

Reprint
as at 29 October 2019



Human Rights Review Tribunal Regulations 2002 (SR 2002/19)

Silvia Cartwright, Governor-General

Order in Council

At Wellington this 18th day of February 2002

Present:

Her Excellency the Governor-General in Council

Pursuant to section 144 of the Human Rights Act 1993, Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

	Page
1 Title	2
<i>Preliminary provisions</i>	
2 Commencement	2
3 Interpretation	2
4 Purpose of these regulations	3
<i>Commencement of proceedings</i>	
5 Commencement of proceedings	4
6 Person or body bringing proceedings	4

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Justice.

	<i>Informal applications</i>	
7	Tribunal's powers to determine proceedings to have been commenced by informal applications	5
8	Proceedings under section 92B or section 92E of Act	5
9	Proceedings under section 97 of Act	6
10	Proceedings under section 82 or section 83 of Privacy Act 1993	6
11	Proceedings under section 50 or section 51 of Health and Disability Commissioner Act 1994	6
	<i>Service of proceedings</i>	
12	Notice of proceedings	6
13	Nature of notice to be served on defendant	7
14	Other persons or bodies to be notified of proceedings	7
	<i>Before any hearing</i>	
15	Filing and service of statement of reply	8
16	Conduct of proceedings: power to give directions, etc	9
17	Meeting of parties before any hearing	9
18	Time and place of hearing	10
	<i>Hearing and decision</i>	
19	Hearing	11
20	Attorney-General to be notified in certain cases if Tribunal considering granting declaration under section 92J of Act	11
21	Tribunal's decision	12
	<i>Revocation</i>	
22	Revocation	12

Regulations

1 Title

These regulations are the Human Rights Review Tribunal Regulations 2002.

Preliminary provisions

2 Commencement

These regulations come into force on 21 March 2002.

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Human Rights Act 1993

Commission means the Human Rights Commission continued by section 4 of the Act

Director of Human Rights Proceedings means the Director of Human Rights Proceedings or alternate Director of Human Rights Proceedings appointed under section 20A of the Act

Director of Proceedings means the person for the time being designated under section 15(1) of the Health and Disability Commissioner Act 1994 as the Director of Proceedings

Health and Disability Commissioner means the Health and Disability Commissioner appointed under section 8 of the Health and Disability Commissioner Act 1994

Privacy Commissioner means the Privacy Commissioner appointed under section 12 of the Privacy Act 1993

proceedings—

- (a) means proceedings under—
 - (i) section 92B or section 92E or section 97 of the Act; or
 - (ii) section 82 or section 83 of the Privacy Act 1993; or
 - (iii) section 50 or section 51 of the Health and Disability Commissioner Act 1994; but
- (b) does not include proceedings under section 95 of the Act

Secretary means the officer of the Ministry of Justice who is for the time being acting as secretary of the Tribunal

Tribunal means the Human Rights Review Tribunal continued by section 93 of the Act.

(2) *[Revoked]*

Compare: SR 1996/226 r 2

Regulation 3(1) **Chairperson**: revoked, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Regulation 3(1) **Secretary**: amended, on 1 October 2003, pursuant to section 14(1) of the State Sector Amendment Act 2003 (2003 No 41).

Regulation 3(2): revoked, on 29 October 2019, by regulation 4 of the Human Rights Review Tribunal Amendment Regulations 2019 (LI 2019/227).

4 **Purpose of these regulations**

- (1) The purpose of these regulations is to make it possible for proceedings before the Tribunal to be determined—
 - (a) in harmony with the purpose and spirit of the Acts under which the proceedings arise; and
 - (b) as required by those Acts (for example, in a manner consistent with the performance of the Tribunal’s duties under section 105 of the Act); and
 - (c) as fairly, efficiently, simply, and speedily as is consistent with justice.

- (2) These regulations must be read in the light of their purpose.

Compare: SR 1996/226 r 3

Commencement of proceedings

5 Commencement of proceedings

- (1) A proceeding described in the first column of the table in regulation 6 is commenced by an application being filed by, or on behalf of, the person, persons, or body described in the second column of the table opposite the description of the proceeding.
- (2) An application must be—
- made on an approved form; and
 - filed with the Ministry of Justice.
- (3) In this regulation, **approved form** means a form approved by the chief executive of the Ministry of Justice after consultation with the Chairperson of the Tribunal.

Regulation 5: replaced, on 29 October 2019 (after being amended by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 on this date), by regulation 5 of the Human Rights Review Tribunal Amendment Regulations 2019 (LI 2019/227).

6 Person or body bringing proceedings

The table referred to in regulation 5(1) is as follows:

Proceedings	Person or body bringing them
Under section 92B(1) of the Act	the complainant <i>or</i> the person aggrieved (if not the complainant) <i>or</i> the Commission
Under section 92B(3) of the Act	a person against whom a complaint referred to in section 76(2)(a) of the Act has been made
Under section 92B(4) of the Act, to enforce a settlement of a complaint under section 76(2)(a)	a party to that complaint
Under section 92E(1) of the Act, arising from an inquiry by the Commission under section 5(2)(h) of the Act	the Commission
Under section 97 of the Act, for a declaration under that section	the Commission <i>or</i> a person or persons against whom a complaint under section 76(2)(a) of the Act has been made

Proceedings	Person or body bringing them
	<i>or</i>
	a person who is the subject of an inquiry under section 5(2)(h) of the Act
Under section 82 of the Privacy Act 1993	the Director of Human Rights Proceedings
Under section 83 of the Privacy Act 1993	the aggrieved individual
Under section 50 of the Health and Disability Commissioner Act 1994	the Director of Proceedings
Under section 51 of the Health and Disability Commissioner Act 1994	the aggrieved person

Regulation 6: amended, on 29 October 2019, by regulation 6 of the Human Rights Review Tribunal Amendment Regulations 2019 (LI 2019/227).

Informal applications

7 Tribunal's powers to determine proceedings to have been commenced by informal applications

The Tribunal's powers, under regulations 8 to 11, to determine proceedings to have been commenced by an application in writing, may be exercised despite regulation 5 and regardless—

- (a) of the form of the application in writing; and
- (b) of the way in which the application in writing was completed or given to the Tribunal.

Compare: SR 1996/226 r 5(1)

8 Proceedings under section 92B or section 92E of Act

The Tribunal may determine that proceedings under section 92B of the Act or, as the case requires, under section 92E of the Act, have been commenced by an application in writing made by, or on behalf of,—

- (a) the complainant, the person aggrieved (if not the complainant), or the Commission, if he or she or it is entitled to bring the proceedings under section 92B(1) of the Act; or
- (b) the person against whom a complaint referred to in section 76(2)(a) of the Act has been made, if that person is entitled to bring the proceedings under section 92B(3) of the Act; or
- (c) a party to a complaint under section 76(2)(a), if that party is entitled to bring the proceedings (to enforce a settlement of the complaint) under section 92B(4) of the Act; or
- (d) the Commission, if the proceedings are brought under section 92E(1) of the Act.

Compare: SR 1996/226 r 5(1)

9 Proceedings under section 97 of Act

- (1) The Tribunal may determine that proceedings under section 97 of the Act have been commenced by an application in writing made by, or on behalf of, a body or person or group of persons specified in subclause (2), if the body or person or group is entitled to bring the proceedings under section 97(1) of the Act.
- (2) The body or person or group of persons must be—
 - (a) the Commission; or
 - (b) a person or persons against whom a complaint under section 76(2)(a) of the Act has been made; or
 - (c) a person who is the subject of an inquiry under section 5(2)(h) of the Act.

Compare: SR 1996/226 r 5(1)

10 Proceedings under section 82 or section 83 of Privacy Act 1993

The Tribunal may determine that proceedings under section 82 or section 83 of the Privacy Act 1993 have been commenced by an application in writing made by, or on behalf of,—

- (a) the Director of Human Rights Proceedings, if the proceedings are brought under section 82 of that Act; or
- (b) the aggrieved individual, if he or she is entitled to bring the proceedings under section 83 of that Act.

Compare: SR 1996/226 r 5(2)

11 Proceedings under section 50 or section 51 of Health and Disability Commissioner Act 1994

The Tribunal may determine that proceedings under section 50 or section 51 of the Health and Disability Commissioner Act 1994 have been commenced by an application in writing made by, or on behalf of,—

- (a) the Director of Proceedings, if the proceedings are brought under section 50 of that Act; or
- (b) the aggrieved person, if he or she is entitled to bring the proceedings under section 51 of that Act.

Compare: SR 1996/226 r 5(3)

*Service of proceedings***12 Notice of proceedings**

As soon as practicable after proceedings have been commenced,—

- (a) the Secretary must refer the proceedings to the Chairperson of the Tribunal for determination:
- (b) the applicant must—

- (i) ensure that a notice of the kind described in regulation 13 is served on the defendant; and
- (ii) if the proceedings are of a kind referred to in the first column of the table in regulation 14, ensure that a notice of the proceedings is served on the persons or bodies referred to in the second column of that table in the same row as the reference to the kind of proceedings.

Regulation 12: replaced, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

13 Nature of notice to be served on defendant

The notice referred to in regulation 12(b) must—

- (a) inform the defendant of the proceedings; and
- (b) state the place for the filing of a statement of reply and the time within which the statement of reply is required, by or under regulation 15(1) or (2), to be filed; and
- (c) warn the defendant that, if the statement of reply is not filed within the time required by or under regulation 15(1) or (2), the Tribunal or the Chairperson or a Deputy Chairperson may proceed at once to fix a time and place for the hearing of the proceedings; and
- (d) warn the defendant that the Tribunal may refuse to hear the defendant if, by the time of the hearing, the defendant—
 - (i) has not filed a statement of reply within the time required by or under regulation 15(1) or (2), or in accordance with leave of the Tribunal granted under regulation 15(3); and
 - (ii) has not applied for the leave of the Tribunal, under regulation 15(3), to file a statement of reply outside the time required by or under regulation 15(1) or (2).

Compare: SR 1996/226 r 6(b)

Regulation 13(c): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

14 Other persons or bodies to be notified of proceedings

The table referred to in regulation 12(b)(ii) is as follows:

Proceedings	Person or bodies to be served
Under section 92B or 92E of the Act, alleging a breach of Part 1A of the Act, or alleging a breach of Part 2 of the Act by a person or body referred to in section 3 of the New Zealand Bill of Rights Act 1990, if the Attorney-General is not a party to the proceedings	the Attorney-General (as required by section 108A of the Act)

Proceedings

Under section 92B or 97 of the Act, brought by a person or body other than the Commission

Under section 97 of the Act, for a declaration under that section, brought by the Commission

Under section 97 of the Act, for a declaration under that section, brought by a person who is the subject of an inquiry under section 5(2)(h) of the Act

Under section 83 of the Privacy Act 1993, brought by the aggrieved individual

Under section 51 of the Health and Disability Commissioner Act 1994, brought by the aggrieved person

Compare: SR 1996/226 r 6(c)

Person or bodies to be served

the Commission

the person whose act, omission, practice, requirement, or condition would be the subject of the declaration

persons who the secretary considers should be notified of the proceedings because he or she knows that they are directly affected by the act, omission, practice, requirement, or condition that would be the subject of the declaration

the Director of Human Rights Proceedings

and

the Privacy Commissioner

the Director of Proceedings

and

the Health and Disability Commissioner

*Before any hearing***15 Filing and service of statement of reply**

- (1) A defendant who intends to defend the proceedings—
 - (a) must, within 22 working days after the day on which the notice of proceeding is served on the defendant, file with the Ministry of Justice a statement of reply to the plaintiff's claim;
 - (b) must serve a copy of the statement of reply on the plaintiff and any other party.
- (2) Despite subclause (1), in proceedings involving an alleged breach of information privacy principle 6 (set out in section 6) of the Privacy Act 1993, the Chairperson or a Deputy Chairperson may shorten the time for the filing of a statement of reply if, on an application for the purpose by the plaintiff in the proceedings, the Chairperson or a Deputy Chairperson is satisfied that the urgency of the case requires the Chairperson or a Deputy Chairperson to do so.
- (3) A defendant who fails to file a statement of reply within the time required by or under subclause (1) or (2) may do so only with the leave of the Tribunal.
- (4) Leave may be granted on any terms or conditions the Tribunal specifies.

Compare: SR 1996/226 r 7

Regulation 15(1)(a): replaced, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Regulation 15(2): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

16 Conduct of proceedings: power to give directions, etc

- (1) Subject to decisions of the Tribunal, the Chairperson or a Deputy Chairperson may give any directions and do any other things—
 - (a) that are necessary or desirable for the proceedings to be heard, determined, or otherwise dealt with, as fairly, efficiently, simply, and speedily as is consistent with justice; and
 - (b) that are not inconsistent with the Act or, as the case requires, the Privacy Act 1993 or the Health and Disability Commissioner Act 1994, or with these regulations.
- (2) For example, the Chairperson or a Deputy Chairperson may direct that separate proceedings be heard, determined, or otherwise dealt with, together, if—
 - (a) they are proceedings under provisions specified in different paragraphs of subclause (3); and
 - (b) they relate to the same defendant (whether or not any or all of them also relate to any other person); and
 - (c) the right to relief in them is alleged to arise out of the same transaction or the same series of transactions.
- (3) The provisions referred to in subclause (2) are—
 - (a) section 92B or section 92E or section 97 of the Act;
 - (b) section 82 or section 83 of the Privacy Act 1993;
 - (c) section 50 or section 51 of the Health and Disability Commissioner Act 1994.

Compare: SR 1996/226 r 8

Regulation 16(1): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Regulation 16(2): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

17 Meeting of parties before any hearing

- (1) Before the hearing of any proceedings, the Chairperson or a Deputy Chairperson may convene a meeting of the parties to the proceedings—
 - (a) to ascertain, if possible, the issues in dispute between the parties to the proceedings; and
 - (b) to determine whether or not it is necessary or desirable to give directions or do other things, under regulation 16; and

- (c) to ascertain, if possible, a suitable time and place for the hearing of the proceedings.
- (2) Every person who has a right to appear in those proceedings, under any provision (for example, under section 92G or section 92H) of the Act or, as the case requires, under section 86 of the Privacy Act 1993 or section 55 of the Health and Disability Commissioner Act 1994, may also attend the meeting.
- (3) The meeting must be presided over by the Chairperson or a Deputy Chairperson.
- (4) A record must be made of every decision made at the meeting, and a copy of the record must be provided to—
 - (a) the parties to the proceedings; and
 - (b) the persons who, under subclause (2), have a right to attend the meeting.

Compare: SR 1996/226 r 9

Regulation 17(1): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Regulation 17(3): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

18 Time and place of hearing

- (1) The Tribunal or the Chairperson or a Deputy Chairperson must fix a time and place for the hearing of the proceedings.
- (2) The Secretary must cause a notice stating the time and place fixed to be served—
 - (a) on the plaintiff; and
 - (b) on the defendant; and
 - (c) if the proceedings are under section 92B or section 92E or section 97 of the Act, on—
 - (i) the Attorney-General, if he or she has chosen to exercise his or her right, under section 92G of the Act, to appear and be heard in them; and
 - (ii) the Commission, if it is not the plaintiff or defendant in the proceedings but has chosen to exercise its right, under section 92H of the Act, to appear and be heard in them; and
 - (d) if the proceedings are under section 83 of the Privacy Act 1993, on—
 - (i) the Director of Human Rights Proceedings; and
 - (ii) the Privacy Commissioner; and
 - (e) if the proceedings are under section 51 of the Health and Disability Commissioner Act 1994, on—
 - (i) the Director of Proceedings; and

(ii) the Health and Disability Commissioner.

Compare: SR 1996/226 r 10

Regulation 18(1): amended, on 29 October 2019, by section 340(3) of the Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51).

Hearing and decision

19 Hearing

- (1) At the hearing, the persons who have a right to appear, or who are allowed to appear, before the Tribunal must, subject to subclause (4), each be given an opportunity to be heard.
- (2) The persons who have a right to appear, or who are allowed to appear, before the Tribunal may call evidence and may cross-examine any witness.
- (3) If the plaintiff or the defendant or both fail to appear before the Tribunal at the time and place fixed, the Tribunal may nevertheless, on proof of service of notice of the hearing, proceed to determine the proceedings.
- (4) The Tribunal may refuse to hear the defendant if, by the time of the hearing, the defendant—
 - (a) has not filed a statement of reply within the time required by or under regulation 15(1) or (2), or in accordance with leave of the Tribunal granted under regulation 15(3); and
 - (b) has not applied for the leave of the Tribunal, under regulation 15(3), to file a statement of reply outside the time required by or under regulation 15(1) or (2).

Compare: SR 1996/226 r 11

20 Attorney-General to be notified in certain cases if Tribunal considering granting declaration under section 92J of Act

- (1) Subclause (2) applies when the Tribunal is considering granting a declaration under section 92J of the Act (which relates to the only remedy that may be granted by the Tribunal if it finds that an enactment is in breach of Part 1A) in proceedings—
 - (a) to which the Attorney-General is not a party; and
 - (b) in which he or she is not exercising his or her right, under section 92G of the Act, to appear and be heard.
- (2) When this subclause applies in accordance with subclause (1), the Secretary must cause to be served promptly on the Attorney-General a notice—
 - (a) referring to the opportunity to make submissions that the Tribunal must, under section 108B(1) of the Act, give the Attorney-General; and
 - (b) inviting him or her to advise the Tribunal whether or not he or she intends to take up that opportunity.

21 Tribunal's decision

- (1) A copy of the Tribunal's decision must be given—
 - (a) to the plaintiff; and
 - (b) to the defendant; and
 - (c) to every other person (being a person who had a right to appear, or who was allowed to appear, before the Tribunal) who appeared before the Tribunal; and
 - (d) if the proceedings are under the Act, to every other person to whom decisions of the Tribunal must, under section 116(3) of the Act, be notified (that is, to any other parties, to the Attorney-General, and to the Commission); and
 - (e) if the proceedings are under section 82 of the Privacy Act 1993, to the Privacy Commissioner; and
 - (f) if the proceedings are under section 83 of the Privacy Act 1993, to—
 - (i) the Director of Human Rights Proceedings; and
 - (ii) the Privacy Commissioner; and
 - (g) if the proceedings are under section 50 of the Health and Disability Commissioner Act 1994, to the Health and Disability Commissioner; and
 - (h) if the proceedings are under section 51 of the Health and Disability Commissioner Act 1994, to—
 - (i) the Director of Proceedings; and
 - (ii) the Health and Disability Commissioner.
- (2) Each copy of the decision must contain, or have attached to it, a statement informing the parties of the right to appeal to the High Court and the procedure for exercising that right.

Compare: SR 1996/226 r 12

*Revocation***22 Revocation**

The Complaints Review Tribunal Regulations 1996 (SR 1996/226) are consequentially revoked.

Marie Shroff,
Clerk of the Executive Council.

Reprints notes

1 *General*

This is a reprint of the Human Rights Review Tribunal Regulations 2002 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Human Rights Review Tribunal Amendment Regulations 2019 (LI 2019/227)

Tribunals Powers and Procedures Legislation Act 2018 (2018 No 51): section 340(3)

State Sector Amendment Act 2003 (2003 No 41): section 14