

Disputes Tribunals Amendment Rules (No 4) 1998

PURSUANT to section 60 of the Disputes Tribunals Act 1988, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following rules.

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1 Title and commencement

- (1) These rules may be cited as the Disputes Tribunals Amendment Rules (No 4) 1998, and are part of the Disputes Tribunals Rules 1989¹ (“the principal rules”).
- (2) These rules come into force on 17 December 1998.

¹ SR 1989/34

SR 1997/323

SR 1998/224

SR 1998/248

SR 1998/313

2 New heading and rules inserted

The principal rules are amended by inserting, after rule 35, the following heading and rules:

“Assessment of candidates for appointment or reappointment as Principal Disputes Referee

“35A Advertising for candidates

- “(1) If it is proposed to appoint or reappoint a Principal Disputes Referee under section 6A of the Act, the Secretary for Justice must—
 - “(a) Invite applications for the appointment or reappointment; and
 - “(b) Convene a panel to assess candidates for the appointment or reappointment.
- “(2) The invitation must give notice of—
 - “(a) The proposal to appoint or reappoint a Principal Disputes Referee; and
 - “(b) The requirements of section 6A(2) of the Act; and
 - “(c) The manner in which any person may apply to be appointed or reappointed; and
 - “(d) The manner in which applications are to be processed; and
 - “(e) The closing date for the receipt of applications.
- “(3) The Secretary for Justice must ensure the invitation is publicised by such means as appear to the Secretary to be necessary to ensure that the invitation reaches a wide section of prospective candidates.
- “(4) An application must—
 - “(a) Be accompanied by a curriculum vitae of the candidate;
 - “(b) If it relies on a qualification the candidate holds that is not a Bachelor of Laws from a university in New Zealand, include evidence of the qualification and of the equivalence of the qualification to such a Bachelor of Laws;
 - “(c) Name at least 3 persons who would be available to discuss with an assessment panel the candidate’s personal attributes, knowledge, or experience;
 - “(d) Include a declaration by the candidate that he or she either has been, or has never been, declared bankrupt;

- “(e) Include an undertaking by the candidate that, if selected for an assessment, he or she will at the assessment give the assessment panel a letter from the Department for Courts detailing any convictions for criminal offences recorded against his or her name by that Department;
 - “(f) Be received by the Secretary for Justice either by the closing date given in the invitation, or by such later date as the Secretary may allow.
- “(5) An assessment panel must consist of the Chief District Court Judge or a District Court Judge named by the Chief District Court Judge, who is the chairperson of the panel, and at least 2 of the following persons:
- “(a) A person appointed by the Secretary for Justice; and
 - “(b) A person appointed by the chief executive of the Department for Courts; and
 - “(c) A person appointed by the head of the Ministry of Consumer Affairs.
- “(6) If an application relies on a qualification the candidate holds that is not a Bachelor of Laws from a university in New Zealand, the Secretary for Justice must forward the application to the Minister of Justice to ascertain whether the Minister considers the qualification is equivalent to such a Bachelor of Laws.
- “(7) The Secretary for Justice must forward to the assessment panel the applications he or she has received in accordance with sub-clause (4)(f) from each candidate who—
- “(a) Holds a qualification referred to in section 6A(2)(a) of the Act; and
 - “(b) Has never been declared bankrupt.

“35B Assessment of candidates

- “(1) The assessment panel must select the candidates the panel considers are most likely to be suitable to be appointed or reappointed,—
- “(a) From the applications forwarded to it under rule 35A(7); and
 - “(b) Having regard to the criteria specified in section 6A(2)(b) of the Act and rule 35C.

- “(2) The assessment panel must invite the candidates it has selected to attend at a time and a place specified by the panel to be assessed by the panel.
- “(3) To assess a candidate for appointment or reappointment as Principal Disputes Referee, the assessment panel—
 - “(a) May ask the candidate any questions or use any other method of assessment that may assist the panel to determine whether or not the candidate meets the criteria specified in section 6A(2)(b) of the Act and in rule 35C; and
 - “(b) May discuss the candidate’s personal attributes, knowledge, or experience with any of the at least 3 persons the candidate has named for that purpose.
- “(4) At least 3 members of the assessment panel must be present during each part of an assessment, and each member of the panel must independently assess each candidate in accordance with the criteria specified in section 6A(2)(b) of the Act and rule 35C.
- “(5) As soon as practicable after completing an assessment of each of the selected candidates, the assessment panel must advise the Minister of Justice of—
 - “(a) The applications forwarded to the panel under rule 35A(7); and
 - “(b) The candidates the panel selected under subclause (1); and
 - “(c) Any candidate or candidates the panel recommends be appointed or reappointed, or that it makes no recommendation for appointment or reappointment.

“35C Criteria for assessment of candidates

- “(1) In considering for the purposes of section 6A(2)(b) of the Act whether a candidate is capable of performing the functions of a Referee, the assessment panel must consider the matters set out in subclauses (2) and (3) of rule 38.
- “(2) In considering, for the purposes of section 6A(2)(b) of the Act whether a candidate is capable of performing the functions of the Principal Disputes Referee, the assessment panel must consider—
 - “(a) The candidate’s leadership abilities;

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- “(b) The candidate’s management expertise;
 - “(c) The candidate’s ability to accept public scrutiny;
 - “(d) The candidate’s awareness of tikanga Maori;
 - “(e) Any other personal attribute, knowledge, or experience of the candidate that the panel considers relevant.”

MARIE SHROFF,
Clerk of the Executive Council.

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 17 December 1998, amend the Disputes Tribunals Rules 1989. The amendments are to insert 3 new rules relating to the assessment of candidates for appointment or reappointment as Principal Disputes Referee.

New rule 35A requires the Secretary for Justice, if it is proposed to appoint or reappoint a Principal Disputes Referee, to invite applications for the appointment or reappointment, and to convene a panel to assess candidates.

New rule 35B sets out the procedure the assessment panel must follow to identify candidates it recommends be appointed or reappointed.

New rule 35C sets out criteria the assessment panel must consider in assessing a candidate.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 19 November 1998.
