



Queensland

# Industrial Relations (Tribunals) Amendment Rule 2021

## Subordinate Legislation 2021 No. 10

made under the

*Industrial Relations Act 2016*

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**1 Short title**

This rule may be cited as the *Industrial Relations (Tribunals) Amendment Rule 2021*.

**2 Commencement**

This rule commences on 1 March 2021.

**3 Rules amended**

This rule amends the *Industrial Relations (Tribunals) Rules 2011*.

**4 Amendment of r 10 (Form of applications)**

Rule 10(2) and (3)—  
*omit.*

**5 Omission of r 11 (Form of affidavit for r 10(2))**

Rule 11—  
*omit.*

**6 Amendment of r 12 (Document starting proceeding, or application in existing proceeding, to state address, telephone and fax number)**

(1) Rule 12, heading, from ‘address’—  
*omit, insert—*

**contact details**

(2) Rule 12(1)—  
*insert—*

(e) the applicant’s email address (if any).

(3) Rule 12(2)(d), ‘and fax number’—  
*omit, insert—*

[s 7]

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, email address and fax number (if any)

(4) Rule 12(3)—

*omit.*

## **7 Amendment of r 13 (General requirements for documents for filing)**

Rule 13—

*insert—*

(3) If an imaged document is to be electronically filed—

(a) the paper form of the document from which the imaged document is created must comply with subrule (1); and

(b) the imaged document must be formatted in a way that would result in the document complying with subrule (1) if a paper copy were made of the imaged document.

(4) If a document, other than an imaged document, is to be electronically filed, the document must be formatted in a way that would result in the document complying with subrule (1) if a paper copy were made of the document.

(5) In this rule—

*imaged document* means a document in electronic form created by scanning or otherwise imaging the document in its paper form.

## **8 Insertion of new r 13A**

After rule 13—

*insert—*

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### **13A Signing of particular documents for filing**

- (1) Unless these rules or a directions order of the court, commission or registrar otherwise requires, a document, other than a written submission or an affidavit or exhibit attached to another document, for filing by a party must be dated and signed by—
  - (a) the party; or
  - (b) if the party has a lawyer or agent—the lawyer or agent.
- (2) A requirement under these rules to sign a document may be satisfied for a document, other than a statutory declaration, in electronic form—
  - (a) if the document is an approved form—by signing in the way required by the approved form; or
  - (b) otherwise—by attaching the person’s signature to the document by electronic means by, or at the direction of, the person required to sign the document.

## **9 Amendment of r 14 (Filing of documents)**

- (1) Rule 14(1)—  
*omit.*
- (2) Rule 14(3)—  
*insert—*
  - (d) a practice direction issued under these rules.
- (3) Rule 14(2) and (3)—  
*renumber* as rule 14(1) and (2).

## **10 Amendment of r 15 (Ways of filing)**

- (1) Rule 15(c), ‘the original document being tendered and’—

[s 11]

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*omit.*

(2) Rule 15, note—

*omit.*

**11 Amendment of r 23 (Determination of amended application)**

(1) Rule 23(2)—

*omit.*

(2) Rule 23(3)—

*renumber* as rule 23(2).

**12 Amendment of r 28 (Service of documents)**

(1) Rule 28(2)—

*omit.*

(2) Rule 28(3) and (4)—

*renumber* as rule 28(2) and (3).

**13 Amendment of r 30 (Service of directions order on party)**

(1) Rule 30(1), from ‘by’—

*omit, insert—*

by any of the following means—

- (a) if the party has given an email address under these rules—emailing the order to the party;
- (b) if the party has given a fax number under these rules—faxing the order to the party;
- (c) posting the order to—
  - (i) the party’s address for service; or
  - (ii) for a party who is an individual who does not have an address for service—

- (A) the party's last known place of business or residence; or
- (B) if the proceeding is brought by or against the party in the name of a partnership—the principal or last known place of business of the partnership; or
- (iii) for a party that is a corporation, organisation or association that does not have an address for service—its head office or its principal or registered office;
- (d) giving the order to the party by an electronic means stated in a practice direction issued under these rules.

(2) Rule 30(2)—

*omit.*

## **14 Omission of rr 36 and 37**

Rules 36 and 37—

*omit.*

## **15 Insertion of new r 38A**

After rule 38—

*insert—*

### **38A Special requirements for service by email**

A document served by email must state the following in the body of the email—

- (a) the sender's name and address;
- (b) the name of the person to be served;
- (c) the date and time of transmission;

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- (d) the total number of pages of the document transmitted, including any cover page attached to the document;
- (e) the email address from which the document is transmitted;
- (f) the name and telephone number of a person to contact if there is a problem with the transmission;
- (g) that the transmission is for service under a stated rule or directions order.

**16 Amendment of r 39 (Special requirements for service by fax)**

- (1) Rule 39(1)(g), after ‘rule’—

*insert—*

or directions order

- (2) Rule 39(2)—

*omit.*

**17 Amendment of r 46 (Duty of disclosure)**

Rule 46(1)(a), after ‘is’—

*insert—*

directly

**18 Amendment of r 53 (Exhibits)**

- (1) Rule 53(2)(b), ‘case’—

*omit, insert—*

file

- (2) Rule 53(2)(c)—

*omit, insert—*

- (c) have a certificate, in the approved form, attached to it, signed by the persons swearing and taking the affidavit, to the effect of the following—

‘This is the (document, object, thing etc.) marked ‘A’ mentioned in the affidavit of A.B. sworn before C.D. this .... day of .... 20..’.

**19 Amendment of r 59 (Requirements for attendance notice to produce)**

Rule 59(b)(i), after ‘not’—

*insert—*

directly

**20 Replacement of r 60 (Inspection of document or thing produced under attendance notice)**

Rule 60—

*omit, insert—*

**60 Inspection of documents or things produced voluntarily or under attendance notice**

- (1) This rule applies in relation to a document or thing produced to the court, commission or registrar, whether produced voluntarily or under an attendance notice.
- (2) The document or thing may be inspected by the court, commission or registrar.
- (3) The registrar may allow a party to the proceeding to inspect the document or thing unless 1 or more of the following persons objects to the inspection under rule 60A—
  - (a) the person who produced the document or thing;
  - (b) another party to the proceeding;

- (c) another person with a sufficient interest in the document or thing.
- (4) A person other than a party may inspect the document or thing only if—
  - (a) the court or commission gives leave for the inspection; and
  - (b) the inspection is in accordance with the leave.
- (5) Subrule (4) applies subject to rule 60A.
- (6) Information obtained from the document or thing must not be made public without the permission of the court, commission or registrar.
- (7) If the court, commission or registrar considers that part of a document does not relate to a matter in issue, the court, commission or registrar may order that the part be closed.

### **60A Objecting to inspection of documents or things produced voluntarily or under attendance notice**

- (1) This rule applies in relation to a document or thing produced to the court, commission or registrar, whether produced voluntarily or under an attendance notice.
- (2) If the person producing the document or thing objects to it being inspected by a party to the proceeding, the person must, when producing the document or thing, give the registrar written notice of the objection and the grounds of the objection.
- (3) If a party to the proceeding, or a person having a sufficient interest in the document or thing, objects to the document or thing being inspected by another person, the party or person may give the registrar written notice of the objection and the grounds of the objection.

- 
- (4) On receiving a notice of objection under subrule (2) or (3), the registrar—
    - (a) must give written notice of the objection to the party on whose behalf the attendance notice was issued; and
    - (b) must not allow any person to inspect, or further inspect, the document or thing.
  - (5) The party on whose behalf the attendance notice was issued may, on reasonable notice to the person who gave the notice of objection, apply to the court or commission for a decision about the objection.

**21 Amendment of r 62 (Allowance for attendance and expenses)**

- (1) Rule 62(2), from ‘is’—

*omit, insert—*

must pay the expenses and allowance to the person a reasonable period before the day the person is required to attend.

- (2) Rule 62(3), after ‘expenses’—

*insert—*

or allowance under subrule (2)

**22 Amendment of r 63 (Production by non-party)**

Rule 63(2), ‘by the day’—

*omit, insert—*

not less than 2 business days

**23 Amendment of pt 2, div 2, sdiv 9, hdg (Discontinuing proceeding)**

Part 2, division 2, subdivision 9, heading, ‘proceeding’—

*omit, insert—*

**proceedings**

**24 Amendment of r 68 (Discontinuance of applications other than under Act, s 317)**

- (1) Rule 68, heading, from ‘of’—

*omit, insert—*

**generally**

- (2) Rule 68(1)—

*omit.*

- (3) Rule 68(2), ‘The applicant’—

*omit, insert—*

An applicant for a proceeding

- (4) Rule 68(3), ‘application’—

*omit, insert—*

proceeding

- (5) Rule 68(7), ‘subrule (4)’—

*omit, insert—*

subrule (3)

- (6) Rule 68(2) to (7)—

*renumber* as rule 68(1) to (6).

**25 Amendment of r 69 (Other discontinuance)**

Rule 69, heading—

*omit, insert—*

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## 69 Discontinuance during hearings

### 26 Amendment of r 90 (Application for WHS entry permit—Work Health and Safety Act 2011)

Rule 90, note, after ‘also’—

*insert*—

rule 10 and

### 27 Amendment of r 92 (Practice notes)

Rule 92, ‘notes’—

*omit, insert*—

directions

### 28 Insertion of new r 94A

After rule 94—

*insert*—

#### 94A Disposal of exhibits

- (1) This rule applies to an exhibit held by the court, commission or registrar in a finalised proceeding.
- (2) The registrar may give notice in the approved form to a party, an agent for a party or any other person who appears to the registrar to be the owner or person entitled to possession of the exhibit, to collect the exhibit from the registry within 28 days.
- (3) If the exhibit is not collected from the registry within 3 months after the notice is given, the registrar may destroy or otherwise dispose of the exhibit in the way the registrar considers appropriate.
- (4) The court, commission or registrar may, at any time, make an order about the return, destruction or other disposal of an exhibit.

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- (5) If the registrar returns, destroys or otherwise disposes of an exhibit under this rule, the registrar must ensure a note is placed on the file specifying the exhibit and details of the person to whom it was returned or the way in which it was destroyed or otherwise disposed of.
- (6) In this rule—
- finalised proceeding* means a proceeding—
- (a) that has been discontinued; or
  - (b) in relation to which a party has notified the registrar that the proceeding has been settled or otherwise ended other than by discontinuance or the granting of final relief; or
  - (c) that has been struck out under rule 185A or 231; or
  - (d) in which final relief has been granted if 3 months have passed since final relief was granted and no appeal, application for a new hearing or application for judicial review in relation to the proceeding has been filed.

## **29 Amendment of r 102 (Starting a claim)**

Rule 102—

*insert—*

- (4) An application for a claim may be filed in a registry of a Magistrates Court.
- (5) A proceeding for a claim is started—
  - (a) when the application for the claim is filed under subrule (4); and
  - (b) in an Industrial Magistrates Court constituted by a magistrate in the Magistrates Court in whose registry the

application for the claim is filed under subrule (4).

**30 Amendment of r 106 (Alternative dispute resolution process)**

Rule 106, after ‘Rules’—

*insert—*

*1999*

**31 Replacement of r 110 (Costs and expenses)**

Rule 110—

*omit, insert—*

**110 Costs and expenses**

- (1) This rule applies to the extent a magistrate may order costs in a proceeding under the Act or the *Fair Work Act 2009* (Cwlth).

*Note—*

See, for example, rule 123ZC and the *Fair Work Act 2009* (Cwlth), section 570 in relation to restrictions on a magistrate ordering costs in particular proceedings.

- (2) A magistrate may allow costs and expenses for a proceeding for a claim under the scale of costs for Magistrates Courts under the *Uniform Civil Procedure Rules 1999*, schedule 2 as if the proceeding were in a Magistrates Court.

**32 Amendment of r 115 (Duty of disclosure)**

Rule 115(1)(a), after ‘is’—

*insert—*

directly

[s 33]

---

**33 Amendment of r 117 (Requirements for attendance notice to produce)**

Rule 117(b)(i), after ‘not’—

*insert—*

directly

**34 Amendment of r 120 (Allowance for attendance and expenses)**

(1) Rule 120(2), from ‘is’—

*omit, insert—*

must pay the expenses and allowance to the person a reasonable period before the day the person is required to attend.

(2) Rule 120(3), after ‘expenses’—

*insert—*

or allowance under subrule (2)

**35 Replacement of pt 3, div 6, hdg (Adjournments)**

Part 3, division 6, heading—

*omit, insert—*

**Division 6                      Miscellaneous**

**36 Insertion of new rr 123AA and 123AB**

After rule 123—

*insert—*

**123AA Joining proceedings**

(1) A magistrate may, on the initiative of the magistrate or on the application of a party to a proceeding, order 2 or more proceedings to be joined if the magistrate considers—

- 
- (a) substantially the same question is involved in the proceedings; or
  - (b) the decision in 1 proceeding is likely to determine or seriously impact on the other proceeding; or
  - (c) it is otherwise appropriate or desirable.
- (2) If a party applies for an order under subrule (1), the party must—
- (a) serve a copy of the application on all other parties to the proceedings proposed to be joined; and
  - (b) file an affidavit of service of the copy of the application.
- (3) A magistrate may join proceedings regardless of whether all of the parties to the proceedings consent to the joining.
- (4) This rule does not limit rule 102(3).

### **123AB Form of affidavit of service**

- (1) An affidavit of service of a copy of an application under rule 123AA(1) must be in the approved form and—
- (a) for an affidavit of personal service—must be made by the person who served the copy and state the following—
    - (i) the person’s full name;
    - (ii) the time, day and date the copy was served;
    - (iii) the place of service;
    - (iv) the name of the person served and how the person was identified; or
  - (b) otherwise—

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- (i) must state the relevant dates and the facts showing service; and
  - (ii) may be made on information given to, or the belief of, the person causing the service; and
  - (iii) if made on information given to the person—must state the source of the information.
- (2) An affidavit of service of a copy of an application must—
- (a) have a copy of the application attached to it as an exhibit; or
  - (b) be written on a copy of the application; or
  - (c) if the application has been filed—mention the application in a way that enables the application to be identified.

### **37 Insertion of new r 123FA**

After rule 123F—

*insert—*

#### **123FA Form of affidavit of service**

- (1) An affidavit of service of an attendance notice under rule 123F(3)(c) must be in the approved form and—
- (a) for an affidavit of personal service—must be made by the person who served the attendance notice and state the following—
    - (i) the person’s full name;
    - (ii) the time, day and date the attendance notice was served;
    - (iii) the place of service;
    - (iv) the name of the person served and how the person was identified; or

- 
- (b) otherwise—
- (i) must state the relevant dates and the facts showing service; and
  - (ii) may be made on information given to, or the belief of, the person causing the service; and
  - (iii) if made on information given to the person—must state the source of the information.
- (2) An affidavit of service of an attendance notice must—
- (a) have a copy of the attendance notice attached to it as an exhibit; or
  - (b) be written on a copy of the attendance notice; or
  - (c) if the attendance notice has been filed—mention the attendance notice in a way that enables the attendance notice to be identified.

### **38 Insertion of new pt 3B**

After part 3A—

*insert—*

## **Part 3B Proceedings for fair work claims and unpaid amount claims**

### **Division 1 Preliminary**

#### **123M Application of part**

This part applies in relation to the following claims (each a *relevant claim*)—

- (a) a fair work claim in an Industrial Magistrates Court;
- (b) an unpaid amount claim in the commission or an Industrial Magistrates Court.

### **123N Definition for part**

In this part—

*relevant claim* see rule 123M.

## **Division 2 Starting relevant claims**

### **123O Application for relevant claim need not be witnessed**

Rule 102(2) does not apply to an application for a relevant claim.

### **123P Filing application for relevant claim**

- (1) Despite rule 102(4), an application for a fair work claim may be filed—
  - (a) by delivering it to the registry; or
  - (b) by posting it to the registry with a written request that it be filed; or
  - (c) by transmitting it to the registry electronically; or
  - (d) in a registry of a Magistrates Court.
- (2) If an application for a relevant claim is filed in a registry of a Magistrates Court, the registrar of the Magistrates Court must forward the application to the registry as soon as practicable.
- (3) Despite rule 102(5), a proceeding for a relevant claim in an Industrial Magistrates Court is started—

- 
- (a) when the application for the claim is filed under subrule (1); and
  - (b) in—
    - (i) if the application is filed under subrule (1)(a), (b) or (c)—the Brisbane Industrial Magistrates Court; or
    - (ii) if the application is filed under subrule (1)(d)—an Industrial Magistrates Court constituted by a magistrate in the Magistrates Court in whose registry the application is filed.

### **123Q Change of venue for relevant claim started in Brisbane Industrial Magistrates Court**

- (1) This rule applies—
  - (a) in relation to a proceeding for a relevant claim started in the Brisbane Industrial Magistrates Court; and
  - (b) if at any time the Brisbane Industrial Magistrates Court is satisfied the proceeding can be more conveniently or fairly heard or dealt with by an Industrial Magistrates Court in a place other than in the central division of the Brisbane Magistrates Courts District.
- (2) The Brisbane Industrial Magistrates Court may, on its own initiative or on the application of a party to the proceeding, order that the proceeding be transferred to the other place.
- (3) If the proceeding is transferred under subrule (2)—
  - (a) the proceeding is pending in an Industrial Magistrates Court in the other place; and
  - (b) unless the Brisbane Industrial Magistrates Court otherwise orders, the hearing of the

proceeding is to be heard and decided by an Industrial Magistrates Court in the other place.

## **Division 3            Simplified procedures**

### **123R Parties may elect to apply simplified procedures**

- (1) This rule applies to a proceeding for a relevant claim other than a proceeding to which section 531 of the Act or section 548 of the *Fair Work Act 2009* (Cwlth) applies.
- (2) The parties to the proceeding may agree to all or part of the simplified procedures applying to the proceeding.
- (3) The agreement must be—
  - (a) in writing; and
  - (b) filed in the registry.
- (4) The *simplified procedures* are that the commission or an Industrial Magistrates Court—
  - (a) is not bound by laws of evidence or procedure applying to a proceeding in the commission or Industrial Magistrates Court; and
  - (b) may inform itself of the facts in any way it considers appropriate; and
  - (c) must observe the rules of natural justice; and
  - (d) must record the reasons for its decision.
- (5) The simplified procedures apply to the proceeding to the extent agreed.
- (6) The commission or Industrial Magistrates Court must hear and decide the proceeding under the simplified procedures applying under subrule (5),

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unless the commission or Industrial Magistrates Court considers deciding the proceeding under the procedures would be an abuse of process.

## **Division 4            Conciliation of relevant claims**

### **123S Conciliation certificate**

- (1) For sections 507F(1) and 547F(1) of the Act, a certificate about the conciliation process (a *conciliation certificate*) must be in the approved form.
- (2) The conciliation certificate—
  - (a) must not contain comment about the extent to which a party participated or refused to participate in the conciliation; and
  - (b) may state that a party did not attend the conciliation.
- (3) The conciliator must give a copy of the conciliation certificate to the parties.

### **123T Record of conciliation agreement**

- (1) Unless the parties otherwise agree, the conciliator for a relevant claim must ensure that an agreement reached in the conciliation process is—
  - (a) placed in a sealed container, for example, an envelope; and
  - (b) marked with the file number; and
  - (c) marked—
    - (i) for a relevant claim in an Industrial Magistrates Court—‘Not to be opened without an order of an Industrial Magistrates Court’; or

- (ii) for an unpaid amount claim in the commission—‘Not to be opened without an order of the commission’; and
  - (d) given to the registrar.
- (2) The container may be opened only if—
  - (a) for a relevant claim in an Industrial Magistrates Court—the Industrial Magistrates Court orders it to be opened; or
  - (b) for an unpaid amount claim in the commission—the commission orders it to be opened.

### **123U Hearing of relevant claims not referred to or resolved at conciliation**

- (1) This rule applies in relation to a relevant claim in an Industrial Magistrates Court if—
  - (a) the registrar decides not to refer the relevant claim to conciliation; or
  - (b) the conciliation process is finished other than because the parties agree on a resolution of all of the relevant claim.
- (2) The registrar must—
  - (a) notify the Industrial Magistrates Court of the matter mentioned in subrule (1)(a) or (b) for the relevant claim; and
  - (b) refer the relevant claim or, if subrule (1)(b) applies, the unresolved part of the relevant claim for hearing by the Industrial Magistrates Court.

## **Division 5 Settlement conferences**

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### **123V Definition for division**

In this division—

*settlement conference* see rule 123W(1).

### **123W Commission or Industrial Magistrates Court may require settlement conference**

- (1) At any time after a proceeding for a relevant claim is started, the commission or an Industrial Magistrates Court may direct that a conference (*settlement conference*) be held.
- (2) However, if the relevant claim has been referred to conciliation under section 507C or 547C of the Act, the commission or Industrial Magistrates Court may act under subrule (1) only if—
  - (a) the conciliation is not proceeding under section 507C(5) or 547C(5) of the Act; or
  - (b) the conciliation has finished.
- (3) A settlement conference may consider the following matters—
  - (a) the possibility of settling the proceeding at the settlement conference without a hearing;
  - (b) the simplification of the issues;
  - (c) the possibility of obtaining admissions that may facilitate the hearing or reduce costs;
  - (d) the necessity or desirability of further or better particulars of the relevant claim;
  - (e) the amount of any damages;
  - (f) the possible length of any hearing;
  - (g) the burden of costs a party may have to bear;
  - (h) anything else that may help dispose of the proceeding.
- (4) The commission or Industrial Magistrates Court may direct that—

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- (a) the settlement conference be held at the date, time and place stated in the direction; and
  - (b) all parties attend personally or, for a corporation, by a person with authority to compromise the claim for the corporation.
- (5) Also, an Industrial Magistrates Court may direct that the settlement conference be held by a registrar of a Magistrates Court.
- (6) If the commission or Industrial Magistrates Court acts on its own initiative, the commission or Industrial Magistrates Court must give the parties at least 2 business days notice of—
  - (a) the date, time and place of the settlement conference; and
  - (b) if the Industrial Magistrates Court makes a direction under subrule (5)—the fact that the registrar of the Magistrates Court will hold the settlement conference.
- (7) The commission or Industrial Magistrates Court may adjourn a proceeding listed for hearing so a settlement conference may be held.

### **123X Holding settlement conference**

- (1) A settlement conference must be held in private.
- (2) At a settlement conference, each party must—
  - (a) be sufficiently aware of the party's case so as to be able to answer any question that may be asked about the claim or any defence to the claim; and
  - (b) be in a position to make and respond properly to an offer of settlement.
- (3) If the commission or an Industrial Magistrates Court holds a settlement conference, the commission or Industrial Magistrates Court

may—

- (a) direct that a further settlement conference be held; or
  - (b) make the suggestions to a party the commission or Industrial Magistrates Court considers appropriate to help in promptly disposing of the proceeding; or
  - (c) give a party the directions, or make the orders, the commission or Industrial Magistrates Court considers appropriate.
- (4) If a registrar of a Magistrates Court holds a settlement conference, the registrar of the Magistrates Court may—
- (a) make the suggestions to a party the registrar of the Magistrates Court considers appropriate to help in promptly disposing of the proceeding; or
  - (b) make a recommendation to the Industrial Magistrates Court about the conduct of the proceeding, including, for example, the holding of any further settlement conference.
- (5) A recommendation made under subrule (4)(b) must be in writing and attached to the file in the way the Industrial Magistrates Court directs.
- (6) At a settlement conference, any 2 or more parties may sign a memorandum of the results of the conference including any admissions made by the parties.
- (7) A memorandum signed under subrule (6) must be attached to the file in the way the commission or Industrial Magistrates Court directs.
- (8) The commission or Industrial Magistrates Court may make any orders necessary to give effect to a memorandum signed under subrule (6).
- (9) The commission or Industrial Magistrates Court

must record on the file any formal orders made by the commission or Industrial Magistrates Court at a settlement conference or under subrule (8), but must not keep a record of anything discussed at the conference.

### **123Y Failure to attend settlement conference**

- (1) This rule applies if a party directed to attend a settlement conference fails to attend the conference.
- (2) If the commission or Industrial Magistrates Court is satisfied by affidavit that the party who failed to attend was given notice of the date, time and place of the settlement conference, the commission or Industrial Magistrates Court may—
  - (a) if the party is the applicant—stay or dismiss the proceeding; or
  - (b) if the party is a respondent and the relevant claim discloses a sufficient cause of action—decide the proceeding by making an order or other decision the commission or Industrial Magistrates Court considers appropriate in the circumstances.
- (3) Also, the commission or Industrial Magistrates Court may give the directions for listing the proceeding for hearing or for holding another settlement conference the commission or Industrial Magistrates Court considers appropriate in the circumstances.
- (4) If the commission or Industrial Magistrates Court makes a decision under subrule (2), the commission or Industrial Magistrates Court may, on application made within the time the commission or Industrial Magistrates Court considers reasonable, set aside the decision and order a hearing or further hearing.

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## **Division 6      Hearing of relevant claims**

### **123Z Procedure for hearing of relevant claim**

- (1) The parties to a proceeding for a relevant claim must have all documents directly relevant to the proceeding available at the hearing of the proceeding.
- (2) The commission or an Industrial Magistrates Court—
  - (a) may hear the proceeding in private; and
  - (b) must make a record of the evidence given.
- (3) If the commission or an Industrial Magistrates Court hears and decides the proceeding, the commission or Industrial Magistrates Court must give a copy of the order endorsing the decision to the parties.

*Note—*

See part 2, division 2, subdivision 4 and part 3, division 4 in relation to the powers of the commission and an Industrial Magistrates Court to make directions orders about the conduct of a proceeding.

### **123ZA Copy of order endorsing decision to be given to registry**

If an Industrial Magistrates Court hears and decides a proceeding for a relevant claim, the Industrial Magistrates Court must give a copy of the order endorsing the decision to the registry as soon as practicable after the order is endorsed.

## **Division 7      Miscellaneous**

### **123ZB No alternative dispute resolution process for relevant claims**

Despite rule 106, the *Uniform Civil Procedure Rules 1999*, chapter 9, part 4 does not apply to a relevant claim.

### **123ZC Costs for particular relevant claims**

- (1) This rule applies to a proceeding for a relevant claim other than a proceeding to which section 545 of the Act or section 570 of the *Fair Work Act 2009* (Cwlth) applies.
- (2) A person must bear the person's own costs in relation to the proceeding.
- (3) However, the commission or an Industrial Magistrates Court may, on application by a party to the proceeding, order a party to the proceeding to pay costs incurred by another party if the commission or Industrial Magistrates Court is satisfied—
  - (a) the party made the application or responded to the application vexatiously or without reasonable cause; or
  - (b) it would have been reasonably apparent to the party that the application or response to the application had no reasonable prospect of success.

*Note—*

See rule 110 in relation to the costs and expenses a magistrate may allow.

### **123ZD Practice directions for particular proceedings**

- (1) The president may, after consulting with the Chief Magistrate, issue practice directions for the guidance of parties to a proceeding for a relevant claim in an Industrial Magistrates Court.

- (2) A practice direction issued under subrule (1) must be published on the QIRC website.

**39 Amendment of r 133 (Record for particular appeals and WHS reviews)**

Rule 133(2)(h) and (i), after ‘competency’—  
*insert—*

, or a site senior executive notice,

**40 Amendment of r 135 (Service of applications)**

- (1) Rule 135(3)—

*omit.*

- (2) Rule 135(4)—

*renumber* as rule 135(3).

**41 Amendment of r 152 (Application for reinstatement)**

Rule 152(2)—

*omit, insert—*

- (2) The applicant must serve a copy of the application on the employer within 7 days after filing the application.

**42 Omission of r 153 (Discontinuing application for reinstatement)**

Rule 153—

*omit.*

**43 Amendment of r 172 (Application for certification of agreement)**

- (1) Rule 172(1)(c), ‘and 2 copies of the’—

*omit.*

- (2) Rule 172(2)—  
*omit.*

**44 Amendment of r 172A (Application for making of bargaining award)**

- (1) Rule 172A(1)(c), ‘and 2 copies of the’—  
*omit.*
- (2) Rule 172A(2)—  
*omit.*

**45 Amendment of r 173 (Form of proposed bargaining instrument)**

Rule 173(i), after ‘form’—  
*insert—*

in a format that allows the text of the instrument  
to be searched and copied

**46 Amendment of r 175 (Application to extend nominal expiry date of bargaining instrument)**

- (1) Rule 175(3), ‘and 2 copies of the’—  
*omit.*
- (2) Rule 175(4)—  
*omit.*

**47 Amendment of r 176 (Application to amend bargaining instrument)**

- (1) Rule 176(3), ‘and 2 copies of the’—  
*omit.*
- (2) Rule 176(4)—  
*omit.*

**48 Insertion of new r 185A**

After rule 185—

*insert—*

**185A Striking out industrial dispute**

- (1) This rule applies if—
  - (a) the registrar has been notified of an industrial dispute under section 261 of the Act; and
  - (b) no action has been taken by the applicant in relation to the industrial dispute for at least 6 months since the last action was taken by the applicant in the industrial dispute.
- (2) The registrar may strike out the industrial dispute.

**49 Amendment of r 220 (Statistical information)**

Rule 220(3), ‘14’—

*omit, insert—*

28

**50 Amendment of r 225 (Fees in Industrial Magistrates Court)**

Rule 225, ‘rule 101’—

*omit, insert—*

rule 101(b) or (g)

**51 Amendment of r 228 (Searching and copying documents)**

(1) Rule 228(1)—

*omit, insert—*

- (1) A person may not search or inspect documents in a proceeding without the registrar’s prior approval.

(1A) If the person is not a party or representative of a party, the person must pay the prescribed fee for the search or inspection.

(2) Rule 228—

*insert—*

(2A) The certified copy must have the seal and the word ‘copy’ stamped on it.

(2B) The person must pay the prescribed fee for the certified copy.

(3) Rule 228(1A) to (3)—

*renumber* as rule 228(2) to (6).

**52 Amendment of r 229 (Continuation of proceeding after 6 months delay)**

Rule 229(1)(b), after ‘taken’—

*insert—*

by the applicant

**53 Amendment of r 230 (Lapse of proceeding after at least 1 year’s delay)**

Rule 230(1)(b), after ‘taken’—

*insert—*

by the applicant

**54 Amendment of r 231 (Striking out proceeding after at least 1 year’s delay)**

Rule 231(1)(b), after ‘taken’—

*insert—*

by the applicant

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**55 Amendment of particular references to non-chapter 12 approved form**

Each of the following provisions is amended by omitting the words ‘non-chapter 12 approved form’ and inserting the words ‘approved form’—

- rule 72
- rule 73
- rule 74(1)
- rule 75(a)
- rule 77
- rule 78
- rule 79
- rule 80(1)(a)
- rule 81(a)
- rule 83(a)
- rule 84(a)
- rule 149A
- rule 149B
- rule 149C
- rule 151(1)
- rule 154
- rule 155(1)
- rule 156(1)
- rule 157(1)
- rule 160
- rule 162
- rule 169(a)
- rule 185(1)
- rule 187

- rule 223(2).

**56 Amendment of particular references to chapter 12 approved form**

Each of the following provisions is amended by omitting the words ‘chapter 12 approved form’ and inserting the words ‘approved form’—

- rule 189
- rule 190(a)
- rule 193(1)
- rule 194
- rule 195
- rule 196
- rule 197(a)
- rule 198(1)(a)
- rule 199(a)
- rule 203(a)
- rule 204
- rule 205(a)
- rule 206(1)(a)
- rule 207
- rule 208
- rule 209
- rule 210
- rule 211
- rule 212
- rule 219.

**57 Insertion of new pt 19, div 5**

Part 19—

*insert—***Division 5 Transitional provisions for  
Industrial Relations  
(Tribunals) Amendment  
Rule 2021****243 Existing practice notes**

- (1) This rule applies to a practice note—
  - (a) issued, or taken to have been issued, under former rule 92; and
  - (b) in force immediately before the commencement.
- (2) The practice note is taken to be a practice direction under new rule 92.
- (3) In this rule—

*former rule 92* means rule 92 as in force from time to time before the commencement.

*new rule 92* means rule 92 as in force from the commencement.

**244 Application of r 94A**

Rule 94A applies to an exhibit held by the court, commission or registrar in a finalised proceeding whether the proceeding becomes a finalised proceeding before or after the commencement.

**245 Application of r 185A to industrial disputes  
started before commencement**

Rule 185A applies to an industrial dispute started before the commencement only if no action has

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been taken by the applicant in relation to the industrial dispute for at least 6 months after the commencement.

**58 Amendment of sch 1 (Fees in the court, commission or registry)**

Schedule 1, item 3—

*omit, insert—*

3 Copy of a record of the court or commission, or a document filed in the registry, including reasons for judgment 0.50 for each page

4 Certifying a copy of a record of the court or commission, or a document filed in the registry

*Note—*

This fee is in addition to the fee mentioned in item 3. 70.50

5 Retrieval of an archived file 28.80 for each file

**59 Amendment of sch 2 (Dictionary)**

(1) Schedule 2, definitions *chapter 12 approved form* and *non-chapter 12 approved form—*

*omit.*

(2) Schedule 2—

*insert—*

***Brisbane Industrial Magistrates Court*** means an Industrial Magistrates Court constituted by a magistrate in the central division of the Brisbane Magistrates Courts District.

***relevant claim***, for part 3B, see rule 123M.

***settlement conference***, for part 3B, division 5, see rule 123W(1).

***stamp*** includes electronically stamp.

***WHS entry permit*** see the *Work Health and Safety Act 2011*, schedule 5.

ENDNOTES

- 1 Made by the Governor in Council on 17 February 2021.
- 2 Notified on the Queensland legislation website on 18 February 2021.
- 3 The administering agency is the Department of Education.

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