



New Zealand Teachers Council (Conduct) Amendment Rules 2007

Pursuant to section 139AJ of the Education Act 1989, the New Zealand Teachers Council makes the following rules.

Contents

| | | Page |
|----|----------------------------------------------------------------|------|
| 1 | Title | 2 |
| 2 | Commencement | 2 |
| 3 | Principal rules amended | 2 |
| 4 | Application | 2 |
| 5 | Interpretation | 2 |
| 6 | Establishment of CAC | 2 |
| 7 | New rule 8 substituted | 3 |
| | 8 CAC may operate in panels | 3 |
| 8 | Text of sections 139AT and 139AV of Education Act 1989 amended | 3 |
| 9 | Powers of the CAC following consideration | 4 |
| 10 | Establishment of Disciplinary Tribunal | 5 |
| 11 | New rules 24 and 24A substituted | 5 |
| | 24 Who conducts hearings | 5 |
| | 24A Further rule on how Tribunal may operate in panels | 6 |
| 12 | Text of section 139AW of Education Act 1989 amended | 6 |
| 13 | Text of section 139AZ of Education Act 1989 amended | 6 |
| 14 | Text of section 139AU of Education Act 1989 amended | 7 |
| 15 | Text of section 139AZB of Education Act 1989 amended | 7 |

Rules

1 Title

These rules are the New Zealand Teachers Council (Conduct) Amendment Rules 2007.

2 Commencement

These rules come into force on 1 November 2007.

3 Principal rules amended

These rules amend the New Zealand Teachers Council (Conduct) Rules 2004.

4 Application

- (1) These rules apply only to a report or complaint about conduct made after the close of 31 October 2007.
- (2) Nothing in these rules affects the application of the Education Act 1989 to a report or complaint about conduct made before the close of 31 October 2007.

5 Interpretation

The definition of **competence assessor** in rule 4(1) is amended by—

- (a) omitting “employed” and substituting “appointed”; and
- (b) omitting “2004” and substituting “2007”.

6 Establishment of CAC

Rule 7(1) is revoked and the following subclause substituted:

- “(1) The Teachers Council must appoint a CAC that comprises—
- “(a) at least 1 member, and no more than 5 members, of the Teachers Council; and
 - “(b) at least 5, and no more than 12, other people who are not members of the Teachers Council.”

7 New rule 8 substituted

Rule 8 is revoked and the following rule substituted:

“8 CAC may operate in panels

- “(1) The convenor of the CAC must allocate the investigation and consideration of each report or complaint about conduct, or class of report or complaint about conduct, to—
- “(a) the CAC, operating through all of its members; or
 - “(b) a panel of at least 3 CAC members, none of whom are required to be members of the Teachers Council.
- “(2) More than 1 CAC panel may operate at any one time.
- “(3) Members of the CAC may be on more than 1 panel at a time.
- “(4) A panel may perform and exercise, in relation to any matter allocated to it, all the functions and powers of the CAC.
- “(5) The convenor may serve on any panel.”

8 Text of sections 139AT and 139AV of Education Act 1989 amended

- (1) The text of section 139AT(2) of the Education Act 1989 as set out in the box above rule 12 is amended by omitting “a complaint or report referred to it under section 139AS,—” and substituting “any matter other than a conviction to which section 139AV relates, do any of the following:”.
- (2) The text of section 139AT(2)(d) of the Education Act 1989 as set out in the box above rule 12 is revoked and the following paragraph substituted:
- “(d) by agreement with the teacher and the person who made the complaint or report, do any of the following:
 - “(i) censure the teacher:
 - “(ii) impose conditions on the teacher’s practising certificate or authority, such as (without limitation) requiring the teacher to undergo supervision or professional development:
 - “(iii) suspend the teacher’s practising certificate or authority for a specified period, or until specified conditions are met:
 - “(iv) annotate the register or the list of authorised persons in a specified manner.”

- (3) The text of section 139AT(4) of the Education Act 1989 as set out in the box above rule 12 is revoked and the following subsections are substituted:
- “(4) The Complaints Assessment Committee must refer a matter concerning a teacher to the Disciplinary Tribunal if it is satisfied on reasonable grounds that—
- “(a) the teacher has engaged in serious misconduct; and
 - “(b) the matter should be referred to the Disciplinary Tribunal.
- “(5) If a matter is referred to the Disciplinary Tribunal under subsection (4), a notice must be sent to the teacher concerned setting out the charge of misconduct against him or her.”
- (4) The text of the heading to section 139AV of the Education Act 1989 as set out in the box above rule 12 is amended by inserting “**by Complaints Assessment Committee**” after “**Investigation**”.
- (5) The text of section 139AV(2) of the Education Act 1989 as set out in the box above rule 12 is revoked and the following subsection substituted:
- “(2) Following the investigation of such a conviction, the Complaints Assessment Committee may do any of the following:
- “(a) dismiss the matter, or resolve to take it no further:
 - “(b) refer the teacher concerned to a competency review:
 - “(c) refer the teacher concerned to an impairment process which may involve assessing, and (if necessary) assisting with, an impairment:
 - “(d) by agreement with the teacher, do any of the following:
 - “(i) censure the teacher:
 - “(ii) impose conditions on the teacher’s practising certificate or authority, such as (without limitation) requiring the teacher to undergo supervision or professional development:
 - “(iii) annotate the register or the list of authorised persons in a specified manner.”

9 Powers of the CAC following consideration

Rule 18(1)(d) is amended by omitting “2004” and substituting “2007”.

10 Establishment of Disciplinary Tribunal

(1) Rule 23(1) is revoked and the following subclause substituted:

“(1) The Teachers Council must appoint a Disciplinary Tribunal that comprises—

“(a) at least 1 member, and no more than 5 members, of the Teachers Council; and

“(b) at least 5, and no more than 20, other people who are not members of the Teachers Council, of whom at least 1 must be a person selected from the list, referred to in section 139AQ(3B) of the Act, of people who are neither—

“(i) members of the Teachers Council; nor

“(ii) teachers, employers, or members of an employing body.”

(2) Rule 23 is amended by inserting the following subclause after subclause (3):

“(3A) As required by section 139AQ(3C) of the Act, the majority of members on the Disciplinary Tribunal must be registered teachers.”

11 New rules 24 and 24A substituted

Rule 24 is revoked and the following rules are substituted:

“24 Who conducts hearings

“(1) A charge laid with, or matter referred for hearing to, the Disciplinary Tribunal must be allocated by the chairperson of the Disciplinary Tribunal either to the Tribunal, or to a panel of the Tribunal, for hearing.

“(2) Hearings of the Tribunal must be conducted by 5 of its members, of whom the majority must, as required by section 139AQ(3C) of the Act, be registered teachers.

“(3) Hearings of a panel of the Tribunal must be conducted by at least 3 members of the Tribunal, of whom—

“(a) at least 1 must be a member of the Teachers Council; and

“(b) at least 1 must be the chairperson, or an alternative chairperson, of the Tribunal; and

“(c) the majority must, as required by section 139AQ(3C) of the Act, be registered teachers.

- “(4) Every hearing (whether allocated to the Tribunal or to a panel of the Tribunal) must be presided over by the chairperson, or an alternative chairperson, of the Tribunal.
- “(5) At least 1 of the members conducting a hearing must be a member of the Teachers Council.
- “(6) The temporary absence from a hearing of any member who is conducting the hearing does not affect the validity of the hearing, but all members must be present during the deliberations.

“24A Further rule on how Tribunal may operate in panels

- “(1) More than 1 panel of the Tribunal may operate at any one time.
- “(2) Members of the Tribunal may be on more than 1 panel at a time.
- “(3) A panel may perform and exercise, in relation to any matter allocated to it, all the functions and powers of the Tribunal.
- “(4) The chairperson of the Tribunal may, at any time, remove any member of a panel, and may substitute a different member, in order to ensure that the panel continues to comply with rule 24(3).
- “(5) The chairperson of the Tribunal may serve on any panel.”

12 Text of section 139AW of Education Act 1989 amended

The text of section 139AW(1)(g) of the Education Act 1989 as set out in the box after rule 35 is revoked and the following paragraph substituted:

“(g) order that the teacher’s registration or authority be cancelled (*see* section 129(1)).”

13 Text of section 139AZ of Education Act 1989 amended

- (1) The text of the heading to section 139AZ of the Education Act 1989 as set out in the box after rule 36 is amended by omitting “**relating to witnesses**”.
- (2) The text of section 139AZ of the Education Act 1989 as set out in the box after rule 36 is amended by adding the following subsection as subsection (2):
- “(2) A person commits an offence, and is liable on summary conviction to a fine not exceeding \$1,000, if, without lawful

excuse, he or she breaches an order made by the Disciplinary Tribunal under rules made under section 139AJ that—

- “(a) provide for a hearing to be held in private; or
- “(b) provide for evidence at a hearing to be given in private; or
- or
- “(c) impose restrictions on the publication of any information relating to a particular hearing.”

14 Text of section 139AU of Education Act 1989 amended

The text of section 139AU(1) of the Education Act 1989 as set out in the box after rule 39 is amended by inserting “possible” after “a complaint of”.

15 Text of section 139AZB of Education Act 1989 amended

The text of section 139AZB(1) of the Education Act 1989 as set out in the box after rule 43 is revoked and the following subsections are substituted:

- “(1) The teacher who is the subject of a decision by the Disciplinary Tribunal made under section 139AU(2) or section 139AW, or a decision by the Teachers Council made under section 139AZC, may appeal that decision to a District Court.
- “(1A) The Complaints Assessment Committee may, with the leave of the Teachers Council, appeal to a District Court against a decision of the Disciplinary Tribunal made under section 139AU(2) or section 139AW.”

Dated at Wellington this 26th day of September 2007.

Kathy Smith,
Chairperson of the New Zealand Teachers Council.

Explanatory note

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

These rules, which are made under the Education Act 1989, come into force on 1 November 2007. They amend the New Zealand

Teachers Council (Conduct) Rules 2004 (the **principal rules**) to update them in the light of—

- the New Zealand Teachers Council (Competence) Rules 2007 (which revoke and replace the New Zealand Teachers Council (Competence) Rules 2004); and
- amendments made to Part 10A (New Zealand Teachers Council) of the Education Act 1989 on 17 May 2006 by sections 27 to 34 of the Education Amendment Act 2006 (including some relating to the composition, and to the operation in panels, of the disciplinary bodies (the Complaints Assessment Committee and the Disciplinary Tribunal) established by the principal rules).

The amendments made by these rules apply only to a report or complaint about conduct made after the close of 31 October 2007.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 4 October 2007.
These rules are administered by the New Zealand Teachers Council.
