
WORKCOVER

WC301

Workers' Compensation and Injury Management Act 1981

**Workers' Compensation and Injury
Management Conciliation Amendment
Rules 2019**

Made by the Minister under section 293A of the Act.

1. Citation

These rules are the *Workers' Compensation and Injury Management Conciliation Amendment Rules 2019*.

2. Commencement

These rules come into operation as follows —

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette* (**gazettal day**);
- (b) rules 4(2), 5, 9(1), (2) and (5), 11 and 12 — on 4 November 2019;
- (c) the rest of the rules —
 - (i) if gazettal day is before 5 August 2019 — on 5 August 2019; or
 - (ii) if gazettal day is, or is after, 5 August 2019 — on the day after gazettal day.

3. Rules amended

These rules amend the *Workers' Compensation and Injury Management Conciliation Rules 2011*.

4. Rule 3 amended

- (1) In rule 3(2) insert in alphabetical order:

EDS means the electronic document system operated by or on behalf of the Conciliation Service that enables —

- (a) application to be made under section 182E for resolution of a dispute by conciliation; and
- (b) documents to be lodged with the Conciliation Service in relation to the conciliation; and
- (c) notices to be given to the Director and to parties to the conciliation; and
- (d) parties to the conciliation to have access to documents relating to the conciliation;

- (2) In rule 3(2) insert in alphabetical order:

EDS exempt, in relation to conciliation of a dispute, has the meaning given in rule 3A;

5. Rule 3A inserted

After rule 3 insert:

3A. EDS exempt

- (1) A person is EDS exempt in relation to conciliation of a dispute at a particular time if, at that time —
- (a) the person is a party to the dispute, is self-represented in relation to the dispute and is neither an insurer nor self-insured; or

- (b) the person is exempt in relation to conciliation of the dispute under subrule (3).
- (2) A party is self-represented in relation to a dispute if—
 - (a) in respect of a worker — a representative is not engaged by or on behalf of the worker to assist in the resolution of the dispute; or
 - (b) in respect of an employer — the employer is uninsured.
- (3) The Director may exempt a person from a requirement to use the EDS in relation to conciliation of a dispute, or all disputes, if satisfied that it would be unreasonable for the person to be required to use the EDS in relation to conciliation of the dispute or disputes.

6. Rule 5 amended

In rule 5(3)(b) delete “clause 18A(1), (1a) or (1b),” and insert:

Schedule 1 clause 18A(1), (1a) or (1b) of the Act,

7. Rule 22 amended

In rule 22(2)(b) delete “a list of” and insert:

written notice that lists

8. Rule 25 amended

In rule 25(b) before “must” insert:

where relevant,

9. Rule 26 amended

(1) Delete rule 26(1) and insert:

- (1) Every document in relation to conciliation of a dispute must be lodged with the Conciliation Service using the EDS unless —
 - (a) the person lodging the document is EDS exempt in relation to conciliation of the dispute; or
 - (b) the EDS is unavailable for use at the time of lodging.

- (2) In rule 26(2):
 - (a) delete “A document may be lodged” and insert:

A person who is EDS exempt in relation to conciliation of a dispute may lodge a document in relation to the dispute
 - (b) delete paragraph (c).
- (3) Delete rule 26(2)(d) and insert:
 - (d) by using the EDS.
- (4) In rule 26(3) delete “through the Internet” and insert:

by using the EDS
- (5) Delete rule 26(3) and insert:
 - (3) While the EDS is unavailable for use a document may be lodged as described in subrule (2)(a), (b) or (da).
 - (4) The Director may at any time require a person who has lodged a document by email or by using the EDS to lodge the document in person or by post.

10. Rule 26A inserted

After rule 26 insert:

26A. Access to applications, notices and other documents through EDS

- (1) A requirement to notify a person or give them a copy of a document in relation to conciliation of a dispute is satisfied, on a day, if—
 - (a) the notice or document becomes accessible using the EDS, to parties to the dispute generally, before 5.00 p.m. on that day; and
 - (b) electronic notification that the notice or document is accessible is sent, to parties to the dispute generally, before 5.00 p.m. on that day; and
 - (c) the person has access to the EDS in relation to conciliation of the dispute.
- (2) In subrule (1)—

electronic notification, in relation to a party, includes notification via an email sent to an email address provided by the party.

11. Rule 26A amended

Delete rule 26A(1)(c) and insert:

- (c) the person is not a person who —
 - (i) is EDS exempt in relation to conciliation of the dispute; and
 - (ii) does not have access to the EDS in relation to conciliation of the dispute.

12. Rule 27 deleted

Delete rule 27.

13. Rule 28A amended

- (1) In rule 28A(1)(a) delete “service” and insert:

lodgment

- (2) In rule 28A(2)(a) delete “name, postal address and email address; and” and insert:

name; and

- (3) Delete rule 28A(4) and insert:

- (4) A person who lodges a document under this rule must produce a copy of the document if required by the conciliation officer.

14. Rule 28 deleted

Delete rule 28.

15. Rule 29 amended

In rule 29:

- (a) in paragraph (a) before “day” (first occurrence) insert:

working

- (b) in paragraph (b) before “day.” insert:

working