



New South Wales

Workers Compensation (General) Amendment (Indexation and Uninsured Liabilities) Regulation 1998

under the

Workers Compensation Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Workers Compensation Act 1987*.

JEFFREY SHAW, Q.C., M.L.C.,

Minister for Industrial Relations

Explanatory note

The object of this Regulation is to amend the *Workers Compensation (General) Regulation 1995* as follows:

- (a) to specify an index number that is to be used in the indexation of benefits in line with movements in award rates of pay, in place of existing indexation arrangements that rely on index numbers that will no longer be published by the Australian Statistician,
- (b) to avoid duplication of notification requirements by providing for the notice of intended discontinuation of weekly payments of compensation on the grounds provided for by section 52A of the Act (discontinuation after payments for 2 years) to be sufficient notice for the purposes of another provision of the Act that requires a period of notice of proposed discontinuation of weekly payments,
- (c) to modify the terminology of various provisions of the Act in their application to uninsured liability claims, to allow for the fact that those claims are made on the WorkCover Authority rather than on an employer or insurer.

1998 No 154

Workers Compensation (General) Amendment (Indexation and Uninsured Liabilities) Regulation 1998

Explanatory note

An example of a provision modified as described by paragraph (c) is the provision of the Act relating to discontinuation of weekly compensation payments after two years, which requires “the person liable to make the payments” (an employer or insurer) to give the worker notice of intention to discontinue. The WorkCover Authority, as administrator of the uninsured liability scheme, is only “liable” to make compensation payments to an uninsured injured worker when the Court has made an award or order to that effect (but has a discretion to make payments without such an award or order). One of the modifications to be made by the Regulation is to specify that, in the case of uninsured liability claims, the provision concerning discontinuation notices applies whether or not the payments are made under an award or order of the Court. The result will be to place workers receiving payments under the uninsured liability scheme in the same position as properly insured workers.

This Regulation is made under the *Workers Compensation Act 1987*, including sections 79, 148 and 280 (the general regulation making power).

Workers Compensation (General) Amendment (Indexation and Uninsured Liabilities) Regulation 1998

1 Name of Regulation

This Regulation is the *Workers Compensation (General) Amendment (Indexation and Uninsured Liabilities) Regulation 1998*.

2 Commencement

This Regulation commences on 31 March 1998.

3 Amendment of Workers Compensation (General) Regulation 1995

The *Workers Compensation (General) Regulation 1995* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

1998 No 154

Workers Compensation (General) Amendment (Indexation and Uninsured Liabilities) Regulation 1998

Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 13 S 79: definition of “latest index number”

Insert at the end of the Table to the clause:

1 April 1998 146.4

[2] Clause 15 Notice of intention to discontinue or reduce weekly payments

Omit “The notice” from clause 15 (1).

Insert instead “Except in a case to which subclause (2) applies, the notice”.

[3] Clause 15 (2)

Insert after clause 15 (1):

- (2) In the case of a discontinuation of weekly payments of compensation pursuant to section 52A (Discontinuation of weekly payments after 2 years) of the Act, the notice referred to in section 54 of the Act is to be in the form of the payment discontinuation notice required by section 52A of the Act.

**[4] Clause 77 Uninsured Liability and Indemnity Scheme—
modification of provisions of the Act**

Omit “sections 38A, 134 and 154A” from clause 77 (b).

Insert instead “sections 11A (8), 38A, 134, 92 (1D) and 154A”.

[5] Clause 77(e)—(g)

Insert at the end of clause 77:

- (e) in section 52A(2) the reference to the person liable to make the payments is to be read as reference to the Authority, and the reference to the person's intention is to be read as reference to the Authority's intention,
- (f) there is to be inserted at the end of section 52A (2) "This subsection applies whether or not the payments are made under an award or order of the Compensation Court.",
- (g) the reference in section 52A (6) to the worker's employer or the employer's insurer is to be read as a reference to the Authority.