

SOUTH AUSTRALIA
WORKERS COMPENSATION TRIBUNAL
RULES 2009

WORKERS COMPENSATION TRIBUNAL RULES 2009**INDEX TO RULES AND FORMS**

1. SCOPE AND PURPOSE OF THE RULES
2. INTERPRETATION
3. RULES AND FORMS/GENERAL PRINCIPLES
4. APPLICATION OF THE SUPREME COURT RULES
5. THE REGISTRY
6. THE REGISTRAR/DEPUTY REGISTRAR
7. FEES
8. SEAL
9. RIGHT OF REPRESENTATION AND ASSISTANCE
10. DOCUMENTS
11. ASSIGNMENT, PLACE AND CONDUCT OF PROCEEDINGS
12. APPLICATION FOR EXPEDITED DECISION
13. NOTICE OF DISPUTE
14. RECONSIDERATION
15. DESCRIPTION OF PARTIES
16. DISCONTINUANCE
17. CONCILIATION
18. PROCEDURE AT HEARINGS
19. RESERVED
20. PRE-HEARING CONFERENCE
21. EXPERT EVIDENCE
22. APPLICATION FOR DIRECTIONS
23. MEDICAL EXAMINATIONS
24. SUMMONS TO PRODUCE DOCUMENTS OR THINGS TO THE TRIBUNAL
25. SUMMONS TO ATTEND TO GIVE EVIDENCE AND SUMMONS TO ATTEND TO GIVE AND PRODUCE DOCUMENTS OR THINGS
26. EXPANSION OF THE ISSUES IN DISPUTE (S88DA OF THE ACT)
27. CALL-OVERS
28. ORDERS AND DETERMINATIONS
29. DELIVERY AND PUBLICATION OF REASONS FOR DECISION
30. COSTS OF PROCEEDINGS
31. REPRESENTATION COSTS

32. FULL BENCH REFERRAL
33. APPEAL TO THE FULL BENCH
34. CASE STATED TO SUPREME COURT
35. THE SUSPENSE LIST
36. APPLICATION FOR REVIEW OF DECISION UNDER THE FIRST SCHEDULE OF THE ACT
37. RECOVERY ACTION UNDER S54 OF THE ACT
38. GENERAL POWERS OF A PRESIDENTIAL MEMBER OF THE TRIBUNAL
39. PRACTICE DIRECTIONS
40. CONTEMPTS OF THE TRIBUNAL.
41. INTERVENTION

FIRST SCHEDULE: FORMS UNDER THE WORKERS COMPENSATION TRIBUNAL RULES

- i. NOTICE OF CHANGE OF ADDRESS FOR SERVICE
- ii. NOTICE OF DESIRE TO BE HEARD
- iii. APPLICATION FOR EXPEDITED DECISION
- iv. NOTICE OF DISPUTE
- v. REQUEST TO EXTEND TIME FOR RECONSIDERATION
- vi. CONFIRMATION OF DISPUTED DECISION
- vii. VARIATION OF DISPUTED DECISION
- viii. NOTICE OF DISSATISFACTION WITH RECONSIDERATION
- ix. NOTICE OF DISCONTINUANCE
- x. CONCILIATION CERTIFICATE
- xi. OFFER TO SETTLE
- xii. REFERRAL TO JUDICIAL DETERMINATION
- xiii. TRIAL ORDERS
- xiv. CERTIFICATE OF READINESS FOR TRIAL
- xv. APPLICATION FOR DIRECTIONS
- xvi. SUMMONS TO PRODUCE DOCUMENTS OR THINGS
- xvii. SUMMONS TO ATTEND TO GIVE EVIDENCE
- xviii. SUMMONS TO ATTEND TO GIVE EVIDENCE AND PRODUCE DOCUMENTS OR THINGS
- xix. SUMMONS TO ATTEND TO PARTICIPATE IN A CONCILIATION CONFERENCE
- xx. APPLICATION FOR EXPANSION OF ISSUES IN DISPUTE
- xxi. NOTICE OF OBJECTION
- xxii. STANDARD FORM OF ORDER (several)
- xxiii. CERTIFICATE OF CAUSE FOR REFERRAL TO A FULL BENCH
- xxiv. FULL BENCH REFERRAL ORDERS
- xxv. NOTICE OF APPEAL
- xxvi. NOTICE OF ALTERNATIVE CONTENTIONS
- xxvii. FULL BENCH PRE-HEARING ORDERS
- xxviii. APPLICATIONS FOR REVIEW OF DECISION UNDER THE FIRST SCHEDULE OF THE ACT
- xxix. NOTICE OF INTERVENTION
- xxx. LIST OF DOCUMENTS - SC FORM 16, SC RULE 58.01

- xxxi. SUPPLEMENTARY LISTS OF DOCUMENTS - SC PRECEDENT 23**
- xxxii. NOTICE TO PRODUCE - SC FORM 16A, SC RULE 59.07**
- xxxiii. AFFIDAVIT OF DOCUMENTS - SC PRECEDENT 22**
- xxxiv. NOTICE TO ADMIT - SC FORM 13, SC RULE 54.01(2)**
- xxxv. AFFIDAVIT (SC RULE 83)**
- xxxvi. NOTICE OF PARTY ACTING IN PERSON - SC FORM 5**
- xxxvii. SHORT FORM BILL OF COSTS - SC PRECEDENT 37**
- xxxviii. APPLICATION FOR REDEMPTION CONFERENCE**
- xxxix. APPLICATION TO THE REGISTRAR TO REVIEW REPRESENTATION COSTS**

SECOND SCHEDULE: PRINCIPLES GUIDING CONCILIATION

THIRD SCHEDULE: TRANSITIONAL PROVISIONS

FOURTH SCHEDULE: EXPERT MEDICAL WITNESSES CODE OF CONDUCT

RULE ONE - SCOPE AND PURPOSE OF THE RULES

- (1) These Rules govern the procedures to be used in the Workers Compensation Tribunal (“the Tribunal”) and they shall be referred to in these Rules as “the Rules”. Their purpose is to assist in the just, speedy and inexpensive determination of every matter. Accordingly in applying the Rules, in making orders or directions pursuant to them and in exercising its discretion in respect of the costs of proceedings, the Tribunal shall have regard to the amount of money involved, the importance of the case and the complexity of the issues in dispute.
- (2) The Workers Compensation Tribunal Rules 2005 as amended and any practice directions issued thereunder (“the repealed Rules”) are hereby repealed.
- (3) Anything lawfully done under the repealed Rules or their predecessors shall not be invalidated by their repeal.
- (4) The Rules shall come into force on Monday the 2nd day of February 2009.

RULE TWO - INTERPRETATION

In these Rules, except where a contrary intention appears:

- (1) Words and expressions defined in the Act shall have the meanings therein respectively assigned to them.
- (2) The words hereinafter mentioned shall mean as follows:

“**the Act**” means the “Workers Rehabilitation and Compensation Act 1986” and any Act amending or substituting the same and any Regulation thereunder.

“**Member**” means the President, a Deputy President, a Conciliation Officer, or a Registrar, as the case may be;

“**the President**” means the President of the Workers Compensation Tribunal and includes a Deputy President appointed to act as President;

“**Presidential Member**” means the President or Deputy President, as the case may be;

“**proceeding**” means any cause, matter, application, hearing, trial, reference, case stated, appeal or other step whatsoever before the Tribunal however constituted, or the Registrar pursuant to the Act or in consequence of any jurisdiction invested in it or that member as the case may be by any other Act whether in Chambers or open Court or otherwise;

“**the Registrar**” means the Registrar appointed pursuant to the Act and shall include a Deputy Registrar;

“**Registry**” means the office of the Registrar wherever situated;

“**the Rules**” mean the Workers Compensation Tribunal Rules, 2009 as amended from time to time and includes any practice directions and forms prescribed thereunder and any schedules and other appendices to the Rules;

“**Tribunal**” means the Workers Compensation Tribunal however constituted and includes the Full Bench.

- (3) The Acts Interpretation Act, 1915, shall apply to the construction of the Rules in the same manner as if the Rules had been enacted by Parliament.

RULE THREE - RULES AND FORMS/GENERAL PRINCIPLES

- (1) Although parties are expected to comply with the Rules a breach or non-compliance with a particular rule shall not invalidate any proceeding unless the Tribunal otherwise directs.
- (2) The Rules do not prohibit the Tribunal from excusing a party from their compliance or from substituting in place of the rule so excused some other obligation more appropriate to the circumstances of the proceedings.
- (3) Where the Rules refer to a particular form, that form shall be as set out in the First Schedule to the Rules.
- (4) If a form is required to be filed or served by a party and that form is not contained in the First Schedule the party should construct a form that is in the same style and format as those provided for by the Rules.
- (5) If necessary, a form may be altered or varied as the nature of the case may require unless the form has to comply with a provision of, or Regulation made pursuant to the Act.
- (6) Subject to any contrary provision of, or Regulation made pursuant the Act, the Tribunal shall have power to act at any time to give effect to the purpose of the Rules and may, for example:
- (a) dispense with compliance with any part of the Rules;
 - (b) do all or any acts or give any directions relating to the conduct of a proceeding as it thinks proper to dispose of that proceeding expeditiously.

RULE FOUR - APPLICATION OF THE SUPREME COURT RULES

In any case not provided for by the Rules or by the Act the general principles of the practice of the Supreme Court of South Australia in its civil jurisdiction as in force from time to time and any relevant forms used in connection therewith may be adopted and applied in matters before the Tribunal with such modifications as the circumstances in any particular case may render necessary

RULE FIVE - THE REGISTRY

- (1) There shall be a Registry at which all documents to be filed shall be lodged and from which all documents to be issued by the Tribunal shall be sent from and it shall be situated at such location as shall from time to time be approved by the President.
- (2) The Registry shall be open to the public between such hours as the President may direct.

RULE SIX - THE REGISTRAR/DEPUTY REGISTRAR

- (1) The Registrar may, if directed, deliver a decision on behalf of the Full Bench or a Presidential Member.
- (2) The Registrar may by written instrument, delegate any powers or responsibilities conferred by the Act or by these rules to a Deputy Registrar.

RULE SEVEN - FEES

- (1) The Registrar may from time to time by notice published in the Gazette specify the amount of any fees payable in respect of a copy or additional copy of transcript of any proceedings, or the assistance in court or chambers of an interpreter, or a search of case records, or a copy of any award, order or other document and the date from which such fees shall be payable.
- (2) The Registrar may direct that the whole or any part of such fees shall not be taken, or if taken, that the whole or any part thereof shall be remitted.
- (3) The Registrar may from time to time by notice published in the Gazette specify the amount of fees for witnesses and the amount of expenses to be given for attendance at conferences.

RULE EIGHT - SEAL

The Seal of the Tribunal shall be in such form as shall from time to time be approved by the President and shall be kept in the Registry under the control of the Registrar. It shall, as appropriate, be affixed to all summonses, orders, judgements and determinations of the Tribunal and upon such other documents and in such manner as the President may direct.

RULE NINE – RIGHT OF REPRESENTATION AND ASSISTANCE

- (1) A party may only be represented in proceedings before the Tribunal by a legal practitioner, or an officer or employee of an industrial association.
- (2) A party who appears personally in proceedings before the Tribunal may, with the Tribunal's permission, be assisted in the presentation of his or her case by a person approved of by the Tribunal. Such permission may be withdrawn at any time in the discretion of the Tribunal. However a party is not entitled to be assisted by any of the following:
 - (a) a person whose name has been struck off the roll of legal practitioners;
 - (b) a person who, although a legal practitioner, is not entitled to practice the profession of law because of disciplinary action taken against the person;
 - (c) a person who has been declared for the purposes of s 39 the Supreme Court Act 1935 to have persistently instituted vexatious proceedings, or;
 - (d) a person who has committed contempt of the Tribunal or some other court and has not purged that contempt.

RULE TEN – DOCUMENTS

- (1) Except as otherwise provided by the Act, or Regulations promulgated thereunder, or the Rules, all documents shall be filed in the Registry and shall bear a heading in accordance with the appropriate form description.
- (2) Upon filing, each document shall be numbered in accordance with the directions of the Registrar.
- (3) All documents filed in the Tribunal shall contain the telephone number, the facsimile number and, if available, the e-mail address at which the party or their agent or that party's registered agent or legal representative on whose behalf the document is filed, may be contacted, together with an address for service to which documents may be sent.
- (4) Every agent or solicitor whose name appears on a document filed in the Registry is deemed to have the authority to issue it and accept service of proceedings in relation to it, unless any party upon application to the Tribunal proves the contrary.
- (5) A party may change their address for service; their agent or solicitor; or their telephone or facsimile number or e-mail address, by filing or causing to be filed a form in accordance with the form titled "Notice of Change of Address for Service" in the Registry and serving a copy upon each other party and in like manner an agent or solicitor may notify that they are no longer acting for a party for whom they have previously acted in that proceeding and such notice shall include the address for service of their former client.
- (6) Documents may be lodged at the Registry electronically on such conditions as the President may prescribe from time to time. All documents to be issued by the Tribunal may be issued by it electronically.
- (7) If a document is to be filed in electronic form and requires a particular signature or authentication, the person proposing to file the document must, before doing so:
 - (b) bring into existence a hard copy of the document; and
 - (b) ensure that it is signed or authenticated as required.

The person filing the document in electronic form:

- (a) must keep a signed or authenticated hard copy of the document so as to be available:
 - (i) for production to the Tribunal; and
 - (ii) for inspection at the request of a party or an officer of the Tribunal; and
- (b) must comply with any requirements imposed by practice direction with regard to the preservation, production or inspection of the document; and
- (c) is taken to undertake to the Tribunal that the requirements of this rule have been and will be complied with in relation to the document.

A document lodged in electronic form is accepted as filed at the time shown in the receipt issued by the Registrar as the time of receipt of the document.

A party who files a document under sub-rule 3(c) by transmitting it, in electronic form, to the Registry's e-mail address undertakes to the Tribunal, by so doing, that

the requirements of these rules with regard to the document have been, and will be, complied with.

RULE ELEVEN - ASSIGNMENT, PLACE AND CONDUCT OF PROCEEDINGS

- (1) Subject to any express provision of the Act and Rules, the President may assign any proceedings to any Member of the Tribunal as may seem appropriate and may alter that assignment in order to resolve the proceedings more effectively.
 - (a) If the President is satisfied that a proceeding is vexatious, is an abuse of process or there is other good reason such as a failure of the party lodging the proceedings to purge a contempt of the Tribunal or to pay a fine imposed as a result of a contempt, the President may decline to assign the proceedings and if the proceedings have already been assigned may withdraw that assignment and may direct the Registrar to strike out the proceedings.
 - (b) Before declining to assign proceedings or withdrawing an assignment and directing the Registrar to strike out the proceedings, the President must inform the party that that course is being contemplated and must give a reasonable opportunity to enable the party to make submissions as to whether that course should be proceeded with.
- (2) If a party wishes that proceedings be heard at a place other than Adelaide, then that party must make a specific request to the member to whom the matter has been referred or if there is no such member to the Registrar nominating that other place.
- (3) If a party, other than the party lodging the application or the compensating authority, wishes to participate in the conciliation conference, or any other proceedings (other than proceedings pursuant to s 54 or Schedule 1 of the Act) that party must complete the form titled "Notice of Desire to be Heard" with sufficient copies of such notice and sufficient details of the relevant parties to enable the Registrar to serve such parties.
- (4) Where a matter is assigned to a member of the Tribunal, that member shall decide the manner and order of procedure in which the matter shall be conducted so that the issues raised are resolved as expeditiously as possible.
- (5) Subject to the provisions of the Act and the Rules:
 - (a) a Presidential Member of the Tribunal hearing a matter may adjourn for hearing or consideration in chambers any proceeding which in his or her opinion may more conveniently be disposed of in chambers; and if sitting in chambers may adjourn any proceeding to be heard in open court;
 - (b) in any case in which, in the opinion of the President, the proper conduct of the business of the Tribunal so requires a Presidential Member may either generally or in any particular proceeding direct that any interlocutory proceeding which is part heard before that member be assigned to another Presidential Member for determination.
- (6) If a judicial determination or other hearing before a member has been commenced and the member hearing the matter is unable to proceed, another member as the case may be, may proceed with it upon the transcript and exhibits and such other evidence that the parties may wish to adduce. That member shall if requested by a party recall any witness whose evidence is material and disputed. The member may also recall any other witness.

RULE TWELVE - APPLICATION FOR EXPEDITED DECISION

- (1) An applicant who seeks to invoke the special jurisdiction for expedited decision pursuant to Part 6B of the Act must complete and file with the Registrar a notice in accordance with the form titled "Application for Expedited Decision" together with copies of any relevant documentary material and sufficient copies of such notice and materials and sufficient details of the relevant parties to enable the Registrar to serve such parties.
- (2) In the absence of a direction from a Presidential Member to the contrary, the matter shall be referred to a Conciliation Officer who shall, unless the applicant agrees otherwise, list the matter for hearing within 21 days of lodgement.
- (3) On receipt of the file from the Registry, the Conciliation Officer or other member to whom the matter has been allocated shall contact the parties seeking such particulars and material as the Conciliation Officer or member may reasonably require to resolve the matter and upon receipt shall immediately forward such particulars and material to the other parties.
- (4) The member hearing an application pursuant to this rule shall have the power to make all orders necessary and, for example, may direct a party to provide medical reports and witness statements.
- (5) If a party fails to obey within a reasonable time an order made pursuant to this rule the matter may be referred to a Presidential Member for directions, which may include the invocation of the contempt powers of the Tribunal.

RULE THIRTEEN- NOTICE OF DISPUTE

- (1) An applicant who wishes to dispute a reviewable decision must complete and file with the Registrar a notice in accordance with the form titled "Notice of Dispute" together with copies of any relevant documentary material and sufficient copies of such notice and materials and sufficient details of the relevant parties to enable the Registrar to serve such parties. The reasons supporting the notice shall provide sufficient particulars to enable the compensating authority to understand why its decision is disputed. If in the opinion of the Registrar the particulars provided are insufficient the Registrar may refuse to accept the notice.
- (2) Where an applicant seeks an extension of time within which to dispute a reviewable decision, the applicant must seek that order and state the grounds upon which the order is justified in the notice of dispute filed pursuant to sub-rule (1) above.
- (3) On filing a notice of dispute an interim order extending the time for disputing the determination is deemed to have been made. A party may however at any time after the conclusion of conciliation seek an order that the interim order be revoked whereupon the application shall be referred to Presidential Member. If such an application is made the onus is on the party seeking the extension of time to establish that the extension should be granted. If no such application is lodged or if the Tribunal otherwise does not revoke such interim order the interim order, shall remain in force for all relevant purposes.
- (4) On receipt of the notice of dispute the Registrar shall send a copy of the notice together with copies of any documentary material lodged with it to the other parties to the dispute.

RULE FOURTEEN - RECONSIDERATION

- (1) Upon receipt of a notice of dispute, the compensating authority must make all necessary arrangements for the matter to be reviewed by a person nominated pursuant to s 91(2) of the Act, within 7 days or such other time as may be allowed by the Act.
- (2) Where a compensating authority seeks an extension of time within which to complete its reconsideration of the disputed decision it must apply to the Registrar in accordance with the form titled "Request to Extend Time for Reconsideration" and such application may, in the discretion of the Registrar, be dealt with or without the attendance of the parties.
- (3) If the compensating authority confirms the disputed decision, it must immediately file with the Registrar a written notice in accordance with the form titled "Confirmation of Disputed Decision" and must serve a copy of the notice on all parties. The Registrar shall then immediately refer the matter to a Conciliation Officer.
- (4) If the compensating authority varies its decision, either by changing it or effectively withdrawing it, it must immediately file with the Registrar a written notice in accordance with the form titled "Variation of Disputed Decision" together with copies of any relevant documentary material with sufficient copies of such notices and materials and sufficient details of the relevant parties to enable the Registrar to serve such parties.
- (5) If a party is dissatisfied with the variation of the disputed decision, the party must within 14 days of being advised of the variation, file with the Registrar a form titled "Notice of Dissatisfaction with Reconsideration" with sufficient copies to enable the Registrar to serve the other parties.
- (6) Upon receipt of a notice of dissatisfaction with reconsideration the Registrar shall immediately refer the matter to a Conciliation Officer for conciliation and shall advise the parties accordingly.
- (7) If the compensating authority fails to complete its reconsideration within the time prescribed by the Act or as extended by the Registrar, the compensating authority shall be deemed to have confirmed the disputed decision and the Registrar shall immediately refer the matter to a Conciliation Officer and advise all the parties to the dispute in writing that the matter has been referred. Such referral shall not relieve the compensating authority from any other consequences of its failure to complete its reconsideration in a timely manner.
- (8) If the compensating authority has varied the disputed decision and no expression of dissatisfaction is filed by a party within the time prescribed by this rule the Registrar may of his or her own initiative issue as an order of the Tribunal the terms of the variation and shall do so upon request by a party.
- (9) If a compensating authority considers that the notice of dispute does not concern a reviewable decision, it should seek an order striking out the notice of dispute in accordance with the procedure described in Rule 22, Application for Directions.

RULE FIFTEEN - DESCRIPTION OF PARTIES

A party to an application for expedited decision or a notice of dispute shall for the purposes of the Rules, any proceedings before the Tribunal and any orders issued by the Tribunal, (other than in an appeal in which case the parties shall be referred to as appellant and respondent) be referred to as “the worker”, “the employer”, the “self insured employer”, “the Corporation”, or “other” (and if so specify), as the case may be.

RULE SIXTEEN - DISCONTINUANCE

- (1) An applicant may at any time up to 7 days prior to the date when the matter is first set down for hearing or mention before a member, discontinue the application either wholly or in part and after that date may only discontinue with the consent of all parties or with the leave of the Tribunal.
- (2) A discontinuance shall be made by filing a notice of discontinuance in accordance with the form titled “Notice of Discontinuance”. Such notice must be served by the party upon all other parties forthwith.

RULE SEVENTEEN - CONCILIATION

- (1) Upon being advised by the Registrar that a dispute has been referred for conciliation the compensating authority must within 7 days file with the Registrar a copy of all documents relating to the disputed decision together with an index of the documents. The Registrar shall send a copy of the index to the applicant. If the compensating authority fails to comply with this rule the matter may be referred to a Presidential Member for directions, which may include the invocation of the contempt powers of the Tribunal.
- (2) On receipt of a referral for conciliation, the Conciliation Officer to whom the matter has been allocated shall contact the parties or their representatives seeking particulars and any further material reasonably required to conciliate the dispute and shall advise the parties of the time, place and form of an initial conciliation conference, being a dispute management conference, that shall take place no more than 21 days after the parties have been advised by the Registrar that the matter has been referred for conciliation. At a dispute management conference the parties, if represented by solicitors, should be represented by the file principal, who is expected to actively participate in the conference. The parties may be required to:
 - (a) review the evidence;
 - (b) identify the issues in dispute and any other matters impacting upon the parties’ ability to negotiate;
 - (c) consider strategies and develop a dispute management plan for gathering information in order to resolve the dispute and for dealing with any subsequent developments;
 - (d) attempt to resolve the dispute or some of the issues in dispute.

If the dispute is not resolved at the dispute management conference a negotiation focussed conciliation conference shall be convened. Where parties are represented, file principals, senior solicitors or lay advocates having the primary conduct of the matter are required to attend the conference. Unless excused by the Conciliation Officer the worker is required to be in attendance. Whilst personal attendance by the compensating authority is not required such attendance is considered highly

desirable. Where a party does not attend the conference personally the party is required to be available by telephone for the duration of the conference.

- (3) A Conciliation Officer may exercise such powers and give such directions as may reasonably be required to conciliate the matter between the parties and may for example require a party or any other person to:
 - (a) attend at a meeting with the Conciliation Officer and produce evidentiary material at that meeting or at some other time or place;
 - (b) answer questions put by the Conciliation Officer;
 - (c) attend at a conciliation conference at which the other party may be present;
 - (d) disclose any offers of settlement that have been made to the other party.
- (4) The Conciliation Officer shall act fairly, economically, informally and quickly in making all reasonable efforts to bring the parties to the dispute to agreement.
- (5) If the parties agree to resolve the dispute, either wholly or in part, they may record their agreement by Order of the Tribunal.
- (6) If the conciliation fails to bring about a full settlement of the dispute, the Conciliation Officer shall complete a referral to judicial determination. If the Conciliation Officer is of the opinion that a party or its representative has failed to co-operate in the conciliation process the Conciliation Officer may after informing the parties complete a confidential report which may be referred to and relied upon by a party at the conclusion of subsequent proceedings for the purpose of determining the amount of or entitlement to costs upon completion of the conciliation certificate the matter shall be assigned to a Presidential Member.
- (7) Where a party is not ready to proceed at any conciliation proceedings without reasonable grounds the Conciliation Officer may:
 - (a) refer the matter to judicial determination;
 - (b) adjourn the matter and may order the costs of the adjournment against the party in default;
 - (c) adjourn the matter and may order:
 - (i) that all and any of the costs between the parties professional representative and his or her client be disallowed or that the professional representative repay to his or her client the whole or part any money on account to costs;
 - (ii) that the parties professional representative pay to his or her client all or any of the costs which his or her client have been ordered to pay to any party; or
 - (iii) that the parties professional representative pay all or any of the costs of any other party other than his or her client.
 - (d) take such conduct into account in determining in the case of weekly payments (that might be the subject of an order under s 36(4)(b) of the Act as it was prior to 1 July 2008) whether the operation of the disputed decision shall be suspended.

- (8) If a Conciliation Officer is of the opinion that a notice of dispute is frivolous, vexatious or an abuse of process he or she may refer the matter to a Presidential Member for directions.
- (9) In addition to the powers expressly conferred on Conciliation Officers by the Rules, a Conciliation Officer shall have power to make any order by consent, other than in connection with a judicial determination, appeal or case stated to the Supreme Court, including, for example, the extension or abridgement of time, the expansion of the issues in dispute, excusing non compliance with the Rules, and the varying or revoking of an order.
- (10) Where a party applies for a reference to a conciliation conference pursuant to s 42 of the Act, the application shall be made by completing the form titled "Application for a Redemption Conference" together with copies of any relevant documentary material including proof that a redemption has been proposed whereupon the application shall be referred to a Conciliation Officer who shall conduct a conciliation in accordance with the Rules.
- (11) The procedure to be adopted at any conciliation conducted by a member shall reflect the Principles Guiding Conciliation as set out in the Second Schedule.
- (12) If a party wishes to make a formal record of an offer to settle during a conciliation conference that party should adopt the protocol established by sub-clause 4(g) of the Principles Guiding Conciliation.
- (13) If a party wishes to make a formal record of an offer to settle at any other stage of the proceedings, that party may file and serve an offer in accordance with the form titled "Offer to Settle" offering to settle the dispute on such terms as that party thinks appropriate, and subject to any specific provision contained within the Act, upon the resolution of the dispute by the Tribunal, that party may bring that offer to settle to the attention of the Tribunal for the purpose of determining that party's entitlement to or liability for costs, in accordance with the Act. Prior to that time however the terms of the offer to settle that has been filed shall not be disclosed to the member of the Tribunal presiding over a judicial determination of the dispute.

RULE EIGHTEEN - PROCEDURE AT HEARINGS

- (1) Subject to the Rules upon referral of a matter before a member, the member may give directions as to the conduct of the proceedings and for example may:
 - (a) (i) require any person to attend before the member;
 - (ii) order the production to the member of any document;
 - (b) order the inspection of any document produced, and retain it for such reasonable period as is required and to make copies of the document or any of its contents;
 - (c) require any person to take an oath or make an affirmation to answer truthfully all questions relating to the matter before the member;
 - (d) require any person attending before the member (whether that person has been summoned to attend or not) to answer truthfully to any relevant question put by the member or any party or representative of a party.

RULE NINETEEN – RESERVED

Deliberately left blank

RULE TWENTY - PRE-HEARING CONFERENCE

- (1) In accordance with s 94B(1) of the Act subject to any order pursuant to s 94B(2) of that Act before any matter proceeds to hearing for judicial determination a pre-trial conference shall be conducted by a Presidential Member.
- (2) At such conference the Tribunal shall make such orders as are reasonably sought by the parties or are thought necessary by the Member to facilitate the efficient disposition of the matter which may include any order or direction provided for by Rule 22.
- (3) Such orders shall ordinarily include witness statement orders, expert witness orders and trial book orders and may also include, for example, orders for discovery, inspection, leave to interrogate, the filing of pleadings and a direction that an advice on evidence or an opinion from counsel be obtained.
- (4) The parties are expected to be able to provide to the Tribunal such information as is necessary to enable appropriate orders to be made and in complex matters are encouraged to brief counsel prior to the pre-hearing conference in which case the availability of counsel shall be a factor taken into account in determining suitable trial dates.
- (5) Before the matter is listed for trial the parties may be required to satisfy the Tribunal that the matter is ready for trial and in that event the matter shall not be listed for hearing until the Tribunal completes the form titled “Certificate of Readiness for Trial”.
- (6) If at any time after the matter has been listed for trial and before the trial of the matter has commenced, the matter is settled, discontinued, either wholly or in part, or a party becomes aware of anything which might have the effect of interfering with the orderly disposition of the matter, such as the unavailability of a witness, or rendering inaccurate any information provided to the Tribunal or included in a certificate of readiness, such as the estimation of the length of trial, the party shall forthwith write to the listing clerk giving full particulars thereof and shall serve a copy of the letter on all of the other parties to the dispute.
- (7) If the Tribunal is satisfied that the information contained in the certificate of readiness has become inaccurate subject to hearing from the parties the Member may make an order removing the matter from the trial list.
- (8) If the Tribunal is satisfied that by reason of neglect and/or dilatoriness of the parties, or for other sufficient reason, the matter should proceed to trial notwithstanding that such party or parties may assert that they are not ready to proceed to trial, subject to hearing from the parties the Tribunal may refer the matter to the listing clerk for allocation.
- (9) At the conclusion of a pre hearing conference the matter shall, unless otherwise ordered, be allocated to a call-over as provided for by Rule 27.

RULE TWENTY ONE - EXPERT EVIDENCE

- (1) Any party intending to adduce expert evidence at judicial determination must promptly seek directions from the Tribunal in that regard.

- (2) Directions under this rule may be sought at any directions hearing or pre-hearing conference or, if no such hearing or conference has been fixed or is imminent by application for directions.
- (3) Unless the Tribunal otherwise orders, expert evidence may not be adduced at trial:
- (a) unless directions have been sought in accordance with this rule, and
 - (b) if any such directions have been given by the Tribunal, otherwise in accordance with those directions;
 - (c) in the case of an expert medical witness, the expert has been provided with and agreed to comply with the Expert Medical Witness Code of Conduct as set out in the Fourth Schedule.
- (4) Without limiting its powers to give directions the Tribunal may at any time give such directions, as it considers appropriate in relation to the use of expert evidence in proceedings. Such directions may include any of the following:
- (a) a direction as to the time for service of expert reports;
 - (b) a direction that expert evidence may not be adduced on a specific issue;
 - (c) a direction that expert evidence may not be adduced on a specified issue except by permission of the Tribunal;
 - (d) a direction that expert evidence may be adduced on specified issues only;
 - (e) a direction limiting the number of expert witnesses who may be called to give evidence on a specified issue;
 - (f) a direction providing for the appointment and instruction of a court appointed expert in relation to a specified issue;
 - (g) a direction requiring experts in relation to the same issue to confer, either before or after preparing expert's reports in relation to a specified issue;
 - (h) a direction that an expert who has prepared more than one experts report in relation to any proceedings is to prepare a single report that reflects his or her evidence in chief;
 - (i) a direction that the experts give evidence concurrently;
 - (j) any other direction that may assist an expert in the exercise of the expert's functions.
- (5) Unless the Tribunal orders otherwise expert witnesses evidence in chief must be given by the tender of one or more expert's report.
- (6) The Tribunal may direct expert witnesses:
- (a) to confer, either generally on specified matters;
 - (b) to endeavour to reach agreement on any matters in issue;
 - (c) to prepare a joint report, specifying matters agreed and matters not agreed and reasons for any disagreement;

(d) to base any joint report on specified facts or assumptions of fact;

and may do so at anytime, whether before or after the expert witnesses have furnished their experts reports.

(7) Unless the parties affected agree the contents of the conference between the expert witnesses must not be referred to at any hearing.

RULE TWENTY TWO - APPLICATION FOR DIRECTIONS

(1) A party seeking directions as to the conduct of a matter shall apply to the Tribunal by filing in the Registry an application for directions in accordance with the form titled "Application for Directions" in sufficient numbers to enable a sufficient number of sealed copies to be available to serve on all relevant parties. The application shall then be referred to a Presidential Member for the purpose of conducting a directions hearing in which the member shall give such directions with respect to the conduct of the proceeding as he or she thinks proper. If the Presidential Member considers it appropriate, all or some of the proceedings may be conducted electronically in accordance with the protocol set out in the Third Schedule.

(2) The application for directions shall set out each of the orders sought and shall when necessary be supported by an affidavit setting out all relevant facts and matters. If no directions are sought other than general directions the application should specify that general directions are sought.

(3) The application for directions and any supporting affidavits shall, unless otherwise ordered, be served by the party seeking the orders upon all other parties to the action at least five business days before the return date. The applicant should be able to prove service of the application at the time of the hearing either by affidavit or by such other means as might be accepted by the Tribunal.

(4) In any proceeding, which is to be heard by a Full Bench, whether in the original or appellate jurisdiction, such directions as are thought proper with respect to the conduct of the proceeding may be given by the Tribunal constituted by a single Presidential Member.

(5) In dealing with an application for directions the Tribunal may make any order reasonably required to facilitate the fair and expeditious hearing of a matter and without limiting the generality of sub-rule 1 or 4 the Tribunal may:

(a) make orders with respect to:

- (i) discovery and inspection of documents;
- (ii) interrogatories;
- (iii) inspection of real or personal property;
- (iv) admissions of fact or of documents;
- (v) the defining of the issues by pleadings or otherwise;
- (vi) the joinder of parties and actions;
- (vii) which party should be dux litis
- (viii) the mode and sufficiency of service;
- (ix) amendments;
- (x) the filing of affidavits;
- (xi) the giving of particulars;
- (xii) the place, time and mode of hearing;
- (xiii) the giving of evidence at the hearing, including whether evidence of witnesses in chief shall be given orally or by affidavit, or both;
- (xiv) the disclosure of reports of experts;
- (xv) costs;

- (xvi) the filing and exchange of signed statements of evidence of intended witnesses and their use in evidence at the hearing;
 - (xvii) the taking of evidence and receipt of submissions by video link or telephone or such other means as the Tribunal considers appropriate;
 - (xviii) extensions or abridgements of time;
 - (xix) a stay of proceedings pending submission by a party to a medical examination by a medical expert;
 - (xx) a stay of proceedings for any other reason;
 - (xxi) the striking out of any pleading, affidavit, or document filed in the action;
 - (xxii) the granting of summary relief;
 - (xxiii) dispensing with compliance with all or any part of these rules;
 - (xxiv) correcting, revoking, or varying any order by a subsequent order;
- (b) order that evidence of a particular fact or facts be given at the hearing:
- (i) by statement on oath or affirmation upon information and belief;
 - (ii) by production of documents;
 - (iii) otherwise as the Tribunal directs;
- (c) order that an agreed bundle of documents be prepared by the parties or one of them;
- (d) order that the parties attend before a member for a conference with a member with a view to satisfying the member that all reasonable steps to achieve a negotiated outcome of the proceedings have been taken, or otherwise clarifying the real issues in dispute so that appropriate directions may be made for the disposition of the matter, or otherwise to shorten the time taken in preparation for and at the trial;
- (e) order that a witness or potential witness provide to the parties a comprehensive statement in connection with particular issues;
- (f) order that a witness or potential witness attend at the Tribunal before a Presidential Member for the purpose of being examined by the parties in connection with particular issues.
- (g) order that a video film be disclosed and produced to the other parties to the dispute. Such order shall not be made unless:
- (i) it is made by consent;
 - (ii) the video film has previously been shown to the worker's treating medical expert;
 - (iii) the disputed determination relies upon a medical opinion that was wholly or predominantly based upon the video film;
 - (iv) the video film has previously been shown to the worker's current rehabilitation provider;
 - (v) the Tribunal is satisfied that in the interests of justice there are special reasons that require that the video film be disclosed.

Sub-Rule (g) hereof cannot be relied upon to override the discretion conferred upon a Conciliator pursuant to s 92 of the Act.

- (6) The Tribunal may revoke or vary any order made under sub-rule 1, 4 or 5.
- (7) If a party upon whom an application for directions is served does not wish to be heard upon the application or consents to the orders sought, the party may advise the Registrar in writing. Such consent may be signified by an endorsement in the margin

of the application “I consent to the orders sought herein Solicitor/representative/agent for”. If such notification is provided at least two clear business days before the date of the scheduled hearing the party shall be excused from attendance unless otherwise advised. Where such notification is given the Tribunal may, in its absolute discretion, vacate the scheduled hearing and make the orders sought in the absence of the parties.

- (8) This rule does not apply to a conciliation conducted by a Conciliation Officer unless the orders sought are by consent in which case a Conciliation Officer may make such orders. This rule does not empower a Conciliation Officer to issue directions or make orders in respect of matters pending before a Presidential Member.
- (9) Subject to any express provisions of the Act an application for any order or direction of the Tribunal may, notwithstanding the provisions of the Rules, be made orally or in such other manner and on such notice to any other party, as the Tribunal shall, in the particular circumstances, deem proper and expedient.

RULE TWENTY THREE - MEDICAL EXAMINATIONS

- (1) In any proceedings before the Tribunal in which:
- (a) the physical or mental condition of a person is relevant to any matter in question; and
- (b) either,
- (i) that person is a party; or
- (ii) a party claims relief for the benefit of that person;
- any other party may serve on that party a notice in accordance with this Rule for the medical examination of the person concerned. Such notice shall be a request by the party giving notice that the person concerned submit to examination by a specified medical expert at a specified time and place.
- (c) the party serving the notice shall if requested by the person concerned pay to that person a reasonable sum to meet the travelling and other expenses of the person concerned of and incidental to the medical examination.
- (2) Where a notice for medical examination of a person concerned is served pursuant to this rule and the person concerned either does not or advises that he or she will not submit to the examination or do all things reasonably requested or answer all questions reasonably asked by the medical expert for the purposes of the examination, the Tribunal may, upon an application for directions filed pursuant to Rule 22, on terms, stay the proceedings as to any claim for relief by or for the benefit of the person concerned or make such other order or direction that is thought appropriate.

RULE TWENTY FOUR - SUMMONS TO PRODUCE DOCUMENTS OR THINGS TO THE TRIBUNAL

- (1) The Registrar shall not issue a summons to produce documents or things to the Tribunal that requires the production of medical notes, medical records or the results

of diagnostics tests relating to a worker unless directed to do so by a Conciliation Officer or Presidential Member.

- (2) In any other case, and subject to Rule 24(3) hereof the Registrar may upon the application of a party and shall at the direction of a Conciliation Officer or Presidential Member issue a summons to produce documents or things to the Tribunal.
- (3) Where a party has made an application for the issue of a the summons under Rule 24(2) the Registrar may decline to issue the summons if he or she considers the issue may be unreasonable, vexatious, oppressive, an abuse of process, or inappropriate for any other reason, in which case the Registrar shall refer the matter to a Presidential Member for directions.
- (4) A summons issued pursuant to this rule:
 - (a) shall be in accordance with the form titled “Summons to Produce Documents or Things” and the date for compliance with the summons shall be a date 28 days after the issue of a summons or such earlier date as directed by a Conciliation Officer or Presidential Member;
 - (b) must be filed with sufficient copies and sufficient details to enable the Registrar to serve the summons; and
 - (c) must be accompanied with a cheque or money order in the sum of \$50 or such other amount as the Registrar may prescribe from time to time made payable to the person upon who the summons is to be served. Such sum is intended to allay any costs associated with copying the documents or things and forwarding them to the Registrar.
- (5) The Registrar shall serve a summons requiring the production of documents or things by registered mail to the address nominated in the summons.
- (6) The recipient of a summons to produce documents or things shall comply with the summons by making accurate and legible copies of the documents or things and forwarding the copies by registered mail or secure courier to the Registrar prior to the stipulated date of compliance.
- (7) The recipient of the summons to produce documents or things may use the sum of money accompanying the summons to allay any costs associated with copying the documents or things and forwarding them to the Registrar in the manner described.
- (8) If the recipient of the summons to produce documents or things contends that the sum of money accompanying the summons is insufficient to allay any costs associated with copying the documents or things and forwarding them to the Registrar that person may make application to the Registrar to seek an order that the party issuing the summons pay a greater amount prior to its compliance.
- (9) Upon compliance with a summons to produce documents or things and subject to any contrary ruling by a Conciliation Officer or Presidential Member parties may apply to the Registrar to inspect the documents or things and absent an order to the contrary shall, not less than 7 days after the documents or things are produced be given unrestricted access subject to the giving of undertakings that the documents or things shall be returned to the Registrar in the same order and state as they were at the time access was taken and if copies of the documents or things are made that upon the conclusion of the hearing they will be destroyed and not used in connection with any other proceedings.

- (10) If a party, or the recipient of a summons to produce documents or things or some other relevant and interested party seeks an order restricting access to the documents or things produced in compliance with the summons, that person should file an application for directions seeking the appropriate relief whereupon the application shall be referred to a Presidential Member to determine the application. If no such application is filed within 7 days after the stipulated date of compliance all relevant persons shall be deemed to consent to all other relevant parties having unrestricted access to the documents or things subject to these rules. During that 7-day period only the worker and his or her representative shall have access to the documents or things.
- (11) If a party or a recipient of the summons takes objection to the issue of the summons or to the production of particular documents or things, the party or recipient should advise the Registrar in writing seeking the appropriate relief whereupon the application shall be referred to a Presidential Member to determine the application.
- (12) Unless otherwise ordered, all documents or things produced on the return of the summons to which this rule relates shall be kept in proper custody by the Registrar and clearly marked to indicate the proceedings to which they relate.
- (13) (a) Unless the Tribunal orders otherwise, the Registrar may in his or her absolute discretion destroy any documents or things produced in response to a summons issued under this Rule.
- (b) Unless the Tribunal orders otherwise, the Registrar must not destroy any documents or things under sub-rule (a) unless the Registrar has given to the issuing party at least 14 days notice of the intention to do so.
- (14) Failure by a person to comply with any summons issued pursuant to this Rule may be regarded as contempt of the Tribunal.

**RULE TWENTY FIVE - SUMMONS TO ATTEND TO GIVE EVIDENCE AND
SUMMONS TO ATTEND TO GIVE EVIDENCE AND PRODUCE
DOCUMENTS OR THINGS**

- (1) This Rule applies where a party requires a witness to attend and give evidence at a hearing or trial or to attend and produce documents or things at a hearing or trial.
- (2) The Registrar may upon the application of a party and shall at the direction of a Conciliation Officer or Presidential Member issue a summons to attend or appear at the Tribunal or a summons to attend or appear at the Tribunal and produce documents or things to it.
- (3) A summons issued pursuant to this Rule shall be in accordance with the form titled "Summons to attend to give evidence" or "Summons to attend to give evidence and produce documents or things" as the case may be and the date for compliance with the summons shall be the date of the hearing.
- (4) A summons to attend or appear or a summons to attend or appear and produce documents or things shall be served by the issuing party and should be served personally and where requested the original should be produced. If on tender of such summons to the person named that the person refuses to accept it, the summons may be served by putting it down in the persons presence after the person has been told of the nature of the summons. Such summons shall be served within twelve weeks after the date of issue and not later than 14 days before the date of compliance and shall remain in force until the trial or hearing is concluded. Service of such summons may be proved by affidavit.

- (5) If a party or a recipient of a summons to attend or appear or a summons to attend or appear and produce documents or things takes objection to the issue of the summons or to the production to particular documents or things the party or recipient should file an application for directions seeking the appropriate relief whereupon the application should be referred to a Presidential Member to determine the application.
- (6) (a) Where a person served with a summons to attend or appear or a summons to attend or appear and produce documents or things such a summons does not come before the Tribunal in answer to the summons because the matter is not called on for hearing, and a further date is set for the commencement of the hearing the person served with the summons shall answer the summons as if it had inserted therein a further date for the commencement of the hearing provided that within a reasonable time before that further date the party serving the summons upon the person is served on him or her by certified mail, notice of the further hearing date and is tendered to him or her reasonable expenses for his or her attendance at the Tribunal on the further date having taken into account what, if any, part of the amount previously tendered to him or her for reasonable expenses has been properly applied towards any expense incurred by him or her in answering the summons for its original return date.
- (b) A person served with such a summons is entitled to a payment from the person issuing the summons of an amount equal to the reasonable expenses incurred by the person in complying with the summons.
- (c) The Tribunal may make orders to ensure that the person complying with such a summons receives the exact amount of the person's reasonable expenses in so complying and may in appropriate case direct that such a payment be made in advance.
- (d) The Tribunal may fix the amount of costs or direct the Registrar to fix the amount of such costs.
- (7) Failure by a person to comply with any summons issued pursuant to this Rule may be regarded as contempt of the Tribunal.

RULE TWENTY SIX - EXPANSION OF THE ISSUES IN DISPUTE (S 88DA of the Act)

- (1) A party may, with the leave of the Tribunal and with the consent of the other parties, refer any other issue relating to the worker's entitlement to compensation pursuant to the Act for determination by the Tribunal even if that entitlement has not been the subject of a claim for compensation or a determination by the compensating authority.
- (2) An application for referral pursuant to this rule must be made in accordance with the form titled "Application for Expansion of Issues in Dispute" and must be served together with the form titled "Notice of Objection" on the worker, the employer or the compensating authority at least 14 days before the application is determined by the Tribunal.
- (3) If a notice in the form titled "Notice of Objection" is not filed and served by any party within 14 days of the service of an application for expansion of issues in dispute, all parties shall be deemed to have consented to the expansion sought in that application.
- (4) Where the parties to a dispute seek consent orders that involve the resolution of issues not presently before the Tribunal the parties shall be deemed to seek an order

pursuant to s 88DA of the Act to expand the issues in dispute to the extent necessary to make the orders and to have obtained all relevant consents from interested parties. In that event the consent orders may be made notwithstanding non-compliance with this rule and upon the making of such orders, an order pursuant to s 88DA of the Act shall be deemed to have been made.

RULE TWENTY SEVEN - CALL-OVERS

- (1) Where a matter is listed for call-over, it is the obligation of the parties to be ready to proceed on the day of the call-over or at such other time as the Tribunal may direct.
- (2) A matter listed for call-over may be adjourned to a later call-over by the member before whom the matter would have been called over at that member's discretion or following an appropriate application from one of the parties.
- (3) Unless a matter has been discontinued and a notice to that effect has been filed or the parties have otherwise advised the listing clerk in writing that the matter has settled, then the parties or their representatives must attend the call-over and be ready to proceed.

RULE TWENTY EIGHT - ORDERS AND DETERMINATIONS

- (1) If the parties have resolved their dispute by agreement they shall advise the Registrar immediately. Unless otherwise requested the Registrar shall thereupon dismiss the notice of dispute. If that is not the order that is sought the parties should complete one or more of the standard forms of orders and upon completion should submit the form to the member then dealing with the dispute or if there is no such member to the Registrar and in either case the member or Registrar as the case may be shall sign the form and place upon it the seal of the Tribunal whereupon the form shall become a formal order of the Tribunal.
- (2) In all other matters, unless the Tribunal directs otherwise an order that does not finally determine a question or dispute need not be drawn up and an order that finally determines a question or dispute must be drawn up.
- (3) Orders that are required or directed to be drawn up shall be prepared by one of the parties or as directed by the Tribunal. It is intended that such draft will in the ordinary course be sent electronically. Upon receipt, the Registrar shall, subject to settling the terms of the order with the parties sign and seal the order and forward sealed copies to the parties.
- (4) If parties seek an order of the Tribunal that gives effect to, is underpinned by, or is sought as a consequence of an agreement or an arrangement consented to by the Corporation that excludes, modifies or restricts the operation of the Act, the parties should declare that fact to the Tribunal. In such cases the Tribunal will not make the order sought unless a Presidential Member is satisfied that all necessary parties have joined in the consent and it is just and proper that the order be made. This will be determined upon the filing of an Application for Directions and supporting Affidavit. In determining this issue the Presidential Member may issue such directions and adopt such procedures as are deemed appropriate. This may include directing the production of independent counsel's opinion or requiring the parties or any one of the parties to attend in person or by representative to make such explanation of the circumstances that are considered necessary.

- (5) Where the dispute concerns an infant or other person under legal disability, any settlement thereof must be approved by a Presidential Member both as to the appropriateness of the settlement and as to the disposition of the settlement monies. To this end the Presidential Member may issue such directions and adopt such procedures as are deemed appropriate, but would ordinarily require the production of an opinion on these matters from independent counsel and hearing from the litigation guardian or such other person as the Presidential Member considered necessary.

RULE TWENTY NINE - DELIVERY AND PUBLICATION OF REASONS FOR DECISION

- (1) At the completion of a judicial determination or any other contested matter heard by a Presidential Member that requires the publication of reasons, the Presidential Member hearing the matter shall deliver a decision and publish such reasons as soon as practicable, and if appropriate an advice to the parties that they have the right to appeal the decision on a question of law. If the Presidential Member is unable to deliver the decision and publish reasons within three months of completion, the member should advise the parties accordingly and if the member is unable to do so within four months, the member must report the matter to the President.
- (2) At the completion of a judicial determination referred to the Full Bench or an appeal, the Full Bench shall deliver a decision and if appropriate publish reasons as soon as practicable. If it is unable to do so within three months of completion it should advise the parties accordingly. If it is unable to do so within four months of completion it must seek prior leave from the President.

RULE THIRTY - COSTS OF PROCEEDINGS

- (1) Subject to the provisions of the Act, Regulations promulgated thereunder or these Rules, the costs of and incidental to any proceedings before the Tribunal shall be in the discretion of the Tribunal, both as to liability and quantum.
- (2) Where a Member of the Tribunal is required to determine the quantum of a party's costs, that member ('the presiding member'), may in his or her absolute discretion assign the task of taxing such costs to the Registrar who may in turn assign part or all of that task to a Deputy Registrar.
- (3) The Registrar or the Deputy Registrar may of his or her own motion submit any question arising out of the course of a taxation to the presiding member for such directions as the presiding member may see fit to give and the parties may be heard before the presiding member thereon. Such submission shall be in the form of an informal memorandum, a copy of which shall be supplied to each party to the taxation setting forth the questions in issue and any relevant circumstances relating thereto. The presiding member shall endorse the directions that he or she sees fit to make and remit the matter to the Registrar or the Deputy Registrar who shall act in accordance with such directions.
- (4) In conducting a taxation of costs, the Tribunal shall act according to the practice and procedure for the time being of the Supreme Court with such modifications as may be necessary in the circumstances.
- (5) Where such taxation is undertaken by the Registrar or a Deputy Registrar, upon the completion of the taxation, the Registrar or the Deputy Registrar shall prepare and sign a certificate of recommendation as to the result thereof and submit the certificate to the presiding member who may adopt the recommendation with such modifications that he or she thinks appropriate and shall provide a copy of the certificate to all interested parties.

- (6) If a party is dissatisfied with the recommendation of the Registrar or a Deputy Registrar that party may, within 7 days from the date of receiving the recommendation, make application to the presiding member to be heard upon whether the presiding member should adopt the certificate of recommendation. In any case where the presiding member proposes to vary or modify the certificate of recommendation the presiding member shall grant the parties an opportunity to be heard before making such variation or modification.
- (7) In determining the quantum of a party's costs the presiding member or Registrar or Deputy Registrar as the case may be shall adopt the following principles:
- (a) Where a matter proceeds to trial at judicial determination, the parties shall be expected to have, so far as it is reasonable, taken all steps that are necessary to bring all issues in dispute between them before the presiding member so as to avoid multiplicity of proceedings, and failure to do so may impact upon the amount of costs to be awarded.
 - (b) In no case shall the award of costs exceed 85% of the amount that would be allowed under the relevant Supreme Court scale if the proceedings were in the Supreme Court (s 95(5) of the Act).
 - (c) The party shall be entitled to all proper costs of and incidental to work carried out after the referral of the matter for judicial determination as a prudent but not over cautious litigant properly advised, having regard to the potential quantum of the worker's entitlements and the complexity of the issues between the parties, would reasonably have incurred, in the initial investigation of the relevant circumstances giving rise to the proceedings and in the preparation and the prosecution of the proceedings. Such costs may include: the ascertaining of relevant factual circumstances; the obtaining and tendering of an advice on evidence and regard thereto; the obtaining and preparation of witness statements; the obtaining and consideration of medical and other expert reports; the obtaining of counsel's opinion regarding an appropriate range of compromise; and the conduct and the conclusion of all necessary negotiations leading to the settlement of the claim.
 - (d) A party entitled to an award of costs in respect of a trial at judicial determination may be awarded up to 85% of the Supreme Court scale for all reasonably necessary preparatory work. Consistent with the expectation that the parties shall have: obtained advice on evidence; properly proofed all witnesses so as to be able to make an informed decision as to which witnesses are required to give oral testimony (if the witness is not otherwise required for cross-examination); carefully reflected upon the witness statements and expert reports of the other parties so as to be able to make an informed decision as to which witnesses are required for cross-examination; identified all potential issues and factual matters capable of agreement and have taken steps to secure agreement in respect thereof; shall be in a position to make submissions as to costs upon receipt of judgment; and generally have taken all reasonable measures to ensure that the trial proceeds expeditiously and only occupies sitting time in court to the extent that it is absolutely necessary.*

The following scale of counsel fees (other than in respect of a referral pursuant to s 94A(2) of the Act) shall apply.

- Fee on brief - including conferences, reading time, preparation and up to the first 5 hours in court an amount not exceeding \$2500.00.
- Refresher fees - if the trial extends beyond 5 sitting hours counsel fees shall be based upon time spent in court and unless provision is

specifically made, no further allowances shall be made for conferences; reading time or preparation. Such refresher fees shall be awarded as follows:

- For time spent beyond 5 hours and up to 10 hours - at the rate of up to \$225.00 per hour.
- For time spent beyond 10 hours and up to 20 hours - at the rate of up to \$150.00 per hour.
- For time spent beyond 20 hours - at the rate of up to \$100.00 per hour.
- Where written submissions are provided costs shall be awarded on an hourly rate commensurate with 1.5 times that, which would apply, had the submissions been made orally.
- Where judgment is delivered in Court an amount of \$150.00 to receive judgment.

*For example: converting video evidence into a short passage of edited highlights for showing in court (subject of course to all video tapes being made available to the other parties to the dispute after cross-examination of the relevant witness has been completed); obtaining and providing to the other parties copies of notes that a witness may seek to rely upon in giving evidence; scheduling witnesses so as to ensure that sufficient time is allowed for the receipt of their evidence; agreeing where possible to interpose witnesses and if interposition is not possible to indicate that to the other parties at the earliest possible time; arranging witnesses so as to ensure that the available time is best utilised.

- (e) Notwithstanding the limitations on counsel fees previously expressed, if the presiding member is of the opinion that the party against whom a costs order is to be made has unnecessarily prolonged the hearing the presiding member may award an amount of up to \$225.00 per hour for counsel fees for any period of time spent in court after the first 5 hours.
- (8) If a party contends that some other order for costs is more appropriate to the circumstances to the proceedings than that which Rule 30(7)(d) stipulates, the party should advise the Tribunal and the other parties to the dispute at the earliest possible time. A failure to do so shall be taken into account in determining whether such an order should be made. Other factors to be taken into account shall include the complexity of the case, the need to engage senior counsel and the additional hearing time required as a result of the consolidation of actions or an agreement to expand the issues in dispute.
- (9) This rule does not apply to actions for recovery under s 54 or the Schedule 1 of the Act.

RULE THIRTY ONE - REPRESENTATION COSTS

- (1) A representative of a party shall not charge excessive representation costs. Unless there are exceptional circumstances representation costs greater than the Supreme Court scale as varied from time to time ("the Supreme Court scale") shall be regarded as excessive.
- (2) A representative acting for a worker in respect of proceedings under the Act is not entitled to recover from that worker any costs in respect of those proceedings in

addition to those payable by the compensating authority or claim any lien in respect of such costs or deduct such costs from sum awarded as compensation to the worker unless those additional costs have been awarded by a Presidential Member of the Tribunal. Where a worker's representative seeks such an award of costs the representative shall file an Application for Directions and a supporting affidavit and serve them upon the worker. The Application shall then be referred to a Presidential Member who shall make such orders or give such directions, as may be appropriate including, for example:

- (a) directing the worker's representative to prepare a short or long form bill of costs;
 - (b) directing the worker or the worker's representative to obtain an opinion from of an independent lawyer regarding the reasonableness of the claim for additional costs and directing who should bear the costs of obtaining that opinion;
 - (c) directing the worker or the worker's representative to participate in a conciliation conference to explore the resolution of any issues arising out of the claim for additional costs;
 - (d) directing the Registrar to conduct a taxation of costs and make recommendations such as what amount of additional costs are reasonable;
 - (e) directing the worker's representative to produce all files relating to the worker that are in the representative's possession, custody or control;
 - (f) directing that any documents produced in connection with the Application be marked confidential.
- (3) A Presidential Member in determining what, if any additional costs should be awarded shall have regard to the conduct of the worker, the amount of money involved, the importance of the case, the complexity of the issues in dispute, and any other relevant matter.
- (4) Sub-rules (2) and (3) only apply to matters in respect of which instructions were given on or after 1 January 2009.

RULE THIRTY TWO - FULL BENCH REFERRAL

- (1) A party wishing to refer a dispute directly to a Full Bench may apply to do so by an application for directions.
- (2) If a Presidential Member believes that it is appropriate for a dispute to be referred directly, the member shall complete a certificate in accordance with the form titled "Certificate of Referral to a Full Bench" and provide copies to all parties.
- (3) In either case the application or referral shall be listed before the President for the purpose of allowing the parties an opportunity to be heard prior to the President deciding whether or not to refer the matter to a Full Bench. Examples of orders, which may be made, are as set out in the form titled "Full Bench Referral Orders".

RULE THIRTY THREE - APPEAL TO THE FULL BENCH

- (1) An appeal against a decision of a single Presidential Member must be filed with the Registrar in accordance with the form titled "Notice of Appeal" within 14 days of the delivery of the decision appealed against and must be served on all parties.
- (2) Within 21 days of the filing of the notice of appeal or the referral of a dispute for the consideration of the Full Bench there shall be a pre-hearing conference before the President or a Presidential Member nominated by the President and the Presidential Member shall, in addition to such other matters as may be thought expedient direct his or her attention to, and if thought appropriate, make orders or give directions in respect of:
 - (a) the contents of the appeal book and the time at which it shall be delivered to the Tribunal;
 - (b) the filing of lists of, and books of authorities to be relied upon by the parties;
 - (c) the making of submissions either wholly or partly in writing and the time within which they shall be filed and served;
 - (d) the time limits within which the parties shall present their respective cases.

Examples of such orders are as set out in the form titled "Full Bench Pre-hearing Orders".

- (3) If the respondent contends that the appeal should be dismissed for reasons different to those contained in the decision being appealed, the respondent shall file and serve at least five business days before the appeal is to be heard, a form titled "Notice of Alternative Contentions."
- (4) If the Full Bench is unanimously of the view that the judgment or order under appeal contains no errors of law and that the publication of reasons for decision would have no precedential value the judgment or order may be affirmed by it without the publication of reasons.

RULE THIRTY FOUR - CASE STATED TO SUPREME COURT

Where the Full Bench of the Tribunal decides to state a case for consideration by the Supreme Court pursuant to the Act, it may issue directions generally.

RULE THIRTY FIVE - THE SUSPENSE LIST

- (1) Where the parties to a dispute do not seek any orders or assistance from the Tribunal or wish to defer progressing their dispute for an indefinite period a member may refer the dispute to the suspense list.
- (2) Once a matter has been referred to the suspense list, if a party seeks to progress the dispute, the party shall request the Registrar to revive the matter whereupon the Registrar shall refer it to an appropriate member.
- (3) After referral to the suspense list, if no request has been made to revive the matter within twelve months of referral, the Registrar shall refer the matter to a Presidential Member to consider whether the notice of dispute should be dismissed for want of prosecution or whether some other order should be made. In either case the parties shall be given an opportunity to be heard before an order is made.

RULE THIRTY SIX - APPLICATION FOR REVIEW OF DECISION UNDER THE FIRST SCHEDULE OF THE ACT

- (1) An application for review of a determination of the Corporation made pursuant to the Transitional Provisions of Schedule 1 of the Act may be made in accordance with the form titled "Application for Review of Decision under the First Schedule of the Act".
- (2) The party issuing the application for review shall cause a copy thereof to be served on the Corporation, the worker and the employer or any other party affected or likely to be affected by the said determination.
- (3) The application for review shall in the first instance be returnable for hearing in chambers before a Presidential Member for the purpose of giving directions or making ancillary orders.
- (4) On such hearing or any adjournment thereof the Tribunal may give directions or make orders in accordance with any of the powers contained and conferred by the Rules.

RULE THIRTY SEVEN - RECOVERY ACTION UNDER S 54 OF THE ACT

An action for recovery under s 54 of the Act shall proceed with such changes as are necessary in accordance with the Supreme Court Rules and upon lodgement may be referred to a Presidential Member for directions.

RULE THIRTY EIGHT - GENERAL POWERS OF A PRESIDENTIAL MEMBER OF THE TRIBUNAL

In addition to the powers expressly conferred by the Rules, a Presidential Member shall, so far as it is appropriate, have the powers conferred by the Supreme Court Rules on a judge of the Supreme Court.

RULE THIRTY NINE - PRACTICE DIRECTIONS

- (1) The President may issue practice directions.
- (2) These practice directions shall have the force of the Rules.
- (3) Practice directions may be for the guidance of all parties or of a specific party or group of parties as the case may be.

RULE FORTY - CONTEMPTS OF THE TRIBUNAL

- (1) If a member of the Tribunal alleges that a person has committed contempt of the Tribunal that member must refer the matter to the President or to the Deputy President to whom the President has delegated the power to deal with contempt.
- (2) Upon such referral, the President or the Deputy President, as the case may be, may instruct the Registrar to issue and serve an expiation notice upon the person who has committed the alleged contempt. Such notice shall:
 - (a) Stipulate an amount be paid to the Registrar;

- (b) Stipulate the time within which such payment is made.
- (3) In the event that payment in accordance with an expiation notice issued pursuant to sub-rule 2 hereof is made, no further proceedings in respect of the alleged contempt by that person shall be instituted.
- (4) In any other case, the Registrar shall issue and serve a summons on the person who has committed the alleged contempt commanding the attendance of that person before the President or the Deputy President as the case may be, at a particular time and place at which time orders shall be made regarding the future conduct of the proceedings. In default of an appearance by the person who has committed the alleged contempt, an order, including the finding of contempt and the imposition of a penalty, may be made in the absence of that person.

RULE FOURTY ONE - INTERVENTION

If the Corporation or the Minister wish to intervene in proceedings before the Tribunal the form titled "Notice of Intervention" must be completed, filed with the Registrar and served on all relevant parties.

**FIRST SCHEDULE - FORMS UNDER THE WORKERS COMPENSATION
RULES**

Notice of change of address for service
Notice of desire to be heard
Application for expedited decision
Notice of dispute
Request to extend time for reconsideration
Confirmation of disputed decision
Variation of disputed decision
Notice of dissatisfaction with reconsideration
Notice of discontinuance
Conciliation certificate
Offer to settle
Referral to judicial determination
Trial orders
Certificate of readiness for trial
Application for directions
Summons to produce documents or things
Summons to attend to give evidence
Summons to attend to give evidence and produce documents or things
Summons to attend to participate in a conciliation conference
Application for expansion of issues in dispute
Notice of objection
Standard form of order (several)
Certificate of cause for referral to a full bench
Full bench referral orders
Notice of appeal
Notice of alternative contentions
Full bench pre-hearing orders
Applications for review of decision under the first schedule of the act
Notice of intervention
List of documents – Supreme Court form 16, Supreme Court rule 58.01
Supplementary lists of documents – Supreme Court precedent 23
Notice to produce – Supreme Court form 16a, Supreme Court rule 59.07
Affidavit of documents – Supreme Court precedent 22
Notice to admit – Supreme Court form 13, Supreme Court rule 54.01(2)
Affidavit (Supreme Court rule 83)
Notice of party acting in person – Supreme Court form 5
Short form bill of costs – Supreme Court precedent 37
Application for redemption conference

SECOND SCHEDULE - PRINCIPLES GUIDING CONCILIATION

- (1) A conciliation conducted under the Act shall be treated as a process that seeks to: -
- Identify and isolate the issues in dispute between the parties.
 - Develop options for the resolution of these issues.
 - Enable the parties, if appropriate, to explore options beyond the issues in dispute between them to bring about a satisfactory resolution of their differences.
 - Enable the parties to have their say and to share with others involved in their dispute, their feelings and concerns in a confidential non-threatening environment without prejudice to their rights and entitlements.
 - Assist the parties in understanding the perspective of the other parties to the dispute.
 - Promote constructive, satisfying and enduring solutions to their dispute.
- (2) The role of a member acting as a conciliator (referred to in this statement of principles as a “conciliator”) is to act as an unbiased third person whose role is to facilitate the process of conciliation and to assist the parties in negotiating a resolution of their dispute and he or she must endeavour to achieve these goals as expeditiously as possible. The conciliator must not impose a solution of the dispute upon them. However the conciliator may suggest alternatives, which may become options for resolving a dispute.
- (a) The conciliator must diligently discharge his or her legal and administrative responsibilities as required by the Act and the Rules.
 - (b) In dealing with the parties the conciliator shall act in a completely unbiased way and shall accord to every party or person who is legally interested in the dispute or who has the right to represent those who are parties to the dispute, the full right to be heard according to law.
 - (c) The conciliator shall reflect upon any prior dealing or association with any of the parties or their representatives and upon any other matters that might be or be seen to be inconsistent with his or her capacity to act in a completely impartial and unbiased way. If those matters have the potential to create a genuine apprehension of actual or perceived bias, the conciliator shall immediately disqualify him or her from the matter. In other cases, the conciliator shall make full disclosure to the parties of such prior dealing or association or other relevant matter, and if requested by a party to disqualify him or herself, shall immediately do so.
 - (d) The conciliator shall treat the parties and their representatives with courtesy and respect and in a fair and equitable manner and shall not practice or condone any form of discrimination based on race, gender, sexual preference, religion, age, disability or any other personal characteristic.
 - (e) If a party or a representative of a party considers that a conciliator is behaving in an inappropriate way either by reference to the Act as the case may be or by the Rules that party or representative shall endeavour to communicate with the conciliator in private to express those concerns or, if thought appropriate, may make a formal written complaint to the Senior Judge or President. In such circumstances the Senior Judge or President may take such action as is thought

appropriate in the circumstances, and the complainant shall be informed of such action.

- (3)
 - (a) If a party is a natural person, the party must attend the conciliation conference unless that party has sought and obtained a prior approval from the conciliator to be excused from attendance. If a party is not a natural person, it must be represented at the conciliation conference by a person with full authority to make agreements binding upon it settling the issues in dispute unless it has sought and obtained prior permission from the conciliator not to be so represented.
 - (b) The parties to the dispute and their representatives shall make full disclosure of relevant documents as required by law prior to the commencement of the conciliation conference and should discoverable documents come into the party's or the representative's possession after initial discovery has been made that party or representative must ensure that full disclosure of such documents is made immediately.
 - (c) If a party is for a proper reason not in a position to have meaningful discussions at a conference and intends to make an application for an adjournment, that party or the representative of that party must, if the circumstances permit, give prior notice at the earliest possible time, to the conciliator and to the other parties to the dispute and their representatives.
 - (d) If a party wishes to raise issues or explore settlement options that go beyond the issues presently in dispute that party shall endeavour to give prior 7 clear days notice to the conciliator and to the other parties to the dispute and their representatives of the party's desire to do so.
 - (e) The parties to the dispute and their representatives shall cooperate with each other and with the conciliator and they shall refrain from acting or behaving in a threatening or offensive manner.
 - (f) If the conciliator is of the opinion that a party or the representative of a party is acting or behaving inappropriately either by reference to this Rule or otherwise, the conciliator may exclude the party or the representative from the process and/or terminate the conciliation conference immediately. If thought necessary, the conciliator may in his or her absolute discretion refer the matter to the President with a recommendation or formal complaint or, in an appropriate case, with a request that contempt proceedings be initiated.
- (4)
 - (a) The conciliator shall advise the parties of the date and time of the conciliation conference. Before the conference commences, the conciliator shall use his or her best endeavours to ensure that the parties to the dispute have been provided with all relevant documents that are necessary to achieve a conciliated outcome.
 - (b) Thereafter, the conciliator may meet as frequently as he or she deems appropriate with the parties together or with a party alone and he or she may communicate with any party orally and/or in writing.
 - (c) Where a party is represented the conciliator shall not communicate directly with that party unless requested to do so by the party or by the representative of the party or in the opinion of the conciliator such communication is essential, in which case the conciliator shall endeavour to speak privately with the party's representative to explain his or her reasons for wishing to do so.
 - (d) Information whether oral or written that is disclosed to the conciliator by a party in the absence of the other party, shall not be disclosed by the conciliator

to the other parties unless either required by law or unless the disclosing party consents to the conciliator doing so.

- (e) Subject to the to the Act and the Rules, the conciliation conference shall be conducted in such manner as the conciliator considers appropriate having regard to all of the circumstances. Conciliators shall endeavour, subject to the individual needs of a particular dispute, to conduct their conferences and deal with the parties in a consistent manner.
- (f) If the parties resolve their differences prior to the convening of the conciliation conference or between conferences the parties shall inform the conciliator immediately.
- (g) If a party wishes to make a formal record of an offer made to another party to resolve the dispute that party may request the conciliator to note the offer in which case the conciliator shall record the terms of the offer in a sealed envelope to be placed upon the Tribunal's file and shall advise the other parties to the dispute that that offer may be relied upon in later proceedings on the issue of costs.
- (h) If a settlement is reached at a conciliation conference the conciliator shall ensure that the agreement reached is clearly understood by all parties as to its terms and its implications for existing or potential entitlements and shall satisfy him or herself, that any agreements have been freely entered into by the parties without undue pressure or duress being applied by any party or by the conciliator.
- (i) At the conclusion of the conciliation process the conciliator shall destroy all notes and written records of the matters discussed other than a record of an offer of settlement made in accordance with sub-clause 4 (g) hereof or those that are required to be maintained by law. The conciliator shall thereafter keep confidential all of the discussions that the conciliator has had with the parties and their representatives and shall not without the consent of the parties or unless required by law disclose any information or statements made by or to the parties or their representatives.

THIRD SCHEDULE - TRANSITIONAL PROVISIONS

- (1) Subject to sub paragraph (2) hereof, any direction, act or order of the Tribunal made between the date of disallowance of the Workers Compensation Tribunal Rules 2001 and the date of publication in the South Australian Government Gazette of the Workers Compensation Tribunal Rules 2001 (as amended) that was previously authorised by Workers Compensation Tribunal Rules 2001 is hereby validated.
- (2) This transitional provision does not apply to a direction, act or order made in purported reliance upon Rule 30(4) of the Workers Compensation Tribunal Rules 2001.

FOURTH SCHEDULE - EXPERT MEDICAL WITNESSES - CODE OF CONDUCT

Expert medical evidence is frequently relied upon in proceedings or proposed proceedings before the Tribunal. This Code of Conduct applies to any medical expert who is engaged to provide a report to be used as evidence or to give expert evidence in proceedings or proposed proceedings in the Tribunal. The purpose of the Code is to explain the Tribunal's view of the role and duty of experts; to specify certain matters that must be included in an expert's report or statement; and to indicate how an expert's evidence may be received.

The Tribunal regards the role of medical experts as providing the parties with unbiased and objective opinions to assist them in making informed judgments about the resolution of any medical issues that may arise and if settlement of a medical dispute is not possible, to assist the Tribunal to make reliable and correct decisions about that dispute. The expert's overriding duty is to assist the Tribunal and the parties impartially and not to act as an advocate for a particular party.

A report or written statement by the expert must specify:

- (a) the person's qualifications as an expert;
- (b) the facts, matters and assumptions upon which the report or statement is based (a letter of instructions may be annexed);
- (c) the reasons for each opinion expressed;
- (d) if applicable that a particular question or issue falls outside his or her field of expertise;
- (e) any literature or other materials utilised in support of the opinion; and
- (f) any examinations, tests or other investigations which he or she has relied upon and identified, and give details of the qualifications of the person who carried them out.

If an expert believes that the report or statement may be incomplete or inaccurate without some qualification (for example that his or her opinion is not a concluded opinion) then that qualification must be stated.

If the expert, after communicating an opinion to the party engaging him or her, materially changes that opinion that expert shall immediately provide the engaging party with a supplementary report or statement that complies with the general directions set out above.

An expert witness must abide by the directions of the Tribunal.

Such directions may include a direction that the expert confers with another expert witness. They may also include a direction that the expert gives evidence concurrently with other expert witnesses. In that event the expert witnesses will sit together in court and will be given an opportunity to ask each other any questions, which they consider, might assist the Tribunal in reaching its conclusion. As the time scheduled for the receipt of the expert's evidence may involve other experts being engaged to give evidence at the same time, it is imperative that experts ensure that they will be available for the time specified. If unforeseen circumstances occur that make it impossible for the expert to attend at the time specified, the Tribunal is to be given the earliest possible advice so as to minimise unnecessary inconvenience to it and to any other experts who may be scheduled to give evidence at the same time.

RULES HISTORY

Description	Commencement	Govt Gazette
WCT Rule 1996	June 1996	
<p>WCT Rules 2001</p> <p><i>Consolidation in full of 1996 Rules; a number of Rules unaltered, some amended and some added; the new Rules designed to expedite the transmission of disputes to the conciliation stage, refine the efficiency of conduct of matters at the judicial determination stage, and more particularly, improve directions and summons to attend and produce processes.</i></p>	12 November 2001	8 November 2001 p4857
<p>WCT Rules 2005</p> <p><i>consolidated of 2001 Rules; following Rules amended or added:-</i></p> <p><i>Rule 1 Scope and Purpose - (1) amended to make it clear that in issuing directions and determining costs, the amount of money involved in the matter, the importance of the case and its complexity of issues in dispute are relevant matters. Rule 16 Conciliation - (2) amended to reflect changes in procedures for the conduct of conciliation conferences namely an initial conference to plan the management of the conciliation process; (11) amended to create a form to initiate a S42 redemption conference. Rule 20 Pre-Hearing Conference - (4) amended to encourage timely retention of counsel in complex matters. Rule 21 Application For Directions - (5)(j) amended to set guidelines for the circumstances where surveillance film should be disclosed. Rule 28 Cost of Proceedings - (2) amended to clarify the Registrar is to tax costs for all matters; (7) amended to bring the amounts prescribed in the Rules for counsel fees into line with new Supreme Court scales. Rule 28A Representation Costs - new Rule to give the Tribunal some power to regulate excessive charging by solicitors of their applicant worker clients.</i></p>	25 July 2005	21 July 2005 p2434
<p>Rule 4, Application of the Supreme Court Rules</p> <p>Rule 10(3), Assignment, Place And Conduct Of Proceedings</p> <p><i>Amendment to Rule 4 removes references to specific Supreme Court Rules and enables adoption of the general principles of the practice under Supreme Court Rules not provided for by the Tribunal's Rules. amendment to Rule 10(3) require the Registrar to serve 'Notice of Desire to be Heard'.</i></p>	14 May 2007	17 May 2007 p2018
<p>RULE 8A - Right Of Representation And Assistance</p> <p><i>New rule - 8A(1) declares a right of representation in conformity with section 95(2) of the Act; 8A(2) recognises the right of a self represented party to seek permission from the Tribunal to be assisted by another person in proceeding; . 8(2)(a)(b)(c) and (d) stipulate those persons for whom permission cannot be granted to appear on behalf of an unrepresented party.</i></p>	30 June 2008	26 June 2008 p2514
<p>Rule 9 Documents and</p> <p>Rule 10 Assignment Place And Conduct Of Proceedings</p> <p><i>Rule 9 amended to facilitate electronic filing of the 2 principle Forms used to commence a matter before the Tribunal; Rule 10 amendment introduces a process to provide basic procedural fairness to a party who has lodged proceedings that are considered vexatious or an abuse of process by giving an opportunity to be heard before a direction is made not to assign the proceeding or strike it out under Rule 10.</i></p>	24 November 2008	13 Nov 2008 p5110
<p>Rule 28A, Representation Costs</p> <p><i>existing Rule deleted, new rule inserted providing that a representatives not charge excessive representation costs; that a worker's representative may not recover costs in addition to the costs recovered from the compensating authority (ie party/party costs), unless the additional costs have been awarded by a Presidential Member; worker's representative may seek additional costs from the worker on application to the Tribunal.</i></p>	1 January 2009	18 Dec 2008 p5653
<p>Rule 23 Summons For Person To Attend Or Appear, Summons To Produce Documents Or Things'</p> <p><i>existing Rule deleted and inserting new Rules 23A and 23B inserted, to improve the system and process for the issue of evidentiary summonses pursuant to s84D, to rationalise in particular the evidentiary summons issued for medical notes and records by:</i></p> <ol style="list-style-type: none"> 1. Tribunal Member's permission before a summons is issued, 2. requiring \$50 be provided to offset the to the recipient's costs before summons is issued, 3. requiring original notes and records be produced only if actually required for evidence, 4. requiring the Registry to send summonses to the recipient. 	5 January 2009	20 Nov 2008 p5169

Rule 20A Expert Evidence

new rule re process of adducing expert evidence, medical evidence mainly, giving the Tribunal greater control over the process.- requires directions on expert evidence before the evidence will be allowed; in particular provides for expert evidence to be given concurrently.

5 January 2009

4 December 2008 p5340

WCT Rules 2009

Removal of reference to arbitration and arbitration officers following amendment of s92D and Division 5 of Part 6A of the Act. Removal of reference to "chamber judge" from Rule 20. Addition of Rule 28(5) to enable, in the interests of justice, effecting an agreement or arrangement that purports to exclude, modify or restrict the operation of the Act. Amendment of Rule 24(4)(c) to permit adjustment of the amount required to be paid to the recipient of a Summons to Produce Document. Addition of the 'Expert Medical Witnesses - Code Of Conduct' (Fourth Schedule) to explain to medical witnesses the Tribunal's view of the role and duty of experts, to specify certain matters that must be included in an expert's report or statement and to indicate how an expert's evidence may be received. Renumbering to correct numbering peculiarities that have arisen as new Rules have been inserted since 2005 and some modernization and simplification of wording (without change to substance) throughout the Rules generally.

2 February 2009

29 January 2009