



New South Wales

## RULES RE COMPLIANCE WITH STATUTE

Insert after Part 5, rule 4:

**4A      Compliance with statutory restrictions on commencement of proceedings in respect of “existing claims”.**

- (1)     This rule is made pursuant to section 106G of the Workers Compensation Act 1987.
- (2)     This rule applies to “existing claims” under the Workers Compensation Act 1987 as defined in section 87D of the said Act and as may be amended by any regulation duly made under the said Act pursuant to section 87D (2).
- (3)     A party seeking to commence any proceeding in respect of any such claim shall file with the initiating process either
  - (a)    a certificate of compliance in the form stipulated by sub-rule (6) of this rule certifying that the commencement of such proceeding is not contrary to the provisions of sections 106D, 106E, or 106F of the said Act as the case may be, or
  - (b)    a copy of a certificate of the Senior Conciliation Officer or conciliation officer issued pursuant to section 98D regarding the conciliation of the dispute the subject of the proposed proceeding.
- (4)     Where the certificate of the Senior Conciliation Officer or conciliation officer filed with the initiating process does not expressly deal with all elements sought to be recovered in the proposed proceeding the party seeking to commence proceedings shall file with it a certificate of compliance in relation to all other elements.
- (5)     Any initiating process not accompanied by such appropriate certificate or certificates shall not be accepted for filing.
- (6)     Such certificates of compliance shall be in or to the effect of the approved form or such portion or portions thereof as may be relevant to the particular matter.

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- (7) This rule ceases to operate, and is deemed rescinded, if and when the category of “existing claims” ceases to exist pursuant to any regulation duly made pursuant to subsections (2) and (3) of section 87D.
- (8) Where, leave of the Court having been previously obtained, a party seeks to file an amended application for determination adding an additional party or parties to the current proceedings than the provisions of this rule apply mutatis mutandis in respect of the proposed applications against such added party or parties.
- (9) This rule applies in respect of all initiating process presented for filing on or after 27 June 1997.

**4B      Compliance with statutory restrictions on commencement of proceedings for “new claims”.**

- (1) This rule is made pursuant to section 106FE of the Workers Compensation Act 1987.
- (2) This rule applies to “new claims” under the Workers Compensation Act 1987 as defined in section 87D of the said Act.
- (3) A party seeking to commence any proceeding in respect of any such claim shall file with the initiating process either:
  - (a) a copy of a certificate of conciliation outcome issued by the Principal Conciliator or a conciliation officer pursuant to section 98D, or
  - (b) a copy of the notification by a conciliation officer under section 104 (3) in relation to the dispute which is the subject matter of the proposed proceeding, and/or
  - (c) a certificate of compliance in the form stipulated by sub-rule (6) of this rule certifying that the commencement of such proceedings is not contrary to the provisions of section 106FB, 106FC or 106FD of the said Act as the case may be.

- (4) Where the certificate of the Principal Conciliator or conciliation officer or the notification under section 104(3) filed with the initiating process does not expressly deal with all elements sought to be recovered in the proposed proceeding the party seeking to commence proceedings shall also file with the initiating process a certificate of compliance in relation to all other elements.
- (5) Any initiating process not accompanied by such appropriate certificate, certificates and/or notification shall not be accepted for filing.
- (6) Such certificate of compliance shall be in or to the effect of the approved form or such portion or portions thereof as may be relevant to the particular matter.
- (7) Where, leave of the Court having been previously obtained, a party seeks to file as amended application for determination adding an additional party or parties to the current proceedings than the provisions of this rule apply mutatis mutandis in respect of the proposed applications against such added party or parties.
- (8) This rule applies in respect of all initiating process presented for filing on or after 27 June 1997.

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Explanatory Note

These rules are made pursuant to section 106G and 106FE of the Workers Compensation Act 1987 and require demonstration of compliance with the mandatory requirements of the Act. They will commence on 27 June 1997.

John McMillan  
Acting Secretary  
Rule Committee  
Compensation Court of New South Wales

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