



New South Wales

Compensation Court Rule (Preliminary Discovery) 2000

under the

Compensation Court Act 1984

The Compensation Court Rule Committee made the following rule of court under the *Compensation Court Act 1984* on 13 July 2000.

S Davidson

Secretary of the Rule Committee

Explanatory note

The object of this Rule is to amend the *Compensation Court Rules 1990* to provide a procedure for preliminary discovery of certain defined matters necessary for the purpose of commencing proceedings.

2000 No 383

Compensation Court Rule (Preliminary Discovery) Rule 2000

Compensation Court Rule (Preliminary Discovery) 2000

1 Name of Rule

This Rule is the *Compensation Court Rule (Preliminary Discovery) 2000*.

2 Commencement

This Rule commences on 21 July 2000.

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 4A

After Part 4 insert:

“PART 4A PRELIMINARY DISCOVERY

1 Interpretation

In this Part:

discoverable matter means:

- (a) the time and date of the occurrence of a relevant injury;
- (b) the identity of the employer or person liable under the Workers Compensation Acts in respect of a relevant injury;
- (c) the identity of an insurer or insurers of an employer or of a person liable under the Workers Compensation Acts, against whom a claim for workers compensation may be made in respect of a relevant injury; or
- (d) the identity of the self insurer against whom a claim for workers compensation may be made in respect of a relevant injury.

relevant injury means an injury giving rise to a claim for workers compensation under the Workers Compensation Acts.

2 Examination and production

- (1) Where, on application to the Court by any applicant, it appears to the Court that—
 - (a) the applicant, having made reasonable inquiries, is unable to ascertain a discoverable matter for the purpose of commencing proceedings in relation to a relevant injury; and
 - (b) some person has or may have knowledge of facts, or has or may have in that person's possession, custody or

2000 No 383

Compensation Court Rule (Preliminary Discovery) Rule 2000

power any document or thing, tending to assist in the ascertainment of the discoverable matter,

the Court may order that person—

- (c) to attend before the Court or the registrar on a day named in the order and be orally examined on any matter relating to the discoverable matter; and
- (d) to produce any document or thing in that person's possession, custody or power relating to the discoverable matter.

- (2) Where, on application by any applicant, the matters mentioned in subrule (1) (a) appear to the Court and it further appears to the Court that a corporation has or may have in its possession, custody or power any document or thing tending to assist in ascertainment of a discoverable matter, the Court may order the corporation or any officer of the corporation to produce any document or thing in the possession, custody or power of the corporation relating to the discoverable matter.

3 Procedure

- (1) An applicant may apply for orders under rule 2 by notice of motion under Part 14 supported by affidavit, without making any person a respondent.
- (2) An application under rule 2 before a Registrar shall be referred to the Court on application by any party.
- (3) An order under rule 2 shall be served within a reasonable time on the person ordered to attend or to produce any document or thing.

4 Conduct money

- (1) An order under rule 2 shall not require a person to attend or to produce any document or thing on any day on which that person's attendance, or production by that person, is required, unless an amount sufficient to meet the reasonable expenses of complying with the order in relation to that day is paid or tendered to that person at the time of service of the order or not later than a reasonable time before that day.
- (2) Where an order under rule 2 requires a corporation to produce any document or thing, the amount mentioned in subrule (1)

may be paid or tendered to any person apparently in the service of the corporation and apparently of or above the age of sixteen years.

5 Expense and loss

Where any person incurs expense or loss in complying with an order under rule 2 in an amount substantially exceeding any amount paid under rule 4, the Court or the registrar before whom the person complies with the order may order the applicant for the order to pay to the person an amount sufficient to make good the expense or loss.

6 Default in complying with order

The Court may order that any failure to comply with an order under rule 2 be dealt with as a failure to comply with a subpoena.

7 Privilege

For the purposes of this Part, a document shall be privileged from production if it is a privileged document or thing.”