

# **NORTHERN TERRITORY OF AUSTRALIA**

## **WORK HEALTH COURT RULES**

As in force at 1 August 1999

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 August 1999

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## WORK HEALTH COURT RULES

### Rules under the *Work Health Court Act*

#### Part 1 Preliminary

##### Division 1 Citation and commencement

###### 1.01 Citation

These Rules may be cited as the *Work Health Court Rules*.

###### 1.02 Commencement

These Rules come into operation on the commencement of the *Work Health Amendment Act (No. 2) 1998*.

##### Division 2 Application of Rules

###### 1.03 Definitions

In this Division:

***commencement date*** means the date on which these Rules come into operation.

***former Rules*** means the *Work Health Court Rules* in force immediately before the commencement date.

***pending proceeding*** means a proceeding in the Court to which, immediately before the commencement date, the former Rules applied.

###### 1.04 Application

- (1) These Rules apply to every proceeding commenced in the Court on or after the commencement date.
- (2) Subject to this Division, these Rules apply with the necessary changes to a pending proceeding.

- (3) The Court may order that the former Rules or certain procedures prescribed by the former Rules are to apply to a pending proceeding.
- (4) The repeal of the former Rules does not affect anything done or omitted to be done in a pending proceeding before the commencement date and, except as provided in this Division, anything done or omitted to be done before that date is to be taken to have been done or omitted under these Rules.

#### **1.05        Jurisdiction not affected**

Nothing in these Rules limits the jurisdiction, power or authority that the Court had immediately before the commencement date.

#### **1.06        Time for doing act in pending proceeding**

If the time for doing an act in a pending proceeding is specified in process issued or an order made by the Court before the commencement date, that time continues to apply to that act despite anything to the contrary in these Rules.

#### **1.07        Costs in pending proceeding**

The costs for work done in a pending proceeding:

- (a) before the commencement date are to be determined in accordance with the former Rules; and
- (b) on or after the commencement date are to be determined in accordance with these Rules.

### **Division 3        Interpretation**

#### **1.08        Interpretation**

- (1) In these Rules, unless the contrary intention appears:

**an Act** includes an Act of the Commonwealth.

**assigned magistrate** means a magistrate assigned by the managing magistrate under rule 1.11 to supervise a proceeding.

**Authority** means the Work Health Authority.

**communication link** means facilities (including telephone and closed-circuit television) that enable audio, audio visual or visual communication between persons at different places.

**conciliation officer** means a person authorised by the Chief Magistrate to preside at a conciliation conference.

**corporation** means a corporation within the meaning of the Corporations Law.

**counterclaim** means a claim in a proceeding:

- (a) by an employer against a worker; or
- (b) by a respondent against an applicant.

**Court** includes a magistrate, a Judicial Registrar, the Registrar and an Assistant Registrar.

**determination** includes a decision and a judgment.

**discovery** means discovery and inspection of documents or discovery by written interrogatories.

**document exchange facility** means a document exchange facility approved for the time being by the Chief Justice on the recommendation of the Law Society of the Northern Territory.

**file** means to lodge in a registry or at a place approved by the Chief Magistrate as a place where documents may be lodged for the purposes of these Rules.

**firm** means a firm within the meaning of section 4 of the *Business Names Act*.

**hospital report** means a statement in writing concerning a worker, made by or on behalf of a hospital, rehabilitation centre or other similar institution.

**medical report:**

- (a) means a statement in writing by a medical expert concerning a worker; and
- (b) includes a document (including a radiographic document) that the medical expert intends should be read with the statement, whether the document was in existence at the time the statement was made or was a document that he or she subsequently obtained or caused to be brought into existence.

**order** includes a direction, decision, determination and judgment, whether final or otherwise.

**party**, in relation to a proceeding, means the worker, employer, applicant or respondent or a person joined as a party.

**pleading** does not include an application commencing a proceeding or an appearance.

**possession** means possession, custody or power.

**Registrar** includes an Assistant Registrar and a Judicial Registrar.

**registry** means an office of a Registrar.

**seal** means the seal of the Court.

**the Act** means the *Work Health Act*.

- (2) In these Rules, unless the contrary intention appears:
- (a) a person who commences or has commenced a proceeding in respect of a decision of his or her employer:
    - (i) to dispute liability for compensation claimed by the person;
    - (ii) to cancel or reduce compensation being paid to the person; or
    - (iii) in relation to a matter or question incidental to or arising out of the person's claim for compensation,is called the **worker** and the person against whom the proceeding is or was commenced is called the **employer**; and
  - (b) a person who commences or has commenced any other proceeding under the Act is called the **applicant** and the person against whom the proceeding is commenced is called the **respondent**.

## **Division 4            Registry**

### **1.09            Registry hours**

The hours of a registry are those of the Local Court at which the registry is situated.

### **1.10            Registry seal**

- (1) Each registry is to have a seal of the Court approved by the Chief Magistrate and kept by a Registrar.

- (2) The seal is to be used by or at the direction of a Registrar to stamp all documents in relation to a proceeding filed in or issued out of:
- (a) the registry; or
  - (b) a place approved by the Chief Magistrate as a place where documents may be lodged for the purposes of these Rules.

## **Division 5            Miscellaneous**

### **1.11            Managing magistrate**

Subject to the directions of the Chief Magistrate, the managing magistrate must manage the business of the Court as he or she sees fit, including the assigning of a magistrate to supervise a proceeding.

### **1.12            Procedure for which no provision made**

If the procedure:

- (a) for commencing or taking a step in a proceeding; or
- (b) by which the jurisdiction, power or authority of the Court is exercisable,

is not prescribed by these Rules or by or under the Act, the Court may make the orders or follow the procedure it thinks fit.

### **1.13            Act by corporation**

If the Court makes an order that a corporation is to do an act, it may order that the act be done by the corporation by an appropriate officer.

### **1.14            Power to act by legal practitioner, &c.**

Unless the contrary intention appears, anything in a proceeding that is required or permitted by these Rules, an Act, or otherwise by law to be done by a party may be done by:

- (a) the party's legal practitioner; or
- (b) the person entitled under section 98 of the Act to represent the party.

### **1.15            Appeal against order, etc. made by Registrar**

An appeal under section 114A of the Act is to be by application made under Part 6.

## **Part 2            Time and documents**

### **Division 1        Time**

#### **2.01        Calculating time**

- (1) Unless the Court orders otherwise, a time fixed by these Rules or by an order or document in a proceeding is to be calculated in accordance with this rule.
- (2) If a time of one day or longer is to begin on or be calculated from a day or event, the day or the day on which the event occurs is to be excluded.
- (3) If a time of one day or longer is to end on or be calculated to a day or event, the day or the day on which the event occurs is to be included.
- (4) If a time of 7 days or less includes a day on which a registry is closed, that day is to be excluded.
- (5) If the last day for doing an act at a registry is a day on which the registry is closed, the act may be done on the next day the registry is open.

#### **2.02        Time of service**

- (1) Service that is effected:
  - (a) after 4.00 p.m. on a Monday to Friday inclusive;
  - (b) after 12 noon on a Saturday;
  - (c) at any time on a Sunday; or
  - (d) at any time on a public holiday (except Christmas Day or Good Friday) in the place where service is effected,is to be taken as having been effected on the next day the registry is open.
- (2) If a document is delivered into a document exchange facility in accordance with rule 4.07(1)(d), service is to be taken as having been effected on the next day on which the document exchange facility is open for business.

#### **2.03        Expanding or abridging time**

- (1) Subject to section 94(2) of the Act, the Court may expand or abridge a time fixed by these Rules or the Act.

- (2) If the Court thinks fit, it may expand a time under subrule (1) before or after the time expires, whether or not an application for expansion is made before the time expires.
- (3) If the Court orders an expansion or abridgement of a time, the party who applied for the order must give notice as soon as practicable to all other parties:
  - (a) by endorsement on a document to be filed and served; or
  - (b) in the manner the Court orders.
- (4) The time for delivering, amending or filing a document in a proceeding, other than under Part VI of the Act, may be expanded without an application to the Court if all the other parties give written consent.

#### **2.04        Fixing time**

If a time for doing an act in a proceeding is not fixed by these Rules or an order, the Court may fix a time.

### **Division 2        Documents**

#### **2.05        Prescribed forms**

- (1) A reference in these Rules to a form by number is a reference to a form so numbered in the Schedule.
- (2) If a document required by or under the Act or these Rules is not prescribed in these Rules or the practice directions given under section 95(1) of the Act, the Registrar may accept a document in the form he or she approves.
- (3) An inaccuracy in the completion of a form or the use of a wrong form does not invalidate a proceeding, but the Court may make amendments to the form or make the orders that the Court considers appropriate.

#### **2.06        Filing documents**

- (1) If:
  - (a) an application commencing a proceeding has been filed; and
  - (b) a document in connection with the proceeding is to be filed (other than an appearance to be filed under Division 3 of Part 5),

the document is to be filed by delivering it to the registry or place where the application was filed.

- (2) A party required to file a document need file only one copy unless these Rules specify otherwise.
- (3) If a document (other than an affidavit) is to be filed accompanied by other documents, the documents are to be numbered consecutively at the top of each first page and attached securely, in numerical order, to an index of documents in accordance with Form 2A.

#### **2.07       Registrar may post document, &c.**

If the Registrar is required by these Rules to give or send a document to a person, the Registrar may:

- (a) send the document by post to the person's last known address;
- (b) send the document by facsimile transmission to the number provided for the purpose; or
- (c) if the person or the person's legal practitioner has a document exchange facility – deliver the document into the facility.

#### **2.08       Form and content**

- (1) A document prepared for use in the Court is to be prepared in accordance with this rule.
- (2) A document is to:
  - (a) be of durable paper in the size known as International Paper Size A4 and be capable of receiving writing in ink;
  - (b) have a left-hand margin of at least 25 millimetres;
  - (c) be printed or typed and the text is to be clear, sharp, legible and permanent;
  - (d) be headed "In the Work Health Court at" followed immediately by the venue of the Court in which the proceeding has been or is to be commenced and state the identifying number assigned by the Court to the proceeding;
  - (e) specify the names of all the parties to the proceeding;
  - (f) contain a short heading indicating the nature of the document; and



- (g) state the name, address and telephone, facsimile and reference numbers of the legal practitioner who prepared the form or, if the party acts without a legal practitioner, the name, address and telephone and facsimile numbers of the party.
- (3) A document is not to have a backing sheet.
- (4) Dates (other than months), amounts and other numbers are to be expressed in figures and not in words.
- (5) The Court may require a document in a proceeding to be prepared in a manner it considers appropriate.

## **Part 3            General procedure in Court**

### **Division 1       Venue of Court**

#### **3.01       Proper venue**

- (1) A proceeding is to be commenced in a proper venue of the Court.
- (2) In the case of a proceeding commenced by a worker, a proper venue is a registry that is nearest to:
  - (a) the worker's residence immediately before the proceeding is commenced;
  - (b) the worker's residence at the time the injury occurred or the disease was contracted;
  - (c) the workplace where the injury occurred or the disease was contracted; or
  - (d) the place of business of the employer.
- (3) In the case of a proceeding commenced under section 62(2) of the Act by a person claiming to be a dependant of a deceased worker, a proper venue is a registry that is nearest to:
  - (a) the dependant's residence immediately before the proceeding is commenced;
  - (b) the dependant's residence at the time the deceased worker suffered the injury or contracted the disease that caused his or her death;
  - (c) the workplace where the deceased worker suffered the injury or contracted the disease that caused his or her death; or

- (d) the place of business of the person who was the employer of the deceased worker at the time the deceased worker suffered the injury or contracted the disease that caused his or her death.
- (4) In any other case, a proper venue is a registry that is nearest to:
  - (a) the applicant's or respondent's residence immediately before the proceeding is commenced;
  - (b) the applicant's or respondent's residence at the time the claim arose;
  - (c) the applicant's or respondent's place of business immediately before the proceeding is commenced;
  - (d) the applicant's or respondent's place of business at the time the claim arose; or
  - (e) the place where the claim arose.
- (5) Whether or not a proceeding is commenced in a venue of the Court that is not a proper venue, the Court may hear and determine the proceeding at the venue at which the proceeding was commenced or at another venue the Court considers appropriate.
- (6) A proceeding is not void or in any other way affected by reason only that the proceeding was heard and determined at a venue of the Court other than a proper venue.

## **Division 2            Commencement of proceeding and making interlocutory application**

### **3.02            Commencement of proceeding**

A proceeding is commenced:

- (a) by filing an application under Division 2 of Part 5; or
- (b) in the case of an application for commutation of compensation payments – by filing an application under Division 2 of Part 15.

### **3.03            Interlocutory application**

An interlocutory application is to be made under Part 6.

## **Division 3            Orders for conduct of proceeding**

### **3.04            Orders for conduct of proceeding**

- (1) At any stage of a proceeding the Court may, of its own motion or on application, make orders relating to the conduct of the proceeding that the Court thinks are conducive to its fair, effective, complete, prompt and economical determination.
- (2) Without limiting subrule (1), the Court may at any stage of a proceeding make orders relating to the following matters:
  - (a) the facilitating of agreement between the parties;
  - (b) admissions in relation to questions involved in the proceeding;
  - (c) filing and service of or dispensing with pleadings, including a statement of claim and notice of defence;
  - (d) provision of further and better particulars of a fact or matter;
  - (e) time limits for pleadings;
  - (f) discovery and inspection;
  - (g) interrogatories;
  - (h) referring the parties to or dispensing with a directions conference or prehearing conference;
  - (i) referring the parties to a conciliation conference;
  - (k) settling issues for the hearing of the proceeding;
  - (m) listing the proceeding for hearing;
  - (n) the giving of evidence and the calling of witnesses;
  - (p) the admission into evidence of facts or documents;
  - (q) other matters of practice and procedure.

### **3.05            Order for admissions or agreements**

- (1) On an application for an order relating to the conduct of a proceeding, the Court must:
  - (a) be satisfied that admissions to be made or agreements proposed relating to the conduct of the proceeding are reasonable and ought reasonably to be made; and

(b) record the admissions or agreements made.

(2) The Court:

- (a) must record a refusal to make an admission or agreement relating to the conduct of the proceeding; and
- (b) may later, if the Court considers it appropriate, take the refusal into account on a question of costs.

### **3.06      Other party may apply for orders**

If a party applies for orders relating to the conduct of a proceeding, any other party who attends at the hearing of the application may apply for orders.

## **Division 4            Discontinuance or withdrawal**

### **3.07      Notice of discontinuance or withdrawal**

- (1) At any time before the date fixed for the hearing of a proceeding a party may, without the leave of the Court:
  - (a) discontinue an application or counterclaim by filing and serving a notice of discontinuance; or
  - (b) withdraw an appearance or notice of defence by filing and serving a notice of withdrawal.
- (2) A notice of discontinuance or withdrawal is to be in accordance with Form 3A.
- (3) Discontinuance or withdrawal is effective when the relevant notice has been filed and served.

### **3.08      Costs**

- (1) A party who discontinues or withdraws must pay the costs of the other party incurred before service of the notice of discontinuance or withdrawal unless the Court orders otherwise.
- (2) Costs to be paid under this rule may be recovered as an award of the Court.

**3.09 Similar application for same cause**

A party who discontinues an application or counterclaim may commence a similar application or make a counterclaim for the same cause only:

- (a) with the leave of the Court; or
- (b) with the consent of the other party.

**Part 4 Service****4.01 Documents to be served**

A copy of each document filed by a party is to be served on each other party.

**4.02 When personal service necessary**

A document to be served in a proceeding need not be served personally unless personal service is required by the Act, these Rules or an order of the Court.

**4.03 How personal service effected**

- (1) Personal service of a document is effected:
  - (a) by leaving a copy of the document with the person to be served; or
  - (b) if the person does not accept the copy – by putting the copy down in the person's presence and telling the person the nature of the document.
- (2) To effect personal service, it is not necessary to show the original document.

**4.04 Personal service on particular party**

Personal service of a document is effected by serving the document in accordance with rule 4.03:

- (a) in the case of a corporation (other than a company within the meaning of the Corporations Law) – on the mayor, chairperson, president, town clerk, manager, treasurer, secretary or similar officer of the corporation;
- (b) in the case of a statutory corporation – on the Commissioner, chairperson, president, manager, chief executive officer or other officer of the statutory corporation;

- (c) in the case of the Territory or the Crown in right of the Territory – on the Solicitor for the Northern Territory or a person authorised to accept service of documents on behalf of the Solicitor for the Northern Territory;
- (d) in the case of the Commonwealth or the Crown in right of the Commonwealth – on the Australian Government Solicitor or a person authorised to accept service of documents on behalf of the Australian Government Solicitor;
- (e) in the case of the Authority – on the Chief Executive Officer or a person authorised to accept service of documents on behalf of the Chief Executive Officer;
- (f) in the case of an infant:
  - (i) on a parent or guardian of the infant; or
  - (ii) if there is no such person – on the person with whom the infant resides or in whose care the infant is; or
- (g) in the case of a person under a disability as defined in rule 10.01(b):
  - (i) on the person who, under Part 10, is the litigation guardian in the proceeding to which the person with a disability is a party; or
  - (ii) if there is no litigation guardian – on the person with whom the person under a disability resides or in whose care the person is.

#### **4.05 Personal service on firm or company**

Personal service is effected on:

- (a) individuals suing or being sued in the name of a firm, the business name of which is registered under the *Business Names Act* – by serving a document in accordance with section 31(2) of that Act;
- (b) individuals suing or being sued in the name of a firm, the business name of which is not registered under the *Business Names Act* – by serving a document in accordance with rule 4.03 on a person who appears to be a member of the firm or to have the control or management of the business; or
- (c) on a company within the meaning of the Corporations Law – by serving a document in accordance with the relevant subsections of section 109X of that Law.

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**4.06 Address for service**

- (1) The address for service of a worker or applicant is:
  - (a) if he or she is represented by a legal practitioner – the business address in Australia of the legal practitioner or the legal practitioner's agent as stated in the application commencing the proceeding;
  - (b) if he or she commences a proceeding in person – the address for service in Australia as stated in the application commencing the proceeding; or
  - (c) in the case of a worker who is represented by a person under section 98 of the Act – the address of the person in Australia as stated in the application commencing the proceeding.
- (2) The address for service of an employer or respondent is:
  - (a) if he or she is represented by a legal practitioner – the business address in Australia of the legal practitioner or the legal practitioner's agent as stated in the appearance; or
  - (b) if he or she defends in person – the address for service in Australia as stated in the appearance.
- (3) A party, or a party's legal practitioner, may include in the address for service a number for facsimile transmission by which service of documents may be effected.

**4.07 How ordinary service effected**

- (1) If personal service of a document is not required, the document may be served:
  - (a) by leaving it at the address for service of the person to be served;
  - (b) by sending it by prepaid post to the person to be served at the person's address for service;
  - (c) if provision is made by or under an Act for service of a document on a corporation – by serving it in accordance with the provision;
  - (d) if the legal practitioner for a party has a document exchange facility – by delivering it into the facility; or

- (e) if a party or a party's legal practitioner has the facility for the reception of documents by facsimile transmission – by transmitting the document to the facility.
- (2) For the purpose of subrule (1), if at the time service is to be effected the person to be served has not stated an address for service in accordance with rule 4.06, the address for service is:
  - (a) in the case of an individual – the person's usual or last known place of residence or business;
  - (b) in the case of individuals suing or being sued in the name of a firm – the principal or last known place of business of the firm; or
  - (c) in the case of a corporation – the registered office or principal place of business of the corporation.

#### **4.08 Identity of person served**

For the purposes of proof of service, evidence of a statement by a person:

- (a) of the person's identity; or
  - (b) that the person holds a particular office,
- is evidence of that fact.

#### **4.09 Acceptance of service by legal practitioner**

If, in a proceeding:

- (a) a document is to be served on a person; and
- (b) a legal practitioner makes a note on a copy of the document that he or she accepts service of the document on behalf of the person,

unless the legal practitioner is shown not to have had authority to accept service, the document is to be taken as having been served on the person on the day on which the legal practitioner made the note or on such other day as is proved.

#### **4.10 Substituted service**

- (1) If it is impracticable to serve a document in a manner required by these Rules, the Court may order that, instead of service, steps specified by the Court be taken to bring the document to the notice of the person to be served.



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- (2) If the Court makes an order under subrule (1), it may order that the document is to be taken as served when a specific event happens or a specific time expires.
  - (3) The Court may make an order under subrule (1) despite the person who is to be served being out of the Territory when the proceeding is commenced or the order is made.
  - (4) An application for an order under subrule (1) is to be supported by an affidavit stating:
    - (a) that attempts at service have been unsuccessful, or the reason personal service is impracticable;
    - (b) the manner of service proposed; and
    - (c) how the proposed manner of service will bring the document to the notice of the person to be served.
  - (5) In deciding whether it is impracticable to serve a document, the Court must consider:
    - (a) whether the applicant has taken reasonable steps to discover the whereabouts of the person to be served and to serve the person with the document;
    - (b) the means of the applicant, the likely cost to the applicant and the nature of the document to be served;
    - (c) whether by advertising or some other method the existence of the document is likely to come to the knowledge of the person to be served; and
    - (d) any other relevant matters.
  - (6) In the case of an application by a worker, the Court may order that service on the employer's insurer is sufficient service on the employer.

#### **4.11 Confirmation of informal service**

If a document has not been served in a manner required by or under these Rules or a law in force in the Territory but steps have been taken to bring, or which may tend to bring, the document to the notice of the person to be served, the Court may order that the document be taken as served on the person on a date specified in the order.

#### **4.12            Service under agreement**

If, before or after the commencement of a proceeding, the parties agree that documents may be served on a party or on a person on behalf of a party in a manner or at a place specified in the agreement, service in accordance with the agreement is proper service.

#### **4.13            No service Christmas Day or Good Friday**

A person is not entitled to serve a document on Christmas Day or Good Friday and service on those days is ineffective.

#### **4.14            Affidavit or declaration of service**

- (1) In the case of personal service of a document, an affidavit or declaration of its service is to have attached a copy of the document served or clearly describe the document and state:
  - (a) by whom the document was served;
  - (b) the time, day of the week and date when the document was served; and
  - (c) the manner of identifying the person served.
- (2) In the case of ordinary service of a document, an affidavit or declaration of its service is to state, with relevant dates, the facts constituting service.
- (3) A document purporting to be an affidavit or declaration of service is to be taken as evidence of proper service of the document unless the contrary is proved.

## **Part 5                      Applications and appearance**

### **Division 1                Application for interim determination**

#### **5.01            Application for interim determination**

- (1) A party making an application in respect of an interim determination, referred to in section 107 of the Act, must do so by interlocutory application.
- (2) A party may file and serve an affidavit in reply to an application for an interim determination not later than 14 days after being served with the application.

## **Division 2            Applications generally**

### **5.02            Form and content**

- (1) An application commencing a proceeding is to be in accordance with Form 5A and is to:
  - (a) specify the section of the Act to which the application relates;
  - (b) state the full name, address, telephone number and facsimile number (if any) of the party making the application;
  - (c) if the party making the application is a worker who is represented by a person under section 98 of the Act – state the full name, address, telephone number and facsimile number (if any) of the person;
  - (d) if the party making the application is represented by a legal practitioner:
    - (i) state the name of the legal practitioner and his or her firm, the business address in Australia and the telephone, facsimile and reference numbers of the legal practitioner; and
    - (ii) if the legal practitioner is the agent of another legal practitioner – state the name, firm, business address and telephone, facsimile and reference numbers of the principal;
  - (e) specify, in accordance with rule 4.06, the address for service of the party making the application;
  - (f) be signed by the party making the application or a legal practitioner on the party's behalf;
  - (g) show the date on which the application is filed; and
  - (h) be signed and sealed by a Registrar.
- (2) Unless the Court orders otherwise, an application filed by a worker is to be accompanied by a copy of the following documents (as applicable) that relate to the worker's claim:
  - (a) the worker's claim form and medical certificate referred to in section 82 of the Act;
  - (b) notifications of decisions and statements made under section 85 of the Act;

- (c) applications and decisions made under section 86 of the Act;
  - (d) notices and statements given under section 69 of the Act;
  - (e) all hospital reports and medical reports in the worker's possession, whether or not they support the worker's claim;
  - (f) the certificate issued by the mediator under section 103J of the Act.
- (3) An application under section 62(2) of the Act by a person claiming to be a dependant of a deceased worker is to be accompanied by a list of the names and addresses of all other persons who, to the best of the applicant's knowledge, were dependants of the deceased worker at the time of his or her death.

### **5.03        Filing and service**

- (1) A party must file sufficient copies of an application made under this Division to enable the party to serve a sealed copy on each other party.
- (2) The party must serve a sealed copy of the application and, if applicable, the documents referred to in rule 5.02(2) personally on the other parties as soon as practicable.

### **5.04        Affidavit of service**

- (1) Subject to subrule (3), an affidavit of service of an application made under this Division is to be filed before the date fixed under rule 7.01 for the directions conference.
- (2) An affidavit of service of an application is to be in accordance with Form 5B.
- (3) An affidavit of service of an application need not be filed if the employer or respondent files an appearance before the date fixed for the directions conference.
- (4) If a party required by this rule to file an affidavit of service does not do so within the time fixed by subrule (1), the Court may:
  - (a) strike out the application; or
  - (b) allow the application to proceed on the terms the Court orders.

## **Division 3            Appearance**

### **5.05            Time for filing**

- (1) An employer or respondent served with an application under Division 2 must file an appearance not later than 14 days after the date of service.
- (2) An appearance may be filed by post.
- (3) If a party referred to in subrule (1) does not file an appearance within the time fixed by that subrule, the party who made the application may apply for default judgment under Part 21 and, if applicable, for compensation or other relief to be assessed.

### **5.06            Form and content**

- (1) An appearance is to be in accordance with Form 5C and is to:
  - (a) state the full name, address, telephone number and facsimile number (if any) of the party filing the appearance;
  - (b) if the party filing the appearance is represented by a legal practitioner:
    - (i) state the name of the legal practitioner and his or her firm, the business address in Australia and the telephone, facsimile and reference numbers of the legal practitioner; and
    - (ii) if the legal practitioner is the agent of another legal practitioner – state the name, firm, business address and telephone, facsimile and reference numbers of the principal;
  - (c) specify, in accordance with rule 4.06, the address for service of the party filing the appearance;
  - (d) be signed by the party filing the appearance or a legal practitioner on the party's behalf;
  - (e) show the date on which the appearance is filed; and
  - (f) be sealed by a Registrar.
- (2) An appearance filed by an employer is to:
  - (a) state the extent to which the facts stated by the worker on the original claim form are alleged to be inaccurate or incomplete;

- (b) if the employer has a claim against the worker – contain a brief statement of the claim; and
- (c) be accompanied by all hospital reports and medical reports in the possession of the employer relating to the worker's claim, whether or not they support the employer's allegations.

#### **5.07 Appearance by dependant**

- (1) A person (other than the applicant) who claims to be a dependant in respect of an application under section 62(2) of the Act is a respondent to the application and must:
  - (a) file an appearance; and
  - (b) serve a copy on the applicant and each other respondent.
- (2) Before determining an application under section 62 of the Act, the Court must be satisfied that all persons who are or may be entitled to claim as dependants have come to its attention.

#### **5.08 Service**

- (1) An employer or respondent must serve a copy of the appearance and any accompanying documents on the party who made the application as soon as practicable, but not later than 14 days after the date on which the appearance was filed.
- (2) An appearance may be served by post.

### **Part 6 Interlocutory application**

#### **6.01 Definitions**

In this Part:

***applicant*** means the party making an interlocutory application.

***hearing*** means the hearing of an interlocutory application.

#### **6.02 When application may be made**

A party may apply for an interlocutory order at any time after the commencement of a proceeding.

**6.03 Form and content**

An interlocutory application:

- (a) is to be in accordance with Form 6A unless the Court orders otherwise;
- (b) is to be signed by the applicant or the applicant's legal practitioner; and
- (c) may be supported by an affidavit.

**6.04 Filing and date for hearing**

- (1) The applicant must file sufficient copies of the interlocutory application to enable the applicant to serve a sealed copy on each other party and, if the application is supported by an affidavit, must file one copy of the affidavit.
- (2) On receipt of the interlocutory application, a Registrar must:
  - (a) sign and seal the application;
  - (b) fix a date, time and place for the hearing; and
  - (c) issue the application.

**6.05 Service**

- (1) The applicant must serve a sealed copy of the interlocutory application and, if applicable, a copy of the supporting affidavit on each party to whom the application is addressed.
- (2) Subject to these Rules, an interlocutory application and supporting affidavit must be served:
  - (a) within a reasonable time before the date fixed for the hearing and, in any case, not later than 2.00 p.m. on the day before the date fixed for the hearing; or
  - (b) if the registry is closed on the day before the date fixed for the hearing – not later than 2.00 p.m. on the day the registry is last open before that date.

**6.06 Evidence by affidavit**

- (1) All evidence in respect of an interlocutory application is to be given by affidavit unless the Court orders otherwise.
- (2) An affidavit may contain a statement of fact based on information and belief if the grounds are set out.

- (3) A party cannot cross-examine the deponent of an affidavit unless the Court orders otherwise.
- (4) If a party proposes to place the report of an expert medical witness before the Court, the medical expert is not required to swear an affidavit annexing the report if:
  - (a) the report is annexed to an affidavit made by a party or a representative of a party;
  - (b) copies of all correspondence and documents placed before the medical expert to request or enable the report to be prepared are annexed to the affidavit; and
  - (c) the qualifications of the medical expert appear sufficiently on the face of the report or are otherwise established in the affidavit to the satisfaction of the Court.

#### **6.07 Attendance by communication link**

- (1) With the leave of the Court, a person may attend a hearing by communication link if physical attendance is impracticable.
- (2) A person wishing to attend a hearing by telephone must seek the leave of the Court not later than 24 hours before the time fixed for the hearing.
- (3) A person wishing to attend a hearing by closed-circuit television must seek the leave of the Court in sufficient time to allow for the reservation of the communication facilities to be used at the hearing.
- (4) Leave under this rule may be granted informally by telephone and without notice to any other person.
- (5) A person who is granted leave to attend a hearing by communication link must give notice to other persons that the Court orders.
- (6) The Court may direct that the person granted leave under this rule must reserve the communication facilities to be used at the hearing and pay the costs in connection with their use.



### **6.08            Failure to attend hearing**

If the applicant or a party to whom the interlocutory application is addressed fails to attend at the hearing the Court may, if satisfied that the interlocutory application and supporting affidavit were properly served:

- (a) hear the interlocutory application;
- (b) dismiss the interlocutory application; or
- (c) make any other orders it considers appropriate.

### **6.09            Interlocutory orders by consent**

- (1) A party may consent to an interlocutory order sought by another party by:
  - (a) filing a notice of consent in accordance with Form 6B; or
  - (b) endorsing his or her consent on the interlocutory application that is filed.
- (2) The Court may make the interlocutory order or refuse to do so.
- (3) An interlocutory order takes effect from:
  - (a) the date specified in the order; or
  - (b) if no date is specified – on the service of the order by the applicant on all the other parties.

## **Part 7                      Case management**

### **Division 1                Directions conference**

#### **7.01            Date for directions conference**

- (1) As soon as practicable after an appearance is filed under Division 3 of Part 5, a Registrar must fix a date, time and place for a directions conference and give each party notice in accordance with Form 7A.
- (2) The date fixed under subrule (1) is to be 14 days after the appearance is filed or as soon as practicable after that time.

## **7.02        Reports to be filed**

- (1) In a proceeding commenced by a worker, each party must:
  - (a) file, not later than 7 days before the date fixed for the directions conference; or
  - (b) deliver to the person presiding at the directions conference,  
  
a copy of the hospital reports and medical reports not previously filed.
- (2) Hospital and medical reports are to be filed or delivered in a sealed envelope bearing the title of the proceeding and the name of the party filing the reports.

## **7.03        Attendance at directions conference**

- (1) Each party must attend a directions conference:
  - (a) in the case of an individual – in person;
  - (b) in the case of a corporation – by an officer or employee of the corporation, authorised in writing by the corporation to attend;
  - (c) in the case of a firm – by all the partners, or by one or more partners with the unfettered written authority of all the other partners to attend; or
  - (d) in the case of the Territory – by an employee (as defined in the *Public Sector Employment and Management Act*) of the Agency on behalf of which the Territory is conducting the proceeding, authorised in writing by the Chief Executive Officer of that Agency to attend.
- (2) An employer who is insured must be accompanied by a representative of the insurer, authorised in writing by the insurer to attend.
- (3) A party who is legally represented may be accompanied by the legal representative.
- (4) A legal representative attending a directions conference must be fully instructed about the conduct of the proceeding and the options for settlement.
- (5) If physical attendance is impracticable, a party or legal representative may, with the leave of the Court obtained in accordance with rule 7.12, attend by communication link.

- (6) The Court may dispense with the requirement of attendance of a party in person (either physically or by communication link) in special circumstances.
- (7) An authorisation to attend a directions conference referred to in subrules (1) and (2) is to include an authorisation to settle the proceeding if possible.

#### **7.04        Procedure at directions conference**

- (1) At a directions conference:
  - (a) the party making the application must be able to indicate the particulars of the application and the relief sought; and
  - (b) the party who filed the appearance must be able to indicate the issues (if any) and the grounds on which liability is denied.
- (2) All parties at a directions conference must be able to indicate:
  - (a) the issues of fact and law;
  - (b) the nature of any necessary interlocutory matters, including discovery;
  - (c) the nature of any steps that need to be taken before the hearing of the proceeding;
  - (d) the prospects of settlement, and be able to respond to an offer of settlement; and
  - (e) any other matter that might affect the readiness or scheduling for the hearing of the proceeding.
- (3) The Court may make recommendations for resolving the issues in dispute.
- (4) If the proceeding is not settled, the Court:
  - (a) must:
    - (i) make the orders it considers appropriate, including orders relating to the filing and service of pleadings; and
    - (ii) complete a scheduling order in accordance with Form 7B; and
  - (b) may:
    - (i) adjourn the directions conference;

- (ii) fix a date, time and place for a conciliation conference to be held as soon as practicable; or
- (iii) fix a date, time and place for a pre-hearing conference.

## **Division 2            Conciliation conference**

### **7.05            Reports to be filed**

- (1) In a proceeding commenced by a worker, each party must:
  - (a) file, not later than 7 days before the date fixed for the conciliation conference; or
  - (b) deliver to the person presiding at the conciliation conference, a copy of the hospital reports and medical reports not previously filed.
- (2) Hospital and medical reports are to be filed or delivered in a sealed envelope bearing the title of the proceeding and the name of the party filing the reports.

### **7.06            Attendance at conciliation conference**

- (1) Each party must attend a conciliation conference:
  - (a) in the case of an individual – in person;
  - (b) in the case of a corporation – by an officer or employee of the corporation, authorised in writing by the corporation to attend;
  - (c) in the case of a firm – by all the partners or by one partner with the unfettered written authority of all the other partners to attend; or
  - (d) in the case of the Territory – by an employee (as defined in the *Public Sector Employment and Management Act*) of the Agency on behalf of which the Territory is conducting the proceeding, authorised in writing by the Chief Executive Officer of that Agency to attend.
- (2) An employer who is insured must be accompanied by a representative of the insurer, authorised in writing by the insurer to attend.
- (3) A party who is legally represented may be accompanied by the legal representative.

- (4) A legal representative attending a conciliation conference must be fully instructed about the conduct of the proceeding and the options for settlement.
- (5) If physical attendance is impracticable, a party or legal representative may, with the leave of the Court obtained in accordance with rule 7.12, attend by communication link.
- (6) The Court may dispense with the requirement of attendance of a party in person (either physically or by communication link) in special circumstances.
- (7) An authorisation to attend a conciliation conference referred to in subrules (1) and (2) is to include an authorisation to settle the proceeding if possible.

#### **7.07        Procedure at conciliation conference**

- (1) A conciliation officer:
  - (a) must preside at a conciliation conference and promote agreement between the parties; and
  - (b) may adjourn a conciliation conference.
- (2) The parties attending a conciliation conference must:
  - (a) be fully conversant with the issues of fact and law, options for settlement and advice from counsel (if obtained); and
  - (b) be prepared to settle the proceeding.
- (3) If the proceeding is not settled and the conciliation officer is not an officer of the Court, he or she must:
  - (a) adjourn the conciliation conference; and
  - (b) notify the Court as soon as practicable that the parties did not reach an agreement.
- (4) If the proceeding is not settled and the conciliation officer is an officer of the Court, the conciliation officer must:
  - (a) adjourn the conciliation conference;
  - (b) list the proceeding for a further directions conference;
  - (c) proceed immediately to a further directions conference; or
  - (d) make the orders he or she considers appropriate.

- (5) If the Court receives notification under subrule (3)(b), the Court must make the orders it considers appropriate.
- (6) If the parties reach agreement, whether in settlement of the proceeding or in relation to particular issues in the proceeding, the conciliation officer must record the agreement in a memorandum that is to be signed by all the parties to the agreement and:
  - (a) if the conciliation officer is not an officer of the Court – provide the Court with the memorandum of agreement as soon as practicable so that the Court may make appropriate orders; and
  - (b) if the conciliation officer is an officer of the Court – make the appropriate orders.

#### **7.08        Conciliation to be confidential**

Evidence of anything said or an admission made in a conciliation conference is not admissible at the hearing of the proceeding or at the hearing of an interlocutory application in the proceeding.

### **Division 3        Prehearing conference**

#### **7.09        Case management statement**

Not later than 2 days before the date fixed for a prehearing conference, a party must file and serve on each other party a case management statement in accordance with Form 7C.

#### **7.10        Attendance at prehearing conference**

- (1) Each party must attend a prehearing conference:
  - (a) in the case of an individual – in person;
  - (b) in the case of a corporation – by an officer or employee of the corporation, authorised in writing by the corporation to attend;
  - (c) in the case of a firm – by all the partners, or by one or more partners with the unfettered written authority of all the other partners to attend; or
  - (d) in the case of the Territory – by an employee (as defined in the *Public Sector Employment and Management Act*) of the Agency on behalf of which the Territory is conducting the proceeding, authorised in writing by the Chief Executive Officer of that Agency to attend.

- (2) An employer who is insured must be accompanied by a representative of the insurer, authorised in writing by the insurer to attend.
- (3) A party who is legally represented may be accompanied by the legal representative.
- (4) A legal representative attending a prehearing conference must be fully instructed about the conduct of the proceeding and the options for settlement.
- (5) If physical attendance is impracticable, a party or legal representative may, with the leave of the Court obtained in accordance with rule 7.12, attend by communication link.
- (6) The Court may dispense with the requirement of attendance of a party in person (either physically or by communication link) if the Court considers it to be appropriate.

#### **7.11        Procedure at prehearing conference**

At a prehearing conference, the Court:

- (a) may settle a joint memorandum of issues;
- (b) must request details from each party of:
  - (i) medical or expert reports to be relied on;
  - (ii) the number of witnesses, both expert and non-expert;
  - (iii) the estimated length of the hearing of the proceeding;
  - (iv) arrangements for communication links; and
  - (v) whether counsel has been briefed or advice on evidence has been obtained; and
- (c) may:
  - (i) make the orders it considers appropriate;
  - (ii) adjourn the prehearing conference; or
  - (iii) fix a date, time and place for the hearing of the proceeding.

## **Division 4            Miscellaneous**

### **7.12            Attendance by communication link**

- (1) A person wishing to attend a directions conference, conciliation conference or prehearing conference by telephone must seek the leave of the Court not later than 24 hours before the time fixed for the conference.
- (2) A person wishing to attend a directions conference, conciliation conference or prehearing conference by closed-circuit television must seek the leave of the Court in sufficient time to allow for the reservation of the communication facilities to be used at the conference.
- (3) Leave under this rule may be granted informally by telephone and without notice to any other person.
- (4) A person who is granted leave to attend a conference by communication link must give the notice to other persons that the Court orders.
- (5) The Court may direct that the person granted leave under this rule must reserve the communication facilities to be used at the conference and pay the costs in connection with their use.

### **7.13            Failure to attend conference, obey order, &c.**

- (1) If a party fails to:
  - (a) attend a directions conference, conciliation conference or prehearing conference as required by these Rules;
  - (b) prepare adequately for a directions conference, conciliation conference or prehearing conference; or
  - (c) comply with an order of the Court, including an order contained in a scheduling order,the Court may:
  - (d) if the party in default is a worker or an applicant – dismiss the proceeding;
  - (e) if the party in default is an employer or a respondent – strike out the appearance or notice of defence;
  - (f) subject to Part 23, make the orders in relation to costs it considers appropriate, including an order that a legal practitioner must pay all or part of the costs payable;



- 
- (g) list the proceeding before a magistrate; or
  - (h) make any other order it considers appropriate.
- (2) If the Court makes an order under subrule (1)(e), the party who commenced the proceeding may apply for default judgment under Part 21 and, if applicable, for compensation or other relief to be assessed.

## **Part 8                      Pleadings**

### **8.01              Form and content**

- (1) A pleading is to:
- (a) be expressed in plain English and in non-technical language except to the extent required by the nature of the claim;
  - (b) be divided into paragraphs numbered consecutively and each allegation, so far as practicable, is to be referred to in a separate paragraph;
  - (c) contain, in a summary form, a statement of all the material facts on which the party relies but not the evidence by which those facts are to be proved; and
  - (d) if a claim or defence of a party arises by or under an Act – identify the specific provision relied on.
- (2) In a pleading, a party may:
- (a) raise a point of law; and
  - (b) plead a conclusion of law if the material facts supporting the conclusion are pleaded.

### **8.02              Additional claims or matters**

- (1) A party may include in a pleading a claim or counterclaim against any other party to the proceeding.
- (2) To enable the Court to determine all issues in dispute, a party may plead additional facts or matters to those raised in an application, an appearance or a decision made under section 69, 85 or 86 of the Act.

**8.03 Matter to be pleaded**

In a pleading subsequent to a statement of claim, a party must plead specifically a fact or matter that:

- (a) the party alleges makes a claim or defence of the opposite party not maintainable;
- (b) if not pleaded specifically, might take the opposite party by surprise; or
- (c) raises a question of fact that does not arise out of the preceding pleading.

**8.04 Subsequent pleading**

A party may plead a fact or matter that has arisen at any time, whether before or after the commencement of the proceeding.

**8.05 Inconsistent pleading**

A party may make inconsistent allegations of fact if the pleading makes it clear that the allegations are pleaded in the alternative.

**8.06 Particulars of pleading**

- (1) A pleading is to contain the particulars of a fact or matter pleaded.
- (2) Without limiting subrule (1), a party must give particulars if they are necessary to enable the opposite party to plead, define the questions for hearing or avoid surprise at the hearing.

**8.07 Denial and pleading different facts**

- (1) An allegation of fact in a pleading is to be taken as admitted unless, in the pleading of the opposite party, it is:
  - (a) denied specifically or by necessary implication; or
  - (b) stated to be not admitted.
- (2) A party who specifically denies an allegation of fact must state what facts he or she relies on as the basis of the denial.
- (3) A party who intends to prove facts that are different from those pleaded by the opposite party must:
  - (a) specifically deny the facts pleaded or state that the facts pleaded are not admitted; and
  - (b) plead the facts he or she intends to prove.

**8.08            Amendments and orders as to form, filing and service**

- (1) Amendments are to be made to the pleadings that are necessary for determining the real questions at issue between the parties.
- (2) At any stage of a proceeding, the Court may:
  - (a) allow a party to amend his or her pleadings in a manner and on terms the Court considers appropriate;
  - (b) order that the pleadings be in a particular form; or
  - (c) make orders in respect of the filing and service of pleadings.

**Part 9                      Statement of claim, notice of defence and counterclaim**

**Division 1                Statement of claim**

**9.01            Form and content**

- (1) A statement of claim is to be in accordance with Form 9A and contain:
  - (a) a concise statement of the nature of the claim;
  - (b) the particulars of the claim; and
  - (c) the specific amount of compensation sought or the relief or remedy sought.
- (2) The pleadings in a statement of claim are to comply with Part 8 but a failure to comply does not invalidate the statement of claim.
- (3) If a worker claims compensation for an injury or disease, the statement of claim is to contain clear and concise details of the following (as applicable):
  - (a) the worker's date of birth and occupation;
  - (b) the date when and the workplace where the injury occurred or the disease was contracted;
  - (c) the nature of the injury or disease;
  - (d) the manner in which the injury occurred or the disease was contracted;

- (e) the nature of the disability suffered as a result of the injury or disease;
  - (f) the worker's normal weekly earnings at the date the injury occurred or the disease was contracted;
  - (g) the dates of the periods for which compensation payments are claimed;
  - (h) the amount claimed for permanent impairment and the nature of the permanent impairment;
  - (j) the amount claimed for hospital, medical, surgical or rehabilitation treatment and the nature of treatment.
- (4) If a party's application was made under section 62(2) of the Act, the party's statement of claim is to contain clear and concise details of the following:
- (a) the deceased worker's full name, address, occupation and date of birth;
  - (b) the employer's full name and address;
  - (c) the date when and the workplace where the injury occurred or the disease was contracted;
  - (d) the date of death;
  - (e) the name and address (if known) of each dependant who was wholly or partially dependent on the deceased worker at the date of death and the relationship of each dependant to the deceased worker.

## **9.02 Filing and service**

- (1) When ordered by the Court to do so, a party must file a statement of claim and serve a sealed copy on each other party.
- (2) The party must file sufficient copies of the statement of claim to enable the party to serve sealed copies in accordance with subrule (1).

## **Division 2 Notice of defence**

### **9.03 Filing and service**

- (1) A party served with a sealed statement of claim must file and serve a notice of defence in the time the Court orders.

- (2) A party who files a notice of defence that includes a counterclaim must file sufficient copies to enable the party to serve a sealed copy on each other party.

#### **9.04        Form and content**

- (1) A notice of defence is to be in accordance with Form 9B and contain:
- (a) a concise statement of the defence or defences relied on; and
  - (b) particulars of each defence.
- (2) The pleadings in a notice of defence are to comply with Part 8 but a failure to comply does not invalidate the notice of defence.

### **Division 3                Counterclaim**

#### **9.05        Counterclaim**

- (1) If:
- (a) an employer served with a statement of claim has a claim against the worker; or
  - (b) a respondent served with a statement of claim has a claim against the applicant,
- he or she may counterclaim in the proceeding by completing the part of the notice of defence that relates to a counterclaim.
- (2) A counterclaim is to contain:
- (a) a concise statement of the nature of the claim;
  - (b) particulars of the claim; and
  - (c) a statement of the relief or remedy sought.
- (3) The pleadings in a counterclaim are to comply with Part 8 but a failure to comply does not invalidate the counterclaim.
- (4) These Rules apply to and in relation to a counterclaim as if:
- (a) a reference in these Rules to a party who is the employer or respondent were a reference to the worker or applicant; and
  - (b) a reference in these Rules to a party who is the worker or applicant were a reference to the employer or respondent.

## **Part 10                    Person under disability**

### **10.01        Definition**

In this Part, ***person under a disability*** means:

- (a) an infant; or
- (b) a person who is incapable because of age, injury, disease, senility, illness or physical or mental infirmity of managing his or her affairs in relation to a proceeding.

### **10.02        Litigation guardian**

- (1) Except where provided otherwise by or under an Act, a person under a disability may commence or defend a proceeding only by his or her litigation guardian.
- (2) An application commencing a proceeding or an appearance filed by a litigation guardian is to state that the proceeding is commenced or defended by the litigation guardian on behalf of the person under a disability.
- (3) Except where these Rules provide otherwise, anything that is required or permitted by these Rules to be done by a party who is a person under a disability is required or permitted to be done by the party's litigation guardian.
- (4) If a party has a litigation guardian in a proceeding, no other person may act as the litigation guardian of that party unless the Court orders otherwise.

### **10.03        Person who may be litigation guardian**

- (1) A person may be the litigation guardian of a person under a disability if he or she:
  - (a) is not a person under a disability; and
  - (b) has no interest in the proceeding adverse to that of the person under a disability.
- (2) If a person is authorised by a law in force in the Territory to conduct a legal proceeding in the name of or on behalf of a person under a disability, he or she is entitled to be the litigation guardian of a person under a disability in a proceeding to which his or her authority extends.

**10.04 Consent of litigation guardian**

- (1) Except where a litigation guardian is appointed by the Court, the name of a person is not to be used in a proceeding as the litigation guardian of a person under a disability unless there is first filed the written consent of the person to be the litigation guardian.
- (2) A consent filed under subrule (1) is to be in accordance with Form 10A and contain:
  - (a) a statement of the reason why the proposed party is a person under a disability; and
  - (b) a declaration that the proposed litigation guardian has no interest in the proceeding adverse to that of the person under a disability.

**10.05 Appointment, &c., of litigation guardian by Court**

- (1) If a party to a proceeding becomes a person under a disability after the proceeding is commenced, the Court must appoint a litigation guardian of that party.
- (2) Before appointing a litigation guardian under subrule (1), the Court may review the conduct of the proceeding and make the orders it considers necessary to ensure that justice is done between the parties.
- (3) If a party who is a person under a disability does not file an appearance when required to do so by an order of the Court or these Rules, the Court may order the appointment of a litigation guardian to defend the proceeding.
- (4) If the interests of a party who is a person under a disability require it, the Court may appoint or remove a litigation guardian or substitute another person as litigation guardian of the party.

**10.06 Pleading admissions by person under disability**

A person under a disability is not to be taken as admitting the truth of an allegation of fact made in the pleadings of another party unless the person under a disability states in his or her pleadings that the allegation is admitted.

**10.07 Litigation guardian liable for costs**

A litigation guardian is liable for costs in a proceeding in the same manner and to the same extent as if he or she were a party to the proceeding.

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**10.08 Money to be paid to public trustee**

- (1) Unless the Court orders otherwise, all money or compensation received by or awarded to a person under a disability by:
  - (a) a determination of the Court; or
  - (b) an agreement under Part 15,is to be paid to the Public Trustee not later than 14 days after the determination is made or the agreement is recorded by the Court.
- (2) The Court may order the Public Trustee to pay money held on behalf of a person under a disability to a person specified in the order.

**10.09 Legal practitioner's lien**

Nothing in this Part affects the lien of a legal practitioner for costs.

**Part 11 Joinder of party****11.01 Application for orders**

- (1) In this rule, ***person proposing to join another person as a party to a proceeding*** means:
  - (a) an employer proposing to join another employer as a party under section 55(3) of the Act;
  - (b) an approved insurer proposing to join another approved insurer as a party under section 126A(2)(b)(ii) of the Act; or
  - (c) a party proposing to join another person as a party.
- (2) A person proposing to join another person as a party to a proceeding must apply to the Court for orders in respect of the joinder by filing, in sufficient numbers for service in accordance with subrule (4):
  - (a) an application in accordance with Form 11A; and
  - (b) a supporting affidavit.
- (3) On receipt of the application and affidavit, a Registrar must:
  - (a) fix a date, time and place for the hearing of the application; and
  - (b) sign, seal and issue the application.



- (4) The applicant must serve a sealed copy of the application and affidavit personally on the person the applicant proposes to join as a party and on each other party not later than 7 days before the date fixed for the hearing of the application.

**11.02 Person served may file and serve affidavit**

A person served with an application may, before the date fixed for the hearing, file and serve an affidavit on which the person intends to rely at the hearing.

**11.03 Orders in discretion of Court**

At the hearing of the application, the Court may make the orders it considers appropriate in respect of the joinder and the conduct of the proceeding.

## **Part 12 Discovery and inspection of documents**

**12.01 Party to give discovery**

Not later than 14 days after a notice of defence is filed, each party must give discovery of documents by:

- (a) making and filing a list of the documents:
  - (i) that are or have been in the party's possession; and
  - (ii) that relate to a matter in question between the parties;  
and
- (b) serving a copy of the list on each other party.

**12.02 List of documents**

- (1) A list of documents is to be in accordance with Form 12A and is to:
  - (a) identify the documents that are or have been in the possession of the party making the list;
  - (b) enumerate the documents in convenient order and:
    - (i) describe each document sufficiently to enable it to be identified; or
    - (ii) in the case of a group of documents of the same nature: describe the group sufficiently to enable it to be identified;

- (c) distinguish those documents that are in the possession of the party making the list from those that have been but are no longer in the party's possession and, if a document has been but is no longer in the party's possession, state when the document was last in the party's possession and his or her belief as to what has become of it; and
  - (d) if the party making the list claims that a document in the party's possession is privileged from production – state sufficiently the grounds of the privilege.
- (2) It is not necessary to identify, enumerate or describe:
  - (a) correspondence between the parties or the legal practitioners for the parties after the commencement of the proceeding; or
  - (b) the pleadings.

### **12.03 Affidavit verifying list of documents**

- (1) A party to whom discovery of documents is to be given may file, and serve on a party who must give discovery, a notice in accordance with Form 12B requiring that party to swear an affidavit verifying his or her list of documents.
- (2) A party on whom a notice is served under subrule (2) must, not later than 14 days after service of the notice:
  - (a) make and file an affidavit in compliance with the notice; and
  - (b) serve a copy of the affidavit on the party who served the notice.

### **12.04 Continuing discovery**

- (1) Subject to an order of the Court, a party must continue to give discovery of documents in accordance with this Part until the commencement of the hearing of the proceeding.
- (2) Discovery is to be given:
  - (a) not later than 14 days after a document comes into a party's possession; or
  - (b) if a document comes into a party's possession less than 28 days before a conciliation conference or prehearing conference – as soon as practicable after the document comes into the party's possession.

**12.05 Request for inspection**

A party may, either orally or in accordance with Form 12C, request another party to produce for inspection a document in the other party's possession referred to:

- (a) in the other party's list of documents; or
- (b) in any other document filed, served or provided by the other party.

**12.06 Production**

- (1) Unless the parties agree otherwise or the Court orders otherwise, a party requested to produce a document must, not later than 14 days after the request, produce the document for inspection at a place within 15 kilometres of:

- (a) the registry in which the proceeding was commenced; or
- (b) the Court in which the proceeding is to be heard and determined.

- (2) A party requested to produce a document is not required to do so if:

- (a) the party:
  - (i) claims that the document is privileged from production; and
  - (ii) makes and serves on the other party an affidavit in which the party makes that claim and states sufficiently the grounds of the privilege; or
- (b) the document is not in the party's possession and he or she makes and serves on the other party an affidavit in which he or she states that fact and states to the best of his or her knowledge, information and belief:
  - (i) where the document is and in whose possession it is; and
  - (ii) if the document has been but is no longer in the party's possession – when the document was last in the party's possession, and his or her belief as to what has become of it.

**12.07 Copies of documents**

- (1) A party to whom documents are produced for inspection may take copies of the documents.
- (2) For the purpose of subrule (1), taking a copy of a document includes photocopying the document.
- (3) If the party to whom a document is produced states that he or she wishes to have it photocopied, the party producing the document must, at his or her option:
  - (a) allow the other party to photocopy the document at a place agreed by the parties; or
  - (b) supply the other party with a photocopy of the document.
- (4) Unless the Court orders otherwise, the cost of photocopying a document supplied to a party in accordance with subrule (3):
  - (a) is to be borne by that party in the first instance and is ultimately to be a cost in the proceeding; and
  - (b) is to be 100% of photocopying costs allowable under the *Supreme Court Rules* or 50 cents per page, whichever is the lesser.

**12.08 Audio and visual devices, &c.**

- (1) If a party is entitled to inspect a document that consists of a device such as a video tape, audio tape, disc, film or other means of recording, the Court may make orders relating to the screening or playing of the device and for the making by or supply to the party of:
  - (a) a transcript of the recording in so far as it can be transcribed; or
  - (b) a copy of the recording.
- (2) If a party is entitled to inspect a document that consists of information that has been processed by or is stored in a computer, the Court may make orders relating to making the information available.

**12.09 Failure to give discovery or allow inspection**

- (1) If a party fails to give discovery or to allow inspection of documents in accordance with this Part, the Court may:
  - (a) order the party to give discovery or allow inspection;

- (b) if the party is a worker or applicant – dismiss the proceeding;  
or
- (c) if the party is an employer or respondent – make an order:
  - (i) striking out the appearance or notice of defence; or
  - (ii) permitting the worker or applicant to proceed as if an appearance or notice of defence had not been filed.
- (2) If the Court makes an order under subrule (1)(c), the worker or applicant may apply for default judgment under Part 21 and, if applicable, for compensation or other relief to be assessed.
- (3) If a party applies for an order under subrule (1), and the other party claims that the document is privileged from production or objects to production on another ground, the Court may inspect the document to decide the validity of the claim or objection.
- (4) An application for an order under this rule is to be filed and served not later than 28 days before the date fixed for the hearing of the proceeding.

## **Part 13 Interrogatories**

### **13.01 When interrogatories allowed**

- (1) After the directions conference referred to in rule 7.01, a party may serve on another party interrogatories relating to a matter in question between them:
  - (a) with the consent in writing of the party to be interrogated; or
  - (b) with the leave of the Court.
- (2) An application for leave to serve interrogatories is to be made at the directions conference unless the Court orders otherwise.
- (3) An interrogating party may serve further interrogatories with the leave of the Court.
- (4) A party who serves interrogatories must file a copy of them without delay.

**13.02 Statement if multiple parties interrogated**

If interrogatories are to be answered by 2 or more parties, the interrogating party must state in the document containing the interrogatories which of the interrogatories each party is required to answer.

**13.03 Form, service and filing of answers**

A party on whom interrogatories are served must, not later than 28 days after service:

- (a) answer the interrogatories in an affidavit that consolidates each question with the relevant answer;
- (b) serve the affidavit on the party who served the interrogatories; and
- (c) file a copy of the affidavit.

**13.04 Answers to interrogatories**

- (1) Subject to rule 13.05, a party who is interrogated must answer each interrogatory in accordance with this rule.
- (2) A party must make all reasonable enquiries to enable him or her to provide a proper answer to each interrogatory.
- (3) A party must answer:
  - (a) specifically, by answering the substance of the interrogatory without evasion; and
  - (b) from his or her own knowledge of the fact or matter that is enquired after or, if the party has no such knowledge, subject to subrule (7), from a belief as to the fact or matter, irrespective of the source of the information from which the belief is formed.
- (4) If a party has no personal knowledge of the fact or matter enquired after, for the purpose of enabling himself or herself to form such a belief, the party must make all reasonable enquiries to determine:
  - (a) whether a person has knowledge of the fact or matter that was acquired by the person in the capacity of the party's employee or agent; and
  - (b) if so – what that knowledge is.

- (5) A party must make the enquiries referred to in subrule (4) despite the fact that at the time the party is required to answer the interrogatory a person having the relevant knowledge has ceased to be an employee or agent.
- (6) A party who has no knowledge of the fact or matter enquired after is taken not to have a belief as to the fact or matter if:
  - (a) he or she has no information relating to the fact or matter on which to form a belief; or
  - (b) if the party has such information – he or she has no belief that the information is true.
- (7) A party is not required to answer from his or her belief if the belief is formed on information that the party could not, on the ground of privilege, be compelled to disclose.
- (8) If the party interrogated is a corporation, this rule applies with the necessary changes as if:
  - (a) the person who answers the interrogatories on behalf of the corporation were the party; and
  - (b) the reference in subrule (4)(a) to an employee or agent of the party were a reference to an employee or agent of the corporation.

### **13.05 Objections**

- (1) A party may object to answering an interrogatory on any of the following grounds:
  - (a) the interrogatory does not relate to a question in issue between the parties;
  - (b) the interrogatory is unclear, vague or too wide;
  - (c) the interrogatory is oppressive;
  - (d) the interrogatory requires the party to express an opinion that the party is not qualified to give;
  - (e) privilege, stating sufficiently the grounds of privilege;
  - (f) any other ground on which objection may be taken.

- (2) Without limiting subrule (1)(a), an interrogatory that does not relate to a question in issue between the parties includes an interrogatory the sole purpose of which is to:
  - (a) impeach the credit of the party being interrogated;
  - (b) enable the interrogating party to ascertain whether he or she has a claim or defence other than the claim or defence raised in the proceeding; or
  - (c) enable the interrogating party to ascertain the evidence by which the party being interrogated intends to prove his or her case, including the identity of witnesses.
- (3) A party is not entitled to object to answering an interrogatory on the ground that he or she cannot answer without going to a place that is not the party's usual place of residence or business if the interrogating party undertakes to pay the party's reasonable cost of going there, unless the Court orders otherwise.
- (4) If a party objects to answering an interrogatory, the party must state the grounds for making the objection and the facts, if applicable, on which the objection is based.

### **13.06 Who to answer**

- (1) Interrogatories are to be answered:
  - (a) if the person on whom the interrogatories are served is:
    - (i) a natural person – by the person;
    - (ii) a firm – by a partner of the firm authorised by all the other partners to answer; or
    - (iii) a corporation – by an officer of the corporation or a person authorised by the corporation to answer; or
  - (b) by the person the Court orders to do so.
- (2) The answers of a person ordered under subrule (1)(b) to answer interrogatories are as effective and binding as if made by the party on whom the interrogatories were served.

### **13.07 Failure to answer**

- (1) If a party claiming relief fails to answer interrogatories, the Court may:
  - (a) order the party to answer the interrogatories;



- (b) if the party is a worker or applicant – dismiss the proceeding;  
or
- (c) if the party is an employer or respondent – make an order:
  - (i) striking out the appearance or notice of defence; or
  - (ii) permitting the worker or applicant to proceed as if an appearance or notice of defence had not been filed.
- (2) If the Court makes an order under subrule (1)(c), the worker or applicant may apply for default judgment under Part 21 and, if applicable, for compensation or other relief to be assessed.
- (3) An application for an order under this rule is to be filed and served not later than 28 days before the date fixed for hearing of the proceeding.

### **13.08      Answers as evidence**

- (1) At the hearing of a proceeding or the hearing of an interlocutory application, a party may tender as evidence:
  - (a) one or more answers to interrogatories without tendering the other answers; or
  - (b) part of an answer to an interrogatory without tendering the whole of the answer.
- (2) On the tender of an answer to an interrogatory under subrule (1), the Court may look at the whole of the answers and, if another answer or a part of an answer is so connected with the matter tendered that the matter tendered ought not to be used without the other answer or part, the Court may reject the tender unless the other answer or part is also tendered.

## **Part 14              Admissions**

### **14.01      Definition**

In this Part, ***authenticity of a document*** means that a document:

- (a) is what it purports to be;
- (b) if it is an original or is described as such – is an original document and was printed, written, signed or executed as it purports to have been; or
- (c) if it is a copy or is described as such – is a true copy.

**14.02 Restrictive effect of admission**

An admission in a proceeding made by a party under this Part is for the purpose of that proceeding only and is not to be used against the party as an admission in another proceeding.

**14.03 Voluntary admission of facts**

- (1) A party may admit facts in favour of another party by filing and serving on the other party a notice of admission of the facts specified in the notice.
- (2) A notice referred to in subrule (1) is to be in accordance with Form 14A.
- (3) With the leave of the Court, a party may withdraw an admission made under this rule.

**14.04 Notice to dispute facts**

- (1) A party may file and serve on another party a notice stating that unless the other party, within the time specified in the notice (being not less than 14 days after service), disputes the facts specified in the notice that party will be taken to admit the facts.
- (2) A notice to dispute facts referred to in subrule (1) is to be in accordance with Form 14B.
- (3) A party served with a notice under subrule (1) may dispute facts specified in the notice by filing and serving, within the time specified in the notice, a notice in accordance with Form 14C.
- (4) If a party served with a notice under subrule (1) does not dispute a fact within the time specified, the party is taken to admit that fact.
- (5) With the leave of the Court, a party may withdraw an admission that the party is taken to have made under subrule (4).

**14.05 Notice to dispute authenticity of documents**

- (1) A party may file and serve on another party a notice stating that unless the other party, within the time expressed in the notice (being not less than 14 days after service), disputes the authenticity of the documents specified in the notice that party will be taken to admit their authenticity.
- (2) A notice to dispute the authenticity of documents referred to in subrule (1) is to be in accordance with Form 14D.

- (3) A party served with a notice under subrule (1) may dispute the authenticity of documents specified in the notice by filing and serving, within the time specified in the notice, a notice in accordance with Form 14E.
- (4) If a party served with a notice under subrule (1) does not dispute the authenticity of a document within the time specified, the party is taken to admit its authenticity.
- (5) With the leave of the Court, a party may withdraw an admission that the party is taken to have made under subrule (4).

#### **14.06        Costs of proof**

Unless the Court orders otherwise, if a party:

- (a) serves a notice under rule 14.04(3) disputing a fact, and later the fact is proved in the proceeding; or
- (b) serves a notice under rule 14.05(3) disputing the authenticity of a document, and later its authenticity is proved in the proceeding,

the other party is entitled to an order that the party who served the notice must pay the costs of proof.

#### **14.07        Judgment on admission**

- (1) If a party makes an admission of fact in a proceeding, whether by the party's pleading or otherwise, the Court may, on the application of another party, give the judgment or make the order to which the applicant is entitled on the admission.
- (2) The Court may exercise the power under subrule (1) whether or not there are other questions to be determined in the proceeding.

## **Part 15            Agreements and commutation**

### **Division 1        Agreements**

#### **15.01        Form of agreement**

- (1) A memorandum of agreement referred to in section 108(1) of the Act is to be in accordance with Form 15A and is to be signed by all the parties to the agreement.
- (2) For the purpose of section 108(1) of the Act, a party who sends a memorandum of agreement to the Registrar must do so by filing it.

- (3) A memorandum of agreement is to be filed accompanied by the following documents:
- (a) all medical reports obtained by the parties in respect of the injury or disease to which the agreement relates and on which the parties relied in reaching agreement;
  - (b) a statement of particulars showing, by the use of sub-totals, how the amount of each payment under the agreement is made up or calculated;
  - (c) all other documents on which the parties relied in reaching agreement, including documents that provide evidence of amounts to be paid under the agreement.

**15.02      Notice of receipt of agreement**

A notice of receipt of a memorandum of agreement given under section 108(2)(b) of the Act to a person having an interest in the agreement is to be in accordance with Form 15B.

**15.03      Notice of objection**

- (1) A person having an interest in an agreement who objects to the recording of the agreement may file a notice of objection not later than 21 days after the date of the notice given under rule 15.02.
- (2) A notice of objection is to be in accordance with Form 15C and is to state the objection and the grounds for it.
- (3) A copy of the notice of objection is to be served on each party to the agreement.

**15.04      Registrar to make inquiries**

- (1) On receipt of:
  - (a) a memorandum of agreement; or
  - (b) a notice of objection,

the Registrar must make the inquiries and seek the information (including copies of documents) that the Registrar considers necessary for the Court to be satisfied that an agreed amount, or the information on which the agreement is based, is adequate.

- (2) The parties to an agreement must answer all questions relating to the agreement asked by the Registrar and provide all information requested under subrule (1).

- (3) The Registrar must make a report on the agreement to the Court:
  - (a) if applicable – detailing the information the Registrar has obtained; and
  - (b) if the Registrar is of the opinion that an amount is inadequate – stating the reasons for that opinion.

**15.05      Court to consider report, &c.**

- (1) The Court, in considering an agreement under section 108(3) of the Act, must also consider:
  - (a) the attachments to the agreement;
  - (b) any notices of objection; and
  - (c) the Registrar's report on the agreement.
- (2) Before the Court gives a direction under section 108(3) of the Act, it may:
  - (a) direct a Registrar to request the parties to the agreement, their legal practitioners or other persons entitled under section 98 of the Act to appear for them, to appear before the Court to provide further information (including copies of documents) and make further submissions as the Court thinks fit;
  - (b) require the hearing of oral evidence; or
  - (c) summon a person to appear to give evidence.

**15.06      Notice on recording agreement**

- (1) When the Court gives a direction under section 108(3) of the Act, the Registrar must give notice of the direction to:
  - (a) the parties to the agreement; and
  - (b) the persons who filed notices of objection.
- (2) A notice given under this rule:
  - (a) is to be in accordance with Form 15D; and
  - (b) if it is in respect of a direction not to record an agreement – is to include the reasons for the direction.

## **Division 2      Commutation of compensation payments**

### **15.07      Application for commutation**

- (1) An application for the purposes of section 74(1)(a) of the Act is to:
  - (a) be in accordance with Form 15E;
  - (b) state the terms of the commutation;
  - (c) contain a statement made under oath or a statutory declaration by the person making the application stating the facts to establish that, because of the small amount of regular payments of compensation under section 63 or 65 of the Act, the administrative costs in calculating and paying the compensation are disproportionate to the benefits received; and
  - (d) contain a statement made under oath or a statutory declaration by the person to whom compensation is payable that the person is fully aware of the effects of the proposed commutation in relation to future benefits under the Act.
- (2) An application for the purposes of section 74(1)(b) of the Act is to:
  - (a) be in accordance with Form 15F;
  - (b) state the terms of the commutation; and
  - (c) contain a statement made under oath or a statutory declaration by the worker stating the facts to establish that:
    - (i) his or her condition has stabilized;
    - (ii) rehabilitation is complete;
    - (iii) he or she is not totally incapacitated within the meaning of section 65(6) of the Act;
    - (iv) he or she has received financial counselling before making the application; and
    - (v) he or she is fully aware of the effects of the proposed commutation in relation to future benefits under the Act.
- (3) An application under this rule is to be accompanied by:
  - (a) a statement of relevant particulars including the amount proposed to be commuted and, by the use of sub-totals, how that amount is calculated; and

- (b) all documents relevant to the proposed commutation.

#### **15.08 Consent to commutation**

The other party may consent to a commutation by endorsing his or her consent on the application that is filed.

#### **15.09 Service of application**

An application for a commutation is to be served on the other party unless the party has consented to the commutation under rule 15.08.

#### **15.10 Consideration of application**

- (1) The Court must make the inquiries and seek the information (including copies of documents) that the Court considers necessary for the Court to determine whether or not to authorise a commutation.
- (2) The persons affected by a commutation must answer all questions asked by the Court and provide all information requested by the Court in respect of the commutation.

#### **15.11 Hearing of application**

Whether or not an application for a commutation is endorsed under rule 15.08, the Court may fix a date, time and place for a hearing in respect of the application and notify the parties of the hearing.

### **Part 16 Evidence generally**

#### **16.01 Manner of giving evidence**

Evidence is to be given orally except:

- (a) in an interlocutory application, where it is to be given by affidavit unless the Court orders otherwise;
- (b) if an Act or these Rules provide otherwise;
- (c) if the parties agree that all or part of the evidence may be given by affidavit; or
- (d) if the Court orders otherwise.

**16.02 Orders relating to manner of giving evidence**

Despite anything to the contrary in these Rules, the Court may order that evidence of particular facts is to be given in the manner it orders, including by:

- (a) a statement on oath of information and belief;
- (b) the production of documents or entries in books;
- (c) the production of copies of documents or entries in books, including photocopies and facsimile transmission copies; or
- (d) communication link.

**16.03 Evidence by communication link**

- (1) A party seeking to adduce evidence by communication link must apply for an order in accordance with this rule.
- (2) A party who applies for an order under this rule must advise the Court of the name of the witness to be examined and, if applicable, the arrangements the party has made for communication link.
- (3) If a party seeks an order that he or she may adduce evidence at the hearing of the proceeding by the use of closed-circuit television, the party must:
  - (a) if possible – apply for the order at a directions conference or prehearing conference; or
  - (b) if it is not possible to comply with paragraph (a) – apply for the order by:
    - (i) filing an application in accordance with Form 16A; and
    - (ii) on the day of filing – serving a copy of the application on each other party.
- (4) Not later than 14 days after being served with an application under subrule (3)(b)(ii), a party may file and serve a notice of objection in accordance with Form 16B, setting out the reasons for the objection.
- (5) An objection to an order sought under this rule may be heard at a directions conference, prehearing conference or in open court and the Court must notify the parties of the date, time and place fixed for the hearing of the objection.



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- (6) If no notice of objection is filed, the Court may make the order sought.
  - (7) Under this rule the Court may make the orders it considers appropriate, including orders in respect of the following matters:
    - (a) the witnesses who may give evidence by communication link;
    - (b) the date, time and place of the communication link;
    - (c) whether the evidence-in-chief of a medical or non-medical expert to be adduced by communication link is to be confined to that expert's statement.
  - (8) A party who is entitled to adduce evidence by communication link must reserve the facilities to be used and pay all the costs in connection with their use.
  - (9) A party who is entitled to adduce evidence by the use of closed-circuit television must, if possible, use the Court's communication facilities and reserve those facilities:
    - (a) by making the necessary arrangements with the appropriate officer of the Court; and
    - (b) as soon as practicable after arrangements are made under paragraph (a) – by filing and serving a notice of reservation and undertaking in accordance with Form 16C and serving.

#### **16.04 Notice for attendance of deponent**

- (1) A party served with an affidavit may serve on the party who intends to rely on the affidavit a notice stating that he or she requires the deponent to attend for cross-examination:
  - (a) at the hearing of the proceeding; or
  - (b) subject to rule 16.01(a) – at the hearing of an interlocutory application.
- (2) A party must serve a notice referred to in subrule (1):
  - (a) in the case of attendance of the deponent at the hearing of the proceeding:
    - (i) not less than 14 days before the commencement of the hearing; or
    - (ii) as ordered by the Court; or

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- (b) in the case of attendance of the deponent at the hearing of an interlocutory application:
    - (i) within a reasonable time before the hearing; or
    - (ii) as ordered by the Court.
  - (3) Unless the Court orders otherwise, the party served with a notice under this rule must cause the deponent referred to in the notice to attend at the hearing for cross-examination.
  - (4) If a deponent referred to in a notice served under this rule does not attend for cross-examination, the Court may order that all or part of his or her affidavit is not to be received in evidence.

## **Part 17            Affidavits**

### **17.01    Form of affidavit**

- (1) An affidavit is to be made in the first person and is to be in accordance with Form 17A.
- (2) The first page of an affidavit is to be headed immediately below the title of the proceeding with the name of the deponent and the date of swearing.
- (3) Unless the Court orders otherwise, an affidavit is to state:
  - (a) subject to subrule (4), the deponent's place of residence;
  - (b) the deponent's occupation or, if the deponent has none, the deponent's description; and
  - (c) if applicable – that the deponent is a party to the proceeding or employed by a party.
- (4) If a deponent makes an affidavit in a professional or other occupational capacity, the affidavit may, instead of stating the deponent's place of residence, state:
  - (a) the address of the deponent's place of business;
  - (b) the position of the deponent; and
  - (c) if applicable – the name of the deponent's firm or employer.
- (5) An affidavit is to be divided into paragraphs numbered consecutively, each paragraph being as far as possible confined to a distinct portion of the subject.

- (6) Subject to rule 17.04, an affidavit is to be signed by the deponent and the jurat is to be completed and signed by the person before whom it is sworn.
- (7) Each page of an affidavit is to be signed by the person before whom it is sworn.
- (8) An affidavit is to contain a statement of:
  - (a) the name and address of the party on whose behalf it is filed;
  - (b) the name of the deponent;
  - (c) the date of swearing; and
  - (d) the name and contact address or telephone number of the person before whom it is sworn, printed legibly below the person's signature.

### **17.02 Affidavit by multiple deponents**

If an affidavit is made by 2 or more deponents, the names of the persons making the affidavit are to be inserted in the jurat unless the affidavit is sworn by both or all of the deponents at one time before the same person, in which case it is sufficient to state that it was sworn by "each of the above named deponents".

### **17.03 Affidavit by person unable to read**

- (1) If it appears to the person before whom an affidavit is sworn that the deponent is unable to read, the person must certify in or below the jurat that:
  - (a) the affidavit was read to the deponent in the person's presence;
  - (b) it appeared to the person that the deponent understood the affidavit; and
  - (c) the deponent signed his or her name or made a mark in the person's presence.
- (2) If a certificate in accordance with subrule (1) does not appear on an affidavit of a deponent who is unable to read, the affidavit is not to be used in evidence unless the Court is satisfied that it was read to the deponent and that the deponent appeared to understand it.

**17.04 Affidavit by person unable to write**

- (1) If it appears to the person before whom an affidavit is sworn that the deponent is physically unable to sign his or her name or make a mark, the person must certify in or below the jurat that:
  - (a) the affidavit was read to the deponent in the person's presence;
  - (b) it appeared to the person that the deponent understood the affidavit; and
  - (c) the affidavit was sworn by the deponent without the deponent signing his or her name or making a mark because the deponent was physically unable to do so.
- (2) If a certificate in accordance with subrule (1) does not appear on an affidavit by a deponent who is physically unable to sign his or her name or make a mark, the affidavit is not to be used in evidence unless the Court is satisfied that it was read to the deponent and that the deponent appeared to understand it.

**17.05 Affidavit by person unable to understand english**

- (1) If it appears to the person before whom an affidavit is sworn that the deponent is unable to understand the English language, the person must certify in or below the jurat that:
  - (a) the affidavit was sworn with the assistance of an interpreter (naming the interpreter) who first swore that he or she:
    - (i) understands the English language and the language of the deponent (naming the language); and
    - (ii) would truly and faithfully interpret to the deponent the contents of the affidavit and the oath to be administered to the deponent;
  - (b) the affidavit was read to the deponent in the person's presence with the assistance of the interpreter;
  - (c) it appeared to the person that the deponent understood the affidavit; and
  - (d) the deponent signed his or her name or made a mark in the person's presence.

- (2) If a certificate in accordance with subrule (1) does not appear on an affidavit by a deponent who is unable to understand the English language, the affidavit is not to be used in evidence unless the Court is satisfied that it was:

- (a) sworn in accordance with subrule (1)(a); and
- (b) read to the deponent with the assistance of an interpreter and the deponent appeared to understand it.

#### **17.06 Content of affidavit**

- (1) Unless these Rules provide otherwise, an affidavit is to be confined to facts that the deponent is able to state of his or her own knowledge.
- (2) In an interlocutory application, an affidavit may contain a statement of fact based on information and belief if the grounds are set out in the affidavit.

#### **17.07 Annexures and exhibits**

- (1) A document referred to in an affidavit:
  - (a) is to be annexed to the affidavit; or
  - (b) if the document is too large to be annexed – may be referred to as an exhibit.
- (2) An exhibit to an affidavit is to be identified by a separate certificate that:
  - (a) is annexed to the exhibit;
  - (b) bears the same title as the affidavit; and
  - (c) is signed by the person before whom the affidavit is sworn.

#### **17.08 Filing**

- (1) An affidavit is to be filed.
- (2) Unless the Court orders otherwise, an affidavit that has not been:
  - (a) filed; or
  - (b) served and filed in compliance with these Rules or an order of the Court,

is not to be used by the party by whom or on whose behalf it was made.

**17.09 Alterations**

An affidavit that has an interlineation, erasure or other alteration in the body or jurat may, unless the Court orders otherwise, be filed but is not to be used without the leave of the Court unless the deponent and the person before whom the affidavit was sworn have initialled the alteration.

**17.10 Irregularity**

An affidavit that is irregular in form may:

- (a) unless the Court orders otherwise, be filed; and
- (b) with the leave of the Court, be used in evidence.

**17.11 Affidavit sworn before party, &c.**

- (1) Unless the Court orders otherwise, an affidavit sworn before:
  - (a) the legal practitioner acting for the party on whose behalf it is to be used; or
  - (b) an employee of the legal practitioner,may be used in evidence.
- (2) Subject to subrule (3), an affidavit sworn before:
  - (a) the party on whose behalf it is to be used; or
  - (b) an employee of that party,is not to be used in evidence without the leave of the Court.
- (3) If the Territory is the party on whose behalf the affidavit is to be used, the affidavit may be sworn before an employee of the Territory.

**17.12 Affidavit sworn before commencement of proceeding**

Unless the Court orders otherwise, an affidavit may be used in a proceeding despite having been sworn before the commencement of the proceeding.

## **Part 18              Expert evidence**

### **Division 1              Medical expert evidence**

#### **18.01      Interpretation**

- (1) In this Division:

**examination** means an examination for medical, dental, psychological, psychiatric, therapeutic, rehabilitative, ergonomic, vocational or other purposes.

**medical expert** means a person lawfully practising in a branch of medicine, audiology, pathology, radiography, radiology, dentistry, pharmacology, occupational therapy, physiotherapy, rehabilitation, ergonomics or related field.

- (2) In this Division:

- (a) a reference to a medical report is to be read as a reference to a hospital report; and
- (b) a reference to a medical expert is to be read as a reference to a person who made a hospital report.

#### **18.02      Service of medical reports**

- (1) A party must serve on each other party a copy of a medical report as soon as practicable after it comes into his or her possession (except by service) and not later than 28 days before the commencement of the hearing of the proceeding.
- (2) A party who receives an oral report from a medical expert must give each other party written notice of its substance as soon as practicable after receiving the report and not later than 28 days before the commencement of the hearing of the proceeding.

#### **18.03      Notice of reliance on other party's medical report**

A party who:

- (a) is served with a medical report under rule 18.02; and
- (b) intends to rely on the whole or a part of the medical report at the hearing of the proceeding,

must, as soon as practicable and not later than 28 days before the commencement of the hearing, serve a notice of the intention on each other party.

#### **18.04      Notice for attendance of medical expert**

- (1) A party served with:
  - (a) a medical report under rule 18.02; or
  - (b) a notice under rule 18.03,may serve a notice on the party intending to rely on the medical report that he or she requires the attendance of the medical expert for cross-examination at the hearing of the proceeding.
- (2) A notice requiring the attendance of a medical expert for cross-examination is to be served not later than 14 days before the commencement of the hearing of the proceeding.
- (3) A party is not entitled to serve a notice under this rule requiring the attendance of a medical expert for cross-examination at an interlocutory hearing, directions conference, conciliation conference or prehearing conference.
- (4) Unless the Court orders otherwise, a party served with a notice under this rule must cause the medical expert referred to in the notice to attend for cross-examination at the hearing of the proceeding.
- (5) If a medical expert referred to in a notice served under this rule does not attend for cross-examination, the Court may order that all or part of the medical report is not to be received in evidence.

#### **18.05      Effect of non-service of notice for attendance**

If a party entitled to serve a notice under rule 18.04(1) does not do so, the party who served the medical report or notice of intention to rely on a medical report:

- (a) may seek to tender the medical report at the hearing of the proceeding without calling the medical expert as a witness; and
- (b) is not entitled to call the medical expert to give oral evidence without the leave of the Court.

#### **18.06      Evidence to be disclosed**

- (1) Except with the leave of the Court or the consent of the other parties, a party must not, except in cross-examination, adduce evidence from a medical expert on medical matters concerning a worker unless the evidence is disclosed in a medical report served in accordance with these Rules.



- (2) If a copy of a medical report is served in accordance with these Rules, the medical report is admissible:
  - (a) as evidence of the medical expert's opinion; and
  - (b) if the medical expert's oral evidence of a fact on which the opinion was based would be admissible – as evidence of that fact.
- (3) A party is not entitled to object to the receiving of a medical report in evidence at an interlocutory hearing, directions conference, conciliation conference or prehearing conference.

## **Division 2      Non-medical expert evidence**

### **18.07      Statement of expert evidence**

- (1) A party who intends at a hearing to adduce evidence from a person in the person's capacity as an expert must serve on each other party, not later than 28 days before the date fixed for the hearing, a statement from the expert in accordance with subrule (2).
- (2) A statement from an expert is to:
  - (a) give the expert's name and address;
  - (b) describe his or her qualifications to give evidence as an expert; and
  - (c) state the evidence to be adduced from the expert.
- (3) Unless the Court gives leave or the parties consent, a party is not entitled, except in cross-examination, to adduce evidence from a witness as an expert unless the party has served a statement under subrule (1).

### **18.08      Putting other party's expert statement in evidence**

A party may put in evidence a statement from an expert served on that party under rule 18.07(1).

### **18.09      Admissibility of expert statement**

- (1) If a copy of a statement from an expert is served in accordance with these Rules, the statement is admissible:
  - (a) as evidence of the expert's opinion; and
  - (b) if the expert's oral evidence of a fact on which the opinion was based would be admissible – as evidence of that fact.

**18.10 Notice for attendance of expert**

- (1) A party served with a statement from an expert may serve a notice on the party who intends to rely on the statement that he or she requires the attendance of the expert for cross-examination at the hearing of the proceeding.
- (2) A notice requiring the attendance of an expert for cross-examination is to be served not later than 14 days before the commencement of the hearing.
- (3) Unless the Court orders otherwise, the party served with a notice under this rule must cause the expert referred to in the notice to attend at the hearing for cross-examination.
- (4) If an expert referred to in a notice served under this rule does not attend for cross-examination, the Court may order that his or her statement is not to be received in evidence.
- (5) If:
  - (a) an expert's statement is received in evidence;
  - (b) the expert does not attend for cross-examination; and
  - (c) no notice was served under this rule requiring the expert to attend for cross-examination,

a party may not, without the leave of the Court on just terms, lead evidence to contradict the evidence of the expert.

**Part 19 Witness summons****19.01 Definitions**

In this Part:

**conduct money** means an amount of money (or its equivalent) sufficient to meet the reasonable expenses of a person in complying with a summons for production or a summons to give evidence.

**summons for production** means an order in writing requiring a person to attend at the Court as directed by the order for the purpose of producing a document or thing for evidence.

**summons to give evidence** means an order in writing requiring a person to attend at the Court as directed by the order for the purpose of giving evidence.

**19.02 Order to attend**

- (1) The Court may, by summons, order a person to attend the hearing of a proceeding or attend at any stage of a proceeding for the purpose of giving evidence or producing a document or thing for evidence, or for both purposes.
- (2) An order by summons for the attendance of a person to give evidence or produce a document or thing is to be taken as made when the summons is issued.

**19.03 Summons to give evidence**

- (1) A summons to give evidence:
  - (a) is to be in accordance with Form 19A;
  - (b) may be addressed to one or more persons; and
  - (c) is to be filed in sufficient numbers for service and proof of service.
- (2) On the filing of a summons to give evidence, a Registrar must:
  - (a) sign and seal each copy of the summons; and
  - (b) issue the summons.

**19.04 Form and filing of summons for production**

A summons for production is to be:

- (a) if it is addressed to a person other than a corporation – in accordance with Form 19B;
- (b) if it is addressed to a corporation – in accordance with Form 19C;
- (c) addressed to one person only and, if it is addressed to a firm, may include the name and address of each partner of the firm; and
- (d) filed in sufficient numbers for service and proof of service.

**19.05 Summons for production at hearing**

If the Court has fixed a date for the hearing of a proceeding, and a party to the proceeding files a summons for production to take place on the date of the hearing, a Registrar must:

- (a) sign and seal each copy of the summons; and

- (b) issue the summons.

#### **19.06 Summons for production before hearing**

- (1) Whether or not the Court has fixed a date for the hearing of a proceeding, a party must seek the leave of the Court to file and serve a summons for production to take place on a date before the hearing.
- (2) An application for leave under subrule (1) is to be made under Part 6 or at a directions conference or prehearing conference under Part 7.
- (3) If the Court gives leave under this rule for a party to file and serve a summons for production, the party must specify in the summons the date for attendance at Court, being a date:
  - (a) on which the Court will conduct interlocutory hearings; and
  - (b) that allows the person ordered to attend a reasonable time in which to comply with the summons.
- (4) If a party files a summons for production under this rule, a Registrar must:
  - (a) sign and seal each copy of the summons; and
  - (b) issue the summons.

#### **19.07 Service**

A sealed copy of a summons for production or summons to give evidence is to be served personally in accordance with these Rules.

#### **19.08 Conduct money, expense or loss**

- (1) A person is not required to comply with a summons for production or a summons to give evidence unless conduct money is given or offered to the person at the time the summons is served or at a reasonable time before the day for compliance with the summons.
- (2) If a person:
  - (a) is not a party to the proceeding; and
  - (b) reasonably incurs expense or loss in complying with a summons for production that is more than the conduct money given or offered under subrule (1),

the Court may order that the party who served the summons for production must pay to the person an amount in respect of the expense or loss.

- (3) If a person who attends in answer to a summons to give evidence, before being sworn, requests the Court to fix an amount to be paid to him or her in respect of expense incurred in attending as a witness, the Court must do so.
- (4) A witness referred to in subrule (3) is not to be compelled to give evidence until the Court is satisfied that proper arrangements have been made for the payment of the amount fixed by the Court.

#### **19.09 Delivery of documents by hand or post**

- (1) Unless the Court orders otherwise, a summons for production is to permit the person to whom the summons is addressed, instead of attending at the Court to produce the document or thing, to deliver it by hand or send it by post to a Registrar so that he or she receives it not later than 2 days before the day on which production is required by the summons.
- (2) When a document or thing is delivered or sent to a Registrar under subrule (1), he or she must:
  - (a) if requested to do so, give a receipt to the person who delivered or posted the document or thing; and
  - (b) produce the document or thing to the Court as the case requires or the Court orders.
- (3) This rule does not apply to any part of a summons that requires a person to attend for the purpose of giving evidence.

#### **19.10 Objections and setting aside summons**

- (1) A person served with a summons for production or a summons to give evidence may:
  - (a) notify the Court on attendance that he or she objects to producing a document or thing or giving evidence; or
  - (b) before the date fixed for attendance – apply to the Court, under Part 6, to have the summons set aside.
- (2) The Court may set aside a summons for production or a summons to give evidence or, in the case of a summons for production, may set aside a part of the summons.

**19.11 Orders for inspection**

- (1) If:
- (a) a summons for production is issued under rule 19.05;
  - (b) the date specified for attendance and production is a date earlier than the date fixed for the hearing of the proceeding; and
  - (c) the person served with the summons:
    - (i) delivers, sends by post or produces a document or thing; or
    - (ii) objects to producing a document or thing,
- a Registrar must:
- (d) fix a date, time and place for an interlocutory hearing or a directions conference at which the Court will:
    - (i) make orders relating to the inspection of a document or thing produced or any other matter considered necessary; or
    - (ii) determine objections to production; and
  - (e) notify all the parties:
    - (i) that the document or thing is at the Court or the person served with the summons objects to producing the document or thing;
    - (ii) that the Court will make orders relating to the objections or the inspection of the document or thing; and
    - (iii) of the date, time and place of the interlocutory hearing or directions conference.
- (2) If a summons for production is issued under rule 19.06, at the interlocutory hearing held on the date specified for attendance and production, the Court must:
- (a) hear and determine objections to production (if any); and
  - (b) make orders relating to the inspection of documents or things produced or any other matter considered necessary.

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## **Part 20                    Hearing of proceeding**

### **20.01        Notice of hearing**

When the date, time and place have been fixed for the hearing of a proceeding, a Registrar must notify the parties in accordance with Form 20A.

### **20.02        Determination of all questions, &c.**

At the hearing of the proceeding, the Court:

- (a) must determine all the questions between the parties involved in the proceeding; and
- (b) may make orders relating to costs between the parties as it thinks fit.

### **20.03        Determination in absence of party**

- (1) If the party claiming relief appears at the hearing of the proceeding, but the party against whom relief is claimed or his or her legal practitioner does not appear, the party claiming relief may present his or her case.
- (2) If the party against whom relief is claimed appears at the hearing of the proceeding, but the party claiming relief or his or her legal practitioner does not appear, the party against whom relief is claimed may apply for an order dismissing the proceeding.
- (3) If neither party appears at the hearing of the proceeding, the Court may order that the proceeding be struck out on the terms it thinks fit.

## **Part 21                    Default judgment, summary judgment and assessment of compensation**

### **21.01        Application for default judgment**

- (1) A party may apply for default judgment:
  - (a) on the ground that the other party has failed to comply with these Rules or with an order of the Court; or
  - (b) as provided by these Rules.
- (2) A party who applies for default judgment may, if applicable, also apply for compensation or other relief to be assessed.

**21.02 Application for summary judgment**

- (1) A party may apply for summary judgment on relevant grounds, including the following:
  - (a) the other party, having filed a notice of defence, has no real defence to the claim made in the proceeding;
  - (b) the notice of defence filed in the proceeding discloses a good defence on the merits;
  - (c) the other party has no real cause of action;
  - (d) the proceeding is frivolous, vexatious or an abuse of the process of Court.
- (2) A party who applies for summary judgment may, if applicable, also apply for compensation or other relief to be assessed.

**21.03 Form of application, &c.**

- (1) Subject to subrule (2), an application for default judgment or summary judgment is to be made in accordance with Part 6.
- (2) An application for default judgment need not be served on the other party if that party has not filed a notice of appearance.
- (3) A party who applies for an assessment of compensation or other relief to be assessed must also file an affidavit setting out the amount claimed and the particulars, by the use of sub-totals, of how each payment claimed is made up or calculated.
- (4) The affidavit must refer to and have annexed all other documents on which the party relies, including those that provide evidence of the amounts claimed and, if applicable, medical reports.

**21.04 Review of proceeding**

- (1) As soon as practicable before the hearing of the application, a Judicial Registrar must review the proceeding and, if he or she considers it necessary, may require the party making the application to provide further information.
- (2) A party required to provide further information must provide it:
  - (a) to the Judicial Registrar; and
  - (b) if ordered to do so – to the other party.



**21.05        Magistrate to make assessment**

An assessment under this Part is to be made by a magistrate unless the Court orders otherwise.

**21.06        Application to set aside default judgment**

- (1) A party may apply to have a default judgment set aside by filing an application in accordance with Part 6 as soon as practicable after the judgment is entered or given.
- (2) The Court may set aside a default judgment on the terms it thinks fit.

**Part 22            Orders**

**Division 1        Final order**

**22.01        Filing and serving draft**

After the Court has made the final order in a proceeding, the party ordered to do so must:

- (a) prepare a draft of the final order in accordance with Form 22A; and
- (b) file the draft final order and, subject to rule 22.03, without delay serve a copy on each other party.

**22.02        Party may request amendment of draft**

- (1) Not later than 14 days after being served with a draft final order under rule 22.01, a party may file and serve a notice, in accordance with Form 22B, requesting an amendment of the terms of the order and specifying the amendment requested.
- (2) Not later than 7 days after being served with a notice under subrule (1), the party who filed the draft final order may:
  - (a) amend the terms of the order as requested and file and serve an amended draft final order; or
  - (b) file and serve a notice, in accordance with Form 22C, refusing to amend the terms of the order.
- (3) If a notice is filed under subrule (2)(b), the Court must fix a date, time and place for the hearing of submissions in respect of the terms of the final order and notify the parties of the hearing.

**22.03      Parties may endorse agreement on draft**

If all the parties agree as to the terms of the final order, the party ordered to prepare the draft final order may file the draft endorsed with a statement of the agreement and the signature of each party.

**22.04      Settling draft, &c.**

- (1) The Registrar must settle a draft final order as soon as practicable after:
  - (a) it is filed under rule 22.03;
  - (b) the expiry of 14 days after it is filed under rule 22.01(b), provided no party has filed a notice under rule 22.02(1) requesting an amendment of the terms of the order;
  - (c) an amended draft final order is filed under rule 22.02(2)(a); or
  - (d) the Court makes a determination at a hearing referred to in rule 22.02(3).
- (2) The Registrar must give a settled draft final order to the party who filed the draft and, as soon as practicable, the party must prepare a form of the order as settled and file sufficient copies to enable the Registrar to send a sealed copy to each party.
- (3) Each copy of a final order is to be:
  - (a) signed by a Registrar or by the person directed by the managing magistrate to sign; and
  - (b) sealed.
- (4) The Registrar must send a copy of a sealed final order to each party.

**Division 2      General**

**22.05      Court may correct error**

The Court may at any time correct a clerical mistake or error in an order arising from an accidental slip or omission.

## **Part 23            Costs**

### **Division 1        Preliminary**

#### **23.01     Definitions**

In this Part, unless the contrary intention appears:

**Appendix** means the Appendix to Order 63 of the *Supreme Court Rules* and includes practice directions relating to the Appendix issued by the Chief Justice.

**attendance at the hearing**, for the purposes of rule 23.09(5)(b), includes all work reasonably done in and in relation to attending the hearing of a proceeding and to hear a deferred judgment.

**bill** means a bill of costs.

**preparation**, for the purposes of rule 23.09(5)(a), includes the doing of all reasonable work up to attendance at the hearing of a proceeding that was reasonably done, arising out of or incidental to the proceeding.

**taxation**, for the purposes of rule 23.09(5)(c), includes all work done in preparing a bill (if allowable) and includes preparing for and attending the taxation of costs.

**taxing officer** means:

- (a) a Judicial Registrar;
- (b) a Registrar; or
- (c) an officer of the Court directed under rule 23.08(2) to conduct a taxation.

#### **23.02     Application of *Supreme Court Rules***

Subject to the Act, these Rules and practice directions issued by the Chief Magistrate, Order 63 of the *Supreme Court Rules* applies with the necessary changes to this Part.

### **Division 2        Costs**

#### **23.03     Power and discretion of Court**

- (1) Subject to the Act, these Rules and any other law in force in the Territory, the costs of and incidental to a proceeding are in the Court's discretion and the Court has the power to determine by whom, to whom, to what extent and on what basis the costs are to

be paid.

- (2) The Court may exercise its power and discretion in relation to costs at any stage of a proceeding or after the conclusion of a proceeding.
- (3) In exercising its discretion under this rule in relation to a proceeding commenced under section 104 of the Act, the Court must have regard to the matters referred to in section 110 of the Act.

#### **23.04      Court to fix percentage of Supreme Court costs**

- (1) Subject to these Rules, costs for work done are allowable at an appropriate percentage of the relevant costs set out in the Appendix up to and including 100%.
- (2) When making a costs order the Court must fix the appropriate percentage referred to in subrule (1).
- (3) In fixing the appropriate percentage, the Court is to have regard to:
  - (a) the complexity of the proceeding in fact and law;
  - (b) the amount awarded to the party;
  - (c) the efficiency with which the parties conducted the proceeding;
  - (d) the preparedness of the parties at a directions conference, conciliation conference, prehearing conference or hearing of an interlocutory application;
  - (e) the efforts of the parties in attempting to come to an agreement; and
  - (f) any other matter the Court considers appropriate.

#### **23.05      Failure to provide correct information to mediator**

If, after a certificate referred to in rule 5.02(2)(f) is filed:

- (a) a worker or employer provides information to the Court that differs from the information listed on the certificate; and
- (b) the Court is satisfied that the worker or employer failed to provide the mediator with relevant information that was in existence at the time of the mediation to which the certificate relates,

the Court may make a costs order against the party who failed to provide the mediator with relevant information.

**23.06      Costs in respect of conciliation conference**

- (1) Subject to rule 23.04 and unless the Court orders otherwise, costs for the preparation for and attendance at a conciliation conference are allowable in the same amount as set out in the Appendix for a contested interlocutory application.
- (2) If a conciliation officer is not an officer of the Court, the Court may make an order to secure or enforce payment of the conciliation officer's costs and expenses.

**23.07      Costs of interlocutory application**

If the Court orders that a party be paid the costs of an interlocutory application, the party is not entitled to have those costs taxed until after the final disposition of the proceeding unless the Court orders otherwise.

**Division 3      Taxation**

**23.08      Taxing officer**

- (1) Unless the Court orders otherwise, costs taxed in accordance with this Division are to be taxed by a taxing officer.
- (2) The Chief Magistrate or a Judicial Registrar may direct an officer of the Court to conduct a taxation.
- (3) An officer directed under subrule (2) to conduct a taxation is not to do so if a party to the taxation or a party's legal practitioner objects to the officer conducting the taxation.

**23.09      Bill of costs**

- (1) A party entitled to costs may apply to the taxing officer for a taxation by filing, not later than 2 months after the final costs order is made:
  - (a) a summons for a taxation of costs in accordance with Form 23A; and
  - (b) a bill in taxable form.
- (2) The party must file sufficient copies of the summons and bill to enable the party to serve a sealed copy on each party to whom the summons is addressed.

- (3) The fee payable on filing a bill of costs:
  - (a) is the fee that is specified at item 2 of the Schedule to the *Local Court Regulations* for the filing of a bill of costs under Part 38 of the *Local Court Rules*; and
  - (b) is to be claimed in the bill.
- (4) A bill is to commence with a short narrative that succinctly identifies the issues involved in the proceeding.
- (5) A bill is to consist of 3 parts dealing with the costs of:
  - (a) preparation;
  - (b) attendance at the hearing; and
  - (c) taxation.
- (6) The items claimed in each part are to be listed in chronological order.
- (7) On the filing of a summons for taxation, the Registrar must mark on it the date, time and place fixed for the taxation.
- (8) Not later than 21 days before the date fixed for the taxation, the party entitled to costs must serve on the party who is to pay costs a copy of the summons for taxation and the bill.

### **23.10 Notice of objection**

- (1) If the party who is to pay costs objects to any items in a bill, the party must file and serve a notice of objection to those items in accordance with Form 23B and provide in the notice the reason for each objection.
- (2) A party must file and serve a notice of objection not later than 7 days before the date fixed for the taxation.
- (3) If a party who is to pay costs fails to file and serve a notice of objection, there is a presumption that the party has no objection to the bill.
- (4) Nothing in subrule (3) is to be taken to affect the discretion of the taxing officer to tax off items.
- (5) A party who is to pay costs and who does not file a notice of objection is not entitled to be heard at the taxation without the leave of the Court.

**23.11 Particular allowances**

- (1) The taxing officer may allow a charge for general care and conduct (as defined in the *Supreme Court Rules*) in respect of preparation and attendance at the hearing of a proceeding.
- (2) No allowance is to be made for specific care and conduct (as defined in the *Supreme Court Rules*).
- (3) A clerk's time spent in engrossing a document is allowable only if it is:
  - (a) included in an item charged under the composite scale set out in the Appendix; or
  - (b) 5 or more units.

**23.12 Review of taxing officer's order**

If a party files an application referred to in Order 63.55(12) of the *Supreme Court Rules* as a Notice to Review, the application is to be heard by:

- (a) if there is an assigned magistrate in the proceeding – the assigned magistrate; or
- (b) if there is no assigned magistrate in the proceeding or the assigned magistrate is not available – a magistrate.

**Part 24 Legal practitioners****24.01 Change in legal practitioner**

If a party changes the legal practitioner who acts for him or her, the party must without delay file a notice of the change and serve a copy:

- (a) on the other parties; and
- (b) if practicable – on his or her former legal practitioner.

**24.02 Appointment of legal practitioner**

- (1) If a party who had not previously appointed a legal practitioner appoints a legal practitioner to act for him or her, the party must without delay file a notice of the appointment and serve a copy on the other parties.
- (2) The address for service of a party who files and serves a notice under subrule (1) is the business address of the legal practitioner.

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**24.03 Ceasing to act**

- (1) If a legal practitioner ceases to act for a party, unless a notice of change is filed and served under rule 24.01, the legal practitioner must without delay:
  - (a) file a notice that he or she has ceased to act; and
  - (b) serve a copy on all parties.
- (2) A notice under subrule (1) is to state the address of the party last known to the legal practitioner.
- (3) Except with the leave of the Court, a legal practitioner must not file a notice under subrule (1) later than 56 days before the hearing of the proceeding.
- (4) If a notice is filed and served under subrule (1), the address for service of a party is the address of the party stated in the notice.
- (5) If, under subrule (3), the Court gives a legal practitioner leave to file a notice that the legal practitioner has ceased to act, the Court may direct what address is to be the address for service of the party for whom the legal practitioner has ceased to act.

**24.04 Service if practitioner ceases to practise**

- (1) If:
  - (a) a legal practitioner who has acted for a party has ceased to practise; and
  - (b) the party has not given notice under rule 24.01 or the legal practitioner has not given notice under rule 24.03(1),on an interlocutory application made by any other party to the proceeding, the Court may make orders in respect of service of documents on the party.
- (2) If an order is made under subrule (1), the party who made the application must without delay serve a copy of the order on each other party and file an affidavit of service.

**Part 25 Repeal****25.01 Repeal**

The *Work Health Court Rules* (1987, No. 18 and 1990, No. 7) are repealed.



**Schedule      Forms**

rule 2.05(1)

**FORM 2A**

rule 2.06(3)

**INDEX OF DOCUMENTS**

*[Heading as in Form 5A]*

The documents listed below and attached to this index are filed by *[identify party]*:

*(Give brief description, in numerical order, of each document filed.)*

1.

2.

*(Continue as necessary.)*

Dated: [e.g. 1 April 1999]

*[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[name, address, telephone number, facsimile number and reference number of party or party's legal practitioner]*. *(If the legal practitioner is acting as the agent of another practitioner, also insert the name, address, telephone, facsimile and reference numbers of the principal.)*

*(NOTE TO PARTY FILING DOCUMENTS: Number the documents consecutively at the top of each first page and attach securely to this index in numerical order.)*

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**FORM 3A**

rule 3.07(2)

**\* NOTICE OF DISCONTINUANCE  
\* NOTICE OF WITHDRAWAL***[Heading as in Form 5A]***TO THE [IDENTIFY PARTY]  
AND TO THE COURT**

The [identify party] gives notice that:

- \* this application is discontinued.
- \* the counterclaim made in this proceeding is discontinued.
- \* the appearance filed in this proceeding is withdrawn.
- \* the notice of defence filed in this proceeding is withdrawn.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

**Do not ignore this notice.** If you do not understand this notice or need help contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.Prepared and filed by *[footer as in Form 2A]*

- \* Delete if inapplicable.

## NORTHERN TERRITORY OF AUSTRALIA

*Work Health Act***FORM 5A**

rule 5.02(1)

**APPLICATION TO THE WORK HEALTH COURT**IN THE WORK HEALTH  
COURT AT [VENUE]

Claim No.

BETWEEN

[FULL NAME]

\* Worker/Applicant \*

and

[FULL NAME]

\* Employer/Respondent \*

TO THE \* EMPLOYER/RESPONDENT \*  
AND THE COURTThis application is made to the Work Health Court for the following: (*tick the appropriate box*)

- (a) review of determination of Work Health Authority to disclose information – section 15(6) [ ]
- (b) appeal against taking or continued possession of plant, substance or thing – section 37(4) [ ]
- (c) appeal by Territory Insurance Office in respect of journey claim – section 61(3) [ ]
- (d) claim by Territory Insurance Office in respect of journey claim – section 61(3) [ ]
- (e) determination of dependants' proportions of death benefit – section 62(2) (*See note 1.*) [ ]
- (f) order in respect of claim for compensation under Part V or determination of dispute between worker and employer following mediation under Part VIA section 104 (*See note 2.*) [ ]
- (g) recovery by insurer from another insurer of compensation paid – section 126(2)(b)(i) [ ]

- 
- (h) claim against approved insurer for compensation following default by employer – section 132(1) [ ]
- (j) other (*Give brief description and specify section of Act – see note 3.*) [ ]

The \* employer/respondent \* **MUST, NOT LATER THAN 14 DAYS AFTER BEING SERVED** with this application:

- (a) file an appearance, in accordance with Form 5C, with a Registrar of the Work Health Court at [address]; and
- (b) serve a copy of the appearance on the party making this application.

IF an appearance is not filed and served within the time specified above, the \* worker/applicant \* **MAY OBTAIN DEFAULT JUDGMENT.**

Dated: [e.g. 1 April 1999]

*[signature of worker/applicant  
or legal practitioner]*

Filed:

Registrar

**Do not ignore this application.** If you do not understand this application or need help contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

1. This application was filed:
  - \* by the \* worker/applicant \* in person.
  - \* for the worker by [*name of person representing worker under section 98 of Act*] of [address]. (*Address may include person's telephone number and facsimile number (if any).*)
  - \* for the \* worker/applicant \* by [*name of that party's legal practitioner*] of [*name of firm*], legal practitioner(s), of [*business address in Australia including telephone, facsimile and reference numbers*]. (*If the legal practitioner is the agent of another legal practitioner, also insert the name of the principal's firm and business address including telephone, facsimile and reference numbers.*)
2. The address of the \* worker/applicant \* is – (*Address may include party's telephone number and facsimile number (if any).*)

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3. The address for service of the \* worker/applicant \* is – *(If that party applies in person insert the address as in 2. If that party is represented by a legal practitioner or a person under section 98 of the Act, insert the address as in 1.)*

4. The address of the \* employer/respondent \* is:

**(NOTES TO APPLICANT:**

1. *An application under section 62(2) of the Act is to be accompanied by a list of the names and addresses of all other persons who, to the best of the applicant's knowledge, were dependants of the deceased worker at the time of death.*

2. *Unless the Court orders otherwise, an application referred to in section 104(3) of the Act is to be accompanied by copies of the following documents (as applicable):*

*See rule 2.06(3) on how to file accompanying documents.*

(a) *the worker's claim form and medical certificates referred to in section 82 of the Act;*

(b) *notifications of decisions and statements under section 85 of the Act;*

(c) *applications and decisions made under section 86 of the Act;*

(d) *notices and statements given under section 69 of the Act;*

(e) *all medical reports in the worker's possession, whether or not they support the worker's claim;*

(f) *the certificate issued by the mediator under section 103J of the Act.*

3. *An application in respect of an interim determination under section 107 of the Act is to be made by interlocutory application (Form 6A and affidavit).*

4. *A sealed copy of this application and, if applicable, the documents filed with the application are to be served on each other party. You must file sufficient copies to allow for service of sealed copies.)*

\* Delete if inapplicable.

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**FORM 5B**

rule 5.04(2)

**AFFIDAVIT OF SERVICE**

*[Heading as in Form 5A]*

NAME OF DEPONENT:

DATE SWORN OR AFFIRMED:

I, *[full name of deponent]*, *[occupation or description]*, of *[deponent's address]*,  
\* swear/do solemnly, sincerely and truly affirm \* that:

1. At *[time]* on *[day]* the *[date]* of *[month]* *[year]* I served the Form 5A application filed in this proceeding on *[filing date]* personally on the \* employer/respondent \*, *[full name of party served]*, at *[address where served]*.

2. Personal service was effected as follows:

*[details]*

\*3. I identified the \* employer/respondent \* as follows:

*[details]*

\* Sworn/affirmed \* at \_\_\_\_\_ on \_\_\_\_\_

*(place)*

*(date)*

before me

\* Justice of the Peace/Commissioner for Oaths \*

\* Commissioner for Affidavits or Declarations or Notary Public (*for service under Service and Execution of Process Act 1992 (Cwlth)*)

Prepared and filed by *[footer as in Form 2A]*

\* Delete if inapplicable.

---

**FORM 5C**

rule 5.06(1)

**APPEARANCE***[Heading as in Form 5A]*

TO THE \* WORKER/APPLICANT \*  
AND TO THE COURT

In response to the application dated *[e.g. 2 November 1998]*, I state that:

1. The full name and address of the \* employer/ respondent \* is:
- \*2. The name and address of the \* employer's/respondent's \* legal practitioner is – *[name of party's legal practitioner]* of *[name of firm]*, legal practitioner(s) of *[business address in Australia including telephone, facsimile and reference numbers]*. *(If the legal practitioner is the agent of another legal practitioner, also insert the name of the principal's firm and business address including telephone, facsimile and reference numbers.)*
3. The \* employer's/respondent's \* address for service is – *(If the party defends in person insert the address as in 1. If the party is legally represented insert the address as in 2.)*
- \*4. The facts stated by the \* worker/applicant \* on the original claim form are alleged to be inaccurate or incomplete for the following reasons:  
*(See note.)*
- \*5. The employer has the following claim against the worker:  
*[brief statement of claim]*
- \*6. The respondent claims, as a dependant of the deceased worker, to be entitled to a proportion of the amount payable under section 62 of the Act.

Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

\* Delete if inapplicable.

*(NOTE TO EMPLOYER: An employer's appearance in respect of an application by a worker is to be accompanied by all hospital reports and medical reports in the employer's possession relating to the worker's claim, whether or not they support the employer's allegations in item 4. See rule 2.06(3) on how to file accompanying documents.)*

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**FORM 6A**

rule 6.03(a)

**INTERLOCUTORY APPLICATION***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*

You are ordered to attend before the Work Health Court for the hearing of an application by the *[identify party]* for *[description of order sought]*.

This application is made in pursuance of rule *[no.]*

The application will be heard by the Court at *[address of Court]* at a.m./p.m. on or as soon afterwards as the business of the Court allows.

Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Registrar

**Do not ignore this notice.** If you do not understand this notice or need help contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

Prepared and filed by *[footer as in Form 2A]*

**(NOTES TO APPLICANT:**

1. *This application may be supported by an affidavit.*
2. *A sealed copy of this application and, if applicable, the affidavit are to be served on each other party. You must file sufficient copies to allow for service of sealed copies.)*



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**FORM 6B**

rule 6.09(1)(a)

**NOTICE OF CONSENT TO INTERLOCUTORY ORDER***[Heading as in Form 5A]*

TO THE COURT

The *[identify consenting party]* consents to the Court making an interlocutory order that:

1. *[terms of order]*

2.

Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 7A**

rule 7.01(1)

**NOTICE OF DIRECTIONS CONFERENCE***[Heading as in Form 5A]*

A directions conference has been listed to take place at the Work Health Court at [address] at a.m./p.m. on or as soon afterwards as the business of the Court allows.

All parties must attend the directions conference and be prepared to discuss all issues.

An individual must attend the conference personally.

An officer or employee of a corporation must be authorised in writing by the corporation to attend the conference and to settle the matter if possible. A partner of a firm must have the unfettered written authority of all the other partners to attend the conference and to settle the matter if possible.

Attendance at the conference on behalf of the Territory is to be by an employee (as defined in the *Public Sector Employment and Management Act*) of the Agency for which the Territory is conducting the proceeding, who is authorised in writing by the Chief Executive Officer of that Agency to attend the conference and to settle the matter if possible.

An employer who is insured must be accompanied by the insurer's representative.

A party who is legally represented may be accompanied by the legal representative who must be fully instructed about the conduct of the proceeding and the options for settlement.

If the person making the application fails to attend, the Court may strike out the claim. If the person who filed the appearance fails to attend, the Court may give the person making the application leave to proceed as if an appearance had not been filed or may make other orders it considers appropriate. A party who is unable to attend should contact a Registrar of the Work Health Court. A Registrar may give you leave to attend by communication link. The Court may dispense with the requirement of attendance in person (either physically or by communication link) in special circumstances.

Dated:

Registrar

**Do not ignore this notice.** If you do not understand this notice or need help contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

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**FORM 7B**

rule 7.04(4)(a)(ii)

**SCHEDULING ORDER***[Heading as in Form 5A]*

At a directions conference held at the Work Health Court at *[place]* at *[time]* on *[date]*:

1. The following persons attended:  
*(List parties or representatives.)*
2. The following details were given by the parties:  
*(List details, in relation to each party, of matters referred to in rule 7.04.)*
3. The following undertakings were given/admissions made:  
*(List each undertaking/admission and name of party or party's legal practitioner giving undertaking/making admission.)*
4. The Court made the following orders:  
*(List orders made.)*

Dated:

Registrar

**FORM 7C**

rule 7.09

**CASE MANAGEMENT STATEMENT***[Heading as in Form 5A]**(Comments to be as brief as possible.)*

	* Worker * Applicant [Comments]	* Employer * Respondent [Comments]
1. The parties certify that this proceeding is ready for hearing	* yes/no *	* yes/no *
2. All pleadings have been completed and delivered and pleadings are closed	* yes/no *	* yes/no *
3. All particulars requested have been furnished	* yes/no *	* yes/no *
4. Discovery of documents has been given by the parties	* yes/no *	* yes/no *
5. Inspection of documents has taken place	* yes/no *	* yes/no *
6. All necessary medical examinations have taken place	* yes/no *	* yes/no *
7. The parties require further medical examinations prior to the hearing	* yes/no *	* yes/no *
8. All reports and statements have been served	* yes/no *	* yes/no *
9. If counsel is required, counsel has been briefed	* yes/no *	* yes/no *
10. Counsel's advice on evidence has been obtained	* yes/no *	* yes/no *
11. All witnesses should be available at the hearing	* yes/no *	* yes/no *
12. The length of hearing is estimated at:		

- 
13. The prospects of settlement are:
14. Details of witnesses:
- (a) within the jurisdiction
    - (i) the number of experts:
    - (ii) the number of non-experts:
  - (b) outside the jurisdiction
    - (i) the number of experts:
    - (ii) the number of non-experts:
15. Communication link arrangements are:
16. The orders required are:
- (a) for the worker/applicant:
  - (b) for the employer/respondent
17. Other relevant facts regarding fixing a hearing date are:
- (a) for the worker/applicant:
  - (b) for the employer/respondent:
18. The shortest notice on which each party would be ready to commence the hearing is:
19. The issues to be determined at the hearing are:

Dated: [e.g. 1 April 1999]

Dated: [e.g. 1 April 1999]

[signature of party or legal practitioner]

[signature of party or legal practitioner]

Filed:

Prepared and filed by [footer as in Form 2A]

\* Delete if inapplicable.

---

**FORM 9A**

rule 9.01(1)

**STATEMENT OF CLAIM***[Heading as in Form 5A]*

TO THE *[IDENTIFY PARTY]*  
AND TO THE COURT

**THE *[IDENTIFY PARTY MAKING THE CLAIM]* CLAIMS** *[concise statement of nature of claim]*, particulars of which are set out below, and seeks *[concise statement of compensation or relief sought]*

**PARTICULARS OF CLAIM**  
*(Refer to notes.)*Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Registrar

Prepared and filed by *[footer as in Form 2A]***(NOTES TO PARTY MAKING CLAIM:**

1. You must insert all the material allegations of fact (but not the evidence) on which you rely in making the claim. These are to be set out clearly and concisely in summary form in consecutively numbered paragraphs. Each paragraph is to refer to a separate allegation (so far as practicable). The allegations are to be expressed in plain English and non-technical language except to the extent required by the nature of the claim. Refer to Part 8 for additional rules that may be relevant to these pleadings.

2. If you are a worker claiming compensation for an injury or disease, the particulars of claim are to contain clear and concise details of the following (as applicable):

- (a) worker's date of birth and occupation;
- (b) date when and workplace where injury occurred or disease contracted;
- (c) nature of injury or disease;
- (d) manner in which injury occurred or disease contracted;
- (e) nature of disability suffered as result of injury or disease;
- (f) the worker's normal weekly earnings at date injury occurred or disease contracted;

- 
- (g) *dates of periods for which compensation payments claimed;*
  - (h) *amount claimed for permanent impairment and nature of permanent impairment;*
  - (j) *amount claimed for hospital, medical, surgical or rehabilitation treatment and nature of treatment.*

3. *If your Form 5A application was made under section 62(2) of the Act, the statement of claim is to contain clear and concise details of the following:*

- (a) *deceased worker's full name, address, occupation and date of birth;*
- (b) *employer's full name and address;*
- (c) *date when and workplace where injury occurred or disease contracted;*
- (d) *date of death;*
- (e) *name and address (if known) of each dependant wholly or partially dependent on deceased worker at date of death and relationship to deceased worker.*

4. *A sealed copy of this statement of claim is to be served on each other party. You must file sufficient copies to allow for service of sealed copies.)*

---

**FORM 9B**

rule 9.04(1)

**NOTICE OF DEFENCE***[Heading as in Form 5A]*

TO *[IDENTIFY PARTY]*  
AND TO THE COURT

**THE DEFENCE OF THE *[IDENTIFY PARTY DEFENDING THE CLAIM]* IS**  
*[concise statement of defence(s) relied on]*

**PARTICULARS OF DEFENCE**

(Refer to notes.)

**\* COUNTERCLAIM**

(Rule 9.05)

**\* THE *[IDENTIFY PARTY MAKING COUNTERCLAIM]* CLAIMS** *[concise statement of the nature of the claim]* particulars of which are set out below, and seeks *[statement of relief or remedy sought]*

**\* PARTICULARS OF CLAIM**

(Refer to notes 1 and 5 only.)

Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Registrar

Prepared and filed by *[footer as in Form 2A]*

\* Delete if inapplicable.

**(NOTES TO PARTY DEFENDING CLAIM:**

1. You must insert all the material allegations of fact (but not the evidence) on which you rely in defending the claim and making the counterclaim (if applicable). These are to be set out clearly and concisely in summary form in consecutively numbered paragraphs. Each paragraph is to refer to a separate allegation (so far as practicable). The allegations are to be expressed in plain English and non-technical language except to the extent required by the nature of the defence or counterclaim.



- 
2. *You must plead specifically a fact or matter that:*
    - (a) *you allege makes a claim not maintainable; or*
    - (b) *raises a question of fact that does not arise out of the statement of claim.*
  3. *An allegation in the statement of claim will be taken as admitted unless you deny the allegation specifically or by necessary implication or state that the allegation is not admitted. If you specifically deny an allegation, you must state what facts you rely on as the basis of the denial.*
  4. *If you intend to prove facts that are different from those in the statement of claim, you must:*
    - (a) *specifically deny those facts or state that those facts are not admitted; and*
    - (b) *plead the facts you intends to prove.*
  5. *Refer to Part 8 for additional rules that may be relevant to these pleadings.*
  6. *If this notice contains a counterclaim, you must file sufficient copies to allow for service of sealed copies. If this notice does not contain a counterclaim, it need not be sealed and one copy only is to be filed.)*

---

**FORM 10A**

rule 10.04(2)

**CONSENT TO BE LITIGATION GUARDIAN***[Heading as in Form 5A]*

To the COURT

I, *[full name of litigation guardian]* of *[address]* have consented to my appointment as the litigation guardian of *[name of person under disability]*.

The above-named is a person under a disability for the following reason(s):

I declare that I have no interest in this proceeding that is adverse to the interest of the person under a disability named above.

Dated: *[e.g. 1 April 1999]*

*[signature of  
litigation guardian]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 11A**

rule 11.01(2)(a)

**APPLICATION FOR ORDERS IN RESPECT OF JOINDER OF PARTY**

[Heading as in Form 5A]

**TO [IDENTIFY PERSON PROPOSED TO BE JOINED AND EACH OTHER PARTY]**

You are ordered to attend before the Work Health Court for the hearing of an application by [applicant] for orders in respect of the joinder of another \* employer/approved insurer \*/person \* as a party to this proceeding.

The applicant alleges:

\* under section 55(3) of the Act, that the disease referred to in the worker's claim in this proceeding was contracted while the worker was in the employ of [name of other employer] of [address].

(OR)

\* under section 126A(2)(b)(ii) of the Act, that the approved insurer, [name] of [address], may be liable to indemnify the employer for all or part of the compensation paid to the worker.

(OR)

[brief description of allegation]

The application will be heard by the Court at [address of Court] at a.m./p.m. on or as soon afterwards as the business of the Court allows.

Dated: [e.g. 1 April 1999]

[signature of applicant  
or legal practitioner]

Filed:

Registrar

**Do not ignore this notice.** If you do not understand this notice or need help contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

Prepared and filed by [footer as in Form 2A]

\* Delete if inapplicable.

(NOTES TO APPLICANT:

1. This application must be supported by an affidavit.
2. A sealed copy of this application is to be served on the party to be joined and each other party. You must file sufficient copies to allow for service of sealed copies.)

---

**FORM 12A**

rule 12.02(1)

**LIST OF DOCUMENTS***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*I, *[name of party]*, the *[identify party]* in this proceeding, say that:

1. I have in my possession, custody or power, the documents enumerated in Part 1 of Schedule 1 relating to the questions in this proceeding.
2. The documents enumerated in Part 2 of Schedule 1 are privileged, and I object to producing them.

The documents are privileged on the following grounds:

(e.g.)

- (a) as to documents numbered 4 – 6, that *[grounds of privilege]*;
  - (b) as to documents numbered 7 – 9, that *[grounds of privilege]*.
3. I have had, but no longer have, in my possession, custody or power, the documents enumerated in Schedule 2 relating to the questions in the proceeding.  
(e.g.)  
(a) Document numbered *[no.]* was last in my possession, custody or power on *[date]* and I believe that *[statement of belief as to what has become of it]*
  4. To the best of my knowledge, information and belief neither I nor my legal practitioner nor any other person on my behalf has now, or ever had, in my or his or her possession, custody or power, any documents relating to a question in the proceeding other than the documents enumerated in Schedules 1 and 2.

Dated: *[e.g. 1 April 1999]**[signature of party]*

Filed:

Prepared and filed by *[footer as in Form 2A]**(NOTE: A party's legal practitioner may complete this form only if instructed to do so by the party. See rule 1.14.)*

---

**SCHEDULE 1**

*(Describe each document in the Schedules as original or copy and number each of them.)*

PART 1  
DOCUMENTS IN PARTY'S POSSESSION

PART 2  
PRIVILEGED DOCUMENTS

**SCHEDULE 2**  
DOCUMENTS NO LONGER IN PARTY'S POSSESSION

---

**FORM 12B**

rule 12.03(1)

**REQUIREMENT FOR AFFIDAVIT VERIFYING LIST OF DOCUMENTS***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*

You are required by the *[requesting party]* to swear an affidavit verifying your list of documents and to serve the affidavit on the *[requesting party]* not later than 14 days after service of this notice on you.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared by *[footer as in Form 2A]*

---

**FORM 12C**

Rule 12.05

**NOTICE TO PRODUCE DOCUMENTS FOR INSPECTION***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*

The *[requesting party]* requires you to produce for inspection, not later than 14 days after service of this notice on you, the following documents referred to in your *[list of documents, statement of claim, notice of defence, affidavit, &c.]*:

*[description of documents requested]*

You are required to arrange with *[requesting party]* a time and place for inspection.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared by *[footer as in Form 2A]*

---

**FORM 14A**

rule 14.03(2)

**ADMISSION OF FACTS***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*I, *[party]*, admit the following facts:

1. *[list of facts admitted]*
- 2.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*



---

**FORM 14B**

rule 14.04(2)

**NOTICE TO DISPUTE FACTS***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*

If you do not, within *[specify a number of days not less than 14]* days after service of this notice on you serve a notice on the *[party serving this notice]* disputing any fact specified below, that fact will, for the purpose of this proceeding only, be taken to be admitted by you in favour of the *[party serving this notice]*.

If you do serve a notice disputing a fact, and afterwards that fact is proved, you must pay the costs of proof unless the Court orders otherwise.

1. *[list of facts]*

2.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 14C**

rule 14.04(3)

**NOTICE DISPUTING FACTS***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*

The *[party serving this notice]* disputes the following facts specified in the *[identify party's]* notice dated *[e.g. 1 February 1999]*.

1. *[list of disputed facts]*

2.

Dated: *[e.g. 8 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 14D**

rule 14.05(2)

**NOTICE TO DISPUTE AUTHENTICITY OF DOCUMENTS**

*[Heading as in Form 5A]*

TO THE *[IDENTIFY PARTY]*

If you do not, within *[specify a number of days not less than 14]* days after service of this notice on you serve a notice on the *[party serving this notice]* disputing the authenticity of a document specified below, the authenticity of the document will, for the purpose of this proceeding only, be taken to be admitted by you in favour of the *[party serving this notice]*.

If you do serve a notice disputing the authenticity of a document, and afterwards the authenticity of the document is proved, you must pay the costs of proof unless the Court orders otherwise.

1.     *[list of documents]*

2.

Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 14E**

rule 14.05(3)

**NOTICE DISPUTING AUTHENTICITY OF DOCUMENTS***[Heading as in Form 5A]*TO THE *[IDENTIFY PARTY]*

The *[party serving this notice]* disputes the authenticity of the following documents specified in the *[identify party's]* notice dated *[e.g. 1 February 1999]*:

1. *[list of disputed documents]*
- 2.

Dated: *[e.g. 8 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 15A**

rule 15.01(1)

**MEMORANDUM OF AGREEMENT***[Heading as in Form 5A]***TO THE COURT**

The *[identify parties]* in this proceeding have entered into the following agreement and request the Court to record the agreement.

*[details of agreement]*

Dated:

Dated:

*[signed by party]*  
*[PARTY'S FULL NAME]**[signed by party]*  
*[PARTY'S FULL NAME]*

Filed:

Prepared and filed by *[footer as in Form 2A]***(NOTES TO PARTIES:**

*The memorandum of agreement is to be filed accompanied by a document, headed "STATEMENT OF PARTICULARS", including the following particulars as applicable. The statement of particulars is to include details, by the use of sub-totals, of how the amount of each payment under the agreement is made up or calculated.*

1. *In the case of an injury suffered or disease contracted by a worker:*
  - (a) *worker's full name, address, occupation and date of birth;*
  - (b) *employer's full name and address;*
  - (c) *date of injury or when disease contracted;*
  - (d) *brief statement of injury or disease;*
  - (e) *as at the date of injury or contraction of disease:*
    - (i) *worker's normal weekly earnings (as defined in section 49 of the Act);*
    - (ii) *name of award (if any) under which worker was employed;*
    - (iii) *amount of sick leave benefit payable under that award;*
  - (f) *period(s) of incapacity;*
  - (g) *actual earnings of worker during period(s) of incapacity up to the date of this memorandum, giving dates on which variations of earnings occurred;*
  - (h) *amount per week worker is reasonably capable of earning in work he/she is capable of undertaking if he/she were to engage in the most profitable employment, if any, reasonably available to him/her, having regard to the matters referred to in section 68 of the Act;*

- 
- (j) *full name of spouse and:*
    - (i) *whether wholly or mainly dependent on worker; or*
    - (ii) *if employed – his or her normal weekly earnings;*
  - (k) *full names and dates of birth of prescribed child (as defined in section 65(13) of the Act);*
  - (m) *amounts (using sub-totals for each category) previously made for:*
    - (i) *weekly payments;*
    - (ii) *hospital, medical or rehabilitation treatment or training expenses;*
  - (p) *amount (using sub-totals for each category) of medical, hospital, rehabilitation or other expenses for which compensation is claimed.*

2. *In the case of a worker with a permanent impairment:*

- (a) *worker's full name, address, occupation and date of birth;*
- (b) *employer's full name and address;*
- (c) *date of injury or when disease contracted;*
- (d) *brief statement of injury or disease;*
- (e) *percentage of permanent impairment assessed under section 72 of the Act.*

*In addition to the statement of particulars, copies of the following documents are also to accompany the memorandum of agreement:*

- (a) *all medical reports obtained by the parties in respect of the injury or*
- (b) *all other documents on which the parties relied in reaching agreement, including documents that provide evidence of amounts to be paid under the agreement.*

*See rule 2.06(3) on how to file accompanying documents.)*

---

**FORM 15B**

rule 15.02

**NOTICE OF RECEIPT OF MEMORANDUM OF AGREEMENT***[Heading as in Form 5A]*

TO *[NAME AND ADDRESS OF EACH PARTY AND PERSON HAVING AN INTEREST IN THE AGREEMENT]*

In respect of the claim in this proceeding, the Court has received a request that the Court record a memorandum of agreement between *[identify parties]* dated *[date]*. A copy of the memorandum of agreement is available for inspection at the Registry of the Work Health Court at *[address]*.

If you object to the Court recording the memorandum of agreement you may, **NOT LATER THAN 21 DAYS AFTER THE DATE OF THIS NOTICE**, file a notice of objection in accordance with Form 15C. A notice of objection is to state the grounds on which the objection is made.

The Registrar will consider the memorandum of agreement and all objections received and may require the parties to provide further information. The Registrar will then make a report to the Court, after which the Court may:

- (a) direct the Registrar to request the parties to the agreement, their legal practitioners or other persons entitled under section 98 of the Act to appear for them, to appear before the Court to provide further information (including copies of documents) and make further submissions as the Court thinks fit;
- (b) require the hearing of oral evidence;
- (c) summon a person to appear to give evidence; or
- (d) direct the Registrar:
  - (i) not to record the agreement; or
  - (ii) to record the agreement on terms or in its present form.

The Registrar will notify you accordingly.

Dated:

Registrar

**Do not ignore this notice.** If you do not understand this notice or need help contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

---

**FORM 15C**

rule 15.03(2)

**NOTICE OF OBJECTION TO RECORDING MEMORANDUM OF AGREEMENT***[Heading as in Form 5A]*

TO THE COURT  
AND *[IDENTIFY EACH PARTY AND PERSON HAVING AN INTEREST IN THE AGREEMENT]*

I, *[name of person objecting]*, of *[address]*, object to the recording of the memorandum of agreement between *[identify parties]* dated *[date]* on the following grounds:

Dated: *[e.g. 1 April 1999]*

*[signature of person objecting  
or legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*



---

**FORM 15D**

rule 15.06(2)(a)

**\* NOTICE OF DIRECTION NOT TO RECORD AGREEMENT**  
**\* NOTICE OF DIRECTION TO RECORD AGREEMENT ON TERMS***[Heading as in Form 5A]*TO *[IDENTIFY EACH PARTY AND PERSON WHO FILED OBJECTION]*On *[date of direction]* the Court directed me:

\* not to record the memorandum of agreement dated *[date of agreement]* between *[parties]*.

The reasons for the direction are:

*[reasons]*

\* to record the memorandum of agreement dated *[date of agreement]* between *[parties]*.

\* to record the memorandum of agreement dated *[date of agreement]* between *[parties]* on the following terms:

*[terms]*

I have today recorded the memorandum of agreement in respect of:

\* compensation for an injury that occurred on *[date]*

\* compensation for a disease contracted on *[date]*

\* *[brief description of other claim]*

Dated:

Registrar

\* Delete if inapplicable.

---

**FORM 15E**

rule 15.07(1)(a)

**APPLICATION FOR COMMUTATION OF FUTURE COMPENSATION  
PAYMENTS***[Heading as in Form 5A]***TO THE COURT**

The \* employer/person to whom compensation is payable \* applies for the commutation of future compensation payments under section \* 63/65 \* of the *Work Health Act* on the following terms:

*(Enter terms.)*

**STATEMENTS BY EMPLOYER OR PERSON TO WHOM COMPENSATION  
IS PAYABLE**

*(Complete with the required statement(s) in the form of an oath or a statutory declaration in accordance with the Oaths Act. To be dated and signed by the person swearing the oath or making the statutory declaration.)*

Filed:

Prepared and filed by *[footer as in Form 2A]*

\* Delete if inapplicable.

**(NOTES TO APPLICANT:**

*This application is to be accompanied by a document, headed "STATEMENT OF PARTICULARS" including details, by the use of sub-totals, of how the amount of commutation is calculated. The following particulars, as applicable, are to be included in the statement of particulars:*

**1. In the case of section 63 payments:**

- (a) *prescribed child's date of birth;*
- (b) *date of death of worker;*
- (c) *current amount of weekly compensation payments.*

**2. In the case of section 65 payments:**

- (a) *worker's occupation and date of birth;*
- (b) *date when worker became incapacitated for work;*
- (c) *brief statement of injury out of which incapacity arose;*
- (d) *full name of spouse and:*
  - (i) *whether wholly or mainly dependent on worker; or*
  - (ii) *if employed – his or her normal weekly earnings;*

- 
- (e) *full names and dates of birth of prescribed child (as defined in section 65(13) of the Act);*
  - (f) *current amount of weekly compensation payments.*

*In addition to the statement of particulars, copies of other documents relevant to the proposed commutation are also to accompany this application. See rule 2.06(3) on how to file accompanying documents.*

*If the other party consents to the commutation, the party may endorse his or her consent on the application.)*

---

**FORM 15F**

rule 15.07(2)(a)

**APPLICATION FOR COMMUTATION OF FUTURE COMPENSATION  
PAYMENTS***[Heading as in Form 5A]***TO THE COURT**

The worker applies for the commutation of regular compensation payments under section 65 of the *Work Health Act* on the following terms:

*(Enter terms.)*

**STATEMENT BY WORKER**

*(Complete with the required statement in the form of an oath or a statutory declaration in accordance with the Oaths Act. To be dated and signed by the person swearing the oath or making the statutory declaration.)*

Filed:

Prepared and filed by *[footer as in Form 2A]*

**(NOTES TO APPLICANT:**

1. *This application is to be accompanied by a document headed "STATEMENT OF PARTICULARS" including details, by the use of sub-totals, of how the amount of commutation is calculated. The following particulars, as applicable, are to be included in the statement of particulars:*

- (a) worker's occupation and date of birth;*
- (b) date when worker became incapacitated for work;*
- (c) brief statement of injury out of which incapacity arose;*
- (d) full name of spouse and:*
  - (i) whether wholly or mainly dependent on worker; or*
  - (ii) if employed – his or her normal weekly earnings;*
- (e) full names and dates of birth of prescribed child (as defined in section 65(13) of the Act);*
- (f) current amount of weekly compensation payments.*

2. *In addition to the statement of particulars, copies of the following documents are also to accompany this application:*

- (a) statement by person who gave financial counselling and brief details of counselling;*
- (b) documents on which the parties relied in calculating the commutation.*

See rule 2.06(3) on how to file accompanying documents.

If the employer consents to the commutation, the employer may endorse his or her consent on the application.)

---

**FORM 16A**

rule 16.03(3)(b)(i)

**APPLICATION FOR ORDER PERMITTING EXAMINATION OF WITNESS  
BY CLOSED-CIRCUIT TELEVISION COMMUNICATION LINK***[Heading as in Form 5A]***TO THE COURT**

The *[identify party]* applies for an order permitting the examination of the witness named below by closed-circuit television communication link at the hearing of this proceeding.

Name of witness:

Date(s) fixed for the hearing:

Time at which it is proposed to examine witness:

\* Arrangements for the communication link are as follows:

*[details of arrangements]*Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

\* Delete if inapplicable.

Prepared and filed by *[footer as in Form 2A]*

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**FORM 16B**

rule 16.03(4)

**NOTICE OF OBJECTION TO EXAMINATION OF WITNESS BY CLOSED-CIRCUIT TELEVISION COMMUNICATION LINK***[Heading as in Form 5A]*

TO THE COURT  
AND TO *[IDENTIFY PARTY]*

The *[identify party]*, objects to the Court making an order permitting the examination of a witness, *[name]*, by closed-circuit television communication link at the hearing of this proceeding.

The objection is based on the following ground(s):

Dated: *[e.g. 1 April 1999]*

*[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 16C**

rule 16.03(9)(b)

**NOTICE OF CLOSED-CIRCUIT TELEVISION COMMUNICATION LINK  
RESERVATION***[Heading as in Form 5A]***TO THE COURT**

I/We, *[name of person or firm]*, request you to reserve the Court's closed-circuit television communication link as detailed below and pre-arranged in accordance with rule 16.03(9)(a).

Name of witness:

Date and time:

Other facility:

Telephone number of other facility:

*(Repeat above details for each witness, as necessary.)*

\* I/We require the use of a document camera.

\* I/We do not require the use of a document camera.

**UNDERTAKING**\* I/We \*, *[name]*, undertake:

- (a) to pay to the Court the costs of the communication link referred to above, including transmission costs, at the rates advised by the officer of the Court with whom arrangements for the reservation were made; and
- (b) to indemnify the Court against liability for any charges that may be made by other providers of facilities in relation to this communication link.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

---

**FORM 17A**

rule 17.01(1)

**AFFIDAVIT***[Heading as in Form 5A]*

NAME OF DEPONENT:

DATE SWORN OR AFFIRMED:

I, *[full name of deponent]*, *[occupation or description]*, of *[deponent's residential address or, if making affidavit in professional or occupational capacity, business address and position and, if applicable, name of firm or employer]*, \* swear/do solemnly, sincerely and truly affirm \* that:

1. *(Divide into paragraphs, numbered consecutively. Confine each paragraph as far as possible to a distinct portion of the subject.)*

\* Sworn/affirmed \* at

on

*(place)**(date)*

before me

\* Justice of the Peace/Commissioner for Oaths \*

Prepared and filed by *[footer as in Form 2A]*

\* Delete if inapplicable.



---

**FORM 19A**

rule 19.03(1)(a)

**SUMMONS TO GIVE EVIDENCE***[Heading as in Form 5A]*TO *[NAME]*  
OF *[ADDRESS]*

THE COURT ORDERS that you attend for the purpose of giving evidence:

- (a) before the Work Health Court;
- (b) at *[address of Court]*;
- (c) at *[time]* on *[date]* and until you are excused from further attending.

Issued:

Registrar

**NOTES TO PERSON SERVED WITH SUMMONS:**

- 1. If you do not comply with this summons you may be arrested.
- 2. Any question concerning this summons should be addressed initially to *[name of legal practitioner or party]*, not to the Court.
- 3. Conduct money must be given or offered with this summons.

**Do not ignore this summons.** If, after contacting the person named in note 2, you still do not understand this summons or need help, contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

Prepared and filed by *[footer as in Form 2A]*

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**FORM 19B**

rule 19.04(a)

**SUMMONS FOR PRODUCTION OF DOCUMENTS***[Heading as in Form 5A]*

TO *[NAME]*  
OF *[ADDRESS]*

THE COURT ORDERS that you attend, and bring with you this summons and the documents and things described in the Schedule, at the Work Health Court at *[address]* at *[time]* on *[date]* and until you are excused from further attending.

Instead of attending, you may take this summons and the documents and things described in the Schedule to a Registrar of the Work Health Court at *[address]* by hand or by post, in either case so that the Registrar receives them no later than 2 business days before the date on which you are required to attend.

**SCHEDULE***[description of documents and things]*

Issued:

Registrar

**NOTES TO PERSON SERVED WITH SUMMONS:**

1. If you do not comply with this summons you may be arrested.
2. Documents and things taken to the Court by you may be returned by post to you at your address shown on this summons. You may request in writing that they be posted to you at another address or you may ask to collect them from the Court.
3. Any question concerning this summons should be addressed initially to *[name of legal practitioner or party]*, not to the Court.
4. Conduct money must be given or offered with this summons.

**Do not ignore this summons.** If, after contacting the person named in note 3, you still do not understand this summons or need help, contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

Prepared and filed by *[footer as in Form 2A]*

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**FORM 19C**

rule 19.04(b)

**SUMMONS TO CORPORATION FOR PRODUCTION OF DOCUMENTS***[Heading as in Form 5A]*

TO *[NAME OF CORPORATION]*  
OF *[ADDRESS]*

**THE COURT ORDERS** that:

1. *[Name of corporation]*, called "the corporation", must produce this summons and the documents and things described in the Schedule by an appropriate officer attending and producing them at the Work Health Court at *[address]* at *[time]* on *[date]* and until you are excused from further attending.

Instead of attending, the corporation may produce this summons and the documents and things described in the Schedule to a Registrar of the Work Health Court at *[address]* by hand or by post, in either case so that the Registrar receives them not later than 2 business days before the date on which the officer is required to attend.

2. The officer who is to attend must make enquiries for the purpose of answering, and on attending must answer, the questions that the Court requires the officer to answer concerning the possession or custody of those documents and things.

**SCHEDULE***[description of documents and things]*

Issued:

Registrar

**NOTES TO PERSON SERVED WITH SUMMONS:**

1. If you do not comply with this summons an officer of the corporation may be arrested.
2. Documents and things taken to Court by the corporation may be returned by post to the corporation at its address shown on this summons. It may request in writing that they be posted to it at another address or it may ask to collect them from the Court.
3. Any question concerning this summons should be addressed initially to *[name of legal practitioner or party]*, not to the Court.

- 
4. Conduct money must be given or offered with this summons.

**Do not ignore this summons.** If, after contacting the person named in note 3, you still do not understand this summons or need help, contact a Registrar of the Work Health Court, a legal practitioner or your local legal aid office.

Prepared and filed by [*footer as in Form 2A*]

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**FORM 20A**

rule 20.01

**NOTICE OF HEARING***[Heading as in Form 5A]*

The hearing of this proceeding has been listed to take place at the Work Health Court at *[address]* at      a.m./p.m. on      or as soon afterwards as the business of the Court allows.

Dated:

Registrar

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**FORM 22A**

rule 22.01(a)

**DRAFT FINAL ORDER**

[Heading as in Form 5A]

JUDICIAL OFFICER: [Name]

DATE MADE:

HOW OBTAINED:

APPEARANCE: *(Set out appearance or non-appearance of any person entitled to attend and, if attending, whether by legal practitioner.)*OTHER MATTERS: *(State any finding of jurisdictional fact, undertaking of party or other matter as directed by Court.)*

THE COURT ORDERS THAT:

1. [terms of order]

2.

Dated:

BY THE COURT

Registrar/Magistrate

**Do not ignore this order.** If you do not understand this order or need help contact a Registrar of the Local Court, a legal practitioner or your local legal aid office.

Prepared and filed by [footer as in Form 2A]

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**FORM 22B**

rule 22.02(1)

**NOTICE REQUESTING AMENDMENT OF DRAFT FINAL ORDER***[Heading as in Form 5A]*TO *[IDENTIFY PARTY]*

The *[identify party]* requests an amendment of the terms of the final order, made in this proceeding on *[date]*, as contained in the draft final order served on *[date]*. The amendment requested is as follows:

*(Specify amendment requested.)*

Dated:

*[Signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

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**FORM 22C**

rule 22.02(2)(b)

**NOTICE OF REFUSAL TO AMEND DRAFT FINAL ORDER***[Heading as in Form 5A]*TO THE COURT AND *[IDENTIFY PARTY]*

The *[identify party]* refuses to amend the terms of the final order as requested in the notice dated *[date]* and applies for a determination of the Court in respect of the terms of the final order made in this proceeding on *[date]*.

The application will be heard by the Court at *[address of Court]* at a.m./p.m. on or as soon afterwards as the business of the Court allows.

Dated: *[e.g. 1 April 1999]**[signature of party or  
legal practitioner]*

Filed:

Registrar

Prepared and filed by *[footer as in Form 2A]*



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**FORM 23A**

rule 23.09(1)(a)

**SUMMONS FOR TAXATION OF COSTS***[Heading as in Form 5A]*

TO *[IDENTIFY EACH PARTY OR OTHER PERSON TO WHOM SUMMONS IS ADDRESSED AND STATE ADDRESS OF EACH PERSON NOT A PARTY]*

You are summoned to attend before the taxing officer at *[address of Court]* at a.m./p.m. on for the hearing of an application by *[identify party]* for the costs that are payable to that party by *[identify party liable for costs]* under *[identify the judgment, etc., by which payable]* to be taxed in accordance with the bill of costs served with this summons.

Issued:

Registrar

**NOTE TO PERSON SERVED WITH SUMMONS:**

Whether or not you attend on the day for hearing referred to above, the costs claimed in the bill may be allowed unless, not later than 7 days before the date fixed for taxation, you file and serve on the *[identify party filing summons]* a notice in accordance with Form 23B identifying by list each item in the bill to which you object and stating specifically and concisely the grounds of objection to each item. Failure to file that notice amounts to an admission of the items in the bill.

Prepared and filed by *[footer as in Form 2A]*

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**FORM 23B**

rule 23.10(1)

**NOTICE OF OBJECTION TO BILL OF COSTS***[Heading as in Form 5A]*TO *[identify party]*

The *[objecting party]* objects to the items in your bill of costs specified below for the reasons specified in relation to each item.

*(List items objected to and state specifically and concisely the grounds of objection to each item.)*

Dated:

*[Signature of party or  
legal practitioner]*

Filed:

Prepared and filed by *[footer as in Form 2A]*

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = *Gazette*  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

### 2 LIST OF LEGISLATION

***Work Health Court Rules* (SL No. 26, 1999)**

Notified	28 July 1999
Commenced	1 August 1999 (r 1.02, s 2 <i>Work Health Amendment Act</i> (No. 2) 1998 (Act No. 59, 1998) and Gaz G29, 28 July 1999, p 2)