

## **What courts are doing during COVID-19 alert levels**

From 11.59pm Sunday, 14 February 2021, Auckland will move up to COVID-19 Alert Level 3. The rest of the country will move up to COVID-19 Alert Level 2.

Below are links to guidance issued by each court about how they are operating under current COVID-19 Alert Levels.

### **Supreme Court**

The Supreme Court intends to hear all appeals and applications for leave to appeal that have been scheduled for hearing during the Level 1 or 2 period. Hearings will proceed in the normal way, with all judges and counsel present in person in the Supreme Court courtroom, as long as counsel and any self-represented parties who are based outside Wellington are able to travel safely to Wellington for the hearing.

If any counsel or self-represented party is based in an area where Alert Level 3 or 4 applies, or is otherwise unable to travel safely to Wellington for the hearing, the Court will make arrangements for that counsel or party to appear remotely using an audio-visual link.

### **Court of Appeal**

Courts are an essential service. At Alert Level 2, the Court of Appeal will continue to carry out all usual scheduled work that can safely be supported.

Hearings in Wellington will be conducted in the usual way. Participants may, however, elect instead to join oral hearings by approved audio-visual.

Hearings in Auckland will be conducted by approved audio-visual or audio link only until a return to Level 2 or below.

### **High Court**

#### **Alert Level 2**

Courts are an essential service. For Regions at Alert Level 2, the High Court will carry out all its usual scheduled work both from the home and circuit registries that can be safely supported.

If counsel, 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 the situation can be addressed.

#### **Alert Level 3**

Courts are an essential service. For Regions at Alert Level 3, the High Court will carry out all its usual scheduled work both from the home and circuit registries that can be safely supported.

Circuit business will be conducted where possible by remote participation including Microsoft Teams, VMR, AVL or telephone from the home registries.

Jury trials currently underway have been suspended until Thursday 18 February.

There will be no criminal jury trials commenced during Alert Level 3.

### **District Court**

From Monday 15 February 2021, all District Court locations in Auckland are reinstating the District Court Protocol and subsequent amendments that applied for a period in Auckland from 12 August 2020 when COVID-19 Alert Level 3 last applied.

For District Court locations around the rest of the country, the previous Protocol and updates for the period when COVID-19 Alert Level 2 applied are reinstated from Monday 15 February 2021.

### **Employment Court**

The Employment Court continues to process all new and existing proceedings. It remains open to hear matters, as appropriate, including in Auckland.

The Judges are assessing proceedings that are set down in Auckland during the interim period and will convene telephone conferences as necessary to discuss next steps. 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 15 February 2021.

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. Any application should be supported by a full explanation as to why urgency is sought.

### **Māori Land Court**

#### **Alert Level 2**

Under Level 2, the Māori Land Court will hold some in-person hearings, and the Māori Land Court district offices will be open for limited in-person services. However, for the safety of Court users and staff, the majority of Māori Land Court hearings and services will be undertaken on the papers or via phone- and video-conferencing.

#### **Alert Level 3**

Where any region is at Level 3, all filing with the Māori Land Court office(s) in the region must be made either electronically or by post. For reasons of public safety, Māori Land Court offices in any region that is at Level 3 will not be open to the public and documents will not be able to be received for filing in person.

The Court will not hold in-person Court hearings in any region that is at Level 3 of the alert system.

For any matters that were scheduled for hearing in a region that has moved to Level 3, Judges will consider which of those applications can be dealt with on the papers. Where determination on the papers is possible, this is to be preferred.

### **Waitangi Tribunal**

## **Alert Level 2**

Under Level 2, the Waitangi Tribunal may hold some in-person hearings. However, for the safety of Tribunal parties and staff, the majority of Tribunal events will continue to be undertaken on the papers or via phone- and video-conferencing.

## **Alert Level 3**

Where any region is at Level 3, all filing with the Māori Land Court office(s) in the region must be made either electronically or by post. For reasons of public safety Māori Land Court offices in any region that is at Level 3 will not be open to the public, and documents will not be able to be received for filing in person.

The Court will not hold in-person Court hearings in any region that is at Level 3 of the alert system. For any matters that were scheduled for hearing in a region that has moved to Level 3, Judges will consider which of those applications can be dealt with on the papers. Where determination on the papers is possible, this is to be preferred.

For matters that cannot be dealt with on the papers and require a hearing, Judges and staff will investigate with parties whether it is appropriate for a hearing to take place either by telephone conference, audio-visual link (AVL) or another form of video conferencing. Applications that require a hearing and where the facts are likely to be contested will be adjourned until an in-person hearing can take place at a later date.

## **Environment Court**

### **Alert Level 2**

Emphasis is being placed on electronic remote means of conferencing and hearing cases, but sometimes a hearing in Court involving limited numbers of participants; strict social distancing; and sanitary cleansing will occur, consistent with safety as first priority. Alternatively, it might be agreed by the parties to hear a matter “on the (electronic) papers”.

The Court anticipates that hearings will generally proceed in the normal way. The Court will notify counsel in advance of the hearing if it is intended that the hearing will be conducted other than on the above basis.

The Court will normally sit with the statutory quorum of one Judge and one Commissioner. In certain cases the Court will comprise one Judge and two Commissioners.

If any participant is at higher risk of severe illness, is immune-compromised or has a relevant underlying health condition, they should not attend Court. If this applies, the Court should be advised so that alternative arrangements for the attendance can be made.

### **Alert Level 3**

Any hearings, mediations and/or conferences that occur during COVID-19 Alert Level 3 will take place electronically and on a remote basis. Alternatively, the parties may agree that matters can be heard “on the (electronic) papers”.

## Coroners Court

Coroners conduct most of their work on the papers, without the need for a Court hearing. Alert Levels 2 and 3 will not impact on coroners receiving new cases, making directions on files and making written findings.

Inquests and other hearings will be considered on a case by case basis. Hearings may proceed with participants in the Court or with some participants joining by audio-visual link (AVL) or with all participants joining by AVL.

**See the Government's Unite Against COVID-19 site for more information about Alert Levels.**

Alert Level 3: <https://covid19.govt.nz/covid-19/restrictions/alert-level-3/>

Alert Level 2: <https://covid19.govt.nz/covid-19/restrictions/alert-level-2/>

### Resources:

What courts are doing during COVID-19 alert levels

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/> >

Supreme Court: Current COVID-19 Protocol

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/supreme-court/> >

Court of Appeal: Current COVID-19 Protocol

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/court-of-appeal/> >

High Court: Current COVID-19 Protocol

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/high-court/#Protocol20210214AL3>>

District Court: Current COVID-19 Protocol

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/district-court/>>

Employment Court: Current COVID-19 Protocol

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/employment-court/>>

Māori Land Court

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/maori-land-court/>>

Waitangi Tribunal

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/waitangi-tribunal/>>

Environment Court

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/environment-court/>>

Coroners Court

< <https://www.courtsofnz.govt.nz/publications/announcements/covid-19/court-protocols/coroners-court/>>