



Family Court Amendment Rules 2022

Cindy Kiro, Governor-General

Order in Council

At Wellington this 19th day of December 2022

Present:

The Right Hon Jacinda Ardern presiding in Council

These rules are made under section 16A of the Family Court Act 1980 on the advice and with the consent of the Executive Council.

Contents

	Page
1 Title	2
2 Commencement	2
3 Principal rules	2
4 Rule 8 amended (Interpretation)	2
5 Rule 12 amended (Powers of Registrars under rules)	2
6 Rule 76 amended (Ways documents may be presented for filing)	2
7 Rule 102 amended (How documents to be served)	3
8 Rule 105 amended (Certain documents to be served by personal service)	3
9 Rule 107A revoked (Personal service during emergency)	3
10 New rule 113A and cross-heading inserted	3
<i>Service: By transmission to electronic address for service</i>	
113A Service by transmission to electronic address for service	3
11 Rule 127A replaced (Proof of personal service by electronic transmission during emergency)	3
127A Proof of service by transmission to electronic address for service	3

12	Rule 198 amended (Judgments to be sealed and dated)	4
13	New rule 206B inserted (Electronic transmission of judgment by Registrar)	4
	206B Electronic transmission of judgment by Registrar	4

Rules

1 Title

These rules are the Family Court Amendment Rules 2022.

2 Commencement

These rules come into force on 23 December 2022.

3 Principal rules

These rules amend the Family Court Rules 2002.

4 Rule 8 amended (Interpretation)

In rule 8(1), definition of **address for service**, after “sent”, insert “or transmitted”.

5 Rule 12 amended (Powers of Registrars under rules)

Revoke rule 12(5).

6 Rule 76 amended (Ways documents may be presented for filing)

(1) After rule 76(1)(b), insert:

(c) sending it to an electronic system used by the court.

(2) Replace rule 76(2) and (2A) with:

(2) If there is an emergency in the area in which a court office is situated and the Registrar is satisfied that presenting a document for filing in the court office in the way specified in subclause (1)(a) or (b) would cause, or risk causing, disruption to the orderly and safe dispatch of court business, the Registrar may require that the document be presented for filing in the court office in the way specified in subclause (1)(c).

(3) Replace rule 76(3) and (4) with:

(3) Subclause (4) applies if any document that is presented for filing under subclause (1)(c) or (2) 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 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 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.

7 Rule 102 amended (How documents to be served)

After rule 102(2)(a), insert:

(ab) by transmitting a copy to the person's electronic address for service (*see* rule 113A); or

8 Rule 105 amended (Certain documents to be served by personal service)

After rule 105(1), insert:

(1A) *But see* rule 113A (which allows a document specified in subclause (1) to be served electronically by certain persons if an electronic address for service has been provided for the purpose of receiving service of the document).

9 Rule 107A revoked (Personal service during emergency)

Revoke rule 107A.

10 New rule 113A and cross-heading inserted

After rule 113, insert:

Service: By transmission to electronic address for service

113A Service by transmission to electronic address for service

- (1) Despite rule 105(1), a document specified in paragraph (a) or (b) of that provision may be served electronically by transmitting a copy of the document to an electronic address for service that the person to be served has provided for the purpose of receiving the document.
- (2) A document may be served electronically in accordance with subclause (1) only by a person described in rule 106(1)(a), (aa), (ab), or (c).

11 Rule 127A replaced (Proof of personal service by electronic transmission during emergency)

Replace rule 127A with:

127A Proof of service by transmission to electronic address for service

If service of a document is effected by transmission to an electronic address for service under rule 113A, service of the document is treated as being effected on the person to be served (the **recipient**) at the time the document was sent, and in proving service it is sufficient to prove that—

- (a) the document was properly addressed to the recipient's electronic address for service; and

- (b) the electronic address for service was provided by the recipient for the purpose of receiving the document; and
- (c) the document was transmitted to that address.

12 Rule 198 amended (Judgments to be sealed and dated)

Revoke rule 198(4).

13 New rule 206B inserted (Electronic transmission of judgment by Registrar)

After rule 206A, insert:

206B Electronic transmission of judgment by Registrar

A judgment that is to be transmitted to an electronic address may be—

- (a) signed electronically by a Registrar, if the electronic signature—
 - (i) adequately identifies the Registrar; and
 - (ii) is as reliable as is appropriate given the purpose for which, and the circumstances in which, the signature is required; and
- (b) sealed electronically by a Registrar, if the electronic seal—
 - (i) adequately identifies the Registrar; and
 - (ii) is as reliable as is appropriate given the purpose for which, and the circumstances in which, the seal is required.

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 December 2022, amend the Family Court Rules 2002 (the **principal rules**).

The purpose of these rules is to provide for electronic filing of documents in the Family Court and for electronic service of certain Family Court documents. Currently electronic filing and service of documents in the Family Court is only possible during an emergency. An emergency existed while the Epidemic Preparedness (COVID-19) Notice 2020 was in force and documents could be electronically filed and served in the Family Court from 5 June 2020 until 20 October 2022 (being the date on which the notice expired). The principal rules are amended to reinstate electronic filing in the Family Court without there needing to be an emergency and also to provide for electronic service in some circumstances.

The amendments—

- amend rule 76 to provide that a document may be presented in the Family Court for filing by sending the document to an electronic system used by the court:
- amend rules 102 and 105 and insert *new rule 113A* to provide that an application under the Family Violence Act 2018, the Family Proceedings Act 1980, or the Care of Children Act 2004, or a summons issued under any of those Acts, may be served by certain persons by means of transmission to an electronic address for service that the recipient has provided for the purpose of receiving the document electronically:
- replace rule 127A with a new rule about how service by transmission to an electronic address for service under *new rule 113A* is proved:
- insert *new rule 206B*, which provides for the electronic signing and sealing of judgments by Registrars (extending existing rules 12(5) and 198(4), which applied only in the case of an emergency).

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 22 December 2022.

These rules are administered by the Ministry of Justice.