

**Reprint
as at 1 October 2010**



Residential Tenancies Rules 1998

(SR 1998/257)

Residential Tenancies Rules 1998: revoked, on 1 October 2010, by rule 18 of the Residential Tenancies Rules 2010 (SR 2010/256).

Michael Hardie Boys, Governor-General

Order in Council

At Wellington this 31st day of August 1998

Present:

His Excellency the Governor-General in Council

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

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

These rules are administered by the Department of Building and Housing.

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Rules

1 Title and commencement

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

2 Interpretation

- (1) In these rules, unless the context otherwise requires,—
 - the Act** means the Residential Tenancies Act 1986
 - office of the Tribunal**, in relation to each place specified in Schedule 1 of the Act, means the nearest office of the Ministry of Housing
 - practice directions** means directions given by the Principal Tenancy Adjudicator under section 115 of the Act
 - Tribunal registry**, in relation to each place specified in Schedule 1 of the Act, means the Tribunal registry established for that place under rule 4.
- (2) References in these rules to the Tenancy Officer or the Registrar, in relation to any particular application to the Tribunal, are references to any Tenancy Officer appointed for the office of the Tribunal in which the application is filed or to the Registrar of the Tribunal appointed for the place at which the application is to be heard and determined.

Compare: SR 1987/7 r 2

3 Application of rules

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

Compare: SR 1987/7 r 3

4 Tribunal registries

- (1) A Tribunal registry must be established for each of the places specified in Schedule 1 of the Act in which all applications referred to the Tribunal under section 87 or section 88 of the Act, and other matters relating to proceedings before the Tribunal at that place, must be filed and kept.
- (2) Unless the chief executive of the Ministry of Justice otherwise directs, the Tribunal registry for each of those places must be within the office of the nearest District Court.

Compare: SR 1987/7 r 4

Rule 4(2): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

5 Sealing of Tenancy Mediator's order

- (1) Every request for the sealing of a Tenancy Mediator's order under section 88(5) of the Act must be filed in the office of the Tribunal within 6 months from the date on which the order is made or, if the order is a conditional order, the date on which that order becomes a final order
- (2) Every request for the sealing of a Tenancy Mediator's order must be in form 3 of the Schedule of the Residential Tenancies Regulations 1998 (SR 1998/256), as if it were an application under section 86 of the Act.
- (3) In order to be sealed, a Tenancy Mediator's order must be in the prescribed form, and—
 - (a) must contain a certificate signed by the Tenancy Mediator making the order and stating that the order gives effect to an agreement reached in mediation; and
 - (b) must contain the endorsement of a Tenancy Officer or a Tenancy Mediator stating it is a true copy of an order made in mediation; and
 - (c) may contain the signatures of all or any of the parties, although a Tenancy Adjudicator may not refuse to seal an order solely on the ground that the parties have not signed it.
- (4) On receipt of a request for the sealing of a Tenancy Mediator's order, the Tenancy Officer or Tenancy Mediator must, as soon as practicable,—
 - (a) authenticate the copy of the order filed with the request by endorsing on the face of the copy the words "This is a true copy of an order made in mediation", and must sign and date the endorsement; and
 - (b) cause a copy of the request, a copy of the authenticated order, and copies of any other papers relating to the matter to be forwarded to the Registrar, who must arrange for it to be considered by a Tenancy Adjudicator for the purposes of section 88(6) of the Act.
- (5) When the Tenancy Adjudicator seals the order, the Registrar must issue a sealed copy of the order to the applicant and to the other party.

- (6) If the Tenancy Adjudicator declines to seal the order, the Registrar must inform the applicant and the other party of that decision and the reasons for it.
- (7) If the Tenancy Adjudicator directs that the matter is to be reconsidered and determined by the Tribunal, the Registrar must also inform the applicant and the other party of the time and place fixed for the sitting of the Tribunal.

Compare: SR 1987/7 r 6

6 Records in office of Tribunal

- (1) The Tenancy Officer must keep a record of all applications filed in the office of the Tribunal.
- (2) The application and all related papers must remain within the records of the office of the Tribunal, except where any application is forwarded to the Registrar under section 87 or section 88 of the Act.
- (3) The Tenancy Officer is responsible for the safe custody of all papers for the time being within the records of the office of the Tribunal.

Compare: SR 1987/7 r 7

7 Records in Tribunal registry

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

Compare: SR 1987/7 r 8(1)

8 Registrar's or Tenancy Officer's powers to adjourn or enlarge date of hearing

Subject to any directions of a Tenancy Adjudicator, the Registrar or Tenancy Officer may enlarge or adjourn the date of any hearing to the next convenient sitting of the Tribunal in any of the following circumstances:

- (a) in accordance with any practice directions:
- (b) in accordance with the direction of a Tenancy Adjudicator:
- (c) in any case where a Tenancy Adjudicator is not available to hear the application:
- (d) if notice of a hearing has not been served within the prescribed time:
- (e) if it is necessary to enable sufficient time for a witness to respond to a witness summons or for the evidence of a witness to be taken under rule 10:
- (f) with the consent of the parties:
- (g) where either party has requested an adjournment and, in the opinion of the Registrar or Tenancy Officer, an adjournment would promote the interests of justice and efficient operation of the Tribunal.

Compare: SR 1987/7 r 9

9 Transfer of proceedings to District Court

If, under section 83 of the Act, the Tribunal orders that any proceedings must be transferred to a District Court, the Registrar must forward to the Registrar of the District Court all documents relating to the proceedings.

Compare: SR 1987/7 r 10

10 Taking evidence of witnesses away from Tribunal

- (1) Subject to any directions given by a Tenancy Adjudicator, if the Registrar or Tenancy Officer is satisfied that it would be unduly inconvenient or unduly expensive for a witness to be required to give evidence at a sitting of the Tribunal, the Registrar or Tenancy Officer may arrange for the evidence of that witness to be taken—
 - (a) at some other place; or
 - (b) by video link or telephone conference; or
 - (c) in any other way that is consistent with the interests of justice and the efficient operation of the Tribunal.
- (2) In such a case the Registrar must either arrange with the witness to take the evidence of that witness at some suitable time and place, or appoint a competent person to make such arrangements and take that evidence.
- (3) The Registrar must give to each of the parties notice of the time and place at which the evidence of that witness is to be taken, and each party has the same right to be present and to cross-examine that witness as the party would have had if the witness had appeared before the Tribunal.
- (4) The witness has the same right to receive fees, allowances, and travelling expenses as the witness would have had if the witness had appeared before the Tribunal.

Compare: SR 1987/7 r 11

11 Witnesses' fees

A person who attends before the Tribunal for the purpose of giving evidence in any proceedings is entitled to receive such fees, allowances, and travelling expenses as the Tribunal directs in accordance with the scale set out in the Schedule of the Witnesses and Interpreters Fees Regulations 1974 (SR 1974/124).

Compare: SR 1987/7 r 12

12 Hearings by teleconference or video link

Subject to any directions given by a Tenancy Adjudicator, if the Registrar or Tenancy Officer is satisfied that it would be unduly inconvenient or unduly expensive for a party to attend a hearing of the Tribunal in person, the Registrar or Tenancy Officer may arrange for that party to take part in the hearing—

- (a) by video link or telephone conference; or

- (b) in any other way that is consistent with the interests of justice and the efficient operation of the Tribunal.

13 Inquiries and reports

- (1) On receipt of any direction to obtain the services of a Tenancy Mediator under section 99 of the Act, the Registrar must immediately refer the direction to the Tenancy Officer at the office of the Tribunal in which the application was filed.
- (2) The Tenancy Officer must arrange immediately for a Tenancy Mediator to carry out the direction of the Tribunal.

Compare: SR 1987/7 r 13

14 Decision of Tribunal

- (1) A Tenancy Adjudicator may give the decision of the Tribunal immediately upon the conclusion of the hearing, or may reserve the decision on any question of fact or law.
- (2) If the decision is reserved, it must be given as soon as practicable, and the Tenancy Adjudicator must ensure that all documents required by section 104(2) of the Act to be given to the parties are given to them as soon as practicable.

Compare: SR 1987/7 r 14

15 Giving of notice by Tribunal

If any notice is required by the Act to be given to any person by the Tribunal, it must be given to that person—

- (a) by the Registrar; or
- (b) by any other officer of the Tribunal acting for the Registrar; or
- (c) by an independent contractor or contractors approved by the chief executive of the Ministry or by the chief executive of the Ministry of Justice.

Compare: SR 1987/7 r 15

Rule 15(c): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

16 Electronic transmission of documents

- (1) Documents held by the Ministry or by the Registrar may be kept in such a manner as the chief executive of the Ministry or the chief executive of the Ministry of Justice think fit, including by means of a device or facility—
 - (a) that records or stores information electronically; and
 - (b) that permits the information so recorded to be readily inspected or reproduced in usable form; and
 - (c) that permits the information to be accessed by electronic means.
- (2) A document that is transmitted electronically, or that is reproduced from an electronic transmission, is to be regarded as an original document if it is sent—

- (a) between any offices of the Tribunal; or
 - (b) between any offices of the Tribunal registry; or
 - (c) between any office of the Tribunal and any office of the Tribunal registry.
- (3) A signature that appears on a document to which subclause (2) applies is to be regarded as an original signature in the absence of evidence to the contrary.

Rule 16(1): amended, on 1 October 2003, pursuant to section 14(2) of the State Sector Amendment Act 2003 (2003 No 41).

17 Revocation

The Residential Tenancies Rules 1987 (SR 1987/7) are consequentially revoked.

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 3 September 1998.

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Notes**1 General**

This is a reprint of the Residential Tenancies Rules 1998. The reprint incorporates all the amendments to the rules as at 1 October 2010, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Residential Tenancies Rules 2010 (SR 2010/256): rule 18

State Sector Amendment Act 2003 (2003 No 41): section 14(2)