

In the District Court of New South Wales Coal Miners Workers Compensation List

Statement of Claim

(if amended statement of claim precede with first, second, etc. as applicable and add matter number to heading)

by a worker seeking an original award/a review of an existing award in matter no: (delete where irrelevant) under the Workers Compensation Act 1987.

Note:

1. If this is an amended claim, information that has been added or varied must be clearly identified by using italicised or underlined.
2. Claims seeking the review of an existing award must be accompanied by a copy of the award.

Plaintiff (Injured Person's details - if the plaintiff is not the injured person, e.g. a tutor or guardian, details of both the plaintiff and the injured person are required)

Given names:

Family name:

Date of birth:

Sex:

Address:

Defendant (Employer details)

Name:

Address:

Defendant's Insurer

Name:

Claim number (if known):

Address:

Period of insurance (if all of the relevant period state 'whole'):

Repeat Insurer details for each insurer of the employer that is relevant to this application.

Then repeat Employer and Insurer details for each other employer involved, nominating the first mentioned employer as "First Defendant" and so on.

For uninsured periods state 'uninsured' and the period of non-insurance.

Note well: In uninsured cases, the WorkCover Authority must also be a defendant to the application see below.

Second (or as the case may be) **Defendant** use only for cases where the employer was uninsured for a relevant period.

Where there is more than one defendant, the first should be described as First Defendant and additional defendants should be numbered consecutively.

Name: WorkCover Authority of New South Wales

Address: 40 Kent Street, Sydney 2000

Why is it believed that the insurer was un-insured?

Plaintiff's Solicitor

Firm name:

Solicitors name:

DX:

Reference:

Telephone:

Fax:

Address (not DX):

Application is hereby made, particulars of which are set out herein, for the determination of the liability of, and amount of compensation payable by, the Defendant(s).

For applications seeking the review of an existing award, substitute Application is hereby made, particulars of which are set out herein, with respect to the review of the weekly payment awarded in respect of the injury received by the Plaintiff.

Where orders are sought in Uninsured Liability & Indemnity Scheme matters, modify the above order to include an application for an award.

- A. Declaring that the First (or as the case may be) Defendant was not insured as required by the Act at the time of the Plaintiff's injury.
- B. Ordering the Second (or as the case may be) Defendant to cause payment of the compensation and costs awarded against the First Defendant to be made out of the WorkCover Authority Fund established under section 18 of the WorkCover Administration Act 1989.
- C. Ordering the the First (or as the case may be) Defendant to reimburse the WorkCover Authority such amount or amounts as may be paid out of such Fund in respect of the compensation and costs awarded against the First Defendant and in respect of the costs of the Second Defendant.

Where orders are to be sought under section 162, modify the above order to include an application-

For a declaration that the (name of the defendant employer) entered a contract with (name of insurer) in respect of the employer's habits under the Act to the worker and that the employer has died (or, "is permanently a resident outside the Commonwealth of Australia and its Territories" or, as the case may be).

Signature (Solicitor for the Plaintiff)

Notice to the Defendant(s)

You are liable to have an Award for the compensation claimed or other order made against you unless, within 28 days after service of this application for Determination upon you, you file an Answer in the Registry of the Court and you comply with the Rules of the Court in defending this matter.

Registrar of the Court

Listing Information

A.

State the desired venue for the hearing:

(Available Courts - Sydney, Newcastle, Wollongong or Katoomba)

B.

State day or days of week desired for the hearing:

(Available days - any day, Monday, Tuesday, Wednesday, Thursday or Friday)

C.

State whether the application involves the following: (delete below where irrelevant)

- Sections 61, 62, 63 or 63A increase in liability of employer for medical and related treatment, hospital, ambulance or occupational rehabilitation expenses.
- Sections 76 or 77 increase in liability of employer for damage to artificial limbs,
- Spectacles or damage to clothing.
- Section 83 manner of payment of compensation.
- Section 85 payment to the WorkCover Authority for the benefit of beneficiaries.
- Section 16, 1926 Act.
- Section 66, 1987 Act up to \$40,000, excluding back, neck or brain damage.
- Section 66, 1987 Act \$40,000 and over, excluding back, neck or brain damage.
- Section 66, 1987 Act back, neck or brain damage.
- Section 67, 1987 Act.

Particulars

Where there is more than one defendant employer, the following particulars are to be on separate sheets for each defendant employer headed Schedule A, etc. with each schedule commencing with "Particulars of Application in relation to the First (or as the case may be) Defendant".

1.

a) Date of injury (if over a period of time, state the period as accurately as possible):

b) Place where the injury happened:

c) What work was being done at the time of injury?

d) How did the injury occur (for review applications, state the grounds on which the increase is sought):

2.

a) Nature of injury:

b) Incapacity for work (state whether total, partial, or partial claimed as total and the periods for each) (leave this blank for review applications):

3.

Particulars of compensation claimed:

- Section 66 details must be in terms of the Table of Compensation for Permanent Injuries in the Workers Compensation Act 1987 or, if applicable, the Table to section 16 Workers Compensation Act 1926
- For loss of hearing in both ears state the loss claimed monaurally and binaurally

(Fill in below)

- i. \$ per week from (date) to (date) (or continuing) under section
- ii. s42 (1) - name of industrial award or agreement
- i. s66 lump sum \$ in respect of
- ii. s66 % loss of
- c) Section 60 expenses:
- d) Section 67:
- e) Interest:
- f) Other (specify):

4.

- a) Date of notice of injury:
- b) Date of notice of incapacity given:
- c) Date of claim for compensation:
- d) Reason for the omission of any notice (Leave blank for review applications):

5.

- a) Was the plaintiff directly employed by the defendant employer?
- b) If yes, nature of the plaintiff's employment at the time of injury:
- c) If no, how is defendant alleged to be liable for compensation:

d) Nature of work undertaken by the plaintiff, if the defendant employer not the direct employer (Leave blank for review applications):

6.

a) Plaintiff's current weekly wage rate:

b) Plaintiff's average weekly earnings:

c) Plaintiff's actual weekly earnings during the periods claimed:

7.

Payment, allowance or benefit received from the employer during the period of incapacity and the date on the payment ceased:

8.

Where the injury is a disease contracted by a gradual process, the names and address of all other employers by whom the plaintiff was employed during the twelve months previous to date of incapacity in any employment to the nature of which the disease was due (leave blank for review applications):

(For Boilermakers Deafness applications, state the name of all employers during the past 5 years and the periods of employment with each).

9.

Name, date of birth and relationship to plaintiff of each person alleged to be dependant upon the plaintiff and the extent of the allege dependency:

**Note: Further particulars may be attached.
Particulars must be given of any other facts alleged, failure to give which may take the defendant by surprise.**