

Hon Aupito William Sio
Associate Minister for Courts

Proactive release – Commencement of Courts and Tribunals Legislation (CATES Regulations)

Date of issue: 5 November 2019

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1	Commencement of Courts and Tribunals Legislation <i>Cabinet paper</i> Ministry of Justice 12 September 2019	Released in full
2	Commencement of Courts and Tribunals Legislation <i>Cabinet Minute</i> Cabinet Office LEG meeting of 17 September 2019	Released in full
3	Tribunals Powers and Procedures Legislation Act Commencement Order (No 2) 2019 Legislative instrument 23 September 2019	This document is publicly available at www.legislation.govt.nz
4	Disputes Tribunal Amendment Rules 2019 Legislative instrument 23 September 2019	This document is publicly available at www.legislation.govt.nz
5	Human Rights Review Tribunal Amendment Regulations 2019 Legislative instrument 23 September 2019	This document is publicly available at www.legislation.govt.nz
6	Immigration and Protection Tribunal Amendment Regulations 2019 Legislative instrument 23 September 2019	This document is publicly available at www.legislation.govt.nz

No.	Document	Comments
7	<p>Lawyers and Conveyancers Act (Disciplinary Tribunal) Amendment Regulations 2019</p> <p>Legislative instrument</p> <p>23 September 2019</p>	<p>This document is publicly available at www.legislation.govt.nz</p>
8	<p>Courts Matters Act Commencement Order 2019</p> <p>Legislative instrument</p> <p>23 September 2019</p>	<p>This document is publicly available at www.legislation.govt.nz</p>
9	<p>Family Court Amendment Rules 2019</p> <p>Legislative instrument</p> <p>23 September 2019</p>	<p>This document is publicly available at www.legislation.govt.nz</p>

In Confidence

Office of the Associate Minister for Courts
Chair, Cabinet Legislation Committee

Commencement of Courts and Tribunals Legislation

Proposal

1. This paper seeks Cabinet's agreement to authorise the submission to the Executive Council of the:
 - 1.1 Tribunals Powers and Procedures Legislation Act Commencement Order (No 2) 2019;
 - 1.2 Disputes Tribunal Amendment Rules 2019;
 - 1.3 Human Rights Review Tribunal Amendment Regulations 2019;
 - 1.4 Immigration and Protection Tribunal Amendment Regulations 2019;
 - 1.5 Lawyers and Conveyancers Act (Disciplinary Tribunal) Amendment Regulations 2019;
 - 1.6 Courts Matters Act Commencement Order 2019; and
 - 1.7 Family Court Amendment Rules 2019.

Policy

2. The Courts Matters Act 2018 and the Tribunals Powers and Procedures Legislation Act 2018 (the Tribunals Act) amended 38 Acts to:
 - 2.1 improve user experience and interaction with the courts and tribunals system;
 - 2.2 reduce the length of time taken to resolve matters; and
 - 2.3 enable fines enforcement, court security, and courts and tribunals to operate in a more efficient and effective way.
3. This paper seeks approval to Commencement Orders to bring these two acts fully into effect and for consequential regulatory amendments.

Tribunals Powers and Procedures Legislation Act Commencement Order (No 2) 2019

4. This order will bring the Tribunals Act, which amended the legislation governing 21 tribunals administered by the Ministry of Justice, fully into effect.
5. This includes amendments:
 - 5.1 doubling the monetary threshold for Disputes Tribunal claims to \$30,000 to provide more people with access to this quick, simple and cheap process for resolving disputes;
 - 5.2 authorising the Real Estate Agents Disciplinary Tribunal to award compensation of up to \$100,000 for financial losses arising from 'unsatisfactory conduct' of real estate

- agents. (Compensation is currently only available for misconduct, which entails more serious poor behaviour);
- 5.3 authorising the Private Security Personnel Licensing Authority to discipline 'unsatisfactory conduct' such as bullying as well as more serious 'misconduct'. (The Authority can currently only sanction 'misconduct'); and
 - 5.4 authorising the use of forms approved by the Chief Executive of the Ministry of Justice following consultation with the Tribunal Chair instead of prescribed forms. Approved forms can use language that is easier to understand.

Disputes Tribunal Amendment Rules 2019

6. This instrument:
 - 6.1 requires the use of approved forms instead of prescribed forms; and
 - 6.2 makes consequential amendments to align with the amendments to the Disputes Tribunal Act 1988 made by the Tribunals Act. For example, insurers can now be represented by agents at Disputes Tribunal hearings.

Human Rights Review Tribunal Amendment Regulations 2019

7. This instrument:
 - 7.1 authorises the use of approved forms instead of prescribed forms; and
 - 7.2 removes a now redundant reference to the second chairperson of the Human Rights Review Tribunal. The Tribunals Act has authorised the appointment of Deputy Chairpersons instead of a second chairperson to enable the Tribunal to address its case backlog.

Immigration and Protection Tribunal Amendment Regulations 2019

8. This instrument revokes the prescribed witness summons that has been replaced with an approved form.

Lawyers and Conveyancers Act (Disciplinary Tribunal) Amendment Regulations 2019

9. This instrument authorises the service of documents related to Disciplinary Tribunal proceedings through electronic means or signature-required courier delivery. The latter amendment replaces a reference to registered post, which no longer exists.

Courts Matters Act Commencement Order 2019

10. This order will bring the Courts Matters Act fully into effect.
11. This includes simpler processes for placing charges on real property, such as land, and forcibly selling real property to enforce large overdue fines.¹ This will enable these

¹ A charge will be able to be imposed on real property owned by defendants with overdue fines of \$5,000 or more. The defendant's real property will be able to be forcibly sold if they owe overdue fines of \$50,000 or more. However, their home will not be able to be sold.

processes to be used more often. Charges encourage payment because the charge must be paid before the property can be sold.

12. The Commencement Order will also bring the remaining amendments to the Criminal Procedure Act 2011 into effect. These include:
 - 12.1 allowing prosecutors to notify the court of a proposal to hear charges together later in the process; and
 - 12.2 authorising the filing in court of video records of evidential interviews with witnesses without the required declaration of truth where the witness is unable to provide this due to their youth or a disability.

Family Court Amendment Rules 2019

13. Prescribed forms are being consequentially amended to reflect the Protection of Personal and Property Rights Act 1988 amendments made by the Courts Matters Act. These amendments will enable the appointment of more than one welfare guardian for a 'protected person', for example, both parents of a disabled adult.
14. This instrument also corrects earlier drafting errors.

Timing and 28-day rule

15. The legislative instruments will come into force on 29 October 2019. This complies with the 28-day rule.

Compliance

16. These legislative instruments comply with each of the following:
 - 16.1 the principles of the Treaty of Waitangi;
 - 16.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 16.3 the principles and guidelines set out in the Privacy Act 1993;
 - 16.4 relevant international standards and obligations; and
 - 16.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
17. In my role as Associate Minister for Courts, I have consulted the Minister of Immigration on the Immigration and Protection Tribunal Amendment Regulations. Section 403A(2) of the Immigration Act 2009 requires amendments to the Immigration and Protection Tribunal Regulations to be made on the recommendation of the Minister for Courts following consultation with the Minister of Immigration.

Regulations Review Committee

18. There are no apparent grounds for the Regulations Review Committee to draw these instruments to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

19. The Parliamentary Counsel Office has certified the attached instruments as being in order for submission to Cabinet.

Impact analysis

20. Treasury determined that Regulatory Impact Analysis was required for the new monetary threshold for the Disputes Tribunal that the Tribunals Act Commencement Order will bring into effect [CAB Min (13) 43/13]. A Regulatory Impact Statement was considered by Cabinet in 2013.
21. Regulatory Impact Analysis was not required for the other legislative amendments that are being brought into effect because they have no or only minor impacts on businesses, individuals or not-for-profit entities.

Publicity

22. I propose to issue a press release announcing the commencement of major initiatives such as the new Disputes Tribunal threshold. The Ministry of Justice will also notify relevant stakeholders of the changes the instruments make and the commencement date.

Proactive Release

23. I propose to proactively release this paper within 30 business days of the decision with appropriate redactions in accordance with the Official Information Act 1983.

Consultation

24. The following government agencies were consulted on this paper: Crown Law, the Departments of Corrections, Inland Revenue and Internal Affairs, Government Chief Privacy Officer, Land Information New Zealand, the Ministries of Business, Innovation and Employment, Education, Social Development, Transport, and for Women and Pacific Peoples, New Zealand Customs, New Zealand Police, Real Estate Authority and Te Puni Kōkiri.
25. Heads of Bench and the Chairs of affected tribunals have been informed of the commencement date and of regulatory amendments.

Recommendations

26. I recommend that the Cabinet Legislation Committee:
 1. **note** that Cabinet agreed to amend legislation governing courts and tribunals powers and procedures to improve their operation [CAB-16-MIN-0250.01, SOC Min (14) 7/3 and CAB Min (13) 16/10];
 2. **note** that the following legislative instruments will give effect to the decisions referred to in paragraph 1 above;

3. **authorise** the submission to the Executive Council of the:
 - 3.1. Tribunals Powers and Procedures Legislation Act Commencement Order (No 2) 2019
 - 3.2. Disputes Tribunal Amendment Rules 2019;
 - 3.3. Human Rights Review Tribunal Amendment Regulations 2019;
 - 3.4. Immigration and Protection Tribunal Amendment Regulations 2019;
 - 3.5. Lawyers and Conveyancers Act (Disciplinary Tribunal) Amendment Regulations 2019;
 - 3.6. Courts Matters Act Commencement Order 2019; and
 - 3.7. Family Court Amendment Rules 2019;
4. **note** that the above instruments will come into effect on 29 October 2019;
5. **note** that section 403A(2) of the Immigration Act 2009 requires amendments to the Immigration and Protection Tribunal Regulations 2010 to be made on the recommendation of the Minister for Courts following consultation with the Minister of Immigration;
6. **note** the advice of the Associate Minister for Courts that the requirement in recommendation 5 has been met.

Authorised for lodgement

Hon Aupito William Sio
Associate Minister for Courts



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Commencement of Courts and Tribunals Legislation

Portfolio Associate Courts

On 17 September 2019, the Cabinet Legislation Committee:

- 1 **noted** that in 2013, 2014, and 2016, the previous government took a series of decisions to amend the Disputes Tribunal Act 1988 and to make technical and minor policy amendments to legislation governing the operation of courts and tribunals [CAB Min (13) 43/13, SOC Min (14) 7/3, and CAB-16-MIN-0250.01];
- 2 **noted** that the legislative instruments referred to in paragraph 5 give effect to the decisions referred to above;
- 3 **noted** that section 403A(2) of the Immigration Act 2009 requires amendments to the Immigration and Protection Tribunal Regulations 2010 to be made on the recommendation of the Minister for Courts following consultation with the Minister of Immigration;
- 4 **noted** the advice of the Associate Minister for Courts that the requirement in paragraph 3 has been met;
- 5 **authorised** the submission to the Executive Council of the:
 - 5.1 Tribunals Powers and Procedures Legislation Act Commencement Order (No 2) 2019 [PCO 22194/3.0];
 - 5.2 Disputes Tribunal Amendment Rules 2019 [PCO 21689/6.0];
 - 5.3 Human Rights Review Tribunal Amendment Regulations 2019 [PCO 21690/5.0];
 - 5.4 Immigration and Protection Tribunal Amendment Regulations 2019 [PCO 21691/8.0];
 - 5.5 Lawyers and Conveyancers Act (Disciplinary Tribunal) Amendment Regulations 2019 [PCO 22195/4.0];
 - 5.6 Courts Matters Act Commencement Order 2019 [PCO 22193/2.0]; and
 - 5.7 Family Court Amendment Rules 2019 [PCO 22196/6.0];

6 **noted** that the instruments come into effect on 29 October 2019.

Gerrard Carter
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Andrew Little
Hon Chris Hipkins (Chair)
Hon David Parker
Hon Ron Mark
Hon Tracey Martin
Hon Shane Jones
Hon Aupito William Sio
Hon James Shaw
Hon Julie Ann Genter
Hon Eugenie Sage
Michael Wood, MP (Senior Government Whip)

Officials present from:

Office of the Prime Minister
Officials Committee for LEG

Hard-copy distribution:

Associate Minister for Courts

RELEASED BY THE ASSOCIATE MINISTER FOR COURTS