

The High Court (Improved Access to Civil Justice) Amendment Rules 2025 come into force on 1 January 2026. They substantially reform the procedures for ordinary civil proceedings in the High Court, implementing recommendations from the Rules Committee’s 2022 Improved Access to Civil Justice Report.

[1] The Access to Justice Amendment Rules make substantial change to civil procedure. The amendments follow extensive work and consultation by the Rules Committee, to identify how rules of court can reduce the cost and delay of court proceedings. Practitioners need to take the time to understand their content and intended functioning.

[2] On 13 October the Rules Committee will be undertaking a national seminar in conjunction with the Law Society, supported by the Ministry of Justice and the New Zealand Bar Association. This seminar will take place in Auckland and will be live streamed.¹ Practitioners are encouraged to attend, and also to read the background material on the Rules Committee website as well as the new Rules themselves.² The following provides a brief outline of some of the key changes.

[3] First, the “evidence first” model, successfully used overseas, will apply. Factual witness statements will be required to be served shortly after proceedings are filed in accordance with standard directions unless dispositive interlocutory applications are made.³ Initial disclosure is expanded to require disclosure of known adverse documents, but any further orders will only be made after the factual evidence is served unless alternative directions are given by the Court. The intention of these changes is to encourage the fuller understanding of the case of each side, the earlier identification of the key issues, and to reduce disproportionate procedural arguments.

[4] Secondly, a Judicial Issues Conference will then occur to ensure that the parties have identified the determinative issues in dispute, and to address what is required to fairly determine the proceeding. This substantive appearance (to be scheduled for half a day) is intended to be a comprehensive engagement with a Judge in relation to the case. Client representatives are likely to be required to attend. Parties will be expected to be able to fully discuss the case with

¹ <https://www.lawyerseducation.co.nz/shop/Seminars2025/26HCCP.html>

² <https://www.courtsofnz.govt.nz/about-the-judiciary/rules-committee>

³ Applications to depart from the standard directions can be granted, but the expectation is that the standard directions will apply to the majority of proceedings.

the Judge, and to address the relevant issues, including whether mediation or other form of settlement has been or ought to be attempted, and if so, when. Directions for trial, such as directions for expert evidence and conferencing will be made at this conference.

[5] Thirdly there will be a much greater emphasis on the contemporary documentation at trial, and an expected reduction in the evidence of witnesses traversing the narrative of events arising from the contemporaneous documents. The contemporaneous documents will come before the Court by way of chronologies and the agreed bundle, with the oral evidence of witnesses more focused on relevant factual disputes. A narrative of events arising from the documents is expected in each party's openings to now be filed in advance at trial.

[6] The changes are designed to encourage the earlier identification of the key issues, the minimisation of the expansion of proceeding into peripheral issues that are not determinative, and a reduction in procedural disputes. They seek to encourage a greater focus on the issues of significance, and the determination of proceedings by more proportionate means. These objectives are identified in a new Overriding Objective of the Rules set out in a reformulated r 1.2 which will govern decision-making under the Rules. In addition there is a new r 1.2A which imposes a general duty on all parties and their legal representatives to cooperate in achieving this objective, including an explicit obligation for the parties to speak to one another in relation to the issues in the case, and what is required to fairly dispose of it.

[7] The new regime will only apply to proceedings filed after 1 January 2026, although there will be power to bring existing proceedings under the new regime, if appropriate.

[8] These are substantial changes, and the profession is encouraged to take steps now to be ready for them.

Justice Francis Cooke
Chair of the Rules Committee