

**1996—No. 450**

**CORRECTION NOTICE**

**INDUSTRIAL RELATIONS COMMISSION RULES 1996**

NEW SOUTH WALES



*[Published in Gazette No. 102 of 6 September 1996]*

Part of Schedule 3 of the Industrial Relations Commission Rules published in the Government Gazette on 30 August 1996 (page 5960) was published in error. Forms 8 to 10 (pages 6022 to 6034) were affected. The correct forms are as set out below:

G K Robertson  
Industrial Registrar.

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**Form 8***Claim by Individual for Relief from Alleged Unfair Dismissal Under Section 84  
(INDIVIDUAL)***BEFORE THE INDUSTRIAL RELATIONS COMMISSION  
OF NEW SOUTH WALES**

No. IRC of 1996

.....

.....

*Applicant*

.....

.....

*Respondent*

**APPLICATION**  
(By Individual)  
For  
Relief From Alleged  
Unfair Dismissal

**A1a] YOUR NAME**Surname (last)  
name:

Given names:

Date of Birth / / 19

**A1b] YOUR ADDRESS**

Postcode Telephone ( )

**A2a] EMPLOYER'S NAME****A2b] EMPLOYER'S ADDRESS (Registered office)**

Postcode

**A2c] WORKPLACE ADDRESS**  
(that is, where you actually work or worked, if different to above)

Filed by

Contact name

Address

**Telephone**  
(Daytime contact  
number)

Facsimile

Postcode Telephone ( )

**A2d] Nature of employer's business?****B. ABOUT THE DISMISSAL OR THREATENED DISMISSAL**B1] Have you already been dismissed? Yes  No B2] Effective Date of dismissal or threatened  
dismissal / / 19B3] Were you given reasons for dismissal Yes  No   
or threatened dismissal?**NOTE: You must attach the information required by Part F**

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Form 8 *continued*

## C. ABOUT YOUR WORK

C1] When did you commence work for this employer?		/ /19
C2] What NSW industrial award or registered agreement do you/did you work under?  Award/Agreement		
None, but:	<input type="checkbox"/> Public Sector Employee	<input type="checkbox"/> Annual Remuneration: \$ .....
C3] What is/was your award or agreement classification?		
C4] What is/was your actual occupation (if different to C2 above)?		
C5] What was your average weekly rate of pay over the six months prior to the date of dismissal/threatened dismissal?		\$ ..... per week
C6] Were you employed:		Full time <input type="checkbox"/> Part time <input type="checkbox"/> Casual <input type="checkbox"/> as an adult employee <input type="checkbox"/> as a junior employee <input type="checkbox"/>
C7] Are you a member of an industrial union registered in New South Wales?		No <input type="checkbox"/> (Go to Part D)
Yes <input type="checkbox"/>	Name of union:     	
C8] Is the union representing you?		Yes <input type="checkbox"/> No <input type="checkbox"/>

## D. ABOUT YOUR CLAIMS AND ABOUT POSSIBLE COMPENSATION

D1] Have you asked your employer to reinstate you?		Yes <input type="checkbox"/> (Go to Question D2)	No <input type="checkbox"/> (Go to Question D3)
D2] Date of request(s)			/ /19
D3] Will you be asking for orders:		(a) that a threatened dismissal should not take place <input type="checkbox"/>	(b) for reinstatement or re-employment? <input type="checkbox"/> (See Question D4)

**1996—No. 450****Form 8 continued**

If you have been dismissed, but the Member of the Industrial Relations Commission hearing your claim considers that it would be impracticable to reinstate you or to order your re-employment, you **MAY** be eligible to seek compensation. Section 89 of the Industrial Relations Act limits this to “an amount of compensation not exceeding the amount of remuneration of the applicant during the period of 6 months immediately before being dismissed”.

<b>D4] If the Commission considers that it would not be practicable for you to return to your former employment, will you be seeking compensation from your former employer?</b>	<b>Yes</b> <input type="checkbox"/> (see Note)	<b>No</b> <input type="checkbox"/>
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**NOTE:**

(1) If you answered Yes to this last question, you should attach a separate sheet setting out, as best you can, the amount of compensation (limited as above) you would be seeking and the way in which you have calculated that amount. You should also set out the reasons why you think you should be awarded compensation.

**E. LATE CLAIMS:**

**E1] Have more than 21 days passed since you were dismissed, Or Yes  No  will it be more than 21 days since you were dismissed by the time this form reaches the Industrial Registry?**

**NOTE:** If you answered Yes to this last question, you should attach a separate sheet setting out:

- 1: The reasons why you were late in asking for relief from unfair dismissal
- 2: If an application for reinstatement has previously been made under Commonwealth law, when that application was made and what has happened to that application (particularly, whether that application has been settled or determined, and whether the application has been withdrawn or whether it has been declined because of the existence of an alternative remedy under State law)
- 3: Details of any hardship that would be caused to you if this application were rejected
- 4: Any conduct by the employer that you think should be taken into account
- 5: Any other matters you think should be taken into account.

**1996—No. 450****Form 8** *continued***F. WHAT YOU MUST ATTACH:**

**1.** A statement of the circumstances of your dismissal, setting out as best you can remember:

(i) What was said when you were dismissed (or threatened with being dismissed)

and

(ii) any reasons given for your dismissal either on the day of the dismissal or at any other time.

and

**2.** If reasons for your dismissal were given in writing, a copy of those written reasons.

and

**3.** A statement setting out:

(i) all the grounds on which you say the dismissal is (or the threatened dismissal would be) harsh, unreasonable or unjust.

(ii) a brief explanation of the above grounds.

and

**4.** If you answered “Yes” to questions **D4** (compensation) or **E1** (late application), the Statements required by those parts.

**NOTE:** An application must comply with the above requirements in order to be filed

**G. WHERE YOU CAN BE CONTACTED:****(1) WHERE DOCUMENTS CAN BE SERVED ON YOU:**

You will need to supply an address where documents and telephone advice about the hearing can easily reach you. If you have a solicitor acting for you, or a union is representing you, that address can be the address of the solicitor or the union. Set out the address below.

<b>Address</b>		
	Postcode	Telephone ( )

Form 8 <i>continued</i>
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**(2) WHERE YOU CAN BE REACHED BY TELEPHONE:**

Daytime Telephone Number where you may be contacted: ( )
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Note: The Industrial Registry has trained officers available to help applicants (especially those not represented by a solicitor, agent or organisation) in completing the form and ensuring that the information is sufficient. For applicants filing in person, this will be done when you attend the Registry to lodge your application. If you are outside the metropolitan area, or for any other reason you cannot attend the Registry to file your application, this advice will be given over the telephone. For this reason, if you are not intending to lodge the documents in person, please give a daytime telephone contact number where you may be reached. Failure to provide this may mean that if there are any problems with your documents they will have to be returned by post, which may result in your application being out of time. If this occurs, you will need to also lodge the Statement required by Part E.

**H. WHAT YOU MUST DO**

1. Complete this form (typing or printing clearly in ink), making sure that all questions are answered.
2. Attach the documents required by Part F
3. Consider whether you should complete the Form called "Undertaking Not to Proceed With Other Remedies Relating to Dismissal" which should be attached to this Form. THIS IS IMPORTANT AND YOU SHOULD READ THE INFORMATION ATTACHED TO THAT FORM.
4. Complete the following Affidavit. You will require the services of a Justice of the Peace. Both you and the Justice of the Peace should sign each page of this form and each page of any documents you are including.

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Form 8 *continued***AFFIDAVIT**

On ..... Date

I, ..... Full Name

of ..... Full Address

say on oath that:

1. I am the applicant for relief from an unfair, unreasonable or unjust dismissal.
2. The information given by me in this application and in the attached \* pages is, to the best of my knowledge and belief, true in every detail.

\* — insert number of pages of documents attached.

SWORN at

.....  
(City, Suburb etc).....  
(Your Signature)

Before Me:

.....  
(Signature of Justice of the Peace)

Justice of the Peace

Printed Name of Justice: .....

Note: Each page of this application and of all the attachments must be signed and witnessed

5. Lodge this form and all attachments (plus four copies) at the Ground Floor Counter at the Office of the Industrial Registrar, 50 Phillip Street Sydney. You must do this within 21 days of your dismissal.

6. You will be given two copies of this form back—one copy for you to keep and one copy which you MUST give to your employer/former employer (personally or by post) as soon as possible.

7. You and the employer will be told later by the Industrial Registry of the time and the place where this matter will be heard. (If you settle the matter or wish to withdraw it before this happens **you must** notify the Industrial Registry in writing)

Form 8 <i>continued</i>
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8. YOU MUST SERVE A COPY OF THIS FORM AND ALL ATTACHMENTS ON YOUR EMPLOYER OR FORMER EMPLOYER AS SOON AS POSSIBLE AFTER FILING THIS FORM AT THE REGISTRY

**TO THE RESPONDENT(S):**

*(name the employer or former employer)*

.....

**IMPORTANT NOTICE:**

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry, 50 Phillip Street Sydney, within 7 days of service of this notice (*or as the case may be*) on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Industrial Relations Commission Registry, telephone *(number)*

**PLEASE DO NOT DETACH THIS PAGE**

Filed: ..... 19

Signature: .....

for

Industrial Registrar

**Form 9**  
*Claim for Relief from Alleged Unfair Dismissal Under Section 84  
 (REGISTERED ORGANISATION)*

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION  
 OF NEW SOUTH WALES**

**No. IRC of 1996**

(Add Title as required  
 by Schedule 1)

**APPLICATION  
 (By Organisation)  
 For  
 Relief From Alleged  
 Unfair Dismissal**

**Filed by** (Name of  
 person, corporation  
 organisation or other  
 body filing the document)

**Contact name** (Name of  
 person conducting the  
 matter)

**Address  
 Telephone  
 Facsimile  
 DX**

(and if solicitors or  
 agents are acting, add  
 by their agents)

**Name  
 Address  
 Telephone  
 Facsimile  
 DX**

**A. Name of Organisation:**

(State full registered name)

**B. seeks:**

(State either an order that the employee not be dismissed, if dismissal has not yet taken place, or relief from unfair dismissal. If dismissal has taken place. If the application is on behalf of a group of employees, some of whom fall into both categories, attach a Schedule distinguishing the two groups)

**C. on behalf of the employee(s) set out below (or, in the attached Schedule marked “ ”)**

(Give Full name, address, telephone number and date of birth)

**D. who were threatened with \*dismissal/\*dismissed on (date)**

**E. The employer \*is/\*was:**

(Give Full name and registered address)

**F. The workplace address \*is/\*was:**

(Give address where work was carried out)

**G. The nature of the employer's business is:**

(Give a description of the industry)

**H. The Organisation will rely on the particulars in the attached Statement of Particulars**

(The particulars listed below. MUST be included or the application may not be accepted for filing)

Add I only where appropriate

**I. An application under section 380 for an order against the employer in respect of a small claim will be made during the hearing.**

(Rule 20 requires particulars to be given and served in Form 5. These particulars could instead be added to the Statement of Particulars.)

**J. The Contact Officer for the Organisation making this application is:**

(State Name and contact details, including daytime and out-of-hours telephone number)

**K. Address for service is:**

(This should be the registered office of the organisation or the address of its solicitor.)

(signature)

(Capacity in which signed, e.g. union secretary  
 solicitor for union, etc.)

Filed (dated, if not filed): (date) 19

\* delete as appropriate

**TO THE RESPONDENT(S):**

(name the employer or former employer)

<b>Form 9</b> <i>continued</i>
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**IMPORTANT NOTICE:**

- (1) You are required, under the Rules of the Industrial Relations Commission, to file a notice of appearance at the Industrial Registry, 50 Phillip Street Sydney, within 7 days of service of this notice (*or as the case may be*) on you.
- (2) If you do not enter an appearance, or if there is no attendance by you or your counsel, solicitor or agent at the time and place specified in this notice or as notified to you subsequently, the proceedings may be heard in your absence and an order may be made against you.
- (3) The parties will be advised if the date time or place is altered. Any enquiries should be made to the Industrial Relations Commission Registry, telephone (*number*)

**STATEMENT OF PARTICULARS**

*You MUST include the following particulars in the application. Where numbers of employees are involved, it may be more convenient to give the particulars in the form of Schedules)*

**Part 1: About the Work**

- (1) Date individual commenced employment?
- (2) What NSW industrial award or registered agreement is/was applicable?
- (3) If not covered by an award or agreement,
  - (i) whether the applicant is a public sector employee, or
  - (ii) what is the applicant's annual remuneration?
- (4) The correct award or agreement classification (if applicable)?
- (5) The actual occupation (if different to (3))?
- (6) The average weekly rate of pay over the six months prior to dismissal?
- (7) Was employment full time, part-time, or casual?
- (8) Was the individual an adult or junior?

Form 9 *continued***Part 2: About the Dismissal**

(1) Were reasons given for the dismissal or threat of dismissal?

*(Set out the reasons given. If given in writing, add, A copy of the reasons is attached marked “ ”)*

(2) The circumstances of the dismissal or threatened dismissal?

1.    { *(set out, in numbered paragraphs, the circumstances of the dismissal, including what was said at the time and any background information which will assist in understanding the dismissal)*
2.    { *(set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc. on which reliance will be placed)*

**Part 3: About Grounds for Relief**

(1) The grounds on which it is contended that the dismissal or threatened dismissal is unfair?

1.    { *(set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc. on which reliance will be placed)*
2.    { *(set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc. on which reliance will be placed)*

**Part 4: About the Orders sought**

(1) What orders are you seeking?

*(State the orders sought)*

(2) If the Commission considers that it would not be practicable for the individual to be reinstated will compensation be sought?

*(If Yes, set out (i) the amount of compensation that will be sought, (ii) how that amount was calculated and (iii) briefly but specifically the grounds on which compensation will be sought)*

**Part 5: If This Application Is Late**

If more than 21 days passed since the dismissed, or, it will be more than 21 days since the dismissal by the time this application is filed

(1) The reasons why you were late in asking for relief from unfair dismissal

(2) If an application for reinstatement has previously been made under Commonwealth law, when that application was made and what has happened to that application (particularly, whether that application has been settled or determined, and whether the application has been withdrawn or whether it has been declined because of the existence of an alternative remedy under State law)

(3) Details of any hardship that would be caused to the individual if this application were rejected

(4) Any conduct by the employer that should be taken into account

(5) Any other matters that should be taken into account.

<b>Form 9</b> <i>continued</i>
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**Part 6: If there is more than one remedy**

Consider whether the employee should complete the Form called "Undertaking Not to Proceed With Other Remedies Relating to Dismissal", which should be attached to this Form. If necessary, file that form with this application

**Part 7: Small Claims**

*(If appropriate, the particulars of any small claim under section 379 (in the form required by Rule 20 and Form 5) can be added here)*

**Form 10**  
*Claim for Relief from Alleged Unfair Dismissal Under Section 84  
 (INDIVIDUAL REPRESENTED BY SOLICITOR OR AGENT)*

**BEFORE THE INDUSTRIAL RELATIONS COMMISSION  
 OF NEW SOUTH WALES**

**No. IRC                    of 1996**

(Add Title as required  
 by Schedule 1)

**APPLICATION  
 (By Represented  
 Individual)  
 For  
 Relief From Alleged  
 Unfair Dismissal**

**Filed by** (Name of  
 person, corporation,  
 organisation or other  
 body filing the document)

**Contact name** (Name of  
 person conducting the  
 matter)

**Address  
 Telephone  
 Facsimile  
 DX**

(and if solicitors or  
 agents are acting add  
 by their agents)

**Name  
 Address  
 Telephone  
 Facsimile  
 DX**

- A.** Name of Applicant:  
*(Give Full name, address, telephone number and date of birth)*
- B.** seeks:  
*(State either an order that I nor be dismissed, if dismissal has nor yet taken place, or relief from unfair dismissal, if dismissal has taken place.)*
- C.** I was threatened with \*dismissal/\*dismissed on  
*(date)*
- D.** The employer \*is/\*was:  
*(Give Full name and registered address)*
- E.** The workplace address \*is/\*was:  
*(Give address where work war carried out)*
- F.** The nature of the employers business is:  
*(Give a description of the industry)*
- G.** I will rely on the particulars in the attached Statement of Particulars.  
*(The particulars listed below MUST be included or the application may not be accepted for filing)*  
 Add H only where appropriate
- H.** An application under section 380 for an order against the employer in respect of a small claim will be made during the hearing.  
*(Rule 20 requires particulars to be given and served in Form 5. These particulars could instead be added to the Statement of Particulars.)*
- I.** The Solicitor or Agent acting for me is:  
*(State Name and contact details)*
- J.** Address for service is:  
*(The address of the solicitor, etc.)*

*(signature)*

*(Capacity in which signed, eg. solicitor, etc.)*

Filed (dated, if not filed): (date) 19

\* delete as appropriate

**TO THE RESPONDENT(S):**

*(name the employer or former employer)*

Form 10 <i>continued</i>
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**IMPORTANT NOTICE:**

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***You MUST include the following particulars in the application. Where numbers of employees are involved, it may be more convenient to give the particulars in the form of Schedules***

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- (1) Date individual commenced employment?
- (2) What NSW industrial award or registered agreement is/was applicable?
- (3) If not covered by an award or agreement,
  - (i) whether the applicant is a public sector employee, or
  - (ii) what is the applicant's annual remuneration?
- (4) The correct award or agreement classification (if applicable)?
- (5) The actual occupation (if different to (3))?
- (6) The average weekly rate of pay over the six months prior to dismissal?
- (7) Was employment full time, part-time, or casual?
- (8) Was the individual an adult or junior?

Form 10 *continued***Part 2: About the Dismissal**

(1) Were reasons given for the dismissal or threat of dismissal?

*(Set out the reasons given. If given in writing, add, A copy of the reasons is attached marked “ ”)*

(2) The circumstances of the dismissal or threatened dismissal?

1. { *(set out, in numbered paragraphs, the circumstances of the dismissal, including what was said at the time and any background information which will assist in understanding the dismissal)*
2. { *(set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc. on which reliance will be placed)*

**Part 3: About Grounds for Relief**

(1) The grounds on which it is contended that the dismissal or threatened dismissal is unfair?

1. { *(set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc. on which reliance will be placed)*
2. { *(set out, in numbered paragraphs, the grounds on which it is alleged the dismissal is harsh, unreasonable or unjust and the matters, etc. on which reliance will be placed)*

**Part 4: About the Orders sought**

(1) What orders are you seeking?

*(State the orders sought)*

(2) If the Commission considers that it would not be practicable for the applicant to be reinstated will compensation be sought?

*(If Yes, set out (i) the amount of compensation that will be sought, (ii) how that amount was calculated and (iii) briefly but specifically the grounds on which compensation will be sought)*

**Part 5: If This Application Is Late**

If more than 21 days passed since the dismissed, or, it will be more than 21 days since the dismissal by the time this application is filed

(1) The reasons why you were late in asking for relief from unfair dismissal

(2) If an application for reinstatement has previously been made under Commonwealth law, when that application was made and what has happened to that application (particularly, whether that application has been settled or determined, and whether the application has been withdrawn or whether it has been declined because of the existence of an alternative remedy under State law)

(3) Details of any hardship that would be caused to the applicant if this application were rejected

(4) Any conduct by the employer that should be taken into account

(5) Any other matters that should be taken into account.

<b>Form 10</b> <i>continued</i>
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**Part 6: If there is more than one remedy**

Consider whether the applicant should complete the Form called "Undertaking Not to Proceed With Other Remedies Relating to Dismissal", which should be attached to this Form. If necessary, file that form with this application

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