



Personal Injury
Commission

Rule Committee of the Personal Injury Commission

RESOLUTION #1 of 2024

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

On 10 April 2024, the Rule Committee of the Personal Injury Commission of New South Wales (**Committee**) resolved unanimously by the 10 members present (with 1 member absent) as follows:

1. To approve the latest Parliamentary Counsel Office draft of amendments to Rule 67 of the Personal Injury Commission Rules 2021 (**Rules**) and to make the rule as set out in Annexure A.

The President voted for the resolution set out above.

Annexure:

- A. Draft Personal Injury Commission (Amendment No 3) Rule 2024

Dated 10 April 2024

BY THE RULE COMMITTEE



New South Wales

Personal Injury Commission (Amendment No 3) Rule 2024

under the

Personal Injury Commission Act 2020

The Personal Injury Commission Rule Committee has made the following rule of court under the *Personal Injury Commission Act 2020*.

JANET WAGSTAFF
Secretary of the Rule Committee

Explanatory note

The object of this rule is to amend the *Personal Injury Commission Rules 2021* in relation to the introduction of documents in applicable proceedings.

Personal Injury Commission (Amendment No 3) Rule 2024

under the

Personal Injury Commission Act 2020

1 Name of rule

This rule is the *Personal Injury Commission (Amendment No 3) Rule 2024*.

2 Commencement

This rule commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Personal Injury Commission Rules 2021

[1] Rules 19(4), 33(3) and (4)(b), 34(1) and (3)(a), 68(3) and 100(3)

Omit “rule 67” wherever occurring. Insert instead “Part 7, Division 2”.

[2] Part 7, Division 1

Insert before rule 65—

Division 1 Preliminary

[3] Part 7, Divisions 2 and 3

Omit rule 67. Insert instead—

Division 2 Documents in applicable proceedings

67 Documents lodged under division

- (1) A document or bundle of documents must not be lodged under this division unless the document or bundle—
 - (a) has consecutively numbered pages, and
 - (b) does not contain a document or part of a document that—
 - (i) has previously been lodged in the applicable proceedings, or
 - (ii) is included more than once in the document or bundle of documents, and
 - (c) is indexed and sorted by document category.
- (2) A party may not introduce evidence that has not been—
 - (a) lodged and served as required by this division, or
 - (b) provided to another party as required by enabling legislation or these rules.
- (3) A document is taken to be served on each other party to proceedings if lodged and served in accordance with Divisions 4.3 and 4.4.

67A Documents lodged with application or reply

- (1) A party to applicable proceedings must lodge and serve on the other parties, with an application to commence proceedings or a reply to an application, the following—
 - (a) each document on which the party proposes to rely, if the document—
 - (i) relates to the resolution of the real issues in the proceedings, and
 - (ii) has not already been lodged,
 - (b) the documents that are required to be lodged with the application or reply by—
 - (i) the approved form for the application or reply, or
 - (ii) these rules, or
 - (iii) the procedural directions.
- (2) The document must be served on each other party to the proceedings as soon as practicable.

67B Only 500 pages permitted to be lodged under rule 67A

- (1) A party must not lodge a document or bundle of documents under rule 67A that has more than 500 pages.
- (2) This rule does not apply to the following—
 - (a) motor accident proceedings if the proceedings are—
 - (i) medical review panel proceedings under rule 5(7), the MAC Act, section 63 or the MAI Act, section 7.26, or
 - (ii) merit review panel proceedings under rule 5(7) or the MAI Act, section 7.15, or
 - (iii) merit review proceedings under rule 5(6) or the MAI Act, section 7.12, or
 - (iv) settlement approvals under rule 95 or the MAI Act, section 6.23(2)(b),
 - (b) workers compensation proceedings if the proceedings are—
 - (i) expedited assessment proceedings under rule 79 or the 1998 Act, Chapter 7, Part 5, or
 - (ii) medical appeal panel proceedings under rule 5(7) or the 1998 Act, section 327, or
 - (iii) presidential proceedings under the 1998 Act, section 351 or 352, or
 - (iv) work injury damages, and related, proceedings including—
 - (A) mediation proceedings under rule 5(4) or the 1998 Act, Chapter 7, Part 6, or
 - (B) an application to cure a defective pre-filing statement under the 1998 Act, section 317(2), or
 - (C) an application to strike out a pre-filing statement under the 1987 Act, section 151DA.

67C Additional documents

- (1) A party who wishes to introduce an additional document in applicable proceedings must—
 - (a) serve the document on each other party to the proceedings as soon as practicable after becoming aware of or obtaining possession or control of the document, and
 - (b) lodge the document in the approved form—
 - (i) for medical assessment proceedings—no later than 14 days before the medical assessment, or
 - (ii) for all other proceedings—no later than 3 working days before the conference or hearing, and
 - (c) lodge additional documents on one occasion only.
- (2) An additional document is automatically introduced in medical assessment proceedings by a party if—
 - (a) the party obtains written consent to the introduction of the document from each other party to the proceedings, and
 - (b) the document is served and lodged in accordance with subrule (1), and
 - (c) the document complies with rule 67(1).

- (3) An additional document may also be introduced in applicable proceedings by a party—
 - (a) if—
 - (i) the party applies to the appropriate decision-maker for leave to introduce the document, and
 - (ii) the document complies with rule 67(1) and is served and lodged in accordance with subrule (1), and
 - (iii) the appropriate decision-maker gives leave, or
 - (b) if the appropriate decision-maker otherwise gives leave on the application of the party.
- (4) The appropriate decision-maker may give leave if satisfied the introduction of the document is necessary to facilitate the just, quick and cost effective resolution of the real issues in the proceedings.
- (5) An additional document must not be introduced for the purpose of a medical assessment after the medical assessment has taken place.
- (6) In this rule—
additional document means a document other than a document lodged under rule 67A.

67D Appropriate decision-maker’s power to direct or not consider a document

- (1) The appropriate decision-maker for proceedings may, at any time after the proceedings are commenced, direct a party to—
 - (a) make oral or written submissions on whether a document facilitates the just, quick and cost effective resolution of the real issues in the proceedings, and
 - (b) remove a document or part of a document that—
 - (i) has previously been lodged in the applicable proceedings, or
 - (ii) is included more than once in the document or bundle of documents.
- (2) The appropriate decision-maker for proceedings is not required to have regard to a document not specifically referred to in submissions made by a party to the proceedings.

Division 3 Miscellaneous

[4] Rule 109 Surveillance recordings

Omit “67(4)” from rule 109(4) wherever occurring. Insert instead “67C”.

[5] Rule 109(4)(b)

Omit “67(1)”. Insert instead “67A”.