



Employment Relations Authority Amendment Regulations 2020

Patsy Reddy, Governor-General

Order in Council

At Wellington this 2nd day of June 2020

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 237 of the Employment Relations Act 2000 on the advice and with the consent of the Executive Council.

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Regulations

1 Title

These regulations are the Employment Relations Authority Amendment Regulations 2020.

2 Commencement

These regulations come into force on 28 June 2020.

3 Principal regulations

These regulations amend the Employment Relations Authority Regulations 2000 (the **principal regulations**).

4 Regulation 5 amended (Commencement of proceedings)

In regulation 5(2), delete “2 copies of”.

5 Regulation 7 amended (Undertaking in relation to application for interim reinstatement)

In regulation 7(1), replace “file 2 copies of” with “lodge”.

6 Regulation 8 amended (Statement in reply)

(1) In regulation 8(1), delete “2 copies of”.

(2) After regulation 8(1), insert:

(1A) Subclause (1B) applies to a controlling third party—

(a) who has been served with an application lodged with the Authority in accordance with regulation 9A; and

(b) who intends to reply or respond to the application.

(1B) The controlling third party must lodge with an officer of the Authority a statement in reply within 14 days after the date of the service of the application on that party.

(1C) Subclauses (1A) and (1B) apply subject to any directions given by the Authority.

- (3) In regulation 8(2)(a), replace “a determination as to whether bargaining has concluded” with “joining a controlling third party to proceedings to resolve a personal grievance”.
- (4) In regulation 8(3), replace “subclause (1)” with “subclause (1) or (1B)”.
- (5) In regulation 8(5), replace “subclause (1)” with “subclauses (1) and (1B)”.

7 Regulation 9 amended (Commencement of investigation)

In regulation 9(a) and (b), after “8(1)”, insert “or (1B)”.

8 Regulation 9A replaced (Determination as to whether bargaining has concluded)

Replace regulation 9A with:

Joining controlling third party to personal grievance

9A Joining controlling third party to personal grievance

Every application under section 103B of the Act for joining a controlling third party to proceedings to resolve a personal grievance must—

- (a) be lodged with an officer of the Authority; and
- (b) be in form 4.

9 Cross-heading above regulation 13 replaced

Replace the cross-heading above regulation 13 with:

Lodging documents

12A How to lodge documents

Originating documents commencing proceedings, and other documents in respect of proceedings that have been commenced, may be lodged—

- (a) by submitting the document online in the manner set out on the Authority’s Internet site; or
- (b) by posting or delivering the document to the appropriate office of the Authority (*see* regulations 13 and 14).

10 Regulation 15 amended (Address for service)

Revoke regulation 15(5)(a) and (b).

11 Regulation 16 amended (Service of notices and documents)

- (1) In regulation 16(2), after “5,”, insert “9A,”.
- (2) Revoke regulation 16(3)(b)(iii) and (iv).

12 Schedule 1 amended

- (1) In Schedule 1, form 1, below paragraph 4, replace “*List all the documents or letters that you wish to rely on, or documents required under other legislation, etc.” with “*List all the documents that you wish to rely on or refer to in making this application.”
- (2) In Schedule 1, form 1, paragraph 11, delete “fax number for service is [fax number], document exchange number for service is [document exchange number],”.
- (3) In Schedule 1, form 1, below paragraph 11, replace “*Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.” with “*A full address, a telephone number, and an email address must always be supplied.”
- (4) In Schedule 1, form 1, note 1 under the heading “Notice to respondent”, delete “2 copies of” and “at [place]”.
- (5) In Schedule 1, form 3, below paragraph 4, replace “*List all the documents or letters that you wish to rely on, or documents required under other legislation, etc.” with “*List all the documents that you wish to rely on or refer to in making this statement in reply.”
- (6) In Schedule 1, form 3, paragraph 10, delete “fax number for service is [fax number], document exchange number for service is [document exchange number],”.
- (7) In Schedule 1, form 3, below paragraph 10, replace “*Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.” with “*A full address, a telephone number, and an email address must always be supplied.”
- (8) In Schedule 1, replace form 4 with the form 4 set out in the Schedule of these regulations.
- (9) In Schedule 1, replace form 5 with the form 5 set out in the Schedule of these regulations.
- (10) In Schedule 1, form 6, paragraph 1, delete “at [place]”.
- (11) In Schedule 1, form 6, paragraph 7, delete “fax number for service is [fax number], document exchange number for service is [document exchange number],”.
- (12) In Schedule 1, form 6, below paragraph 7, replace “†Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.” with “†A full address, a telephone number, and an email address must always be supplied.”
- (13) In Schedule 1, form 6, note 1 under the heading “Notice to other party”, delete “2 copies of” and “at [place]”.
- (14) In Schedule 1, form 7, paragraph 1, delete “at [place]” in each place.

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- (15) In Schedule 1, form 7, paragraph 5, delete “fax number for service is [fax number], document exchange number for service is [document exchange number],”.
- (16) In Schedule 1, form 7, below paragraph 5, replace “†Although a full address must always be supplied, the supply of a telephone number and a fax number, a document exchange number, or an email address is optional.” with “†A full address, a telephone number, and an email address must always be supplied.”
- (17) In Schedule 1, form 7, note 1 under the heading “Notice to other party”, delete “2 copies of” and “at [*place*]”.
- (18) In Schedule 1, form 9, paragraph 3, delete “at [*place*]” in each place.
- (19) In Schedule 1, form 10, paragraph 4, delete “2 copies of”.

13 Schedule 2 amended

In Schedule 2, revoke item 1A.

Schedule

Forms 4 and 5 of Schedule 1 replaced

r 12(8), (9)

Form 4

Application for joining controlling third party to personal grievance

r 9A

Section 103B, Employment Relations Act 2000

Authority matter No (if known):

Between [full name, address, telephone number, email address]

(applicant)

And [full name, address, telephone number, email address]

(respondent)

To the Employment Relations Authority

and

To the applicant/the respondent*

*Select one or omit if application is lodged jointly by both the applicant and the respondent

and

To the third party [full name, address, telephone number, email address]

Application to join third party to proceedings to resolve personal grievance

1 The applicant/respondent/applicant and respondent* apply/applies* to the Employment Relations Authority to join the third party (named above) to the above-mentioned proceedings to resolve a personal grievance.

*Select one.

Grounds

2 This application is made on the following grounds:

- (a) the third party named in this application is a controlling third party (within the meaning given to that term in section 5 of the Employment Relations Act 2000) for the following reasons: [state details fully, fairly, and clearly].
- (b) the personal grievance in question relates to an action that occurred while the employee was working under the control or direction of the third party: [state details fully, fairly, and clearly].
- (c) the third party's actions caused or contributed to the personal grievance referred to above, for the following reasons: [state details fully, fairly, and clearly].

Notification

3 Have you notified the third party about the matters described in paragraph 2?
Yes/No*

*Select one.

If the answer to this question is “Yes”, please state the following:

- (a) the date on which the action alleged to amount to a personal grievance occurred or came to the notice of the employee (if known):
- (b) the date on which the relevant personal grievance was raised with the employer:
- (c) the date on which the third party was notified:
- (d) whether the third party was notified within the relevant 90-day notification period (*see* section 115A(6) of the Employment Relations Act 2000): Yes/No*

*Select one.

Supporting documents

4 I/We* attach the following documents that I/we* think are relevant to the problem or matter: *[list all the documents that you wish to rely on or refer to in making this application and attach them to this application]*.

*Select one.

Address for service

5 This application is lodged by *[full name of applicant or applicant’s representative]/[full name of respondent or respondent’s representative]/full name of applicant or applicant’s representative and full name of respondent or respondent’s representative]**.

*Select one.

6 The address for service of the person/persons* who lodged this application is *[full physical or postal address to which any document may be sent]*, telephone number is *[telephone number]*, and email address for service is *[email address]*.†

*Select one

†A full physical address, a telephone number, and an email address must always be supplied.

Date:

Signature(s):

(applicant/applicant’s representative/respondent/respondent’s representative* applying to join third party to personal grievance proceedings)

*Select each that applies

Note to third party

- 1 If you intend to respond to this application, you must, within 14 days after the date on which you are served with this application, lodge a statement in reply with an officer of the Employment Relations Authority.
- 2 The term **days** does not include any day in the period beginning with 25 December in any year and ending with 5 January in the following year.
- 3 After considering this application and any statement in reply, the Authority may decide to join you to the proceedings to resolve the personal grievance referred to in this application. If the Authority decides to do so,—
 - (a) all parties may be directed to mediation; but
 - (b) if the matter is not resolved through mediation, you will be notified of the place, date, and time at which the Authority will conduct any investigation meeting in respect of these proceedings.

Date:

Signature:

(Officer of the Employment Relations Authority)

Form 5

Statement in reply to application for joining controlling third party to personal grievance

r 8

Section 103B, Employment Relations Act 2000

File No (if known):

Between *[full name, address, telephone number, email address]*

(applicant)

And *[full name, address, telephone number, email address]*

(respondent)

To the Employment Relations Authority**To** the applicant (named above)

and

To the respondent (named above)

- 1 The view of the third party responding to the Application for joining controlling third party to personal grievance (**the Application**) is: *[state details fully, fairly, and clearly]*.
- 2 The account of the relevant facts of the third party responding to the Application is: *[state details fully, fairly, and clearly]*.
- 3 The third party responding to the Application makes the following comments and supplies the following further information: *[state details fully, fairly, and clearly]*.

Supporting documents

- 4 I attach the following documents that I think are relevant to the problem or matter: *[list all the documents that you wish to rely on or refer to in making this application and attach them to this application]*.

Address for service

- 5 This statement in reply is lodged by *[full name of third party responding to the Application/full name of third party's representative]*.
- 6 The address for service of the third party responding to the Application/representative of the third party responding to the Application* is *[full physical or postal address to which any document may be sent]*, telephone number is *[telephone number]*, and email address for service is *[email address]*.†

*Select one

†A full physical address, a telephone number, and an email address must always be supplied.

Date:

Signature:

(Third party responding to the Application/Representative of third party responding to the Application)

Michael Webster,
Clerk of the Executive Council.

Explanatory note

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

These regulations, which come into force on 28 June 2020, amend the Employment Relations Authority Regulations 2000 (the **principal regulations**). The main purpose of these regulations is to amend the principal regulations to reflect some of the amendments made to the Employment Relations Act 2000 by the Employment Relations (Triangular Employment) Amendment Act 2019. These regulations also modernise and align the principal regulations to current operational practice (for example, by removing the option to provide fax or facsimile numbers for service of documents).

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 4 June 2020.

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