

Registrar's Interim Guideline

Requests for Directions for Production, other than at a teleconference fixed in proceedings

INTRODUCTION

The *Workers Compensation Legislation Amendment Act 2012*, commencing in part on 19 June 2012, introduced major changes to the benefit entitlements for injured workers and legal costs provisions. The amendments prompted a significant increase in applications lodged in the Workers Compensation Commission (the Commission), resulting in substantial delays in the initial listing of matters for a teleconference before an Arbitrator and consequential delays in the final resolution of disputes.

To assist in minimising the current delays, this guideline sets out an interim procedure for the issue of directions for production in disputes lodged in the Commission, where a teleconference is scheduled but yet to be held. It should be considered in the context of the Commission's objectives, and in particular, the duty to provide for a just, timely and effective dispute resolution service.

The interim procedure applies to requests for directions for production to issue prior to a teleconference, where consent is obtained from the non-requesting party. Contested requests for directions for production will be determined at the initial teleconference fixed in proceedings.

This guideline is effective from 26 November 2012 to 28 February 2013.

POWER TO ISSUE DIRECTIONS TO PRODUCE

Section 357 of the *Workplace Injury Management and Workers Compensation Act 1998* (the 1998 Act) provides for the issue of a direction to a person (whether or not the person is a party to the proceedings) requiring that person to produce documents or furnish information to the Commission.

Practice Direction 7 sets out the practice and procedure of the Commission in relation to the issuing of directions for production following an order issued by an Arbitrator. Rule 13.4(1) of the *Workers Compensation Commission Rules 2011* provides that an order for a direction for production will only be issued at, or after, a teleconference fixed in proceedings. For the purposes of this guideline, the Commission may dispense with that Rule, to enable the issue of directions for production, by consent, prior to the teleconference.

REQUESTS TO ISSUE DIRECTIONS FOR PRODUCTION PRIOR TO A TELECONFERENCE

There is no specific form to request issue of directions for production prior to a teleconference.

Applications, by way of letter at least six weeks prior to the scheduled teleconference, must include the following information:

- The matter that is the subject of the request;
- The date and time scheduled for teleconference;
- The name/s of the producer;

- The reasons for seeking the direction for production, including information regarding any previous attempts to obtain the documents
- Evidence of consent from the other party/ies to issue the direction for production.

The application should attach the engrossed Direction/s for Production (Form 8), completed in accordance with the Guide to completing Form 8 and be served on the other parties with a copy the completed form/s.

Where the Commission declines to issue the direction for production, the parties will be advised.

SERVICE OF DIRECTION FOR PRODUCTION OUTSIDE THE STATE OF NEW SOUTH WALES

The procedure, as set out in Practice Direction 7, continues to apply in respect to requests for Directions for Production outside the State of New South Wales and will require completion of a Form 8A and SEPA Notice.

Sian Leathem

23 November 2012

Registrar