



New South Wales

Compensation Court Rule (Conciliation of Coal Miners' Claims) 2002

under the

Compensation Court Act 1984

The Compensation Court Rule Committee made the following rule of court under the *Compensation Court Act 1984* on 21 May 2002.

D Martin
Secretary to the Rule Committee

Explanatory note

The object of this rule is to amend the *Compensation Court Rules 1990* to prescribe procedures for the conciliation of coal miners' claims dealt with by the Compensation Court pursuant to Part 22 of the *Workers Compensation (General) Regulation 1995*.

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1 Name of Rule

This rule is the *Compensation Court Rule (Conciliation of Coal Miners' Claims) 2002*.

2 Commencement

This rule commences on 11 June 2002.

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)

In alphabetical order, insert:

coal miner means a worker employed in or about a mine to which the Coal Mines Regulation Act 1982 applies.

coal miners' claim means a claim for compensation in respect of an injury received by a coal miner.

conciliator means a Compensation Court conciliator being an officer or employee of the Court nominated by the registrar to carry out conciliation in connection with a coal miner's claim.

[2] Part 9, Rule 6 (1)

After "than", insert:

"10 days before conciliation of a coal miner's claim or, where there is no conciliation,"

[3] Part 12

After Part 12A, insert:

Part 12B Conciliation of Coal Miners' Claim

1 Referral

- (1) The registrar shall, after the filing of an application for determination in respect of a coal miner's claim, refer the matter to a conciliator for conciliation.
- (2) The registrar shall refer such a matter to a conciliator as soon as practicable:
 - (a) 90 days after filing of an application for determination, or
 - (b) at such earlier time that the parties may request.

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2 General Powers of a Conciliator

- (1) Without limiting the powers of a conciliator pursuant to Divisions 3 and 4 of Part 2 of Chapter 4 of the 1998 Act, a conciliator may:
 - (a) make a recommendation to parties prior to conciliation,
 - (b) determine whether to hold a conference or return the matter to the registrar,
 - (c) direct the production of any document;
 - (d) generally control any proceedings before the conciliator, and
 - (e) do such other things as the rules specifically provide or the Court otherwise directs.
- (2) The conciliator may, if the conciliator thinks fit, on terms dispense with compliance with any of the requirements of the rules, either before or after the occasion for the compliance arises.

3 Functions of the Registrar

A conciliator has and may exercise all the functions of the registrar in respect of proceedings referred for conciliation.

4 Directions

Without limiting the powers of a conciliator to give directions, a conciliator may give directions relating to preparations for and the conduct of the conciliation conference including:

- (a) a direction to a party to provide any other party or the conciliator with further particulars of any allegation or claim made in the proceedings,
- (b) a direction to a party to lodge further documents with the conciliator,
- (c) a direction to a party to make available to any other party a copy of a specified document (not being a document that is privileged from production), and
- (d) a direction revoking or varying any direction made at a conciliation conference.

5 Conciliation conference procedure

- (1) Unless the conciliator otherwise directs, a conciliation conference shall be attended by:
 - (a) subject to subparagraph (b), each party or, where a party is a company, an officer of the company having authority to settle the proceedings, or
 - (b) if the conduct of the proceedings by a party is controlled by an insurer, an officer of the insurer having authority to settle the proceedings.
- (2) A party may be accompanied at the conciliation conference by a barrister or solicitor retained by or on behalf of the party.
- (3) A conciliator may from time to time adjourn the conciliation of a dispute which the conciliator has commenced to conduct.
- (4) A conciliator must not adjourn a matter beyond 35 days from the referral of the dispute for conciliation, except with the consent of the parties.

6 Conduct of a conciliation conference

A conciliation conference shall be conducted:

- (a) following reasonable notice to the parties, and
- (b) as a structured process in which the Conciliator endeavours to assist the parties to:
 - (i) communicate effectively with each other about the issues in dispute,
 - (ii) narrow the issues in dispute and obtain appropriate concessions,
 - (iii) reach a settlement of the matter, and
 - (iv) record details of any settlement.

7 Confidentiality

Evidence of anything said or of any admission made in a conciliation conference is not admissible in any proceedings before the Court except:

- (a) with the consent of the parties,
- (b) where the evidence is referred to in a conciliation certificate but only to the extent so referred, and
- (c) where the evidence is relevant to an issue as to costs.

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8 Striking out of proceedings

- (1) The conciliator may, if the conciliator thinks fit, strike out any proceedings if:
 - (a) no party appears, or
 - (b) a respondent does, but the applicant does not, appear.
- (2) The conciliator or the Court may, on application by a party and on terms, restore any proceedings struck out under subrule (1).

9 Conciliator notifications

- (1) The conciliator is taken to have notified the parties that a dispute has been referred to conciliation when the conciliator issues a notice of listing of the conciliation conference.
- (2) In reckoning a period from notification of referral to conciliation to cessation of conciliation, the period from the beginning of 25 December until the end of 9 January next following shall, unless the Court otherwise orders, be excluded.
- (3) The conciliator shall, within 7 days of the conclusion of the conciliation conference, advise the registrar of the fact that the conciliation conference has been concluded but not of the details thereof.
- (4) A conciliator must, within a reasonable time after the conciliation conference, issue a certificate of conciliation.

10 Guidelines

Except to the extent of any inconsistency with these rules, or unless the Court otherwise orders, the parties shall comply with the requirements of any Conciliation Guidelines issued by the Chief Judge.

Note. See Conciliation Guidelines on page 3502 of Gazette No 94 of 7 June 2002.

BY AUTHORITY