

Workers' Compensation and Injury Management Arbitration Amendment Rules 2020

SL 2020/137

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

1. Citation

These rules are the *Workers' Compensation and Injury Management Arbitration Amendment Rules 2020*.

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*;
- (b) the rest of the rules — on the day after that day.

3. Rules amended

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

4. Rule 3 amended

- (1) In rule 3 delete “In these” and insert:

(1) In these

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

claimant has the meaning given in section 72C;

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

- (a) applications for arbitration to be made; and
- (b) documents to be lodged with the Arbitration Service in relation to proceedings; and
- (c) notices to be given by the Registrar or an arbitrator to parties to proceedings;

EDS exempt, in relation to a proceeding, has the meaning given in rule 3A;

representative has the meaning given in rule 51(1);

(3) At the end of rule 3 insert:

(2) In these rules, in the case of a fatality compensation application, a reference to a party includes a reference to a claimant.

5. Rule 3A inserted

After rule 3 insert:

3A. EDS exempt

- (1) A person is EDS exempt in relation to a proceeding at a particular time if, at that time —
 - (a) the person is a party to the proceeding, is self-represented in relation to the proceeding and is neither an insurer nor a self-insurer; or
 - (b) the person is exempt in relation to the proceeding under subrule (3).
- (2) A party is self-represented in relation to a proceeding if —
 - (a) in the case of a worker or a claimant — a representative is not engaged by or on behalf of the worker or claimant to represent them in the proceeding; or
 - (b) in the case of an employer — the employer is uninsured.
- (3) The Registrar may exempt a person from a requirement to use the EDS in relation to a proceeding, or all proceedings, if satisfied that it would be unreasonable for the person to be required to use the EDS in relation to the proceeding or proceedings.

6. Rule 6 amended

In rule 6(2)(c) delete “served on” and insert:

given by the arbitrator to

7. Rule 7 amended

In rule 7 in the definition of *document* before “filed” insert:

lodged or

8. Rule 8 amended

In rule 8(b) before “must” insert:

where relevant,

9. Rule 9 amended

(1) Delete rule 9(1) and (2) and insert:

(1) Every document in relation to a proceeding must be lodged with the Arbitration Service using the EDS unless —

- (a) the person lodging the document is EDS exempt in relation to the proceeding; or
- (b) the EDS is unavailable at the time of lodging.

(2) Subject to subrule (5), a person who is EDS exempt in relation to a proceeding may lodge a document in relation to the proceeding with the Arbitration Service in the following manner —

- (a) by presenting it at the office of the Arbitration Service when the office is open for business; or
- (b) by sending it to the office of the Arbitration Service by pre-paid post; or
- (c) by sending it to the Arbitration Service by email in accordance with rule 10; or
- (d) by using the EDS.

(2A) While the EDS is unavailable for use a document may be lodged in the manner referred to in subrule (2)(a), (b) or (c).

(2) In rule 9(3) delete “by fax or through the Internet” and insert:

by email or by using the EDS

(3) After rule 9(4) insert:

(5) The Registrar may require a person who is EDS exempt in relation to a proceeding to lodge a document in relation to the proceeding in the manner directed by the Registrar.

10. Rules 10 and 11 replaced

Delete rules 10 and 11 and insert:

10. Lodging by email

- (1) The Registrar may —
 - (a) approve and publish an email address for the lodgment of documents under this rule; and
 - (b) determine and publish requirements as to the permissible format and the maximum size of documents that may be lodged under this rule.
- (2) An email by which documents are lodged under this rule must —
 - (a) state the sender's name; and
 - (b) state a telephone number by which the sender can be contacted; and
 - (c) list and describe the documents being lodged by the email.
- (3) Documents lodged under this rule must comply with any published requirements as to form and size.
- (4) A person who lodges a document by email under this rule must —
 - (a) endorse the first page of the original document with —
 - (i) a statement that the document is the original of a document sent to the Arbitration Service by email; and
 - (ii) the date and time the document was sent by email;and
 - (b) keep the endorsed original document for the duration of any proceeding to which the document relates; and
 - (c) if directed to do so by an arbitrator, produce the endorsed original document to the arbitrator.

11. Notification by Registrar or arbitrator through EDS

- (1) A requirement for the Registrar or an arbitrator to notify a person, or give them a copy of a document, in relation to a proceeding is satisfied, on a day, if —
 - (a) the person is not EDS exempt in relation to the proceeding; and

- (b) the notice or document becomes accessible using the EDS to the person before 5.00 p.m. on that day; and
 - (c) electronic notification that the notice or document is accessible is sent to the person before 5.00 p.m. on that day.
- (2) In subrule (1) —
electronic notification, in relation to a person, includes notification by an email sent to an email address provided by the person.
- (3) This rule does not apply to the requirements of service in rule 54(2) and (3).

11. Rule 12 amended

In rule 12:

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

working

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

working

12. Rule 16 amended

In rule 16(1)(d):

- (a) delete “a fax number” and insert:

an email address

- (b) delete “by fax to that number.” and insert:

as an attachment to an email sent to that email address.

13. Rule 17 amended

- (1) In rule 17(1)(b) delete “one fax number” and insert:

an email address

- (2) Delete rule 17(2)(b)(i) and insert:

- (i) an email address;

- (3) In rule 17(4):
- (a) delete “a fax number of a person,” and insert:

an email address of a person under this rule,
 - (b) delete “by fax at that fax number.” and insert:

as attachments to emails sent to that email address.

14. Rule 19 replaced

Delete rule 19 and insert:

19. Service by email

- (1) An email by which documents are served must —
 - (a) state the sender’s name; and
 - (b) state a telephone number by which the sender can be contacted; and
 - (c) list and describe the documents being served by the email.
- (2) A person who serves a document by email must —
 - (a) endorse the first page of the original document with —
 - (i) a statement that the document is the original of a document sent by email; and
 - (ii) the date and time the document was sent by email;and
 - (b) keep the endorsed original document for the duration of any proceeding to which the document relates; and
 - (c) if directed to do so by an arbitrator, produce the endorsed original document to the arbitrator.

15. Rule 20 amended

In rule 20(2) delete “fax” and insert:

email

16. Rule 59 amended

Delete rule 59(3).

17. Rule 67 amended

In rule 67(2)(b) delete “concerned and the employer of the worker a list of” and insert:

concerned, and the employer of the worker, written notice that lists

18. Rule 68 amended

In rule 68(3) delete “filed” and insert:

lodged

19. Rule 72 amended

In rule 72(2)(b) delete “concerned and the employer of the worker a list of” and insert:

concerned, and the employer of the worker, written notice that lists

20. Rule 73 amended

In rule 73(3) delete “filed” and insert:

lodged

W. JOHNSTON, Minister for Industrial Relations.
