

Employment Court: COVID-19 Protocol

Chief Judge Christina Inglis

5 March 2021

This protocol replaces the protocol issued on 28 February 2021 and applies from 6 am on Sunday 7 March 2021 for Auckland (Alert Level 2) and the rest of New Zealand (Alert Level 1).

The Employment Court continues to process all new and existing proceedings. It remains open to hear matters, as appropriate, including in Auckland.

Under Alert Level 2 (Auckland)

The following paragraphs apply to Auckland under Alert Level 2.

Triaging

1. All new matters continue to be referred to a Judge and are prioritised in the usual way. Parties are reminded of the ability to apply for urgency under cl 21 of [sch 3 to the Employment Relations Act 2000](#).
2. The Judges continue to assess all proceedings and convene telephone conferences to discuss next steps, including whether a particular matter should be dealt with on the papers, by remote participation, or by hearing in person. Remote participation is encouraged, where appropriate.
3. The Judges are setting down hearings in person where (1) alternative modes of hearing (for example, on the papers or via remote participation) cannot reasonably be accommodated; and (2) a hearing in person can be conducted safely; and (3) the Judge considers it appropriate to do so.

Hygiene in the Court

4. All Courts have posters displaying the applicable NZ COVID Tracer QR code and paper records in place at the entranceway for attendees to record their attendance. People attending at Court are expected to use them.
5. All those attending Courts in the Auckland region are to wear face masks in public spaces and courtrooms (including representatives, parties and witnesses). Attendees will be offered a face mask if they do not already have one. A Judge may ask participants to remove masks when speaking.

6. Safe distancing will be observed in the courtroom, and people present will be required to maintain one metre social distancing, with alternate seats in public galleries taped off. Hand sanitiser will be available for use in all courtrooms.
7. The Court will not normally permit documents to be handed up. Documents that parties wish to produce should be scanned and shared by email at the appropriate time.
8. The Ministry of Justice will continue to take steps to ensure the safety of those coming into courthouses during Alert Level 2, as described on its website [[Alert Level 2](#)].
9. Any concerns about health and safety practices in the Court should be raised with the Registrar in the first instance.

Expectations of representatives

10. Representatives are expected to assist the Court by:
 - a. Briefing clients and witnesses on public health messages, including:
 - (i) Not to come to Court if unwell
 - (ii) To advise their representatives as early as possible if they are unable to attend Court
 - (iii) The social distancing, masking and attendance recording expectations in the courthouse and precincts
 - (iv) How exhibits will be handled in their case
 - (v) The limits on attendance by support persons and members of the public.
 - b. Reducing the need for attendance in the courthouse by representatives, their clients and witnesses by reviewing each attendance in advance and seeking remote participation for appropriate cases and witnesses. The Court may be able to accommodate witnesses giving evidence remotely where a good reason exists. This should be raised by counsel in the relevant directions conference.
 - c. So far as possible, taking instructions and briefing witnesses outside the courthouse.
 - d. Raising any deficiencies with cleaning, the availability of cleaning supplies or physical distancing with the site manager immediately.

Community transmission response

11. At Alert Level 2, it remains possible that a new cluster of COVID-19 community transmission may be confirmed within the location served by a courthouse. In that event the Court will rely on official advice. Steps may be taken to reduce in-person attendances at the Court to help protect those working or appearing there. The extent of any restriction will depend on the circumstances and official advice or notices. The restrictions would be publicly notified in advance on the Court's website and via Twitter ([@EmploymentCourt](#)).

Filing/service/affidavits

12. During Alert Level 2, all filing of Court documents should be by email, if possible. However, documents can be filed by post and Employment Court Registries will be open to receive filing in person where that is necessary.
13. Filing fees under the [Employment Court Regulations 2000](#) must be paid at the time documents are filed.
14. Difficulties in service may be drawn to the attention of the Court to enable appropriate directions and orders to be made facilitating electronic service.
15. The Court will not generally accept unsworn affidavits, but may, in appropriate circumstances, direct that an affidavit that does not comply be accepted for filing and be read and used in a proceeding (refer [HCR 9.73](#)).

Access

16. Matters set down for hearing in the Employment Court, and to which the public would otherwise have access, will continue to be publicly notified on the [Court's website](#) and via the Court's Twitter account ([@EmploymentCourt](#)) to enable those with an interest to contact the Registry, so that appropriate access arrangements can be put in place.
17. Accredited news media will continue to have entry to the Court in order to report Court proceedings, and to ensure continued open and transparent justice. Remote access for accredited news media, will continue to be facilitated in accordance with current protocols.
18. The Court's Twitter feed and web page continue to be updated regularly.
19. Participants should feel free to contact the Registrar of the Employment Court directly for further guidance or clarification. The contact details are set out below.

Under Alert Level 1 (Rest of New Zealand)

The following applies to regions under Alert level 1.

1. For regions under Alert Level 1 the Employment Court will, in general, return to normal operations.
2. The use of remote participation will remain available for use on application in appropriate cases.
3. If counsel, or other persons required or proposing to attend a hearing (for example, a party or a witness) are unwell, they should not attend Court. If this applies, the presiding judge should be advised so that alternative arrangements for the appearance can be made.

4. All Courts have posters displaying the applicable NZ COVID Tracer QR code and paper records in place at the entranceway for attendees to record their attendance. People attending at Court are expected to use them.
5. Face masks and hand sanitiser will be available in courts, and their use is encouraged.
6. The Ministry of Justice will continue to provide the hygiene measures described on their website [[Alert Level 1](#)].
7. Any concerns about health and safety practices in the Court should be raised with the Registrar in the first instance.

Contact details

Auckland

Registrar: Mima Bobot
Phone: 09 916 6359
Email: mima.bobot@justice.govt.nz
Emergency phone: 027 295 6673

Electronic filing to be sent to: mima.bobot@justice.govt.nz
Postal: Employment Court, DX CX 10086, Auckland

Wellington and Christchurch

Registrar: Joseph Buckton
Phone: 04 918 8313
Email: joseph.buckton@justice.govt.nz
Emergency phone: 021 946 790

Electronic filing to be sent to: joseph.buckton@justice.govt.nz
Postal: Employment Court, DX SX 10009, Wellington