

1995—No. 540

WORKERS COMPENSATION ACT 1987—REGULATION

(Workers Compensation (General) Regulation 1995)

NEW SOUTH WALES



[Published in Gazette No. 105 of 1 September 1995]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Workers Compensation Act 1987, has been pleased to make the Regulation set forth hereunder.

JEFFREY SHAW, Q.C. M.L.C.,
Minister for Industrial Relations.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Workers Compensation (General) Regulation 1995.

Commencement

2. (1) This Regulation commences on 1 September 1995, except as provided by subclause (2).

(2) Clause 75 commences on 1 July 1996.

Definitions

3. In this Regulation:

“**approved**” means approved by the Authority;

“**the Act**” means the Workers Compensation Act 1987.

Forms

4. A reference to a form in this Regulation is a reference to a form in Schedule 1.

PART 2—WORK RELATED DISEASES

Diseases deemed work related

5. Employments of the kinds set out in Column 2 of Schedule 2 are prescribed as employments to which section 19 (1) of the Act applies. A disease set out in Column 1 of Schedule 2 is prescribed as a disease that is related to the employment or, as the case may require, each of the employments, set out in Column 2 of that Schedule opposite the description of that disease.

Brucellosis, Q fever and leptospirosis—medical tests and results to determine whether work related

6. For the purposes of section 19 (2) of the Act, any one of the results set out in Column 3 of Schedule 3, if obtained by means of the medical test the requirements of which are set out opposite that result in Column 2 of that Schedule, is a result prescribed in respect of the disease, the name of which appears opposite that result in Column 1 of that Schedule.

PART 3—FUNERAL EXPENSES

S. 27 (b): maximum amount for funeral expenses

7. (1) For the purposes of section 27 (b) of the Act, the maximum amount for which an employer is liable in respect of reasonable funeral expenses, if death results from an injury and the worker leaves no dependants, is:

- (a) in the case of a funeral held before 1 February 1992—\$2,700; or
- (b) in any other case—\$4,000.

(2) This clause applies regardless of when the injury which caused the death of the worker concerned was received.

PART 4—CURRENT WEEKLY WAGE RATE

Definitions

8. (1) In this Part:

“**Federal Act**” means the Industrial Relations Act 1988 of the Commonwealth;

“**State Act**” means the Industrial Relations Act 1991.

(2) A reference:

- (a) in clause 10 (2) to an amount of money specified in an award;
- (b) in clause 11 (1) to an amount of a rate per 5 days or week or a minimum weekly rate fixed by an award or a Part or Division of an award,

is a reference to the amount or minimum weekly rate which is for the time being specified in, or fixed by, the award, Part, Division or industrial agreement, as the case may be, as in force from time to time.

S. 42 (1) (c), (5) (b): prescribed classes of workers by Ministerial order

9. (1) The Authority may by order published in the Gazette:

- (a) declare a specified class or classes of workers to be a class of workers to which this clause applies; and
- (b) specify the manner in which the current weekly wage rate of a worker of each such class is to be calculated for the purposes of section 42 (1) (c) of the Act.

(2) Each class of workers to which this clause applies by virtue of an order of the Authority under this clause is prescribed for the purposes of section 42 (1) (c) and (5) (b) of the Act.

(3) The manner specified in the order as the manner of calculating the current weekly wage rate of a class of workers is prescribed for the purposes of section 42 (1) (c) of the Act in respect of that class of workers.

(4) While an order of the Authority in force under this clause applies to a class of workers, clauses 10 and 11 do not apply to that class of workers.

S. 42 (1) (c), (5) (b): prescribed classes of workers etc.—shearers

10. (1) For the purposes of section 42 (1) (c) and (5) (b) of the Act, the following classes of workers are prescribed:

- (a) shearers bound by the Pastoral Employees (State) Award under the State Act;
- (b) shearers bound by the Pastoral Industry Award 1965 under the Federal Act.

(2) For the purposes of section 42 (1) (c) of the Act, the formula prescribed in respect of each class of workers prescribed by subclause (1) is $A \times 5$ per week, where “A” is the amount of money specified in clause 14 (a) (i) of the award referred to in subclause (1) (b).

S. 42 (1) (c), (5) (b): prescribed classes of workers etc.—certain meat industry workers

11. (1) For the purposes of section 42 (1) (c) and (5) (b) of the Act, the following classes of workers are prescribed:

- (a) each class of workers who are:
 - (i) regular daily employees (working under any tally or piece-work system) bound by Part III of the Federal Meat Industry Award 1981 under the Federal Act, made on 23 July 1982; and
 - (ii) normally employed at a common place of employment under a particular classification for which that Part of that award fixes a minimum tally rate per 5 days;
- (b) each class of workers who are:
 - (i) regular daily employees, being piece-workers, bound by the Meat Processing Interim Award 1973 under the Federal Act; and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes an ordinary rate per 5 days;
- (c) each class of workers who are:
 - (i) regular daily employees, being piece-workers, bound by the Field Group and the Australasian Meat Industry Employees' Union Industrial-Agreement Award 1973 under the Federal Act; and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes an ordinary rate per 5 days for piece-work;
- (d) each class of workers who are:
 - (i) employees, being members of a piece-work team, to whom Division 24 of the Meat Industry—J.C. Hutton Pty Ltd Industrial Agreement-Award 1974 under the Federal Act applies; and
 - (ii) normally employed at a common place of employment under a particular classification for which that Division of that award fixes an ordinary weekly rate;
- (e) each class of workers who are:
 - (i) regular daily employees, being piece-workers, bound by the Queensland Meatworks Industrial Agreement Award 1979 under the Federal Act; and

- (ii) normally employed at a common place of employment under a particular classification for which that award fixes an ordinary rate per 5 days;
- (f) each class of workers who are:
 - (i) employees engaged as slaughtermen or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by the Butchers’ Wholesale (Cumberland) Award under the State Act; and
 - (ii) normally employed at a common place of employment under a particular classification for which that award fixes a minimum weekly rate of pay;
- (g) each class of workers who are:
 - (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as daily hands (being regular casuals within the meaning of clause 32 (iii) of the Butchers, Wholesale (Newcastle and Northern) Award under the State Act) or as weekly hands, in each case being employees Bound by that award; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that award fixes a minimum weekly rate of pay;
- (h) each class of workers who are:
 - (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as daily hands (being regular casuals within the meaning of clause 31 (iii) of the Butchers’ Wholesale (Country) Award under the State Act) or as weekly hands, in each case being employees bound by that award; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 17 of that award fixes a minimum weekly rate of pay;
- (i) each class of workers who are:
 - (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or daily hands, bound by industrial agreement No. 5856 in force under the State Act between the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and F. J. Walker Limited—Aberdeen Division, and filed with the Registrar on 20 October 1977; and

- (ii) normally employed at a common place of employment under a particular classification for which clause 19 of that agreement fixes a minimum weekly rate of pay;
- (j) each class of workers who are:
- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and Gosford Meats Pty Limited and Central Coast Cold Stores, and filed with the Registrar on 8 December 1980; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay;
- (k) each class of workers who are:
- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and Northern Co-operative Meat Company Limited—Casino, and filed with the Registrar on 4 May 1981; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay;
- (l) each class of workers who are:
- (i) employees engaged as slaughtermen, boners, slicers or following labour entitled to “overs”, either as weekly hands or regular casuals, bound by industrial agreement No. 6090 in force under the State Act between Anderson Meat Packing Company Pty Limited, Wallangarra, and the Australasian Meat Industry Employees’ Union, Newcastle and Northern Branch, and filed with the Registrar on 27 July 1979; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay;

- (m) each class of workers who are:
 - (i) employees (not being employees described in paragraph (g) (i)) engaged either as daily hands (being regular casuals within the meaning of clause 32 (iii) of the Butchers, Wholesale (Newcastle and Northern) Award under the State Act) or as weekly hands, in each case being employees bound by that award and to whom clause 17 or clause 41 (x) of that award applies; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that award fixes a minimum weekly rate of pay;
- (n) each class of workers who are:
 - (i) employees (not being employees described in paragraph (h) (i)) engaged either as daily hands (being regular casuals within the meaning of clause 31 (iii) of the Butchers' Wholesale (Country) Award under the State Act) or as weekly hands, in each case being employees bound by that award and to whom clause 16 or clause 40 (x) of that award applies; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 17 of that award fixes a minimum weekly rate of pay;
- (o) each class of workers who are:
 - (i) employees (not being employees described in paragraph (i) (i)) engaged as weekly hands or daily hands, bound by industrial agreement No. 5856 in force under the State Act between the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and F. J. Walker Limited—Aberdeen Division, and filed with the Registrar on 20 October 1977, in each case being employees to whom clause 12 or clause 39 (x) of that agreement applies; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 19 of that agreement fixes a minimum weekly rate of pay;
- (p) each class of workers who are:
 - (i) employees (not being employees described in paragraph (j), (i)) engaged as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and Gosford

Meats Pty Limited and Central Coast Cold Stores, and filed with the Registrar on 8 December 1980, in each case being employees to whom clause 17 of that agreement applies; and

- (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay;
- (q) each class of workers who are:
- (i) employees (not being employees described in paragraph (k) (i)) engaged as weekly hands or regular casuals, bound by an industrial agreement in force under the State Act between the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and Northern Co-operative Meat Company Limited—Casino, and filed with the Registrar on 4 May 1981, in each case being employees to whom clause 17 or 41 (xi) of that agreement applies; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay;
- (r) each class of workers who are:
- (i) employees (not being employees described in paragraph (1) (i)) engaged either as weekly hands or regular casuals, bound by industrial agreement No. 6090 in force under the State Act between Anderson Meat Packing Company Pty Limited, Wallangarra, and the Australasian Meat Industry Employees' Union, Newcastle and Northern Branch, and filed with the Registrar on 27 July 1979, in each case being employees to whom clause 17 or 41 (xi) of that agreement applies; and
 - (ii) normally employed at a common place of employment under a particular classification for which clause 18 of that agreement fixes a minimum weekly rate of pay.

(2) For the purposes of section 42 (1) (c) of the Act, the formula prescribed for each worker of a class prescribed by subclause (1) is whichever of the following formulae is appropriate:

- (a) except as provided by paragraphs (b) and (c), the formula is:

$$\frac{A1 + A2 + A3 + A4 + A5}{B} \quad \times 5 \text{ per week}$$

- (b) where the formula prescribed by paragraph (a) provides a greater rate for a particular week for the worker (being a worker of any one of the classes prescribed by subclause (1) (a)—(1)) than the rate of $C \times 21/16$ per week, the formula is $C \times 21/16$ per week for that week for that worker; or
- (c) where the formula prescribed by paragraph (a) provides a smaller rate for a particular week for the worker than the rate of $C \times 1$ per week, the formula is $C \times 1$ per week for that week for that worker.

(3) In the application of the formulae prescribed by subclause (2) for the purpose of determining compensation payable in respect of a period of incapacity (consisting of a week or any part thereof) of a worker of any one of the classes prescribed by subclause (1):

“A1” equals:

- (a) where that period consists of, or includes, Monday of that week and any other worker of that class worked on that Monday—the prescribed amount payable to that other worker for that Monday; or
- (b) in any other case—0;

“A2” equals:

- (a) where that period consists of, or includes, Tuesday of that week and any other worker of that class worked on that Tuesday—the prescribed amount payable to that other worker for that Tuesday; or
- (b) in any other case—0;

“A3” equals:

- (a) where that period consists of, or includes, Wednesday of that week and any other worker of that class worked on that Wednesday—the prescribed amount payable to that other worker for that Wednesday; or
- (b) in my other case—0;

“A4” equals:

- (a) where that period consists of, or includes, Thursday of that week and any other worker of that class worked on that Thursday—the prescribed mount payable to that other worker for that Thursday; or
- (b) in any other case—0;

“A5” equals:

- (a) where that period consists of, or includes, Friday of that week and any other worker of that class worked on that Friday—the prescribed amount payable to that other worker for that Friday; or
- (b) in any other case—0;

“B” equals:

- (a) the total number of days of that period on which other workers of that class worked; or
- (b) where there are no such days—0;

“C” equals the amount of the rate per 5 days or week, or the minimum weekly rate, as the case may be, referred to in whichever paragraph of subclause (1) is applicable to each worker of that class.

(4) A reference in subclause (3) to the prescribed amount payable to a worker for a day on which the worker worked is a reference to the amount of money which that worker is entitled, under the award or industrial agreement, as appropriate, by which the worker is bound, to be paid for that day’s work:

- (a) in any case, exclusive of any amount which the worker is so entitled to be paid in respect of shift work or overtime or otherwise at penalty rates; and
- (b) subject to subclause (5), in the case of a worker of any one of the classes prescribed by subclause (1) (m), (n), (o), (p), (q) or (r), inclusive of any amount which the worker is so entitled to be paid in respect of production loading.

(5) For the purposes only of subclause (4) (b), an amount a worker is entitled to be paid in respect of production loading for a day’s work is taken not to include:

- (a) in the case of a worker of any one of the classes prescribed by subclause (1) (m), (n), (o) or (r), any amount in excess of one fifth of the production loading which would be payable to the worker in respect of the week in which that day occurs if the workers, in relation to whose “overs” that production loading is calculated, completed during that week a number of “overs” which provided each of those workers with pay for that week which is equivalent to the amount of money calculated in accordance with the formula $C \times 21/16$; or

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- (b) in the case of a worker of any one of the classes prescribed by subclause (1) (p) or (q) any amount in excess of the production loading which would be payable to the worker in respect of that day if the workers, in relation to whose “overs” that production loading is calculated, completed during that day a number of “overs” which provided each of those workers with pay for that day which is equivalent to the amount of money calculated in accordance with the formula $C/5 \times 21/16$,

in each case with “C” having the value ascribed to it, in relation to workers of the class to which each of those workers belongs, by subclause (3).

S. 42 (1) (d): prescribed rate

12. (1) For the purposes of section 42 (1) (d) of the Act, and clause 7 (2) (b) of Part 4 of Schedule 6 to the Act, the prescribed rate in respect of a period specified in Column 1 of the Table to this clause is the rate specified in Column 2 of that Table opposite that period.

(2) This clause applies only to workers who, before 1 February 1992, became entitled to receive weekly payments in respect of incapacity for work.

TABLE

	Column 1	Column 2
	<i>Period</i>	<i>Amount per week</i>
1.	On and after 1 October 1987 and before 1 April 1988	\$284.70
2.	On and after 1 April 1988 and before 1 October 1988.....	\$288.60
3.	On and after 1 October 1988 and before 1 April 1989	\$294.80
4.	On and after 1 April 1989 and before 1 October 1989	\$302.20
5.	On and after 1 October 1989 and before 1 April 1990	\$313.20
6.	On and after 1 April 1990 and before 1 October 1990	\$319.80
7.	On and after 1 October 1990 and before 1 April 1991	\$334.60
8.	On and after 1 April 1991 and before 1 October 1991	\$339.00
9.	On and after 1 October 1991 and before 1 April 1992.....	\$341.30
10.	On and after 1 April 1992 and before 1 October 1992	\$351.50
11.	On and after 1 October 1992 and before 1 April 1993	\$355.90
12.	On and after 1 April 1993 and before 1 October 1993	\$357.20
13.	On and after 1 October 1993 and before 1 April 1994	\$359.00
14.	On and after 1 April 1994	\$360.60

PART 5—INDEXATION OF AMOUNTS OF BENEFITS
S. 79: definition of “latest index number”

13. For the purposes of paragraph (b) of the definition of “latest index number” in section 79 of the Act, the latest index number in respect of an adjustment date specified in Column 1 of the Table to this clause is the number specified in Column 2 of that Table opposite that date.

TABLE

	Column 1 <i>Adjustment date</i>	Column 2 <i>Latest index number</i>
I	April 1988	229.3
1	October 1988	234.2
1	April 1989	240.1
I	October 1989	248.8
1	April 1990	254.1

PART 6—WEEKLY COMPENSATION**Notice of requirement to obtain suitable employment from other person**

14. (1) A notice under section 38A (3) of the Act:

- (a) may be based on the model form (if any) set out in the claims procedures referred to in section 38A (3) (d) of the Act; and
- (b) may include additional information and explanatory matter to assist in the understanding of the notice; and
- (c) may be varied or replaced by a further notice given to the worker in accordance with section 38A (3) of the Act.

(2) Reminder copies of a notice under section 38A (3) of the Act may be given to the worker concerned from time to time.

(3) A notice given to a worker in accordance with section 38A (3) of the Act is sufficient notice for any further period of unemployment in respect of the same injury.

- (4) In the case of any worker:
- (a) who, before the commencement of Schedule 1 to the Workers Compensation Legislation (Amendment) Act 1994, was at the same time both partially incapacitated for work as the result of an injury and unemployed; and
 - (b) who is, as at or at any time after that commencement, both partially incapacitated for work as the result of that injury and unemployed,

the requirement under section 38A (2) (d) of the Act applies regardless of whether the worker has been notified in accordance with section 38A (3) of the Act.

Notice of intention to discontinue OF reduce weekly payments

15. (1) For the purposes of section 54 (4) (b) of the Act, the notice referred to in section 54 must contain the following information:

- (a) a statement to the effect that, if the worker thinks that the weekly payments of compensation should not be discontinued or reduced as intended, the worker can refer the dispute for conciliation by a conciliation officer;
- (b) a statement to the effect that the worker may also seek advice or assistance from the worker's trade union organisation or from a lawyer;
- (c) such other information as the Authority may from time to time approve and notify to insurers and self-insurers.

(2) If the Authority so notifies insurers and self-insurers, the notice referred to in section 54 of the Act is to:

- (a) be accompanied by a duplicate copy; and
- (b) include a statement to the effect that, if the worker wishes to refer the matter for conciliation, he or she may do so by sending the copy of the notice, along with any other information that he or she may think is relevant, to the Senior Conciliation Officer, and also include the relevant address and fax number for that officer.

(3) If the notice referred to in section 54 of the Act relates to a reduction in the amount of weekly payments of Compensation resulting from the failure (in the opinion of the insurer or self-insurer concerned) by the worker to seek suitable employment as required by section 38 of the Act, the notice must include a statement of the reason for the intended reduction.

(4) If:

- (a) the notice referred to in section 54 of the Act relates to a reduction in the amount of weekly payments of compensation as a result of the application of section 40 of the Act; and
- (b) the worker is not in receipt of earnings (or the compensation is otherwise calculated on the basis of the worker's ability to earn after the injury, rather than on the worker's actual earnings after the injury),

the notice must also include a statement of the reason for the intended reduction and how the compensation (to be so reduced) has been calculated.

PART 7—TREATMENT IN A HOSPITAL OTHER THAN A PUBLIC HOSPITAL

Definitions

16. (1) In this Part:

- “advanced surgical patient”** means a worker classified as an advanced surgical patient for basic health insurance benefits in the Patient Classification Schedule attached to Private Hospitals Circular No. 66 dated July 1987 issued by the Commonwealth Department of Community Services and Health;
- “day patient”** means a worker whose hospital treatment as an in-patient is restricted to the day of use of the hospital theatre;
- “day procedure centre”** means a day procedure centre licensed under the Private Hospitals and Day Procedure Centres Act 1988;
- “hospital category A”** means a hospital (other than a public hospital) notified as a category A hospital by the Director-General of the Department of Health by order published in the Gazette, being a hospital which has an intensive care unit approved by that Director-General, 24 hour resident medical cover and one or more of the following:
 - (a) a surgical class licence issued under the Private Hospitals and Day Procedure Centres Act 1988;
 - (b) an obstetric class licence issued under the Private Hospitals and Day Procedure Centres Act 1988;

- (c) a medical program approved in writing by the Director-General of the Department of Health;
- (d) a rehabilitation program approved in writing by that Director-General;
- (e) a psychiatric program approved in writing by that Director-General;

“hospital category B” means a hospital (other than a public hospital) notified as a category B hospital by the Director-General of the Department of Health by order published in the Gazette and which has one or more of the following:

- (a) a surgical class licence issued under the Private Hospitals and Day Procedure Centres Act 1988;
- (b) an obstetric class licence issued under the Private Hospitals and Day Procedure Centres Act 1988;
- (c) a medical program approved in writing by the Director-General of the Department of Health;
- (d) a rehabilitation program approved in writing by that Director-General;
- (e) a psychiatric program approved in writing by that Director-General;

“hospital category C” means a hospital in New South Wales (other than a public hospital) which is not a hospital category A, hospital category B or hospital category D;

“hospital category D” means:

- (a) a hospital outside New South Wales; or
- (b) a hospital in New South Wales that is conducted by the Commonwealth;

“intensive care unit—level 1 patient” means a worker receiving intensive care treatment at an intensive care unit in a hospital (other than a public hospital), being an intensive care unit approved by the Director-General of the Department of Health as being of a standard described as level 4 in the Guide to the Delineation of the Roles of Area Health Services and Hospitals (dated June 1986 and issued by the Department of Health);

“intensive care unit—level 2 patient” means a worker receiving intensive care treatment at an intensive care unit in a hospital (other than a public hospital), being an intensive care unit approved by the Director-General of the Department of Health as being of a standard described as level 3 in the Guide to the Delineation of the Roles of Area Health Services and Hospitals (dated June 1986 and issued by the Department of Health);

“other patient (medical)” means any worker who is not an advanced surgical patient, a surgical patient, a psychiatric patient, a rehabilitation patient, a day patient, an intensive care unit—level 1 patient or an intensive care unit—level 2 patient;

“procedure benefit band” means a category of treatment requiring the use of an operating theatre and listed in the Medibank Private Procedure Benefit Bandings, published by Medibank Private and as in force on 10 May 1991;

“psychiatric patient” means a worker receiving psychiatric treatment of a kind that is normally afforded at psychiatric units conducted by public hospitals;

“rehabilitation patient” means a worker receiving treatment by way of rehabilitation;

“same day benefit band” means a category of treatment for day patients as referred to in the Day Only Procedures Manual (dated November 1992) issued by the Commonwealth Department of Health, Housing and Community Services;

“surgical patient” means a worker classified as a surgical patient for basic health insurance benefits in the Patient Classification Schedule attached to Private Hospitals Circular No. 66 dated July 1987 issued by the Commonwealth Department of Community Services and Health.

(2) For the avoidance of doubt, a day procedure centre is, for the purposes of this Part, a hospital (other than a public hospital).

(3) In calculating the number of days of treatment at a hospital (other than a public hospital) for the purposes of this Part, the date of admission to such a hospital and the date of discharge from such a hospital are, if those days occur on different days, to be counted as one day and not as separate days.

S. 62 (1)—prescribed rates

17. For the purposes of section 62 (1) of the Act, the amount for which an employer is liable in respect of hospital treatment of a worker at a hospital (other than a public hospital) is to be calculated as follows:

- (a) in respect of each day or part of a day that the worker is an in-patient of the hospital, being an in-patient:
- (i) of a classification specified in Column 1 of the following Table; and
- (ii) during a period of hospitalisation specified in Column 2 of the Table,

the amount specified in respect of the category of hospital (if any) in Column 3 of the Table opposite that classification and period:

TABLE

Column 1	Column 2	Column 3			
		<i>Amount per day</i>			
<i>Patient classification</i>	<i>Period of hospitalisation</i>	<i>Hospital category</i>	<i>Hospital category</i>	<i>Hospital category</i>	<i>Hospital category</i>
		A	B	C	D
		\$	\$	\$	\$
Advanced surgical patient	1 to 14 days	440	415	—	415
	Over 14 days	300	300	—	300
Surgical patient	1 to 14 days	415	395	—	395
	Over 14 days	300	300	—	300
Psychiatric patient	1 to 42 days	395	365	310	365
	43 to 65 days	305	275	255	275
	Over 65 days	280	240	235	240
Rehabilitation patient	1 to 49 days	430	365	310	365
	Over 49 days	315	270	250	270
Other patient (medical)	1 to 14 days	370	355	310	355
	Over 14 days	300	260	250	260

- (b) in respect of each day or part of a day that the worker is an in-patient of the hospital, being an in-patient:
- (i) of a classification specified in Column 1 of the following Table; and
 - (ii) during a period of hospitalisation specified in Column 2 of the Table,
- the amount specified in Column 3 of the Table opposite that classification and period:

TABLE

Column 1 <i>Patient classification</i>	Column 2 <i>Period of hospitalisation</i>	Column 3 <i>Amount per day</i> \$
Intensive care unit—level 1 patient	up to 5 days	1715
Intensive care unit—level 2 patient	up to 5 days	1190

- (c) in respect of each day or part of a day that the worker is a day patient of the hospital, the amount specified in Column 2 of the following Table (under the relevant category of hospital opposite the same day benefit band (specified in Column 1 of the Table) applicable to the worker:

TABLE

Column 1	Column 2				
	<i>Hospital Category A</i>	<i>Hospital Category B</i>	<i>Hospital Category C</i>	<i>Hospital Category D</i>	<i>Day Procedure Centre</i>
	\$	\$	\$	\$	\$
Band 1	190	190	190	120	175
Band 2	220	220	220	120	205
Band 3	250	250	250	120	235
Band 4	280	280	280	120	265

- (d) in respect of each treatment at a hospital category A, hospital category B, hospital category C or day procedure centre as an in-patient which necessitates the use of the hospital theatre—the amount specified in Column 2 of the following Table opposite the procedure benefit band applicable to that treatment specified in Column 1 of the Table:

TABLE

Column 1	Column 2
	\$
Band 1A	104
Band 1	187
Band 2	327
Band 3	395
Band 4	540
Band 5	795
Band 6	905
Band 7	1210
Band 8	1685
Band 9A	1750
Band 9	2230
Band 10	2640
Band 11	3125
Band 12	3380
Band 13	4095

- (e) in respect of each treatment at a hospital category D as an in-patient which necessitates the use of the hospital theatre—the amount specified in Column 2 of the following Table opposite the period of that use specified in Column 1 of the Table:

TABLE

Column 1	Column 2
	\$
1–15 minutes	110
16–30 minutes	327
31–45 minutes	515

46-60 minutes	825
61-90 minutes	1535
91-120 minutes	2030
Over 120 minutes	2840

- (f) in respect of each X-ray photograph of the worker taken at the hospital as an in-patient—the amount specified as the Schedule Fee in the current Commonwealth Medicare Benefits Schedule Book in respect of radiological services and computerised tomography.

PART 8—TREATMENT IN A PUBLIC HOSPITAL

Definitions

18. (1) In this Part:

- “**critical care**”, in relation to a patient, has the same meaning as in Circular No. 92/56 headed “Glossary of Terms for DOHRS Activity Reporting 1992/93”, dated 24 July 1992 and issued by the Department of Health;
- “**metropolitan (non-referral) hospital**” means a public hospital notified as a metropolitan (non-referral) hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette;
- “**metropolitan (referral) hospital**” means a public hospital notified as a metropolitan (referral) hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette;
- “**non-metropolitan hospital**” means a public hospital notified as a non-metropolitan hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette;
- “**occasion of service**” means a non-inpatient occasion of service within the meaning of Circular No. 92/56 headed “Glossary of Terms for DOHRS Activity Reporting 1992/93”, dated 24 July 1992 and issued by the Department of Health;
- “**other public hospital**” means a public hospital other than a metropolitan (non-referral) hospital, a metropolitan (referral) hospital, a non-metropolitan hospital or a psychiatric hospital;

“psychiatric hospital” means a public hospital notified as a psychiatric hospital for the purposes of this Regulation by the Director-General of the Department of Health by order published in the Gazette.

(2) An order under this clause may provide that a hospital is not a public hospital of a particular kind in respect of treatment provided to a specified class of patients.

S. 62 (1) — prescribed rates

19. (1) For the purposes of section 62 (1) of the Act, the amount for which an employer is liable in respect of hospital treatment of a worker at a public hospital is, subject to subclause (2), the amount specified in the Table to this clause for the relevant classifications of public hospital and patient:

- (a) in the case of an in-patient-for each day (or part of a day) that the worker is such a patient at the hospital; and
- (b) in the case of an out-patient-for each occasion of service provided to the worker.

TABLE

Column 1 Patient classification	Column 2 Hospital classification				
	Metropolitan (referral)	Metropolitan (non-referral)	Non- metropolitan	Psychiatric	Other
	\$	\$	\$	\$	\$
Critical care patient	1605	930	740	—	—
In-patient (other than critical care patient)	645	485	450	270	145
Out-patient	90	55	45	45	45

(2) For the purposes of section 62 (1) of the Act, the amount for which an employer is liable in respect of hospital treatment of a worker at a brain and spine special treatment centre at a public hospital is \$550 for each day (or part of a day) that the worker is such a patient at the hospital.

**PART 9—MOTOR VEHICLE TRAVEL ASSOCIATED WITH
TREATMENT OR SERVICE****S. 64 (b): prescribed rate applicable for travel associated with
treatment or service**

20. (1) For the purposes of section 64 (b) of the Act, the prescribed rate for which an employer is liable under section 60 (2) (a) or (b) of the Act in respect of travel by private motor vehicle associated with treatment or service is 38 cents per kilometre.

(2) This clause applies to travel undertaken after the commencement of this clause whether the injury was received by the worker concerned before or after the commencement of this clause.

PART 10—OCCUPATIONAL REHABILITATION SERVICES**Definition**

21. In this Part, “**approved guidelines**” means guidelines that are approved by the Authority and issued to insurers.

Occupational rehabilitation service—additional services

22. For the purposes of the definition of “occupational rehabilitation service” in section 59 of the Act, the following additional services are prescribed:

- (a) functional education;
- (b) monitoring a return to work program;
- (c) work conditioning.

**Occupational rehabilitation services—maximum amount for which
employer liable**

23. (1) For the purposes of section 63A (3) (b) of the Act, the prescribed amount is \$1,500, adjusted in accordance with Division 6 of Part 3 of the Act as if it were an adjustable amount for the purposes of that Division.

(2) The prescribed amount applies in relation to occupational rehabilitation services in respect of injuries received before the commencement of this clause (or before any adjustment of that amount as referred to in subsection (1)) in the same way as it applies in relation to services in respect of injuries received after that commencement.

Directions to employers under s. 63A (4)—insurers authorised

24. For the purposes of section 63A (4) of the Act, an insurer who is liable to indemnify an employer for any occupational rehabilitation service provided to or for the benefit of a worker is prescribed (in addition to the Authority) as a person who may direct that the employer is liable for a further amount to that prescribed by section 63A (3) of the Act.

Application under s. 63A—generally

25. (1) An application under section 63A (4) of the Act:

- (a) is to be in the form of a rehabilitation plan or in such other form (if any) as the Authority may approve; and
- (b) is to contain such particulars as the Authority may determine.

(2) An accredited provider is required to make an application under section 63A (4) as soon as practicable after the accredited provider becomes aware that the total cost of occupational rehabilitation services provided to or for the benefit of a worker in respect of an injury will, or is likely to, exceed the maximum amount prescribed by section 63A (3).

Applications under s. 63A (4)—services provided by more than one provider etc.

26. (1) An accredited provider may, for the purpose of determining whether an application under section 63A (4) of the Act is necessary, request the relevant insurer (in writing) to supply details of any costs that have been claimed from the insurer in respect of occupational rehabilitation services previously provided by another provider in respect of the same injury.

(2) If the insurer does not, within 14 days or such longer period as the Authority may determine, supply the accredited provider with those details, the provider need only make an application under section 63A (4) of the Act if the total cost of services provided by that provider to or for the benefit of the worker concerned will, or is likely to, exceed the maximum amount prescribed by section 63A (3) of the Act.

Directions by insurers—special provisions

27. (1) If an application under section 63A (4) of the Act is made to an insurer:

- (a) the insurer may request further information from the applicant; and
- (b) the insurer is, as far as practicable, to deal with the application within 7 days after receiving it or the further information (whichever is the later).

(2) A direction by an insurer under section 63A (4) of the Act must be in accordance with the approved guidelines (if any) relating to such directions.

- (3) Any such direction may, subject to those approved guidelines:
- (a) specify that an employer's liability for a further amount to that prescribed by section 63A (3) of the Act is limited by reference to a maximum further amount for which the employer is liable for the proposed services (including, if appropriate, particular services) or to the nature, number or duration of those services, or both; or
 - (b) specify that the employer is liable for such amount as is reasonably appropriate, having regard to the reasonable necessity for the provision of the services concerned.

Conditions etc.—directions under s. 63A (4)

28. (1) If a direction is given under section 63A (4) of the Act and the accredited provider concerned becomes aware that, because of a change of circumstances or otherwise, it is no longer necessary for the occupational rehabilitation service covered by the direction to be provided to or for the benefit of the worker, the provider is to cease providing the service and notify the Authority or the relevant insurer.

(2) The Authority or an insurer may, subject to any approved guidelines, give a direction under section 63A (4) of the Act:

- (a) that is subject to such conditions as may be specified in the direction; and
- (b) by notice in writing given to the provider concerned, amend or revoke the conditions specified in any such direction or add to those conditions,

and any such amendment, revocation or addition takes effect on and from the time the notice is served on the provider concerned or from a later time specified in the notice.

(3) The Authority or the insurer is to ensure that the employer concerned also receives a copy of the notice as soon as practicable after it takes effect.

Review by the Authority

29. (1) If an insurer, after an application under section 63A (4) of the Act has been made to it:

- (a) refuses to give a direction under section 63A (4) of the Act; or
- (b) gives only part of any such direction applied for by or on behalf of the worker or the accredited provider concerned,

the insurer must refer the matter as soon as practicable to the Authority in such form and in such manner as the Authority may determine.

(2) If an insurer gives a direction under section 63A (4) of the Act, the worker or accredited provider concerned may apply to the Authority for a review of the direction:

- (a) if the worker or provider objects to a condition (or an amendment or revocation of a condition) that the insurer has attached or added to the direction; or
- (b) if the insurer declines further liability on behalf of the relevant employer for any occupational rehabilitation service covered by a direction previously given by the insurer.

(3) An application for review is required to be:

- (a) made in such form; and
- (b) accompanied by such information; and
- (c) made in such manner,

as the Authority may determine.

(4) The Authority may, in relation to a matter that has been referred to it or in relation to an application for a review under this clause:

- (a) confirm the decision of the insurer; or
- (b) confirm the decision with such modification as the Authority considers to be appropriate; or
- (c) give a direction under section 63A (4) of the Act that the Authority considers to be appropriate.

(5) The Authority is to notify in writing the relevant insurer, employer, accredited provider and worker of the outcome of its review.

Revocation by Authority of direction under s. 63A (4)

30. (1) The Authority may, after giving a direction under section 63A (4) of the Act, revoke (in whole or in part) the direction if it considers it appropriate to do so in the circumstances.

(2) The Authority may suspend any such direction pending its decision on whether to revoke the direction.

(3) The Authority is to give notice in writing to all parties of any such suspension or revocation (but may, in the case of suspension, give oral notice and confirm the notice later in writing).

(4) If the Authority suspends or revokes a direction under section 63A (4) of the Act, the employer concerned ceases to be liable (subject to any order of the Compensation Court) for any occupational rehabilitation services or class of service specified in the notice of suspension or revocation and to which the direction relates.

(5) The suspension or revocation has effect in respect of services provided after the accredited provider concerned receives notice of the suspension or revocation or after such later time as may be specified in the notice.

Submissions to Authority

31. The Authority must, before making a decision on:

- (a) an application for a direction under section 63A (4) of the Act or a review of an insurer's decision in respect of such an application; or
- (b) whether to amend, revoke or add to the conditions to which any such direction is subject; or
- (c) whether to suspend or revoke any such direction,

give any person who may be adversely affected by the decision a reasonable opportunity to make submissions to the Authority on the matter.

Payment under direction by Authority not admission of liability

32. The payment of any amount in accordance with a direction by the Authority under section 63A (4) of the Act is not to be taken as an admission of liability.

Claims under Uninsured Liability and Indemnity Scheme

33. In the case of a claim under the Uninsured Liability and Indemnity Scheme involving the provision of occupational rehabilitation services to or for the benefit of the worker concerned:

- (a) any application for a direction under section 63A (4) of the Act may only be made to the Authority; and

- (b) for the purpose of the definition of “occupational rehabilitation service”, in section 59 of the Act, services may be provided to or for the benefit of the worker by any person determined by the Authority to be suitable (as well as by a provider accredited under section 152 of the Act) and, in that case, references in this Part to an accredited provider are to be read as references to such a person.

Application of Part to self-insurers

34. If, in respect of an application under section 63A (4) of the Act, a self-insurer decides or refuses to pay a further amount to that prescribed by section 63A (3) of the Act:

- (a) the decision is, for the purposes of this Part, taken to be a direction that the employer concerned is liable for that further amount; or
- (b) the refusal is, for the purposes of this Part, taken to be a refusal to give a direction under section 63A (4) of the Act,

and for any such purposes, a reference in this Part to an insurer includes a reference to a self-insurer.

Application of Part to proceedings pending in Compensation Court

35. If proceedings are pending in the Compensation Court, the Authority may, in relation to an application or a reference for review received by it under this Part which is connected with the proceedings:

- (a) give a direction under section 63A (4) of the Act (unless the Court otherwise orders); or
- (b) decline to deal with the matter.

Disputes—conciliation procedures etc.

36. For the purposes of section 100C of the Act, disputes involving matters under this Part are excluded from Division 2 of Part 4 of the Act (relating to the conciliation of disputes by conciliation officers), except as the Authority may otherwise determine from time to time.

Authority not prevented from giving opinion on rehabilitation liability

37. Nothing in this Part (for example clause 30 (Review by the Authority)) prevents the Authority from giving its opinion on matters relating to the liability of an employer under the Act for particular occupational rehabilitation services.

PART 11—NOTICES AND CLAIMS PROCEDURE**Notice of injury involving loss of hearing**

38. (1) If an injury is a loss, or further loss, of hearing which is of such a nature as to be caused by a gradual process (including boilermaker's deafness and any deafness of a similar origin):

- (a) notice of injury is to be given by the worker under section 89 of the Act:
 - (i) if the worker is employed by an employer in an employment to the nature of which the injury is due to that employer; or
 - (ii) if the worker is not so employed to the last employer by whom the employer was employed in an employment to the nature of which the injury is due; and
- (b) the notice must be in writing and be:
 - (i) in the form set out in Form 1; or
 - (ii) in any other form that contains at least the particulars required by Form 1 (though not necessarily in the same format as that Form).

(2) Any forms issued by insurers and self-insurers for the giving of notice by workers of an injury referred to in subclause (1) must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.

Claims for compensation under section 66—Table of Disabilities

39. (1) For the purposes of section 92 (1) (b) of the Act, a claim for compensation under section 66 of the Act is to include particulars of the worker, the employer and the injury concerned and of the loss for which the compensation is claimed, including the following:

- (a) a description of the loss capable of being related to the relevant item in the Table to Division 4 of Part 3 of the Act;
- (b) the extent of that loss expressed as a percentage.

(2) Any forms issued by insurers and self-insurers for the making of claims by workers under section 66 of the Act must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.

(3) In the case of a claim for compensation under section 66 of the Act for loss of hearing, the giving of a notice of injury in accordance with clause 38, suffices as a claim.

(4) A claim for compensation under section 66 of the Act is to be accompanied:

- (a) by a medical certificate (or report) of the kind referred to in section 73 of the Act; and
- (b) in the case of a claim for loss of hearing—by a copy of the audiogram used by the medical practitioner in preparing that medical certificate (or report).

Claims for compensation under section 67—pain and suffering

40. (1) A claim for compensation under section 67 of the Act is to include particulars of the worker, the employer and the injury concerned and of the pain and suffering for which the compensation is claimed, including the following:

- (a) the loss and (if applicable) treatment from which the pain and suffering resulted;
- (b) the degree and duration of the pain and suffering and to what extent it is attributable to the past, present or future;
- (c) to what extent the pain and suffering consists of actual pain and to what extent it consists of distress or anxiety;
- (d) the proportion (expressed either as a percentage or an amount of money) of the maximum amount of compensation under section 67 claimed for the pain and suffering.

(2) Any forms issued by insurers and self-insurers for the making of claims by workers under section 67 of the Act must also contain such information (if any) as the Authority may from time to time approve and notify to insurers and self-insurers.

(3) A claim for compensation under section 67 of the Act is to be accompanied by a supporting medical report. The medical certificate (or report) required to accompany the claim for compensation under section 66 of the Act for the loss from which the pain and suffering resulted is sufficient for that purpose if it includes information covering the pain and suffering concerned.

Form of summary of Act etc. to be posted up at mines, quarries, factories, workshops, offices, shops and ships

41. For the purposes of section 269 (1) of the Act:
- (a) the summary of the requirements of the Act with regard to the giving of notice of injuries and the making of claims is to be in the form of Form 2; and
 - (b) the other information required to be posted up in accordance with that section is the other information contained in Form 2.

Form of register of injuries to be kept at mine etc.

42. (1) The register of injuries required to be kept under section 90 of the Act is to be a book with entries in the form set out in Form 3.
- (2) The particulars to be entered in the register of injuries are the particulars required to complete Form 3.

PART 12—MEDICAL EXAMINATIONS AND DISPUTES**Medical examination of worker at direction of employer**

43. (1) A worker must not, under section 129 of the Act, be required to submit himself or herself for examination by a medical practitioner otherwise than at reasonable hours.
- (2) After a period of 1 month has elapsed from the date on which the first payment of compensation was made to a worker who is receiving weekly payments of compensation or, if the first payment was made pursuant to an award, from the date of the award, the worker must not, under section 129 of the Act, be required to submit himself or herself for examination by a medical practitioner except at the following intervals:
- (a) once a week during the second month; and
 - (b) once a month during the third, fourth, fifth and sixth months; and
 - (c) thereafter once in every 2 months.
- (3) Where, after the second month, an application has been made for review of the weekly payment of compensation, the worker may be required, pending and for the purposes of the determination of the application, to submit himself or herself for 1 additional examination.

Application to refer matter to medical referee or panel etc.

44. In the application of section 131 of the Act for the purposes of section 131 (7) of the Act, section 131 (2) of the Act is to be construed as requiring any applications to be made jointly by the worker and the employer.

PART 13—CONCILIATION OF DISPUTES**Referring of disputes arising under section 40 (4)**

45. As soon as practicable after any dispute arises about the operation of section 40 (4) of the Act, the insurer or self-insurer concerned must refer the dispute for conciliation under Division 2 of Part 4 of the Act.

Disputes relating to commencement of payments for weekly compensation

46. A statement referred to in section 102 (4) (b) of the Act as to the matters in a dispute under that section must be in such form (if any) as the Authority may from time to time approve.

Referring of disputes generally

47. (1) A dispute that is referred for conciliation under Division 2 of Part 4 of the Act must:

- (a) be in writing; and
- (b) be in such form (if any) as the Authority may from time to time approve; and
- (c) be accompanied by such information and documents as may be specified in that form.

(2) Alternatively, in a case where the dispute involves the discontinuation, or a reduction in the amount, of weekly payments of compensation referred to in a notice given to a worker under section 54 of the Act, the worker may refer the dispute for conciliation by sending to the Senior Conciliation Officer a copy of that notice along with any other information that the worker may think is relevant.

(3) However, a dispute (other than a dispute about the operation of section 40 (4) of the Act) may, with the consent of the Senior Conciliation Officer, be referred by any party to the dispute by the making of an oral request for conciliation.

(4) A party to a dispute may, orally or in writing as directed by the relevant conciliation officer, refer any further matter relating to the dispute for conciliation.

Proceedings before conciliation officers

48. (1) Without limiting the functions that may be exercised by conciliation officers under Divisions 2 and 3 of Part 4 of the Act, and subject to any general directions by the Senior Conciliation Officer, a conciliation officer may exercise the following functions in connection with a dispute:

- (a) hold a conciliation conference with all parties to the dispute or a separate conciliation conference in private with any such party;
- (b) conduct a conciliation conference in person or by telephone;
- (c) refer any relevant question for report by a rehabilitation counsellor (within the meaning of section 154 of the Act);
- (d) in a case where the employer concerned is represented by an insurer — nevertheless communicate directly with the employer about the provision of suitable employment for the worker or any other matter connected with the dispute;
- (e) if the conciliation officer brings the parties to an agreement, assist (at the request of the parties) in the drafting of written terms of settlement;
- (f) make a recommendation that the employer or insurer concerned should pay all or part of the costs reasonably incurred by the worker in connection with the claim or with the conciliation proceedings;
- (g) give general advice (which may be either comprehensive or limited in scope) to a party about any relevant entitlements, obligations and procedures under the Act or any other law;
- (h) inform a worker who is a party about other possible sources of advice or assistance (such as from unions and lawyers).

(2) In the case of a dispute as to the liability to make or continue to make weekly payments of compensation, the conciliation officer may, subject to any general directions by the Senior Conciliation Officer, prepare a report to the Authority recommending that the approval referred to in section 51 (1) (c) of the Act be given. The conciliation officer may do so only if the parties agree to such a recommendation and the officer is satisfied that the worker concerned has received independent legal advice.

(3) A conciliation officer must return any document supplied by a party if requested to do so by the party. The conciliation officer should also, if it is appropriate in the interests of confidentiality and if requested to do so by the party concerned, refrain from copying any such document or from making any written notes concerning the existence of any such document.

Form of recommendations, directions and notifications by conciliation officers

49. (1) A recommendation, direction or notification made or given by a conciliation officer under Divisions 2 and 3 of Part 4 of the Act may be made or given orally or in writing.

(2) Any such recommendation, direction or notification that is made or given orally is, as soon as practicable, to be confirmed in writing.

(3) A notification under section 104 (3) of the Act may include advice and information of the kind referred to in clause 48 (1) (g) and (h).

(4) If any direction given by a conciliation officer is given subject to a condition (as specified in the direction) that involves some action by the worker, the conciliation officer is to ensure that the worker is informed accordingly.

Applications for revocation of directions etc.

50. (1) An application under section 106 (1) of the Act for revocation of a direction given by a conciliation officer must:

- (a) be in writing; and
- (b) state the reason revocation is sought; and
- (c) be in such form (if any) as the authority may from time to time approve; and
- (d) be accompanied by any relevant supporting information and documents.

(2) Such an application may be made by referring it to either the Senior Conciliation Officer or the conciliation officer who gave the direction concerned and the applicant must give a copy of the application to the worker concerned.

(3) In a case where there is a current direction under Division 3 of Part 4 of the Act, any party to the matter may apply, orally or in writing, for cancellation or alteration of any condition to which the direction is subject.

Arrangements and reports by Senior Conciliation Officer

51. (1) Without affecting the operation of section 97 (2) of the Act, the Senior Conciliation Officer may re-assign a dispute to another conciliation officer. The Senior Conciliation Officer may do so, for example, because the conciliation officer to whom the dispute has been assigned is unavailable.

(2) Without limiting the reasons for which revocation of a direction given under Division 3 of Part 4 of the Act may be sought, the Senior Conciliation Officer is to ensure that an application under section 106 (1) of the Act for revocation of such a direction is dealt with:

- (a) in the case of an application made on the basis of new information or a change in circumstances — by the conciliation officer who gave the direction; and
 - (b) in the case of an application made on the basis that the conciliation officer who gave the direction should not have been satisfied that there was no genuine dispute as referred to in section 104 (2) of the Act — by the Senior Conciliation Officer or by another conciliation officer (other than the officer who gave the direction).
- (3) The Senior Conciliation Officer may refer to the Authority:
- (a) a report, based on information obtained from the conciliation of disputes, relating to claims administration by insurers and self-insurers; and
 - (b) a report on any suspected fraud or contravention of the Act or the regulations by a party to a dispute; and
 - (c) a report on any suspected neglect in the provision of rehabilitation to an injured worker; and
 - (d) such other matter relating to a dispute as the Senior Conciliation Officer considers appropriate.

PART 14—INSURANCE POLICIES**Provisions of policies of insurance**

52. (1) For the purposes of section 159 of the Act, a policy of insurance (except one to which subclause (2) applies):

- (a) must contain the provisions specified in Form 4; and
- (b) may contain any other provisions, but only if those provisions have been agreed on by the insurer and employer concerned and approved by the Authority.

(2) A policy of insurance issued or renewed before 31 December 1995 must contain the provisions that were specified in Form 7 in the Workers Compensation (General) Regulation 1987 immediately before its repeal, except that:

- (a) the words “independently of this Act (being a liability under a law of New South Wales)” in the third paragraph of the Form are to be deleted and the words “independently of this Act (but not including a liability for compensation in the nature of workers compensation arising under any Act or other law of another State, a Territory or the Commonwealth or a liability arising under the law of another country)” are to be inserted instead; and
- (b) such a policy may contain other provisions, but only if those provisions have been agreed on by the insurer and employer concerned and approved by the Authority.

Trainees under Australian Traineeship System

53. (1) A policy of insurance deemed to be held by an employer under section 158 of the Act must contain the provisions specified in Form 4 in respect of domestic or similar workers, subject to the omission of any reference to the payment of premiums for the policy and the making of a proposal in relation to the policy.

(2) Pursuant to section 158 (7) of the Act, the definition of “wages” in section 174 (9) of the Act is modified by excluding from that definition wages paid or payable to a trainee within the meaning of section 158 of the Act in respect of a period of employment as a trainee.

Prescriptions for purposes of \$500 excess recoverable from employer

54. (1) For the purposes of section 160 of the Act, a small business employer, in relation to a policy of insurance, is an employer who is liable under the policy to pay premiums not exceeding \$2,000.

(2) The amount of premiums payable is to be determined by reference to the amount of the basic tariff premium (within the meaning of the relevant insurance premiums order) at the time the insurer first demands a premium for the policy, assuming the period of insurance to which the premium relates to be 12 months (whether or not that period of insurance is in fact 12 months).

(3) A weekly compensation claim made in respect of a worker who receives an injury in the circumstances referred to in section 11 (Recess claims) of the Act is prescribed for the purposes of section 160 (8) of the Act.

PART 15—INSURERS' CONTRIBUTION FUND
Definition of “financial year”

55. (1) In this Part:

“**financial year**” means a year commencing 1 July.

(2) For the purposes of this Part, a financial year:

- (a) includes the period after 4 p.m. on the day preceding the first day of the financial year; and
- (b) does not include the period after 4 p.m. on the last day of the financial year.

Definition of “premium income”

56. For the purposes of the contribution payable by an insurer under section 220 of the Act for a financial year, premium income (as defined in section 3 (1) of the Act) does not include any part of such a premium which is attributable to:

- (a) the application of an excess surcharge factor (as defined in the insurance premium order in force in respect of that financial year); or
- (b) a dust diseases contribution (as so defined); or
- (c) a premiums adjustment contribution (as so defined).

Prescribed contribution payable by insurer

57. For the purposes of section 220 (2) of the Act, the prescribed percentage of the premium income of an insurer for a financial year specified in Column 1 of the Table to this clause is the percentage specified in Column 2 of that Table opposite that year.

TABLE

Column 1	Column 2
<i>Financial Year</i>	<i>Percentage of premium income</i>
1. Financial year commencing 1 July 1987	8.5 per cent
2. Financial year commencing 1 July 1988	10.5 per cent
3. Financial year commencing 1 July 1989	5 per cent
4. Financial year commencing 1 July 1990:	
(a) in the case of a specialised insurer	5 per cent
(b) in the case of an insurer other than a specialised insurer	NIL

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5.	Financial years commencing 1 July 1991 and 1 July 1992 ...	7 per cent
6.	Financial years commencing 1 July 1993 and 1 July 1994 ...	4 per cent
7.	Financial year commencing 1 July 1995 and any subsequent financial year.....	NIL

Time for payment of insurer's contribution

58. The prescribed contribution payable by an insurer under section 220 of the Act in relation to a financial year is to be paid:

- (a) except as provided by paragraph (b)—in respect of premium income received during any quarter of a financial year (whether during or after the financial year in relation to which the contribution is payable), within 15 days after the end of that quarter; or
- (b) at such other times as may be determined by the Authority and notified to insurers.

PART 16—WORKCOVER AUTHORITY FUND**Definitions**

59. In this Part:

“**basic tariff premium**”, “excess surcharge factor”, “experience adjustment factor” and “dust diseases contribution” have the same meanings respectively as they have in the insurance premiums order in force in respect of the relevant financial year.

Definition of “premium income” for purposes of insurers' contributions

60. For the purposes of the contribution payable by an insurer under section 261 of the Act for a financial year, premium income (as defined in section 3 (1) of the Act) does not include any part of such a premium which is attributable to the application of an excess surcharge factor or a dust diseases contribution in the calculation of the premium.

Definition of “deemed premium income” for purposes of self-insurers' contributions

61. (1) The prescribed circumstances referred to in the definition of “deemed premium income” in section 258 of the Act are the

circumstances in which the amount payable as premiums referred to in that definition is calculated in the manner fixed by the insurance premiums order in force in respect of the relevant financial year.

(2) The amount defined as deemed premium income in section 258 of the Act in relation to the contribution payable by a self-insurer for any period during a financial year does not include any amount attributable to the application of any factor other than the basic tariff premium that would have been payable as referred to in that definition in respect of that period.

(3) Subclause (2) does not apply to any financial year to which clause 61 applies.

Alternative contribution by self-insurers

62. (1) This clause applies to any financial year determined by the Authority and notified in the Gazette before the commencement of that financial year as a financial year to which this clause applies.

(2) When this clause applies to a financial year, the amount defined as deemed premium income in section 258 of the Act in relation to the contribution payable by a self-insurer for any period during that financial year:

- (a) does not include any amount attributable to the application of an excess surcharge factor or a dust diseases contribution; and
- (b) includes any amount attributable to the application of the experience adjustment factor, but only if the self-insurer has been a self-insurer (or insured with an insurer) for at least 2 years immediately before the commencement of that period.

PART 17—DEEMED EMPLOYMENT

Ministers of religion

63. For the purposes of clause 17 of Schedule 1 to the Act, it is declared that persons within a class specified in Column 2 of Schedule 4 to this Regulation are ministers of religion of the religious body or organisation specified opposite the class in Column 1 of Schedule 4 and the employer of those persons is the person specified opposite the class in Column 3 of Schedule 4.

PART 18—PREMIUMS ADJUSTMENT FUND

Definitions of “financial year” and “Fund”

64. (1) In this Part:

“**financial year**” means a year commencing 1 July and includes the period after 4 p.m. on the day preceding the first day of the financial year but does not include the period after 4 p.m. on the last day of the financial year;

“**Fund**” means the Premium Adjustment Fund established under section 203 of the Act.

(2) Expressions used in this Part have the same meanings as in Division 4 of Part 7 of the Act.

Definition of “premium income”

65. For the purposes of the contributions payable by an insurer into the Fund for a financial year, premium income (as defined in section 3 (1) of the Act) does not include any part of such a premium which is attributable to:

- (a) the application of an excess surcharge factor (as defined in the insurance premiums order in force in respect of that financial year); or
- (b) a dust diseases contribution (as so defined); or
- (c) a premiums adjustment contribution (as so defined).

Amount of contribution payable by insurer into Fund

66. (1) For the purposes of section 208 (2) of the Act, the percentage of the premium income of a licensed insurer for a financial year specified in Column 1 of the Table to this subclause (being the contribution payable into the Fund) is the percentage specified in Column 2 of that Table opposite that year.

TABLE

Column 1 <i>Financial Year</i>	Column 2 <i>Percentage of premium income</i>
Financial year commencing 1 July 1989	NIL
Financial year commencing 1 July 1990 and any subsequent financial year	NIL

(2) If a percentage is prescribed by this clause during a financial year, the new percentage does not apply to premium income received in respect of policies of insurance issued or renewed to take effect before the new percentage is so prescribed.

Time for payment of contribution by insurer into Fund

67. The contribution payable by an insurer into the Fund under section 208 of the Act must, in respect of premium income received in any calendar month, be paid within 15 working days after the end of that month.

PART 19—INSURERS’ GUARANTEE FUND**Definitions**

68. Expressions used in this Part have the same meanings as in Division 7 of Part 7 of the Act.

Financial years for contributions to Insurers’ Guarantee Fund

69. For the purposes of section 228 (1) of the Act, the financial year commencing 1 July 1989 and any subsequent financial year are prescribed.

Time etc. for payment of insurer’s contribution

70. The contribution payable by an insurer under section 228 of the Act in respect of any financial year is payable:

- (a) except as provided by paragraph (b), in quarterly instalments (each being equal to one-fourth of the contribution payable) due on the last day of each quarter of the financial year; or
- (b) in such other instalments and within such other time as may be determined by the Authority and specified in a notice to the insurer.

Further contributions payable by insurers

71. (1) If the Authority has determined an amount under section 228 (1) of the Act in respect of a financial year, it may subsequently determine under that provision a further amount to be contributed to the Guarantee Fund in respect of that year, being an amount which it considers is necessary:

- (a) to satisfy, during that financial year, claims, judgments and awards arising from or relating to policies of insurance issued by insolvent insurers; and

(b) to provide for the payment of any other amounts to be paid under Division 7 of Part 7 of the Act from the Guarantee Fund during that financial year.

(2) Section 228 of the Act applies to and in respect of the payment of any such further contribution.

Rebates for insurers who contributed to an advance from the Premiums Adjustment Fund

72. (1) The Authority is to determine the amount under section 228 (1) of the Act on the basis that money advanced to the Guarantee Fund from the Premiums Adjustment Fund under section 224D of the Act is to be repaid during the financial year in which the money was advanced to the Guarantee Fund.

(2) However, if the Authority:

- (a) under section 224 (4) of the Act dispenses with the repayment of money so advanced; or
- (b) determines that it is not to be repaid during that financial year, it may reduce the contributions of eligible insurers to the Guarantee Fund by such proportion as it considers appropriate.

(3) In this clause, “**eligible insurer**”, in relation to an advance made to the Guarantee Fund, means an insurer who contributed money to the Premiums Adjustment Fund which the Authority determines was used to make the advance.

Determination of contributions and further contributions

73. (1) For the purpose of determining the amount of any contribution (or further contribution) to the Guarantee Fund, the Authority is entitled to rely on an estimate determined by it of the amount required to be contributed by insurers to the WorkCover Authority Fund.

(2) If the Authority determines that any change in that estimate is appropriate, it is to re-determine the contributions (or further contributions) of insurers to the Guarantee Fund, and the relevant amounts become payable by, or repayable to, insurers.

PART 20—MISCELLANEOUS

Amendment relating to 18 month limit for common law claims—transitional provision

74. The amendment to section 151D (1) of the Act made by Schedule 5 (7) to the Workers Compensation Legislation (Amendment) Act 1994

extends to proceedings in respect of injuries received before the commencement of the amendment (including proceedings pending at that commencement).

Additional records to be kept by employers

75. Pursuant to section 174 of the Act, an employer must keep records of the following additional matters:

- (a) to the extent that is relevant to the employer — the number of shifts for taxi drivers, the number of rides for jockeys, the number of bouts for boxers and wrestlers and the number of games for football players;
- (b) in the case of workers paid under contracts of the kind referred to in paragraph (b) of the definition of “wages” in section 174 (9) of the Act—details of the contract concerned and related documentation, sufficient to enable an insurer to determine the amount of any costs to be deducted as referred to in that paragraph.

Interest on compensation for loss of hearing in some cases

76. For the purposes of section 72A (3) of the Act, the rate of interest is:

- (a) 6 per cent per annum on compensation under section 66 of the Act; and
- (b) 3 per cent per annum on other compensation.

Uninsured Liability and Indemnity Scheme—modification of provisions of the Act

77. For the purposes of section 148 (3) of the Act, the following modifications are made to the provisions of the Act in their application to claims made under the Scheme:

- (a) references in sections 40A, 54, 83, 84, 93C, 129, 131, 133 and 134 to an insurer, self-insurer or employer are to be read as references to the Authority;
- (b) references in sections 38A, 134 and 154A to an insurer or self-insurer are to be read as references to the Authority;

- (c) in a case where the employer named as a respondent as referred to in section 144 (2) (a) of the Act is a corporation which has ceased to exist or a deceased person whose estate has been distributed—section 144 (2) is to be read as if it also provided that (in such a case) the application is not, subject to any rules of the Compensation Court, required to serve a copy of the application on that person;
- (d) section 174 (6A) of the Act is to be read as if:
- (i) the words “, at the request of an insurer who has issued a policy of insurance to an employer,” were omitted; and
 - (ii) the reference to the insurer were a reference to the Authority or a person authorised by the Authority; and
 - (iii) section 174 (6B) were omitted.

Repeal of 1987 Regulation

78. (1) The Workers Compensation (General) Regulation 1987 is repealed.

(2) Any act, matter or thing that, immediately before the repeal of the repealed Regulation, had effect under that Regulation is taken to have effect under this Regulation.

SCHEDULE 1—FORMS

(C1.4)

Form 1

(C138)

WORKERS COMPENSATION ACT 1987

Industrial Deafness—Notice of Injury

1. Name and address of worker:
2. Age and occupation of worker:
3. Name and address of employer to whom notice of injury is given:
4. If not employed by the above employer at the date that this notice of injury is given, date of last day of employment with the employer:

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5. State whether any previous award/settlement in respect of industrial deafness has been made:
6. Employment history over the period of 5 years prior to the date that this notice of injury is given:

Industry in which employed	Employer's name and address	Occupation	Period of employment

.....
(Signature of worker)

.....
(Date)

Form 2

(Cl. 41)

WORKERS COMPENSATION ACT 1987

Summary to be posted up at workplaces

Notice of Injury

Notice of the injury should be given to the employer as soon as practicable after the injury happened and before the worker has voluntarily left the employment in which the worker was at the time of the injury.

The notice may be given orally, or in writing, to the employer, or any person designated for the purpose by the employer, or any person under whose supervision the worker is employed. If there is more than one employer, the notice may be given to any one of those employers.

The notice must give the name and address of the person injured and must state in ordinary language the cause of the injury and date on which the injury happened.

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If notice in writing is given, it may be served by delivering it at, or sending it by post to, the residence or place of business of the person on whom it is to be served.

Notice of injury must be in writing if it is a loss or further loss of hearing and must be made in accordance with special requirements prescribed by the regulations under the Act.

Claim for Compensation

If compensation is claimed, the claim must be made within 6 months after the injury or accident happened, or in the case of death, within 6 months of the date of death. However, the failure to make a claim within 6 months is not to be a bar to the recovery of compensation if the failure was occasioned by ignorance, mistake, absence from the State or other reasonable cause.

A claim for compensation must be made in writing and should be supported where appropriate by medical evidence. A claim for weekly compensation payments must be accompanied by a medical certificate in the approved form, or in any other form that contains information that is reasonably sufficient in the circumstances to assist in the determination of the claim.

Worker's Right to Information

The worker is entitled to inquire of his or her employer the employer's name and address for the purpose of serving documents and the name and address of the employer's insurer (if the employer is not a self-insurer).

Employer to take Claims Action

An employer is guilty of an offence under the Workers Compensation Act 1987 if the employer:

- (a) fails to forward any claim for compensation or other documentation to the insurer within 7 days after receipt; or
- (b) fails, within 7 days, to furnish an insurer with information requested of the employer and in the employer's possession or reasonably obtainable by the employer; or
- (c) fails, as soon as practicable, to pay over compensation received from the insurer to the person entitled.

Commencement of Weekly Payments

Weekly payments of compensation are to commence as soon as practicable (but not later than 21 days) after the claim is duly made. If liability for the claim is disputed, the dispute must be referred to a Conciliation Officer of the Workcover Authority by forwarding claims documentation and a statement of the matters in dispute to the Senior Conciliation Officer of the Workcover Authority.

Workcover Conciliation Officers

A party to any dispute relating to the payment of compensation may request that the dispute be assigned to a Conciliation Officer of the WorkCover Authority for conciliation.

In the case of a dispute as to the payment or continuation of payment of weekly compensation, a Conciliation Officer of the Workcover Authority will attempt to effect a conciliation between the parties. If the Conciliation Officer is satisfied that a genuine dispute does not exist, the Conciliation Officer may direct weekly payments to be made or resumed.

Form 3

(Cl. 42)

WORKERS COMPENSATION ACT 1987

Register of Injuries

Particulars:

Name of injured worker:

Address:

Age: Occupation:

Industry in which worker was engaged:

Operation in which worker was engaged at time of injury:

Date (or deemed date) of injury: .../.../.... Hour: a.m./p.m.

Nature of injury:

Cause of injury:

Remarks:

(Signed)

(Address)

(Date)

[Entries in this book should, if practicable, be made in ink.]

NOTE: The employer's full name and address, together with the name of the employer's insurer and the insurer's address, should be written up in ink on the inside of the cover of the book.

Form 4

(Cl. 52)

WORKERS COMPENSATION ACT 1987*NEW SOUTH WALES**Employer's Insurance Policy***PART 1—PRELIMINARY****Definitions**

1. In this Policy:

“**Employer**” means the person insured under this Policy, being the person named as the Employer in the Schedule of Employer Particulars;

“**Insurer**” means the insurer of the Employer under this Policy, being the person named as the Insurer in the Schedule of Employer Particulars;

“**period of insurance**” means the period specified in the Schedule of Employer Particulars as the period during which this Policy is in force, and any subsequent period in respect of which this Policy is duly renewed;

“**the Act**” means the Workers Compensation Act 1987;

“**the Proposal**” means the proposal for insurance in respect of which this Policy is issued (made by the Employer to the Insurer);

“**Schedule of Employer Particulars**” means the Schedule most recently issued by the Insurer to the Employer as the Schedule of Employer Particulars in respect of this Policy;

“**worker**” has the same meaning as in the Act (including the extended meaning it has because of Schedule 1 (Deemed employment of workers) to the Act).

Proposal and Schedule form part of Policy

2. The Proposal is the basis of this contract of insurance. Both the Proposal and the Schedule of Employer Particulars are considered to form part of this Policy.

PART 2—COVER PROVIDED BY POLICY**What the Insurer is liable for**

3. The Insurer will indemnify the Employer against all of the following sums for which the Employer becomes liable during or in respect of the period of insurance:

- (a) compensation that the Employer becomes liable to pay under the Act to or in respect of any person who is a worker of the Employer (including any person to whom the Employer is liable under section 20 of the Act);

- (b) any other amount that the Employer becomes liable to pay independently of the Act (but not including a liability for compensation in the nature of workers compensation arising under any Act or other law of another State, a Territory or the Commonwealth or a liability arising under the law of another country) for any injury to any such person (not including liability in respect of an injury, suffered by a person other than such a worker, arising out of any rescue or attempted rescue);
- (c) costs and expenses incurred with the written consent of the Insurer in connection with the defence of any legal proceeding in which any such liability is alleged.

Businesses and industrial activities to which Policy applies

4. This Policy applies to a business or industrial activity described in the Schedule of Employer Particulars. The Employer can change the businesses or industrial activities to which this Policy applies by giving notice of the change in writing to the Insurer. The Schedule of Employer Particulars is taken to have been changed to give effect to any such notice given by the Employer. The premium payable for this Policy is to be adjusted in accordance with any change in the businesses or industrial activities to which this Policy applies.

Insurer is directly liable to workers

5. The Insurer (as well as the Employer) is directly liable to any worker and (if the worker dies) to the worker's dependants or other persons to pay the compensation under the Act or other amount independently of the Act for which the Employer is liable and indemnified under this Policy. This means that a claim can be made and action taken directly against the Insurer.

Insurer is bound by judgments etc. against Employer

6. The Insurer is bound by and subject to any judgment, order, decision or award given or made against the Employer, in respect of any liability for which the Insurer is liable to indemnify the Employer under this Policy.

Premium

7. The premium for this Policy is calculated in accordance with the relevant Insurance Premiums Order (unless this Policy is exempt from Insurance Premium Orders).

PART 3—CONDITIONS OF POLICY

Employer must give Insurer notice of injury to worker

8. The Employer must give notice to the Insurer of any injury as soon as practicable after information comes to the knowledge of the Employer, or of the Employer's representative for the time being, as to the happening of the injury or of any incapacity resulting from the injury.

How notices are to be given

9. (1) Notices to be given under this Policy to the Insurer are to be given by being delivered, posted or transmitted electronically to the address of the Insurer last notified to the person giving the notice.

(2) Notices to be given under this Policy to the Employer are to be given by being delivered, posted or transmitted electronically to the address of the Employer last known to the Insurer.

Employer not to make admissions etc.

10. The Employer must not, without the written authority of the Insurer, incur any expense of litigation, or make any payment, settlement or admission of liability in respect of any injury to or claim made by any worker.

Defence of proceedings

11. The Insurer can use the name of the Employer in respect of anything indemnified under this Policy, including the bringing, defending, enforcing or settling of legal proceedings for the benefit of the Insurer. The Employer must comply with all reasonable requests by the Insurer for information, assistance and documents to enable the Insurer to settle or resist a claim.

Subrogation

12. The Insurer can use the name of the Employer in any proceedings to enforce, for the benefit of the Insurer, any order made for costs or otherwise. The Insurer has the right of subrogation in respect of all rights which the Employer may have against any person or persons who may be responsible to the Employer or otherwise in respect of any claim for any injury covered by this Policy. The Employer must execute such documents as may be necessary for the purpose of vesting any of those rights in the Insurer, as and when required to do so by the Insurer.

Precautions to prevent injury

13. The Employer must take all reasonable precautions to prevent injury.

Alterations and repairs following injury

14. So far as is reasonably practicable, the Employer must not alter or repair any work, machinery, plant, way or appliance after an injury to a worker occurs in connection with it, until the Insurer has had an opportunity to examine it or has consented to the alteration or repair being made.

Insurer's right of inspection

15. The Insurer is entitled to inspect at any reasonable time any work, machinery, plant, way or appliance used in the Employer's business or industrial activity.

Assignment

16. An assignment of interest under this Policy does not bind the Insurer unless the written consent of the Insurer to the assignment has been obtained.

Renewal of Policy

17. This Policy is renewed on the expiration of the current period of insurance to which it applies, except where:

- (a) the Employer has given written notice to the Insurer (before the expiration of the current period of insurance) that renewal is not required; or
- (b) the Insurer has given the Employer notice in writing not less than 14 days before the expiration of the current period of insurance that the Insurer refuses to renew the Policy, but the Insurer cannot refuse to renew this Policy unless the WorkCover Authority has given its prior consent in writing to the refusal.

The period of each renewal is 12 months, or such shorter period as the Insurer and the Employer agree to before renewal.

Cancellation of Policy

18. The Insurer may cancel this Policy at any time if the Insurer has first obtained the written consent of the WorkCover Authority (and cannot cancel this Policy in any circumstances without that consent). The Insurer cancels this Policy by giving notice of cancellation in writing to the Employer. The cancellation takes effect on the cancellation day notified in the notice of cancellation but that day must not be less than 7 days after the notice of cancellation is given to the Employer. Section 184 of the Act applies as if the Policy had been cancelled under that section.

No waiver or alteration

19. A provision of this Policy cannot be waived or altered unless the consent of the Insurer has been previously obtained and signified by endorsement on this Policy.

Employer must tell Insurer if unable to give suitable work requested by injured worker

20. If a worker employed by the Employer is partially incapacitated for work as a result of an injury and requests the Employer to provide suitable employment for him or her and the Employer does not immediately provide suitable employment, the Employer must promptly notify the Insurer of the following:

- (a) the fact of the worker's request and that the Employer has not provided suitable employment;
- (b) any proposal to provide or arrange for suitable employment for the worker, having regard to the medical certificate which the worker supplies and to the Employer's workplace rehabilitation program (if any) or otherwise.

Employer must advise change of business or industry

21. The Employer must notify the Insurer, as soon as practicable, of any change in the business or industrial activity carried on by the Employer.

Records to be kept of wages

22. The Employer agrees to allow the Insurer to inspect the records kept by the Employer under section 174 of the Act.

Note: Section 174 of the Act requires the Employer to keep certain records (such as records of wages paid to workers) and requires the Employer to keep those records for at least 7 years. The section gives the WorkCover Authority certain rights to inspect those records.

Cover conditional on Employer complying with Policy, Act and regulations

23. The indemnity provided by this Policy is conditional on compliance by the Employer with the provisions of this Policy, the Act and the regulations under the Act.

Act and regulations form part of Policy

24. This Policy is subject to the provisions of the Act and the regulations under the Act and those provisions are taken to form part of this Policy.

NOTES:

1. *Recovery of excess from Employer.* Under section 160 of the Act, the Employer is required to repay an excess of the first \$500 (or if another amount is prescribed by regulations under the Act, that other amount) of weekly payments of compensation in respect of each claim paid by the Insurer. An Employer is not required to make the repayment to the extent that the Insurer either offsets the amount against compensation duly advanced by the Employer to the claimant worker or makes an appropriate debit against any amount standing to the Employer's credit for premiums. If the basic tariff premium calculated for the policy does not exceed \$2,000, the excess is repayable only if the Employer and Insurer have agreed that it is repayable.
2. *Disputes about premium.* If the Employer disputes the premium for this Policy calculated by the Insurer under an Insurance Premiums Order, the Act lets the Employer apply to the Workcover Authority for a determination of the correct premium to be charged. If the Employer wishes to make such an application, it must usually be lodged within 1 month after the Insurer demands the premium. *The Employer should first try to resolve any premium problem by contacting the Insurer.* Even if the Employer lodges such an application with the Workcover Authority, the premium demanded by the Insurer remains payable (except to the extent that the Workcover Authority otherwise directs) pending the Workcover Authority's determination.

3. *Domestic etc. workers.* If this Policy is issued for domestic or similar workers (including when this Policy forms part of a household insurance package) it is to be read as if
- (a) the reference to the Employer carrying on business were a reference to the Employer employing domestic or similar workers; and
 - (b) the provisions in clause 4 for the Employer to notify a change of business or industrial activity were omitted, and the provisions of clauses 17 (Renewal of Policy) and 21 (Employer must advise change of business or industry) were omitted.

SCHEDULE 2—DISEASES

(Cl. 5)

<i>Column 1</i>	<i>Column 2</i>
Poisoning by lead, its alloys or compounds, and its sequelae.	<p>Handling of ore containing lead including fine shot in zinc factories.</p> <p>Casting of old zinc and lead in ingots.</p> <p>Manufacture of articles made of cast lead or of lead alloys.</p> <p>Employment in the polygraphic industries.</p> <p>Manufacture of lead compounds.</p> <p>Manufacture and repair of electric accumulators.</p> <p>Preparation and use of enamels containing lead.</p> <p>Polishing by means of lead files or putty powder with a lead content.</p> <p>All painting operations involving the preparation and manipulation of coating substances, cements or colouring substances containing lead pigments.</p>
Poisoning by mercury or its amalgams or compounds, and its sequelae.	<p>Handling of mercury ore.</p> <p>Manufacture of mercury compounds.</p> <p>Manufacture of measuring and laboratory apparatus.</p> <p>Preparation of raw material for the hat-making industry.</p> <p>Hot gilding.</p> <p>Use of mercury pumps in the manufacture of incandescent lamps.</p> <p>Manufacture of fulminate of mercury primers.</p>

Anthrax infection.	<p>Work in connection with animals infected with anthrax.</p> <p>Handling of animal carcasses or parts of such carcasses including hides, hoofs and horns.</p> <p>Loading and unloading or transport of merchandise that has come in contact with animals infected with anthrax or with animal carcasses or parts of such carcasses.</p>
Phosphorus poisoning by phosphorus or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of phosphorus or its compounds.
Arsenic poisoning by arsenic or its compounds, and its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its compounds.
Poisoning by benzene or its homologues, their nitro- and amido-derivatives, and its sequelae.	Any process involving the production, liberation or utilisation of benzene or its homologues, or their nitro- and amido- derivatives.
Poisoning by the halogen derivatives of hydrocarbons of the aliphatic series.	Any process involving the production, liberation or utilisation of halogen derivatives of hydrocarbons of the aliphatic series.
Pathological manifestations of a kind which are due to or contributed to by:	Any process involving exposure to the action of radium, radioactive substances or X-rays.
<ul style="list-style-type: none"> (a) radium and other radioactive substances; (b) X-rays. 	
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffin, or the compounds, products or residues of these substances.
Brucellosis, Leptospirosis and Q fever.	<p>Slaughtering of cattle on the slaughter-floor of an abattoir or slaughter-house.</p> <p>Handling or processing of the slaughtered carcasses of cattle in an abattoir or slaughter-house.</p> <p>Penning up or running cattle through a race at an abattoir or slaughter-house.</p>

Any activity, incidental or necessary to the carrying out of the above activities, on the slaughter-floor, in any area where the raw by-products of slaughtered cattle are handled or in or about any pen or race of an abattoir or slaughter-house.

SCHEDULE 3—MEDICAL TESTS AND RESULTS—BRUCELLOSIS, Q FEVER AND LEPTOSPIROSIS

(Cl. 6)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
Brucellosis.	A <i>Brucella abortus</i> agglutination or complement fixation test of 2 blood samples, the second of which was taken not earlier than 10 days and not later than 28 days after the day on which the first sample was taken.	A four-fold or greater increase in antibody titre.
	A <i>Brucella abortus</i> agglutination test of a single blood sample.	An antibody titre of 640 or greater.
	A <i>Brucella abortus</i> complement fixation test of a single blood sample, where the sample was taken from a person with symptoms consistent with chronic brucellosis.	An antibody titre of 640 or greater.
Q fever.	A laboratory culture of any specimen.	The isolation of <i>Brucella abortus</i> .
	A Q fever complement fixation test of 2 blood samples, the second of which was taken not earlier than 10 days and not later than 28 days after the day on which the first sample was taken.	A four-fold or greater increase in antibody titre.
	A fluorescence test of a single blood sample.	The demonstration of Q fever specific IgM antibodies.
	A laboratory culture of any specimen.	The isolation of <i>Coxiella burneti</i> .

- Leptospirosis.
- The comparison of 2 blood samples (the second of which was taken not earlier than 10 days and not later than 60 days after the day on which the first sample was taken) by any technical method which:
- A four-fold or greater increase in antibody titre.
- (a) is the same as a technical method used by the Leptospiral Reference Laboratory at the Laboratory of Microbiology and Pathology, Department of Health, Brisbane, for the purpose of comparing blood samples to establish whether or not a person has contracted leptospirosis; and
 - (b) involves the use of a panel of leptospiral antigens or serovars which is recommended by the Leptospiral Reference Laboratory for use in making such a comparison.

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<p>The analysis of a single specimen of blood serum by any technical method which:</p> <p>(a) is the same as a technical method used by the Leptospiral Reference Laboratory at the Laboratory of Microbiology and Pathology, Department of Health, Brisbane, for the purpose of analysing a single specimen of blood serum to establish whether or not a person has contracted leptospirosis; and</p> <p>(b) involves the use of a panel of leptospiral antigens or serovars which is recommended by that Leptospiral Reference Laboratory for use in carrying out such an analysis.</p>	<p>Agglutination of a leptospiral antigen at a dilution of 1 in 400 or greater.</p>
<p>A laboratory culture of a leptospire from blood or urine.</p>	<p>The isolation of an invasive leptospire.</p>

SCHEDULE 4

(Cl. 63)

<i>Religious body or organisation</i>	<i>Class</i>	<i>Employer</i>
Anglican Church of Australia—Diocese of Canberra and Goulburn	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	Anglican Church of Australia Property Trust Diocese of Canberra and Goulburn
Anglican Church of Australia—Diocese of Grafton	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	The Corporate Trustees of the Diocese of Grafton

Anglican Church of Australia—Diocese of Riverina	Clergy holding a licence from the Bishop of the Diocese who perform work wholly or partly in New South Wales	Riverina Diocesan Trust
Assemblies of God New South Wales	Ministers serving a congregation in New South Wales affiliated with or recognised by the Assemblies of God New South Wales who receive a stipend paid by that congregation	The Assembly of the congregation concerned
The Baptist Union of New South Wales	Ministers serving a congregation in New South Wales affiliated with or recognised by The Baptist Union of New South Wales who receive a stipend paid by that congregation	The Secretary of the congregation concerned
Central Coast Christian Life Centre	Ministers serving a congregation in New South Wales affiliated with or recognised by the Central Coast Christian Life Centre who receive a stipend paid by that congregation	The Central Coast Christian Life Centre Limited
Church of Christ (Non-denominational)--Bankstown	Ministers serving a congregation in New South Wales affiliated with or recognised by the Church of Christ (Non-denominational)--Bankstown who receive a stipend paid by that congregation	The congregation concerned
Classis New South Wales of the Reformed Churches of Australia	(a) Ministers serving a congregation in New South Wales affiliated with or recognised by the Classis New South Wales of the Reformed Churches of Australia who receive a stipend paid by that congregation	(a) The Session of the congregation concerned

	(b) Ministers serving the Classis New South Wales of the Reformed Churches of Australia who receive a stipend paid by the Classis	(b) The Classis New South Wales of the Reformed Churches of Australia
coptic orthodox Church, New South Wales, Australia	Clergy authorised by the President of the Church Council in New South Wales to serve a parish in New South Wales	coptic orthodox Church (NSW) Property Trust
Fellowship of Congregational Churches	Clergy serving a congregation in New South Wales affiliated with or recognised by the Fellowship of Congregational Churches who receive a stipend paid by that congregation	The Secretary of the congregation concerned
Lutheran Church of Australia, New South Wales District	(a) Pastors who serve, and receive a stipend paid by, a congregation in New South Wales which is: <ul style="list-style-type: none"> (i) a member of the Lutheran Church of Australia, New South Wales District; or (ii) authorised by the Church Council of the Lutheran Church of Australia, New South Wales District. (b) Pastors who serve, and receive a stipend paid by, the Lutheran Church of Australia, New South Wales District.	The Administrator of the Lutheran Church of Australia, New South Wales District

Presbyterian Church of Australia in the State of New South Wales	Presbyterian Ministers	Presbyterian Church in the State of New South Wales
Southside Christian Fellowship	Ministers serving a congregation in New South Wales affiliated with or recognised by the Southside Christian Fellowship who receive a stipend paid by that Congregation	The Southside Christian Fellowship Incorporated

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor changes only, the provisions of the Workers Compensation (General) Regulation 1987 under the Workers Compensation Act 1987:

The new Regulation deals with the following matters:

- (a) the deeming of certain diseases to be work related and the medical tests to be used to diagnose such a disease;
- (b) the amounts compensable as funeral expenses;
- (c) the method of calculating current weekly wage rates for certain workers (which is used in the calculation of compensation payable under the Act to those workers);
- (d) the index numbers to be used in the indexation of benefits payable under the Act;
- (e) the special requirements applicable to claims for weekly compensation, including the form of medical certificates required to be obtained, the notice to be given to claimants of their obligation to seek suitable employment and the form of notice of intention to discontinue or reduce weekly payments;
- (f) the amount for which an employer is liable in respect of treatment received in hospital;
- (g) the amount for which an employer is liable for car travel associated with treatment or service;
- (h) occupational rehabilitation services, including maximum amounts of compensation for those services and the obligations of providers to notify changes of circumstances, the giving of directions for the payments of amounts in excess of the maximum usually applicable and the review and revocation of such directions;
- (i) the giving of notice of injury, and claims procedure;
- (j) medical examinations and disputes on medical matters;
- (k) conciliation of disputes, including procedures before conciliation officers;
- (l) the form and contents of workers compensation insurance policies;
- (m) contributions payable by insurers to the Insurers Contribution Fund;

- (n) contributions to the WorkCover Authority Fund;
- (o) deeming certain ministers of religion to be employees;
- (p) contributions to the Premiums Adjustment Fund;
- (q) contributions to the Insurers Guarantee Fund;
- (r) transitional and miscellaneous provisions;
- (s) prescribing forms.

This Regulation is made under the Workers Compensation Act 1987, including section 239 (the general regulation making power) and the various sections mentioned in the regulation.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
