



New South Wales

Workers Compensation (General) Amendment (Meat Workers) Regulation 2003

under the

Workers Compensation Act 1987

His Excellency the Lieutenant-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 clause 11 of the *Workers Compensation (General) Regulation 1995* (which provides for the determination of current weekly wage rates for the purposes of weekly payments of compensation to certain injured meat industry workers):

- (a) to apply the clause only to workers in the meat processing industry who are paid “overs” or a production loading, and to remove references to specific industrial awards and agreements from the clause, and
- (b) to make it clear (for new and existing claims) that in calculating an injured worker’s current weekly wage rate any amount that the worker would be entitled to be paid in respect of “overs” or production loading is to be included (capped at 31.25% above the base rate as at present), and
- (c) to provide that any higher special sickness or injury weekly rate that may be payable to an injured worker under an industrial instrument is to be the worker’s current weekly wage rate for the purposes of weekly payments of compensation.

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Explanatory note

This Regulation is made under the *Workers Compensation Act 1987*, including section 42 and section 280 (the general regulation-making power).

Workers Compensation (General) Amendment (Meat Workers) Regulation 2003

1 Name of Regulation

This Regulation is the *Workers Compensation (General) Amendment (Meat Workers) Regulation 2003*.

2 Amendment of Workers Compensation (General) Regulation 1995

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

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Schedule 1 Amendments

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(Clause 2)

[1] Clause 11 Sec 42 (1) (c), (5) (b): prescribed classes of workers etc—certain meat industry workers

Omit clause 11 (1). Insert instead:

- (1) Workers engaged in the meat processing industry whose employment is subject to an industrial instrument that provides for the payment of “overs” or a production loading under a tally, piecework or incentive system in respect of work performed in that industry are prescribed as a class of workers for the purposes of section 42 (1) (c) and (5) (b) of the Act.

(1A) In this clause:

industrial instrument means a State industrial instrument or an instrument of a similar nature under the law of another State, a Territory or the Commonwealth, and includes any agreement or other arrangement in force under such an instrument.

[2] Clause 11 (2)

Omit “each worker of a class”. Insert instead “each worker of the class”.

[3] Clause 11 (2) (a)

Omit “paragraphs (b) and (c)”. Insert instead “paragraphs (b), (c) and (d)”.

[4] Clause 11 (2) (b)

Omit “(being a worker of any one of the classes prescribed by subclause (1) (a)—(l))”.

Insert instead “(being a worker whose employment is subject to an industrial instrument that provides for the payment of “overs” to the worker)”.

[5] Clause 11 (2) (d)

Insert at the end of clause 11 (2) (c):

, or

- (d) where the formula prescribed by whichever of paragraphs (a), (b) and (c) is appropriate provides a smaller rate for a particular week for the worker than any special rate (as referred to in subclause (2A)) applicable to the worker for that week—the special rate applicable to the worker for that week.

[6] Clause 11 (2A)

Insert after clause 11 (2):

- (2A) A reference in subclause (2) (d) to a *special rate* applicable to a worker for a particular week is a reference to a special weekly wage rate that is applicable to the worker under an industrial instrument for any period for which the worker is absent from work because of sickness or injury.

[7] Clause 11 (3)

Omit “a worker of any one of the classes”.
Insert instead “a worker of the class”.

[8] Clause 11 (3)

Omit “any other worker of that class” wherever occurring.
Insert instead “any other worker who is a co-worker of the injured worker”.

[9] Clause 11 (3)

Omit “other workers of that class” wherever occurring.
Insert instead “other co-workers of the injured worker”.

[10] Clause 11 (3)

Omit the matter that provides for what *C* equals. Insert instead:

C equals the weekly rate applicable under any relevant industrial instrument to co-workers of the injured worker.

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Schedule 1 Amendments

weekly rate (in relation to what *C* equals) is the amount of the rate fixed or set under an industrial instrument in respect of co-workers of the injured worker as the tally rate per 5 days, ordinary rate per 5 days, ordinary weekly rate or minimum weekly rate of pay.

[11] Clause 11 (3A)

Insert after clause 11 (3):

- (3A) For the purposes of subclause (3), a worker is a *co-worker* of an injured worker if the worker is normally employed with the injured worker at a common place of employment and under the same classification as the injured worker.

[12] Clause 11 (4) and (5)

Omit the subclauses. Insert instead:

- (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 that the worker is entitled, under the industrial instrument by which the worker is bound, to be paid for that day's work:
- (a) exclusive of any amount that the worker is so entitled to be paid in respect of shift work or overtime or otherwise at penalty rates, and
 - (b) inclusive of any amount that the worker is so entitled to be paid in respect of "overs" or (subject to subclause (5)) 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 for whom production loading is calculated by reference to weekly production, any amount in excess of one fifth of the production loading that 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” that provided each of those workers with pay for that week that is equivalent to the amount of money calculated in accordance with the formula $C \times 21/16$, or

- (b) in the case of a worker for whom production loading is calculated by reference to daily production, any amount in excess of the production loading that 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” that provided each of those workers with pay for that day that 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 subclause (3).