



Disputes Tribunal Amendment Rules 2018

Patsy Reddy, Governor-General

Order in Council

At Wellington this 13th day of August 2018

Present:

Her Excellency the Governor-General in Council

These rules are made under section 60 of the Disputes Tribunal Act 1988 on the advice and with the consent of the Executive Council.

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Rules

1 Title

These rules are the Disputes Tribunal Amendment Rules 2018.

2 Commencement

These rules come into force on 14 September 2018.

3 Principal rules

These rules amend the rules that were previously called the Disputes Tribunals Rules 1989 (the **principal rules**).

4 Name of principal rules changed

- (1) As from the commencement of this rule,—
 - (a) the Disputes Tribunals Rules 1989 are called the Disputes Tribunal Rules 1989;
 - (b) every reference in any enactment and in any document to the Disputes Tribunals Rules 1989 must, unless the context otherwise requires, be read as a reference to the Disputes Tribunal Rules 1989.
- (2) Replace rule 1(1) with:
 - (1) These rules are the Disputes Tribunal Rules 1989.

5 Rule 2 amended (Interpretation)

Replace rule 2(1) with:

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

Act means the Disputes Tribunal Act 1988

working day, in relation to the Tribunal, means a day other than—

 - (a) a Saturday, a Sunday, Good Friday, Easter Monday, Anzac Day, Labour Day, the Sovereign's birthday, or Waitangi Day; or
 - (b) the day observed as the anniversary day of the former province in which the relevant office of the Tribunal is located; or
 - (c) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; or
 - (d) a day in the period commencing on 25 December in a year and ending on 15 January in the following year.
- (1A) Any term or expression that is defined in the Act and is used, but not defined, in these rules, has the same meaning as in the Act.

6 New rule 2A inserted (Transitional, savings, and related provisions)

After rule 2, insert:

2A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

7 Rule 4 replaced (Commencement of proceedings)

Replace rule 4 with:

4 Lodging claim and confidentiality

- (1) A claim lodged with the Tribunal must be—
 - (a) in form 1; or

- (b) in an online form that has the same effect as form 1 and that is made available on an Internet site maintained by the Ministry of Justice.
- (2) A Registrar may keep the applicant's residential address and other contact details confidential (which means that they are kept from the respondent) if—
 - (a) requested by the applicant; and
 - (b) the Registrar has reasonable cause to believe that disclosing the details to the respondent could prejudice the personal safety of the applicant or the applicant's family.

8 Rule 4A replaced (Memorandum of agreement to extend financial limit must be in prescribed form)

Replace rule 4A with:

4A Memorandum of agreement to extend financial limit must be in prescribed form

A memorandum of the parties' agreement, under section 13(1) of the Act, that the Tribunal has jurisdiction to hear and determine the claim, must be—

- (a) in form 1A; or
- (b) in an online form that has the same effect as form 1A and that is made available on an Internet site maintained by the Ministry of Justice.

9 Rule 5 amended (Fees)

In rule 5(1)(a) to (c), replace "a Tribunal" with "the Tribunal".

10 Rule 7 amended (Enlargement of dates of hearing)

In rule 7(1), replace "a Tribunal" with "the Tribunal".

11 Rule 8 amended (Form of acknowledgement from applicant's insurer)

In rule 8, delete "by the Secretary of Justice".

12 Rule 9 amended (Approval of representative)

In rule 9(2), replace "a Tribunal" with "the Tribunal".

13 Rule 10 amended (Service of documents)

- (1) In rule 10(1), replace "a Tribunal" with "the Tribunal".
- (2) In rule 10(3), replace "the Registrar may" with "a Registrar may".

14 Rule 11 amended (Service on corporations)

- (1) In rule 11, replace "a Tribunal" with "the Tribunal".
- (2) In rule 11(b), replace "Tribunal" with "office of the Tribunal".

15 Rule 13 amended (Time for giving certain notices)

In rule 13, replace “10 days” with “8 working days”.

16 Rule 14 amended (Summons to witness)

- (1) In rule 14(1), replace “a Tribunal” with “the Tribunal”.
- (2) In rule 14(2), replace “A summons shall not be issued under subclause (1) unless the Registrar” with “A summons must not be issued under subclause (1) unless a Registrar”.

17 Rule 15 amended (Service of summons)

Replace rule 15(2) with:

- (2) The witness must be paid or offered the sum that a Registrar estimates is payable under rule 17 for allowances and travelling expenses (but not for fees), and the payment or offering of the sum must occur—
 - (a) at the time of service of the summons; or
 - (b) at any other reasonable time before the time at which the witness’s attendance is required.

18 Rule 17 amended (Witnesses’ expenses)

In rule 17(1), replace “a Tribunal” with “the Tribunal”.

19 Rule 18 amended (Failure to give evidence)

- (1) In rule 18(1)(b), replace “tendered” with “offered”.
- (2) In rule 18(2)(a), replace “a Tribunal” with “the Tribunal”.

20 Rule 19 amended (Adjournments)

In rule 19, replace “A Tribunal” with “The Tribunal”.

21 Rules 20 to 23 replaced

Replace rules 20 to 23 with:

20 Notice of objection to enforcement of order

- (1) This rule applies if a person is given notice, under section 45(2) of the Act, of an application to the District Court to issue a process to enforce an order provided for by section 19(3) of the Act (requiring a party to pay money to another as an alternative to compliance with a work order).
- (2) A person wishing to object to the application must file a notice of objection in form 6 within 15 working days after being given notice of the application.
- (3) The notice of objection must be filed in the office of the court where the application was made.

21 Requests for enforcement of work orders

A request under section 46(1) of the Act for the enforcement of a work order must be made to a Registrar in form 7.

22 Requests for enforcement of agreed settlements

A request under section 47(2) of the Act for the enforcement of a term of an agreed settlement must be made to a Registrar in form 8.

23 Application for rehearing

An application for a rehearing under section 49 of the Act must—

- (a) be in form 9 or in an online form that has the same effect and that is made available on an Internet site maintained by the Ministry of Justice; and
- (b) specify the grounds on which the application is made.

22 Rule 25 replaced (Transfer of proceedings to District Court)

Replace rule 25 with:

25 Transfer of proceedings to District Court

Where an order is made under section 36(1) or (2) of the Act transferring proceedings from the Tribunal to the District Court, a Registrar must, as soon as practicable, give notice of the order to the parties to the proceedings.

23 Rule 26 amended (Transfer of proceedings from District Court or High Court to Tribunal)

(1) Replace rule 26(1) to (3) with:

- (1) Where an order is made under section 37(1) or (2) of the Act transferring proceedings from the District Court or the High Court to the Tribunal, the proceedings must be transferred to the office of the Tribunal—
 - (a) specified in the order; or
 - (b) closest to the office of the court from which the proceedings are transferred, if no office is specified in the order.
- (2) A Registrar of the office of the court from which the proceedings are transferred—
 - (a) must forward all papers relating to the proceedings to a Registrar of the office of the Tribunal to which the proceedings are transferred; but
 - (b) is not required to forward the papers if a Registrar of the office of the court from which the proceedings are transferred is also a Registrar of the office of the Tribunal to which the proceedings are transferred.
- (3) A Registrar of the office of the Tribunal to which the proceedings are transferred must, as soon as practicable,—

- (a) notify all the parties to the proceedings that the proceedings are transferred; and
 - (b) request the plaintiff to lodge a claim form with the Tribunal within—
 - (i) 10 working days of receipt of the request; or
 - (ii) any further time that the Registrar, on application, allows.
- (2) In rule 26(4), replace “10 days” with “8 working days”.

24 Rule 29 replaced (Documents that must be sealed)

Replace rule 29 with:

29 Documents that must be sealed

The following documents that are issued by the Tribunal must be sealed with the seal of the District Court:

- (a) final orders;
- (b) records made under section 22(1) of the Act;
- (c) documents requiring certification for use in proceedings before the Tribunal, or before a court or tribunal.

25 Rule 30 revoked (Offices of Tribunals)

Revoke rule 30.

26 Rule 31 amended (Office hours)

Replace rule 31(1) with:

- (1) An office of the Tribunal must be open at the same times and on the same days as the office of the District Court where the Tribunal is situated.

27 Rule 32 revoked (Holidays of Tribunals)

Revoke rule 32.

28 Rule 33 amended (Records)

- (1) In rule 33(1), replace “The Registrar” with “A Registrar”.
- (2) In rule 33(2), replace “28 days” with “20 working days”.

29 Rule 34 amended (Accounts)

In rule 34(1), replace “The Registrar” with “A Registrar”.

30 Rule 35 amended (Searches)

- (1) In rule 35(1), replace “a Tribunal” with “the Tribunal”.
- (2) In rule 35(1)(c), replace “the Registrar” with “a Registrar”.
- (3) Replace rule 35(2) with:

(2) If a person described in subclause (1) disputes the exercise of a Registrar’s power under that subclause, a Registrar must, on the person’s request, submit the disputed matter to a District Court Judge, whose decision will be final.

(4) In rule 35(3), replace “a District Court” with “the District Court”.

31 Rule 36 amended (Advertising for candidates)

(1) In rule 36(1), replace “Secretary for Justice” with “chief executive”.

(2) In rule 36(1)(a), replace “Tribunal” with “office of the Tribunal”.

(3) In rule 36(4), replace “shall be in form 11, and shall” with “must”.

32 New Schedule 1AA inserted

Insert the Schedule 1AA set out in the Schedule of these rules as the first schedule to appear after the last rule of the principal rules.

33 Schedule amended

(1) In the Schedule heading, replace “Schedule” with “Schedule 1”.

(2) In the Schedule, form 1, revoke the heading “**Ways to complete this form**” and the paragraph under the heading.

(3) In the Schedule, form 1, replace the heading “**Completing and submitting this form by post or in person**” and the paragraphs under that heading with:

1 Fill in all sections and print in capital letters.

2 Submit 3 copies of this form by post or in person to the District Court closest to your physical address.

Note: If you live in Auckland, there are 5 District Courts: North Shore, Waitakere, Auckland City, Manukau and Papakura. Full address details for all District Courts can be found at www.justice.govt.nz/contact-us

3 Before submitting this form, check that you’ve filled in all the sections, signed and dated the form, and included the filing fee. This form will be returned to you if it’s incomplete, unsigned, or undated, the filing fee isn’t included, or you don’t give us 3 copies.

(4) In the Schedule, form 1, under the heading “**What happens after you have submitted this form**” replace “A copy of this form will be sent by the Tribunal” with “The Tribunal will send a copy of this form, as supplied by the applicant,”.

(5) In the Schedule, form 1, replace the Part 1 heading with:

Part 1: Applicant (you, the individual or organisation/company making the claim)

(6) In the Schedule, form 1, Part 1, replace the heading “*Physical address (a physical address is required)*” with:

Do you want to keep your details confidential?

- Please keep my details confidential for my safety and/or the safety of my family (tell us your reasons in Part 7).
 - I want to keep my physical address confidential (give us your physical address for our use and a different address for the other party to use to send you documents).
 - I want to keep my phone numbers and email address confidential.

Physical address (you must give us a physical address. We will not give it to the other party if you have requested confidentiality)

- (7) In the Schedule, form 1, Part 1, replace the heading “*Postal address (if different from physical address)*” with:

Postal address (if different from physical address or if you want to keep your physical address confidential)

- (8) In the Schedule, form 1, Part 1, replace the heading “*Do you require an interpreter?*” and the paragraph under that heading with:

Do you need an interpreter?

- Yes. What language do you speak? [*name of language*]

- (9) In the Schedule, form 1, Part 5, replace the note with:

(Even if you’re not asking the Tribunal to award you money, it’s important to tell us the value of the dispute. If your claim is for more than \$15,000 (and less than \$20,000), please fill in an “Agreement to Extend Financial Limit” form (Disputes Tribunal form 1A) available at www.justice.govt.nz/tribunals).

- (10) In the Schedule, form 1, after Part 6, insert:

Part 7: Keep my contact details confidential

Tell us why you want to keep your address and/or contact details confidential, for example because you have concerns for your safety and/or the safety of your family. Please attach any documents that support your request, such as a protection order or restraining order against the respondent.

- (11) In the Schedule, form 6,—
- (a) replace “a District Court” with “the District Court” in each place; and
 - (b) under the heading “**Completing and submitting this form**”, paragraph 4, replace “21 days” with “15 working days”.
- (12) In the Schedule, form 9, under the heading “**What is this form for?**”, after “application.”, insert “Filing the application does not stop any enforcement action being brought against you”.
- (13) In the Schedule, form 9, under the heading “**Completing and submitting this form by post or in person**”, replace paragraphs 3 and 4 with:

- 3 This application must be filed within 20 working days after the Disputes Tribunal order (or approval of agreed settlement or variation of term of agreed settlement). If an order made by the Tribunal requires you to make a payment within that 20-working-day period for filing, you should file this application as early as possible.
- 4 If you are filing after that 20-working-day period for filing, you will need to write to the Disputes Tribunal seeking permission for your application to be considered, and explaining your reason for filing late.
- (14) In the Schedule, form 9, revoke the heading “**What happens after you have submitted this form**” and the paragraph under that heading.
- (15) In the Schedule, form 10, under the heading “**What is this form for?**”, replace “a District Court” with “the District Court”.
- (16) In the Schedule, form 10, under the heading “**Completing and submitting this form**”, replace paragraphs 4 and 5 with:
- 4 This notice of appeal must be filed within 20 working days after the Disputes Tribunal’s order (or approval of agreed settlement or variation of term of agreed settlement).
- 5 If you are filing after that 20-working-day period for filing, you should do so only within any further time for filing that a District Court Judge has allowed you to have when you have applied for it.
- (17) In the Schedule, revoke form 11.

Schedule
New Schedule 1AA inserted

r 32

Schedule 1AA
Transitional, savings, and related provisions

r 2A

Part 1
Provision relating to Disputes Tribunals Amendment Rules 2017

1 Use of prescribed forms before amendment

Proceedings are not invalidated by the use of prescribed forms in force immediately before the commencement of the Disputes Tribunal Amendment Rules 2018.

Michael Webster,
Clerk of the Executive Council.

Explanatory note

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

These are the Disputes Tribunal Amendment Rules 2018 (the **amendment rules**). They amend the Disputes Tribunals Rules 1989 (the **principal rules**).

The rules come into force on 14 September 2018.

The rules make amendments consequential on the District Court Act 2016, and other amendments. In summary, they—

- change the Title of the principal rules so that it refers to the Disputes Tribunal rather than multiple Disputes Tribunals; and
- expressly allow a Registrar to withhold an applicant’s residential address and other contact details from a respondent. The Registrar may withhold the details if the applicant requests confidentiality and the Registrar has reasonable cause to believe that disclosure could prejudice the personal safety of the applicant or the applicant’s family; and
- update references throughout the rules from “a Tribunal” to “the Tribunal” and “the Registrar” to “a Registrar”; and
- revoke rule 30 (offices of Tribunals) because the establishing of offices of the Tribunal is now covered by section 4A of the Disputes Tribunal Act 1988; and
- revoke rule 32 (holidays of Tribunals) because this rule is out of date and holidays are sufficiently covered by rule 31 (office hours); and
- update form 1 (claim form) to enable an applicant’s contact details to be withheld from the respondent; and
- change form 9 (application for rehearing) so that it no longer contemplates an application being made to the District Court for a stay of proceedings pending a rehearing. This change makes the form more accurate because there is no statutory authority to order a stay of proceedings while a rehearing is pending; and
- revoke form 11 (application for appointment as Referee), which is redundant; and
- provide that time periods in the rules are calculated in working days to provide greater clarity during holiday periods; and
- make minor changes to modernise drafting language; and
- make other minor and consequential changes to the rules; and
- make minor changes to various forms to make them clearer for users; and

- include a transitional provision to clarify that proceedings are not invalidated just because they use prescribed forms that are changed by the amendment rules.

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 16 August 2018.

These rules are administered by the Ministry of Justice.