



New South Wales

Compensation Court Rule (Consequential Amendments) 1998

under the

Compensation Court Act 1984

The Compensation Court Rule Committee made the following rule of court under the *Compensation Court Act 1984* on 3 December 1998.

S Davidson

Secretary of the Rule Committee

Explanatory note

The object of this Rule is to make amendments to the *Compensation Court Rules 1990* that are consequential to the enactment of the *Workplace Injury Management and Workers Compensation Act 1998* and the *Workers Compensation Legislation Amendment Act 1998*.

1998 No 674

Clause 1 Compensation Court Rule (Consequential Amendments) 1998

Compensation Court Rule (Consequential Amendments) 1998

1 Name of Rule

This Rule is the *Compensation Court Rule (Consequential Amendments) 1998*.

2 Commencement

This Rule commences on 11 December 1998.

3 Amendment of Compensation Court Rules 1990

The *Compensation Court Rules 1990* are amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Rule.

Schedule 1 Amendments

(Clause 3)

[1] Part 1, Rule 5 (1):

(i) Insert in alphabetical order:

the 1987 Act means the *Workers Compensation Act 1987*.

the 1998 Act means the *Workplace Injury Management and Workers Compensation Act 1998*.

Workers Compensation Acts means the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*.

(ii) In the definition of *compensation*, omit "Compensation Act". insert instead "Workers Compensation Acts".

(iii) Omit the definition of *Compensation Act*.

(iv) In the definition of *insurer*, omit "Compensation", insert instead "1987" and after the word "Act" insert "or section 144 (1) of the 1998 Act".

(v) In the definition of *Workcover Authority*, omit "Workcover Administration Act 1989". insert instead "1998 Act".

[2] In each of the following:

Part 1, rule 5 (2); Part 18, rule (4) (d); Part 19, rule 3 (1) (d); and Part 20, rule 1 (1) and (2) and rule 5A (1) (b) and (4),

Omit "Compensation". insert instead "1998".

[3] In each of the following:

Part 1, rule 6 (1) and rule 7 (1); Part 4, rule 1 and rule 3; Part 5, rule 12; Part 8, Rule 1; Part 11, rule 1 (2), rule 3 (2) (b) (i) and (ii), and rule (4); Part 23, rule 2 (2) and rule 8 (5); and Part 34, rule 6 (3),

Omit "Compensation Act", insert instead "Workers Compensation Acts".

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Schedule 1 Amendments

[4] In each of the following:

Part 5, rule 4 (a); and Part 5, rule 6,

Omit "section 144 (1) or 145 (3) of the Compensation Act", insert instead "section 224 (1) or 225 (3) of the 1998 Act".

[5] In each of the following:

Part 5, rule 4 (b), (c) and (d), rule 8 and rule 10; Part 23, rule 8 (1) (a) (ii); and Part 29, rule 5 (2) (a), (b) and (c); and rule 8 (1) and (3),

Omit "Compensation", insert instead "1987".

[6] Part 5, rule 4A (1) and (2) and rule 4B (1) and (2):

Omit "Workers Compensation Act 1987", insert instead "1987 Act".

[7] Part 5

After rule 4B, insert:

"Compliance with statutory restrictions on commencement of proceedings under the 1998 Act.

- 4C (1) This rule is made pursuant to section 104 of the 1998 Act.
- (2) This rule applies to claims for compensation referred to in sections 101, 102 and 103 of the 1998 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 84 indicating that conciliation was wholly or partially unsuccessful, or

- (b) a copy of the notification by a conciliation officer under section 95 (4) in relation to the dispute which is the subject matter of the proposed proceedings, 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 101, 102 or 103 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 95 (4) 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 an amended application for determination adding an additional party or parties to the current proceedings then 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 11 December 1998."

[8] Part 5, rule 9:

Omit "Compensation". insert instead "1998" and omit "130".
insert instead "120".

[9] Part 5, rule 11B (1) and (2):

Omit the rule.

[10] Part 6, rule 22:

After "23", insert "of the 1987 Act".

[11] Part 8 rule 16 (3):

Omit "12 (1) of the Compensation Act". insert instead "222 (1) of the 1998 Act".

[12] Part 20, rule 2 (4):

Omit "129 of the Compensation". insert instead "119 of the 1998".

[13] Part 20, rule 5A (5):

Omit "131 (4) of the Compensation Act". insert instead "122 (5) of the 1998 Act"

[14] Part 20, rule 6 (2):

Omit "each of *treatment by way of rehabilitation and approved place*". insert instead "*occupational rehabilitation service*" and omit "Compensation". insert instead "1987".

[15] Part 20, rule 7 (1) (b):

Omit "an approved place. at which treatment by way of rehabilitation is afforded", insert instead "a place providing an occupational rehabilitation service".

[16] Part 34, rule 4 (2):

Omit "19(2) (c) of the *Workcover Administration Act 1989*". insert instead "35 (2) of the 1998 Act".

[17] Part 35, rule 5 (1):

- (i) Omit "131" wherever appearing and insert instead "122".
- (ii) Omit "(7)", insert instead "(12)".
- (iii) Omit "Compensation", insert instead "1998".

[18] Part 35, rule 5 (2):

Omit "131 (4)", insert instead "122 (5)" and omit "Compensation". insert instead "1998".