

Authorised Version No. 002
**Children, Youth and Families (Children's
Court Family Division) Rules 2017**

S.R. No. 20/2017

Authorised Version incorporating amendments as at
1 February 2019

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**Children, Youth and Families (Children's
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1 Object

The object of these Rules is to prescribe certain matters and forms for the purposes of the Family Division of the Court.

2 Authorising provisions

These Rules are made under section 588 of the **Children, Youth and Families Act 2005** and all other enabling powers.

3 Commencement

These Rules come into operation on 18 April 2017.

4 Revocation

The following Rules are **revoked**—

- (a) Children, Youth and Families (Children's Court Family Division) Rules 2007¹;
- (b) Children, Youth and Families (Children's Court Family Division) (Amendment No. 1) Rules 2009²;
- (c) Children, Youth and Families (Children's Court Family Division) (Amendment No. 2) Rules 2010³;
- (d) Children, Youth and Families (Children's Court Family Division) (Amendment No. 3) Rules 2013⁴;

- (e) Children, Youth and Families (Children's Court Family Division) (Amendment No. 4) Rules 2013⁵;
- (f) Children, Youth and Families (Children's Court Family Division) (Amendment No. 5) Rules 2016⁶;
- (g) Children, Youth and Families (Children's Court Family Division) (Amendment No. 6) Rules 2016⁷.

Rule 5
(Heading)
substituted by
S.R. No.
185/2018
rule 5(1).

5 Definitions

In these Rules—

Rule 5 def. of
addressee
inserted by
S.R. No.
185/2018
rule 5(2).

addressee means the person who is the subject of
the order expressed in the witness summons;

Rule 5 def. of
issuing party
inserted by
S.R. No.
185/2018
rule 5(2).

issuing party means the party at whose request a
witness summons is issued;

Rule 5 def. of
the Act
amended by
S.R. No.
185/2018
rule 5(3).

the Act means the **Children, Youth and Families
Act 2005**;

Rule 5 def. of
*witness
summons*
inserted by
S.R. No.
185/2018
rule 5(2).

witness summons means an order in writing
requiring the addressee—

- (a) to attend to give evidence; or
- (b) to produce the witness summons
or a copy of it and a document or
thing; or

- (c) to do both of the things in paragraphs (a) and (b);

witness summons to attend to give evidence
means a witness summons requiring the addressee to attend to give evidence;

Rule 5 def. of *witness summons to attend to give evidence* inserted by S.R. No. 185/2018 rule 5(2).

witness summons to produce means a witness summons requiring the addressee to produce the witness summons or a copy of it and a document or thing;

Rule 5 def. of *witness summons to produce* inserted by S.R. No. 185/2018 rule 5(2).

witness summons to produce and to attend to give evidence means a witness summons requiring the addressee—

Rule 5 def. of *witness summons to produce and to attend to give evidence* inserted by S.R. No. 185/2018 rule 5(2).

- (a) to produce the witness summons or a copy of it and a document or thing; and
(b) to attend to give evidence.

6 Forms

The forms in these Rules must be used for or with respect to proceedings in the Family Division of the Court.

7 Statement of placement availability—Form 13

For the purposes of section 263(1)(f) and (g) of the Act, a statement of placement availability is in the prescribed form if it is in the form of Form 13.

8 Search warrant (emergency care)—Form 39

A search warrant for the purposes of the Act must be in Form 39.

9 Witness summons

Rule 9(1)
substituted by
S.R. No.
185/2018
rule 6.

- (1) A witness summons must be in the following form—
 - (a) for a witness summons to attend to give evidence, Form 41;
 - (b) for a witness summons to produce, Form 41A;
 - (c) for a witness summons to produce and to attend to give evidence, Form 41B.
- (2) A witness summons to give evidence or to give evidence and produce documents or things must be directed to one person.

Rule 9AA
inserted by
S.R. No.
3/2019 rule 5.

9AA Copy of witness summons to be served on each party

- (1) Unless the Court orders otherwise, the issuing party must serve a copy of a witness summons on each party, other than a child, as soon as practicable after the witness summons has been served on the addressee, but it is not necessary that the copy be signed or served personally.
- (2) If a child is legally represented in a proceeding, a copy of the witness summons must be served on the child's legal representative, unless the Court orders otherwise.

Rule 9A
inserted by
S.R. No.
185/2018
rule 7.

9A Setting aside or other relief

- (1) The Court, on its own motion or on the application of a party or any person having a sufficient interest, may—
 - (a) set aside a witness summons in whole or in part; or
 - (b) grant other relief in respect of it.
- (2) An application made under subrule (1) must be made on notice to the issuing party.

- (3) The Court may order that the applicant give notice of the application to any other party or any other person having a sufficient interest.

9B Copies and electronic form of documents may be produced

Rule 9B
inserted by
S.R. No.
185/2018
rule 7.

- (1) Unless a witness summons specifically requires the production of the original, an addressee may produce a copy of a document required to be produced by a witness summons.

- (2) A copy of a document may be—

(a) a photocopy; or

(b) in an electronic form on a USB or CD-ROM in any of the following formats—

Rule 9B(2)(b)
amended by
S.R. No.
3/2019
rule 6(1)(a).

- (i) .doc and .docx—Microsoft Word documents;
- (ii) .pdf—Adobe Acrobat documents;
- (iii) .xls and .xlsx—Microsoft Excel spreadsheets;
- (iv) .jpg—image files;
- (v) .rtf—rich text format;
- (vi) .gif—graphics interchange format;
- (vii) .tif—tagged image format; or

Rule 9B(2)
(b)(vii)
amended by
S.R. No.
3/2019
rule 6(1)(b).

* * * * *

Rule 9B(2)
(b)(viii)
revoked by
S.R. No.
3/2019
rule 6(1)(c).

Rule 9B(2)(c)
substituted by
S.R. No.
3/2019
rule 6(2).

- (c) in any other appropriate form or format, or on any other appropriate form of storage—
 - (i) directed or ordered by the Court; or
 - (ii) in accordance with any relevant practice direction, statement or note.
- (3) Even if a witness summons specifically requires the production of the original document, the addressee, with the consent of the issuing party, may produce a copy, instead of the original, of the document required to be produced.

Rule 9C
inserted by
S.R. No.
185/2018
rule 7.

9C Production other than upon attendance

If an addressee produces more than one document or thing to the registrar, the addressee must provide a list of the documents or things produced, if requested to do so by the registrar.

Rule 9D
inserted by
S.R. No.
185/2018
rule 7.

9D Objection by addressee or other person

- (1) This Rule applies if the addressee, or a person having sufficient interest other than a party, has any objection—
 - (a) to producing a document or thing identified in the witness summons; or
 - (b) to a document or thing identified in the witness summons being inspected by any one or more of the parties to the proceeding.
- (2) Before the return date specified in the witness summons, the addressee or person—
 - (a) may notify the registrar in writing of the objection; and
 - (b) must state the grounds of that objection.

Rule 9E
inserted by
S.R. No.
185/2018
rule 7.

9E Objection by party to inspection by other party

- (1) Subject to subrule (2), if a party has any objection to the inspection by another party of a document identified in the witness summons, before the

return date specified in the witness summons, the party having the objection—

- (a) may notify the registrar in writing of that objection; and
 - (b) must state the grounds of that objection.
- (2) If a party seeks, by witness summons, the production of any hospital or medical file or record concerning another party or another party's medical condition, the other party (the ***objecting party***), before taking an objection under subrule (1), may inspect the file or record produced to the registrar.
- (3) After inspecting the file or record under subrule (2), the objecting party may notify the registrar of any objection the objecting party has to inspection by any other party, provided that the objecting party makes that inspection, and notifies that objection, within 7 days after the day specified in the witness summons for production of the file or record to the registrar.

9F Procedure after objection

- (1) On receiving notice under Rule 9D or 9E, the registrar must refer the witness summons to the Court for the hearing and determination of the objection.
- (2) The registrar must notify the issuing party, in writing, of the objection and the time and place at which the objection will be heard and that party must notify the addressee and all other parties accordingly.

Rule 9F
inserted by
S.R. No.
185/2018
rule 7.

9G Removal, return, inspection, copying and disposal of documents

The Court may give directions in relation to the removal from and return to the Court, and the inspection, copying and disposal, of any document

Rule 9G
inserted by
S.R. No.
185/2018
rule 7.

or thing that has been produced to the Court in response to a witness summons.

Rule 9H
inserted by
S.R. No.
185/2018
rule 7.

9H Disposal of documents and things produced

- (1) Unless the Court orders otherwise, the registrar may return to the addressee any document or thing produced by the addressee in response to a witness summons.

Rule 9H(2)
revoked by
S.R. No.
3/2019
rule 7(1).

* * * * *

- (3) The addressee of a witness summons which is in Form 41A or 41B must complete the declaration by the addressee provided for in the witness summons.
- (4) The completed declaration must be included in the witness summons or copy of the witness summons that accompanies the documents produced under the witness summons.
- (5) Subject to subrule (6), after the conclusion of the proceeding, the registrar may cause to be destroyed all the documents produced in the proceeding in compliance with a witness summons which were declared by the addressee to be copies.
- (6) The registrar may cause to be destroyed those documents declared by the addressee to be copies which have become exhibits in the proceeding when they are no longer required in connection with the proceeding, including on any appeal.

Rule 9H(5)
amended by
S.R. No.
3/2019
rule 7(2).

10 Application to the Court—publication of proceedings

For the purposes of section 534 of the Act, an application for permission of the President or a magistrate for publication of proceedings in the Family Division of the Court must be in Form 42.

Form 1

Rule 6

APPLICATION FOR TEMPORARY ASSESSMENT ORDER

Children, Youth and Families Act 2005

Sections 228, 229

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Grounds for the application

The Secretary—

- (a) has a reasonable suspicion that the child is, or is likely to be, in need of protection; and
- (b) is of the opinion that further investigation and assessment of the matter is warranted; and
- (c) is of the opinion that the investigation and assessment cannot properly proceed unless a temporary assessment order is made.

Details of the application

The Secretary applies for—

*authorisation to enter the premises where the child is living;

*a requirement that the parent of the child or any person with whom the child is living permit the Secretary to enter the premises where the child is living;

*a requirement that the parent of the child or any person with whom the child is living permit the Secretary to interview the child and take the child to a place to be determined by the Secretary for that interview;

*authorisation, subject to section 233 of the Act, for the child to be medically examined by a registered medical practitioner or a registered psychologist;

*a direction that the parent of the child or any person with whom the child is living permit the Secretary to take the child for that medical examination;

*authorisation for the results of the medical examination to be given to the Secretary;

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*a requirement that the parent of the child or any person with whom the child is living attend an interview with the Secretary and, subject to section 234 of the Act, answer any questions put to them in the interview;

*the following directions or conditions— *[provide a brief description]*.

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

***Application for Temporary Assessment Order (*without giving notice*) pursuant to section 229 of the Act**

The Secretary applies for leave for the application to be heard without giving notice under section 228 of the Act and is satisfied that the giving of such notice is inappropriate in the circumstances.

Notice to the parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are directed to appear at Court for the hearing of this application.

***To the parent(s)**—You are directed to produce the child at Court for the hearing of this application.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at *[insert time and date]* at the Children's Court at *[venue name and address]*.

Issued at—

Date—

Registrar

* Delete if not applicable

Form 2

Rule 6

TEMPORARY ASSESSMENT ORDER

Children, Youth and Families Act 2005

Sections 231–235, 236, 238

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

*The Children's Court is satisfied that—

the making of a temporary assessment order is in the best interests of the child; **and**

it is necessary for the Secretary to assess whether or not the child is in need of protection; **and**

the Secretary cannot properly carry out an investigation or assessment unless the order is made.

*The Children's Court grants an application to vary the terms of the temporary assessment order made on [date] in respect of the child.

Details of the order

*The Court makes a temporary assessment order on an application under section *228/*229 of the Act.

*The Court orders that the term(s) of the temporary assessment order made on [date] be varied.

The temporary assessment order—

*authorises the Secretary to enter the premises where the child is living—
[address];

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Form 2

*requires *[name]* to permit the Secretary to enter the premises where the child is living— *[address]*;

*requires *[name]* to permit the Secretary to interview the child and to take the child to a place to be determined by the Secretary for that interview;

*authorises, subject to section 233 of the Act, the medical examination of the child by a registered medical practitioner or a registered psychologist;

*directs *[name]* to permit the Secretary to take the child for that medical examination;

*authorises the results of the medical examination to be given to the Secretary;

*requires *[name]* to attend an interview with the Secretary and, subject to section 234 of the Act, to answer any questions put to them in the interview;

*any direction or condition— *[specify]*.

This order remains in force for *[specify number]* days beginning from *[date]*.

The Secretary must provide to the Court by *[date]* a report in writing setting out the matters referred to in section 238(2) of the Act.

If this order is made on an application under section 229 of the Act, the child or a parent of the child may apply to the Court under section 235 of the Act for the variation or revocation of this order.

Order made at— *[venue]*

on— *[date]*

*Judge/*Magistrate

* Delete if not applicable

Notes

Medical examination of a child is subject to section 233 of the Act.
Section 233 provides:

Despite a temporary assessment order, a registered medical practitioner or registered psychologist by whom the child is to be examined under the order must not examine the child if—

- (a) the medical practitioner or psychologist is of the opinion that the child has sufficient understanding to give or refuse consent to the examination; and
- (b) the child refuses that consent.

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Form 2

Interviews with the Secretary authorised by this order are subject to section 234 of the Act. Section 234(1) provides:

Despite a temporary assessment order, a person may refuse to answer a question put by the Secretary in an interview authorised by the order on the ground that—

- (a) to answer might tend to incriminate the person; or
- (b) the information is privileged on the ground of legal professional privilege or client legal privilege.

Form 3

Rule 6

APPLICATION TO VARY OR REVOKE A TEMPORARY ASSESSMENT ORDER MADE WITHOUT NOTICE

Children, Youth and Families Act 2005

Section 235

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the order that is sought to be varied or revoked

On the application of— *[full name]*

Agency and address—

Phone—

The Children's Court at *[venue]* on *[date]* made a temporary assessment order under section 229 of the Act.

Details of the application

This application is—

*to vary the order.

*to revoke the order.

The grounds for this application are— *[set out grounds]*.

This application is made—

*by the child.

*by a parent of the child.

Applicant's name—

Address—

Phone—

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Form 3

Date—

[*Signature*]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 4

Rule 6

APPLICATION FOR THERAPEUTIC TREATMENT ORDER

Children, Youth and Families Act 2005

Section 246

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the application

The Secretary is satisfied on the following grounds— [*set out the grounds*]
that the child is in need of therapeutic treatment.

Applicant's name—

Agency and address—

Phone—

Date—

[*Signature*]

Notice to the parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are directed to appear at Court for the hearing of this application.

***To the parent(s)**—You are directed to produce the child at Court for the hearing of this application.

To the parent(s)—You should come to the hearing of this application.
If you do not attend, the Court may proceed to hear and determine the application in your absence.

Children, Youth and Families (Children's Court Family Division) Rules 2017
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Form 4

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 5

Rule 6

THERAPEUTIC TREATMENT ORDER

Children, Youth and Families Act 2005

Sections 248–250, 256, 257

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

*The Children's Court is satisfied that—

- (a) the child has exhibited sexually abusive behaviours; **and**
- (b) a therapeutic treatment order is necessary to ensure the child's access to, or attendance at, an appropriate therapeutic treatment program.

*The Children's Court grants an application to extend the current therapeutic treatment order in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the current therapeutic treatment order in respect of the child.

Details of the order

*The Court makes a therapeutic treatment order.

*The Court orders that the current therapeutic treatment order be extended.

*The Court orders that the condition(s) of the current therapeutic treatment order be varied.

The child is required to participate in a therapeutic treatment program
[*give details of program, agency and address*].

*[Name] is to take any necessary steps to enable the child to participate in the therapeutic treatment program.

*The child is to permit reports of his or her progress and attendance at the therapeutic treatment program to be given to the Secretary.

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Form 5

*Any other conditions [*specify*].

This therapeutic treatment order remains in force until [*end date*].

Order made at— [*venue name*]

Date—

*Judge/*Magistrate

* Delete if not applicable

Note

Any statement made by the child when participating in the therapeutic treatment program under this order is not admissible in any criminal proceedings in relation to the child—see section 251 of the Act.

Form 6

Rule 6

APPLICATION FOR THERAPEUTIC TREATMENT (PLACEMENT) ORDER

Children, Youth and Families Act 2005

Section 252

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

The Children's Court at [venue] on [date] made a therapeutic treatment order in respect of the child.

Details of the application

The Secretary applies for a therapeutic treatment (placement) order on the following grounds— [set out grounds].

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Notice to the parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

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Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 7

Rule 6

THERAPEUTIC TREATMENT (PLACEMENT) ORDER

Children, Youth and Families Act 2005

Sections 252–254, 256, 257

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

*The Children's Court made a therapeutic treatment (placement) order in respect of the child and the Children's Court is satisfied that a therapeutic treatment (placement) order is necessary for the treatment of the child.

*The Children's Court grants an application to extend the current therapeutic treatment (placement) order in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the current therapeutic treatment (placement) order in respect of the child.

Details of the order

*The Court makes a therapeutic treatment (placement) order.

*The Court orders that the current therapeutic treatment (placement) order be extended.

*The Court orders that the condition(s) of the current therapeutic treatment (placement) order be varied.

The therapeutic treatment (placement) order grants parental responsibility for the child to the Secretary but does not otherwise affect parental responsibility for the child.

The therapeutic treatment (placement) order has the following conditions—
[set out conditions].

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Form 7

This order remains in force until [*end date*].

Order made at— [*venue name*]

Date—

*Judge/*Magistrate

* Delete if not applicable

Form 8

Rule 6

**APPLICATION TO VARY OR REVOKE A
THERAPEUTIC TREATMENT ORDER OR
THERAPEUTIC TREATMENT (PLACEMENT) ORDER**

Children, Youth and Families Act 2005

Sections 257, 258

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the order sought to be varied or revoked

On the application of— *[full name]*

Agency and address—

Phone—

*The Children's Court at *[venue]* on *[date]* made a therapeutic treatment order.

*The Children's Court at *[venue]* on *[date]* made a therapeutic treatment (placement) order.

Details of the application

This application is—

*to vary the order *[specify conditions to be varied]*.

*to revoke the order.

The grounds for the application are— *[set out grounds]*.

This application is made by—

*the Secretary.

*the child.

*a parent of the child.

Children, Youth and Families (Children's Court Family Division) Rules 2017
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Form 8

Applicant's name—

Address—

Phone—

Date—

[*Signature*]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 9

Rule 6

**APPLICATION FOR EXTENSION
OF THERAPEUTIC TREATMENT ORDER OR
THERAPEUTIC TREATMENT (PLACEMENT) ORDER**

Children, Youth and Families Act 2005

Section 255

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the order sought to be extended

*The Children's Court at [venue] on [date] made a therapeutic treatment order.

*The Children's Court at [venue] on [date] made a therapeutic treatment (placement) order.

Details of the application

The Secretary applies for an extension of—

*the therapeutic treatment order.

*the therapeutic treatment (placement) order.

The grounds for the application are— [set out grounds].

Applicant's name—

Agency and address—

Phone—

[Signature]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 9

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 10

Rule 6

PROTECTION APPLICATION
Children, Youth and Families Act 2005
Sections 240, 243

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Grounds for the application

*The child has been abandoned by his or her parents and after reasonable enquires—

- (i) the parents cannot be found; and
- (ii) no other suitable person can be found who is willing and able to care for the child.

*The child's parents are dead or incapacitated and there is no other suitable person willing and able to care for the child.

*The child has suffered, or is likely to suffer, significant harm as a result of physical injury and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

*The child has suffered, or is likely to suffer, significant harm as a result of sexual abuse and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

*The child has suffered, or is likely to suffer, emotional or psychological harm of such a kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parents have not protected, or are unlikely to protect, the child from harm of that type.

*The child's physical development or health has been, or is likely to be, significantly harmed and the child's parents have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange or allow the provision of, basic care or effective medical, surgical or other remedial care.

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Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

*The child ***has/*has not been placed in emergency care.***

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Reverse

Affidavit/Declaration of Service of Protection Application

Name of Child—

I [full name] of [address]

[occupation]

*swear/declare that I served a true copy of this notice on—

[name of person served] who is the [capacity e.g. mother/father/child] on
[insert time and date]

by—

*delivering it to *him/her personally at [address].

*leaving it for *him/her at [address] being that person's last known place of
*residence/*business with a person who apparently resided or worked there
and who apparently was not less than 16 years of age.

*posting it by prepaid ordinary post at [address of posting] in an envelope
addressed to that person at his or her last known place of *residence/
*business at [address]. I obtained this address from [insert relevant details].

AND on [name of person served] who is the [capacity e.g. mother/father/
child] on [insert time and date] by—

*delivering it to *him/her personally at [address].

*leaving it for *him/her at [address] being that person's last known place of
*residence/*business with a person who apparently resided or worked there
and who apparently was not less than 16 years of age.

*posting it by prepaid ordinary post at [address of posting] in an envelope
addressed to that person at his or her last known place of *residence/
*business at [address]. I obtained this address from [insert relevant details].

AND on [name of person served] who is the [capacity e.g. mother/father/
child] on [insert time and date] by—

*delivering it to *him/her personally at [address].

*leaving it for *him/her at [address] being that person's last known place of
*residence/*business with a person who apparently resided or worked there
and who apparently was not less than 16 years of age.

*posting it by prepaid ordinary post at [address of posting] in an envelope
addressed to that person at his or her last known place of *residence/
*business at [address]. I obtained this address from [insert relevant details].

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*Sworn at in the State of Victoria

on [date]

[Signature of person making affidavit]

Before—

[Name and address in legible writing, typing or stamp]

OR

*I acknowledge that this declaration is true and correct and make it in the belief that a person making a false declaration is liable to the penalties of perjury.

Declared at in the State of Victoria

on [date]

[Signature of person making declaration]

Before—

[Name and address of person taking the declaration in legible writing, typing or stamp]

* Delete if not applicable

Form 11

Rule 6

IRRECONCILABLE DIFFERENCES APPLICATION

Children, Youth and Families Act 2005

Sections 259, 260

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the application

Name of Parent or Person who has parental responsibility—

Address—

Relationship to the Child— *Mother/*Father/*Person who has parental
responsibility [*state relationship*]

Grounds for the application

***If the applicant is a person who has parental responsibility for the child**

I believe that there is a substantial and presently irreconcilable difference
between the child and me to such an extent that the care and control of the
child are likely to be seriously disrupted.

***If the applicant is the child**

I believe that there is a substantial and presently irreconcilable difference
between me and the person who has parental responsibility for me to such an
extent that my care and control are likely to be seriously disrupted.

Applicant's name—

Agency and address—

Phone—

Date—

[*Signature*]

Children, Youth and Families (Children's Court Family Division) Rules 2017
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Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s) or person who has parental responsibility for the child—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 12

Rule 6

INTERIM ACCOMMODATION ORDER

Children, Youth and Families Act 2005

Sections 262, 263

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

Grounds for making this interim accommodation order

[*set out grounds*]

A hearing in this case will take place at [*insert time and date*] at the Children's Court at [*venue name and address*].

Interim accommodation order

Until further order, I order that the child is to be—

*released pending the hearing, or the resumption of the hearing.

*released into the care of [*name of parent*] who is the child's parent pending the hearing, or the resumption of the hearing.

*placed with [*name of person(s)*] who *is a suitable person/are suitable persons pending that hearing, or the resumption of, the hearing, and following a report (whether oral or written) from the Secretary on that person's or those persons' suitability.

*placed in an out-of-home care service pending that hearing or resumption.

*placed in a secure welfare service pending that hearing or resumption as there is a substantial and immediate risk of harm to the child.

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*placed in a declared hospital on the provision to the Court or bail justice of a statement in the prescribed form by or on behalf of the chief executive of the hospital that a bed is available for the child at the hospital.

*placed with a disability service provider within the meaning of the **Disability Act 2006**.

*placed in a declared parent and baby unit on the provision to the Court or bail justice of a statement in the prescribed form by or on behalf of the chief executive of the agency managing the parent and baby unit that a place is available for the child at the parent and baby unit.

The following conditions apply to this Order [*set out conditions*]

Order made at [*venue name*]

on [*date*]

*Judge/*Magistrate/*Bail Justice

* Delete if not applicable

Form 13

Rule 7

STATEMENT OF PLACEMENT AVAILABILITY

Children, Youth and Families Act 2005

Section 263(1)(f) and (g)

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

I, *[name]* *being the/*on behalf of the chief executive officer of *[name of hospital or name of agency managing a declared parent and baby unit]* state that there is a *bed/*place available for *[name of child]* at *[name of hospital or name of declared parent and baby unit]*.

Date—

[Signature]

Name—

* Delete if not applicable

Form 14

Rule 6

APPLICATION TO VARY AN INTERIM ACCOMMODATION ORDER OR FOR A NEW INTERIM ACCOMMODATION ORDER

Children, Youth and Families Act 2005

Sections 268, 270

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the interim accommodation order

The Children's Court at [venue] on [date] made an interim accommodation order.

Details of this application

This application is—

*to vary the order.

*for a new interim accommodation order.

The grounds for the application are— [set out grounds]

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Note

The applicant must give notice of this application to the person who applied for the interim accommodation order and any other party to the proceeding in which that order was made and any person with whom the child is living.

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Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 15

Rule 6

**APPLICATION TO VARY AN INTERIM
ACCOMMODATION ORDER OR FOR A NEW
INTERIM ACCOMMODATION ORDER—
INTERIM ACCOMMODATION ORDER MADE UNDER
SECTION 262(1)(C)**

Children, Youth and Families Act 2005

Sections 268, 270

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the interim accommodation order

The Children's Court at [*venue*] on [*date*] made an interim accommodation order under section 262(1)(c) of the Act.

Details of this application

This application is—

*to vary the order.

*for a new interim accommodation order.

The grounds for the application are— [*set out grounds*]

Applicant's name—

Agency and address—

Phone—

Date—

[*Signature*]

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Note

The applicant must give notice of this application to the person who applied for the interim accommodation order and any other party to the proceeding in which that order was made and any person with whom the child is living.

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are directed to appear at Court for the hearing of this application.

***To the parent(s) or other person with whom the child is living**—You are directed to produce the child at Court for the hearing of this application.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 16

Rule 6

NOTICE OF HEARING—BREACH OF AN INTERIM ACCOMMODATION ORDER

Children, Youth and Families Act 2005

Section 269

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the interim accommodation order

The Children's Court at [venue] on [date] made an interim accommodation order.

Details of this notice

Reason for the service of this notice—

The interim accommodation order or any condition of the order has not been, or is not being complied with [*give details*].

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

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Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 17

Rule 6

**NOTICE OF HEARING—BREACH OF AN
INTERIM ACCOMMODATION ORDER MADE
UNDER SECTION 262(1)(C)**

Children, Youth and Families Act 2005

Section 269

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the interim accommodation order

The Children's Court at [venue] on [date] made an interim accommodation order under section 262(1)(c) of the Act.

Details of this notice

Reason for the service of this notice—

The interim accommodation order or any condition of the order has not been, or is not being complied with [give details].

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are directed to appear at Court for the hearing of this application.

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***To the parent(s) or other person with whom the child is living**—You are directed to produce the child at Court for the hearing of this application.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 18

Rule 6

UNDERTAKING—PROTECTIVE INTERVENTION

Children, Youth and Families Act 2005

Sections 272, 273

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

*The Children's Court makes an order requiring an undertaking to be given by a person.

*The Children's Court grants an application to vary the current undertaking or the condition(s) of the current undertaking and the undertaking or condition(s) of the undertaking are varied.

Details of the undertaking

[*Name*], *the child/*the parent of the child/*the person with whom the child is living, gives the following undertaking— [*set out details of undertaking*].

This undertaking remains in force until [*end date*].

I consent to the making of this order and agree to comply with this undertaking.

[*Signature*]

*Child/*Parent/*Person with whom the child is living

Order made at— [*venue name*]

on— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Form 19

Rule 6

UNDERTAKING—PROTECTION ORDER

Children, Youth and Families Act 2005

Sections 278, 279

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

*The Children's Court *has found/*finds that the child is in need of protection. The Court makes an order requiring an undertaking to be given.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has parental responsibility for the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted. The Court makes an order requiring an undertaking to be given.

*The Children's Court grants an application to vary the current undertaking or the condition(s) of the current undertaking in respect of the child and the undertaking or condition/s of the undertaking are varied.

*The Children's Court grants an application to revoke the current protection order in respect of the child and makes an order requiring a person to give an undertaking.

*On an application for a care by Secretary order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist. The Court makes an order requiring an undertaking to be given.

*On an application for a long-term care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist. The Court makes an order requiring an undertaking to be given.

*On an application for a permanent care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist. The Court makes an order requiring an undertaking to be given.

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Details of the undertaking

[*Name*], *the child/*the parent of the child/*the person with whom the child is living gives the following undertaking— [*set out details of undertaking*].

This undertaking remains in force until [*end date*].

I consent to the making of this order and agree to comply with this undertaking.

[*Signature*]

*Child/*Parent/*Person with whom the child is living

Order made at— [*venue name*]

on— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Form 20

Rule 6

APPLICATION TO VARY OR REVOKE AN UNDERTAKING

Children, Youth and Families Act 2005

Sections 273, 279

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the undertaking

The Children's Court at [venue] on [date] made an order requiring the
*child/*parent/*person with whom the child is living [specify] to give an
undertaking pursuant to section *272/*278 of the Act.

Details of the application

This application is—

*to vary the undertaking [specify the conditions to be varied].

*to revoke the undertaking.

The grounds for the application are— [set out grounds].

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this
application unless you wish to do so.

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To the parent(s) or person with whom child is living—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 21

Rule 6

FAMILY PRESERVATION ORDER

Children, Youth and Families Act 2005

Sections 280–282, 293–296, 298–301, 310, 318

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has parental responsibility for the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the current family preservation order in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the current family preservation order in respect of the child.

*The Children's Court grants an application to revoke the current protection order and a family preservation order is made in respect of the child.

*The Children's Court finds proved a breach of the current protection order in respect of the child.

*The Children's Court grants an application by the Secretary to include condition(s) on the current family preservation order in respect of the child.

*On an application for a care by Secretary order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

*On an application for a long-term care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

*On an application for a permanent care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

Details of the order

*The Court orders that the child be placed on a family preservation order.

*The Court orders that the current family preservation order be extended.

*The Court orders that the condition(s) of the current family preservation order be varied.

*The Court orders that the current family preservation order includes conditions.

This order remains in force *until [*end date*]/*until the current application to extend the order is determined by the Court/*until the current application for a care by Secretary order is determined by the Court/*until the current application for a long-term care order is determined by the Court/*until the current application for a permanent care order is determined by the Court.

The child is placed in the day to day care of the child's parent(s) [*name(s)*].

A family preservation order gives the Secretary responsibility for the supervision of the child but does not affect a person's parental responsibility for the child.

The following conditions apply to this family preservation order— [*set out conditions*]

*[*If the order remains in force for a period exceeding 12 months from (date)*—The Court directs the Secretary to review the operation of this order before the end of the period of 12 months after the making of this order.

Following a review, the Secretary, with the agreement of the child (if the child is aged 10 years or older) and the child's parent, may determine that the order should end. The Secretary must notify the Court of such a determination and must notify the child (if the child is aged 10 years or older), the child's parent and the following person(s) [*specify*] if the order ends.

Order made at— [*venue name*]

on— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Form 22

Rule 6

FAMILY REUNIFICATION ORDER

Children, Youth and Families Act 2005

Sections 287, 287A, 293–302, 310

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has parental responsibility for the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the current family reunification order in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the current family reunification order in respect of the child.

*The Children's Court grants an application to revoke the current protection order and a family reunification order is made in respect of the child.

*The Children's Court finds proved a breach of the current protection order in respect of the child.

*On an application for a care by Secretary order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

*On an application for a long-term care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

*On an application for a permanent care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

Details of the order

*The Court orders that parental responsibility for the child and responsibility for the sole care of the child be conferred on the Secretary.

*The Court orders that the current family reunification order be extended.

*The Court orders that the condition(s) of the current family reunification order be varied.

*This order is an interim variation pending the final determination of the application to vary the current family reunification order.

*This order remains in force *until [*end date*]/*until the current application to extend the order is determined by the Court/*until the current application for a care by Secretary order is determined by the Court/*until the current application for a long-term care order is determined by the Court/*until the current application for a permanent care order is determined by the Court.

The following conditions apply to this family reunification order [*set out conditions*]

Order made at— [*venue name*]

on— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Notes

The conferral of parental responsibility on the Secretary does not affect the parental responsibility of any other person for the child in relation to making decisions about major long term issues except as provided for under the Act or by an order of the Court—see section 287(2) of the Act.

While the order is in force, the Secretary may direct that a parent or parents of the child are to resume parental responsibility for the child to the exclusion of the Secretary. If the Secretary gives that direction, on and from the date of the direction—

- (a) the Secretary ceases to have parental responsibility for the child; and
- (b) the parent resumes parental responsibility for the child as specified in the direction; and
- (c) the family reunification order is taken to be a family preservation order giving the Secretary responsibility for the supervision of the child and placing the child in the day to day care of the parent or parents who have parental responsibility for the child; and

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- (d) the conditions of the family reunification order continue to apply as conditions of the family preservation order.

See section 288A of the Act.

Form 23

Rule 6

APPLICATION BY SECRETARY FOR CARE BY SECRETARY ORDER

Children, Youth and Families Act 2005

Section 289(1A)

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

*The Children's Court at [venue] on [date] made or last extended a [insert type of order] order (or a protection order subsequently taken to be such an order).

*The Secretary has directed that on [date] a parent or parents of the child resume parental responsibility for the child to the exclusion of the Secretary and accordingly:

*pursuant to section 288A(1)(c) of the Act, the family reunification order has been taken to be a family preservation order.

*pursuant to section 289A(1)(c) of the Act, the care by Secretary order has been taken to be a family preservation order.

Details of the application

The Secretary applies for a care by Secretary order.

The grounds for the application are— [set out grounds]

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

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Notice to the parties

To the Applicant—You must come to the hearing of this application.

To the child—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 24

Rule 6

CARE BY SECRETARY ORDER

Children, Youth and Families Act 2005

Sections 289, 293–298, 308, 310

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has parental responsibility for the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to extend the current care by Secretary order in respect of the child.

*The Children's Court grants an application to revoke the current protection order and a care by Secretary order is made in respect of the child.

*The Children's Court finds proved a breach of the current protection order in respect of the child.

*The Children's Court grants an application for a care by Secretary order.

*On an application for a long-term care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

*On an application for a permanent care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

Details of the order

*The Court orders that parental responsibility for the child be conferred on the Secretary to the exclusion of all other persons.

*The Court orders that the current care by Secretary order be extended.

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*This order remains in force until [*end date*] but ceases to be in force when the child attains the age of 18 years or when the child marries, whichever happens first.

*The Court directs the Secretary to review the operation of this order before the end of the period of 12 months after the making of this order.

Following a review, the Secretary, with the agreement of the child (if the child is aged 10 years or older) and the child's parent, may determine that the order should end. The Secretary must notify the Court of such a determination and must notify the child (if the child is aged 10 years or older), the child's parent and the following person(s) [*specify*] if the order ends.

Order made at— [*venue name*]

on— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Note

While the order is in force, the Secretary may direct that a parent or parents of the child are to resume parental responsibility for the child to the exclusion of the Secretary. If the Secretary gives that direction, on and from the date of the direction—

- (a) the Secretary ceases to have parental responsibility for the child; and
- (b) the parent resumes parental responsibility for the child as specified in the direction; and
- (c) the care by Secretary order is taken to be a family preservation order giving the Secretary responsibility for the supervision of the child and placing the child in the day to day care of the parent or parents who have parental responsibility for the child; and
- (d) the Secretary may apply to the Court to determine that the order is to include conditions.

See section 289A of the Act.

Form 25

Rule 6

APPLICATION BY SECRETARY FOR LONG-TERM CARE ORDER

Children, Youth and Families Act 2005

Section 290(1A)

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

*The Children's Court at [venue] on [date] made or last extended a [insert type of order] order (or a protection order subsequently taken to be such an order).

*The Secretary has directed that on [date] a parent or parents of the child resume parental responsibility for the child to the exclusion of the Secretary and accordingly:

*pursuant to section 288A(1)(c) of the Act, the family reunification order has been taken to be a family preservation order.

*pursuant to section 289A(1)(c) of the Act, the care by Secretary order has been taken to be a family preservation order.

Details of the application

The Secretary applies for a long-term care order.

The grounds for the application are— [set out grounds]

Applicant's name—

Agency and address—

Phone—

Date—

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 25

Notice to the parties

To the Applicant—You must come to the hearing of this application.

To the child—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 26

Rule 6

LONG-TERM CARE ORDER
Children, Youth and Families Act 2005
Sections 290, 310

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

*The Children's Court *has found/*finds that the child is in need of protection.

*The Children's Court *has found/*finds that there is a substantial and irreconcilable difference between the person who has parental responsibility for the child and the child to such an extent that the care and control of the child are likely to be seriously disrupted.

*The Children's Court grants an application to revoke the current protection order and a long-term care order is made in respect of the child.

*The Children's Court finds proved a breach of the current protection order in respect of the child.

*On an application for a care by Secretary order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

*The Children's Court grants an application for a long-term care order.

*On an application for a permanent care order, the Children's Court decides not to make that order but is satisfied that the grounds for making a finding under section 274 of the Act still exist.

The Court is satisfied that—

- (a) there is a person or persons available with whom the child will continue to live for the duration of the order; and
- (b) the person or persons referred to in paragraph (a) will not consent to the making of a permanent care order; and
- (c) the Secretary consents to the making of the order; and

- (d) if the child is of or over the age of 10 years, the child does not oppose the making of the order; and
- (e) the making of the order is in the best interests of the child.

Details of the order

The Court orders that parental responsibility for the child be conferred on the Secretary to the exclusion of all other persons.

This order remains in force until the child attains the age of 18 years or marries, whichever happens first.

The Court directs the Secretary to review the operation of this order before the end of each period of 12 months after the making of this order.

Following a review, the Secretary, with the agreement of the child (if the child is aged 10 years or older) and the child's parent, may determine that the order should end. The Secretary must notify the Court of such a determination and must notify the child (if the child is aged 10 years or older), the child's parent and the following person(s) [*specify*] if the order ends.

Order made at— [*venue name*]

On— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Form 27

Rule 6

APPLICATION FOR EXTENSION OF A PROTECTION ORDER

Children, Youth and Families Act 2005

Sections 293, 294

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made or last extended—

*a family preservation order

*a family reunification order

*a care by Secretary order

(or a protection order subsequently taken to be such an order)

in respect of the child until [end date].

*The Secretary has directed that on [date] a parent or parents of the child resume parental responsibility for the child to the exclusion of the Secretary and accordingly:

*the family reunification order has been taken to be a family preservation order.

*the care by Secretary order has been taken to be a family preservation order.

Details of the application

The Secretary applies for an extension of—

*the family preservation order for a period of [insert period].

*the family reunification order until [insert date].

*the care by Secretary order.

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 27

Applicant's name—

Agency and address—

Phone—

Date—

[*Signature*]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 28

Rule 6

APPLICATION TO VARY OR REVOKE A FAMILY PRESERVATION ORDER OR FAMILY REUNIFICATION ORDER

Children, Youth and Families Act 2005

Sections 300, 304

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made or last extended—

- * a family preservation order
- * a family reunification order
- * a care by Secretary order

(or a protection order subsequently taken to be such an order)
in respect of the child.

*The Secretary has directed that on [date] a parent or parents of the child resume parental responsibility for the child to the exclusion of the Secretary and accordingly:

- * the family reunification order has been taken to be a family preservation order.
- * the care by Secretary order has been taken to be a family preservation order.

Details of this application

This application is—

- *to vary the order [*specify the variation sought*]
- *to revoke the order

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 28

The grounds for the application are—[*set out grounds*]

This application is made by—

*the child

*a parent of the child

*the Secretary

Applicant's name—

Address—

Phone—

Date—

[*Signature*]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 29

Rule 6

APPLICATION TO VARY A FAMILY REUNIFICATION ORDER WITHOUT NOTICE

Children, Youth and Families Act 2005

Section 300A

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made or last extended a family reunification order (or a protection order subsequently taken to be such an order) in respect of the child.

Details of the application

This application is to vary the conditions of a family reunification order without serving notice under section 277 of the Act.

[specify the variation sought]

The Secretary is satisfied that—

- (a) there has been an unexpected change in circumstances; and
- (b) the application is necessary for the safety and wellbeing of the child.

The grounds for the application are—[set out grounds]

This application is made by the Secretary.

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 29

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 30

Rule 6

APPLICATION TO REVOKE A CARE BY SECRETARY ORDER

Children, Youth and Families Act 2005

Section 305

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made or last extended a care by Secretary order (or an order subsequently taken to be such an order) in respect of the child.

Details of the application

This application is made on the grounds that—

*circumstances have changed since the making of the care by Secretary order and the applicant has asked the Secretary to review the case plan and the Secretary has either refused to review the case plan or has reviewed it in a way which the applicant finds unsatisfactory.

*[State any other grounds]

This application is made by—

*the Secretary

*the child

*a parent of the child

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 30

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 31

Rule 6

APPLICATION TO REVOKE A LONG-TERM CARE ORDER

Children, Youth and Families Act 2005

Section 306

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made a long-term care order (or a protection order subsequently taken to be such an order) in respect of the child.

Details of the application

This application is to revoke the order.

The grounds for the application are— [set out grounds]

This application is made by—

*the Secretary

*the child

*a parent of the child

[If this application is made by a parent of the child and the order has been in force for more than 12 months]

*I hereby apply for leave pursuant to section 306(3) of the Act to make this application.

Applicant's name—

Address—

Phone—

Date—

[Signature]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 31

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 32

Rule 6

**APPLICATION TO INCLUDE CONDITIONS IN A FAMILY
PRESERVATION ORDER (WHERE CARE BY SECRETARY
ORDER TAKEN TO BE FAMILY PRESERVATION ORDER)**

Children, Youth and Families Act 2005

Section 289A(3)

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made a care by Secretary order.
The Secretary on [date] directed that a parent or parents of the child
resume parental responsibility for the child and accordingly pursuant to
section 289A(1)(c) of the Act, the care by Secretary order has been taken to
be a family preservation order.

Details of the application

This application is to include conditions in the family preservation order.

[specify conditions sought]

This application is made by the Secretary.

Applicant's name—

Agency and address—

Phone—

Date—

[Signature]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 32

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application, unless the Court does not require you to attend. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 33

Rule 6

APPLICATION FOR PERMANENT CARE ORDER

Children, Youth and Families Act 2005

Section 320

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the application

Applicant's name—

Agency and address—

Phone—

[Signature]

Name of child's mother—

Address—

Name of child's father—

Address—

Name of proposed carer 1—

Address—

Name of proposed carer 2—

Address—

Relationship of proposed carer(s) to child—

*Relative(s)— [*specify*]

*Foster parent(s)

*Other— [*specify*]

The applicant applies for a permanent care order in respect of the child.

A protection order **is/*is not* in force in respect of the child. [*If a protection order is in force, set out relevant details*]

An application to revoke the protection order **has/*has not* been made.

It **has/*has not* been determined.

There **are/*are not* current proceedings under the Family Law Act 1975 of the Commonwealth with respect to parental responsibility for the child, being a proceeding commenced by a person who is not a parent of the child, details of which are as follows— [*set out details, including who commenced such proceedings*]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s) and proposed carer(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 34

Rule 6

PERMANENT CARE ORDER
Children, Youth and Families Act 2005
Sections 319, 321

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Name of child's mother—

Address—

Name of child's father—

Address—

*The Children's Court grants a permanent care application in respect of the child.

*The Children's Court grants an application to vary the condition(s) of the current permanent care order in respect of the child.

Details of the order

*The Court makes a permanent care order.

*The Court orders that the condition(s) of the current permanent care order be varied.

Parental responsibility for the child is conferred on—

Name—

Address—

Name—

Address—

*to the exclusion of all other persons.

*Parental responsibility for the child is conferred jointly on—[*names and addresses*]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 34

The following conditions apply to this permanent care order—
[*set out conditions*]

Order made at— [*venue*]
on— [*date*]

*Judge/*Magistrate

* Delete if not applicable

Form 35

Rule 6

APPLICATION TO VARY OR REVOKE A PERMANENT CARE ORDER

Children, Youth and Families Act 2005

Section 326

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Applicant's name—

Agency and address—

Phone—

Details of the current order

The Children's Court at [venue] on [date] made a permanent care order conferring parental responsibility for the child on [names and addresses of permanent care parents].

Details of the application

This application is—

*to vary the permanent care order

*to revoke the permanent care order

The grounds for the application are—

[set out grounds]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 35

The application is made by—

*the child

*a permanent care parent of the child

*the Secretary

*a sibling of the child [*application to vary the order only*]

*a parent who does not have parental responsibility for the child

[*must have leave of the Court to make the application: see Form 36*]

Date—

[*Signature*]

Notice to the parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parents and permanent care parents—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing of the application

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Note

Pursuant to section 326(1)(b) of the Act, an application made by a parent who does not have parental responsibility for the child to vary or revoke a permanent care order may only be made with the leave of the Court.

Under section 326(2A) of the Act, such an application must not be served on the child or the permanent care parents unless the leave of the Court has been granted.

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 35

Pursuant to section 326(1B) of the Act, an application to vary a permanent care order by a parent who does not have parental responsibility for the child made within 12 months of the making of the permanent care order may only be made on the basis that a contact condition in the order has not been complied with.

Form 36

Rule 6

APPLICATION FOR LEAVE OF THE COURT TO MAKE APPLICATION TO VARY OR REVOKE A PERMANENT CARE ORDER

Children, Youth and Families Act 2005

Section 326

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Applicant's name—

Address—

Phone—

**I [name of applicant who is a parent who does not have parental responsibility for the child] apply for leave pursuant to section 326(1)(b) and (1C) of the Act to make an application to vary or revoke the permanent care order.*

Details of the current order

The Children's Court at [venue] on [date] made a permanent care order conferring parental responsibility for the child on [names and addresses of permanent care parents].

Details of the application for leave

This application is for leave to make an application—

*to vary the permanent care order.

*to revoke the permanent care order.

The grounds for the application for leave to apply are—

[*set out grounds*]

Date—

[*Signature*]

Notice to parties

The Applicant must come to the hearing of the application for leave.

The Secretary should come to the hearing of the application for leave.

***Details of the hearing of the application for leave**

A hearing of the application for leave to make an application to vary or revoke the permanent care order will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Notes

Pursuant to section 326(1)(b) of the Act, an application made by a parent who does not have parental responsibility for the child to vary or revoke a permanent care order may only be made with the leave of the Court.

Under section 326(2A) of the Act, an application to vary or revoke a permanent care order must not be served on the child or the permanent care parents unless the leave of the Court has been granted.

Pursuant to section 326(1B) of the Act, an application to vary a permanent care order by a parent who does not have parental responsibility for the child made within 12 months of the making of the permanent care order may only be made on the basis that a contact condition in the order has not been complied with.

Form 37

Rule 6

NOTICE OF HEARING—BREACH OF FAMILY PRESERVATION ORDER

Children, Youth and Families Act 2005

Section 312

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the current order

The Children's Court at [venue] on [date] made or last extended—

*a family preservation order

*a family reunification order

*a care by Secretary order

(or a protection order subsequently taken to be such an order) in respect of the child.

*The Secretary has directed that on [date] a parent or parents of the child resume parental responsibility for the child to the exclusion of the Secretary and accordingly:

*the family reunification order has been taken to be a family preservation order.

*the care by Secretary order has been taken to be a family preservation order.

Details of the notice

Reason for the service of this notice—

*There has been a failure to comply with a condition of the order

[give details]

*There has been a failure to comply with a direction given by the Secretary under section 282(2) of the Act. Details of the failure are—

[set out relevant details]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 37

*The child is living in conditions which are unsatisfactory in terms of the safety and wellbeing of the child. The unsatisfactory conditions are—

[*give details*]

Applicant's name—

Agency and address—

Phone—

Date—

[*Signature*]

Notice to parties

To the Applicant—You must come to the hearing of this application.

***To the child**—You are not required to come to the hearing of this application unless you wish to do so.

To the parent(s)—You should come to the hearing of this application. If you do not attend, the Court may proceed to hear and determine the application in your absence.

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 38

Rule 6

APPLICATION TO RESTRICT ACCESS TO A REPORT

Children, Youth and Families Act 2005

Sections 556, 559, 566, 570

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

Details of the order for the report

The Children's Court at [venue] on [date] ordered the Secretary to submit to the Court the following report concerning the child named above—

*protection report

*disposition report

*therapeutic treatment application report

*therapeutic treatment (placement) report

The report is to be considered at a hearing of the relevant application on [date].

Details of this application

I apply to the Court for an order restricting access by—

*the child who is the subject of the report

*the child's parent

*the following party to the proceeding— [insert name of party]

*any other person specified by the Court namely— [insert name of person specified]

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 38

I seek that access be restricted to—

*the whole report

*a part of the report [*specify*]

This application is based on the grounds that the information in the report or the part of the report may be prejudicial to the physical or mental health of the child or a parent of the child.

Applicant's name—

Agency and address—

Phone—

Date—

[*Signature*]

Details of the hearing

A hearing of this application will be held at [*insert time and date*] at the Children's Court at [*venue name and address*].

Issued at—

Date—

Registrar

* Delete if not applicable

Form 39

Rule 8

CHILDREN'S COURT SEARCH WARRANT (EMERGENCY CARE)

Children, Youth and Families Act 2005

Sections 237, 241–243, 247, 247A, 261, 268–270, 313–315, 598

Court Ref.—

Name or description of Child—

Gender—

Date of Birth—

AUTHORITY AND DIRECTIONS

To [*name of a member of the police force*] or [*all members of the police force*]

You are authorised to:

break, enter and search any place where the child named or described in this warrant is suspected to be and place in emergency care the child named or described in this warrant;

AND if the warrant is issued under section 237 of the Act,

to bring the child to the Secretary of the Department of Health and Human Services to enable the Secretary to exercise his or her powers under the temporary assessment order.

AND if the warrant is issued under section 241, 243, 261, 313 or 314 of the Act, or is issued under section 268 or 270 of the Act and the child is not the subject of an interim accommodation order made under section 262(1)(c) of the Act,

the Court must hear an application for an interim accommodation order in respect of the child as soon as practicable and, in any event, within one working day after the child is placed in emergency care. Unless the Court hears an application for an interim accommodation order within 24 hours after the child was placed in emergency care, a bail justice must hear an application for an interim accommodation order in respect of the child as soon as possible within that period of 24 hours.

*release the child on an interim accommodation order of the type referred to in section 263(1)(a) or (b) of the Act in accordance with the endorsement below.

OR if the warrant is issued under section 247 of the Act, or is issued under section 268 or 270 of the Act and the child is the subject of an interim accommodation order made under section 262(1)(c) of the Act, to

bring the child before the Court for the hearing of an application for an interim accommodation order as soon as practicable and, in any event, within one working day after the child was placed in emergency care. Unless the child is brought before the Court within 24 hours after the child was placed in emergency care, he or she must be brought before a bail justice as soon as possible within that period of 24 hours for the hearing of an application for an interim accommodation order.

*release the child on an interim accommodation order of the type referred to in section 263(1)(a) or (b) of the Act in accordance with the endorsement below.

OR if the warrant is issued under section 269 of the Act, and the child is not the subject of an interim accommodation order made under section 262(1)(c) of the Act,

the Court must hear an application under section 269(7) of the Act as soon as practicable and, in any event, within one working day after the child is placed in emergency care. Unless the Court hears the application within 24 hours after the child was placed in emergency care, a bail justice must hear the application as soon as possible within that period of 24 hours.

*release the child on an interim accommodation order of the type referred to in section 263(1)(a) or (b) of the Act in accordance with the endorsement below.

OR if the warrant is issued under section 269 of the Act and the child is the subject of an interim accommodation order made under section 262(1)(c) of the Act, to

bring the child before the Court for the hearing of an application under section 269(7) of the Act as soon as practicable and, in any event, within one working day after the child was placed in emergency care. Unless the child is brought before the Court within 24 hours after the child was placed in emergency care, he or she must be brought before a bail justice as soon as possible within that period of 24 hours for the hearing of the application.

*release the child on an interim accommodation order of the type referred to in section 263(1)(a) or (b) of the Act in accordance with the endorsement below.

Children, Youth and Families (Children's Court Family Division) Rules 2017
S.R. No. 20/2017
Form 39

OR if the warrant is issued under section 598(1)(a) of the Act, to bring the child before the Court as soon as practicable and, in any event, within one working day after the child was placed in emergency care.

OR if the warrant is issued under section 598(1)(b) or (c) of the Act, the member of the police force who executed this warrant or another member of the police force must take the child to the place specified in this warrant or, if no place is specified, to a place determined by the Secretary of the Department of Health and Human Services or, in the absence of a determination, to a place referred to in section 173 of the Act.

Place specified— *[insert details]*

ENDORSEMENTS

*The child may be released on an interim accommodation order, and the further hearing of this matter will be held at the Children's Court at *[venue]* at *[insert time and date]*.

*The child is to appear for the further hearing of this matter at the Children's Court.

Applicant's name—

Agency and address—

Phone—

Issued at—

Date—

*Judge/*Magistrate

* Delete if not applicable

Form 40

Rule 6

UNDERTAKING TO APPEAR OR PRODUCE CHILD— ADJOURNMENT

Children, Youth and Families Act 2005

Section 530(2)

Court Ref.—

Name of Child—

Gender—

Date of Birth—

Address—

The Children's Court at [venue] on [date] made an order requiring the following undertaking be given:

Details of the undertaking

*I [name of child] of [address] undertake to appear before the Children's Court at [venue] on [date] at [time] for the resumption of the hearing of the proceeding.

*[Name] of [address] undertakes to produce the child named [child's name] before the Children's Court at [venue] on [date] at [time] for the resumption of the hearing of the proceeding.

[Signature]

*Child/*Parent

Date—

*Judge/*Magistrate

* Delete if not applicable

Form 41

Form 41
substituted by
S.R. No.
185/2018
rule 8.

Rule 9(1)(a)

WITNESS SUMMONS TO ATTEND TO GIVE EVIDENCE

Children, Youth and Families Act 2005

Court Ref.—

To the witness—[*name*]

Gender—

Address—

DETAILS OF THE CASE

Name of Child—

Type of hearing—

Venue—

*Protection application

*Irreconcilable difference application

*Intervention order proceeding

*Other [*specify*]

Name of applicant—

Agency—

Address—

Email address—

Phone—

If this witness summons relates to an intervention order proceeding:

Name of respondent—

*Name of affected family member or protected person—

WITNESS SUMMONS TO ATTEND TO GIVE EVIDENCE

YOU ARE ORDERED to attend to give evidence: see below for details.

Failure to comply with this witness summons without lawful excuse is a contempt of court and may be dealt with accordingly.

You should read all of the Notes set out at the end of this witness summons.

This witness summons must be served a reasonable time before the return date (*See Note 1*).

Date:

[*Seal of the Court*]

Issued at the request of [*name of party*], whose address for service is:

Place:

Email:

Details of witness summons

You are required by this witness summons to attend to give evidence and you must attend as follows unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Children's Court of Victoria at [*insert address the proceeding is listed to be heard at*].

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

*Delete if not applicable

NOTES

Last day for service

1. Subject to Note 2, you need not comply with the witness summons unless it is served on you a reasonable time before the date specified in the witness summons to attend to give evidence.

Service

2. This witness summons may be served—
 - (a) by delivering a true copy of the witness summons to you personally; or
 - (b) by leaving a true copy of the witness summons for you at your last or most usual place of residence or business with a person who apparently resides or works there and who apparently is not less than 16 years of age.

Addressee a corporation

3. If the witness summons is addressed to a corporation, the corporation must comply with the witness summons by its appropriate or proper officer.

Conduct money

4. You are excused from complying with the witness summons unless conduct money is given or tendered to you at the time of service of the witness summons or a reasonable time before the day on which your attendance is required.
5. However you are not entitled to conduct money if you will not reasonably incur any expenses in complying with the witness summons.

Applications in relation to witness summons

6. You have the right to apply to the Court for an order setting aside the witness summons (or a part of it) or for relief in respect of the witness summons.

Contempt of court

7. Failure to comply with a witness summons without lawful excuse is a contempt of court and may be dealt with accordingly.

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Form 41A
inserted by
S.R. No.
185/2018
rule 8,
amended by
S.R. No.
3/2019 rule 8.

Form 41A

Rule 9(1)(b)

WITNESS SUMMONS TO PRODUCE

Children, Youth and Families Act 2005

Court Ref.—

To the witness—[*name*]

Gender—

Address—

DETAILS OF THE CASE

Name of Child—

Type of hearing—

Venue—

*Protection application

*Irreconcilable difference application

*Intervention order proceeding

*Other [*specify*]

Name of applicant—

Agency—

Address—

Email address—

Phone—

If this witness summons relates to an intervention order proceeding:

Name of respondent—

*Name of affected family member or protected person—

WITNESS SUMMONS TO PRODUCE

YOU ARE ORDERED to attend to produce this witness summons or a copy of it and the documents or things specified in the Schedule of documents: see below for details.

Failure to comply with this witness summons without lawful excuse is a contempt of court and may be dealt with accordingly.

You should read all of the Notes set out in this witness summons. Also, you must complete the Declaration by Addressee (Witness Summons Recipient) set out at the end of this witness summons.

This witness summons must be served a reasonable time before the return date (*See Note 1*).

Date:

[*Seal of the Court*]

Issued at the request of [*name of party*], whose address for service is:

Place:

Email:

Details of witness summons

You must comply with this witness summons by attending to produce this witness summons or a copy of it and the documents or things specified in the Schedule of documents below—

- (a) at the date, time and place specified for attendance and production; or
- (b) by attending to produce this witness summons or a copy of it and the documents or things specified in the Schedule of documents below to the registry at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not later than 2 clear business days before the first date specified for attendance and production.

Date, time and place at which to attend to produce the witness summons or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

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Place: Children's Court of Victoria at *[insert address the proceeding is listed to be heard at]*.

Address, or any address, to which the witness summons (or copy) and documents or things may be delivered or sent:

The Registry

Children's Court of Victoria at *[insert address the proceeding is listed to be heard at]*.

*Delete if not applicable

SCHEDULE OF DOCUMENTS

The documents and things you must produce are as follows:

[List the documents or things. Attach list if insufficient space.]

NOTES

Last day for service

1. Subject to Note 2, you need not comply with the witness summons unless it is served on you a reasonable time before the date specified in the witness summons to attend to produce documents or things.

Service

2. This witness summons may be served—
 - (a) by delivering a true copy of the witness summons to you personally; or
 - (b) by leaving a true copy of the witness summons for you at your last or most usual place of residence or business with a person who apparently resides or works there and who apparently is not less than 16 years of age.

Addressee a corporation

3. If the witness summons is addressed to a corporation, the corporation must comply with the witness summons by its appropriate or proper officer.

Production of witness summons or copy of it and documents or things to registrar

4. Unless the Court or the registrar issuing the witness summons otherwise directs, instead of producing a document or thing required to be produced at the hearing, you may produce the document or thing, together with a copy of the witness summons, to the registrar so that the document or thing is received not later than 2 clear business days before the first date specified in the witness summons for production.

Objection to inspection

5. If you object to a document or thing produced in response to this witness summons being inspected by a party to the proceeding or any other person, you must, before the return date specified in the witness summons, notify the registrar in writing of your objection and of the grounds of your objection.

Production of a number of documents or things

6. If you produce more than one document or thing, you must, if requested by the registrar, produce a list of the documents or things produced.

Production of copy instead of original

7. Unless the witness summons specifically requires you to produce an original, you may produce a copy of any document that the witness summons requires you to produce.
8. Electronic copies of documents can be provided on a USB or CD-ROM in any of the formats referred to in Note 9(b) below.
9. A copy of a document may be—
 - (a) a photocopy; or
 - (b) in an electronic form in any of the following electronic formats—
 - .doc and .docx—Microsoft Word documents
 - .pdf—Adobe Acrobat documents
 - .xls and .xlsx—Microsoft Excel spreadsheets

.jpg—image files

.rtf—rich text format

.gif—graphics interchange format

.tif—tagged image format; or

- (c) in any other appropriate form or format, or on any other appropriate form of storage—
 - (i) directed or ordered by the Court; or
 - (ii) in accordance with any relevant practice direction, statement or note.

Applications in relation to witness summons

- 10. You have the right to apply to the Court for an order setting aside the witness summons (or a part of it) or for relief in respect of the witness summons.

Return of documents and things produced

- 11. Unless the Court otherwise orders, the registrar may return to you any document or thing produced in response to the witness summons.

Disposal of documents produced

- 12. After the conclusion of the proceeding, the registrar may cause to be destroyed all the documents produced by you in compliance with the witness summons which were declared by you to be copies.
- 13. If documents produced by you become exhibits in the proceedings, and have been declared to be copies by you, the registrar may cause those documents to be destroyed when they are no longer required in connection with the proceeding, including on any appeal.

Contempt of court—arrest

- 14. Failure to comply with a witness summons without lawful excuse is a contempt of court and may be dealt with accordingly.

**DECLARATION BY ADDRESSEE (WITNESS
SUMMONS RECIPIENT)**

You must complete the declaration below. The completed declaration must be included in the witness summons or in the copy of the witness summons when you produce the witness summons or the copy with the documents required by the witness summons.

If you declare that the material you produce is copies of documents, the registrar, without further notice to you, may destroy the copies after the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If you declare that the material you produce is or includes any original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

[tick the relevant option below, provide your address as appropriate, sign and date]

All copied documents

All of the material I am providing in compliance with this witness summons is copies of documents and—

- ☐ I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me; or
- ☐ once the copies are no longer required, they should be returned to me at the following address—

[insert address for return of material].

All or some original documents

- ☐ All or some of the material I am providing in compliance with this witness summons is an original document. Once the material is no longer required, all of the material should be returned to me at the following address—

[insert address for return of material].

Date:

[signature of addressee]

[name of addressee]

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Form 41B

Form 41B
inserted by
S.R. No.
185/2018
rule 8,
amended by
S.R. No.
3/2019 rule 9.

Form 41B

Rule 9(1)(c)

WITNESS SUMMONS TO PRODUCE AND TO ATTEND TO GIVE EVIDENCE

Children, Youth and Families Act 2005

Court Ref.—

To the witness—[*name*]

Gender—

Address—

DETAILS OF THE CASE

Name of Child—

Type of hearing—

Venue—

*Protection application

*Irreconcilable difference application

*Intervention order proceeding

*Other [*specify*]

Name of applicant—

Agency—

Address—

Email address—

Phone—

If this witness summons relates to an intervention order proceeding:

Name of respondent—

*Name of affected family member or protected person—

**WITNESS SUMMONS TO PRODUCE AND TO
ATTEND TO GIVE EVIDENCE**

YOU ARE ORDERED both to attend to give evidence and to produce this witness summons or a copy of it and the documents or things specified in the Schedule of documents: see below for details.

Failure to comply with this witness summons without lawful excuse is a contempt of court and may be dealt with accordingly.

You should read all of the Notes set out in this witness summons. Also, you must complete the Declaration by Addressee (Witness Summons Recipient) set out at the end of this witness summons.

This witness summons must be served a reasonable time before the return date (*See Note 1*).

Date:

[*Seal of the Court*]

Issued at the request of [*name of party*], whose address for service is:

Place:

Email:

Details of witness summons

In so far as you are required by this witness summons to attend to give evidence, you must attend as follows unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Children's Court of Victoria at [*insert address the proceeding is listed to be heard at*].

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

In so far as you are required by this witness summons to produce the witness summons or a copy of it and documents or things, you must comply with this witness summons by attending to produce this witness summons or a copy of it and the documents or things specified in the Schedule of documents below—

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- (a) at the date, time and place specified for attendance and production; or
- (b) by attending to produce this witness summons or a copy of it and the documents or things specified in the Schedule of documents below to the registry at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not later than 2 clear business days before the first date specified for attendance and production.

Date, time and place at which to attend to produce the witness summons or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case, the later date or time is substituted:

Date:

Time:

Place: Children's Court of Victoria at [*insert address the proceeding is listed to be heard at*].

Address, or any address, to which the witness summons (or copy) and documents or things may be delivered or sent:

The Registry

Children's Court of Victoria at [*insert address the proceeding is listed to be heard at*].

*Delete if not applicable

SCHEDULE OF DOCUMENTS

The documents and things you must produce are as follows:

[*List the documents or things. Attach list if insufficient space.*]

NOTES

Last day for service

1. Subject to Note 2, you need not comply with the witness summons unless it is served on you a reasonable time before the date specified in the witness summons to produce documents or things and to attend to give evidence.

Service

2. This witness summons may be served—
 - (a) by delivering a true copy of the witness summons to you personally; or
 - (b) by leaving a true copy of the witness summons for you at your last or most usual place of residence or business with a person who apparently resides or works there and who apparently is not less than 16 years of age.

Addressee a corporation

3. If the witness summons is addressed to a corporation, the corporation must comply with the witness summons by its appropriate or proper officer.

Conduct money

4. You are excused from complying with the witness summons unless conduct money is given or tendered to you at the time of service of the witness summons or a reasonable time before the day on which your attendance is required.
5. However you are not entitled to conduct money if you will not reasonably incur any expenses in complying with the witness summons.

Production of witness summons or copy of it and documents or things to registrar

6. Unless the Court or the registrar issuing the witness summons otherwise directs, instead of producing a document or thing required to be produced at the hearing, you may produce the document or thing, together with a copy of the witness summons, to the registrar so that the document or thing is received not later than 2 clear business days before the first date specified in the witness summons for production.
7. Production of a document or thing to the registrar in compliance with a witness summons to produce and to attend to give evidence does not remove the requirement on you to attend for the purpose of giving evidence.

Objection to inspection

8. If you object to a document or thing produced in response to this witness summons being inspected by a party to the proceeding or any other person, you must, before the return date specified in the

witness summons, notify the registrar in writing of your objection and of the grounds of your objection.

Production of a number of documents or things

9. If you produce more than one document or thing, you must, if requested by the registrar, produce a list of the documents or things produced.

Production of copy instead of original

10. Unless the witness summons specifically requires you to produce an original, you may produce a copy of any document that the witness summons requires you to produce.
11. Electronic copies of documents can be provided on a USB or CD-ROM in any of the formats referred to in Note 12(b) below.
12. A copy of a document may be—
 - (a) a photocopy; or
 - (b) in an electronic form in any of the following electronic formats—
 - .doc and .docx—Microsoft Word documents
 - .pdf—Adobe Acrobat documents
 - .xls and .xlsx—Microsoft Excel spreadsheets
 - .jpg—image files
 - .rtf—rich text format
 - .gif—graphics interchange format
 - .tif—tagged image format; or
 - (c) in any other appropriate form or format, or on any other appropriate form of storage—
 - (i) directed or ordered by the Court; or
 - (ii) in accordance with any relevant practice direction, statement or note.

Applications in relation to witness summons

13. You have the right to apply to the Court for an order setting aside the witness summons (or a part of it) or for relief in respect of the witness summons.

Return of documents and things produced

- 13A. Unless the Court orders otherwise, the registrar may return to you any document or thing produced by you in response to the witness summons.

Disposal of documents produced

14. After the conclusion of the proceeding, the registrar may cause to be destroyed all the documents produced by you in compliance with the witness summons which were declared by you to be copies.
15. If documents produced by you become exhibits in the proceedings, and have been declared to be copies by you, the registrar may cause those documents to be destroyed when they are no longer required in connection with the proceeding, including on any appeal.

Contempt of court—arrest

16. Failure to comply with a witness summons without lawful excuse is a contempt of court and may be dealt with accordingly.

**DECLARATION BY ADDRESSEE
(WITNESS SUMMONS RECIPIENT)**

You must complete the declaration below. The completed declaration must be included in the witness summons or in the copy of the witness summons when you produce the witness summons or the copy with the documents required by the witness summons.

If you declare that the material you produce is copies of documents, the registrar may, without further notice to you, destroy the copies after the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If you declare that the material you produce is or includes any original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

[tick the relevant option below, provide your address as appropriate, sign and date]

All copied documents

All of the material I am providing in compliance with this witness summons is copies of documents and—

- ☐ I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me; or

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- ☐ once the copies are no longer required, they should be returned to me at the following address—

[insert address for return of material].

All or some original documents

- ☐ All or some of the material I am providing in compliance with this witness summons is an original document. Once the material is no longer required, all of the material should be returned to me at the following address—

[insert address for return of material].

Date:

[signature of addressee]

[name of addressee]

Form 42

Rule 10

APPLICATION UNDER SECTION 534—PUBLICATION OF PROCEEDING

Children, Youth and Families Act 2005

Court Ref.—

In the matter of

An Application by

The Applicant applies to the Children's Court for the following orders:

- 1 An order pursuant to section 534 of the Act that *[insert name]* be permitted to publish the following *[list particulars]*.
- *2 Such other or further orders as the Court sees fit.

Grounds for Application

The following grounds are relied on— *[list grounds]*

Details of the hearing

A hearing of this application will be held at *[insert time and date]* at the Children's Court at *[venue]*.

Issued at—

Date—

Registrar

* Delete if not applicable

Dated: 12 April 2017

AMANDA J. CHAMBERS,
President, Children's Court of Victoria

JENNIFER BOWLES,
Magistrate, Children's Court of Victoria

KIM M. W. PARKINSON,
Magistrate, Children's Court of Victoria

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Children, Youth and Families (Children's Court Family Division) Rules 2017, S.R. No. 20/2017 were made on 12 April 2017 by the President together with 2 magistrates for the Children's Court of Victoria jointly under section 588 of the **Children, Youth and Families Act 2005**, No. 96/2005 and came into operation on 18 April 2017: rule 3.

The Children, Youth and Families (Children's Court Family Division) Rules 2017 will sunset 10 years after the day of making on 12 April 2027 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

2 Table of Amendments

This publication incorporates amendments made to the Children, Youth and Families (Children's Court Family Division) Rules 2017 by statutory rules, subordinate instruments and Acts.

Children, Youth and Families (Children's Court Family Division) Amendment
(Witness Summons) Rules 2018, S.R. No. 185/2018

Date of Making: 25.10.18

Date of Commencement: 1.2.19: rule 3

Children, Youth and Families (Children's Court Family Division) Amendment
(Witness Summons) Rules 2019, S.R. No. 3/2019

Date of Making: 30.1.19

Date of Commencement: 1.2.19: rule 3

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Rule 4(a): S.R. No. 24/2007 as amended by S.R. Nos 186/2009, 151/2010, 51/2013, 145/2013, 7/2016 and 19/2016.

² Rule 4(b): S.R. No. 186/2009.

³ Rule 4(c): S.R. No. 151/2010.

⁴ Rule 4(d): S.R. No. 51/2013.

⁵ Rule 4(e): S.R. No. 145/2013.

⁶ Rule 4(f): S.R. No. 7/2016.

⁷ Rule 4(g): S.R. No. 19/2016.