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Amendments to the High Court Rules 2016

Initial disclosure, early service of witness statements, and the judicial issues conference

High Court (Improved Access to Civil Justice) Amendment Rules 2025 (SL 2025/149), in force 1 January 2026

Explanatory note | 6 August 2026

Introduction

1. This note explains the amendments to the High Court Rules 2016 that took effect on 1 January 2026. It concentrates on the three changes of greatest practical consequence for counsel conducting ordinary civil proceedings: the expanded initial disclosure regime, the requirement to serve factual evidence early in the life of the proceeding, and the introduction of a mandatory judicial issues conference before a Judge. It also addresses the interpretive framework within which those changes sit, the consequential changes to the conduct of trials, and the changes to costs, because the reforms are interlocking and none of them can safely be read in isolation.

2. The amendments are made by the High Court (Improved Access to Civil Justice) Amendment Rules 2025 (SL 2025/149) (the Amendment Rules). They were made by Order in Council at Wellington on 21 July 2025 under section 148 of the Senior Courts Act 2016, on the advice and with the consent of the Executive Council, and with the concurrence of the Chief Justice and at least 2 other members of the Rules Committee continued under section 155 of that Act, of whom at least 1 was a Judge of the High Court. They were notified in the Gazette on 24 July 2025 and are administered by the Ministry of Justice.

3. The Amendment Rules came into force on 1 January 2026 and amend the High Court Rules 2016 (the principal rules). They comprise 39 clauses and 4 schedules. Schedule 1 inserts a new Part 3 into Schedule 1AA, dealing with transitional application. Schedule 2 inserts new form G 41, the chronology of events and facts, into Schedule 1. Schedule 3 makes consequential amendments throughout the principal rules. Schedule 4 sets out revocations.

4. The amendments implement recommendations made by the Rules Committee in its November 2022 report Improving Access to Civil Justice, which followed a project commenced in 2019 and four rounds of consultation. The Committee published Drafting Instructions for changes to the High Court Rules in February 2024, and adopted the final form of the rules at its meeting of 31 March 2025.

5. The Committee identified the drivers of cost, complexity and delay in High Court civil litigation as including an overly expansive or maximalist approach to litigation, a failure to apply a proportionate approach to the case at hand, insufficient focus on the issues that are ultimately determinative, the disproportionate scale and burden of discovery, the deliberate use of

procedural devices as a tool of attrition, and trials extended by evidence that is elaborate, repetitive, argumentative and not confined to admissible matters in issue. The reforms are directed at those matters. The Committee has been explicit that they require a change in litigation culture and not merely compliance with new procedural steps.

Sources, and how propositions are signalled in this note

6. Three kinds of proposition appear in this note and they are deliberately kept distinct. First, statements of what the rules provide are cited to the rule and to nothing else. The Schedule reproduces the text of the amending provisions in full, so any such statement can be checked directly. Secondly, statements of the intention or expectation of the Rules Committee, or of the working group that oversaw implementation, are introduced as such and attributed. Those materials are persuasive and often illuminating, but they are not the rules. Thirdly, predictions about how the rules are likely to be applied are identified as predictions.

7. The distinction matters because a good deal of the published commentary was prepared before commencement and has been overtaken in points of detail. The seminar paper delivered in October 2025 uses the working title Proceeding Notice for the document now called the Proceeding Timeline, and compresses some provisions in ways that do not survive comparison with the text. Practitioners relying on pre-commencement material should check it against the rules.

8. The primary sources used are the Amendment Rules themselves; the consolidated principal rules; the Rules Committee's report of November 2022 and its Drafting Instructions of February 2024; the paper prepared for the New Zealand Law Society seminar of 13 October 2025 by Cooke J, Fitzgerald J and Mr Kalderimis KC; the summary of the reforms published by Cooke J as chair of the Rules Committee; the High Court Practice Note on the Proceeding Timeline issued by the Chief High Court Judge on 17 December 2025; and the guidance published by the Ministry of Justice.

9. This note is arranged as follows. It deals first with scope and transitional application, and then with the interpretive framework, namely the new overriding objective and the general duty to co-operate. It then addresses in turn initial disclosure, the early service of witness statements formerly known as briefs of evidence, and the judicial issues conference. It then addresses the consequential changes to the conduct of trials and to costs, and concludes with practical action points. The Schedule contains the arrangement of provisions, the full text of the amending clauses, the transitional provision and form G 41, and a digest of the consequential amendments and revocations.

Scope and transitional application

Ordinary proceedings

10. The new regime applies to ordinary proceedings. Rule 6A.1(2) defines an ordinary proceeding as a proceeding commenced in accordance with Part 5 of the principal rules, but excludes an application for judicial review. The definition is expressed positively, and its structure repays attention. Proceedings commenced under Part 18 or Part 19, and appeals under Part 20, Part

21 or Part 26, fall outside the new regime because they are not commenced under Part 5, and not because they are carved out of it. An application for judicial review requires the express exclusion precisely because it would otherwise satisfy the definition.

11. Rule 7.1AA sets out the case management procedures applying to each category of proceeding. An ordinary proceeding is subject to a judicial issues conference unless alternative directions are given by a Judge, may be the subject of one or more case management conferences under rule 7.5C, and may be the subject of a pre-trial conference under rule 7.8 if a hearing or trial date is being or has been allocated: rule 7.1AA(1). Part 18 proceedings may be case managed under new rule 18.4A, Part 19 proceedings through the ability to seek directions under rules 19.11 and 7.43A, judicial review under section 13 of the Judicial Review Procedure Act 2016, applications for extraordinary remedies under new rule 30.3A read with rule 7.17, and appeals under rules 7.14 and 7.15. Rule 7.1AA(6) provides that the rule operates only as a guide and yields to any inconsistent provision.

12. New rule 18.4A(1) provides that subpart 1 of Part 7 does not apply to proceedings filed under Part 18, and rule 18.4A(2) permits the court to give such directions for case management as it thinks fit after considering what will best achieve the overriding objective. New rule 30.3A provides that subpart 1 of Part 7 does not apply to Part 30 proceedings, except rule 7.17.

13. The changes to the preliminary provisions, namely the new overriding objective in rule 1.2 and the new general duty to co-operate in rule 1.2A, are not confined to ordinary proceedings. They apply to all civil proceedings in the High Court. Schedule 3 also substitutes the overriding objective for the former formula in a number of provisions applying to other categories of proceeding, including rules 7.8(3), 7.15(1)(e) and 7.17(6). The general thrust of the reforms may therefore be expected to be felt across the Court's civil work.

14. The new regime does not apply to proceedings in the District Court. Practitioners should nonetheless be alert to the fact that the District Court Rules 2014 and the Employment Court Regulations 2000 incorporate the High Court Rules in places, so the amendments may have indirect consequences in those forums.

Transitional application

15. The transitional provision is clause 4 of the new Part 3 of Schedule 1AA, inserted by Schedule 1 of the Amendment Rules. For any proceeding filed before 1 January 2026, the principal rules apply as if the Amendment Rules had not come into force: clause 4(1).

16. The court may, however, direct that one or more, or all, of the Amendment Rules apply in a particular proceeding commenced before the commencement date: clause 4(2). Before doing so, the court must consider what will best achieve the overriding objective in rule 1.2: clause 4(3). The direction may therefore be selective or wholesale. Practitioners with proceedings on foot that were filed before 1 January 2026 should not assume that the former regime will necessarily govern the balance of the proceeding, and should consider whether it is in the client's interests to seek such a direction, or to be ready to resist one.

17. In a proceeding filed on or after 1 January 2026 the new regime applies by default. The obligations described under the two following headings arise automatically upon the filing and

service of pleadings, without any prior judicial direction. That is a material change from the former position, under which the shape of discovery and the timetable for evidence were settled at a first case management conference. The former case management regime has been substantially dismantled: clause 9 revokes rules 7.1 to 7.3A.

The interpretive framework

The overriding objective: rule 1.2

18. Clause 4 replaces rule 1.2. The former rule provided that the objective of the rules was to secure the just, speedy and inexpensive determination of any proceeding or interlocutory application. The new rule provides:

> **1.2 Overriding objective**
>
> (1) The overriding objective of these rules is to secure the just resolution of any proceeding or interlocutory application by proportionate means, including by securing its speedy and inexpensive determination.
>
> (2) When deciding how subclause (1) applies in any case, the court may consider the following:
>
> (a) how best to both fairly and expeditiously identify and resolve the issues in dispute:
>
> (b) how best to deal with the proceeding in ways that are, and at a cost that is, proportionate to the nature of the dispute and the issues in dispute:
>
> (c) the need to allocate the court's resources fairly across the court's caseload.

19. Four features of the reformulated objective warrant emphasis. First, the objective is now described as overriding. Secondly, proportionality has been inserted into rule 1.2(1) itself, so that proportionality is relevant to the exercise of any power under the rules. Thirdly, the reference to resolution, in place of determination, reflects a greater emphasis on resolving litigation by settlement, including by mediation. Fourthly, the three considerations in rule 1.2(2) correspond to the identification of the issues in dispute, proportionality by reference both to the nature of the dispute and to the issues in it, and the fair allocation of judicial resources across the caseload.

20. Wherever the new rules confer a discretion, that discretion is generally cross-referenced expressly to rule 1.2. The pattern is pervasive: it appears in rules 7.4(10), 7.5(2), 7.5(6), 7.33(4), 8.4A(4), 9.5A(2), 9.16(3), 9.36AAA(2), 9.44(1) and 18.4A(2), and in clause 4(3) of the transitional provision. Schedule 3 substitutes the overriding objective for the former formula in provisions that were not otherwise amended. The Rules Committee has said that the overriding objective is intended to guide the interpretation, implementation and administration of the new regime and is not merely aspirational. In practical terms, a procedural submission that does not engage with proportionality is unlikely to succeed.

The general duty to co-operate: rule 1.2A

21. Clause 4 also inserts a new rule 1.2A, placed at the outset of the rules:

> **1.2A General duty to co-operate**

(1) The parties and their solicitors and counsel have a duty to co-operate with the other parties and their solicitors and counsel in accordance with the overriding objective in rule 1.2.

(2) The duty includes lawyers and counsel representing the parties having direct discussions with each other or, in the case of a self-represented litigant, with the litigant, to attempt to agree on how the proceeding will be conducted.

(3) For specific duties to co-operate under these rules, see the following:

(a) rule 7.5 (preparing for and participating in judicial issues conference):

(b) rule 8.2 (disclosure):

(c) rule 8.4A (further disclosure):

(d) rule 9.4 (preparing common bundle):

(e) rule 11.22 (sale of property).

22. The duty is a general one, owed by parties and by their lawyers alike. The former duty to co-operate in rule 8.2 was confined to the processes of discovery and inspection. The new duty is not so confined.

23. Rule 1.2A(2) deserves particular attention. It obliges lawyers to engage in direct discussions with opposing lawyers, or with a self-represented litigant, in an attempt to agree how the proceeding will be conducted. The Rules Committee has said that this contemplates telephone discussions or meetings, that the exchange of assertive correspondence will not discharge the duty, and that such exchanges tend to harden positions rather than distil what is truly important. Counsel should expect to be asked at a judicial conference whether direct discussions have in fact occurred, and should be able to say when and with whom.

24. Rule 1.2A(3) signposts the specific duties arising elsewhere. Those of greatest practical consequence are preparation for and participation in the judicial issues conference under rule 7.5(3), disclosure under rules 8.2 and 8.4A(3), and preparation of the common bundle under rule 9.4. Schedule 9, as amended, adds further specific applications of the duty at clauses 1A, 2, 3, 4 and 5.

New definitions, and changes of nomenclature

25. Clause 5 amends rule 1.3(1). The definition of case management conference is replaced with a conference conducted by the court under the rules or an enactment, referring to rule 7.1AA. New definitions are inserted of disclosure obligation, judicial conference, judicial issues conference, ordinary proceeding and overriding objective. The text is set out in the Schedule.

26. The nomenclature of the rules changes in several respects that affect research and citation. Subpart 1 of Part 1 becomes "Overriding objective, general duty to co-operate, and interpretation". Part 8 is renamed from "Discovery and inspection" to "Disclosure", and subpart 1 within it from "Discovery" to "Disclosure". Subpart 1 of Part 9 is renamed from "Briefs" to "Witness statements". Schedule 9 is renamed from "Discovery checklist" to "Disclosure considerations". Throughout the rules, references to discovery, discoverable documents and the affidavit of documents are recast in terms of disclosure, disclosure obligations and the affidavit for disclosure.

27. Clause 6 makes a change that is easily overlooked. In rule 5.47(2)(b) the figure 25 is replaced with 30, so the period for filing and serving a statement of defence in the case to which that

provision applies becomes 30 working days. Form G 2 is amended correspondingly. The extension reflects the fact that a defendant must now give initial disclosure, including of adverse documents, and serve a verifying affidavit, at the same time as its statement of defence.

Initial disclosure

The former position

28. Initial disclosure was formerly governed by rule 8.4, which required a party, at the same time as serving its pleading, to serve a bundle consisting of all documents referred to in the pleading being served, together with any additional principal documents in the filing party's control that the party had used when preparing the pleading and on which that party intended to rely at the trial or hearing. Discovery proper then followed, in the form of standard discovery under rule 8.7 or tailored discovery under rule 8.8, ordered at a case management conference under rule 8.5.

The new rule 8.4(1)

29. Clause 15 amends rule 8.4. The amended subclause (1) provides:

> **8.4 Initial disclosure**
>
> (1) Unless a Judge directs otherwise, a party to an ordinary proceeding must, at the same time as serving its first substantive pleading, serve on the other parties a bundle of documents verified by affidavit that complies with rule 8.15(2) and contains copies of all of the following documents that are in the party's control:
>
> (a) all the documents referred to in that pleading:
>
> (b) any additional principal documents—
>
> (i) that they have used when preparing the pleading:
>
> (ii) on which they presently intend to rely at the trial or hearing:
>
> (c) all adverse documents.

30. Five features of the subclause should be noted, because each of them limits or defines the obligation and each is easily lost in summary.

(a) The obligation is confined to documents that are in the party's control. Control is a defined term in rule 1.3(1), meaning possession of the document, a right to possess it, or a right, otherwise than under the rules, to inspect or copy it. The limitation governs the whole of the list, including adverse documents under paragraph (c).

(b) Paragraph (b) is confined to additional principal documents. The qualifier is not decorative. Without it the category would extend to every document used in preparing the pleading, which is a materially wider class.

(c) Subparagraphs (b)(i) and (b)(ii) are alternatives, not cumulative requirements. Under the former rule an additional principal document had to be both used in preparing the pleading and intended to be relied on at trial. The new rule separates them, so a document falling within either limb must be disclosed. Both limbs are therefore broadened, not only the intended-reliance limb.

(d) Paragraph (b)(ii) is expressed in the present tense: documents on which the party presently intends to rely. The obligation is assessed as at the date of disclosure, subject to the continuing obligation in rule 8.18.

(e) The bundle must be verified by an affidavit complying with rule 8.15(2). The affidavit is not an adjunct to the bundle but a component of the obligation, and rule 8.4(1) is not satisfied without it.

31. Timing is unchanged in principle. Disclosure is made at the same time as service of the party's first substantive pleading, ordinarily the statement of claim or the statement of defence, and the requirement applies to all parties in an ordinary proceeding unless a Judge directs otherwise.

32. A related obligation appears in Schedule 9. Clause 1, as amended, requires the parties, before filing a pleading, to review their pleading and any other pleading that has been filed in order to identify the documents required to be disclosed under rule 8.4. There are therefore two distinct temporal requirements: a review before filing, and service with the first substantive pleading. For a plaintiff, the legal deadline for service is service of the pleading, but the review obligation bites earlier.

Adverse documents

33. The obligation to disclose adverse documents is the substantive innovation. The definition is in the new rule 8.4(1A):

> (1A) An adverse document that must be disclosed under this rule is a document that—
> (a) contains information that—
> (i) is adverse to the case of the party giving disclosure or another party's case; or
> (ii) supports the case of another party; and
> (b) the party giving disclosure—
> (i) knows the document exists; or
> (ii) has good reason to believe the document exists.

34. The definition has two cumulative limbs. The first is a content limb: the document must contain information that is adverse to the disclosing party's case or to another party's case, or that supports another party's case. The second is a knowledge limb: the disclosing party must know the document exists, or have good reason to believe that it exists. The knowledge requirement is built into the definition, and it is that requirement which keeps initial disclosure short of full discovery.

35. The new rule 8.4(1B) provides that a party must take reasonable steps to check for the existence of adverse documents. That obligation applies only in relation to adverse documents as defined. Schedule 9, clause 1A, requires compliance with the duty to co-operate in rule 8.2 both when identifying the documents described in rule 8.4(1)(a) and (b) and when taking reasonable steps to check for adverse documents under rule 8.4(1)(c).

36. What constitutes reasonable steps will be case specific. The Rules Committee drew the concept of known adverse documents from the former rule 8.7 and from Practice Direction 57AD in England and Wales, and declined to adopt the more elaborate English machinery. The

Committee stated in its Drafting Instructions that awareness of a document should extend to a belief that the document may well exist, even if the party is not, without checking, sure of the position. The distinction drawn in the English authorities, and adopted by the Committee, is between a check and a search: in Castle Water Ltd v Thames Water Utilities Ltd the High Court of England and Wales observed that the obligation to disclose known adverse documents would be emasculated if there were no obligation at all to look for adverse documents of which the party is aware, and that a party could not escape the obligation by saying that it knew it had an adverse document but had not established which drawer it was in. A search, in the sense of the exercise formerly undertaken for standard discovery, is not required at this stage. A check is.

37. Where the disclosing party is a corporation, the Rules Committee proceeded on the basis that documents known to a party encompasses knowledge held by officers and employees according to the ordinary common law rules of attribution, and considered and rejected the prescription of a more detailed definition of corporate knowledge. It follows, in my view, that the check must extend to the individuals within the organisation who had responsibility for the events in question or for the conduct of the proceeding, and so far as practicable to those who held such responsibility but have since left. The amended form G 37 supports that approach: it contemplates the deponent specifying the particular steps taken, giving as an example inquiries made of named persons.

Documents known but not controlled

38. The interaction between the control limitation in rule 8.4(1) and the knowledge-based definition of an adverse document produces a distinct obligation that is easily missed. A party may know of, or have good reason to believe in the existence of, a document that it does not control. Such a document need not be produced, because rule 8.4(1) is confined to documents in the party's control. It must, however, be disclosed in a different sense: rule 8.15(2)(e) requires the affidavit to include a list of any documents described in rule 8.4(1)(a) to (c) that are known to the party but are not in their control.

39. The practical consequence is that the checking exercise cannot stop at the party's own repositories. Counsel must be in a position to identify known documents held by third parties, former employees, related entities and agents, and to list them. That list will often be the starting point for a request for further disclosure under rule 8.4A, or for an application for particular disclosure against a non-party under rule 8.21.

The affidavit for disclosure

40. Clause 17 replaces rule 8.15, which is renamed from "Affidavit of documents" to "Affidavit for disclosure". Rule 8.15(1)(a) requires an affidavit complying with subclause (2) for initial disclosure. Rule 8.15(2) provides:

> (2) An affidavit for initial disclosure need not give a detailed description of any document but must—
>
> (a) include a list of all the documents contained in the bundle; and
>
> (b) state that the party understands their obligations under rule 8.4; and
>
> (c) give brief particulars of the steps taken by the party to check for the existence of adverse documents; and

(d) give a brief description of any document or part of a document for which privilege or confidentiality is claimed and specify the ground on which the claim is based in each case; and

(e) include a list of any documents described in rule 8.4(1)(a) to (c) that are known to the party but are not in their control; and

(f) confirm that the party believes that the list of documents refers to, and the bundle contains, all documents that they are obliged to disclose under rule 8.4, except those for which privilege or confidentiality is claimed.

41. The affidavit is accordingly a substantive document with six distinct components. It is not, as the Ministry's public guidance loosely puts it, a confirmation of the accuracy and completeness of the bundle. It is a verification of compliance with the initial disclosure obligations, and paragraph (c) in particular requires the deponent to describe the checking exercise actually undertaken.

42. Two further provisions assist. Rule 8.15(3) permits documents of the same nature to be described as a group or groups, in which case rule 8.16(3) applies with any necessary modifications. Rule 8.15(4) provides that the affidavit may be in form G 37, and that if it is not, it must refer to the categories of documents listed in rule 8.4(1)(a) to (c) in the statement required by subclause (2)(b). Form G 37 as amended by Schedule 3 sets out the structure in terms, and its paragraph 5 is reproduced in the Schedule to this note.

43. Rule 8.24 is replaced by clause 20 and governs who may swear the affidavit. Where a Judge orders that an affidavit for disclosure be filed, the Judge may specify the person, or a group or class of persons any of whom may make it. Otherwise the affidavit is made by the individual party, or in the case of a corporation or body empowered to sue or be sued by a person meeting the requirements of rule 9.82, or in the case of the Crown by an officer of the Crown.

44. In my view the verification requirement should not be treated as a formality. It is the mechanism by which the Court ensures that the party has understood and complied with obligations that now include a positive duty to check for and produce material harmful to its own case. Counsel should satisfy themselves before the affidavit is sworn that the checking exercise can be described and defended, and should keep a contemporaneous record of the steps taken and the persons approached.

Standard and tailored discovery are abolished

45. It is important to be precise about what has happened to discovery, because the point is sometimes put too weakly. Schedule 4 revokes rules 8.5 to 8.12, together with rules 8.1, 8.14, 8.17, 8.27(6) and 8.31, and Schedule 5. The regime of standard discovery, tailored discovery, the discovery order made at a case management conference, the presumption as to tailored discovery, the extent of search provision and the discovery checklist in Schedule 5 has been swept away for ordinary proceedings. The explanatory note to the Amendment Rules records that the rules relating to discovery for ordinary proceedings are replaced by new disclosure rules, and that these replace the rules relating to standard and tailored discovery.

46. What now follows initial disclosure is not discovery but further disclosure under rule 8.4A, and particular disclosure under rules 8.19 and 8.21, which survive with amendments. The Rules Committee's statement that initial disclosure is not intended to replicate the full discovery

process should be understood accordingly: the point is that initial disclosure is not designed to do the work that standard discovery formerly did, not that standard discovery remains available at a later stage.

Further disclosure

47. Clause 16 inserts rule 8.4A:

> **8.4A Further disclosure**
>
> (1) The parties may agree on what (if any) further disclosure is given.
>
> (2) A party may request that specific documents be disclosed to them by another party if the first party has good reason to believe that the documents exist, are relevant and material, and have not been provided under disclosure.
>
> (3) A party who receives a request for further disclosure of specific documents must respond to that request in accordance with the duty of co-operation in rule 8.2.
>
> (4) Despite subclauses (1) to (3), a Judge may, if satisfied that this will best achieve the overriding objective in rule 1.2, do either or both of the following:
>
> (a) order further disclosure at any time:
>
> (b) direct a party to search or make further checks for relevant and material documents.
>
> (5) If further disclosure is ordered, the Judge may also order that an affidavit verifying that disclosure be provided in a form directed by the Judge. (However, see rules 8.15(1)(b) and 8.16.)

48. The scheme is that further disclosure is primarily consensual. A request under subclause (2) is confined to specific documents and requires the requesting party to have good reason to believe that they exist, are relevant and material, and have not already been provided. The recipient must respond in accordance with the duty of co-operation. Only if agreement fails does the matter go to a Judge, and the threshold under subclause (4) is the overriding objective.

49. Two points about subclause (4) are worth noting. First, the power is exercisable at any time, so the sequencing of the new regime does not deprive a party of relief in a case of genuine need. Secondly, paragraph (b) empowers a Judge to direct a party to search, which is the step that rule 8.4(1B) does not itself require. The distinction between a check and a search is therefore preserved in the structure of the rules, with the search available only on direction.

50. Verification of further disclosure is not automatic. Under rule 8.4A(5) and rule 8.15(1)(b) it is for the Judge to order whether disclosure is to be verified by affidavit, in what form, and by when. Rule 8.16, as amended, adds a new subclause (1AAA): where a Judge orders further or particular disclosure under rule 8.4A, 8.19 or 8.21 and orders verification by affidavit, the affidavit must list only the documents to be disclosed under the order unless the Judge orders otherwise, and the Judge may order that it contain a schedule complying with all or part of rule 8.16.

51. In my view an application for wide-ranging disclosure before the service of factual evidence, or before the judicial issues conference, is unlikely to succeed, because it would displace the sequencing on which the whole regime depends. Rule 7.5A(d) makes further disclosure an agenda item for the conference, which is where the question is designed to be resolved and where it can be resolved on an informed basis.

The duty to co-operate in disclosure

52. Clause 14 replaces rule 8.2. The duty is now specific rather than exhortatory:

8.2 Co-operation

(1) The parties must co-operate to ensure that the process of disclosure is conducted in accordance with the overriding objective in rule 1.2 and, in particular, is—

(a) appropriately focused and proportionate to the subject matter of the proceeding; and

(b) facilitated by agreement on practical arrangements.

(2) The parties must, when appropriate,—

(a) consider options to focus the scope of disclosure; and

(b) achieve reciprocity in the electronic format and processes of disclosure; and

(c) ensure technology is used efficiently and effectively; and

(d) agree on and employ a format compatible with the subsequent preparation of an electronic bundle of documents for use at trial.

53. Paragraph (2)(d) is of practical importance and is best addressed at the outset. The format adopted for disclosure must be compatible with the later preparation of an electronic trial bundle. Rule 9.4(5)(e) reinforces the point by requiring the common bundle, where disclosure was provided by way of an affidavit with a schedule complying with rule 8.16, to use a format so far as possible compatible with that schedule. Decisions about document management systems and naming conventions taken in the first weeks of a proceeding will therefore have consequences at trial.

Continuing obligations and enforcement

54. Clause 19 replaces rule 8.18. The continuing obligation is narrower and more precisely expressed than a general duty to disclose relevant documents:

8.18 Continuing obligations

(1) A party must disclose any document they become aware of that is or becomes a document described in rule 8.4(1), including adverse documents.

(2) This obligation applies at all stages of a proceeding, including in the course of complying with any disclosure order.

55. The obligation is tied to the categories in rule 8.4(1). It is engaged when a party becomes aware of a document that is, or becomes, a document within those categories. The words "or becomes" matter: a document may fall within paragraph (b)(ii) only when the party forms an intention to rely on it, and may become adverse as the issues develop. Rule 8.4(10), inserted by clause 15(2), cross-refers to rule 8.18, and rule 9.2(5) preserves the obligation through the trial preparation phase.

56. Clause 21 replaces rule 8.33:

8.33 Enforcement of orders and requirements of rules

(1) If a party fails to comply with an order or a requirement imposed by or under this Part, a Judge may enforce it under rule 7.48 (which applies with any necessary modifications).

(2) An order made under this subpart may be enforced under subpart 4 of Part 2 of the Contempt of Court Act 2019 against any person who is required to comply with that order.

(3) This rule does not limit or affect any power or authority of the court to punish a person for not complying with a court order.

57. Three points follow from the text. The rule is framed as a power of the Judge to enforce, rather than as a right of another party to apply, although in practice the matter will ordinarily be brought to the Court's attention by an opposing party. The contempt limb is confined to orders made under subpart 1 of Part 8, and operates against any person required to comply with the order, which extends beyond the parties. And subclause (3) preserves the Court's other powers to punish non-compliance.

58. Rule 7.48 is itself amended by clause 13. Its heading becomes "Enforcement of orders and requirements of rules", and subclause (1) is replaced so that where a party fails to comply with an order or a requirement imposed by or under subpart 1 of Part 7 or Part 8, the Judge may, subject to any express provision of the rules, make any order the Judge thinks just. The reference to a requirement imposed by the rules, and not merely to an order, is significant: the standard directions in rule 7.4 are enforceable as such, without the need for any prior order.

Practical implications

59. The practical consequences for the conduct of a matter are substantial.

(a) Document review moves to the front of the matter. Schedule 9, clause 1, requires review before filing, and rule 8.4(1) requires service with the first substantive pleading. Clients should be advised of the cost and sequencing consequences at the outset, and the litigation budget should reflect them.

(b) The adverse document obligation requires a change of approach. A party must hand over, without being asked, documents within its control that harm its case or assist its opponent, so far as it knows of them or has good reason to believe they exist. That will inform the advice given on the merits before proceedings are commenced or defended.

(c) The obligation to take reasonable steps to check should be discharged by a structured and recorded process, identifying the individuals whose knowledge is relevant and the repositories checked, because rule 8.15(2)(c) requires it to be described on oath.

(d) Known documents not in the party's control must be identified and listed under rule 8.15(2)(e). This requires a positive inquiry beyond the party's own records.

(e) Privilege and confidentiality claims must be identified, described and grounded at the outset under rule 8.15(2)(d), rather than at the discovery stage as formerly.

(f) Because further disclosure is primarily consensual and is an agenda item for the judicial issues conference, a party seeking targeted further disclosure should make its request under rule 8.4A(2) in good time before the conference, so that any residual dispute can be resolved by direction rather than by a separate application.

(g) Electronic format decisions should be made and agreed early, having regard to rule 8.2(2)(d) and rule 9.4(5)(e) and (6).

Early service of witness statements

Terminology

60. The rules no longer refer to briefs of evidence. Clause 26 replaces rule 9.7, formerly headed "Requirements in relation to briefs", with a rule headed "Requirements for witness statements of factual and expert evidence", and Schedule 3 renames subpart 1 of Part 9 from "Briefs" to "Witness statements" and substitutes "witness statement" for "brief" in rules 9.1(2), 9.8, 9.11, 9.13 and 9.14. The change of terminology accompanies a change in what the document is expected to contain. In this note the expression witness statement is used throughout.

The standard directions: rule 7.4

61. Clause 10 replaces rule 7.4 with a rule headed "Standard directions prior to judicial issues conference for ordinary proceedings". Rule 7.4(1) provides that unless a Judge makes alternative directions under subclause (10), the directions in the rule apply. No prior judicial direction is required for the timetable to run. Rule 6A.1(1)(a) states the same proposition from the other direction.

62. Rule 7.4(2) identifies the events after which the directions apply, namely the date of service of the pleading by the plaintiff, and, if an affirmative defence is pleaded or a counterclaim is made, the last pleading by a party responding to it.

63. All the periods in the rule are expressed in working days. Rule 1.3(1) defines a working day as excluding weekends and the specified public holidays, and also the period from 25 December in any year to 15 January in the following year. The effect of the January exclusion on a timetable running over the summer is material and should be calculated rather than estimated.

Notice and filing of applications listed in rule 7.4(8)

64. A limited class of applications must be notified and filed early. Rule 7.4(8) provides:

> (8) The matters referred to in subclause (3) are the following:
> (a) to strike out or add a party under rule 4.56:
> (b) for security of costs under rule 5.45:
> (c) applications concerning a protest to jurisdiction under rule 5.49:
> (d) for summary judgment under Part 12 (including an application for leave, if required):
> (e) to dismiss or stay without trial (strike out) under rule 15.1 or the inherent jurisdiction.

65. The rule contains two separate strike-out limbs. Paragraph (a) concerns striking out or adding a party under rule 4.56, which is headed "Striking out and adding parties". Paragraph (e) concerns dismissing or staying a proceeding without trial under rule 15.1 or the inherent jurisdiction. It is inaccurate to describe paragraph (a) as an application to add or remove parties, and the two limbs should not be conflated.

66. The published commentary, including the Proceeding Timeline Practice Note, refers to these as dispositive interlocutory applications. That is convenient shorthand but it is not the language of the rule, and the safer formulation in correspondence and memoranda is "an application listed in rule 7.4(8)".

67. Rule 7.4(3) prescribes the procedure. A party wishing to make such an application must give notice to the other party or parties and to the court that they intend to do so, no later than 10 working days from the date of service of the pleading by the defendant or, if there is more than one defendant, the last pleading by a defendant; or, if an affirmative defence is pleaded or a counterclaim is made, from the date of service of the pleading responding to it or, if more than one party is the subject of it, the last pleading by a party responding to it. The application must then be filed no later than 15 working days from the date notice is given. Rule 7.4(3)(c) cross-refers to rule 7.33(1) for allocation of a hearing date.

68. Two features of rule 7.4(3) are commonly misstated. The period runs from service, not from filing. And the notice must be given to the court as well as to the other parties.

The default timetable for factual evidence: rule 7.4(4) to (7)

69. Rule 7.4(4) applies if no application is filed under subclause (3)(b). It establishes a sequence of up to three tranches.

    (a) The plaintiff must serve, no later than 25 working days from the date referred to in rule 7.4(3)(a)(i) or (ii): factual witness statements, expressly confined to the plaintiff's claim only and not to any affirmative defence or counterclaim; a draft chronology of events and facts in form G 41; and copies of any documents referred to in a witness statement or the draft chronology that were not disclosed in initial disclosure: rule 7.4(4)(a).

    (b) The defendant must then serve the same three categories of material, including for any affirmative defence pleaded or counterclaim made, no later than 45 working days from the date it receives the plaintiff's evidence and draft chronology: rule 7.4(4)(b).

    (c) If an affirmative defence is pleaded or a counterclaim is made, any party that is the subject of it must serve the same three categories relating to the affirmative defence or counterclaim, no later than 25 working days from the date it receives the defendant's evidence and draft chronology: rule 7.4(4)(c). In that case, rule 7.4(5) permits that party to amend the draft chronology it served previously and to serve new witness statements relating to the affirmative defence or counterclaim.

70. The plaintiff's trigger is therefore not invariably the final statement of defence. Where an affirmative defence is pleaded or a counterclaim made, the relevant date under rule 7.4(3)(a)(ii) is the date of service of the pleading responding to it, or the last such pleading where more than one party is the subject of it.

71. The confinement of the plaintiff's first tranche to its claim only is a useful discipline and is easily overlooked. A plaintiff does not answer an affirmative defence or counterclaim in its first tranche of evidence; it does so in the third.

72. Rule 7.4(6) and (7) deal with multiple parties. Where there is more than one plaintiff or defendant, the references to the plaintiff or the defendant apply to each of them, and where there are third or other parties, the references to the defendant apply to each of them. Those parties include any party joined by a decision on an interlocutory application.

73. Rule 7.4(9) deals with the case where an application listed in rule 7.4(8) has to be determined. In that event the 25 working days in subclause (4)(a) run from the date of the last decision on

an interlocutory application, unless a Judge directs otherwise. The mechanism is therefore a deferred start date rather than the suspension of a clock already running, which matters when the dates are computed. It also follows that where notice is given but no application is filed within the 15 working days allowed by rule 7.4(3)(b), the timetable is unaffected and continues to run from the date under rule 7.4(3)(a).

The draft chronology and form G 41

74. The draft chronology is a new requirement. Rule 7.4(4)(a)(ii) requires it to be in form G 41 and to refer to all pleaded material facts and any other events or facts of significance the party intends to establish by the documentary record, and to include a corresponding reference to the relevant document or documents in each case.

75. Form G 41, inserted into Schedule 1 by Schedule 2 of the Amendment Rules, is a three-column table: the date; the pleaded material facts and other events or facts of significance intended to be established by documentary record; and the supporting document or documents. It is reproduced in the Schedule to this note.

76. The chronology is not an invitation to list every event. The criterion is significance, and the events listed are those the party intends to establish by the documentary record rather than by testimony. The requirement is intelligible only in light of the changes to the conduct of trials described below, under which the documentary record comes before the Court through the chronologies, the common bundle and the openings rather than through witnesses.

Alternative directions

77. Rule 7.4(10) provides that a party may apply to the court to request alternative directions, and that a Judge may give alternative directions if satisfied that this will best achieve the overriding objective in rule 1.2.

78. It follows that the parties cannot vary the timetable by agreement. Agreement is relevant, and will ordinarily be persuasive, but the variation requires a judicial direction. The Proceeding Timeline Practice Note is explicit on the point: where an alternative timetable is proposed, whether agreed or disputed, the joint memorandum is referred to an Associate Judge who deals with the matter on the papers under rule 7.4(10); the Practice Note states in terms that parties should not assume that consent to an alternative timetable will result in an amendment to the default timetable in rule 7.4(4); and it records the Court's expectation that the default timetable will be appropriate for the very large majority of general proceedings.

Advising the Registrar: rule 7.4(11)

79. Rule 7.4(11) provides that the plaintiff must advise the Registrar once all evidence and chronologies have been served by the parties, but must confer with the other party or parties before doing so, and that the Registrar must then schedule a judicial issues conference. The rule cross-refers to rule 7.5C for case management conferences.

80. That is the whole of the rule's requirement. The further steps described under the next heading, including the filing of a memorandum before the ready listing, derive from the Practice Note

and from Registry practice rather than from rule 7.4(11), and the distinction should be maintained when a timetabling dispute arises.

Interlocutory applications generally: rules 7.33 and 7.34

81. Clause 12 replaces rules 7.33 and 7.34. Rule 7.33 now provides:

> **7.33 Hearing of interlocutory applications**
>
> (1) If an application is made of the kind referred to in rule 7.4(8), the Registrar must allocate a date for an in-person hearing of the application.
>
> (2) If an application is made following, and in accordance with directions made at, a judicial issues conference, the Registrar must proceed in accordance with those directions.
>
> (3) In the case of an application not provided for in subclauses (1) and (2), the court must determine whether a hearing of the application is required or whether it will be determined on the papers.
>
> (4) When making a decision under subclause (3), the court must consider which option will best achieve the overriding objective in rule 1.2.
>
> (5) The standard time for the hearing of an interlocutory application is 2 hours, except for applications that fall within subclause (1) or if a Judge directs otherwise.
>
> (6) This rule and rule 7.34 are subject to rule 7.36, which requires every application for summary judgment to be heard in open court.

82. The structure is threefold. An application listed in rule 7.4(8) attracts an in-person hearing as of right, and the Registrar must allocate a date. An application made following directions at a judicial issues conference proceeds in accordance with those directions. Any other application is subject to a judicial determination whether a hearing is required at all, or whether it will be dealt with on the papers, and the criterion is the overriding objective. There is no provision in the rule for automatic reference to an Associate Judge for directions; such practice as exists in that regard is Registry practice and should not be described as a requirement of the rule.

83. The standard hearing time of 2 hours in rule 7.33(5) applies to interlocutory applications generally, and not merely to applications outside rule 7.4(8). Applications within rule 7.4(8) are excepted from it, as is any case in which a Judge directs otherwise. The existing 10-page limit on submissions in rule 7.39 continues to apply and is a cap rather than a target.

84. Rule 7.34 provides that an interlocutory application requiring a hearing and not falling within rule 7.33(1) must be heard in chambers and may be heard remotely under the Courts (Remote Participation) Act 2010; that a party may request an alternative mode of hearing in writing no less than 5 working days before the allocated hearing date, for a Judge to approve; and that a Judge may accept such a request later if there is good reason for the delay.

85. The mere filing of an application outside rule 7.4(8) does not suspend the timetable for the exchange of evidence. Rule 7.4(9) operates only in relation to applications under rule 7.4(3). A party filing an application for a protective order, such as an interim injunction, a preservation order or a freezing or search order, should not assume that the evidence timetable will be adjusted, and should seek a direction under rule 7.4(10) if an adjustment is needed.

Summary judgment

86. The timing of summary judgment applications changes materially. Schedule 3 amends rule 12.4(2) and (3) so that an application by a plaintiff or by a defendant "must be made by the time required by rule 7.4(3)". The former ability to make the application at the time the statement of claim or the statement of defence was served is removed, and rule 12.4(2A) is amended consequentially. Rule 12.4(4)(c) and (d) are revoked. Rule 7.36, which requires every summary judgment application to be heard in open court, is amended by deleting the opening words "Despite rule 7.34(1)".

87. The Rules Committee has drawn attention to two matters. The number of summary judgment applications has increased in recent years, particularly in Auckland, and statistics for the years 2019 to 2025 show that more than half of all such applications are dismissed or withdrawn. Because filing an application within time defers the start of the evidence timetable under rule 7.4(9), the Committee has indicated that counsel should proceed on the basis that the Court may, in the event of an unsuccessful plaintiff's application, decline to reserve costs into the proceeding generally, and that the approach in NZI Bank Ltd v Philpott is not mandatory.

The content of witness statements: rule 9.7

88. Rule 9.7(1) to (3) sets out the core content requirements:

> **9.7 Requirements for witness statements of factual and expert evidence**
>
> (1) Whether or not some evidence is directed to be led orally, a witness statement of factual or expert evidence is a statement from the witness that contains the testimony intended to be taken from them.
>
> (2) A witness statement of factual or expert evidence must—
>
> (a) be prepared in a manner that is consistent with the overriding objective in rule 1.2:
>
> (b) be in the words of the witness and not in the words of the lawyer involved in drafting the witness statement:
>
> (c) not contain evidence that is inadmissible in the proceeding:
>
> (d) not contain any material in the nature of a submission or be argumentative:
>
> (e) avoid repetition:
>
> (f) avoid referencing documents unless the witness has relevant evidence to give relating to them:
>
> (g) avoid reciting or summarising the contents of documents:
>
> (h) be confined to the matters in issue and, in the case of a fact witness, matters on which the witness can assist the court by giving evidence on the basis of their personal knowledge.
>
> (3) A witness statement must—
>
> (a) be signed by the witness with a statement that the evidence is true and correct:
>
> (b) in the case of an expert witness, also confirm that the witness has complied with the code of conduct for expert witnesses (see rule 9.43 and Schedule 4).

89. The operative provisions are paragraphs (c), (d), (f), (g) and (h). A witness statement should not recite or summarise the contents of documents, should not refer to documents at all unless the witness has relevant evidence to give about them, should contain no submission and should not be argumentative, and, in the case of a fact witness, should be confined to matters in issue on

which the witness can assist on the basis of personal knowledge. The statutory criterion is personal knowledge. It is not the same as, and should not be paraphrased as, what the witness can now recollect.

Sanction and the witness who provides no statement: rule 9.7(4) to (7)

90. The content requirements are now supported by an express sanction and by a notice procedure. These provisions are the enforcement mechanism behind rule 9.7(2) and, in my view, are the most consequential part of the rule for the drafting of evidence.

91. Rule 9.7(4) provides that if a witness statement does not comply with the requirements of subclause (2), the court may, before or during the trial, direct that it not be read in whole or in part, and may make an order as to costs as the court sees fit. Two features are significant: the direction may be made before trial, so a party need not wait for the objection to arise in the course of the hearing; and the sanction operates on the document, by excluding it in whole or in part, rather than merely on costs.

92. Rule 9.7(5) requires a party intending to call a person who has not provided a witness statement to serve a notice on the other parties informing them of that intention, and to include in the notice the name of the intended witness, the steps taken to obtain a witness statement, the reasons for the witness not providing one, an explanation of the relevance of the evidence, and details of the evidence the party expects the witness to give. Rule 9.7(6) provides that at trial the person must give evidence in accordance with rules 9.10 and 9.12, subject to any directions or conditions the court may specify. Rule 9.7(7) requires the party serving the notice to advise the Registrar, as soon as practicable, of whom it was served on and the date of service.

Exchange, supplementary statements and expert evidence

93. Clause 22 inserts rule 9.1A. Witness statements of factual evidence must be served by the date required by the directions in rule 7.4 unless further time is given by a Judge under rule 7.4(10), and must meet the requirements of rule 9.7(2): rule 9.1A(1) and (2). Statements of expert evidence must be served by the date and in accordance with directions given at the judicial issues conference or by another date directed by a Judge: rule 9.1A(3). Rule 9.1A(4) cross-refers to rule 9.43 and the code of conduct in Schedule 4.

94. Expert evidence is therefore not served with the factual evidence. It is timetabled at the conference under rule 7.5A(g). Nothing prevents a party from disclosing expert opinion earlier, and doing so may assist in explaining its case for the purposes of the conference.

95. Supplementary witness statements remain available under rule 9.8, the heading of which becomes "Supplementary witness statements". Schedule 3 amends rule 9.8(2) by inserting, after "Judge", the words "after taking account of the overriding objective in rule 1.2". Whether supplementary statements are needed is an agenda item for the conference under rule 7.5A(a)(ii). The Rules Committee's expectation is that, other than in cases such as fraud or in particularly complex cases, supplementary statements will be relatively uncommon.

Evidence in chief at trial: rule 9.12

96. Clause 28 replaces rule 9.12. The evidence in chief of a witness at trial may, if the court so directs, be in the form of the witness statement taken as read where the witness confirms it is true and correct, or be given by the witness reading the statement. It may include further oral evidence permitted by the court, and may comprise evidence given under an oral evidence direction under rule 9.10. It may also be in the form of a witness statement received without the witness confirming it under oath, provided the statement is accompanied by a declaration that it is true and correct made under section 9 of the Oaths and Declarations Act 1957. Rule 9.10(1) and (2) are revoked by Schedule 4.

97. Taking statements as read was not, strictly, contemplated by the former rule. Counsel should not assume that a trial Judge will have read the statements in advance. Where statements are to be taken as read, the trial estimate must include judicial reading time, which is an express agenda item under rule 7.5A(l)(ii).

The Proceeding Timeline and the JIC ready listing

98. Two mechanisms operate alongside the rules. Neither is provided for in the Amendment Rules, and the Practice Note records that it is not intended to effect any change to the requirements of the rules.

99. The first is the Proceeding Timeline. This is the document that pre-commencement materials, including the October 2025 seminar paper, called a Proceeding Notice; the Practice Note issued by the Chief High Court Judge on 17 December 2025 records the former name in a footnote. A template is published by the Ministry of Justice, and a copy is issued to the plaintiff when the endorsed pleadings are released for service. In addition to confirming the timetable for service of factual evidence, it reminds the parties of the overriding objective, contains a statement of the Court's expectation that parties as well as lawyers will attend the conference, provides for confirmation that no application within rule 7.4(8) has been filed, and provides for the plaintiff to list the further pleadings filed and served.

100. The plaintiff must confer with the other parties before completing and filing it, in accordance with rule 1.2A. The Practice Note prescribes the filing timeframes as follows:

   (a) if no notice of intention to file an application within rule 7.4(8) is given by any party in accordance with rule 7.4(3)(a), 5 working days following the time prescribed by rule 7.4(3)(a);

   (b) if notice is given and an application is subsequently filed in accordance with rule 7.4(3)(b), 10 working days after disposition of the application, or the filing of the statement or statements of defence, whichever is later; or

   (c) if notice is given but no application is subsequently filed in accordance with rule 7.4(3)(b), 5 working days after the time prescribed in rule 7.4(3)(b).

101. Where an alternative timetable is proposed, whether agreed or not, the Proceeding Timeline is filed with a joint memorandum setting out the proposal or the parties' respective positions, with reasons why the alternative is appropriate and consistent with the overriding objective.

The Practice Note directs that separate memoranda addressing disputed timetables are not to be filed.

102. The second mechanism is the JIC ready listing. Following the filing of the Proceeding Timeline, the Registry schedules the proceeding for a ready listing appearance in an Associate Judge's chambers list approximately two weeks after the scheduled date by which the last of the parties' factual evidence is to be served. Its purpose is to confirm that the parties are ready for a conference to be scheduled and to make the necessary timetabling and other directions. The Practice Note provides that even if there has been slippage, the ready listing will proceed save in exceptional circumstances, and that the party or parties in default will be expected to explain the default and what is required to restore compliance.

103. Ministry guidance indicates that the parties are expected to file a separate or joint memorandum no less than three days before the ready listing, addressing counsel and party availability. That is operational guidance rather than a requirement of rule 7.4(11).

Practical implications

(a) Evidence gathering and witness interviews must be substantially complete before or immediately after service of the responsive pleading. Twenty-five working days is a short period in which to prepare statements from scratch, and the January exclusion from the definition of working day should be checked against the calendar.

(b) Build the chronology as the documents are reviewed rather than afterwards. It will discipline the disclosure exercise and identify what the witnesses can usefully address.

(c) Draft witness statements against rule 9.7(2), and treat rule 9.7(4) as a real risk. Narrative commentary on documents, argument, and material outside the witness's personal knowledge should be removed. The party's account of the documentary record belongs in the opening.

(d) Where a witness will not provide a statement, comply with rule 9.7(5) promptly and completely, and advise the Registrar under rule 9.7(7).

(e) Decide early whether to bring an application within rule 7.4(8). Notice must be given to the parties and the court within 10 working days of service of the relevant pleading, and any summary judgment application must now be made within that framework.

(f) Do not assume that filing an application outside rule 7.4(8) will create time. It will not, and rule 7.4(10) is the only route to an adjusted timetable.

The judicial issues conference

A mandatory step

104. The judicial issues conference is the centre of the reforms. Rule 7.5(1) provides that a conference must take place for all defended ordinary proceedings unless rule 7.5(2) applies. Rule 6A.1(1)(b) provides that a conference must take place once the standard directions have been completed unless a Judge gives alternative directions under rule 7.5(2), and rule

7.1AA(1)(a) states the same proposition. The conference is a substantive fixture and not a list appearance.

105. Rule 7.5(2) provides that a Judge may determine that a conference is not required in a particular case or cases, and give alternative directions to best achieve the overriding objective, either on application by a party or on the Judge's own initiative. Two points arise from the text. The threshold is the overriding objective. And because the power extends to cases in the plural, a direction is capable of operating on a class of cases rather than only on an individual proceeding.

106. Whether a class-wide direction will be given in respect of the Commercial List is a separate question. The Rules Committee expressed the expectation in its October 2025 seminar paper that such a direction was likely, reflecting the close and continuing judicial engagement achieved through the list process. That is an expectation recorded in commentary, not a direction. The High Court Commercial List Practice Note 2025, which came into effect on 6 October 2025, does not itself dispense with the conference requirement. The position is therefore that the procedures applicable to the Commercial List may support an application for alternative directions under rule 7.5(2), but any exemption requires a judicial direction under that subclause.

107. In my view, counsel should approach any other case on the basis that a conference will be required, and that a substantial argument will be needed to establish that it is not. Agreement between the parties on further procedural steps will not by itself be sufficient, unless perhaps those steps are all that is needed to bring the case to a just resolution.

Purposes and the duty to co-operate

108. Rule 7.5(3) imposes a duty on the parties and their solicitors and counsel to co-operate when preparing for and participating in the conference, and requires them when doing so to have regard to the purposes of the conference set out in subclause (4). Those purposes are:

> (4) The purposes of a judicial issues conference are to—
>
> (a) identify the issues in the case, including issues that may be dispositive, and the position of the parties on those issues; and
>
> (b) taking into account the overriding objective in rule 1.2, consider—
>
> (i) the procedural requirements for the fair disposition of the case; and
>
> (ii) whether it is appropriate to seek to resolve the proceeding by alternative means, for example, by mediation.

109. The conference takes place with the benefit of the pleadings, initial disclosure including adverse documents, the factual evidence and the draft chronologies. The Rules Committee's stated reason for confidence that this reform will succeed where earlier attempts at intensive judicial engagement did not is that there will be substantially more material before the Judge, making it realistic to identify what actually matters and to determine what further steps are proportionate.

Steps before the conference: rule 7.5B

110. Rule 7.5B(1) provides that, unless a Judge directs otherwise, the plaintiff must file and serve, no later than 10 working days before the conference, a position paper, a bundle of the key

materials it wishes to refer to at the conference, and a draft timetable for trial; and the defendant and any other party must file and serve, no later than 5 working days before the conference, a position paper and a bundle of key materials.

111. A position paper must explain the party's case and what is required to fairly address it, and state what directions the party seeks at the conference: rule 7.5B(2). It may not exceed 10 pages: rule 7.5B(3). Note that the obligation is to file as well as to serve.

112. The plaintiff must seek input from the defendant when preparing the draft timetable for trial: rule 7.5B(4). If a defendant or another party disagrees with the draft timetable, it must set out its reasons in a memorandum filed with its position paper: rule 7.5B(5). In my view a party in that position is well advised to propose an alternative timetable rather than merely to record disagreement. The Chief High Court Judge has issued a Practice Note in relation to the draft timetable for trial, and the Ministry of Justice publishes a template.

113. Each party must advise the Registrar of the number of persons attending for that party no later than 5 working days before the conference: rule 7.5B(6). Rule 7.5B(7) and (8) apply the requirements to each of multiple plaintiffs or defendants and to third and other parties.

114. Attendance may be compelled. Rule 7.5(5) permits a Judge to direct, before the conference, the attendance of all or any of the instructing solicitors, all counsel engaged, and the parties, including in the case of corporate parties one or more of their senior officers or authorised representatives. The Court's expectation that party representatives will attend is recorded in the Proceeding Timeline. Ministry guidance indicates that attendance is expected to be in person, and that any request to appear remotely should be made to the Registry well in advance.

115. In my view the position paper is best approached as an expanded case theory document rather than as a response to the agenda. It should explain crisply where the party is, where it needs to get to, and why, and identify the directions sought. Counsel are not expected to work through the twelve agenda items seriatim.

The agenda: rule 7.5A

116. Rule 7.5A prescribes the agenda, subject to any contrary direction. It comprises twelve items:

> (a) identifying the issues and the position of the parties on those issues, including—
>
> (i) whether any amendment to the pleadings is appropriate:
>
> (ii) whether any supplementary witness statements are needed (see rule 9.8):
>
> (b) whether any steps should be taken to settle the dispute by means of facilitation, mediation, or otherwise, and, if not,—
>
> (i) why this is the case:
>
> (ii) whether there are any steps that can be taken to maximise the chances the dispute might be able to be settled by means of facilitation, mediation, or otherwise:
>
> (iii) whether any steps should be taken to minimise the matters in dispute through facilitation, mediation, or otherwise:
>
> (c) the nature of any significant facts that are disputed between the parties:
>
> (d) whether any further disclosure is needed (see rule 8.4A):

(e) resolving, or timetabling and deciding the mode of hearing for, any interlocutory matters:

(f) whether there are any issues of tikanga raised in the proceedings, and what steps should be taken as a consequence:

(g) whether any expert evidence is to be relied upon and, if so, identifying the particular topics on which that evidence will be directed, timetabling expert witness statements, setting a date for an experts conference, timetabling joint expert statements, and the sequencing of the evidence at trial (see rules 9.1A(3), 9.36AAA, 9.36, and 9.43 to 9.46):

(h) the manner and timing for finalising the parties' draft chronologies under rule 9.2 and combining these into a merged chronology for trial under rule 9.9:

(i) preparing the common bundle (see rules 9.2 and 9.4), whether it will be an electronic bundle, and when it must be served (see rule 9.3):

(j) whether the proceedings can be set down for trial and, if so, allocation of key dates (see rule 7.6):

(k) categorising the proceedings for cost purposes under rule 14.3:

(l) the requirements for trial, including—

(i) the time required for trial, including closing submissions:

(ii) the time required for reading days:

(iii) any electronic requirements.

117. Several items warrant specific comment.

(a) Paragraph (a) subsumes both pleading amendments and supplementary witness statements. These are not separate agenda items but aspects of identifying the issues.

(b) Paragraph (b) is a structured inquiry into settlement, not a formality. If the party's position is that no step should be taken by way of facilitation or mediation, it must be prepared to say why, and to address whether any step could improve the prospects of settlement and whether any step could narrow the matters in dispute. Counsel should come to the conference with an instructed position on each of the three sub-inquiries.

(c) Paragraph (f) requires the parties to address whether any issues of tikanga are raised in the proceedings and what steps should be taken as a consequence. This is a new and substantive agenda item. It requires counsel to have considered the question before the conference, and to have taken instructions where it may arise.

(d) Paragraph (j) is the vehicle for setting the proceeding down and allocating key dates, and it cross-refers to rule 7.6. Rule 7.6(1) and (2) are amended by Schedule 3 so that key dates are allocated at a judicial conference rather than at the first case management conference. The close of pleadings date is accordingly fixed under rule 7.6 at the conference. It is not a discrete item in rule 7.5A.

(e) Paragraph (k) requires the proceeding to be categorised for costs purposes under rule 14.3. Categorisation at this stage, and on the basis of the material then before the Court, is a significant change in practice and is addressed further below.

(f) Paragraph (l) requires the trial requirements to be addressed, including the time for trial and closing submissions, reading days, and electronic requirements. The express reference to reading days should be read with rule 9.12(a), under which statements may be taken as read.

Powers exercisable at the conference

118. Rule 7.5(6) provides that at a conference a Judge may give any directions they consider appropriate for the proceeding that will best achieve the overriding objective in rule 1.2. The power is broad. It extends to timetabling through to trial, to encouragement towards settlement, bearing in mind that a judicial issues conference is not a judicial settlement conference under rule 7.79, and to the making of interlocutory orders as part of the overall directions.

119. Rule 7.5A(e) is explicit that interlocutory matters may be resolved at the conference, as well as timetabled with a mode of hearing decided. Counsel should not assume that every interlocutory matter must be timetabled for hearing at a later date. In my view a well-prepared position paper that isolates a short interlocutory point may result in its determination at the conference, which will usually be to the client's advantage in both time and cost.

120. Rule 7.5(7) permits a Judge to direct that a further conference take place. Rule 7.5C provides that the court may, on its own initiative or on application, direct that a case management conference be scheduled. The Rules Committee's expectation is that a case management conference will be the exception rather than the rule.

Expert evidence

121. The management of expert evidence is dealt with principally at the conference, under rule 7.5A(g). The substantive changes are as follows.

122. Rule 9.36AAA(1) provides that, unless a Judge otherwise directs at or after the conference, each party may call only 1 expert witness on each particular topic identified at the conference. Rule 9.36AAA(2) provides that a Judge may make such a direction only if satisfied it will best achieve the overriding objective. Rule 9.42, which formerly governed the calling of expert witnesses, is revoked.

123. Rule 9.44(1) provides that the court must, unless it considers the overriding objective is best achieved by a different direction, direct expert witnesses to confer. The direction to confer is therefore mandatory in the ordinary case. The rule then provides that the court "may also direct them to do 1 or more of the following": confer on specified matters; confer in the absence of legal advisers of the parties; try to reach agreement on matters in the proceeding; prepare and sign a joint witness statement stating the matters on which they agree and those on which they do not, including the reasons for disagreement; and prepare a joint witness statement without the assistance of legal advisers. Those five matters are discretionary, and it is inaccurate to describe the mandatory direction as one to confer on specified matters or in the absence of legal advisers.

124. Rule 9.44(2) permits the court, on its own initiative or on the application of a party, to appoint an independent person to convene and facilitate the conference of expert witnesses, and to give any directions for convening and facilitating it as the court thinks just. Rule 9.44(3) permits the court, subject to any subsequent costs order, to determine that person's remuneration and which of the parties must pay all or part of it.

125. Two protective provisions should be noted. Rule 9.44(4) provides that the matters discussed at the conference must not be referred to at the hearing unless the parties by whom the expert witnesses have been engaged agree. Rule 9.44(5) provides that the independent person need not be an expert on any of the matters likely to be discussed, and may not give evidence at the hearing unless all parties agree. Rule 9.36(4) is amended consequentially to refer to the independent person who will convene a conference under rule 9.44.

126. The sequencing of expert evidence at trial, including whether experts are called concurrently or consecutively by topic or discipline, remains governed by rule 9.46, and is an express matter for the agenda under rule 7.5A(g).

Timing and conduct

127. The Practice Note provides that the ready listing occurs approximately two weeks after the scheduled date for service of the last of the factual evidence. The interval between the ready listing and the conference itself is addressed in the Proceeding Timeline template, and the figure should be taken from the current version of that document rather than from pre-commencement commentary, which gave approximately 30 days measured from the direction to schedule the conference.

128. Ministry guidance indicates that a conference will usually take about half a day and will usually be held in person, and that it may be held in a courtroom or in a meeting room at the courthouse. The Rules Committee indicated in its seminar paper that a day of judicial resource would be set aside, including reading time. Following the conference, the parties can expect a judicial minute recording what has been determined and directed.

129. The conference is not the trial, and the Judge will not make findings on the substance. It is nonetheless the most important judicial fixture in the proceeding apart from the trial, and in cases that settle afterwards it may prove to have been the most important. In my view the most effective approach is to treat it as a form of opening, in which counsel take the initiative in identifying the issues most likely to lead to a just resolution for the client, and then seek directions on that footing.

Consequential changes to the conduct of trials

130. The third limb of the reforms concerns the trial itself, and it is the reason for the changes to witness statements and for the introduction of the draft chronology. The contemporaneous documents come before the Court through the common bundle, the chronologies and the narrative of events in the parties' openings, rather than by being produced by witnesses.

Finalising the index and chronologies: rule 9.2

131. Clause 23 replaces rule 9.2. Each party must provide the party who will prepare the common bundle with an index of documents to be relied upon, no later than the date directed at the conference: rule 9.2(1). If the index refers to a document not previously disclosed, the party must include a copy with the index and seek the leave of the court for its inclusion in the common bundle: rule 9.2(2). Each party must finalise the chronology previously prepared as a

draft under rule 7.4, and file and serve it, no later than the date directed at the conference: rule 9.2(3).

132. Rule 9.2(4) defines documents to be relied upon as any previously disclosed document that is referred to in a witness statement, is to be referred to by a witness, is referred to in the final version of the party's chronology, is intended to be put to witnesses called by another party, or is to be referred to in opening submissions filed under rule 9.16; together with any document not previously disclosed for which leave is required. Rule 9.2(5) preserves the continuing obligation of disclosure under rule 8.18.

133. The leave requirement in rule 9.2(2) is a practical incentive to complete disclosure properly at the earlier stages. A document that was not disclosed can be admitted to the bundle only with leave, and rule 9.5(3) provides that the presumptions in rule 9.5 do not apply to such a document unless leave is given.

The common bundle: rule 9.4

134. Clause 24 replaces rule 9.4. The parties must co-operate in preparing the common bundle: rule 9.4(1). The duty includes providing the other parties promptly after the conference, and no later than the date directed, with the index, documents and final chronology required by rule 9.2; taking all practicable steps to assist the plaintiff in preparing the bundle, for example by making copies available or agreeing to the excision of irrelevant parts of a document; and conferring about the format of the bundle and in particular whether an electronic format is appropriate: rule 9.4(2). Where another party has been ordered to prepare the bundle, the references to the plaintiff are read accordingly: rule 9.4(3).

135. Rule 9.4(4) to (6) prescribe the content and form of the bundle, and were not addressed in the earlier commentary in any detail. Subject to rule 9.6, the bundle must contain all the documents listed in the index of each party and no other documents: rule 9.4(4). It must arrange the documents chronologically or in another appropriate sequence agreed by counsel and approved by a Judge; number each page consecutively; set out before the first document an index showing a short description of each document, its date, the party from whose custody it was produced and its page number; identify in the index, for example by colour coding, any document requiring leave under rule 9.2; and, if disclosure was provided by affidavit with a schedule complying with rule 8.16, use a format so far as possible compatible with that schedule: rule 9.4(5). Where an electronic format is agreed, the parties must have regard to any practice note on electronic formats issued from time to time by the Chief High Court Judge: rule 9.4(6).

Admissibility of documents in the common bundle: rules 9.5 and 9.5A

136. Clause 25 replaces rule 9.5 and inserts rule 9.5A. Under rule 9.5(1) each document in the bundle is, unless a Judge directs otherwise, to be considered accurately described in the index, to be what it appears to be, to have been signed by any apparent signatory, to have been sent by any apparent author and received by any apparent addressee, and to have been produced by the party indicated in the index.

137. Rule 9.5(2) provides that a document in the bundle is automatically received into evidence and presumed to be admissible if it is referred to in a witness's evidence, in a chronology provided to the court under rule 9.2 or 9.9, or in opening submissions filed under rule 9.16, and no objection to admissibility under rule 9.5A is upheld. Rule 9.5(3) excludes documents requiring leave unless leave is given, and rule 9.5(4) permits a Judge to disapply the rule or part of it in relation to a document or group of documents.

138. Rule 9.5A(1) permits a party to object to the admissibility of a document notwithstanding the presumption. Rule 9.5A(2) requires the Judge, when considering the objection, to have regard to the overriding objective, and permits the Judge to consider whether any concerns are more sensibly dealt with as a matter of weight, whether an opportunity will be given to adduce the evidence by other means if the objection is allowed, and whether any costs consequences will apply in light of the overriding objective.

139. The effect of the rules, on their own terms, is automatic receipt into evidence and a presumption of admissibility where the stated conditions are satisfied and no objection is upheld. The Rules Committee has explained the object as being to allow the documents in the common bundle to be technically admissible, including for the truth of their contents, with any objection then required to be addressed under rule 9.5A. That characterisation is the Committee's and is not the language of the rules, and it should be treated as commentary rather than as the operative test. What the rules do not and could not do is override the Evidence Act 2006; what they regulate is when and how objections must be taken, and they plainly discourage them. In my view counsel should expect the Court's general approach to be that concerns of this kind are matters of weight, and should be slow to take an objection that could be met that way.

The merged chronology: rule 9.9

140. Clause 27 replaces rule 9.9. The merged chronology is mandatory, and the obligation falls on the plaintiff.

141. Rule 9.9(1) states that a key purpose of the merged chronology, together with the common bundle, is to assist the court to identify the events and facts that are agreed and can therefore be taken by the court as being established in evidence, and the issues in dispute. That is a provision of substance: agreement recorded in the merged chronology has evidential effect.

142. Rule 9.9(2) requires the plaintiff to file and serve a merged chronology incorporating the chronologies of the parties, indicating in an appropriate way, for example by colour coding, the entries that are agreed and the entries that are not agreed, and in each case which party asserts that the entry is incorrect. Rule 9.9(3) requires it to be filed and served not later than 15 working days after the common bundle has been served, or by the time directed at the conference.

143. What is not required is agreement on the entries. The rule accommodates disagreement by requiring it to be identified. It would be wrong, however, to describe the merged chronology itself as optional.

Openings: rule 9.16

144. Clause 30 replaces rule 9.16. A plaintiff must, not later than 10 working days before the trial or hearing, file and serve a copy of its opening including a narrative of material facts and events: rule 9.16(1). A defendant or third or other party must do so not later than 5 working days before the trial or hearing: rule 9.16(2). A Judge may give alternative directions if satisfied that this will best achieve the overriding objective: rule 9.16(3).

145. The narrative of events which a party contends is revealed by the documentary record therefore belongs in the opening, and the opening is filed in advance. The former rule required only a plaintiff's synopsis of opening.

Cross-examination duties: rule 9.15

146. Clause 29 replaces rule 9.15, which now provides that a party may raise with the court whether or the extent to which cross-examination of any witness by them is required by section 92 of the Evidence Act 2006, given what is known about the parties' cases.

147. The Rules Committee explained the change in its Drafting Instructions as addressing a perception that counsel must put the whole of the client's case to an opposing witness in order to discharge the duty. The Committee's view is that section 92 does not require that, that its focus is procedural fairness, and that while a party cannot invite the Court to reject a witness's evidence, particularly as untrue, without that evidence having been challenged, this does not entail an obligation to put the party's entire case to the witness.

Costs

148. The costs consequences of the reforms are addressed in two places and should not be overlooked.

149. First, rule 7.5A(k) makes the categorisation of the proceeding for costs purposes under rule 14.3 an express agenda item for the judicial issues conference. Categorisation therefore occurs relatively early, and on the basis of the material then before the Court, which will include the pleadings, initial disclosure, the factual evidence and the chronologies. Counsel should come to the conference with an instructed position on category and be able to justify it.

150. Secondly, Schedule 3 to the principal rules, which sets out the time allocations for steps in a proceeding, is amended to reflect the new steps. New items are inserted for preparation for the judicial issues conference, preparation of the position paper and bundle, appearance at the conference, the affidavit of initial disclosure, the affidavit of further or particular disclosure, preparation of factual witness statements, preparation of the draft chronology, and an additional allowance for preparing the merged chronology. Item 33 is recast, and items 14, 39 and 54 are deleted. The amended and inserted items are set out in the Schedule to this note.

151. The allocation for appearance at the judicial issues conference is the time occupied by the hearing, which reflects its status as a substantive fixture rather than a list appearance. In my view the combination of that allocation with the separate allocations for preparation and for

the position paper indicates that the conference is expected to attract a materially greater costs entitlement than the case management conferences it replaces.

Action points

152. The following points summarise what the amendments require in practice.

(a) Identify whether the proceeding is an ordinary proceeding within rule 6A.1(2), and whether it was filed before or after 1 January 2026.

(b) For proceedings filed before 1 January 2026, consider whether to seek a direction under clause 4(2) of Part 3 of Schedule 1AA that one or more, or all, of the Amendment Rules apply, and be prepared for an opponent to seek one.

(c) Review the pleadings before filing, as Schedule 9, clause 1, requires, and complete the initial disclosure exercise so that the bundle and affidavit can be served with the first substantive pleading.

(d) Confine the bundle to documents in the party's control, apply the additional principal documents qualifier in rule 8.4(1)(b), and treat subparagraphs (b)(i) and (b)(ii) as alternatives.

(e) Establish and record a defensible process for taking reasonable steps to check for adverse documents, identifying the individuals whose knowledge is relevant and the repositories checked, because rule 8.15(2)(c) requires it to be described on oath.

(f) Identify known documents not in the party's control and list them under rule 8.15(2)(e).

(g) Settle privilege and confidentiality claims at the outset, with grounds, for rule 8.15(2)(d).

(h) Agree electronic formats and naming conventions early, having regard to rules 8.2(2)(d) and 9.4(5)(e) and (6).

(i) Diarise the rule 7.4(3) periods, running from service, and give notice to the court as well as to the other parties. Remember that any summary judgment application must now be made within that framework.

(j) Diarise the rule 7.4(4) periods in working days, allowing for the 25 December to 15 January exclusion, and note that the plaintiff's first tranche is confined to its claim.

(k) Prepare the draft chronology in form G 41 alongside the document review.

(l) Draft witness statements against rule 9.7(2), with rule 9.7(4) in mind, and comply with rule 9.7(5) and (7) for any witness who provides no statement.

(m) Have direct discussions with opposing counsel and record them. Correspondence alone does not discharge rule 1.2A(2).

(n) Prepare for the conference as a substantive fixture: a position paper within the 10-page limit that functions as a case theory document, a bundle of key materials, and a draft timetable for trial prepared with the other parties' input.

(o) Take instructions before the conference on settlement and alternative dispute resolution, on any issues of tikanga, on further disclosure, on expert topics, on the trial estimate including reading days, and on costs category.

(p) Secure the attendance of a suitably senior client representative, in person, and advise the Registrar of numbers under rule 7.5B(6).

(q) Frame every procedural submission by reference to the overriding objective in rule 1.2, and to proportionality in particular.

Schedule

High Court (Improved Access to Civil Justice) Amendment Rules 2025 (SL 2025/149)

This Schedule reproduces the arrangement of provisions of the Amendment Rules (Part A); the text of the amending clauses 1 to 39 (Part B); the transitional provision inserted into Schedule 1AA and new form G 41 (Part C); and a digest of the consequential amendments and the revocations (Part D). New Zealand legislation, including rules of court made by Order in Council, is not subject to copyright: Copyright Act 1994, section 27.

The two-page flow chart contained in new rule 6A.1 is not reproduced. Rule 6A.1(3) provides that it operates only as a guide and yields to any inconsistent provision.

Part A: Arrangement of provisions

The Amendment Rules were made by Order in Council at Wellington on 21 July 2025, Her Excellency the Governor-General in Council, under section 148 of the Senior Courts Act 2016, 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 continued under section 155 of that Act, of whom at least 1 was a Judge of the High Court.

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19 Rule 8.18 replaced (Continuing obligations)
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21 Rule 8.33 replaced (Enforcement of order)
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29 Rule 9.15 replaced (Cross-examination duties)
9.15 Cross-examination duties
30 Rule 9.16 replaced (Plaintiff's synopsis of opening)
9.16 Filing of plaintiff's and defendant's openings before trial
31 New rule 9.36AAA and cross-headings inserted
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9.36AAA Calling of party-appointed expert witnesses
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32 New cross-heading above rule 9.43 inserted
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33 Rule 9.44 replaced and cross-heading inserted
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9.44 Conference of expert witnesses
34 New rule 18.4A inserted (Case management)
18.4A Case management
35 New rule 30.3A inserted (Case management)

30.3A Case management

36 Schedule 1AA amended

37 Schedule 1, new form G 41 inserted

38 Consequential amendments to principal rules

39 Rules revoked

Schedule 1 — New Part 3 inserted into Schedule 1AA

Schedule 2 — New form G 41 inserted into Schedule 1

Schedule 3 — Consequential amendments

Schedule 4 — Revocations

Part B: Text of the amending clauses

Reproduced from the Amendment Rules as made. Clause numbers appear in bold; inserted or replaced rules and cross-headings are shown in the position they occupy in the principal rules.

1 Title

These rules are the High Court (Improved Access to Civil Justice) Amendment Rules 2025.

2 Commencement

These rules come into force on 1 January 2026.

3 Principal rules

These rules amend the High Court Rules 2016.

4 Rule 1.2 replaced (Objective)

Replace rule 1.2 with:

1.2 Overriding objective

(1) The overriding objective of these rules is to secure the just resolution of any proceeding or interlocutory application by proportionate means, including by securing its speedy and inexpensive determination.

(2) When deciding how subclause (1) applies in any case, the court may consider the following:

(a) how best to both fairly and expeditiously identify and resolve the issues in dispute:

(b) how best to deal with the proceeding in ways that are, and at a cost that is, proportionate to the nature of the dispute and the issues in dispute:

(c) the need to allocate the court's resources fairly across the court's caseload.

1.2A General duty to co-operate

(1) The parties and their solicitors and counsel have a duty to co-operate with the other parties and their solicitors and counsel in accordance with the overriding objective in rule 1.2.

(2) The duty includes lawyers and counsel representing the parties having direct discussions with each other or, in the case of a self-represented litigant, with the litigant, to attempt to agree on how the proceeding will be conducted.

(3) For specific duties to co-operate under these rules, see the following:

(a) rule 7.5 (preparing for and participating in judicial issues conference):

(b) rule 8.2 (disclosure):

(c) rule 8.4A (further disclosure):

(d) rule 9.4 (preparing common bundle):

(e) rule 11.22 (sale of property).

5 Rule 1.3 amended (Interpretation)

(1) In rule 1.3(1), replace the definition of case management conference with:

case management conference means a conference conducted by the court under these rules or an enactment (see rule 7.1AA)

(2) In rule 1.3(1), insert in their appropriate alphabetical order:

disclosure obligation means a requirement to make disclosure under these rules or as directed by the court

judicial conference means a judicial issues conference or a case management conference judicial issues conference means a conference conducted under subpart 1 of Part 7 in accordance with rule 7.5

ordinary proceeding has the meaning given in rule 6A.1

overriding objective means the overriding objective of the rules described in rule 1.2

6 Rule 5.47 amended (Filing and service of statement of defence)

In rule 5.47(2)(b), replace "25" with "30".

7 New Part 6A inserted

After Part 6, insert:

Part 6A

Overview of steps in ordinary proceedings

6A.1 Overview of steps in ordinary proceedings

(1) For all ordinary proceedings,—

(a) the standard directions under rule 7.4 apply following the filing of pleadings unless a Judge makes alternative directions under rule 7.4(10); and

(b) a judicial issues conference under rule 7.5 must take place once the standard directions have been completed unless a Judge gives alternative directions under rule 7.5(2).

(2) In these rules, ordinary proceeding means a proceeding commenced in accordance with Part 5 of these rules, but excludes an application for judicial review.

(3) The flow chart below gives further details of the steps prior to trial required by these rules for ordinary proceedings. The flow chart operates only as a guide. In the event of any inconsistency between the flow chart and any other provision of these rules or any other enactment, that other provision or enactment prevails.

[A two-page flow chart headed "Overview of commencement, case management, and preparation for trial of ordinary proceedings" follows in the rules as made. It is not reproduced here. Rule 6A.1(3) provides that it operates only as a guide.]

8 Rule 7.1AA replaced (Outline of case management procedures for different types of proceedings)

Replace rule 7.1AA with:

Case management overview

7.1AA Case management procedures for different types of proceedings

(1) An ordinary proceeding—

(a) is subject to a judicial issues conference unless alternative directions are given by a Judge (see rule 7.5):

(b) may be the subject of 1 or more case management conferences (see rule 7.5C):

(c) if the proceeding is being, or has been, allocated a hearing or trial date, may be the subject of a pre-trial conference (see rule 7.8).

(2) A proceeding commenced under Part 18 may be subject to case management under rule 18.4A.

(3) A proceeding commenced under Part 19 may be subject to case management through the ability of the parties to seek directions under rules 19.11 and 7.43A.

(4) An application for judicial review under the Judicial Review Procedure Act 2016 may be subject to case management under section 13 of that Act and an application for an extraordinary remedy under Part 30 may be subject to case management under rule 30.3A (and rule 7.17 applies).

(5) An application for leave to appeal, or an appeal, under Part 20 (appeals), Part 21 (cases stated), or Part 26 (Arbitration Act 1996) is subject to case management under rules 7.14 and 7.15.

(6) This rule operates only as a guide. In the event of any inconsistency between this rule and any other provision of these rules or any other enactment, that other provision or enactment prevails.

9 Rules 7.1 to 7.3A revoked

Revoke rules 7.1 to 7.3A.

10 Rule 7.4 replaced (Further case management conferences)

Replace rule 7.4 with:

Standard directions for ordinary proceedings

7.4 Standard directions prior to judicial issues conference for ordinary proceedings

(1) Unless a Judge makes alternative directions under subclause (10), the following directions apply.

(2) The directions apply to steps after the following:

(a) the date of service of the pleading by the plaintiff:

(b) if an affirmative defence is pleaded or a counterclaim is made, the last pleading by a party responding to it.

(3) If a party wishes to make an interlocutory application or apply for another matter listed in subclause (8),—

(a) they must give notice to the other party or parties and the court that they intend to do so no later than 10 working days—

(i) from the date of service of the pleading by the defendant or, if there is more than 1 defendant, the last pleading by a defendant; or

(ii) if an affirmative defence is pleaded or a counterclaim is made, from the date of service of the pleading responding to it or, if more than 1 party is the subject of it, the last pleading by a party responding to it; and

(b) they must file the application no later than 15 working days from the date that notice is given; and

(c) see rule 7.33(1) for allocation of a hearing date.

(4) If no application is filed under subclause (3)(b), the following directions apply:

(a) the plaintiff must serve the following on the defendant no later than 25 working days from the date referred to in subclause (3)(a)(i) or (ii):

(i) factual witness statements (relating to their claim only, not any affirmative defence or counterclaim); and

(ii) a draft chronology of events and facts in form G 41 (a draft chronology) that—

(A) refers to all pleaded material facts and any other events or facts of significance they intend to establish by the documentary record; and

(B) includes a corresponding reference to the relevant document or documents in each case; and

(iii) copies of any documents referred to in a witness statement or the draft chronology that were not disclosed in initial disclosure:

(b) the defendant must then serve the witness statements, draft chronology, and documents described in paragraph (a)(i) to (iii), including for any affirmative defence pleaded or counterclaim made, no later than 45 working days from the date they receive the plaintiff's evidence and draft chronology:

(c) if an affirmative defence is pleaded or a counterclaim is made, any party that is the subject of it must serve the documents described in paragraph (a)(i) to (iii) relating to the affirmative defence or counterclaim no later than 25 working days from the date they receive the defendant's evidence and draft chronology.

(5) In the case of subclause (4)(c), the party—

(a) may amend the draft chronology, served previously by them under subclause (4)(a) or (b), to respond to the affirmative defence or counterclaim; and

(b) may serve new witness statements relating to the affirmative defence or counterclaim.

(6) For proceedings with multiple parties,—

(a) if there is more than 1 plaintiff or defendant, the references to the plaintiff or the defendant in this rule apply to each of them:

(b) if there are 1 or more third or other parties, the references to the defendant in this rule apply to each of them.

(7) The parties referred to in subclause (6) include any party joined to the proceeding by a decision on an interlocutory application.

(8) The matters referred to in subclause (3) are the following:

(a) to strike out or add a party under rule 4.56:

(b) for security of costs under rule 5.45:

(c) applications concerning a protest to jurisdiction under rule 5.49:

(d) for summary judgment under Part 12 (including an application for leave, if required):

(e) to dismiss or stay without trial (strike out) under rule 15.1 or the inherent jurisdiction.

(9) If any interlocutory applications under subclause (3) need to be determined, the 25 working days in subclause (4)(a) run from the date of the last decision on an interlocutory application unless directed otherwise by a Judge.

(10) A party may apply to the court to request alternative directions to those provided in this rule. A Judge may give alternative directions if satisfied that this will best achieve the overriding objective in rule 1.2.

(11) The plaintiff must advise the Registrar once all evidence and chronologies have been served by the parties but must confer with the other party or parties before doing so. The Registrar must then schedule a judicial issues conference. (However, see rule 7.5C for case management conferences.)

11 Rule 7.5 replaced (Issues conferences)

Replace rule 7.5 with:

Judicial conferences (judicial issues conferences and case management conferences)

7.5 Judicial issues conference for defended ordinary proceedings

(1) A judicial issues conference must take place for all defended ordinary proceedings unless subclause (2) applies.

(2) A Judge may determine that a judicial issues conference is not required in a particular case or cases and give alternative directions to best achieve the overriding objective in rule 1.2 on—

(a) application by a party:

(b) their own initiative.

(3) The parties and their solicitors and counsel have a duty to co-operate when preparing for and participating in a judicial issues conference and, when doing so, must have regard to the purposes of the conference set out in subclause (4).

(4) The purposes of a judicial issues conference are to—

(a) identify the issues in the case, including issues that may be dispositive, and the position of the parties on those issues; and

(b) taking into account the overriding objective in rule 1.2, consider—

(i) the procedural requirements for the fair disposition of the case; and

(ii) whether it is appropriate to seek to resolve the proceeding by alternative means, for example, by mediation.

(5) A Judge may issue a direction before a judicial issues conference requiring the attendance at the conference of all or any of the following:

(a) instructing solicitors:

(b) all counsel engaged:

(c) the parties (or, in the case of corporate parties, 1 or more of their senior officers or authorised representatives).

(6) At a judicial issues conference, a Judge may give any directions they consider appropriate for the proceeding that will best achieve the overriding objective in rule 1.2.

(7) A Judge may direct that a further judicial issues conference take place.

7.5A Agenda for judicial issues conference

Unless a Judge directs otherwise, the agenda for the judicial issues conference is the following:

(a) identifying the issues and the position of the parties on those issues, including—

(i) whether any amendment to the pleadings is appropriate:

(ii) whether any supplementary witness statements are needed (see rule 9.8):

(b) whether any steps should be taken to settle the dispute by means of facilitation, mediation, or otherwise, and, if not,—

(i) why this is the case:

(ii) whether there are any steps that can be taken to maximise the chances the dispute might be able to be settled by means of facilitation, mediation, or otherwise:

(iii) whether any steps should be taken to minimise the matters in dispute through facilitation, mediation, or otherwise:

(c) the nature of any significant facts that are disputed between the parties:

(d) whether any further disclosure is needed (see rule 8.4A):

(e) resolving, or timetabling and deciding the mode of hearing for, any interlocutory matters:

(f) whether there are any issues of tikanga raised in the proceedings, and what steps should be taken as a consequence:

(g) whether any expert evidence is to be relied upon and, if so, identifying the particular topics on which that evidence will be directed, timetabling expert witness statements, setting a date for an experts conference, timetabling joint expert statements, and the sequencing of the evidence at trial (see rules 9.1A(3), 9.36AAA, 9.36, and 9.43 to 9.46):

(h) the manner and timing for finalising the parties' draft chronologies under rule 9.2 and combining these into a merged chronology for trial under rule 9.9:

(i) preparing the common bundle (see rules 9.2 and 9.4), whether it will be an electronic bundle, and when it must be served (see rule 9.3):

(j) whether the proceedings can be set down for trial and, if so, allocation of key dates (see rule 7.6):

(k) categorising the proceedings for cost purposes under rule 14.3:

(l) the requirements for trial, including—

(i) the time required for trial, including closing submissions:

(ii) the time required for reading days:

(iii) any electronic requirements.

7.5B What parties must do before judicial issues conference

(1) Unless directed otherwise by a Judge, the following directions apply:

(a) the plaintiff must file and serve the following no later than 10 working days before the conference:

(i) a position paper:

(ii) a bundle of the key materials that they wish to refer to at the conference:

(iii) a draft timetable for trial:

(b) the defendant and any other party must file and serve the following no later than 5 working days before the conference:

(i) a position paper:

(ii) a bundle of the key materials that they wish to refer to at the conference.

(2) A position paper must—

(a) explain the party's case and what is required to fairly address it:

(b) state what directions they seek at the conference.

(3) A position paper may not exceed 10 pages.

(4) The plaintiff must seek input from the defendant when preparing the draft timetable for trial.

(5) If a defendant or another party disagrees with the draft timetable for trial, they must set out their reasons in a memorandum filed with their position paper.

(6) Each party must advise the Registrar of the number of persons attending for that party no later than 5 working days before the conference.

(7) If there is more than 1 plaintiff or defendant, the references to the plaintiff or the defendant in subclause (1) apply to each of them.

(8) If there are 1 or more third or other parties, the reference to the defendant in subclause (1) applies to each of them.

7.5C Case management conferences for ordinary proceedings

The court may on its own initiative or on application by a party direct that a case management conference be scheduled.

Other case management provisions

12 Rules 7.33 and 7.34 replaced

Replace rules 7.33 and 7.34 with:

7.33 Hearing of interlocutory applications

(1) If an application is made of the kind referred to in rule 7.4(8), the Registrar must allocate a date for an in-person hearing of the application.

(2) If an application is made following, and in accordance with directions made at, a judicial issues conference, the Registrar must proceed in accordance with those directions.

(3) In the case of an application not provided for in subclauses (1) and (2), the court must determine whether a hearing of the application is required or whether it will be determined on the papers.

(4) When making a decision under subclause (3), the court must consider which option will best achieve the overriding objective in rule 1.2.

(5) The standard time for the hearing of an interlocutory application is 2 hours, except for applications that fall within subclause (1) or if a Judge directs otherwise.

(6) This rule and rule 7.34 are subject to rule 7.36, which requires every application for summary judgment to be heard in open court.

7.34 Mode of hearing

(1) An interlocutory application for which a hearing is required and that does not fall within rule 7.33(1) must be heard in chambers and may be heard remotely in accordance with the Courts (Remote Participation) Act 2010.

(2) However, for any interlocutory application referred to in rule 7.33 for which a mode of hearing has been set, a party may request in writing to the court for an alternative mode of hearing if they do so no less than 5 working days before the allocated hearing date for a Judge to approve that alternative mode of hearing.

(3) A Judge may accept an application under subclause (2) at a later time if the Judge considers there is good reason for the delay in making the application.

13 Rule 7.48 amended (Enforcement of interlocutory order)

(1) Replace the heading to rule 7.48 with "Enforcement of orders and requirements of rules".

(2) Replace rule 7.48(1) with:

(1) If a party (the party in default) fails to comply with an order or a requirement imposed by or under subpart 1 of Part 7 or Part 8, the Judge may, subject to any express provision of these rules, make any order the Judge thinks just.

14 Rule 8.2 replaced (Co-operation)

Replace rule 8.2 with:

8.2 Co-operation

(1) The parties must co-operate to ensure that the process of disclosure is conducted in accordance with the overriding objective in rule 1.2 and, in particular, is—

(a) appropriately focused and proportionate to the subject matter of the proceeding; and

(b) facilitated by agreement on practical arrangements.

(2) The parties must, when appropriate,—

(a) consider options to focus the scope of disclosure; and

(b) achieve reciprocity in the electronic format and processes of disclosure; and

(c) ensure technology is used efficiently and effectively; and

(d) agree on and employ a format compatible with the subsequent preparation of an electronic bundle of documents for use at trial.

15 Rule 8.4 amended (Initial disclosure)

(1) Replace rule 8.4(1) to (3) with:

(1) Unless a Judge directs otherwise, a party to an ordinary proceeding must, at the same time as serving its first substantive pleading, serve on the other parties a bundle of documents verified by affidavit that complies with rule 8.15(2) and contains copies of all of the following documents that are in the party's control:

(a) all the documents referred to in that pleading:

(b) any additional principal documents—

(i) that they have used when preparing the pleading:

(ii) on which they presently intend to rely at the trial or hearing:

(c) all adverse documents.

(1A) An adverse document that must be disclosed under this rule is a document that—

(a) contains information that—

(i) is adverse to the case of the party giving disclosure or another party's case; or

(ii) supports the case of another party; and

(b) the party giving disclosure—

(i) knows the document exists; or

(ii) has good reason to believe the document exists.

(1B) A party must take reasonable steps to check for the existence of adverse documents.

(2) After rule 8.4(9), insert:

(10) See rule 8.18 for continuing obligations to give disclosure.

16 New rule 8.4A inserted (Further disclosure)

After rule 8.4, insert:

8.4A Further disclosure

(1) The parties may agree on what (if any) further disclosure is given.

(2) A party may request that specific documents be disclosed to them by another party if the first party has good reason to believe that the documents exist, are relevant and material, and have not been provided under disclosure.

(3) A party who receives a request for further disclosure of specific documents must respond to that request in accordance with the duty of co-operation in rule 8.2.

(4) Despite subclauses (1) to (3), a Judge may, if satisfied that this will best achieve the overriding objective in rule 1.2, do either or both of the following:

(a) order further disclosure at any time:

(b) direct a party to search or make further checks for relevant and material documents.

(5) If further disclosure is ordered, the Judge may also order that an affidavit verifying that disclosure be provided in a form directed by the Judge. (However, see rules 8.15(1)(b) and 8.16.)

17 Rule 8.15 replaced (Affidavit of documents)

Replace rule 8.15 with:

8.15 Affidavit for disclosure

(1) Each party must serve an affidavit for disclosure as follows:

(a) for initial disclosure that accompanies a bundle of documents under rule 8.4, the affidavit must comply with subclause (2):

(b) if further disclosure (under rule 8.4A) or particular disclosure (under rule 8.19 or 8.21) is ordered by a Judge, the Judge may also order that disclosure be verified by affidavit in a form, and filed and served by the time, directed by the Judge (see also rule 8.16).

(2) An affidavit for initial disclosure need not give a detailed description of any document but must—

(a) include a list of all the documents contained in the bundle; and

(b) state that the party understands their obligations under rule 8.4; and

(c) give brief particulars of the steps taken by the party to check for the existence of adverse documents; and

(d) give a brief description of any document or part of a document for which privilege or confidentiality is claimed and specify the ground on which the claim is based in each case; and

(e) include a list of any documents described in rule 8.4(1)(a) to (c) that are known to the party but are not in their control; and

(f) confirm that the party believes that the list of documents refers to, and the bundle contains, all documents that they are obliged to disclose under rule 8.4, except those for which privilege or confidentiality is claimed.

(3) Documents of the same nature may be described as a group or groups, and, if so, rule 8.16(3) applies with any necessary modifications.

(4) An affidavit may be in form G 37, however, if it is not, it must refer to the categories of documents listed in rule 8.4(1)(a) to (c) in the statement required by subclause (2)(b).

18 Rule 8.16 amended (Schedule appended to affidavit of documents)

(1) Before rule 8.16(1), insert:

(1AAA) If a Judge makes an order for further or particular disclosure under rule 8.4A, 8.19, or 8.21 and orders that disclosure to be verified by affidavit,—

(a) the affidavit must list the documents to be disclosed under the order only, unless the Judge orders otherwise:

(b) the Judge may also order that the affidavit verifying the disclosure contain a schedule that complies with all or part of this rule.

(2) In rule 8.16(1), replace "The schedule referred to in rule 8.15(2)(e) must, in accordance with that discovery order," with "The schedule must".

(3) In rule 8.16(2), replace "Subject to Part 2 of Schedule 9," with "Part 2 of Schedule 9 applies to a schedule under this rule, except that".

(4) In rule 8.16(5)(b), replace "correspondence" with "any documents".

19 Rule 8.18 replaced (Continuing obligations)

Replace rule 8.18 with:

8.18 Continuing obligations

(1) A party must disclose any document they become aware of that is or becomes a document described in rule 8.4(1), including adverse documents.

(2) This obligation applies at all stages of a proceeding, including in the course of complying with any disclosure order.

20 Rule 8.24 replaced (Who may swear affidavit of documents)

Replace rule 8.24 with:

8.24 Who may swear affidavit for disclosure

(1) If a Judge orders that an affidavit for disclosure be filed, they may—

(a) specify, by name or otherwise, the person who must make the affidavit; or

(b) specify, by description or otherwise, a group or class of persons, any of whom may make the affidavit.

(2) In any other case, the affidavit may be made by the following:

(a) if the person required to make disclosure is an individual person, by that person:

(b) if the person required to make disclosure is a corporation or a body of persons empowered by law to sue or be sued (whether in the name of the body or in the name of the holder of an office), by a person who meets the requirements of rule 9.82:

(c) if the person required to make disclosure is the Crown, or is an officer of the Crown who may sue or be sued in an official capacity, or is representing a government department, by an officer of the Crown.

21 Rule 8.33 replaced (Enforcement of order)

Replace rule 8.33 with:

8.33 Enforcement of orders and requirements of rules

(1) If a party fails to comply with an order or a requirement imposed by or under this Part, a Judge may enforce it under rule 7.48 (which applies with any necessary modifications).

(2) An order made under this subpart may be enforced under subpart 4 of Part 2 of the Contempt of Court Act 2019 against any person who is required to comply with that order.

(3) This rule does not limit or affect any power or authority of the court to punish a person for not complying with a court order.

22 New rule 9.1A inserted (Exchange of witness statements of factual evidence and expert evidence)

After rule 9.1, insert:

9.1A Exchange of witness statements of factual evidence and expert evidence

(1) Witness statements of the factual evidence that a party wishes to rely on at trial must be served by the date required by the directions in rule 7.4 unless further time is given by a Judge under rule 7.4(10).

(2) Those witness statements must meet the requirements of rule 9.7(2).

(3) Statements of the expert evidence that a party wishes to rely on at trial must be served by the date and in accordance with directions given at the judicial issues conference or by another date otherwise directed by a Judge.

(4) See rule 9.43, which requires expert witnesses to comply with the code of conduct set out in Schedule 4.

23 Rule 9.2 replaced (Exchange of documents and index)

Replace rule 9.2 with:

9.2 Exchange of documents and index and finalising chronologies of parties

(1) Each party must provide the party who will prepare the common bundle with an index of documents to be relied upon no later than the date directed at the judicial issues conference.

(2) If the index refers to a document not previously disclosed, the party must—

(a) include a copy of the document with the index; and

(b) seek the leave of the court for it to be included in the common bundle (see rule 9.4(5)(d), which requires the document to be identified in the index as requiring leave to be included in the bundle).

(3) Each party must finalise their chronology (previously prepared as a draft under rule 7.4) and file and serve it no later than the date directed at the judicial issues conference.

(4) In this rule, documents to be relied upon means any of the following:

(a) any document previously disclosed that is—

(i) referred to in a witness statement:

(ii) to be referred to by a witness:

(iii) referred to in the final version of the party's chronology:

(iv) intended to be put to witnesses called by another party:

(v) to be referred to in opening submissions filed under rule 9.16:

(b) any document not previously disclosed for which leave is required under subclause (2) for it to be included in the common bundle.

(5) Nothing in this rule affects a party's continuing obligations to give disclosure under rule 8.18.

24 Rule 9.4 replaced (Preparation of common bundle)

Replace rule 9.4 with:

9.4 Preparing common bundle

(1) The parties must co-operate in the preparation of a bundle of documents (in this subpart referred to as the common bundle).

(2) The duty to co-operate includes each party—

(a) providing the other parties promptly, after the judicial issues conference and no later than the date directed by the Judge at the conference, with the index, documents, and final chronology required by rule 9.2; and

(b) taking all practicable steps to assist the plaintiff in the preparation of the common bundle, for example, by making copies of documents available, or agreeing to the excision of part of a document if that part cannot be relevant; and

(c) conferring with the other parties about the format of the common bundle and, in particular, whether an electronic format of the common bundle is appropriate.

(3) If a party other than the plaintiff has been ordered to prepare the common bundle, the references in subclause (2) to the plaintiff are to be read as references to that different party.

(4) Subject to rule 9.6, the common bundle must contain all the documents listed in the index of each party, and no other documents.

(5) The common bundle must—

(a) arrange the documents chronologically, or in any other appropriate sequence or manner agreed by counsel and approved by a Judge:

(b) number each page in a consecutive sequence:

(c) set out before the first document a common bundle index that shows—

(i) a short description of each document:

(ii) the date of each document:

(iii) the party from whose custody each document has been produced:

(iv) the page number of each document as it appears in the common bundle:

(d) identify in the index (for example, by colour coding) any document for which leave is required under rule 9.2 to be included in the common bundle:

(e) if disclosure was provided by way of an affidavit with a schedule that complies with rule 8.16, use a format that is, so far as possible, compatible with the format of that schedule.

(6) If the parties have agreed to use an electronic format for the common bundle, the parties must have regard to any practice note on electronic formats issued from time to time by the Chief High Court Judge.

25 Rule 9.5 replaced (Consequences of incorporating document in common bundle)

Replace rule 9.5 with:

9.5 Consequences of incorporating document in common bundle

(1) Each document contained in the common bundle is, unless a Judge directs otherwise, to be considered—

(a) to be accurately described in the common bundle index:

(b) to be what it appears to be:

(c) to have been signed by any apparent signatory:

(d) to have been sent by any apparent author and to have been received by any apparent addressee:

(e) to have been produced by the party indicated in the common bundle index.

(2) A document in the common bundle is automatically received into evidence and presumed to be admissible if—

(a) it is referred to—

(i) in a witness's evidence:

(ii) in a chronology provided to the court under rule 9.2 or 9.9:

(iii) in opening submissions filed under rule 9.16; and

(b) no objection to admissibility under rule 9.5A is upheld.

(3) However, subclauses (1) and (2) do not apply to a document for which leave is required under rule 9.2 for it to be included in the common bundle, unless a Judge gives that leave.

(4) A Judge may direct that this rule or any part of it does not apply to a certain document or group of documents, including a document referred to in subclause (3).

9.5A Objections to admissibility of documents in common bundle

(1) A party may object to the admissibility of a document in the common bundle even though it is presumed to be admissible.

(2) When considering an objection to admissibility, the Judge must have regard to the overriding objective in rule 1.2 and may consider—

(a) whether any concerns are more sensibly dealt with as a matter of weight:

(b) if the objection is allowed, whether an opportunity will be given to the party to adduce the evidence by other means:

(c) whether any costs consequences will apply to the objection in light of the overriding objective.

26 Rule 9.7 replaced (Requirements in relation to briefs)

Replace rule 9.7 with:

9.7 Requirements for witness statements of factual and expert evidence

(1) Whether or not some evidence is directed to be led orally, a witness statement of factual or expert evidence is a statement from the witness that contains the testimony intended to be taken from them.

(2) A witness statement of factual or expert evidence must—

(a) be prepared in a manner that is consistent with the overriding objective in rule 1.2:

(b) be in the words of the witness and not in the words of the lawyer involved in drafting the witness statement:

(c) not contain evidence that is inadmissible in the proceeding:

(d) not contain any material in the nature of a submission or be argumentative:

(e) avoid repetition:

(f) avoid referencing documents unless the witness has relevant evidence to give relating to them:

(g) avoid reciting or summarising the contents of documents:

(h) be confined to the matters in issue and, in the case of a fact witness, matters on which the witness can assist the court by giving evidence on the basis of their personal knowledge.

(3) A witness statement must—

(a) be signed by the witness with a statement that the evidence is true and correct:

(b) in the case of an expert witness, also confirm that the witness has complied with the code of conduct for expert witnesses (see rule 9.43 and Schedule 4).

(4) If a witness statement does not comply with the requirements of subclause (2), the court may, before or during the trial, direct that it not be read in whole or in part, and may make an order as to costs as the court sees fit.

(5) A party intending to call a person as a witness must, if that person has not provided a witness statement,—

(a) serve a notice on the other parties informing them that the party intends to call the person as a witness; and

(b) include all of the following information in the notice:

(i) the name of the intended witness:

(ii) the steps that have been taken to obtain a witness statement from the intended witness:

(iii) the reasons for the intended witness not providing a witness statement:

(iv) an explanation of the relevance of the evidence of the intended witness:

(v) details of the evidence that the party expects the intended witness to give.

(6) At the trial or hearing, the person called as a witness must give their evidence in accordance with rules 9.10 and 9.12, subject to any directions that the court may give or any terms or conditions that the court may specify.

(7) The party serving a notice under subclause (5) must, as soon as practicable after it is served, advise the Registrar of whom it was served on and the date of service.

27 Rule 9.9 replaced (Exchange of chronology of facts intended to be relied upon at trial or hearing)

Replace rule 9.9 with:

9.9 Merged chronology

(1) A key purpose of the merged chronology (together with the common bundle) is to assist the court to identify—

(a) the events and facts that are agreed and can therefore be taken by the court as being established in evidence (see also rule 9.5 relating to the common bundle); and

(b) the issues in dispute.

(2) The plaintiff must, by the time set out in subclause (3), file and serve a merged chronology incorporating the chronologies of the parties and indicating the following entries in an appropriate way (for example, by colour coding):

(a) entries that are agreed:

(b) entries that are not agreed and, in each case, which party asserts that the entry is incorrect.

(3) The merged chronology must be filed and served—

(a) not later than 15 working days after the common bundle has been served; or

(b) by the time directed at the judicial issues conference.

28 Rule 9.12 replaced (Evidence-in-chief at trial)

Replace rule 9.12 with:

9.12 Evidence-in-chief at trial

The evidence-in-chief of a witness at trial may,—

(a) if the court so directs, be in the form of the witness statement taken as read if the witness confirms it is true and correct:

(b) if the court so directs, be given by the witness reading the witness statement as the witness's evidence-in-chief:

(c) include further oral evidence permitted by the court:

(d) comprise any evidence given under an oral evidence direction under rule 9.10:

(e) be in the form of a witness statement received by the court as the witness's evidence without the witness confirming their witness statement under oath, provided that the witness statement is accompanied by a declaration that their witness statement is true and correct and is made under section 9 of the Oaths and Declarations Act 1957.

29 Rule 9.15 replaced (Cross-examination duties)

Replace rule 9.15 with:

9.15 Cross-examination duties

A party may raise with the court whether or the extent to which cross-examination of any witness by them is required by section 92 of the Evidence Act 2006, given what is known about the parties' cases.

30 Rule 9.16 replaced (Plaintiff's synopsis of opening)

Replace rule 9.16 with:

9.16 Filing of plaintiff's and defendant's openings before trial

(1) Any plaintiff must, not later than 10 working days before the trial or hearing, file in the court and serve on every other party a copy of their opening that includes a narrative of material facts and events.

(2) Any defendant or third or other party must, not later than 5 working days before the trial or hearing, file in the court and serve on every other party a copy of their opening that includes a narrative of material facts and events.

(3) A Judge may give alternative directions for the filing of an opening by a party or the parties if satisfied that this will best achieve the overriding objective in rule 1.2.

31 New rule 9.36AAA and cross-headings inserted

Before rule 9.36, insert:

Party-appointed expert witnesses

9.36AAA Calling of party-appointed expert witnesses

(1) Unless a Judge otherwise directs, at or after the judicial issues conference, each party may call only 1 expert witness on each particular topic identified at the conference.

(2) A Judge may make a direction under subclause (1) only if the Judge considers this will best achieve the overriding objective in rule 1.2.

Court-appointed expert witnesses

32 New cross-heading above rule 9.43 inserted

After rule 9.42, insert:

Expert witnesses code of conduct

33 Rule 9.44 replaced and cross-heading inserted

Replace rule 9.44 with:

Conference of expert witnesses and arrangements for trial

9.44 Conference of expert witnesses

(1) The court must, unless it considers the overriding objective in rule 1.2 is best achieved by a different direction, direct expert witnesses to confer, and may also direct them to do 1 or more of the following:

(a) confer on specified matters:

(b) confer in the absence of legal advisers of the parties:

(c) try to reach agreement on matters in the proceeding:

(d) prepare and sign a joint witness statement stating the matters on which the expert witnesses agree and the matters on which they do not agree, including the reasons for their disagreement:

(e) prepare a joint witness statement without the assistance of the legal advisers of the parties.

(2) The court may, on its own initiative or on the application of a party,—

(a) appoint an independent person to convene and facilitate the conference of expert witnesses:

(b) give any directions for convening and facilitating the conference as the court thinks just.

(3) Subject to any subsequent order of the court for costs, the court may determine the remuneration of the independent person and which of the parties must pay all or part of that remuneration.

(4) The matters discussed at the conference must not be referred to at the hearing unless the parties by whom the expert witnesses have been engaged agree.

(5) An independent person appointed under subclause (2)—

(a) need not be an expert on any of the matters likely to be discussed at the conference:

(b) may not give evidence at the hearing unless all of the parties agree.

34 New rule 18.4A inserted (Case management)

After rule 18.4, insert:

18.4A Case management

(1) Subpart 1 of Part 7 does not apply to proceedings filed under this Part.

(2) The court may give directions for the case management of a proceeding under this Part as it thinks fit after considering what will best achieve the overriding objective in rule 1.2.

35 New rule 30.3A inserted (Case management)

After rule 30.3, insert:

30.3A Case management

Subpart 1 of Part 7 does not apply to proceedings filed under this Part, except rule 7.17 (which relates to case management).

36 Schedule 1AA amended

In Schedule 1AA,—

(a) insert the Part set out in Schedule 1 as the last Part; and

(b) make all necessary consequential amendments.

37 Schedule 1, new form G 41 inserted

In Schedule 1, after form G 40, insert the form G 41 set out in Schedule 2 of these rules.

38 Consequential amendments to principal rules

Amend the principal rules as set out in Schedule 3.

39 Rules revoked

The principal rules set out in Schedule 4 are revoked.

Part C: Transitional provision and new form G 41

Schedule 1 — New Part 3 inserted into Schedule 1AA

Inserted by clause 36.

Part 3

Provisions relating to High Court (Improved Access to Civil Justice) Amendment Rules 2025

4 Application of rules amended by High Court (Improved Access to Civil Justice) Amendment Rules 2025 to proceedings filed before commencement date

(1) For any proceeding filed before the commencement date, these rules apply as if the amendment rules had not come into force, except as provided in subclause (2).

(2) The court may direct that 1 or more, or all, of the amendment rules apply in a particular proceeding commenced before the commencement date.

(3) Before making a direction under subclause (2), the court must consider what will best achieve the overriding objective in rule 1.2.

(4) In this clause,—

amendment rules means the High Court (Improved Access to Civil Justice) Amendment Rules 2025

commencement date means the date on which the amendment rules come into force.

Schedule 2 — New form G 41 inserted into Schedule 1

Inserted by clause 37.

Form G 41 — Chronology of events and facts

r 7.4(4)(a)(ii)

Use the template form as set out below:

Date	**Pleaded material facts and other events or facts of significance intended to be established by documentary record**	**Supporting document(s)**

Part D: Consequential amendments and revocations

Schedule 3 of the Amendment Rules makes consequential amendments throughout the principal rules. The amendments are numerous and largely textual. What follows is a digest organised by subject, confined to the amendments of practical consequence. The full text should be consulted where a particular provision is in issue.

Renaming of Parts, subparts and schedules

- Subpart 1 of Part 1 becomes "Overriding objective, general duty to co-operate, and interpretation".
- The Part 8 heading changes from "Discovery and inspection" to "Disclosure", and the subpart 1 heading within Part 8 from "Discovery" to "Disclosure".
- The subpart 1 heading in Part 9 changes from "Briefs" to "Witness statements".
- The Schedule 9 heading changes from "Discovery checklist" to "Disclosure considerations", and its rule reference from "8.10, 8.11, 8.12," to "8.4, 8.4A,".

Substitution of the overriding objective for the former formula

- Rule 1.6(2): "objective of these rules (see rule 1.2)" becomes "overriding objective in rule 1.2".
- Rule 7.8(3): the reference to securing the just, speedy and inexpensive determination of the proceeding becomes "that they consider will best achieve the overriding objective in rule 1.2".
- Rule 7.15(1)(e): the reference to securing the just, speedy and inexpensive determination of the appeal becomes "achieving the overriding objective in rule 1.2".
- Rule 7.17(6): after "proceeding", insert "that they consider will best achieve the overriding objective in rule 1.2".
- Rule 9.1: the heading changes from "Objective" to "Overriding objective", and rule 9.1(1) now requires the parties to "act in a manner that will best achieve the overriding objective of these rules in rule 1.2".

Case management conferences replaced by judicial conferences

- Rules 1.13, 1.16(1), 7.11(b), 7.12(b) and 7.38(2): "case management" becomes "judicial".
- Rule 7.6(1) and (2): "the first case management" conference becomes "a judicial" conference. Key dates, including the close of pleadings date, are accordingly allocated at the judicial issues conference.
- Rule 7.41(1)(c): "outlined in" becomes "outlined in a position paper filed for a judicial issues conference or", so that a matter outlined in a position paper may found an oral application at a hearing.
- Rules 9.56(3) and 10.10(5)(a): the reference to rule 7.2 becomes a reference to rule 7.5.
- Rule 9.3(2): "a case management, issues," becomes "the judicial issues".

Discovery terminology replaced by disclosure

- Rules 8.3, 8.13, 8.16, 8.19 to 8.23, 8.25, 8.27, 8.28, 8.30, 9.6, 14.6(3)(b)(iv) and 14.7(f)(iv), and Schedule 9 throughout: references to discovery, discoverable documents and the affidavit of documents are recast in terms of disclosure, disclosure obligations and the affidavit for disclosure.
- Rule 7.81(3)(b): "discovery under subpart 3 of Part 8" becomes "disclosure under Part 8".
- Rule 8.4(4): "subclause (1) or (3)" becomes "subclauses (1) to (1B)". Rule 8.4(9): the words "prior to the making of a discovery order" are deleted.

- Rules 8.19, 8.20(2)(a) and 8.21(2)(a): particular disclosure is to be verified by "affidavit in a form directed by the Judge", with new cross-references to rules 8.15(1)(b) and 8.16.

Witness statements

- Rules 9.8, 9.11, 9.13 and 9.14: "brief" becomes "witness statement" throughout, and the heading to rule 9.8 becomes "Supplementary witness statements".
- Rule 9.8(2): after "Judge", insert "after taking account of the overriding objective in rule 1.2". The discretion to accept and use a supplementary statement is therefore now exercised by reference to the overriding objective.
- Rules 9.43(2)(a) and (b) and 9.45(2): the references to statements served under rule 9.2 or 9.3 are deleted, reflecting the new timing of exchange.
- Rule 9.36(4): the reference to an independent expert appointed under rule 9.44(3) becomes a reference to "the independent person who will convene a conference of expert witnesses under rule 9.44".

Summary judgment

- Rule 12.4(2) and (3): an application for summary judgment, by a plaintiff or a defendant, "must be made by the time required by rule 7.4(3)". The former ability to make the application at the time the statement of claim or statement of defence was served is removed.
- Rule 12.4(2A): "If an application by a plaintiff is made at the time that the statement of claim is served on the" becomes "For proceedings served on a".
- Rule 7.36: "Despite rule 7.34(1), every" becomes "Every".

Forms

- Form G 2 (notice of proceeding): "25*" becomes "30"; the footnote on service out of New Zealand is deleted; and the paragraph on notification of the first case management conference is replaced with a statement that the parties "must then follow the standard directions in rule 7.4" and will then be notified of the date of a judicial issues conference (see rules 7.5 to 7.5B). The third and fourth paragraphs after the first signature block are revoked.
- Form G 12 (notice of intention to speak Māori): statements A to C and notes 2, 2A and 5 are replaced so that the notice is filed and served at least 10 working days before the first hearing of an application, a judicial issues conference, case management conference or pre-trial conference, or the particular hearing or conference. Notes 3 and 4 are revoked.
- Form G 37: the heading becomes "Affidavit for disclosure". Paragraph 2 identifies whether the affidavit is made under rule 8.4, or under an order for further disclosure under rule 8.4A, or for particular disclosure under rule 8.19 or 8.21. Paragraph 3 is revoked. Paragraph 4 records the deponent's understanding of the obligations. Paragraph 5 is replaced with the text set out below. Paragraphs 6 and 11 substitute disclosure terminology, and paragraph 12 confirms that the affidavit "carries out my disclosure obligations under rule 8.4/the disclosure order".

Costs: Schedule 3 to the principal rules

- New items are inserted and others deleted, as set out in the table below.

Schedule 9 (Disclosure considerations)

- Clauses 1 to 3 are replaced. Clause 1 requires the parties, before filing a pleading, to review their pleading and any other pleading filed to identify the documents required to be disclosed under rule 8.4. Clause 1A requires compliance with the duty to co-operate in rule 8.2 when identifying documents described in rule 8.4(1)(a) and (b) and when taking reasonable steps to check for adverse documents under rule 8.4(1)(c). Clauses 2 and 3 apply the duty to co-operate to further disclosure by agreement or request under rule 8.4A(1) to (3), and to further or particular disclosure ordered under rule 8.4A(4), 8.19 or 8.21.

- Clause 4(1): the reference to rule 8.12(2) becomes a reference to rule 8.16 (if ordered by a Judge), and the parties must comply with the duty to co-operate in rule 8.2. Clause 4(2): the requirement that a discovery order record agreed modifications to the listing and exchange protocol is deleted.
- Clause 5: the parties must comply with the duty to co-operate in rule 8.2 and with rule 9.4.

Form G 37, paragraph 5, as substituted

5 Include this paragraph if it applies, otherwise omit.

I have complied with the obligations for initial disclosure under rule 8.4 and, in order to do so,—

(a) I have disclosed the following:

(i) all documents referred to in the pleading; and

(ii) any additional principal documents in my/the plaintiff's/the defendant's* control that have been used when preparing the pleading; and

(iii) any additional principal documents in my/the plaintiff's/the defendant's* control on which I/the plaintiff/the defendant* presently intend to rely at trial or hearing; and

(iv) all adverse documents; and

*Select one.

(b) I have also taken the following particular steps: [specify other steps taken, for example, inquiries made of named persons].

5A Include this paragraph if it applies, otherwise omit.

I have complied with the obligations under the disclosure order and, in order to do so, I have taken the following particular steps: [specify steps taken, for example, inquiries made of named persons].

Costs: amendments to Schedule 3 of the principal rules

Time allocations are expressed in days for categories 1, 2 and 3 respectively.

Item	**Cat 1**	**Cat 2**	**Cat 3**
9A Preparation for judicial issues conference	1	2	3
9B Preparation of position paper and bundle for judicial issues conference	1	2	3
9C Appearance at judicial issues conference *The time occupied by the hearing*			
10 Preparation for case management conference	0.2	0.4	1
11 Filing memorandum for case management conference or mentions hearing	0.2	0.4	1
12 Appearance at mentions hearing or callover	0.2	0.2	0.2
13 Appearance at case management conference	0.3	0.3	0.7
20 Affidavit of initial disclosure	0.5	1.5	3
20A Affidavit of further or particular disclosure	0.2	1	2
21 Inspection of documents	0.5	1.5	3
21A Preparation of factual witness statements	1	2	5
21B Preparation of draft chronology	0.4	0.8	2
33AA Additional allowance for preparing merged chronology	0.2	0.5	0.8

- Item 33 is amended. The former description, "Preparation of briefs, list of issues, authorities, and agreeing common bundle", becomes "Finalisation of chronology of events, preparation of expert witness statements and any further factual witness statements, index of documents, authorities, and agreeing common bundle".

- Items 14, 39 and 54 are deleted.
- The heading above item 10 is amended by inserting, after "management", the words "for any proceeding (including an ordinary proceeding)". The heading above item 16 is amended by replacing "discovery" with "disclosure,".

Schedule 4: Revocations

The following provisions of the principal rules are revoked by clause 39.

Rule 7.9
Rule 7.11(a)
Rule 7.37
Rule 8.1
Rule 8.5 to 8.12
Rule 8.14
Rule 8.16(4)
Rule 8.17
Rule 8.27(6)
Rule 8.31
Rule 9.3(1)
Rule 9.10(1) and (2)
Rule 9.42
Rule 12.4(4)(c) and (d)
Schedule 3, item 14
Schedule 5
Schedule 10, paragraph (a)
