



THE EMPLOYMENT COURT REGULATIONS 1991

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 21st day of October 1991

Present:

THE HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to section 146 of the Employment Contracts Act 1991, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Employment Court Regulations 1991.

(2) Except as provided in regulation 60 (4) of these regulations, these regulations shall come into force on the 1st day of November 1991.

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

“The Act” means the Employment Contracts Act 1991;

“Area served by the office of the Court at Auckland” means the area so defined in the First Schedule to these regulations;

“Area served by the office of the Court at Christchurch” means the area so defined in the First Schedule to these regulations;

“Area served by the office of the Court at Wellington” means the area so defined in the First Schedule to these regulations;

“Court” means the Employment Court constituted under the Act;

“Registered post” includes any service providing a system of recorded delivery, whether provided by New Zealand Post Limited or not;

“Registrar of the Court” means any employee of the Department of Labour designated under section 111 of the Act to act as the Registrar of the Court:

“Secretary” or “Secretary of the Employment Tribunal” means any employee of the Department of Labour appointed under section 101 of the Act and designated by the Secretary of Labour to act as a Secretary of the Employment Tribunal:

“Territorial authority district” has the meaning given to that term by section 2 (1) of the Local Government Act 1974:

“Tribunal” means the Employment Tribunal established by section 77 of the Act.

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

(a) Expressions defined in the Act have the meanings so defined:

(b) A reference to a numbered form is a reference to the form so numbered in the Second Schedule to these regulations.

Determination of Proceedings

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 Court.

Appeals

4. Appeal against decision of Tribunal—(1) Every appeal under section 95 of the Act shall be commenced by the filing with the Registrar of the Court of a notice of appeal in duplicate in form 1.

(2) The notice of appeal—

(a) Shall be accompanied by the prescribed fee in respect of the notice of appeal; and

(b) Shall either—

(i) Be accompanied by the fee prescribed as payable for a transcript of the record of the whole of the proceedings before the Tribunal; or

(ii) Include an ex parte application to the Court by the appellant for a direction concerning the need for a transcript of the whole or part of the record of the proceedings before the Tribunal.

(3) The notice of appeal shall specify—

(a) The decision or part of the decision appealed from; and

(b) The grounds of the appeal, which grounds shall be specified with such reasonable particularity as to give full advice to both the Court and the other parties of the issues involved.

(4) As soon as practicable after the notice of appeal is filed pursuant to subclause (1) of this regulation, a copy of that notice shall be served on the respondent.

5. Directions in relation to transcript—(1) Where a notice of appeal includes, pursuant to regulation 4 (2) (b) (ii) of these regulations, an ex parte application for directions, the Court shall give such directions as it thinks fit concerning the need for a transcript of the whole or part of the record of the proceedings before the Tribunal.

(2) The Registrar of the Court, after determining, in consultation where necessary with the Secretary of the Employment Tribunal, the amount of any fee prescribed as payable in respect of the preparation of a transcript

in accordance with the directions, shall serve on the appellant a notice stating both the directions and the amount of the fee (if any).

(3) The appellant, on being served with a notice under subclause (2) of this regulation, shall pay to the Registrar of the Court the fee specified in the notice.

6. Duty of Registrar in relation to notice of appeal—The Registrar of the Court shall,—

- (a) On the filing of a notice of appeal; and
- (b) On the payment of the prescribed fee in respect of the notice of appeal; and

(c) On the payment of any fee payable for a transcript,—
provide the Secretary of the Employment Tribunal with the duplicate copy of the notice of appeal and with a copy of any directions given by the Court concerning the need for a transcript.

7. Duty of Secretary upon receiving notice of appeal—(1) Upon receiving an appellant's duplicate notice of appeal from the Registrar of the Court, the Secretary of the Employment Tribunal shall, subject to any direction given by the Court under regulation 5 (1) or regulation 8 (2) of these regulations, forward to the Registrar of the Court, as promptly as possible,—

- (a) A transcript of the proceedings before the Tribunal, including any written briefs;
- (b) An indexed record and copies of any documentary evidence and exhibits;
- (c) Copies of any written submissions of the parties;
- (d) A copy of the Tribunal's written reasons for its decision; and
- (e) The originating pleadings.

(2) The Registrar of the Court shall, on receiving a transcript of the whole or part of the proceedings before the Tribunal, serve a copy of that transcript on both the appellant and the respondent.

8. Power of Court to decline to hear appeal before information from Tribunal received—(1) Subject to subclause (2) of this regulation, the Court may decline to hear any appeal until the Registrar of the Court has received from the Secretary of the Employment Tribunal, the items listed in regulation 7 (1) of these regulations.

(2) In any case where the Court is satisfied that some or all of the material prescribed in regulation 7 (1) of these regulations is not required for the satisfactory disposal of the appeal, the Court may, by order, direct that some or all of that material need not be forwarded to the Court.

9. Notice of intention to defend—(1) Subject to any directions given by a Judge in relation to any particular case, a respondent who intends to defend any appeal before the Court—

- (a) Shall, within 10 clear days after the date of the service of the notice of appeal on the respondent, file with the Registrar of the Court a notice of intention to defend in form 2; and
- (b) Shall, without delay, serve one copy of the notice of intention to defend on the appellant.

(2) Every respondent who fails to comply with subclause (1) of this regulation may defend the appeal only with the leave of the Court.

10. Argument in support—(1) Subject to directions given by a Judge in relation to any particular case, every appellant shall, at least 14 clear days before the date fixed for the hearing of the appeal, file with the Registrar of the Court, a summary of the appellant's argument in support of the appeal.

(2) The appellant shall as soon as practicable after filing a summary under subclause (1) of this regulation, serve a copy of that summary on the respondent.

11. Argument in opposition—(1) Subject to directions given by a Judge in relation to any particular case, every respondent shall, at least 7 clear days before the date fixed for the hearing, file with the Registrar of the Employment Court, a summary of the respondent's argument in opposition to the appeal.

(2) The respondent shall, as soon as practicable after filing a summary under subclause (1) of this regulation, serve a copy of that summary on the appellant.

12. New issues, explanations, or facts—(1) Where a party to an appeal seeks, under section 95 (4) (b) of the Act, to have the Court consider issues, explanations, or facts other than those placed before the Tribunal, that party shall, as promptly as possible after the service of the notice of appeal, file with the Registrar of the Court,—

(a) An application for leave in form 3, which application shall state fully but concisely, the grounds upon which the application is made; and

(b) A supporting affidavit, verifying the grounds upon which the application is made.

(2) The application for leave and the supporting affidavit shall be accompanied by the prescribed fee.

(3) Upon receiving the documents specified in subclause (1) of this regulation and on being paid the fee prescribed in respect of the application for leave, the Registrar of the Court shall—

(a) Serve a copy of each of those documents on the opposing party; and

(b) Unless the Court orders otherwise, set the application down for a separate hearing.

(4) Except where the Registrar or a Judge otherwise orders, every opposing party who intends to oppose the application for leave shall, within 7 clear days after the date of the service on the opposing party of the application for leave, file with the Registrar a written notice stating that the opposing party opposes the application for leave and shall, without delay, serve a copy of that written notice on the party making the application for leave.

13. Registrar to notify Secretary of outcome of appeal—The Registrar of the Court shall, as promptly as possible, notify the Secretary of the Employment Tribunal of the outcome of any appeal.

Recovery of Penalty

14. Action for recovery of penalty—(1) Every action brought pursuant to section 53 (2) of the Act to recover a penalty shall be commenced by the plaintiff filing with the Registrar of the Court—

(a) A notice to the defendant in form 4; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclause (1) of this regulation, a copy of each of those documents shall be served on the defendant.

Compliance Orders

15. Compliance orders—(1) Every application under section 56 of the Act for a compliance order shall be commenced by the plaintiff filing with the Registrar of the Court—

(a) A notice in form 6; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclause (1) of this regulation, a copy of each of those documents shall be served on the respondent.

Actions Founded on Tort

16. Action founded on tort—(1) Every action which is founded on tort and which is brought pursuant to section 73 of the Act shall be commenced by the plaintiff filing with the Registrar of the Court—

(a) A notice in form 7; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclause (1) of this regulation, a copy of each of those documents shall be served on the defendant.

(4) Subject to these regulations and to any rules made by the Court, the provisions of the High Court Rules applicable to like proceedings shall, with all necessary modifications, apply in relation to every such action.

Injunctions

17. Injunctions—(1) Every proceeding for an injunction which is brought pursuant to section 74 of the Act shall be commenced by the plaintiff filing with the Registrar of the Court—

(a) A notice in form 8; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclause (1) of this regulation, a copy of each of those documents shall be served on the defendant.

(4) Subject to these regulations and to any rules made by the Court, the provisions of the High Court Rules applicable to like proceedings shall, with all necessary modifications, apply in relation to every such proceeding.

Special Leave to Remove Proceedings to Court

18. Application for special leave to remove proceedings to Court—(1) Every application under section 94 (3) of the Act for special

leave to remove proceedings from the Tribunal to the Court shall be filed with the Registrar of the Court.

(2) The application—

(a) Shall be in form 9; and

(b) Shall state the grounds on which the application is made; and

(c) Shall be accompanied by—

(i) An affidavit verifying the grounds on which the application is made; and

(ii) The Tribunal's written reasons for declining to remove the proceedings to the Court; and

(iii) The prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclauses (1) and (2) of this regulation, a copy of each of those documents shall be served on the defendant to the application for special leave.

(4) Except where the Registrar or a Judge otherwise orders, every defendant who intends to oppose the application for special leave shall, within 21 clear days after the date of the service on the defendant of the application for special leave, file with the Registrar a written notice stating that the defendant opposes the application for special leave and shall, without delay, serve a copy of that written notice on the plaintiff.

Rehearing

19. Application for rehearing—(1) Every application under section 125 (1) of the Act for a rehearing shall be filed with the Registrar of the Court.

(2) The application—

(a) Shall be in form 10; and

(b) Shall state fully but concisely the grounds on which the application is made; and

(c) Shall be accompanied by—

(i) The verifying affidavit required by section 125 (2) of the Act; and

(ii) The prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclauses (1) and (2) of this regulation, a copy of each of those documents shall be served on the respondent to the application for a rehearing.

(4) Except where the Registrar or a Judge otherwise orders, every respondent to the application for rehearing who intends to oppose the application for rehearing shall, within 21 clear days after the date of the service on the respondent of the application for rehearing, file with the Registrar a written notice stating that the respondent opposes the application for rehearing and shall, without delay, serve a copy of that written notice on the applicant.

Harsh and Oppressive Contracts

20. Harsh and oppressive contracts—(1) Every application to the Court for an order under section 57 of the Act shall be made by filing with the Registrar of the Court—

(a) A notice in form 11; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclause (1) of this regulation, a copy of each of those documents shall be served on the defendant.

Application for Review

21. Application for review—(1) Every application under section 105 of the Act shall be made by filing with the Registrar of the Court—

(a) A notice in form 12; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) As soon as practicable after the documents are filed pursuant to subclause (1) of this regulation, a copy of each of those documents shall be served on the defendant.

(4) Subject to these regulations and to any rules made by the Court, the provisions of the High Court Rules applicable to like proceedings and the provisions of sections 8 and 10 of the Judicature Amendment Act 1972 shall, with all necessary modifications, apply in relation to every such application.

22. Directions in relation to transcript—(1) Where an application under section 105 of the Act relates to proceedings before the Tribunal, the Court shall, on the filing of the documents required by regulation 21 (1) of these regulations, give such directions as it thinks fit concerning the need for a transcript of the whole or part of the record of those proceedings.

(2) The Registrar of the Court, after determining, in consultation where necessary, with the Secretary of the Employment Tribunal, the amount of any fee prescribed as payable in respect of the preparation of a transcript in accordance with the directions, shall serve on the plaintiff a notice stating both the directions and the amount of the fee (if any).

(3) The plaintiff, on being served with a notice under subclause (2) of this regulation, shall pay to the Registrar of the Court the fee specified in the notice.

(4) The Registrar of the Court shall, on payment of the fee, send a copy of the Court's directions to the Secretary of the Employment Tribunal, who shall then forward to the Registrar of the Court, as promptly as possible, a transcript prepared in accordance with those directions.

(5) The Registrar of the Court shall, on receiving the transcript, serve a copy of that transcript on both the plaintiff and the defendant.

(6) The Registrar of the Court shall not give a notice of hearing under regulation 42 of these regulations until the transcript is received.

Matters Not Provided For

23. Matters not provided for—(1) Every matter which the Court may hear and determine (other than a matter in respect of which a specific procedure or a specific form is prescribed by some other provision of these regulations) shall be commenced by filing with the Registrar of the Court—

(a) A notice to the opposing party of the proceedings, which notice shall be in a form similar to those prescribed by these regulations; and

(b) A statement of claim in form 5.

(2) The documents filed pursuant to subclause (1) of this regulation shall be accompanied by the prescribed fee.

(3) The Court shall dispose of every such action as nearly as may be in accordance with these regulations so far as they provide for any similar case, or, if there is no similar case provided for, then in such manner as the Court thinks best calculated to promote the ends of justice.

Joinder of Causes of Action

24. Joinder of causes of action—(1) Where a person wishes to commence at the same time two or more proceedings against the same person or different persons, those proceedings may, subject to subclause (2) of this regulation, be commenced by the filing with the Registrar of the Court of—

(a) One statement of claim; and

(b) All of the other documents required for the commencement of the proceedings.

(2) Proceedings may be commenced under subclause (1) of this regulation only—

(a) If some question of fact or law is common to all causes of action or against all defendants or both; or

(b) If all rights to relief claimed in the proceedings are in respect of or concern or arise out of the same transaction or series of transactions; or

(c) If the inquiry by the Court in respect of all causes of action or against all defendants would be substantially identical.

(3) Proceedings commenced under subclause (1) of this regulation shall, for the purpose of the payment of prescribed fees, be deemed to be one proceeding; but the fee payable in respect of those proceedings shall be the highest single fee that would be payable if each of those proceedings were commenced separately.

Statement of Claim and Statement of Defence

25. Statement of claim—(1) Every statement of claim filed in accordance with these regulations—

(a) Shall be in form 5; and

(b) Shall specify, in consecutively numbered paragraphs,—

(i) The general nature of the claim:

(ii) The facts (but not the evidence of the facts) upon which the claim is based:

(iii) References to the employment contract and any clauses in it which are particularly relied upon:

(iv) References to any relevant legislation, including any appropriate sections or regulations particularly relied upon:

(v) The relief sought, including, in the case of money, the method by which the claim is calculated:

(vi) Any claim for interest, including the method by which it is to be calculated.

(2) Each paragraph of the statement of claim shall be concise and shall be confined to one topic.

(3) Every statement of claim shall specify the matters listed in subclause (1) (b) of this regulation so as to fully, fairly, and clearly inform the Court and the defendant of—

(a) The nature and details of the claim; and

(b) The relief sought; and

(c) The grounds upon which it is sought.

26. Obligation to file statement of defence—(1) Except where the Registrar or a Judge otherwise orders, every defendant who intends to defend any proceeding in the Court shall file a statement of defence with the Registrar of the Court.

(2) In the case of any proceedings, being—

(a) An application for an injunction; or

(b) An action founded on tort; or

(c) An application for review,—

the statement of defence shall be filed within 30 clear days after the date of the service of the statement of claim on the defendant.

(3) In the case of any other proceeding, the statement of defence shall be filed within 21 clear days after the date of the service of the statement of claim on the defendant.

(4) Every defendant shall, without delay, serve one copy of the statement of defence on the plaintiff.

(5) Every defendant who fails to comply with subclauses (1) to (4) of this regulation may defend the proceeding only with the leave of the Court.

(6) Nothing in this regulation shall apply in relation to appeals.

(7) Except where a Judge otherwise directs, nothing in this regulation shall apply to any action that has been accorded urgency pursuant to section 118 of the Act or the Court's equity and good conscience jurisdiction.

27. Statement of defence—(1) Every statement of defence filed in accordance with these regulations—

(a) Shall be in form 5; and

(b) Shall specify, in consecutively numbered paragraphs,—

(i) Whether the defendant admits or denies each of the allegations of fact contained in the plaintiff's statement of claim so far as those allegations affect the defendant; and

(ii) Where the defendant has a positive defence, the details of that defence.

(2) The details of a positive defence shall include—

(a) The general nature of the defence:

(b) The facts (but not the evidence of the facts) upon which the defence is based:

(c) References to the employment contract and to any relevant clauses in it which are particularly relied upon:

(d) References to any relevant legislation, including any appropriate sections or regulations particularly relied upon.

(3) Each paragraph of the statement of defence shall be concise and shall be confined to one topic.

(4) Every statement of defence shall specify the matters listed in subclause (1) (b) of this regulation so as to fully, fairly, and clearly inform the Court and the other parties of the nature and details of the defence to the plaintiff's claim.

(5) Every admission or denial shall not be evasive but shall substantively answer the point.

Place of Filing for Documents

28. Place of filing for notices of appeal—Except where a Judge otherwise orders, every notice of appeal shall be filed in the office of the

Court that is in the same area as the office of the Tribunal that originally decided the matter.

29. Place of filing for originating documents—(1) Every application, statement of claim, or other originating document required to be filed in the office of the Court shall, subject to subclause (2) of this regulation, be filed as follows:

- (a) Where the cause of action or matter arose in the area served by the office of the Court at Auckland, in the office of the Court at Auckland:
- (b) Where the cause of action or matter arose in the area served by the office of the Court at Wellington, in the office of the Court at Wellington:
- (c) Where the cause of action or matter arose in the area served by the office of the Court at Christchurch, in the office of the Court at Christchurch:
- (d) In any other case, in the office of the Court at Wellington.

(2) Notwithstanding anything in subclause (1) of this regulation, the originating documents in any proceeding may be filed in an office of the Court determined by agreement of the parties, being the office of the Court in Auckland, Wellington, or Christchurch, if the parties' agreement to that effect is evidenced by an appropriate memorandum on one of the originating documents.

(3) Except where the originating document has been filed in accordance with subclause (2) of this regulation, the Registrar of the Court of his or her motion, or upon application, may, at any time before the issue of a notice in form 13 or form 14, direct the transfer of any proceedings from any office of the Court to any other office of the Court.

(4) The filing of an originating document in the wrong office of the Court shall not necessarily render the proceedings or the document invalid.

30. Place of hearing—(1) Subject to subclause (2) of this regulation, every proceeding shall be heard in the area served by the office of the Court in which the originating documents were filed.

(2) Where any proceedings have, pursuant to a direction under regulation 29 (3) of these regulations, been transferred from one office of the Court to another, those proceedings shall be heard in the area served by the office of the Court to which the proceedings have been transferred.

31. Place of filing for other documents—(1) Every document filed in proceedings that have been commenced shall be filed—

- (a) In the office of the Court in which the originating documents in the proceedings are filed; or
- (b) If those proceedings have, pursuant to a direction under regulation 29 (3) of these regulations, been transferred from one office of the Court to another, in the office of the Court to which those proceedings have been transferred.

(2) The filing of a document in the wrong office of the Court shall not necessarily render the proceedings or the document invalid.

Service

32. Address for service—(1) Every document filed with the Registrar of the Court shall contain at its foot a memorandum stating by whom the

document was filed, and, if filed on behalf of any person, the name of that person.

(2) The memorandum shall also state a place in New Zealand, to be called the address for service, where notices in respect of the matter may be served on the party filing the memorandum.

(3) Any party may change that party's address for service by—

(a) Filing with the Registrar of the Court a notice of the change showing the new address for service; and

(b) Serving a copy of the notice on the opposing party.

(4) Every memorandum or notice giving an address for service shall set out a sufficient address for service, which shall be the full postal address of a place or a New Zealand Post Office box address.

(5) Every memorandum or notice may, in addition to giving the full postal address of a place or a New Zealand Post Office box address, give—

(a) A facsimile number or document exchange number for service; and

(b) A telephone number of the person by whom or on whose behalf the document is filed.

33. Address for service in appeals—Where a party to an appeal has given an address for service to the Tribunal, that address shall continue to be an address for service for the purposes of the appeal until that address is changed in the manner prescribed by regulation 32 (3) of these regulations.

34. Service of notices and documents—(1) Except where a Judge or the Registrar of the Court otherwise orders or these regulations otherwise require, every notice, order, or other document which is required to be served under the Act or these regulations and which relates to proceedings before the Court may be served only—

(a) By a party to the proceedings; or

(b) By the authorised agent of a party to the proceedings; or

(c) In the case of a notice of hearing, by the Registrar of the Court.

(2) Except where an Act, or these regulations, prescribes a particular or exclusive mode of service, service of a notice, order, or other document which is required to be served by the Act or these regulations and which relates to proceedings before the Court may be effected—

(a) If the opposing party has not given an address for service,—

(i) By leaving the notice, order, or document with the person to be served, or, if that person does not accept it, by putting it down in that person's presence and bringing it to that person's notice; or

(ii) By sending it by registered post to the last known residence or place of business of the person to be served, or where the person is a company or organisation, to the registered office of that company or organisation or to any New Zealand Post Office box held by the person upon whom or upon which service is to be effected;

(iii) In such other manner as a Judge or the Registrar of the Court directs:

(b) If the opposing party has given an address for service,—

(i) By leaving the notice, order, or document with the person to be served, or, if that person does not accept it, by putting it down

in that person's presence and bringing it to that person's notice;
or

(ii) By leaving the notice or document at that address for service at any time between 9 a.m. and 5 p.m.; or

(iii) Where the person to be served has given a facsimile number for service, by transmitting the notice or document to that facsimile number; or

(iv) Where the person to be served is the holder of a document exchange box, by sending it to that document exchange box; or

(v) By sending it by registered post, ordinary post, or courier to that address for service; or

(vi) Where a person, being a barrister, solicitor, or other representative, represents in writing that that person is authorised to accept service of any notice, order, or document on behalf of the person to be served, by serving such notice on that barrister, solicitor, or other representative in accordance with subparagraphs (i) to (v) of this paragraph; or

(vii) In such other manner as a Judge or the Registrar of the Court directs.

(3) Nothing in this regulation applies to the service of a witness summons.

35. Service on New Zealand corporations—(1) Service of a notice, order, or other document required to be served by the Act or these regulations may be effected on a corporation incorporated in New Zealand—

(a) By service in accordance with regulation 34 (2) (a) (i) or regulation 34

(2) (b) (i) of these regulations on—

(i) The mayor, chairman, president, town clerk, managing director, secretary, treasurer, or other similar officer of the corporation; or

(ii) Any member, officer, or servant of the corporation at the corporation's head office or principal place of business; or

(b) By leaving the document at the corporation's registered office; or

(c) By serving the document on a member, officer, or servant of the corporation in such manner as a Judge or the Registrar of the Court directs.

(2) Subclause (1) of this regulation is in addition to any provision made by or under any Act or these regulations for service of a document on a corporation unless the provision so made is expressed to be exclusive of any other mode of service.

36. Service on unincorporated societies—(1) Service of a notice, order, or other document required to be served by the Act or these regulations may be effected on an unincorporated society by service in accordance with regulation 34 (2) (a) (i) or regulation 34 (2) (b) (i) of these regulations on the president, chairman, or secretary or any similar officer of the society.

(2) Subclause (1) of this regulation is in addition to any provision made by or under any Act or these regulations for service of a document on an unincorporated society unless the provision so made is expressed to be exclusive of any other mode of service.

37. Service on partnership or apparent partnership—(1) Service of a notice, order, or other document required to be served by the Act or these regulations on a partnership or on a person carrying on business in the name of a firm apparently consisting of more than one person may be effected by service in accordance with regulation 34 (2) (a) (i) or regulation 34 (2) (b) (i) of these regulations—

(a) On any partner or on any such person; or

(b) At the principal place in New Zealand of the business of the partnership or apparent partnership, on any person appearing to have the control of the business there.

(2) Subclause (1) of this regulation is in addition to any provision made by or under any Act or these regulations for service of a document on a partnership or on a person carrying on business in the name of a firm apparently consisting of more than one person unless the provision so made is expressed to be exclusive of any other mode of service.

Witnesses

38. Witness summons—(1) A summons issued under section 126 (2) (a) of the Act (being a summons to a person to appear and give evidence before the Court) shall be in form 15.

(2) The summons shall be in triplicate in respect of each witness to be summonsed.

(3) Each copy need contain only the name and address of the witness on whom it is to be served.

(4) The Registrar of the Court shall sign the summons and the two copies, and shall seal them with the seal of the Court, retaining one copy and issuing the summons and the other copy to the applicant for the summons.

Cf. S.R. 1987/226, reg. 53 (1)–(4)

39. Service of witness summons—(1) The applicant for the witness summons or the applicant's authorised agent shall serve the witness summons by leaving it with the witness to be served, or, if that person does not accept it, by putting it down in that person's presence and bringing it to that person's notice.

(2) Where in any proceeding (other than a proceeding to which urgency has been accorded pursuant to section 118 of the Act or the Court's equity and good conscience jurisdiction) a summons has been served on a witness within 3 clear days of the date fixed for the hearing, the witness may apply, orally or in writing, to the Registrar of the Court to be discharged from attending the hearing.

Cf. S.R. 1987/272, reg. 53 (5)

40. Witness allowances—There shall be paid and tendered to the witness, at the time of the service of any witness summons, or at some other reasonable time before the hearing, the sum estimated, by the person requiring the attendance of that witness, to be payable to that witness for that witness's expenses, being such sum in respect of that person's expenses as if for the time being prescribed in that behalf with respect to witnesses under the District Courts Act 1947.

Disbursements and Witness Expenses

41. Power of Registrar to fix disbursements and witness expenses—The Registrar of the Court, upon being directed to do so by a

Judge, may fix the amount of any disbursements and witnesses expenses that are payable by any party to any proceedings or appeal to any other party to those proceedings or that appeal.

Notice of Hearing

42. Notice of hearing in originating matters—(1) Subject to subclause (3) of this regulation and to regulations 22 (6) and 43 of these regulations, where the Court is to hear and determine any matter, the Registrar of the Court shall, unless the parties to the proceeding otherwise agree or the Court otherwise orders, give at least 7 'clear days' notice to those parties of the sitting of the Court.

(2) The notice shall be in form 13.

(3) Where a Judge, acting under section 118 of the Act or in the exercise of the equity and good conscience jurisdiction of the Court, accords urgency to a proceeding, notice of the sitting of the Court at which the Court is to hear any matter shall be given to the parties by the Registrar of the Court in such manner and at such time as the Judge directs.

43. Notice of hearing in appeals—(1) Subject to subclause (3) of this regulation, where the Court is to hear and determine any appeal, the Registrar of the Court shall, unless the parties to the appeal otherwise agree or the Court otherwise orders, give at least 28 clear days' notice to those parties of the sitting of the Court at which the appeal is to be heard.

(2) The notice shall be in form 14.

(3) Where a Judge, acting in the exercise of the equity and good conscience jurisdiction of the Court, accords urgency to an appeal, notice of the sitting of the Court at which the Court is to hear the appeal shall be given to the parties by the Registrar of the Court in such manner and at such time as the Judge directs.

Certificate of Judgment

44. Power of Registrar to issue certificate of judgment—(1) Where the Court, in any proceeding or action under the Act, gives a judgment or makes an order requiring the payment of a sum of money, the Registrar may issue a certificate of judgment in relation to that judgment or order.

(2) Every certificate of judgment issued shall be in form 16 and shall be sealed with the seal of the Court.

(3) The certificate of judgment may be filed in any District Court, and shall then be enforceable in the same manner as an order made or judgment given by the District Court.

Mutual Disclosure and Inspection of Documents

45. Object—The object of regulations 48 to 59 of these regulations is to ensure, where appropriate, that each party to proceedings in the Court has access to the relevant documents of the other parties to those proceedings, it being recognised that, while such access is usually necessary for the fair and effective resolution of differences between parties to employment contracts, there are circumstances in which such access is unnecessary or undesirable or both.

46. Relevant documents—For the purposes of regulation 45 and regulations 48 to 59 of these regulations, a document is relevant, in the resolution of any proceedings, if it—

(a) Supports the case of the party who possesses it; or

- (b) Supports the case of a party opposed to the case of the party who possesses it; or
- (c) May prove or disprove any disputed fact in the proceedings; or
- (d) Is referred to in any other relevant document and is itself relevant.

47. Applicability—(1) Subject to subclause (2) of this regulation, regulations 48 to 59 of these regulations shall apply to all proceedings in the Court.

(2) Nothing in regulations 48 to 59 of these regulations applies to any action for the recovery of a penalty or to any appeal.

48. Availability of disclosure—(1) In proceedings to which this regulation applies, any party may require any opposing party to disclose and make available for inspection any documents which are in the opposing party's possession, custody, or control and which are relevant to any disputed matter in the proceedings.

(2) The parties may agree to dispense with or limit the disclosure of documents to which subclause (1) of this regulation applies.

49. Time for disclosure—The right conferred by regulation 48 (1) of these regulations may, in any proceeding, be exercised only after—

- (a) A document has been filed in the proceeding by every party; or
- (b) The time within which any party opposed to the application, action, or appeal is required to file that party's first document, has expired,—

whichever is the sooner.

50. Notice requiring disclosure—(1) Where a party to any proceedings is entitled to exercise the right conferred by regulation 48 (1) of these regulations, that party may serve on the opposing party a notice requiring disclosure.

(2) The notice shall be in form 17.

(3) Within 14 clear days after the service of the notice, the opposing party shall—

(a) Assemble in a convenient place all the relevant documents in the opposing party's possession, custody, or control and make a concise and ordered list or index thereof; and

(b) State in writing to the party who served the notice a time at which (which time shall be within 7 clear days after the date on which the time is stated) and a place where, the documents assembled, and the list or index made under paragraph (a) of this subclause, may be inspected and copied.

(4) The substance of a notice in form 17 may be included in a statement of defence and service of the statement of defence shall, in any such case, constitute service of a notice in form 17.

51. Duty to comply—Subject to regulation 52 of these regulations, every party who has been served with a notice in form 17—

(a) Shall comply with the tenor of that notice; and

(b) Shall, in addition, take every reasonable step to facilitate the mutual inspection of documents and any necessary copying.

52. Objections to disclosure—(1) Any party who is served with a notice in form 17 may, within 5 clear days after the day on which that

party is served with the notice, object to the disclosure of any document or class of documents by giving to the party requesting disclosure a notice of objection in form 18.

(2) The notice of objection shall specify the document or documents to which the objection relates and shall state the grounds of objection.

(3) The only grounds upon which objections may be based are that the document or class of documents—

- (a) Is or are subject to legal professional privilege; or
- (b) If disclosed, would tend to incriminate the objector; or
- (c) If disclosed, would be injurious to the public interest.

53. Challenges to objections—(1) Any party who is served with a notice of objection in form 18 and who wishes to challenge the objection may, within 5 clear days after the day on which that party is served with the notice, apply to the Court in form 19 for an order—

- (a) Declaring that the objection to disclosure is ill-founded; and
- (b) Directing that the documents be disclosed.

(2) In deciding whether or not to make an order under subclause (1) of this regulation, the Court may inspect the document or documents in issue to ascertain the validity of the claim or objection.

54. Verification of disclosure—Any party who is dissatisfied with the documents disclosed in response to a notice in form 17 may, within 5 clear days after the disclosure, apply to the Court in form 20 for an order requiring the opposing party to make a sworn or affirmed statement stating whether any document or any class of documents specified or described in the notice in form 17 that has not been so disclosed is or has at any time been in the possession, custody, or control of the opposing party and, if such document or class of documents is no longer in that party's possession, custody or control, when it was parted with and what has become of it.

55. Power of Court to make verification order—Where the Court, on receiving an application in form 20, is satisfied of the probable existence of the document or class of documents specified or described in the notice in form 17, it may make an order requiring the opposing party to disclose in a sworn or affirmed statement—

- (a) Whether the opposing party has the document or class of document in the opposing party's possession, custody, or control; and
- (b) If not, whether the opposing party ever had the document or class of document in the opposing party's possession, custody, or control; and
- (c) If so, what became of that document or class of document.

56. Verifying statements—Every party who has been served with an order made under regulation 55 of these regulations may swear or affirm a verifying statement before the Registrar of the Court or any other person empowered to administer oaths or affirmations under the Oaths and Declarations Act 1957.

57. Business book entries—(1) Where any party requires disclosure of any entries in a business book, the opposing party may, instead of disclosing the original book, provide a copy of any entries therein.

(2) Such copies shall be verified by an affidavit of some person who has compared the copy with the original book.

58. Conditions of disclosure—It is a condition of the disclosure of documents that the integrity and confidentiality of any documents disclosed pursuant to any provision of regulations 48 to 57 of these regulations or to any notice or order given or made under such provision shall be maintained at all times and for all purposes and, in particular, that—

- (a) The party obtaining disclosure shall use such documents and their contents for the purposes of the proceeding only and for no other purposes:
- (b) Where copies of any documents have been made available by any party, those copies shall be returned to that party within 28 clear days after the conclusion of the proceedings or after the conclusion of any related appeal, whichever is the later, and no copies thereof shall be retained by the party to whom they were made available:
- (c) The information contained in any document so disclosed but not used in evidence in the proceeding shall, to the extent that that information is derived from that document, remain confidential to the party whose document it is or in whose possession it was immediately before it was made available to any other party and such information, to the extent that that information is derived from that document, shall not be disclosed by any person except as may be necessary for the conduct of the proceeding.

59. Consequence of failure to comply—(1) If any party who is required by any of these regulations, or by any notice given or order made under the authority of any such provision, to disclose any documents, or to produce any documents for the purpose of inspection, fails to comply with any provision of that regulation or with that order, as the case may be, then, without prejudice to the power of the Court to make compliance orders, the Court may make such order as it thinks just, including, where default is made by an applicant, an order that the proceeding or action be adjourned pending compliance or, in the event of repeated defaults, dismissed.

(2) Where default is made by a defendant or respondent, the Court may refuse to receive in evidence any documents tendered by the party in default.

Fees

60. Fees—(1) The fees set out in the Third Schedule to these regulations shall be payable to the Registrar of the Court in respect of the various matters specified in that Schedule.

(2) Every such fee shall be payable by the person who commenced the proceedings in respect of which the fee is payable.

(3) The fees prescribed by subclause (1) of this regulation are inclusive of any goods and services tax payable under the Goods and Services Tax Act 1985.

(4) This regulation and the Third Schedule to these regulations shall come into force on the 25th day of November 1991.

SCHEDULES

Reg. 2 (1)

FIRST SCHEDULE

AREAS SERVED BY OFFICES OF THE COURT

Area Served by the Office of the Court at Auckland

The area served by the Office of the Court at Auckland is the area within the boundaries of the following territorial authority districts:

- (a) The Far North District:
- (b) The Whangarei District:
- (c) The Kaipara District:
- (d) The Rodney District:
- (e) The North Shore City:
- (f) The Waitakere City:
- (g) The Auckland City:
- (h) The Manukau City:
- (i) The Papakura District:
- (j) The Franklin District:
- (k) The Waikato District:
- (l) The Hamilton City:
- (m) The Waipa District:
- (n) The Otorohanga District:
- (o) The Waitomo District:
- (p) The Thames-Coromandel District:
- (q) The Hauraki District:
- (r) The Matamata-Piako District:
- (s) The South Waikato District:
- (t) The Taupo District:
- (u) The Western Bay of Plenty District:
- (v) The Tauranga District:
- (w) The Rotorua District:
- (x) The Kawerau District:
- (y) The Whakatane District:
- (z) The Opotiki District:
- (aa) The Gisborne District.

Area Served by the Office of the Court at Wellington

The area served by the Office of the Court at Wellington is the area within the boundaries of the following territorial authority districts:

- (a) The Wairoa District:
- (b) The Hastings District:
- (c) The Napier City:
- (d) The Central Hawke's Bay District:
- (e) The New Plymouth District:
- (f) The Stratford District:
- (g) The South Taranaki District:
- (h) The Ruapehu District:
- (i) The Wanganui District:
- (j) The Rangitikei District:
- (k) The Manawatu District:
- (l) The Tararua District:
- (m) The Palmerston North City:

FIRST SCHEDULE—*continued*AREAS SERVED BY OFFICES OF THE COURT—*continued**Area Served by the Office of the Court at Wellington—continued*

- (n) The Horowhenua District:
- (o) The Kapiti Coast District:
- (p) The Porirua City:
- (q) The Upper Hutt City:
- (r) The Lower Hutt City:
- (s) The Wellington City:
- (t) The Masterton District:
- (u) The Carterton District:
- (v) The South Wairarapa District:
- (w) The Marlborough District:
- (x) The Nelson City:
- (y) The Tasman District.

Area Served by the Office of the Court at Christchurch

The area served by the Office of the Court at Christchurch is the area within the boundaries of the following territorial authority districts:

- (a) The Kaikoura District:
 - (b) The Buller District:
 - (c) The Grey District:
 - (d) The Westland District:
 - (e) The Hurunui District:
 - (f) The Waimakariri District:
 - (g) The Christchurch City:
 - (h) The Banks Peninsula District:
 - (i) The Selwyn District:
 - (j) The Ashburton District:
 - (k) The Timaru District:
 - (l) The Mackenzie District:
 - (m) The Waimate District:
 - (n) The Waitaki District:
 - (o) The Dunedin City:
 - (p) The Clutha District:
 - (q) The Central Otago District:
 - (r) The Queenstown-Lakes District:
 - (s) The Gore District:
 - (t) The Invercargill City:
 - (u) The Southland District:
 - (v) The Chatham Islands County.
-

Reg. 2 (2) (b)

SECOND SCHEDULE

FORMS

- Form 1—Notice of appeal to Employment Court
 - Form 2—Notice of intention to defend
 - Form 3—Notice of application for leave to introduce new issues, explanations, or facts
 - Form 4—Notice of commencement of action for recovery of penalty
 - Form 5—Statement of claim (*or* defence)
 - Form 6—Notice of application for compliance order
 - Form 7—Notice of commencement of action founded on tort
 - Form 8—Notice of application for injunction to stop (*or* prevent) strike (*or* lockout *or* threatened strike *or* threatened lockout)
 - Form 9—Notice of application for special leave to remove proceedings to Employment Court
 - Form 10—Notice of application for rehearing
 - Form 11—Notice of application for relief from harsh and oppressive employment contract
 - Form 12—Notice of application for review of exercise (*or* refusal to exercise *or* proposed exercise *or* purported exercise) of statutory power (*or* statutory power of decision)
 - Form 13—Notice of hearing
 - Form 14—Notice of hearing of appeal
 - Form 15—Summons to witness
 - Form 16—Certificate of judgment
 - Form 17—Notice requiring disclosure
 - Form 18—Notice of objection to disclosure
 - Form 19—Notice of challenge to objection to disclosure
 - Form 20—Notice of application for verification order
-

SECOND SCHEDULE—continued

Form 1

Reg. 4 (1)

Under the Employment Contracts Act 1991

In the Employment Court
..... Registry

NO. /

APPEAL AGAINST
DECISION OF
EMPLOYMENT
TRIBUNAL

Between [Full name] of [Address],
Appellant

And [Full name] of [Address],
Respondent

TO the Respondent
AND TO the Registrar of the
Employment Court

NOTICE OF APPEAL TO EMPLOYMENT COURT

Section 95 (1), Employment Contracts Act 1991

I, the abovenamed appellant, hereby appeal to the Employment Court
against [Give particulars of the decision or part of the decision appealed from].

Grounds

The appeal is based on the following grounds: [Specify the grounds with such
reasonable particularity as to give full advice to both the Court and the other parties of
the issues involved].

Prescribed Fee

This notice is accompanied by the prescribed fee.

Transcript

This notice is accompanied by the fee payable for a transcript of the record
of the whole of the proceedings before the Employment Tribunal.

OR

I apply to the Employment Court for a direction concerning the need for a
transcript of the whole or part of the record of the proceedings before the
Employment Tribunal.

DATED the _____ day of _____ 19 .

Signature of appellant:

SECOND SCHEDULE—continued

Form 1—continued

Notice to the Respondent

Notice of Intention to Defend

If you intend to defend the proceedings, you must—

- (a) Within 10 clear days after the date of the service of this notice on the respondent, file a notice of intention to defend with the Registrar of the Employment Court at [Place]; and
- (b) Without delay, serve one copy of the notice of intention to defend on the appellant.

If you fail to file a notice of intention to defend, you may defend the appeal only with the leave of the Court.

Hearing

You will be notified of the place, date, and time of the hearing of the appeal.

Date:
.....
 Registrar of the Employment
 Court

This notice of appeal is filed by, whose address for service is
..... and whose telephone number is and whose fax
number is

OR

This notice of appeal is filed by, on behalf of the abovenamed
appellant, whose address for service is and whose telephone
number is and whose fax number is



SECOND SCHEDULE—continued

Form 2

Reg. 9 (1) (a)

Under the Employment Contracts Act 1991

In the Employment Court
..... Registry

NO. /

APPEAL AGAINST
DECISION OF
EMPLOYMENT
TRIBUNAL

Between [Full name] of [Address],
Appellant

And [Full name] of [Address],
Respondent

TO the Appellant
AND TO the Registrar of the Employment Court

NOTICE OF INTENTION TO DEFEND

TAKE NOTICE that I intend to defend the above-mentioned appeal.

Signature of respondent:
Date:

This notice is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This notice is filed by, solicitor (or agent) for the abovenamed respondent, whose address for service is and whose telephone number is and whose fax number is

SECOND SCHEDULE—continued

Reg. 12 (1) (a)

Form 3

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

APPEAL AGAINST
DECISION OF
EMPLOYMENT
TRIBUNAL

Between [Full name] of [Address],
Appellant

And [Full name] of [Address],
Respondent

TO the Appellant (or Respondent)
AND TO the Registrar of the
Employment Court

NOTICE OF APPLICATION FOR LEAVE TO INTRODUCE NEW
ISSUES, EXPLANATIONS, OR FACTS

Section 95 (4) (b), Employment Contracts Act 1991

I, the respondent (or appellant) in the above-mentioned proceedings hereby
apply to the Employment Court at [Place] for leave to introduce new issues
(or explanations or facts) at the hearing of the appeal.

Grounds

This application is made on the following grounds: [Specify the grounds on
which, under section 95 (4) (b) (ii) of the Employment Contracts Act 1991, the
application is based].

Supporting Affidavit and Prescribed Fee

This application for leave is accompanied by—

- (a) A supporting affidavit verifying the grounds on which the application
for leave is made; and
- (b) The prescribed fee.

Signature of respondent (or
appellant):
Date:

Notice to the Opposing Party

Notice of Opposition

If you wish to oppose this application for leave, you must—

- (a) Within 7 clear days after the service on you of this application for
leave, file with the Registrar of the Employment Court at
[Location] a written notice stating that you oppose this application
for leave; and

SECOND SCHEDULE—continued

Form 3—continued

(b) Without delay, serve one copy of that written notice on the party making this application for leave.

If you fail to file a written notice stating that you oppose the application for leave, you may oppose the application for leave only with the leave of the Court.

Hearing of application

The Court will, in due course, notify the parties to the appeal of the place, date, and time fixed for the hearing of the application for leave.

Date:

.....
Registrar of the Employment
Court

This application for leave is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This application for leave is filed by, solicitor (or agent) for the abovenamed, whose address for service is and whose telephone number is and whose fax number is

—

SECOND SCHEDULE—continued

Reg. 14 (1) (a)

Form 4

Under the Employment Contracts Act 1991

In the Employment Court
..... Registry

NO. /

ACTION FOR RECOVERY
OF PENALTY

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

NOTICE OF COMMENCEMENT OF ACTION FOR RECOVERY OF
PENALTY

Section 53 (1), Employment Contracts Act 1991

TO the Defendant
AND TO the Registrar of the Employment Court

I, the abovenamed plaintiff, hereby commence in the Employment Court at [Location] an action against the abovenamed defendant to recover the sum of \$..... for an alleged breach of the Employment Contracts Act 1991.

Documents Filed

I am commencing the action by filing—

- (a) This notice; and
- (b) A statement of claim

Prescribed Fee

This notice and the statement of claim are accompanied by the prescribed fee.

Signature of plaintiff:

Date:

—

Notice to the Defendant

Statement of defence

If you intend to defend the action, you must—

- (a) Within 21 clear days after the date of the service of this notice on you, file a statement of defence with the Registrar of the Employment Court at [Location]; and
- (b) Without delay, serve one copy of the statement of defence on the plaintiff.

If you fail to file a statement of defence, you may defend the action only with the leave of the Court.

SECOND SCHEDULE—*continued*

Form 4—*continued*

Hearing

You will be notified of the place, date, and time of the hearing of the action.

Date:
.....
Registrar of the Employment
Court

This notice of commencement of action is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This notice of commencement of action is filed by, on behalf of the abovenamed plaintiff, whose address for service is and whose telephone number is and whose fax number is



SECOND SCHEDULE—continued

Form 5

Regs. 14 (1) (b),
15 (1) (b), 16 (1) (b),
17 (1) (b), 20 (1) (b),
21 (1) (b), 23 (1) (b),
25 (1) (a), 27, (1) (a)

Under the Employment Contracts Act 1991

In the Employment Court
..... Registry

NO. /

[State nature of proceedings,
e.g., APPLICATION FOR
RELIEF FROM HARSH
AND OPPRESSIVE
CONTRACT]

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

STATEMENT OF CLAIM (or DEFENCE)

[See Notes below in relation to completion of contents]

Dated the day of 19 .

Signature of plaintiff
(or defendant)

Notes

Contents of statement of claim

The matters required by regulation 25 of the Employment Court Regulations 1991 must be specified by the plaintiff in the space provided above.

Contents of statement of defence

The matters required by regulation 27 of the Employment Court Regulations 1991 must be specified by the defendant in the space provided above.

SECOND SCHEDULE—*continued*Form 5—*continued*

This statement of claim (*or* statement of defence) is filed by,
whose address for service is and whose telephone number is
..... and whose fax number is

OR

This statement of claim (*or* statement of defence) is filed by,
solicitor (*or* agent) for the [*Name of party*], whose address for service is
..... and whose telephone number is and whose fax number is
.....

SECOND SCHEDULE—continued

Reg. 15 (1) (a)

Form 6

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

APPLICATION FOR COMPLIANCE ORDER

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

NOTICE OF APPLICATION FOR COMPLIANCE ORDER

Section 56 (1), Employment Contracts Act 1991

TO the Defendant

AND TO the Registrar of the Employment Court

I, the abovenamed plaintiff, apply to the Employment Court at [Location] for a compliance order against you, the abovenamed defendant.

Documents Filed

I am commencing the application by filing—

- (a) This notice; and
- (b) A statement of claim.

Prescribed Fee

This notice and the statement of claim are accompanied by the prescribed fee.

Signature of plaintiff:

Date:

Notice to the Defendant

*Statement of defence

If you intend to defend the application, you must—

- (a) Within 21 clear days after the date of the service of the statement of claim on you, file a statement of defence with the Registrar of the Employment Court at [Location]; and
- (b) Without delay, serve a copy of the statement of defence on the plaintiff.

If you fail to file a statement of defence, you may defend the application only with the leave of the Court.

*Delete if a direction of the Employment Court so requires

SECOND SCHEDULE—continued

Form 6—continued

Hearing

You will be notified of the place, date, and time of the hearing of the application.

Date:

.....
Registrar of the Employment
Court

This notice of application is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This notice of application is filed by, on behalf of the abovenamed plaintiff, whose address for service is and whose telephone number is and whose fax number is

—

SECOND SCHEDULE—continued

Reg. 16 (1) (a)

Form 7

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

ACTION UNDER SECTION 73 OF THE EMPLOYMENT CONTRACTS ACT 1991

Between [Full name] of [Address], Plaintiff

And [Full name] of [Address], Defendant

TO the Defendant AND TO the Registrar of the Employment Court

NOTICE OF COMMENCEMENT OF ACTION FOUNDED ON TORT

Section 73, Employment Contracts Act 1991

I, the abovenamed plaintiff hereby commence in the Employment Court at [Location] an action against you, the abovenamed defendant.

The action, which is brought under section 73 of the Employment Contracts Act 1991, is founded on the tort of [Specify].

I am commencing the action by filing—

- (a) This notice; and (b) A statement of claim

Prescribed Fee

This notice and this statement of claim are accompanied by the prescribed fee.

Signature of plaintiff:

Date:

—

Notice to the Defendant

Statement of defence

If you intend to defend the action, you must—

- (a) Within 30 clear days after the date of the service of the statement of claim on you, file a statement of defence with the Registrar of the Employment Court at [Location]; and (b) Without delay, serve one copy of the statement of defence on the plaintiff.

If you fail to file a statement of defence, you may defend the action only with the leave of the Court.

SECOND SCHEDULE—continued

Form 7—continued

Hearing

You will be notified of the place, date, and time of the hearing of the action.

Date:

.....
Registrar of the Employment
Court

This notice of commencement of action is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This notice of commencement of action is filed by, on behalf of the abovenamed plaintiff, whose address for service is and whose telephone number is and whose fax number is

—

SECOND SCHEDULE—continued

Form 8

Reg. 17 (1) (a)

Under the Employment Contracts Act 1991

In the Employment Court
..... Registry

NO. /

APPLICATION FOR
INJUNCTION TO STOP (or
PREVENT) STRIKE (or
LOCKOUT or
THREATENED STRIKE or
THREATENED LOCKOUT)

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the Defendant
AND TO the Registrar of the
Employment Court

NOTICE OF APPLICATION FOR INJUNCTION TO STOP (or PREVENT)
STRIKE (or LOCKOUT or THREATENED STRIKE or THREATENED
LOCKOUT)

Section 74, Employment Contracts Act 1991

I, the abovenamed plaintiff, apply to the Employment Court at [Location]
for the grant under section 74 of the Employment Contracts Act 1991, of
an injunction against you, the abovenamed defendant.

Documents Filed

I am commencing the application by filing—

- (a) This notice; and
- (b) A statement of claim

Prescribed Fee

This notice and this statement of claim are accompanied by the prescribed
fee.

Signature of plaintiff:
Date:

SECOND SCHEDULE—*continued*

Form 8—*continued*

Notice to the Defendant

**Statement of defence*

If you intend to defend the application, you must—

- (a) Within 30 clear days after the date of the service of the statement of claim on you, file a statement of defence with the Registrar of the Employment Court at [Location]; and
- (b) Without delay, serve one copy of the statement of defence on the plaintiff.

If you fail to file a statement of defence, you may defend the application only with the leave of the Court.

**Delete if a direction of the Employment Court so requires.*

Hearing

You will be notified of the place, date, and time of the hearing of the application.

Date:
.....
 Registrar of the Employment
 Court

This notice of application is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This notice of application is filed by, on behalf of the abovenamed plaintiff, whose address for service is and whose telephone number is and whose fax number is



SECOND SCHEDULE—continued

Form 9

Reg. 18 (2) (a)

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

APPLICATION FOR
SPECIAL LEAVE TO
REMOVE PROCEEDINGS
TO COURT

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the Defendant

AND TO the Registrar of the Employment Court

NOTICE OF APPLICATION FOR SPECIAL LEAVE TO REMOVE
PROCEEDINGS TO EMPLOYMENT COURT

Section 94 (3), Employment Contracts Act 1991

I, a party to the above-mentioned proceedings, apply to the Employment Court at [Location] for special leave to remove the above-mentioned proceedings from the Employment Tribunal to the Employment Court.

Grounds

This application is based on the following grounds: [Specify the grounds].

Verifying Affidavit, Reasons of Employment Tribunal, and Prescribed Fee

This application for special leave is accompanied by—

- (a) An affidavit verifying the grounds on which the application for special leave is made; and
- (b) The written reasons of the Employment Tribunal for declining to remove the proceedings to the Court; and
- (c) The prescribed fee.

Signature of party applying
for special leave:

Date:

SECOND SCHEDULE—continued

Form 9—continued

Notice to the Respondent to Application for Special Leave

Notice of Opposition

If you intend to oppose this application for special leave, you must—

(a) Within 21 clear days after the service on you of this application for special leave, file with the Registrar of the Employment Court at [Location] a written notice stating that you oppose this application for special leave; and

(b) Without delay, serve one copy of that written notice on the party making the application for special leave.

If you fail to file a written notice stating that you oppose the application for special leave you may oppose the application for special leave only with the leave of the Court.

Hearing of Application for Special Leave

The Court will, in due course, notify the parties to the proceedings of the place, date, and time fixed for the hearing of the application for special leave.

Date:

.....
Registrar of the Employment
Court

This application for special leave is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This application for special leave is filed by, solicitor (or agent) for the abovenamed plaintiff (or defendant), whose address for service is and whose telephone number is and whose fax number is

—

SECOND SCHEDULE—continued

Reg. 19 (2) (a)

Form 10

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

[State nature of proceedings, e.g., APPEAL AGAINST DECISION OF EMPLOYMENT TRIBUNAL]

Between [Full name] of [Address], Applicant

And [Full name] of [Address], Respondent

TO the Respondent AND TO the Registrar of the Employment Court

NOTICE OF APPLICATION FOR REHEARING

Section 125 (1), Employment Contracts Act 1991

I, the original plaintiff (or the original defendant) in the above-mentioned proceedings, hereby apply to the Employment Court at [Location] for a rehearing in the above-mentioned proceedings.

The date of the judgment (or order) is [Date].

Grounds

This application for a rehearing is made on the following grounds:

[State fully but concisely the grounds on which the application for a rehearing is made].

Verifying Affidavit and Prescribed Fee

This application for a rehearing is accompanied by—

- (a) An affidavit verifying the grounds on which the application for a rehearing is made; and (b) The prescribed fee.

Signature of applicant:

Date:

—

SECOND SCHEDULE—continued

Form 10—continued

Notice to the Respondent

Notice of Opposition

If you intend to defend the application for a rehearing, you must—

- (a) Within 21 clear days after the date of the service of this notice on you, file with the Registrar of the Employment Court at [Location] a written notice stating that you oppose the application for a rehearing; and
- (b) Without delay, serve one copy of that written notice on the applicant.

Hearing of Application for Rehearing

You will be notified of the place, date, and time of the hearing of the application for a rehearing.

Date:

.....
Registrar of the Employment Court

This application for rehearing is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This application for rehearing is filed by, on behalf of the original plaintiff (or original defendant), whose address for service is and whose telephone number is and whose fax number is

—

SECOND SCHEDULE—continued

Reg. 20 (1) (a)

Form 11

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

APPLICATION FOR
RELIEF FROM HARSH
AND OPPRESSIVE
EMPLOYMENT
CONTRACT

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the Defendant
AND TO the Registrar of the
Employment Court

NOTICE OF APPLICATION FOR RELIEF FROM HARSH AND
OPPRESSIVE EMPLOYMENT CONTRACT

Section 57, Employment Contracts Act 1991

I, the abovenamed plaintiff, allege that my employment contract, or part
of it,

- *(a) Was procured by harsh and oppressive behaviour; or
- *(b) Was procured by undue influence; or
- *(c) Was procured by duress; or
- *(d) Was harsh and oppressive when it was entered into.

**Delete if inapplicable.*

I hereby apply to the Employment Court for appropriate relief under
section 57 (4) of the Employment Contracts Act 1991 as specified in the
accompanying statement of claim.

Documents Filed

I am making the application by filing—

- (a) This notice; and
- (b) A statement of claim.

Prescribed Fee

This notice and the statement of claim are accompanied by the prescribed
fee.

Signature of plaintiff:

Date:

SECOND SCHEDULE—continued

Form 11—continued

Notice to the Defendant

Statement of Defence

If you intend to defend the application for relief, you must—

- (a) Within 21 clear days after the date of the service of this notice on you, file a statement of defence with the Registrar of the Employment Court at [Location]; and
- (b) Without delay, serve one copy of the statement of defence on the plaintiff.

Hearing

You will be notified of the place, date, and time of the hearing of the application, for relief.

Date:

 Registrar of the Employment Court

This application for relief is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This application for relief is filed by, Solicitor (or agent) for the abovenamed, whose address for service is and whose telephone number is and whose fax number is



SECOND SCHEDULE—continued

Reg. 21 (1) (a)

Form 12

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

APPLICATION FOR REVIEW

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the Defendant
AND TO the Registrar of the Employment Court

NOTICE OF APPLICATION FOR REVIEW OF EXERCISE (or REFUSAL TO EXERCISE or PROPOSED EXERCISE or PURPORTED EXERCISE) OF STATUTORY POWER (or STATUTORY POWER OF DECISION)

Section 105, Employment Contracts Act 1991

I, the abovenamed plaintiff, hereby apply to the Employment Court at [Location] for a review of [Give particulars of the exercise, refusal to exercise, or proposed or purported exercise of a statutory power or statutory power of decision to be reviewed].

Documents Filed

I am making the application by filing—

- (a) This notice; and
- (b) A statement of claim.

Prescribed Fee

This notice and the statement of claim are accompanied by the prescribed fee.

Signature of plaintiff:
Date:

—

Notice to the Defendant

Statement of Defence

If you intend to defend the application for review, you must—

- (a) Within 30 clear days after the date of the service of this notice on you, file a statement of defence with the Registrar of the Employment Court at [Location]; and
- (b) Without delay, serve one copy of the statement of defence on the plaintiff.

SECOND SCHEDULE—*continued*

Form 12—*continued*

If you fail to file a statement of defence, you may defend the application for review only with the leave of the Court.

Hearing

You will be notified of the place, date, and time of the hearing of the application for review.

Date:

.....
Registrar of the Employment
Court

This application for review is filed by, whose address for service is and whose telephone number is and whose fax number is

OR

This application for review is filed by, Solicitor (*or agent*) for the abovenamed plaintiff, whose address for service is and whose telephone number is and whose fax number is

—

SECOND SCHEDULE—continued

Form 13

Regs. 29 (3), 42 (2)

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

[State nature of proceedings]

Between [Full name] of [Address],
Plaintiff (or Applicant)

And [Full name] of [Address],
Defendant (or
Respondent)

TO the Plaintiff (or Applicant)
AND TO the Defendant (or Respondent)

NOTICE OF HEARING

TAKE NOTICE that the above-mentioned action (or proceedings or application) will be heard in the Employment Court at [State address] onday, the day of 19..... at a.m./p.m.

Consequences of Non-Attendance

If the plaintiff (or applicant) does not attend the hearing, the proceedings may be dismissed and the Court may award costs against the plaintiff (or applicant) .

If the defendant (or respondent) does not attend the hearing, the Court may, without hearing evidence from the defendant (or respondent), give judgment for the plaintiff (or applicant).

Evidence

You may give your evidence by reading from a typewritten or written brief and swearing or affirming its contents; but should in that case supply 3 copies of that brief to the Registrar of the Employment Court.

DATED at this day of 19 .

.....
Registrar of the Employment
Court

NOTE: If in doubt, please contact the Registrar of the Employment Court immediately.



SECOND SCHEDULE—continued

Form 15

Reg. 38 (1)

Employment Contracts Act 1991

SUMMONS TO WITNESS

Section 126 (2) (a), Employment Contracts Act 1991

(General heading of form 5)

TO [Name], [Address]

You are ordered to attend at the Employment Court at [Address] on the day of 19 at a.m. (or p.m.) and from day to day thereafter until you are discharged from attendance, to give evidence on behalf of the [State the party] in the abovenamed proceedings.

And you are ordered to bring with you and produce at the same time and place [Set out details of the books, papers, or other documents in the person's possession or under the person's control to be produced].

This summons is issued by the Employment Court at [Place] on the application of [Full name] and [State the party, plaintiff, defendant, etc.], under the seal of the Employment Court at [Place] on this day of 19.....

.....
Registrar of the Employment Court

SECOND SCHEDULE—continued

Form 17

Reg. 50 (2)

Under the Employment Contracts Act 1991

In the Employment Court
..... Registry

NO. /

[State nature of proceedings]

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the abovenamed plaintiff (or defendant)

NOTICE REQUIRING DISCLOSURE

TAKE NOTICE that, pursuant to regulation 50 of the Employment Court Regulations 1991, you are required, within 14 clear days after the day on which this notice is served on you,—

- (a) To assemble in a convenient place all the relevant documents or class of documents listed below which are, or were at the time of the service of this notice on you, in your possession, custody, or control:
- (b) To make a concise and ordered list or index of those documents; and
- (c) To state in writing, to the party who served this notice on you, a time (which shall be within 7 clear days after the date on which the time is stated by you) and a place where the documents assembled, and the list or index made, may be inspected and copied.

List of Documents

[The documents described must be listed and numbered in a convenient sequence. Do this as concisely as possible but describe each document or, in the case of a class of documents of the same nature, describe the class sufficiently to enable the class to be identified.]

NOTE: You may be entitled to object to the disclosure of any document or class of document by serving on the opposing party a notice of objection in form 18. Refer to regulation 52 of the Employment Court Regulations 1991 for the grounds upon which objections may be made.

If in doubt, please contact the Registrar of the Court immediately.

DATED at this day of 19 .

.....
Plaintiff (or Defendant)



SECOND SCHEDULE—continued

Form 18

Reg. 52 (1)

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

[State nature of proceedings]

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the abovenamed plaintiff (or defendant)

NOTICE OF OBJECTION TO DISCLOSURE

TAKE NOTICE that I, the abovenamed defendant (or plaintiff) object to the disclosure of [Describe the document or class of documents sufficiently so as to enable it or the class to be identified] upon the grounds that [Specify the grounds, which must be grounds specified in regulation 52 (3) of the Employment Court Regulations 1991, upon which objections may be made].

.....
Plaintiff (or Defendant)

SECOND SCHEDULE—continued

Reg. 53 (1)

Form 19

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

[State nature of proceedings]

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the abovenamed defendant (or plaintiff)
AND TO the Registrar of the Employment Court

NOTICE OF CHALLENGE TO OBJECTION TO DISCLOSURE

I, the abovenamed plaintiff (or defendant), challenge the objection to disclosure served on me by the abovenamed defendant (or plaintiff).
I hereby apply for an order—

- (a) Declaring the objection to be ill-founded; and
- (b) Directing that the document (or class of documents) be disclosed.

Grounds

The challenge is based on the following grounds: [State fully but concisely why you believe that the defendant's or plaintiff's objection is ill-founded].

Notice of Objection

A copy of the defendant's (or plaintiff's) notice of objection to disclosure is attached.

Date:
.....
Plaintiff (or Defendant)

—————
Notice to the Defendant (or Plaintiff)

Hearing

You will be notified of the place, date, and time of any hearing of the challenge.

Date:
.....
Registrar of the Employment Court

SECOND SCHEDULE—*continued*

Form 19—*continued*

This notice is filed by, whose address for service is
and whose telephone number is and whose fax number is
.....

OR

This notice is filed by Solicitor (*or agent*) for the abovenamed
....., whose address for service is and whose telephone
number is and whose fax number is

—

SECOND SCHEDULE—continued

Reg. 54

Form 20

Under the Employment Contracts Act 1991

In the Employment Court

..... Registry

NO. /

[State nature of proceedings]

Between [Full name] of [Address],
Plaintiff

And [Full name] of [Address],
Defendant

TO the abovenamed plaintiff (or respondent)
AND TO the Registrar of the Employment Court

NOTICE OF APPLICATION FOR VERIFICATION ORDER

I, the abovenamed defendant (or plaintiff) hereby apply for a verification order, requiring the abovenamed plaintiff (or defendant) to make a sworn or affirmed statement, stating whether [Specify the document or class of documents, being a document or class of documents specified or described in the notice in form 17 which is or has at any time been in the possession, custody, or control of the opposing party and, if such document or class of documents is no longer in that party's possession, custody, or control, when it was parted with and what has become of it].

DATED at this day of 19 .

.....
Plaintiff (or Defendant)

This notice is filed by, whose address for service is
and whose telephone number is and whose fax number is

OR

This notice is filed by, Solicitor (or agent) for the abovenamed, whose address for service is and whose telephone number is and whose fax number is

THIRD SCHEDULE

Reg. 60

FEES

	\$
1. Filing notice of appeal to Employment Court	100
2. Filing notice of application for leave to introduce new issues, explanations, or facts	150
3. Filing notice of commencement of action for recovery of penalty	200
4. Filing notice of application for compliance order	200
5. Filing notice of commencement of action founded on tort	200
6. Filing notice of application for injunction to stop (<i>or</i> prevent) strike (<i>or</i> lockout <i>or</i> threatened strike <i>or</i> threatened lockout)	200
7. Filing notice of application for special leave to remove proceedings to Employment Court	100
8. Filing notice of application for rehearing	200
9. Filing notice of application for relief from harsh and oppressive employment contract	35
10. Filing notice of application for review	200
11. Filing, under regulation 23 (1) (a) of these regulations, notice to the opposing party	200
12. Filing notice of challenge to objection to disclosure ..	50
13. Filing notice of application for verification order	50
14. Preparing a transcript of the record of proceedings before the Employment Tribunal, for each half day of hearing to which the transcript relates	50
Provided that the fee payable in respect of a transcript of the record of any such proceedings shall not exceed \$300.	
15. Hearing fee, for each half day or part thereof after the first day	150

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 prescribe procedural matters, forms, and fees in relation to proceedings that are within the jurisdiction of the Employment Court.

Except for regulation 60 (which prescribes fees and which comes into force on 25 November 1991), these regulations come into force on 1 November 1991. The fees prescribed by these regulations are inclusive of goods and services tax.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 24 October 1991.
These regulations are administered in the Department of Labour.