



District Court (Electronic Filing) Amendment Rules 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 20th day of February 2023

Present:

Her Excellency the Governor-General in Council

These rules are made under section 228 of the District Court Act 2016—

- (a) on the advice and with the consent of the Executive Council; and
- (b) with the concurrence of the Chief District Court Judge and at least 2 other members of the Rules Committee continued under section 155 of the Senior Courts Act 2016 (of whom at least 1 was a District Court Judge).

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Rules

1 Title

These rules are the District Court (Electronic Filing) Amendment Rules 2023.

2 Commencement

These rules come into force on 23 March 2023.

3 Principal rules

These rules amend the District Court Rules 2014.

4 Rule 1.4 amended (Interpretation)

In rule 1.4(1), replace the definition of to **file** with:

to **file**, in relation to any document, means to file the document under rule 5.1A in the proper registry of the court

5 New rule 2.4A inserted (Emergencies)

After rule 2.4, insert:

2.4A Emergencies

- (1) For the purposes of these rules, an **emergency** exists in relation to a place if,—
 - (a) in relation to that place,—
 - (i) a state of emergency is declared, or a transition period is notified, under the Civil Defence Emergency Management Act 2002; or
 - (ii) an emergency is declared under other legislation; or
 - (iii) an epidemic notice is in force under section 5 of the Epidemic Preparedness Act 2006; or
 - (b) the Chief District Court Judge, being satisfied of the following, gives notice that an emergency exists in relation to that place for the purposes of these rules:
 - (i) that a situation exists that is the result of any happening, whether natural or otherwise, including, without limitation, any explosion, earthquake, eruption, tsunami, land movement, flood, storm, tor-

- nado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, technological failure, infestation, plague, epidemic, failure of or disruption to an emergency service or a life-line utility, or actual or imminent attack or warlike act; and
- (ii) that the situation affects, or may affect, the operation of the court or any registry of the court.
- (2) A notice is given for the purposes of subclause (1)(b) when it is published in the manner the Chief District Court Judge directs.
- (3) The Chief District Court Judge must—
- (a) keep a notice given for the purposes of subclause (1)(b) under review; and
- (b) revoke the notice when satisfied that the emergency has ended.
- (4) Subclause (3)(b) does not limit the Chief District Court Judge’s powers to revoke a notice sooner.
- (5) For the purposes of subclause (1), **place** includes the whole of New Zealand.
- (6) If an emergency exists, *see* rules 2.5, 5.1A(5), and 5.1B(2)(d).
- (7) *See also* sections 24 and 24A of the Epidemic Preparedness Act 2006 if an epidemic notice is in force.
- Compare: HCR 3.3B

6 Rule 2.5 amended (Epidemics and emergencies)

Replace the heading to rule 2.5 with “**Closure of court and registries if epidemic or emergency exists**”.

7 Rule 2.6 and cross-heading revoked

Revoke rule 2.6 and the cross-heading above rule 2.6.

8 Subpart 1 heading in Part 5 amended

In Part 5, in the subpart 1 heading, after “court,”, insert “filing documents.”.

9 New rules 5.1A and 5.1B and cross-heading inserted

After rule 5.1, insert:

Filing documents

5.1A Filing generally

- (1) In these rules,—

electronic address means any method by which a document communicated in electronic form may be directed to the attention of a particular user of an elec-

tronic communications or information management, retrieval, or storage system, and includes, without limitation,—

- (a) email addresses; and
- (b) fax numbers; and
- (c) remotely accessible locations in file directories located on computer hard drives, servers, or Internet-based servers

published means having been made available at all reasonable times on an Internet site maintained by or on behalf of a Registrar.

- (2) Subject to subclauses (3) to (7), any document required by these rules to be filed may be filed in the proper registry of the court by—
 - (a) delivering it to that registry by hand during registry hours; or
 - (b) sending it by mail to a postal address for that registry published by a Registrar; or
 - (c) sending a copy of that document in electronic form to an electronic address—
 - (i) to which the person filing the document has been directed by the court or a Registrar to send any documents that are to be filed electronically in a particular proceeding or interlocutory application; or
 - (ii) where no such direction has been made in respect of the particular proceeding or interlocutory application to which the document relates, to an electronic address published by a Registrar for the purpose of allowing the electronic filing of documents in the proper registry of the court.
- (3) Subclause (4) applies if any copy of any document filed by means of an electronic communication under these rules contains a signature or other mark or writing that the person responsible for the inclusion of that signature or other mark or writing in the document intends to convey their authorisation, certification, endorsement, or authentication of any matter contained within the document copied.
- (4) In respect of a copy of a document to which this subclause applies, despite any provision in these rules, or in any enactment, regulation, or rule of law to the contrary, that copy of a document, and any matter contained within it, is deemed to have been sufficiently authorised, certified, authenticated, signed, or otherwise endorsed for the purposes of these rules as if the original document had been filed.
- (5) A Judge may, if satisfied that an emergency in the place at which the registry of the court in question is situated means that the filing of documents other than electronically would cause, or risk causing, disruption to the orderly and safe dispatch of the court's business, require that any document required or intended

to be filed in the registry of the court be filed in accordance with subclause (2)(b) or (c).

- (6) In the event of any inconsistency between any provision of this rule and any other provision of these rules or any other enactment, this rule prevails.
- (7) Subject to subclause (8), in the event of any inconsistency between any provision of this rule and any other provision of these rules or any other enactment, this rule prevails.
- (8) This rule is subject to rule 5.1B.

Compare: HCR 5.1A

5.1B When documents filed

- (1) Subject to subclause (2), and despite any other provision of these rules or any other enactment to the contrary, a document—
 - (a) delivered by hand to a registry of the court under rule 5.1A(2)(a) is filed on the day on which it is accepted for filing by the registry and at the time at which the registry receives it;
 - (b) sent by mail to a postal address in accordance with rule 5.1A(2)(b) is filed when the registry receives it;
 - (c) filed by sending it to an electronic address in accordance with rule 5.1A(2)(c)—
 - (i) is filed when it is received by the relevant electronic communications or information management, retrieval, or storage system, provided the document is received by that system during registry hours; or
 - (ii) is filed at 9 am on the first day on which the relevant registry of the court is open after the document is received by the relevant electronic communications or information management, retrieval, or storage system.
- (2) If a fee is payable for the filing of a document, the document is not filed until the earliest of the time that—
 - (a) any fee prescribed for the filing of that document has been paid; or
 - (b) the person responsible for the filing of the document has, in a manner directed by a Registrar,—
 - (i) provided a Registrar with a credit card payment authority for a sum equal to the fee payable for the filing of that document; or
 - (ii) where the court is able to facilitate it, paid a sum equal to the fee payable for the filing of that document by means of electronic bank transfer into an account identified by the Registrar for that purpose; or

- (c) in any case where the Registrar accepts that it is impracticable for the person presenting the document to effect payment of the fee by any other means, and—
 - (i) there is a solicitor on the record for the party seeking to file the document, the solicitor provides together with the document filed an unconditional undertaking to the court to make the payment of the fee for the filing of that document within 3 working days from the day on which the document has been filed; or
 - (ii) where the party seeking to file a document is represented by a barrister sole permitted to represent that party without the intervention of an instructing lawyer pursuant to rules 14.4 to 14.12 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008, the barrister sole provides together with the document filed an unconditional undertaking to the court to make payment of the fee for the filing of that document within 3 working days from the day on which the document has been filed; or
- (d) the Registrar has determined that the document is to be treated as having been filed despite non-payment of the fee in any case where the Registrar is satisfied that doing so is necessary in the interests of justice, having regard to—
 - (i) the circumstances of the proceeding or interlocutory application in question; and
 - (ii) the existence of an emergency in the place at which the registry of the court in question is situated.
- (3) If an undertaking given under subclause (2)(c) has not been fulfilled within the time provided for payment, the court may order that until payment is received—
 - (a) no reliance can be placed on the document filed; or
 - (b) the document filed not be used in proceedings until the payment is received.

Compare: HCR 5.1B

10 Rule 7.2 amended (First case management conference)

Revoke rule 7.2(7).

11 Rule 7.14 revoked (Filing by post)

Revoke rule 7.14.

12 Rule 9.53 amended (Application to set aside New Zealand subpoena)

- (1) Replace rule 9.53(2) with:
- (2) The application may state (for the purposes of rule 9.55(1)) that a hearing is required to determine the application.

(2) Revoke rule 9.53(6).

13 Rule 20.17 amended (Application of rules relating to interlocutory applications)

Revoke rule 20.17(1)(c).

14 Schedule 2 amended

(1) In Schedule 2, form 28, replace “Fax” with “Electronic address”.

(2) In Schedule 2, form 29, replace “Fax” with “Electronic address”.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 23 March 2023, amend the District Court Rules 2014 to—

- provide for the electronic filing of documents in the District Court;
- describe when an emergency in the District Court exists (at which time specific rules may apply);
- make consequential amendments.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 23 February 2023.
These rules are administered by the Ministry of Justice.