



# Workers Compensation Amendment (Transitional) Regulation 2012

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*.

GREG PEARCE, MLC  
Minister for Finance and Services

## Explanatory note

The object of this Regulation is to prescribe savings and transitional provisions for the purposes of the *Workers Compensation Legislation Amendment Act 2012* and to prescribe other miscellaneous matters in connection with the commencement of that Act, including increases in the maximum legal costs in workers compensation matters.

This Regulation is made under the *Workers Compensation Act 1987*, including section 280 and Schedule 6.

## **2012 No 480**

Clause 1            Workers Compensation Amendment (Transitional) Regulation 2012

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# **Workers Compensation Amendment (Transitional) Regulation 2012**

under the

Workers Compensation Act 1987

### **1 Name of Regulation**

This Regulation is the *Workers Compensation Amendment (Transitional) Regulation 2012*.

### **2 Commencement**

This Regulation commences on 1 October 2012 and is required to be published on the NSW legislation website.

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## Schedule 1      Amendment of Workers Compensation Regulation 2010

### [1]    Clauses 10A and 10B

Insert after clause 10:

#### 10A    Prescribed number of hours—calculation of PIAWE

For the purposes of each mention of the prescribed number of hours each week or the prescribed number of hours per week in Schedule 3 (Pre-injury average weekly earnings) to the 1987 Act, the prescribed number of hours is 38 hours.

#### 10B    Minimum amount of PIAWE

The amount of \$155 is prescribed as the minimum amount applicable to a worker for the purposes of section 44C (7) of the 1987 Act.

### [2]    Clause 14 Notice of intention to discontinue or reduce weekly payments

Omit the clause.

### [3]    Clause 43 Notice of dispute about liability

Omit the note to clause 43 (1). Insert instead:

**Note.** Section 74 of the 1998 Act requires the notice to also include a concise and readily understandable statement of the reason the insurer disputes liability and of the issues relevant to the decision (indicating, in the case of a claim for compensation, any provision of the workers compensation legislation on which the insurer relies to dispute liability).

### [4]    Clause 77 Penalty notice offences

Omit “*Occupational Health and Safety Act 2000*” from clause 77 (c) (ii).

Insert instead “*Work Health and Safety Act 2011*”.

### [5]    Schedule 8 Savings and transitional provisions

Insert at the end of Part 1:

#### 3    Weekly payments amendments—other than seriously injured workers

- (1) If a claim for compensation in respect of a worker’s injury was made before 1 October 2012, the weekly payments amendments and the relevant transitional arrangements do not apply to the

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compensation payable in respect of the injury until 1 January 2013.

**Note.** In the case of a claim made on or after 1 October 2012, the weekly payments amendments apply to the claim from when the claim is made.

(2) This clause does not apply to a seriously injured worker.

(3) In this clause:

***relevant transitional arrangements*** means the provisions of Division 2 (Weekly payments) of Part 19H of Schedule 6 to the 1987 Act.

#### 4 5 year limit on weekly payments

For the purposes of the application of section 39 (Cessation of weekly payments after 5 years) of the 1987 Act, as substituted by the 2012 amending Act, in respect of a claim made before 1 October 2012, no regard is to be had to any weekly payment of compensation paid or payable to the worker before 1 January 2013 (for the purpose of determining the aggregate period in respect of which a weekly payment has been paid or is payable to the worker).

**Note.** Section 39 limits the payment of weekly payments of compensation to a period of 5 years. This clause ensures that for claims made before 1 October 2012, weekly payments made before 1 January 2013 will not be counted towards the 5 years.

#### 5 Limit on payment of medical, hospital and rehabilitation expenses

In the application of section 59A (Limit on payment of compensation) of the 1987 Act in respect of a claim for compensation made before 1 October 2012:

- (a) the claim is deemed to have been made immediately before 1 January 2013, and
- (b) no regard is to be had to any weekly payment of compensation paid or payable to the worker before 1 January 2013 (for the purpose of determining when a worker ceased to be entitled to weekly payments of compensation).

**Note.** Section 59A limits the payment of compensation to a period of 12 months after a claim for compensation is made or 12 months after weekly payments of compensation cease. This clause ensures that for claims made before 1 October 2012 the 12 month period will commence no earlier than 1 January 2013.

#### 6 Giving of notice when liability disputed

Despite the substitution of section 74 of the 1998 Act by the 2012 amending Act, that section as in force before 1 October 2012

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continues to apply to a notice given under that section before 1 January 2013 in respect of a claim for compensation made before 1 October 2012.

**7 Stay of work capacity decisions during review**

- (1) A review by the Independent Review Officer under section 44 of the 1987 Act of a work capacity decision operates to stay the decision but only if the application for review is made before 1 April 2013.
- (2) The decision is stayed from the time the application for review is made until the earlier of:
  - (a) the date the worker is notified of the findings of the review (or the application for review is withdrawn), or
  - (b) 30 June 2013.
- (3) Section 44 (4) of the 1987 Act is deemed to be amended to the extent necessary to give effect to this clause.

**8 Awarding of costs by Commission**

Division 3 (Special provisions for costs in compensation and damages assessment matters) of Part 8 of the 1998 Act continues to apply (as in force before the amendment of that Division by the 2012 amending Act) to costs in relation to a claim for compensation made before 1 October 2012 if proceedings on the claim are commenced in the Commission before 1 January 2013.

**9 Review of work capacity decisions—legal costs of insurers**

A legal practitioner is not entitled to be paid or recover any amount for a legal service provided to an insurer in connection with an internal or other review under section 44 of the 1987 Act in relation to a work capacity decision of the insurer.

**10 Nervous shock claims**

An amendment made by Schedule 3 to the 2012 amending Act extends to a claim for damages in respect of harm arising from mental or nervous shock suffered before 19 June 2012 but does not apply to a claim for damages if the claimant commenced court proceedings for the recovery of those damages before 19 June 2012.

**11 Lump sum compensation**

- (1) The amendments made by Schedule 2 to the 2012 amending Act extend to a claim for compensation made before 19 June 2012,

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but not to a claim that specifically sought compensation under section 66 or 67 of the 1987 Act.

- (2) Clause 15 of Part 19H of Schedule 6 to the 1987 Act is to be read subject to subclause (1).

### 12 Employer improvement notices

Part 3 of Chapter 3 of the 1998 Act applies only in relation to a contravention of Chapter 3 of the 1998 Act that occurs after the commencement of that Part.

### 13 Determination of degree of permanent impairment—Table of Disabilities

- (1) The fact that a worker's injury was received before the commencement of the 2001 lump sum compensation amendments does not prevent the degree of permanent impairment of the injured worker from being assessed for the purpose of determining whether the worker is a seriously injured worker under Division 2 of Part 3 of the 1987 Act.
- (2) In this clause, the *2001 lump sum compensation amendments* means the amendments made by Schedule 3 to the *Workers Compensation Legislation Amendment Act 2001* and Schedule 2 to the *Workers Compensation Legislation Further Amendment Act 2001*.

### 14 Maximum legal costs

The substitution of Parts 2 and 3 of Schedule 6 (Maximum costs—compensation matters) to this Regulation by the *Workers Compensation Amendment (Transitional) Regulation 2012* does not apply in respect of legal services provided before 1 October 2012.

### 15 1926 Act claims—weekly payments amendments not to apply

The amount of a weekly payment of compensation payable under Division 2 of Part 3 of the 1987 Act in respect of any period of incapacity that resulted from an injury received before the commencement of that Division is to be determined as if the weekly payments amendments had not been made.

### [6] Schedule 5 Penalty notice offences

Insert in Part 2 in appropriate order:

section 59D

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**[7] Schedule 6 Maximum costs—compensation matters**

Omit Parts 2 and 3. Insert instead:

**Part 2 Costs****Table 1 General resolution types—costs payable**

| Item | General resolution<br>(for general resolution types<br>refer to Table 2)   | Claimant        |   | Insurer   |                  |
|------|--|-----------------|---|---|------------------|
|      |  | Column 1<br>75% | Column 2<br>100%  | Column 3<br>75%   | Column 4<br>100% |
| A    | Lump sum compensation claim or dispute resolved <ul style="list-style-type: none"> <li>before application accepted by the Registrar</li> </ul> (Table 2—items 1–4—<br>Claimant: item 2 only—<br>Insurer)   | \$2,846.25      | \$3,766.25  | \$1,811.25  | N/A              |
| B    | Lump sum compensation claim or dispute resolved <ul style="list-style-type: none"> <li>after application accepted by the Registrar and up to and including the issue of a Certificate of Determination</li> </ul> (Table 2—items 1–4—<br>Claimant: item 2 only—<br>Insurer)  | \$4,053.75      | \$5,376.25<br>(or<br>\$4,600.00<br>where<br>clause 6 of<br>Part 1<br>applies) | \$2,932.50<br>(or<br>\$2,156.25<br>where<br>clause 6 of<br>Part 1<br>applies) | N/A              |
| C    | Other compensation claim or dispute resolved <ul style="list-style-type: none"> <li>after dispute notice issued and before application accepted by the Registrar, or</li> <li>before application accepted by the Registrar in relation to a claim for compensation in respect of the death of a worker</li> </ul> (Table 2—items 5–16) | \$3,289.00      | \$4,352.75  | \$2,696.75  | \$3,565.00       |

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| Item | General resolution<br>(for general resolution types<br>refer to Table 2)  | Claimant        |                  | Insurer         |                  |
|------|---|-----------------|------------------|-----------------|------------------|
|      |   | Column 1<br>75% | Column 2<br>100% | Column 3<br>75% | Column 4<br>100% |
| D    | Other compensation dispute resolved <ul style="list-style-type: none"> <li>after application accepted by the Registrar, and up to and including the initial teleconference including consequential settlement attendances</li> </ul> (Table 2—items 5–16) | \$4,450.50      | \$5,905.25       | \$3,858.25      | \$5,117.50       |
| E    | Other compensation dispute resolved <ul style="list-style-type: none"> <li>after initial teleconference and up to and including conciliation conference including consequential settlement attendances</li> </ul> (Table 2—items 5–16)                    | \$4,887.50      | \$6,491.75       | \$4,214.75      | \$5,589.00       |
| F    | Other compensation dispute resolved <ul style="list-style-type: none"> <li>following conciliation conference and up to and including arbitration hearing</li> </ul> (Table 2—items 5–16)  | \$5,307.25      | \$7,043.75       | \$4,525.25      | \$6,008.75       |

**Table 2 General resolution types—applicable rate**

| Item                                     | General resolution types   | Column 1<br>75% | Column 2<br>100% |
|--|--|-----------------|------------------|
| <b>Lump sum compensation resolutions</b> |  |                 |                  |
| 1  | Lump sum compensation for permanent impairment under section 66 of the 1987 Act (excluding any claim for pain and suffering under section 67 of that Act) where: <ul style="list-style-type: none"> <li>the extent of impairment is the only issue, or</li> <li>a dispute notice has not been issued</li> </ul> (Claimant only—item A or B of Table 1) | 75%             | —                |



| Item | General resolution types   | Column 1<br>75% | Column 2<br>100% |
|------|--|-----------------|------------------|
| 2    | Lump sum compensation for pain and suffering under section 67 of the 1987 Act (Item A or B of Table 1)   | 75%             | —                |
| 3    | Lump sum compensation under section 16 of the 1926 Act where: <ul style="list-style-type: none"> <li>the extent of impairment (or loss) is the only issue, or</li> <li>a dispute notice has not been issued</li> </ul> (Claimant only—item A or B of Table 1)  | 75%             | —                |
| 4    | Lump sum compensation for permanent impairment under section 66 of the 1987 Act and for pain and suffering under section 67 of that Act where: <ul style="list-style-type: none"> <li>the extent of impairment and pain and suffering are the only issues, or</li> <li>a dispute notice has not been issued</li> </ul> (Claimant only—item A or B of Table 1)<br><b>Other compensation resolutions</b> | —               | 100%             |
| 5    | Lump sum compensation for permanent impairment where: <ul style="list-style-type: none"> <li>a dispute notice has been issued, or</li> <li>the matter is referred by the Registrar for determination by an arbitrator</li> </ul> (Item C, D, E or F of Table 1)  | —               | 100%             |
| 6    | Weekly payments compensation for a period not exceeding 12 weeks in total, excluding interim payment directions under Chapter 7, Part 5, of the 1998 Act (Item C, D, E or F of Table 1)  | 75%             | —                |
| 7    | Weekly payments compensation for a period exceeding 12 weeks in total, being a period in respect of which an interim payment direction under Chapter 7, Part 5, of the 1998 Act has not been made (Item C, D, E or F of Table 1)   | —               | 100%             |

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| <b>Item</b> | <b>General resolution types</b>   | <b>Column 1<br/>75%</b> | <b>Column 2<br/>100%</b> |
|-------------|---|-------------------------|--------------------------|
| 8           | Termination or reduction of weekly payments compensation (on a review under section 55 of the 1987 Act)<br>(Insurer only—item C, D, E or F of Table 1)  | —                       | 100%                     |
| 9           | Successfully defending an application to terminate or reduce weekly payments compensation<br>(Claimant only—item C, D, E or F of Table 1)   | —                       | 100%                     |
| 10          | Increase in weekly payments compensation (on a review under section 55 of the 1987 Act)<br>(Claimant only—item C, D, E or F of Table 1)   | —                       | 100%                     |
| 11          | Defending an application to increase weekly payments compensation (on a review under section 55 of the 1987 Act)<br>(Insurer only—item C, D, E or F of Table 1)   | —                       | 100%                     |
| 12          | Medical expenses compensation not exceeding \$7,500.00, excluding interim payment directions under Chapter 7, Part 5, of the 1998 Act<br>(Item C, D, E or F of Table 1)   | 75%                     | —                        |
| 13          | Medical expenses compensation exceeding \$7,500.00<br>(Item C, D, E or F of Table 1)  | —                       | 100%                     |
| 14          | Compensation in respect of the death of a worker under Part 3, Division 1, of the 1987 Act where: <ul style="list-style-type: none"><li>• the respondent admits liability, and</li><li>• there is no dispute regarding dependency</li></ul> (Item C of Table 1)           | 75%                     | —                        |
| 15          | Compensation in respect of the death of a worker under Part 3, Division 1, of the 1987 Act where: <ul style="list-style-type: none"><li>• the respondent disputes liability, and/or</li><li>• the respondent disputes dependency</li></ul> (Item C, D, E or F of Table 1) | —                       | 100%                     |

| Item | General resolution types   | Column 1<br>75% | Column 2<br>100% |
|------|--|-----------------|------------------|
| 16   | Reduction in liability of employer to reimburse the Insurance Fund under section 145 of the 1987 Act by determination of the Commission or agreement after referral<br>(Item D, E or F of Table 1) | 75%             | —                |

**Table 3 Special resolution types—costs payable**

| Item     | Special resolution types  | Application on behalf of claimant |                     | Application on behalf of insurer |                     |
|----------|---|-----------------------------------|---------------------|----------------------------------|---------------------|
|          |   | Column 1<br>Claimant              | Column 2<br>Insurer | Column 3<br>Claimant             | Column 4<br>Insurer |
| <b>A</b> | <b>Interim payment dispute resolved</b>   |                                   |                     |                                  |                     |
| 1        | Dispute resolved by direction or agreement, after application accepted by the Registrar   | \$1,897.50                        | \$1,610.00          | N/A                              | N/A                 |
| 2        | If further dispute about the same claim is resolved by direction or agreement, after application accepted by the Registrar                                | \$632.50                          | \$632.50            | N/A                              | N/A                 |
| <b>B</b> | <b>Workplace injury management dispute resolved</b>   |                                   |                     |                                  |                     |
| 1        | Dispute resolved by direction, recommendation, determination or agreement, after application accepted by the Registrar                                    | \$2,213.75                        | \$1,926.25          | \$2,213.75                       | \$1,926.25          |
| 2        | If further dispute about the same claim is resolved by direction, recommendation, determination or agreement, after application accepted by the Registrar | \$632.50                          | \$632.50            | \$632.50                         | \$632.50            |

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| Item     | Special resolution types  | Application on behalf of claimant |                           | Application on behalf of insurer |                           |
|----------|---|-----------------------------------|---------------------------|----------------------------------|---------------------------|
|          |   | Column 1<br>Claimant              | Column 2<br>Insurer       | Column 3<br>Claimant             | Column 4<br>Insurer       |
| <b>C</b> | <b>Resolution of other proceedings</b>  |                                   |                           |                                  |                           |
| 1        | As ordered or certified by the Commission or the Registrar  | Upper limit of \$1,265.00         | Upper limit of \$1,265.00 | Upper limit of \$1,265.00        | Upper limit of \$1,265.00 |
| <b>D</b> | <b>Registration of commutation agreement</b>  |                                   |                           |                                  |                           |
| 1        | Where agreement approved by WorkCover Authority and registered with the Registrar (including all preparation and documentation in approved form in accordance with Rules) | \$1,725.00                        | \$1,725.00                | \$1,725.00                       | \$1,725.00                |

| Item     | Special resolution types  | Claimant                  |
|----------|---|---------------------------|
| <b>E</b> | <b>Legal service to claimant before dispute notice</b>  |                           |
| 1        | Where an insurer's decision on the existing entitlement to weekly payments is varied to the worker's benefit by an increase of 5% or more in weekly payments as a consequence of a legal service, where it was reasonable to carry out that service | Upper limit of \$1,265.00 |

| Item | Special resolution types  | Insurer                 |
|------|---|-------------------------|
| F    | <b>Written advice provided at the request of the insurer</b>  |                         |
| 1    | Where: <ul style="list-style-type: none"> <li>• the legal advice to an insurer is the provision of written advice at the request of the insurer before the issue of a dispute notice, and</li> <li>• costs are not recoverable under Table 1 in respect of the claim or dispute the subject of that advice</li> </ul> (Subject to clause 7 of Part 1) | Upper limit of \$948.75 |
| G    | <b>Advice in respect of complying agreement</b>   |                         |
| 1    | Where independent legal advice given to a claimant in respect of a complying agreement proposed by an insurer under section 66A of the 1987 Act<br>(Subject to clause 7 of Part 1)  | \$948.75                |

**Table 4 Additional legal services or other factors**

| Item | Additional legal services or other factors  | Application on behalf of claimant           |                           | Application on behalf of insurer |   |
|------|---|---|---------------------------|----------------------------------|---|
|      |   | Column 1<br>Claimant                        | Column 2<br>Insurer       | Column 3<br>Claimant             | Column 4<br>Insurer                         |
| 1    | <b>Appeal against an arbitral decision to Presidential member</b>                                   |   |                           |                                  |   |
|      | Appeal resolved by decision of Presidential member  | (a) Nil if unsuccessful                     | Upper limit of \$2,530.00 | Upper limit of \$2,530.00        | (a) Nil if unsuccessful                     |
|      | Costs to be as ordered or certified by the Presidential member and may encompass all parties' costs | (b) Upper limit of \$2,530.00 if successful |                           |                                  | (b) Upper limit of \$2,530.00 if successful |

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| Item | Additional legal services or other factors   | Application on behalf of claimant   |                           | Application on behalf of insurer |   |
|------|--|---|---------------------------|----------------------------------|---|
|      |  | Column 1<br>Claimant  | Column 2<br>Insurer       | Column 3<br>Claimant             | Column 4<br>Insurer   |
| 2    | <p><b>Question of law determined by the President</b></p> <p>Matter resolved by the decision of the President</p> <p>Costs to be as ordered or certified by the President and may encompass all parties' costs</p>   | Upper limit of \$2,530.00   | Upper limit of \$2,530.00 | Upper limit of \$2,530.00        | Upper limit of \$2,530.00   |
| 3    | <p><b>Appeal against a medical assessment under Chapter 7, Part 7, of the 1998 Act</b></p> <p>Appeal resolved by the decision of Appeal Panel</p> <p>Costs to be as ordered or certified by the Commission or the Registrar and may encompass all parties' costs</p> | <p>(a) Nil if result is not more favourable</p> <p>(b) Upper limit of \$1,265.00 if result is more favourable</p> | Upper limit of \$1,265.00 | Upper limit of \$1,265.00        | <p>(a) Nil if result is not more favourable</p> <p>(b) Upper limit of \$1,265.00 if result is more favourable</p> |

| Item | Additional legal services or other factors  | Application on behalf of claimant  |  | Application on behalf of insurer   |  |
|------|---|--|--|--|--|
|      |   | Column 1<br>Claimant   | Column 2<br>Insurer  | Column 3<br>Claimant   | Column 4<br>Insurer  |
| 4    | <p><b>Dispute determined or otherwise resolved after proceedings have been commenced in the Commission</b></p> <p>If:</p> <ul style="list-style-type: none"> <li>the Commission or the Registrar certifies the matter as complex, and</li> <li>neither item 6 nor 7 of this Table also applies</li> </ul> | Percentage increase—upper limit of 30% of costs at item D, E or F of Table 1 | Percentage increase—upper limit of 30% of costs at item D, E or F of Table 1 | Percentage increase—upper limit of 30% of costs at item D, E or F of Table 1 | Percentage increase—upper limit of 30% of costs at item D, E or F of Table 1 |

| Item | Additional legal services or other factors   | Column 1<br>Claimant   | Column 2<br>Insurer  |
|------|--|--|--|
| 5    | <p><b>Dispute determined or otherwise resolved after proceedings have been commenced in the Commission</b></p> <p>If:</p> <ul style="list-style-type: none"> <li>the Commission or the Registrar certifies the matter as complex, and</li> <li>item 6 or 7 of this Table would otherwise have application</li> </ul> | Percentage increase—upper limit of 45% of costs at item D, E or F of Table 1 | Percentage increase—upper limit of 45% of costs at item D, E or F of Table 1 |

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| Item | Additional legal services or other factors   | Claimant   |
|------|--|--|
| 6    | <p><b>Costs associated with multiple respondents</b></p> <p>If the claim or dispute is resolved by an award or settlement apportioned between more than one respondent</p> <p><b>Note.</b> This allowance does not apply to any resolution that has an increase in fees under item 4 or 5 of this Table.</p> | <p>Percentage increase—upper limit of 30% of costs payable under Table 1 and items 1, 2 and 3 of this Table</p> <p><b>Note.</b> The increase does not apply for each additional respondent. Accordingly, 30% is the maximum allowable increase notwithstanding the number of respondents.</p>  |
| Item | Additional legal services or other factors   | Insurer  |
| 7    | <p><b>Costs associated with acting for lead scheme agent</b></p> <p>If the claim or dispute is resolved by a scheme agent on behalf of multiple scheme agents</p> <p><b>Note.</b> This allowance does not apply to any resolution that has an increase in fees under item 4 or 5 of this Table.</p>          | <p>(a) Lead scheme agent: percentage increase—upper limit of 30% of costs payable under Table 1 and items 1, 2 and 3 of this Table</p> <p>(b) Other agents: no costs recoverable</p> <p><b>Note.</b> The increase referred to in paragraph (a) does not apply for each additional scheme agent, and accordingly 30% is the maximum allowable increase notwithstanding the number of scheme agents who are parties to the resolution.</p> |

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### Part 3 Regulated disbursements

| Item | Disbursement  | Applicable provisions   |
|------|---|---|
| 1    | Country/interstate loadings (including travel and accommodation expenses) | <p>Payable in accordance with the <i>Motor Accidents Compensation Regulation 2005</i>, Schedule 1, clause 3 or 4 (as relevant)</p> <p><b>Note.</b> Clause 15 of Part A applies for this purpose.</p>        |
| 2    | Conduct money to comply with notice for the production of documents       | <p>Where the producer is a party other than the worker—nil payable</p> <p>Where the producer is the worker—an amount sufficient to meet the reasonable expenses of complying with the notice is payable</p> |



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| Item | Disbursement   | Applicable provisions  |
|------|--|--|
| 3    | Conduct money to comply with direction for the production of documents | <p>An amount sufficient to meet the reasonable expenses of complying with the direction is payable</p> <p>In the case of medical practitioners, the term “sufficient to meet the reasonable expenses” is an amount calculated in accordance with the AMA Resource-Based Relative Value Scale as in force from time to time</p> <p>In the case of production by a government agency—the standard rate applied by that agency is payable</p>   |
| 4    | Treating health service provider’s report                              | <p>If a claim or dispute is resolved whether before or after proceedings commenced:</p> <p>Claimant:</p> <p>(a) nil fee payable, unless paragraph (b) applies, or</p> <p>(b) fee allowed in accordance with any applicable fee order where:</p> <p>(i) request for report made to insurer, and</p> <p>(ii) either:</p> <ul style="list-style-type: none"> <li>• insurer does not provide report within 14 days, or</li> <li>• report supplied by insurer does not address the report requirements of the claimant, and</li> </ul> <p>(iii) report is served on insurer</p> <p>Insurer: fee allowed in accordance with any applicable fee order</p> |

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| Item | Disbursement  | Applicable provisions   |
|------|---|---|
| 5    | <p>Report of independent medical examination by an appropriately qualified and experienced medical practitioner in accordance with WorkCover Guidelines</p> <p>Fee allowed in accordance with any applicable fee order where paragraph (a) or (b) opposite applies</p> <p><b>Note.</b> A supplementary report that complies with clause 66 gives rise to a further entitlement to costs under this item, if the supplementary report otherwise satisfies the provisions of this item.</p> | <p>(a) If a claim or dispute is resolved before proceedings are commenced—a report of the kind referred to in clause 65 has been served on the other party</p> <p>(b) If a dispute is resolved after proceedings are commenced—a report of the kind referred to in clause 65 has been admitted in the proceedings or disclosed to an approved medical specialist</p>  |
| 6    | <p>Treating health service provider's clinical notes and records</p>  | <p>If a claim or dispute is resolved whether before or after proceedings commenced:</p> <p>Claimant:</p> <p>(a) nil fee payable, unless paragraph (b) applies, or</p> <p>(b) payment in accordance with AMA Resource-Based Relative Value Scale as in force from time to time or any applicable fee order (the latter to prevail over the former) where:</p> <p>(i) request made to insurer, and</p> <p>(ii) insurer does not provide within 7 days, and</p> <p>(iii) clinical notes and records are served on insurer</p> <p>Insurer:</p> <p>(a) nil fee payable if clinical notes and records are served by claimant under paragraph (b) above, or</p> <p>(b) otherwise, payment in accordance with AMA Resource-Based Relative Value Scale as in force from time to time or any applicable fee order (the latter to prevail over the former)</p> |

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| <b>Item</b> | <b>Disbursement</b>  | <b>Applicable provisions</b>                                       |
|-------------|--|--|
| 7           | Fee for the provision of independent financial advice by a qualified financial adviser for a commutation by agreement that is approved by the Authority and registered with the Commission | Upper limit of \$1,150.00, on the production of account or receipt |

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