



WORKERS COMPENSATION COMMISSION

E-Bulletin No. 3

May 2002

President's Welcome

Welcome to the third E-Bulletin of the Workers Compensation Commission.

This bulletin features the President's Practice Directions, Registrar's Guideline for the conciliation/arbitration process, and procedures in relation to directions.

Parties are reminded of the presumption in the legislation that they be ready to proceed to resolution of the dispute at the time that the application is lodged. The Commission aims to proceed expeditiously to resolution of disputes with the matter being referred for resolution as soon as the period of information exchange has elapsed, and applications for directions have been dealt with. In the absence of an application for directions, the parties will be involved in a telephone conference within 11 days after the completion of the information exchange period, with the conciliation/arbitration conference held within a further 14 days. As the telephone conference is the commencement of the dispute resolution process, all parties, not just the representatives of parties, are required to participate in the telephone conference.

The Registrar's Guideline outlines the process for dispute resolution by an arbitrator. The President's Practice Directions outline the practice of the Commission with respect to determination of matters by an arbitrator on the papers; reference of a question of law; correction of 'obvious' error in a certificate of determination; expert evidence; adjournment of Commission proceedings; and procedure on appeal of an arbitrator's decision. Parties and representatives are encouraged to familiarise themselves with these.

A review of the Interim Workers Compensation Commission Rules 2001 is underway with respect to the procedures for directions and summons. The present Rules 31-33 of the *Interim Workers Compensation Commission Rules 2001* are applicable to parties seeking directions and summons.

In the first four months of operation, the Commission has registered 1720 agreements under s66A of the Workers Compensation Act 1987, considered 33 applications for Interim Payment Direction, and received 69 applications for dispute resolution. Of these 1 has been determined by the arbitrator on the papers, 2 by the parties at the telephone conference or conciliation conference, and the remaining 66 are still undergoing the information exchange processes or have been allocated to an Arbitrator.

Justice Terry Sheahan
President
29 May 2002

President's Practice Directions

The following provides a brief description of the content of the Practice Directions, and the hyperlink for each Practice Direction to the website. All Practice Directions must be considered in the context of the objectives of the Commission, in particular the duty to provide a timely and effective dispute resolution service in relation to workers entitlements under the workers compensation legislation.

President's Direction No.1 of 2002

Determination of Matters without a Conciliation Conference or Arbitration Hearing in Person ('on the Papers')

This Direction sets out the practice and procedure of the Workers Compensation Commission when determining matters on the basis of documents provided ('on the papers'), in the absence of any conference or formal hearing.

http://www.wcc.nsw.gov.au/pdfs/Practice_Direction_1-2002.pdf

President's Direction No.2 of 2002

Adjournment of Commission Proceedings

This Direction sets out the practice and procedure of the Workers Compensation Commission in relation to request for adjournment of conciliation conferences, arbitration hearings or any other proceeding.

http://www.wcc.nsw.gov.au/pdfs/Practice_Direction_2-2002.pdf

President's Direction No.3 of 2002

Expert Evidence

This Direction provides guidance to parties, their legal representatives and expert witnesses, in relation to the presentation of expert reports and expert oral evidence in proceedings before the Workers Compensation Commission.

http://www.wcc.nsw.gov.au/pdfs/Practice_Direction_3-2002.pdf

President's Direction No.4 of 2002

Correction of 'Obvious Error' in a Certificate of Determination

This Direction provides guidance to parties, their legal representatives and expert witnesses, in relation to the correction of 'obvious error' in a certificate of determination issued by the Workers Compensation Commission.

http://www.wcc.nsw.gov.au/pdfs/Practice_Direction_4-2002.pdf

President's Direction No.5 of 2002

Reference of Question of Law on Compensation Claim to the Workers Compensation Commission Constituted by the President

This Direction sets out the practice and procedure to be adopted by the Workers Compensation Commission when a question of law arises in proceedings before the Commission constituted by an Arbitrator.

http://www.wcc.nsw.gov.au/pdfs/Practice_Direction_5-2002.pdf

President's Direction No.6 of 2002

Appeal Against a Decision of the Commission Constituted by an Arbitrator

This Direction sets out the practice and procedure to be adopted by the Workers Compensation Commission when a party to a dispute that has been determined by an Arbitrator seeks leave to appeal against that decision to a Presidential member.

http://www.wcc.nsw.gov.au/pdfs/Practice_Direction_6-2002.pdf

Registrar's Guideline on Conciliation Conference/Arbitration Hearing

The Registrar's Guideline on Conciliation Conference/Arbitration Hearing provides an overview of the dispute resolution processes within the Commission, how these function and the expectations of involvement in resolution of matters by the parties to the dispute.

http://www.wcc.nsw.gov.au/pdfs/Med-ArbModel-Protocol_and_Practice_Direction.pdf

The Commission's Electronic Environment and Resources

The Commission will shortly be in a position to provide writeable forms, which will provide the facility for completion and submission online to the Commission, as well as enabling downloading.

Further information has been added to the Commission's website www.wcc.nsw.gov.au to assist people in understanding the legislation, and procedures of the Commission.

WorkCover Medical Assessment Guideline

The WorkCover NSW Medical Assessment Guideline has been amended. The current version is available on the Commission's website:

http://www.wcc.nsw.gov.au/pdfs/medical_guidelines.pdf

Forms

The following forms are now available on the website.

Election to Discontinue Proceedings

For use by the applicant to discontinue proceedings at any point of the dispute resolution process.

http://www.wcc.nsw.gov.au/pdfs/Election_to_Discontinue_Proceedings.pdf

Agreement to Discontinue Proceedings

For use by parties to the proceedings where there is agreement to discontinue proceedings. The parties may request the Commission to record the terms of the agreement reached.

http://www.wcc.nsw.gov.au/pdfs/Agreement_to_Discontinue_Proceedings.pdf

Directions to Produce a Document

For use by parties to the proceedings when requesting that the Commission issue a Direction to a nominated party to produce or furnish information as specified in the Direction.

http://www.wcc.nsw.gov.au/pdfs/Direction_to_Produce_Documents_as_per_the_current_rules_17.pdf

Application for Leave to Refer a Question of Law

For use by parties to the proceedings or the Arbitrator when requesting leave to refer a question of law to the President of the Commission.

http://www.wcc.nsw.gov.au/pdfs/Application_for_Leave_to_Refer_a_Question_of%20Law_form13.pdf

Application to Register a Redemption Application

For use by parties to the proceedings to apply to the Registrar for registration of an agreement between the parties to redeem the employer/insurer's liabilities under the *Workers Compensation Act 1926*.

http://www.wcc.nsw.gov.au/pdfs/Application_to_Register_a_Redemption_Agreement.pdf

Application to Determine to Redeem Liability

For use by parties to the proceedings to apply to the Registrar to redeem the employer/insurer's liabilities under the *Workers Compensation Act 1926* where there is legal incapacity of the worker as determined by the Commission under s87G of the *Workers Compensation Act 1987*.

http://www.wcc.nsw.gov.au/pdfs/Application_to_Determine_to_Redeem_Liability5D.pdf

Medical Assessment

The following provides an overview to the roles of the various medical providers under the workers compensation acts.

Nominated treating doctor

This will usually be the worker's General Practitioner. The role of the nominated treating doctor hasn't changed. The doctor will still supply WorkCover certificates and medical reports. The nominated treating doctor could also be the worker's treating specialist.

Work Injury Management Consultant

The role of the Work Injury Management Consultant is prescribed by the workers compensation legislation.

Independent Medical Assessor

Independent medical assessors are the "old" medico/legal specialists.

They are restricted to:

- providing opinion on percentage loss for injuries received before 1 January 2002, and
- providing opinion on general medical issues regardless of when the injury occurred

WorkCover Interim Assessors of Permanent Impairment

These are appointed by WorkCover. Parties who wish to obtain a specialist's opinion on the amount of the worker's permanent impairment (Whole Person Impairment) arising from injuries received on or after 1 January 2002, must have the worker examined by a WorkCover Interim Assessor of Permanent Impairment.

The names of the WorkCover Interim Assessors of Permanent Impairment are available from the WorkCover website www.workcover.nsw.gov.au or by contacting WorkCover.

Approved Medical Specialists

The President of the Workers Compensation Commission has appointed Approved Medical Specialists to undertake general medical assessment and assessment of permanent impairment.

Approved Medical Specialist – General Medical Assessment

Their role is assessing general medical issues such as the worker's condition (including the worker's prognosis), the aetiology of the condition, treatment proposed or provided and the worker's fitness for employment.

Approved Medical Specialist – Permanent Impairment

Their role is to assess:

- percentage loss arising from injuries received prior to 1 January 2002
- permanent impairment (whole person impairment) arising from injuries received on or after 1 January 2002

The names of the Approved Medical Specialists are available from the Workers Compensation Commission website www.wcc.nsw.gov.au or by contacting the Commission.

General Assistance

For any general information or assistance on changes to making a claim, provisional payments and entitlements, phone WorkCover Assistance on 13 10 50.

Contact the Commission

For information, assistance or a request for dispute resolution, please contact the Workers Compensation Commission between 8.30am and 5.00pm Monday to Friday:

By telephone: 1300 368 040

TTY: (02) 9261 3334

By facsimile: 1300 368 018

In person at: The Registry, Level 21, 1 Oxford Street, Darlinghurst NSW 2010

Postal Address: PO Box 594, Darlinghurst NSW 1300 *or*

Document Exchange: DX11524, Sydney Downtown

Email: registry@wcc.nsw.gov.au

Further information and forms are available at: www.wcc.nsw.gov.au