



New South Wales

Compensation Court Rule (Efficient Resolution of Proceedings) 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 the 12 October 2000.

S Davidson

Secretary of the Rule Committee

Explanatory note

The objects of this Rule are to amend the *Compensation Court Rules 1990* to facilitate the just quick and cheap resolution of the real issues in dispute, to clarify methods of commencement of various applications and to provide for the service of third party notices on insurers.

2000 No 619

Clause 1 Compensation Court Rule (Efficient Resolution of Proceedings) 2000

Compensation Court Rule (Efficient Resolution of Proceedings) 2000

1 Name of Rule

This Rule is the *Compensation Court Rule (Efficient Resolution of Proceedings) 2000*.

2 Commencement

This Rule commences on 20 October 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 1

After rule 2, insert:

“2A Overriding purpose

- (1) The overriding purpose of these rules is to facilitate the just, quick and cheap resolution of the real issues in any proceedings.
- (2) The Court must seek to give effect to the overriding purpose when it exercises any power given to it by the rules or when interpreting any rule.

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- (3) A party is under a duty to assist the Court to further the overriding purpose and, to that effect, to participate in the processes of the Court and to comply with directions and orders of the Court.
 - (4) A solicitor or barrister shall not, by his or her conduct, cause his or her client to be put in breach of the duty identified in (3).
 - (5) The Court may take into account any failure to comply with (3) or (4) in exercising a discretion with respect to costs."

[2] Part 5, rule 2 (1)

Omit "6". Insert instead "2".

[3] Part 5, rule 9

After rule 9A, insert:

"9B Applications for contribution, indemnity or apportionment

- (1) The following applications shall be made by notice of motion under Part 14 where proceedings are pending in relation to the subject matter of the application:
 - (a) for contribution pursuant to sections 15, 16 or 17 of the 1987 Act,
 - (b) for indemnification pursuant to section 20 of the 1987 Act,
 - (c) for apportionment pursuant to sections 22 or 22A of the 1987 Act, and
 - (d) for a determination pursuant to section 22B of the 1987 Act.
- (2) It shall not be necessary to endorse a return date on any notice of motion filed pursuant to subrule (1).
- (3) Where there are no proceedings pending in relation to the subject matter of an application under subrule (1), proceedings shall be commenced by application for determination."

[4] Part 10, rule 4 (1)

Omit “6”. Insert instead “3”.

[5] Part 11

After Part 11, insert:

“Part 11A Limiting issues

1 Putting matters in issue unreasonably

- (1) A party to proceedings must not in a pleading or at a hearing make, or put in issue, an allegation of fact unless it is reasonable to do so.
- (2) A party to proceedings who has in a pleading or at a hearing made, or put in issue, an allegation of fact must not maintain that allegation or its traverse unless it is reasonable to do so.

2 Reasonableness of issue

In determining whether it is reasonable for a party to make or put in issue an allegation of fact or to maintain such an allegation or its traverse, consideration must be given to the steps taken by the party to ascertain whether there is a reasonable basis for doing so.

3 Scope of part

Nothing in this Part shall give rise to, or affect, any right to seek that proceedings or any claim for relief or any defence be stayed or dismissed or struck out.”

[6] Part 17, rule 3 (1)

- (i) After “party” where thirdly appearing omit “and”, insert instead “,”.
- (ii) After “applicant”, insert “and any insurer nominated”.

[7] Part 22

After rule 4, insert:

“5 Obligation of party

A party shall limit evidence, including cross-examination, to that which is reasonably necessary to advance and protect that party’s interests which are at stake in the proceedings.”