

# **EMPLOYMENT COURT PROTOCOL**

## **Employment Court operations with Covid-19 in the community**

**Chief Judge Christina Inglis**

**Effective from Tuesday 13 September 2022**

1. Courts are an essential service. The Employment Court will remain open despite the presence of Covid-19 in the community, to ensure access to justice.
2. This protocol sets out a framework for ensuring that everyone who needs to participate in proceedings is able to do so. The primary considerations that underpin this protocol, and decisions under it, are the interests of justice and the protection of the health and safety of everyone in the court building.
3. This protocol applies subject to any directions given by the presiding judge in a particular case. The presiding judge may direct that requirements set out in this protocol do not apply in a particular case if the judge is satisfied that it is in the interests of justice to do so.

### **ENTRY TO COURT BUILDINGS**

4. The following requirements apply to entry into court buildings:
  - (a) A person may not enter the court building if they are showing signs of illness;
  - (b) A person who has tested positive for COVID-19 within the last 7 days may not enter the court building.
5. The Courts remain open to the public, but for health and safety reasons there may be limits on the number of people who are not directly involved in proceedings who are permitted to be physically present in courtrooms and court buildings.

### **MASKS**

6. All persons entering the court building may wear a surgical mask or a KN95 mask, and are encouraged to do so when moving around the court building (including

courtrooms).<sup>1</sup> Masks will be provided at the entry to the court building for all those who do not have their own mask.

7. A surgical mask or KN95 mask must be worn by all persons present in a courtroom, or by specified persons in a courtroom, if the presiding judge so directs.

## **CONDUCT OF HEARINGS**

8. All matters listed for hearing will be conducted in person, unless a judge directs otherwise. Directions may be given for some types of hearing to be conducted remotely.
9. A party may seek a direction that a matter should be conducted with all participants appearing remotely.<sup>2</sup> A request for a matter to be conducted remotely should be made with as much notice as possible, and where practicable five working days in advance.
10. A party, representative or other participant may apply to participate in a hearing by remote technology.<sup>3</sup> A request for a participant to appear remotely should be made with as much notice as possible, and where practicable five working days in advance.

## **RAPID ANTIGEN TESTS (RATS)**

11. A court participant who has any symptoms of Covid-19, however minor, must take a RAT before attending court:
  - (a) If they test negative, and the symptoms are very minor (eg a scratchy throat), they may attend court but must wear a mask at all times.
  - (b) If they test negative and the symptoms are more severe (eg runny nose, coughing) they must not attend court unless a judge so directs. If they are permitted to attend court, they must wear a mask at all times.

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<sup>1</sup> All references to KN95 masks include references to masks of an equivalent standard such as P2 masks.

<sup>2</sup> For relevant factors see the Courts (Remote Participation) Act 2010, ss 5 and 7.

<sup>3</sup> For relevant factors see the Courts (Remote Participation) Act 2010, ss 5 and 7.

(c) If they test positive, they must not attend court: see para 14 below.

12. The presiding judge may require that some or all participants in a hearing longer than one day take a RAT in the morning before attending court, on such days as the judge directs, if the judge is satisfied that it is reasonably necessary to do so in the interests of justice and to protect health and safety in the courts.
13. The Registry will advise representatives and any party who is not represented of the arrangements for obtaining RATs from the court.
14. If a court participant receives a positive COVID-19 test result, they must not attend court (and if present at court, must promptly leave). Whether and how the hearing may be able to continue will be a matter for the presiding judge to determine on a case-by-case basis.
15. If a court participant is required to take a RAT, and declines to do so, the presiding judge will determine whether and how the hearing will proceed.

## **GENERAL PROVISIONS**

### **Media access**

16. Accredited news media will 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.

### **Remote participation and viewing**

17. The Guideline for Appearing by Audio-Visual Link, including in Virtual Hearings will apply to any hearings involving remote participants:

[Guideline for Appearing by AVL](#)

18. The Guideline for Remote Viewings of Hearings governs media and public access to hearings:

[Guideline for Remote Viewings of Hearings](#)

## **Health and safety**

19. The following health and safety measures can be expected in the court building:
- (a) Cleaning products will be available on site to enable staff and lawyers to keep their immediate areas clean (including AVL suites);
  - (b) Hand sanitiser will be readily available within the courtroom;
  - (c) Face masks will be readily available in court buildings;
  - (d) RAT kits will be available in court buildings.
20. Any concerns about health and safety in the Court should be raised with the Court Registrar or the Manager Justice Services in the first instance.

## **Expectations of Representatives**

21. Representatives are expected to assist the Court by:
- (a) Briefing clients and witnesses on the court building entry requirements and RAT testing requirements, as outlined above.
  - (b) Reducing unnecessary attendances in the court building by representatives, their clients and witnesses by reviewing each attendance in advance and:
    - (i) Seeking remote participation in appropriate cases; and
    - (ii) Limiting the number of witnesses via the use of agreed facts.
  - (c) Representatives should consider and endeavour to agree whether it is appropriate for any witness to participate remotely and advise the Court of any such proposals well in advance of the hearing date. The relevant provisions of the Courts (Remote Participation) Act 2010 will govern whether and how any witness may give evidence remotely. Also refer to the [Summary of Guidelines for a witness giving evidence by AVL](#).

## **Filing and filing fees**

22. Documents may be filed electronically, by post, courier or in person. Address details are contained in Addendum 1.
23. Filing fees continue to be payable. An online “file and pay” system is available: [Courts of New Zealand file and pay](#).

## **ADDENDUM 1**

### **Registry contact details**

#### **Auckland**

Registrar: Mima Bobot

Level 2, 41 Federal Street, Auckland (cnr Federal and Wyndham Streets)

Phone: 09 916 6359

Email: [mima.bobot@justice.govt.nz](mailto:mima.bobot@justice.govt.nz)

Emergency phone: 027 295 6673

Electronic filing to be sent to: [mima.bobot@justice.govt.nz](mailto:mima.bobot@justice.govt.nz)

Postal: Employment Court, DX CX 10086, Auckland

#### **Wellington and Christchurch**

Registrar: Joseph Buckton

Level 5, District Court Building, 43-49 Ballance Street, Wellington

Phone: 04 918 8313

Email: [joseph.buckton@justice.govt.nz](mailto:joseph.buckton@justice.govt.nz)

Emergency phone: 021 946 790

Electronic filing to be sent to: [joseph.buckton@justice.govt.nz](mailto:joseph.buckton@justice.govt.nz)

Postal: Employment Court, DX SX 10009, Wellington