Guidance on Using the Notice of Proceeding Template

(Form 1 of the District Court Rules 2014)

About the notice of proceeding

The notice of proceeding (Form 1) notifies the defendant that a proceeding has been taken against them in a District Court. It also provides the defendant with the information about the court process.

The notice of proceeding must be accompanied by a statement of claim and by a list of documents relied on (Form 6).

The notice of proceeding must be filed (with the service copy/copies) in the District Court before it can be served. If your civil claim is accepted for filing the Court will return the service copy/copies to you, signed by a Deputy Registrar, to serve on the defendant(s).

How to use the template

All the required fields are set out in the template on the following two pages.

The sections that you have to fill out are marked with red text. The red text explains what you need to put in. These are fillable form fields, so click on the red text and start typing. The red text will be replaced by the content that you type. If you want to leave the field blank, just enter a space.

The blue text is explanatory notes. Delete these notes before printing the form.

Formatting your form

Before printing the form, check that the pages are numbered. Numbering should start at page 1 on the page after the cover page (i.e. the cover page should not be numbered). The template is set up to automatically number the pages in this matter.

You may print the form either single or double-sided. However, the cover sheet must not be double sided. Iif you print double sided you must adjust the margins as follows:

* In the “Margins” section in Word, select “Custom Margins”. In the box that pops up, find the field called “Multiple pages”. Select “Mirror Margins” from the dropdown menu, and click OK.
* The wide margin should now be on the left of every front page, and on the right of every reverse page.

Once you have completed the form, print and sign it.

In the District Court

Choose an item. Registry

Under the: Enter the Act under which the proceeding is being brought (for example, “Fair Trading Act 1986”). Delete this line if not applicable.

In the matter of Enter in a few words what the dispute is about. For example, “a breach of contract”.

Between: Plaintiff’s full name, address and occupation.

(plaintiff)

And: Defendant’s full name, address and occupation.

(defendant)

Note: if there are more than two parties involved, list their names, addresses and occupations in the format above.

If there is a counterclaim, repeat the fields above for any counterclaim plaintiffs/defendants.

Notice of Proceeding

Fill out the option that applies and delete the other option. **NOTE: enter enough lines above so this section is at the bottom of the cover page.**

For an individual: Filed by Person’s name, the Your role in proceedings, e.g. “plaintiff” in person.

OR; for an organisation: Filed by Person’s name, an authorised officer for the Your organisation’s role in proceedings, e.g. “plaintiff”, Enter the name of the organisation.

To the defendant/s and any other person directed to be served:

**This document notifies you that** unless, within 25 working days after the date on which you are served with this notice, you file in the registry of this court a statement of your defence to the plaintiff’s claim (a copy of which is served with this notice), the plaintiff may proceed to a hearing and judgment on the plaintiff’s claim in your absence.

Note: if this notice is being served outside New Zealand, replace “25 working days” in the paragraph above with “30 working days”.

If a trial of the proceeding is necessary, it will be held in this court at Court location (e.g. “Manukau”) at a time to be fixed by the court.

Date: Enter date here (may be handwritten)

Signature: (sign here)

Name: Enter your name

Select your role

Note: only include the following information if the court has directed that the claim be served on person other than the defendant(s). If this is not the case, then delete the rest of the text on this page.

The court has directed that this notice and the statement of claim be served not only on the defendant/s but also on the following persons: .enter the full name, place of residence, and occupation of each person or entity directed to be served.

Date:

Signature:

(Registrar/Deputy Registrar)

Information for defendant(s)

**Advice**

1. Although you do not have to employ a lawyer for the purpose of this proceeding, it is recommended that you consult a lawyer about this matter immediately.

A natural person may—

* appear in the proceeding and act for himself or herself; or
* be represented by a lawyer; or
* in special circumstances and with the permission of the court, be represented by an agent authorised in writing under section 107 of the District Court Act 2016.

A corporation may—

* appear and act in the proceeding through an officer of the corporation or a person appointed as the corporation’s attorney (either generally or specifically in relation to the proceeding); or
* be represented by a lawyer; or
* in special circumstances and with the permission of the court, be represented by an agent under section 107 of the District Court Act 2016.

**Legal Aid**

1. If you cannot afford to meet the cost of the proceeding, you may be entitled to assistance under the Legal Services Act 2011 and regulations made under that Act.
2. Choose the statement that applies in regards to legal aid**Statement of defence**
3. If the last day for filing your statement of defence falls on a day on which the registry of the District Court is closed, you may file your statement of defence on the next day on which that registry is open.
4. In calculating the time for filing your statement of defence you must disregard the period that commences with 25 December and ends with 15 January. (Note: delete this paragraph if it conflicts with a direction by the court).
5. If you file a statement of defence, you must serve a copy of it on the plaintiff and on any other defendant who has given an address for service. This must be done within the same period of time you have for filing the statement of defence.

**Counterclaim**

1. If you have a counterclaim against the plaintiff, you must file a statement of that counterclaim in the registry of the court, and serve it on the plaintiff and on any other person against whom the same claim is made. This first must be done within the same period of time you have for filing a statement of defence.

**Witnesses**

1. Summonses for the attendance of witnesses will be issued on application at the registry of the Court.

**Registry hours**

1. The registry hours of the court are from 9 am to 5 pm, except on court holidays.

**Note: the next two sections are only to be included if the defendant is being served overseas.**

* If the defendant is being served in New Zealand, **delete** both of the following sections.
* If the defendant is to be served in Australia, **delete** the first section (*information for defendant served overseas*) and **complete** the second section (*notice giving prescribed information for defendant served in Australia*).
* If the defendant is being served in a country other than New Zealand or Australia, **complete** the first section (*information for defendant served overseas*) and **delete** the second section (*notice giving prescribed information for defendant served in Australia*).

Information for defendant served overseas

Since you are resident outside New Zealand you are further notified that –

1. The plaintiff has commenced a proceeding against you in the District Court of New Zealand, claiming the relief specified in the attached statement of claim.
2. Although you are resident outside New Zealand, the plaintiff claims that the plaintiff can bring this proceeding against you in the District Court of New Zealand.
3. By New Zealand law, the District Court may exercise jurisdiction in certain classes of case even though the defendant is resident outside New Zealand.
4. See rule 6.23 of the District Court Rules 2014. Specify the particular provision under this rule that allows you to serve the proceeding overseas
5. In this case, the plaintiff claims: specify the acts you allege occurred that mean New Zealand has jurisdiction.
6. Even though the court has jurisdiction to hear and decide this proceeding, it may decline to do so if it is satisfied that,—
	1. in all the circumstances, a country other than New Zealand is the most appropriate country in which the matters in dispute in the proceeding should be decided; and
	2. the plaintiff will have a fair opportunity to prove the plaintiff's claim and receive justice in that other country.
7. If you want to dispute the jurisdiction of the District Court or to defend the plaintiff's claim, you should either directly, or through a qualified legal adviser in the place where you are, send authority to a solicitor in New Zealand by airmail instructing that solicitor to act for you.

Notice giving prescribed information for defendant served in Australia

*Sections 8(1)(a) and* *15, Trans-Tasman Proceedings Act 2010 (NZ)*

Please read this notice and the attached document very carefully.

If you have any trouble understanding them, you should get legal advice as soon as possible.

The plaintiff has commenced a proceeding against you in the Full name of court, e.g. “Manukau District Court”. Attached to this notice are list names of documents here; e.g. “a statement of claim and a list of documents relied on (the **attached document(s)**) filed in the Full name of court, e.g. “Manukau District Court”.

Service of the attached document(s) in Australia is authorised by the Trans-Tasman Proceedings Act 2010 (NZ).

**Consequences of the attached document(s) being served on you**

The Full name of court, e.g. “Manukau District Court” can consider and make a decision on any claim set out in the attached document(s).

The decision of the Full name of court, e.g. “Manukau District Court” on this claim (its judgment) may be enforced in Australia or New Zealand.

**Your rights to apply for the proceeding to be stayed**

If a court in Australia is the more appropriate court to decide the claim set out in the attached document(s), you may be able to have the proceeding stayed by applying to the Full name of court, e.g. “Manukau District Court”. If the proceeding is stayed, the claim cannot proceed in the Full name of court, e.g. “Manukau District Court”.

You have 30 working days from the day on which you are served with the attached document(s) to apply for the proceeding to be stayed.

If you think the proceeding should be stayed, it is recommended that you get legal advice as soon as possible.

**Contesting this claim**

If you want to contest this claim, you must take any action set out in the attached document(s) as being necessary to contest the claim. You have 30 working days after the day on which you are served with the attached document(s) to respond.

The statement of defence must contain an address in New Zealand or Australia where documents can be left for you or sent to you.

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Note: keep the following signature block even if you have deleted the preceding section/s.

Date:

Signature:

(Registrar/Deputy Registrar)