



# Trans-Tasman Proceedings Act 2010

## Fact sheet - Trans-Tasman Proceedings Act 2010

### Starting Australian court proceedings against a person in New Zealand (service)

From 11 October 2013, you can start civil court proceedings in Australia without having to get a court's permission to serve the documents on a person located in New Zealand

### International service

In legal terminology, the process of giving legal documents to the defendant to start a civil legal proceeding against them is known as 'service of an initiating document', or 'service' for short.

When serving documents overseas, the rules governing service are not uniform across all Australian states and territories. For example, in Western Australia courts and the Federal Court an applicant must seek the court's 'leave' (or permission) to serve documents outside Australia. The new trans-Tasman regime has changed those rules in relation to New Zealand. Now a litigant in any Australian court or prescribed tribunal (a tribunal listed in the regulations) can serve initiating documents on a person located in New Zealand without the court's leave. Being able to serve initiating documents without the court's leave makes service easier and more efficient.

### What types of proceedings do the new rules apply to?

The service rules apply to civil proceedings started in any Australian court and prescribed Australian tribunals whose procedural rules permit overseas service of an initiating document. The services rule do not apply to excluded family matters such as dissolution of marriages, spousal maintenance obligations or child support obligations or actions *in rem* (actions against property rather than against a person).

### What court rules apply when serving documents in New Zealand?

An initiating process served in New Zealand must be served in accordance with the procedural rules of the relevant Australian court or tribunal. This means that the document may be served in New Zealand, but the method of service must comply with the same procedural rules as if it were being served in Australia. There is no need for the Australian court or tribunal to give leave for the service or be satisfied that there is a connection between the proceeding and Australia.

This factsheet is for information only and does not constitute legal advice or additional treaty or legislative material.



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## What needs to be included in the document?

Form 1 in Schedule 1 of the [Trans-Tasman Proceedings Regulation 2012](#) provides the notice you must serve on a defendant located in New Zealand. If the information is not provided, the defendant can make an application to the court or tribunal to have any part of the proceeding or the whole proceeding set aside.

## How long does a defendant have to respond to an initiating process?

The defendant has 30 days (or a longer period if the relevant Australian court or tribunal rules allow) from the day of service to file court documents in response.

## Reciprocal service in Australia

New Zealand applicants have a reciprocal right to serve initiating proceedings in Australia without the leave of a New Zealand court or tribunal. The New Zealand legislative regime in relation to service is set out in Part 2 (sections 11-20) of the [Trans-Tasman Proceedings Act 2010](#) (NZ).