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

W. JOHNSTON, Minister for Industrial Relations.