



New South Wales

Compensation Court Rule (Miscellaneous Amendments and Minor Law Revision) 1999

under the

Compensation Court Act 1984

The Compensation Court Rule Committee made the following rule of court under the *Compensation Court Act 1984* on 24 June 1999.

S Davidson

Secretary of the Rule Committee

Explanatory note

The object of this Rule is to amend the *Compensation Court Rules 1990* to identify matters to be commenced by summons, effect various miscellaneous amendments and for minor law revision purposes.

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1 Name of Rule

This Rule is the *Compensation Court Rule (Miscellaneous Amendments and Minor Law Revision) 1999*.

2 Commencement

This Rule commences on 2 July 1999.

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) After “rules” where first appearing insert “unless the context or subject matter otherwise indicates or requires”.
- (ii) In the definition of *medical practitioner*, after “person”, insert “who was” and after “*Medical Practitioners Act 1938*”, insert “or is registered under the *Medical Practice Act 1992*”.

[2] Part 1, rule 7:

After subrule (3), insert:

- “(4) An application for directions under this rule may be made, whether or not proceedings have been commenced, by notice of motion under Part 14.”

[3] Part 2, rule 1 (3):

Omit “or on a Court holiday”.

[4] Part 3, rule 1:

After subrule (3), insert:

- “(3A) In making an order under subrule (3) the Court or a registrar may have regard to, but is not bound by, any desired venue for the hearing stated in the originating process filed in the proceedings.”

[5] Part 4, rule 2 (4):

Omit the subrule.

[6] Part 4, rule 4:

- (i) Omit “during summer vacation” from the heading and number the existing rule as subrule (1).

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- (ii) In subrule (1), omit “summer”, insert instead “fixed”.
- (iii) After subrule (1), insert:
 - “(2) subject to subrule (1), the Chief Judge may, in special circumstances, by Practice Note, fix a period when time shall not, unless the court otherwise orders, run so as to put any party in default in respect of any act for the doing of which a time is fixed by the rules or by any decision or order of the Court, but subject to Part 2 rule 3 (2) business may be done during that period.”

[7] Part 5, rule 4:

After subclause (g), insert:

“(h) by way of appeal under section 8I of the *Workers Compensation (Dust Diseases) Act 1942*,”

[8] Part 5, rule 5 (3) (a):

Omit “State Authorities Superannuation Board—that Board”, insert instead “SAS Trustee Corporation—that Corporation”.

[9] Part 5, rule 5:

Omit subrule (5).

[10] Part 5, rule 9:

After rule 9 insert:

“9A Objection to referral to medical referee or medical panel

An application objecting to a reference to a medical referee or medical panel pursuant to Part 20 rule 5A (3) shall be made by notice of motion under Part 14 in any case proceeding in relation to the subject medical dispute, or otherwise by summons under rule 11A.”

[11] Part 5, rule 11B:

After rule 11A, insert:

“11B Particular proceedings commenced by summons

The following proceedings shall be commenced by summons where no proceedings have been commenced in relation to the subject matter in dispute:

- (a) for an order for costs pursuant to section 112 (7) of the 1998 Act,
- (b) for an order for inspection of property in the nature of the orders set out in Part 20 rule 8 and in accordance with the procedures therein applicable,
- (c) for revocation of a direction of a conciliator for payment of weekly payments pursuant to section 97 (2) of the 1998 Act,
- (d) for an order for refund of weekly payments pursuant to section 58 of the 1987 Act,
- (e) for any order or other relief relating to discontinuation of payments pursuant to section 52A of the 1987 Act,
- (f) for apportionment between dependents pursuant to section 29 of the 1987 Act or for variation of any previous apportionment pursuant to section 30 of the 1987 Act.
- (g) where liability has been admitted, for an order for payment in respect of dependent children pursuant to section 31 of the 1987 Act, and
- (h) for variation in the manner in which the Public Trustee invests, applies, pays out or otherwise deals with money paid to the Public Trustee pursuant to section 85 of the 1987 Act. The Public Trustee shall be made a respondent to any such application.”

[12] Part 5, rule 16:

Omit “reply”, where first appearing insert instead “rely”.

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[13] Part 5, rule 21:

- (i) In subrule (1), omit “16”, insert instead “14”.
- (ii) After subrule (2), insert:
 - “(2A) In addition to service on any respondent to the application, the applicant must serve the application for leave on the proper officer of the Supreme Court.”

[14] Part 6, rule 20:

Insert in alphabetical order:

“**curator** means:

- (a) in respect of a person
 - (i) the management of whose estate is, by the *Protected Estates Act 1983*, or by an order of the Supreme Court or the Guardianship Board under that Act, committed to the Protective Commissioner;
 - (ii) of whose estate the Protective Commissioner has, in accordance with section 63 of that Act, undertaken the management; or
 - (iii) in relation to whose property the Protective Commissioner is authorised as mentioned in section 66 (1) (a) of that Act—
the protective Commissioner;
- (b) in respect of a person whose estate a manager has been appointed by order of the Supreme Court or the Guardianship Board under section 22 or section 22A of the *Protected Estates Act 1983*—the manager appointed.”

“**Incompetent person** means:

- (a) a person who is not a minor and who is
 - (i) incapable of managing that person’s own affairs;
or
 - (ii) incommunicate; or
- (b) a minor who has a curator.”

“**judgment** includes any award, decision or determination.”

[15] Part 6, rule 29 (1):

Omit “Where”, insert instead “Subject to section 51 of the 1987 Act, where”

[16] Part 8

Omit the heading “Services” and insert instead “Service”.

[17] Part 8, rule 11 (1):

After “thereof”, insert “for delivery to the party”.

[18] Part 8, rule 20:

Insert the heading “**Documents to be sealed**”.

[19] Part 8, rule 21:

- (i) Insert the heading “**Service pursuant to Rules**”.
- (ii) Omit “Such”, insert instead “Subject to any applicable convention, such”.

[20] Part 8, rule 22:

After rule 22, insert:

“23 Notice

A notice in the prescribed form shall be served with any originating process.

24 Definition

In this Division convention means a convention made between Her Majesty or any of her predecessors and the king or other head of state of a foreign country regarding legal proceedings in civil matters.”

[21] Part 10, rule 4:

Insert the heading “**Proceedings deemed struck out**”.

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[22] Part 13, rule 7:

Omit subrule (2).

[23] Part 14, rule 6:

Omit subrules (3) and (4).

BY AUTHORITY