

**Hon Aupito William Sio**  
Associate Minister for Courts

**Proactive release – Amendments to the District Court Rules 2014 and the High Court Rules 2016**

Date of issue: 3 August 2020

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	<b>Amendments to the District Court Rules 2014 and the High Court Rules 2016</b> <i>Cabinet paper</i> Office of the Associate Minister of Justice	Released in full
2	<b>Amendments to the District Court Rules 2014 and the High Court Rules 2016</b> <i>Cabinet Minute</i> Cabinet Office <i>Meeting date: 22 June 2020</i>	Released in full

In confidence

Office of the Associate Minister for Courts  
Cabinet Legislation Committee

## **Amendments to the District Court Rules 2014 and the High Court Rules 2016**

### **Proposal**

1. I seek Cabinet's authorisation for submission to the Executive Council of the:
  - 1.1. District Court (Contempt of Court) Amendment Rules 2020;
  - 1.2. High Court (Contempt of Court) Amendment Rules 2020; and
  - 1.3. High Court Amendment Rules 2020.

### **Background**

2. This paper seeks approval for the minor and technical changes to the District Court Rules 2014 and the High Court Rules 2016 required to implement the Contempt of Court Act 2019 (the Contempt Act). These changes are proposed by the Rules Committee (the Committee).
3. Approval is also sought for some further minor and technical changes to the High Court Rules that have been proposed by the Committee.
4. The Committee is a statutory body established under section 155 of the Senior Courts Act 2016. Rules of the Senior Courts and District Court are made by Order in Council, with the concurrence of the Committee. Members include the Chief Justice, the Chief High Court Judge, the Chief District Court Judge, the Attorney-General, the Solicitor-General, the Chief Executive of the Ministry of Justice, and selected judges and lawyers.
5. The proposed changes do not require any new policy decisions. The amendments have been considered and agreed to by the Committee, a statutory committee with authority under section 155 of the Senior Courts Act 2016 to make, amend and repeal rules of the Senior Courts and District Court.

#### *District Court (Contempt of Court) Amendment Rules 2020*

6. The District Court (Contempt of Court) Amendment Rules 2020 make amendments to give effect to changes introduced by the Contempt Act 2019. The Contempt Act introduced new provisions dealing with disruptive behaviour during court proceedings and for enforcing court orders through contempt proceedings. As a consequence, amendments are required to a number of the current rules to ensure they reflect the new provisions.

7. The changes contained in the District Court (Contempt of Court) Amendment Rules 2020 include:
  - 7.1. reflecting that the contempt of disrupting court proceedings or disobeying a court order is now dealt with in the Contempt Act, rather than the District Court Act 2016;
  - 7.2. reflecting the terminology in the Contempt Act (such as replacing references to 'punish contempt' with 'enforcement'); and
  - 7.3. amending forms to align with the new legislation.

*High Court (Contempt of Court) Amendment Rules 2020*

8. The High Court (Contempt of Court) Amendment Rules 2020 make amendments to give effect to changes introduced by the Contempt Act. The changes relate to the rules governing the procedure for dealing with disruptive behaviour during court proceedings and the enforcement of court orders. As a consequence, amendments are required to a number of the current rules to ensure they reflect the new provisions.
9. The changes contained in the High Court (Contempt of Court) Amendment Rules 2020:
  - 9.1. reflect that the Court's authority to commit a person to prison for contempt now comes from the Contempt Act;
  - 9.2. reflect the terminology in the Contempt Act (such as replacing references to 'punish contempt' with 'enforcement'); and
  - 9.3. amend some existing forms and creates new forms (relating to warrants of committal, orders for fines, and orders for community work) for disobeying a court order or disruptive behaviour during court proceedings.

*High Court Amendment Rules 2020*

10. The changes proposed by the Rules Committee contained in the High Court Amendment Rules 2020 include:
  - 10.1. a self-represented litigant will not be required to file a notice of change in representation if they appoint a lawyer for a limited purpose;
  - 10.2. the filing and service of a notice of opposition will have to occur at least 3 working days before the hearing date and the applicant's synopsis of submissions will have to be filed and served at least 2 working days before the hearing date; and
  - 10.3. the court will be able to grant leave for a second or subsequent interlocutory application for summary judgment in the same proceeding if special circumstances exist.

11. The Amendment Rules also correct drafting errors and update cross-references.

#### **Timing and 28-day rule**

12. The proposed District Court (Contempt of Court) Amendment Rules and High Court (Contempt of Court) Amendment Rules give effect to the Contempt Act and will come into force on 26 August 2020, the commencement date of the Act.
13. The High Court Amendment Rules 2020 will come into force on 24 July 2020. I am not seeking a waiver of the 28-day rule.

#### **Compliance**

14. The regulatory changes comply with each of the following:
- 14.1. the principles of the Treaty of Waitangi;
  - 14.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
  - 14.3. the principles and guidelines set out in the Privacy Act 1993;
  - 14.4. relevant international standards and obligations; and
  - 14.5. the *Legislation Guidelines* (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

#### **Statutory requirements**

15. Section 228 of the District Court Act 2016 requires the concurrence of the Chief District Court Judge and two or more members of the Committee (at least one of whom must be a District Court Judge) to rules regulating the practice and procedure of the District Court.
16. Section 148 of the Senior Courts Act 2016 requires the concurrence of the Chief Justice and two or more members of the Committee (at least one of whom must be a High Court Judge) to rules regulating the practice and procedure of the Supreme Court, the Court of Appeal and the High Court.
17. I confirm that the above requirements have been met.

#### **Regulations Review Committee**

18. There do not appear to be grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 319.

#### **Certification by Parliamentary Counsel**

19. The Parliamentary Counsel Office (PCO) has certified that the legislative instruments are in order for submission to Cabinet.

## Impact analysis

20. The Regulatory Quality Team at Treasury has determined that a Regulatory Impact Analysis is not required as these proposals are minor and technical and have no or only minor impacts on businesses, individuals or not-for-profit entities.
21. The Ministry for the Environment has been consulted and confirm that the Climate Implications of Policy Assessment requirements do not apply to this proposal as the threshold for significance is not met.

## Publicity

22. The Ministry of Justice will publicise the rule changes to the legal profession.

## Proactive release

23. I propose to proactively release this paper, with appropriate redactions, within 30 business days of the decision.

## Consultation

24. The Minister for Courts has been consulted and has agreed to the submission of this paper and the legislative instruments.
25. The following government agencies were consulted on this paper and legislative amendments: Crown Law, Treasury, the Ministry of Business, Innovation, and Employment, Ministry for the Environment, Ministry for Primary Industries, Ministry of Social Development, Department of Conservation, Department of Corrections, Department of Internal Affairs, Inland Revenue Department, New Zealand Police, and New Zealand Customs Service.

## Recommendations

26. I recommend that the Cabinet Legislation Committee:
  1. **note** that the Rules Committee has resolved to make minor and technical changes to the District Court Rules 2014 and the High Court Rules 2016;
  2. **note** that section 228 of the District Court Act 2016 requires the concurrence of the Chief District Court Judge and two or more members of the Rules Committee (of whom at least one is a District Court Judge) to rules regulating the practice and procedure of the District Court;
  3. **note** that section 148 of the Senior Courts Act 2016 requires that concurrence of the Chief Justice and two or more members of the Committee (at least one of whom must be a High Court Judge) to rules regulating the practice and procedure of the Supreme Court, the Court of Appeal and the High Court;
  4. **note** the advice of the Associate Minister for Courts that these requirements have been met;

5. **authorise** the submission to the Executive Council of the:
  - 5.1. District Court (Contempt of Court) Amendment Rules 2020;
  - 5.2. High Court (Contempt of Court) Amendment Rules 2020; and
  - 5.3. High Court Amendment Rules 2020.
6. **note** that the District Court (Contempt of Court) Amendment Rules 2020 and the High Court (Contempt of Court) Amendment Rules 2020 will come into force on 26 August 2020, the commencement date of the Contempt Act 2019; and
7. **note** that the High Court Amendment Rules 2020 will come into force on 24 July 2020.

Authorised for lodgement

Hon Aupito William Sio  
**Associate Minister for Courts**



# Cabinet Legislation Committee

## Minute of Decision

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### District and High Courts Amendment Rules 2020

**Portfolio**                      **Associate Courts**

On 16 June 2020, the Cabinet Legislation Committee:

- 1        **noted** that the Rules Committee has resolved to make minor and technical changes to the District Court Rules 2014 and the High Court Rules 2016;
- 2        **noted** that section 228 of the District Court Act 2016 requires the concurrence of the Chief District Court Judge and two or more members of the Rules Committee (of whom at least one is a District Court Judge) to rules regulating the practice and procedure of the District Court;
- 3        **noted** that section 148 of the Senior Courts Act 2016 requires that concurrence of the Chief Justice and two or more members of the Committee (at least one of whom must be a High Court Judge) to rules regulating the practice and procedure of the Supreme Court, the Court of Appeal and the High Court;
- 4        **noted** the advice of the Associate Minister for Courts that these requirements have been met;
- 5        **authorised** the submission to the Executive Council of the:
  - 5.1      District Court (Contempt of Court) Amendment Rules 2020 [PCO 22430/6.0];
  - 5.2      High Court (Contempt of Court) Amendment Rules 2020 [PCO 22429/6.0];
  - 5.3      High Court Amendment Rules 2020 [PCO 22079/5.0];
- 6        **noted** that the District Court (Contempt of Court) Amendment Rules 2020 and the High Court (Contempt of Court) Amendment Rules 2020 will come into force on 26 August 2020, the commencement date of the Contempt Act 2019;
- 7        **noted** that the High Court Amendment Rules 2020 will come into force on 24 July 2020.

Gerrard Carter  
Committee Secretary

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**Hard-copy distribution: (see over)**

**Present:**

Rt Hon Winston Peters  
Hon Chris Hipkins (Chair)  
Hon Andrew Little  
Hon Nanaia Mahuta  
Hon Stuart Nash  
Hon Damien O'Connor  
Hon Iain Lees-Galloway  
Hon Tracey Martin  
Hon Aupito William Sio  
Hon Eugenie Sage

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

RELEASED BY THE ASSOCIATE MINISTER OF JUSTICE