



## **Employment Court (Fair Pay Agreements) Amendment Regulations 2023**

Rt Hon Dame Helen Winkelmann, Administrator of the Government

### **Order in Council**

At Wellington this 8th day of May 2023

Present:

Her Excellency the Administrator of the Government in Council

These regulations are made under—

- (a) section 283 of the Fair Pay Agreements Act 2022—
  - (i) on the advice and with the consent of the Executive Council; and
  - (ii) on the recommendation of the Minister for Workplace Relations and Safety; and
- (b) section 237 of the Employment Relations Act 2000 on the advice and with the consent of the Executive Council.

### **Contents**

		Page
1	Title	2
2	Commencement	2
3	Principal regulations	2
4	Enacting statement amended	2
5	Regulation 3 amended (Interpretation)	2
6	Regulation 7 amended (Challenges to determinations of Authority)	3
7	Regulation 11 amended (Statement of claim)	3
8	New regulation 11A inserted (Statement of claim to challenge determination of Authority under Fair Pay Agreements Act 2022)	3

	11A	Statement of claim to challenge determination of Authority under Fair Pay Agreements Act 2022	3
9		Regulation 13 amended (Summary of argument)	3
10		Regulation 14 amended (Application for special leave to remove matter to court)	4
11		Regulation 64 amended (Power to order stay of proceedings)	4
12		Regulation 65 amended (Application for stay of proceedings)	4
13		New regulation 65A inserted (Application for stay of proceedings under Fair Pay Agreements Act 2022)	4
	65A	Application for stay of proceedings under Fair Pay Agreements Act 2022	4
14		New regulation 67A inserted (Notice of ordering stay of proceedings under Fair Pay Agreements Act 2022)	5
	67A	Notice of ordering stay of proceedings under Fair Pay Agreements Act 2022	5
15		Regulation 75 amended (Fees)	5
16		Schedule 1, form 3 amended	5
17		Schedule 3 replaced	5
		<b>Schedule</b>	6
		<b>Schedule 3 replaced</b>	

## Regulations

### 1 Title

These regulations are the Employment Court (Fair Pay Agreements) Amendment Regulations 2023.

### 2 Commencement

These regulations come into force on 8 June 2023.

### 3 Principal regulations

These regulations amend the Employment Court Regulations 2000.

### 4 Enacting statement amended

In the enacting statement, after “section 237 of the Employment Relations Act 2000”, insert “and section 283 of the Fair Pay Agreements Act 2022”.

### 5 Regulation 3 amended (Interpretation)

Replace regulation 3(2)(a) with:

- (a) any word or expression that is defined in the Act or in the Fair Pay Agreements Act 2022, and that is used, but not defined, in these regulations—

- (i) has the same meaning as in the Act, for the purpose of any matter that relates to the Act; and
- (ii) has the same meaning as in the Fair Pay Agreements Act 2022, for the purpose of any matter that relates to that Act:

## **6 Regulation 7 amended (Challenges to determinations of Authority)**

After regulation 7(1), insert:

- (1A) An election under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022 is made by filing with the Registrar of the court, within the time prescribed by clause 16(2) of Schedule 3 of that Act, 3 copies of a statement of claim in accordance with regulation 11A.

## **7 Regulation 11 amended (Statement of claim)**

In regulation 11(1)(g), after “section 179(4) of the Act”, insert “or clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022 (as applicable)”.

## **8 New regulation 11A inserted (Statement of claim to challenge determination of Authority under Fair Pay Agreements Act 2022)**

After regulation 11, insert:

### **11A Statement of claim to challenge determination of Authority under Fair Pay Agreements Act 2022**

- (1) A statement of claim for the court to consider a written determination from the Authority under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022 must include the following information:
  - (a) the full name and address of the defendant;
  - (b) a statement confirming that the plaintiff elects to have the court hear a matter that is dealt with in a determination of the Authority;
  - (c) a statement specifying whether the election relates to the whole, or a specified part, of the determination;
  - (d) the particulars of the claim specified in accordance with regulation 11;
  - (e) whether the plaintiff is seeking a hearing *de novo* or in relation to certain specified issues;
  - (f) if the plaintiff is not seeking a hearing *de novo*, a statement specifying the matters required by clause 16(4) of Schedule 3 of the Fair Pay Agreements Act 2022 in consecutively numbered paragraphs;
  - (g) a statement confirming that the prescribed fee accompanies the statement of claim or has already been paid.
- (2) The statement of claim must be dated and signed by the plaintiff.

## **9 Regulation 13 amended (Summary of argument)**

After regulation 13(1)(a), insert:

(aa) any matter that is the subject of an election under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022, but that is not to be heard *de novo*:

**10 Regulation 14 amended (Application for special leave to remove matter to court)**

In regulation 14(1), after “section 178(3) of the Act”, insert “, or under clause 14(3) of Schedule 3 of the Fair Pay Agreements Act 2022,”.

**11 Regulation 64 amended (Power to order stay of proceedings)**

In regulation 64(1), after “section 179 of the Act,”, insert “or under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022,”.

**12 Regulation 65 amended (Application for stay of proceedings)**

Replace regulation 65(2)(a) with:

- (a) must,—
- (i) if it is made in relation to an election under section 179 or clause 5 of Schedule 3 of the Act, be in form 14; or
  - (ii) if it is made in relation to an election under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022, be made in accordance with regulation 65A; and

**13 New regulation 65A inserted (Application for stay of proceedings under Fair Pay Agreements Act 2022)**

After regulation 65, insert:

**65A Application for stay of proceedings under Fair Pay Agreements Act 2022**

- (1) An application for a stay of proceedings that relate to an election under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022 must include the following:
- (a) whether the applicant is applying to the Authority or the court;
  - (b) the full name and address of the respondent;
  - (c) a statement that the applicant is applying for a stay of proceedings;
  - (d) a statement that the application relates to proceedings in relation to a determination of the Authority;
  - (e) a statement that the applicant has, in proceedings that relate to an election under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022, elected to have the matter heard by the court;
  - (f) the file number of the determination of the Authority;
  - (g) the file number of the application;

- (h) a statement specifying the grounds on which the application is made, which must be specified with enough detail to fully inform both the Authority or the court (as applicable) and the other parties of the issues involved.
- (2) The application must be dated and signed by the applicant.

**14 New regulation 67A inserted (Notice of ordering stay of proceedings under Fair Pay Agreements Act 2022)**

After regulation 67, insert:

**67A Notice of ordering stay of proceedings under Fair Pay Agreements Act 2022**

The Authority or the Registrar of the court must, as soon as practicable after ordering a stay of proceedings under clause 16 of Schedule 3 of the Fair Pay Agreements Act 2022, give notice to the chief executive that it has made the order.

**15 Regulation 75 amended (Fees)**

Replace regulation 75(3) with:

- (3) The fees specified in Schedule 3 are exclusive of goods and services tax.

**16 Schedule 1, form 3 amended**

In Schedule 1, form 3, replace “*Section 178(3), Employment Relations Act 2000*” with:

*Section 178(3), Employment Relations Act 2000/Clause 14(3) of Schedule 3, Fair Pay Agreements Act 2022\**

\*Select one

**17 Schedule 3 replaced**

Replace Schedule 3 with the Schedule 3 set out in the Schedule to these regulations.

**Schedule**  
**Schedule 3 replaced**

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<b>Schedule 3</b>		
<b>Fees</b>		
		<b>\$ (exclusive of GST)</b>
1AA	Filing statement of claim in form 1AA	177.78
1	Filing statement of claim in form 1	177.78
1A	Filing an application under regulation 11A to challenge a determination of the Authority under the Fair Pay Agreements Act 2022	177.78
2	Filing statement of claim in form 2	266.67
2A	Filing application for leave to serve statement of claim on overseas party	177.78
3	Filing application for special leave to remove proceedings to Employment Court	177.78
4	Filing application for rehearing	266.67
5	Filing challenge to objection to disclosure	88.89
6	Filing application for verification order	88.89
7	Hearing fee, for each half-day or part thereof after the first day	217.78

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Rachel Hayward,  
Clerk of the Executive Council.

**Explanatory note**

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

These regulations, which come into force on 8 June 2023, amend the Employment Court Regulations 2000 (the **principal regulations**) to insert details of the processes for certain applications to the Employment Court under the Fair Pay Agreements Act 2022 (the **FPA Act**).

*Regulation 4* amends the enacting statement of the principal regulations to insert a reference to section 283 of the FPA Act.

*Regulation 5* provides for terms that are used in the principal regulations and defined in the FPA Act to have the same meaning as in that Act for the purpose of any matter relating to that Act.

*Regulation 6* amends regulation 7 of the principal regulations to provide for an election to be made under clause 16 of Schedule 3 of the FPA Act.

*Regulation 7* amends regulation 11 of the principal regulations to add a reference to clause 16 of Schedule 3 of the FPA Act.

*Regulation 8* inserts *new regulation 11A* into the principal regulations. *New regulation 11A* specifies what must be included in a statement of claim to challenge a determination of the Employment Relations Authority (the **Authority**) that is made under the FPA Act.

*Regulation 9* amends regulation 13 of the principal regulations to provide for a summary of argument to be made in respect of an election under clause 16 of Schedule 3 of the FPA Act.

*Regulation 10* amends regulation 14 of the principal regulations to provide for an election to be made under clause 14 of Schedule 3 of the FPA Act.

*Regulation 11* amends regulation 64 of the principal regulations to add a reference to an application for a stay of proceedings to be made under clause 16 of Schedule 3 of the FPA Act.

*Regulation 12* amends regulation 65 of the principal regulations to refer to an application for a stay of proceedings to be made under clause 16 of Schedule 3 of the FPA Act.

*Regulation 13* inserts *new regulation 65A* into the principal regulations. *New regulation 65A* specifies what must be included in an application for a stay of proceedings under clause 16 of Schedule 3 of the FPA Act.

*Regulation 14* inserts *new regulation 67A* into the principal regulations. *New regulation 67A* requires the Authority or the Registrar of the court to notify the chief executive if it orders a stay of proceedings under the FPA Act.

*Regulation 15* amends regulation 75 of the principal regulations to provide the fees payable in Schedule 3 of the principal regulations are exclusive of goods and services tax.

*Regulation 16* amends form 3 in Schedule 1 of the principal regulations to add a reference to clause 14(3) of Schedule 3 of the FPA Act.

*Regulation 17* replaces Schedule 3 of the principal regulations to—

- add the fee payable to file an application under *new regulation 11A*; and
- update all existing fees payable to be exclusive of goods and services tax.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 11 May 2023.

These regulations are administered by the Ministry of Business, Innovation, and Employment.