



Workers Compensation (Insurance Premiums) Amendment (Miscellaneous) Regulation 2002

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 object of this Regulation is to amend the *Workers Compensation (Insurance Premiums) Regulation 1995* so as:

- (a) to adjust some of the factors that are taken into account in calculating insurance premiums for workers compensation insurance, and
- (b) to make other miscellaneous amendments.

As a result of recent amendments to workers compensation legislation, an insurer is generally required to commence payments of weekly compensation or medical expenses compensation to an injured worker whether or not the worker has made a claim in respect of the injury. These payments are made on the basis of provisional acceptance of liability by the insurer. The *Workers Compensation (Insurance Premiums) Regulation 1995* provides that these provisional payments of compensation are to be taken into account by insurers when calculating the cost of claims made against a particular employer.

This Regulation ensures that if a worker who has received provisional compensation payments subsequently makes a claim for compensation, those payments are not counted again in calculating the cost of the claim (**Schedule 1 [3]**).

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Explanatory note

Schedule 1 [5], [6] and [7] provide that certain amounts of money are to be included or excluded in calculating the cost of provisional payments of compensation. Currently those amounts of money are dealt with in calculating the cost of a claim, rather than the cost of provisional payments.

This Regulation also makes the following miscellaneous amendments:

- (a) a definition is inserted to make it clear that references to *the 1998 Act* are references to the *Workplace Injury Management and Workers Compensation Act 1998* and that references to *the 1987 Act* are references to the *Workers Compensation Act 1987* (**Schedule 1 [1]**),
- (b) a reference to a date is corrected (**Schedule 1 [2]**),
- (c) a reference to a provision of the *Workers Compensation Act 1987* that is now located in the *Workplace Injury Management and Workers Compensation Act 1998* is updated (**Schedule 1 [4]**),
- (d) a definition of *minimum premium employer* is replaced to reflect a change to the provisions dealing with minimum insurance premiums in the proposed *Insurance Premiums Order 2002–2003* (**Schedule 1 [8]**).

This Regulation is made under the *Workers Compensation Act 1987*, including sections 173 and 280 (the general regulation-making power), and under section 230A of the *Workplace Injury Management and Workers Compensation Act 1998*.

Workers Compensation (Insurance Premiums) Amendment (Miscellaneous) Regulation 2002

1 Name of Regulation

This Regulation is the *Workers Compensation (Insurance Premiums) Amendment (Miscellaneous) Regulation 2002*.

2 Commencement

This Regulation commences on 30 June 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.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 3)

[1] Clause 3 Definitions

Omit the definition of *the Act*.

Insert in alphabetical order:

the 1998 Act means the *Workplace Injury Management and Workers Compensation Act 1998*.

the Act or *the 1987 Act* means the *Workers Compensation Act 1987*.

[2] Clause 10 Definitions

Omit “30 June 1998” from paragraph (a) (i) of the definition of *cost of claims*.

Insert instead “30 June 1988”.

[3] Clause 10A

Insert after clause 10:

10A Prevention of double allowance for provisional compensation payments

(1) In this clause:

provisional compensation payment means provisional weekly payment of compensation or provisional payment of medical expenses compensation, under Part 3 of Chapter 7 of the 1998 Act, on the basis of provisional acceptance of liability to a worker.

(2) If payments are made in respect of a claim pursuant to the Act and provisional compensation payments have been made in respect of the injury concerned:

(a) the provisional compensation payments are, for the purposes of determining the cost of the claim, taken to

be payments made by the insurer in respect of the claim pursuant to the Act and are to be included as such under clause 11, and

- (b) clause 11A does not apply to those provisional compensation payments, and
- (c) the cost of those provisional compensation payments is not to be included in the total of the costs of provisional compensation payments under paragraph (b) of the definition of *cost of claims* in clause 10.

[4] Clause 11 (2) (e)

Omit “section 153A (4) (b) of the Act”.

Insert instead “section 54 (4) (b) of the 1998 Act”.

[5] Clause 11A Cost of provisional payments of compensation

Omit clause 11A (2) (b). Insert instead:

- (b) is to be reduced by the amounts, if any, which have been recovered or are recoverable by the insurer from any source, other than an amount recovered or recoverable under section 160 of the 1987 Act, from the Insurers’ Contribution Fund or pursuant to a policy of reinsurance, and

[6] Clause 11A (2) (b1)

Insert after clause 11A (2) (b):

- (b1) is to be reduced by the first \$500 of the provisional payments or, if the cost of the payments is less than \$500, is to be reduced by that lesser cost, and

[7] Clause 11A (2) (c1)

Insert after clause 11A (2) (c):

- (c1) does not include any amount that section 54 (4) (b) of the 1998 Act (Second-injury scheme) requires to be excluded from the claims experience of the employer, and

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Schedule 1 Amendments

[8] Clause 28 Interpretation

Omit the definition of *minimum premium employer* from clause 28 (1).

Insert instead:

minimum premium employer means an employer who pays the minimum premium in respect of a policy of insurance under an insurance premiums order that applies to the policy under section 168 of the Act.

BY AUTHORITY