March 2019

Response

Response to Application for Leave to Refer a Question of Law
This is the approved form to respond to an application by a party to a dispute, or the Arbitrator, seeking leave to refer a question of law.
This Response, and supporting documentation, must be served on each party to the proceedings prior to lodging in the Commission.

Applicant:

Respondent:

Filed by:

☐ Worker ☐ Employer ☐ Self-insurer
☐ Worker representative ☐ Employer representative ☐ Insurer/scheme agent representative
☐ Dependant ☐ Scheme agent* ☐ icare
☐ Dependant representative ☐ Specialised insurer

*Note scheme agent means scheme agent for the nominal insurer

NOTICE TO PARTIES

Please note that the information contained in the ‘notes’ to this Form is provided as general information only and does not constitute legal advice. The relevant legislative provisions governing the workers compensation jurisdiction should be consulted before submitting this form to the Workers Compensation Commission.

A response to an application by a party for leave to refer a question of law is to be lodged with the Commission and served on the State Insurance Regulatory Authority and the other parties to the proceedings within 14 days of being served with the application (Pt 16 r 16.1(4) of the Workers Compensation Commission Rules 2011).

The President is not to grant leave for the referral of a question of law unless satisfied that the question involves a novel or complex question of law (s 351(3) of the Workplace Injury Management and Workers Compensation Act 1998).
PART 1 – Respondent’s Details

1.1 Respondent details

Name of respondent:

ABN:

Postal or DX address: Postcode:

Contact person: (if applicant is a business or organisation)

Email address:

Phone number:

1.2 Respondent representative details

Complete this section only if the respondent has a representative

Firm or organisation:

Postal or DX address: Postcode:

Name of representative:

Email address:

Phone number:
Details of the Response to the Question of Law

The following should be carefully considered prior to completing this Response:

- Section 351 of the Workplace Injury Management and Workers Compensation Act 1998
- Part 16 r 16.1 of the Workers Compensation Commission Rules 2011
- Practice Direction No 5 – Question of Law

An application for leave to refer a question of law made by a party or by an Arbitrator will be put before the President only where the relevant documents have been provided.

Formatting of written submission
Written submissions must be attached to and filed with the Response. They must be typed or written clearly, paginated and set out as illustrated below with sequentially numbered paragraphs and appropriate sub-headings where necessary. The person who prepares the written submissions must sign them at the foot of the document and provide his/her contact details.

PART 2 – Submissions put in Reply to an Application Initiated by a Party or the Arbitrator

Any submissions in response to the Application must be filed within 14 calendar days of the Application being served and must address the following:

2.1 Why the question is/is not novel or complex (s 351(3) of the 1998 Act and Pt 16 r 16.1(4) of the 2011 Rules)
Written submissions detailing why the question of law is/is not complex.

2.2 Submissions on the question of law
Written submissions must detail the party’s position on the question of law.
A statement agreeing with the facts asserted by the applicant for leave, or a supplementary statement of facts.

2.3 On the papers
Written submissions must include a statement as to whether the matter should be determined on the papers, and if not, why not.

2.4 Authorities
Has a list of the authorities (including full citation for published decisions and the date of the decision for unreported cases) referred to and specifically relied upon in submissions been attached to this Response? ☐ Yes ☐ No

PART 3 – Certificate of Service

List the documents, names of parties or persons served, the date of service and method of service.

<table>
<thead>
<tr>
<th>Document</th>
<th>Name of party or person to the dispute</th>
<th>Service date</th>
<th>Method of service (eg. By hand, DX, fax etc)</th>
</tr>
</thead>
<tbody>
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PART 4 – Certification and Signature

I (insert name) hereby certify that a copy of the response (including any attachments) has been served on each party, or person, on the date/s stated in the table above.

Signature of person lodging form: ____________________________ Date: / / 

Lodgment Details

<table>
<thead>
<tr>
<th>Lodgment Details</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hand delivery</td>
<td>Level 20, 1 Oxford Street Darlinghurst NSW 2010</td>
</tr>
<tr>
<td>Postal address</td>
<td>PO Box 594 Darlinghurst NSW 1300</td>
</tr>
<tr>
<td>Document exchange</td>
<td>DX 11524 Sydney Downtown</td>
</tr>
<tr>
<td>Electronic lodgment</td>
<td><a href="mailto:registry@wcc.nsw.gov.au">registry@wcc.nsw.gov.au</a></td>
</tr>
<tr>
<td>Facsimile</td>
<td>1300 368 018</td>
</tr>
</tbody>
</table>

Privacy of Personal Information

The privacy of personal information is important to the Workers Compensation Commission. The Commission collects personal information to register application forms and make decisions about disputes or claims. The NSW workers compensation laws permit the Commission to collect this information.

The Commission may give personal information to another person or agency (for example a doctor, a party, State Insurance Regulatory Authority) as required or authorised by law.

Decisions by the Commission will generally be published, including on the Internet, unless there are exceptional circumstances justifying the decision being withheld.

A person has a right to access his/her personal information and correct any inaccuracies.