

AUSTRALIAN CAPITAL TERRITORY

WORKMEN'S COMPENSATION RULES (AMENDMENT)

EXPLANATORY STATEMENT

1990 No. 5

The Workmen's Compensation Rules (the Principal Rules) were originally made under the Workmen's Compensation Ordinance 1931. The Principal Rules are now in force under the Magistrates Court (Civil Jurisdiction) Ordinance 1982 (section 307A).

The amending rules amend the Workmen's Compensation Rules (the Principal Rules):

1. to correct references in the Rules to provisions in the Workmen's Compensation Act 1951 (the Act).
2. to substitute the word 'injury' for the word 'accident' in the Rules to reflect a similar change in the Act; and
3. to include in the Rules a requirement that the employer serve on his or her insurer a copy of a compensation claim and related papers filed in Court.

Details of the amending Rules are set out in the attachment.

Authorised by the  
Minister for  
Justice and  
Consumer Affairs

16/88

Rule 1 defines "Principal Rules" to mean the Workmen's Compensation Rules.

Rule 2 repeals rules 3 and 4 of the Principal Rules which are redundant. These Rules respectively prescribe that the Principal Rules are divided into Parts and repeal the Workmen's Compensation Rules made on 13 May 1935, which were replaced by the Principal Rules.

Rule 3 amends rule 5 of the Principal Rules ('interpretation') to add a definition of 'the Act' as the Workmens Compensation Act 1951 ('the Act') of the Australian Capital Territory. Rule 3 also adds a new sub-rule 5(3) which provides that expressions in the Principal Rules that are used in the Act have the same meanings as in the Act.

Rule 4 requires the applicant to give to the Clerk of the Court (where the respondent is an employer) an extra copy of the request for arbitration and particulars of it for service on the employer's insurer.

Rule 5 amends sub-rule 18(1) of the Principal Rules to require the Clerk of the Court to issue for service on the insurer copies of the request and particulars, and the notice containing details of the date, time and place at which the arbitration will proceed.

Rule 6 inserts a new rule 19A in the Principal Rules. Rule 19A requires that where an employer is a respondent to a request for arbitration, he has a policy of insurance with an approved insurer and he has been served with the request and

particulars relating to that request, and a copy of the notice advising when and where the arbitration will proceed he shall, within 14 days serve a copy of each of those documents on that insurer and within 7 days after service file with the Clerk of the Court a certificate of service.

Rule 7 amends the Principal Rules so that references to the Ordinance (i.e. the Workmen's Compensation Ordinance 1951) are changed from 'ORDINANCE' to 'ACT' or from 'Ordinance' to 'Act' as appropriate.

Rule 8 amends the Principal Rules so that references to the short title of the Workman's Compensation Ordinance as in force at any time before 21 March 1951 (e.g. to the Workmens Compensation Ordinance 1946) are changed to 'Workmen's Compensation Act 1951' or 'WORKMEN'S COMPENSATION ACT 1951' as appropriate.

Rule 9 provides that the Principal Rules are further amended as set out in Schedule 1 to these amending Rules. Schedule 1

- . amends references to provisions in the Workmen's Compensation Ordinance 1946 (now repealed) in the Principal Rules to refer to the equivalent provisions in the Act which repealed and replaced that Ordinance.

- These amendments are necessary as the Principal Rules were originally made under the Workmen's Compensation Ordinance 1931. That Ordinance was repealed by the Workmen's Compensation Ordinance 1946 which, in turn repealed by the Workmen's Compensation Ordinance 1951. The Principal Rules were kept in force on the repeal and replacement of the 1931 and 1946 Ordinances. The 1951 Ordinance provided that references in the Rules to specific provisions in the 1946 Ordinance were references to the corresponding provisions in the 1951 Ordinance.

- There are references to provisions of the Workmen's Compensation Ordinance, throughout the Rules and on the making of the 1951 Ordinance these were all incorrect. This made the task of applying the Rules difficult and confusing.

- . deletes references in the Principal Rules to 'accident' and substitutes 'injury' in conformity with the terminology used in the Act, and
- . makes other changes to the Principal Rules required by the repeal and replacement of the 1946 Ordinance by the Act such as the omission of 'the Territory' and its substitution by 'Australia' and makes changes required by the introduction of decimal currency.

Rule 10 provides that the First Schedule to the Principal Rules (which contains prescribed forms) is further amended as set out in Schedule 2 to these amending Rules. Schedule 2

- . omits references in the forms to "accident" and, where appropriate, substitutes references to "injury";
- . amends references in the forms to provisions in the 1946 Ordinance to refer to the equivalent provisions in the Act;
- . amends Form 9 (Notice to Respondent of Day Upon Which Arbitration Will Be Proceeded With) to insert advice to respondents of the requirements of the new rule 19A;
- . inserts after Form 10 a new Form 10A (Certificate of Service) as referred to in new rule 19A, and
- . substitutes 'Australia' for references to 'the Territory' consequent upon repeal and replacement of the 1946 Ordinance by the Act.