



## Residential Tenancies Rules 2010

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.

### Contents

		Page
1	Title	2
2	Commencement	2
3	Interpretation	2
4	Application of rules	2
5	Records in office of Tribunal	2
6	Keeping and transmission of documents	3
7	Sealing of Tenancy Mediator's order	3
8	Extension or adjournment of hearings by Registrar or authorised delegate	5
9	Transfer of proceedings to District Court	5
10	Referral of dispute to Health and Disability Commissioner	5
11	Taking evidence of witnesses at distance	6
12	Hearings by video link or telephone conference	6

13	Witnesses' fees	7
14	Inquiries and reports	7
15	Decision of Tribunal	7
16	Persons who may give notices of Tribunal	7
17	Service on guarantors	8
18	Revocation	8

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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**, in relation to any proceedings commenced at an office of the Tribunal, means a delegate of the chief executive who is authorised to act for the chief executive at that office

**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

### 4 Application of rules

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.

Compare: SR 1998/257 r 3

### 5 Records in office of Tribunal

(1) The chief executive—

- (a) must keep a record of all applications filed in an office of the Tribunal; and

- (b) is responsible for the safe custody of all papers that are, for the time being, records held in an office of the Tribunal.
- (2) An application and all related papers must be kept with the records of the office that, in terms of section 86(3) of the Act, is the appropriate office of the Tribunal.
- (3) Subclause (2) does not apply to any application that is referred to the Registrar under section 87 or 88 of the Act.  
Compare: SR 1998/257 r 6

## **6 Keeping and transmission of documents**

- (1) Documents held in an office of the Tribunal or by the Registrar may be kept in any manner that the chief executive of the department or the chief executive of the Ministry of Justice thinks fit, including by means of a device or facility—
  - (a) that records or stores information electronically; and
  - (b) that permits the information so recorded or stored to be readily inspected or reproduced in usable form; and
  - (c) that permits the information to be accessed by electronic means.
- (2) A document that is transmitted electronically, or that is reproduced from an electronic transmission, is to be regarded as an original document if it—
  - (a) is sent from an office of the Tribunal or by a Registrar; and
  - (b) is received in an office of the Tribunal or by a Registrar.
- (3) A signature that appears on a document to which subclause (2) applies is to be regarded as an original signature in the absence of evidence to the contrary.  
Compare: SR 1998/257 r 16

## **7 Sealing of Tenancy Mediator's order**

- (1) In any case where an order made by a Tenancy Mediator is to be filed under section 88(5) of the Act, the order must be filed within 6 months from the date on which the order is made or, if the order is a conditional order, the date on which that order becomes a final order.
- (2) In order to be sealed, 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) must contain the endorsement of an authorised delegate or a Tenancy Mediator that states that the order is a true copy of an order made in mediation; and
  - (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) When an order made by a Tenancy Mediator is filed, under section 88(5) of the Act, an authorised delegate or Tenancy Mediator must, as soon as practicable,—
  - (a) authenticate the copy of the order filed with the request by endorsing on the face of the copy the words “This is a true copy of an order made in mediation”, and must sign and date the endorsement; and
  - (b) cause a copy of the authenticated order, and copies of any other papers relating to the matter, to be forwarded to the Registrar, who must arrange for it to be considered by a Tenancy Adjudicator for the purposes of section 88(6) of the Act.
- (5) When the Tenancy Adjudicator seals the order, the Registrar must issue a sealed copy of the order to the applicant and to the other party.
- (6) If the Tenancy Adjudicator declines to seal the order, the Registrar must inform the applicant and the other party of that decision and the reasons for it.
- (7) If the Tenancy Adjudicator directs that the matter is to be reconsidered and determined by the Tribunal, the Registrar must also inform the applicant and the other party of the time and place fixed for the sitting of the Tribunal.

Compare: SR 1998/257 r 5

**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.

Rebecca Kitteridge,  
Clerk of the Executive Council.

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**Explanatory note**

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

These rules, which come into force on 1 October 2010, prescribe certain procedural matters relating to proceedings before the Tenancy Tribunal under the Residential Tenancies Act 1986. The rules update the Residential Tenancies Rules 1998 to reflect changes made by the Residential Tenancies Amendment Act 2010, which also comes into force on 1 October 2010. These changes include—

- replacement of Tenancy Officers by the chief executive of the Department of Building and Housing;
- a more flexible method of establishing offices of the Tribunal;
- the conferral of a new jurisdiction to determine disputes between landlords and guarantors of tenants;
- the ability of the Tenancy Tribunal, in cases where a landlord is also a provider of health and disability services, to refer disputes to the Health and Disability Commissioner.

2010/256

**Residential Tenancies Rules 2010**

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These rules are administered by the Department of Building and Housing.

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