

Serial Number 1952/115



## THE WORKERS' COMPENSATION RULES 1939, AMENDMENT NO. 1

FREYBERG, Governor-General  
ORDER IN COUNCIL

At the Government Buildings at Wellington, this 16th day of June 1952

Present:

THE RIGHT HON. S. G. HOLLAND PRESIDING IN COUNCIL

PURSUANT to the Workers' Compensation Act 1922 and the Crown Proceedings Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes by way of regulations the following rules.

### RULES

1. These rules may be cited as the Workers' Compensation Rules 1939, Amendment No. 1, and shall be read together with and deemed part of the Workers' Compensation Rules 1939\* (hereinafter referred to as the principal rules).

#### PART I—CROWN PROCEEDINGS

##### *Writ of Summons*

2. Rule 1 of Chapter II of the principal rules is hereby amended by adding the following proviso:—

“Provided that where the action is against the Crown the time to be stated in the writ as the time within which the defendant is required to file his statement of defence shall be twenty-eight days.”

##### *Service of Writ*

3. Chapter III of the principal rules is hereby amended by inserting, after rule 17, the following rule:—

“17A. In any action against the Crown that is instituted against the Attorney-General, and in any action to which the Crown is joined by joining the Attorney-General as a party or third party, rules 1 and 3 of this Chapter shall not apply in connection with service on the Attorney-General and rule 2 shall have effect subject to section 16 of the Crown Proceedings Act 1950.”

##### *Place of Commencement of Action*

4. Rule 1 of Chapter IV of the principal rules is hereby amended by inserting, after the words “the same industrial district”, the words “or if the Crown is a party to the action”.

\* Statutory Regulations 1939, Serial number 1939/8, page 13.

Amended: Statutory Regulations 1940, Serial number 1940/38, page 83.

*Parties to an Action*

**5.** Chapter V of the principal rules is hereby amended by adding the following rule:—

“21. In respect of actions against the Crown, Chapter V of these rules shall have effect subject to section 14 of the Crown Proceedings Act 1950.”

*Statements of Claim*

**6.** Chapter VI of the principal rules is hereby amended by inserting, after rule 5, the following rule:—

“5A. Statements of claim in actions against the Crown that are instituted against the Attorney-General shall give, in addition to the particulars required by the foregoing provisions of this Chapter, particulars of the Government Departments and officers of the Crown concerned.”

*Discovery*

**7.** Rule 1 of Chapter IX of the principal rules is hereby amended by adding the words “If an order directing the Crown to make discovery is made in any action, the order shall direct by what officer of the Crown the affidavit in compliance with the order shall be made.”

**8.** Chapter IX of the principal rules is hereby amended by inserting, after rule 5, the following rule:—

“5A. An order directing the Crown to make discovery under these rules shall be construed as not requiring disclosure of the existence of any document if, in the opinion of a Minister of the Crown, it would be injurious to the public interest to disclose the existence of the document.”

**9.** Chapter IX of the principal rules is hereby amended by inserting, after rule 21, the following rule:—

“21A. If, in any action to which the Crown is a party or third party, an order is made requiring the Crown to answer interrogatories, the order shall direct by what officer of the Crown the interrogatories are to be answered.”

**10.** Chapter XI of the principal rules is hereby amended by adding the following rule:—

“11. Judgment in default of pleading or appearance shall not be entered against the Crown in any action except by leave of the Court or a Judge obtained upon notice of motion served not less than seven days before the day specified in the notice for hearing the motion.”

*Third Party Notices*

**11.** Rule 4 of Chapter XII of the principal rules is hereby amended by adding the words “and (where the notice is served on the Crown) give the Crown reasonable particulars of the circumstances in which it is alleged that the liability of the Crown has arisen and of the Government Departments and officers of the Crown concerned”.

*Enforcement of Judgments and Orders*

**12.** Chapter XIII of the principal rules is hereby amended by adding the following rule:—

“6. Notwithstanding anything in these rules, satisfaction by the Crown, or by the Attorney-General, or by any Government Department or officer of the Crown, of any judgment, order, or declaration made pursuant to the Workers' Compensation Act 1922 shall not be enforced in any manner other than that provided in section twenty-four of the Crown Proceedings Act 1950.”

*Revocations*

**13.** Chapter XV of the principal rules, and forms 18 and 19 of the Second Schedule to the principal rules, are hereby revoked.

*Savings*

**14.** (1) Where, before the commencement of these rules and after the commencement of the Crown Proceedings Act 1950, any proceedings under the Workers' Compensation Act 1922 have been commenced against the Crown (whether by writ of summons or petition of right) and those proceedings are pending or in progress at the commencement of these rules, the proceedings may be continued and completed in accordance with the principal rules as amended by these rules, and all defects and errors in the proceedings may (where necessary) be amended accordingly:

Provided that nothing in these rules shall invalidate any act or thing done in or in connection with any such proceedings before the commencement of these rules.

(2) Where, before the commencement of the Crown Proceedings Act 1950, any proceedings under the Workers' Compensation Act 1922 has been commenced against the Crown and those proceedings are pending or in progress at the commencement of these rules, the proceedings may be continued and completed as if that Act had not been passed and these rules had not been made.

## PART II—MISCELLANEOUS

**15.** Rule 3 of Chapter VI of the principal rules is hereby amended by inserting, after the word "action", the words "and the section, subsection, and paragraph or the sections, subsections, and paragraphs of the Act under which the plaintiff claims that the compensation sought should be measured".

T. J. SHERRARD,  
Clerk of the Executive Council.

## EXPLANATORY NOTE

[*This note is not part of the rules, but is intended to indicate their general effect.*]

These rules make such modifications of the Workers' Compensation Rules 1939 as are necessary in view of the Crown Proceedings Act 1950 for the purposes of actions involving the Crown. They also require that statements of claim shall show explicitly in all cases the provision of the Act under which the plaintiff claims that compensation should be measured.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 19 June 1952.

These regulations are administered in the Department of Labour and Employment.