

Practice guidelines

Case management facility

Information or documents must be given electronically through case management facility

Regulations 8(1) and 8(2) mandate the use of the Commissioner's online case management facility when communicating with IPONZ.

Regulation 8(3) allows a mechanism for the Commissioner to approve alternative filing methods in certain exceptional situations.

The use of the phrase "exceptional circumstances beyond the person's control" sets a deliberately high threshold for the Commissioner to approve other means a document or information can be given. This is because the online case management facility provides all of the functionality needed to communicate with the Commissioner. Communicating in other ways can create uncertainty or lead to missing important deadlines. While this guideline is intended to provide some guidance to clients it is not possible for it to cover all possible situations that may arise and for that reason each situation will be assessed by IPONZ on its own merits and on a case by case approach.

The type of circumstances IPONZ considers may be covered by the phrase "exceptional circumstances beyond the person's control" may include significant events that are outside the control of a party that prevent them from doing the action when they have taken all reasonable and prudent steps to prevent or limit the risk of the event occurring. The type of events could be considered to be major situations which in the New Zealand context could be natural disasters including flood or earthquake; fire; a significant electrical or widespread network failure.

The type of situations unlikely to be considered exceptional include not having access to a computer; being out of the office; not being linked to a trade mark in the Commissioner's case management facility.

It should also be noted that if an exceptional event occurs that means the Commissioner's case management facility is not available for an extended period of time, the Commissioner has the ability to declare a closed day.

Regulation 8(4) allows the Commissioner in situations where it is not possible to communicate with owners through its case management facility, notably sending renewal reminders to owners of older trade mark registrations, to contact them by other means including by post.

Regulation 8(5) defines the time which a document or information is given or sent to the person is when the information or document becomes accessible to the person through the case management facility. IPONZ will

notify parties through a discussion email they have a document or information in the case management facility and consider this to be the time the document or information was accessible to the person.

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