The Rules Committee

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24 April 2017
Minutes 02/17

Circular 21 of 2017

Minutes of meeting held on 3 April 2017

The meeting called by Agenda 02/17 was held in the Chief Justice's Boardroom, Supreme Court, Wellington, on Monday 3 April 2017.

1. Preliminary

In Attendance

Hon Justice Venning, Chief High Court Judge (acting Chair)
Hon Justice Asher
Hon Justice Courtney
Judge Kellar
Judge Gibson
Ms Jessica Gorman, representative for the Solicitor-General
Mr Rajesh Chhana, Deputy Secretary of Policy, Ministry of Justice
Mr Bruce Gray QC, New Zealand Law Society representative
Mr Andrew Beck, New Zealand Law Society representative
Ms Laura O'Gorman
Ms Suzanne Giacometti, Parliamentary Counsel Office

Ms Alice Orsman, Secretary to the Rules Committee
Mr Daniel McGivern, Clerk to the Rules Committee

Apologies

Rt Hon Dame Sian Elias GNZM, Chief Justice of New Zealand
Hon Justice Gilbert, Chair
Hon Christopher Finlayson QC, Attorney-General
Judge Doogue, Chief District Court Judge
Mr Andrew Barker, New Zealand Bar Association representative
Mr Kieron McCarron, Chief Advisor Legal and Policy, Office of the Chief Justice

Confirmation of minutes

The minutes of 13 February 2017 were confirmed.

2. Commercial Panel

The Senior Courts Act 2016 came into force on 1 March 2017. Section 19 of that Act established the Commercial Panel of the High Court from which Judges may be selected to hear and determine commercial proceedings. Section 19(2) provides that the commencement date and the types of proceedings that may be assigned to the Commercial Panel will be provided for by an Order in Council. However, s 19(6) differs from the existing Commercial List regime in that it provides that a party may nominate their case to be dealt with by a Judge on the Commercial Panel, to which the Chief High Court Judge has discretion to accept. Venning J prepared a memorandum for the Committee to consider, proposing a framework of rules to govern nominations by parties and the ensuing considerations of those nominations.

Venning J first asked the Committee for opinions on whether s 19(6) does in fact demand the enactment of Rules to facilitate this discretionary process. Asher J noted that while it is arguable that it is not required, not enacting rules would leave the profession in an unfavourable position. Courtney J concurred, identifying that problems would arise if no such rules were implemented, such as the procedure to be followed if a party did not agree with a decision reached.

Venning J pointed out that the Act abolishes the Commercial List. Mr Gray QC explained that the Commercial List provided for cases to proceed through the interlocutory phase and then for a trial Judge to be allocated. The panel, however, reflects a different choice – a trial Judge is allocated and that Judge (or another panel Judge) works through the interlocutory phase. Venning J agreed that this was the central purpose of the Panel, adding that the Order in Council provided for in s 19(2) will specify the criteria for a case to be assigned to the Panel. Elias CJ and Venning J have settled on some criteria and have made a recommendation to the Attorney-General. The optimistic commencement date is 1 July 2017, but this may have to be changed.

Mr Gray QC pointed out that in the Committee's Case Management reforms, the Committee provided for an intensive first Case Management Conference. The Committee has learned over the last couple of meetings that this is proving to be inappropriate and wasteful for standard matters, but suitable for more complex commercial disputes. Venning J considered that the makeup of the panel will be important, the cases will be assigned to those Panel judges, the cases assigned will be complex ones, and those cases will effectively be managed by Panel judges on a one-off basis as appropriate. The Rules, however, will apply generally subject to any directions that the Judge makes. Mr Gray QC questioned what the Committee should do with the initial Case Management conferences. If the Committee considers that they are suitable for cases managed by the Commercial Panel, then perhaps those rules should be brought out of the standard Case Management Conference regime, and used as a platform for rules that might apply to cases being managed by the Panel, on the grounds that those cases are more complex. Ms O'Gorman considered that to be unnecessary as the Rules currently cater for all cases, including complex cases, and this simply delivers the access to commercial expertise that the Commercial List used to. This is so except insofar as the cases are now managed through the trial *and* interlocutory phases.

Venning J considered that the difference between the Panel and the List is that, under the List, only Judges on the List can deal with the interlocutory phase and any Judge can deal with the fixture. The Panel will have the effect that only Panel Judges will be able to hear the case, so the Panel will encompass management *and* fixtures. Ideally, the Judge assigned to manage the case will hear the substantive hearing. Apart from the basic rules of getting approval for a case onto the Panel and the assignment of a Judge, the general rules will apply so there is no need to replicate anything. The intention of the regime is that there will be flexibility, and it does not need to be subsequently tied down with any particular rules thereafter.

Mr Gray QC asked how many cases there will be per year on the Panel. Venning J explained that the Panel will not create 'new cases', these cases are already in the system. Some are on the Commercial List, while others have been designated as 'complex' cases and are being managed by Judges outside of the Commercial List. There are approximately 35 active cases on the Commercial List, and another 25-30 cases designated 'complex' which may not be *commercially* complex. Ms O'Gorman noted that the popularity of the Commercial List has dwindled. However, the Panel may prove to be popular because it does not change the way the cases are managed, it is just about the Panel of Judges that parties get access to.

Asher J recognised the Panel to be a big 'sea change'. The old Commercial List was about procedure – the use of it was dwindling and, arguably, redundant. The idea was to have a streamlined procedure run by specialist judges to get the case to be heard by a non-specialist judge. The Panel reverses this idea – it is doing away with a streamlined procedure, which has been done so by the Case Management regime. The Panel is all about being able to get a specialist judge to *hear* the case, with the only overlap with the List being the potential to *manage* the case, but the case will be managed under the standard rules rather than the new rules. The new rules must be developed against this platform, and can be far shorter and focused than the old rules.

Ms O'Gorman pointed out that the Panel reflects the initial attractiveness of the Commercial List, which was undermined in circumstances where parties did not necessarily get a Commercial Judge to hear their case. Part of the reason for filing for the Commercial List was to have the case managed by someone with the relevant commercial expertise.

Mr Gray QC noted that if there are 50 files at the moment, many of them will live in the High Court for more than a year – so it is really about 35-40 new filings per year. It will be quite a high threshold if the Panel is intended to be looking after the 35 most complex cases. Venning J explained that the Panel has two factors: the cases must be *commercial* and they must be *complex*. There are many cases that are considered complex, but are not commercial as such.

Asher J noted that the substantive difference is that there previously existed s 24B of the Judicature Act 1908 which stipulated the criteria for proceedings eligible for entry on the Commercial List. There was also a procedure of endorsement whereby a case could be endorsed onto the Commercial List. Venning J confirmed that the criteria for the types of proceedings eligible for the Commercial Panel have been theorised and will be made by Order in Council.

Venning J prepared some draft rules to fall under the framework of s 19(6) – rules dealing with whether a nomination should be accepted to assign a case to the Commercial Panel. Ms O'Gorman supported the draft generally, but thought that one would not want the case to *have* to be to an assigned Judge because it could cause delays, but figured that the rules are flexible enough so that it could be dealt with by *a* panel e.g. three people to take it through the interlocutory phase of the case and then an assigned Judge to deal with the trial phase.

Ms Giacometti raised some concerns in relation to the drafting of the rules. First, in terms of the proposed rr 29.3(2) and 29.4 there are references made to "a panel judge". Ms Giacometti considered whether there would need to be clarity in relation to the issue of 'judge shopping'. Ms O'Gorman considered that parties would in fact be consenting to the case going to the Panel and beyond that it is under the control of the Panel itself. Venning J noted that s 19(6) shares the same wording: "… assign to the case a Judge or Judges from *a Panel*." Textually this might suggest that a party could choose a particular Judge from the Panel, which is clearly not what is intended by s 19(6). Venning J suggested that r 29.3(2) be modified to read "to *the* panel" as opposed to "to a panel judge". Ms O'Gorman agreed with this suggestion. Similarly, r 29.4(1) could be changed accordingly. Asher J raised a concern in relation to this proposed change. It may create a "docket" system controlled by the supervising Judge, with a specific panel of docket Judges. Rules 29.4 and 29.5 are directed to the particular Panel Judge allocated by the Supervising Judge, so the wording will have to be modified to reflect this concern. In particular an addition may be required to r 29.3 indicating that the Supervising Judge will allocate a Panel Judge, and then it will be *this* Panel Judge to which rr 29.4 and 29.5 are aimed. Courtney

J considered that there could be an express rule stipulating that the selection of the Panel Judge is at the discretion of the Supervising Judge.

Ms Giacometti contemplated an express inclusion in the new rules making clear that parties cannot nominate to have their case heard by a particular Judge. Venning J considered that such an inclusion would not be necessary.

Ms Giacometti raised the issue of transitional provisions, particularly in relation to cases that are already in the system. Venning J considered that the only area of potential difficulty would be existing Commercial List cases. Some of the work on the List at the moment would not meet the criteria for the Panel. Venning J considered that once the Panel rules come into effect, there will need to be a drafting in relation to the List proceedings. Courtney J considered that a transitional rule could provide for counsel involved in existing List cases to apply for an assignment to the Panel, bypassing the rules in terms of timeframes and so on.

Mr Beck considered whether the rules could be made more generic by catering for other panels as well. This would prevent the Committee from having to reconsider rules for other panels in the future. Venning J did not think replication of rules would be an issue that the Committee would need to deal with in the near future. Asher J noted that different panels may raise very different considerations, which weighs against the possibility of enacting more generic rules.

Asher J noted that the Panel system should not become a repository for all complex cases. Venning J reiterated that one of the criteria of the Commercial Panel was that the case had to have a sufficiently commercial flavour. Mr Gray QC asked whether the criteria are exclusive of each other or cumulative. Venning J indicated that complexity itself is not sufficient, commercial nature is also necessary.

Venning J noted that s 19(6) refers to the Chief High Court Judge assigning the case, but Venning J in the proposed rules has conceived the idea of a "Supervising Judge". Venning J was mindful of the fact that in many cases the Chief High Court Judge may not be available to make the assignment. Ms Giacometti considered that there may be an issue in relation to inconsistency with primary legislation. However, there may be something in the Rules generally permitting such delegations, and this can be looked into. Venning J considered that the Supervising Judge can still be engaged in the process, but ultimately the assignment to a particular Judge may need to be by the Chief High Court Judge.

Venning J and Ms Giacometti agreed that an appropriate solution may be to have a system whereby a recommendation is made by the Supervising Judge, and the actual assignment is made by the Chief High Court Judge.

Mr Chhana considered a future initiative involving a check-up of how the system is working in a few months time, by collating some information obtained from registries for the Committee's consideration. Venning J supported this suggestion.

Action point: Ms Giacometti to liaise with Venning J to draft changes to the proposed rules for the next meeting.

3. Evidence by subpoenaed witnesses

At the Committee's last meeting in February there was extensive discussion on the proposed r 9.7A to deal with evidence adduced by a subpoenaed witness where a written brief has not been obtained. The outcome of that discussion was that an ideal rule would provide for the party adducing the evidence to give notice, and the evidence will be admitted unless s 8 of the Evidence Act 2006 is invoked as a result of prejudice caused to the other party. Such evidence could therefore be adduced subject to any terms or conditions the Judge thinks appropriate without unduly eroding the ability of parties to adduce relevant evidence from subpoenaed witnesses.

In aid of this meeting, Mr Gray QC and Ms O'Gorman prepared a new report to reflect that discussion, focused simply on amending the current r 9.7. Venning J suggested that the report addressed prior concerns of the Chief Justice in relation to evidence only being admitted with leave of the Judge, rather than admitted as of right.

Mr Gray QC saw the core reason for this topic having been before the Committee was that there has not been complete agreement about what the rule should say. The Committee had arrived at a point where notice had to be provided by the party intending to call the witness. The evidence would be admissible unless the Judge then said otherwise. What the report attempts to do is to bring the rule into alignment, as far as possible, with rr 9.7, 9.10 and 9.12. Mr Gray QC asked Ms Giacometti to look into some of the precise wording of the newly proposed rule.

Ms O'Gorman considered that there was a lot of discussion regarding the Evidence Act 2006, but that this discussion lost sight of the fact that this is an issue falling under the briefs regime. This rule is merely trying to fill a gap in the Rules rather than trying to change any point of substantive law.

In relation to the new proposed rule, one of the requirements is that notice be given of details of the evidence the party expects the witness to give. While this may raise controversy, Ms O'Gorman considered that it provides sufficient flexibility to meet the interests of justice in particular cases. For example, some cases may demand quite extensive explanations of the likely evidence, whereas some may be shorter and/or less detailed. Mr Gray QC noted that this is simply a practical step to limit the scope for surprise.

Mr Beck considered that the rule is appropriate, but raised a drafting issue in relation to sub-clause (8) which refers to "a brief or notice pursuant so subclause (6)", but subclause (6) only refers to "notice". Ms O'Gorman explained that there should be a comma in between "brief" and "or" in subclause (8).

Judge Kellar asked when the Judge finds out about this process. Ms O'Gorman explained that this is captured by subclause (8). The Judge finds out of the fact that notice has been given when the Registrar is notified that a brief or notice has been served. But whether special terms or conditions need to be given could wait as late as the trial, as a Judge may not see the brief until the trial. Venning J noted that the process will essentially rely on parties to raise the issue themselves.

Ms O'Gorman identified that the rule is still fluctuating between two extremes, but considered that the Chief Justice's concern from the prior meeting can be sufficiently addressed by ensuring that the momentum is towards admitting the evidence unless there is a reason not to.

Ms Gorman questioned whether it would be preferable that the notice be filed so that the Judge can anticipate whether directions might be sought. Venning J did not consider this to be much of an issue. The other party may even consent to the evidence so it might not even present an issue in the case. If the party is unsatisfied with the notice then they are free to raise the issue. If they are seeking formal orders then it would need to be by way of formal application, but they may raise it by way of memorandum. Venning J considered that the Committee does not need to be overly prescriptive in this regard. A formal application would be required if a formal order is being sought, such as an order that the witness not be brought.

Judge Kellar asked Ms Giacometti to consider how this rule can be applied to the District Court in light of its different rules framework. Judge Kellar agreed to have a look through the Rules to identify whether there is anything in the District Courts Rules which may result in a clash with this rule.

Ms O'Gorman raised the fact that subclause (4) discussed the issue of a brief that's non-compliant in some respect, for example, for lack of a signature. Where this happens, it could be read into r 9.7 that it is to be served as a brief rather than as a notice under r 9.7(6).

Action point: Ms Giacometti to approve the final form of wording for the proposed changes to r 9.7. Judge Kellar to review the District Courts Rules to identify any potential conflicts between them and this proposed rule.

4. Case Management Conference allocation

At the Committee's last meeting in February it was agreed that discussion of this agenda item would be deferred while the drafting of the new rules on Case Management Conferences took place.

Ms Giacometti indicated that her intention had been to circulate the High Court Amendment Rules 2017 to the Committee at the meeting, but they are still subject to checks and will be circulated following this process. Ms Giacometti suggested that one or two Committee members check that the minor changes made are acceptable prior to concurrence.

Included in the Amendment Rules are the new Case Management Conference rules. These had been sent through to Venning J prior to the meeting. Venning J agreed to check off the rules when they come back from the Parliamentary Counsel Office.

Action point: Ms Giacometti to circulate the High Court Amendment Rules 2017 to Committee members for feedback prior to concurrence.

5. Review of civil practice notes

Venning J explained that the Chief Justice's position on this matter has been that the judiciary should be engaged in the process of repealing practice notes that are no longer required. The reason for this is that these are practice notes promulgated by members of the judiciary, who should assume some responsibility over them. Many of these notes have been superseded by the Rules, which will require only a simple judicial recognition of their repealing.

Venning J proposed that the Committee discuss the practice notes individually.

Practice Note 2 – Precedence of Counsel

Venning J took the view that this Practice Note was still fairly relevant. Ms O'Gorman considered that a Practice Note is not needed for this subject matter.

Venning J considered that there is force to this Practice Note, particularly where there are senior counsel and junior counsel, the latter apparently taking leadership. One counsel has to take overall responsibility where a case goes awry. Mr Gray QC considered that if young advocates are to be given opportunities to present arguments, but are obliged to wait until their senior has sat down, then the risk becomes higher for advocates. It is much easier to give a junior advocate an opportunity to take part in the argument if the senior counsel is given the opportunity to speak afterwards. This topic could give the Committee the opportunity to better give young advocates the chance to present part of the argument.

Asher J suggested that there has to be a counsel who is taking responsibility. The Note is simply a formal process of abdicating seniority, which seems out of date and does not happen as a matter of practice. Counsel have in the past indicated that they are going to leave various items to their co-counsel, but Asher J indicated that he has never had anyone openly abdicate seniority. What the Practice Note suggests is that a junior counsel who introduces themselves to the court as first speaker will be tacitly acknowledged by the court to be leading counsel in that case.

Venning J and Mr Gray QC accepted that counsel asking the court for leave to address arguments, with their junior addressing arguments in the middle, should be encouraged. Venning J explained that this Practice Note does not precisely address that particular issue. This Note simply deals with situations where there is more than one counsel and there needs to be an ascertainment of who actually has responsibility for the case.

Asher J identified that this is not a problem that needs fixing as the court manages to make this work. The Committee broadly agreed that a Practice Note is not necessary. Ms O'Gorman explained that abandoning the Note does not mean abandoning the principle. If there is an issue arising, the Judge will discuss it with counsel. Ultimately the Judge can get what they need in terms of ascertaining responsibility. The senior counsel should ideally be addressing the Judge on how they will present their case with their junior.

Practice Note 3 – Further submissions by counsel

Asher J indicated that this Practice Note is used all the time. Post-hearing submissions are being filed with increasing frequency. The Committee agreed that this should form part of the Rules, rather than being left as a Practice Note. Ms Giacometti agreed to draft a rule to reflect this.

Practice Note 9 – Service on grandchildren

Asher J considered that this Note represents an important point of practice. Judge Gibson pointed out that most matters falling under this Note are dealt with by the Family Court which is governed by its own rules. Venning J recognised that the High Court does deal with such matters occasionally, where there is concurrent jurisdiction.

Asher J considered whether there was anything in the Family Court Rules dealing with the subject matter of this Practice Note. This could more logically be included in the Rules. Mr Beck considered that discussion on this matter may be best deferred until the memoranda prepared by Venning J and Ms Gorman has been finalised and circulated.

The Committee agreed to defer discussion on Practice Note 9 until the next meeting.

Practice Note 11 – Executors and administrators: powers before grant and substituted appointment after grant

The Committee agreed to defer discussion of this Practice Note until recommendations are finalised, following final preparation of Ms Gorman's memorandum on the review of the practice notes.

Practice Note 20 – Synopsis of argument

This subject matter is now covered in the rules, and can be repealed.

Practice Note 25 – Notes of evidence – official record

This Practice Note was prepared at a time when the process was administered by the Judge's Associate. That practical procedure has been taken over by the Court recording system, and there is a protocol about correcting errors in respect of that system. Venning J agreed to ascertain the particular protocol so that the Committee can better deliberate on this matter.

Asher J noted that if the Committee is to retain Practice Notes then this one would be particularly useful. Venning J reiterated that there is a protocol in respect of the recording system - the question is how to communicate this protocol to the public.

Mr Gray QC questioned whether there should be rules in relation to the record. Ms Giacometti considered that the new Access to Court Documents Rules cover this. Venning J preferred to defer this discussion until a better understanding of the court record system protocol is obtained.

Practice Note 33 – Civil case management in the High Court

This Practice Note has been overtaken by the Rules.

Practice Note 38 – Fast track

This Practice Note has been overtaken by the Rules.

Practice Note 39 – Fast Track Practice Note 2011

Asher J explained that the Fast Track is going to stay in place at the Court of Appeal. It is still being used as a Practice Note rather than a Rule. Asher J has previously suggested that this should be included in the Rules rather than as a Practice Note. Asher J will clarify this for the next meeting.

Practice Note 40 – High Court Guidelines on Judicial Settlement Conferences

Venning J considered that there may be some parts of this Practice Note about standard settlement conference directions that are useful, but questioned why these should not be included in the Rules. Ms Giacometti concurred with this view.

Venning J suggested an amendment to the Rules relating to Judicial Settlement Conferences and an additional schedule.

Practice Note 41 – The Use of Electronic Bundles in the High Court

Venning J considered that these protocols are better left as Practice Notes, because they are changing on a regular basis.

Action point: Practice Notes 2, 33 and 38 to be repealed by the relevant Heads of Bench, who will be notified by way of letter from the Chair. Practice Notes 3 and 40 to be drafted into rules prepared by Ms Giacometti. Discussion of Practice Notes 9, 11, 25 and 39 to be deferred until the next meeting prior to which Venning J and Ms Gorman will circulate a memorandum on civil practice notes.

6. Proposed changes to the Supreme Court Rules

O'Regan J has prepared a collection of amendments to be made to the Supreme Court Rules 2004. One of the areas for review, in relation to r 31 about security for costs, was still under review. O'Regan J has confirmed however that the Court would rather have the matter proceed with respect to the rest of the rules and r 31 can be dealt with at a later date.

Mr Gray QC raised a concern in relation to proposed r 36A (Outline of oral argument on appeals). A rule permitting this will evolve this into an inevitable practice, and will result in simply another iteration of the argument that must be filed.

Asher J considered that in the Privy Council it became standard practice that a roadmap is provided. At the last minute, many counsel see things more clearly and are able to summarise an argument which can be helpfully provided by way of a roadmap.

Asher J raised the potential unfairness stemming from counsel taking a new angle by way of roadmap. There could be a requirement for filing and service of a roadmap the day prior to hearing. Venning J added that once counsel have completed the process of reaching the Supreme Court and being granted leave, new arguments should not be arising – the Supreme Court would presumably be unwilling to engage with a new point or argument.

Mr Gray QC suggested that part of the rule should be that any roadmap must refer to the relevant paragraph of counsel's written submissions. Mr Beck and Ms O'Gorman indicated that the rule as it stands in the proposed r 36A is sufficient. Venning J added that such practice would be good advocacy and will be picked up by counsel over time.

Venning J asked Ms Giacometti to review the rules to check for wording and structuring matters. The Committee considered that in the future it may be useful to have Ms Giacometti take some involvement with the drafting process of the Supreme Court Rules to ensure consistency with current drafting practices. Asher J identified the usefulness of having the Court of Appeal and Supreme Court rules in sync with the drafting standards of the High Court Rules, particularly in terms of terminology and writing style.

Ms Giacometti agreed to look at the rules under consideration to see how they can be redrafted for consistency with current practices. However the Committee recognised that the progression of the current proposed rules ought to be expedited, and drafting practices can be considered in future exercises.

Action point: Ms Giacometti to check and finalise the proposed amendments to the Supreme Court Rules.

7. Consequential amendments

Ms Giacometti noted that at the time that the Judicature Modernisation Bill passed, all the consequential amendments had been prepared for the High Court Rules. The District Courts Rules and Family Court Rules amendments had not yet been prepared, however. Those amendments depend on the Interpretation Act, particularly with regards to what happens upon amendment.

Ms Giacometti pointed to the Family Court Rules as an example – it is not a situation where the Act can simply be scanned and changed as a simple exercise. Rather, a textual rewrite is required to make things work. The Parliamentary Counsel Office is looking at how they can best systematically work through the Act to ensure changes can be made in the most efficient manner possible.

Ms Giacometti's preference is to leave those amendments for the time being and to put them as a separate set of rules, picking all the change sup across the board.

Action point: Ms Giacometti to liaise with Mr Chhana to arrange for the consequential amendments to the District Courts Rules and Family Court Rules.

8. Undertakings by Conveyancers

Mr John De Graaf, Vice President of the New Zealand Society of Conveyancers, sent a letter to the Committee raising a concern in relation to the enforceability of undertakings given by conveyancers. Mr De Graaf is concerned that the Property Law Section of the New Zealand Law Society website has warned lawyers not to accept undertakings given by conveyancing practitioners as they may not be enforceable. The letter proposes the addition of a new procedural rule confirming that such undertakings are enforceable in the same manner as those given by lawyers.

Mr Beck pointed out, and Venning J agreed, that this is not a matter for the Rules Committee to address.

Mr Chhana noted that this ought to be a policy matter dealt with by legislation rather than a procedural matter dealt with by the Committee. Venning J noted that it is complicated also, particularly in relation to the sanctions stemming from undertakings which often concern the position of lawyers as officers of the court which conveyancers are not.

Action point: The Chair to draft a letter to Mr De Graaf explaining that this was not properly a matter for the Rules Committee to address, Mr Chhana to assist with drafting if necessary.

9. Amendment to Form B2

Ms Annie Cao, a solicitor, has written to the Committee identifying a minor inconsistency in Form B2 of the High Court Rules. As it stands the Form currently refers to item 17 of Schedule 3 where it should refer to item 44 to reflect the new version of Schedule 3.

Ms Giacometti worked on this matter and has included it in the High Court Amendment Rules. The Committee did not need to discuss this matter any further.

Action point: The Clerk to send a letter to Ms Cao informing her of the impending change to Form B2.

10. Final matters

Recovery rates

Mr Beck noted that the costs recovery rates have not been updated for two years, and is a matter the Committee may need to look into. Venning J suggested a consultation with the New Zealand Bar Association. Mr Beck noted that usually updates are done by assessing the Producer Price Index to work out the increase that has taken place over the elapsed period.

Mr Beck noted that it may be worth adding this consultation onto the costs consultation.

Emails on filed documents

An Associate at the High Court had raised a concern that practitioners were not including their email addresses at the bottom of filed documents. The Clerk had reviewed the Rules prior to the meeting and found that the Rules do already provide for the inclusion of an email address on such documents. This is accordingly a matter of compliance rather than of the Rules themselves.

Action point: The Clerk to write a letter to the Associate at the High Court.

The meeting finished at 11.25 am.