

Employment Court: COVID-19 Protocol

Alert Levels 2 and 3

Chief Judge Christina Inglis
28 February 2021

As announced by the Prime Minister, from 6 am 28 February 2021 the Auckland Region (Auckland Council area) moved to Alert Level 3 for one week. The rest of New Zealand moved to Alert Level 2.

Triaging

1. The Employment Court continues to process all new and existing proceedings. It remains open to hear matters, as appropriate, including in Auckland. Parties are reminded of the ability to apply for urgency under cl 21 of [sch 3 to the Employment Relations Act 2000](#). Any application should be supported by a full explanation as to why urgency is sought.
2. All new matters continue to be referred to a Judge and are prioritised in the usual way.
3. The Judges will assess all proceedings that are set down for hearing during the interim period and will convene telephone conferences as necessary to discuss next steps. Judges will consider whether a particular proceeding now should be dealt with on the papers, by remote participation, or by hearing in person. Some hearings may need to be vacated and set down for a later date.
4. Remote participation is preferred, where appropriate. The Judges, however, 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.
5. Representatives should contact the Court Registrar (contact details below) if they wish to raise any particular matters, including in relation to matters set down for hearing, or with other timetabling, in the week commencing 1 March 2021.

Hygiene in the Court

6. 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.
7. All those attending Courts 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.
8. 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.

9. 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.
10. The Ministry of Justice will continue to take steps to ensure the safety of those coming into courthouses during this time, as described on its website [[Alert Level 3](#) , [Alert Level 2](#)].
11. Any concerns about health and safety practices in the Court should be raised with the Registrar in the first instance.

Expectations of representatives

12. 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

13. 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

14. 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.

15. Filing fees under the [Employment Court Regulations 2000](#) must be paid at the time documents are filed.
16. Difficulties in service may be drawn to the attention of the Court to enable appropriate directions and orders to be made facilitating electronic service.
17. 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

18. 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.
19. 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.
20. The Court's Twitter feed and web page continue to be updated regularly.
21. 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.

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

