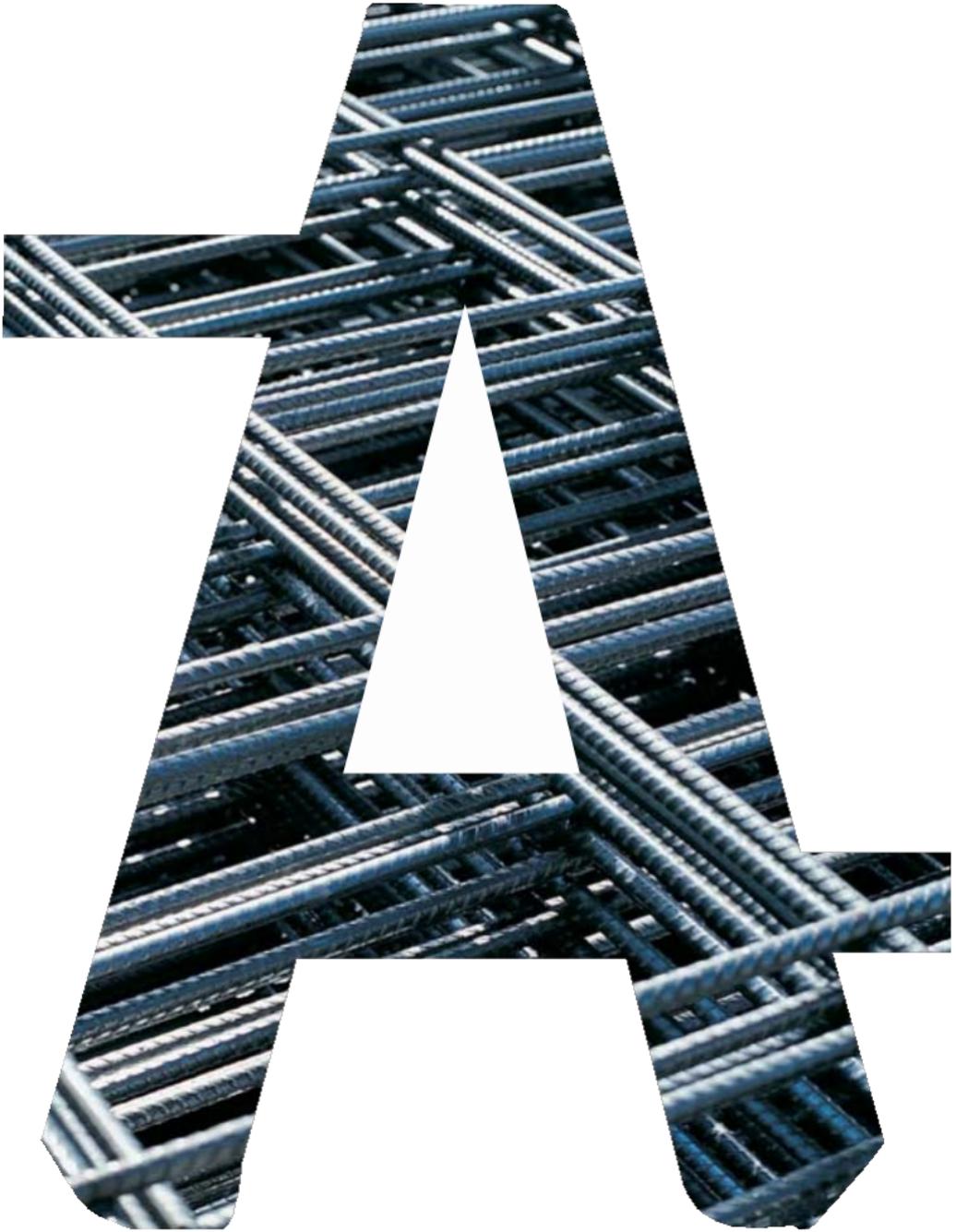


APPEALS

Appeals against the Decision of an Arbitrator



Appealing against the decision of an Arbitrator

It is possible for a person or party to appeal a decision by an Arbitrator in a Workers Compensation Commission matter. However, strict conditions apply to the appeal process.

There must be sound reasons for bringing an appeal and most people get legal advice before choosing to take this course.

To lodge an appeal with the Commission you must ensure the correct criteria is met and the appeal is lodged in the correct manner.

Appeal criteria

There are two criteria or 'threshold issues' that must be met before lodging an appeal with the Commission:

- Timing is crucial. An appeal must be made within 28 days of the date of the Arbitrator's decision. In exceptional circumstances, a Presidential Member may extend the time for making an appeal.
- An appeal cannot be made unless the amount of compensation at issue is at least \$5,000 and at least 20% of the amount awarded in the decision.

How to bring an Appeal

An appeal must be made on the correct form. An *Application to Appeal Against Decision of Arbitrator* (Form 9) must be completed in full.

We recommend that you read the following documents prior to completing an application to ensure it is completed fully and accurately:

- the *Workers Compensation Commission Rules 2006*, and
- Practice Direction No. 6: *Appeal against a decision of the Commission constituted by an Arbitrator*.

If your appeal application fails to meet the requirements, it will be rejected and you will be advised of the reasons for the rejection.

The form and documents can be downloaded from the Commission's website or obtained directly from the Commission by calling 1300 368 040.

Responding to an Appeal

Parties opposing the appeal must respond **within 14 days** of receiving the *Application to Appeal Against Decision of Arbitrator*. Parties must respond to the application by way of Form 9A - *Notice of Opposition to Appeal Against Decision of Arbitrator*. This form should be completed in full.

We recommend that you read the following documents prior to completing Form 9A to ensure completeness and accuracy:

- *Guide to completing Form 9A,*
- *the Workers Compensation Commission Rules 2006,* and
- *Practice Direction No. 6: Appeal against a decision of the Commission constituted by an Arbitrator.*

If you still need help you can call us on 1300 368 040.

Appeal decisions

Appeals against decisions of Arbitrators are decided by a Presidential Member of the Commission.

If leave is granted to proceed with the appeal, and it is not 'determined on the papers', a hearing will take place at the Commission's premises in Sydney.

The decision of the Presidential Member is final, subject to a limited right of appeal on the grounds of an error of law, to the New South Wales Court of Appeal.

For further information

For further information on the appeal process refer to Practice Direction No. 6: *Appeal Against a Decision of the Commission Constituted by an Arbitrator* available on the Commission's website or call the Commission for a copy.

The information in this brochure is not legal advice. If you need legal advice about lodging or responding to an appeal against the decision of an Arbitrator, you need to talk with a solicitor. If you do not have a solicitor, you can contact the Law Society of NSW for referral to a solicitor by phoning:

- (02) 9926 0300 (if you live in Sydney), or
- 1 800 422 713 (if you live outside Sydney).

Explanation of terms used in this brochure

Arbitrator: Arbitrators at the Workers Compensation Commission are independent. Appointed by the President of the Commission, they are legally qualified and/or highly experienced in dispute resolution.

Determination ‘on the papers’: A decision made by a Presidential Member of the Commission on the evidence which has been presented. There is no hearing.

Party/Parties: An injured worker, employer or insurer involved in a dispute is referred to as a party.

‘Threshold Issues’: Information or details concerning the dispute which must be established before an appeal can be heard.

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