



**THE RULES COMMITTEE**  
**P.O. Box 180**  
**Wellington**

**Telephone 64-9-9169 755**

**Facsimile 64-4-4949 701**

**Email: [rulescommittee@justice.govt.nz](mailto:rulescommittee@justice.govt.nz)**

## **RULES COMMITTEE CONSULTATION PAPER**

### **PROPOSALS FOR REFORM OF THE DISTRICT COURTS RULES 2009**

**Date of issue:** 16 December 2012

**Date submissions due:** 30 January 2012

**Address for submissions:** Dr Caroline Anderson  
Clerk to the Rules Committee  
Auckland High Court  
PO Box 60  
Auckland

**Telephone:** (09) 916 9755

**Email:** [caroline.anderson@justice.govt.nz](mailto:caroline.anderson@justice.govt.nz)

#### **Introduction**

1. The Rules Committee is seeking feedback from affected entities on its proposed changes to the District Courts Rules 2009.
2. Following feedback from elements within the profession, the Rules Committee proposes changes to the Rules and has prepared a draft of the suggested reforms.
3. There has not yet been consultation outside of interested parties within the legal profession, such as with banks, insurance companies, finance companies, debt

collection agencies, and other entities expected to be affected by the changes to the Rules.

4. It is intended that at some time in the near future, a further review of the Rules take place, including an assessment of the effectiveness of the “plain English” forms.
5. The subject matter to which the principal changes relate are the revision of time periods, reinsertion of the summary judgment procedure, making the procedure easier for a plaintiff to seek judgment in cases of default, admission of facts or lack of defence, and relaxation of the rules for amendment of pleadings.
6. The Committee invites submissions particularly from entities outside the legal profession on these changes. Please return comments to the Clerk to the Committee, Dr Caroline Anderson, by 30 January 2012 to the address above.

### **Time Periods**

7. Draft rules 9 to 15 revise down the time periods for service and giving notice from 30 working days to the original 20, in accordance with feedback from the profession that 30 working days was too long.

### **Summary Judgment Procedure**

8. A new procedure is established for summary judgment by rr 2.42 to 2.43A, which will be available—
  - to enforce an agreed settlement;
  - to recover a debt under section 23 or 24 of the Construction Contracts Act 2002; or
  - in any other proceedings commenced under the principal rules (other than appeals under Part 14).
9. The main features of the new procedure are—
  - in cases other than to enforce an agreed settlement or under the Construction Contracts Act, the plaintiff can apply for summary judgment only after a response is served;<sup>1</sup>
  - the shortened time limits for applying for summary judgment, filing a notice of opposition or affidavit in reply;

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<sup>1</sup> The plaintiff can apply for default judgment if a response is not served.

- if an application for summary judgment is dismissed, the court must decide the mode of trial when giving judgment; and
- a decision to allocate a simplified trial or full trial results in a judicial directions conference and a possible judicial settlement conference also.

### **Judgment in case of default, discontinuance, admission of facts, or lack of defence**

10. The grounds for a plaintiff to apply for judgment are extended under r 2.39 to include where the defendant's response (Form 3) contains an admission of the facts stated in the plaintiff's notice of claim or does not disclose any defence to that claim.

### **Amendment of Pleadings**

11. Where no defence has been filed and no trial date has been allocated, the newly proposed r 2.38A allows a claimant to amend pleadings that have been filed and served within 10 working days, or otherwise with leave of the court. This incentivises defendants to file responses promptly.

### **Conclusion**

12. Submissions are invited on the substantive changes outlined above. Feedback will be considered at the Rules Committee's next meeting in February 2012.
13. Please return submissions or comments to the Clerk to the Rules Committee by **30 January 2012**. Submissions received may be posted on the Rules Committee's website. Submissions may also be released under the Official Information Act 1982, notwithstanding any requests that submissions be kept confidential.
14. The contact details are as follows:

Clerk to the Rules Committee  
Auckland High Court  
PO Box 60  
AUCKLAND

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Email: [caroline.anderson@justice.govt.nz](mailto:caroline.anderson@justice.govt.nz)