



Australian Capital Territory

Court Procedures Amendment Rules 2015 (No 1)

Subordinate Law SL2015-12

We, the rule-making committee, make the following rules of court under the *Court Procedures Act 2004*, section 7.

Dated 22 April 2015.

H MURELL

Chief Justice

R REFSHAUGE

Judge

L WALKER

Chief Magistrate

L CAMPBELL

Magistrate



Australian Capital Territory

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made under the

[Court Procedures Act 2004](#)

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J2015-31

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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1 Name of rules

These rules are the *Court Procedures Amendment Rules 2015 (No 1)*.

2 Commencement

These rules commence on the day after their notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

These rules amend the *Court Procedures Rules 2006*.

4 Rule 3900, definitions of *case management meeting* and *conciliation*

omit

5 Rule 3908

omit

6 Division 3.13.5

omit

7 Division 3.13.8

substitute

Division 3.13.8 Workers compensation—dispute resolution conference for arbitration**3942 Meaning of *dispute resolution conference*—div 3.13.8**

For this division, a *dispute resolution conference* means a meeting between the parties to an application for arbitration set down under rule 3945 (Dispute resolution conference—listings etc).

3943 Dispute resolution conference—purpose

- (1) The purpose of a dispute resolution conference is to enable parties to an application for arbitration, with the assistance of a conciliator, to—
 - (a) settle any issue in dispute; and
 - (b) settle the amount of compensation payable or the basis upon which compensation is payable; and
 - (c) if settlement of the claim is not reached—narrow the issues in dispute and, as far as practicable, agree on the future progress of the application.
- (2) Parties attending a dispute resolution conference must, during the conference, make a genuine effort to settle the claim.

3944 Conciliator for dispute resolution conference—div 3.13.8

- (1) For this division, the registrar is a *conciliator* for dispute resolution conferences.
- (2) The court may appoint another person as a conciliator.
- (3) The conciliator for a dispute resolution conference has an advisory, but not determinative, role for the conference and may advise parties to an application for arbitration about terms of settlement and encourage them to reach agreement.

3945 Dispute resolution conference—listings etc

- (1) Each application for arbitration must be listed for a dispute resolution conference.
- (2) However, if the court considers it appropriate, the court may make any of the following orders:
 - (a) an order dispensing with the requirement to hold a dispute resolution conference;

- (b) an order excusing a party from attending a dispute resolution conference;
- (c) any other order about a dispute resolution conference.

Note Pt 6.2 (Applications in proceedings) applies to an application for an order under this rule.

- (3) In making an order, the court must take into account—
 - (a) the extent to which the parties have complied with their obligations under the *Workers Compensation Act 1951*; and
 - (b) whether information required for the conference has been made available by each party to the application to all other parties; and
 - (c) the likelihood of the dispute being settled at the conference.

3946 Dispute resolution conference—requirement to attend

- (1) Unless the court otherwise orders, the injured worker or, for a claim by a dependant, the dependant or personal representative of the dependent, must attend the dispute resolution conference.
- (2) If the injured worker or dependant is represented, the representative must also attend the dispute resolution conference.
- (3) Each other party must be represented at the dispute resolution conference.
- (4) A party's representative at the dispute resolution conference must—
 - (a) have authority to negotiate a settlement on behalf of the party; or
 - (b) be able to obtain instructions to negotiate a settlement on behalf of the party during the conference.
- (5) This rule does not prevent the court from directing a party to attend the dispute resolution conference.

3947 Dispute resolution conference—time

The dispute resolution conference must be listed for a time—

- (a) if an answer to an application has been filed by the respondent or third-party respondent—not later than 3 months after the day the answer was filed; or
- (b) if 3 months has passed since the day the application was filed and no action has been taken by any party to the application—not later than 1 month after the 3 months has passed.

3948 Dispute resolution conference—information to be provided before conference

A party to an application for arbitration must, not later than 5 days before the time for which the dispute resolution conference is listed, give the court and each other party to the application the following:

- (a) a statement of issues;
- (b) a summary of the evidence on which the party intends to rely at the arbitration;
- (c) if the party intends to rely on expert evidence at the arbitration but the party has not yet obtained that evidence—details of what arrangements have been made by the party to obtain the evidence.

3948A Dispute resolution conference—confidentiality

- (1) The parties and the conciliator must not disclose to anyone not involved in the dispute resolution conference any information or document produced during the conference, unless required by law to make the disclosure.
- (2) Any information disclosed to the conciliator by a party in private must be treated by the conciliator as confidential, unless the party making the disclosure expressly states otherwise.

3948B Dispute resolution conference—settlement must be in writing

If the parties to an application for arbitration settle the claim at a dispute resolution conference, the agreement must be recorded in writing.

3948C Dispute resolution conference—court orders on outcome of conference

- (1) If the parties to an application for arbitration do not settle the claim at a dispute resolution conference, the court may—
 - (a) if the court considers there are reasonable prospects that the claim may be settled at a further dispute resolution conference—
 - (i) direct the parties to attend a further dispute resolution conference; and
 - (ii) make directions as required; and
 - (b) if the court considers there is no reasonable prospect that the claim may be settled at a further dispute resolution conference—make directions for the conduct of the arbitration.
- (2) In making a direction for subsection (1) (b), the court must try to facilitate—
 - (a) hearing the claim as quickly as practicable; and
 - (b) keeping costs as low as practicable.
- (3) Without limiting subsection (1) (b), the court may make directions about any of the following:
 - (a) obtaining, filing or serving further material, including evidence by affidavit;

- (b) any special requirements in relation to evidence;

Example

use of telephone or audio visual facilities for evidence

Note An example is part of the rule, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (c) any requirement for parties to file and serve a statement of facts, issues and contentions before the hearing.

8 Rule 6251 (2) (p) to (r)

substitute

- (p) in relation to making an order to dispense with the requirement to hold a dispute resolution conference or excusing a party from attending a dispute resolution conference under rule 3945 (Dispute resolution conference—listings etc);
- (q) in relation to making a direction for a further dispute resolution conference under rule 3948C (1) (a) (Dispute resolution conference—court orders on outcome of conference);
- (r) in relation to making a direction for the conduct of an arbitration under rule 3948C (1) (b);

9 Schedule 5, part 5.4, table, item 33

omit

10 Dictionary, definitions of *case management meeting* and *conciliation*

omit

11 Dictionary, new definitions

insert

conciliator, for division 3.13.8 (Workers compensation—dispute resolution conference for arbitration)—see rule 3944.

dispute resolution conference, for division 3.13.8 (Workers compensation—dispute resolution conference for arbitration)—see rule 3942.

Endnotes

1 Notification

Notified under the [Legislation Act](#) on 28 April 2015.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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