



RESIDENTIAL TENANCIES RULES 1998

MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 31st day of August 1998

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

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

ANALYSIS

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RULES

- 1. **Title and commencement**—(1) These rules may be cited as the Residential Tenancies Rules 1998.
- (2) These rules come into force on 5 October 1998.

2. Interpretation—(1) In these rules, unless the context otherwise requires,—

“The Act” means the Residential Tenancies Act 1986:

“Office of the Tribunal”, in relation to each place specified in the First Schedule of the Act, means the nearest office of the Ministry of Housing:

“Practice directions” means directions given by the Principal Tenancy Adjudicator under section 115 of the Act:

“Tribunal registry”, in relation to each place specified in the First Schedule of the Act, means the Tribunal registry established for that place under rule 4.

(2) References in these rules to the Tenancy Officer or the Registrar, in relation to any particular application to the Tribunal, are references to any Tenancy Officer appointed for the office of the Tribunal in which the application is filed or to the Registrar of the Tribunal appointed for the place at which the application is to be heard and determined.

Cf. S.R. 1987/7, r. 2

3. Application of rules—These rules apply to all proceedings in respect of all applications made to the Tribunal under section 86 of the Act, and to all other proceedings under that Act before the Tribunal.

Cf. S.R. 1987/7, r. 3

4. Tribunal registries—(1) A Tribunal registry must be established for each of the places specified in the First Schedule of the Act in which all applications referred to the Tribunal under section 87 or section 88 of the Act, and other matters relating to proceedings before the Tribunal at that place, must be filed and kept.

(2) Unless the chief executive of the Department for Courts otherwise directs, the Tribunal registry for each of those places must be within the office of the nearest District Court.

Cf. S.R. 1987/7, r. 4

5. Sealing of Tenancy Mediator’s order—(1) Every request for the sealing of a Tenancy Mediator’s order under section 88 (5) of the Act must be filed in the office of the Tribunal 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) Every request for the sealing of a Tenancy Mediator’s order must be in form 3 in the Schedule of the Residential Tenancies Regulations 1998*, as if it were an application under section 86 of the Act.

(3) In order to be sealed, a Tenancy Mediator’s order must be in the prescribed form, and—

- (a) Must contain a certificate signed by the Tenancy Mediator making the order and stating that the order gives effect to an agreement reached in mediation; and
- (b) Must contain the endorsement of a Tenancy Officer or a Tenancy Mediator stating it is a true copy of an order made in mediation; and
- (c) May contain the signatures of all or any of the parties, although a Tenancy Adjudicator may not refuse to seal an order solely on the ground that the parties have not signed it.

(4) On receipt of a request for the sealing of a Tenancy Mediator's order, the Tenancy Officer 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 request, 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.

Cf. S.R. 1987/7, r. 6

6. Records in office of Tribunal—(1) The Tenancy Officer must keep a record of all applications filed in the office of the Tribunal.

(2) The application and all related papers must remain within the records of the office of the Tribunal, except where any application is forwarded to the Registrar under section 87 or section 88 of the Act.

(3) The Tenancy Officer is responsible for the safe custody of all papers for the time being within the records of the office of the Tribunal.

Cf. S.R. 1987/7, r. 7

7. Records in Tribunal registry—The Registrar must keep a record of all applications referred to the Tribunal under section 87 or section 88 of the Act.

Cf. S.R. 1987/7, r. 8 (1)

8. Registrar's or Tenancy Officer's powers to adjourn or enlarge date of hearing—Subject to any directions of a Tenancy Adjudicator, the Registrar or Tenancy Officer may enlarge 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:
- (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 10:
- (f) With the consent of the parties:
- (g) Where either party has requested an adjournment and, in the opinion of the Registrar or Tenancy Officer, an adjournment

would promote the interests of justice and efficient operation of the Tribunal.

Cf. S.R. 1987/7, r. 9

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.

Cf. S.R. 1987/7, r. 10

10. Taking evidence of witnesses away from Tribunal—(1) Subject to any directions given by a Tenancy Adjudicator, if the Registrar or Tenancy Officer is 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 Tenancy Officer may arrange for the evidence of that witness to 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) In such a case the Registrar must either arrange with the witness to take the evidence of that witness at some suitable time and place, or appoint a competent person to make such arrangements and take that evidence.

(3) The Registrar must give to each of the parties notice of the time and place at which the evidence of that witness is to be taken, and each party has the same right to be present and to cross-examine that witness as the party would have had if the witness had appeared before the Tribunal.

(4) 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.

Cf. S.R. 1987/7, r. 11

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

Cf. S.R. 1987/7, r. 12

12. Hearings by teleconference or video link—Subject to any directions given by a Tenancy Adjudicator, if the Registrar or Tenancy Officer is 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 Tenancy Officer may arrange for that 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.

13. Inquiries and reports—(1) On receipt of any direction to obtain the services of a Tenancy Mediator under section 99 of the Act, the

Registrar must immediately refer the direction to the Tenancy Officer at the office of the Tribunal in which the application was filed.

(2) The Tenancy Officer must arrange immediately for a Tenancy Mediator to carry out the direction of the Tribunal.

Cf. S.R. 1987/7, r. 13

14. Decision of Tribunal—(1) A Tenancy Adjudicator may give the decision of the Tribunal immediately upon 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.

Cf. S.R. 1987/7, r. 14

15. Giving of notice by 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 Ministry or by the chief executive of the Department for Courts.

Cf. S.R. 1987/7, r. 15

16. Electronic transmission of documents—(1) Documents held by the Ministry or by the Registrar may be kept in such a manner as the chief executive of the Ministry or the chief executive of the Department for Courts think fit, including by means of a device or facility—

- (a) That records or stores information electronically; and
- (b) That permits the information so recorded 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 is sent—

- (a) Between any offices of the Tribunal; or
- (b) Between any offices of the Tribunal registry; or
- (c) Between any office of the Tribunal and any office of the Tribunal registry.

(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.

17. Revocation—The Residential Tenancies Rules 1987* are consequentially revoked.

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 5 October 1998, prescribe certain procedural matters relating to proceedings before the Tenancy Tribunal under the Residential Tenancies Act 1986. The rules update the Residential Tenancies Rules 1987, which are consequentially revoked.

Issued under the authority of the Acts and Regulations Publications Act 1989.
Date of notification in *Gazette*: 3 September 1998.
These rules are administered in the Ministry of Housing.