



District Court (Contempt of Court) Amendment Rules 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 22nd day of June 2020

Present:

Her Excellency the Governor-General in Council

These rules are made under section 228 of the District Court Act 2016—

- (a) on the advice and with the consent of the Executive Council; and
- (b) with the concurrence of the Chief District Court Judge and at least 2 other members of the Rules Committee continued under section 155 of the Senior Courts Act 2016 (of whom at least 1 was a District Court Judge).

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Rules

1 Title

These rules are the District Court (Contempt of Court) Amendment Rules 2020.

2 Commencement

These rules come into force on 26 August 2020.

3 Principal rules

These rules amend the District Court Rules 2014 (the **principal rules**).

4 Rule 7.41 amended (Enforcement of interlocutory order)

(1) Replace rule 7.41(2)(d) with:

(d) that the party in default be fined, ordered to do community work, or committed to prison under section 16 of the Contempt of Court Act 2019:

(2) Replace rule 7.41(3) with:

(3) An interlocutory order may only be enforced by an order imposing a fine or community work or by a warrant committing the person to prison in accord-

ance with the requirements of subpart 4 of Part 2 of the Contempt of Court Act 2019.

5 Rule 7.57 amended (Default by receiver)

In rule 7.57(4), delete “or to punish contempt”.

6 Rule 8.33 replaced (Contempt of court)

Replace rule 8.33 with:

8.33 Enforcement of order

- (1) A discovery order or other 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.
- (2) 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.

7 Rule 19.8 amended (Application to Registrar for suspension of judgment, etc)

- (1) In rule 19.8(1), replace “order of committal” with “enforcement action by the court under section 16(4) of the Contempt of Court Act 2019”.
- (2) In rule 19.8(2), replace “order of committal” with “enforcement action”.

8 Rule 19.9 amended (Stay of judgment, etc)

Replace rule 19.9(1) and (2) with:

- (1) An order to suspend or stay any judgment or order, or any enforcement action under section 16(4) of the Contempt of Court Act 2019, or an order for the discharge of a person under section 20(3) of that Act, must be in form 40.
- (2) A warrant must be recalled if—
 - (a) an order suspending or staying a judgment or order, or any enforcement action under section 16(4) of the Contempt of Court Act 2019, has been made; and
 - (b) an enforcement action has been sanctioned under that section.

9 Rule 19.62 amended (Warrant of committal)

- (1) In the heading to rule 19.62, after “committal”, insert “, order imposing fine, or order imposing community work”.
- (2) In rule 19.62, after “committal”, insert “, an order imposing a fine, or an order imposing community work under subpart 4 of Part 2 of the Contempt of Court Act 2019”.

10 Cross-heading above rule 19.66 amended

In the cross-heading above rule 19.66, after “*committal*”, insert “, *imposition of fine, or community work*”.

11 Rule 19.66 amended (Judgment or order enforceable by committal)

(1) In the heading to rule 19.66, after “**committal**”, insert “, **order imposing fine, or order imposing community work**”.

(2) Replace rule 19.66(1) with:

(1) This rule applies to a judgment or order that is enforceable under subpart 4 of Part 2 of the Contempt of Court Act 2019 by a warrant for committal, an order imposing a fine, or an order imposing community work.

12 Rule 19.67 replaced (Application for warrant of committal)

Replace rule 19.67 with:

19.67 Application for warrant of committal, order imposing fine, or order imposing community work

(1) If the respondent fails to obey the judgment or order referred to in rule 19.66,—

(a) a Registrar, at the request of the applicant, must issue a notice in form 66 not less than 2 working days after the date of service of the endorsed copy of the judgment or order, unless the Judge gives leave for the notice to be issued sooner; and

(b) the notice must be served on the respondent in the manner required under rule 6.11 (personal service).

(2) On the day named in the notice, the Judge may issue a warrant for committal, impose a fine, or make an order imposing community work if satisfied beyond reasonable doubt that the requirements of section 16(3)(b)(i) to (iii) of the Contempt of Court Act 2019 are met.

(3) An order for the issue of a warrant for committal must be in form 67 and —

(a) the warrant, which must be signed by the Registrar, must be in form 68; and

(b) a copy of the order must be served on the respondent either before or at the time that the warrant is executed, unless the Judge otherwise orders.

(4) An order imposing a fine must be—

(a) in form 68A; and

(b) signed by the Registrar; and

(c) served on the respondent unless the Judge orders otherwise.

(5) An order imposing community work must be—

(a) in form 68B; and

- (b) signed by the Registrar; and
- (c) served on the respondent unless the Judge orders otherwise.

13 Rule 19.68 amended (Discharge of person in custody)

- (1) In rule 19.68(1)(b), delete “(if any)”.
- (2) Replace rule 19.68(2) with:
 - (2) The application for discharge must be made to a Judge at any place appointed by the Judge.
- (3) Revoke rule 19.68(3).

14 Rule 19.69 amended (Release on bail pending hearing of application for discharge from custody)

In rule 19.69(2), delete “(if any)”.

15 Rule 21.6 replaced (Contempt of court)

Replace rule 21.6 with:

21.6 Disruptive behaviour relating to court proceedings

- (1) A warrant committing an offender to prison under section 11(5)(b)(i) of the Contempt of Court Act 2019 must be in form 114.
- (2) An order imposing a fine on an offender under section 11(5)(b)(ii) of that Act must be in form 115.
- (3) An order requiring an offender to do community work under section 11(5)(b)(iii) of that Act must be in form 115A.

16 Schedule 2 amended

- (1) In Schedule 2, replace form 40 with the form 40 set out in Schedule 1 of these rules.
- (2) In Schedule 2, replace forms 65 to 68 with the forms 65 to 68B set out in Schedule 2 of these rules.
- (3) In Schedule 2, replace form 114 with the form 114 set out in Schedule 3 of these rules.
- (4) In Schedule 2, replace form 115 with the form 115 set out in Schedule 4 of these rules.
- (5) In Schedule 2, after form 115, insert the form 115A set out in Schedule 5 of these rules.

Schedule 1
Form 40 of Schedule 2 replaced

r 16(1)

Form 40

Order suspending judgment or order, or enforcement action under section
16(4) of Contempt of Court Act 2019, or order for discharge of debtor

r 19.9(1)

Complete and insert the heading as set out in form 2.

This court orders that—

Select the statement that applies.

Statement A

On the application of *[full name]*, and the court being satisfied that the defendant is unable to pay and discharge the sum recovered against the defendant/the instalments due under the judgment/the instalments due under the order* in this proceeding, the judgment/order/enforcement issued/order of committal/order imposing a fine/order imposing community work made* in this proceeding be suspended for *[period of time]* on the following terms: *[specify terms]*.

*Select one.

Statement B

The defendant be discharged from custody under the order of committal issued in this proceeding on the following terms: *[state terms, including, if so ordered, liability to rearrest if the terms are not complied with]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Schedule 2
Forms 65 to 68 of Schedule 2 replaced

r 16(2)

Form 65

Notice as to consequences of failure to comply with court order

r 19.66(2)

To [*full name*]

This document notifies you that unless you obey the directions contained in this order you will be guilty of failing to comply with a court order and may be fined, committed to prison, or ordered to do community work by the court under subpart 4 of Part 2 of the Contempt of Court Act 2019 for not complying with the order.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 66

Notice to show cause why order imposing fine, order imposing community work, or order of committal should not be made

r 19.67(1)

Complete and insert the heading as set out in form 2.

To [name] (respondent)

This document notifies you that—

1 *For this paragraph select the statement that applies.*

Statement A

The plaintiff/defendant* will on [date, time] apply to this court for an order under subpart 4 of Part 2 of the Contempt of Court Act 2019 for you to be fined, ordered to do community work, or committed to prison for having disobeyed the order of this court made on [date] enjoining and restraining you from [specify terms of order].

*Select one.

Statement B

The plaintiff/defendant* will on [date, time] apply to this court for an order for you to be fined, ordered to do community work, or committed to prison for not obeying the order made on [date] requiring you to [specify mandatory part of order].

*Select one.

2 You are required to attend this court on the specified day to show cause why an order to fine you, an order for you to do community work, or an order to commit you to prison should not be made.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 67

Order of committal for failing to comply with court order

r 19.67(3)

Complete and insert the heading as set out in form 2.

- 1 On [date], this court ordered that [specify order].
- 2 On the application of [name of applicant], and on hearing [specify]/on reading the affidavit of [name] showing that a copy of the order endorsed with a notice in form 65 and notice of this application have been severally served on [persons served]*, and on [specify any evidence given], the court, on consideration of the facts disclosed by the evidence, has found that [name] has failed to comply with the order by [specify particular matter of non-compliance] and—
 - (a) orders that [name] be committed to the prison at [place] for [period of time] for failing to comply with an order of this court; and
 - (b) orders that a warrant of committal for the arrest of [name] be issued immediately.

*Select one.

- 3 The court also orders that [name] pays the costs of the [specify] of this application and of the committal, amounting to \$[amount].
- 4 *Include this paragraph if it applies.*

It is further ordered that any application for the release of [name] from custody be made to the District Court Judge at [place].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 68
Warrant of committal

r 19.67(3)

Complete and insert the heading as set out in form 2.

To a bailiff at the District Court at [*place*]/a constable at [*place*]*

*Select one.

and

To the manager of the [*specify prison*] at [*place*]

- 1 On [*date*], this court ordered that [*name*] be committed to prison for failing to comply with an order of this court.
- 2 You, the bailiff/constable*, are therefore ordered to arrest [*name*] and safely convey and deliver that person to the manager of the prison at [*place*], and you, the manager, are ordered to receive [*name*] and keep that person safely in the prison for the term of [*period of time*] unless that person is sooner discharged by order of this court.

*Select one.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 68A

Order for fine for failing to comply with court order

r 19.67(4)

Complete and insert the heading as set out in form 2.

To [full name] of [address]

- 1 At the sitting of the [court and place], on [date], you were ordered to pay a fine of \$[amount] for failing to comply with an order of that court.
- 2 This court orders that you pay a fine of \$[amount].
- 3 This court also orders that immediately on [date] you pay to the Registrar of this court the fine of \$[amount].

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Form 68B

Order for community work for failing to comply with court order

r 19.67(5)

Complete and insert the heading as set out in form 2.

To [full name] of [address]

- 1 At the sitting of the [court and place] on [date], you were ordered to do [period of time] of community work for failing to comply with an order of the court.
- 2 The date on which the sentence is imposed is [date].
- 3 You must report in person to a probation officer in the probation area closest to you as soon as possible, and **not later than 72 hours after the date on which the sentence is imposed.**

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Schedule 3
Form 114 of Schedule 2 replaced

r 16(3)

Form 114

Warrant of committal for disruptive behaviour relating to court proceedings

r 21.6(1)

In the District Court at *[place]*

To a bailiff at the District Court at *[place]*, and to each and every constable in New Zealand, and to the manager of the *[specify prison]* at *[place]*

1 On *[date]*, *[full name]*, the offender, wilfully disrupted the proceedings of the District Court at *[place]*/wilfully disobeyed an order or a direction of the court at *[place]** and was ordered to stand committed for *[period of time]* to the prison at *[place]* for the offence.

*Select one.

2 This court therefore orders you, the bailiff and others, to take *[name]* and to deliver that person to the manager of the prison, together with this warrant, and you, the manager, to receive *[name]* and to keep that person safely in the prison for *[specify time]* from the arrest under this warrant, or until that person is sooner discharged by order of this court.

Date:

Signature:

(District Court Judge)

Schedule 4
Form 115 of Schedule 2 replaced

r 16(4)

Form 115

Order for fine for disruptive behaviour relating to court proceedings

r 21.6(2)

In the District Court at *[place]*

1 On *[date]*, *[full name]*, the offender, wilfully disrupted the proceedings of the District Court at *[place]*/wilfully disobeyed an order or a direction of the court at *[place]**.

*Select one.

2 This court orders that *[name]* pay a fine of \$*[amount]*.

3 This court also orders that, immediately on *[date]*, *[name]* pay to the Registrar of this court the fine of \$*[amount]*.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Schedule 5

New form 115A inserted in Schedule 2

r 16(5)

Form 115A

Order for community work for disruptive behaviour relating to court proceedings

r 21.6(3)

In the District Court at *[place]*

1 On *[date]*, *[full name]*, the offender, wilfully disrupted the proceedings of the District Court at *[place]*/wilfully disobeyed an order or a direction of the court at *[place]**.

*Select one.

2 This court orders that *[name]* complete *[period of time]* of community work for the offence.

3 The start date of the sentence is the date of this order.

4 This court also orders that *[name]* must report to a probation officer in the probation area in which the offender resides as soon as practicable, and **not later than 72 hours after the start of the sentence of community work.**

5 The offender must work as directed by the probation officer until the sentence is completed.

Date:

Signature:

(Registrar/Deputy Registrar*)

*Select one.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

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

These rules, which come into force on 26 August 2020, amend the District Court Rules 2014 (the **principal rules**).

The principal rules are amended to give effect to changes introduced by the Contempt of Court Act 2019 (the **Act**). The changes relate to the rules governing the procedure for—

- dealing with disruptive behaviour during court proceedings (subpart 2 of Part 2 of the Act);
- the enforcement of court orders (subpart 4 of Part 2 of the Act).

The substantive amendments include the following:

- rule 7.41 is amended to add the option for a Judge to order the party in default be fined or ordered to do community work in accordance with subpart 4 of Part 2 of the Act;
- rule 7.57 is amended to remove a reference to “punish contempt” to align with the Act, which uses the term “enforcement”;
- rule 8.33 is replaced to clarify that discovery orders or other orders made under subpart 1 of Part 8 of the principal rules are now enforceable under subpart 4 of Part 2 of the Act;
- rules 19.8 and 19.9 are amended to update the language to reflect the terminology in the Act and to add cross-references to the Act;
- rule 19.62 is amended to reflect that a warrant of committal, an order imposing a fine, and an order imposing community work are now made under the Act (ie, they are no longer made under the District Court Act 2016);
- rule 19.66 is amended to add a fine or community work to the options available to a Judge to enforce a judgment or court order;
- rule 19.67 is replaced to reflect that a Judge may issue a warrant or order to enforce a judgment or court order under section 16(3)(b)(i) to (iii) of the Act;
- rule 19.68 is amended to reflect the requirement in the Act that a Judge must determine whether to discharge a person in custody and that the court cannot impose a sanction under section 16 of the Act on its own motion;
- rule 19.69 is amended to reflect the requirements for an application by a party to be discharged from custody under section 16 of the Act;
- rule 21.6 is replaced to provide for warrants of committal under section 11(5)(b)(i) of the Act, orders imposing fines under section 11(5)(b)(ii), and community work under section 11(5)(b)(iii);
- Schedule 2 is amended to —
 - replace form 40 with *new form 40* (order suspending judgment or order, or enforcement action under section 16(4) of Contempt of Court Act 2019, or order for discharge of debtor) to reflect the changes made to rule 19.9;
 - replace forms 65 to 68 to reflect the changes to rules 19.66 and 19.67;

- insert *new form 68A* (order for fine for failing to comply with court order) and *new form 68B* (order for community work for failing to comply with court order) to reflect the changes made to rule 19.67:
- replace forms 114 and 115 to reflect the wording of the Act:
- insert *new form 115A* (order for community work for disruptive behaviour relating to court proceedings) as required under the Act.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 25 June 2020.

These rules are administered by the Ministry of Justice.