

## BRIEFING SHEET: CABINET PAPER

<b>MINISTER: Hon Aupito William Sio, Associate Minister for Courts</b>		
<b>Date:</b> 7 April 2020	<b>Timeframe/Deadline:</b> 8 April 2020 (lodge before 4pm)	<b>File reference:</b> CRT-10-04-22
<b>DESCRIPTION OF ENTITY</b>		
<p>The Rules Committee is a statutory body established under section 155 of the Senior Courts Act 2016. Section 148 of the Senior Courts Act gives the Committee the power to “make rules regulating the practice and procedure” of the High Court, Court of Appeal and Supreme Court.</p>		
<b>RECOMMENDED PROGRESSION</b>		
<p>You have agreed to progress the High Court (COVID-19 Preparedness) Amendment Rules 2020 (Amendment Rules) to the COVID-19 Ministerial Group (CVD) and Executive Council. The Amendment Rules have been prepared in circumstances of urgency to facilitate the continuation of civil proceedings in the High Court during the course of the outbreak of COVID-19.</p> <p>The prompt commencement of the Amendment Rules will ensure that the legal profession, and High Court, has the assurance and guidance it needs to operate efficiently and on clear legal footing during the ongoing period of emergency.</p> <p>CVD has Power to Act, and, if they accept the recommendation to progress the Amendment Rules, can call a meeting of the Executive Council following the CVD meeting.</p>		
<b>Rules</b>	<b>CVD</b>	<b>Executive Council</b>
High Court (COVID-19 Preparedness) Amendment Rules 2020	9 April	Following CVD
<b>CONSULTATION</b>		
<p>The Amendment Rules were developed by the Rules Committee in accordance with their consultation processes. The New Zealand Law Society, New Zealand Bar Association, Crown Law Office, Parliamentary Counsel Office and Ministry of Justice are represented on the Committee, as well as senior members of the judiciary and selected judges and lawyers.</p>		
<b>RECOMMENDATIONS</b>		
<b>Next steps</b>		<b>Approval</b>
1. <b>Authorise the lodgement</b> of these papers to CVD by 4pm on 8 April.		<b>YES / NO</b>
2. <b>Direct</b> the papers to be submitted for CVD and Executive Council on 9 April.		<b>YES / NO</b>
<b>APPROVED</b> / SEEN / NOT AGREED		APPROVED / SEEN / NOT AGREED
<hr/> Megan Noyce <b>Acting General Manager, Courts &amp; Justice Services Policy</b>		<hr/> Hon Aupito William Sio <b>Associate Minister for Courts</b> Date:
<b>Attachments</b>	<ul style="list-style-type: none"> <li>CVD paper: <i>High Court (COVID-19 Preparedness) Amendment Rules</i></li> <li>High Court (COVID-19 Preparedness) Amendment Rules 2020</li> </ul>	

## Aide Memoire for CVD Paper

### High Court (COVID-19 Preparedness) Amendment Rules 2020

#### Purpose

It is part of your delegation as the Associate Minister for Courts to progress Rules Committee (the Committee) proposals through the Cabinet process.

You have agreed to progress the High Court (COVID-19 Preparedness) Amendment Rules 2020 (the Amendment Rules) to Executive Council.

#### Background

An urgent request was received from the **Chief Justice Helen Winkelmann** on behalf of the Rules Committee, which Members include the Chief Justice, the Chief High Court Judge, the Chief District Court Judge, the Attorney-General, the Solicitor-General, the Chief Executive of the Ministry of Justice, and selected judges and lawyers.

The Rules Committee has produced these Rules under urgency over the last ten days to attempt to provide a clear, consistent, just, and safe basis for civil litigation to continue during Covid-19 response Levels 3 and 4 and, in particular, to address the inability to use court houses and to operate court registries in the usual manner.

**The Key Point:** *This is to ensure that the legal profession, and High Court, has the assurance and guidance it needs to operate efficiently, and on a clear legal footing, during the ongoing period of emergency.*

#### The Rules Committee

The Committee is a statutory body charged with making the rules regulating the process and procedures for how matters are commenced and dealt with by the Senior Courts and District Court.

Rules are made by Order in Council by the Governor-General, with the concurrence of the Committee.

The Committee has considered and approved COVID-19-related rules for the High Court which are ready to be progressed to promulgation.

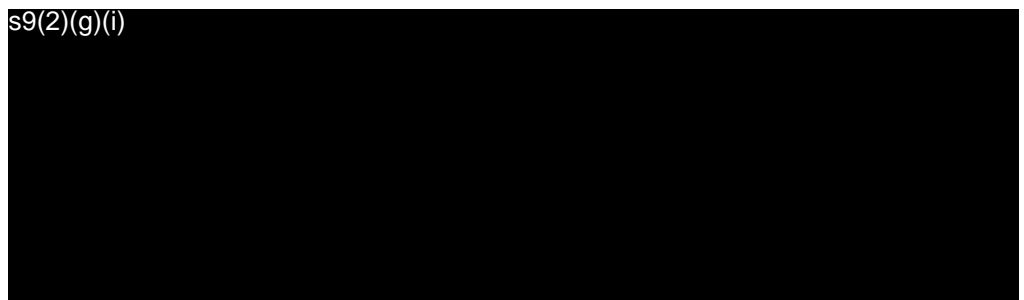
The Amendment Rules 2020 have been prepared in circumstances of urgency to facilitate the continuation of civil proceedings in the High Court during the course of the outbreak of COVID-19.

#### Consultation

The Amendment Rules were developed by the Committee in accordance with their consultation processes. The New Zealand Law Society, New Zealand Bar Association, Crown Law Office, Parliamentary Counsel Office and Ministry of Justice are represented on the Committee, as well as senior members of the judiciary and selected judges and lawyers.

#### Political Consultation

s9(2)(g)(i)



**What are the Rules?**

The Amendment Rules:

1. ensure consistent use of the word "emergency" in the High Court Rules;
2. ensure that hearings can proceed with remote participation;
3. allow for the filing of electronic documents;
4. allow electronic service of documents;
5. remove the requirement for signature of witness briefs; and
6. provide for reliance on unsworn affidavits.

These changes will only apply in situations of emergency as defined in the High Court Rules and will not apply outside of this context.

The continuing need for these amendments will be reviewed by the Committee on a decision by the Government that the pandemic is at an end.

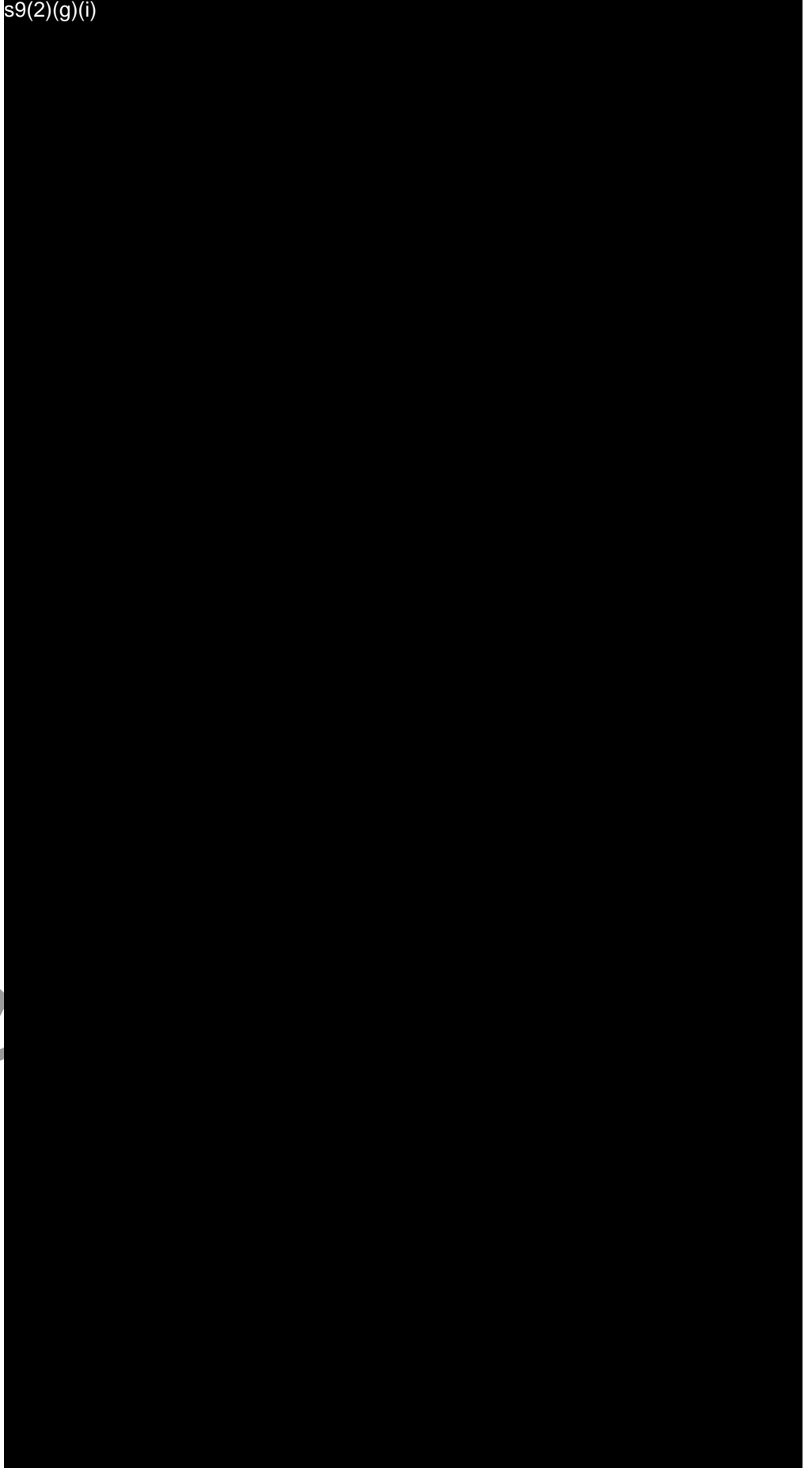
The paper also seeks approval of a waiver of the 28-day rule on the grounds that the instrument is made in response to an emergency. The Amendment Rules will come into force immediately upon their notification in the Gazette.

**Why now?**

Civil cases are continuing to proceed to the extent possible during the COVID-19 Level 4 lockdown period.


**Questions raised during Ministerial consultation**

s9(2)(g)(i)



Pro2

s9(2)(g)(i)



Proactively