



High Court Amendment Rules 2015

Rt Hon Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 25th day of May 2015

Present:

Her Excellency the Administrator of the Government in Council

Pursuant to section 51C of the Judicature Act 1908, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Right Honourable the Chief Justice and at least 2 other members of the Rules Committee established under section 51B of the Judicature Act 1908 (of whom at least 1 was a Judge of the High Court), makes the following rules.

Contents

		Page
1	Title	2
2	Commencement	2
3	Principal rules	2
4	Rule 1.3 amended (Interpretation)	2
5	Rule 6.6 amended (Service by means of post office box, document exchange, fax, or email)	2
6	Rule 7.3 amended (First case management conferences)	2
7	Rule 7.4 amended (Further case management conferences)	3
8	Rule 9.63 amended (Service of documents on applicant)	3
9	Rule 15.7 amended (Liquidated demand)	3
10	Rule 16.6 amended (Account-taker)	3
11	Rule 17.34 amended (Attachment order to be served on employer)	3
12	Rule 19.2 amended (Applications under certain enactments)	3

13	Rule 24.37 amended (Service, etc, of notice of application for discharge)	3
14	Rule 24.38 amended (Report of Official Assignee)	3
15	Rule 24.39 amended (Opposition by creditor to discharge)	3
16	Rule 27.39 amended (Documents to be filed and verified)	3
17	Rule 27.40 amended (Power to adopt previous accounts)	4
18	Schedule 1 amended	4
19	Schedule 2 replaced	4
20	Schedule 10 amended	4

Schedule 4
New Schedule 2 replaced

Rules

1 Title

These rules are the High Court Amendment Rules 2015.

2 Commencement

These rules come into force on 1 July 2015.

3 Principal rules

These rules amend the High Court Rules set out in Schedule 2 of the Judicature Act 1908 (the **principal rules**).

4 Rule 1.3 amended (Interpretation)

- (1) In rule 1.3(1), definition of **working day**, paragraph (b), after “following year”, insert “; and”.
- (2) In rule 1.3(1), definition of **working day**, after paragraph (b), insert:
 - (c) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday.

5 Rule 6.6 amended (Service by means of post office box, document exchange, fax, or email)

- (1) In rule 6.6(1)(a)(i), replace “third” with “fifth”.
- (2) In rule 6.6(7)(a), replace “sixth” with “eighth”.

6 Rule 7.3 amended (First case management conferences)

After rule 7.3(8), insert:

- (9) Any memorandum under this subpart may be filed by fax or email transmission.

7 Rule 7.4 amended (Further case management conferences)

After rule 7.4(2), insert:

- (3) The parties must either file a joint memorandum addressing the Schedule 5 matters no later than 10 working days before the conference, or file separate memoranda addressing those matters in accordance with rule 7.3(5), and rule 7.3(6) to (8) applies accordingly, with any necessary modifications.

8 Rule 9.63 amended (Service of documents on applicant)

In rule 9.63(1A)(a), replace “sixth” with “eighth”.

9 Rule 15.7 amended (Liquidated demand)

After rule 15.7(5)(a), insert:

- (ab) is quantified in, or can be precisely calculated on the basis of, or by reference to, an enactment relied on by the plaintiff; or

10 Rule 16.6 amended (Account-taker)

In rule 16.6(2), replace “chartered accountant in public practice who is a member of the New Zealand Institute of Chartered Accountants” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

11 Rule 17.34 amended (Attachment order to be served on employer)

In rule 17.34(2), replace “fourth” with “sixth”.

12 Rule 19.2 amended (Applications under certain enactments)

In rule 19.2(y), after “24.11,”, insert “24.35, 24.44,”.

13 Rule 24.37 amended (Service, etc, of notice of application for discharge)

In rule 24.37, replace “15 working days” with “20 working days”.

14 Rule 24.38 amended (Report of Official Assignee)

In rule 24.38, replace “5 working days” with “10 working days”.

15 Rule 24.39 amended (Opposition by creditor to discharge)

In rule 24.39, replace “by 1 pm on the day before the hearing” with “not less than 5 working days before the hearing”.

16 Rule 27.39 amended (Documents to be filed and verified)

In rule 27.39(2), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013)”.

17 Rule 27.40 amended (Power to adopt previous accounts)

In rule 27.40(2), replace “chartered accountant” with “qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 1993)”.

18 Schedule 1 amended

In Schedule 1, form G 36, paragraph 2, replace “rule 8.14” with “rule 8.47”.

19 Schedule 2 replaced

Replace Schedule 2 with the Schedule 2 set out in the Schedule of these rules.

20 Schedule 10 amended

In Schedule 10, after the Schedule 10 heading, insert:

Note: The presiding Judge will expect the parties at the first case management conference to have—

- (a) provided initial disclosure in accordance with rule 8.4:
- (b) carefully considered the pleadings and the principal documents disclosed with them.

Schedule New Schedule 2 replaced

r 19

Schedule 2 Appropriate daily recovery rates

r 14.4

Note: The following are the appropriate daily recovery rates for the categories of proceedings referred to in rule 14.3.

Category of proceedings (rule 14.3)	Appropriate daily recovery rate (\$)
1	1,480
2	2,230
3	3,300

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on 1 July 2015, amend the High Court Rules (the **principal rules**).

The amendment to rule 1.3 of the principal rules changes the definition of working day to make it consistent with changes made to the Holidays Act 2003 in 2013.

Rules 6.6, 9.63, and 17.34 of the principal rules are amended to add an additional 2 days to the respective periods after which certain documents served by ordinary post are treated as having been served.

The amendment to rule 7.3 of the principal rules clarifies that memoranda related to case management conferences may be filed by fax or email. The amendment to rule 7.4 of the principal rules requires parties of a second, or any subsequent, case management conference to file a joint memorandum before the conference.

Rule 15.7 of the principal rules is amended to include in the definition of liquidated demand a demand that is quantified in, or can be precisely calculated on the basis of, or by reference to, an enactment relied on by the plaintiff. This change will enable plaintiffs to obtain a judgment by default for such claims, if those claims are not defended, rather than having to proceed by way of formal proof.

The amendments to rules 16.6, 27.39, and 27.40 of the principal rules replace references to a chartered accountant with references to a qualified statutory accountant (within the meaning of section 5(1) of the Financial Reporting Act 2013).

The amendment to rule 19.2 of the principal rules inserts 2 missing references.

The amendments to rules 24.37, 24.38, and 24.39 of the principal rules alter the periods for various actions in relation to applications for discharge from bankruptcy, the issuing of the Official Assignee's report, and the period during which a creditor may object to an application for discharge, to allow more realistic periods for these actions to be carried out before a hearing. The amendments also remove an inconsistency between the period provided in rule 24.39 of the principal rules and the period provided in regulation 19 of the Insolvency (Personal Insolvency) Regulations 2007 for a creditor to file and serve a notice of opposition, and the grounds of opposition, to a discharge from bankruptcy.

These rules replace Schedule 2 of the principal rules (which relate to appropriate daily costs of recovery) to increase those rates to take account of changes in the New Zealand Producers Price Index since those rates were last adjusted in 2012.

Finally, these rules amend Schedule 10 of the principal rules to draw the attention of parties in judicial review proceedings to the need to have made initial disclosure, and to have considered the pleadings and the documents disclosed, by the time of the first case management conference.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 May 2015.
These rules are administered by the Ministry of Justice.