



SUPPLEMENT

TO THE

NEW ZEALAND GAZETTE

OF

THURSDAY, MARCH 4, 1909.

Published by Authority.

WELLINGTON, SATURDAY, MARCH 6, 1909.

Regulations under the Workers' Compensation Act, 1908.

PLUNKET, Governor.

ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this first day of March, 1909.

Present :

THE RIGHT HONOURABLE SIR J. G. WARD, K.C.M.G., PRESIDING IN COUNCIL.

IN pursuance and exercise of the powers and authorities conferred upon him by the Workers' Compensation Act, 1908, His Excellency the Governor of the Dominion of New Zealand, acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby for the purposes of that Act make the regulations hereinafter set forth:—

1. The following regulations may be cited as the Workers' Compensation Rules, 1909.
2. All regulations heretofore made by the Governor and in force under the Workers' Compensation for Accidents Act, 1908, are hereby revoked, but shall continue to apply to all cases to which that Act continues to apply by virtue of the provisions of section sixty of the Workers' Compensation Act, 1908.
3. In the following regulations, unless a contrary intention appears,—
 - “Court” means the Court of Arbitration:
 - “Clerk of Awards” means a Clerk of Awards under the Industrial Conciliation and Arbitration Act, 1908, or any person for the time being lawfully acting in place of a Clerk of Awards under the provisions of that Act:
 - “Industrial district” means an industrial district under the Industrial Conciliation and Arbitration Act, 1908:
 - “The Act” means the Workers' Compensation Act, 1908.

WRIT OF SUMMONS.

4. Every action brought in the Court of Arbitration in pursuance of the Act shall be commenced by a writ of summons in the Form No. 3 in the Schedule hereto, or in a form to the like effect.

5. Every such writ shall be issued out of the office of the Clerk of Awards of the industrial district in which the action must be commenced in accordance with the rules in that behalf hereinafter contained.

6. All such writs issued in the same industrial district shall be numbered consecutively in the order of their issue.

7. The writ shall be dated as of the day of its issue, and shall be sealed with the seal of the Court.

8. The writ when sealed shall be deemed to be issued, and the date thereof shall be deemed to be the date of the commencement of the action.

9. The plaintiff's statement of claim shall be annexed to the writ before it is sealed.

10. The writ of summons shall be prepared by the plaintiff or his solicitor, and shall be tendered to the Clerk of Awards, who shall seal the same and as many duplicates thereof as are required for service.

11. The original writ and statement of claim shall be retained by the Clerk of Awards and filed in his office.

12. At the foot of the writ there shall be subscribed a memorandum stating whether the writ has been issued by the plaintiff in person or by a solicitor on his behalf.

13. The memorandum shall also state a place to be called the address for service, where the plaintiff, if he sues in person, or his solicitor, if he sues by a solicitor, may be served with notices and other written communications.

14. Such address for service shall not be more than three miles from the office of the Clerk of Awards of the industrial district in which the writ is issued.

15. No solicitor shall issue a writ on behalf of a plaintiff or file a statement of defence for a defendant until he has filed with the Clerk of Awards either a warrant in that behalf in the Form No. 4 in the Schedule hereto, signed by the plaintiff or defendant, as the case may be, or by his agent thereunto duly authorised, or a declaration signed by the solicitor that he is authorised to act as solicitor in the action on behalf of the plaintiff or defendant. But where any such declaration is filed it shall be the duty of the solicitor to file, in addition thereto, such a warrant as aforesaid as early as may be afterwards.

16. There shall be indorsed on the back of the writ the notices to defendants purporting to be indorsed on the form of writ in the Schedule hereto.

17. The writ shall specify the name, residence, and calling of each plaintiff and defendant: Provided, however,—

- (1.) That any party may be designated in the writ by any name which he has acquired by usage or reputation;
- (2.) That any person carrying on business in the name of a firm apparently consisting of more than one person may be designated by the name of that firm;
- (3.) That any two or more persons carrying on business in partnership in the name of a firm may be designated in the writ by the name of the firm;
- (4.) That if the plaintiff at the time of issuing the writ is ignorant of the defendant's place of residence or calling, it shall be sufficient to describe him as "last known of [*Naming his last known residence*]," and to state his last known calling;
- (5.) That in an action against the owners of a ship not registered in New Zealand the defendants may be sufficiently designated as "The owners of the ship [*Naming her*]" without naming or further describing them.

18. The writ shall not be set aside for any misnomer or inaccurate description of the plaintiff or of the defendant.

SERVICE OF WRIT.

19. The writ shall be served on the defendant in person, or, if there are more defendants than one, on each defendant in person.

20. Service may be effected by delivering to the defendant a duplicate of the writ, with a copy of the plaintiff's statement of claim thereto annexed, or by bringing it to the defendant's notice if he refuses to receive it.

21. When a solicitor has undertaken in writing to accept service on behalf of any defendant or defendants, such defendant or defendants may be served by delivering at the office of the solicitor, for all the defendants for whom he accepts service, one duplicate of the writ, with a copy of the plaintiff's statement of claim annexed.

22. The writ may be served by the plaintiff, or any person whom he employs for that purpose, or by the proper officer of the Court, and service may be proved on oath before the Court, or by affidavit in the Form No. 5 in the Schedule hereto.

23. If at the office of the Clerk of Awards an officer has not been appointed to serve writs, the writ shall be served by the plaintiff or any person he appoints.

24. When the writ is to be served by an officer of the Court, the plaintiff or his solicitor, at the time of applying for the writ, shall deliver to the proper officer as many duplicates of the writ, with copies of the statement of claim, as there are defendants to be separately served.

25. The writ shall be served within four months from the day of the date thereof, including the day of the date of the writ.

26. Service of the writ on Sunday, Christmas Day, New Year's Day, or Good Friday shall be void.

27. If it appears to the Judge of the Court that reasonable efforts have been made to effect service of the writ, and either that the writ has come to the knowledge of the defendant or that prompt personal service thereof cannot be effected, the Judge may order *ex parte* that the plaintiff be at liberty to proceed as if personal service had been effected, subject to such conditions as the Judge thinks fit to impose.

28. Where a writ has not been served on the defendant or any defendant named therein, the plaintiff may at any time before the expiration of the period of four months from the date thereof (including the day of the date thereof) apply *ex parte* to the Judge of the Court for leave to renew the writ, and the Judge, if satisfied that reasonable efforts have been made to serve such defendant, or for other good reason, may order that the original and duplicate writs of summons be renewed for four months from the date of such renewal, and so from time to time during the currency of the renewed writ.

29. The writ and duplicate shall in such case be renewed by being resealed and being marked with the word "Renewed" and the date of the renewal by the Clerk of Awards of the industrial district in which the writ was issued.

30. A writ so renewed shall remain in force and be available to prevent the operation of any statute whereby the time for the commencement of the action is limited, and for all other purposes, as from the date of the original issue of the writ.

31. A writ or duplicate writ purporting to be so marked as aforesaid, showing the same to have been renewed, shall be sufficient evidence of such renewal and of the commencement of the action as of the first date of such renewed writ for all purposes.

32. Where partners are sued as partners, but not in the name of the firm, the writ may be served on any one or more of the partners, or at the principal place in New Zealand of the business of the partnership, on any one appearing to have control of the partnership business there.

33. Where one person carrying on business in the name of a firm apparently consisting of more than one person is, or two or more persons carrying on business in the name of a firm are, sued in the name of the firm, the writ may be served on such one person, or on any one or more of such partners, or at the principal place in New Zealand of the business of the partnership on any one appearing to have control of the partnership business there.

34. Unless otherwise provided by statute, service may be effected on—

(a.) Corporations, by delivering a duplicate of the writ to the mayor, president, chairman, clerk, secretary, or treasurer of such corporation, or any one performing the duties incidental to any of those offices:

(b.) Incorporated companies, by delivering a duplicate of the writ to the president, chairman, managing director, or secretary of such company, or to any one performing the duties incidental to any of those offices, or to any one appearing to have charge of the business of the company, at its registered office or principal place of business in New Zealand.

35. Where a defendant is beyond New Zealand, and has in New Zealand an attorney or agent authorised to transact his affairs generally, or to defend actions on his behalf, the writ may, by leave of the Judge of the Court, granted on the *ex parte* application of the plaintiff, be served upon such attorney or agent, subject to such terms as the Judge thinks right to impose.

36. In an action against the owners or charterers of a ship the writ may (without excluding other modes of service) be served by delivering the same to the master of the ship, unless the master is himself the plaintiff, or by serving the same upon any person or company acting in New Zealand as the agent of the defendants in respect of that ship.

37. In any action the writ may be served out of New Zealand by leave of the Judge of the Court, granted on the *ex parte* application of the plaintiff.

38. Every application for an order for leave to serve a writ out of New Zealand shall be supported by evidence, by affidavit or otherwise, showing in what place or country the defendant is or probably may be found, and whether the defendant is a British subject or not, and the grounds on which the application is made.

39. Any order giving leave to effect service out of New Zealand shall fix the time within which the defendant is to file his statement of defence, and the writ shall be amended accordingly, so as to conform to the order in this respect.

40. In any case not provided for by these Rules service shall be effected in such manner as the Judge of the Court directs.

PLACE OF COMMENCEMENT OF ACTION.

41. Every action shall be commenced in the industrial district in which all the parties to the action reside; but if all the parties do not reside in the same industrial district, then the action shall be commenced—

(a.) In the industrial district in which the accident out of which the action arises occurred; or

(b.) If the action arises out of the incapacity or death of a worker by reason of any disease, then in the industrial district in which the worker was last employed in the employment to the nature of which the disease was due; or

(c.) If the accident out of which the action arises occurred out of New Zealand, then in any industrial district.

42. A writ shall not be invalidated or set aside because the action has been commenced in the wrong industrial district, nor shall this be any ground of defence in the action; but in any such case the Judge of the Court may, if in his discretion he thinks fit, order the action to be transferred to any other industrial district, and thereupon all subsequent proceedings in the action shall be taken in the same manner as if the writ had been issued in the industrial district to which the action has been so transferred.

PARTIES TO AN ACTION.

43. All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, and judgment may be given for such one or more of the plaintiffs as are found entitled to relief for such relief as they are entitled to, without any amendment.

44. Where an action has been commenced in the name of the wrong person as plaintiff, or where it is doubtful whether it has been commenced in the name of the right plaintiff or plaintiffs, the Court or the Judge thereof may at any time, if satisfied that it has been so commenced through a *bona fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons to be substituted or added as plaintiff or plaintiffs, upon such terms as may seem just.

45. All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, and judgment may be given against such one or more of the defendants as are found to be liable, according to their respective liabilities, without any amendment.

46. It shall not be necessary that every defendant to an action shall be interested as to all the relief prayed for, or as to every cause of action included therein; but the Court or the Judge thereof may make such order as appears just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in the action in which he may have no interest.

47. When in any action the plaintiff is in doubt as to the person from whom he is entitled to redress, he may join two or more defendants, to the intent that in such action the question as to which (if any) of the defendants is liable, and to what extent, may be determined as between all parties to the action.

48. Any two or more persons claiming or being liable as partners may sue or be sued in the name of their respective firms (if any), and the opposite party may in such case apply for the names of the persons who are partners in any such firm, and until an affidavit has been filed stating the names and addresses of such partners all proceedings in the action on the part of such partners shall be stayed.

49. Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm.

50. Any minor above the age of eighteen years may sue or be sued in the same manner as if he were of the full age of twenty-one years.

51. Minors below the age of eighteen years and idiots or lunatics may sue and defend by a guardian *ad litem* admitted for that purpose by the Court or the Judge thereof.

52. The Court or the Judge thereof may on application *ex parte* admit any person as the guardian *ad litem* of a minor, idiot, or lunatic.

53. The writ of summons and statement of claim may be served upon any defendant being a minor under the age of eighteen years or an idiot or lunatic, although no guardian *ad litem* has been admitted, but no further step shall be taken in the action until a guardian *ad litem* is admitted.

54. If no application is made for admission as guardian *ad litem* to any such defendant within five days after service of the writ of summons, the Court or the Judge thereof, on the *ex parte* application of the plaintiff, may order that a solicitor, who consents thereto, do act as guardian *ad litem* of the defendant, and the defendant shall be liable to pay to the solicitor so appointed his costs of defending the action: Provided that in the case of a lunatic defendant the Court or the Judge thereof may order his committee to act as guardian *ad litem*.

55. A guardian *ad litem*, other than a solicitor appointed under the last preceding rule, shall be liable for the costs of the action in the same manner as if he were a party to the action.

56. A guardian *ad litem* may be removed by the Court or the Judge thereof upon sufficient cause being shown. In the case of the death, retirement, or removal of a guardian *ad litem*, a fresh guardian shall be admitted in the same manner as the original guardian. A guardian *ad litem* shall not be permitted to retire without the leave of the Court or the Judge thereof.

57. No action shall be defeated by reason of the misjoinder of parties, and the Court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

58. The Court or the Judge thereof may at any stage of the proceedings, either upon or without the application of either party, and on such terms as appear to the Court or Judge to be just, order that the name of any party, whether as plaintiff or defendant, improperly joined be struck out, and that the name of any person who ought to have been joined, or whose presence before the Court is considered necessary or advisable for doing complete justice in the matter of the action, be added, whether as plaintiff or defendant.

59. No person shall be added as a plaintiff without his own consent.

60. An application to add or strike out or substitute a plaintiff or defendant may be made at any time before trial or at the trial of the action.

61. When a defendant is added, unless otherwise ordered by the Court or Judge, the plaintiff shall serve on that defendant a copy of the order joining him as a party and of the statement of claim in the action, and may, before service, amend the statement of claim in such manner as the joinder of such new defendant renders desirable.

62. If the statement of claim is amended under the last preceding rule, the statement of claim filed in the Court and served upon the original defendant shall be amended in the same manner, or copies of such amended statement of claim shall be filed in the Court and served upon the original defendant.

STATEMENTS OF CLAIM AND DEFENCE.

63. On applying for a writ of summons the plaintiff shall deliver to the Clerk of Awards a statement of his claim against the defendant.

64. The statement of claim shall be annexed to the original writ of summons, and a copy thereof shall be annexed to each duplicate of the writ issued for service, and three other copies thereof shall at the same time be delivered to the Clerk of Awards for the use of the Court.

65. The statement of claim shall show the general nature of the cause of action, and shall ask for such judgment as the plaintiff considers himself entitled to.

66. The plaintiff may, besides asking for a specific judgment, ask generally for such judgment as the Court may consider him entitled to.

67. If the statement of claim seeks the recovery of a sum of money, the amount shall be stated as precisely as the nature of the case admits.

68. The defendant shall within the time limited in the writ of summons in that behalf deliver to the Clerk of Awards of the industrial district in which the writ is issued a statement of his defence to the plaintiff's claim, together with three copies of the statement for the use of the Court, and shall also serve a copy of such statement on the plaintiff.

69. At the foot of the statement of defence there shall be subscribed a memorandum stating whether it has been delivered by the defendant in person or by a solicitor on his behalf, and an address, to be called the address for service, where notices, orders, and other documents in the action may be left for the defendant.

70. Such address for service shall not be more than three miles from the office of the Clerk of Awards of the industrial district in which the writ is issued.

71. If further time to file a statement of defence is required, the defendant may apply to the Court or the Judge thereof, and the Court or the Judge may allow such further time as is deemed reasonable, and may, if necessary, adjourn the trial for such time and on such terms as to payment of costs and otherwise as may appear just.

72. The statement of defence shall either admit or deny the allegations of fact in the plaintiff's statement of claim.

73. Every allegation not denied shall be deemed to be admitted.

74. Where an affirmative defence is intended, the statement of defence shall show the general nature thereof.

75. If the plaintiff is prepared to admit any allegations of fact in the defendant's statement of defence, he shall, within seven days after the service upon him of the statement of defence, serve upon the defendant a notice stating distinctly the allegations which he admits, and any allegations of fact not so admitted shall be deemed to be denied.

76. The statements of claim and defence respectively shall give such particulars of time, place, amount, names of persons, dates of instruments, and other circumstances as may suffice to inform the opposite party of the cause of action or ground of defence, as the case may be.

77. If at the trial it appears to the Court that either party is taken by surprise by the nature of the case or defence set up by the opposite party, the Court may adjourn the trial to such time and place as is thought fit.

78. The statements of claim and defence shall be divided into paragraphs numbered consecutively, and each paragraph shall contain as nearly as may be a separate allegation. Dates, sums, and numbers shall be expressed in figures, and not in words.

79. If either party in his statement relies upon any document or any part thereof, it shall be sufficient to state the effect thereof as briefly as possible, without setting it out, unless the precise words are material.

AMENDMENT OF STATEMENTS OF CLAIM AND DEFENCE.

80. Either party may, at any time before trial, deliver to the Clerk of Awards an amended statement of claim or defence, and serve a copy thereof on the opposite party.

81. Either party may by notice require the opposite party to deliver and serve, within four days after the service of such notice, a more explicit statement of claim or defence.

82. Such notice shall indicate as clearly as may be the points in which the statement in respect of which it has been served is considered defective.

83. If the party on whom such notice is served neglects or refuses to comply with the same, the Court or the Judge thereof may, if the statement objected to appears not to give fair notice of the cause of action or ground of defence, order a fuller and more explicit statement to be filed. In default of compliance with any such order the Court at the trial may dismiss the action or strike out the defective statement of defence, as the case may be.

84. Where a statement of claim or defence has been amended under the preceding rules, the Court or the Judge thereof may, either before or at the trial, adjourn the trial for such time, to such place, and upon such terms as to payment of costs by the party amending as may appear just.

85. If no statement of defence has been filed by a defendant in accordance with the foregoing rules, such defendant shall not be entitled at the trial to defend the action without the leave of the Court, and judgment may be given against him accordingly as if he had confessed the cause of action.

86. Where a statement of defence has been filed by the defendant he shall not be entitled, without the leave of the Court, to raise any defence, whether of law or of fact, at the trial of the action, unless the nature of such defence is in the opinion of the Court sufficiently indicated in the statement of defence so filed by him; and judgment may be given against him accordingly.

87. Notwithstanding anything to the contrary in the two last preceding rules, if the Court at the trial of the action is of opinion that the failure of a defendant to file a statement of defence or a sufficient statement of defence has been due to a *bona fide* mistake, or that for any other reason leave to defend or to further defend the action ought justly to be given to the defendant, the Court may give leave to the defendant, on such terms as to costs or otherwise as are thought fit, to raise any specified defence of law or fact at the trial, without filing any statement of defence or without any formal amendment of the statement of defence.

CONFESSION.

88. If any defendant desires to confess the cause of action or any part thereof, he may at any time before the trial, instead of filing a statement of defence or after having filed a statement of defence, file a confession in the Form No. 6 in the Schedule hereto, and serve a copy thereof upon the plaintiff, and thereupon at the trial of the action judgment may be given against such defendant, without hearing evidence, in respect of the cause of action or the part thereof so confessed by him, with or without costs, as the Court thinks fit.

PAYMENT INTO COURT.

89. In any action in which the plaintiff claims the recovery of a lump sum of money the defendant may at any time before the trial pay into Court the amount so claimed or any lesser sum, and serve a notice of such payment upon the plaintiff.

90. The amount so paid into Court shall not be taken out of Court by the plaintiff, but shall remain in Court, to be dealt with as the Court or the Judge thereof directs.

91. The payment of money into Court shall be deemed to be a confession of the cause of action to the extent of the amount so paid, and judgment may at the trial be given against the defendant accordingly; but the defendant may, with respect to any other cause of action or with respect to any sum claimed in excess of the amount so paid into Court, file a statement of defence and defend the action in the same manner as if no payment into Court had been made.

92. In any action in which the plaintiff claims a lump sum of money by way of compensation, but in which the Court may in its discretion award in lieu thereof a weekly payment of compensation, the defendant may make payment into Court in accordance with the foregoing rules; but if the Court awards a weekly payment of compensation, the amount so paid into Court shall be repaid to the defendant, subject to any deduction ordered by the Court to be made therefrom in respect of costs or arrears of weekly payments.

93. All moneys payable into Court in pursuance of the Act or of these Rules shall be paid to the Clerk of Awards of the industrial district in which the action or other proceeding is pending, and the Clerk of Awards shall deal with the same in accordance with the Treasury Regulations for the time being in force relating to law trust moneys.

DISCONTINUANCE.

94. The plaintiff may at any time before trial discontinue his action, either wholly or as to any cause of action, by filing with the Clerk of Awards a memorandum in the Form No. 7 in the Schedule hereto.

95. A copy of such memorandum shall be served upon the defendant by the plaintiff.

96. A plaintiff so discontinuing shall be liable to pay to the defendant the costs of the action, and judgment may be given against the plaintiff accordingly on the application of the defendant.

97. The discontinuance of the action shall not be a defence to any subsequent action on the cause of action discontinued, but the Court or the Judge thereof may stay any such subsequent action unless and until the costs of the previous action have been paid.

ISSUES OF LAW.

98. If at any time in the course of the proceedings in an action it appears to the Court or to the Judge thereof that the matter in dispute is one of law only, or that a substantive question of law is involved which ought to be decided before the trial of the action, the Court or the Judge thereof may order that such matter or point of law be argued before the Court before the trial of the action, and that the trial of the action do stand adjourned pending the decision of the Court thereon.

99. The parties may, after the writ of summons has been issued, concur in stating the questions of law arising in the action in the form of a special case for the opinion of the Court.

100. On the argument of any such case the Court shall be at liberty to draw from the facts and documents set forth or referred to in the case any inference, whether of fact or of law, which might have been drawn therefrom if proved at the trial.

101. On the argument of such special case the Court may give judgment in the action, or may order the issues of fact or any of them to be tried before giving judgment.

102. In any action or other proceeding the Court or the Judge thereof may state a case for the opinion of the Court of Appeal on any point of law arising in the action or proceeding.

EVIDENCE.

103. Evidence at the trial of an action shall be given by means of witnesses who shall be examined *viva voce* before the Court; but the parties may agree that the evidence or any part of the evidence may be given by affidavit. Moreover, the Court or the Judge thereof may, even though no such agreement has been made, at any time for sufficient reason order that any particular fact or facts may be proved by affidavit, or that the affidavit of any witness may be read at the trial, on such conditions as the Court or Judge thinks reasonable.

104. Rules 179 to 205 of the Code of Civil Procedure, set forth in the Second Schedule to the Judicature Act, 1908, or any rules for the time being in force amending or substituted for those rules, shall so far as applicable extend and apply to the taking of evidence by affidavit in the Court of Arbitration under the Workers' Compensation Act, 1908.

105. The Court or the Judge thereof may in any cause or matter where it appears necessary for the purposes of justice make an order for the examination on oath before any officer of the Court, or any other person or persons, and at any place either in or out of New Zealand, of any witness or person, and may order any deposition so taken to be filed in the Court, and may empower any party to any such cause or matter to give such deposition in evidence therein, on such terms (if any) as the Court or Judge may direct.

106. Where any order is made for the examination of witnesses in New Zealand a summons may be issued for the attendance of any such witness, or for the production of documents by him, in the same form and manner, subject to all necessary modifications, as in the case of witnesses summoned to give evidence before the Court, and all the provisions of the following rules respecting witnesses summoned to attend the Court shall extend and apply accordingly.

107. On the application of any party the Clerk of Awards of the industrial district in which the action was commenced shall issue a summons to any person to appear and give evidence before the Court.

108. Every such summons shall be in duplicate, and shall bear the seal of the Court. One of the duplicates shall be retained by the Clerk of Awards and the other shall be delivered to the applicant for service.

109. Service of any such summons shall be effected by delivering a copy to the witness, and at the same time producing the original for his inspection if so required by him.

110. Any number of witnesses may be included in one summons, but the copy served need contain only the name of the witness upon whom it is served.

111. Every such summons may be in the Form No. 8 in the Schedule hereto, with or without a clause requiring the production of books, deeds, papers, and writings in the possession or under the control of the witness.

112. Every witness attending the Court upon such a summons shall be entitled to a sum for his expenses and loss of time in accordance with the scale for the time being in force in the Magistrate's Court under the Magistrates' Courts Act, 1908.

113. A witness who resides more than two hundred miles from the place of trial shall not be compellable to attend personally at the trial, unless the Court or the Judge thereof, on the application *ex parte* of any party, otherwise orders.

114. Paragraph (f) of section eighty-three of the Industrial Conciliation and Arbitration Act, 1908 (respecting witnesses failing to obey the summons of the Court), shall extend and apply to witnesses summoned under these Rules in the same manner as to witnesses summoned under the said Act.

115. The Court or the Judge thereof may take evidence on oath or affirmation, and for that purpose any member of the Court, or any Clerk of Awards, or the Registrar of the Court, or any other person acting under the express or implied direction of the Court or of the Judge thereof, may administer an oath or affirmation.

PLACE, TIME, AND MODE OF TRIAL.

116. When the writ of summons in any action has been served, and the time therein limited for filing the statement of defence has expired, the Clerk of Awards shall send to the Judge of the Court a copy of the statement of claim, together with a copy of the statement of defence (if any), and the Judge shall thereupon appoint a time and place for the trial of the action, and shall notify the Clerk of Awards of the time and place so appointed.

117. The place so appointed shall be within the industrial district in which the action has been commenced, unless the Judge for special reasons thinks fit to appoint a place outside that district.

118. The Clerk of Awards shall forthwith send to the plaintiff a notice, in the Form No. 9 in the Schedule hereto, of the time and place so appointed for the trial, and shall also send a like notice to the defendant, if a statement of defence has been filed by him.

119. At any time and from time to time before the trial the Judge of the Court may, on his own motion or on the application of either party, appoint any other place or time for the trial, and notice of such appointment shall be given to the parties in manner aforesaid.

120. The action being called on at the time of trial, if neither party appears, the Court shall order it to be struck out, but may order it to be reinstated on good cause being shown by either party, and subject to such terms as the Court thinks just.

121. If the plaintiff appears and the defendant does not appear, the plaintiff shall prove his cause of action so far as the burden of proof lies on him.

122. If the defendant appears but the plaintiff does not appear, the defendant, if he does not admit the claim, shall be entitled to judgment dismissing the action.

123. Any judgment obtained where one party does not appear at the trial may be set aside or varied by the Court upon such terms as may seem fit, on application within five days after the trial.

124. The plaintiff in any action may at any time before judgment has been given elect to be nonsuited, and the Court may nonsuit the plaintiff without his consent. After a nonsuit the plaintiff shall not be debarred from proceeding again to trial on the same statement of claim, all the costs of the first trial having been first paid, and the Judge of the Court on the application of the plaintiff may fix a time and place for such trial.

125. Where the plaintiff fails to prosecute his action or any part thereof to hearing, the defendant may move to dismiss the action, and the Court may on such motion make such order as may be just.

NOTICE TO PARTIES AGAINST WHOM INDEMNITY IS CLAIMED.

126. If in any action the defendant claims that if compensation is recovered from him he will be entitled under section thirteen or section forty-four of the Act or under any policy of insurance to indemnity against any person not a party to the action, he may file with the Clerk of Awards of the industrial district in which the action has been commenced a notice of his claim in the Form No. 10 in the Schedule hereto.

127. The Clerk of Awards shall seal a duplicate of such notice and deliver it to the defendant, who shall serve the same, together with a copy of the statement of claim in the action, upon the person against whom the claim of indemnity is made.

128. Every such notice shall be served in the same manner as a writ of summons.

129. The defendant shall, either in such notice or in a subsequent notice similarly served by him upon the same person, inform him of the time and place appointed for the trial of the action.

130. If any person so served with a notice (hereinafter called the third party) desires to dispute the plaintiff's claim as against the defendant on whose behalf the notice has been given, he must appear before the Court at the trial of the action; and in default of his so doing he shall be deemed to admit the validity of any judgment or order made against the defendant as to any matter which the Court has jurisdiction to decide in the action as between the plaintiff and defendant, whether such judgment or order is made by consent or otherwise. If the third party desires to rely on any grounds of defence, as between the plaintiff and defendant, other than those set out in the defendant's statement of defence (if any), he must file with the Clerk of Awards and serve upon the plaintiff and defendant a statement of defence setting out the grounds on which he so desires to rely. Such statement must be filed and served within fourteen days after the service of the notice of claim upon the third party, or if the interval before the trial is less than fourteen days, then as soon as practicable after such service and before the trial.

131. If it appears to the Court at the trial that the notice of claim has not been served on the third party in time to enable him to appear at the trial on the day appointed therefor, or that for any other sufficient cause the third party is unable so to appear, the Court may either adjourn the trial on such terms as to costs or otherwise as may be just, or may dismiss the third party from the action and proceed with the trial as if no such notice had been issued or served.

132. If the third party appears at the trial the Court may, if it appears desirable so to do, give him leave to resist the claim of the plaintiff against the defendant, upon such terms as may be just, or to take such part in the action as may be just, and generally may give such directions in the matter as the Court thinks fit; but the third party shall not be permitted, without the leave of the Court granted on special grounds, to raise any defence which has not been set out in a statement of defence filed either by himself or by the defendant in accordance with these Rules.

133. Nothing in the foregoing rules as to third parties shall empower the Court to decide (otherwise than by consent) any question as to the liability of the third party to indemnify the defendant; but whether the third party has appeared at the trial or not, the Court may order that he shall not be entitled in any future proceedings between the defendant and such third party in any Court to dispute the validity of the judgment given in the action between the plaintiff and defendant as to any matter which the Court of Arbitration has jurisdiction to determine as between the plaintiff and defendant.

134. The Court may decide all questions as to costs as between a third party and other parties to the action, and may order any one or more to pay the costs of any other or others, or give such directions as to costs as the justice of the case may require.

135. Where a defendant claims to be entitled to indemnity against any other defendant, a like notice may be issued, and the like procedure shall thereupon be adopted for the determination of questions between the defendants as might be issued and adopted against such other defendant if such last-mentioned defendant were a third party; but nothing in this rule shall prejudice the rights of the plaintiff against any defendant.

136. Where an employer claims under subsection five of section ten of the Act to be entitled to contribution from any other employer he may bring in such other employer as a third party in accordance with Rules 126 to 135, and the provisions of those rules shall with the necessary modifications apply to any such claim to contribution in the same manner as they apply to claims to indemnity. In any such case the Court may, in addition to any powers conferred upon it by the above-mentioned rules, determine the liability of the third party to make contribution to the defendant, and may make an order against the third party for payment of the contribution so determined.

ENFORCEMENT OF JUDGMENTS AND ORDERS.

137. When and as often as any sum of money becomes due and owing under any judgment or order of the Court or of the Judge thereof, the Clerk of Awards of the industrial district in which the action or other proceeding has been commenced shall, on application made to him by the creditor to whom the sum is payable, and on being satisfied by affidavit that the sum is unpaid, issue under the seal of the Court a certificate in the Form No. 11 in the Schedule hereto, and such certificate may be filed by the said creditor in the Supreme Court or in any Magistrate's Court.

138. Two or more certificates may be so issued and filed at the same time or at different times in different Courts in respect of the same sum of money.

139. When a certificate has been so filed in any Court, the amount specified therein shall be deemed to be due by the debtor to the creditor under a judgment of that Court, given on the day of the filing of the certificate, in an action for the recovery of a debt, and payment thereof may be enforced in all respects accordingly.

140. Such a certificate may be filed in a Magistrate's Court and shall have full force and effect according to the tenor thereof, although the sum specified therein may exceed the jurisdiction of that Court.

141. If after the filing of any such certificate the judgment or order of the Court of Arbitration or of the Judge thereof in respect of which the certificate was issued is varied or set aside by any subsequent order of that Court or Judge, the certificate shall remain enforceable only so far as it is consistent with such subsequent order.

MOTIONS.

142. Every application to the Court or to the Judge thereof, whether made in the course of an action or without action, other than an application made on the trial of an action or on the hearing of a motion, shall be made by motion in accordance with the following rules.

143. A notice in writing of the intended motion in the Form No. 12 in the Schedule hereto shall be delivered in duplicate to the Clerk of Awards. If the motion is made in an action the notice shall be delivered to the Clerk of Awards of the industrial district in which the writ of summons was issued. If the motion is made otherwise than in an action, the notice shall be delivered to the Clerk of Awards of the industrial district in which the same proceeding, if it were an action, would be commenced in accordance with the foregoing rules in that behalf.

144. Except where the motion is made by the plaintiff or defendant in an action, the notice of motion shall have subscribed thereon a memorandum stating whether it is filed by the applicant in person or by a solicitor on his behalf, and also stating the applicant's address for service, which shall not be more than three miles from the office of the Clerk of Awards in which the notice of motion is filed.

145. On the delivery of the notice of motion the Clerk of Awards shall send one of the copies thereof to the Judge of the Court, who shall thereupon appoint a time and place for the hearing of the motion, and shall notify the Clerk of Awards accordingly.

146. The place to be so appointed may be either in the industrial district in which the notice of motion has been filed or elsewhere, as the Judge thinks fit, having regard to all the circumstances of the case.

147. The Clerk of Awards shall thereupon send notice to the applicant in the Form No. 9 in the Schedule hereto of the time and place so appointed.

148. So soon as practicable after the receipt of notice of the time and place so appointed for the hearing of the motion the applicant shall, except where applications *ex parte* are authorised by these Rules, serve a copy of the notice of motion, together with a notice of the time and place so appointed, upon the person against whom the order is sought and upon any other persons interested in the matter of the application. When the motion is made in an action, any such notice may be served upon a party to the action in manner indicated by Rules 179 to 181. In any other case the notice shall be served in the same manner as a writ of summons, or in such other manner as the Judge of the Court may direct.

149. On any application the Court or the Judge thereof may make an order although service of notice of motion has not been effected in accordance with the last preceding rule, if the Court or Judge is satisfied that—

- (a.) Such service is not reasonably practicable; or that
- (b.) Reasonable efforts have been made to effect such service; or that
- (c.) The delay caused by proceeding in the ordinary way would or might cause irreparable injury; or that
- (d.) The motion appears to affect the applicant only, or is such that the interests of the person not served will not be affected by want of service.

150. Any person against whom an order has been made *ex parte* under the last preceding rule may at any time move to rescind the order.

151. If on the hearing of a motion the Court or the Judge, as the case may be, is of opinion that any person on whom notice has not been served ought to have or have had such notice, the Court or Judge may either dismiss the motion or adjourn the hearing thereof in order that such notice may be served, upon such terms (if any) as are thought just.

152. Where by these Rules or by the Act time is limited for making any application, the application shall be deemed to have been made in time if notice of motion has been delivered to the Clerk of Awards within the time so limited.

153. At any time before the day appointed by the Judge in pursuance of the foregoing rules for the hearing of a motion, the Judge may, on or without the application *ex parte* of any person interested, appoint a different time or place for the hearing thereof, and shall thereupon notify the Clerk of Awards of the appointment so made. The Clerk of Awards shall thereupon send to the original applicant notice of the day and place so appointed, and such applicant shall forthwith give notice thereof to all persons entitled to notice of the motion. All notices under this rule shall be given or served in manner provided by these Rules in respect of the original appointment of a time and place by the Judge of the Court.

154. Notices of motion shall state precisely the grounds on which it is intended to move, but the Court or the Judge may make an order on any other grounds if it seems expedient so to do.

155. All the provisions hereinbefore contained as to the taking of evidence, whether by affidavit or otherwise, and as to the summoning of witnesses on the trial of an action shall so far as applicable extend and apply with the necessary modifications to the hearing of a motion, save that on the hearing of a motion evidence may be given by affidavit unless the Court or the Judge otherwise directs.

156. If the Court or the Judge thinks fit, an application *ex parte* may be heard and an order may be made thereon, without the appearance of the applicant.

PROCEEDINGS AGAINST THE CROWN.

157. Save so far as provided by the succeeding rules, the provisions of Part II of the Crown Suits Act, 1908, shall have no application to proceedings against the Crown in the Court of Arbitration for or in respect of compensation under the Workers' Compensation Act, 1908.

158. Where any person has a claim against the Crown enforceable in the Court of Arbitration for or in respect of compensation under the Act, he may set forth in a petition in the Form No. 13 in the Schedule hereto the particulars of his claim in the same manner as nearly as may be as in a statement of claim filed in an action in accordance with the foregoing rules.

159. The petition may be filed with the Clerk of Awards of any industrial district in order that the Court may proceed to hear and determine the same as hereinafter provided.

160. The filing of the petition shall be the commencement of the suit.

161. At the foot of the petition there shall be subscribed a memorandum stating whether it has been filed by the petitioner in person or by a solicitor on his behalf.

162. The memorandum shall also state the petitioner's address for service in the same manner and subject to the same provisions as in the case of a writ of summons.

163. A copy of the petition, under the seal of the Court, shall be delivered by the petitioner at the office of the Solicitor-General, and such delivery shall be equivalent to service of the writ and statement of claim in an ordinary action.

164. The Attorney-General or Solicitor-General, or some solicitor appointed by the Attorney-General for this purpose, may file with the Clerk of Awards of the industrial district in which the suit has been commenced a statement of defence to such petition, in the Form No. 14 in the Schedule hereto, at any time within fourteen days after delivery of a copy of the petition at the office of the Solicitor-General as aforesaid, or within such further time as the Court or the Judge thereof may allow.

165. The statement of defence shall have subscribed thereto a memorandum stating by whom it has been filed, and also stating an address for service, which shall be not more than three miles from the office of the Clerk of Awards in which the petition has been filed.

166. Save so far as herein or in the Act expressly provided, the procedure in any suit so instituted by petition shall be the same in all respects as in an ordinary action between private persons under the Act and these Rules.

167. The Court or the Judge thereof, as the case may be, shall give the same judgment or orders in any such suit as would be given in an action between subject and subject, and the costs of suit may be allowed on either side as in ordinary cases between other suitors.

168. When any judgment or order is made in any such suit for the payment of money by the Crown, the Registrar of the Court shall give to the petitioner under the seal of the Court a certificate setting forth the purport of such judgment or order, but no certificate shall be issued and filed in any other Court under Rule 137 hereof in respect of any judgment or order so given or made against the Crown.

Costs.

169. When an order has been made under section thirty-seven of the Act allowing costs to the solicitor of any client who is entitled to compensation, the Judge of the Court may by the same or any subsequent order direct that the solicitor shall be entitled to a lien for those costs on the amount so payable as compensation, and that he shall be entitled to deduct the costs from that amount in such manner and by such instalments (if any) as the Judge thinks fit.

170. On any such order being made, the person liable to pay the compensation shall on demand pay to the solicitor the amount to which he is entitled in pursuance of the order, but so that such person shall not be liable to pay any amount in excess of that which he is liable to pay for compensation, or to pay such amount by any greater instalments than those by which he is liable to pay such compensation.

171. If the person liable to pay the compensation fails to pay any amount which he is so liable to pay to the solicitor, the amount may be recovered from him by the solicitor as a debt in any Court of competent jurisdiction.

172. Any payment so made to a solicitor by the person liable to pay the compensation shall be a valid discharge to him as against the person entitled to the compensation to the extent of the amount so paid.

173. When the amount of the compensation or any part thereof has been paid into Court the Judge may order that any costs to which the solicitor is so entitled shall be paid to him out of the sum so paid into Court.

174. When any costs are awarded against any person to whom compensation is or becomes payable by the person entitled to those costs, the Court or the Judge thereof may order that those costs shall be set off against the compensation so payable, and shall be deducted therefrom in such manner and at such time or times as the Court or the Judge thinks fit.

175. The Court or the Judge thereof may in any proceeding order the whole or any part of the costs of that proceeding to be paid by any party thereto, even though that party is successful in the proceeding.

176. Where in pursuance of the Act or these Rules the Court or the Judge thereof makes an order for the payment of costs, the amount of the costs so awarded shall be ascertained and stated in the order.

177. If any action is brought or application made which the Court or the Judge thereof, as the case may be, has no jurisdiction to try or allow, the Court or Judge shall order the action or application to be dismissed, but may award costs in the same manner as if jurisdiction had existed.

SERVICE.

178. In cases where personal service is not required, and where no other provision is made in these Rules, all notices and documents required to be served on any person shall be served in manner provided by the following six rules.

179. Where the person to be served sues or defends by a solicitor or is represented by a solicitor, they shall be delivered to or left for the solicitor at his address for service (if any), or in cases where there is no address for service, at his office or place of business.

180. Where the person to be served sues or defends in person or is not represented by a solicitor, they shall be delivered to him or left for him at his address for service (if any), or in cases where there is no address for service, at his residence with his wife or a domestic servant, or any person whose business it is or who has authority from him to receive messages and convey or forward them to him.

181. Where such service is impracticable, the Judge of the Court may, on affidavit showing the circumstances of the case and the necessity, give special directions as to service or publication in lieu thereof.

182. Where any document is to be filed with or delivered to the Clerk of Awards under these Rules, that document may be so filed or delivered by leaving it at the office of the Clerk of Awards or by sending it by post addressed to the Clerk of Awards at his office.

183. Where any document is under these Rules to be sent to any person by the Clerk of Awards, the document may be served in manner provided by Rules 179 to 181, or may be sent by post, addressed to that person or his solicitor at any place at which the document might be left or delivered in accordance with those rules.

184. Where a document is served by post it shall, unless the contrary is proved, be deemed to have been served at the time when the letter containing the same would have been delivered in the ordinary course of post, and in proving the service of the document it shall be sufficient to prove that it was properly addressed and posted.

MISCELLANEOUS.

185. Where an action is brought for the recovery of compensation for the death of a worker the Court may, in the judgment in that action or in any subsequent order made on the application of the plaintiff or any dependant or person claiming to be a dependant, allot the compensation among the dependants of the deceased, although those dependants are not parties to the proceedings; but the Court may in any such case before making such allotment require notice of the proceedings to be given to any dependant or to any person claiming to be a dependant.

186. Where an application is made to the Court under section thirty-five of the Act for the allotment of compensation among the dependants of a deceased worker, or under section twenty-eight or section thirty-three of the Act for the variation or setting-aside of an order with respect to dependants, the Court may make an order accordingly, although the dependants are not parties to the application; but the Court may in any such case before making the order require notice of the application to be given to any dependant or to any person claiming to be a dependant.

187. Every judgment or order given or made by the Court or the Judge thereof shall be prepared and settled by the Registrar of the Court, and shall be signed by the Judge, and shall bear the seal of the Court, and shall be filed with the Clerk of Awards of the industrial district in which the action or other proceeding was instituted.

188. The Judge of the Court shall have power at any time to correct any clerical error or omission in any judgment or order of the Court or the Judge thereof.

189. The Court or the Judge thereof shall have power either before, at, or after the trial of any action, or the hearing of any application, to amend or waive all defects and errors in the proceedings, whether there is anything in writing to amend by or not, and whether the defect or error is that of the party applying to amend or not.

190. All such amendments shall be made with or without costs and on such terms as the Court or the Judge thinks fit, and all amendments shall be made that may be necessary for the purpose of determining the real controversy between the parties.

191. The Court or the Judge thereof shall have power to enlarge or abridge the time appointed by these Rules or fixed by any order enlarging time for doing any act or taking any proceeding, on such terms (if any) as the justice of the case may require; and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

192. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the office of the Clerk of Awards is closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken if done or taken on the day on which that office is next open.

193. The presence of the Judge and at least one other member shall be necessary to constitute a sitting of the Court; and the decision of a majority of the members present at a sitting of the Court, or if the members present are equally divided in opinion, then the decision of the Judge shall be the decision of the Court.

194. On the hearing of any application by the Judge of the Court he may adjourn the hearing thereof to such place and time as he thinks fit.

195. If at the time and place fixed for the hearing of any application by the Judge of the Court the Judge is not present, the hearing of the application may be adjourned by the Registrar of the Court or by the Clerk of Awards to such place and time as he thinks fit.

196. The Court may be adjourned from time to time and from place to place in manner following:—

(a.) By the Court or the Judge at any sitting thereof, or if the Judge is absent from the sitting, then by any other member present, or if no member is present, then by the Clerk of Awards; and

(b.) By the Judge at any time before the time fixed for the sitting.

197. All the powers and jurisdiction vested in the Court or in the Judge thereof by the Act or by these Rules may be exercised in any part of New Zealand.

198. No Court fees shall be payable in respect of any proceedings in the Court of Arbitration under the Act.

199. A party to any action or other proceeding in the Court of Arbitration under the Act may appear in person or by a barrister of the Supreme Court.

200. By leave of the Court or the Judge thereof, as the case may be, any such party may appear—

(a.) By a member of his family :

(b.) By a person in the permanent and exclusive employment of such party :

(c.) In the case of a company or corporation, by a director or by the secretary or any other officer, or the attorney thereof, or by any person in the permanent and exclusive employment of the company or corporation.

201. No person other than a barrister or solicitor of the Supreme Court shall be entitled to have or recover any fee or reward for acting or appearing for any person in any action or other proceeding in the Court under the Act.

202. An action shall not become abated by reason of the marriage, death, or bankruptcy of any of the parties if the cause of action survives or continues, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*; and in any such case the Court or the Judge thereof may order any such change of parties as is necessary or advisable for the complete settlement of all the questions involved in the action.

203. Where the Court or the Judge thereof has power under the Act or these Rules to make any order on application made for that purpose, the application may, in the absence of anything to the contrary in the Act or Rules, be made by any person interested, whether directly or indirectly, in the order applied for, and whether or not he is a party to the action (if any) in which the application is made.

204. Application to the Judge of the Court under section fifty-eight of the Act may be made by any person interested by filing in the office of any Clerk of Awards a copy of the scheme for compensation, together with an application in writing for the certificate of the Court.

205. A certificate granted by a Judge of the Supreme Court under section forty-six of the Act may be in the Form No. 15 in the Schedule hereto, and shall be delivered to the Clerk of Awards of such industrial district as the said Judge directs.

206. Sections one hundred and fourteen to one hundred and nineteen of the Industrial Conciliation and Arbitration Act, 1908, shall extend and apply to proceedings before the Court or the Judge thereof under the Workers' Compensation Act, 1908, in the same manner as to proceedings before the Court under the first-mentioned Act. Except so far as a contrary intention is expressed or implied in the Workers' Compensation Act, 1908, or in these Rules, the remaining provisions of the Industrial Conciliation and Arbitration Act, 1908, and its amendments, and of the regulations for the time being in force thereunder with respect to the procedure of the Court, shall have no application to proceedings in the Court under the Workers' Compensation Act, 1908.

207. Where the forms in the Schedule hereto are directed or authorised to be used, such variations may be made therein as the circumstances of any particular case require.

208. All statements of claim and of defence, judgments, orders, notices, and summonses in an action or other proceeding shall be properly intitled in the Form No. 1 or in the Form No. 2 in the Schedule hereto.

209. All moneys paid to the Public Trustee under section thirty-one of the Act shall form part of the common fund under the Public Trust Office Act, 1908, and shall be invested and dealt with accordingly, subject, however, to any order made from time to time by the Court in that behalf.

210. The following fees shall be payable to medical referees out of moneys appropriated by Parliament for that purpose under section fifty-two of the Act:—

(a.) For a report under subsection two of the said section (including any medical examination), one guinea.

(b.) For an examination ordered by the Court under subsection three of the same section, one guinea.

211. If the Court is of opinion that in any particular case the foregoing remuneration is insufficient, the remuneration may be increased to such sum not exceeding four guineas as the Court thinks fit.

212. A certificate of all sums to which any medical referee is entitled under the foregoing rules shall be given to the referee under the hand of the Registrar of the Court or the Clerk of Awards, who shall send a duplicate of every such certificate to the Minister of Labour.

213. When a party to any action or other proceeding applies to the Court for the submission of any matter to a medical referee or for the examination of any person by a medical referee under section fifty-two of the Act, the Court may, if it thinks fit, in granting the application require the applicant to pay into Court by way of Court fees a sum not exceeding the estimated remuneration to which the medical referee will be entitled, and any sum so paid into Court shall be deemed to be part of the costs of the proceeding, and the Court may make any order in respect thereof accordingly.

214. The remuneration of a medical referee for any certificate given by him under subsection four of section fifty-two of the Act (including his remuneration for any examination incidental to such certificate) shall be paid by the employer, and not out of the Consolidated Fund, and shall be such sum as is agreed upon between the employer and the medical referee, not exceeding in any case the sum of two guineas.

215. For the purposes of the Act and these Rules the seal of the Court shall be in the custody of every Clerk of Awards, and may be affixed by a Clerk of Awards to any document required or authorised by these Rules to be sealed with the seal of the Court.

216. Non-compliance with any of these Rules shall not render the proceedings in which such non-compliance has occurred void, unless it is expressly so provided by these Rules; but such proceedings may be set aside, either wholly or in part, as irregular, or amended or otherwise dealt with in such manner and on such terms as the Court or the Judge thereof may deem just.

217. If any case arises for which no form of procedure has been provided by these Rules, the Court or the Judge thereof shall dispose of that case as nearly as may be in accordance with any of these Rules which affect any similar case, or if there are no such rules, in such manner as the Court or Judge deems best calculated to promote the ends of justice.

SCHEDULE.

FORMS.

No. 1. General Heading for all Written Proceedings in an Action.

New Zealand.

No.

In the Court of Arbitration, [Northern] Industrial District.

Between A. B.,
Plaintiff,
and C. D.,
Defendant.

No. 2. General Heading for all Written Proceedings not in an Action.

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

In the matter of the Workers' Compensation Act, 1908;

and

In the matter of a claim for compensation against A. B., of , in respect of the death of [or of injuries suffered by] C. D., of .

No. 3. Writ of Summons.

You are hereby summoned to attend the Court of Arbitration at a time and place to be hereafter appointed by the Judge of that Court in that behalf to answer a claim made by the plaintiff under the Workers' Compensation Act, 1908, particulars of which are hereunto annexed.

And take notice that unless within fourteen days from but exclusive of the day of the service of this writ you file in the office of the Clerk of Awards at [e.g., Wellington] a statement of your defence to the plaintiff's claim you will not be permitted to defend the action except with the leave of the Court, and the plaintiff may proceed in his action without further notice to you.

Dated at , this day of , 19 .

To the above-named defendant, C. D. (Seal.)

This writ is sued out by the plaintiff in person [or by , solicitor for the plaintiff], whose address for service is .

(See indorsements on the back of this writ.)

INDORSEMENTS.

This writ must be served on you within four months from the date thereof or from the date of renewal, if renewed.

If the last day for delivering your statement of defence falls on a Sunday or a day on which the office of the Clerk of Awards is closed, the statement may be delivered on the next succeeding day on which that office is open.

If you confess the plaintiff's claim or any part thereof, you should sign and deliver your confession to the Clerk of Awards before the expiration of the time limited for filing your statement of defence; but you may deliver your confession at any time before the trial, subject to the payment of any further costs which your delay has caused the plaintiff to incur.

Summonses to secure the attendance of witnesses will be issued on application at the office of the Clerk of Awards.

If you duly file your statement of defence, notice of the day and place fixed for the trial of the action will be subsequently given to you by the Clerk of Awards.

The office of the Clerk of Awards is situated at [e.g., the Supreme Court Buildings, Wellington.]

No. 4. Warrant to sue or defend.

I hereby authorise you to appear and act as my solicitor in an action brought by me under the Workers' Compensation Act, 1908, against

Dated this day of , 19 .

To

Name: .
Address: .
Calling: .

No. 5. Affidavit of Service.

I, , of , in the Dominion of New Zealand, make oath and say,—

That I did on the day of , 19 , serve the above-named defendant with a writ of summons and statement of claim, true copies of which are hereunto annexed and marked A and B, at , in the Provincial District of , in New Zealand, by delivering the same personally to the defendant [Or as the case may be].

No. 6. Admission of Claim.

The defendant admits that the plaintiff is entitled to the relief claimed by him [Or state any relief which the defendant admits the plaintiff to be entitled to].

[Or where a weekly sum is claimed by way of compensation.] The defendant admits his liability to pay compensation in this action, and submits to judgment for the payment by him to the plaintiff of the weekly sum of _____ as from the _____ day of _____, 19____, at such times and in such manner as the Court thinks fit.

No. 7. Discontinuance.

The plaintiff hereby discontinues this action.

No. 8. Summons of Witness.

To A. B., of _____, and C. D., of _____.

Take notice that you and each of you are hereby summoned to appear before the Court of Arbitration at _____, on _____, the _____ day of _____, 19____, at _____ o'clock in the _____ noon, and thereafter from day to day until discharged from attendance, to give evidence in this action on behalf of the plaintiff [or defendant].

[Add, where necessary.]

And you are also required to have and produce all books, papers, and other documents in your possession, custody, and control in any way relating to the matters in dispute in this action, and in particular the following: [Stating them].

Dated this _____ day of _____, 19____.

(Seal.)

E. F.,
Clerk of Awards.

No. 9. Notice of Time and Place of Hearing.

Take notice that the trial of this action [or the hearing of this motion] will take place before the Court of Arbitration [or the Judge of the Court of Arbitration] on _____, the _____ day of _____, 19____, at _____ o'clock in the _____ noon at [State place of trial—e.g., Supreme Court, Wellington].

Dated this _____ day of _____, 19____.

(Seal.)

To _____ Clerk of Awards.

No. 10. Third-party Notice.

To [Name, address, and calling of third party].

Take notice that this action has been brought by the plaintiff against the defendant to recover compensation under the Workers' Compensation Act in respect of [Here state generally the nature of the cause of action]. A copy of the statement of claim in the action is hereunto annexed.

The defendant claims to be indemnified by you against his liability to pay such compensation on the ground that [Here state the ground on which indemnity is claimed].

If you wish to dispute the plaintiff's claim as against the defendant, you must appear before the Court of Arbitration at the trial of this action, and must also file a statement of defence setting forth any ground of defence other than those set out in the statement of defence filed by the defendant.

The action will be tried at [State place, day, and hour appointed for the trial, or, if no appointment has been made before the issue of this notice, add the words, "a time and place of which due notice will hereafter be given to you"].

In default of your so appearing you will be deemed to admit the validity of any judgment given in the action.

The plaintiff's address for service is _____.

The defendant's address for service is _____.

Dated this _____ day of _____, 19____.

(Signature of Defendant, his Solicitor, or Agent.)

No. 11. Certificate of Clerk of Awards.

(To be filed in the Supreme Court or Magistrate's Court.)

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

In the matter of the Workers' Compensation Act, 1908.

I hereby certify that on the _____ day of _____, 19____, the Court of Arbitration [or the Judge of the Court of Arbitration] gave judgment [or made an order] for the payment by [State the name, address, and calling of the debtor] to [State the name, address, and calling of the creditor] of the sum of [State the full amount of the judgment or order, with particulars (if any) as to mode of payment—e.g., one pound per week]:

And whereas default has been made in the payment of the said sum:
I hereby certify that there is now due and owing by the said _____ to the said _____ under
the said judgment [or order] the sum of _____, particulars of which are hereunder written.
Dated at _____, this _____ day of _____, 19 _____.

(Seal of the Court.)
(Signed) A. B.,
Clerk of Awards.

THE PARTICULARS ABOVE REFERRED TO.

[Here set out all dates, sums, and other particulars necessary to identify the sum in respect of which the certificate is given.]

No. 12. Notice of Motion.

Notice is hereby given that application will be made by [State the name, calling, and address of the applicant, and the character in which he makes the application—e.g., "the plaintiff" or "a dependant of A. B., deceased"] to the Court of Arbitration [or to His Honour the Judge of the Court of Arbitration], at the time and place specified in the memorandum hereunder written for an order [Here state the nature of the order to be applied for].

The grounds on which the application will be made are [Here set out the grounds of the application.]

(Signed by the Applicant, or his Solicitor, or Agent.)

MEMORANDUM.

1. It is intended to serve this notice upon [Here state names, addresses, and callings of persons intended to be served, and the characters in which they are made parties to the application].
[Or, It is intended to make this application *ex parte*].

2. This notice of motion is filed by the applicant in person [or by _____, solicitor for the applicant], whose address for service is _____.

3. This application will be heard at _____, on _____, the _____ day of _____, 19 _____, at _____ o'clock in the _____ noon.

[Time and place of hearing to be filled in after appointment by Judge, and before service of notice.]

No. 13. Petition of Right.

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

In the matter of the Workers' Compensation Act, 1908.

The _____ day of _____, 19 _____.

To the King's Most Excellent Majesty.

Your faithful subject, A. B., of [Here state residence and calling of petitioner] humbly showeth,—

That [Here set forth the grounds on which the petitioner claims relief, and the nature of the relief claimed, as in a statement of claim in an ordinary action].

Your suppliant therefore humbly prays that Your Majesty will be graciously pleased to order that right be done in this matter.

And your suppliant as in duty bound will ever pray.

A. B.

This petition is filed by the petitioner in person [or by C. D., the solicitor of the petitioner], whose address for service is _____.

No. 14. Statement of Defence in a Suit against the Crown.

New Zealand.

In the Court of Arbitration, [Northern] Industrial District.

A. B., of [Address and description],

v.

The King.

The _____ day of _____, 19 _____.

STATEMENT OF DEFENCE.

C. D., Esquire, Attorney-General, for and on behalf of His Majesty the King, says that, &c. [as in a statement of defence in an ordinary action].

MEMORANDUM.

This statement of defence is filed by _____, whose address for service is _____.

No. 15. Certificate to be filed in Court of Arbitration.

In the Supreme Court of New Zealand,
District.

Between A. B., of [*Address and description*], plaintiff,
and

C. D., of [*Address and description*], defendant.

And in the matter of the Workers' Compensation Act, 1908.

I hereby certify that on the day of , the above-named plaintiff commenced an action against the above-named defendant [*Here state claim of plaintiff*]:

And that on the trial of the action before me on the day of it was determined that the injury in respect of which the plaintiff claimed damages was one for which the defendant was not liable in the action, but that the defendant would have been liable to pay compensation in respect of that injury under the above-mentioned Act:

And that therefore the action was dismissed, but the Court, on the request of the plaintiff, proceeded to assess the compensation which the defendant would have been liable to pay under the said Act:

And that the Court assessed such compensation at the sum of , and directed [*State directions given as to the payment of compensation and costs, and directions (if any) as to the deduction of costs from compensation, or as to any other matters*].

Dated this day of , 19 .

(Seal of the Supreme Court.)

(*Signature of Judge.*)

J. HISLOP,
Acting Clerk of the Executive Council.