

Reprint  
as at 1 July 2016



## Residential Tenancies Rules 2010 (SR 2010/256)

Anand Satyanand, Governor-General

### Order in Council

At Wellington this 23rd day of August 2010

Present:

His Excellency the Governor-General in Council

Pursuant to section 116 of the Residential Tenancies Act 1986, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following rules.

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#### 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 rules are administered by the Ministry of Business, Innovation, and Employment.**

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## Rules

### 1 Title

These rules are the Residential Tenancies Rules 2010.

### 2 Commencement

These rules come into force on 1 October 2010.

### 3 Interpretation

In these rules, unless the context otherwise requires,—

**Act** means the Residential Tenancies Act 1986

**authorised delegate** means a delegate of the chief executive who is authorised to act for the chief executive in respect of proceedings before the Tribunal

**chief executive** means the chief executive of the department

**department** means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Act.

Compare: SR 1998/257 r 2

Rule 3 **authorised delegate**: replaced, on 1 July 2016, by rule 4 of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

### 3A Transitional, savings, and related provisions

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

Rule 3A: inserted, on 1 July 2016, by rule 5 of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

#### **4 Application of rules**

- (1) These rules apply to all proceedings commenced by application made to the Tribunal under section 86 of the Act and to all other proceedings before the Tribunal under the Act.
- (2) To avoid doubt, these rules also apply to proceedings for a unit title dispute within the meaning of section 171(1) of the Unit Titles Act 2010.

Compare: SR 1998/257 r 3

Rule 4(2): added, on 20 June 2011, by rule 4 of the Residential Tenancies Amendment Rules 2011 (SR 2011/124).

#### **5 Chief executive's duty to keep records of applications, etc**

- (1) The chief executive must keep a record of all applications filed in an office of the Tribunal, or by electronic means, under section 86(1) of the Act.
- (2) All applications and related papers and other related documents must be kept in the way (including by electronic means) approved by the chief executive, who is to be responsible for ensuring their safe custody.
- (3) Subclause (2) does not apply to any records or papers to which section 74(1) of the Act applies.

Rule 5: replaced, on 1 July 2016, by rule 6 of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

#### **6 Electronic documents**

- (1) Any electronic means approved by the chief executive, or by the chief executive of the Ministry of Justice, for the keeping of documents must, subject to any appropriate restrictions on access, permit the documents to be readily—
  - (a) inspected or reproduced in usable form; and
  - (b) accessed by electronic means.
- (2) Sealed orders and other sealed documents may be created, and made available, by any electronic means approved by the chief executive or by the chief executive of the Ministry of Justice.
- (3) An electronic document that falls within 1 or more of the following paragraphs is to be regarded as an original document:
  - (a) a document that is, or is included with, an application filed or made by electronic means;
  - (b) a document kept by any electronic means approved by the chief executive or by the chief executive of the Ministry of Justice;
  - (c) a document that is transmitted electronically to or from, or that is otherwise made available electronically to or by, an authorised delegate, an office of the Tribunal, or a Registrar;
  - (d) a sealed order or other sealed document created or made available under subclause (2).

- (4) A printed version of an electronic document that falls within any of paragraphs (a) to (d) of subclause (3) is to be regarded as an original document if the printed version is produced directly from the electronic document.
- (5) The Tribunal or a court may rule that subclause (3) or (4) is not to apply to a particular document.

Rule 6: replaced, on 1 July 2016, by rule 7 of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

## 7 Sealing of Tenancy Mediator's order

- (1) *[Revoked]*
- (2) In order to be sealed under section 88 of the Act, an order of a Tenancy Mediator—
  - (a) must be in a form approved by the chief executive; and
  - (b) must contain a certificate, signed by the Tenancy Mediator who made the order, that states that the order gives effect to an agreement reached in mediation; and
  - (c) *[Revoked]*
  - (d) may contain the signatures of all or any of the parties, but a Tenancy Adjudicator may not refuse to seal an order solely on the ground that the parties have not signed it.
- (3) Before the chief executive approves a proposed form for the purposes of subclause (2)(a), the chief executive must consult the Principal Tenancy Adjudicator about the proposed form.
- (4) *[Revoked]*
- (5) If a Tenancy Adjudicator seals an order of a Tenancy Mediator under section 88 of the Act, an authorised delegate must arrange for a sealed copy of the order to be made available to each party.
- (6) If a Tenancy Adjudicator declines to seal an order of a Tenancy Mediator under section 88 of the Act, an authorised delegate must arrange for each party to be informed of that decision and the reasons for it (including whether the Tenancy Adjudicator has directed that the matter be reconsidered and determined by the Tribunal).
- (7) *[Revoked]*

Compare: SR 1998/257 r 5

Rule 7(1): revoked, on 1 July 2016, by rule 8(1) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

Rule 7(2): amended, on 1 July 2016, by rule 8(2) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

Rule 7(2)(c): revoked, on 1 July 2016, by rule 8(3) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

Rule 7(4): revoked, on 1 July 2016, by rule 8(4) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

Rule 7(5): replaced, on 1 July 2016, by rule 8(5) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

Rule 7(6): replaced, on 1 July 2016, by rule 8(5) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

Rule 7(7): revoked, on 1 July 2016, by rule 8(5) of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

## **8 Extension or adjournment of hearings by Registrar or authorised delegate**

The Registrar or an authorised delegate may, subject to any directions of a Tenancy Adjudicator, extend or adjourn the date of any hearing to the next convenient sitting of the Tribunal in any of the following circumstances:

- (a) in accordance with any practice directions given by the Principal Tenancy Adjudicator under section 115 of the Act:
- (b) in accordance with the direction of a Tenancy Adjudicator:
- (c) in any case where a Tenancy Adjudicator is not available to hear the application:
- (d) if notice of a hearing has not been served within the prescribed time:
- (e) if it is necessary to enable sufficient time for a witness to respond to a witness summons or for the evidence of a witness to be taken under rule 11:
- (f) with the consent of the parties:
- (g) where either party has requested an adjournment and, in the opinion of the Registrar or the authorised delegate, an adjournment would promote the interests of justice and the efficient operation of the Tribunal.

Compare: SR 1998/257 r 8

## **9 Transfer of proceedings to District Court**

If, under section 83 of the Act, the Tribunal orders that any proceedings must be transferred to a District Court, the Registrar must forward to the Registrar of the District Court all documents relating to the proceedings.

Compare: SR 1998/257 r 9

## **10 Referral of dispute to Health and Disability Commissioner**

If, under section 83A of the Act, the Tribunal refers a dispute in whole or in part to the Health and Disability Commissioner for his or her consideration, the Registrar must forward to the Health and Disability Commissioner copies of all documents relating to the dispute, or to the part of the dispute, that has been so referred.

## **11 Taking evidence of witnesses at distance**

- (1) If satisfied that it would be unduly inconvenient or unduly expensive for a witness to be required to give evidence at a sitting of the Tribunal, the Registrar or

an authorised delegate may determine that the evidence of the witness be taken—

- (a) at some other place; or
  - (b) by video link or telephone conference; or
  - (c) in any other way that is consistent with the interests of justice and the efficient operation of the Tribunal.
- (2) The power to make a determination under subclause (1) is subject to any directions given by a Tenancy Adjudicator.
- (3) Where a determination is made under subclause (1), the Registrar must—
- (a) take the evidence of that witness at a suitable time and place arranged with the witness; or
  - (b) appoint a competent person to make those arrangements and take that evidence.
- (4) The Registrar must give each party notice of the time and place at which the evidence of the witness is to be taken, and each party has the same right to be present and to cross-examine the witness as the party would have had if the witness had appeared before the Tribunal.
- (5) The witness has the same right to receive fees, allowances, and travelling expenses as the witness would have had if the witness had appeared before the Tribunal.

Compare: SR 1998/257 r 10

## **12 Hearings by video link or telephone conference**

- (1) If satisfied that it would be unduly inconvenient or unduly expensive for a party to attend a hearing of the Tribunal in person, the Registrar or an authorised delegate may arrange for the party to take part in the hearing—
- (a) by video link or telephone conference; or
  - (b) in any other way that is consistent with the interests of justice and the efficient operation of the Tribunal.
- (2) The power to make arrangements under subclause (1) is subject to any directions given by a Tenancy Adjudicator.

Compare: SR 1998/257 r 12

## **13 Witnesses' fees**

A person who attends before the Tribunal for the purpose of giving evidence in any proceedings is entitled to receive any fees, allowances, and travelling expenses that the Tribunal directs in accordance with the scale set out in the Schedule of the Witnesses and Interpreters Fees Regulations 1974.

Compare: SR 1998/257 r 11

#### **14 Inquiries and reports**

- (1) If the Registrar receives a direction to obtain the services of a Tenancy Mediator under section 99 of the Act, the Registrar must promptly refer the direction to an authorised delegate.
- (2) The authorised delegate must promptly make arrangements for a Tenancy Mediator to carry out the direction of the Tribunal.
- (3) If a person is appointed under section 99(3) of the Act, the Registrar must promptly advise the authorised delegate.

Compare: SR 1998/257 r 13

#### **15 Decision of Tribunal**

- (1) A Tenancy Adjudicator may give the decision of the Tribunal immediately after the conclusion of the hearing or may reserve the decision on any question of fact or law.
- (2) If the decision is reserved, it must be given as soon as practicable, and the Tenancy Adjudicator must ensure that all documents required by section 104(2) of the Act to be given to the parties are given to them as soon as practicable.

Compare: SR 1998/257 r 14

#### **16 Persons who may give notices of Tribunal**

If any notice is required by the Act to be given to any person by the Tribunal, it must be given to that person—

- (a) by the Registrar; or
- (b) by any other officer of the Tribunal acting for the Registrar; or
- (c) by an independent contractor or contractors approved by the chief executive of the department or by the chief executive of the Ministry of Justice.

Compare: SR 1998/257 r 15

#### **17 Service on guarantors**

In any case where, for the purposes of any proceedings before the Tribunal, it is necessary or desirable to serve a notice or other document on the guarantor of a tenant, the notice or document may be served on the guarantor—

- (a) personally; or
- (b) by sending it by post addressed to the guarantor at the guarantor's last-known place of residence or business.

#### **18 Revocation**

The Residential Tenancies Rules 1998 (SR 1998/257) are revoked.

## Schedule 1

### Transitional, savings, and related provisions

r 3A

Schedule 1: inserted, on 1 July 2016, by rule 9 of the Residential Tenancies Amendment Rules 2016 (LI 2016/143).

#### Part 1

#### Provision relating to Residential Tenancies Amendment Rules 2016

- 1 Transitional provision relating to revocation of rule 7(1) (time limit for filing of Tenancy Mediator’s order for sealing)**
- (1) Subclause (2) applies to a settlement order if the relevant date falls before 1 January 2016.
  - (2) No application may be made by the Tenancy Mediator or a party under any arrangements made by the chief executives for the purposes of section 88(5) of the Act.
  - (3) Subclause (4) applies to a settlement order if the relevant date falls on or after 1 January 2016 but before 1 July 2016.
  - (4) Any application by the Tenancy Mediator or a party under any arrangements made by the chief executives for the purposes of section 88(5) of the Act must be made within 6 months from the relevant date.
  - (5) In this clause,—  
**chief executives** means the chief executive and the chief executive of the Ministry of Justice  
**relevant date**, in relation to a settlement order, means—
    - (a) the date on which the order is made; or
    - (b) if the order is a conditional order, the date on which the order becomes a final order**settlement order** means an order of a Tenancy Mediator to give effect to an agreed settlement.

Rebecca Kitteridge,  
Clerk of the Executive Council.

## **Reprints notes**

### **1    *General***

This is a reprint of the Residential Tenancies Rules 2010 that incorporates all the amendments to those rules 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***

Residential Tenancies Amendment Rules 2016 (LI 2016/143)

Residential Tenancies Amendment Rules 2011 (SR 2011/124)