



Workers Compensation (General) Amendment (Transfer of Matters) Regulation 2003

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 (General) Regulation 1995* to provide that a worker who has proceedings on a claim for compensation pending in the Compensation Court may elect to transfer the claim to the Workers Compensation Commission and have the matter dealt with by that body.

The Regulation also makes provision for matters consequential to such a transfer including arrangements with the Compensation Court for the transfer of court records and other documents and the calculation of costs in such transferred matters.

This Regulation is made under the *Workers Compensation Act 1987*, including section 280 (the general regulation-making power) and clause 5 of Part 18C of Schedule 6 to that Act.

2003 No 210

Clause 1 Workers Compensation (General) Amendment (Transfer of Matters)
Regulation 2003

Workers Compensation (General) Amendment (Transfer of Matters) Regulation 2003

1 Name of Regulation

This Regulation is the *Workers Compensation (General) Amendment (Transfer of Matters) Regulation 2003*.

2 Amendment of Workers Compensation (General) Regulation 1995

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

Schedule 1 Amendments

(Clause 2)

[1] Clause 93A

Insert after clause 93 (2A):

93A Transfer of existing claims by election of worker

- (1) If proceedings on a claim for compensation are pending in the Compensation Court on the commencement of this clause, the claimant can elect in a form approved by the Commission to transfer the claim to the Commission.
- (2) On receipt by the Commission of the election, the claim is to be treated as a new claim for the purposes of the Workers Compensation Acts (under clause 5 of Part 18C of Schedule 6 to the 1987 Act).
- (3) The consent of the employer or insurer is not required for the making or operation of an election under this clause.
- (4) Neither the Commission nor the Compensation Court has any discretion or power to refuse to accept an election under this clause.
- (5) The Commission is to notify the Compensation Court of an election under this clause and is to make arrangements with the Court for the transfer of court records and other documents relevant to the claim, for the purpose of facilitating the hearing and determination of proceedings on the claim by the Commission.

Note. Under clause 6A of Part 18C of Schedule 6 to the 1987 Act, the Compensation Court ceases to have jurisdiction in respect of the claim once the claim becomes a new claim.

[2] Clause 93 (3)

Re-number clause 93 (3) as clause 93B with the following heading:

93B Continuing jurisdiction of Compensation Court

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Schedule 1 Amendments

[3] Clause 93B (as so renumbered)

Omit “under this clause”. Insert instead “under this Division”.

[4] Clause 108A

Insert after clause 108:

108A Special provisions for costs where worker elects to transfer claim to Commission

If a claim becomes a new claim as a result of an election by the worker under clause 93A, the following provisions apply in respect of the recovery of costs in connection with the claim:

- (a) the recovery of costs in respect of legal services provided up to the time when the claimant makes the election is to be in accordance with provisions made by or under the Workers Compensation Acts or the *Legal Profession Act 1987* (as applicable), and
- (b) the recovery of costs in respect of legal services provided on and from the election is to be in accordance with this Part.

[5] Clause 148 Transitional provisions

Insert at the end of clause 148 (1) (b):

- , and
- (c) extends to proceedings with respect to existing claims that are treated as new claims under clause 93A.

[6] Schedule 6 Maximum costs—compensation matters

Insert after clause 1 (2) (d):

Election by claimant to transfer claim to Commission under clause 93A

- (d1) For an activity or event carried out on behalf of a claimant in making an election under clause 93A of this Regulation to transfer the claim to the Commission—the cost set out in Column 3 of Part 4A of the table opposite that activity or event up to the maximum total costs for that type of activity or event set out in Column 4 of the table.

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Amendments

Schedule 1

[7] Schedule 6, Compensation Costs Table

Insert the following in the Compensation Costs Table after Part 4:

**Part 4A Election by claimant to transfer claim to
Commission under clause 93A**

4.13	All work associated with the lodgment of the election	\$500	\$500
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BY AUTHORITY
