



# The Rules Committee

## Te Komiti mō ngā Tikanga Kooti

21 October 2025

Minutes 10/2025

**Circular 40 of 2025**

### **Minutes of Meeting of 6 October 2025**

*The meeting called by Agenda 29/09 (C 35 of 2025) convened at 10.00 am on Microsoft Teams facility.*

#### *Present*

Rt Hon Dame Helen Winkelmann GNZM, Chief Justice of New Zealand  
Hon Justice Cooke, Chair and Judge of the Court of Appeal  
Hon Justice Fitzgerald, Chief High Court Judge  
His Honour Judge Taumaunu, Chief District Court Judge  
His Honour Judge Kellar, District Court Judge  
Ms Caroline Greaney, Deputy Secretary (Policy) in the Ministry of Justice and Representative of the Secretary of Justice  
Mr Daniel Kalderimis KC, New Zealand Law Society Representative and Barrister  
Mr Paul David KC, Special Purposes Appointee and New Zealand Bar Association President  
Ms Stephanie Grieve KC, New Zealand Law Society Representative and Barrister

#### *In attendance*

Ms Cathy Pooke, Parliamentary Counsel Office Rules Committee Liaison  
Ms Georgia Barclay, Clerk to the Rules Committee  
Mr Kieron McCarron, Chief Advisor Legal and Policy Supreme Court  
Mr Quinn Mackay, Secretary to the Rules Committee

Ms Lucy Saunders, Principal Policy Advisor, Courts and Justice Services Policy at Ministry of Justice  
Mr Nick Mercer, Senior Policy Advisor, Courts System Policy at Ministry of Justice

#### *Apologies*

Hon Judith Collins KC MP, Attorney-General  
Hon Justice French, Special Purposes Appointee and President of the Court of Appeal  
Hon Justice Gault, Judge of the High Court  
Hon Justice Radich, Judge of the High Court  
Ms Alison Todd, Senior Crown Counsel as Representative of the Solicitor-General

### **1. Preliminary**

The Committee approved the minutes of its meeting of 23 June 2025.

## 2. Updates

The Chair provided updates in relation to a series of ongoing matters.

(a) Informal formation of Family Court Rules Sub-committee

The Chair provided an update on the establishment of an informal sub-committee pending legislative change. It was suggested that members could include the Principal Family Court Judge, one other judge, two representatives of the profession, a representative from the Ministry of Justice, and a representative from PCO. The Principal Family Court Judge is engaging with the Family Law Section of the NZLS on this issue. The Ministry will bring a formal paper to the Committee in due course.

(b) Court of Appeal Criminal Rules

It was noted that the Court of Appeal Criminal Rules remain in progress at PCO.

(c) Code of conduct for experts giving evidence on tikanga or mātauranga Māori

It was noted that the sub-committee established to address whether there should be a code of conduct for witnesses giving expert evidence on tikanga or mātauranga Māori has made good progress and intends to place proposed rules and a proposed guidance note before the Committee at its next meeting.

(d) Work of the Criminal Rules Sub-committee

It was noted that the Criminal Rules Sub-committee has two major projects before it: name suppression in sexual cases for complainants and defendants; and a code of conduct for expert witnesses in criminal proceedings. The Sub-committee intends to make recommendations relating to the first of those projects to the Committee at its next meeting.

(e) Access to Civil Justice: NZLS CLE seminar

It was noted that the Chair, Justice Fitzgerald and Daniel Kalderimis had finalised a seminar booklet for the upcoming NZLS CLE seminar on the changes to the High Court Rules arising from the Access to Civil Justice project. The booklet was tabled and it was noted that good attendance numbers are expected at the seminar.

## 3. Te Au Reka

The Committee considered the Ministry's proposals for rule changes to give effect to Te Au Reka following meetings of the Te Au Reka Working Group which includes members of the Rules Committee and other judges. It agreed in principle to develop proposed amendments to the Criminal Procedure Rules, District Court Rules, High Court Rules and Harmful Digital Communications Rules as proposed that would enable the e-solution created by Te Au Reka to operate.

The amendments would address things such as: establishing principles for the use of the e-solution; creating a mandatory obligation for lawyers and prosecuting agencies to use the e-solution, with

limited exceptions (including for if the e-solution becomes non-responsive) and the ability for heads of bench to create class exemptions; clarifying that documents can be served, filed and authenticated through the e-solution; and amending rules that are incompatible with the e-solution, such as requirements to file documents with the court by hand.

The Committee agreed that the working group should consider whether the amendments required should be incorporated into the High Court Rules and District Court Rules in a separate subpart, changes where relevant, or a mixture of both. It agreed that the Rules must remain cohesive but should allow for an easy transition to Te Au Reka, and should ideally reflect practitioners' work flows. The Committee also agreed the working group should consider whether further consultation is required in respect of the suggestion that the e-solution becomes mandatory, and whether there should be an explicit transition period.

The Committee agreed that the working group should address its progress at the Committee's next meeting, including an indicative timeline for these rule changes.

#### **4. Te reo Māori and sign language in courts**

The Committee considered the Ministry's proposals for amended rules. The Committee agreed that the Te Ture mō Te Reo Māori 2016 | Māori Language Act 2016 (the Act) did not provide the answer to the question of what rules about the court ordering translation of documents require. Rather it was necessary for the rules to regulate that question guided by the legislation. After discussion agreed in principle to an amended rule that would give judges a power to order translation of a document but would see a different approach to translation of documents from te reo Māori to English than to translation from English to te reo Māori:

- Translations from te reo Māori to English would adopt the variation to the proposals addressed at the Committee's 31 March 2025 with the Court considering the principles of the Act, including that te reo Māori is a taonga, and the interests of justice as considerations. The cost of this translation would presumptively be payable by the Crown.
- Translations from English to te reo Māori would involve the Court considering whether a translation is required to enable a party to effectively participate in proceedings. Costs would presumptively be costs in the proceeding.

The Committee considered that the discretions available to the Court would be a sufficient guard against the prospect of the rules being abused, but would allow te reo Māori to be used where appropriate, and that it would enable the presumptions to be rebutted in appropriate circumstances. The Committee agreed the rules would apply to all documents as defined in r 1.3(1) of the High Court Rules 2016, and so would apply to affidavits and pleadings.

The Committee agreed that the other terms of the amendment rules, including those addressing the ability to speak te reo Māori, would remain as proposed at the March 2025 meeting.

The Committee agreed to keep the amended rules under active review through monitoring to ensure the Ministry's fiscal concerns can be assessed and managed on an ongoing basis.

The Committee instructed PCO to redraft the proposed amendments accordingly. The Committee noted that the Ministry would brief the Minister of Justice on the proposed amendment rules before the concurrence process.

#### **5. Updating daily recovery rates for costs**

The Committee considered the feedback from the public consultation conducted since the last meeting and agreed to progress with the proposal to increase costs by around 37.8%, in line with the increase in the Producer Price Index for legal services since the last time the Committee updated rates in 2018. It agreed not to equalise costs in the High Court and District Court, as some submitters had suggested. It instructed PCO to prepare a draft of the amendments.

The Committee agreed that in future it should conduct reviews of the daily recovery rates for costs more frequently, and that future consultations should seek feedback on whether submitters are finding that the daily recovery rates are reflecting 66% of actual and reasonable costs, as they are meant to under r 14.2(d) of the High Court Rules — noting that time allocations play a role alongside daily recovery rates.

#### **6. Other matters**

The Committee agreed that the working group responsible for implementation of the access to justice amendments to the High Court Rules will monitor the outcomes of the regime change. That group will bring proposals to the Committee at the next meeting on what data points it will aim to collect.

Fitzgerald J spoke to the new Commercial List in Auckland and the Committee agreed to receive regular updates going forward.

**Justice Francis Cooke**  
Chair