods taken/to the proceeds of sale or value of certain goods taken/to certain rent alleged by you to be due to you issuing out of premises where certain goods were taken* in enforcement under process out of this court at the instance of the enforcement creditor, and in default of your then establishing such claim, the goods will be sold and the proceeds of sale paid over/the proceeds of sale will be paid over/the value will be paid over* according to the requirements of the process.

*Select one.

- 2 You are required within 3 working days after you are served with this summons, including the day of service/within such reasonable time before the date of hearing as the time of service permits* to file in the court office and serve on the enforcement creditor—

*Select one.

- (a) *For this paragraph select the statement that applies.*

Statement A

the particulars of the goods/proceeds/value* claimed by you; and

*Select one.

Statement B

the particulars of the amount of the rent and the period for which, and the premises out of which, you claim that rent issues; and

- (b) the grounds for your claim; and
(c) your full name, address, and occupation.

- 3 If you do not provide all particulars required, your claim may not be heard by the court.

Form 87—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

The address for service of the enforcement creditor is [*address*].

Notes

Advice

If you are in doubt, consult a solicitor or the staff of the District Court immediately.

Office hours

This office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

Form 88

r 15.98.1

Interpleader summons to enforcement creditor
and bailiff where claimant claims goods and
damages

In the District Court at *[place]*

No: *[number of proceeding]*

Between *[full name]* (enforcement creditor)

And *[full name]* (enforcement debtor)

and

Between *[full name]* (claimant)

And *[full name]* (enforcement creditor) and *[full name]* (a bailiff of
this court)/*[specify other]** (respondents)

*Select one.

To *[name]* (enforcement creditor)

and

To the bailiff/*[other]**

*Select one.

[Name, address, occupation of claimant] has made a claim to certain goods/the proceeds of sale of certain goods/the value of certain goods* taken in enforcement under process issued out of this court at your instance, and has also claimed from you (and from the bailiff of this court) the sum of \$*[amount]* for damages arising out of the enforcement.

*Select one.

You are therefore summoned to attend at the District Court at *[place, date, time]* when the claim relating to the goods/proceeds of sale of the goods/value of the goods* and the damages will be adjudicated and an order made as the court thinks fit in the interests of justice.

*Select one.

Form 88—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

The address for service of the claimant is [*address*].

Notes

Filing and service of claim

The claimant has been called on to file in the court and to serve on you particulars of his or her claim.

Advice

If you are in doubt, consult a solicitor or the staff of the District Court immediately.

Office hours

The office of the court is open to the public from 9 am to 5 pm Mondays to Fridays inclusive.

Form 89

r 15.98.1

Interpleader summons to claimant claiming
goods and damages under an enforcement

Complete and insert the heading as set out in form 83.

To [name] (claimant)

- 1 You are summoned to attend at the District Court at [place, date, time] to support a claim made by you to certain goods/the proceeds of sale of certain goods/the value of certain goods* taken in enforcement under process issued out of this court at the instance of the enforcement creditor, and also for damages arising out of that enforcement, and in default of your then establishing such claim, the goods will be sold and the proceeds of sale paid over/the proceeds of sale will be paid over/the value will be paid over* according to the requirements of process.

*Select one.

- 2 You are required within 3 working days after you are served with this summons, including the day of service/within such reasonable time before the date of hearing as the time of service permits* to file in the court office and serve on the execution creditor—

*Select one.

- (a) particulars of the goods/proceeds/value* claimed by you; and

*Select one.

- (b) the grounds of your claim; and

- (c) the amount of damages you claim, and the party from whom you claim the damages, and the grounds of your claim for damages; and

- (d) your full name, address, and occupation.

- 3 In the event of your not giving such particulars as required, your claim may not be heard by the court.

Form 89—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

The address for service of the enforcement creditor is [*address*].

Form 90

r 15.106.1

Application for writ of arrest

Complete and insert the heading as set out in form 1.

I, [*name, address, occupation*], the plaintiff/duly authorised agent of the plaintiff*, apply to the District Court at [*place*] for the issue of a writ of arrest against [*name, address, occupation*], the defendant, on the grounds set out in the attached affidavit.

*Select one.

Date:

Signature:

(agent for plaintiff/plaintiff*)

*Select one.

I [*name, address, occupation*] swear/solemnly and sincerely affirm* that—

*Select one.

1 *For this paragraph select the statement that applies.*

Statement A

I am the plaintiff in this proceeding.

Statement B

I am the agent of the plaintiff in this proceeding duly authorised by the plaintiff to sue for and recover from the defendant the claim mentioned below by a power of attorney/[*specify other authority*]* given by the plaintiff and dated [*date*].

*Select one.

2 The defendant is indebted to me/the plaintiff* and I have/the plaintiff has* a good cause of action against the defendant for the sum of \$[*amount*] for [*specify*], the details of which are set out in the notice of claim/statement of claim* filed in this proceeding.

*Select one.

3 The debt was contracted on [*date*].

Form 90—*continued*

- 4 *[Specify grounds for belief that the defendant is about to leave New Zealand and to evade payment.]*
- 5 For the reason stated, I believe/the plaintiff believes* that the defendant is about to leave New Zealand immediately, and that the defendant intends to evade the payment of the above sum to me/the plaintiff*.

*Select one.

Signature of deponent

Sworn/Affirmed* at: *[place, date]*

*Select one.

Before me: *[name, signature]*

(Registrar/Deputy Registrar/solicitor/Justice of the Peace*)

*Select one.

Form 91
Writ of arrest

r 15.107.1

Complete and insert the heading as set out in form 1.

To a bailiff of the District Court at *[place]*/a constable at *[place]**

*Select one.

- 1 I am satisfied that I have jurisdiction to the amount of the plaintiff's claim and that, by the affidavit of *[name]*, the plaintiff/the duly authorised agent of the plaintiff* in this proceeding, the plaintiff has a good cause of action against the defendant for the sum of \$*[amount]*, for which a summons has been issued out of this court by the District Court at *[place]*, and that there is probable cause for believing that the defendant is about to leave New Zealand with the intention of evading payment of the sum of \$*[amount]*.

*Select one.

- 2 I therefore order, under section 109 of the District Courts Act 1947, that, unless the defendant deposits with you, or with the Registrar of the District Court before which he/she* is brought, the sum of \$*[amount]*, together with costs of \$*[amount]*, to be paid, applied, and disposed of according to the judgment of the court in this proceeding, you immediately bring the defendant before a District Court Judge to be further dealt with according to law.

*Select one.

- 3 I further order that you certify to me immediately what you do under this warrant.

Date:

Signature:

(District Court Judge)

Form 92

r 15.107.2

Notice to defendant arrested under writ

*Complete and insert the heading as set out in form 1.***To** *[name]* (defendant)

This document notifies you that if you deposit with the officer enforcing the writ of arrest issued on *[date]* by the District Court at *[place]*/with the Registrar of the court at *[place]** the sum of \$*[amount]*, being the amount claimed, and \$*[amount]* for costs, you will be discharged from custody, and the sum will be paid, applied, and disposed of according to the final judgment of the court.

*Select one.

Date:

Signature:

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

Form 93

r 15.107.3

Bail bond to be given by defendant arrested
under writ of arrest

Complete and insert the heading as set out in form 1.

Obligation

- 1 We, [*names and addresses of sureties*], bind ourselves jointly and severally to pay to the Registrar of the District Court at [*place*] the sum of \$[*amount*].

Background

- 2 On [*date*], [*name of applicant*] applied to the District Court at [*place*] to recover the sum of \$[*amount*] and \$[*amount*] for costs against [*name*].
- 3 It has been made to appear to [*name*], District Court Judge, by the affidavit of [*name*], that there is probable cause for believing that [*name*] was about to leave New Zealand with the intention of evading payment of such sum.
- 4 A writ of arrest was issued, and [*name*] has been arrested but desires to be released on bail.

Condition

- 5 The condition of this obligation is that if [*name*] appears at the District Court at [*place, date, time*] to answer the demand of the applicant and does not depart until the judgment of the court has been given, then this obligation ceases to have effect, but otherwise remains in full force.

Date:

Signature:

(sureties)

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

Form 93—*continued*

I approve of this bond.

Date:

Signature:

(District Court Judge/Registrar/Deputy Registrar*)

*Select one.

Form 94

r 15.107.4

Warrant of remand in default of bail being found

Complete and insert the heading as set out in form 1.

To a bailiff of the District Court at *[place]*/a constable at *[place]**
and

To the superintendent of the prison at *[place]*

- 1 At the District Court at *[place, date]*, the defendant was brought before me under a writ of arrest issued at the suit of the plaintiff for the sum of \$*[amount]* and costs of \$*[amount]*.
- 2 Acting under section 109 of the District Courts Act 1947, I admitted the defendant to bail in the sum of \$*[amount]*, and *[specify]* surety/sureties* *[specify]* in the sum of \$*[amount]* (each), and I ordered that in default of the bail being given or the amount of \$*[amount]*, with costs of \$*[amount]*, being deposited with the Registrar of the District Court at *[place]*, the defendant should be detained in the prison at *[place]* and be brought from there to the District Court at *[place, date, time]*.

*Select one.

- 3 Default has been made in the bail being given, and the amount of \$*[amount]* and costs of \$*[amount]* has not been deposited.
- 4 I therefore order you, the bailiff, to take the defendant and deliver him/her* to the superintendent of the prison at *[place]*.

*Select one.

- 5 I order you, the superintendent, to receive the defendant into your custody and to detain the defendant and bring the defendant to the District Court at *[place, date, time]* before me or some other District Court Judge unless the defendant sooner gives the prescribed security or makes the deposit, or until the defendant is sooner discharged by due course of the law.

Date:

Signature:

(District Court Judge)

Form 95

r 15.107.5

Consent for summary hearing

Complete and insert the heading as set out in form 1.

I, the defendant, against whom a writ of arrest has been issued under section 109 of the District Courts Act 1947, consent that the plaintiff's claim may be summarily heard and finally adjudicated immediately/at [*time, date*]*.

*Select one.

Signature:

(defendant)

Before me: [*name, signature*]

(Registrar/Deputy Registrar/solicitor/Justice of the Peace*)

*Select one.

Form 96

r 15.110.1

Order against executor or administrator in
respect of assets received since judgment

In the District Court at *[place]*

No: *[number of proceeding]*

Between *[full name]* (plaintiff)

And *[full name]*, the executor/administrator* of *[full name]* (deceased), (defendant)

*Select one.

To the defendant

- 1 At the hearing of this proceeding on *[date]*, it was adjudged that the plaintiff should recover against the defendant the sum of \$*[amount]* for *[specify]* and \$*[amount]* for costs, and it was ordered that the sums be levied on the assets of the deceased's estate that should subsequently come into the hands of the defendant as executor/administrator* to be administered.

*Select one.

- 2 On the application of the plaintiff, it appears to the court that, since the judgment, assets of the deceased's estate have come into the hands of this defendant as executor/administrator*.

*Select one.

- 3 This court orders that the sums be levied on the assets of the deceased's estate that have come into the hands of the defendant as executor/administrator* since the date of the judgment.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 97

r 15.111

Distress warrant against goods of estate of
deceased person*Complete and insert the heading as set out in form 96.***To** a bailiff of the District Court at *[place]*/a constable at *[place]**

*Select one.

- 1 At the District Court at *[place, date]*, the plaintiff obtained a judgment against *[name]*, the defendant, as executor/administrator* of *[name]*, the deceased, for the sum of \$*[amount]* for *[specify]* owing to the plaintiff by the deceased in his or her lifetime, and the sum of \$*[amount]* for costs.

*Select one.

- 2 Default has been made in payment according to the judgment.
- 3 I therefore order you to levy the amount due to the plaintiff under the judgment and the further expenses incurred in this proceeding by distress and sale of the goods and chattels of the estate in the hands of the defendant to be administered, and also by seizing and taking any money, bank notes, bills of exchange, promissory notes, bonds, specialities, or securities for money forming part of the assets of the estate, or such part or so much as may be sufficient to satisfy this enforcement.
- 4 You are also ordered to pay what you levy immediately to the Registrar of the District Court at *[place]* and to make return of what you do under this warrant immediately on its enforcement.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Particulars**Amount (\$)**

Amount adjudged to be paid

Costs

Form 97—*continued*

Particulars	Amount (\$)
Warrant	
Total	

Note: If a person is placed in possession of goods seized, the bailiff is entitled to demand and levy the cost of keeping possession according to scale. The goods are not to be sold until after the period of 5 days following the day on which they were taken, unless they are of a perishable nature or the defendant requests in writing that they be sold.

Application was made to the Registrar of the court for the issue of this warrant at [*time, date*] by [*name*], solicitor for the plaintiff.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

This warrant was received by me on [*date, time*].

Signature:

(bailiff)

Form 98

r 16.1.2

Summons for assaulting officer of court or
rescuing goodsIn the District Court at *[place]***To** *[name, address]*

You are summoned to attend at the District Court at *[place, date, time]* to answer a complaint made against you by *[full name]*, an officer of the court, and to show cause why an order should not be made against you under the District Courts Act 1947 for payment of a sum not exceeding \$300 for—

*Select the statement that applies.**Statement A*

an assault committed by you on *[date]* on the officer while the officer was executing his/her* duty.

*Select one.

Statement B

rescuing or attempting to rescue on *[date]* certain goods seized under process of this court.

Statement C

an assault committed by you on *[date]* on the officer while the officer was executing his/her* duty and for rescuing or attempting to rescue on *[date]* certain goods seized under process of this court.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 99

r 16.1.4

Order imposing a fine for assaulting an officer
of the court, or for rescuing goods

In the District Court at *[place]*

- 1 This court has adjudged that *[full name, address]* pay the sum of \$*[amount]* and the sum of \$*[amount]* for costs, amounting in total to a sum of \$*[amount]* for—

Select the statement that applies

Statement A

committing an assault on *[date]* on *[name]*, an officer of this court, while the officer was executing his/her* duty.

*Select one.

Statement B

rescuing or attempting to rescue on *[date]* certain goods seized under process of this court.

Statement C

committing an assault on *[date]* on *[name]*, an officer of this court, while the officer was executing his/her* duty and for rescuing or attempting to rescue on *[date]* certain goods seized under process of this court.

*Select one.

- 2 This court therefore orders you, *[name]*, to pay the sum of \$*[amount]* to the Registrar of this court on *[date]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 100

r 16.2.1

Summons for extortion or misconduct

To [name, address], bailiff of the District Court at [place]/[name, address, and title of officer] of the District Court at [place]/[name, address], constable at [place]*

*Select one.

You are summoned to attend at the District Court at [place, date, time] to—

- 1 *For this paragraph select the statement that applies.*

Statement A

Answer a complaint made against you by [name, address] that you have (while acting under colour of the process of the court) been guilty of extortion/misconduct* in that you [specify particulars of the extortion or misconduct alleged]†.

*Select one.

†Alternatively, attach the particulars of the extortion or misconduct alleged.

Statement B

Answer a complaint made against you by [name, address] that you have (while acting under colour of the process of the court) not duly paid or accounted for certain money levied by you against [name] at the suit of [name] under the authority of the District Courts Act 1947.

- 2 Show cause why an order should not be made against you under section 19 of the District Courts Act 1947 for—
- (a) the repayment of the money extorted by you (or for the due payment of the money levied by you), and for the payment of any damages and costs as the District Court Judge thinks just; and
 - (b) the payment of a fine not exceeding \$300 for each offence so committed by you.

Form 100—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 101

r 16.2.1

Summons for neglect to levy enforcement

To *[name, address]*, bailiff of the District Court at *[place]*/*[name, address, and title of officer]* of the District Court at *[place]*/*[name, address]*, constable at *[place]**

*Select one.

You are summoned to attend at the District Court at *[place, date, time]* to—

- (a) answer a complaint made against you by *[name, address]* that you, being employed to levy an enforcement against the goods and chattels of *[name]*, did by act or omission lose the opportunity of levying that enforcement; and
- (b) show cause why an order should not be made against you under section 105 of the District Courts Act 1947 for payment of the damages that *[name of complainant]* appears to have sustained by your act or omission.

Date:

Signature:

(Deputy Registrar/Registrar*)

*Select one.

Form 102

r 16.2.2

Order for repayment of money extorted, or
payment of money levied, and for damages,
costs, and fine

In the District Court at [place]

- 1 This court adjudges that [name, address], a bailiff/[specify other officer]* of the court,—

*Select one.

- (a) *For this paragraph select the statement that applies.*

Statement A

pay the sum of \$[amount] extorted by him/her* from [name] under colour of the process of this court; and

*Select one.

Statement B

pay the sum of \$[amount] levied by him/her* against [name, address] at the suit of [name, address] under the authority of the District Courts Act 1947 and not duly paid over or accounted for by him/her*; and

*Select one.

- (b) pay the sum of \$[amount] for damages sustained by [name, address] by reason of the extortion by the [specify bailiff or other officer] /by the neglect of the [specify bailiff or other officer] to pay over the money levied by him or her/by reason of the misconduct of the [specify bailiff or other officer]* while acting under colour of the process of the court in that [specify particulars of misconduct proved].

*Select one.

- 2 This court also adjudges that the [specify bailiff or other officer] pay a fine of \$[amount] for the offence/for each offence* committed by him/her* [specify particulars of each offence], amounting together to the sum of \$[amount].

*Select one.

- 3 The court orders that the [specify bailiff or other officer] pay the sum of \$[amount] to the Registrar of the court on [date].

Form 102—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 103

r 16.2.3

Order awarding damages for neglect to levy
enforcement

In the District Court at *[place]*

- 1 This court adjudges that *[name, address]*, a *[specify bailiff or other officer]* of this court, pay the sum of \$*[amount]* for damages sustained by *[name, address]* by reason of *[name]* having by neglect or connivance or omission lost the opportunity of levying an enforcement against the goods of *[name]* and the sum of \$*[amount]* for costs, amounting together to the sum of \$*[amount]*.
- 2 The court orders that the *[specify bailiff or other officer]* pay the sum of \$*[amount]* to the Registrar of this court on *[date]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 104

r 16.4

Order fining witness for non-attendance

Complete and insert the heading as set out in form 1.

1 [Name, address]—

(a) *For this paragraph select the statement that applies.*

Statement A

was duly summoned to attend as a witness in this proceeding at the District Court at [place, date]; and

Statement B

was duly summoned to attend as a witness in this proceeding at the District Court at [place, date] and to produce [specify documents]; and

(b) at the time of being summoned was paid/tendered* travelling allowances and expenses according to the scale of allowances prescribed by the District Courts Rules 2009.

*Select one.

2 *For this paragraph select the statement that applies.*

Statement A

He/she* has refused or neglected without sufficient cause shown to attend at the court/produce [specify documents]/attend at the court and produce [specify documents]*.

*Select one.

Statement B

He/she* has refused to [specify case(s) that apply: refused to be sworn, give evidence, or produce documents (specify documents)].

*Select one.

3 This court orders that [name] pay a fine of \$[amount] for such refusal or neglect to the Registrar of the court on [date].

Form 104—*continued*

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 105

r 16.6.1

Warrant of committal for contempt of court

In the District Court at *[place]*

To a bailiff of the District Court at *[place]*, and to each and every constable in New Zealand, and to the superintendent of the prison at *[place]*

- 1 On *[date]*, *[full name]*, the offender, wilfully insulted *[name]*, District Court Judge, in court/*[specify other place]** and was ordered to stand committed for *[number]* days to the prison at *[place]* for the offence.

*Select one.

- 2 This court therefore orders you, the bailiff and others, to take *[name]* and to deliver him/her* to the superintendent of the prison, together with this warrant, and you, the superintendent, to receive *[name]* and to keep him/her* safely in the prison for *[number]* days from the arrest under this warrant, or until he/she* is sooner discharged by due course of law.

*Select one.

Date:

Signature:

(District Court Judge)

Form 106

r 16.6.2

Order for fine for contempt of court

In the District Court at *[place]*

- 1 On *[date]*, *[full name]*, the offender wilfully insulted *[name]*, District Court Judge, in court/*[specify other place]**.

*Select one.

- 2 This court orders that *[name]* pay a fine of \$*[amount]* for the offence.

- 3 This court also orders that *[name]* pay a fine of \$*[amount]* for the offence to the Registrar of this court immediately on *[date]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 107

r 16.7.2

Order for enforcement of payment of fine

In the District Court at *[place]*

- 1 On *[date]*, *[full name, address]*, was ordered to pay a fine of \$*[amount]* for the offence of *[specify]*.
- 2 The fine has not been paid.
- 3 This court orders that the payment of the fine of \$*[amount]* be enforced in the same manner as if it had been imposed on summary conviction of *[name]* under the provisions of the Summary Proceedings Act 1957.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Schedule 2

r 4.4

Appropriate daily recovery rates

Schedule 2: replaced, on 14 June 2012, by rule 25 of the District Courts (General) Amendment Rules 2012 (SR 2012/85).

Note: The following are the appropriate daily recovery rates for the categories of proceedings referred to in rule 4.3.

Category of proceedings referred to in rule 4.3	Appropriate daily recovery rate
Category 1 proceedings	\$1,030 per day
Category 2 proceedings	\$1,550 per day
Category 3 proceedings	\$2,300 per day

Schedule 3 Time allocations

r 4.5

General civil proceedings**Allocated days or part days**

	A	B	C
1 Preparing notice of claim or statement of claim (receiving instructions, researching facts and law, and filing and serving those documents)	0.75	1.5	3.0
2 Response or defence by defendant (receiving instructions, researching facts and law, and preparing and serving response or statement of defence)	0.75	1.0	2.0
3 Preparing and serving information capsule by plaintiff and defendant	1.0	2.0	3.0
4 Filing notice of proceeding, filing response and information capsules under rule 2.15, and preparing, filing, and serving notice of pursuit of claim under rule 2.15	0.25	0.25	0.25
5 Preparing, filing, and serving originating application	1.0	2.0	4.0
6 Preparing and serving notice of opposition	1.0	1.5	3.0
7 Other pleadings and notices:			
7.1 Counterclaim	0.5	0.5	1.0
7.2 Claims between defendants	0.5	1.0	2.0
7.3 Commencement of proceedings against third parties, including notice of claim	0.75	1.5	3.0
7.4 Pleading in response to other party's amended pleading (payable regardless of outcome except where formal or consented to)	0.3	0.4	0.75
8 Judicial settlement conference:			
8.1 Preparation for judicial settlement conference	0.25	0.25	0.25

Schedule 3

District Courts Rules 2009

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4 February 2013

General civil proceedings

8.2 Appearance at judicial settlement conference

9 Interlocutory proceedings and related steps:

9.1 Notice to answer interrogatories

9.2 Answer to interrogatories

9.3 Notice to admit facts

9.4 Admission of facts

9.5 List of documents on discovery

9.6 Production of documents for inspection

9.7 Inspection of documents

9.8 Filing and serving memorandum in anticipation of judicial conference

9.9 Appearance at judicial conference

9.10 Preparing and filing interlocutory application (excluding summary judgment application) and supporting affidavits

9.11 Preparing and filing opposition to interlocutory application (excluding summary judgment application) and supporting affidavits

9.12 Preparing for hearing of defended interlocutory application (excluding summary judgment application)

9.13 Appearance at hearing of defended interlocutory application (excluding summary judgment application) for sole or principal counsel

Allocated days or part days

A

B

C

The time occupied by the judicial settlement conference measured in quarter days

0.3

1.0

2.0

0.3

1.0

2.0

0.3

0.5

1.0

0.3

0.5

1.0

0.5

1.0

4.0

0.5

0.75

2.0

0.4

1.0

4.0

0.2

0.25

0.75

0.3

0.3

0.3

0.25

0.4

1.0

0.25

0.4

1.0

The time occupied by the hearing measured in quarter days

Appearance in court measured in quarter days

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District Courts Rules 2009

Schedule 3

General civil proceedings

- 9.14 Second and subsequent counsel if allowed by court
- 9.15 Sealing order or judgment
- 10 Summary judgment application (additional to costs in items 1 to 5):
- 10.1 Preparing and filing summary judgment application and supporting affidavits
- 10.2 Preparing and filing opposition and supporting affidavits
- 10.3 Preparing for hearing of defended summary judgment application
- 10.4 Arguing defended summary judgment application for sole or principal counsel
- 10.5 Second and subsequent counsel if allowed by court
- 11 Obtaining judgment without appearance (additional to costs in items 1 to 7):
- 11.1 By default/admission
- 11.2 By formal proof (including affidavit preparations)

Short trial

- 12 Preparation
- 13 Appearance at hearing

Allocated days or part days

A	B	C
Fifty percent of allowance for appearance for principal counsel		
0.2	0.2	0.2
0.25	0.4	1.5
0.25	0.4	1.5
The time occupied by the hearing measured in quarter days		
Appearance in court measured in quarter days		
Fifty percent of allowance for appearance of principal counsel		
0.2	0.2	0.3
0.3	0.3	0.4
A	B	C
0.5	0.5	0.5
1.0	1.5	1.5

Simplified trial

- 14 Preparation
- 15 Appearance at hearing

Full trial

- 16 Preparation for hearing following setting down or direction for trial if trial does not eventuate:
- 16.1 Plaintiff's preparation of affidavits or written or oral statements of evidence to be used at hearing
- 16.2 Plaintiff's preparation of lists of issues and authorities, selecting documents for common bundle of documents, and all other preparation
- 16.3 Defendant's preparation of affidavits or written or oral statements of evidence to be used at hearing
- 16.4 Defendant's preparation of lists of issues and authorities, selecting documents for common bundle of documents, and all other preparation
- 17 Preparation:
- 17.1 Where case proceeds to hearing
- 17.2 Where case proceeds by formal proof
- 18 Appearance at hearing:
- 18.1 For sole or principal counsel
- 18.2 Second and subsequent counsel if allowed for by court
- 18.3 Appearance for formal proof

A **B** **C**

1.0 1.25 2.5

Twice the time occupied by the hearing measured in half days

A **B** **C**

1.25 2.25 3.5

1.25 2.25 3.5

1.0 2.0 3.0

1.0 2.0 3.0

Twice the time occupied by the hearing measured in half days

1 day

Appearance in court measured in half days

Fifty percent of allowance for principal counsel

Appearance in court measured in quarter days

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District Courts Rules 2009

Schedule 3

Enforcement and other steps

		A	B	C
19	Enforcement of judgment or order:			
19.1	Application for charging order	0.4	0.4	0.4
19.2	Application for order for examination	0.2	0.2	0.2
19.3	Each attendance at examination hearing	0.1	0.1	0.1
19.4	Application for arrest warrant if debtor fails to appear at examination or community work order hearing	0.1	0.1	0.1
19.5	Application for community work order	0.2	0.2	0.2
19.6	Each attendance at community work order hearing	0.1	0.1	0.1
19.7	Application for attachment order	0.2	0.2	0.2
19.8	Application for warrant of enforcement: recovery of chattels/distress/recovery of land	0.2	0.2	0.2
19.9	Application for warrant of committal	0.2	0.2	0.2
19.10	Application for writ of arrest	0.2	0.2	0.2
19.11	Garnishee proceedings	0.4	0.4	0.4
19.12	Interpleader proceedings (including service)	0.4	0.4	0.4
19.13	Other enforcement process	0.4	0.4	0.4
20	Other steps in the proceeding not specifically mentioned	As allowed by court		
21	Commencement of appeal (including assessing original decision, noting appealable points, and filing and serving notice of appeal and points of appeal)	0.2	0.4	1.0
22	Preparing for judicial conference	0.1	0.2	0.4
23	Appearance at judicial conference	0.1	0.2	0.4

Enforcement and other steps

- 24 Preparing for appeal
- 25 Appearance at hearing

A	B	C
		The time occupied by the hearing measured in quarter days
		Appearance in court measured in quarter days

Reprinted as at
4 February 2013

District Courts Rules 2009

Schedule 3

Rebecca Kitteridge,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 3 September 2009.

**District Courts
Amendment Rules 2010**
(SR 2010/89)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 19th day of April 2010

Present:

His Excellency the Governor-General in Council

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 at least 2 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.

Rules

1 Title

These rules are the District Courts Amendment Rules 2010.

2 Commencement

These rules come into force on 24 May 2010.

5 Transitional provision

- (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 the first column of Schedule 2 of these rules is taken on the date appearing opposite that step in the second column of that schedule.
- (4) For the purposes of rule 17.2.2 of the principal rules, these rules apply to proceedings commenced before the commencement of the principal rules and pending or in progress on the commencement of these rules as if—
 - (a) the references to Schedule 2 in rule 4 and in Schedule 1 of these rules referred to Schedule 2 of the District Courts Rules 1992 (as in force immediately before their revocation); and
 - (b) the references in subclause (2) of this rule to the principal rules referred to the District Courts Rules 1992; and
 - (c) the references in Schedule 1 of these rules to rule 4.3 referred to rule 47 of the District Courts Rules 1992.

Schedule 2

r 5

Dates on which steps taken for purposes of rule 5(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

Rebecca Kitteridge,
Clerk of the Executive Council.

Date of notification in *Gazette*: 22 April 2010.

Contents

- 1 General
 - 2 Status of reprints
 - 3 How reprints are prepared
 - 4 Changes made under section 17C of the Acts and Regulations Publication Act 1989
 - 5 List of amendments incorporated in this reprint (most recent first)
-

Notes**1 General**

This is a reprint of the District Courts Rules 2009. The reprint incorporates all the amendments to the rules as at 4 February 2013, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, *see* <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked

are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 ***List of amendments incorporated in this reprint
(most recent first)***

District Courts (Case Management) Amendment Rules 2012 (SR 2012/406)
District Courts (Financial Markets Authority Form of Search Warrant) Amendment Rules 2012 (SR 2012/234)
District Courts (General) Amendment Rules 2012 (SR 2012/85)
District Courts (Discovery, Inspection, and Interrogatories) Amendment Rules 2011 (SR 2011/347)
Student Loan Scheme Act 2011 (2011 No 62): section 224
District Courts (Financial Markets Authority Form of Search Warrant) Amendment Rules 2011 (SR 2011/286)
District Courts (Limitation Act 2010) Amendment Rules 2010 (SR 2010/395)
District Courts Amendment Rules 2009 (SR 2009/359)

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District Courts Rules 2009

Notes

District Courts (Criminal Proceeds (Recovery) Act 2009) Amendment Rules
2009 (SR 2009/312)
