



Queensland

Industrial Relations (Tribunals) Amendment Rule (No. 2) 2013

Subordinate Legislation 2013 No. 98

made under the

Industrial Relations Act 1999

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1 Short title

This rule may be cited as the *Industrial Relations (Tribunals) Amendment Rule (No. 2) 2013*.

2 Rules amended

This rule amends the *Industrial Relations (Tribunals) Rules 2011*.

3 Insertion of new pt 3A

After rule 123—

insert—

**Part 3A Trans-Tasman
proceedings**

Division 1 Preliminary

123A Definition for pt 3A

In this part—

Trans-Tasman Proceedings Act means the *Trans-Tasman Proceedings Act 2010* (Cwlth).

123B Interpretation

Words and expressions used in this part and the *Trans-Tasman Proceedings Act* have the same meaning in this part as they have in that Act except so far as the context or subject matter otherwise indicates or requires.

Note—

The following words and expressions are defined in the *Trans-Tasman Proceedings Act*, section 4—

- audio link
- audiovisual link

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- document
- enforcement
- entitled person
- given
- liable person
- NZ judgment
- party
- proceeding
- registered NZ judgment.

123C Application of pt 3A

This part applies to civil proceedings to which the Trans-Tasman Proceedings Act applies.

Division 2 Attendance notices

123D Application for leave to serve attendance notice in New Zealand

- (1) A party to a proceeding who requires the leave of the court to serve an attendance notice in New Zealand under the Trans-Tasman Proceedings Act, section 31 must make an application for leave in the proceeding in which the attendance notice was issued.

Note—

See the Trans-Tasman Proceedings Act, section 4, definition *subpoena*.

- (2) The application must be accompanied by—
 - (a) a copy of the attendance notice in relation to which leave is sought; and
 - (b) an affidavit stating, briefly but specifically, the following—

- (i) the name, occupation and address of the person named in the attendance notice;
- (ii) whether the person is over 18 years;
- (iii) the nature and significance of the evidence to be given, or the document or thing to be produced, by the person;
- (iv) details of the steps taken to ascertain whether the evidence, document or thing could be obtained by other means without significantly greater expense, and with less inconvenience, to the person;
- (v) the date by which it is intended to serve the attendance notice in New Zealand;
- (vi) details of the amounts to be tendered to the person to meet the person's reasonable expenses of complying with the attendance notice;
- (vii) details of the way in which the amounts mentioned in subparagraph (vi) are to be given to the person;
- (viii) if the attendance notice requires the person to give evidence—an estimate of the time that the person will be required to attend to give evidence;
- (ix) any facts or matters known to the party making the application that may be grounds for an application by the person to have the attendance notice set aside under the Trans-Tasman Proceedings Act, section 36(2) or (3).

Notes—

- 1 See the Trans-Tasman Proceedings Act, section 31 which allows the court to impose conditions when giving leave to serve an attendance notice in New Zealand.

2 See also the Trans-Tasman Proceedings Act, sections 33 and 37 which make provision in relation to the payment of expenses in complying with an attendance notice.

- (3) Despite rule 228, a person must not, without the leave of the court, search for, inspect or copy a document in an application under this rule filed in the court.

123E Application to set aside attendance notice

- (1) A person applying under the Trans-Tasman Proceedings Act, section 35 to set aside an attendance notice served in New Zealand must make the application in the proceeding in which the attendance notice was issued.
- (2) The application must be accompanied by—
 - (a) a copy of the attendance notice; and
 - (b) an affidavit stating the following—
 - (i) the material facts on which the application is based;
 - (ii) whether the person making the application requests that any hearing be held by audio link or audiovisual link.

123F Application for issue of certificate of noncompliance with attendance notice

- (1) A party to a proceeding may apply to the court that issued an attendance notice for a certificate mentioned in the Trans-Tasman Proceedings Act, section 38 (a *certificate of noncompliance*).
- (2) The application may be made—
 - (a) if the proceeding in which the attendance notice was issued is before the court—orally to the court; or
 - (b) by filing the application.

- (3) The application must be accompanied by—
- (a) a copy of the attendance notice; and
 - (b) a copy of the order giving leave to serve the attendance notice; and
 - (c) an affidavit of service of the attendance notice; and
 - (d) a further affidavit stating the following—
 - (i) whether any application was made to set aside the attendance notice;
 - (ii) the material in support of an application mentioned in subparagraph (i);
 - (iii) any order that disposed of an application mentioned in subparagraph (i);
 - (iv) the material facts relied on for the issue of the certificate of noncompliance.

Note—

A certificate of noncompliance is to be stamped by the registrar with the seal of the court.

Division 3 Registration and enforcement of NZ judgments

123G Notice of registration of NZ judgment

- (1) An entitled person must not take any step to enforce a registered NZ judgment, in the period mentioned in the Trans-Tasman Proceedings Act, section 74(2), unless the entitled person has filed an affidavit stating that notice of the registration of the NZ judgment has been given in accordance with the Trans-Tasman Proceedings Act, section 73.

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- (2) If a liable person against whom the registered NZ judgment is enforceable is not in Australia, the affidavit may be served without leave of the court.
- (3) An entitled person must file a further affidavit proving service of the affidavit mentioned in subrule (1) before any step is taken to enforce the registered NZ judgment.

123H Application for extension of time to give notice of registration of NZ judgment

- (1) An entitled person applying for an extension of the time within which to give notice of the registration of an NZ judgment under the Trans-Tasman Proceedings Act, section 73(3) must make the application in the proceeding in which the NZ judgment was registered.
- (2) The application must be supported by an affidavit stating the following—
 - (a) briefly but specifically, the grounds relied on in support of the application;
 - (b) the material facts relied on in support of the application;
 - (c) why notice will not be, or was not, given within time.

123I Enforcement of registered NZ judgment

- (1) The form of enforcement warrant used in relation to the enforcement of a registered NZ judgment must be amended, in a way approved by the registrar, by—
 - (a) stating that the judgment is a registered NZ judgment; and

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- (b) specifying the date of, and the amount payable under, the registered NZ judgment; and
 - (c) specifying the amount of interest that is payable under the Trans-Tasman Proceedings Act, section 78(a) in relation to the registered NZ judgment.
- (2) For subrule (1)(b), if the registered NZ judgment is registered in a currency other than Australian currency, the specified amount payable must be the amount payable under the registered NZ judgment as if it were for an equivalent amount in Australian currency based on the Trans-Tasman Proceedings Act rate of exchange.
- (3) In this rule—
- Trans-Tasman Proceedings Act rate of exchange* means the rate of exchange mentioned in the Trans-Tasman Proceedings Act, section 69(2), as if the conversion day mentioned in that section were a reference to the day an application for an enforcement warrant for the amount payable under the registered NZ judgment is filed.

Note—

See the Trans-Tasman Proceedings Act, section 74 for the effect of registration of an NZ judgment.

123J Application to set aside registration of NZ judgment

- (1) A liable person applying to set aside the registration of an NZ judgment under the Trans-Tasman Proceedings Act, section 72(1) must make the application in the proceeding in which the NZ judgment was registered.
- (2) The application must be accompanied by an affidavit stating the following—

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- (a) briefly but specifically, the grounds on which the registration of the NZ judgment should be set aside;
- (b) the material facts relied on in support of the application.

Note—

See the Trans-Tasman Proceedings Act, section 72(2) for when an application to set aside the registration of an NZ judgment may be made.

123K Applications relating to a stay of enforcement of registered NZ judgment

- (1) This rule applies to an application for an order under the Trans-Tasman Proceedings Act, section 76.

Note—

See the Trans-Tasman Proceedings Act, section 76(1) and (3)(b).

- (2) The application must—
 - (a) be made in the proceeding in which the NZ judgment was registered; and
 - (b) be accompanied by an affidavit stating the following—
 - (i) the order sought;
 - (ii) briefly but specifically, the grounds relied on in support of the order;
 - (iii) the material facts relied on in support of the application;
 - (iv) if the application is for an order under the Trans-Tasman Proceedings Act, section 76(3)(b)—why the application will not be, or was not, made within time.

Division 4 Remote appearances

123L Application for order for use of audio link or audiovisual link

- (1) A party to a proceeding applying for leave for an order that an appearance be made, evidence be taken, or submissions be made, by audio link or audiovisual link from New Zealand under the Trans-Tasman Proceedings Act, section 48 or 50, must make the application in the proceeding to which the appearance, evidence or submissions relate.
- (2) Subrule (1) does not apply to a request mentioned in rule 123E(2)(b)(ii).

ENDNOTES

- 1 Made by the Governor in Council on 20 June 2013.
- 2 Notified in the gazette on 21 June 2013.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.

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Authorised by the Parliamentary Counsel