



The Right Honourable Dame Helen Winkelmann

CHIEF JUSTICE OF NEW ZEALAND | TE TUMU WHAKAWĀ O AOTEAROA

19 October 2022

## STATEMENT TO THE PROFESSION

# Expiration of Epidemic Notice – impact on Court operations

In 2020, legislative amendments were enacted to ensure access to court services during the COVID-19 Alert Levels and Protection Framework. The amendments included powers for judges to modify the rules of court to respond to operational needs and help protect the safety of court participants.

Some amendments are contingent on an Epidemic Notice being in force. We have been advised that the Epidemic Notice is due to expire on 20 October 2022. There will, unfortunately, be some temporary operational impacts for the courts as outlined below.

### TEMPORARY IMPACT ON THE DISTRICT COURT

#### *Electronic filing of documents*

The expiration of the Epidemic Notice means that electronic filing of documents in the District Court is generally no longer permitted under the rules. However, documents may continue to be accepted electronically by leave of a judge or the registrar.<sup>1</sup> You should enquire with the registry at the earliest opportunity if you seek to file documents electronically (by email) in relation to a specific matter. The File and Pay portal will remain active, and leave to file electronically will be considered as part of receiving and accepting applications through this portal. The registry will advise the outcome accordingly.

The Rules Committee is progressing amendments to the District Court Rules 2014 under urgency to allow electronic filing on a permanent basis. Until any Rules amendments come into force, the District Court will revert to pre-COVID-19 filing practices. You will be advised when electronic filing resumes generally in the District Court.

#### *Electronic sealing of judgments and electronic service continues*

The District Court is able to continue electronically sealing judgments and allowing electronic service after the Epidemic Notice expires.

### TEMPORARY IMPACT ON THE FAMILY COURT

#### *Electronic filing of on-notice applications in the Family Court*

The expiration of the Epidemic Notice means that electronic filing of on-notice applications in the Family Court is generally no longer permitted unless otherwise directed by a Judge. You should enquire with the registry at the earliest opportunity if you seek to file documents electronically in relation to a specific matter.

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<sup>1</sup> r 5.5(1), District Court Rules 2014.

Amendments to the Family Court Rules 2002 are being sought to:<sup>2</sup>

- allow any document to be filed electronically and provide direction as to when the document is taken as filed
- enable electronic signing of orders and sealing of judgments, and
- allow personal service by electronic means.

Until new rules are in force, the Family Court will revert to pre-COVID-19 filing practices. You will be advised when electronic filing of on-notice applications resumes generally in the Family Court.

#### *Enduring Powers of Attorney*

When the Epidemic Notice expires, amendments allowing for an enduring power of attorney to be signed and witnessed remotely will cease to have effect.<sup>3</sup> There are no current proposals to keep these provisions through permanent legislative amendments.

#### EMERGENCY PROVISION LAPSED IN THE CORONERS COURT

The expiration of the Epidemic Notice means that preliminary inspections performed under section 21A of the Coroners Act 2006 are no longer required to include the taking and testing of swabs in any case where the deceased is suspected to have had COVID-19 at the time of death.

This change takes effect 30 days after the Epidemic Notice expires. There are no current proposals to keep this provision through permanent legislative amendments.

#### EMERGENCY PROVISIONS LAPSED IN OTHER COURTS

When the Epidemic Notice expires:

- provisions allowing the use of audio-only links (instead of Audio-Visual Links) in civil proceedings and criminal procedural matters will be automatically repealed.<sup>4</sup>
- amendments allowing for documents (including wills) to be witnessed remotely will cease to have effect.<sup>5</sup>

There are no current proposals to keep these emergency provisions through permanent legislative amendments.

#### NO IMPACT ON ELECTRONIC FILING IN THE HIGH COURT OR SPECIALIST COURTS

There is no impact on electronic filing in the High Court or Specialist Courts as a result of the expiration of the Epidemic Notice.

#### OTHER AMENDMENTS REMAIN IN FORCE

Please note that the amendments to the Courts Security Act 1999, Criminal Procedure Act 2011, and Juries Act 1981 (made through the COVID-19 (Courts Safety) Legislation Act 2022) remain in force until the COVID-19 Public Health Response Act 2020 is repealed.

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<sup>2</sup> The amendments will not include the emergency rules for unsworn affidavits and dispensing with directions hearings for without-notice applications. These will remain as emergency rules.

<sup>3</sup> See Epidemic Preparedness (Protection of Personal and Property Rights Act 1988—Enduring Powers of Attorney) Immediate Modification Order 2020.

<sup>4</sup> See s 7A and s 8A of the Courts (Remote Participation) Act 2010.

<sup>5</sup> See Epidemic Preparedness (Oaths and Declarations Act 1957) Immediate Modification Order 2020 and Epidemic Preparedness (Wills Act 2007—Signing and Witnessing of Wills) Immediate Modification Order 2020.