



Employment Relations Authority Amendment Regulations 2015

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 2nd day of February 2015

Present:

His Excellency the Governor-General in Council

Pursuant to section 237 of the Employment Relations Act 2000, His 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
2	Commencement	2
3	Principal regulations	2
4	Regulation 5 amended (Commencement of proceedings)	2
5	Regulation 8 amended (Statement in reply)	2
6	New regulation 9A and cross-heading inserted	2
	<i>Determination as to whether collective bargaining has concluded</i>	
9A	Determination as to whether bargaining has concluded	3
7	Regulation 10 amended (Application to Authority to reopen investigation)	3

8	Regulation 12 amended (Removal of matters to court)	3
9	Regulation 19A amended (Service outside New Zealand)	3
10	Regulation 21 amended (Notice of investigation meeting)	3
11	Regulation 22 amended (Witness summons)	3
12	Regulation 24 amended (Witnesses' expenses)	3
13	Schedule 1 replaced	3
14	Schedule 2 amended	3
	Schedule	4
	Schedule 1 replaced	

Regulations

- 1 Title**

These regulations are the Employment Relations Authority Amendment Regulations 2015.
- 2 Commencement**

These regulations come into force on 12 March 2015.
- 3 Principal regulations**

These regulations amend the Employment Relations Authority Regulations 2000 (the **principal regulations**).
- 4 Regulation 5 amended (Commencement of proceedings)**

In regulation 5(3), replace “regulations 10” with “regulations 9A, 10,”.
- 5 Regulation 8 amended (Statement in reply)**

Replace regulation 8(2) with:

“(2) The statement in reply must be—

 - “(a) in form 5 if it relates to an application for a determination as to whether bargaining has concluded:
 - “(b) in form 3 in any other case.”
- 6 New regulation 9A and cross-heading inserted**

After regulation 9 insert:

“Determination as to whether collective bargaining has concluded”

- “9A Determination as to whether bargaining has concluded**
Every application under section 50K of the Act for a determination as to whether bargaining has concluded must—
- “(a) be lodged with an officer of the Authority; and
 - “(b) be in form 4; and
 - “(c) be accompanied by the prescribed fee.”
- 7 Regulation 10 amended (Application to Authority to reopen investigation)**
In regulation 10(b), replace “form 4” with “form 6”.
- 8 Regulation 12 amended (Removal of matters to court)**
In regulation 12(b), replace “form 5” with “form 7”.
- 9 Regulation 19A amended (Service outside New Zealand)**
In regulation 19A(5), replace “form 8” with “form 10”.
- 10 Regulation 21 amended (Notice of investigation meeting)**
In regulation 21(2), replace “form 6” with “form 8”.
- 11 Regulation 22 amended (Witness summons)**
In regulation 22(1), replace “form 7” with “form 9”.
- 12 Regulation 24 amended (Witnesses’ expenses)**
In regulation 24, replace “form 7” with “form 9”.
- 13 Schedule 1 replaced**
Replace Schedule 1 with the Schedule 1 set out in the Schedule of these regulations.
- 14 Schedule 2 amended**
In Schedule 2, after item 1, insert:
- | | | |
|----|--|----|
| 1A | Lodging application for determination as to whether bargaining has concluded | 70 |
|----|--|----|

Schedule

r 13

Schedule 1 replaced

Schedule 1

r 3(2)(b)

Forms

Contents

		Page
1	Application to Authority	5
2	Undertaking in relation to application for interim reinstatement	8
3	Statement in reply	9
4	Application for determination as to whether bargaining has concluded	11
5	Statement in reply in relation to application for determination as to whether bargaining has concluded	14
6	Application for investigation to be reopened	17
7	Application for removal of matter to Employment Court	20
8	Notice of investigation meeting	22
9	Witness summons	24
10	Notice accompanying application served outside New Zealand	25

Schedule 1—*continued*

Form 1

rr 5, 6

Application to Authority

*Section 158, Employment Relations Act 2000*Between [*full name, address, telephone number, email address*]

(applicant)

And [*full name, address, telephone number, email address*]

(respondent)

To the Employment Relations Authority

and

To the respondent**Statement of problem or matter**1 The problem or matter that I wish the Authority to resolve is:
[*state details fully, fairly, and clearly*].2 The facts that have given rise to the problem or matter are:
[*state details fully, fairly, and clearly*].3 I would like the problem or matter to be resolved in the following way: [*state details fully, fairly, and clearly*].*

*Please include reference to any specific remedy (being a remedy under any enactment or rule of law) that you are seeking. If the applicant is an employee who is seeking, by this application, an order, under section 127(1) of the Employment Relations Act 2000, for the employee's interim reinstatement, the applicant must, at the time of lodging this application, file a signed undertaking in form 2.

4 I attach a copy of the applicable employment agreement and the following documents that I think are relevant to the problem or matter:*

*List all the documents or letters that you wish to rely on, or documents required under other legislation, etc.

Mediation

5 Have the parties tried to resolve this problem or matter by using mediation services provided by the Ministry of Business, Innovation, and Employment? Yes/No*

*Select one.

Schedule 1—*continued*Form 1—*continued*

If the answer to this question is “Yes”, please provide the date or dates of the mediation: [*date(s)*].

- 6 Have the parties tried to resolve this problem or matter by using mediation services provided by someone other than the Ministry of Business, Innovation, and Employment? Yes/No*
*Select one.

- 7 If you, the applicant, have answered “No” to both the question in paragraph 5 and the question in paragraph 6, please indicate why you have not used mediation services to try to resolve the problem or matter: [*state details fully but concisely*].

- 8 Have you, the applicant, taken any other steps of any kind to resolve the problem or matter? Yes/No*
*Select one.

If the answer to this question is “Yes”, specify the other steps taken: [*state details fully but concisely*].

Prescribed fee

- 9 This application is accompanied by the prescribed fee.

Address for service

- 10 This application is lodged by [*full name of applicant*]/[*name of representative*] on behalf of [*full name of applicant*]*.
*Select one.

- 11 The applicant’s address for service is [*full physical or postal address to which any document may be sent*], telephone number is [*telephone number*], fax number for service is [*fax number*], document exchange number for service is [*document exchange number*], and email address for service is [*email address*].*

*Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.

Schedule 1—*continued*Form 1—*continued*

Date:

Signature:

(applicant)

Notice to respondent

- 1 If you intend to respond to this application, you must, within 14 days after the date of the service of this application on you, lodge 2 copies of a statement in reply with an officer of the Employment Relations Authority at [*place*].
- 2 The term **days** does not include any day in the period beginning with 25 December in any year and ending with 5 January in the following year.
- 3 You will be notified of the place, date, and time at which the Authority will conduct any investigation meeting in respect of this application.

Date:

Signature:

(Officer of the Employment Relations Authority)

Schedule 1—*continued*

Form 2

r 7

Undertaking in relation to application for
interim reinstatement*Section 127(2), Employment Relations Act 2000*Between [*full name, address, telephone number, email address*]
(applicant)And [*full name, address, telephone number, email address*]
(respondent)

- 1 I, [*full name*], am, by an application lodged at the same time as this undertaking, applying for an order under section 127(1) of the Employment Relations Act 2000 for interim reinstatement with my employer, [*full name of employer*], in the position of [*job title*].
- 2 I raised the grievance with my employer on [*date*].
- 3 I agree that I will abide by any order that the Employment Relations Authority may make in respect of damages—
 - (a) that are sustained by the respondent through the granting of the order for interim reinstatement; and
 - (b) that the Employment Relations Authority decides that I ought to pay.

Date:

Signature:
(applicant)

Schedule 1—*continued*

Form 3

r 8

Statement in reply

*Employment Relations Act 2000*Between [*full name, address, telephone number, email address*]

(applicant)

And [*full name, address, telephone number, email address*]

(respondent)

To the applicant

and

To the Employment Relations Authority

- 1 The respondent's view in relation to the problem or matter specified in the application is: [*state details fully, fairly, and clearly*].
- 2 The respondent's account of the relevant facts is: [*state details fully, fairly, and clearly*].
- 3 The respondent makes the following comments and supplies the following further information: [*state details fully, fairly, and clearly*].
- 4 I attach copies of the applicable employment agreement and the following documents that I think are relevant to the problem or matter:*

*List all the documents or letters that you wish to rely on, or documents required under other legislation, etc.

Mediation

- 5 Have the parties tried to resolve this problem or matter by using mediation services provided by the Ministry of Business, Innovation, and Employment? Yes/No*
*Select one.
- 6 Have the parties tried to resolve this problem or matter by using mediation services provided by someone other than the Ministry of Business, Innovation, and Employment? Yes/No*
*Select one.

Schedule 1—*continued*Form 3—*continued*

- 7 Have you, the respondent, taken any other steps of any kind to resolve the problem or matter? Yes/No*

*Select one.

If the answer to this question is “Yes”, specify the other steps taken: *[state details fully but concisely]*.

- 8 If you, the respondent, have answered “No” to both the question in paragraph 5 and the question in paragraph 6, please indicate why you have not used mediation to try to resolve the problem or matter: *[state details fully but concisely]*.

Address for service

- 9 This statement in reply is lodged by *[full name of respondent]*/*[name of representative]* on behalf of *[full name of respondent]**.

*Select one.

- 10 The respondent’s address for service is *[full physical or postal address to which any document may be sent]*, telephone number is *[telephone number]*, fax number for service is *[fax number]*, document exchange number for service is *[document exchange number]*, and email address for service is *[email address]*.*

*Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.

Date:

Signature:

(respondent)

Schedule 1—*continued*

Form 4

r 9A

Application for determination as to whether
bargaining has concluded*Section 50K, Employment Relations Act 2000*Between [*full name, address, telephone number, email address*]
(applicant)And [*full name, address, telephone number, email address*]
(respondent)**To** the Employment Relations Authority
and**To** the respondent**Problem or matter arising in collective bargaining**

- 1 The problem or matter that has arisen during collective bargaining is: [*state details fully, fairly, and clearly*].
- 2 The facts that have given rise to this problem or matter are: [*state details fully, fairly, and clearly*].
- 3 I would like the problem or matter to be resolved by a declaration that bargaining has/has not* concluded.
*Select one.
- 4 I attach the following documents that I think are relevant to the problem or matter.*
*List all the documents or letters that you wish to rely on, or documents required under other legislation, etc, including, if applicable, the current or expired collective agreement.

Mediation

- 5 Have the parties tried to resolve this problem or matter by using mediation services provided by the Ministry of Business, Innovation, and Employment? Yes/No*
*Select one.

If the answer to this question is “Yes”, please provide the date or dates of the mediation: [*date(s)*].

Schedule 1—*continued*Form 4—*continued*

- 6 Have the parties tried to resolve this problem or matter by using mediation services provided by someone other than the Ministry of Business, Innovation, and Employment? Yes/No*

*Select one.

Facilitation

- 7 If you, the applicant, have answered “No” to both the question in paragraph 5 and the question in paragraph 6, have you resolved the problem or matter by facilitation? Yes/No*

*Select one.

- 8 If you, the applicant, have answered “No” to the question in paragraph 7, please indicate why you have not used facilitation to try to resolve the problem or matter: [*state details fully but concisely*].

- 9 Have you, the applicant, taken any other steps of any kind to resolve the problem or matter? Yes/No*

*Select one.

If the answer to this question is “Yes”, specify the other steps taken: [*state details fully but concisely*].

Prescribed fee

- 10 This application is accompanied by the prescribed fee.

Address for service

- 11 This application is lodged by [*full name of applicant*]/[*name of representative*] on behalf of [*full name of applicant*]*.

*Select one.

Schedule 1—*continued*Form 4—*continued*

- 12 The applicant's address for service is [*full physical or postal address to which any document may be sent*], telephone number is [*telephone number*], fax number for service is [*fax number*], document exchange number for service is [*document exchange number*], and email address for service is [*email address*].*

*Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.

Date:

Signature:
(applicant)

Notice to respondent

- 1 If you intend to respond to this application, you must, within 14 days after the date of the service of this application on you, lodge 2 copies of a statement in reply with an officer of the Employment Relations Authority at [*place*].
- 2 The term **days** does not include any day in the period beginning with 25 December in any year and ending with 5 January in the following year.
- 3 You will be notified of the place, date, and time at which the Authority will conduct any investigation meeting in respect of this application.

Date:

Signature:
(Officer of the Employment Relations Authority)

Schedule 1—*continued*

Form 5

r 8

Statement in reply in relation to application
for determination as to whether bargaining has
concluded*Section 50K, Employment Relations Act 2000*Between [*full name, address, telephone number, email address*]
(applicant)And [*full name, address, telephone number, email address*]
(respondent)**To** the applicant
and**To** the Employment Relations Authority

- 1 The respondent's view in relation to the problem or matter that has arisen during collective bargaining is: [*state details fully, fairly, and clearly*].
- 2 The respondent's account of the relevant facts is: [*state details fully, fairly, and clearly*].
- 3 The respondent makes the following comments and supplies the following further information: [*state details fully, fairly, and clearly*].
- 4 I attach the following documents that I think are relevant to the problem or matter:*

*List all the documents or letters that you wish to rely on, or documents required under other legislation, etc, including, if applicable, the current or expired collective agreement.

Mediation

- 5 Have the parties tried to resolve this problem or matter by using mediation services provided by the Ministry of Business, Innovation, and Employment? Yes/No*

*Select one.

Schedule 1—*continued*Form 5—*continued*

- 6 Have the parties tried to resolve this problem or matter by using mediation provided by someone other than the Ministry of Business, Innovation, and Employment? Yes/No*
*Select one.
- 7 If you, the respondent, have answered “No” to both the question in paragraph 5 and the question in paragraph 6, please indicate why you have not used mediation to try to resolve the problem or matter: [*state details fully but concisely*].

Facilitation

- 8 If you, the respondent, have answered “No” to both the question in paragraph 5 and the question in paragraph 6, have you resolved the problem or matter by facilitation? Yes/No*
*Select one.
- 9 If you, the respondent, have answered “No” to the question in paragraph 8, please indicate why you have not used facilitation to try to resolve the problem or matter: [*state details fully but concisely*].
- 10 Have you, the respondent, taken any other steps of any kind to resolve the problem or matter? Yes/No*
*Select one.
- If the answer to this question is “Yes”, specify the other steps taken: [*state details fully but concisely*].

Address for service

- 11 This application is lodged by [*full name of respondent*]/[*name of representative*] on behalf of [*full name of respondent*]*.
*Select one.

Schedule 1—*continued*Form 5—*continued*

- 12 The respondent's address for service is [*full physical or postal address to which any document may be sent*], telephone number is [*telephone number*], fax number for service is [*fax number*], document exchange number for service is [*document exchange number*], and email address for service is [*email address*].*

*Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.

Date:

Signature:

(respondent)

Schedule 1—*continued*

Form 6

r 10

Application for investigation to be reopened

*Schedule 2, clause 4, Employment Relations Act 2000*Between [*full name, address, telephone number, email address*]

(applicant)

And [*full name, address, telephone number, email address*]

(respondent)

To the applicant/respondent*

and

To the Employment Relations Authority

*Select one.

1 I apply to the Employment Relations Authority at [*place*] for the reopening of the investigation to which the Authority's determination/order* of [*date*] relates.

*Select one.

2 The file number of the Authority's determination/order* is [*number*].

*Select one.

3 A copy of the Authority's determination/order* is attached to this application.

*Select one.

Grounds

4 This application is made on the following grounds: [*state grounds fully but concisely*].

Prescribed fee

5 This application is accompanied by the prescribed fee.

Schedule 1—*continued*Form 6—*continued***Address for service**

- 6 This application is lodged by [*full name of applicant/respondent**]/[*name of representative*] on behalf of [*full name of applicant/respondent**]*.

*Select one.

- 7 The [*full name of applicant/respondent**] address for service is [*full physical or postal address to which any document may be sent*], telephone number is [*telephone number*], fax number for service is [*fax number*], document exchange number for service is [*document exchange number*], and email address for service is [*email address*].†

*Select one.

†Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.

Date:

Signature:

(applicant/respondent*)

*Select one.

Notice to other party

- 1 If you intend to oppose the application for the reopening of the investigation, you must, within 14 days after the date of the service of this notice on you, lodge 2 copies of a statement in reply with an officer of the Employment Relations Authority at [*place*].
- 2 The term **days** does not include any day in the period beginning with 25 December in any year and ending with 5 January in the following year.
- 3 You will be notified of the place, date, and time at which this application will be considered.

Schedule 1—*continued*
Form 6—*continued*

Date:

Signature:

(Officer of the Employment Relations Authority)

Schedule 1—*continued*

Form 7

r 12

Application for removal of matter to
Employment Court*Section 178, Employment Relations Act 2000*

Between [full name, address, telephone number, email address]

(applicant)

And [full name, address, telephone number, email address]

(respondent)

To the respondent/applicant*

and

To the Employment Relations Authority

*Select one.

- 1 I apply to the Employment Relations Authority at [place] for the removal to the Employment Court at [place] for hearing and determination of the following matter/following part of the following matter* lodged under [file number].

*Select one.

Grounds

- 2 This application is made on the following grounds: [state grounds fully but concisely].

Prescribed fee

- 3 This application is accompanied by the prescribed fee.

Address for service

- 4 This application is lodged by [full name of applicant/respondent*]/[name of representative] on behalf of [full name of applicant/respondent*]*.

*Select one.

Schedule 1—*continued*Form 7—*continued*

- 5 The [*full name of applicant/respondent**] address for service is [*full physical or postal address to which any document may be sent*], telephone number is [*telephone number*], fax number for service is [*fax number*], document exchange number for service is [*document exchange number*], and email address for service is [*email address*].†

*Select one.

†Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.

Date:

Signature:

(applicant/respondent*)

*Select one.

Notice to other party

- 1 If you intend to defend the application for removal, you must, within 14 days after the date of the service of this application on you, lodge 2 copies of a statement in reply with an officer of the Employment Relations Authority at [*place*].
- 2 The term **days** does not include any day in the period beginning with 25 December in any year and ending with 5 January in the following year.
- 3 You will be notified of the place, date, and time at which this application for removal will be considered.

Date:

Signature:

(Officer of the Employment Relations Authority)

Schedule 1—*continued*

Form 8

r 21

Notice of investigation meeting

Employment Relations Act 2000

File No:

Between [*full name, address, telephone number, email address*]
(applicant)And [*full name, address, telephone number, email address*]
(respondent)**To** the applicant

and

To the respondentTake notice that the Employment Relations Authority will hold an investigation meeting in relation to the problem or matter of [*describe problem or matter*] at [*address, date, time*].**Notes**

- 1 If the applicant does not attend the investigation meeting, the matter may be dismissed and costs may be awarded against the applicant.
- 2 If the respondent does not attend the investigation meeting, the Authority may, without hearing evidence from the respondent, issue a determination in favour of the applicant.
- 3 Hearing fees may be payable. The first day is free. For the second and any subsequent day, hearing fees of [*fee*] per half day are payable by the party who started the proceedings.
- 4 Any legal costs incurred by the other party may be awarded should you not be successful in bringing or defending the claim.
- 5 If in doubt, contact an officer of the Employment Relations Authority at [*address*], [*telephone number*], or [*email address*] immediately.

Schedule 1—*continued*
Form 8—*continued*

Date:

Signature:

(Officer of the Employment Relations Authority)

Schedule 1—*continued*

Form 9

r 22

Witness summons

Schedule 2, clause 5, Employment Relations Act 2000

Between [*full name, address, telephone number, email address*]

(applicant)

And [*full name, address, telephone number, email address*]

(respondent)

To [*name, address*]

- 1 You are required to attend before the Employment Relations Authority at [*place, date, time*] and from then until you are no longer required to attend, to give evidence in relation to a matter before the Authority.
- 2 And you are ordered to bring with you and produce at the same time and place [*state details of the books, papers, documents, records, or things, in the person's possession or under the person's control, to be produced*].
- 3 This summons is issued by the Employment Relations Authority at [*place*] on the application of [*full name*], the [*party*]/of its own volition* under the seal of the Employment Relations Authority at [*place, date*].

*Select one.

Date:

Signature:

(Officer of the Employment Relations Authority)

Schedule 1—*continued*

Form 10

r 19A

Notice accompanying application served outside
New Zealand*Schedule 2, clause 4A, Employment Relations Act 2000*

- 1 The applicant named in the attached application has commenced proceedings against you by making an application to the Employment Relations Authority.
- 2 Even though you are outside New Zealand, the Authority may hear and determine these proceedings. It may do so if the proceedings come within its jurisdiction. The grounds on which the applicant says that the proceedings come within the Authority's jurisdiction are set out in the application.
- 3 Even if the proceedings come within the Authority's jurisdiction, it may decide not to hear and determine them. It may do so if it is satisfied that it is more appropriate for the matter to be resolved in a place outside New Zealand, that the applicant will have a fair opportunity in that place to make the applicant's case, that the applicant will receive proper justice in that place, and that the respondent will suffer unfair disadvantage if the proceedings are heard in New Zealand.
- 4 The notice to you on the application tells you that, if you want to respond to the application, you must lodge 2 copies of a statement in reply within 30/50/[*insert number if the Authority has varied the time*]* days after the date of the service of the application on you.
*Select one.
- 5 However, you may want to say that the proceedings do not come within the Authority's jurisdiction or that, even if they do, the Authority should decide not to hear and determine them. If so, do not lodge a statement in reply. Instead, lodge an objection to the Authority's jurisdiction. You must do this within 30/50/[*insert number if the Authority has varied the time*]* days after the date of the service of the application on you.
*Select one.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 12 March 2015, consequentially amend the Employment Relations Authority Regulations 2000 primarily to reflect changes made by the Employment Relations Amendment Act 2014 relating to collective bargaining.

The amendments—

- replace Schedule 1, which prescribes forms relating to proceedings lodged with the Employment Relations Authority (the **Authority**). *New Schedule 1* includes 2 new forms (*forms 4 and 5*), which must be used in respect of applications made to the Authority under section 50K of the Employment Relations Act 2000 for a determination as to whether collective bargaining has concluded. The notes to *form 8*, which relates to notice of an investigation meeting to be held by the Authority, are also amended to include further explanatory material. The other forms are re-enacted without substantive change, but incorporate technical changes to update the style of the forms:
 - include a new fee in Schedule 2 (which prescribes fees for lodging applications with the Authority) that must be paid when lodging an application for a determination as to whether collective bargaining has concluded:
 - make other consequential amendments to reflect changes in the number and order of forms in *new Schedule 1*.
-

2015/13

**Employment Relations Authority
Amendment Regulations 2015**

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 5 February 2015.

These regulations are administered by the Ministry of Business, Innovation, and Employment.
