



New South Wales

Workers Compensation (Insurance Premiums) Amendment (Cost of Claims) Regulation 2001

under the

Workers Compensation Act 1987

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

JOHN DELLA BOSCA, M.L.C.,

Special Minister of State

Explanatory note

The *Workers Compensation Legislation Amendment Act 2001* amends the *Workplace Injury Management and Workers Compensation Act 1998* to require insurers to commence weekly payments of compensation on a provisional basis within 7 days of receiving notification of an injury. As a result, insurers will be making provisional weekly payments of compensation before any formal claim for compensation is received. Insurers may also make provisional payments of medical expenses compensation on the basis of provisional acceptance of liability.

The object of this Regulation is to provide for such provisional payments of weekly compensation or medical expenses compensation to be taken into account in determining the costs for an insurer of claims for compensation with respect to particular employers. This information is used in determining premiums for workers compensation insurance policies.

The Regulation also makes an amendment by way of law revision.

This Regulation is made under the *Workers Compensation Act 1987*, including section 173 and section 280 (the general regulation-making power).

2001 No 1034

Clause 1 Workers Compensation (Insurance Premiums) Amendment (Cost of Claims) Regulation 2001

Workers Compensation (Insurance Premiums) Amendment (Cost of Claims) Regulation 2001

1 Name of Regulation

This Regulation is the *Workers Compensation (Insurance Premiums) Amendment (Cost of Claims) Regulation 2001*.

2 Commencement

This Regulation commences on 1 January 2002.

3 Amendment of Workers Compensation (Insurance Premiums) Regulation 1995

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

Schedule 1 Amendments

(Clause 3)

[1] Clause 10 Definition

Omit the definition of *cost of claims*. Insert instead:

cost of claims, in relation to an injury year or a period of insurance, means the total of the following costs:

- (a) the total of the costs of each individual claim of which the insurer has notice at the time of expiry or renewal (as appropriate) of the policy concerned, being a claim made against a particular employer with respect to an injury received (or that is deemed by the Act or the former Act to have been received) during the injury year or the period of insurance, whichever is relevant, but not including:
 - (i) in relation to a policy issued or renewed so as to take effect at or after 4 pm on 30 June 1998 (other than a policy to which subparagraph (ii) applies), any claim under section 10 (Journey claims) of the Act, or
 - (ii) in relation to a policy issued or renewed so as to take effect at or after 4 pm on 30 June 1995, any claim under section 10 (Journey claims) or section 11 (Recess claims) of the Act,
- (b) the total of the costs of payment of provisional weekly payments of compensation and provisional payment of medical expenses compensation, if any, under Part 3 of Chapter 7 of the 1998 Act by the insurer, being payments of compensation on the basis of provisional acceptance of liability to a worker employed by a particular employer with respect to an injury received (or that is deemed by the Act to have been received) during the injury year or the period of insurance.

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Schedule 1 Amendments

[2] Clause 11A

Insert after clause 11:

11A Cost of provisional payments of compensation

- (1) For the purposes of this Regulation, the cost of payment of provisional weekly payments of compensation and provisional payment of medical expenses compensation, if any, with respect to a particular injury is (except as provided by subclause (2)) the sum of the following:
 - (a) the sum of the payments of provisional weekly payments of compensation and provisional medical expenses compensation, if any, made by the insurer in respect of the injury pursuant to the 1998 Act,
 - (b) fees and expenses, if any, paid by the insurer to medical practitioners, investigators or assessors in respect of the investigation of the injury,
 - (c) legal costs, if any, paid by the insurer in relation to the investigation of the injury, the determination of liability to make provisional weekly payments of compensation or provisional payment of medical expenses compensation and otherwise in complying with Divisions 1 and 3 of Part 3 of Chapter 7 of the 1998 Act,
 - (d) the most accurate estimation for the time being of the insurer's outstanding liability to make provisional weekly payments of compensation and provisional payment of medical expenses compensation, if any, with respect to the injury,

whether the payments were made or the fees, expenses or costs were paid (or the estimation relates to liability that will arise) during or after the injury year or period of insurance in which the injury was received (or is deemed by the Act to have been received).
- (2) However, the cost of provisional weekly payments of compensation and provisional payment of medical expenses compensation with respect to a particular injury:

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- (a) does not include any amount calculated by reference to the insurer's costs of administration or profit, and
 - (b) is to be reduced by the amounts, if any, that have been recovered or are recoverable by the insurer with respect to the provisional payments under the 1998 Act, and
 - (c) does not include any amount paid or payable under section 64A (Compensation for cost of interpreter services) of the 1987 Act, and
 - (d) is to be reduced by an amount that is the most accurate estimation for the time being by the insurer of the amount of any input tax credit or decreasing adjustment that may be claimed or has been claimed by the insurer in respect of the payments, fees, expenses or costs included in the cost of provisional weekly payments of compensation or provisional payment of medical expenses compensation under subclause (1), pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.
- (3) In this clause, references to the insurer's outstanding liability to make provisional weekly payments of compensation or provisional payment of medical expenses compensation with respect to an injury are references to the amount calculated to be sufficient to meet all reasonably likely future provisional payments of weekly compensation or medical expenses compensation in respect of the injury.

[3] Clause 28 Interpretation

Omit "clause 11" from the definition of *cost of claims* in clause 28 (1).
Insert instead "Part 3".