



**Chief High Court Judge
Te Kaiwhakawā Matua
o te Kōti Matua**
Justice Geoffrey Venning

**The Rules Committee
Te Komiti mō ngā
Tikanga Kooti**
Chair: Justice Robert Dobson

9 April 2020

Temporary Changes to the High Court Rules 2016 to Address the Impact of COVID-19

The High Court (COVID-19 Preparedness) Amendment Rules 2020 have come into effect today immediately upon their publication in the *Gazette*.

These Rules reflect the efforts of the Rules Committee over the last three weeks to facilitate the continuation of civil proceedings in the High Court during the outbreak of COVID-19. They reflect the contributions of the judiciary, the profession, and the Ministry of Justice.

The purpose of the Rules is to ensure that civil justice remains accessible during the outbreak by providing a clear and consistent basis for conducting civil litigation while movement and access to courthouses remains restricted.

Key changes include:

- New Rules 5.1A and 5.1B have been inserted to provide for documents to be filed in ways other than by hand or post. In particular, they allow for electronic filing by sending documents to an electronic address provided by a Registrar. The electronic addresses will be notified by an announcement on the Courts of NZ website as soon as possible.
- New Rule 5.1A(6) empowers a Judge to direct that documents be filed electronically or by post if filing of documents by hand would disrupt the court's business or endanger any person.
- New Rules 5.1A(3) and (4) provide that signatures appearing on copies of documents filed electronically can be relied on in proceedings by deeming the original signed document to have been filed.
- New Rule 5.1B provides for ways to pay filing fees other than by lodging a cheque; including, at the Registrar's discretion, providing a credit card payment authority, an electronic banking payment, or an undertaking to pay the fee.

- New Rule 5.1B(d) gives Registrars a discretion to deem that a filing fee has been paid so that a document can be accepted for filing where required by the interests of justice and in the existence of an emergency.
- New Rule 6.1A empowers a Judge to require that documents to be served in a proceeding be served electronically where allowing other means of service would disrupt the court's business or endanger any person.
- Rule 9.12 has been amended to revoke the requirement to have witnesses sign briefs after reading them into evidence. The wider requirement to have briefs signed under Rule 9.7(4)(a) has also been revoked.
- Rule 9.73 has been amended to allow Judges to authorise the use of unsworn/unaffirmed affidavits in proceedings where the existence of an emergency means that requiring the affidavit to be sworn/affirmed would unacceptably delay the proceeding or endanger any person.
- New Rule 3.4A clarifies the powers of Judges to control the manner of participation in hearings and at trials by counsel, parties, witnesses, and other persons (including attendance in person, by telephone, or by audio-visual link).
- New Rule 3.4A allows Judges to direct persons attending a hearing or trial in person to attire themselves in a particular manner or maintain a certain distance from other persons to ensure the safety of everyone present.

The above is intended only as a summary of the essential provisions of the Amendment Rules and should not be relied on as a statement of the applicable law. The full text of the Amendment Rules can be found on the Courts of New Zealand website and will also shortly be available on the Parliamentary Counsel Office legislation website.

The Chief High Court Judge is of the view that the Amendment Rules do not alter any details of the High Court Practice Note – COVID-19, issued on 2 April 2020.

These Rules do not limit the Court's inherent jurisdiction. The new rules, along with the other provisions of the High Court Rules, can be modified by a Judge pursuant to s 24 of the Epidemic Preparedness Act 2006 so long as an epidemic notice remains in effect.

The ongoing need for these amendments will be reviewed by the Rules Committee when a decision is made by the Government that the outbreak is at an end. It is anticipated that, once that occurs, most of the amendments will be repealed and replaced by the previous rules.