



**THE COMPLAINTS REVIEW TRIBUNAL REGULATIONS (NO. 2)
1993**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 13th day of December 1993

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 144 of the Human Rights Act 1993, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Complaints Review Tribunal Regulations (No. 2) 1993.

(2) These regulations shall come into force on the 1st day of February 1994.

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

“The Act” means the Human Rights Act 1993:

“Chairperson” means the Chairperson of the Tribunal; and includes a Deputy Chairperson who is for the time being acting, pursuant to section 102 of the Act, for the Chairperson of the Tribunal:

“Privacy Commissioner” means the Privacy Commissioner under the Privacy Act 1993:

“Proceedings” means proceedings under—

(a) Section 83 of the Act; or

(b) Section 82 or section 83 of the Privacy Act 1993:

“Proceedings Commissioner” means the Proceedings Commissioner appointed under section 7 (1) (d) of the Act:

“Race Relations Conciliator” means the Commissioner appointed to be the Race Relations Conciliator under section 7 (1) (b) of the Act:

“Secretary” means the officer of the Department of Justice who is for the time being acting as secretary of the Tribunal:

“Tribunal” means the Complaints Review Tribunal continued by section 93 of the Act.

(2) In these regulations, a reference to “the Chairperson” shall be read as a reference to either Chairperson where there are 2 Chairpersons of the Tribunal.

(3) Expressions not defined in these regulations but defined in the Act have, in these regulations, the meanings so defined.

3. Fair, speedy, and effective determination of proceedings—These regulations shall be so construed so as to best secure the speedy, fair, and just determination of proceedings before the Tribunal.

4. Commencement of proceedings—(1) All proceedings shall be commenced by the filing, in the office of the Tribunals Division of the Department of Justice in Wellington, of a form prescribed or approved for the purpose by the Tribunal and provided by the Secretary for Justice.

(2) The form filed under subclause (1) of this regulation shall be completed and filed by or on behalf of,—

(a) In the case of proceedings brought under section 83 of the Act,—

(i) The Proceedings Commissioner; or

(ii) The Race Relations Conciliator; or

(iii) Where the complainant or the aggrieved person brings the proceedings in accordance with section 83 (4) of the Act, the complainant or the aggrieved person; or

(iv) Where the person against whom a complaint was made or to whom an investigation related brings the proceedings in accordance with section 83 (5) of the Act, the person against whom a complaint was made or to whom an investigation related:

(b) In the case of proceedings brought under section 82 of the Privacy Act 1993, the Proceedings Commissioner:

(c) In the case of proceedings brought under section 83 of the Privacy Act 1993, the aggrieved person.

5. Power of Tribunal to determine that proceedings have been commenced—(1) Notwithstanding regulation 4 of these regulations, the

Tribunal may determine that proceedings under section 83 of the Act have been commenced by any application (irrespective of its form and the manner in which it was completed or given to the Tribunal) made in writing by or on behalf of—

- (a) The Proceedings Commissioner or the Race Relations Conciliator; or
- (b) Where the complainant or the aggrieved person is entitled to bring proceedings in accordance with section 83 (4) of the Act, the complainant or the aggrieved person; or
- (c) Where the person against whom a complaint was made or to whom an investigation related is entitled to bring proceedings in accordance with section 83 (5) of the Act, the person against whom a complaint was made or to whom an investigation related.

(2) Notwithstanding regulation 4 of these regulations, the Tribunal may determine that proceedings under section 82 or section 83 of the Privacy Act 1993 have been commenced by any application (irrespective of its form and the manner in which it was completed or given to the Tribunal) made in writing by or on behalf of,—

- (a) In the case of proceedings under section 82 of that Act, the Proceedings Commissioner; or
- (b) Where the aggrieved person is entitled to bring proceedings under section 83 of that Act, the aggrieved person.

6. Notice of proceedings—As soon as practicable after proceedings have been commenced, the Secretary shall—

- (a) Refer the proceedings to the Chairperson for determination by the Tribunal; and
- (b) Cause to be served on the defendant a notice—
 - (i) Informing the defendant of the proceedings; and
 - (ii) Stating the place for the filing of a statement of reply and the time within which the statement of reply is required to be filed, in accordance with these regulations; and
 - (iii) Warning the defendant that, if the statement of reply is not filed within the required time, the Tribunal or the Chairperson may proceed at once to fix a time and place for the hearing of the proceedings; and
 - (iv) Warning the defendant that, if the defendant fails to file a statement of reply or does not file a statement of reply within the required time, the Tribunal may refuse to hear the defendant; and
- (c) Where the complainant or aggrieved person is the plaintiff, cause to be served on,—
 - (i) In the case of proceedings brought under section 83 (4) of the Act, the Proceedings Commissioner or the Race Relations Conciliator, as the case may be, a notice informing the Proceedings Commissioner or the Race Relations Conciliator, as the case may be, of the proceedings;
 - (ii) In the case of proceedings under section 83 of the Privacy Act 1993, the Proceedings Commissioner and the Privacy Commissioner, a notice informing those Commissioners of the proceedings; and
- (d) Where the person against whom a complaint was made or to whom an investigation related is the plaintiff, cause to be served on, in

the case of proceedings under section 83 (5) of the Act, the Proceedings Commissioner or the Race Relations Conciliator, as the case may be, a notice informing the Proceedings Commissioner or the Race Relations Conciliator, as the case may be, of the proceedings.

7. Filing and service of statement of reply—A defendant who intends to defend the proceedings—

- (a) Shall, within 30 days after the day on which the notice of proceeding is served on the defendant, file in the office of the Tribunals Division of the Department of Justice in Wellington a statement of reply to the plaintiff's claim; and
- (b) Shall serve a copy of the statement of reply on the plaintiff and any other party.

8. Conduct of proceedings—(1) Subject to the Act or, as the case requires, the Privacy Act 1993, and subject to these regulations, the Chairperson may, subject to any decision of the Tribunal, give all such directions and do all such things as are necessary or expedient for the speedy, fair, and just hearing and determination of any proceedings.

(2) Without limiting subclause (1) of this regulation, the Chairperson may direct that proceedings under section 83 of the Act shall be heard and determined in conjunction with proceedings under section 82 or section 83 of the Privacy Act 1993, in any case where both proceedings relate to the same defendant (whether or not either or both of those proceedings also relate to any other person) and the right to relief is alleged to arise out of the same transaction or series of transactions.

9. Power to require information from plaintiff or defendant—The Tribunal or the Chairperson may, by notice in writing served on the plaintiff or the defendant, require the plaintiff or the defendant to give to the Tribunal, within such period as may be specified in the notice (being a period of not less than 14 days from the service of the notice), such information as may be specified in the notice (being information that the Tribunal or the Chairperson may reasonably require regarding the proceedings).

10. Meeting of parties—(1) Before the hearing of any proceedings, the Chairperson may convene a meeting of the parties to the proceedings.

(2) The Chairperson shall preside over every meeting convened pursuant to subclause (1) of this regulation.

(3) The purposes of the meeting shall be—

- (a) To ascertain, if possible, the issues in dispute between the parties to the proceedings;
- (b) To determine whether or not the issuing of any direction under regulation 8 of these regulations is necessary or desirable;
- (c) To ascertain, if possible, a suitable time and place for the hearing of the proceedings.

11. Time and place of hearing—(1) The Tribunal or the Chairperson shall fix a time and place for the hearing of the proceedings.

(2) The Secretary shall cause a notice specifying the time and place fixed under subclause (1) of this regulation to be served on—

- (a) The plaintiff; and
- (b) The defendant; and
- (c) In the case of proceedings under section 83 of the Act, where the complainant or the aggrieved person, or the person against whom a complaint was made or to whom an investigation related, is the plaintiff, the Proceedings Commissioner or the Race Relations Conciliator, as the case may be; and
- (d) In the case of proceedings under section 83 of the Privacy Act 1993, the Proceedings Commissioner and the Privacy Commissioner.

12. Hearing—(1) At the hearing the plaintiff and the defendant shall, subject to subclause (5) of this regulation, each be given an opportunity to be heard.

(2) In the case of proceedings under section 83 of the Act, where the complainant or the aggrieved person, or the person against whom a complaint was made or to whom an investigation related, is the plaintiff, the Race Relations Conciliator shall be given an opportunity to be heard either in person or by a person authorised in that behalf by the Conciliator, whether or not that person is a barrister or a solicitor, but shall not be a party to, or join or be joined in, the proceedings.

(3) The plaintiff and the defendant may call evidence and may cross-examine any witness.

(4) If the plaintiff or the defendant or both fail to appear before the Tribunal at the time and place appointed, the Tribunal may nevertheless, upon proof of service of notice of the hearing, proceed to determine the proceedings.

(5) Notwithstanding subclause (1) of this regulation, where the defendant fails to file a statement of reply or does not file a statement of reply within the required time, the Tribunal may refuse to hear the defendant.

13. Tribunal's decision—(1) A copy of the decision of the Tribunal shall be given to—

- (a) The plaintiff; and
- (b) The defendant; and
- (c) In the case of proceedings under section 83 of the Act, where the complainant or the aggrieved person, or the person against whom a complaint was made or to whom an investigation related, is the plaintiff, the Proceedings Commissioner or the Race Relations Conciliator, as the case may be; and
- (d) In the case of proceedings under section 83 of the Privacy Act 1993, the Proceedings Commissioner and the Privacy Commissioner.

(2) Each copy of the decision shall contain or have attached to it a statement informing the parties of the right to appeal to the High Court, and the procedure for exercising that right.

14. Revocation—The Complaints Review Tribunal Regulations 1993* are hereby consequentially revoked.

MARIE SHROFF,
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 1 February 1994, update the Complaints Review Tribunal Regulations 1993 as a consequence of the coming into force on that date of the Human Rights Act 1993.

The regulations prescribe procedural requirements in respect of the hearing by the Complaints Review Tribunal of civil proceedings under section 83 of the Human Rights Act 1993 and of proceedings under sections 82 and 83 of the Privacy Act 1993.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 16 December 1993.

These regulations are administered in the Department of Justice.