



New South Wales

Workers Compensation Amendment (Insurance Premiums) Regulation 2005

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.,
Minister for Commerce

Explanatory note

The object of this Regulation is to make amendments to the *Workers Compensation Regulation 2003* that provide:

- (a) that for the purposes of calculating insurance premiums under the *Workers Compensation Act 1987*, a **category A employer** is an employer whose annual basic tariff premium (within the meaning of the insurance premiums order for the time being in force) would exceed \$10,000 rather than \$3,000 as is currently the case (Schedule 1 [2]), and
- (b) that an employer is entitled to a rebate for an overpayment of an insurance premium if an amount of a claim was included in the costs of claims used in the calculation of the insurance premium and on or after 1 January 2000:
 - (i) a court in a criminal prosecution determined that the claim or part of the claim was fraudulent (whether or not a person is convicted for the fraud), or
 - (ii) the Compensation Court or the Workers Compensation Commission in a final determination determined that the claim was made by a person who was not a worker, or
 - (iii) the WorkCover Authority is satisfied that the claim is one to which section 235B of the 1998 Act applies or has made an order under section 235D of the 1998 Act in relation to the claim (Schedule 1 [4]), and
- (c) for the staged closure of the Premium Discount Scheme (Schedule 1 [5]), and
- (d) for amendments consequential on the amendment of the definition of **category A employer** referred to in paragraph (a) above (Schedule 1 [1], [3] and [6]).

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Explanatory note

This Regulation is made under the *Workers Compensation Act 1987*, including section 160 (relating to the recovery of excess amounts from employers), Division 2 of Part 7 (relating to insurance premiums), section 280 (the general regulation-making power), and under the *Workplace Injury Management and Workers Compensation Act 1998*, including section 230A (relating to Premium Discount Schemes) and section 248 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Workers Compensation Amendment (Insurance Premiums) Regulation 2005*.

2 Commencement

This Regulation commences at 4.00 p.m. on 30 June 2005.

3 Amendment of Workers Compensation Regulation 2003

The *Workers Compensation Regulation 2003* is amended as set out in Schedule 1.

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Schedule 1 Amendments

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(Clause 3)

[1] Clause 51 Prescriptions for purposes of excess recoverable from employer

Omit “\$3,000” from clause 51 (1). Insert instead “\$10,000”.

[2] Clause 127 Definitions

Omit the definition of *category A employer*. Insert instead:

category A employer, in relation to a policy, means an employer whose basic tariff premium (within the meaning of the insurance premiums order for the time being in force) for the policy at the time at which the insurer first demands a premium for the policy:

- (a) in a case where the period of insurance to which the premium relates is 12 months—exceeds \$10,000, or
- (b) in a case where the period of insurance to which the premium relates is not 12 months—would exceed \$10,000 if that premium were calculated using a period of insurance of 12 months.

[3] Clause 148 Policies under which premiums may be paid by instalments

Omit clause 148 (1) (b). Insert instead:

- (b) the basic tariff premium (within the meaning of the insurance premiums order for the time being in force) for the employer’s policy of insurance at the time at which the insurer first demands a premium for the policy exceeds \$3,000, and

[4] Clause 150A

Insert after clause 150:

150A Rebate of premium where fraud or mistake involved in claims

- (1) An employer is entitled to a rebate for an overpayment of an insurance premium if:
 - (a) an amount of a claim was included in the costs of claims used in the calculation of the insurance premium, and
 - (b) on or after 1 January 2000:
 - (i) a court in a criminal prosecution determined that the claim or part of the claim was fraudulent (whether or not a person is convicted for the fraud), or

- (ii) the Compensation Court or the Commission in a final determination determined that the claim was made by a person who was not a worker, or
 - (iii) the Authority:
 - (A) is satisfied that the claim is one to which section 235B of the 1998 Act applies, or
 - (B) has made an order under section 235D of the 1998 Act in relation to the claim.
- (2) An employer is entitled to such a rebate in relation to each period of insurance for which the amount of a claim referred to in subclause (1) was included in the calculation of the insurance premium for that period.
- (3) The amount of the rebate that an employer is entitled to under this clause is to be determined by the Authority.

[5] Clause 151A

Insert after clause 151:

151A Staged closure of Premium Discount Scheme

- (1) **Premium Discount Scheme is closed to new participants**

On and from the commencement of this clause no employer is entitled to commence participation in the Premium Discount Scheme.
- (2) **Premium Discount Scheme (General) closed**

The Premium Discount Scheme (General) strand of the Scheme is closed.
- (3) An employer who was a participant in the Premium Discount Scheme (General) strand of the Scheme immediately before the commencement of this clause ceases to be such a participant on that commencement.
- (4) For the avoidance of doubt, the Premium Discount Scheme (General) strand of the Scheme does not apply to any policy of insurance that is to be or has been issued or renewed so as to take effect on or after the commencement of this clause.
- (5) **One further verification permitted**

Despite subclause (3), an employer who was a participant in the Premium Discount Scheme (General) strand of the Scheme immediately before the commencement of this clause, who had passed at least one verification before that commencement, may, at any time after the commencement of this clause (but not later

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than 6 months following the expiration of the employer's policy of insurance in force immediately before that commencement), make one attempt to pass one further verification as if the employer were still a participant.

- (6) If the employer passes a further verification as referred to in subclause (5), that verification may be used to confirm a previous verification that provisionally entitled the employer to a discount on the insurance premium payable with respect to the employer's last year of participation in the Scheme.
- (7) The amount of premium discount to which an employer who passes a further verification as referred to in subclause (5) is entitled to is to be calculated in accordance with the relevant Insurance Premiums Order. For that purpose and despite any other provision of this Part, the PDA Rating of the PDA who verifies that the employer has passed the further verification is 15%.

[6] Schedule 1 Forms

Omit "\$3,000" from Note 1 to Form 3. Insert instead "\$10,000".

BY AUTHORITY
