



New South Wales

## Insurance Premiums Order 2008–2009

under the

Workers Compensation Act 1987

MARIE BASHIR, Governor

I, Professor Marie Bashir AC, CVO, Governor of the State of New South Wales, with the advice of the Executive Council, and on the recommendation of the WorkCover Authority, and in pursuance of the *Workers Compensation Act 1987*, make the following Order.

Dated, this 28th day of May 2008.

By Her Excellency's Command,

JOHN DELLA BOSCA, M.L.C.,  
Minister Assisting the Minister for Finance

### Explanatory note

Section 168 of the *Workers Compensation Act 1987* provides that the Governor may, by order made on the recommendation of the WorkCover Authority and published in the Gazette, fix the manner in which the premium payable by an employer (or a person who proposes to become an employer) for a policy of insurance under the Act is to be calculated.

The object of this Order is to fix the manner in which such a premium is to be calculated in respect of policies of insurance that are to be or have been issued or renewed so as to take effect on or after 4 pm on 30 June 2008 and before 4 pm on 30 June 2009.

The Order also specifies the interest rate that is to be used to calculate late payment fees for the late payment of insurance premiums.

This Order is made under sections 160, 168, 170 and 172 of the *Workers Compensation Act 1987* and clauses 137 and 138 of the *Workers Compensation Regulation 2003*.

## 2008 No 157

Clause 1 Insurance Premiums Order 2008–2009

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### Insurance Premiums Order 2008–2009

under the

Workers Compensation Act 1987

#### 1 Name of Order

This Order is the *Insurance Premiums Order 2008–2009*.

#### 2 Commencement

This Order commences at 4 pm on 30 June 2008.

#### 3 Calculation of insurance premium payable by employer

(1) The premium payable by an employer for a policy of insurance is to be calculated by requiring the premium to be calculated for a period of insurance of not more than 12 months and:

(a) if the employer is a medium or large employer for the purposes of the policy, in accordance with the following formula:

$$P = ((T \times (1 - S)) + (E \times S)) + Q + D - I + M - A$$

(b) if the employer is a small employer for the purposes of the policy, in accordance with the following formula:

$$P = T + Q + D - I + M - A$$

where:

**P** is the premium for the time being payable by the employer in respect of the period of insurance to which the policy relates, being:

(a) except as provided by paragraph (b), the initial premium so payable in accordance with this Order, or

(b) where adjustments are required to be made to that premium by reason of the operation of this Order, the premium so payable by reason of those adjustments.

**T** is the basic tariff premium for the employer, calculated with respect to the period of insurance in accordance with Schedule 3.

**S** is the experience adjustment factor for the employer determined with respect to the period of insurance in accordance with Schedule 4.

**E** is the experience premium, if any, for the employer determined with respect to the period of insurance in accordance with Schedule 5.

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*Q* is the premiums adjustment contribution, if any, for the employer.

*D* is the dust diseases contribution, if any, for the employer.

*I* is the input tax credit adjustment, if any, for the employer determined with respect to the period of insurance in accordance with Schedule 9.

*M* is the Mine Safety Fund premium adjustment, if any, for the employer calculated with respect to the period of insurance in accordance with Schedule 10.

*A* is the apprentice incentive amount, if any, for the employer determined with respect to the period of insurance in accordance with Schedule 11.

- (2) However, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  for a policy of insurance whose total premium is to be calculated under subclause (1) (a):
- (a) is less than \$50,000 (or, if the period of insurance is to be less than 12 months, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  would be less than \$50,000 were that period of insurance to be 12 months), the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  is not to exceed one and a half times the amount of that basic tariff premium  $[1.5 \times T]$ , and
  - (b) is or exceeds \$50,000 but is less than \$150,000 (or, if the period of insurance is to be less than 12 months, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  would be or would exceed \$50,000 but would be less than \$150,000 were that period of insurance to be 12 months), the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  is not to exceed twice the amount of that basic tariff premium  $[2 \times T]$ , and
  - (c) is or exceeds \$150,000 but is less than \$300,000 (or, if the period of insurance is to be less than 12 months, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  would be or would exceed \$150,000 but would be less than \$300,000 were that period of insurance to be 12 months), the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  is not to exceed two and a half times the amount of that basic tariff premium  $[2.5 \times T]$ .
- (3) However, if the employer is a member of a group:
- (a) subclause (2) does not apply, and
  - (b) where the sum of the basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  for all the members of that group:
    - (i) is less than \$50,000 (or, if the period of insurance is to be less than 12 months, where the sum of basic tariff premiums less the sum of apprentice incentive amounts

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- $[T_G - A_G]$  would be less than \$50,000 were that period of insurance to be 12 months), the experience adjusted premium for the employer's policy  $[(T \times (1 - S)) + (E \times S)]$  is not to exceed one and a half times the amount of the employer's basic tariff premium  $[1.5 \times T]$ , and
- (ii) is or exceeds \$50,000 but is less than \$150,000 (or, if the period of insurance is to be less than 12 months, where the sum of basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  would be or would exceed \$50,000 but would be less than \$150,000 were that period of insurance to be 12 months), the experience adjusted premium for the employer's policy  $[(T \times (1 - S)) + (E \times S)]$  is not to exceed twice the amount of the employer's basic tariff premium  $[2 \times T]$ , and
  - (iii) is or exceeds \$150,000 but is less than \$300,000 (or, if the period of insurance is to be less than 12 months, where the sum of basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  would be or would exceed \$150,000 but would be less than \$300,000 were that period of insurance to be 12 months), the experience adjusted premium for the employer's policy  $[(T \times (1 - S)) + (E \times S)]$  is not to exceed two and a half times the amount of the employer's basic tariff premium  $[2.5 \times T]$ ,

where:

$A_G$  is the sum of the sum of apprentice incentive amounts (if any) for all the members of the group calculated:

- (a) where the period of insurance to which the premium relates is 12 months—in accordance with Schedule 11 with respect to that period of insurance, or
- (b) where the period of insurance to which the premium relates is not 12 months—in accordance with Schedule 11 as if the policies to which the premiums relate had a period of insurance of 12 months.

$T_G$  is the sum of the basic tariff premiums for all the members of the group calculated:

- (a) where the period of insurance to which the premium relates is 12 months—in accordance with Schedule 3 with respect to that period of insurance, or
- (b) where the period of insurance to which the premium relates is not 12 months—in accordance with Schedule 3 as if the policies to

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which the premiums relate had a period of insurance of 12 months.

#### 4 Discount available for premiums paid in full

An employer is entitled to a discount of 3 percent on the initial premium payable by the employer for a policy of insurance if:

- (a) the period of insurance to which the policy relates is 12 months, and
- (b) the employer has paid the discounted amount of the premium in full by the date on which payment of the premium is due, and
- (c) the employer has not elected to pay the premium by instalments, and
- (d) the employer has notified the insurer, in accordance with the regulations, of the reasonable estimate of the wages that will be payable during the period of insurance.

**Note.** Clause 130 of the *Workers Compensation Regulation 2003* requires an employer to notify the insurer concerned of the matter referred to in paragraph (d).

#### 5 Recovery of excess from employer: section 160 of Act

For the purposes of the definition of *prescribed excess amount* in section 160 (1) of the Act, the following excess amount is specified:

- (a) if the employer concerned notified the relevant insurance scheme agent of the injury that led to the weekly compensation claim of the worker within 5 days of the employer becoming aware of it—\$0,
- (b) in all other cases—the lesser of the following:
  - (i) the amount that is the current weekly wage rate of the worker as determined by section 42 of the Act,
  - (ii) \$1,594.00.

**Note.** Under section 160 (2) of the Act, an employer is required to repay the prescribed excess amount to the insurer under a policy of insurance in respect of each weekly compensation claim that the insurer has paid under the policy. However, if the amount that the insurer has paid in respect of any such claim is less than the prescribed excess amount, the amount the employer must repay is that lesser paid amount.

#### 6 Late payment prescribed interest rates: sections 170 (8) and 172 (5) of Act

For the purposes of sections 170 (8) and 172 (5) of the Act, the *prescribed rate* of interest is the interest rate referred to in section 22 of the *Taxation Administration Act 1996*.

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**7 Calculation of costs of individual claims and provisional payments of compensation: clauses 137 (2) (c) (ii) (C) and 138 (2) (c) (ii) (C) of Regulation**

For the purposes of clauses 137 (2) (c) (ii) (C) and 138 (2) (c) (ii) (C) of the *Workers Compensation Regulation 2003*, the amount specified is \$1,594.00.

**8 Schedules form part of Order**

Schedules 1–13 form part of this Order.

**9 Explanatory note**

The explanatory note does not form part of this Order.

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## Schedule 1 Interpretation

(Clause 8)

### 1 Definitions

(1) In this Order:

**apprentice** has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

**apprentice incentive amount**, in relation to an employer, means the amount calculated in accordance with Schedule 11.

**basic tariff premium**, in relation to a policy, means the basic tariff premium for the policy calculated in accordance with Schedule 3.

**claim** means a claim made by a person against an employer to which a policy relates.

**dust diseases contribution**, in relation to an employer, means an amount equivalent to the contributions, if any, payable by an insurer in respect of the employer to the Workers' Compensation (Dust Diseases) Fund.

**employer** includes a person who proposes to become an employer.

**GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

**input tax credit entitlement**, in relation to an employer, means the amount of input tax credit that may be claimed by the employer in accordance with the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth in respect of the issue or renewal of a policy of insurance expressed as a percentage of the GST payable by the employer in respect of the issue or renewal of that policy.

**insurer** means a licensed insurer, or a former licensed insurer, within the meaning of the Act.

**limited proprietary company** means a proprietary company limited by shares as referred to in section 112 of the *Corporations Act 2001* of the Commonwealth.

**NSW WorkCover Industry Classification System** or **NSWWIC System** means the industry classification system set out in Table A.

**per capita rate** means a rate specified in Column 4 of Table A that is expressed otherwise than as a percentage.

**period of insurance**, in relation to a policy, means a period for which an insurer assumes risk under the policy, being a period that commences on the first day on which the policy is in force after having been issued or renewed.

**policy** or **policy of insurance** means a policy of insurance within the meaning of the Act.

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**premiums adjustment contribution**, in relation to an employer, means an amount equivalent to such part of the contributions, if any, payable by an insurer to the Insurance Fund under section 208 or 208AA of the Act as relates to the premium payable by the employer to the insurer.

**regulations** means regulations under the Act.

**Table A** means the Table set out in Schedule 12.

**Table B** means the Table set out in Schedule 13.

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

**wages** means wages as defined in section 174 (9) of the Act, but does not include a motor vehicle allowance or accommodation allowance to the extent that the allowance is required to be excluded from wages by clause 3.

(2) **Predecessor**

For the purposes of this Order, a person is the **predecessor** of an employer if the employer has acquired the business of the person. This subclause applies whether the business acquired is the whole or main part of the business of the person or is the whole or main part of a separate and distinct business of the person, and whether or not the business acquired is carried on at the same location.

(3) **Related corporation**

For the purposes of this Order, an employer that is a corporation is related to another corporation (whether or not that other corporation is an employer) if:

- (a) the employer and the other corporation are, by reason of the *Corporations Act 2001* of the Commonwealth, taken to be related to each other, or
- (b) the directors of the employer are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the directors of the other corporation, or
- (c) the directors of the other corporation are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the directors of the employer, or
- (d) the other corporation is, by reason of the *Corporations Act 2001* of the Commonwealth, taken to be related to another corporation the directors of which are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the directors of the employer, or



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- (e) the directors of the employer and the directors of the other corporation are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of another person, or
  - (f) the other corporation has a share capital and the directors of the employer may (whether directly or indirectly) exercise, control the exercise of or substantially influence the exercise of, 50 per cent or more of the voting power attached to voting shares issued by the other corporation, or
  - (g) (where the employer and the other corporation are corporations each of which has a share capital) any person who may (whether directly or indirectly) exercise, control the exercise of, or substantially influence the exercise of, 50 per cent or more of the voting power attached to voting shares issued by one of those corporations, may also exercise, control the exercise of or substantially influence the exercise of 50 per cent or more of the voting power attached to voting shares issued by the other corporation.
- (4) However, an employer that is a corporation is not related, for the purposes of this Order, to another corporation (whether or not that other corporation is an employer) if:
- (a) the employer and that other corporation are not, by reason of the *Corporations Act 2001* of the Commonwealth, taken to be related to each other, and
  - (b) the employer establishes that neither the employer nor the other corporation carry on a trade, business or profession so as to avoid or evade the payment of a premium payable by either the employer or the other corporation for a policy.
- (5) The value of any amount of money calculated or included in a calculation under this Order is to be expressed in dollars.
- (6) In this Order, a reference to wages that are payable by an employer includes a reference to wages that have been paid by the employer.
- (7) In this Order, a reference to any GST that is payable by an employer includes a reference to GST that has been paid by the employer.
- (8) In this Order, a reference to any input tax credit that may be claimed by an employer includes a reference to any input tax credit that has been claimed by the employer.

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### 2 Meaning of small, medium and large employer

(1) In this Order:

**large employer** means an employer whose basic tariff premium for an insurance policy at the time at which the insurer demands a premium for the policy:

- (a) exceeds \$500,000 (where the period of insurance to which the premium relates is 12 months), or
- (b) would exceed \$500,000 (where the period of insurance to which the premium relates is not 12 months) if that premium was calculated using a period of insurance of 12 months.

**medium employer** means an employer who, at the time at which the insurer demands a premium for an insurance policy, is not a small employer or a large employer.

**small employer** means an employer:

- (a) whose basic tariff premium for an insurance policy at the time at which the insurer demands a premium for the policy:
  - (i) does not exceed \$10,000 (where the period of insurance to which the premium relates is 12 months), or
  - (ii) would not exceed \$10,000 (where the period of insurance to which the premium relates is not 12 months) if that premium was calculated using a period of insurance of 12 months, or
- (b) whose total wages payable to workers for the period of insurance of the policy:
  - (i) do not exceed \$300,000 (where the period of insurance is 12 months), or
  - (ii) would not exceed \$300,000 (where the period of insurance is not 12 months) if that policy was calculated using a period of insurance of 12 months, or
- (c) who satisfies both paragraphs (a) and (b).

(2) However, if an employer carries on a business that is covered by Table A's classes 612310, 612315, 612320, 612322, 612324, 612326, 612330, 931120, 931130, 931920, 931930 or 931940 (being classes that refer to a per capita rate), regardless of whether the employer carries on any other business, the employer is a **small employer** only if the basic tariff premium for the policy:

- (a) does not exceed \$10,000 (where the period of insurance to which the premium relates is 12 months), or

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- (b) would not exceed \$10,000 (where the period of insurance to which the premium relates is not 12 months) if that premium was calculated using a period of insurance of 12 months.
  - (3) If an employer is a member of a group, a reference to the basic tariff premium of the employer or to total wages payable by the employer to workers (however expressed) is taken to be a reference to the sum of the basic tariff premiums of all members of the group or to total wages payable to workers by all members of the group, respectively.

**3 Extent to which motor vehicle and accommodation allowances to be excluded from wages**

- (1) A motor vehicle allowance paid to a worker is to be excluded from wages for the purposes of this Order to the extent of an amount calculated at whichever of the following rates is applicable in the particular case:
  - (a) in the case of a worker paid an allowance under an award that specifies the allowance solely as a rate for each kilometre or part of a kilometre travelled by the worker in the course of the worker's employment by means of a motor vehicle provided or maintained by the worker—the rate specified in the award,
  - (b) in the case of any other worker—70 cents for each kilometre or part of a kilometre travelled by the worker in the course of business journeys by means of a motor vehicle provided or maintained by the worker.

**Note.** Where a worker is paid an allowance under an award that specifies the allowance wholly as a lump sum amount or partly as a lump sum amount and partly as a rate for each kilometre or part of a kilometre travelled by the worker in the course of the worker's employment by means of a motor vehicle provided or maintained by the worker—the amount of allowance to be excluded from wages for the purposes of this Order is to be calculated in accordance with paragraph (b).

- (2) If the amount calculated in accordance with subclause (1) is greater than the amount actually paid to a worker as a motor vehicle allowance, only the amount actually paid is to be excluded from the calculation of wages.
- (3) The amount of motor vehicle allowance paid to a worker that is to be excluded from wages for the purposes of this Order is to be calculated using whichever of the following 2 methods the employer prefers:
  - (a) the method set out in clause 4 (the *continuous recording calculation method*),
  - (b) the method set out in clause 5 (the *averaging calculation method*).

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- (4) An accommodation allowance paid to a worker is to be excluded from wages for the purposes of this Order to the extent of an amount calculated at whichever of the following rates is applicable in the particular case:
- (a) in the case of a worker paid an allowance under an award that specifies the allowance as a rate for each night the worker is absent from the worker's usual place of residence—the rate specified in the award,
  - (b) in the case of any other worker—\$201.25 for each night the worker is absent from the worker's usual place of residence in the course of the worker's employment.
- (5) If the amount calculated in accordance with subclause (4) is greater than the amount actually paid to a worker as an accommodation allowance, only the amount actually paid is to be excluded from the calculation of wages.
- (6) In this clause, *award* means:
- (a) an industrial instrument within the meaning of the *Industrial Relations Act 1996*, or
  - (b) any agreement with respect to salaries or wages entered into under the provisions of any other law of the State between an employer constituted by that law and an association or organisation representing a group or class of employees, or
  - (c) an award, agreement or other instrument under the law of the Commonwealth or of another State or Territory, being an award, agreement or other instrument of a similar nature to an instrument or agreement referred to in paragraph (a) or (b).

#### 4 Continuous recording calculation method

The continuous recording calculation method requires the following details to be kept and used for calculation:

- (a) the odometer readings at the beginning and end of each business journey undertaken by the worker during a period of insurance by means of a motor vehicle provided or maintained by the worker,
- (b) the specific purpose for which each such business journey was taken,
- (c) the distance travelled by the worker during the period of insurance in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a).

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**5 Averaging calculation method**

- (1) The averaging calculation method requires the following details to be kept and used for calculation for the first period of insurance in which a worker's employer chooses to adopt that method:
  - (a) the odometer readings at the beginning and end of each business journey undertaken by the worker during the relevant 12-week period by means of a motor vehicle provided or maintained by the worker,
  - (b) the specific purpose for which each such business journey was taken,
  - (c) the distance travelled by the worker during the relevant 12-week period in the course of all such business journeys, calculated on the basis of the odometer readings referred to in paragraph (a),
  - (d) the odometer readings at the beginning and end of the relevant 12-week period for each vehicle provided or maintained by the worker for the purpose of undertaking business journeys,
  - (e) the distance travelled by each such vehicle during the relevant 12-week period, calculated on the basis of the odometer readings referred to in paragraph (d),
  - (f) the distance travelled by the worker in the course of business journeys undertaken by means of each such vehicle during the relevant 12-week period, calculated as a percentage of the distance travelled by that vehicle during that period,
  - (g) the distance travelled by the worker in the course of business journeys undertaken by means of each such vehicle during the period of insurance, calculated on the basis that the percentage for each such vehicle for the period of insurance is the same as the percentage for that vehicle for the relevant 12-week period.
- (2) After the first period of insurance in which odometer details are recorded in accordance with subclause (1), the calculation referred to in subclause (1) (g) is to be employed for the purpose of calculating the distance travelled by the worker in the course of business journeys undertaken by means of each vehicle referred to in subclause (1) during each of the next succeeding 4 periods of insurance, calculated on the basis that the percentage for each such vehicle for the period of insurance concerned is the same as the percentage for that vehicle for the relevant 12-week period.
- (3) After the first period of insurance in which odometer details are recorded in accordance with subclause (1), a worker's employer is not

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required to record the details referred to in that subclause for the worker for the next succeeding 4 periods of insurance unless:

- (a) the Authority serves a notice on the employer before the commencement of a period of insurance during those 4 periods directing the employer to keep the details referred to in subclause (1) for those periods, or
  - (b) the employer wishes to use the recording method referred to in this clause for one or more additional motor vehicles used by the worker in any period of insurance or for any other reason.
- (4) In a situation referred to in subclause (3) (b), a worker's employer may make a new record of odometer readings for a period of insurance in accordance with subclause (1) to replace the details previously recorded for the worker. The provisions of subclause (3) then apply in relation to the new record.
  - (5) A worker's employer who has adopted and employed the method of recording referred to in this clause for a worker for 4 successive periods of insurance must, in the next succeeding period of insurance, make a fresh recording of the details specified in subclause (1) if the employer intends to continue to use the same method of recording for the worker.
  - (6) If the odometer of a motor vehicle is replaced or recalibrated during any period for which its readings are relevant for the purposes of this clause, the odometer readings immediately before and after the replacement or recalibration are to be recorded.
  - (7) For the purposes of making the calculation referred to in subclause (1) (g) for the period of insurance in which this clause commences, a worker's employer may estimate the distance travelled by a motor vehicle during any part of that period of insurance that occurs before that commencement.

### 6 Meaning of "relevant 12-week period"

- (1) In clause 5, *relevant 12-week period* means a continuous period of at least 12 weeks, selected by the worker's employer, throughout which a motor vehicle is provided or maintained by a worker. If the motor vehicle is provided or maintained for less than 12 weeks, the period must be the entire period for which the motor vehicle is provided or maintained.
- (2) The period may overlap the start or end of the period of insurance, so long as it includes part of the period.
- (3) If the averaging calculation method is used for 2 or more motor vehicles for the same period of insurance, the odometer readings for those motor vehicles must cover periods that are concurrent.

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**7 Replacing one motor vehicle with another motor vehicle**

- (1) For the purposes of using the averaging calculation method, a worker's employer may nominate one motor vehicle as having replaced another motor vehicle with effect from a day specified in the nomination.
- (2) After the nomination takes effect, the replacement motor vehicle is treated as the original motor vehicle, and the original motor vehicle is treated as a different motor vehicle. An employer need not repeat for the replacement vehicle the steps already taken for the original motor vehicle.
- (3) An employer must record the nomination in writing in the period of insurance in which the nomination takes effect.
- (4) However, the Authority may allow an employer to record the nomination at a later time.

**8 Classification of employer's business**

- (1) For the purposes of this Order, the classification applicable to an employer is the class in Column 2 of Table A to which the employer's business corresponds.
- (2) An employer's basic tariff premium is determined having regard to the classification applicable to the employer's business. An employer's business means the employer's business or industrial activity.
- (3) An employer may carry on a single business or more than one business at the same time.
- (4) If an employer carries on a single business, the classification applicable to the business is that which most accurately describes the entire business of the employer. The entire business includes not only the operations and activities directly involved in the conduct of the business, but also all operations and activities incidental to the conduct of the business.
- (5) If an employer carries on more than one business, so that it can be said that the employer carries on separate and distinct businesses, subclause (4) applies to each such separate and distinct business.
- (6) Generally, businesses are not separate and distinct if the operations and activities carried on in those businesses are incidental to one another.
- (7) In determining whether businesses are separate and distinct (for classification purposes) it is relevant to take the following into account:
  - (a) the nature of the operations and activities (including incidental operations and activities) respectively carried on in the businesses,

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- (b) differences in the identity of the workers respectively engaged in the businesses (and in particular of the workers engaged in the manufacturing or industrial activities and operations),
- (c) differences in locations of the businesses, for example, differences in locations may vary from sites far removed from each other, or separate floors in a given building, or even separate parts on the one floor level of a building (the important element in relation to location is that normally separate and distinct businesses have exclusive use of the particular area in which the operations and activities of the business are carried on).

### 9 Determination of wages

- (1) In this Order, a reference to wages, in relation to a period of insurance under a policy issued or to be issued to an employer or in relation to a period of 12 months ascertained by reference to any such period of insurance, is a reference:
  - (a) except as provided by paragraph (b), to a reasonable estimate of the monetary value of all wages (not including any wages to which Schedule 8 applies) payable to workers by the employer in respect of the period of insurance or the period of 12 months, as the case may be as calculated by reference to the returns, if any, furnished in accordance with the regulations by the employer to the insurer, or
  - (b) where the monetary value of those wages (not including any wages to which Schedule 8 applies) has been ascertained—to the actual value of those wages.
- (2) If at any time the employer has failed to furnish the returns in respect of any relevant period of insurance and the monetary value of the wages concerned has not been ascertained, the estimate of the monetary value of those wages is taken to be such amount as is calculated by multiplying the monetary value (or reasonable estimate) of wages for the immediately preceding equivalent period of insurance by 1.3.
- (3) For the avoidance of doubt:
  - (a) in this Order, a reference to *wages payable to workers* includes wages payable to apprentices, and
  - (b) in subclause (2), the monetary value (or reasonable estimate) of wages for an employer for the immediately preceding equivalent period of insurance includes the monetary value (or reasonable estimate) of wages for the immediately preceding equivalent period of insurance paid to apprentices.



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## Schedule 2 Application

(Clause 8)

### 1 Policies to which Order applies

- (1) This Order applies to and in respect of policies of insurance that are to be or have been issued or renewed so as to take effect on or after 4 pm on 30 June 2008 and before 4 pm on 30 June 2009.
- (2) If, before 4 pm on 30 June 2009, an insurance premiums order has not been made in respect of policies of insurance taking effect on or after that time, this Order applies to and in respect of those policies pending the making of such an order.

### 2 Policies exempt from Order

- (1) This Order does not apply to a policy of insurance issued or renewed by a specialised insurer that is exempted from insurance premiums orders by clause 147 of the *Workers Compensation Regulation 2003*.
- (2) Despite subclause (1), clause 5 of this Order applies to policies of insurance issued or renewed by a specialised insurer.

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Schedule 3 Basic tariff premium

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### Schedule 3 Basic tariff premium

(Clause 3)

#### 1 General

- (1) The basic tariff premium (“T”) for an employer is to be calculated in accordance with the following formula:

$$(W_a \times R_a) + (W_b \times R_b) + \dots (W_n \times R_n)$$

where:

*W<sub>a</sub>, W<sub>b</sub>... W<sub>n</sub>* are each a part of the total wages payable to workers by the employer in respect of the period of insurance for which the premium is to be calculated, being a part of the total wages attributable to a class appearing in Column 2 of Table A applicable to the employer.

*R<sub>a</sub>, R<sub>b</sub>... R<sub>n</sub>* are each a percentage rate specified in Column 4 of Table A that corresponds with a class applicable to the employer, being a class appearing in Column 2 of Table A opposite the percentage rate.

- (2) For the purposes of subclause (1), the classifications applicable to an employer and the part of total wages payable by an employer that is attributable to any such classification are to be as determined by reference to returns, if any, furnished in accordance with the regulations by the employer to the insurer, or by other information from the employer.

#### 2 Exceptions

- (1) If the policy concerned relates to per capita rates in respect of some or all workers, those rates are to be substituted for wages in respect of those workers to determine “W<sub>a</sub>”, “W<sub>b</sub>”... “W<sub>n</sub>” in the formula in clause 1.
- (2) If the employer does not supply sufficient information to enable the business to be classified, the business is to be classified in the class with the highest percentage rate that appears to be applicable to the business. The business may be reclassified to a class having a lower percentage rate when sufficient information is supplied.

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## Schedule 4 Experience adjustment factor

(Clause 3)

**1 General**

(1) The experience adjustment factor (“S”) for an employer is as follows:

(a) where the employer:

- (i) has been insured under a policy or policies for the period of 2 years immediately preceding the commencement of the period of insurance for which the premium is to be calculated or has been so insured for a longer period, and
- (ii) has, during those 2 years, supplied the insurer with particulars complying with the regulations of claims against the employer,

the factor calculated in accordance with the following formula:

$$\frac{0.9T}{T + 225,000}$$

(b) where the employer is a new employer and:

- (i) has been insured under a policy or policies for a period of 12 months or more but less than 2 years immediately preceding the commencement of the period of insurance for which the premium is to be calculated, and
- (ii) has, during that period, supplied the insurer with particulars complying with the regulations of claims against the employer,

the factor is the factor calculated in accordance with the formula in paragraph (a) multiplied by 0.66,

(c) where the employer is a new employer and:

- (i) has been insured under a policy or policies for a period of less than 12 months immediately preceding the commencement of the period of insurance for which the premium is to be calculated, and
- (ii) has, during that period, supplied the insurer with particulars complying with the regulations of claims against the employer,

the factor is the factor calculated in accordance with the formula in paragraph (a) multiplied by 0.33,

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- (d) where the employer is a new employer and has not been insured under any policy or policies immediately preceding the commencement of the period of insurance for which the premium is to be calculated, the factor is the factor calculated in accordance with the formula in paragraph (a) multiplied by 0.33,
  - (e) in any other case—0.
- (2) For the purposes of subclause (1):
- new employer** means a medium employer or large employer who:
- (a) prior to the commencement of the period referred to in subclause (1) (b) or (c) (being a period of 2 years or less immediately preceding the commencement of the policy of insurance for which the premium is to be calculated during which the employer was insured), as relevant, did not employ any workers, and
  - (b) prior to the commencement of that period was not required to obtain or maintain a policy of insurance under the Act, and
  - (c) does not have a predecessor,
- but does not include an employer who was not insured for the period of 2 years referred to in subclause (1) (a), because the employer was a self-insurer during the whole or any part of that period.
- T** is the basic tariff premium for the employer calculated:
- (a) where the period of insurance to which the premium relates is 12 months—in accordance with Schedule 3 with respect to that period of insurance, or
  - (b) where the period of insurance to which the premium relates is not 12 months—in accordance with Schedule 3 as if the policy to which the premium relates had a period of insurance of 12 months.
- (3) For the purposes of subclause (1) (a), an employer is taken to have been insured for the period of 2 years referred to in that paragraph even if there has been a break or breaks in insurance within that period.

### 2 Employers who are members of a group

- (1) Despite clause 1, if the employer is a member of a group, the experience adjustment factor (“S”) for the employer is as follows:
  - (a) where:
    - (i) the employer has been insured under a policy or policies for the period of 2 years immediately preceding the commencement of the period of insurance for which the premium is to be calculated or has been so insured for a longer period, and

- 
- (ii) during those 2 years, every member of the group that was required by the regulations to supply particulars of claims against the member to the member's insurer has supplied the insurer with those particulars in accordance with the regulations,

the factor calculated in accordance with the following formula:

$$\frac{0.9T_G}{T_G + 225,000}$$

- (b) where:

- (i) the employer is a new employer and has been insured under a policy or policies for a period of 12 months or more but less than 2 years immediately preceding the commencement of the period of insurance for which the premium is to be calculated, and
- (ii) during that period, every member of the group that was required by the regulations to supply particulars of claims against the member to the member's insurer has supplied the insurer with those particulars in accordance with the regulations,

the factor is the factor calculated in accordance with the formula in paragraph (a) multiplied by 0.66,

- (c) where:

- (i) the employer is a new employer and has been insured under a policy or policies for a period of less than 12 months immediately preceding the commencement of the period of insurance for which the premium is to be calculated, and
- (ii) during that period, every member of the group that was required by the regulations to supply particulars of claims against the member to the member's insurer has supplied the insurer with those particulars in accordance with the regulations,

the factor is the factor calculated in accordance with the formula in paragraph (a) multiplied by 0.33,

- (d) where the employer is a new employer and has not been insured under any policy or policies immediately preceding the commencement of the period of insurance for which the premium is to be calculated, the factor is the factor calculated in accordance with the formula in paragraph (a) multiplied by 0.33,
- (e) in any other case—0.

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- (2) In this clause:  
*new employer* has the same meaning as in clause 1 (2).  
 $T_G$  is the sum of the basic tariff premiums for all the members of the group calculated:
- (a) where the period of insurance to which the premium relates is 12 months—in accordance with Schedule 3 with respect to that period of insurance, or
  - (b) where the period of insurance to which the premium relates is not 12 months—in accordance with Schedule 3 as if the policies to which the premiums relate had a period of insurance of 12 months.
- (3) For the purposes of subclause (1) (a), an employer is taken to have been insured for the period of 2 years referred to in that paragraph even if there has been a break or breaks in insurance within that period.

### 3 Employers who were previously self-insurers

- (1) If an employer was not insured for the period of 2 years referred to in clause 1 (1) (a), because the employer was a self-insurer during the whole or any part of that period, the formula in clause 1 (1) (a) applies as if the employer had been insured under a policy (and supplied particulars) during the whole of that period.
- (2) If an employer that is a member of a group was not insured for the period of 2 years referred to in clause 2 (1) (a), because the employer was a self-insurer during the whole or any part of that period, the formula in clause 2 (1) (a) applies as if the employer had been insured under a policy (and supplied particulars) during the whole of that period.

### 4 Employers who acquire business etc

- (1) The period referred to in clause 1 (1) (a) during which an employer has been insured under a policy or policies and supplied particulars of claims includes any period during which a predecessor of the employer has been so insured and supplied particulars.
- (2) The period referred to in clause 2 (1) (a) during which an employer has been insured under a policy or policies and every member of the employer's group supplied particulars of claims includes any period during which a predecessor of the employer has been so insured and supplied particulars.

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**5 Reduction of experience adjustment factor**

- (1) Where there has been a break or breaks in insurance, the experience adjustment factor may be reduced (including to nil) on application by an employer to the Authority.
- (2) The Authority may develop criteria for determining eligibility for a reduction, the method for calculating any reduction and other relevant matters, and may issue guidelines setting out such matters.

**6 Transitional provision—experience adjustment factor for members of group**

- (1) The premium payable by an employer who is a member of a group for a policy of insurance issued or renewed after the commencement of the *Insurance Premiums Order (July–December) 2006* (being 4 pm on 30 June 2006), being a premium calculated using the new experience adjustment factor, is, if the policy is issued or renewed during the third 12 months after that commencement, not to exceed an amount 75% greater than the premium that would have been calculated using the old experience adjustment factor.
- (2) In this clause:  
*new experience adjustment factor*, in relation to an employer, means the experience adjustment factor determined in accordance with clause 2.  
*old experience adjustment factor*, in relation to an employer, means the experience adjustment factor determined in accordance with clause 1.

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## Schedule 5 Experience premium

(Clause 3)

### 1 General

- (1) The experience premium (“E”) for an employer is to be calculated:
- (a) for the purpose of calculating the initial premium payable before the expiration of the period of insurance for which the premium is to be calculated, in accordance with the following formula:

$$E = T \times \frac{\text{Initial ECCR}}{\text{ICCR}_1}$$

- (b) after the period of insurance for which the premium is to be calculated has expired (being a period that is not less than 12 months), in accordance with the following formula:

$$E = T \times \frac{\text{Hindsight ECCR}}{\text{ICCR}_2}$$

- (c) after the period of insurance for which the premium is to be calculated has expired (being a period that is less than 12 months) or after the policy of insurance has been cancelled (where the period of insurance covered by that policy until that cancellation was less than 12 months):

- (i) if the employer has not entered into another policy of insurance under the Act because the employer has become a Comcare employer, in accordance with the following formula:

$$E = T \times \frac{\text{Hindsight ECCR}}{\text{ICCR}_2}$$

- (ii) in any other case, in accordance with the following formula:

$$E = T \times \frac{\text{Initial ECCR}}{\text{ICCR}_1}$$

where:

*T* is the basic tariff premium for the employer, calculated with respect to the period of insurance in accordance with Schedule 3.

*Initial ECCR* is the Employer’s Claims Cost Rate calculated using the following formula:

$$\text{Initial ECCR} = \frac{C_1 + C_2}{W_1 + W_2}$$



**Hindsight ECCR** is the Employer's Claims Cost Rate calculated using the following formula:

$$\text{Hindsight ECCR} = \frac{C_0 + C_1 + C_2}{W_0 + W_1 + W_2}$$

**ICCR<sub>1</sub>** is the Industry Claims Cost Rate specified in Column 4 of Table B for a class applicable to the employer, being a class appearing in Column 1 of Table B opposite that rate.

**ICCR<sub>2</sub>** is:

- (a) except where paragraph (b) applies—the Industry Claims Cost Rate specified in Column 5 of Table B for a class applicable to the employer, being a class appearing in Column 1 of Table B opposite that rate, or
- (b) if the Governor has determined, on the recommendation of the Authority and notified in the Gazette, a different Industry Claims Cost Rate for a class applicable to the employer—that Industry Claims Cost Rate. (Different rates may be specified for different workplace industry classes.)

**C<sub>1</sub>** and **C<sub>2</sub>** are respectively the totals of the cost of claims for the employer in respect of the last and second last period of 12 consecutive months (or if a policy period was less than 12 months, that lesser period) that occurred before the commencement of the period of insurance (not including the cost of any claims under sections 10 (Journey claims) and 11 (Recess claims) of the Act).

**C<sub>0</sub>** is the total of the cost of claims for the employer in respect of the period of insurance (not including the cost of any claims under sections 10 (Journey claims) and 11 (Recess claims) of the Act).

**W<sub>1</sub>** and **W<sub>2</sub>** are respectively the totals of the wages payable to workers by the employer in respect of the last and second last period of 12 consecutive months (or if a policy period was less than 12 months, that lesser period) that occurred before the commencement of the period of insurance.

**W<sub>0</sub>** is the total of the wages payable to workers by the employer in respect of the period of insurance.

**Comcare employer** means an employer who:

- (a) is licensed under Part VIII of the *Safety, Rehabilitation and Compensation Act 1988* of the Commonwealth after a declaration of eligibility under that Part made on the basis that the employer is a corporation carrying on business in competition with a Commonwealth authority or with another corporation that was previously a Commonwealth authority, and

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- (b) would otherwise be required:
  - (i) to obtain and maintain in force a policy of insurance pursuant to section 155 of the Act, or
  - (ii) to be licensed as a self-insurer.
- (2) If an employer's policy is renewed and the employer does not supply the insurer with a notice with respect to wages paid during the last period of insurance preceding that renewal (as required by clause 130 (2) of the *Workers Compensation Regulation 2003*), the insurer may, for the purpose of calculating the Initial ECCR for the renewed policy, determine the amount of "W<sub>1</sub>" in the formula in subclause (1) (a) to be the amount determined as the sum of W<sub>a</sub>, W<sub>b</sub>... W<sub>n</sub> in the calculation of the basic tariff premium for the employer in respect of the last period of insurance preceding that renewal.
- (3) If during any past period referred to in C<sub>1</sub>, C<sub>2</sub>, W<sub>1</sub> or W<sub>2</sub> in a formula in subclause (1) a predecessor of the employer was insured under a policy or policies:
  - (a) the cost of claims for the employer during that period includes, for the purposes of C<sub>1</sub> and C<sub>2</sub>, the cost of claims for the predecessor in respect of the business acquired by the employer, and
  - (b) the wages payable to workers by the employer during that period includes, for the purposes of W<sub>1</sub> and W<sub>2</sub>, the wages payable to workers by the predecessor in respect of the business acquired by the employer.
- (4) If the policy concerned relates to per capita rates, those rates are to be substituted for wages to determine W<sub>0</sub>, W<sub>1</sub> or W<sub>2</sub> in the applicable formula in subclause (1).
- (5) If the policy concerned relates to both per capita rates and wages, 2 separate calculations of E ("E<sub>1</sub>" and "E<sub>2</sub>") are to be made and E is to equal the sum of E<sub>1</sub> and E<sub>2</sub> where:
  - (a) "E<sub>1</sub>" is calculated by using the applicable formula in subclause (1) excluding any per capita rates applicable to the employer, and
  - (b) "E<sub>2</sub>" is calculated by using the applicable formula in subclause (1) but substituting the per capita rates for wages to determine W<sub>0</sub>, W<sub>1</sub> or W<sub>2</sub> in that formula.
- (6) For the purposes of subclause (5), when calculating:
  - (a) "E<sub>1</sub>", T is to be calculated by using only the non-per capita rates applicable to the employer, and

- (b) “E<sub>2</sub>”, T is to be calculated using only the per capita rates applicable to the employer.
- (7) If the policy concerned relates to more than one class in Column 1 of Table B, then the ICCR is to be calculated as follows:
- (a) where the ICCR is to be calculated for the purposes of clause 1 (1) (a) or (c) (ii) (that is to determine an ICCR<sub>1</sub>)—using the following formula:
- $$\frac{(Wa_1 \times ICCR_{1a}) + (Wb_1 \times ICCR_{1b}) + \dots (Wn_1 \times ICCR_{1n})}{(Wa_1 + Wb_1 + \dots Wn_1)}$$
- (b) where the ICCR is to be calculated for the purposes of clause 1 (1) (b) or (c) (i) (that is to determine an ICCR<sub>2</sub>)—using the following formula:
- $$\frac{(Wa_2 \times ICCR_{2a}) + (Wb_2 \times ICCR_{2b}) + \dots (Wn_2 \times ICCR_{2n})}{(Wa_2 + Wb_2 + \dots Wn_2)}$$

where:

**ICCR<sub>1a</sub>, ICCR<sub>1b</sub> ... ICCR<sub>1n</sub>** are each an Industry Claims Cost Rate specified in Column 4 of Table B for a class applicable to the employer, being a class appearing in Column 1 of Table B opposite that rate.

**ICCR<sub>2a</sub>, ICCR<sub>2b</sub> ... ICCR<sub>2n</sub>** are:

- (a) except where paragraph (b) applies—each an Industry Claims Cost Rate specified in Column 5 of Table B for a class applicable to the employer, being a class appearing in Column 1 of Table B opposite that rate, or
- (b) if the Governor has determined, on the recommendation of the Authority and notified in the Gazette, different Industry Claims Cost Rates—each an Industry Claims Cost Rate (so determined) that corresponds to a class applicable to the employer.

**Wa<sub>1</sub>, Wb<sub>1</sub>... Wn<sub>1</sub>** are each a part of the total wages payable to workers by the employer in respect of the last and second last period of 12 consecutive months that occurred before the commencement of the period of insurance for which the premium is to be calculated, being a part of the total wages attributable to a class applicable to the employer.

**Wa<sub>2</sub>, Wb<sub>2</sub>... Wn<sub>2</sub>** are each a part of the total wages payable to workers by the employer in respect of the period of insurance for which the premium is to be calculated and the last and second last period of 12 consecutive months that occurred before the commencement of the period of insurance for which the premium is to be calculated, being a part of the total wages attributable to a class applicable to the employer.

- (8) For the purposes of subclause (7), the classifications applicable to an employer and the part of total wages payable by an employer that is attributable to any such classification are to be as determined by

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reference to returns, if any, furnished in accordance with the regulations by the employer to the insurer, or by other information from the employer.

- (9) If a class in the Table A of the Insurance Premiums Order that related to a past period referred to in  $W_1$  or  $W_2$  in a formula in subclause (1) does not appear in Table A of this Order, then the ICCR is to be calculated in accordance with subclause (7) using the relevant ICCR rates from Table B to this Order.

### 2 Definition

In this Schedule, *cost of claims* has the same meaning as in Division 4 of Part 20 of the *Workers Compensation Regulation 2003*.

### 3 Exclusion of predecessor's cost of claims

- (1) The Authority may, for the purpose of the operation of clause 1 (3) (a) in relation to the calculation of the experience premium for an employer under clause 1 (1), on application by the employer direct that the cost of an individual claim is to be excluded from the cost of claims for the predecessor as referred to in clause 1 (3) (a).
- (2) The Authority is not to direct that the cost of a claim be excluded unless satisfied that:
- (a) the employer and the predecessor are not related corporations, and
  - (b) the claim was made as a direct result of the acquisition by the employer of the business of the predecessor, and
  - (c) the cost of the claim was included pursuant to clause 1 (3) in the premium calculation for the predecessor in relation to a prior period of insurance and that premium has been paid.

### 4 Transitional adjustment provision

- (1) The premium payable by an employer for a policy of insurance issued or renewed after the commencement of the *Insurance Premiums Order (January–June) 2006* (being 4 pm on 31 December 2005), that is, using the new experience premium for calculation, if issued or renewed during the third 12 months after that commencement, is not to exceed an amount 75% greater than the premium that would have been calculated using the old experience premium.
- (2) In this clause:  
*new experience premium*, in relation to an employer, means the experience premium determined in accordance with this Schedule.

*old experience premium*, in relation to an employer, means the experience premium determined in accordance with Schedule 6 (Old experience premium formula).

##### 5 Experience premium for members of a group where another member ceases operating

Despite clause 1 of this Schedule, if an employer (*the continuing employer*) is a member of a group and, during the period of insurance for which the premium is to be calculated or the last and second last period of 12 consecutive months that occurred before the commencement of that period of insurance, another member of the group becomes a departing member, the experience premium (“E”) for the continuing employer is to be calculated using the applicable formula in clause 1, but modified as follows:

$C_0$ , for the calculation of the continuing employer’s premium, is to be calculated using the following formula:

$$C_0 = C_{0CE} + G_a \times C_{0DM}$$

$C_1$ , for the calculation of the continuing employer’s premium, is to be calculated using the following formula:

$$C_1 = C_{1CE} + G_a \times C_{1DM}$$

$C_2$ , for the calculation of the continuing employer’s premium, is to be calculated using the following formula:

$$C_2 = C_{2CE} + G_a \times C_{2DM}$$

$W_0$ , for the calculation of the continuing employer’s premium, is to be calculated using the following formula:

$$W_0 = W_{0CE} + G_a \times W_{0DM}$$

$W_1$ , for the calculation of the continuing employer’s premium, is to be calculated using the following formula:

$$W_1 = W_{1CE} + G_a \times W_{1DM}$$

$W_2$ , for the calculation of the continuing employer’s premium, is to be calculated using the following formula:

$$W_2 = W_{2CE} + G_a \times W_{2DM}$$

where:

$G_a$  is the continuing employer’s proportionate allocation of the departing member’s cost of claims and wages and is calculated using the following formula:

$$G_a = \frac{T_{CE}}{T_G - T_{DM}}$$

$C_{0CE}$  is  $C_0$  as calculated for the continuing employer using clause 1.

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$C_{0DM}$  is  $C_0$  as calculated for the departing member using clause 1.

$C_{1CE}$  is  $C_1$  as calculated for the continuing employer using clause 1.

$C_{1DM}$  is  $C_1$  as calculated for the departing member using clause 1.

$C_{2CE}$  is  $C_2$  as calculated for the continuing employer using clause 1.

$C_{2DM}$  is  $C_2$  as calculated for the departing member using clause 1.

**departing member**, in relation to a continuing employer's group, means an employer who:

- (a) is or was a member of that group, and
- (b) held a policy of insurance under the Act that has either expired or been cancelled, and
- (c) has not, in relation to that expiry or cancellation, become a predecessor of any other employer.

$T_{CE}$  is the basic tariff premium of the continuing employer.

$T_{DM}$  is the basic tariff premium of the departing member.

$T_G$  is the sum of the basic tariff premiums of all members of the group (including the departing member).

$W_{0CE}$  is  $W_0$  as calculated for the continuing employer using clause 1.

$W_{0DM}$  is  $W_0$  as calculated for the departing member using clause 1.

$W_{1CE}$  is  $W_1$  as calculated for the continuing employer using clause 1.

$W_{1DM}$  is  $W_1$  as calculated for the departing member using clause 1.

$W_{2CE}$  is  $W_2$  as calculated for the continuing employer using clause 1.

$W_{2DM}$  is  $W_2$  as calculated for the departing member using clause 1.

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## Schedule 6 Old experience premium formula

(Schedule 5, clause 4)

**1 General**

- (1) The experience premium (“E”) for an employer is to be calculated:
- (a) (i) for the purpose of calculating the initial premium payable before the expiration of the period of insurance for which the premium is to be calculated, and
  - (ii) after the period of insurance for which the premium is to be calculated has expired (being a period that is less than 12 months),

in accordance with the following formula:

$$W \times \left\{ \frac{(F_{125} \times C_1) + (F_{126} \times C_2)}{W_1 + W_2} \right\}$$

- (b) after the period of insurance for which the premium is to be calculated has expired (being a period that is not less than 12 months), in accordance with the following formula:

$$W \times \left\{ \frac{(F_{127} \times C_0) + (F_{128} \times C_1) + (F_{129} \times C_2)}{W_0 + W_1 + W_2} \right\}$$

where:

*W* is the total of the wages payable to workers by the employer in respect of the period of insurance.

*F*<sub>125</sub> is 6.52.

*F*<sub>126</sub> is 4.88.

*F*<sub>127</sub> is:

- (a) except where paragraph (b) applies—7.24, or
- (b) if the Governor has determined, on the recommendation of the Authority and notified in the Gazette, a different number—that different number.

*F*<sub>128</sub> is:

- (a) except where paragraph (b) applies—5.29, or
- (b) if the Governor has determined, on the recommendation of the Authority and notified in the Gazette, a different number—that different number.

*F*<sub>129</sub> is:

- (a) except where paragraph (b) applies—5.46, or

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- (b) if the Governor has determined, on the recommendation of the Authority and notified in the Gazette, a different number—that different number.

$C_1$  and  $C_2$  are respectively the totals of the cost of claims for the employer in respect of the last and second last period of 12 consecutive months that occurred before the commencement of the period of insurance (not including the cost of any claims under sections 10 (Journey claims) and 11 (Recess claims) of the Act).

$C_0$  is the total of the cost of claims for the employer in respect of the period of insurance (not including the cost of any claims under sections 10 (Journey claims) and 11 (Recess claims) of the Act).

$W_1$  and  $W_2$  are respectively the totals of the wages payable to workers by the employer in respect of the last and second last period of 12 consecutive months that occurred before the commencement of the period of insurance.

$W_0$  is the total of the wages payable to workers by the employer in respect of the period of insurance.

- (2) If an employer's policy is renewed and the employer does not supply the insurer with a notice with respect to wages paid during the last period of insurance preceding that renewal (as required by clause 130 (2) of the *Workers Compensation Regulation 2003*), the insurer may, for the purpose of calculating the initial premium payable by the employer for the renewed policy, determine the amount of " $W_1$ " in the formula in subclause (1) (a) to be the amount determined as " $W$ " in the calculation of the experience premium for the employer in respect of the last period of insurance preceding that renewal.
- (3) If during any past period referred to in  $C_1$ ,  $C_2$ ,  $W_1$  or  $W_2$  in a formula in subclause (1) a predecessor of the employer was insured under a policy or policies:
- (a) the cost of claims for the employer during that period includes, for the purposes of  $C_1$  and  $C_2$ , the cost of claims for the predecessor in respect of the business acquired by the employer, and
  - (b) the wages payable to workers by the employer during that period includes, for the purposes of  $W_1$  and  $W_2$ , the wages payable to workers by the predecessor in respect of the business acquired by the employer.
- (4) If the policy concerned relates to per capita rates, those rates are to be substituted for wages to determine  $W$ ,  $W_0$ ,  $W_1$  or  $W_2$  in the applicable formula in subclause (1).



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- (5) If the policy concerned relates to both per capita rates and wages, 2 separate calculations of E (“E<sub>1</sub>” and “E<sub>2</sub>”) are to be made and E is to equal the sum of E<sub>1</sub> and E<sub>2</sub> where:
- (a) “E<sub>1</sub>” is calculated by using the applicable formula in subclause (1), and
  - (b) “E<sub>2</sub>” is calculated by using the applicable formula in subclause (1) but also by substituting the per capita rates for wages to determine W, W<sub>0</sub>, W<sub>1</sub> or W<sub>2</sub> in that formula.

## 2 Definition

In this Schedule, *cost of claims* has the same meaning as in Division 4 of Part 20 of the *Workers Compensation Regulation 2003*.

## 3 Exclusion of predecessor’s cost of claims

- (1) The Authority may, for the purpose of the operation of clause 1 (3) (a) in relation to the calculation of the experience premium for an employer under clause 1 (1), on application by the employer direct that the cost of an individual claim is to be excluded from the cost of claims for the predecessor as referred to in clause 1 (3) (a).
- (2) The Authority is not to direct that the cost of a claim be excluded unless satisfied that:
  - (a) the employer and the predecessor are not related corporations, and
  - (b) the claim was made as a direct result of the acquisition by the employer of the business of the predecessor, and
  - (c) the cost of the claim was included pursuant to clause 1 (3) in the premium calculation for the predecessor in relation to a prior period of insurance and that premium has been paid.

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Schedule 7 Minimum premium

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**Schedule 7 Minimum premium**

(Clause 8)

**1 Minimum premium payable**

- (1) The minimum premium in respect of any policy is \$175.
- (2) If the premium payable in respect of a policy would (but for this Schedule) be less than the minimum premium in respect of the policy, the amount of the premium is to be increased to that minimum premium.
- (3) A reference in subclause (2) to the premium that would (but for this Schedule) be payable in respect of a policy includes a reference to a premium as discounted under clause 4 of this Order.

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## **Schedule 8      Reduction of premium for employers of previously injured workers etc**

(Clause 8)

### **1      Premium to be reduced**

Any premium calculated in accordance with the other provisions of this Order is to be reduced in accordance with this Schedule.

### **2      Exclusion of certain wages from calculation of premium**

Any such premium is to be reduced by excluding wages to which this Schedule applies from the calculation of the amount of the premium.

### **3      Wages to which this Schedule applies**

(1) This Schedule applies to wages payable by an employer in respect of the first 12 months of employment of any worker who is first employed by the employer (for a minimum period of employment of 12 continuous weeks) on or after 1 July 1992 but only if:

- (a) the worker is partially incapacitated for work as a result of a 1987 Act injury (whether received before, on or after 1 July 1992) and is no longer employed by a previous employer who employed the worker at the time of the injury, or
- (b) the worker has as a result of a 1987 Act injury (whether received before, on or after 1 July 1992) been totally or partially incapacitated for work for a period of at least 12 weeks, is no longer employed by a previous employer who employed the worker at the time of the injury and has been continuously unemployed since that period of incapacity.

(2) However, this Schedule does not apply to any such wages unless:

- (a) application for a premium reduction in respect of those wages is made by the relevant employer in accordance with any guidelines under this Schedule, and
- (b) any other relevant requirements of the Authority are satisfied.

### **4      Guidelines—Application for reduction of premium etc**

(1) The Authority may issue guidelines specifying the method of applying for a premium reduction under this Schedule, including:

- (a) the form of and the manner of making an application, and
- (b) any documents relating to the application that the employer must attach to it.

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Schedule 8 Reduction of premium for employers of previously injured workers etc

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- (2) Those guidelines may also specify the circumstances in which periods of employment or unemployment are to be regarded as continuous for the purposes of clause 3 (1).

### 5 Interpretation

- (1) In this Schedule, *employer* does not include a self-insurer.
- (2) In this Schedule, a reference, in relation to a worker, to a 1987 Act injury is a reference to an injury received by the worker after the commencement of the Act.

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## Schedule 9 Input tax credit adjustment

(Clause 3)

### 1 General

The input tax credit adjustment (“I”) in respect of a period of insurance is to be calculated as follows:

- (a) if the employer is a medium or large employer, in accordance with the following formula:

$$I = [(T \times (1 - S)) + (E \times S) + Q - A] \times B\%$$

- (b) if the basic tariff premium less the apprentice incentive amount  $[T - A]$  is less than \$50,000 (or, if the period of insurance is to be less than 12 months, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  would be less than \$50,000 were that period of insurance to be 12 months), and if the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  exceeds one and a half times the value of the basic tariff premium  $[T]$ , the value of  $[1.5 \times T]$  replaces the experience premium in the above formula. That is, where the  $[1.5 \times T]$  limit applies, then:

$$I = ((1.5 \times T) + Q - A) \times B\%$$

- (c) if the basic tariff premium less the apprentice incentive amount  $[T - A]$  is or exceeds \$50,000 but is less than \$150,000 (or, if the period of insurance is to be less than 12 months, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  would be or would exceed \$50,000 but would be less than \$150,000 were that period of insurance to be 12 months), and if the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  exceeds twice the value of the basic tariff premium  $[T]$ , the value of  $[2 \times T]$  replaces the experience premium in the above formula. That is, where the  $[2 \times T]$  limit applies, then:

$$I = ((2 \times T) + Q - A) \times B\%$$

- (d) if the basic tariff premium less the apprentice incentive amount  $[T - A]$  is or exceeds \$150,000 but is less than \$300,000 (or, if the period of insurance is to be less than 12 months, where the basic tariff premium less the apprentice incentive amount  $[T - A]$  would be or would exceed \$150,000 but would be less than \$300,000 were that period of insurance to be 12 months), and if the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  exceeds two and a half times the value of the basic tariff premium  $[T]$ , the value of  $[2.5 \times T]$  replaces the experience premium in

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Schedule 9 Input tax credit adjustment

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the above formula. That is, where the  $[2.5 \times T]$  limit applies, then:

$$I = ((2.5 \times T) + Q - A) \times B\%$$

(e) if the employer is a small employer, in accordance with the following formula:

$$I = (T + Q - A) \times B\%$$

where:

*T* is the basic tariff premium for the employer, calculated with respect to the period of insurance in accordance with Schedule 3.

*S* is the experience adjustment factor for the employer determined with respect to the period of insurance in accordance with Schedule 4.

*E* is the experience premium, if any, for the employer determined with respect to the period of insurance in accordance with Schedule 5.

*Q* is the premiums adjustment contribution, if any, for the employer.

*A* is the apprentice incentive amount, if any, for the employer determined with respect to the period of insurance in accordance with Schedule 11.

*B%* is the percentage rate specified in Column 2 of the Table to this clause that corresponds to the range of input tax credit entitlement specified in Column 1 that contains the input tax credit entitlement for the employer.

**Table**

<b>Column 1</b>	<b>Column 2</b>
<b>Input Tax Credit entitlement</b>	<b>Premium discount relative to 100% ITC</b>
> 90%	Nil
> 80 ≤ 90%	0.6%
> 70 ≤ 80%	1.2%
> 60 ≤ 70%	1.8%
> 50 ≤ 60%	2.4%
> 40 ≤ 50%	3.0%
> 30 ≤ 40%	3.6%
> 20 ≤ 30%	4.2%
> 10 ≤ 20%	4.8%
> 0 ≤ 10%	5.4%

Column 1	Column 2
Input Tax Credit entitlement	Premium discount relative to 100% ITC
0%	6%

## 2 Determination of input tax credit entitlement for the purposes of the calculation of premium

- (1) In this Schedule, a reference to the input tax credit entitlement for an employer, in relation to a period of insurance, is a reference to the employer's input tax credit entitlement notified in respect of that period in accordance with clause 134 of the *Workers Compensation Regulation 2003* by the employer to the insurer.
- (2) If at any time the employer has failed to notify the insurer of the employer's input tax credit entitlement in respect of that period in accordance with clause 134 of the *Workers Compensation Regulation 2003*, the employer's input tax credit entitlement in respect of that period is for the purposes of this Schedule taken to be 100%.

## 3 Input tax credit adjustment for members of groups

Despite clause 1, if the employer is a member of a group:

- (a) clause 1 (b)–(e) do not apply, and
- (b) where the sum of the basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  for all the members of that group:
  - (i) is less than \$50,000 (or, if the period of insurance is to be less than 12 months, where the sum of the basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  would be less than \$50,000 were that period of insurance to be 12 months), and if the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  exceeds one and a half times the value of the basic tariff premium for the employer's policy  $[T]$ , the value of  $[1.5 \times T]$  replaces the experience premium in the formula in clause 1 (a). That is, where the  $[1.5 \times T]$  limit applies, then:
 
$$I = ((1.5 \times T) + Q - A) \times B\%$$
  - (ii) is or exceeds \$50,000 but is less than \$150,000 (or, if the period of insurance is to be less than 12 months, where the sum of the basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  would be or would exceed \$50,000 but would be less than \$150,000 were that period of insurance to be 12 months), and if the experience

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Schedule 9 Input tax credit adjustment

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adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  exceeds twice the value of the basic tariff premium for the employer's policy  $[T]$ , the value of  $[2 \times T]$  replaces the experience premium in the formula in clause 1 (a). That is, where the  $[2 \times T]$  limit applies, then:

$$I = ((2 \times T) + Q - A) \times B\%$$

- (iii) is or exceeds \$150,000 but is less than \$300,000 (or, if the period of insurance is to be less than 12 months, where the sum of the basic tariff premiums less the sum of apprentice incentive amounts  $[T_G - A_G]$  would be or would exceed \$150,000 but would be less than \$300,000 were that period of insurance to be 12 months), and if the experience adjusted premium  $[(T \times (1 - S)) + (E \times S)]$  exceeds two and a half times the value of the basic tariff premium for the employer's policy  $[T]$ , the value of  $[2.5 \times T]$  replaces the experience premium in the formula in clause 1 (a). That is, where the  $[2.5 \times T]$  limit applies, then:

$$I = ((2.5 \times T) + Q - A) \times B\%$$



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**Schedule 10 Mine Safety Fund premium adjustment**

(Clause 3)

**1 General**

The Mine Safety Fund premium adjustment (“M”) is to be calculated in accordance with the following formula:

$$M = (W_a + W_b + \dots W_n) \times R_{MSF}$$

where:

*W<sub>a</sub>*, *W<sub>b</sub>*... *W<sub>n</sub>* are each a part of the total wages payable to workers by the employer in respect of the period of insurance for which the premium is to be calculated, being a part of the total wages attributable to a class appearing in Division B of Table A (that is, classes 120000 to 152000) applicable to the employer.

*R<sub>MSF</sub>* is 1.038%.

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Schedule 11 Apprentice incentive scheme

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### Schedule 11 Apprentice incentive scheme

(Clause 3)

#### 1 General

- (1) The apprentice incentive amount (“A”) for an employer is to be calculated in accordance with the following formula:

$$(Aa \times Ra) + (Ab \times Rb) + \dots (An \times Rn)$$

where:

*Aa, Ab... An* are each a part of the total wages payable to apprentices under apprenticeship contracts by the employer in respect of the period of insurance for which the premium is to be calculated, being a part of the total wages attributable to a class appearing in Column 2 of Table A applicable to the employer.

*Ra, Rb... Rn* are each a percentage rate specified in Column 4 of Table A that corresponds with a class applicable to the employer, being a class appearing in Column 2 of Table A opposite the percentage rate.

- (2) For the purposes of subclause (1), the classifications applicable to an employer and the part of total wages payable by an employer that is attributable to any such classification are to be as determined by reference to returns, if any, furnished in accordance with the regulations by the employer to the insurer, or by other information from the employer.
- (3) In this clause, *apprenticeship contract* has the same meaning as in the *Apprenticeship and Traineeship Act 2001*.

#### 2 Exceptions

- (1) If the employer does not supply sufficient information to enable the business to be classified, the business is to be classified in the class with the highest percentage rate that appears to be applicable to the business. The business may be reclassified to a class having a lower percentage rate when sufficient information is supplied.
- (2) If the employer has not supplied a notice with respect to wages (as required by clause 130 of the *Workers Compensation Regulation 2003*) in respect of any relevant period of insurance, the apprentice incentive amount (“A”) is taken to be zero for the purposes of the calculation of the employer’s premium. The apprentice incentive amount (“A”) for an employer’s premium may be recalculated when the required notice as to wages has been supplied.

For the text of Schedules 12 and 13 see Gazette No 65 of 6 June 2008, p 4191.

BY AUTHORITY