



Australian Capital Territory

# **Workers Compensation Rules 2002**

**SL2002-21**

made under the

**Workers Compensation Act 1951**

**Republication No 3**

**Effective: 10 January 2005 – 28 September 2006**

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Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Workers Compensation Rules 2002*, made under the *Workers Compensation Act 1951* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 10 January 2005. It also includes any amendment, repeal or expiry affecting the republished law to 10 January 2005.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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**Workers Compensation Act 1951**

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## Part 1 Preliminary

### 1 Name of rules

These rules are the *Workers Compensation Rules 2002*.

### 3 Dictionary

The dictionary at the end of these rules is part of these rules.

*Note 1* The dictionary at the end of these rules defines certain words and expressions used in these rules.

*Note 2* A definition in the dictionary applies to the entire rules unless the definition, or another provision of the rules, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156 (1)).

### 4 Notes

A note included in these rules is explanatory and is not part of these rules.

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

### 5 Application of rules

These rules apply to a claim in relation to an injury to which the current Act applies.

## Part 2 Documents

### 6 General requirements for documents

- (1) A document to be filed must—
  - (a) be set out on 1 side only of size A4 durable white paper; and
  - (b) use writing that is permanent and legible; and
  - (c) have a margin at the left side of at least 30mm; and
  - (d) bear the distinctive number of the claim, the names of the parties and a short description of the nature of the document.
- (2) Unless otherwise provided in an approved form, a document to be filed must be headed as set out in schedule 1.

*Note 1* Under the Act, s 222, the Minister may approve forms for these rules.

*Note 2* For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) This rule does not apply to an attachment to an affidavit.

### 7 Filing documents

- (1) A document may be filed by delivering it to the registry of the court.
- (2) A document to be filed must be accompanied by a copy of the document for the court and the number of copies of the document required by the registrar.

**8 Document filed when accepted by registrar**

- (1) A document is filed when it is accepted for filing by the registrar.
- (2) The registrar may refuse to accept a document for filing if there is an approved form for the document and the document does not substantially comply with the approved form.
- (3) A person seeking to file a document may apply to the court for review of a decision of the registrar under this rule.

## Part 3 Requesting arbitration

### 9 Application by worker

- (1) An injured worker may ask that a claim be decided by arbitration by filing an application.

*Note* If a form is approved under the Act, s 222 (Approved forms) for an application by an injured worker, the form must be used.

- (2) The application must clearly and briefly state the claim to be arbitrated.

### 10 Application by dependant or estate of dead worker

- (1) A dependant, or the personal representative, of a dead worker may ask that a claim be decided by arbitration by filing an application.

*Note* If a form is approved under the Act, s 222 (Approved forms) for an application by a dependant or estate, the form must be used.

- (2) The application must—
  - (a) contain details of each dependant on whose behalf the application is made; and
  - (b) clearly and briefly state the claim to be arbitrated; and
  - (c) be accompanied by a certified copy of—
    - (i) the worker's death certificate; and
    - (ii) the birth certificate of each dependant.

- (3) In this rule:

***dependant*** includes a person claiming to be a dependant.

**11 Application by employer or insurer**

- (1) An employer or insurer may ask that a claim be decided by arbitration by filing an application.

*Note* If a form is approved under the Act, s 222 (Approved forms) for an application by an employer or insurer, the form must be used.

- (2) The application must clearly and briefly state the claim to be arbitrated.

**12 Injury notice and medical evidence**

- (1) An application to be filed must be accompanied by—
  - (a) if available to the applicant—a copy of the injury notice in relation to the claim; and
  - (b) a copy of all available medical evidence the applicant intends to rely on.
- (2) If no injury notice was given in relation to the claim, the application must contain details of why no notice was given.

**13 Copies**

The copies required by the registrar on filing an application are—

- (a) 1 for each respondent; and
- (b) for each respondent who is an employer other than a self-insurer—1 for the respondent's insurer.

**14 Service of application on respondent**

- (1) An applicant must serve a copy of the application on each respondent within 14 days after the day application is filed, or within any other time the court orders.

*Note 1* For reckoning of time, see *Legislation Act 2001*, s 151.

*Note 2* For how documents may be served, see *Legislation Act 2001*, pt 19.5.

- (2) The applicant must file an affidavit of service of the application on a respondent unless the respondent has filed an answer.
- (3) If an order is made under subrule (1), a copy of the order must be served with the application.

**15 Service of application or notice on insurer**

- (1) An employer (other than a self-insurer) who is a respondent to an application for arbitration must serve a copy of the application on the insurer within 7 days after the day the employer is served with the application.
- (2) A party included as a third party respondent must serve a copy of the notice including the party on the party's insurer within 7 days after the day the party is served with the notice.

**16 Answer**

- (1) A respondent to an application may file an answer.  
*Note* If a form is approved under the Act, s 222 (Approved forms) for an answer, the form must be used.
- (2) The answer must be filed within 28 days after the day the respondent is served with the application, or within any other time the court orders.
- (3) A party who is included as a third party respondent may file an answer to the notice that includes the party within 28 days of being served with the notice, or within any other time the court orders.
- (4) The copies required by the registrar on filing of an answer are—
  - (a) 1 for the applicant; and
  - (b) 1 for each other respondent; and
  - (c) for each other respondent who is an employer other than a self-insurer—1 for the respondent's insurer.

**17 Service of answer**

- (1) A respondent must, as soon as practicable, serve a copy of the answer on the applicant and each other respondent.
- (2) If an order was made under rule 16 (2) or (3), a copy of the order must be served with the answer.

## Part 4 Service

### 18 Service on party represented by lawyer

If a party to an arbitration is represented by a lawyer, service of a document under these rules may be made on the lawyer on record for the party.

### 19 Substituted service

- (1) This rule applies if it is impracticable to serve a document required to be served under these rules.
- (2) The party serving the document may apply to the court for an order for substituted service.
- (3) In deciding whether to make an order for substituted service, the court may have regard to—
  - (a) the steps taken to serve the document; and
  - (b) the likelihood of the person to be served being made aware of the document by advertisement or other available means; and
  - (c) the cost to the party serving the document.



## Part 5 Case management

### 20 Case management meeting

- (1) The court must, for each application filed, hold a case management meeting with the parties.
- (2) The purpose of the case management meeting is—
  - (a) to assess the likelihood of the parties settling the claim before the arbitration is heard; and
  - (b) to give directions for the arbitration.

### 21 Time for case management meeting

- (1) If practicable, the case management meeting should be held after the respondent's answer is filed and medical evidence has been served by the parties.
- (2) The registrar must—
  - (a) set a time and place for the case management meeting; and
  - (b) tell each party to the arbitration, in writing, about the time and place.
- (3) The registrar may require the parties to file a certificate about the parties' readiness before setting a time for the case management meeting.

*Note* If a form is approved under the Act, s 222 (Approved forms) for a certificate of readiness, the form must be used.

**22 Attendance at case management meeting**

- (1) Unless the court otherwise orders, the injured worker (or, for a claim by a dependant, the dependant or personal representative) must attend the case management meeting.
- (2) If the injured worker or dependant is represented, the representative must also attend the case management meeting.
- (3) Each other party must be represented at the case management meeting.
- (4) A party who is represented at the case management meeting must ensure the representative—
  - (a) has authority to negotiate a settlement on behalf of the party; or
  - (b) is able to obtain instructions quickly.
- (5) Nothing in this rule prevents the court from directing a party to attend the case management meeting.

**23 Parties must make genuine effort to settle**

- (1) The parties must make a genuine effort to settle the claim at the case management meeting.
- (2) If the court is satisfied that a party did not make a genuine effort, the court may take this into account when making an order for costs.

**24 Settling of claim**

If, at a case management meeting, the court considers there are reasonable prospects for the parties to settle the claim, the court—

- (a) must promote the settlement of the claim (at the meeting or by referral to other dispute resolution mechanisms); and
- (b) may adjourn the arbitration to a stated time or for a stated period to allow the parties to negotiate a settlement.

**25 Settling of claim unlikely**

- (1) If, at a case management meeting, the court considers it unlikely that the parties will settle the claim, the court must give directions about how the arbitration will be conducted.
- (2) In deciding what directions to give, the court must try to facilitate—
  - (a) hearing the claim as quickly as practicable; and
  - (b) keeping costs as low as practicable.

**26 Case management meeting not to be evidence**

Anything said or done at a case management meeting must not be admitted in evidence if the claim proceeds to arbitration.

**27 Record of terms of settlement**

If agreement is reached at a case management meeting, the parties must record the agreement in writing in the way required by the registrar.

## Part 6 Parties and representation

### Division 6.1 Parties

#### 28 Necessary parties

- (1) A person whose participation is necessary for the court to completely and finally decide all matters in issue in an arbitration must be included as a party in the arbitration.

**Example**

If both a principal and a contractor, or more than 1 employer, may be liable in relation to the compensable injury, each of them must be included as a respondent.

*Note* An example is part of the rules, is not exhaustive and may extend, but does not limit, the meaning of the rule in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (2) The court may require a person to be included as a party.

**Example**

If, for an application on behalf of dependants of a dead worker, a dependant fails to join in the application, the dependant may be included as a respondent.

- (3) Each party other than the applicant is a respondent.
- (4) The court may decide a claim even if a person is incorrectly included or not included as a party.

#### 29 Including other parties

- (1) An applicant may include another person as a party by naming the person in the application.
- (2) A respondent may include another person as a party to an arbitration (a *third party respondent*) by filing a third party notice.

**Example**

If a worker contracts a disease or suffers an aggravation, acceleration or recurrence of a disease, a respondent employer claiming to be entitled to

contribution from another employer may include the other employer as a third party respondent.

*Note* If a form is approved under the Act, s 222 (Approved forms) for a third party notice, the form must be used.

- (3) A party including a person as a third party respondent must, within 14 days after filing the notice—
  - (a) serve a copy of the notice, the application for arbitration and any answer filed in the arbitration, on the person; and
  - (b) serve a copy of the notice on each other party to the arbitration.
- (4) The court may, at any time, order a party who has included a person as a party in an arbitration to—
  - (a) serve on the person any document in the arbitration; or
  - (b) file and serve on the person and each other party an affidavit setting out the basis on which the person has been included.

### **30 Person may apply to be included**

A person may apply to the court to be included as a party to an arbitration.

### **31 Party may apply to be removed**

- (1) A party to an arbitration may apply to the court to be removed as a party.
- (2) The party must serve a copy of the application on each other party to the arbitration.

**32 Employer not respondent in certain applications by dependant or personal representative**

- (1) This rule applies if—
  - (a) a dependant, or the personal representative, of a dead worker asks that a claim be decided by arbitration; and
  - (b) the amount of compensation payable to the dependants of the dead worker is not an issue in the arbitration.
- (2) The employer is not a respondent in the arbitration if the employer has paid the amount of compensation—
  - (a) to the applicant; or
  - (b) into court to be dealt with as the court directs.

**33 Party under disability**

- (1) The rules in force under the *Court Procedures Act 2004* applying in relation to a person with a disability (however described) in a civil proceeding in the court under the *Magistrates Court Act 1930* apply to an arbitration, with any necessary changes, as if they formed part of these rules.
- (2) However, the court may at any time direct that a child be a party in an arbitration as if the child were an adult.

## **Division 6.2 Representation**

### **34 Party may be represented**

- (1) A party to an arbitration may be represented by—
  - (a) a lawyer; or
  - (b) with leave of the court—
    - (i) if the party is an injured worker—a member of the party's family; or
    - (ii) an employee of the party; or
    - (iii) if the party is a corporation—a director or officer of the corporation; or
    - (iv) if the party is a member of an organisation—an officer or member of the organisation; or
    - (v) in special circumstances, anyone else.
- (2) A person who represents a party with leave of the court must file an authority to act signed by the party.
- (3) The court may allow a person other than a lawyer to claim travelling expenses for representing a party in an arbitration.

*Note* A lawyer representing a party may claim costs and reasonable disbursements, see the regulations, reg 57 (Costs).
- (4) Also, the court may allow a worker, or a member of the worker's family who represents the worker, an allowance for time spent at the arbitration.

### **35 Act may be done by lawyer or agent**

Anything required to be done by a party under these rules may be done by the party's lawyer or, if it can lawfully be done by an agent, by an agent.

**36 Change between acting in person and by lawyer**

- (1) If a party acts in person in a proceeding and later engages a lawyer, the party must, within 7 days after engaging the lawyer, tell the registrar and each other party in writing.
- (2) If a party acts by a lawyer and later decides to act in person, the party must, within 7 days after the day of making the decision, tell the registrar and each other party in writing.

**37 Change of lawyer**

If a party acts by a lawyer and later engages another lawyer, the party must, within 7 days after engaging the new lawyer, tell the registrar and each other party in writing.



## Part 7 Conduct of arbitration

### 38 Date for arbitration

A time for an arbitration must be set by the registrar in accordance with the directions (if any) of the court.

### 39 Liability and particulars subject to answer

- (1) An answer to an application for arbitration must admit or deny each claim and admit or deny each particular set out in the application.
- (2) If no admission or denial of a claim or particular is made, the claim or particular is taken to be admitted.
- (3) If a respondent worker does not file an answer, subrule (2) does not apply to a particular denying, completely or partly, liability to pay compensation.
- (4) If a respondent employer wishes to deny a claim or particular, but has not done so in an answer, the court may, on any conditions it considers appropriate—
  - (a) allow the respondent to raise a matter the respondent should have included, or given notice of, in an answer; or
  - (b) adjourn the arbitration to a stated time or for a stated period to allow the respondent to file an answer.

### 40 Burden of proof on party asserting fact

The burden of proof of a fact that is not admitted in an arbitration is the same whether the applicant is an employer or insurer, an injured worker, or a dependant, or personal representative, of a dead worker.

**41 Directions about third party respondents**

- (1) A party may apply for directions about the procedure to decide a question between the respondent and the third party respondent.
- (2) The court may give the directions it considers appropriate.
- (3) Without limiting subrule (2), the court may—
  - (a) give the third party respondent leave to answer the applicant's claim against the respondent; or
  - (b) give directions about the extent to which the third party respondent is to be liable to or be bound by an award in the arbitration.
- (4) Nothing in this rule affects an applicant's claim against a respondent.

**42 Directions and orders if remedy against employer and stranger**

- (1) This rule applies to an arbitration if—
  - (a) the injury to the applicant worker happened in circumstances mentioned in the Act, section 183 (Remedies both against the employer and a stranger); and
  - (b) a respondent to the application claims that if compensation is paid under the Act to the applicant, the respondent is entitled to be indemnified by the person under that section.
- (2) The respondent may file a notice of claim naming the person.

*Note* If a form is approved under s 222 (Approved forms) for a notice of claim, the form must be used.
- (3) The respondent must serve a copy of the notice on the person as soon as practicable after filing the notice.
- (4) The court may give the directions it considers appropriate.

- (5) Without limiting subrule (4), the court may give the person leave to answer the applicant's claim against the respondent.
- (6) If the person wishes to dispute the notice, the person may appear at the arbitration.
- (7) The court may order that the person is not entitled in any future proceeding between the respondent and the person to dispute the validity of the award of the court on the arbitration.
- (8) If the person does not appear at the arbitration, the person is taken to admit the validity of the award of the court on the arbitration.
- (9) With the consent of the respondent and the person, the court may—
  - (a) if the person's liability to indemnify the respondent is admitted—make an order for the respondent against the person, to be executed only after payment is made by the respondent under the award; or
  - (b) make an order that the question of the person's liability to indemnify the respondent be settled by arbitration between the respondent and the person (the *later arbitration*) after the arbitration between the applicant and the respondent.
- (10) If an order is made under subrule (9) (b), the court may give the directions and make the orders it considers appropriate in relation to the later arbitration.
- (11) The court may make any order it considers appropriate about costs between the respondent and the other person in the arbitration or the later arbitration.

**43 Procedure if no provision made**

- (1) If, in relation to a claim, a procedure is not provided for under these rules, the court may apply the rules in force under the *Court Procedures Act 2004* applying in relation to a civil proceeding in the court under the *Magistrates Court Act 1930*, to the extent that they provide for the procedure, as if they formed part of these rules.
- (2) This rule is subject to any direction of the court.

## Part 8 Medical referees

### 44 Party may apply for medical referee

- (1) A party to an arbitration may apply to the court to ask a medical referee—
  - (a) to help the court to assess a medical matter during an arbitration; or
  - (b) to report on a medical matter during, or arising from, the arbitration.

*Note 1* The court may on its own initiative ask a medical referee to help the court or to report, see the regulations, reg 54 (Medical referees).

*Note 2* If a form is approved under the Act, s 222 (Approved forms) for an application to request a medical referee, the form must be used.

- (2) The application must set out the reasons for the application.
- (3) At least 7 days before making the application, the party must give each other party to the arbitration notice of the application at least 7 days before making the application, or within any other time the court orders.

### 45 Notice of request to medical referee

If the court, on its own initiative or the application of a party to an arbitration, decides to ask a medical referee to help the court assess, or to report on, a medical matter in an arbitration, the registrar must tell each party, in writing, about the decision.

**46 Assessment of worker**

- (1) If a medical referee is to do a medical assessment of an injured worker for an arbitration, the court may order the worker to undergo the assessment.
- (2) If an order is made under this rule, the registrar must tell each other party to the arbitration, in writing, about the order.

**47 Report to be given to parties**

If a medical referee prepares a report for an arbitration, the registrar must give a copy of the report to each party to the arbitration.

**48 Court may decide claim without medical referee**

Nothing in this part prevents the court from deciding a claim without the help of, or a report from, a medical referee.

## Part 9                      Submission to award and payments into court

### 49                      Payment into court—general

If a party to an arbitration pays an amount of compensation into court, the registrar must, as soon as practicable, tell each other party to the arbitration, in writing, about the payment.

### 50                      Admission and submission to award or payment—injured worker

- (1) This rule applies to the arbitration of a claim if the application is by an injured worker.
- (2) A respondent employer may, before the day set for the arbitration, act under subrule (3) or (4).
- (3) The respondent may file notice that the employer admits liability and submits to an award of the court for the payment of the amount of weekly compensation stated in the notice.

*Note*            If a form is approved under the Act, s 222 (Approved forms) for a notice, the form must be used.

- (4) The respondent may—
  - (a) file notice that the employer admits liability and submits to an award of the court for the payment of a lump sum amount of compensation, sufficient to cover the employer's liability on the claim, stated in the notice; and
  - (b) pay the amount into court.
- (5) A respondent filing notice under this rule must serve a copy of the notice on each other party to the arbitration.

**51 Admission and submission to payment—dead worker**

- (1) This rule applies to the arbitration of a claim if the application is by a dependant, or the personal representative, of a dead worker.
- (2) A respondent employer may, before the day set for the arbitration—
  - (a) file notice that the employer admits liability; and
  - (b) pay into court an amount sufficient to cover the employer's liability on the claim.
- (3) A respondent filing notice under this rule must serve a copy of the notice on each other party to the arbitration.

**52 Denial and submission to award or payment**

- (1) An employer who is party to an arbitration may, before the day set for the arbitration—
  - (a) file notice that—
    - (i) the employer does not admit to liability on the claim; or
    - (ii) the employer submits to an award of the court for the payment of the amount of weekly compensation stated in the notice but does not admit liability on the claim; and
  - (b) pay into court—
    - (i) an amount sufficient to cover the liability the employer would have on the claim if the employer did not deny liability; or
    - (ii) the amount stated in the notice.
- (2) A party filing notice under this rule must serve a copy of the notice on each other party to the arbitration.



**53 Worker's acceptance of payment**

- (1) This rule applies if a notice is filed under rule 50 or 51 in relation to a claim by a worker.
- (2) The worker may accept the amount of compensation in satisfaction of the worker's claim by giving written notice of the acceptance to the employer and registrar.
- (3) Notice under subrule (2) must be given within a reasonable time before the day set for the arbitration, taking into consideration the time the employer filed the notice under rule 50 or 51.

**54 Dependant's acceptance of payment**

- (1) This rule applies if an employer files notice under rule 50 or 51 in relation to a claim made on behalf of a dependant.
- (2) The dependant may accept the amount of compensation in satisfaction of the claim by giving written notice of the acceptance to the employer, registrar and any other party.
- (3) If a respondent other than the employer is willing to accept the amount of compensation in satisfaction of the claim, the respondent may accept the amount of compensation in the same way as the dependant.
- (4) Notice under subrule (2) must be given within a reasonable time before the day set for the arbitration, taking into consideration the time the employer filed the notice under rule 50 or 51.

**55 Payment on worker's acceptance**

- (1) This rule applies if a worker accepts payment of an amount under rule 53.
- (2) The court may, on application, direct payment of the amount or the application of the amount for the worker's benefit.

- (3) The court may order the respondent to pay any costs of the worker properly incurred before the receipt of the notice about the respondent's submission or payment (including in relation to the notice of the submission or payment and to its acceptance).

#### **56 Payment on dependant's etc acceptance**

- (1) This rule applies if a dependant applicant and each respondent other than the employer accepts payment of an amount under rule 54.
- (2) Further proceedings against the employer are stayed and—
  - (a) if the dependant applicant and other respondents (the *other parties*) agree about the apportionment and application of the amount—the court may make an award for the apportionment and application of the amount; or
  - (b) in any other case—the arbitration may proceed as between the other parties.
- (3) The court may order the employer to pay any costs of the other parties properly incurred before the employer receives notice about the submission or payment (including in relation to the notice of the submission or payment and to its acceptance).

#### **57 No prompt acceptance**

- (1) This rule applies if a party given a notice under rule 50, 51 or 52 does not accept the amount of compensation mentioned in the notice within a reasonable time after receiving the notice.
- (2) The party may, before the arbitration begins, accept the amount.
- (3) However, if the party accepts the amount, the party is liable to pay the costs the court is satisfied were reasonably incurred by the respondent employer after the day the respondent employer filed the notice or made the payment into court.

- (4) The court may order that the costs payable by a party under subrule (3) be set off against any costs payable to the party, or be deducted from any amount awarded to the party.

**58 If award not greater than submission or payment**

- (1) This rule applies if—
- (a) a respondent employer to an arbitration has submitted to an award, or paid an amount into court, and given notice under rule 50, 51 or 52; and
  - (b) the award on arbitration is not more than the amount submitted to or paid.
- (2) The respondent employer is not liable to pay any costs that the respondent employer would have been liable to pay if the amount submitted to or paid into court had been accepted.
- (3) The court may—
- (a) order any costs incurred by the respondent employer after giving notice under rule 50, 51 or 52 to be paid by any party who has not accepted the amount submitted to or paid; and
  - (b) order that the costs be set off against any costs payable to the party or be deducted from any amount awarded to the party.
- (4) The court may also—
- (a) order any costs incurred by a party who accepted the amount submitted to or paid after receiving the notice to be paid by any other party who has not accepted the amount; and
  - (b) order that the costs be set off against any costs payable to the party or be deducted from any amount awarded to the party.

## **Part 10 Awards and registered agreements**

### **Division 10.1 Awards**

#### **59 Award on arbitration**

- (1) Following an award of the court on an arbitration, the successful party must prepare draft terms of the award for issue by the court.

*Note* If a form is approved under the Act, s 222 (Approved forms) for terms of an award, the form must be used.

- (2) The party preparing draft terms of an award must, within 7 days after the award, give a copy of the draft terms to each other party to the arbitration.
- (3) Each other party to the arbitration must, within 7 days of receiving a copy of the draft terms—
  - (a) endorse the party's agreement on the draft terms; or
  - (b) object to the draft terms.
- (4) If the draft terms of the award are agreed, the draft terms must be given to the registrar for issue by the court.
- (5) A party objecting to the terms must, as soon as practicable, ask the registrar to list the matter before the court.
- (6) As soon as practicable after an award is issued by the court, the registrar must serve a copy of the award on each party to the arbitration.
- (7) The court may at any time correct a clerical error in an award.

**60 Setting aside or varying award**

- (1) The court may set aside, or vary, an award if the court is satisfied that—
  - (a) the award was obtained by fraud or other improper means; or
  - (b) a person included in the award as a dependant is not a dependant; or
  - (c) a person who is a dependant has been omitted from the award.
- (2) The court may give the directions it considers appropriate about the conduct of an application to set aside or vary an award.
- (3) In setting aside or varying an award, the court may make any order it considers just.
- (4) An application to set aside or vary an award may not be made more than 6 months after the date of the award without the leave of the court.
- (5) The court may give leave only if failure to make the application within 6 months after the date of the award was due to mistake, absence of the party from the ACT, or other reasonable grounds.

**Division 10.2 Registered agreements**

**61 Application for registration of agreement**

- (1) A person who is a party to an agreement under the Act, part 4.7 (Registration of agreements for compensation) may apply for registration of the agreement by filing a copy of the agreement.

*Note* If a form is approved under the Act, s 222 (Approved forms) for an application for registration, the form must be used.

- (2) If the person is also a party to an arbitration about the matter in the agreement, the party may apply for registration of the agreement by filing a copy of the agreement or handing it to the court at the arbitration.

- (3) An agreement to be filed or handed to the court must be signed by the injured worker, the injured worker's representative and each other party or the party's representative.
- (4) If the court registers the agreement, the registrar must, as soon as practicable, give a copy of the registered agreement, endorsed with the date of registration, to—
  - (a) each party to the agreement; and
  - (b) if applicable, any party to the arbitration who is not a party to the agreement.

**62 Additional information**

At any time before registering an agreement, the court or the registrar may require a party to provide additional information.

**63 Application for amendment or cancellation of agreement**

- (1) A party to a registered agreement may apply to the court to amend or cancel the agreement under the Act, section 81 (Cancellation or amendment of registered agreements) by filing an application.

*Note* If a form is approved under the Act, s 222 (Approved forms) for an application to amend or cancel an agreement, the form must be used.

- (2) The applicant must service a copy of the application on each other party to the agreement within 14 days after filing the application.
- (3) The court may give the directions it considers appropriate about the conduct of the application.

## **Division 10.3      Enforcement**

### **64      Enforcement of awards and agreements**

The rules in force under the *Court Procedures Act 2004* applying in relation to a civil proceeding under the *Magistrates Court Act 1930* apply, with any necessary changes, to a proceeding for enforcement of, or the recovery of money payable under, an award of the court or a registered agreement as if it were a judgment of the court.

## Part 11 Appeals

### 65 Order of Supreme Court on appeal

- (1) This rule applies if an order is made by the Supreme Court on an appeal from a decision or award of the court in an arbitration.
- (2) A party may file the order, or a certified copy of the order, with the court.
- (3) If the order has effect as a decision or award in favour of a party, the decision or award must be recorded by the registrar as if it were a decision or award of the court.
- (4) If the order requires an award be made in favour of a party, the court must make the award.
- (5) If the judgment directs a re-hearing or further hearing of the arbitration, the registrar must—
  - (a) as soon as practicable, list the matter for directions; and
  - (b) tell each party about the time for directions.
- (6) Generally, the court must make any direction, decision or award that is necessary to give effect to the order.



## Part 12                      Records

### 66                      Registrar must keep records

The registrar must record each arbitration in the way that any other proceeding in the court is recorded.

### 67                      Special register

- (1) In addition to the records under rule 66, the registrar must keep a register of arbitrations (the *special register*).
- (2) The special register must contain a record of each of the following in relation to an arbitration:
  - (a) an application for arbitration;
  - (b) an answer to an application or third party notice;
  - (c) a notice to include a third party respondent;
  - (d) a case management meeting;
  - (e) an application or proceeding in an arbitration;

#### Examples

- 1 application for substituted service
- 2 application for amount to be paid into court
- 3 application for costs
- 4 application for registration of an agreement
- 5 application to correct an entry in the register

*Note*                      An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act 2001*, s 126 and s 132).

- (f) a question of law referred by a committee;
- (g) the appointment of a medical referee;

- (h) a report by a medical referee;
  - (i) an amount paid into court;
  - (j) the investment or application of a lump sum paid into court;
  - (k) the registration of an agreement;
  - (l) the refusal by the court to register an agreement;
  - (m) a request for amendment or cancellation of a registered agreement;
  - (n) an amendment or cancellation of a registered agreement;
  - (o) a decision, order or award made by the court;
  - (p) a judgment of the Supreme Court on appeal from an arbitration.
- (3) The court may keep a record on the special register of anything else in relation to an arbitration it considers appropriate.
- (4) Entries on the special register about an arbitration and any related application must be kept together and be separate from entries about any other arbitration.
- (5) A person may apply to the court to correct an entry in, or remove an incorrect entry from, the special register.
- (6) Subrule (5) does not apply to the amendment or cancellation of a registered agreement.

## Part 13                      Costs

### 68                      **Costs between third party respondents and other parties**

The court may make any order or direction about costs between a third party respondent and another party to an arbitration the court considers appropriate.

### 69                      **Taxation of costs**

Subject to any direction of the court, if the cost of an arbitration or related proceeding are to be taxed, the rules in force under the *Court Procedures Act 2004* applying in relation to the Supreme Court apply to the taxation with any necessary changes.

### 70                      **Review of taxation**

- (1) A party may apply to the court, in writing, for a review of a taxation of costs, within 28 days of the taxation
- (2) The party must, as soon as practicable, serve a copy of the application on each other party to the taxation.
- (3) The court may give the directions it considers appropriate about the conduct of the review.
- (4) The court may make the orders it considers appropriate in relation to the costs of the review.

## Schedule 1 Document heading

(see r 6 (2))

WC no.
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*Workers Compensation Act 1951*

IN THE MAGISTRATES COURT )  
Applicant

OF THE AUSTRALIAN CAPITAL )

TERRITORY )  
Respondent

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## Dictionary

(see r 3)

*Note 1* The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- child
- lawyer

***claim*** includes a matter or question arising under the Act to be decided by arbitration.

***committee***—see the Act, dictionary.

***contractor***—see the Act, section 13 (Subcontracting).

***court*** means the Magistrates Court and, in relation to an arbitration, includes a committee.

***current Act*** means the *Workers Compensation Act 1951* as in force after the commencement of the *Workers Compensation Amendment Act 2001*.

***dependant***—see the Act, dictionary.

***employer***—see the Act, section 5 (Meaning of *employer*).

***file*** means file with the court.

***injured worker***—see the Act, dictionary.

***injury notice***—see the Act, section 123 (The notice for an injury).

***insurer***—see the Act, dictionary.

***medical referee***—see the Act, dictionary.

***personal representative*** means the executor or administrator of the estate of a dead person.

***principal***—see the Act, section 13 (Subcontracting).

***registered agreement***—see the Act, dictionary.

***registrar*** means the registrar of the court.

***regulations*** means the *Workers Compensation Regulations 2002*.

***representative***, for a party to an arbitration, means a lawyer or other person who represents the party.

***self-insurer***—see the Act, dictionary.

***special register***—see rule 67.

***third party respondent***—see rule 29.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Workers Compensation Rules 2002 SL2002-21**

notified LR 9 July 2002

r 1, r 2 commenced 9 July 2002 (LA s 75)

remainder commenced 10 July 2002 (r 2)

as amended by

#### **Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.76**

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

sch 1 pt 1.76 commenced 10 January 2005 (s 2 and see Court  
Procedures Act 2004 A2004-59, s 2 and CN2004-29)

### 4 Amendment history

#### **Commencement**

r 2 om LA s 89 (4)

#### **Party under disability**

r 33 am A2004-60 amdt 1.706

#### **Procedure, if no provision made**

r 43 am A2004-60 amdt 1.707

#### **Enforcement of awards and agreements**

r 64 sub A2004-60 amdt 1.708

#### **Taxation of costs**

r 69 sub A2004-60 amdt 1.709

#### **Miscellaneous**

pt 14 hdg om R2 LA

#### **Transitional**

r 71 exp 10 July 2004 (r 71 (3))



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 10 July 2002	10 July 2002- 10 July 2004	not amended	new regulations
R2 11 July 2004	11 July 2004 9 Jan 2005	not amended	commenced expiry

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