**ADDITIONAL GUARDIANSHIP ORDER**

**Sections 110(1) and (2)(a) or (b) [Delete one] Oranga Tamariki Act 1989**

**and**

**SPECIAL GUARDIANSHIP ORDER**

**Section 113A, Oranga Tamariki Act 1989**

In the Family Court

At

I te Kōti ā-Whānau

Ki

Child / Young Person / Children the application is about [Delete Options]:

|  |
| --- |
|  |

**FULL NAME**

**Born on day Month year**

|  |
| --- |
| (the Child / Young Person / Children [Delete Options]) |

On application made to it, the court makes the following orders:

**FULL NAME OF CAREGIVER 1** **(Short Name CG1)** and **FULL NAME OF CAREGIVER 2 (Short Name CG2)**

is / are appointed as **additional guardian/s** and **special guardian/s** of:

**FULL NAME** **(Short Name C/YP)**

**Effect of Special Guardianship Order**

Custody - s113B(1)(a),(5)

1. Custody of Short Name C/YP shall remain with Short Name CG1 and Short Name CG2.
2. If Short Name C/YP begins to live with anyone other than Short Name CG1 and Short Name CG2 on more than a temporary basis, than Short Name CG1 and Short Name CG2 must advise a social worker of Oranga Tamariki.

Access - s5(1)(c)(i)–(v), s7AA, s113B(1)(b)

1. Access for Short Name C/YP’s existing guardian **FULL NAME MOTHER** **(Short Name Mother)** shall be:
   1. Time, location and nature of access;
   2. Terms of access (if any).
2. Access for Short Name C/YP’s existing guardian **FULL NAME FATHER** **(Short Name Father)** shall be:
   1. Time, location and nature of access;
   2. Terms of access (if any).
3. Access for Short Name C/YP’s siblings shall be:
   1. Name, time, location and nature of access;
   2. Name, time, location and nature of access;
4. Access for other individuals in Short Name C/YP’s family, whānau, hapū, iwi and family group shall be:
   1. Name, time, location and nature of access;
   2. Name, time, location and nature of access;

Guardianship Rights - s113B(4)(a),(b)

1. All guardianship rights for Short Name C/YP shall be shared equally between:
   1. The additional guardians and special guardians**,** Short Name CG1 and Short Name CG2, and,

* 1. The existing guardian, Short Name Mother, and,
  2. The existing guardian, Short Name Father.

OR

1. The additional guardians and special guardians**,** Short Name CG1 and Short Name CG2 shall hold exclusive guardian rights for matters relating to:
   1. Short Name C/YP’s:Education, Medical (urgent and non-urgent); Overseas travel; Religion; Surname; Residence; …[SELECT OPTION AND INCLUDE SPECIFIC DETAIL]
   2. The existing guardians must be informed of any decisions made by the special guardians in the exercise of any guardianship rights held exclusively by the special guardians.
   3. All other guardianship rights for Short Name C/YP shall be shared equally between:
      1. The additional guardians and special guardians**,** Short Name CG1 and Short Name CG2, and,

* + 1. The existing guardian, Short Name Mother, and,
    2. The existing guardian, Short Name Father.

Duration of Orders - s113B(4)(iii) and s117(1)(a)

1. The special guardianship order ceases to have effect when Short Name C/YP turns 18 years old or sooner marries or enters into a civil union or by further order of the court.
2. The additional guardianship order ceases to have effect when Short Name C/YP turns 20 years old or sooner marries or enters into a civil union or by further order of the court.

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Deputy Registrar

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**Guidance on Effects of Special Guardianship Order**

Custody - s113B(1)(a),(5)(a),(b)

A special guardianship order grants custody of the child.

If the child or young person begins to live with anyone other than the special guardian on more than a temporary basis, the special guardian must either:

1. Tell a social worker of Oranga Tamariki - if the child or young person, immediately before the special guardianship order was made, was in the custody of the chief executive or a natural person, or,
2. Tell the appropriate service or director - if the child or young person, immediately before the special guardianship order was made, was in the custody of an iwi social service, cultural social service, or the director of a child and family support service (see s2 OTA for definitions).

Access – s4A, 5(1)(c)(i)–(v), s7AA, s13(1),(2)(i)(C),s113B(1)(b)

Pursuant to s113B, the special guardianship order must specify access and other rights of existing guardians in relation to the child or young person. Usually, this will include the child or young person’s natural parents.

Decisions by the Family Court relating to permanent care must enhance the mana (deep intrinsic worth and human potential) of tamariki (children) and recognise the whakapapa (the multi-generational kinship relationships) and genealogical connections of te tamaiti (the child). Permanent care decisions must also recognise the whanaungatanga (wider kinship) responsibilities of family, whānau, hapū, iwi and family groups.

Pursuant to the principles of the Oranga Tamariki Act 1989, in addition to existing guardians, access must also be properly considered and appropriately ensured for all important individuals or groups of the child or young person’s family, whānau, hapū, iwi and family group, including siblings.

Guardianship Rights - s113B(4)(a),(b)

The view of Oranga Tamariki is that all guardianship rights should be shared between the additional guardian / special guardian and any existing guardians. The exception is where there is good reason (and supporting evidence) that holding exclusive guardianship rights is in the best interests and well-being of the child or young person. Where permanent caregivers seek to hold exclusive guardianship rights, then the supporting evidence must be robust. In addition, counsel should file submissions that canvas and address the relevant principles of the OTA being met, including those contained in sections 4A, 5 and 13, to satisfy the court why exclusive guardianship rights should be granted.

Guardianship rights may include those outlined in s16(2) of the Care of Children Act 2004 and can also be narrowed down to very specific areas of decision-making within any exclusively held guardianship rights. Any exclusively held guardianship rights require the special guardian to inform the existing guardian/s of any decisions made in the exercise of those rights.

The special guardianship order should outline how guardians will communicate and reach agreement on guardianship decisions bearing in mind the principle in s5(1)(v) stating decisions should be made and implemented promptly and in a time appropriate to the age and development of the child or young person.