



Chief District Court Judge

Practice Note

Civil proceedings – Covid-19 Preparedness

Introduction

Section 24 of the Epidemic Preparedness Act 2006 permits a District Court Judge, while an epidemic notice is in force, to modify any rule of court to the extent necessary in the interests of justice to take account of the account of the effects of the quarantinable disease stated in the notice.

An epidemic notice is in force in respect of Covid-19.

The provisions of this Practice Note -

- i. Come into force as from 23 April 2020.
- ii. Give guidance as to the manner in which practitioners, parties, and other participants in the District Court can expect judges to use their power under s 24 to modify the applicable District Court Rules 2014 while the epidemic notice is in force, unless this Practice Note is earlier modified or repealed.
- iii. Are intended to align the District Court Rules 2014 with the High Court (Covid-19 Preparedness) Amendment Rules 2020.
- iv. Replace any Epidemic Preparedness Practice Note of the Chief District Court Judge.

Modification and application of the District Court Rules 2014

The Chief District Court Judge expects that judges will:

- i. Use their powers under s 24 of the Epidemic Preparedness Act 2006, where necessary and appropriate, to modify the requirements and restrictions imposed by the District Court Rules 2014 in accordance with the following.

- ii. Exercise their existing discretion under the rules, where the Covid-19 emergency is relevant to their doing so, in accordance with the following.

Judges may direct the form of participation in hearings and at trials

1. A Judge may make a direction as to the form of participation by counsel, parties, witnesses and other persons at any hearing or trial conducted pursuant to the Rules by –
 - a) Dispensing with any requirement for a person to be physically present in the court and make provision for alternative means of complying with any such requirement;
 - b) Directing methods of attendance at, and participation in, a hearing or trial (for example, in person, by telephone, by audio-visual link);
 - c) Directing where and how any person attending or participating in a hearing or trial in person must conduct themselves in respect of their physical proximity to other persons in attendance (for example, to maintain ‘social distancing’);
 - d) Requiring any person attending or participating in a hearing or trial in person to be attired in a particular manner (for example, by wearing Personal Protective Equipment).
2. A Judge may have regard to the existence of the Covid-19 emergency in New Zealand and the likely impact of the New Zealand Covid-19 alert levels on the operation of the court as matters relevant to deciding the appropriate mode of trial in a proceeding pursuant to rule 10.1(2)(g).

Filing generally

3. Any document required by the Rules to be filed, may be filed in the proper registry office of the court by –
 - a) Delivering it by hand during the opening hours of that office.
 - b) Sending it by mail to a postal address published by the Registrar of the court.

4. A document is filed when it is –
 - a) Accepted for filing by the registry where a document is delivered by hand provided that a judge may direct that documents only be filed by post in accordance with 4(b);
 - b) Received by the registry in the post where the document has been posted;

5. A document is not filed until the earlier of –
 - a) Payment of the fee prescribed under the District Court Fees Regulations;
 - b) Payment with a credit card payment authority for the prescribed fee provided that the Registrar has the facility to accept payment in that manner;
 - c) Payment of the prescribed fee by means of electronic bank transfer into an account identified by the Registrar for that purpose provided that the Registrar has the facility to accept payment in that manner;
 - d) The solicitor on the record or a barrister sole who may represent the person filing the document without the intervention of an instructing lawyer provides the Registrar with an unconditional undertaking to pay the prescribed fee within three working days of the document being filed;
 - e) The Registrar determines that the document is to be treated as having been filed despite the non-payment of the fee provided that the Registrar may do so where it is necessary in the interests of justice.

Power to limit acceptable methods of service

6. A Judge or Registrar may direct that any document required to be served must be served by posting the document to a Postal Box or transmitting the document electronically to a specified fax or email address and by no other means.

Signatures

7. If satisfied that doing so is in the interests of justice, having regard in particular to the existence of the Covid-19 emergency and any delays that would be associated with requiring an original signature be obtained, a Judge or Registrar, as the case may be, may order or direct that:

- a) A document that does not contain an original signature may be accepted for filing and may be relied on and used in a proceeding.
- b) Any document required by the Rules to be signed not be required to be signed, or order that the document be authenticated in another more practicable manner in lieu of being signed.

Reliance on unsworn affidavits

8. A Judge or Registrar may direct that an affidavit that is not sworn or affirmed in accordance with the Oaths and Declarations Act 1957 be accepted for filing and read in the proceeding only where –
- a) The Judge or Registrar is satisfied that requiring compliance with the Oaths and Declarations Act 1957 would cause unacceptable delay; or endanger the health and well-being of any person; or
 - b) The affidavit is presented for filing with a memorandum of the solicitor or counsel for the party that confirms the document contains the same evidentiary matter as the intending deponent would have sworn or affirmed and undertakes to file the sworn or affirmed affidavit as soon as the circumstances permit.

Briefs of evidence

9. A Judge may order that a brief of evidence or other written statement of a witness or intending witness is not required to be signed by the witness or intending witness by whom the brief or other written statement is provided if satisfied that doing so is in the interests of justice, having regard in particular to the existence of the Covid-19 emergency and any delays that would be associated with requiring an original signature be obtained.