

# **Employment Court: COVID-19 Protocol**

**Chief Judge Christina Inglis**

**Updated: 13 May 2020**

## **Under Alert Level 2**

1. This protocol applies from Monday 18 May 2020. At that time it replaces the protocol issued on 23 April 2020.
2. Courts are an essential service. At Alert Level 2 the Employment Court will continue to carry out all its usual scheduled work that can be safely supported. This requires the co-operation of all participants to ensure the Court functions at the fullest extent it safely can in performance of its constitutional role. That means, for example, that if a representative, or other persons required or proposing to attend a hearing (for example, a party) are at higher risk of severe illness, immune-compromised or with a relevant underlying health condition, they should not attend Court. If this applies, the presiding Judge should be advised so that alternative arrangements for the appearance can be made.

## **Triaging**

3. 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.
4. 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.
5. 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**

6. The Ministry of Justice has advised that it continues to take a number of steps to ensure the safety of those coming into courthouses during Alert Level 2, including:
  - a. A designated site hygiene officer to attend to hygiene, physical distancing and safe working practices.

- b. Access will continue to be denied to those:
  - who have a temperature of 38 degrees or above;
  - who show signs of illness such as coughing and sneezing;
  - who report feeling unwell;
  - who have had close contact with a suspected, probable or confirmed case.
- c. Limiting entry to those with business at Court, including support persons and members of the public who are given permission to enter.
- d. Maintaining an orderly queuing system at courthouse entrances, reminding people not to enter if they are symptomatic, offering wipes for items placed in screening trays.
- e. Maintaining a contact register.
- f. PPE (gloves and facemasks) are available for all court participants. These supplies are located at the entrance point with security staff.
- g. Maintaining a cleaning regime based on the Ministry of Health recommendations, with a wide range of deeper cleaning measures in key areas throughout public and non-public areas and regular cleans – for example during lunch breaks – to ensure that areas where there is high traffic are clean and sanitised.
- h. Monitoring the provision of cleaning supplies such as soap and towels and ensuring availability of key products such as hand sanitiser at appropriate points around the courthouse.
- i. Keeping under constant review all cleaning practices and procedures, to enable additional measures to be added if required.
- j. Reminding those attending Court of the need to take personal responsibility for their own health and wellbeing – including washing hands regularly, following hygiene practices and, if unwell, following Ministry of Health guidance.
- k. Leaving doors open where consistent with security, fire safety, privacy and noise reduction.

Please see the [Ministry of Justice Health and Safety guidance](#) for more detail.

7. Parties should wait outside the courthouse until their matter is scheduled and vacate the courtroom once their hearing has concluded.
8. So far as possible, representatives should take instructions and brief witnesses outside the courthouse.
9. Safe distancing will be observed in the courtroom, and the following hygiene practices can be expected:
  - a. Those working in the courtroom, including representatives, are required to maintain one metre social distancing, and alternate seats in public galleries will be taped off.

- b. Cleaning products are available on site to enable staff and representatives to keep their immediate areas clean (including AVL suites).
  - c. Face masks and gloves may be worn.
  - d. Hand sanitiser will be readily available within the courtroom.
  - e. 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. Any concerns about health and safety practices in the Court should be raised with the Court manager in the first instance.

### **Expectations of representatives**

11. 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) Social distancing expectations in the courthouse and precincts
    - (iv) How exhibits will be handled in their case
    - (v) What they may expect by way of PPE and hygiene supplies in the courthouse
    - (vi) 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. Raising any deficiencies with cleaning, the availability of cleaning supplies or physical distancing with the site manager immediately.

### **Community transmission response**

12. 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.

## **Filing/service/affidavits**

13. 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.
14. Filing fees under the Employment Court Regulations 2000 (which were waived during Alert Levels 3 and 4) must now be paid at the time documents are filed.
15. Difficulties in service may be drawn to the attention of the Court to enable appropriate directions and orders to be made facilitating electronic service.
16. 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](#), as recently amended). Practitioners may find it helpful to refer to refer to refer to [guidance issued by the New Zealand Law Society](#).

## **Access**

17. 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 (<https://employmentcourt.govt.nz/>) and via the Court's Twitter account (<https://twitter.com/EmploymentCourt>) to enable those with an interest to contact the Registry, so that appropriate access arrangements can be put in place.
18. 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.
19. The Court's Twitter feed and web page continue to be updated regularly.
20. 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](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  
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