



**Personal Injury
Commission**

Rule Committee of the Personal Injury Commission

RESOLUTION #1 of 2025

Pursuant to section 19(7) of the Personal Injury Commission Act 2020

On 30 January 2025, the Rule Committee of the Personal Injury Commission of New South Wales (Committee) resolved unanimously by 11 members voting (with 2 members absent) as follows:

1. To instruct the Parliamentary Counsel's Office (PCO) in accordance with the proposed rule changes in Annexure A to support the operations of the Police Officer Support Scheme Division within the Personal Injury Commission.

The President voted for the resolution set out above.

Annexure:

- A. Table – Proposed rule changes to the Personal Injury Commission Rules 2021

Dated 30 January 2025

BY THE RULE COMMITTEE

Annexure A

Police Officer Support Scheme Division

Proposed Rule Changes to the Personal Injury Commission Rules 2021

Item	Rule(s)	Proposed amendment
Part 1 – Introduction		
1.	1 – 4 (Name, Commencement, Objects and definitions)	Nil amendments recommended (note, definitions are added under “Dictionary”).
Part 2 – Application: Rules which outline the application of the Rules		
2.	5 – 10 (Proceedings to which rules apply, Dispensing with requirements, Directions where circumstances are not covered, Irregularities, Procedural orders and Relationship between rules and PDs)	Nil amendments recommended. Note: under r 5 proceedings in the POSS Division are captured as “applicable proceedings” to which the Rules apply, as they are either “Commission proceedings”, “Medical assessment proceedings” or “panel review proceedings”)
Part 3 – Administration: Rules which govern the filing and lodgement of applications in the Commission, including the functions of the Registry, delegations and use of ECM systems.		
3.	11 – 15 (Registry, Commission Seal, Delegations, Use of ECM system)	Nil amendments recommended. This Part applies to “applicable proceedings” in the POSS Division.
Part 4 – Documents		
Division 4.1 – Forms and documents: Rules which govern forms and documents lodged with or served on the Commission		
4.	16 – 18 (Approval of forms, form, content and language of documents)	Nil amendments recommended. This Division applies to “applicable proceedings” in the POSS Division.
Division 4.2 – Amendment of documents: Rules which govern the amendment of documents lodged in the Commission.		

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5.	19 – 22 (Leave to amend, application for amendment, minor or agreed amendments, directions giving leave to amend)	Nil amendments recommended. This Division applies to “applicable proceedings” in the POSS Division.
Division 4.3 – Lodgement of documents: Rules which govern the lodgement of documents with the Commission, through ECM and other means		
6.	23, 25 – 26 (Lodgement of documents with Registry, issue of documents by ECM, lodging of statutory declarations by ECM, when documents are taken to be received and served)	Nil amendments recommended. These rules apply to “applicable proceedings” in the POSS Division.
7.	24 (Lodgement of documents by ECM System)	<p>Amendment recommended for rule 24(2) to accommodate POSS proceedings. Rule 24 governs the lodgement of documents by an ECM system. Rule 24(2)(b) allows a name on an ECM system to be taken as the required certification for appeals under s 327 or 352 of the <i>Workplace Injury Management and Workers Compensation Act 1998 (the WIM Act)</i>. The requirement to certify appeals under the WIM Act is replicated in s 199I(17) of the <i>Police Act 1990</i> and cl 135ZB(8) of the <i>Police Regulation 2015</i>. Accordingly, a similar certification provision to r 24(2)(b) is recommended for appeals against medical assessments or members, lodged under POSS legislation.</p> <p><u>Rule 24</u></p> <p>“ ...</p> <p><i>(2) A document lodged by means of an ECM system that is required to be signed by a person is, if the person’s name is printed where the person’s signature would otherwise appear on the document, taken—</i></p> <p style="padding-left: 40px;"><i>(a) to have been duly signed, and</i></p>

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		<i>(b) for appeals allocated to the Workers Compensation Division to which section 327 or 352 of the 1998 Act apply—to have been duly certified for the purposes of sections 327(8) and 352(7A) of the 1998 Act.”</i>
Division 4.4 – Service of documents: Rules which govern service of documents		
8.	27 – 31 (Address for service, service between parties, sealed copies, substituted service, service outside Australia)	Nil amendments recommended. These rules apply to “applicable proceedings” in the POSS Division.
Part 5 - Evidence		
Division 5.1 – General: Rules for recordings, films and electronic documents, the calling of witnesses, expert witnesses, and the use of interpreters.		
9.	33 – 36 (Production of recordings, films and electronic documents, calling witnesses, expert witnesses, use of interpreters)	Nil amendments recommended. This Division applies to “applicable proceedings” in the POSS Division.
Division 5.2 – Notices for production: Rules for Notices for Production issued in workers compensation proceedings under s 290 of the WIM Act		
10.	37 - 42 (Application of Division, Definitions, Notice for Production, time for service and production, compliance with notice for production, conduct money)	Amendments are recommended to Division 5.2 so it extends to POSS Proceedings. Division 5.2 applies to Notices for Production issued under s 290 of the WIM Act. This section was replicated in cl 135T of the Police Regulation, which provides that “when a dispute is referred for determination by the Commission, each party to the dispute must provide to the other party and to the President, as and when required to do so by the Commission rules, such information and documents as the rules require.” The rules in Div 5.2 as applicable to workers compensation proceedings should therefore also be applicable to POSS proceedings. The following amendments are recommended:

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		<ul style="list-style-type: none"> a. Rule 37 ‘Application’ to be amended to so Division 5.2 applies to “police officer support scheme proceedings to which cl 135T of the Police Regulation 2015 applies.” b. Rule 38 ‘Definitions’ to be amended at 38(2)(a) to extend the definition of a “document” that must be provided under enabling legislation to a requesting party to include those produced by a “police officer” or “Police Commissioner”. Note, the enabling Police Regulation 2015 provides power to seek documents under cll 135T, 135L and 135ZL. c. Rules 39 – 40 which govern the content, time for service and production should not require any amendment <i>if</i> rule 37 is amended to stipulate that Division 5.2 applies to POSS proceedings under cl 135T. d. Rule 42 ‘Conduct money with notice for production’ should not require any amendment if rule 37 is amended to stipulate that Division 5.2 applies to POSS proceedings under cl 135T.
Division 5.3 – Directions for production: Rules which govern Directions for Production issued under s 49 of the PIC Act		
11.	43 – 46 (Definitions, Exercise of functions of President, Production of Commission record of proceedings, Request for direction for production)	<p>Nil amendments recommended as these rules are applicable to POSS proceedings.</p> <p>The power of the Commission to request information and issue Directions for Production under s 49 of the PIC Act extends to POSS proceedings. The associated rules under this Division, subject to minor amendment, therefore apply. Under r 46, a party may make request to non-Presidential member of the POSS Division for a direction under s 49 PIC Act.</p>
12.	47 (Direction for production – non-presidential member may refuse, restrictions on issuance of direction)	<p>Amendment may be considered for Rule 47(2), but the rule otherwise is applicable to proceedings in the POSS Division. Rule 47 governs when a direction for production may be issued by the Commission and rule 47(2) restricts the issuing of a direction for production if the “<i>party who requested the issue of the direction is entitled to be provided with the documents, or copies of the documents,</i></p>

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		<p><i>under...</i>” obligations imposed by workers compensation and motor accidents legislation.</p> <p>There are similar obligations imposed on police officers, and third parties to provide documents under cll 135T, 135V, 135L, and 135ZL of the Police Regulation 2015. Consideration should be given to referring to these obligations for POSS proceedings.</p>
13.	48 (Service of Direction for production)	Nil amendment recommended as this rule applies to Commission proceedings in the POSS Division.
14.	50 – 54 (Objection to direction for production, objection after production, inspection and return of produced documents, conduct money, exemption from production)	Nil amendment recommended. These rules are applicable to POSS proceedings.
Division 5.4 – Summonses: Rules which govern the summonses in the Commission under s 51 of the PIC Act.		
15.	55 – 58 (Definition, Issue and service of summons, variation of summons, conduct money)	Nil amendment recommended as this Division applies to proceedings in the POSS Division. The power to issue summonses under s 51 of the PIC Act also applies to the POSS Division.
Part 6 – Representation and parties: Rules which govern the requirements for legal representation in Commission proceedings		
16.	59 – 61 (Exercise of functions under Part, Notice of representation, including of a change, representation of insurer in certain workers compensation proceedings)	Nil amendment recommended. Rules 59 – 60 rules are applicable to proceedings in the POSS Division. Rule 61 is relevant to workers compensation proceedings and provides exceptions to the leave requirements regarding legal representation in when a worker is self-represented (under s 48(3) and (4) of the PIC Act).
17.	62 – 64 (Orders concerning joinder, service of documents concerning joinder and replies, consolidating or splitting proceedings)	Nil amendment recommended. These rules apply to “applicable proceedings” in the POSS Division.

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		<p>Note: Rule 64(2)(b) allows an appropriate decision-maker to order that proceedings are to be dealt with concurrently, which will allow the streamlining of Workers Compensation and POSS Division proceedings when they are lodged together. For example, subrule (4) allows for evidence in evidence in one proceeding to be evidence in another proceeding. Subrule (5) provides decision-maker the power to make an order under the rule by their own motion or on application of the party.</p>
<p>Part 7 – Commencement of applicable proceedings, Division 1 (Preliminary), Division 2 (Documents) and Division 3 (Miscellaneous): Rules concerning the form of applications and documents, the 500-page rule (r 67), additional documents, schedule of earnings, time, agreed facts and issues, and consent orders</p>		
18.	<p><u>65 – 71 (Exercise of functions under Part, Application to commence applicable proceedings, Rule 67 documents lodged under division – pagination, indexation etc, introduction of evidence, documents lodged with application or reply, additional documents, including service and lodgement, appropriate decision—maker’s power to direct or not consider a document, schedule of earnings, fixing of time, statement of agreed facts and issues, consent orders)</u></p>	<p>Nil amendment recommended. This Part applies to “applicable proceedings” in the POSS Division. This includes the new rule 67 and 67A (500-page rule).</p>
<p>Part 8 – Conduct of applicable proceedings generally: Rules which govern the conduct of applicable proceedings, including the guiding principles, measures to assist parties, discontinuance of proceedings and dismissals</p>		
19.	<p><u>72 –76 (Guiding principles, measures to assist parties, expedition and discontinuance)</u></p>	<p>Nil amendment recommended. These rules apply to “applicable proceedings” in the POSS Division.</p>

Item	Rule(s)	Proposed amendment
20.	77 (Dismissal of proceedings)	<p>Amendment to r 77 is recommended to apply to POSS proceedings. Rule 77 provides the “other grounds” for dismissal under s 54(c) of the PIC Act, in respect of workers compensation or motor accidents proceedings.</p> <p>A rule is required for “other grounds” for dismissal of POSS proceedings. It is recommended that these “other grounds” replicate r 77(a) in respect of WC proceedings to ensure POSS proceedings are streamlined:</p> <p>“77 Dismissal of proceedings</p> <p><i>The following grounds are specified for section 54(c) of the PIC Act—</i></p> <p><i>(a) for proceedings by an application made under the workers compensation legislation—the applicant has failed to prosecute the proceedings with due despatch</i></p> <p><i>(b) ...”</i></p>
21.	78 (Statement of reasons for decision)	Nil amendment recommended. This rule applies to commission proceedings in the POSS Division.
Part 9: Workers compensation proceedings		
Division 9.1 – Commencement of workers compensation proceedings		
22.	79 (Workers compensation proceedings for expedited assessment)	Nil amendment recommended. This rule is not applicable to POSS proceedings.
23.	80 (Application to resolve a dispute other than for expedited assessment)	<p>A new rule is required which replicates the requirements of r 80 to apply to applications made in POSS proceedings. This rule includes service and filing timeframes for applications and replies.</p> <p><u>Rule 80:</u></p> <p>80 Application to resolve dispute other than for expedited assessment</p>

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		<p><i>(1) This rule applies to workers compensation proceedings other than for expedited assessment under the 1998 Act.</i></p> <p><i>(2) The President is not to accept a dispute for referral for determination by the Commission unless—</i></p> <p><i>(a) the dispute application is accompanied by a certificate signed by the applicant, or the applicant’s Australian legal practitioner or agent, stating the dispute is not prevented from being referred for determination by the Commission by the operation of a provision of Chapter 7, Part 4 of the 1998 Act, and</i></p> <p><i>(b) the President is satisfied that the dispute is not prevented from being referred.</i></p> <p><i>(3) The applicant must, within 7 days of registration of the application, serve a sealed copy of the application on the respondent and the other parties.</i></p> <p><i>(4) The respondent must, within 21 days of registration of the application, lodge a reply to the application and serve a sealed copy of the reply on the applicant and the other parties.</i></p> <p>...</p> <p><i>(6) Proceedings against the respondent are taken to be struck out and no further step may be taken in the proceedings, unless the proceedings are restored, if—</i></p> <p><i>(a) a respondent has not lodged a reply in accordance with this rule, and</i></p> <p><i>(b) the applicant has not lodged a certificate of service certifying service of the application on the respondent in accordance with these Rules.</i></p>
24.	81 (Joinder of persons for applications concerning death of worker)	Nil amendment recommended, not applicable to POSS Division.
25.	82 (Registration of commutation agreements)	Nil amendment recommended. These rules only apply to WC proceedings. Commutations do not apply to the POSS division.

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26.	83 – 85 (WC threshold disputes, defective pre-filing statements, and directions for access to information for WID)	Nil amendment recommended. These rules apply only to WC proceedings and do not apply to the POSS Division.
Division 9.2 Pre-filing statements and mediation		
27.	86 – 90 (Pre-filing statements, defences and mediations)	Nil amendment recommended. These rules apply only to work injury damages matters in WC proceedings and are not applicable to the POSS Division.
Division 9.3 – Persons under legal incapacity		
28.	91 (Proceedings for WID involving a person under legal incapacity)	Nil amendment recommended. This rule only applies to WID proceedings.
Part 10 – Motor accident proceedings, Divisions 10.2 and 10.3: Rules which govern motor accidents proceedings under the MAC Act and MAI Act		
29.	92 – 101	Nil amendment recommended. These rules apply only to MA proceedings and do not apply to POSS proceedings.
Part 11 – Medical assessment proceedings		
Division 11.1 – Commencement of medical assessment proceedings		
30.	102-105 (Application for assessment of treatment, dispute, impairment, medical dispute and further assessment)	Nil amendment recommended. These rules relate to medical assessment proceedings in the MA Division.
31.	106 (Service and replies)	Nil amendment recommended. Rule 106(1) and (2) regarding the timing of service of an application and reply applies to medical assessment proceedings in the POSS Division.

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Division 11.2 – Conduct of medical assessment proceedings: Rules which govern the conduct and procedure for medical assessments, surveillance recordings, entitlement to a support person, multiple assessments of impairment, incomplete certificates (MA), recording of medical assessments		
32.	107 – 113	Nil amendment recommended. The rules apply to medical assessment proceedings in the POSS Division unless expressly indicated to apply to the MA Division.
Part 12 – Merit review proceedings: Rules which govern the practice and procedure of Merit Review proceedings in the MA Division		
33.	114 – 118	Nil amendment recommended. These rules apply only to the MA Division, as there is no avenue for Merit Review in POSS proceedings.
Part 13 – Appeals and reviews		
Division 13.1 – Referral of questions of law to Commission: Rules which apply to applications made under s 351 of the WIM Act		
34.	119-121 (Application and referral of questions of law)	Nil amendment recommended required. These rules only apply to the WC Division and do not apply to POSS proceedings.
Division 13.2 – Workers compensation dispute appeals to Commission: Rules regarding the practice and procedure for appeals to Presidential Members		
35.	Rules 122 – 126	<p>This Division is to be replicated for POSS proceedings.</p> <p>Division 13.2 applies to appeals to Presidential members under s 352 of the WIM Act. Section 352 was replicated in s 199I of the <i>Police Act 1990</i>. It is recommended that the rules in Div 13.2 governing appeals are applicable to appeals to Presidential members in POSS proceedings.</p> <p>The following amendments are recommended:</p> <ol style="list-style-type: none"> a. Rule 122 ‘Application of Division’ to be amended or replicated so the Division applies to an appeal under “<i>section 199I of the Police Act 1990 (a police officer support scheme dispute appeal) against a decision of a</i>

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		<p><i>non-presidential member about a dispute in connection with a claim under the Police Officer Support Scheme.”</i></p> <p>b. Rule 123 ‘Application for workers compensation dispute appeal’ which provides the form and content of an application (including attachment of the COD, details of the grounds, the amount of compensation, timeframes, new evidence, chronology and service), to amended or replicated for an appeal in the POSS proceedings. Any references to s 352 to reflect the relevant subsection of 199I of the <i>Police Act 1990</i>, and any references to the “COD” to refer to cl 135U(1) of the Police Regulation 2015.</p> <p>c. Rule 124 ‘Notice of Opposition’ requiring opposition to be filed within 28 days is to be replicated for POSS proceedings or amended to apply to POSS proceedings. Any references to s 352 to reflect the relevant subsection of 199I of the <i>Police Act 1990</i>.</p> <p>d. Rule 125 ‘Notice of contention or Reply’ allowing the respondent to file a notice of contention, and the appellant to file a reply to the contention or opposition within 14 days should be replicated for POSS proceedings, or amended to apply to POSS proceedings.</p> <p>e. Rule 126 ‘Non-compliance with procedural requirements’ allowing directions to be issued to rectify procedural non-compliance should be replicated or amended to apply to appeals made in POSS proceedings.</p>
Division 13.3 Panel review proceedings: Rules which govern the conduct, application, filing and timetable of review panel proceedings		
36.	127-128 (Application of Part 5 of the PIC Act to panel review proceedings, and conduct of panel review proceedings)	Nil amendment required. These rules apply to medical appeals lodged against medical assessments in the POSS Division, under Subdivision 3, cl 135ZB of the Police Regulation.
37.	129 (Applications for appeals and reviews - timetable and service)	Amendment recommended to r 129(1) to stipulate application of rule 129 to “an application against a medical assessment under cl 135ZB of the Police Regulation 2015”. This will ensure that r 129, which stipulates service of the application, and

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		lodgement and service of a reply within 21 days is consistent for the POSS Division.
38.	130 (Certificate of determination under MAI Act)	Nil amendment recommended. This rule does not apply to POSS proceedings.
Part 14 – Miscellaneous		
39.	131 and 132 (Publication of decisions and de-identification of decisions)	Nil amendment required. The statutory mandate to publish decision details under s 58 of the PIC Act applies to Commission decisions made in the POSS Division. The rules governing this under r 131, including de-identification and redaction under r 132 also apply to publishable decisions issued in the POSS Division.
40.	133 (Certificate as to an amount ordered to paid)	<p>This rule is applicable to POSS proceedings and applies to parties seeking to have an amount certified by the Principal Registrar. It requires submission of a statutory declaration and verifying statement of a number of matters, including “<i>whether the dispute is the subject of appeal under section 352 or 353 of the 1998 Act</i>”.</p> <p>A minor amendment may be considered to require a party to POSS proceedings to verify “whether the dispute is subject of appeal under s 199I or 199J of the <i>Police Act 1990</i>” (being the respective appeal provisions).</p>
41.	133A (Extension of time for making certain applications)	<p>Amendment recommended to rule 133A to apply to Presidential appeals made in POSS proceedings.</p> <p>Rule 133A specifies the procedure and circumstances which must exist for determining a period of time longer than the statutory time to make a “relevant application”, including appeals. The current appeal period for presidential appeals under s 199I of the <i>Police Act 1990</i> is 28 days.</p> <p>It is recommended that rule 133A(1) is amended, to extend the definition of “relevant application” to include “an application under the <i>Police Act 1990</i>, section 199I”. It is also recommended that r 133A(4) is amended to allow the <i>decision-maker</i> to determine an extension application to include a presidential</p>

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		member. This will ensure the requirements for an extension application are harmonised with Presidential appeals made under s 352 of the WIM Act.
42.	134 (Savings)	Nil amendment required. This Rule is only applicable to the transitional provisions for the Workers Compensation Commission Rules 2011.
Dictionary		
	Definitions for terms referred to in the Rules.	Dictionary to be amended to provide definitions relevant to POSS proceedings, pending PCO feedback, including: <ul style="list-style-type: none"> • <i>Police officer support scheme proceedings - means Commission proceedings allocated to the Police Officer Support Scheme Division of the Commission</i> • <i>Police officer support scheme dispute appeal – see relevant rule</i>

Other rules considered

Pending confirmation of the meaning of ‘Authority’, the Rule Committee has agreed to consider amendment to the following rules (but will not amend until such time as confirmed):

1. Rule 32 – Services of documents on Authority
2. Rule 41 – Compliance with notice for production
3. Rule 49 - Compliance with direction for production
4. Dictionary – definition of ‘Authority’