



From the Chief High Court Judge | Te Kaiwhakawā Matua o te Kōti Matua o Aotearoa
The Honourable Justice Susan Thomas

and

The Chief Judge of the District Court of New Zealand | Te Kaiwhakawā Matua o te Kōti-a-Rohe o Aotearoa
Judge Heemi Taumaunu

13 August 2020

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Tēnā koutou

HIGH COURT AND DISTRICT COURT PROTOCOLS: ALERT LEVELS 2 & 3

We write to confirm that the Protocols for the High Court and District Court for Alert Level 2 and 3 are available on the Courts of New Zealand website. The Protocols are substantially the same as the previous Protocols.

We have taken the opportunity to make necessary changes to reflect reintroduction of the Alert Levels and give current efficacy to the Protocol provisions. We have also included some provisions which clarify or reflect what was the prevailing operating position under previous Protocols. The now revised Level 3 Protocols contain improvements reflected in the previous Level 2 Protocols which followed consultation with the profession.

District Court

In relation to the District Court Protocols please note that changes include the following:

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Access to the Court

For Level 3 we have replicated, for consistency, the provisions that previously prevailed in Level 2 and are retained in the Level 2 Protocol;

Hygiene

In similar vein we have included in the Level 3 protocol the previous Level 2 provisions (reflecting Ministry practice and expectations) which are retained in the Level 2 Protocol.

Voluntary or Unscheduled appearances

A new provision recognises that a voluntary, or unscheduled, appearance may be initiated via 0800 COURTS and made, subject to the approval of a Judge.

Priority Proceedings

These Alert Level 4 proceedings have priority as previously, but the category is described more fully, for ease of reference.

Criminal Jurisdiction generally

The relevant provisions of the Level 3 Protocol (defendants in custody, warrants to arrest, remote bail, CRHs and so forth) have been updated to align with the previous, and retained, Level 2 Protocol provisions.

High Court

The High Court Protocols have also been updated along the lines of the District Court Protocols.

Features of note include the following.

Criminal trials

In the areas at Alert Level 2 existing jury trials are being completed. Scheduled jury trials are being reviewed to ensure that appropriate safety measures are put in place to allow the proceedings to continue appropriately. In Level 3 no new jury trials will be commenced.

Civil matters

There is a greater emphasis on conducting work, as far as practicable, by remote means. For Level 2 civil trials will continue as scheduled. For Level 3 civil trials will be reviewed, including for the purpose of assessing whether they can proceed using remote means.

High Court Rules

The Epidemic Preparedness (COVID-19) Notice 2020 continues to be in effect. That means that all the changes to the High Court Rules to address the COVID-19 situation continue to apply. See High Court (COVID-19 Preparedness) Amendment Rules 2020.

Priority proceedings

These retain priority as previously but have not been specifically addressed in either Protocol on the basis that the work of the High Court will continue in the normal way as far as practicable.

Public access to the Court

We have replicated the District Court approach which reflects the Ministry of Justice procedures.

Hygiene

We have included in the Level 3 Protocol the previous Level 2 provisions (reflecting Ministry practice and expectations) which are retained in the Level 2 Protocol.

We have deleted the former Addendum Two to the Level 2 Protocol. The Ministry of Justice will provide the detail of the health and safety measures to be provided in courts.

One change to note is the expectation (but not requirement) that masks will be worn in the courthouse except when the relevant persons are required to speak in Court.

Ngā mihi



Susan Thomas
Chief High Court Judge



Ida Malosi
Acting District Court Judge