

WORKERS COMPENSATION COMMISSION RULES

Workplace Injury Management and Workers Compensation Act 1998

Order under section 364

I, Victor Dominello, Minister for Finance, Services and Property, pursuant to section 364 of the *Workplace Injury Management and Workers Compensation Act 1998*, do by this my Order amend the *Workers Compensation Commission Rules 2011* in the manner set out in the Schedule hereto.

These amendments take effect on and from 29 – 1 – 2018.

VICTOR DOMINELLO, MP

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Minister for Finance, Services and Property

Schedule to Order under Section 364

2018 amendments to *Workers Compensation Commission Rules 2011*

Rule	Amendment
3.2(1)	<p>Delete rule 3.2(1) and replace with the following:</p> <p>“(1) The Commission may by order extend or abridge any time fixed by these rules or under Part 9 of Chapter 7 of the 1998 Act, except the extension of time fixed under section 352(4) of the 1998 Act, which must be made under rule 16.2(12).”</p>
8.2	<p>Delete rule 8.2 and replace with the following:</p> <p>“(1) Where these rules require service on the Authority, that service is to be effected at the office of the Authority at:</p> <p style="padding-left: 40px;">Executive Office - Workers & Home Building Compensation Regulation, State Insurance Regulatory Authority, 92-100 Donnison Street Gosford NSW 2250</p> <p>(2) Service of a document may be effected at the office of the Authority:</p> <p style="padding-left: 40px;">(a) by hand, by delivering it to the address set out in subrule (1), or</p> <p style="padding-left: 40px;">(b) by post, by sending it by prepaid post to:</p> <p style="padding-left: 80px;">Executive Office - Workers & Home Building Compensation Regulation, State Insurance Regulatory Authority Locked Bag 2906 Lisarow NSW 2252.”</p>
10.3(1)	<p>Delete rule 10.3(1)(b) and replace with the following:</p> <p>“(b) Where a party proposes to rely on the oral evidence of a witness, the party must lodge and serve a document containing:</p> <p style="padding-left: 40px;">(i) the name of the witness, and</p> <p style="padding-left: 40px;">(ii) a written statement of the evidence to be given by the witness and signed by the witness; and”</p>
10.3(1)	<p>Insert after rule 10.3(1)(b):</p> <p>“(c) where the proceedings include a claim for weekly payments of compensation, the employer must provide a schedule of all weekly payments of compensation paid including the amounts and periods.”</p>
16.2(3)	<p>Delete rule 16.2(3) and replace with the following:</p> <p>“(3) If the Registrar is not satisfied that the requirements of section 352 of the 1998 Act,</p>

Rule	Amendment
	<p>or any applicable rules, regulations and Practice Directions as to the making of the appeal, have been complied with, he or she may particularise the non-compliance in a Direction to rectify procedural deficiencies, as an alternative to refusing to accept, seal, issue or register the document. The appeal will not proceed further until the Registrar is satisfied the appeal is procedurally compliant.”</p>
17.7	<p>Delete rule 17.7 and replace with the following:</p> <p>“(1) Where a defendant has served notification in accordance with section 317(1) of the 1998 Act, either party may refer the dispute to the Registrar for determination in accordance with section 317(2) of the 1998 Act. The lodging party must lodge with the application the following:</p> <ul style="list-style-type: none"> (a) a copy of the pre-filing statement, and (b) a copy of the defendant’s notification issued under section 317(1) of the 1998 Act, and (c) submissions detailing the extent to which the pre-filing statement is disputed. <p>(2) The party lodging an application referred to in subrule (1) must serve a sealed copy of the application, including any attachments, on:</p> <ul style="list-style-type: none"> (a) all other parties to the proceedings, and (b) where any of those parties is an employer (but not a self-insurer), the employer’s insurer, <p>within 7 days after the Registrar registers the application.</p> <p>(3) The party lodging an application must lodge a certificate of service within 7 days of the date of service, certifying service of the sealed application on the other parties.</p> <p>(4) A party may lodge submissions in reply to an application, within 14 days of being served. Upon receipt of submissions in reply, or on expiry of the period of 14 days, whichever occurs first, the dispute will be referred to the Registrar.</p> <p>(5) Where a dispute is referred for determination in accordance with subrule (4), the Registrar may:</p> <ul style="list-style-type: none"> (a) give a direction for the filing of submissions and supporting documents upon which a party relies, (b) give a direction to the claimant as to the action necessary to cure any defect in the pre-filing statement, within a prescribed time, or (c) determine that the pre-filing statement served by the claimant is not defective. <p>(6) Where a defendant has given notification in accordance with section 317(1) of the 1998 Act and subsequently in respect of the same claim serves a pre-filing defence as</p>

Rule	Amendment
	<p>referred to in rule 17.5:</p> <p>(a) the pre-filing statement is taken to have been served, and</p> <p>(b) the defendant is taken to have waived any allegation in the notification that the pre-filing statement is defective.”</p>