



New South Wales

Industrial Relations Commission Rules (Amendment No 4) 2000

under the

Industrial Relations Act 1996

The Rule Committee of the Industrial Relations Commission made the following rules of court under the *Industrial Relations Act 1996* on 23 October 2000.

T E McGrath

Industrial Registrar of the Rule Committee

Explanatory note

The object of these Rules is to replace 3 forms currently prescribed for applications for relief by dismissed employees made under section 84 of the *Industrial Relations Act 1996* with a single form.

Industrial Relations Commission Rules (Amendment No 4) 2000

1 Name of Rules

These Rules are the *Industrial Relations Commission Rules (Amendment No 4) 2000*.

2 Commencement

- (1) Except as provided by subrule (2), these Rules commence on the date on which they are published in the Gazette.
- (2) Schedule 1 [3] and [5] commence on 1 February 2001.

3 Amendment of Industrial Relations Commission Rules 1996

The *Industrial Relations Commission Rules 1996* are amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of these Rules.

Schedule 1 Amendments

(Rule 3)

[1] Rule 14

Insert after rule 14 (4):

- (5) An application made to the Commission by a dismissed employee under section 84 of the Act before 1 February 2001 may be:
 - (a) in or to the effect of Form 7A, or
 - (b) in or to the effect of Form 8, 9 or 10 (as appropriate) as in force immediately before its repeal by the *Industrial Relations Commission Rules (Amendment No 4) 2000*.

An application made on or after that date must be in or to the effect of Form 7A.

[2] Schedule 2 Table of Forms

Insert in the Table of Forms after the matter relating to Form 7:

7A	Claim for Relief from Alleged Unfair Dismissal	14 (5)	84
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[3] Schedule 2, Table of Forms

Omit the matter relating to Forms 8, 9 and 10 from the Table.

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[4] Schedule 2, Form 7A

Insert after Form 7:

<p style="text-align: center;">Form 7A <i>Application for relief in relation to unfair dismissal</i></p>

Industrial Relations Act 1996 (NSW)

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

APPLICATION FOR RELIEF IN RELATION TO UNFAIR DISMISSAL

File Number:	IRC of
Date Filed:	

SPECIAL NOTE FOR APPLICANTS

- Not all employees who believe they have been unfairly dismissed can make an application under this Act. Check that you are eligible before you file this application. For example, you would not be eligible to bring a claim if:
 - you were an employee engaged under a contract of employment for a specified period of time, if the specified period is less than 6 months
 - you were an employee engaged under a contract of employment for a specific task
 - you were an employee engaged on probation where the probationary period was determined in advance and was of 3 months duration or less
 - you were employed on a casual basis for a short period
 - you were an employee under a Federal award entitled to make an application to the Australian Industrial Relations Commission with respect to the dismissal on the ground that it was harsh, unjust or unreasonable

- you were a private sector employee not covered by any award earning annual remuneration greater than \$71,200 or such greater amount as may be prescribed by the regulations.
- You must file your application **within 21 days** of the date when you believe you were dismissed. If you file the application any later than that time, the Commission will have to decide at some subsequent date whether you should have permission to continue with your claim. If the application is late, complete questions 33 and 34 in addition to questions 1–32.
- Please complete all of the details in this application form carefully. If you do not have a legal representative or union assisting you in completing this form, you are required to verify the details you include in this form by statutory declaration. Under the *Oaths Act 1900* (NSW) there are substantial penalties for knowingly making a declaration that is in any respect untrue.
- You should personally attend the conciliation conference which will be convened after you file your application. In order to make the conciliation conference effective, the person attending the conference must have authority to settle the matter.
- You are required to pay a filing fee of \$50 for lodging your application, unless the Industrial Registrar decides to waive that fee after being satisfied, upon your application, that the fee would cause you financial hardship.

Details in relation to these matters are available from the Industrial Registry.

Telephone: (02) 9258 0080

Registry Hours: 9.00am–4.00pm

PLEASE COMPLETE THE FOLLOWING, and in doing so:

- Complete the right hand column only.
- Where you are asked for grounds or reasons, please **BE BRIEF**—you can give more details, if you wish, to the Commission at the first conciliation conference.

PERSONAL DETAILS OF THE EMPLOYEE (APPLICANT)	
1. Name	<div style="display: flex; justify-content: space-between;"> <div>Family name</div> <div>Given names</div> </div>
2. Status/Title	<div style="display: flex; justify-content: space-between;"> <div>Mr <input type="checkbox"/></div> <div>Mrs <input type="checkbox"/></div> <div>Ms <input type="checkbox"/></div> <div>Miss <input type="checkbox"/></div> </div> <div>Other <input type="checkbox"/>..... (specify)</div>

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3. Home address and contact details (Note: Do not use a post office box number)	Postcode: Work: () Home/after hours: () Fax: ()
4. Date of birth	(day) (month) (year)
5. First language	English <input type="checkbox"/> Other <input type="checkbox"/> (specify) Interpreter needed? Yes <input type="checkbox"/> No <input type="checkbox"/>
6. Do you have any special requirements such as difficulties with access, hearing or impaired sight with which you require assistance at any proceedings in the Commission?	
ABOUT THE EMPLOYER (RESPONDENT) AND THE EMPLOYMENT	
7. Employer's name	
8. Employer's registered office or trading address	
9. Your place of work	
10. Contact person for employer	Phone: () Fax: ()
11. Employer's business or industry	

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12. Your occupation—name of job or type of work performed for the employer	
13. Type of employment	Full-time <input type="checkbox"/> Part-time <input type="checkbox"/> (hours per week) Casual <input type="checkbox"/>
14. Date of starting work with the employer	
15. Date of dismissal or threatened dismissal	
16. Last day worked (if different from answer to question 15)	
17. Did the employer provide reasons for dismissal?	Yes <input type="checkbox"/> No <input type="checkbox"/>
18. If provided, what were the reasons given?	

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19. If provided, attach a copy of any relevant documentation such as: <ul style="list-style-type: none">• any written termination notice• employment separation certificate• any letter or other document that sets out reasons for dismissal	
OTHER DETAILS OF EMPLOYMENT	
20. Name of State award or agreement applying to your employment (if any or if known)	
21. Name of Federal award or agreement applying to your employment (if you are eligible to bring a claim before the Industrial Relations Commission of New South Wales)	
22. Are you a State public sector employee?	Yes <input type="checkbox"/> No <input type="checkbox"/> Don't know <input type="checkbox"/>
23. What is your normal gross (before tax) pay every week?	

24. If you receive any extra non-wage benefits in your employment (eg private use of a car), please detail these if known	
REASONS FOR APPLICATION	
25. Why do you say your dismissal (or threatened dismissal) was harsh, unreasonable or unjust? Please set out your reasons on the page attached to this form headed "Reasons for Application".	
RELIEF SOUGHT	
26. What are you seeking? (Tick one or more boxes)	Reinstatement to your former position <input type="checkbox"/> Re-employment to another position <input type="checkbox"/> Monetary compensation <input type="checkbox"/>
27. If you seek re-employment, not reinstatement, please detail the job you wish to obtain	
28. If you are seeking monetary compensation, please specify how much you seek and how you calculate the amount (Note: The monetary compensation that can be awarded to you is up to 6 months of your total remuneration)	
REPRESENTATION	
29. Are you being represented in this application?	Yes <input type="checkbox"/> No <input type="checkbox"/>

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30. If you are being represented, please specify type of representative	Lawyer <input type="checkbox"/> Union <input type="checkbox"/> Other <input type="checkbox"/>
31. Give details of the name address and telephone and/or fax number of your representative (Note: If you have nominated a representative, notices will be sent to the representative)	Name: Address: Telephone number: () Fax number: () DX:
32. If you are being represented by a union, do you wish to make a small claim?	Yes <input type="checkbox"/> No <input type="checkbox"/>
LATE APPLICATIONS (IF APPLICABLE)	
33. Have you filed this application more than 21 days after the date that you believe you were dismissed?	Yes <input type="checkbox"/> No <input type="checkbox"/>
34. If the answer to Question 33 is yes, what was the reason or reasons why your application was filed late? (Note: Please give short reasons, which may be expanded if necessary at a time nominated by the Commission)	

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employment (and, where possible, copies of those documents), together with a copy of this application form.

- Ensure you attach a copy of any written termination notice, employment separation certificate and any letter or document setting out the reasons for dismissal.
 - You should make every effort to contact your employer with a view to settling the claim.
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**ATTACHMENT TO FORM 7A—APPLICATION FOR RELIEF IN
RELATION TO UNFAIR DISMISSAL**

REASONS FOR APPLICATION

Notes for Applicant

- Please set out below the reasons why you believe your dismissal by your employer was harsh, unreasonable or unjust.
- You are asked to set out the reasons which you wish to rely on, but at this stage, please be brief.

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Note: You should endeavour to briefly state all the reasons on which you rely. You will have an opportunity to expand on these reasons at the conciliation conference to be held before the Commission and later in arbitration if required.

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Schedule 1

[5] Schedule 2, Forms 8, 9 and 10

Omit the Forms.